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# U.S. LEADERSHIP IN THE INTERNATIONAL WHALING COMMISSION AND H.R. 2455, THE INTERNATIONAL WHALE CONSERVATION AND PROTECTION ACT OF 2009

## JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND OVERSIGHT

AND THE

SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT

OF THE

## COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES

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# U.S. LEADERSHIP IN THE INTERNATIONAL WHALING COMMISSION AND H.R. 2455, THE INTERNATIONAL WHALE CONSERVATION AND PROTECTION ACT OF 2009

**THURSDAY, MAY 6, 2010**

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL
ORGANIZATIONS, HUMAN RIGHTS AND
OVERSIGHT AND
SUBCOMMITTEE ON ASIA, THE PACIFIC
AND THE GLOBAL ENVIRONMENT,
COMMITTEE ON FOREIGN AFFAIRS,
*Washington, DC.*

The committee met, pursuant to notice, at 10:03 a.m. in room 2200, Rayburn House Office Building, Hon. Russ Carnahan (chairman of the subcommittee on International Organizations, Human Rights and Oversight) presiding.

Mr. CARNAHAN. Good morning. I want to call this joint subcommittee hearing of the Subcommittee on International Organizations, Human Rights and Oversight, and the Subcommittee on Asia, the Pacific and Global Environment to order. And welcome, all of you.

And the first thing I want to do is recognize my co-chairman here this morning, Mr. Faleomavaega.

Mr. FALEOMAVAEGA. I thank the distinguished chairman for working together on this bill that we have been working on for months to develop, and for conducting hearings. And I do want to thank also our distinguished witnesses who will be testifying this morning, after we make our opening statements.

I do want to thank all the interested parties who are here with us. And let me just share with my colleagues, and with the public, my statement for this hearing.

Industrial whaling has led to the severe depletion and near extinction of many whale species. For decades the international community has attempted to find cooperative ways to conserve whales, including International Whaling Commission measures such as a commercial whaling moratorium, and the creation of the Southern Ocean Whales Sanctuary.

Yet, the IWC's actions have proved ineffective in its paramount task of protecting whales. And the Commission's influence has waned substantially in recent years, due to disputes among the 88 member nations that make up the IWC.

Last year, for example, with support and assistance from my good friend, the gentleman from Massachusetts, Mr. Delahunt—and I am sure that he will be joining us here later—we worked together, and we introduced H.R. 2455, the International Whale Conservation and Protection Act of 2009, aimed at eliminating whaling, which is the most visible threat to whales.

The bill also targets other key impacts on whale populations, such as ozone depletion, chemical and noise pollution, marine debris, vessel strikes, entanglement in fishing gear, prey depletion, offshore industrial development, and escalating threats from climate change and ocean acidification.

All these issues require international cooperation, obviously, and American leadership, in my humble opinion, is critical in that regard.

Though H.R. 2455 is not a perfect bill, it has provided a start for discussions about whaling. And its structure gives the new administration a better chance at providing leadership by potentially increasing U.S. leverage in international negotiations.

And the Obama team has, in effect, played an assertive role in attempting to restore the IWC's credibility to and protect whale populations. As part of a core group of some 12 countries within the IWC, the United States contributed to seeking a resolution to a number of longstanding issues confronting the Commission.

The administration began its work premised on the principle that all nations, whether they engage in or oppose whaling, share a common goal in conserving whales. As part of a core group of 12 countries within the IWC, the United States contributed to the work of the IWC chair and vice chair in seeking a resolution to a number of longstanding issues confronting the Commission.

On April 22 of last month, the chair and the vice chair released their draft proposal, which will be debated at the IWC's annual meeting in Morocco this coming June. That 10-year proposal currently under review by the United States and other countries begins with the following vision statement, and I quote:

> "International Whaling Commission will work cooperatively to improve the conservation and management of whale populations and stocks on a scientific basis, and through agreed policy measures.
>
> "By improving our knowledge of whales, their environment, and the multiple threats that can affect their welfare, the Commission will strive to ensure that whale populations are healthy and resilient components of the marine environment."

The IWC notes that under the terms of the draft proposal, the three countries that currently set their own catch limits—Japan, Norway, and Iceland—would immediately suspend the whaling they do based on special permits, objections and reservations to IWC rules, and agree instead to sustainable catch limits set by the IWC at levels below present ones. They would also agree to IWC monitoring, surveillance and control measures on their whaling operations, including the placement of observers on their whaling vessels.

According to the IWC, if adopted—and I say this, if—over the 10-year period of the proposal, several thousand fewer whales will be caught than if the current situation remains.

Japan's Antarctic whale hunt would fall in stages to 200, about a quarter of its size, within 5 years. Iceland would be permitted an annual quota of 80 fin whales, less than last year's hunt of 125, along with 80 minke whales, while Norway's quota would be set at 600 minkes. No other country would be permitted to start hunting, and indigenous groups would not be affected.

As an aside, I think it is important to recognize what these numbers make clear: Whaling is not an issue simply for Japan. Indeed, Norway and Iceland together account for roughly the same yearly take as Japan, despite the wide discrepancy in population among the three countries with Norway's 4.8 million citizens and Iceland's 317,000 population constituting a tiny fraction of Japan's population of well over 120 million.

I also want to note that the new leadership of Japan has shown greater willingness to compromise on the issue of whaling, and the Minister of Agriculture, Forestry and Fisheries recently expressed a desire, and I quote, "to continue negotiating with patience," according to media sources.

Even so, the IWC draft proposal remains subject to a good deal of debate and change, and it is quite possible that no agreement will be achieved at all. Thus far, the response to the proposal has been mixed, with most of the pro-conservation NGOs voicing opposition. In fact, some of these groups have been particularly forceful in their disavowal of the proposal, as demonstrated by the prominent advertisement about President Obama recently placed in the papers by the International Fund for Animal Welfare.

I wanted to show my colleagues and the public the full-page ad in the New York Times taken out by our friends at the International Fund for Animal Welfare. It says, "President Obama, you promised to end this slaughter. Why is U.S. now leading the fight to legalize it?" I want to submit this to be made part of the record, if that is okay with you, Mr. Chairman.

That said, in its current form, the IWC draft proposal would appear to share a central goal in the provisions of the bill that Congressman Delahunt and I have worked on and has been introduced in ensuring the health and the resilience of whale populations for generations to come.

In light of that common goal, the Subcommittee on Asia, Pacific and Global Environment, and the Subcommittee on International Organizations, Human Rights and Oversight feel it appropriate to convene this hearing to assess recent developments and discuss them in relation to the International Whale Conservation and Protection Act of 2009.

From my perspective, Mr. Chairman, the whaling issue will require a cooperative solution. The United States can, and must, lead. But, as with any international problem, we cannot impose our views on the rest of the world unilaterally and expect positive results.

What we can do is negotiate and persuade. And when we talk about numbers, we should insist that they be based on science, and not on politics. We should also insist that whatever is agreed to in

Morocco next month, assuming anything is agreed to at all, is both binding and enforceable; and that any whaling that does take place is strictly limited to that sanctioned by the IWC.

We are fortunate to have with us today the key administration officials to testify. And we certainly look forward to their testimonies, as I am sure my good friend, the gentleman from Massachusetts, will appropriately introduce our administration witnesses at a later time in the hearing.

And with that, Mr. Chairman, I do want to thank you. Again, in my opening statement I say that the issue of whales definitely is an international issue. As I also shared earlier with Congressman Delahunt, even in my own island cultures in the Pacific, I don't know if some of the friends here in the audience have ever seen the Whale Rider; this is our Polynesian cousins among the Maoris in New Zealand, have a very, very fond affection for these animals.

And so it is true with our Hawaiians, our Samoans—every Polynesian values whales almost like fellow human beings. In fact, we consider them just as much as we consider our own lives. But I will discuss that at a later point.

But Mr. Chairman, I want to thank you again for allowing me to give this opening statement. And I yield back.

[The prepared statement of Mr. Faleomavega follows:]

COMMITTEE ON FOREIGN AFFAIRS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

**STATEMENT OF**
**THE HONORABLE ENI F.H. FALEOMAVAEGA**
**CHAIRMAN**

**before the**
**SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT**

**And**

**SUBCOMMITTE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND OVERSIGHT**

**"U.S. Leadership in the International Whaling Commission and H.R. 2455, the International Whale Conservation and Protection Act of 2009"**

**May 6, 2010**

Industrial whaling has led to the severe depletion and near extinction of many whale species. For decades, the international community has attempted to find cooperative ways to conserve whales, including International Whaling Commission (IWC) measures such as a commercial whaling moratorium and the creation of the Southern Ocean Whale Sanctuary. Yet, the IWC's actions have proved ineffective to its paramount task of protecting whales, and the Commission's influence has waned substantially in recent years due to disputes among the 88 member nations of the IWC.

Last year, with the support and assistance of my good friend, the gentleman from Massachusetts, Mr. Delahunt, we introduced H.R. 2455, the International Whale Conservation and Protection Act of 2009, aimed at eliminating whaling, which is the most visible threat to whales. H.R. 2455 also targets other key impacts on whale populations such as ozone depletion, chemical and noise pollution, marine debris, vessel strikes, entanglement in fishing gear, prey depletion, offshore industrial development, and escalating threats from climate change and ocean acidification.

All these issues require international cooperation, and American leadership is critical in that regard. Though H.R. 2455 is not a perfect bill, it has provided a start to discussions about whaling, and its structure gives the new Administration a better chance

at providing leadership by potentially increasing U.S. leverage in international negotiations.

The Obama team has, in fact, played an assertive role in attempting to restore the IWC's credibility and protect whale populations. As part of a core group of 12 countries within the IWC, the United States contributed to seeking a resolution to a number of longstanding issues confronting the Commission.

The Administration began its work premised on the principle that all nations, whether they engage in or oppose whaling, share a common goal in conserving whales. As part of a core group of 12 countries within the IWC, the United States contributed to the work of the IWC Chair and Vice Chair in seeking a resolution to a number of longstanding issues confronting the Commission.

On April 22, the Chair and Vice Chair released their draft proposal, which will be debated at the IWC's annual meeting in Morocco this coming June. That ten-year proposal, currently under review by the United States and other countries, begins with the following vision statement: "The International Whaling Commission will work cooperatively to improve the conservation and management of whale populations and stocks on a scientific basis and through agreed policy measures. By improving our knowledge of whales, their environment, and the multiple threats that can affect their welfare, the Commission will strive to ensure that whale populations are healthy and resilient components of the marine environment."

The IWC notes that under the terms of the draft proposal, the three countries that currently set their own catch limits – Japan, Norway and Iceland -- would immediately suspend the whaling they do based on special permits, objections, and reservations to IWC rules, and agree instead to sustainable catch limits set by the IWC at levels below present ones. They would also agree to IWC monitoring, surveillance and control measures on their whaling operations, including the placement of observers on their whaling vessels. According to the IWC, if adopted, over the ten-year period of the proposal, several thousand fewer whales would be caught than if the current situation remained.

Japan's Antarctic whale hunt would fall in stages to 200, about a quarter of its size within five years. Iceland would be permitted an annual quota of 80 fin whales – less than last year's hunt of 125 – along with 80 minke whales, while Norway's quota would be set at 600 minkes. No other country would be permitted to start hunting, and indigenous groups would not be affected.

As an aside, I think it is important to recognize what these numbers make clear: whaling is not an issue simply for Japan. Indeed, Norway and Iceland together account for roughly the same yearly take as Japan, despite the wide discrepancy in population among the three countries. Norway's 4.8 million citizens and Iceland's 317,000 form but a tiny fraction of Japan's population of 127 million.

I also want to note that the new leadership of Japan has shown greater willingness to compromise on the issue of whaling and the Minister of Agriculture, Forestry and Fisheries recently expressed a desire "to continue negotiating with patience," according to media sources.

Even so, the IWC draft proposal remains subject to a good deal of debate and change, and it is quite possible that no agreement will be achieved at all. Thus far, the response to the proposal has been mixed with most of the pro-conservation NGOs voicing opposition. In fact, some of these groups have been particularly forceful in their disavowal of the proposal, as demonstrated by a prominent advertisement about President Obama recently placed in the papers by the International Fund for Animal Welfare.

That said, in its current form, the IWC draft proposal would appear to share a central goal of HR 2455: ensuring the health and resiliency of whale populations for generations to come. In light of that common goal, the Subcommittee on Asia, the Pacific and the Global Environment along with the Subcommittee on International Organizations, Human Rights and Oversight felt it appropriate to convene this hearing to assess recent developments and discuss them in relation to the International Whale Conservation and Protection Act of 2009.

From my perspective, the whaling issue will require a cooperative solution. The United States can and must lead, but as with any international problem, we cannot impose our views on the rest of the world unilaterally and expect positive results. What we can do is negotiate and persuade. And when we talk about numbers, we should insist that they be based on science, not on politics. We should also insist that whatever is agreed to in Morocco – assuming anything is agreed to at all – is both binding and enforceable, and that any whaling that does take place is strictly limited to that sanctioned by the IWC.

We are fortunate to have with us today the key Administration officials involved in the IWC negotiations as well as representatives from the NGO, scientific and indigenous communities who can speak to these and other issues. I thank them for being with us today and very much look forward to hearing their views.

Mr. CARNAHAN. Thank you. And I want to yield myself 5 minutes for a brief opening statement, and then I am going to yield to the gentleman from Massachusetts.

I thank Mr. Delahunt for his leadership on this issue. When he chaired the International Organizations Subcommittee he was a champion on this issue. Since he has moved over to be chair of the Europe Subcommittee, he continues as vice chair of this committee. And so I am going to turn this over to him shortly.

But I also want to thank Mr. Faleomavaega for his leadership on this issue, as well.

Earlier this year I launched the bipartisan American Engagement Caucus with Representative Joseph Cao from Louisiana. Mr. Delahunt is also a member of that caucus. And we believe it is essential to have international cooperation, but also international institutions that work; that work in the economic, security, and environmental fields.

The International Whaling Commission is an example of an environmental institution that has struggled recently to achieve its core mission of research and addressing emerging threats to whales and their habitats.

The U.S. needs to use all elements of smart power to engage their partners to improve IWC and protect the environment. This is an issue that is really an international issue.

I represent a district in Missouri, in our heartland. And this is an issue where I live, as well. In fact, I have a letter from our world-renowned St. Louis Zoo supporting this hearing. And I want to have that placed in the record.

They say in their letter—I want to briefly quote it—

> "We hope the hearing will result in strong U.S. global leadership of whale conservation and protection, and renew America's commitment to whale conservation, especially within the international arena, such as the IWC."

I am pleased to make note that the St. Louis Zoo is celebrating its 100-year anniversary this year. Our local zoo has done so much to promote the awareness of conservation in so many animal species and their habitats.

So I want to thank again Chairman Delahunt, Chairman Faleomavaega, and again welcome our witnesses. I do have a conflict today, so I am going to have to excuse myself, but I am going to leave you in very good and capable hands.

And I can't leave this hearing today without reminding Mr. Delahunt that my mother, according to her genealogy I had an ancestor that was a whaler from Massachusetts. So I guess I have this in my blood. Yes. So I am going to turn it over to you.

[The prepared statement of Mr. Carnahan follows:]

Chairman Russ Carnahan
Subcommittee on International Organizations, Human Rights and Oversight

Opening Statement
"U.S. Leadership in the International Whaling Commission and H.R. 2455, the International Whale Conservation and Protection Act of 2009"

May 6, 2010

I want to thank Chairman Delahunt of the Europe Subcommittee— also Vice-Chair of the International Organizations, Human Rights and Oversight Subcommittee-- for his leadership on this issue, and for his work in organizing this hearing today. I also want to thank Chairman Faleomavaega of the Subcommittee on Asia, the Pacific and the Global Environment for his dedication to whale conservation and for agreeing to convene this joint hearing.

Earlier this year I launched the bipartisan American Engagement Caucus with Representative Joseph Cao (R-LA). Mr. Delahunt is also a member of this caucus. We believe that it is essential to have international cooperation and international institutions that work, in the economic, security, and environmental fields. The International Whaling Commission (IWC) is an example of an environmental institution which has struggled recently to achieve its core mission of research and addressing emerging threats to whales and their habitats. The United States needs to use all elements of "smart power" to engage with our partners, improve the IWC, and protect the environment.

I would like to ask that a letter from the St. Louis Zoo supporting this hearing be placed into the record. They say, "We hope the hearing will result in strong U.S. global leadership of whale conservation and protection and renew America's commitment to whale conservation, especially within international fora such as the IWC." I'm pleased to note that the St. Louis Zoo is celebrating its 100 year anniversary this year; the Zoo has done so much to promote awareness and conservation of so many animal species and their habitats.

Thank you again to Chairman Delahunt, Chairman Faleomavaega, and our esteemed witnesses.

Mr. DELAHUNT. Thank you, Russ. You know, as Chairman Faleomavaega indicated, H.R. 2455 was introduced by him, Representative Bordallo, Representative Harano and myself. And I think it is there to really demonstrate our collective commitment to whale conservation.

But I also want to note that on the Senate side, the senior Senator from Massachusetts, who has a residence, by the way, on Nantucket, Senator Kerry introduced a similar bill in the United States Senate. And for those who are taking notes, that is S. 3116.

I think I would take this time to remind my colleagues that this committee, the House Foreign Affairs Committee, has had a long and distinguished history on the protection of whales. We have consistently opposed commercial whaling, and supported whale protection.

In 1990, the House approved a resolution, again originating in this committee, calling for sanctions against nations conducting unjustified lethal whaling research. And virtually every year since then, the committee has approved resolutions seeking to strengthen and enhance internationally the protection of whales.

Today's hearing will continue this committee's longstanding engagement in this issue. We will explore ways for the United States to reassert its global leadership in international whale conservation and protection.

In addition to receiving testimony on the legislation, we will hear about the "so-called deal"—I say that in quotes—that was released on Earth Day, and will be voted upon, presumably, by the International Whaling Commission in June.

It is important to emphasize that today whales face more threats than they did more than two decades ago. Last year more whales were killed than in any other year since the establishment of the 1986 moratorium on commercial whaling, a measure again that was strongly supported by the United States.

We are aware that member nations of the IWC have been meeting in secret, behind closed doors, over the past 3 years, to negotiate a new whaling arrangement. Pro-whaling nations are advocating a 10-year plan that would legitimize whaling, even in the southern ocean whale sanctuary, an internationally designated safe haven established in 1994 to protect more than 80 percent of the world's whales.

Our witnesses today include administration officials that have been engaged in these negotiations, and I am anxious to hear from them exactly how this deal is good for the whales. I am particularly interested in how this deal maintains the moratorium, as stated in the so-called consensus decision.

The term moratorium is defined in Webster's as suspension of an activity, and it would not appear that whaling is being suspended.

So based on what I am aware of at this point in time, I would strenuously object to this deal and its provisions. While I recognize that Japan, Iceland, and Norway have never ceased their whaling activities, and continued limited whaling during the international moratorium, this was done in spite of international objections, and pursuant to certain loopholes in the IWC.

Instead of fixing these loopholes, I am concerned that the administration may have set a course to reward the very nations that

flouted international agreements by engaging in commercial whaling. This course is contrary to every position embraced by the United States since the early 1980s.

In conclusion, let me read a message sent to the IWC that states the following:

> "I want to take this opportunity to affirm the United States Government's continuing commitment to whale protection, and to urge you to support our proposal for an indefinite moratorium on commercial whaling.
>
> "Throughout human history, whales have evoked awe and wonder. They are the largest creatures ever to have lived on this earth; yet, they also are among the most mysterious. It is this mysterious quality that gives whales their appeal and increase the importance of effective management that could assure whale populations for the future."

That message was sent on July 17, 1981, by President Ronald Reagan. As President Reagan demonstrated, whale protection has never been a partisan issue, and it is important to continue our bipartisan commitments.

I look forward to hearing testimony from all of our witnesses.

Mr. Chairman, thank you. And before I yield back, let me just say you have truly been the champion on this cause. And I am honored to co-sponsor the legislation with you. With that, I yield back.

Mr. FALEOMAVAEGA [presiding]. And I just want to say to the gentleman, it has been my personal honor, too, and privilege in working closely with you for all these months. And our friends also, who are very concerned about the conservation of whales and bringing about this hearing that we are having today.

Before I turn the time back to Mr. Delahunt to introduce our distinguished witnesses from the administration, I would like to recognize one of the members of our subcommittees. I know there are a lot of whales in the State of Arizona, and that is why he made sure that he would be here to express some strong, strong views on why we need to make every effort to do what we can do to save our whales.

So the distinguished gentleman from Arizona, Mr. Flake, for his opening statement.

Mr. FLAKE. I have no statement. Just glad to be here.

Mr. FALEOMAVAEGA. All right, thank you. Mr. Delahunt, would you like to introduce our——

Mr. DELAHUNT. Yes, I would, I would be honored to. First we have Ambassador David Balton. He is the Deputy Assistant Secretary for Oceans and Fisheries in the Bureau of International Environmental and Scientific Affairs at the Department of State.

In March 2005, President Bush, with the consent of the Senate, accorded to Mr. Balton the rank of Ambassador during his tenure. He previously served for 6 years as director of the Office of Marine Conservation at State. In that capacity he was responsible for coordinating the development of the U.S. foreign policy concerning living marine resources, and overseeing U.S. participation in international organizations, such as the IWC, dealing with the conservation and management of these resources.

He has negotiated numerous treaties and other international agreements on fisheries, marine mammals, and other matters pertaining to the marine environment. Welcome, Ambassador.

Next, Monica Medina is currently the Principal Deputy Undersecretary for Oceans and Atmosphere of the National Association and Atmospheric Administration, and the U.S. Commissioner to the International Whaling Commission.

She has a lengthy career in marine law and policy dating back to her time as senior counsel on the Senate Committee on the Environment and Public Works. She was Deputy Associate Attorney General at the Department of Justice, with oversight of the Environment Division, and also had a previous stint at NOAA as General Counsel.

As U.S. Commissioner, she serves as the head of the U.S. delegation to the meetings of the IWC, and leads negotiation on issues related to the commission. As such, she will provide invaluable insight into the processes that led to this draft consensus decision. And I look forward to her testimony. Welcome to both of you.

Mr. FALEOMAVAEGA. If I may, I thank the gentleman for introducing our witnesses. And I would like to, in terms of the order of the witnesses, if Ms. Medina could proceed, and then followed by our Deputy Assistant Secretary, Mr. Balton.

**STATEMENT OF MONICA MEDINA, ESQ., PRINCIPAL DEPUTY UNDER SECRETARY, OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

Ms. MEDINA. I would be glad to. Good morning. Thank you very much. I believe it is on; maybe I am just speaking too quietly.

Good morning, Mr. Chairman and members of the committee. Thank you for your interest and your close attention to this issue and the details of the proposals that are on the table.

Thank you for your invitation to speak today on behalf of the Obama administration about the upcoming 62nd annual meeting of the International Whaling Commission, or IWC.

I am Monica Medina, Principal Deputy Undersecretary for Oceans and Atmosphere with the National Oceanic and Atmospheric Administration, and I am testifying today in my capacity as the U.S. Commissioner to the IWC.

The goal of the Obama administration is to conserve whales and preserve the IWC as the premiere international body for the conservation and management of whales.

The administration reaffirms its unwavering support for the commercial whaling moratorium, and believes strongly that lethal scientific whaling is unnecessary in modern whale conservation and management.

The administration is also committed to furthering discussions of critical issues within the IWC, including the future of the organization. For any future arrangement to be acceptable, it must, one, result in significant improvement in the conservation status of whales for the long term; and two, be based on sound science.

My written testimony includes background information on the IWC, and a discussion of the main issues currently confronting the organization, a long description of the future process, and includes

some description of the current proposal by the chair and vice chair of the commission.

The United States's biggest concern at the IWC is that more and more whales are being killed. Twenty-four years ago, the international community agreed on a moratorium that was supposed to stop industrialized commercial whaling; but in reality, whaling never ended.

Look at the situation today. Just three countries—Japan, Norway, and Iceland—persist in non-indigenous hunting of whales. They justify this by exploiting loopholes in the moratorium.

The unfortunate outcome is clear, and growing more dire each year. And I brought a chart; it could be displayed at some point. I am not going to speak to it directly, but it does show this trend of increased whaling.

In 1990, three countries killed a total of 300 whales. In 1995, they killed 750 a year. By 2000, the annual number topped 1,000 whales per year. By 2005, it was up to 1,700 whales a year. And this year, three countries issued themselves quotas—and that is quotas—to kill more than 3,100 whales annually.

Right now, unfortunately, there is little that the IWC can do about it. Unless something happens, more and more whales will be killed, and there is currently no limit to how many whales will be killed in the future.

Since the ban on commercial whaling in 1986, more than 35,000 whales have been hunted, and the numbers continue to grow. At the same time, the resulting polarization of the IWC threatens the viability of the organization as the international forum for resolving these issues, for coordinating critical research on other issues, and developing international agreements to further whale conservation.

Years, and I do means years, of protracted and unresolved debate over the proper means to conserve, utilize, and study whales have made many IWC members, including the United States, concerned about the body's future relevance in controlling unilateral whaling and conserving whale stocks.

I believe a ceasefire is needed. In fact, it is overdue.

However, and I do want to say however, the administration has concerns with the current proposal put forward by the chair and vice chair. And I want to make abundantly clear that if the proposal remains unchanged, the U.S. will vote against it.

In 2008 the commission agreed by consensus to form a small working group. The task of the small working group had been to develop a package or packages for consensus resolutions regarding the future of the IWC for review by the commission.

The commission is looking for an agreement acceptable to all its members, including all of those opposed to commercial and scientific whaling. In 2009, a smaller support group was established to assist the chair in providing direction to the process, and in preparing material for submission to the small working group.

The support group was designed to include a diverse geographic and socioeconomic representation of the IWC member countries, as well as a range of views on whaling issues. It was comprised of 12 countries, including the United States.

After three meetings of the support group, the chair of the commission submitted a report in March of this year to a meeting of the small working group in Florida. And that report contained a set of ideas about how the IWC could improve its function in the future. That document was thoroughly discussed at the March meeting, and the chair and vice chair of the IWC have since released a revised version of this document as a joint proposal to all the commission's members for their consideration at the annual meeting in June.

The United States has indeed participated in the future process, in good faith, to try and achieve a number of U.S. objectives. These U.S. objectives are to retain and strengthen the moratorium on commercial whaling; to bring all whaling under IWC control by closing the loopholes that permit unlimited whaling today; to transform the IWC to focus squarely on conservation, and address the new and emerging threats to cetaceans; to recover severely depleted and endangered populations of whales; to increase the participation of civil society at IWC proceedings; to prevent our subsistence hunts from being held hostage by the commission for political reasons; and to address the growing international trade and black market of whale meat and whale products.

As you may have recently noted, in the Los Angeles Times, there was a sushi bar in Los Angeles actually selling whale meat.

While the United States recognizes that some significant achievements have occurred, we are disappointed that the future process has not yet been able to achieve a resolution of some of the key issues facing the commission. Despite this, we believe that the chair's proposal represents a step forward, and is a foundation for achieving a functioning IWC and improving the conservation of whales.

We have encouraged other countries to approach the discussions with open minds, flexibility, and constructive attitudes, in the hope that diplomatic and scientific solutions can be reached.

While the administration has not taken a position on H.R. 2455, I believe the U.S. objectives, along with our unwavering support for improved conservation of whales and the moratorium on whaling at the IWC, that we are very much in sync with the intent of H.R. 2455.

As the bill appropriately states, today whales face an uncertain future due to a variety of threats. These threats include climate change, pollution, ocean noise, ship strikes, bycatch, and entanglement. The U.S. would like to see the IWC prioritize its work to address these very important issues.

However, we agree with concerns expressed by the State Department that the need for flexibility to strengthen the work of the IWC may be slightly inhibited by some of the current provisions of H.R. 2455. But we would very much like to work with you on that.

In closing, Mr. Chairmen, while the administration recognizes conservation benefits outlined in the proposal put forward by the IWC chair and vice chair, we continue to have concerns, and would not agree to it in its present form.

At this time we reserve judgment on any revised proposal, pending further discussions both before and at the annual meeting in June in Agadir, Morocco. The United States will consult with all

relevant stakeholders to fully consider the elements of the chair and vice chair's proposal.

In closing, I would like to reiterate that the United States's position on whale conservation and management has not changed. And I agree with you, Congressman Delahunt, that whales do evoke awe and wonder. Our goal is to conserve many more whales than the status quo is conserving.

I would like to ask that two letters be placed in the record, one from all the recent chairs of the—I am sorry, all the recent U.S. Commissioners to the IWC, both from Republican and Democratic administrations, and one from a group of scientific chairs, or chairs of the Scientific Committee of the IWC. Both of those are relevant to the proposal. And also this chart.

Thank you very much.

[The prepared statement of Ms. Medina follows:]

**WRITTEN TESTIMONY OF**
**MONICA MEDINA**
**U.S. COMMISSIONER TO THE INTERNATIONAL WHALING COMMISSION**
**AND**
**PRINCIPAL DEPUTY UNDER SECRETARY FOR OCEANS AND ATMOSPHERE**
**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

**OVERSIGHT HEARING ON**
**"U.S. LEADERSHIP ON THE INTERNATIONAL WHALING COMMISSION AND H.R. 2455, THE INTERNATIONAL WHALE CONSERVATION AND PROTECTION ACT OF 2009"**

**BEFORE THE**
**SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND OVERSIGHT**
**AND**
**SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT**
**COMMITTEE ON FOREIGN AFFAIRS**
**U.S. HOUSE OF REPRESENTATIVES**

**May 6, 2010**

**Introduction**

Good morning, Mr. Chairman and Members of the Committee. I appreciate the opportunity to speak with you today about the upcoming 62nd annual meeting of the International Whaling Commission (IWC or Commission). I am Monica Medina, U.S. Commissioner to the IWC and Principal Deputy Under Secretary for Oceans and Atmosphere with the National Oceanic and Atmospheric Administration (NOAA). My testimony will provide background information on the IWC, discuss the main issues currently confronting the IWC, and explain the status of the "Future of the IWC" process, including the current proposal by the Chair and Vice-Chair of the Commission.

The goal of the Obama Administration is to conserve whales and preserve the IWC as the international forum for resolving current whale conservation issues, coordinating critical research, and addressing emerging issues for whales, such as climate change and ocean noise. The Administration reaffirms its unwavering support for the commercial whaling moratorium and believes that lethal scientific whaling is unnecessary in modern whale conservation management.

Although the new Administration began while the "Future of the IWC" process was well underway, it fully understands the complexities of, and concerns regarding, this process and the key issues facing the IWC. The Administration is fully committed to furthering discussions of critical issues within the IWC, including the future of the organization. However, the Administration has significant concerns with several aspects of the current proposal put forward by the Chair and the Vice Chair. If the proposal remains unchanged the United States will vote

against it. For any arrangement to be acceptable, it must result in a significant improvement in the conservation status of whales for the long term and be based on sound science.

The United States has participated in the "Future of the IWC" process in good faith to try to achieve a number of U.S. objectives. These objectives include: (1) bring all whaling under IWC control by closing "loopholes" to the Convention that permit unlimited whaling; (3) transforming the IWC to focus squarely on conservation and address the new and emerging threats to cetaceans; (4) recovering severely depleted and endangered populations; (5) increasing the participation of civil society at IWC proceedings; (6) preventing our subsistence hunts from being held hostage by the Commission for political reasons; (7) addressing the growing international trade of whales and whale products between the three whaling countries; and (8) addressing the growing black market for whale meat and whale products.

**International Whaling Commission**

The International Convention for the Regulation of Whaling (ICRW) was signed in 1946, as a direct result of decades of overharvesting of the great whale species of the world. The primary purpose of the ICRW is the conservation and management of the great whales. The IWC was formed by the ICRW and is responsible for managing the 13 great whale species — bowhead, North Atlantic right, North Pacific right, southern right, gray, blue, fin, sei, Bryde's, common minke, Antarctic minke, humpback, and sperm. The IWC regulates whaling by periodically amending the Schedule to the Convention (Schedule), an integral document to the ICRW, which lists measures that govern the conduct of whaling. Amendments to the Schedule must be based on scientific findings and require a three-quarters majority of those IWC members who voted. The ICRW contains provisions that allow member countries to object to Schedule amendments within certain time frames, in which cases such Schedule amendments do not bind the objecting country.

The IWC also provides for aboriginal subsistence whaling to help preserve aboriginal cultures and provide for traditional nutritional needs. This is done through catch limits in the Schedule. The IWC has set catch limits for whale stocks harvested by certain aboriginal groups from the United States, the Russian Federation, Denmark (Greenland), and St. Vincent and the Grenadines.

There are currently 88 member countries to the IWC, with the Commission being roughly split between pro-commercial whaling countries and anti-commercial whaling countries. Because of the strong views held by many member countries, debate at IWC annual meetings is often heated and filled with rhetoric that does not move the organization forward. At this point, the pro- and anti-commercial whaling positions have become so entrenched that the IWC is often at an impasse due to an inability or unwillingness of countries to compromise. As a result, over 85 percent of the whaling that occurs globally is neither regulated by the IWC nor subject to international monitoring and control requirements to prevent illegal trade. Further, a significant portion of this whaling activity occurs within an IWC established sanctuary. Due to the deadlock at the Commission, many members see little point in participating fully in its activities, and meetings of certain key IWC bodies, such as the Conservation Committee, are only attended by approximately half of the member governments.

**The Future of the IWC**

The polarization of the IWC threatens the viability of the organization as the international forum for resolving current issues, coordinating critical research, and developing international agreements to further whale conservation. Years of protracted and unresolved debate over the proper means to conserve, utilize, and study whales have made many IWC members, including the United States, concerned about the body's future relevance in controlling unilateral whaling and conserving whale stocks. Some countries have questioned their continued membership in the Commission as a result of this polarization.

It is the consensus view of the 88 IWC member nations that there is a pressing need to resolve the impasse at the IWC regarding many important issues. There is also general agreement among Contracting Governments that the Commission needs to improve the way it conducts its business, and needs to address the current conflicting opinions among Commission members that make it difficult to reach consensus decisions or to hold constructive discussions. In an attempt to resolve some of the contentious issues facing the Commission, the IWC established a process in 2007 to discuss the future of the organization.

In 2008, the IWC established a Small Working Group (SWG) chaired by an independent moderator was established to develop options for the organization's future by the 2009 annual meeting. The SWG was charged with assisting the Commission to arrive at a consensus solution to the main issues it faces, and thus to enable it to best fulfill its role with respect to the conservation of whale stocks and the management of whaling. The SWG was not able to reach consensus on a package by the 2009 meeting, and the IWC agreed that the process should continue for one additional year with a final decision to be made at the annual meeting in 2010.

As agreed to by consensus at the 2009 annual meeting, a Support Group was established to assist the Chair in providing direction to the process and in preparing material for submission to the SWG. The membership of the Support Group was designed to include diverse geographic and socio-economic representation, as well as a range of views on whaling issues. It was comprised of Antigua and Barbuda, Australia, Brazil, Cameroon, Germany, Iceland, Japan, Mexico, New Zealand, St. Kitts and Nevis, Sweden and the United States. In addition, Norway was invited to participate by the Chair and attended the last two meetings as an observer.

After three meetings of the Support Group (in Santiago, Chile in September 2009; in Seattle, Washington in December 2009 and in Honolulu, Hawaii in January 2010), the Chair of the Commission submitted a report to the March 2010 meeting of the SWG in Florida that contained a set of ideas (a draft Consensus Decision to Improve the Conservation of Whales) on how the IWC could improve its function in the future. The document was discussed thoroughly at the March meeting. The Support Group met again in Washington, DC in April 2010 to consider comments received both during the March SWG meeting and in writing, on the draft Consensus Decision. The Chair and Vice Chair of the IWC have since released their revised version of this document as a joint proposal to the Commission for consideration at the annual meeting this June.

The United States, as one of the 12 countries appointed to the Support Group, appreciates the constructive collaboration within Support Group discussions, which operated under an agreement that "nothing is agreed until everything is agreed, in contrast to the acrimonious

debate that has characterized IWC annual meetings. The United States commends the Chair, the Vice Chair, and the other members of the Support Group for their willingness to discuss such challenging issues in a diplomatic forum.

However, while we recognize that some progress has occurred over the past year, there is disappointment among IWC members, including the United States, that the "Future of the IWC process" has not yet been able to resolve some of the key issues facing the Commission. While there are positive elements to the current proposal, it falls well short on a number of issues that are critical to the United States. Further, there needs to be clarity on what will happen at the end of the ten-year agreement if a new Convention or permanent reforms have not been agreed by the Commission.

Despite these shortcomings, we believe that the proposal represents a meaningful step forward, and is a possible foundation towards achieving a functioning IWC and improving the conservation of whales. We have encouraged other member countries to approach the upcoming discussions with open minds and constructive attitudes in the hope that a diplomatic solution can be reached.

While the Administration has not taken a position on H.R. 2455, I believe the U.S. objectives, along with our unwavering support for improved conservation of whales, address the intent of H.R. 2455, the "International Whale Conservation and Protection Act of 2009." As the bill appropriately states, "today whales face an uncertain future due to a variety of threats." These threats include climate change, pollution, ocean noise, ship strikes, bycatch and entanglement. The United States would like to see the IWC prioritize its work to address these issues. However, we agree with the concerns expressed by the Department of State regarding the need for maximum flexibility to fully strengthen the work of the IWC, and we cannot support certain provisions of H.R. 2455 that seek to restrict our ability to negotiate with other parties and advance U.S. national interests on these issues. In addition, I note that NOAA already has a robust approach to support the research and conservation of whales and an existing nationwide competitive grant program to recover whales and other protected species for which the agency is responsible. Therefore, the authorization of appropriations and a new grant program, as provided in H.R. 2455, are not necessary.

**Conclusion**

In closing, Mr. Chairman, while the Administration recognizes the conservation benefits outlined in the proposal put forward by the IWC Chair and Vice-Chair, we continue to have significant concerns with the proposal and would not agree to it in its present form. At this time, we reserve judgment on any revised proposal pending further discussions, both before and at the annual meeting in 2010. The United States will also consult with relevant stakeholders to fully consider the elements of the Chair and Vice-Chair's proposal. I would like to reiterate that the United States' position on whale conservation and management has not changed. The United States continues to support the moratorium on commercial whaling and will continue our efforts to end lethal scientific research whaling. Our goal is to conserve whales.

Mr. FALEOMAVAEGA. Without objection, those documents will be made part of the record. And could you please make sure that the staff receives those documents you cited, Madam Secretary.

Ms. MEDINA. We will.

Mr. FALEOMAVAEGA. Okay. I would also like to note for the record that we are joined by another distinguished member of our subcommittee, the gentleman from South Carolina, Mr. Ingliss. If he has any opening statement that he would like to make at this time.

All right, then we will proceed on, Secretary Balton, for your testimony.

**STATEMENT OF THE HONORABLE DAVID A. BALTON, DEPUTY ASSISTANT SECRETARY, BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, U.S. DEPARTMENT OF STATE**

Ambassador BALTON. Mr. Chairman, members of the two subcommittees, thank you very much for the opportunity to testify before you today. I have a written statement, and ask that it be included in the record.

Mr. FALEOMAVAEGA. Without objection, both of your statements will be made part of the record, as well. Okay.

Ambassador BALTON. This morning I will try to highlight the main points.

I would like to commend the members of the two subcommittees for their interest in strengthening our efforts to promote whale conservation, and to improve the functioning of the IWC. The United States is a leader in whale conservation at the international level, and we can be proud of our record.

This morning I will try to present the views of the Department of State on the issues relating to whaling and whale conservation, and particularly how these issues fit into the larger framework of U.S. foreign policy.

For the better part of two decades, divergent views within the IWC have led to a prolonged stalemate on these issues And as someone who has spent about 20 years negotiating international agreements to conserve and manage living marine resources, I regard the stalemate as both unfortunate and anomalous.

The stalemate has steadily eroded the stature and effectiveness of the IWC as an international organization. At this point, the IWC does not meaningfully control the whaling activities of Iceland, Norway, or Japan. Indeed, the only whaling activities that the IWC oversees closely are the taking of whales for indigenous subsistence use, including whaling activities undertaken by Alaskan Eskimos.

Please allow me to quote from a letter Ms. Medina just mentioned that President Obama recently received from six past U.S. IWC Commissioners. They say,

> "We have seen the steady decline of the IWC from a world-class international organization for the conservation and management of the great whales, to a nearly dysfunctional body. In short, the IWC is not now the sort of international organization we would wish it to be."

Perhaps more importantly, the stalemate within the IWC also affects the broader foreign policy of the United States with the nations most involved.

I wish to emphasize that these nations are allies on a wide range of international issues, with each other, and with the United States. Australia, New Zealand, member states of the European Union, Iceland, Japan, Norway, and the United States generally work closely together within the international system, including on many environmental and ocean-related issues. Many of these nations are military allies, as well.

The whaling issue is a source of ongoing friction in these otherwise healthy relationships. The Department of State therefore sees value in seeking a resolution of this stalemate, provided that the resolution otherwise serves U.S. interests. In our view, moving forward would allow advancement of our foreign policy agenda with these and other partners.

The United States certainly has different views about whaling and whale conservation from those who are engaged in commercial whaling and lethal scientific whaling. But these governments are not our enemies. All of the governments involved are participatory democracies who are now engaged with us in an honest, if difficult, effort to find a way forward.

I do not know whether this effort will succeed. If it fails, it will be because the IWC members involved simply could not find a mutually acceptable formula for resolving differences.

This process still has a chance to succeed, however. I wish to underscore what you heard from Ms. Medina. The administration does not accept the proposal of the chair and vice chairs as it is currently configured.

I expect that the proposal of the chair and vice chair is also unacceptable to most other IWC members, as well. Indeed, it has drawn criticism from all sides of the debate.

That said, the administration also finds the status quo to be unacceptable. We oppose the increasing levels of unregulated whaling, and we are quite frustrated by the paralysis within the IWC.

Our best hope is for the chair's proposal to serve as a springboard on which to jump forward to an arrangement that is acceptable. In our view, such an opportunity to improve whale conservation and to make the IWC an effective organization once again may not present itself again soon.

This will not be easy. Indeed, some IWC members are under increasing political pressure and criticism from constituents who believe that the chair's proposal would effectively capitulate to those members who want to engage in commercial whaling.

On the other side, some IWC members are under increasing political pressure and criticism from their constituents, who believe that the chair's proposal would unduly restrict their right to harvest whales. My hope is that some acceptable solution is nevertheless within reach.

In conclusion, the status quo is bad for whales and bad for the IWC. It hampers our ability to advance our foreign policy interests with certain key governments.

We believe that the effort to negotiate a resolution within the IWC represents the best opportunity to resolve this longstanding

difficult issue, to enhance and strengthen our bilateral and multilateral relationships, to restore the functionality of the IWC, and to conserve whales more effectively.

Thank you very much. I would be pleased to answer any questions you may have.

[The prepared statement of Ambassador Balton follows:]

TESTIMONY OF
AMBASSADOR DAVID A. BALTON
DEPUTY ASSISTANT SECRETARY OF STATE
FOR OCEANS AND FISHERIES
BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND
SCIENTIFIC AFFAIRS

BEFORE THE
HOUSE COMMITTEE ON FOREIGN AFFAIRS' SUBCOMMITTEE ON
INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS and OVERSIGHT, and
SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT

May 6, 2010

Chairmen and Members of the Subcommittees:

I am pleased to be here today to speak to you about ongoing efforts within the International Whaling Commission (IWC) regarding its future. First, I would like to thank Congressman Faleomavaega and other Members of Congress for their interest in strengthening our efforts to conserve whales and to improve the way in which the IWC functions. As my colleague, Ms. Monica Medina, has described, the United States is a leader in whale conservation and continues to view the IWC as the preeminent organization to coordinate critical cetacean research, to study emerging threats to whales and their habitat and to resolve current whale conservation issues.

Unfortunately, divergent views within the IWC membership have for many years prevented real progress on these important issues. Ms. Medina has detailed the existing whale conservation concerns of United States and the prospects for moving forward on this agenda. I would like to take this opportunity today to offer the perspective of Department of State on this issue, to put this issue in the context of the broader foreign policy of the United States, and to describe the effect this stalemate in the IWC has on otherwise fruitful diplomatic relationships. I speak as someone who has spent much of the past 20 years negotiating international agreements to conserve and manage living marine resources that we share with other nations.

From the perspective of overall U.S. foreign policy, the whaling issue is an unfortunate anomaly. For nearly two decades, the IWC has been mired in a prolonged stalemate. This stalemate has steadily eroded the stature and effectiveness of the organization. As six past U.S. Commissioners recently put it in a letter to President Obama, "we have seen the steady decline of the IWC from a world-class international organization for the conservation and management of the great whales to a nearly dysfunctional body."

The organization's stated objectives are to conserve whales and to manage whaling operations. Following years of overharvest, the IWC adopted a moratorium on commercial whaling in the mid-1980s. For several years thereafter, the moratorium proved to be reasonably effective. The IWC members who had previously engaged in commercial whaling generally abided by the moratorium. Within the IWC, work proceeded to study the stocks of great whales and to prepare a new set of management rules under which limited whaling might resume under tightly

controlled strictures. But starkly divergent views arose among IWC members which effectively brought this work to a halt. Norway, which was never legally bound to the decision establishing the moratorium, resumed commercial whaling in 1993. Iceland, which left the IWC in the early 1990s, rejoined the IWC some years later, claimed that it was no longer bound to observe the moratorium, and resumed whaling operations. Japan, which claims to observe the moratorium, significantly expanded lethal scientific whaling in both the Southern Ocean and North Pacific.

At this point, the IWC does not meaningfully control any of these whaling activities. Indeed, the only whaling activities that the IWC oversees closely are the taking of whales for aboriginal (or indigenous) subsistence use, including the whaling undertaken by Alaskan Eskimos. Recently, the Commission has struggled with this activity as well, as shown by the Commission's inability to assemble enough of its membership this spring to consider Greenland's request for a modification of its subsistence quota. By all accounts, the organization is increasingly becoming ineffective.

I wish to emphasize that the nations most involved in this stalemate are normally allies on a wide range of international issues -- with each other, and with the United States. Australia, the Member States of the European Union, Iceland, Japan, Norway, and the United States generally work closely together within the international system, including on many environmental and ocean-related issues. Many of these nations are military allies as well. The whaling issue is a source of ongoing friction in these relationships. Staunch positions taken by IWC members at opposite ends of the spectrum of views on whaling fuel this friction.

The Department of State therefore sees value in seeking a resolution of this stalemate, provided the resolution otherwise serves U.S. interests. In our view, moving forward would allow advancement of our shared foreign policy agendas with these and other partners.

The United States certainly has different views about whaling and whale conservation than those who are engaged in commercial whaling and lethal scientific whaling. Nevertheless, the governments who are engaged in those activities are now responsibly engaged with us and other IWC members in an honest if difficult effort to find a way forward. We do not know whether or not this effort will succeed. If it fails, it will be because IWC member governments simply could not find a mutually acceptable formula for resolving those differences.

This process still has a chance to succeed, however. The Chairs' proposal, while not acceptable to the United States or to most other IWC member governments, provides a strong foundation by which to continue discussions, and develop an arrangement that might be acceptable to the IWC membership. In our view, such an opportunity to improve whale conservation and to make the IWC an effective organization may not present itself again soon.

The United States Government is investing significant time and attention to this effort. Throughout this process, the United States has sought the cooperation of all participants through senior level engagement with counterparts in other governments. Capitalizing on our strong and robust relationships with Japan, Australia, Iceland, Norway, Member States of the European Union and others, the United States has urged all governments participating in the process to engage with creativity, determination, and flexibility. Under the Obama Administration, the

United States has sought to promote and advance serious and measureable improvement to whale conservation through high-level, diplomatic engagement. Examples of this diplomatic engagement include letters from CEQ Chair Nancy Sutley, Secretary Clinton, and Secretary Locke to officials in Japan, Australia, and New Zealand. Additionally, U.S. Ambassadors in Japan, Norway, and Iceland have been and remain engaged in advancing the United States interests.

As the process comes to a head, it will be more difficult for IWC member governments to continue to be flexible in these discussions. Indeed, some members (including the United States) are under increasing political pressure and criticism from constituents who believe that the Chairs' proposal would effectively capitulate to those members who want to engage in commercial whaling. On the other side, Japan, Norway and Iceland are under increasing political pressure and criticism from constituents who believe that the Chairs' proposal would unduly restrict their right to harvest whales. My hope is that some acceptable solution is nevertheless within reach.

With regard to H.R 2455, we appreciate the interest of Members of Congress in seeking viable solutions to promote whale conservation measures. As stated in the legislation, "whales are of great aesthetic and scientific interest to mankind and are a vital part of the marine ecosystem." However, we cannot support certain provisions of H.R. 2455 that seek to restrict our ability to negotiate with other parties and advance U.S. national interests in international negotiations. We understand that other Departments are reviewing the bill and have concerns with certain provisions.

In conclusion, let me echo Ms. Medina's remarks that the United States is not satisfied with the Chairs' proposal in its current formulation. However, we are also not satisfied with the status quo, particularly as it relates to our ability to advance our shared foreign policy interests with key governments engaged in this debate. We believe that this process represents the best opportunity to resolve this long-standing difficult issue, thereby enhancing and strengthening several bilateral and multilateral relationships, to restore the functionality of the IWC and to conserve whales more effectively. We hope that the Chair's proposal is significantly strengthened and improved over the coming months.

Mr. FALEOMAVAEGA. Thank you, Secretary Balton. Before proceeding on with questions from the members of the subcommittee, we are very, indeed, honored to have with us the presence of our full committee chairman of the Foreign Affairs Committee, my good friend, the distinguished gentleman from California, Chairman Berman. I think he does have an opening statement that he wants to share with the committee and with the public. And I would like to turn the time over to Chairman Berman at this time for his statement.

Chairman BERMAN. Thank you very much, Chairman Faleomavaega. I appreciate this, and I apologize for jumping in the middle of this hearing with this statement. I couldn't be here at the opening of the hearing.

I would like, if I could, to get unanimous consent to insert into the record a letter from the California Coastal Commission to President Obama on the U.S. position at the International Whaling Commission.

Mr. FALEOMAVAEGA. Without objection, the statement will be made part of the record, as well as your statement, Mr. Chairman.

Chairman BERMAN. Mr. Chairman, this hearing comes at a crucial time, as members of the International Whaling Commission prepare to meet next month in Morocco. Despite a ban on commercial whaling that has been in place for almost a quarter of a century, Japan, Norway, and Iceland continue to kill significant numbers of whales every year.

Japan and Iceland conduct their whaling through a loophole in the moratorium for scientific research, while Norway objected to the ban, and therefore does not recognize it.

I agree with those who say that the IWC is broken, when for almost a quarter of a century, countries have continued to kill whales without limit. Since the ban was implemented in 1986, over 12,000 whales have been killed under the scientific exemption. I believe very much that the scientific loophole should be closed, and that U.S. should encourage Norway as much as it can to respect the moratorium.

Regrettably, a recently released proposal that reflects the work of the United States and other members of the IWC fails to close this loophole or stop Norway's hunts. Instead, it places a cap on the number of whales killed per year. Clearly, there are no limits.

I have several concerns about this proposal. First, I am very reluctant to legitimize the actions of whaling countries in any situation. Furthermore, questions have been raised on whether this proposal would significantly decrease the number of killings.

As nations prepare for meetings in Morocco, the United States should build upon the positive achievements made in conservation since the moratorium's enactment, and once and for all put an end to commercial whaling.

And I yield back, Mr. Chairman. Thank you again.

Mr. FALEOMAVAEGA. I thank the chairman for his statement. And at this time, I know that he is really under pressure with time, but if the chairman wishes to raise any questions with our administration witnesses, I would be more than happy to give him the time.

Chairman BERMAN. No. You have been more than generous; I am not going to take advantage of that very generous offer. Thank you.

Mr. FALEOMAVAEGA. At this time I would like to ask my friend, Mr. Delahunt, for his questions.

Mr. DELAHUNT. Thank you. Ambassador, let me pose this question to both of you.

The market. Where is the bulk of the market for these whales that are killed?

Ambassador BALTON. The bulk of the market is in Japan, sir.

Mr. DELAHUNT. It is in Japan. You know, I think your observation about the IWC and its credibility and legitimacy being eroded is a very valid one. And it is really unfortunate, and there should be a stronger word than unfortunate, to see its legitimacy waning.

I wonder if we are unable to achieve our goals in Morocco. What are the alternatives that we could consider, in terms of maintaining our own integrity and position, vis-à-vis the protection of whales?

Ambassador BALTON. Well, I can offer one answer. Ms. Medina may have something to add, as well.

If this negotiation fails, and it may, the options we will be looking at are not very good. The trend lines are all bad. Regulation without control by the IWC may well continue to increase, as the chart that was previously up on the screen showed. The political will of the countries who have invested a lot of time and energy into trying to find the solution may well dissipate, and I don't expect that the countries would come together again for another serious effort to improve the function of the IWC any time soon.

As for us, we would really need to reconsider our approach here. We have been spending a lot of time and effort within the IWC process, mostly lately through Ms. Medina and a large team we have. If it fails, we will need to reconsider this time and energy and money that we have been putting into the process.

Japan, Norway, and Iceland will also need to reconsider what they have been doing.

Mr. DELAHUNT. I guess what I am looking for, Ambassador, is, what are the options? What are the specific options? Are there sanctions? And that is a word that the chairman of the full committee is very familiar with. Are there sanctions available to deter those three nations from continuing the practice of commercial whaling, albeit under a ruse, if you will?

Ambassador BALTON. I guess my best answer is this. You are not the first to ask that question; the question has come up many times before. And the United States, at least, has never been willing to impose any meaningful sanctions for whaling activities.

There is a statute on the book, the Pelly Amendment, and I am sure you are familiar with it. Countries have been certified under the Pelly Amendment for whaling activities. But if what you are talking about are serious economic sanctions, or——

Mr. DELAHUNT. Targeted, obviously.

Ambassador BALTON. At least, if the past is prologue, there has never been a willingness on any administration's part to use those sanctions.

Mr. DELAHUNT. That doesn't leave us with a viable option. I mean, obstinacy on the part of those three, as you indicate, friendly and allied governments, the options are disastrous.

But I think there is sentiment here in Congress that we should be pursuing targeted, a targeted, let us call it a remedy, for lack of a better term. Because we don't seem to be making any progress. That trend line is disturbing.

And have we ever taken the position, Ms. Medina, that a compromise must include a commitment by all countries to end whaling? Commercial whaling?

Ms. MEDINA. We consistently take the position——

Mr. DELAHUNT. Hit that button.

Ms. MEDINA. Oh. Is it on now? I am sorry.

Mr. DELAHUNT. Sure.

Ms. MEDINA. Maybe I am just, again, speaking too softly. We consistently take the position that we would like to see all whaling ended, all commercial and scientific whaling.

Mr. DELAHUNT. And what is the response?

Ms. MEDINA. And I do want to be clear, not indigenous subsistence whaling.

Mr. DELAHUNT. No, we understand that.

Ms. MEDINA. But we do, we do want to see that all commercial and scientific, lethal scientific whaling end. And the other members of the IWC believe that they are whaling and using legitimate grounds for conducting their whaling activities.

We hope, although, as I said, and I want to be clear, that we are not there yet with this agreement. But this could be a step forward.

When we began this exercise, we realized we couldn't rewrite the convention, which is a 65-year-old convention that really doesn't fit today's problems. It doesn't even really make sense, if you will, in today's world.

But we couldn't do it in 1 year. It will take a number of years to rewrite the convention in a meaningful way, and have it fit the problems that we expect whales to face in the future.

So this agreement would be an interim step toward what we would hope would be the end to all commercial and scientific whaling.

Mr. DELAHUNT. But do we, in terms of the discussions regarding compromise? Is there an end game here? In other words, is there the willingness on the part, particularly of these three nations, to commit to end commercial whaling?

Ms. MEDINA. I can't say that there is now. On the other hand, they have negotiated with us in good faith for the last year. And what I can tell you is that compared to where these governments were 1 year ago, we have seen much more flexibility and interest in some sort of interim agreement that could lead to a new convention.

Mr. DELAHUNT. My concern about a convention, a new convention, is the time to achieve a new treaty is considerable. The processes are considerable. And the trend line, we have seen what is happening.

Ms. MEDINA. That is why the interim step would be to reduce whaling, and to put real hard limits, and enforceable limits. So we would have an option if somebody were to go beyond those limits, one of those nations, we would have enforceability within the IWC, which we have not got right now.

Mr. DELAHUNT. And they resist that.

Ms. MEDINA. No, they are willing to do that in this proposal.

Mr. DELAHUNT. I yield back. I thank the chairman.

Mr. FALEOMAVAEGA. Thank you. The gentleman from Arizona for his questions.

Mr. FLAKE. Thank you, Mr. Chairman. May I ask, if you totaled up all the indigenous whaling around the world, what would that figure be annually?

Ms. MEDINA. It is roughly 300 whales a year.

Mr. FLAKE. Three hundred?

Ms. MEDINA. It dwarfs the amount of commercial and scientific whaling, and it is relatively—well. I am sorry.

Mr. FLAKE. Sorry. The commercial and scientific whaling dwarfs the indigenous whaling.

Ms. MEDINA. Yes, indigenous whaling.

Mr. FLAKE. No, I understand that. I just wondered what percentage it made up of the total. So indigenous is 300, tops, annually, everywhere.

Ms. MEDINA. Always.

Mr. FLAKE. Whether it is in Alaska or wherever else. Russia, Greenland, okay.

Ms. MEDINA. There is a little bit by Canada that is also done outside the IWC. They left the IWC at the time of the moratorium, but it is one or two whales. So, minimal.

Mr. FLAKE. With the commercial and scientific, which types of whales are being taken, for the most part? What is the range, and what is the type?

Ms. MEDINA. The greatest number of whales are being taken in the stock that is probably the most abundant. That is not to say that it is in good shape. We don't know. But it is minky whales. The largest number in the southern ocean, then in the North Atlantic. But it is minky whales, for the most part.

Mr. FLAKE. Is there a sensitivity that you sense among these three countries to take only from the stocks of the most abundant whales? Or, I mean, are they sensitive to that? Can you speak to that a little?

Ms. MEDINA. One of the first things that we discussed in the support group was the fact that we all, especially given that we are allies on so many other environmental issues, we all believed that science had to be the foundation for whatever agreement was forged.

And so the issue here is which stocks are most able to withstand the hunts. And we have a system in the IWC for determining that. We haven't been able to apply that system to every type or every stock of whale, but we do have good abundance estimates on some. And we would be working underneath the sustainability numbers.

So the IWC calculates what is a sustainable amount that could be harvested for each of these stocks. And what we are looking to do is cap the number of whales taken underneath that sustainable number.

Mr. FLAKE. Where would you put that right now, that sustainable number? If you say there are, how many annually, under the commercial, the scientific exemption, or loophole, are taken? And where, how does that relate to where you would put sustainability?

Ms. MEDINA. The numbers in the southern ocean that we are talking about in the chair's proposal, which again we haven't agreed to yet, we don't think it is acceptable, are below sustainable. Well below.

Mr. FLAKE. How much? Can you give me some idea?

Ms. MEDINA. I think by a lot. I mean, there could be thousands harvested sustainably in the southern ocean. The problem with the southern ocean, and I want to emphasize it, is that the IWC also created a whale sanctuary there. And there is a concern, and it is a valid one, that whaling in a sanctuary, in this pristine area of the world, isn't appropriate. And that is the issue in the southern ocean.

It is not so much is it the science, are those stocks hurt; it is that this was supposed to be an area that was preserved for all wildlife, was supposed to be a sanctuary for whales. And it is very sensitive. And yet, the Japanese are conducting there large-scale industrial-type whaling activities there.

Mr. FLAKE. Of the total, Ambassador, of the three countries, Japan is the bulk of it. What percentage of the whales that are taken are taken by Japanese fleets?

Ambassador BALTON. I am going to say more than two thirds.

Mr. FLAKE. And if asked, what do they say, in terms of the scientific justification for taking so many whales? What is the stock answer there?

Ambassador BALTON. Japan does perform scientific research on the whales they take, and probably have the best whale science as a result. But it is also true that the products of the research have been sold on the open market.

Mr. FLAKE. Right. All right, thank you, Mr. Chairman.

Mr. FALEOMAVAEGA. Thank the gentleman from Arizona. A couple questions I would like to ask.

You have indicated from your testimony that since 1986, 35,000 whales have been killed, presumably by these three countries: Iceland, Norway, and Japan. What is the total world population of whales? We have several types.

Ms. MEDINA. Mr. Chairman, that is a hard one to answer. We are studying that, and that is one of the reasons why I would hope that we can find common ground in the IWC.

Because as the premiere scientific, international scientific organization, we could do a better job of understanding global populations and movements than we do now. So——

Mr. FALEOMAVAEGA. But Madam Secretary, we have been at this for 54 years, since 1946. We should have some estimate as to the world population of whales, shouldn't we?

Ambassador BALTON. They don't answer the census very well.

Ms. MEDINA. I can get you a number.

Mr. FALEOMAVAEGA. Can you submit that?

Ms. MEDINA. Very well.

Mr. FALEOMAVAEGA. Yes, just yes, I mean——

Ms. MEDINA. Absolutely.

Mr. FALEOMAVAEGA. It doesn't have to be every whale, I just was curious. If we have killed 35,000 whales since 1986 out of the total population of whales, I am not a mathematician, but I would think that conservation does come into play in a real sense.

Ms. MEDINA. Let me say this. If you could put the chart back up on the screen, it might help to put this into context. Before the moratorium——

Mr. FALEOMAVAEGA. That thing is not very clear because it is so small. Are you referring to this chart that I have here?

Ms. MEDINA. The chart, the graph.

Mr. FALEOMAVAEGA. Okay. You can state for the record what the numbers say.

Ms. MEDINA. The number here isn't even——

Mr. FALEOMAVAEGA. Well, eventually the number here, just say what the number is.

Ms. MEDINA. Well, prior to the moratorium, the number of whales being hunted and killed was in the thousands, tens of thousands——

Mr. FALEOMAVAEGA. Before 1986.

Ms. MEDINA [continuing]. Before 1986.

Mr. FALEOMAVAEGA. Then we started making excuses about scientific studies to justify the continuation of the killings, right?

Ms. MEDINA. Yes. But putting it into context——

Mr. FALEOMAVAEGA. So there is an absolution. But then on the other hand, there is probably no country in the world other than Japan that has more information on the science of whales than probably any other country, even more than even our own country. Would that be a safe statement to make?

Ms. MEDINA. Our scientists would say that we are doing an awful lot of whale research. But——

Mr. FALEOMAVAEGA. How do we do the research, compared to how the Japanese do it?

Ms. MEDINA. We don't do lethal research. We do not conduct lethal research. And nor would we. It is possible to take DNA samples very——

Mr. FALEOMAVAEGA. So we have already done that, as compared to what the Japanese have done.

Ms. MEDINA. Not any more. We did before, but not any longer.

My point about the moratorium is that the moratorium actually did have a beneficial, a tremendous beneficial effect. It is, in fact, one of the greatest achievements of the environmental movement in the seventies and eighties.

Mr. FALEOMAVAEGA. Actually, how many whales were killed before the 1986 moratorium?

Ms. MEDINA. It was in the tens of thousands each year. And it came down as whale populations dwindled. So, but what I can say is that, as a result of the moratorium, whale populations have started, but only just begun, we believe some of them, to rebound.

The problem is this trend of increased whaling in the face of that is not a very good one. That is what we are concerned about.

Mr. FALEOMAVAEGA. Okay. And your statement, Madam Secretary, again, I am just kind of putting it generally, it sounds like the administration does not support the proposal.

Ms. MEDINA. We do not support the proposal in its current form. But we hope that it will provide, as Ambassador Balton said, a springboard, a framework, or a foundation on which we can conclude negotiations, and improve it enough that the U.S. could support it.

Mr. FALEOMAVAEGA. And if you strive for improvements, what are specific areas for improvement on the proposals that I would like for the administration to submit for the record. I mean, you say that you have very serious concerns, but can you be any more specific about two or three areas that you say absolutely you are against this aspect of the proposal? Are we in that level right now of where you are very firm in your, in the administration's position on this?

Ms. MEDINA. We are engaged in almost daily diplomatic discussions, in an effort to move our colleagues in the other governments. We have been working very hard to have them understand that the numbers of whales hunted in the southern ocean are very important to us; the number, or the amount of whales traded, we would like to see no whale trade occur. Those are the most important issues to us right now.

Mr. FALEOMAVAEGA. The concern I have, Madam Secretary, just as it was mentioned earlier by Chairman Delahunt, is that it seems like we are going right back to square one. New Zealand and Australia, several other strong countries in areas of whaling are absolutely against any aspect of this proposal. And it just kind of sinks the whole thing to say well, we are going to try and negotiate. Negotiate where? If already it seems, it sounds from both of your testimonies, that the administration does not support the current, especially the major aspects of what the proposal calls for.

Here is the question. We want no killings at all; that is the ultimate. But at the same time, how do you deal with our friendly countries, the free countries that say hey, it is none of your business; it is part of our culture, it is part of our economic needs. The Norwegians and Icelanders love to eat whale meat. So how do you measure that in terms of saying well, who are you to tell us that we cannot eat whale meat? Just in the same way that our indigenous populations say we can eat it, too.

So where do we draw the line in saying that you cannot do this?

Ambassador BALTON. Mr. Chairman, I would say you have put your finger on why this is a difficult negotiation. But this is a negotiation. The positions articulated by Australia, New Zealand, Japan, about the chairman's proposal, are all part of a larger negotiation.

I don't know. If this were a Venn diagram, I am not sure all the circles are going to touch.

Mr. FALEOMAVAEGA. You know, we had a little problem years ago, when our tuna fishing fleet made this claim that because tuna was a highly migratory fish, they could conduct fishing for tuna anywhere in the world. The heck with the EEZ zones of these countries.

Well, guess what? They had their vessels confiscated. And it got to the point where even one of our sailors got caught in the Solomon Islands, and it created a furor, a worldwide furor, in saying who is this little dinky country there in the South Pacific telling my fishing boat, America, that they cannot fish for tuna.

And we all agree, tuna is a highly migratory fish. But it goes again to the same question of the EEZ zones of these countries, saying hey, when that fish comes through our 200-mile EEZ zones, you cannot take the tuna out.

And so what do we do? Well, they got chased out. They ended up in the Russian Pacific, and we're still having problems fishing for tuna.

So I go back to the same questions. How is the world community going to tell Iceland and Norway and Japan that they cannot kill any more whales because of the consumption demand by their people?

And I think Mr. Delahunt says sanctions. That is one option. What, commit a war against these countries for killing whales? No, I just wanted to know what other options are available. Because we have been at a stalemate for how many years now? A good number of years now, I believe.

Ambassador BALTON. We have been at a stalemate for the better part of two decades. But we have a negotiating process that has a chance to succeed. I don't know if it will succeed, but we may. We may get there.

It may require all sides to accept something less than what they optimally want. It would, in any event, only be an interim deal. And it may be, Mr. Chairman, that time is ultimately on our side. It may be that the markets for whale meat and other whale products will eventually dry up entirely, and the problem will be solved in that way.

Until such time, though, we have three countries who very much want to continue whaling. We have an interest in significant reduction of whaling activities from what we have today, and we want to bring such whaling as does exist under control.

Mr. FALEOMAVAEGA. Well, there seems to be general consensus that the IWC is like a toothless tiger. It has no teeth. It has no real enforcement process of saying you can't do this, you can't do that.

And I don't know how we ended up with 88 member countries. Every country had whales in their districts? I am curious. It became a political football.

And by way of, I wouldn't call it extortion or bribery, but how do you persuade these countries to support you. I think you require, what, a three-quarters vote among the 88 member countries? And I am curious, 88 members. I didn't realize that many countries had whales in their districts. I am just curious about that.

I am also curious that the administration has no comment on the bill that Mr. Delahunt and I had introduced for the last 100 years now. You have no comment? We have had this bill for almost 1 year. I guess it is not important? Any provisions in there that do not make any sense? Or can you say that maybe we can make improvements?

I would like to ask you for your suggestions. How can we improve the bill?

Ms. MEDINA. Yes, Mr. Chairman. As I said, we would be delighted to work with you to work on various provisions of the bill.

What is unusual about it is that it tells the U.S. Government what to negotiate, which is——

Mr. FALEOMAVAEGA. Well, we tried to throw even the kitchen sink in there, to make sure that something gets moving here, to the extent now that we have got the Ways and Means Committee, the

Resources Committee, and the Foreign Affairs Committee all taking a bite at it.

And I want to know, maybe we need to separate it so that we can get this thing moving in some way. Can you help us with that?

Ms. MEDINA. Yes, we would be delighted to work with you on that. And I do think that the one thing, if you are searching for why would the other nations, since they have the right, at least they claim, to whale under the Convention now, why would they want to have an agreement with us.

And I think it is because they see legislation like this, and they see advertisements like that. And it does have an impact on them. And they would like to try and find an answer.

They also are frustrated, as we are, when they attend IWC meetings, and all we do is exchange our verbal accusations and spend many weeks every summer—it is an annual meeting, it goes on for several weeks—and we don't accomplish anything. And I believe they are as frustrated with that as we are.

Mr. FALEOMAVAEGA. I would also note for the record that I think the media has been very unfair toward Japan. We see national TV, and looking at the Japanese as the evildoers in the killings of whales. But I haven't seen one media shot of our environmental friends to go against the Norwegians and the Icelanders, and they are killing the whales too. I feel there is a real sense of unfairness in how the media has portrayed Japan as the evildoer, and I think it is very unfair in that respect.

And I don't know if any of our Americans, fellow Americans, know that Japan has had a 400-year cultural history in their relationship with the whales. So this is just an appetite, indeed, there is also a lot of cultural history behind it in that country. Just as it is true with our indigenous friends, whether it be in Alaska, Canada, Russia, or other countries.

But I would deeply appreciate it if the administration could get back to us as soon as possible, so we can get this bill moving in such a way so that hopefully get it to the extent that it will be helpful to the whole idea.

Now, here is the question. Ultimately, no more killings. Option B, there has got to be some kind of a conservation here, because I don't think we are going to be able to convince these three countries that absolutely believe that whaling is just like taking other marine resources for consumption. That is why we put on moratoriums. And look what happened to the swordfish in New England. We ended up now with 150 long-line boats in Hawaii, because the swordfish population is no longer there. So what have we done for that?

So it seems to me that there has got to be some kind of conservation measures. And I think this is perhaps the key factor in how we can get our three friends to do this. If it is for consumption, and it may be in some reduced form, but to say that absolutely, that they cannot kill any more whales, I don't see how this is ever possible. Maybe I am wrong. Could you comment on that?

Ms. MEDINA. I think it is only possible if we take the next step in this work toward an end to lethal scientific and commercial whaling. I don't think it is possible without continued diplomacy. I think your points about the perspective of the Japanese on their

hunts are well taken. And of course, that is why the U.S. Government has been engaged in a diplomatic process, in order to try and reach an agreement among partners.

But it would be only a step toward what we would hope would be an end to commercial and scientific whaling. And at the very least, getting it under control; making the IWC a relevant organization again, and being able to turn to those other conservation issues that are probably——

Mr. FALEOMAVAEGA. Well, Madam Secretary, I hate to interrupt, but I see that you are speaking about the ideal. But the reality is that is not where we are at, and we haven't been there for all these years. So we have to really be serious as, well, we are making pretensions that we can do it, we can negotiate. We negotiate it to death, and the poor whales are still being killed left and right.

So I know I have taken too much of my time. I want to turn the time——

Mr. DELAHUNT. Mr. Chairman, would you yield to me for just a moment?

Mr. FALEOMAVAEGA. Absolutely. My time is over. This is the second round, Bill, for you.

Mr. DELAHUNT. Okay. I will be very brief. I mean, you know, you are talking about negotiations. Well, implicit in the concept of negotiations is leverage.

I fail to see adequate leverage unless there is a clearly defined penalty. And maybe it is unilateral in nature. Or other signatories, you know, other similarly minded nations that would agree with us that there has to be some economic sanctions.

I just don't see these three countries moving in a direction.

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. DELAHUNT. Of course.

Mr. FALEOMAVAEGA. This is like the non-proliferation treaty that we have been at for so many years. It is okay for the five permanent members of the Security Council to continue having atomic bombs, but we tell the rest of the world they cannot have them.

And I sense it is the same thing with whaling. It is okay for certain countries to do it, but the rest of the world cannot. And here is the problem that we have. Where do we find—sanctions is being discussed, as has been done. But again, a total failure.

How can we positively persuade our friends to say that maybe we can work in some other way? That is just a question I wanted to raise to the gentleman.

Mr. DELAHUNT. No, and I agree with you, Eni. I mean, there has to be a punitive aspect. Not that we want to see, to have that punitive aspect infect our relationships with allied and friendly nations. But if you are ever going to achieve, in negotiations, some progress, people have to have something to lose. And right now, there is nothing. They can talk you to death, and they can negotiate.

What you are really having are conversations. I don't see it as negotiations. And there has to be some sort of creative option that the administration designs and goes to Morocco with.

And I echo the request by the chairman in terms of reviewing H.R. 2455 that has been filed by himself, me, and several others. Be creative. We are looking, we are trying to help you in terms of your negotiating posture.

Ambassador BALTON. We understand that.

Ms. MEDINA. We appreciate it.

Mr. DELAHUNT. I mean, this is not to be, you know, this is not to castigate your efforts. I am sure that you are making heroic efforts, Herculean efforts. But you don't have any, you don't have any bullets in your gun. Everybody knows it is a water pistol, you know? And you have got to load up.

Mr. FALEOMAVAEGA. Maybe not even a water pistol.

Mr. DELAHUNT. Right. I mean, if the administration is sincere—and I think this is how you will be measured, particularly by the NGO community—you have to have available a punitive economic response. Very targeted.

And again, I don't know enough about the marketplace, but there has to be, again, some creative effort to design a punitive measure, so that those stakeholders in those three countries are willing to say okay.

And it doesn't have to just strictly be restricted to whales. I mean, the fishing fleets in these countries, in addition to whales, what exports to other countries, in terms of their fleets, are available for the imposition of sanctions? Ambassador?

Ambassador BALTON. Certainly both Norway and Iceland are major exporters of fishery products, that is true.

Mr. DELAHUNT. That might get their attention, Ambassador.

Ambassador BALTON. I would ask you to consider one thing, though. So you might describe Japan, Norway, and Iceland as outliers in this; and hence, your desire to consider sanctions. But sometimes the—yes, it is, and I will try to speak a little more loudly.

But sometimes the shoe is on the other foot. The United States, at different times in our history, has been considered an outlier in certain other things.

Mr. DELAHUNT. Oh, we are well aware of that. We serve on the Foreign Affairs Committee, so we——

Ambassador BALTON. So you know better than I.

Mr. DELAHUNT. We do.

Ambassador BALTON. And so that has to be part of the calculus, no?

Mr. DELAHUNT. Right. And there are times that, you know, that Members of Congress have been very critical, in terms of administrations—and that is plural—in terms of our own behavior. And that is why we have a Committee on Oversight.

In a democracy, we hopefully can indulge in not just self-criticism, but self-analysis to see how our behavior can be improved. Oftentimes, you know, Congress will conduct oversight in a way that might be interpreted as a sanction on the Executive.

And what we are asking for is that kind of analysis to be conducted in terms of your negotiation. I would respectfully suggest we have got to move from conversation into real negotiation.

Thank you, Mr. Chairman.

Mr. FALEOMAVAEGA. Well, I have another juicy issue to share with both of you. What about shark-finning? What about the poor sharks out there? Merciless killing, I mean, of just taking the fins, and destroying the carcass and not of any use. And that is another

serious, serious issue. What is the world community doing about that?

You know, a little bowl of shark fin soup in Asia is about $100. There is a tremendous economic consumption demand for shark fin soup. What about the bycatch? Tremendous amount of fish that is wasted, that we just don't seem to pay any attention to any more than we are paying attention to the whales.

Ambassador BALTON. On shark-finning, sir, I can thank the Congress, which passed the Shark-Finning Prohibition Act of 2000, we have actually made some progress. We have gotten the different regional fishery management organizations to prohibit the practice.

It still continues, nevertheless. We are trying to find ways to better enforce the prohibitions. You are right to point out that it is still a problem that is not yet fully solved.

Mr. FALEOMAVAEGA. In fairness to our friends from Iceland and Norway and Japan, I don't know if there are any representatives from the embassies of Iceland, Norway, and Japan. I would be more than happy to open the record. We will request submissions and statements from their respective governments, and their point of view, at least in fairness to them, so that they can have their say in what we are discussing this morning.

But Madam Secretary and Ambassador, I really want to thank both of you for spending the time and having to get grilled by Mr. Delahunt on these important questions about this issue.

Thank you. We look forward to working with you. And please help us move this bill. If you really think it is helping, we will be helpful in seeing how we can better shape this issue, so that we can really help those whales.

Like I said, it was my privilege to sail on the Polynesian voyaging canoe called the Hokulea, from Tahiti to Hawaii. And for some 26 days, it was almost like I was living about 1,000 years ago with my ancestors. And every morning and every evening are the most beautiful sunsets and sunrises, the dolphins chasing us, and also whales.

Mr. DELAHUNT. I want to go on the next trip. Get away from this madness.

Mr. FALEOMAVAEGA. Isn't that the truth. But anyway, thank you both very much, and we look forward to working with you on this bill.

Mr. DELAHUNT. What are the dates of the Morocco conference?

Mr. FALEOMAVAEGA. It is June something, next month.

Ambassador BALTON. The plenary week is June 22 or 23 to the 26th. But there are 3 weeks in advance of that; 2 weeks of the Scientific Committee, a week of subcommittees, and then the plenary. So it is 4 weeks.

Mr. DELAHUNT. Thank you.

Mr. FALEOMAVAEGA. Thank you very much. We have on our next panel with us this morning, Dr. Justin Cooke who, I think he just arrived, coming all the way from the other side of the world here to join us for the hearing this morning.

Dr. Justin Cooke is a member of the International Union for the Conservation of Nature in the Specialist Group with the IWC Scientific Committee, and specializes in the quantification of risks to marine populations due to exploitation and other factors. His work

includes a modeling of an estimation of whale demography. He developed a quantitative component for the IWC's revised management procedures. So we have got a good expert here who works directly with the IWC's Scientific Committee.

Also with us this morning, we have Mr. Patrick Ramage. Mr. Ramage was named the Global Whale Program manager 3 years ago. In his role, Mr. Ramage leads IFAW's efforts worldwide to protect whales from threats. This includes promoting practical solutions to end commercial whaling, as well as reduce habitat destruction, ocean pollution, high-intensity ocean noise, ship strikes, entanglement in fishing gear, and the emerging threat of global climate change.

Mr. Ramage is a graduate of the Defense Language Institute and has European foreign language training; well-versed in German and Russian; is a U.S. military intelligence officer; lives in Massachusetts, and probably a member of your constituency there, Mr. Delahunt.

Mr. DELAHUNT. I suspect he is, Mr. Chairman.

Mr. FALEOMAVAEGA. Also we have with us Mr. Earl Comstock. He is the CEO of the Comstock Consulting Firm. Has served as counsel for the Alaska Eskimo Whaling Commission for 2 years now. In that capacity, he advises the Whaling Commission on Congress, the executive branch, and the International Whaling Commission.

He also works with the AEWC to negotiate conflict avoidance agreements. Mr. Comstock served from 1987 to 1997 in various capacities as a senior staff member to the former Senator Ted Stevens from Alaska, and also on the staff of the Senate Committee on Commerce, Science, and Transportation. And from 1987 to 1991, Mr. Comstock was the professional staff member of the Subcommittee on Oceans and Fisheries.

So these gentlemen are very familiar with the marine sciences, and the committee is very appreciative of their efforts to come all the way here to testify. And let us start with Mr. Ramage for his testimony. We will proceed on this.

**STATEMENT OF MR. PATRICK RAMAGE, DIRECTOR, GLOBAL WHALE PROGRAM, INTERNATIONAL FUND FOR ANIMAL WELFARE**

Mr. RAMAGE. Thank you, Mr. Chairman, and good morning. I am Patrick Ramage, Global Whale Program Director at the International Fund for Animal Welfare, or IFAW, one of the world's leading non-governmental organizations working to conserve and protect whales.

I have attended 12 of the past 14 annual meetings of the International Whaling Commission, or IWC. Informed by this experience, I would like to offer several points that may provide additional context for our discussion this morning.

But before I do so, let me admit bias. If there is a full-time whale conservation advocate who worked harder to elect President Obama, I have yet to meet them. I worked hard for then-candidate Obama in three primary contests and the general election, and I am proud to have done so.

I must also confess almost two decades of admiration for Monica Medina, a long-time friend and sometime colleague, for whom I have no small amount of affection. I appreciate Ambassador David Balton's committed public service, and both the legal acumen and the clients represented on this panel by Earl Comstock.

My family, my wife and three children, are in fact lucky to call Bill Delahunt our Congressman. And I am also a fan of yours, Congressman Faleomavaega, both for your early work on shark-finning, and more particularly since your introduction of H.R. 2455 almost 1 year ago.

Now that you know my slants, let me give it to you straight. While I believe our Commissioner's motivation is very genuine, I believe the proposal she and others have negotiated is a fake. That its adoption by the IWC would weaken, not strengthen, protection for whales worldwide.

And further, that United States support for this proposal represents an irresponsible, and perhaps irreversible, u-turn after decades of United States leadership and slow, but steady, conservation progress at the IWC.

A few contextual points. First, as has already been mentioned, our planet's whales are not saved. They face more threats today than ever before in history.

Second, engaged United States leadership is a prerequisite for effective international whale conservation. The IWC was created here in Washington. Its most important conservation achievements, including the moratorium on commercial whaling adopted in 1982, and the declaration of the Southern Ocean Whale Sanctuary in 1994, were only achieved with creative high-level support and consistent engagement from the United States.

Presidents Reagan and Clinton did not take a wait-and-see approach to this important issue. They led.

Third, Americans from sea to shining sea are united in their support for whale conservation, and their opposition to whaling for commercial purposes by Japan, Norway, and Iceland, whether that whaling is conducted in open defiance of the moratorium or under the guise of science.

The reaction to the IWC chairman's draft proposal is similarly striking. Not a single environmental, animal protection, or wildlife conservation group supports adoption of this proposal.

How, then, did we get to the point where a plan to legitimize the cruel and outmoded commercial whaling industry is introduced on the 40th anniversary of Earth Day, and is actually being seriously considered?

To be fair, the Obama administration did not initiate the misguided negotiating process that led to this proposal. They inherited it.

In the weeks following the inauguration, newly appointed officials faced a choice: Withdraw from the ongoing process, or continue it and see what concessions, if any, Japan, Iceland, and Norway, the last three countries still killing whales for commercial purposes, might be willing to make.

The no-drama administration chose the latter course. But in keeping with President Obama's welcome commitment to sound science and transparency, the White House also publicly articu-

lated criteria by which it would evaluate any proposal. Among these, that the commercial whaling moratorium must be maintained. That any compromise proposal should be based on sound science. And that to be acceptable, any proposal must also offer a significant conservation benefit to the whales.

Measured against these criteria, the chairman's proposal fails miserably, and the Obama administration must reject it.

To suggest, after all these negotiations, that we need to wait until the IWC meeting next month in Agadir to learn the details of this proposal and the position of our Government suggests either incompetence, intellectual dishonesty, or inadequate reflection on the serious questions it raises.

This is a bad deal for whales and the convention established to conserve them. It ignores the moratorium. It makes a mockery of the Southern Ocean Whale Sanctuary. It grants new rights to Japan, Iceland, and Norway to openly kill thousands of whales. It end-runs scientific procedures adopted by consensus to reward the three countries who have refused to play by the rules.

The promised benefits to whales are either nowhere in sight, or the result of sleight of hand. A whale sanctuary is finally established in the South Atlantic, where no whaling exists. A conservation program committee is established, needlessly recreating a conservation committee in place since 2003. Elaborate observer and monitoring schemes, which will be funded by U.S. taxpayers, and an inadequate DNA tracking scheme are also established.

Having outlined what I and the overwhelming majority of longtime observers are against, what does change we can believe in look like for whales in the IWC? It has six specific elements, which are elaborated in my written testimony, but I will give you just the headlines now.

Ensuring Japan's whaling in the Southern Ocean Whale Sanctuary is brought to an end. Ending international trade in whale products. Adhering to agreed IWC scientific procedures. Ensuring no commercial takes of threatened species and populations. Specific actions to end so-called scientific whaling. And meaningful guarantees regarding objections and enforcement.

I returned 3 weeks ago from my thirtieth trip to Japan. From my many, many meetings with Japanese Government officials, I can tell you, there is no serious support in Japan for continuing whaling in the international waters of the Southern Ocean Sanctuary.

The same general attitude is playing out in Iceland and Norway, as well. The domestic market for whale meat is in freefall in all three countries.

Whatever the fate of the chair's proposal and your legislation, the United States has a rare window of opportunity and a profound obligation to significantly improve the situation at the Whaling Commission, and in the water, for our planet's great whales, and to lead the world toward the ultimate end of commercial whaling. This will be achieved not through a rushed effort to negotiate peace for our time in the IWC; but rather, through a more consistent, persistent, creative, and long-term approach, both inside and well beyond the IWC. A more Japanese approach, if you will, to convey to the Governments of Japan, Iceland, and Norway that the United States and other conservation-minded countries at the IWC are as

serious about conserving whales as their fisheries' bureaucrats are about resuscitating commercial whaling in the 21st century.

On behalf of a unified conservation community, I urge you to advance the positive vision called for in the thoughtful legislation you introduced in H.R. 2455, and the companion legislation advanced by Senator Kerry of Massachusetts in the form of Senate 3116.

Thank you, Mr. Chairman. This concludes my testimony.

[The prepared statement of Mr. Ramage follows:]

**WRITTEN TESTIMONY OF**
**PATRICK R. RAMAGE**
**GLOBAL WHALE PROGRAM DIRECTOR**
**THE INTERNATIONAL FUND FOR ANIMAL WELFARE (IFAW)**

**JOINT HEARING IN ADVANCE OF THE**
**62nd MEETING OF THE INTERNATIONAL WHALING COMMISSION (IWC)**

**BEFORE THE**
**HOUSE COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT AND THE SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND OVERSIGHT**
**U.S. HOUSE OF REPRESENTATIVES**

**MAY 6, 2010**

Thank you Mr. Chairman, and good morning.

I am Patrick R. Ramage, Global Whale Program Director at the International Fund for Animal Welfare (or IFAW) one of the world's leading non-governmental organizations working to conserve and protect whales.

I have attended twelve of the past fourteen annual meetings of the International Whaling Commission (IWC) as well as the recent IWC Small Working Group meeting held in St. Pete Beach, Florida -- the only one of many such meetings during the thirty-sixth month "Future of the IWC" open to accredited non-governmental observers. Informed by this experience I would like to offer several points that may provide additional context for our discussion this morning.

Before I do so, let me admit bias: If there is a full-time whale conservation advocate who worked harder to elect President Obama, I have yet to meet them. As a private citizen and on my own time, I worked for then-candidate Obama in three primary contests and the general election. I am very proud to have done so. I must also confess to almost two decades spent admiring Monica Medina, a longtime friend and sometime colleague for whom I have no small amount of affection. I appreciate Ambassador David Balton's committed public service and both the legal acumen and the clients represented on this panel by Earl Comstock. My wife, children and I are lucky to be constituents of Bill Delahunt and I am also a fan of Congressman Faleomavaega, particularly since your introduction of HR 2455, The Whale Conservation and Protection Act, almost a year ago.

Now that you know my slant, let me give it to you straight: While I believe our Commissioner's motivation is genuine, I believe the proposal she and others have negotiated is a fake, that its adoption by the IWC would weaken protections for whales worldwide and, further, that United States support for this proposal – which has been palpable inside and outside those meetings – represents an irresponsible and perhaps irreversible U-turn after decades of US leadership and slow but steady conservation progress at the IWC.

A few contextual points: First, as Commissioner Medina and Ambassador Balton have already mentioned, our planet's whales are not saved. They face more threats today than ever before in history.

Second, engaged United States leadership is a pre-requisite for effective international whale conservation. The IWC was created here in Washington. It's most important conservation achievements, including the moratorium on commercial whaling adopted in 1982 and the declaration of the Southern Ocean Whale Sanctuary in 1994, were only achieved with high-level support and consistent engagement from the United States. Like others before them, Presidents Reagan and Clinton did not take a wait and see approach to this important issue. They led.

Third, Americans from sea to shining sea and across the political spectrum are united in their support for whale conservation and their opposition to whaling for commercial purposes by Japan, Norway and Iceland, whether that whaling is conducted in open defiance of the moratorium or under the guise of science. The reaction of civil society worldwide to the Chairman's draft proposal is similarly striking: not a single environmental, animal protection or wildlife conservation group supports adoption of this proposal.

How then did we get to the point where a plan to legitimize the cruel and outmoded commercial whaling industry in the 21st century is released on the 40th anniversary of Earth Day and is actually being seriously considered?

To be fair, the Obama Administration did not initiate the misguided negotiating process that led to this proposal, they inherited it. It was launched in the final years of the Bush Administration culminating eight years of distraction and drift in U.S. conservation leadership. In the first weeks of President Obama's term, newly appointed officials faced a choice – withdraw from the ongoing negotiating process or continue and see what concessions, if any Japan, Iceland and Norway, the last three countries still killing whales for commercial purposes, might be willing to make.

The "no drama" Administration chose the latter course. But in keeping with President Obama's welcome commitment to sound science and transparency, the White House also publicly articulated clear criteria by which it would evaluate any proposal, among these: that the commercial whaling moratorium must be maintained, that any compromise proposal should be based on sound science, that the status quo was unacceptable, and that to be acceptable any proposal must also offer a significant conservation benefit to the whales. Measured against these criteria the Chairman's proposal fails miserably and the Obama Administration must reject it.

To suggest 16 months into this Administration and 36 months into this process that we need to wait until the IWC meeting next month in Agadir to learn the details of this proposal and the position of our government suggests either incompetence, intellectual dishonesty or inadequate reflection on the serious questions it raises.

This is a bad deal for whales and for the convention established to conserve them. It ignores the moratorium, it makes a mockery of the Southern Ocean Whale Sanctuary, it grants new rights to Japan, Iceland and Norway to openly kill thousands of whales for commercial purposes, it end-

runs IWC scientific procedures adopted by consensus to reward just the three countries who have refused to play by the rules with guaranteed whaling quotas for a decade. And after this period, the "interim agreement" becomes in the words of Japanese Whaling Commissioner Joji Morishita "a completely blank piece of paper" with no guarantees or enforcement provisions to secure conservation gains.

The promised benefits to whales that Commissioner Medina, Drafting Group Chair Sir Geoffrey Palmer of New Zealand and other apologists for this package have promoted are either wildly exaggerated, nowhere in sight, or the result of slight of hand: a whale sanctuary is finally established in the South Atlantic where no whaling exists, an ostensibly new Conservation Program Committee is established, needlessly replacing the IWC Conservation Committee that has been in place since 2003, elaborate and expensive observer and monitoring schemes – to be financed not just by the whalers but also by the taxpayers of the United States and other non-whaling countries to watch whales being killed, and an inadequate DNA tracking scheme is established that fails to improve transparency or direct access to DNA samples held by Japan, Iceland and Norway.

So, having outlined what I and the overwhelming majority of longtime observers and IWC scientific experts are against, what are we FOR? What does "change we can believe in" look like for whales and the IWC? It has six specific elements not present in the Chairman's draft that I would be pleased to elaborate during our discussion:

- Ending Japan's whaling in the Southern Ocean Whale Sanctuary.
- Ending international trade in whale products
- Adhering to agreed IWC scientific procedures
- Ensuring no commercial takes of threatened species and populations
- Specific actions to end so-called scientific whaling, and
- Meaningful guarantees regarding objections and enforcement.

But whatever the fate of the Chair's proposal, the United States has a rare window of opportunity and a profound obligation to significantly improve the situation at the Whaling Commission and in the water for our planet's great whales and to lead the world toward the ultimate end of commercial whaling.

This will be achieved not through a rushed effort to negotiate peace for our time in the IWC but rather through a more consistent, persistent and long-term approach, both inside and well beyond the IWC – a more "Japanese" approach if you will – to convey to the Governments of Japan, Iceland and Norway that the United States and other conservation-minded countries at the IWC are as serious about conserving whales as their fisheries bureaucrats are about resuscitating commercial whaling in the 21st century.

I returned two weeks ago from my 30th trip to Japan, where I have discussed this issue extensively in recent months with senior Members of the Japanese Diet, government agency officials, representatives of the diplomatic community in Tokyo, media, academics and NGO representatives. They assure me, and I can assure you that whatever posturing may be taking place in IWC working group meetings, there is no serious support in Japan beyond the

bureaucrats at the Japan Fisheries Agency and their retirement sinecure the Institute for Cetacean Research for continuing whaling in the international waters of the Southern Ocean Whale Sanctuary. Public surveys conducted by reputable pollsters in Japan bear out this perception. The same general trend is playing out in Iceland and Norway as well. The domestic market for whale meat is in free-fall in all three countries. And just as each of the three governments is re-evaluating their longstanding positions, the proposal of the IWC Chairman's Support Group arrives, to offer the dwindling whaling industry a lifeline.

I commend you Mr. Chairman and members of the Committee for holding this important hearing. It is right for you as Members of Congress, for me as an NGO representative, and for the great majority of Americans who oppose commercial whaling to scrutinize, question and even criticize the actions and behavior of our Commissioner and delegation to the IWC.

Hindsight, as they say, Mr. Chairman, is 20/20. And, should this proposal be adopted, by 2020, when it expires, we will look back mournfully at the moral high-ground surrendered and the important scientific principles and conservation achievements thrown overboard in the name of accommodation. On behalf of a unified conservation community, I urge you instead to advance the positive vision called for in the thoughtful legislation introduced in HR2455.

Thank you, Mr. Chairman, this concludes my testimony.

Mr. FALEOMAVAEGA. Thank you. And without objection, all of your statements will be made part of the record. And if you have any additional materials to be added onto it, you are welcome, too.

Mr. Comstock for your statement.

**STATEMENT OF MR. EARL COMSTOCK, COUNSEL TO THE ALASKA ESKIMO WHALING COMMISSION, COMSTOCK CONSULTING, LLC**

Mr. COMSTOCK. Thank you, Mr. Chairman. It is a pleasure to be here. And Mr. Delahunt, thank you, both of you, for having Alaska Eskimo Whaling Commission here to testify. Our chairman, Harry Brower, would have been here, but he landed a whale a couple of days ago, and whaling is actively going on up in the communities on the North Slope there. So he was unable to leave.

The Inupiat Eskimos of the coastal villages of the Northern Bering Sea, the Chukchi Sea, and the Beaufort Sea have hunted the bowhead whale for over 1,000 years. Today there are 11 communities on the North Slope of Alaska, ranging from St. Lawrence Island in the Bering Sea to Kaktovic in the Beaufort, that still hunt the bowhead whale to provide a critical source of nutrition for the people in these communities.

All of these villages, as you gentlemen may know, are accessible only by air, or, in the short summer months, by boat. So the meat that is provided by this subsistence hunting is critical to the diet of these villages.

In addition, these communities turn out to harvest these whales. And so it is, the communal function of the activity of whaling is also very important to the culture of the Inupiat Eskimo.

The Alaska Eskimo Whaling Commission was formed in 1980 by the whaling captains in response to a decision by the International Whaling Commission to set a zero quota on bowhead whales. As you can imagine, this caused quite a crisis in the community; and

now, 30 years later, we have been working through this process for quite some time.

In the course of doing that, the AWC was formed. And its mission is to protect the bowhead whale and the subsistence hunt. Over those 30 years, the AWC, working with the United States Government, the environmental community, and the IWC, has now established what is widely known as sort of the gold standard for subsistence whaling at the IWC, and in fact, the model worldwide for the use of basically indigenous subsistence resource management to handle stock.

It has been a long and difficult and expensive process for the AWC and the whaling communities up there. And we have basically met every hurdle that has been placed in our way. We have met everything that the commission has said, including, over the course of that time, documenting and establishing a scientific process for documenting subsistence need, for modernizing the 19th century whaling tools that are used and marrying them with 20th century technology so that we can improve the humaneness of the hunt, and we have also established some of the leading-edge scientific research on the status of the bowhead stock. Including a program that is ongoing today where they actually use the hunters with their skills to tag the whales with a satellite tag, so we can now actually follow these whales throughout the year and see where they actually go. It is an exciting program, and they are very proud of it.

Our role in the IWC frankly has been the political football. We know, as you heard in earlier testimony, that the IWC is at crisis point. It has become exceedingly dysfunctional. And in fact, I was at the 2002 meeting in Shimonoseki, where the Japanese successfully blocked the approval of a subsistence quota for the Alaskans. And that precipitated yet another crisis. And in the ensuing 6 months, where the quota was reinstated, what happened was Iceland was able to then slip back into the IWC, with the reservation under which they now conduct their whaling.

So we are pushed and pulled back and forth. I mean, frankly, we are caught in the middle. And what everybody has figured out over this time is that if you want to get the United States's attention, what you do is you hold our quota hostage. We were up in 2007, and that process happened, almost, again. Thankfully, the meeting was held at Anchorage, and so, with the tremendous efforts of Senator Stevens and the U.S. delegation, we were able to keep the quota from being held hostage that year. But we are up again in 2012. And so we see this coming again. And in fact, we have been told by some of the countries that we will not see our quota reauthorized.

So I am here today to say that we do support the process that is going forward on this future negotiation. It is not, the document that has been introduced is not a perfect document; we recognize that. We would like to see some improvements ourselves. And we know our colleagues here, and we have worked with Patrick and many of the other environmental groups for many years, would like to see changes to that document. We are all for that.

But our key concern, and what I am here to testify to you today about, is we really need to find a way to get subsistence whaling

out of the middle of this mix. Because what is happening is these communities that depend on whaling for a critical source of their nutrition are being increasingly taken hostage by both sides as a means for getting the various governments' attention, and trying to negotiate something.

And if you can imagine this, there was discussion earlier about why do we have 88 countries at this; 88 countries are now getting together for almost 2 weeks a year. And the sole thing they seem to be able to focus their discussions on is subsistence whaling.

All of the other stuff, all of the other important issues—ship strikes, climate change, commercial whaling—those aren't discussed at all. They are talked about on the edges and in the shadows of the meetings. But when you get to the floor debate, what happens? Subsistence whaling gets to be front and center because it is the only thing they can agree on.

So the status quo is a continuing stalemate. And we would like to see the process move forward. As your bill, Mr. Chairman, points out, there are many things the U.S. needs to do. They have exercised the leadership role throughout this process. But in exercising that role, it has also made our quota a target.

So the good thing we see in this proposal is that it would grant a 10-year subsistence quota. That takes us out of the picture. And that, frankly, frees the United States, then, to engage in exactly the kind of leadership that you are hearing the other parties testify needs to be done.

If we are not there to be held hostage, you have got a lot more room.

And let me just say in concluding my testimony, as someone who participated in several international fishery negotiations, and has been at the IWC for various, well, 10 different times now over the past 20 years, you can't achieve all of this at once. In any of these negotiations, if you say we must have everything at the start, you won't get there.

So the key is setting up a framework that allows you to continue to push your objectives over the period of time. That is what this document does.

And so we would urge you to support the U.S. delegation, give them the flexibility to negotiate the best possible agreement they can, one that protects subsistence and accomplishes as many of the U.S. objectives as possible. And then as long as that framework allows for the continued pressing of those objectives that you weren't successful on achieving entirely, we think you have got something that is worth moving forward on. So we would encourage you to do that.

Thank you for taking my testimony today, and I would be happy to answer any questions.

[The prepared statement of Mr. Comstock follows:]

TESTIMONY

OF

EARL COMSTOCK

COUNSEL FOR THE

**ALASKA ESKIMO WHALING COMMISSION**

BEFORE

THE SUBCOMMITTEE ON

INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND

OVERSIGHT

AND

THE SUBCOMMITTEE ON

ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT

MAY 6, 2010

Chairmen and members of the committee: Thank you for inviting the Alaska Eskimo Whaling Commission to testify. Our chairman, Harry Brower, would have liked to be here. However, it is whaling season in Barrow, and he landed a whale just two days ago, so he could not make the trip. My name is Earl Comstock, and I am testifying today as counsel for the Alaska Eskimo Whaling Commission (AEWC).

The Inupiat Eskimos from the coastal villages of the northern Bering Sea, the Chukchi Sea, and the Beaufort Sea have hunted the bowhead whale for over a thousand years. Today eleven coastal villages from St. Lawrence Island in the Bering Sea to Kaktovik in the Beaufort Sea still hunt the bowhead whale to provide a critical source of nutrition for the people in these communities. All of these villages are accessible only by air or, when the ice is not there, by boat. As a result, the meat that each whale provides to these villages is an important and irreplaceable part of their annual diet. In addition, the communal cooperation required to catch and flense such a large animal is an essential part of the culture of these villages.

The Alaska Eskimo Whaling Commission was formed in 1980 by the whaling captains in response to a decision by the International Whaling Commission (IWC) in 1979 to establish a zero quota for bowhead whales. The IWC took this action based on a lack of science on the status of the bowhead stock and concern about the potential adverse impact of offshore oil development on the bowhead

stock. The IWC caused a crisis in the whaling communities that led to the creation of the AEWC. The AEWC's mission is to protect the bowhead whale and the subsistence hunt. In addition, through a cooperative agreement with the National Oceanic and Atmospheric Administration, the AEWC manages the subsistence hunt to ensure compliance by the whalers with IWC and US requirements under the Whaling Convention Act and Marine Mammal Protection Act.

When the IWC set a zero quota the elders among the Alaska Eskimo whaling captains said that, based on their traditional knowledge, the stock was in fact healthy and had been growing since commercial whaling on bowheads was stopped early in the 20th century. Western scientists and the IWC did not believe the elders, and it took many years to document with western science that what the elders said was in fact correct. With the strong support of the North Slope Borough and the scientists at the North Slope Borough's Department of Wildlife Management, the AEWC has established what is now known as the "gold standard" for subsistence whaling at the IWC and a widely praised model for indigenous subsistence resource management.

It has been a long, difficult, and expensive process for the AEWC and the whaling communities in Alaska to participate in the IWC. But they have persevered and done everything the IWC has asked and more. In setting the gold standard the AEWC has established a credible, scientific process for documenting subsistence

need; has undertaken an ongoing weapons improvement program to marry 19th century whaling tools with modern technology to improve the humaneness of the hunt; and has established some of the leading whale research on the status of the bowhead stock, including most recently a highly successful program that uses the whalers to attach satellite tags so scientists can follow the whales throughout the year. As a result of these efforts the Alaska subsistence hunt of the bowhead and the bowhead stock are the best studied in the world.

Against this background let me turn to the current state of affairs at the IWC and the legislation that Chairman Faleomavaega has introduced, H.R. 2455.

The IWC as an organization is at a crisis point. In 2012 the Alaska bowhead subsistence quota will once again be up for renewal, and already we are being told it will not be approved. I was at the 2002 IWC meeting in Shimonoseki where Japan successfully blocked renewal of the bowhead subsistence quota. That caused a crisis, and at the special meeting that was called to re-instate the quota Iceland was able to rejoin the IWC with a reservation to the commercial whaling moratorium. Our quota was up for renewal again in 2007, and it took all of the US delegation's skill and a lot of pressure from Senator Ted Stevens to ensure that the quota was renewed at that meeting in Anchorage.

Now we have an IWC that is even more fractured and dysfunctional than it was in 2002 or 2007, and we no longer have Senator Stevens. As the committee is aware, approval of a change to the IWC Schedule takes a three-fourths vote to be approved. This means that just over a quarter of the countries voting at the IWC meeting need to object to an amendment to the IWC Schedule and the amendment dies. As a result it is easy for either the pro-whaling or the anti-whaling countries to take the subsistence quota hostage whenever they want to get the attention of the US government. And that is just what they do.

Our desire to no longer be a hostage is the reason the AEWC is supportive of the current attempt to find a way forward at the IWC. The Schedule Amendment introduced by the current Chairman and Vice-Chairman of the Commission, from Chile and Antigua-Barbuda, respectively, is not perfect. However, it does form a template that could lead, with some amendments, to a workable solution. We recognize that there are many who oppose this document, and we understand their concerns. However, what is the alternative?

The status quo is a continuing stalemate, with subsistence whaling the only whaling that the IWC actually manages or debates. That has been the pattern for at least the last five years – the vast majority of the IWC's time is devoted to managing the one type of whaling that provides food for subsistence, has a minimal impact on whales stocks, and is supported by almost every country. And in the

meantime all of the whaling that is of concern to most countries, not to mention the other issues like ship strikes, bycatch, and climate change that pose real threats to many whale stocks, go unregulated and unaddressed because the IWC is unable to reach any consensus on how to move forward.

As H.R. 2455 points out in its findings, the United States has always played a leading role in whale conservation and the operation of the IWC. Because of that leadership role the bowhead quota is constantly being held hostage. This Schedule Amendment proposes to remove that weapon from everyone's arsenal by granting a 10-year subsistence quota. That will provide at least 8 years where the US can play a strong leadership role in addressing all the issues of concern to its citizens without having to moderate its position to enable passage of the subsistence quota. That is a valuable window of opportunity that the Congress should not foreclose. Used wisely, that time period could allow the US to really advance the goal of whale conservation by establishing a process for addressing ship strikes, bycatch, climate change, and other threats that are listed in the findings of the bill.

Another important aspect to consider is what would happen to the Scientific Committee if the IWC is unable to reach agreement and fractures into regional groups. The Scientific Committee represents the pre-eminent body for reviewing whale research and is essential to the credibility of the IWC. It would be an incalculable loss for whale

conservation if the dysfunction that is now gripping the IWC were to continue and result in the loss of the Scientific Committee.

The Schedule Amendment that has been introduced provides a workable template. What the United States needs to do is improve on that template. To accomplish that the US delegation to the IWC meeting in Agadir next month should be given full negotiating authority to achieve the best solution that they can that protects the subsistence quota and advances the conservation of whales. If there are areas that the Congress or the Administration feel need more work, identify them and direct the delegation to push to achieve as much of those goals as possible. But don't tie the negotiators' hands.

As someone who has participated in several international fishery negotiations, I can say from experience that you can never achieve everything at once. The key is to set up a framework that allows the US to achieve its goals in the fastest time frame possible. You have to keep pushing after the initial framework is set. The Schedule Amendment is such a framework, especially if our delegation has the negotiating authority to further improve it. By taking subsistence whaling off the table for 10 years, the US will have maximum freedom over those ten years to achieve the goals outlined in H.R. 2455.

Thank you for this opportunity to testify. I would be happy to answer your questions.

Mr. FALEOMAVAEGA. Thank you, Mr. Comstock. Dr. Cooke, for your testimony.

**STATEMENT OF JUSTIN COOKE, PH.D., SCIENTIFIC CONSULTANT, REPRESENTATIVE TO IWC SCIENTIFIC COMMITTEE, INTERNATIONAL UNION FOR THE CONSERVATION OF NATURE**

Mr. COOKE. Yes. Thank you, Mr. Chair. I am Justin Cooke, a mathematician and biologist based in Germany, specializing in the quantitative assessment of biological populations.

Since the 1980s I have been a representative of the International Union for the Conservation of Nature on the Scientific Committee of the IWC.

I have been invited here specifically to comment on the proposed deal between the pro- and anti-whaling members of the International Whaling Commission. But first I want to say what an honor it is for me to be invited to testify for your subcommittee, and that I am thrilled to be here on the Hill talking to you today.

On the IWC Scientific Committee I have been particularly active in the development of the so-called revised management procedure, RMP. And because the proposed deal makes several references, both to the Scientific Committee and to the RMP, I will start by explaining briefly what these are.

The IWC is required by its charter to base its decisions on scientific findings. And for this purpose, it has a Scientific Committee, which has, in recent years, become recognized as a world authority on the state of the world's whale stocks and the science of sustainable whale management.

Its members include representatives of both whaling and non-whaling countries, as well as a number of independents. It reaches its conclusions and recommendations mainly by consensus, such consensus being reached usually after very thorough examination of the evidence.

Shortly after the moratorium on commercial whaling came into force in the 1980s, the Scientific Committee started to analyze what it calls the failure of previous attempts to put the management of whaling onto a sustainable basis. The committee soon recognized that, for the event that the IWC might decide to lift the whaling moratorium at some future date——

Mr. FALEOMAVAEGA. Is your mic on, Dr. Cooke?

Mr. COOKE. I am sorry.

Mr. FALEOMAVAEGA. Okay. Could you get a little closer?

Mr. COOKE. Is that better?

Mr. FALEOMAVAEGA. Yes.

Mr. COOKE. Okay. The committee soon recognized that for the event that the IWC would decide to lift the moratorium at some future date, the committee needed to develop a revised management procedure that would provide a robust scientific basis for ensuring that any future whaling would be managed sustainably.

The procedure that emerged is a data-based rule for determining sustainable catch limits, with a margin of safety sufficient to cover almost all conceivable circumstances.

It was unanimously recommended by the Scientific Committee, and was also endorsed by an independent scientific review panel

appointed here in the U.S. by the National Marine Fishery Service. The IWC itself has endorsed the RMP in principle, in a number of consensus resolutions.

The proposed deal before us contains as yet no agreed numbers for how many whales of each species would be killed. As explained in the covering note by the IWC chairman, the numbers in the current draft proposal are merely examples inserted by him as spaceholders for final numbers yet to be negotiated.

The proposed deal mentions the RMP several times, but when you look at it closely, it does not provide for it to be used for the determination of sustainable catch limits. The numbers are instead to be agreed through political negotiation behind closed doors.

The proposal contains a provision that catch limits would be reduced it RMP catch limits are found to be lower. But this provision doesn't mean what it appears to mean. The proposal does not reference the official published version of the RMP, but refers to unspecified latest versions of the procedure.

A number of alternative procedures have been developed in various quarters that claim to be later versions of the RMP. None of them have been subject to serious scientific scrutiny. They would allow higher catches, but only by modifying the notion of sustainability so drastically that it no longer bears any relation to what people commonly understand by the term.

The proposal contains a program of RMP-related work for the Scientific Committee, but closer inspection reveals this to be a mere decoy; more like a program of occupational therapy for the scientists. There is no provision for the results of this work to feed back into the management decisions.

The committee is instructed to continue work on preparing RMP implementations for different whale species and areas, but has been told not to calculate any actual numbers. The calculation of catch limits is to be left to unspecified players free to use versions of the RMP, whose safety has not been tested by the committee for the species in areas in question.

The proposal, as written, is therefore somewhat disingenuous, and I suspect that it will fool a number of people. It fooled me, on first reading. The true nature of the scam only dawned on me after reading the text several times, and even then only with the benefit of many years of experience with the IWC procedures that enables me to relate such a text to how it would actually be implemented in practice. Those without the benefit of such experience will find it even harder to discern what the text really implies than to spot the scam.

I consider the move to sideline the Scientific Committee and to sidestep accepted scientific procedures to be a retrograde step, and to be very unwise. The proposal before us is back to front; it tries to divide the cake before we know how big the cake is.

It would make more sense first to have the Scientific Committee calculate maximum sustainable catches for each whale stock in a transparent, verifiable manner, using the agreed and established procedures. For at least half of the whale stocks in question, this could be done straightaway, because the implementation work has been completed. All that we require is a green light.

These maximum limits would then define the outer bounds for what the diplomats have left to negotiate over. That approach would ensure a transparent separation of science and politics, instead of the rather oblique mixture of quasi-science and politically negotiated numbers that characterizes the current proposal.

Finally, I should emphasize that none of what I have said should be construed as criticism of the very sincere efforts of the U.S. delegation to these negotiations, led by the U.S. IWC Commissioner Monica Medina. I know that Monica has been highly motivated to achieve the best possible deal for the world's whales.

However, we need to appreciate that one is dealing here with very experienced negotiators from the whaling countries who know the whaling issue inside-out, who are on top of the science, and who have plenty of skill and practice in carving out deals that aren't what they seem to be. Such negotiations require a good grasp of all aspects of the subject matter.

To sum up, I warn against endorsement of this proposal, and advocate instead a two-stage approach, as I have just outlined, that would keep the political and scientific aspects separate, and ensure that all measures taken are based on a strong and transparent scientific consensus.

Thank you, Mr. Chair.

[The prepared statement of Mr. Cooke follows:]

**Joint hearing on**
**"U.S. Leadership on the International Whaling Commission and H.R. 2455, the International Whale Conservation and Protection Act of 2009"**

**House Committee on Foreign Affairs'**
**Subcommittee on International Organizations, Human Rights and Oversight, and**
**Subcommittee on Asia, the Pacific and the Global Environment**

**May 6, 2010**

**Testimony by:**
**Justin Cooke, Ph.D.**
**Scientific Consultant**
**Representative of International Union for the Conservation of Nature**
**to the IWC Scientific Committee**

Mr Chair, distinguished Representatives, Ladies and Gentleman

I am Justin Cooke, a mathematician and biologist, based in Germany, specialising in the quantitative assessment of biological populations. Since the 1980s I have been the representative of the International Union for the Conservation of Nature (IUCN) on the Scientific Committee of the IWC.

I have been invited here specifically to comment on the proposed "deal" between the pro- and anti-whaling members of the International Whaling Commission, but first I want to say what an honour it is for me to be invited to testify to your Subcommittees and that I am thrilled to be here on the Hill talking to you today.

On the IWC Scientific Committee I have been particularly active in the development of the so-called Revised Management Procedure (RMP). Because the proposed deal makes several references both to the Scientific Committee and to the RMP, I'll start by explaining what these are.

The IWC is required by its charter to base its decisions on scientific findings, and for this purpose has a Scientific Committee, which has in recent years become recognised as a world authority on the state of the world's whale stocks and the science of sustainable whale management. Its members include representatives of both whaling and non-whaling countries, as well as a number of independents. It reaches its conclusions and recommendations mainly by consensus, such consensus being reached usually after a very thorough examination of the evidence.

Shortly after the moratorium on commercial whaling came into force in the 1980s, the Scientific Committee started to analyse what had caused the failure of previous attempts to put the management of whaling onto a sustainable basis. The Committee soon recognised that, for the event that the IWC would decide to lift the whaling moratorium at some future date, the Committee needed to develop a Revised Management Procedure that would provide a robust scientific basis for ensuring that any future whaling would be managed sustainably.

The RMP that emerged is a data-based rule for determining sustainable catch limits, with a margin of safety sufficient to cover almost all conceivable circumstances. It was unanimously recommended by the Scientific Committee, and was also endorsed by an independent scientific review panel appointed here in the US by the National Marine Fisheries Service. The IWC itself has endorsed the RMP in principle in a number of consensus resolutions.

The proposed deal contains as yet no agreed numbers for how many whales of each species would be killed. As explained in the IWC Chairman's covering note, the numbers in the current draft proposal are merely examples inserted by him as placeholders for final numbers yet to be negotiated.

The proposed deal mentions the RMP, but does not provide for it to be used for the determination of sustainable catch limits. The numbers are instead to be to be agreed through political negotiation behind closed doors. The proposal appears to provide that catch limits would be reduced if RMP catch limits are found to be lower, but this provision doesn't mean what it appears to mean. The proposal does not reference the official, published version of the RMP but refers to unspecified "latest versions" of the RMP. A number of alternative procedures have been developed in various quarters that claim to be later versions of the RMP. None of them have been subject to serious scientific scrutiny. They would allow higher catches, but only by modifying the notion of sustainability so drastically that it no longer bears any relation to what people commonly understand by the term.

The proposal contains a programme of RMP-related work for the Scientific Committee, but closer inspection reveals this to be a mere decoy, more like a programme of occupational therapy for the scientists. There is no provision for the results of this work to feed back into the management decisions. The Committee is instructed to continue work on preparing RMP Implementations for different species and areas, but has been told not to calculate any actual catch limits. The calculation of catch limits is to be left to unspecified players free to use "versions" of the RMP whose safety has not been tested by the Committee for the species and areas in question.

The proposal as written is disingenuous and I suspect that it will fool many people. It fooled me on first reading. The true nature of the scam only dawned on me after reading the text several times. And even then only with the benefit of many years of experience with IWC procedures, that enables me to relate such a text to how it would actually be implemented in practice. Those without the benefit of such experience will find it even harder to discern what the text really implies and to spot the scam.

I consider the move to sideline the Scientific Committee and to sidestep accepted scientific procedures to be a retrograde step and to be very unwise. The proposal before us is back to front. It tries to divide the cake before we know how big the cake is. It would make more sense to first have the Scientific Committee calculate RMP catch limits for each stock in a transparent, verifiable manner using the agreed and established procedures. For at least half of the whale stocks in question, this could be done straight away, because the Implementation work has been completed. All we require is a green light. These RMP limits would then define the outer bounds for what the diplomats have left to negotiate over. That approach would ensure a transparent separation of science and politics, instead of the opaque mixture of quasi-science and politically negotiated numbers that characterises the current proposal.

Finally I should emphasise that none of what I have said should be construed as criticism of the very sincere efforts of the US delegation to these negotiations, led by the US IWC Commissioner Monica Medina. I know that Monica has been highly motivated to achieve the best possible deal for the world's whales.

However, we need to appreciate that one is dealing here with very experienced negotiators from the whaling countries, who know the whaling issue inside out, who are on top of the science, and who have plenty of skill and practice in calving out deals that aren't what they seem to be. Such negotiations require a thorough grasp of all aspects of the subject matter.

To sum up, I warn against endorsement of this proposal und advocate instead a two-stage approach as I have just outlined, that would keep the political and scientific aspects separate, and ensure that all measures taken are based on a strong and transparent scientific consensus.

Thank you Mr Chair.

Mr. FALEOMAVAEGA. Thank you very much, Dr. Cooke, for your statement. My apologies if I do not pronounce your name right, is it Mr. Ramage, or Mr. Ramage?

Mr. RAMAGE. I have been called a lot worse. It is Ramage.

Mr. FALEOMAVAEGA. Okay. Thank you. I have some questions I wanted to share with you gentlemen.

All three of you I assume were here when Secretary Medina and Secretary Balton were testifying. And I don't know if Mr. Delahunt and I have missed any of our sense of concerns in the questions that were raised with the administration's position.

I know that Mr. Ramage, you were very specific in terms of your stated opinions on the Obama administration and their lack of initiative and leadership on this issue of whaling.

I wanted just to ask you if there is any sense of comfort from what Secretary Medina and Secretary Balton are both saying. It seems like they are not supporting the proposal. Is this—maybe I misread what their statements were earlier when they testified. But what is your take on this?

Mr. RAMAGE. Well, I think their reassurances were familiar only in this—I am sorry—were comforting, only in the sense that they are very familiar.

The position, public position of the administration is that they find the chairman's proposal unacceptable. But, as articulated this morning, they hold out the hope that it is a good basis for negotiation. And they are going to decide on the spot in Agadir what the position of the United States might be.

The fervent hope of the participants in the drafting group—and this has been palpable in the meetings, the lone, open meeting held 2 months ago in Florida, where accredited NGOs were allowed to attend, and the many closed meetings, as well, which some of us have sat outside.

But the fervent hope of those participants, and in fact the chair—and he refers to this in the proposal—is that cover-up consensus can be used in Agadir to put through——

Mr. FALEOMAVAEGA. Can you elaborate on what you mean by cover-up consensus?

Mr. RAMAGE. Well, what is hoped for is that all countries will come together, hold hands—some of them will have to hold their noses, given the flaws in the document that we have reviewed this morning—close their eyes, and jump into this new arrangement. Loudly saying that it is a significant conservation benefit for whales.

But the package fails in some important respects that have already been highlighted, both in your questioning and by other testimony this morning.

I hasten to add, though, that this isn't a question of effort, certainly not on the part of the U.S. Commissioner, who has been about this 24/7 since being appointed by the President, and even before in a kind of functional capacity.

But I don't think that the higher-level engagement and creativity that both you and Congressman Delahunt have referred to has been there from others in the administration. And that leverage that Congressman Delahunt highlighted is so crucial to a negotiation has been utterly absent.

Mr. FALEOMAVAEGA. Mr. Comstock, you raised some very, very interesting points about the fact that your testimony, especially the interests of our indigenous peoples and their interest in doing subsistence whaling. And I am glad that Dr. Cooke is here, that maybe you can give us a little bit of enlightenment in terms of the proceedings that we had in the past.

Why is it that it seems that the focus of the IWC now is on the concerns about indigenous whaling, and forgetting about all other aspects of the seriousness of the conduct of whaling operations that have been done by Japan and Norway and Iceland for all these years?

And I wanted to ask Dr. Cooke for his comment, if Mr. Comstock's observations have been very accurate about the agenda and the subject matter that has been discussed at the IWC meetings. And the fact that they talk more about indigenous needs than they are about the commercial aspects of the problems that we are faced with.

Mr. COOKE. Mr. Comstock can give a better answer to that question regarding the political negotiations in the IWC. I am a member of the Scientific Committee.

With regard to the scientific aspects, we have had for a number of years what we call the Aboriginal Whaling Management Procedure, which is the basis we use to estimate sustainable catch limits for aboriginal whaling. And that has functioned, I believe, very well. There have been virtually no complaints from any quarters about the functioning of it.

And the intention under the chair's proposal is that the arrangements for aboriginal whaling will remain effectively the same as they have been. I believe the only reason why it was found necessary to include them in the proposal at all is what Mr. Comstock just explained was a way of kind of fixing them in place, so that they wouldn't become political, it wouldn't become a kind of political football again, as it has in the past.

Mr. FALEOMAVAEGA. But it seems to me, then, and please correct me if I am wrong, if I heard right what Mr. Comstock was sharing with us, that while exposing the development of the agenda and the issues to be discussed by the IWC, by the time you get through with it you talk more about the indigenous problems posed and stuff. And yet no one pitching on the commercial problems that we are dealing with with the three friendly countries that continue to conduct commercial operations in the killing of the whales. Is this an accurate description of how the IWC seems to be conducting its meetings?

Mr. COOKE. Well, one of the reasons for that is that some years ago, when the management procedure for commercial whaling was finalized, the Scientific Committee was given a kind of muzzle. It was told that it should not calculate any actual numbers for that.

And both the pro- and anti-whaling sides were in favor of suppressing any calculation of numbers, on the pro-whaling side, because they were afraid if numbers started appearing on the table, they would be under some obligation to abide by them. And the anti-whaling side worried that if numbers start appearing, that would be seen as a legitimization of some level of whaling. So both

sides of the divide were united in not wanting to see any numbers for commercial whaling.

On the other hand, for aboriginal whaling we have had numbers produced and updated annually or every few years, for each of the indigenous whaling operations. And probably for that reason, they have attracted more discussion than the commercial whaling, where the numbers up to now have been suppressed.

And I would strongly advocate that this suppression of the right to calculate numbers by the Scientific Committee should be lifted. And I think that should be done before a proposal, such as the one we have before us, should be discussed, so that we know what are the sustainable limits for each whale population. When we know that, then the diplomats and politicians then know what they have to negotiate over.

Mr. FALEOMAVAEGA. I don't see how this issue of indigenous whaling could be ever considered as a political football, given the fact that I think 300 whales a year that the indigenous populations kill, and for subsistence purposes, it is not for commercial purposes.

But it seems to me that what I am hearing is that there seems to be a lot of leverage by our pro-whaling faction within the IWC to talk more about the problems of these indigenous peoples, and say hey, you don't need to find a count, it is only 300. Why are we suppressing the number? We are only talking about 300 versus the thousands of whales that have been killed by our three friends from Iceland and Norway and Japan. I am not getting this correctly, and I want to make sure the record is accurate and I get this correctly. Mr. Ramage.

Mr. RAMAGE. Yes, Mr. Chairman. I think you have put your finger on the very point. And I should hasten to validate, at least from my own attendance at the political meetings as an NGO observer, 14 of those meetings in recent years.

It is a sad commentary—and I have discussed this with Commissioner Medina, as well—that we have gotten to the point in the commission that the only whaling that the commission seems prepared to argue over and regulate is the whaling conducted by indigenous communities. Particularly that conducted—and it is done in a world-class way, as Earl has earlier said, by the Alaska natives. But it is not an accident. Because Japan perceives, rightly, that that is the issue that the United States cares about more than any other at the IWC.

And this relates to your earlier very good point and question about how in the world have we gotten to 88 countries, some of them landlocked countries, who are members of the IWC. And a large part of the answer lies in the fact that Japan, by its own open admission, has used what they call a vote consolidation strategy to creatively and aggressively recruit countries from around the world who have no interest in whaling, who don't whale in their waters, who have no tradition of whaling, to come and support Japan's claim at the IWC.

In Japan, the good people of Japan know nothing about this. And their senior government officials don't bear as much responsibility as their fisheries agency bureaucrats.

But the subsistence whaling quota of the Alaska natives is held hostage, as Earl has said, by Japan to try and achieve other outcomes in the forum that they can't achieve through the power of their persuasion, or their votes, or even what some refer to as vote-buying.

Now, perversely, those outcomes so long labored for by Japan are being delivered on a platter by this group: The ignoring of the moratorium, the legitimization of commercial whaling in 2010, unprecedented rights to conduct commercial whaling in a sanctuary, setting science to the side. All those things are being served up.

It is a time for more engaged senior United States leadership and leverage to change the situation, both in the commission and in the water, for the whales.

Mr. FALEOMAVAEGA. Well, in fairness also to the Japanese Government and its policies, as you know, the first time in 50 years, Japan now, is now governed by a newly elected political party that are almost in total opposites of all the policies that we have, that has been taken by the previous, for the previous 50 years by the Liberal Democratic Party.

So we may be seeing some change in that in terms of maybe, I am not saying that, I am not here representing the Japanese Government. But let us see what happens, that there may be a different change or shift in policy about how this issue of the whaling issue may be done.

Mr. Comstock.

Mr. COMSTOCK. Yes, Mr. Chairman. If I might just add, to make sure it is clear it is not a one-sided game here, we get held hostage by both sides.

What happens is if there are other countries, like Australia and New Zealand, who have longstanding reservations about any kind of whaling, some to the extent of saying they don't even want to see subsistence whaling.

And so if they feel the United States is drifting too close to the whaling countries, our quota also becomes the lever by which they move them back. So it really is a situation on both sides. And I think the dilemma—and you and Mr. Delahunt referred to this earlier—the question is, what are the alternatives. And what are the levers that you have.

And that is why, while the AWC would like to see this document improved, we do have to agree with the statements by Mr. Balton and Ms. Medina that this is probably the best opportunity certainly that has come along in the last decade or more. And it would be a shame to waste that opportunity. Whether you, at the end of the day, get a deal that the United States is comfortable with is yet to be decided.

But we do think that you need to give it the best shot. Because otherwise we will find ourselves in a situation next year, and in 2012, where this intractable dispute between the whaling and anti-whaling forces probably ends up hurting only one party, which is the Alaska natives who are seeking a subsistence quota. Because we do follow the law, and we have a difficult time.

So I just wanted to flag, if this all falls apart, there is legislation that was introduced in the last Congress having to do with domes-

tic authority to set a quota. And certainly we can tell you the AWC would be back here talking to you about that, as well.

So this does have ramifications down the road for where things go.

Mr. FALEOMAVAEGA. I want to note also of interest Dr. Cooke's statement earlier about the fact that whatever numbers that were submitted for part of the proposal, it is not really the numbers because this has not been finalized until next month's meeting. Is that correct, Dr. Cooke? Or was this just being thrown out just as testing the waters and trying to see what the reactions are? Quite obviously, they are already lined up, the pros and those who are against the proposal.

But am I correct for the record that you said that they don't take the proposed numbers seriously because they are not really final, at least in view of the Scientific Committee's positions on this, as well?

Mr. COOKE. Well, you have asked two separate questions. Yes, it is correct, the numbers are not final. But the proposal was distributed with a covering letter from the chairman, where he explains in his covering letter that there was no agreement on the numbers. Therefore, the numbers in the proposal are simply examples, example numbers he inserted himself. And those have not been agreed. And negotiations over numbers will be continued up until the meeting of the Whaling Commission next month.

The other issue is the fact that the Scientific Committee has not been asked or authorized to input into the process in terms of giving their own estimates of what would be sustainable catch levels. And that is what I see as one of the weakest aspects of the proposal, that this is not being done.

And therefore, I would strongly urge that this should be done. The Scientific Committee should be given the authority to calculate estimated sustainable catch levels using established scientific procedures in the usual ways, so that these will be fully documented and verified. When that has been done, then we can see what the sort of range of possibilities lies, what the maximum limits are within which the diplomats could then negotiate.

Mr. FALEOMAVAEGA. Do you care to comment, Mr. Comstock?

Mr. COMSTOCK. Again, I think he is just illustrating that this is, in terms of the process, this has been a political process, and the numbers obviously have been a key component. The aboriginal numbers have been in there for quite some time. And the quota for the Alaska natives would not change under this proposal, so we are pleased with that.

But it is a political process, there is no doubt about it. And what you have right now in front of you is an amendment that has been proposed, that had to be, you know, submitted 60 days in advance of the meeting. So that becomes the basis on which everyone speaks.

It is presumed by I think almost everyone that there will be attempts to change that amendment in one way, shape, or form. In fact, I know, and I think we are going to be joining Patrick and others in suggesting amendments. We, from the Alaska perspective, have some amendments we would like to see to it, as well.

Mr. FALEOMAVAEGA. I was a little surprised by the fact that the bill that Congressman Delahunt and I have introduced has been in there for public, as well as the administration's, opportunity to review and analyze for the last 10 months. And then to learn from both Secretary Medina and Secretary Balton that they have no comment, it sounds like they never even bothered reading the bill. And that a little concerns me. It kind of reflects what Mr. Ramage has said earlier about this administration really is not that serious about the issue that we are talking about this morning.

I furnished to you, Dr. Cooke, I don't know if you had the chance to review the provisions in the proposed bill, H.R. 2455. Do you think that maybe we are encroaching on the mighty power and will of the IWC's authority to operate, to control and administer the problems dealing with whales?

Mr. COOKE. I am afraid I have to pass on that one, because I don't really understand the ins and outs of the U.S. legislative process. So maybe one of my co-panelists could answer.

Mr. FALEOMAVAEGA. And I am happy to hear, Dr. Cooke, that you say that the Scientific Committee of the IWC is the most renowned authority on whales. I would very much appreciate if you could submit for the record some of the most recent scientific results of the studies, whatever analysis that the IWC has conducted. That could be helpful in educating the American public about what you have discovered about whales.

Mr. COOKE. The long answer to that would be extremely long. I could submit an extremely short summary of——

Mr. FALEOMAVAEGA. Yes, just——

Mr. COOKE [continuing]. Just a few points, yes.

Mr. FALEOMAVAEGA. Just give us the real meat of it, if you can. I would appreciate it if you could help us with that.

Mr. COOKE. You mean now, or for the record?

Mr. FALEOMAVAEGA. No, no, no, for the record. For the record.

Mr. COOKE. Yes.

Mr. FALEOMAVAEGA. All right. Well, gentlemen, I tried to see if there is any other point we wanted to do. As you know, we have gotten a firm commitment from our friends at the administration, they definitely are going to review the bill, and they will get back to us. And hopefully we can start running with this thing and see what we can do.

And I want to commend Senator Kerry for also introducing a similar type of legislation. And hopefully, hopefully in the coming months, we can work something out on this thing.

I have a laundry list. And for the sake of time, and I don't want to have you gentlemen listen in on this, but I have to do this because of the record. I have several documents here that I do want to submit for the record, so that when we print the hearing proceedings it will be a good basis, kind of like a little library that you can take with you when you talk about this.

I have got a letter dated April 28, 2010, addressed to President Obama from the U.S. Senate, expressing similar concerns about whaling, from our good Senators. Senator Murkowski, Senator Inoue, Senator Akaka, and Senator Begich concerning whaling, that will be made part of the record, without objection.

Another letter also addressed to President Obama, dated 27 April of this year, from Senator John Rockefeller, the chairman of the Senate Committee on Commerce, Science, and Transportation, also expressing concerns about the IWC.

Also for the record, I want to put in the briefing concerning international whaling submitted here from our friends. It is dated, from staff, and I want to make this part of the record.

Also an article by Juliet Elperin dated April 24 of this year, entitled "International Whaling Commission Proposes Compromise on the Ban."

Also for the record, an article by Mary Yamaguchi of the Associated Press, to be made part of the record, dated April 23 of this year, "Commission Proposes Limited Commercial Whaling Hunts."

Also for the record, from the New York Times dated 23 April, an article by Andrew Revkin, entitled "Whaling Peace Plan Just Less of the Same?"

Also for the record, printed materials from the BBC News concerning the whaling issue.

Also for the record, dated 28 April, an article by Joel Reynolds called "It Is No Way to Save the Whales."

Also another record from the Economist, dated May 1, and it is called "A Giant Compromise," also to be made part of the record.

Another article, from the New York Times by Mr. John Broder, "U.S. Leads New Bid to Phase Out Whale Hunting; Good Luck," for the record.

Also for the record, this is not an official submission, but it is from the Embassy of Japan, background giving basic positions of the Japanese Government, submitted by Mr. Shironakasuka, First Secretary of the Embassy of Japan.

And as I said, I will open the record for our friends from Iceland as well as from Norway, for their embassies to submit whatever statements they want as part of the record.

Also a request that we make the Congressional Research Service submission of a memorandum dated 28 April, 2010. I think that is important background information.

For the record, August 12, 2009, a letter concerning the bill, the International Whale Conservation Protection Act of 2009, signed by one, two, three, four, five, six, seven—100 NGOs. For the record, I want to make sure it is in there.

And also for the record, the press release issued by the chairman and the vice chairman of the IWC concerning this proposal.

For the record, dated February 26 of this year, a letter to President Obama from Members of the House of Representatives, Congressman Delahunt, myself, Congresswoman Bordallo, and Congresswoman Mazie Herono.

For the record, the chair's proposal comparing the various baselines, the chart, and all of these things will be made part of record.

Thank you for your patience. And also a press release submitted by NOAA, dated April XX—it has not been released yet—made for the record on whaling, concerning the bill.

With that, gentlemen, I think Mr. Delahunt probably will not have an opportunity to come back. But it is definitely the intention of the chair to proceed as hard as we can to see what we can do

with the other committees that have claimed jurisdiction on this bill, and see how we can work this through the committee process.

Mr. Comstock.

Mr. COMSTOCK. Mr. Chairman, I just want to say on H.R. 2455, we are looking at that bill. And I can tell you we will have a few suggestions for you just to make sure that it doesn't adversely impact subsistence.

Mr. FALEOMAVAEGA. I will keep the record open for further comments from you, Mr. Comstock, and your organization. The same also, Mr. Ramage. And as I said, any other additional materials you want to submit definitely will be made part of the record.

Also for the record, a copy of the bill, as well as a companion bill introduced by Senator Kerry, that will be made part of the record.

Anything else that I forgot? Also include the Bible and whatever else we have got.

Gentlemen, thank you so much for your patience. I appreciate Mr. Comstock and Mr. Ramage being patient. Let us see how our friend, Secretary Medina, is going to come out on these negotiations next month. Maybe we will come out with something a lot more positive, and then hopefully this proposal is going to come out with more substantive stuff. And hopefully the Government of Japan will also be cooperative in what we are hoping for.

And Dr. Cooke, thank you so much for traveling all the way here to testify before this subcommittee.

And with that, gentlemen, the subcommittee hearing is adjourned.

[Whereupon, at 12:16 p.m., the subcommittee was adjourned.]

# APPENDIX

## Material Submitted for the Hearing Record

**SUBCOMMITTEE JOINT HEARING NOTICE**
**COMMITTEE ON FOREIGN AFFAIRS**
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128

**SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS AND OVERSIGHT**
**Russ Carnahan (D-MO), Chairman**

**and**

**SUBCOMMITTEE ON ASIA, THE PACIFIC AND THE GLOBAL ENVIRONMENT**
**Eni Faleomavaega (D-AS), Chairman**

May 5, 2010

**TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS**

You are respectfully requested to attend a OPEN, joint hearing of the Subcommittee on International Organizations, Human Rights and Oversight, and the Subcommittee on Asia, the Pacific and the Global Environment, to be held in **Room 2200 of the Rayburn House Office Building**:

**DATE**: Thursday, May 6, 2010

**TIME:** 10:00 a.m.

**SUBJECT:** U.S. Leadership in the International Whaling Commission and H.R. 2455, the International Whale Conservation and Protection Act of 2009

**WITNESSES:** **Panel I**
The Honorable David A. Balton
Deputy Assistant Secretary
Bureau of Oceans and International Environmental and Scientific Affairs
U.S. Department of State

Monica Medina, Esq.
Principal Deputy Under Secretary
Office of Oceanic and Atmospheric Research
National Oceanic and Atmospheric Administration

**Panel II**
Mr. Patrick Ramage
Director
Global Whale Program
International Fund for Animal Welfare

Mr. Earl Comstock
Counsel to the Alaska Eskimo Whaling Commission
Comstock Consulting, LLC

Justin Cooke, Ph.D.
Scientific Consultant
Representative to IWC Scientific Committee
International Union for the Conservation of Nature

**By Direction of the Chairman**

*The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.*

# COMMITTEE ON FOREIGN AFFAIRS

**MINUTES OF SUBCOMMITTEE ON** *IOHRO/AP&GE* **MEETING**

**Day** *Thursday* **Date** *05/06/10* **Room** *2200 RHOB*

**Starting Time** *10:02 a.m.* **Ending Time** *12:16 p.m.*

**Recesses** [ ] (____ to ____)

**Presiding Member(s)** *Chairman Carnahan, Chairman Faleomaevega*

*CHECK ALL OF THE FOLLOWING THAT APPLY:*

**Open Session** [✓]
**Executive (closed) Session** [ ]
**Televised** [✓]

**Electronically Recorded (taped)** [✓]
**Stenographic Record** [✓]

**TITLE OF HEARING or BILLS FOR MARKUP:** *(Include bill number(s) and title(s) of legislation.)*

***U.S. Leadership in the International Whaling Commission and H.R. 2455, the International Whale Conservation and Protection Act of 2009***

**SUBCOMMITTEE MEMBERS PRESENT:**

***Rep. Carnahan, Rep. Falemaevega, Rep. Delahunt, Rep. Flake, Rep. Inglis***

**NON-SUBCOMMITTEE MEMBERS PRESENT:** *(Mark with an * if they are not Members of HIRC.)*

***Rep. Berman***

**HEARING WITNESSES: Same as meeting notice attached? Yes** [✓] **No** [ ]
*(If "no", please list below and include title, agency, department, or organization.)*

**STATEMENTS FOR THE RECORD:** *(List any statements submitted for the record.)*

***Ltr from the St. Louis Zoo; Ltr from Jean-Michel Cousteau; Rep. Delahunt's opening stmt; Ms. Medina's presentation slides; several submissions from Rep. Faleomaevega (see attached sheet).***

**ACTIONS TAKEN DURING THE MARKUP:** *(Attach copies of legislation and amendments.)*

**RECORDED VOTES TAKEN (FOR MARKUP):** *(Attach final vote tally sheet listing each member.)*

| Subject | Yeas | Nays | Present | Not Voting |
|---|---|---|---|---|
| | | | | |

**TIME SCHEDULED TO RECONVENE** _____
**or**
**TIME ADJOURNED** *12:16 pm*

**Subcommittee Staff Director**

STATE OF CALIFORNIA--THE NATURAL RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

April 26, 2010

MAY 05 2010

The Honorable Barack H. Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

**Subject: U.S. position on commercial whaling at the International Whaling Commission**

Dear President Obama:

As Chair of the California Coastal Commission, I write on a matter of utmost importance to the Commission and the people of California. Next month the International Whaling Commission (IWC) will consider a proposal to lift the global ban on commercial whaling, set numerical catch limits for several species of whales, and 10-year limits for subsistence quotas on gray whales and bowhead whales. While we understand that the details of the negotiations are confidential and ongoing, the prospect of returning to commercial whaling under any circumstances is extremely troubling to the Commission and cause for great concern.

For context, the California Coastal Commission was established by the People of California through initiative statute in 1972 and made permanent in 1976 by the California Legislature as the State's principal coastal management agency. California's Coastal Management Program (CCMP) was certified pursuant to the Federal Coastal Zone Management Act in 1977, giving the Commission the authority to review federal activities that could affect coastal zone resources. Among other goals and objectives, the CCMP includes the mandate to " ... protect marine fisheries, and other ocean resources ...(and) ensure conformity with the provisions of...(the California Coastal Act)...to protect ...state and national interests in assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the people of the state..."

The Commission has a long history of actions in support of marine mammal conservation, especially whales. In 2000, the Commission passed a resolution in opposition to a proposed industrial salt facility in Baja California's Laguna San Ignacio – a major California Gray Whale breeding area. In 2007 the Commission required the U.S. Navy to implement measures to protect migrating whales from the debilitating impacts of undersea sonar. (This action was later negated by a 6-3 U.S. Supreme Court decision) and in January of this year the Commission passed a resolution calling on the National Marine Fisheries Service to undertake additional studies and surveys in order to better understand the reasons underlying drastic declines in Gray Whale calves born in the Baja lagoons.

Given the perilous state of the world's oceans as a result of global climate change, ocean acidification and pollution, the adverse impacts on marine mammals from undersea noise pollution, unsustainable fishing practices, and increased trans-ocean shipping activities, and the lack of resources to adequately enforce the existing ban on commercial whaling and/or oversee

current "scientific" whaling activities, the Commission is alarmed that the United States and the IWC would consider a proposal to lift the ban on commercial whaling and legitimize the activities of non-compliant whaling states, even in limited quantities.

Given our state of knowledge about the complex biology, intelligence, social structure and communication capacity of the great whales, in addition to rapidly deteriorating ocean conditions it is difficult to understand why the United States would consider a return to commercial whaling. All cetaceans, including dolphins and porpoises not currently protected by the IWC, face increasing survival challenges in their compromised ocean environments, and many are critically endangered. It is likely that if resources were available to conduct adequate levels of research on cetacean species not currently listed as threatened or endangered, such as the Eastern Pacific Gray Whale, that several would qualify for higher levels of protections. It is my understanding that the National Marine Fisheries has not been given the necessary funding to conduct any research on the impacts of global climate change on whale habitat and populations. In the absence of such critical scientific data, the United States should not be supporting any proposal that reduces the current level of protections afforded to these species.

On behalf of the California Coastal Commission, I respectfully urge you to oppose any efforts at the IWC to lift the moratorium on commercial whaling. Further, as stated in the Commission's resolution dated January 14, 2010, I would reiterate our request that the National Marine Fisheries Service be given the necessary funding and support to conduct comprehensive studies of the effects of global climate change on whales and their habitat, particularly the California Gray Whale which should be considered a sentinel species in the efforts to combat global climate change.

Sincerely,

Bonnie Neely
Chair, California Coastal Commission

STATE OF CALIFORNIA—NATURAL RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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TDD (415) 597-5885

# RESOLUTION BY THE CALIFORNIA COASTAL COMMISSION REQUESTING THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION TO UNDERTAKE A COMPREHENSIVE EVALUATION OF THE STATUS OF THE CALIFORNIA GRAY WHALE

**Whereas:** The California Coastal Commission was established by the People of California through initiative statute in 1972 and made permanent in 1976 by the California Legislature as the State's principal coastal management agency to, among other goals and objectives, " ... protect marine fisheries, and other ocean resources ...(and) ensure conformity with the provisions of...(the California Coastal Act)...to protect ...state and national interests in assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the people of the state..."; and

**Whereas:** The California Coastal Act also provides that "(s)pecial protection shall be given to ... (marine) species of special biological or economic significance ..." and that in order "...to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources, to coordinate and integrate the activities of the many agencies whose activities impact the coastal zone, and to supplement their activities in matters not properly within the jurisdiction of any existing agency, it is necessary to provide for continued state coastal planning and management through a state coastal commission;" and

**Whereas:** The California gray whale (*Eschrichtius robustus*) migrates 8,500-11,000 miles annually along the coast of California, between its winter breeding and calving grounds in Mexico and its summer feeding grounds in the Arctic; and

**Whereas:** The California gray whale contributes significantly to the economic viability of coastal communities by supporting a multi-million dollar whale watching and eco-tourism industry; and

**Whereas:** The California gray whale has an immeasurable intrinsic value to current and future generations; and

**Whereas:** The California gray whale migrates past one of the most heavily industrialized and urbanized coastlines in the world, exposing the species to marine pollution, marine vessel traffic, industrial noise, activities associated with the development of outer continental shelf resources, fishing entanglements, bottom trawling, industrial development, and military and civilian sonar activity; and

**Whereas:** The federal government placed the gray whale on the endangered and threatened species list in 1970 when its estimated population was approximately 12,000 and removed it in 1994 when the population rose to 23,000; and

**Whereas:** The significant threats posed by global warming, melting sea ice, ocean acidification, and the impact of increased sea water temperature, especially in the Arctic feeding grounds of the California gray whale have very serious negative implications for the species; and

**Whereas:** The dramatic increase in mortality during the 1998-99 and 1999-2000 migrations may have reduced the population by half, and demonstrate that the species is experiencing increasing stress from external factors; and

**Whereas:** Pre-whaling population estimates used as a factor in determining species recovered status of the gray whale are now known to have been erroneous and account for only a fraction of actual historical populations; and

**Whereas:** There have been no reliable population estimates published by the National Marine Fisheries Service since 2001; and

**Whereas:** The continued health and viability of the California gray whale population is dependent upon, among other factors, all states and countries along the migration route maintaining safe and adequate habitat for feeding, breeding and calving; and

**Whereas:** There is no habitat protection for the Pacific Coast Feeding Aggregation in California, Oregon, or Washington State; and

**Whereas:** There are inconsistencies in the protection states give to gray whales;

**Therefore, Be it Resolved:** That the California Coastal Commission respectfully requests the United States Congress and the President of the United States to call upon the National Oceanic and Atmospheric Administration to undertake an immediate and comprehensive evaluation and assessment of the status of California gray whale population. This assessment should include all current research relating to migration routes, population dynamics, and mortality, and the impacts of stressor forces affecting the health and viability of California gray whale populations, including the impact of global warming on critical feeding grounds; and

**Be it further Resolved:** That the National Oceanic and Atmospheric Administration publish, and make available for public information and review, the results of its comprehensive assessment of the status of the California gray whale; and

**Be it further Resolved:** That, if the results of the comprehensive assessment or the body of scientific evidence warrants it, the status of the California gray whale pursuant to the Endangered Species Act be changed to threatened or endangered; and

**Be it further Resolved:** That the Executive Director transmit copies of this resolution to NOAA, the President, the Speaker of the House of Representatives, the Majority Leader of the Senate, and to California's Congressional delegation.

Bonnie Neely, Chair

Mary Shallenberger, Vice-Chair

This resolution was adopted by the California Coastal Commission on January 14, 2010 by a 12 to 0 vote.

Chairman Howard L. Berman
Statement for the International Organizations and Asia Subcommittees Joint Hearing on
"U.S. Leadership in the International Whaling Commission and H.R. 2455, the International Whale Conservation and Protection Act of 2009"
May 6, 2010

Thank you Chairmen Carnahan and Faleomavaega for recognizing me to make brief remarks about ending the intolerable practice of commercial whaling. I also ask for unanimous consent to insert into the record a letter from the California Coastal Commission to President Obama on the U.S. position at the International Whaling Commission.

This hearing comes at a crucial time as members of the International Whaling Commission, or IWC, prepare to meet next month in Morocco.

Despite a ban on commercial whaling that has been in place for almost a quarter of a century, Japan, Norway, and Iceland continue to kill significant numbers of whales every year. Japan and Iceland conduct their whaling through a loophole in the moratorium for scientific research while Norway objected to the ban and therefore does not recognize it.

I agree with those who say that the IWC is broken -- when countries have been permitted to kill whales without limit.

Since the ban was implemented in 1986, over 12,000 whales have been killed under the scientific exemption. I believe strongly that the scientific loophole should be closed and that the United States should encourage Norway to respect the moratorium.

Regrettably, a recently released proposal that reflects the work of the United States and other members of the IWC fails to close this loophole or stop Norway's hunts. Instead, it places a cap on the number of whales killed per year.

I have several concerns about this proposal. First, I am very reluctant to legitimize the actions of whaling countries in any case.

Furthermore, questions have been raised on whether this proposal would significantly decrease the number of killings.

As nations prepare for meetings in Morocco, the United States should build upon the positive achievements made in conservation since the moratorium's enactment and once and for all put an end to commercial whaling.

I yield back the balance of my time.

---

**U.S. Leadership in the International Whaling Commission and HR 2455, International Whale Conservation and Protection Act of 2009**

Joint Hearing before the Subcommittee on International Organizations, Human Rights and Oversight, and the Subcommittee on Asia, the Pacific and the Global Environment

Opening Statement of Bill Delahunt

Today we will hear testimony on HR 2455, the International Whale Conservation and Protection Act of 2009. This comprehensive bill was introduced by the Honorable Eni Faleomavaega, Representative Bordallo, Representative Hirono and me. I want to congratulate my colleagues for demonstrating their commitment to whale conservation by sponsoring the bill. I would also note that the senior senator from Massachusetts, John Kerry, introduced a similar bill in the Senate, S. 3116.

I would like to remind my colleagues that the House Foreign Affairs Committee has a long and distinguished history on whale conservation, consistently opposing commercial whaling and supporting whale protection. In 1990, the House approved a resolution originating in this Committee calling for sanctions against nations conducting unjustified lethal whaling research. In virtually every year since then the Committee has approved resolutions seeking to strengthen international whale protections.

Today's hearing will continue the Committee's longstanding engagement. We will explore ways for the United States to reassert global leadership in international whale conservation and protection. In addition to receiving testimony on the legislation, we will learn about the so-called "deal" that was released on Earth Day and will be voted upon by the International Whaling Commission in June.

Today whales face more threats than two decades ago. Last year more whales were killed than in any other year since the establishment of the 1986 moratorium on commercial whaling, a measure strongly supported by the United States. We are aware that member nations of the IWC have been meeting in secret over the past three years to negotiate a new whaling arrangement. Pro-whaling nations are advocating a 10-year plan that would legitimize whaling,

even in the Southern Ocean Whale Sanctuary- an internationally designated "safe haven" established in 1994 to protect more than 80% of the world's whales.

Our witnesses today include Administration officials that have been engaged in these negotiations and I am anxious to hear from them exactly how this deal is good for whales. I am particularly interested in how this deal "maintains" the moratorium as stated in the "Consensus Decision". The term "moratorium" is defined in Webster's as suspension of an activity and obviously, under the deal, whaling is not suspended.

Based on what we know at this point, I must say that this Member of Congress strenuously objects to this "deal". While I recognize that Japan, Iceland and Norway have never ceased their whaling activities and continued limited whaling during the international moratorium, this was done in spite of international objections and under certain loopholes in the IWC. Instead of fixing these loopholes, the Administration has apparently set a course to reward the very nations that flouted international agreements by engaging in commercial whaling. This course is contrary to every position embraced by the United States since the early 1980's.

In conclusion, I recently read a message sent to the IWC that stated the following:

"I want to take this opportunity to affirm the United States Government's continuing commitment to whale protection and to urge you to support our proposal for an indefinite moratorium on commercial whaling. Throughout human history, whales have evoked awe and wonder. They are the largest creatures ever to have lived on this earth; yet they are also among the most mysterious. It is this mysterious quality that gives whales their appeal and increase the importance of effective management that could assure whale populations for the future."

That message was sent by President Ronald Reagan on July 17, 1981.

As President Reagan demonstrated, whale protection has never been a partisan issue and it won't be today. I invite all of my colleagues to show their love for whales by co-sponsoring the legislation and I look forward to hearing testimony from all of our witnesses.

---

JEAN-MICHEL COUSTEAU'S
OCEAN
FUTURES
SOCIETY

May 5, 2010

Dear President Obama,

As you study and reconsider your position on the IWC proposal to resume whaling, I want to share with you what I am telling the members of my organization, Ocean Futures Society:

*The IWC proposal is an attempt to better regulate illegal whaling by Japan, Norway and Iceland, but it is misguided; it is even a logical absurdity, to kill whales to save whales.*

*All marine mammals, but especially all cetaceans—the whales and dolphins—are warm-blooded, social, intelligent, sentient creatures, our closest counterparts in the sea. We share many traits with bottlenose dolphins and orcas and it has even been proposed that dolphins be accorded the legal status of "non-human persons" because of their similarities to people and their need for protection.*

*The IWC does not regulate small cetaceans, like dolphins, but they and the larger whales are complex mammals, marvels of evolution, which makes it all the more offensive that they may become a luxury food item, not even a staple to prevent human starvation.*

*But there is even a more intimate problem: they are potentially poisonous to consume. The mercury content in dolphins caught and sold for food in Japan is hazardous to human health, and the PBDE content in some orca populations is so high that the consequences are unknown. We have to be suspect of the larger whales as well.*

*All whales and dolphins share the challenge of a rapidly changing and unpredictable ocean environment brought on by climate change. If any action were to be taken by the IWC, it would be both more prudent and philosophically correct to apply immediate and burdensome sanctions on any country in violation of the existing whaling moratorium.*

*Help us get back to saving whales by <u>not</u> killing them.*

You have shown yourself to be thoughtful, deliberate in your decisions, and courageous. Given your pre-election promise to "strengthen the international ban on commercial whaling," we are now counting on you to be able to navigate the diplomatic shoals of compromise in this issue and be true to your word.

With all due respect, I and the members of Ocean Futures Society stand ready to eagerly support your decision.

Sincerely,

Jean Cousteau

Founder and President

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FAX: 805.899.8898

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**Jeffrey P. Bonner, Ph.D.**
Dana Brown President & CEO

April 30, 2010

Congressman Russ Carnahan
United States House of Representatives
1710 Longworth House Office Building
Washington, DC 20515

Dear Congressman Carnahan:

We want to congratulate you on your recent appointment to Chairman of the Subcommittee on International Organizations, Human Rights and Oversight. We are excited to see you bring Missouri's concerns to the forefront in such a broad-based subcommittee.

As you probably know, the Saint Louis Zoo is a world leader in saving endangered species and their habitats. Many of the animals at the Zoo are threatened in the wild by shrinking habitats, disease and poaching. Through our WildCare Institute, we focus our conservation efforts on everything from American burying beetles in Missouri to the Humboldt penguins in Peru.

While we reside in a landlocked state, our commitment to the conservation and survival of species is global. Our whales are facing more threats today then ever before in history and the next three months are a critical period for international whale conservation efforts. U.S. leadership was critical in establishing the worldwide moratorium on commercial whaling that was first proposed by President Reagan, and in the successful designation of the Southern Ocean Whale Sanctuary around Antarctica that was championed by the United States in the early 1990s. In April, member nations of the International Whaling Commission (IWC) released a proposed consensus decision that will allow Japan, Iceland and Norway to resume commercial whaling. The IWC will hold their annual meeting this June to chart the course for the future of our planet's great whales.

Therefore, we applaud your actions to hold a hearing on May 6 regarding the recent actions of the IWC and H.R. 2455, the International Whale Conservation and Protection Act. We hope the hearing will result in strong U.S. global leadership of whale conservation and protection and renew America's commitment to whale conservation, especially within international fora such as the IWC.

Thank you for your past support of the Zoo. We look forward to continuing to work with you on our conservation efforts.

Sincerely,

Jeffrey P. Bonner, Ph.D.
Dana Brown President & CEO

ZOOTENNIAL
*100 years and roaring: 1916–2016*

**Opening Statement**
***Congresswoman Diane E. Watson***
**Joint Committee Hearing:**
**Subcommittee on International Organizations, Human Rights and Oversight**
**Subcommittee on Asia, the Pacific and the Global Environment**
**Committee on Foreign Affairs**
**Thursday, May 6, 2010**
**10:00 a.m.**

*"U.S. Leadership in the International Whaling Commission"*

Thank you Mr. Chairman for holding today's timely hearing on the newly proposed changes to international whaling regulations and the role of the United States. After decades under a strict moratorium, the international community is now forced to revisit the issue of commercial and scientific whaling because of a variety of factors. It is critical that we develop a consensus that is both politically feasible and ensures the sustainability of whale populations.

Historically, the United States has played a key role in the protection and restoration of whale species. In 1946, we were one of the original negotiators of the International Convention for the Regulation of Whaling (ICRW), which created the International Whaling Commission (IWC). At the Stockholm Convention in 1972, the United States supported a complete moratorium on commercial whaling until such time that sustainable whaling procedures could be created. However, nearly four decades later, revised management procedures concerning commercial whaling remain non-existent.

Faced with the prospect of a protracted and unending debate over new commercial whaling regulations, nations including Japan, Norway and Iceland have resumed commercial whaling. Japan has significantly expanded its lethal scientific whaling program in recent years. Some nations have even threatened to abandon the ICW and permit domestic whaling. Though

we do not necessarily know the number of whales killed each year, we do know that the moratorium is no longer working.

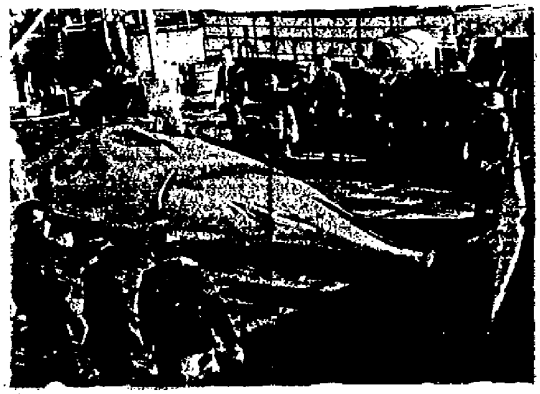
We must act. The draft consensus of the IWC allows limited whaling for next ten years and, eventually, end commercial whaling. This represents the foundation of a compromise that is needed to prevent uncontrolled commercial whaling on an international scale. It will allow us to address commercial whaling management procedures that have been a point of contention for decades between whaling nations and non-whaling nations. While a complete moratorium on commercial whaling is preferable to licensing, political reality dictates that a compromise must be sought or we risk the progress gained under the ICRW.

Thank you Mr. Chairman and I yield back the remainder of my time.

THE NEW YORK TIMES, FRIDAY, APRIL 23, 2010

## President Obama:

# You promised to end this slaughter.



# Why is US now leading the fight to legalize it?

### Dear President Obama:

As a candidate for President, you promised "to strengthen the moratorium on commercial whaling," stating that "Allowing Japan to continue commercial whaling is unacceptable." (3/16/08)

Instead, the *New York Times* front page (4/15/10) reports that your administration is now "leading an effort" within the International Whaling Commission to broker a deal allowing Japan, Norway and Iceland to legally resume commercial whaling despite a 24-year international ban.

That is why environmental organizations and scientists worldwide object to this unseemly back-room deal.

**Legalizing commercial whaling won't end it.**

Instead of rewarding Japan for decades of illegal whaling — and the killing of tens of thousands of whales — you and your administration should be continuing the decades of American leadership that began with Ronald Reagan's championing of the 1986 international ban on commercial whaling.

Your administration's officials claim in the media that this deal legalizing commercial whaling will save whales. But the truth is that the deal sanctions 10 years of continued whaling — with no agreement for phasing it out! Such misleading statements have created a severe credibility gap for your administration.

We ask you to honor your promise, stop the sellout, and save the whales.

### You can help!

*Text* **"IFAW" to 30644**
*visit* **www.ifaw.org/stopthesellout**
*or call* **1 (800) 932-4329**

IFAW
INTERNATIONAL FUND FOR ANIMAL WELFARE
WWW.IFAW.ORG

**Various Baselines of Catches/ Catch Limits**

| Stock | Country | Average over past 3 seasons | Average over past 4 seasons | Average over past 5 seasons | Average over past 10 seasons | Catches in 2001/2002 | Average from Pre-Moratorium | Average* from Post-Moratorium | Catches from last full season | 2010 Catch Limits |
|---|---|---|---|---|---|---|---|---|---|---|
| **Southern Ocean** | | | | | | | | | | |
| Minke | **JAPAN** | 579 | 648 | 606 | 512 | 440 | 1171 | 553 [553] | 679 | 850 |
| *Fin* | **JAPAN** | 1 | 4 | 4 | 4 | 0 | 2901 | 1 [3] | 1 | 50 |
| *Humpback* | **JAPAN** | 0 | 0 | 0 | 0 | 0 | 74 | 0 | 0 | 50 |
| | | | | | | | | | | |
| **North Pacific** | | | | | | | | | | |
| Sei | **JAPAN** | 100 | 100 | 100 | 74 | 1 | 1122 | 25 [66] | 100 | 100 |
| Minke | **JAPAN** | 192 | 199 | 191 | 146 | 100 | 342 | 118 [158] | 171 | 220 |
| Bryde's | **JAPAN** | 50 | 50 | 50 | 41 | 50 | 276 | 58 [100] | 50 | 50 |
| *Sperm* | **JAPAN** | 3 | 4 | 4 | 5 | 8 | 3121 | 35 [70] | 1 | 10 |
| | | | | | | | | | | |
| **North Atlantic** | | | | | | | | | | |
| Minke | **NORWAY** | 539 | 541 | 560 | 582 | 552 | 2575 | 391 [391] | 484 | 1286 |
| Minke | **ICELAND** | 42 | 56 | 56 | 16 | 0 | 192 | 14 [47] | 81 | 240 |
| Fin | **ICELAND** | 42 | 33 | 33 | 13 | 0 | 234 | 18 [71] | 125 | 175 |
| **TOTAL:** | | **1548** | **1635** | **1604** | **1393 (1920/1011)** | **1151** | **12008** | **1213 [1459]** | **1692** | **3031** |

* The average over all post-moratorium years is given and in square brackets is the average of the years in which the catch was non-zero

** The highest and lowest annual catches over the past ten seasons are given in parantheses

United States Senate
WASHINGTON, DC 20510

April 28, 2010

The Honorable Barack Obama
President of the United States
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear President Obama:

We support the ongoing process regarding the future of the International Whaling Commission (IWC) as a way to strengthen the commission, better conserve whales worldwide, and protect indigenous subsistence rights. We also support the direction taken by the proposed amendment to the International Convention for the Regulation of Whaling (ICRW) schedule submitted by the IWC Chair and Vice Chair which will be considered at the June 2010 meeting of the IWC in Agadir, Morocco.

The whaling issue is of significant importance to the states of Alaska and Hawaii. We have a strong interest in seeing the current impasse at the IWC resolved, thereby enabling the organization to more effectively continue as the premiere international body for the effective conservation and management of the great whales.

The indigenous population of Alaska's North Slope has a special interest in the future of the IWC. For millennia they have depended on the harvest of bowhead whales as a primary source of subsistence. We support an agreement providing for long-term, scientifically set, and sustainable subsistence quotas. The proposed amendment to the ICRW schedule submitted by the IWC Chair and Vice Chair recognizes the unique need for this hunt and allows for long-term stability in subsistence quotas Alaska Natives have long desired.

The cultural and historic connection to whales is deeply rooted in Hawaii and Alaska. Beginning in 1819, the American whaling fleet hunted the Pacific, working equatorial waters in the winter, Alaska waters in the summer, and stopping in Hawaii in the spring and fall for rest and provisions. At its peak, commercial whalers took thousands of whales each year and reduced the population to the point of near extinction. The ICRW was agreed to in 1946 and since then conservation measures adopted by the IWC have greatly improved the overall whale population, although the need for protection has not diminished. Now another fleet sails the waters once visited by the commercial whalers, bringing thousands of tourists the chance to view great whales in their natural habitats such as the Hawaiian Islands Humpback Whale National Marine Sanctuary and the waters of Alaska's Southeast Archipelago.

The United States joined the "Future of the IWC" process with hopes it would resolve issues long polarizing the Commission and preventing it from fulfilling its mandate. We agree with the decisions at the recent IWC intercessional meeting in Florida and the last annual meeting in Madeira, Portugal, urging the delegations to engage in constructive discussions aimed at reaching consensus. If the current discussions end without an agreement and the status quo remains, the credibility of the IWC as an organization will be called into question. In addition, the subsistence quota on which Alaska Natives depend for food will once again be held hostage to issues surrounding commercial whaling. We urge the U.S. delegation to continue its efforts to bring the process to a timely and successful conclusion that protects the subsistence quota and promotes the continued conservation of whale stocks. The United States has a history of leadership on the IWC and it is critical that the U.S. maintain a strong negotiating position at the upcoming meeting.

A successful resolution of this process will provide stability to the IWC by deferring controversial issues that in the past have undermined progress on whale conservation. This deferral will give the IWC time to address these issues within a 10-year time frame. Furthermore, the proposed amendment brings all whaling under IWC control and sets non-subsistence whaling harvests below current levels, thus ensuring fewer whales will be killed under this agreement than would be the case under the status quo. This will allow the IWC to prioritize its focus on the greatest threats to whales, including climate change, ship strikes, and bycatch. This opens the door for the strongest whale conservation measure in years. We also note that the proposed amendment includes measures to improve governance within the IWC, including the provision of increased speaking rights for observers, which include Alaska Native organizations.

We wish to see a successful IWC helping to promote the conservation of whales worldwide through a process that is respected and adhered to by all members. We understand the proposed amendment submitted by the IWC Chair and Vice Chair is subject to further negotiation but we believe that it is a significant step in this direction. The United States delegation should be given full authority to negotiate at Agadir with the goal of adopting improvements to the proposed amendment to enhance the conservation of whales and further protect the subsistence hunt.

Thank you for the opportunity to share our concerns with you. We encourage the United States to support this way forward for the IWC as it benefits the American people and whales alike.

Sincerely,

Lisa A. Murkowski
United States Senator

Mark Begich
United States Senator

Daniel K. Inouye
United States Senator

Daniel K. Akaka
United States Senator

United States Senate
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
WASHINGTON, DC 20510-6125

April 27, 2010

The Honorable Barack Obama
President
The White House
1600 Pennsylvania Avenue Northwest
Washington, D.C. 20500

Dear President Obama:

I am writing to express my support for the ongoing process regarding the future of the International Whaling Commission (IWC). The whaling issue is of high importance to the United States and we must resolve the current impasse at the IWC so that the organization may continue as the premiere international body for the effective conservation and management of the great whales.

The United States joined the consensus to start the Future of the IWC process with hopes that it would resolve issues that, for far too long, have polarized the Commission and prevented it from fulfilling its responsibilities. Ending the current discussions without an agreement and returning to the status quo would negatively affect the organization as a whole and is an unacceptable outcome. I urge that the U.S. delegation continue its efforts to be creative and open-minded in order to achieve meaningful progress in the Support Group and bring the process to a timely and successful close.

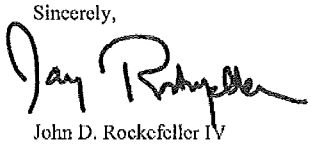
The U.S. position in opposition to lethal scientific whaling and commercial whaling under exception remains strong. I fully support the moratorium, but am concerned by the unrelenting trend of increased whaling over the last twenty years. While the impasse continues, whale conservation efforts at the IWC have been largely blocked. I view the current effort at finding a negotiated solution as an interim step toward full reform of the IWC and the promotion of whale conservation.

I am pleased that the proposal would strengthen and reform governance at the IWC, shift its focus to the conservation of whales, close the loopholes that have permitted whaling to escalate, and bring all whaling under international control as has been envisioned since the outset of the Commission. If a compromise can be reached, the IWC will be able to address head-on the ever increasing environmental and man-made threats to whales.

If a solution is not reached now, whaling will continue outside of the Commission's control, and is likely to increase. I encourage you to continue to support this way forward and to remain

committed to working towards a compromise that will benefit the American people and whales alike.

Sincerely,



John D. Rockefeller IV
Chairman

The Washington Post

# International Whaling Commission proposes compromise on ban

By Juliet Eilperin
Saturday, April 24, 2010; A02

A new International Whaling Commission proposal that would authorize commercial whale hunting for the first time in 24 years in exchange for reducing the number killed each year sets in motion a public diplomacy battle.

A global whaling moratorium took effect in 1986, but three nations -- Japan, Norway and Iceland -- have continued hunting whales, killing about 1,700 annually in recent years. The United States and other anti-whaling countries have sought to strike a deal that would create an international monitoring system to ensure a steadily declining hunt.

The 10-year plan would cut -- but condone -- hunting in the Southern Ocean Whale Sanctuary, which won international protection in 1994. Japan's annual quota of 935 Antarctic minke whales -- which it takes in the name of scientific research, an exception to the moratorium -- would be cut to 400 during the next five years and then drop to 200 in the following five years. Its current hunt of 320 sei and minke whales off its coast would be reduced to 210.

Under the proposal, whalers initially would be allowed to take 400 Antarctic minke whales in the Southern Hemisphere, an area that includes the Southern Ocean Whale Sanctuary, and the number would fall to 200 over the next decade. Also in the Southern Hemisphere, the number of fin whales that could be taken would start at 10 and drop to five in that period.

"Some whaling will be the price to pay for the reduction in the number of whales killed," IWC Chairman Cristi?n Maquieira said in an interview this week. "I don't think anybody will be happy with the numbers, but what I'm trying to achieve is a situation where everybody is willing to sit down at the table because they see something there that otherwise they would be unable to obtain."

Maquieira, of Chile, cautioned that details of the proposal could change before the IWC's late June meeting in Morocco, where the support of three-quarters of the delegates will be needed for passage. As the proposal stands, it would mean that roughly 5,000 fewer whales would be killed during the next decade compared with current levels.

Japan's agriculture minister, Hirotaka Akamatsu, praised the proposal but said his nation would push for higher quotas, given the "big gap" between its current activities and the proposed limits.

"We praise it for adding small-type coastal whaling, which we have patiently and persistently asked for," he said. "

Environmental groups criticized the plan, deeming it a dangerous concession to pro-whaling nations. Some of the species targeted by the three nations such as common and Antarctic minke whales are numerous. Others, however, such as fin, humpback and sei, are imperiled.

Susan Lieberman, director of international policy at the Pew Environment Group, said that the proposal had good elements such as increased monitoring and a stronger IWC conservation panel, but that the Southern Ocean quotas are not based on scientific calculations and go against the idea of establishing protected areas.

# Commission proposes limited commercial whale hunts

By MARI YAMAGUCHI, The Associated Press
Updated 12:46 PM Friday, April 23, 2010

TOKYO — Japan cautiously welcomed an International Whaling Commission proposal Friday that would effectively allow the resumption of commercial whaling for the first time in 25 years — though under strict quotas that the commission argues will reduce the global catch of the mammals.

Despite a 1986 moratorium on whaling, Japan, Norway and Iceland catch whales for various IWC-sanctioned purposes, including scientific research — which opponents such as Australia and conservation activists say are a cover for commercial whaling.

The proposal, to be debated at the IWC's meeting in June in Morocco, seeks to strike a compromise between the two sides by allowing whaling nations to hunt without specifying commercial or otherwise — but in lower numbers than they are now. The commission was formed in 1946 to deal with whaling issues and has 88 member countries.

Environmental groups have decried the proposal as a huge step backward. But supporters argue that allowing whaling under strict quotas would be an improvement to the current hunts, over which it has no control. Various small indigenous groups could continue to hunt in limited numbers.

Japan's self-imposed annual quota of 935 Antarctic minke whales, which are not endangered, would be lowered to 400 over the next five years, then reduced to 200 for the next five years. The country's current take of 320 sei and minke whales in coastal waters would be cut to 210.

Tokyo, long the most prominent target of anti-whaling activists, called the draft "significant progress."

"We praise it for adding small-type coastal whaling, which we have patiently and persistently asked for," said Agriculture Minister Hirotaka Akamatsu. "It's good that (the proposal) openly acknowledges whaling rather than under a category like research, which carries a nuance that it should be restricted."

Japan still needs to push hard to fill "a big gap" between its requested total catch quota and the cap presented in the proposal, he said.

Environmental groups were quick to criticize the proposal, which they say could lead to an eventual return to the large-scale whaling of the past, which devastated many species.

"It throws a lifeline to a dying industry when endangered whale populations face more threats than ever before," said Patrick Ramage, whale program director of a U.S.-based International Fund for Animal Welfare.

Despite a 1986 moratorium on whaling, Japan hunts whales for scientific reasons. Excess meat is sold for consumption, leading critics to call the program a mere cover for commercial hunts. Norway and Iceland also defy the ban under other exceptions. Together, they have an annual cap of about 3,000 whales, 10 times as many as in 1993.

The newest proposal suggested specific catch quotas for various species in specific waters. It would allow 69 bowhead whales, 145 gray whales, 14 humpbacks and 109 fin whales to be hunted each year around the world.

New Zealand Foreign Minister Murray McCully said the IWC's proposal does not deliver what his country wants — that it must be significantly better than the status quo and meet the country's commitment to end whaling in the southern ocean.

"The catch limits proposed in the southern ocean are unrealistic. The proposal to include (endangered) fin whales in the southern ocean is inflammatory," he said. "New Zealanders will not accept this."

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Associated Press Writers Jay Alabaster and Malcolm Foster in Tokyo and Ray Lilley in Wellington, New Zealand, contributed to this report.

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April 23, 2010 04:40 PM EDT

## Whaling 'Peace Plan' Just Less of the Same?

*By ANDREW C. REVKIN*

On Earth Day, the leadership of the International Whaling Commission issued a long-discussed proposal for a "peace plan" aimed at reining in expanding whale hunts by Japan, Norway and Iceland that have, in various ways, skirted the longstanding moratorium on commercial whaling.

The language of the proposal would maintain the moratorium, but in name only. If adopted, it would sanction the killing of thousands of whales in the next decade, but at a pace lower than that projected for the existing whaling nations. That is what has some whale biologists and environmental and animal-welfare groups inflamed.

To my mind, history rules here. This is, after all, a whal**ING** commission. With some whale populations clearly thriving, the old conservation arguments against killing based on rarity don't hold up well.

Not long ago, reflecting on studies showing that whale watching had become a much bigger economic force than whale killing, I proposed a change in the name to the International Whale Commission, reflecting the shifting nature of most humans' relationships to these remarkable marine mammals.

But chances of a truly new focus are next to nil, given the substantial political and financial influence of Japan in shaping the whaling commission's membership and agenda, and given its longstanding resistance to external pressure to end such harvests. When I've met with Japanese officials to discuss the issue, it's clear that they're sustaining the whale hunts as much out of pride as profit (given the dubious economics, high mercury levels in whale meat, etc.).

For the United States, Australia and other countries opposing large-scale whaling, the choice under the commission's auspices is basically between tolerating growing hunts outside any international oversight or bringing such activities back under some control. That appears to be a dead end.

The other choice, if American leaders (presumably only if spurred by the American public) are really concerned about whaling, is for the United States to elevate the issue and make it part of broader policy discussions with whaling countries, particularly Japan.

So far, there are few signs this will occur. Nearly all United States statements on whaling, including yesterday's reserved reaction to the "peace plan," have come, not surprisingly, from the National Oceanic and Atmospheric Administration, not the White House.

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BBC NEWS

# Whaling plan draws greens' anger

By Richard Black
Environment correspondent, BBC News

**The International Whaling Commission (IWC) has published draft proposals for regulating whaling for the next decade.**

Japan's Antarctic whale hunt would fall in stages to less than a quarter of its current size. But hunting would continue on the endangered fin whale.

The draft is the latest stage in a two-year process aiming to find compromise between pro- and anti-whaling camps.

It will be debated at the IWC's annual meeting in June. Some conservation groups have already condemned it.

Commercial whaling was banned globally in 1982, but Iceland, Japan and Norway continue to hunt under various exemptions, collectively targeting more than 2,000 whales each year.

" **The fact that this proposal is even being discussed shows just how far out of touch the IWC is with modern values** "
Claire Bass, World Society for the Protection of Animals

"If an agreement is reached, this represents a great step forward in terms of the conservation of whales and the management of whaling," said IWC chairman Cristian Maquieira.

"For the first time since the adoption of the commercial whaling moratorium, we will have strict, enforceable limits on all whaling operations.

"As a result, several thousand less whales will be killed over the period of the agreement."

**Seeking sanctuary**

Key countries, including the US and Japan, have limited comments to saying they will consider the draft proposal carefully.

But some conservation and animal welfare groups have already indicated opposition.

"The fact that this proposal is even being discussed shows just how far out of touch the IWC is with modern values," said Claire Bass, manager of the Marine Mammal Programme at the World Society for the Protection of Animals (WSPA).

THE LEGALITIES OF WHALING
- **Objection** - A country formally objects to the IWC moratorium, declaring itself exempt. Example: Norway
- **Scientific** - A nation issues unilateral 'scientific permits'; any IWC member can do this. Example: Japan
- **Aboriginal** - IWC grants permits to indigenous groups for subsistence food. Example: Alaskan Inuplat

"It is entirely missing the point that blasting conscious animals with exploding harpoons is grossly inhumane."

However, others argue that the aim of completely banning whaling is unrealistic, and that a major down-scaling, combined with bringing it under international oversight, is a worthwhile compromise.

But the inclusion of fin whales and the continuation of hunting in the Southern Ocean - which has been declared a whale sanctuary - are points of concern.

"There are some positive elements here, but there are some unacceptable provisions too," said Sue Lieberman, director of international policy with the Pew Environment Group.

"This allows whaling by Japan to continue in the Southern Ocean - and the Southern Ocean Sanctuary should be set in stone."

**Quota cuts**

Japan currently targets about 930 minke whales and 50 fins in each Antarctic season, though in recent years it has actually caught a lot fewer owing to skirmishes with ships of the Sea Shepherd Conservation Society and to a fire on the factory ship Nisshin Maru.

The draft envisages the annual Antarctic minke catch falling to 400 immediately, then to 200 in the 2015/16 season.

The fin whale quota would be set at 10 now, falling to five in 2013/4.

A demand that Japan has made regularly for several years - that it be allocated a commercial or quasi-commercial minke whale quota in the North Pacific waters around its coasts - would be granted, with 120 of the animals targeted each year.

Iceland - which last year mounted a major escalation in its fin whale hunt, catching 125 - would be allocated an annual quota of 80 fins and 80 minkes, which is considerably less than it has been demanding.

Norway's annual quota would be set at 600 minkes, and no other country would be permitted to start hunting - a clause that has aroused the ire of South Korea.

It is clear that the big players are still some way apart on key issues, including whether international trade should be permitted during the 10-year period.

Permitting it is a key demand of Iceland, which sees a potentially big export market in Japan. But conservation groups and anti-whaling nations are equally adamant that it must be stopped.

International trade in whalemeat is banned, but Iceland, Japan and Norway have registered exemptions to the UN wildlife trade convention for some whale species.

If adopted at the June IWC meeting, the "peace package" would set terms for the next 10 years, with a review after five.

Initial quotas could be amended downwards if scientific assessments indicated the necessity.

Governments would agree not to set quotas unilaterally, and to keep all hunting within the control of the IWC, effectively suspending the current measures of "scientific" whaling or hunting "under objection".

Whaling nations would have to agree to a monitoring regime involving observers on boats and a DNA register designed to keep illegal whalemeat out of the market.

Whaling by indigenous groups would not be affected.

# It's no way to save the whales

**The Obama administration and the International Whaling Commission want to allow legal hunting again. It's misguided policy.**

Joel Reynolds

April 28, 2010

No one was surprised when conservation organizations such as the Natural Resources Defense Council challenged the anti-environmental policies of President George W. Bush. But it's a shock to many when we part company with the Obama administration.

It happens. And it's happening right now on the question of what to do about commercial whaling and, more specifically, whether to maintain the 25-year-old moratorium against the killing of whales for profit. Last week, the International Whaling Commission announced a proposed 10-year deal, spearheaded by the Obama administration, that would suspend the moratorium and allow whaling countries to kill whales legally for commercial purposes for the first time in a generation.

There's no disagreement between the council and the administration about the fact that the moratorium is one of the singular environmental achievements of the 20th century. Before it was adopted, on average an estimated 38,000 whales were being killed each year. Since the moratorium, that number has dropped to about 1,240, and whale populations have begun, little by little, to rebound.

There's no disagreement that whales are among the most extraordinary creatures ever to inhabit the Earth. And there's no disagreement that we need to protect them, or that many of the large whale species covered by the proposed agreement -- humpback, fin, sperm, sei and Bryde's whales -- are depleted or near extinction.

The problem is how best to protect them.

The Obama administration argues that the whaling moratorium should be suspended because it has loopholes that are being illegally exploited by Japanese, Norwegian and Icelandic whalers. They believe that after 25 years of conflict within the International Whaling Commission, commercial whaling should be legalized in the hope that, by bringing the killing out into the open through agreed-upon quotas, a consensus eventually will emerge in support of a phase-out of whaling altogether.

Its intentions are good. But the strategy is dead wrong.

First, the proposed deal nowhere requires a phase-out of whaling. Not in 10 years. Not ever.

Second, legalizing whaling in order to eliminate it makes as little sense as allowing criminal activity in order to eliminate crime. By adopting the moratorium on commercial whaling, the

world agreed that whaling, except for purposes of scientific research and subsistence, should not be allowed. Period. By suspending that global norm, the U.S. and the whaling commission will be ceding the legal and even the moral high ground to the very countries that, for decades, have been doing their best to circumvent it. Rather than a step forward in the fight against commercial whaling, this is a monumental step backward.

Third, the hope that reaching an agreement with the whalers will, in some undefined way, appeal to their better nature, eventually strengthen their interest in conservation and lead them at some future point to abandon whaling is, at best, wishful thinking. It is belied by the history of the whaling commission, where the whaling countries, even in the wake of the international agreement not to kill whales for commercial purposes a generation ago, have sought relentlessly to evade or end it. Japan exploits the exception for scientific research; Iceland and Norway assert their right to take exception to -- and therefore ignore -- the moratorium.

The Obama administration's fundamental premise -- that the proposed agreement will save thousands of whales over the next decade -- doesn't withstand scrutiny. The agreement suggests quota numbers, but no actual numbers have been agreed to among the nations of the whaling commission -- or even among the smaller group of nations that have, for the last three years, been negotiating the proposed agreement behind closed doors. The actual number of whales allowed to be killed if the agreement is adopted is, at this point, anybody's guess.

But even were that not the case, the situation that led the Obama administration to pursue this agreement in the first place would be unaffected by it. The exception for scientific whaling exploited by Japan will not be rescinded, nor will the exceptions claimed by Norway and Iceland be nullified. The agreement is fundamentally premised on an expectation that the countries signing the agreement will abide by it, notwithstanding their continuing right under the broader whaling convention to kill whales for research or pursuant to their existing exception. Thus, the fundamental problem of loopholes remains.

Finally, even if some might consider limited "sustainable whaling," it should adhere to science-based management principles. However, the quotas under negotiation now are not a product of the whaling commission's scientific committee. The negotiating process has been political, based on what the whaling countries are willing to accept rather than being governed by a scientific process to develop catch quotas consistent with the recovery of whale stocks.

Reasonable minds often can and do differ, even among friends. But the whaling commission's proposal for the next decade is a terrible idea. It would do more to protect the whaling industry than to protect whales, and it would be a tragic step backward to an era when the most magnificent animals on Earth could legally be slaughtered for profit.

President Obama, we strongly urge you to reject the deal on commercial whaling. Your administration is making great strides in developing a sound national policy for the protection of our oceans. Don't let the return of legalized whaling become your legacy.

*Joel R. Reynolds is a senior attorney and director of, among other programs, marine mammal protection at the Natural Resources Defense Council in Los Angeles.*

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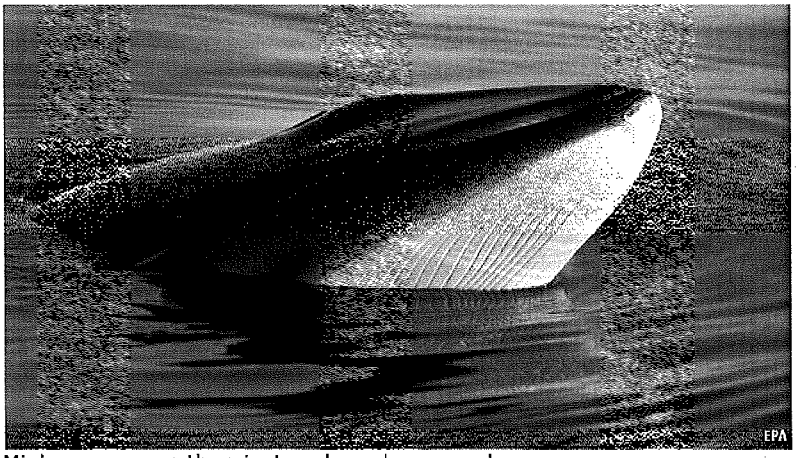
Whaling

# A giant compromise?

## A pragmatic effort to tackle an emotional issue has started making waves

Apr 29th 2010 | From *The Economist* print edition




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 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 reauthorise 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 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.

The New York Times

# U.S. Leads New Bid to Phase Out Whale Hunting

JOHN M. BRODER

WASHINGTON — The United States is leading an effort by a handful of antiwhaling nations to broker an agreement that would limit and ultimately end whale hunting by Japan, Norway and Iceland, according to people involved with the negotiations.

The compromise deal, which has generated intense controversy within the 88-nation International Whaling Commission and among antiwhaling activists, would allow the three whaling countries to continue hunting whales for the next 10 years, although in reduced numbers.

In exchange, the whaling nations — which have long exploited loopholes in an international treaty that aims to preserve the marine mammals — would agree to stricter monitoring of their operations, including the placing of tracking devices and international monitors on all whaling ships and participation in a whale DNA registry to track global trade in whale products.

Officials involved in the negotiations expressed tentative hope that they could reach an agreement in coming weeks. But ratification by the overall group remains uncertain.

"This is one of the toughest negotiations I've been involved in in 38 years," said Cristián Maquieira, the veteran Chilean diplomat who is the chairman of the commission. "If this initiative fails now, it means going back to years of acrimony."

Some pro-whale activists say the deal would grant international approval for the continued slaughter of thousands of minke, sei and Bryde's whales. They also say that the agreement does not prevent Japan and the other nations from resuming unlimited whaling once the 10-year period is up.

"From our point of view, it's a whaler's wish list," said Patrick R. Ramage, global whale program director at the International Fund for Animal Welfare. "It would overturn the '86 moratorium, eviscerate the South Ocean Whale Sanctuary, subordinate science and I.W.C. precedent to reward countries that have refused to comply by allocating quotas to those three countries."

"Rather than negotiate a treaty that brings commercial whaling to an end," he concluded, "they have created a system under which it will continue."

But Monica Medina, the No. 2 official at the National Oceanic and Atmospheric Administration and the American delegate to the whaling body, said that Mr. Ramage and other critics were demanding a complete halt to whaling, an impossible goal, at least today.

"We can't stop it; we can only try to control it," Ms. Medina said in an interview.

"If we can prevent thousands of whales from being hunted and killed, that's a real conservation benefit. This proposal would not only help whales, we hope, but also introduce rigorous oversight, halt the illegal trade in whale meat and bring respect for international law back to the I.W.C.," she added. "Are we there yet? We're not, and we have hard negotiations to go yet."

Despite a 1986 international moratorium on commercial whaling, the numbers of whales killed annually has been rising steadily, to nearly 1,700 last year from 300 in 1990, as the three whaling nations have either opted out of the treaty or claimed to be taking whales only for legitimate scientific study. Most of the meat from the slaughtered whales is consumed in those three countries, although there appears to be a growing international black market in whale products.

Some officials warn that if this effort at compromise fails, the commission's efforts to police whale hunting, long crippled by irreconcilable political divisions, will collapse.

"The I.W.C. is a mess. It's a dysfunctional international organization," said Sir Geoffrey Palmer, a former prime minister of New Zealand and chairman of the I.W.C. group trying to negotiate a deal. "I think this is probably the last chance the I.W.C. has to cure itself."

Representatives to the whaling commission from more than a dozen nations — including the three whaling countries and New Zealand, Australia, Chile and other nations backing the compromise proposal — are in Washington this week to negotiate terms of the agreement, which would protect as many as 5,000 whales from hunting over the next decade, officials said. They said they hoped that the reduced hunt would give whale stocks time to recover and give negotiators time to write a new treaty that would bring an effective international ban on all commercial whaling.

The group plans to release a new draft of the compromise proposal next week, but it still must win the approval of three-quarters of the members of the whaling commission at its annual meeting in Agadir, Morocco, in late June.

The Japanese, who killed 1,001 whales last year, are the linchpin of any deal. Although the Japanese taste for whale meat is steadily declining, the Japanese see their ability to continue to hunt whales, not only in their coastal waters but in the open ocean around Antarctica, as a question of sovereignty. Critics say that the practice survives only with heavy government subsidies. But a single whale can bring as much as $100,000 in Japanese fish markets. Japan is driving a hard bargain to demonstrate strength at home and perhaps to use as leverage in other international negotiations, officials involved in the talks said.

Joji Morishita, a senior official of the Japan Fisheries Agency and Tokyo's representative to the whaling talks, said in a brief telephone interview that he was not authorized to discuss his country's negotiating position. But he confirmed

that Japan was at least willing to talk about a new whaling program that may result in a substantial reduction in its whale harvest over the next decade.

"We are fully engaged in this process," he said.

Populations of some whale species have been growing since the moratorium ended decades of uncontrolled hunting, but whales around the world remain under threat, not only from hunting but also from ship strikes, pollution, habitat loss, climate change and entanglement in fishing nets.

Under terms of the compromise deal, which is being negotiated behind closed doors and remains subject to major changes, the three whaling nations agree to cut roughly in half their annual whale harvest. That would result in the saving of more than 5,000 whales over the next 10 years, compared with continued whaling at current levels.

The deal also proposes that no new countries be permitted to take whales, whale-watching ships would be monitored by the whaling commission and all international trade in whale products be banned.

In addition, whalers would have to report the time of death and means of killing of all whales and provide DNA samples to a central registry to help track the end use of the dead animals.

Limited subsistence whaling by indigenous peoples in the United States, Greenland, Russia and St. Vincent and the Grenadines would be allowed to continue.

"Our goal is a significant reduction in the number of whales killed, but some limited whaling will be authorized as a price for that," said Mr. Maquieira, the whaling commission chairman. "This is highly controversial and very difficult. I would prefer something different, but there is nothing out there."

From the Embassy of Japan

**This information is unofficial and is only meant to be provided as the background information for preparation for the hearing.**

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Japan takes the stance that precious marine living resources should be utilized in a sustainable manner based on the best available scientific information. Whales are no exception to this position. Japan supports regulated and sustainable utilization of abundant species of whales such as minke whales while strongly supporting the protection of endangered whales such as blue whales or right whales which have declined drastically due to past excessive hunts. It should be noted that there are more than 80 different whale species and many of them are not endangered. For example, the population of Antarctic minke whales was estimated by the Scientific Committee of the IWC to be about 760,000.

Contrary to the common perception, the commercial whaling moratorium is not a permanent prohibition of whaling nor characterization of whaling as something evil or wrong. The moratorium was adopted as a temporary suspension of whaling while conducting comprehensive assessment of whale population. This decision was made because of the uncertainties of scientific information for the management of whaling at the time and there was a clear time line for the comprehensive assessment. The item 10(e) of the Schedule of the International Convention for the Regulation of Whaling (ICRW) which had established the commercial whaling moratorium clearly supports this fact.

> *10(e) Notwithstanding the other provisions of paragraph 10, catch limits for the killing for commercial purposes of whales from all stocks for the 1986 coastal and the 1985/86 pelagic seasons and thereafter shall be zero. This provision will be kept under review, based upon the best scientific advice, and by 1990 at the latest the Commission will undertake a comprehensive assessment of the effects of this decision on whale stocks and consider modification of this provision and the establishment of other catch limits.*

Japan's research whaling was initiated for the purpose of contributing to the comprehensive assessment by accurately ascertaining the situation of various whale species.

The legal basis for research whaling is also unequivocal. Article VIII of the International Convention for the Regulation of Whaling grants its signatories the right to assign themselves whaling quotas for research purposes. Japan conducts research whaling in the Antarctic and western North Pacific under this clause, exercising its treaty rights. The quota is calculated, within a sustainable level, so as to obtain

statistically and scientifically meaningful data. The purposes of the research, statistical bases for the sample size and the results of the research have been provided to the IWC and made publicly available. After research and data collection have been performed on the animals (age, diet, health etc.), the meat is released on to the Japanese commercial market, in accordance with the requirement of the paragraph 2 of Article VIII which reads: "Any whales taken under these special permits shall so far as practicable be processed.....". The utilization of carcasses is not only legal but obligation under the Convention.

Whaling is not limited to Japan. Norway and Iceland did not agree to the moratorium on commercial whaling and, consequently, they continue to conduct commercial whaling. The United States also has indigenous whaling whereby the Inuit of Alaska take bowhead whales in the Beaufort Sea. Denmark, Russia and Canada also allow similar activities as well.

Despite the legality of the Japanese research whaling program, it has been criticized both within and outside the IWC. Also, Japan's request for a small catch quota for its coastal communities has been rejected by the IWC for decades. The disagreements about whale and whaling between the Member States within the IWC have, over time, become so severe that the organization's function has been brought into question. Many believe that the organization will collapse unless some resolution is achieved. That is why we are now engaged in the "Future of the IWC Process" with a hope to save the IWC.

Japan is committed to the on-going "Future of the IWC Process" and also highly appreciates the efforts made by the Obama administration to promote the negotiation. Japan is glad to see that mutual trust has developed between the IWC members through this process, creating a markedly improved atmosphere for discussion. As to the proposal from the IWC Chair and Vice Chair made public on April 22nd, there are difficult elements for Japan such as the overall catch limits where there are big differences between the proposed numbers and Japan's thinking. However, Japan will continue to take part in the discussion and make every effort so that we can achieve an agreement at the up-coming IWC Meeting in June.

The question of whaling is, for Japan and other whaling nations, an issue of the sustainable use of marine resources which enjoys broad support in those nations.

Japan continues to be committed to the "Future of the IWC Process" in the hope that this process leads to a meaningful compromise by all members of the IWC and the successful conclusion of the Process. To this end, Japan is looking forward to continuing to work closely with the United States.

Mr. Cristian Maquieira, Chairman of the IWC, and
Mr. Anthony Liverpool, Vice-Chairman of the IWC,

Reykjavik, 20 April 2010

Dear Cristian and Anthony,

As you know, Iceland has taken an effective and constructive part in the work of the Support Group at its numerous meetings over the last months. We have contributed to the development of a compromise text that has the dual objective to increase the conservation of whales and strengthen the management of whaling. We have found it very difficult to accept large parts of the text as it is in our view unbalanced and much more focused on conservation than management. However, we have been able to move on and continue the process on the understanding that agreement would be reached on whaling quotas.

At the first meeting of the Support Group in Santiago, Iceland made clear that it was willing to agree to significantly lower quotas than the average catches in the traditional whaling years before the moratorium (the average annual catch of fin whales 1948-1985 was 234 and the average annual catch of minke whales 1975-1985 was 192). In subsequent meetings it became clear that there would never be consensus on quotas unless they were lower than last year's catches. In light of this, Iceland proposed at the meeting in Honolulu quotas that are lower than last year's catches, 120 for fin whales (the catch in 2009 was 125) and 80 for minke whales (the catch in 2009 was 81). A number of countries, including the US, New Zealand and Sweden (EU), rejected this proposal but made a counterproposal of quotas of 60 for fin whales and 60 for minke whales. Iceland made clear that these quotas were too low. In this context, it should be noted that the RMP results of the SAG meeting in Honolulu were quotas of 155 (tuning level 0.60) or 87 (tuning level 0.60) fin whales and 236 (tuning level 0.60) or 150 (tuning level 0.72) minke whales.

Obviously, if States desire to reach a compromise they try to bridge the gaps between them. Iceland had consultations with other countries at the meeting in St. Petersburg and expressed willingness to find a compromise between the aforementioned quota proposals. We had high hopes for the meeting in Washington D.C. and were astonished to find that the aforementioned countries had abandoned their previous position and were now proposing not only much lower quotas for Iceland but also, at the last moment in our consultations, a ban on international trade in whale products or the equivalent thereof, a limitation to domestic use, which fall totally outside the mandate of the IWC. In our view, these proposals do not represent good faith in that the countries submitting them are perfectly aware that they will never gain general acceptance. As I indicated towards the end of the Washington meeting, the host country made no attempt to hide this and made it very clear to us that they were now intending to go for a vote at the Annual Meeting in Agadir and seek to get the ¾ majority required for Schedule amandments.

In these circumstances, consensus is obviously not achievable. Iceland agrees with the comments made by both Australia and Norway at the end of the Washington meeting that it would not serve the future of the IWC were you, Chairman and Vice-Chairman of the organization, to submit a proposal on 22 April that would not be likely to gain consensus but more likely to go for a vote and to be used for that purpose by a group of countries. In my view, all the work of the Support

Group has been very useful in that it has both contributed to a greater understanding of the different views of States and improved relationships between their representatives. This should improve the atmosphere within the IWC considerably in the future and increase tolerance, respect and courtesy on both sides. This would make it possible for States to agree to disagree. However, this would all be in vain if a proposal would be presented now that does not gain consensus. In fact, should there be a vote in Agadir, there would be no peace within the organization and there is a serious risk that the situation would be worse than ever before and that the IWC would indeed collapse as a consequence.

This notwithstanding, in case you consider that reaching consensus is realistic, we are providing the following remarks on the draft consensus decision. In the spirit of compromise, and in order not to complicate your task further, we have limited our remarks to a few fundamental issues.

Page 1, first paragraph (beginning "The long history ...")
It is important to keep the balance of this paragraph. The wording "we have seen a recovery in a number of these stocks although many remain severely depleted" was the result of a very long discussion and to replace "a number of these" with "some" would, in our view, make the sentence very unbalanced and factually incorrect.

Page 2, third paragraph (beginning "Fundamental components ...")

Seventh bullet point (beginning "suspend ...")
We would prefer to delete this new proposed bullet point but could live with it if it were reformulated in the following manner, making clear that the suspension is only for the ten year period:

> "suspend for the ten year period unilaterally determined whaling under special permit, objections and reservations;"

Ninth bullet point (beginning "discourage the import ...")
As mentioned earlier, this new proposed bullet point is totally unacceptable to Iceland. Firstly, the IWC does not have any competence to deal with international trade in whale products. That competence lies elsewhere. Secondly, as a country exporting over 95% of its catches of living marine resources, Iceland could never accept restrictions on international trade in products from sustainably harvested resources. In the view of Iceland, due to the lack of competence of the IWC in this field, it would also be highly inappropriate for elected officials of the IWC to include any text on international trade or the equivalent thereof, a limitation to domestic use, in a proposal submitted in their names.

Page 4, first paragraph under "For Management" (beginning "For this ten-year period ...")
We would like to keep the language of the draft text that was submitted to the meeting in St. Petersburg. In any event, we cannot agree to refer to RMP since that might imply recognition of the RMP as adopted by the Commission (with tuning level 0.72) rather than the RMP as recommended by the Scientific Committee (with several tuning levels, including 0.60). We would prefer to make clear that using tuning level 0.60 is an option but could live with referring to "management procedures" or "established management procedures". For us, this issue is of no less importance than the original quotas agreed upon.

Page 4, second paragraph under "For Management" (beginning "The Commission will ...")
We would prefer to have no reference to "illegal, unreported and unregulated whaling" since there is no recognized definition for this term. However, in the spirit of compromise we can live with its inclusion in this paragraph if there is no reference to it in Appendix A (Amendments to the Schedule).

Page 7, first paragraph under "Future Work Plan ..." (beginning "While this paradigm shift ...")
As currently drafted, the second sentence does not make sense. The word "and" after "IWC" at the end of the fifth line needs to be deleted.

Page 9, paragraph 33
As mentioned above, we cannot agree to refer to RMP, as suggested here, and propose that "Revised Management Procedure" in the fifth line be replaced with "established management procedures". This would also make the paragraph consistent.

Page 10, paragraph 39 ("Domestic Use")
As already mentioned, this new proposed paragraph is totally unacceptable to Iceland. The IWC does not have any competence to deal with international trade in whale products and Iceland could never accept restrictions on international trade in products from sustainably harvested living marine resources. The same goes for the equivalent thereof, a limitation to domestic use, as proposed here. We also want to make it clear that the alternative "should" language that was drafted in a small group, which was unbalanced and excluded Iceland, is equally unacceptable.

Page 12, paragraph 51 ("IUU Whaling")
This paragraph is unacceptable to Iceland. As mentioned earlier, we cannot accept to refer to "illegal, unreported and unregulated whaling" since there is no recognized definition for this term and it is not realistic to do so. As indicated above, however, in the spirit of compromise we can live with its inclusion in the relevant paragraph of the Consensus Decision if there is no reference to it in Appendix A (Amendments to the Schedule).

Pages 13-14 (Table 4. Catch limits)
I am not mandated to make further proposals on Icelandic quotas for fin whales and minke whales than those referred to above. Without prejudice to our position on quotas, and without any indication of what may prove acceptable to Iceland, I can however make it clear that there will never be consensus on quotas that are not in the range between the proposal of Iceland made at the Honolulu meeting and the counterproposal made by other countries at that same meeting.

Finally, Mr. Chairman and Vice-Chairman, I would like to reiterate my words of caution that it would in our view not serve the future of the IWC if you would, on behalf the organization, submit a proposal on 22 April that would not be likely to gain consensus but more likely to go for a vote and to be used for that purpose by a group of countries. Should there be a vote at the Annual Meeting in Agadir, there would be no peace within the organization and there is a serious risk that the IWC would indeed collapse.

Best regards,
Tomas

Tomas H. Heidar
Iceland´s Commissioner to the IWC

*Press Release of the Ministry of Fisheries and Agriculture*

*No. 26/2010*

**Proposed Consensus Decision from the Chair and Vice Chair of the International Whaling Commission**

At the Annual Meeting of the International Whaling Commission (IWC) in Madeira last summer, a Group of 12 countries, the Support Group, was given the task to seek a compromise within the organization. The IWC has been dysfunctional for a number of years due to controversy between countries that support sustainable whaling and countries that oppose whaling. Iceland was a member of the Support Group and took part in its work at numerous meetings last winter. Iceland declared its willingness to accept whaling quotas within sustainable limits should that contribute to general agreement.

Despite thorough negotiations and proposals from both sides, the Support Group failed to reach agreement on whaling quotas for Iceland, Japan and Norway, and on some other important issues. The Chair and Vice Chair of the IWC then decided to submit a proposal for a consensus decision in their own names. It is expected that the proposal be dealt with at the Annual Meeting of the IWC in Agadir, Morocco, in June. The proposal contains a paragraph, which had been proposed by some anti-whaling countries, on the domestic use of whale products that would in effect mean a ban on international trade and have the biggest negative effect on the interests of small countries with small domestic markets. The proposal further includes quotas for those countries that have conducted whaling, including annual quotas for Iceland in the period 2011-2020 of 80 fin whales and 80 minke whales.

Icelandic authorities are not in a position to accept a ban on international trade in whale products. Firstly, as a country living from the export of seafood, Iceland can not agree to restrictions on trade in marine resources that are sustainably harvested. Secondly, the issue of trade falls outside the mandate of the IWC and the organization therefore has no authority to deal with the issue. Further, it is clear that the quotas proposed for Iceland are well below sustainable limits and in this connection it should be kept in mind that the Marine Research Institute of Iceland has given a scientific advice of annual quotas of 200 fin whales and 200 minke whales.

Icelandic authorities emphasize that no decisions should be taken at the Annual Meeting of the IWC in Agadir without general agreement of its Member States. So far the work has been conducted on the basis of consensus. It would not serve the future interests of the IWC to attempt to push for a vote as that would only add to the controversy between the Member States and might indeed lead to the collapse of the organization.

Ministry of Fisheries and Agriculture,
27 April 2010

ANIMAL WELFARE INSTITUTE • ASSOCIATION OF ZOOS & AQUARIUMS • BORN FREE USA • CETACEAN SOCIETY INTERNATIONAL • CENTER FOR BIOLOGICAL DIVERSITY • CONSERVATION LAW FOUNDATION • ENDANGERED SPECIES COALITION • FAUNA & FLORA INTERNATIONAL • GREENPEACE • HUMANE SOCIETY INTERNATIONAL • INTERNATIONAL FUND FOR ANIMAL WELFARE • INTERNATIONAL MARINE MAMMAL PROJECT, EARTH ISLAND INSTITUTE • NATURAL RESOURCES DEFENSE COUNCIL • OCEAN CONSERVANCY • WHALE AND DOLPHIN CONSERVATION SOCIETY, NORTH AMERICA • THE WHALEMAN FOUNDATION • WILDLIFE ALLIANCE • WILDLIFE CONSERVATION SOCIETY • WORLD SOCIETY FOR THE PROTECTION OF ANIMALS

**HR2455 International Whale Conservation and Protection Act of 2009**

August 12, 2009

US House of Representatives
Washington, DC 20515

Dear Representative,

On behalf of our millions of members, we are writing to express our support for H.R. 2455, the International Whale Conservation and Protection Act of 2009, introduced on May 18, 2009, by Reps. Eni Faleomavaega (D-AS), William Delahunt (D-MA), Madeleine Bordallo (D-GU), and Mazie Hirono (D-HI). We urge you to cosponsor this critical legislation and to support its passage by the U.S. Congress.

Whales are of aesthetic and scientific value to mankind, and they are an integral and indispensable part of the marine ecosystem. To many, they are a majestic symbol of the ocean and hold a special place in our nation's heritage. Today, whales and their habitats face more threats from human activities than ever before, including vessel strikes, entanglement in fishing gear, ocean noise, prey depletion, chemical pollution, offshore industrial development, and escalating threats from climate change including ocean acidification. As whales have a long life span and do not reproduce quickly, they are extremely sensitive to over-exploitation and many whale species remain in peril.

The United States once transformed itself from a whaling nation to a model for whale protection. With the enactment of legislation like the Marine Mammal Protection Act and the Endangered Species Act, the United States was a pioneer in the conservation of whales. However, there is still need for greater protection. Loopholes in the current legislation, the continued practice of commercial whaling under the guise of 'science', and the lack of thorough international cooperation and communication are just a few of the problems keeping many whale stocks from recovering. Once again, it is time for the United States to pilot the effort to save whales from disappearing from the world's oceans.

The International Whale Conservation and Protection Act of 2009 would promote international efforts to conserve and protect the world's whales throughout their range, and reassert the United States as a global leader in whale conservation. The Act would strengthen whale conservation and protection efforts of relevant international bodies including the United Nations Convention on the Conservation of Migratory Species of Wild Animals, the International Whaling Commission,

the Convention on International Trade in Endangered Species and the International Maritime Organization.

The continued and strengthened conservation of whales requires a global commitment, and we strongly believe that the United States must reassert global leadership at this critical time for whales. Again, we urge you to cosponsor H.R. 2455, the International Whale Conservation and Protection Act of 2009.

Sincerely,

Susan Millward
Executive Director
Animal Welfare Institute

Steve Olson
Vice President, Government Affairs
Association of Zoos & Aquariums

Adam M. Roberts
Senior Vice President
Born Free USA

William W. Rossiter
President
Cetacean Society International

Miyoko Sakashita
Oceans Program Director
Center for Biological Diversity

Sean Cosgrove
Marine Campaign Director
Conservation Law Foundation

Jon Hunter
Policy Director
Endangered Species Coalition

Katie Frohardt
Executive Director
Fauna & Flora International

Phil Kline
Senior Oceans Campaigner
Greenpeace

Kitty Block
Vice President
Humane Society International

Jeffrey Flocken
Director, Washington DC Office
International Fund for Animal Welfare

David Phillips
Director
International Marine Mammal Project,
Earth Island Institute

Michael Jasny
Senior Policy Analyst
Natural Resources Defense Council

Vicki Cornish
Marine Wildlife Policy Director
Ocean Conservancy

Sue Fisher
Policy Director
Whale and Dolphin Conservation Society,
North America

Jeff Pantukhoff
Founder and President
The Whaleman Foundation

Michael Zwirn
Director of U.S. Operations
Wildlife Alliance

John F. Calvelli
Executive Vice President, Public Affairs
Wildlife Conservation Society

Cecily West
Executive Director, USA
World Society for the Protection of Animals
(WSPA)

Press Release

**IWC Chair and Vice-Chair Offer New Way to Conserve Whales and Manage Whaling**

22 April 2010

The Chair and Vice-Chair of the International Whaling Commission today unveiled a draft proposal to bring all whaling operations under full IWC control and to strengthen further and focus the work of the IWC on conservation issues. The 88 member governments of the IWC will have 60 days to review the plan before discussing it at their annual meeting in June where it could be changed or adopted.

If adopted, the proposal (*see here*) for a 10-year peace plan keeps the moratorium on commercial whaling. Importantly, the three countries that at present set their own catch limits (Japan, Norway, Iceland) will have agreed to IWC-set sustainable catch limits that are substantially below present levels as well as to a rigorous oversight and enforcement arrangement. As proposed, several thousand less whales will be caught over the ten-year period than would have occurred if the present situation remained.

"If an agreement is reached this represents a great step forward in terms of the conservation of whales and the management of whaling. We are not there yet and much remains to be done but we truly wish this to be a *consensus* decision. It will be a major achievement if, despite some fundamental differences of views on whaling, our member countries can put these differences aside for a period to focus on ensuring the world has healthy whale stocks," said Cristian Maquieira, Chair of the International Whaling Commission and. "For the first time since the adoption of the commercial whaling moratorium, we will have strict, enforceable limits on all whaling operations. As a result, several thousand less whales will be killed over the period of the agreement. In addition, no other IWC countries will be permitted to start hunting whales during the period".

"This proposal represents an historic step, a paradigm shift in how the Commission would operate," said IWC Vice-Chair Anthony Liverpool. "Rather than the mistrust and confrontation that have led to little progress, we now have the opportunity to reconcile our differences, and so strengthen actions related to our shared goal of maintaining healthy whale populations and recovering depleted stocks. This consensus decision would represent a delicate balance of accommodations by all IWC members and establish a 10-year period of stability during which we can work to resolve our major long-term issues. We could put the focus where it belongs – on improving the conservation of whales and the management whaling."

Fundamental conservation and management components of this consensus decision are to:

- retain the moratorium on commercial whaling;
- suspend immediately for the ten-year period, unilaterally-determined whaling under special permit, objections, and reservations;
- bring all whaling authorised by member governments under the control of the IWC;

- limit whaling to those members who currently take whales;
- ensure that no new non-indigenous whaling takes place on whale species or populations not currently hunted;
- establish caps for the next ten years that are significantly less than current catches and within sustainable levels, determined using the best available scientific advice;
- introduce modern, effective IWC monitoring, surveillance and control measures for whaling operations;
- create a South Atlantic Sanctuary;
- recognise the non-lethal value and uses of whales, such as whalewatching, as a management option for coastal states and address related scientific, conservation and management issues of such uses;
- provide a mechanism for enterprise and capacity building for developing countries;
- focus on the recovery of depleted whale stocks and take actions on key conservation issues, including bycatch, climate change and other environmental threats;
- set a decisive direction to the future work of the IWC including measures to reform the governance of the Commission; and
- establish a timetable and mechanism for addressing the fundamental differences of view amongst member governments in order to provide for the effective functioning of the Commission over the longer term.

# Congress of the United States
Washington, DC 20515

February 26, 2010

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Obama,

We write to express our deep concerns regarding ongoing closed-door negotiations at the International Whaling Commission (IWC) and to encourage you to review and re-direct the role of the United States in those negotiations. Decades of strong, bipartisan leadership from the United States has produced critical conservation achievements at the IWC, notably the global moratorium on commercial whaling championed by President Reagan and the creation of the Southern Ocean Whale Sanctuary around Antarctica during the Clinton Administration. It appears this proud bipartisan legacy is now in grave danger.

Shortly after taking office last year and again before the 61st Annual IWC Meeting last June, your Administration issued clear statements regarding the United States' position on commercial whaling. In a joint statement to the House Committee on Natural Resources Subcommittee on Fisheries, Wildlife and Oceans submitted May 20, 2009, White House Council on Environmental Quality Chair Nancy Sutley and NOAA Administrator Dr. Jane Lubchenco wrote that "the Administration would like to see the IWC serve as the premier international forum to resolve current and emerging whale conservation issues and coordinate critical research. In this context, conservation of whales is of the utmost priority to the Obama Administration." They further stated that "the commercial whaling moratorium is a necessary conservation measure," that "the Administration strongly opposes lethal scientific whaling," and that "the Administration has significant concerns over the resumption of international trade in whale meat."

Despite these assurances and your own declared commitments to sound science and transparency, it now appears U.S. influence is being used to broker an ad-hoc deal at the IWC that would undermine hard-won conservation measures, putting whales and the international body established to conserve them at even greater risk. Details of IWC negotiation meetings -- which have been held on US soil – have been withheld from Congress and the public, leaving the U.S. without a unified voice on an international issue of such importance to Americans.

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In an effort to advance policies more consistent with the will of the American people, we have cosponsored H.R. 2455, the International Whale Conservation and Protection Act of 2009. This bill has bipartisan support, 40 cosponsors, and is supported by more than 19 conservation and animal welfare organizations. This legislation seeks to renew America's commitment to whale conservation and reassert U.S. leadership, especially within forums such as the IWC; to promote international efforts to conserve and protect whales; and to ensure the worldwide moratorium on commercial whaling is neither lifted nor weakened.

The details of the IWC package were just made public on February 22, only a week before the final small working group and IWC intersessional meetings commence in St. Pete Beach, Florida. Because of the lack of transparency throughout this process, we have not had time to thoughtfully review the package that seems to be fundamentally at odds with longstanding U.S. policy commitments. We therefore request a clear accounting of the US position going into the March meeting and a clarification of your Administration's approach to strengthening the global moratorium on commercial whaling, enhancing the effectiveness of the Southern Ocean Whale Sanctuary and encouraging an end to whaling for commercial purposes, including whaling under the guise of science, by Japan, Iceland and Norway.

Sincerely,

Bill Delahunt
Member of Congress

Madeleine Bordallo
Member of Congress

Eni F. H. Faleomavaega
Member of Congress

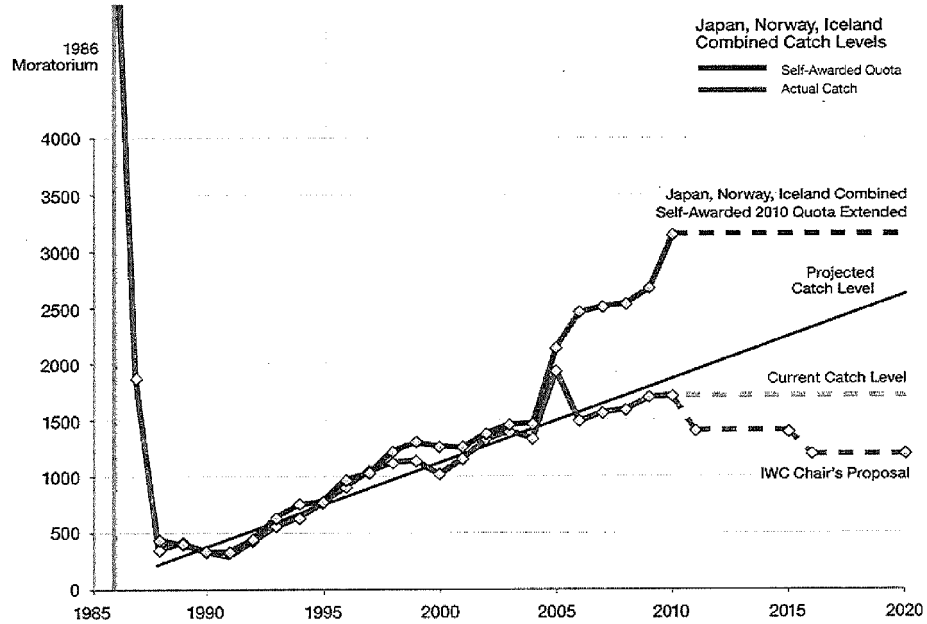
Mazie K. Hirono
Member of Congress

Cc: Monica Medina
US Commissioner to the International Whaling Commission

# Chairs' proposal compared to various baselines

| Stock | Country | Catches/Quotas | | | | |
|---|---|---|---|---|---|---|
| | | **Average catch from 2011-2020** (Chairs' Proposal) | **Average actual catch over past 10 seasons** | **Average actual catch over past 5 seasons** | **Actual catch from last full season** (2009) | **2010 Quota** |
| **SOUTHERN OCEAN** | | | | | | |
| Minke | JAPAN | 300 | 512 | 606 | 679 | 935 |
| Fin | JAPAN | 6 | 4 | 4 | 1 | 50 |
| Humpback | JAPAN | 0 | 0 | 0 | 0 | 50 |
| | | | | | | |
| **NORTH PACIFIC** | | | | | | |
| Sei | JAPAN | 50 | 74 | 100 | 100 | 100 |
| Minke (Coastal) | JAPAN | 120 | 85 | 100 | 112 | 120 |
| Minke (Offshore | JAPAN | 40 | 90 | 92 | 59 | 100 |
| Bryde's | JAPAN | 12 | 41 | 50 | 50 | 50 |
| Sperm | JAPAN | 0 | 5 | 4 | 1 | 10 |
| | | | | | | |
| **NORTH ATLANTIC** | | | | | | |
| Minke | NORWAY | 600 | 582 | 560 | 484 | 1286 |
| Minke | ICELAND | 80 | 47 | 56 | 81 | 240 |
| Fin | ICELAND | 80 | 33 | 33 | 125 | 175 |
| | | | | | | |
| **TOTAL:** | | **1288** | **1473** | **1605** | **1692** | **3116** |
| **ANNUAL REDUCTION IN WHALES KILLED** (Compared to Chairs' Proposal): | | *185* | *317* | *404* | *1828* | |

# Commercial and Scientific Whaling Since 1986 Moratorium




Catch Data Source: International Whaling Commission (IWC)

Contact: Scott Smullen
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**FOR IMMEDIATE RELEASE**
April xx, 2010

**U.S. Commissioner Medina's Statement on International Whaling Commission Proposal**

Commerce Department Principal Deputy Under Secretary and U.S. Commissioner to the International Whaling Commission, Monica Medina, today released the following statement about the IWC Chair's proposal for the Future of the IWC:

"The United States affirms its support of the commercial whaling moratorium and will oppose any proposal that would lift the moratorium. When the moratorium on commercial whaling began in 1986, it had an immediate beneficial impact. Over time, however, loopholes in the rules allowed more and more commercial hunting. To date, 35,000 whales have been hunted and killed since the moratorium began. We appreciate the efforts made by the Chair and Vice Chair to seek a resolution to longstanding issues facing the International Whaling Commission. The United States will carefully review the proposal put forward by the Chair and the Vice Chair."

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**COMMENTS OF THE**

**ALASKA ESKIMO WHALING COMMISSION**

**ON**

**H.R. 2455**

**THE WHALE CONSERVATION PROTECTION AND STUDY ACT**

**May 24, 2010**

The Alaska Eskimo Whaling Commission appreciates the opportunity to submit the following recommended changes to H.R. 2455 as introduced. These changes would strengthen the bill and ensure that aboriginal subsistence whaling is not adversely affected by the legislation. The AEWC would not support the bill without these changes.

On page 3, line 4, strike "reassert" and insert "continue to assert".

On page 4, line 3, strike "for" and insert "for, and aboriginal subsistence use of,".

On page 5, –

line 9, strike "refuse to engage in any" and insert "engage in";

line 10, strike "that would weaken" and insert "to strengthen and enforce";

line 11, beginning with "whaling" strike all that follows through "condone" on line 12 and insert "whaling and end";

line 13, strike "or otherwise weaken" and insert "and otherwise strengthen";

line 17, strike "continuing" and "whaling," and insert "whaling;"; and

strike all on lines 18 and 19.

On page 6, line 12, strike "continued" and insert "commercial".

On page 7 –

line 8, strike "and";

line 9, strike "use" and insert "identification";

line 13, strike "and";

line 15, strike "vessels." and insert "vessels; and";

after line 15 insert the following new subparagraph:

> "(C) work to expeditiously establish through the IMO a vessel traffic management scheme to ensure that vessels transiting the Bering Straits, the Chukchi Sea, and the Beaufort Sea do not adversely impact bowhead whales or subsistence whaling."; and

line 19, strike "noise," and insert "noise and the establishment of the vessel traffic management scheme,".

On page 12, line 16, strike "Ocean." and insert "or Arctic Oceans, so long as any such expansion recognizes the aboriginal subsistence use of whales.".

On page 15, line 21, strike "from" and insert "from the Arctic and".

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12 April 2010

Ambassador Christian Maquieira
Chair, International Whaling Commission
The Red House
135 Station Road
Impington, Cambridge
CB24 9NP UK

Dear Ambassador Maquieira:

At the 60th meeting of the International Whaling Commission (IWC) in Santiago it was agreed to implement a process to investigate ways to resolve issues that continue to divide IWC members. Concerns have been raised by well respected scientists (See Cooke et al. 2009) that this process may involve a compromise that would utilize catch limit advice based on something other than sound science. We are aware of discussions within the IWC regarding its future (IWC/61/7). To that end, we note the establishment of a scientific advisory group (SAG) with specific terms of reference (IWC/M10/SWG6, section 1.2). By this letter we, who are all past chairs of the IWC's Scientific Committee, wish to support and acknowledge the precautionary advice of the SAG to the Support Group regarding catch limits for non-indigenous fisheries.

In the report of the SAG to the IWC's Support Group, we note that catch limit advice for nine species/region combinations for non-indigenous fisheries was provided. The SAG used existing RMP implementations to provide advice for four catch limit recommendations, and used ad hoc scientific approaches to provide advice for five catch limit recommendations. In the report of the SAG, it is further noted that two additional RMP implementations are anticipated over the next five years (i.e., western North Pacific common minke whale and western North Pacific sei whale) and one additional RMP implementation for Antarctic minke whales in the period between 2015 and 2020. Therefore, within the next five years, high quality advice will be available for setting catch limits for six of the nine species/region combinations in question, and within the next ten years, high quality advice will be available for all but two species/regions (i.e., Southern Ocean fin whale and North Pacific sperm whale). Further, it is our understanding that the two remaining species/region combinations have catch limits

proposed to be 10 or fewer. Information reviewed by the SAG (IWC/M10/SWG6, section 2.6) indicated that Southern Ocean fin whales number in the thousands, and therefore this level of annual removals would not pose a threat to the conservation of this species in this region. Similarly, we support the conclusions of the IWC's JARPNII review and the SAG that the proposed catch limit will not harm the stock(s) of North Pacific sperm whale.

We, the authors, listed below, commend and support the use of sound scientific advice in management of large whales by the IWC. It is our collective opinion that the recommendations of the SAG are consistent with the conservation objectives codified in the Convention and represent an appropriately precautionary approach consistent with the long-term management goals of the IWC for large whales.

Sincerely,

John Bannister
Arne Bjorge
Doug DeMaster
Phil Hammond
Michael Tillman
Judy Zeh

April 20, 2010

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Obama:

We the undersigned have served as the U.S. Commissioners to the International Whaling Commission (IWC) under six different presidents over 24 of the past 33 years.

We are writing to express support for U.S. efforts in the ongoing process to ensure the future of the International Whaling Commission. We have seen the steady decline of the IWC from a world-class international organization for the conservation and management of the great whales to a nearly dysfunctional body. The polarization between whaling and non-whaling parties has led several whaling countries, using Whaling Convention loopholes, to increase their catch of whales nearly tenfold in two decades.

Three years ago members of the IWC unanimously agreed that, to save the IWC and the whales, a process of reconciliation of differences was needed. This process termed the "Future of the IWC" is one that the United States can support without giving up its fundamental principles.

The goal of this process is to reduce significantly the current take of whales under the loopholes of the Whaling Convention. The killing has escalated from 300 whales in 1990 to up to 3,000 in 2010 if self-assigned quotas are completely taken. If the Commission's members find permanent solutions that eliminate or mitigate the loopholes, as well as modernize the IWC into a 21st century international management organization, they will have made a pivotal difference in saving the world's great whales.

We support this process and urge the U.S. delegation to continue its effort to be creative and open-minded in order to achieve meaningful progress in the negotiations and to bring the process to a timely and successful close. We further call upon the U.S. delegation to lead multi-national efforts for the maximum conservation benefits achievable.

If a solution is not reached at the upcoming IWC Annual Meeting in June, we not only foresee that whaling will continue outside of the Commission's control but also that such whaling will continue to increase. Moreover, we worry that the Commission's effectiveness in dealing with emerging conservation threats will be greatly diminished. We believe the situation is urgent and requires vigorous action by the United States.

Sincerely,

| | |
|---|---|
| William Aron | John V. Byrne |
| William Evans | D. James Baker |
| Rolland A. Schmitten | William Hogarth |

(Signed copies on file with Rolland A. Schmitten)

cc: Ms. Nancy Sutley, Chairwoman, Council on Environmental Quality
Honorable Hillary Rodham-Clinton, Secretary of State, U.S. Department of State
Honorable Gary Locke, Secretary of Commerce, U.S. Department of Commerce
Ms. Monica Medina, U.S. Commissioner to the International Whaling Commission

For background information, please contact:

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[NOTE: H.R. 2455 and S. 3116, submitted for the record, are not reprinted here. They are available in committee records or may be accessed via the Internet at: http://thomas.loc.gov/cgi-bin/bdquery/D?d111:1:./temp/~bdsPSZ:@@@L&summ2=m&|/home/LegislativeData.php and http://thomas.loc.gov/cgi-bin/bdquery/z?d111:SN03116:|/home/LegislativeData.php (respectively).]

**Summary of status of whale populations affected by IWC Chair's proposal for commercial/scientific whaling**

| Species | Area | Summary of status | RMP implementation Progress | Current annual catch (2009 data) | RMP Catch limit | Chair's Proposed limit | IUCN Red List category |
|---|---|---|---|---|---|---|---|
| Bryde's whale *Balaenoptera brydei/edeni* | Western North Pacific | Abundance ~20,000 Depleted by ~50% | Completed 2008 | 50 (Japan) | 0-5 | 12 | Data Deficient |
| Sei *Balaenoptera borealis* | Western North Pacific | Last assessed in 1974 as severely depleted; no current agreed abundance estimate but some recovery likely | New in-depth assessment to start 2010 | 100 (Japan) | Not calculated | 50 | Endangered |
| Minke *Balaenoptera acutorostrata* | Western North Pacific | Consists of O stock (offshore, winter-breeding) and J stock (inshore, summer-breeding); J stock believed depleted, O stock status unknown; total abundance ~37,000 of which 88% in Russian zone of Okhotsk Sea, not known whether this is O or J stock. | RMP Implementation completed 2003 but results rejected by Japan; new Implementation scheduled for 2012 | 163 (Japan) (+ 200-300 by-catch in Japan and Korea) | ~50 (not officially calculated) | 160 (not including by-catch) | Least Concern |

| Species | Area | Summary of status | RMP implementation Progress | Current annual catch (2009 data) | RMP Catch limit | Chair's Proposed limit | IUCN Red List category |
|---|---|---|---|---|---|---|---|
| Minke *Balaenoptera bonaerensis* | Antarctic | No current agreed abundance estimate, but believed to have declined by ~50% from 1980's to 2000's | Completed 1993; revised Implementation scheduled for 2016 | 506 (Japan) | Not calculated, but declines to zero by 2018 under RMP phase-out rule because surveys discontinued | 400/200 | Data Deficient |
| Fin *Balaenoptera physalus* | Antarctic | Last assessed in 1980 as severely depleted; current abundance unknown | No plans for RMP Implementation | 1 (Japan) | 0 | 10/5 | Endangered |
| Fin | Central North Atlantic: West Iceland | Abundance ~8,000 | Completed 2009 | 125 (Iceland) | 46 | 80 | Endangered |
| Minke *Balaenoptera acutorostrata* | Central North Atlantic: CIC | Abundance ~10,000 | Completed 2009 | 81 (Iceland) | 160 | 80 | Least Concern |
| Minke | Northeast Atlantic | Abundance ~80,000 | Completed 2009 | 484 (Norway) | 367 | 600 | Least Concern |

Note: the Chair's proposal for indigenous whaling envisages no material changes from current management arrangements, except that quotas will be set for 10 years (currently 5). (Populations affected: bowhead whales (Alaska, Greenland); gray whales (Chukotka, Russia); fin and minke whales (Greenland); humpback whales (Greenland) to be decided).