

BREAKING RANKS



Denmark goes it alone on whaling policy

An analysis by Dr. Sandra Altherr and Jennifer Lonsdale



A report commissioned by



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The Report was commissioned by SHIFTING VALUES, an agency based in Vienna, Austria, working towards a shift of our values within species and environmental conservation and animal protection efforts.



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GLOSSARY

ASW	Aboriginal Subsistence Whaling
EU	European Union
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
IWC	International Whaling Commission
JARPA	Japanese Whale Research Program under Special Permit in the Antarctic
JARPN	Japanese Whale Research Program under Special Permit in the western North Pacific
JCNB	The Canada/Greenland Joint Commission on Conservation and Management of Narwhal and Beluga
NAMMCO	The North Atlantic Marine Mammal Commission
NGO	Non-Governmental Organisation
RMP	Revised Management Procedure - the computer model by which catch limits for baleen whales would be calculated should commercial whaling be resumed
RMS	Revised Management Scheme - the scheme that would manage commercial whaling should it be resumed in the future
STCW	Small-Type Coastal Whaling

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1. EXECUTIVE SUMMARY

Within the European Union (EU) cetaceans (whales, dolphins and porpoises) are strictly protected by Council Directive 92/43/EEC¹ ('Habitats Directive') and by Council Regulation No. 338/97 which implements the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES)². Any incidental capture, killing and sale of cetaceans by EU Member States is prohibited. Therefore it could be assumed that all EU Member States work together cooperatively with the aim of securing effective protection for cetacean species, including from direct hunting. It could also be assumed that EU Member States collectively play a leadership role in the conservation and welfare of cetaceans at the *International Whaling Commission* (IWC) and CITES. However, this is not the reality.

The Danish Government is obliged to represent the interests of Greenland and the Faroe Islands in all international fora. Both are part of the Danish Kingdom but not members of the EU and both conduct non-commercial hunts for cetaceans. This report demonstrates that Denmark has gone beyond its responsibilities to these two territories. It has consistently ignored its responsibilities as a member of the EU, instead supporting commercial whaling initiatives and interests.

In 2008, the European Commission required EU IWC members to agree a common position for

decisions on Schedule Amendments at IWC meetings. Since then, Denmark has obstructed and complicated negotiations aimed at achieving this common position.

This report reveals how Denmark's policies in three main areas are inconsistent with EU directives, regulations, and agreements:

- 1) Direct support for commercial whaling and international trade in whale products;
- 2) Contributing to the blurring of the boundaries between Aboriginal Subsistence Whaling (ASW) and commercial whaling, including supporting Japan's repeated requests for coastal commercial whaling under a proposed new category of whaling;
- 3) Reluctance to support proactive conservation initiatives, including those initiated by the IWC Conservation Committee, and the creation of new whale sanctuaries.

Denmark holds the EU Presidency from 1st January to 30th June 2012. Its position with respect to the IWC and the conservation and welfare of cetaceans is of high importance, particularly as the 64th Annual Meeting of the IWC takes place from 25th June to 6th July 2012. Although its Presidency ends two days before the IWC's plenary meeting starts, it will continue to have a leadership role to play at the meeting as the Presidency transitions to Cyprus.

¹ Council Directive 92/43/EEC of 21 May 1992.

² Council Regulation (EC) No. 338/97 of 9 December 1996.

The Council of the European Union Decision for establishing a common position for the next three meetings of the IWC was adopted in December 2011. This new common position includes a statement by the Government of Denmark that it will not be able to support the Decision³.

A new government in Denmark was formed on 3rd October 2011, led by the Social Democrats. It has appointed a new Commissioner to the IWC and there is some hope that Denmark's position with respect to the conservation of whales, dolphins and porpoises (cetaceans) may change.

This report documents the position of Denmark at the IWC over the past two decades and demonstrates that it has acted predominantly in support of pro-commercial whaling interests and initiatives, regardless of their relevance to the interests of indigenous whaling communities in Greenland. It also shows that by actively supporting commercial whaling, the Danish Government is ignoring the views of the majority of Danish citizens and its responsibility towards EU legislation, the IWC and CITES.

Accordingly, we

1. call on the Danish Government and the EU Commission to ensure that Danish policy on whaling is firmly aligned with the principles and provisions of the European Union towards the protection of whales, dolphins and porpoises;
2. call on the Danish Government to:
 - consult with the Member States of the EU in a transparent manner and act in good faith to support and contribute to the IWC's procedures to better manage aboriginal whaling activities;
 - avoid future conflicts over related matters by engaging constructively in timely negotiations and preparations for IWC meetings with EU Member States;
 - actively support the IWC's work to address threats to small cetaceans in accordance with their strong protection status under EU legislation;
 - actively work with the Government of the Faroe Islands to fully implement CITES legislation within the Faroese Islands;
 - oppose the resumption of commercial whaling in all its forms.



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³ EU Council, 12th December 2011, Interinstitutional file 2011/0221 (NLE)

2. INTRODUCTION



All large cetaceans⁴ are subject to the provisions of two international conventions. In 1981, the *Convention on International Trade in Endangered Species* (CITES) banned international trade in products of great whales by listing these species on CITES Appendix I⁵. In 1982, the IWC agreed to a ban on all commercial whaling. Commonly known as *the moratorium*, it was implemented in 1986. These are two of the most important conservation decisions of the 20th century, but they are continuously undermined by three commercial whaling nations: Norway, Iceland and Japan.

The IWC issues catch limits for only two categories of whaling:

1. Commercial whaling
2. Aboriginal Subsistence Whaling (ASW)

Commercial Whaling

Commercial whaling catch limits are set at zero until such time as the moratorium is lifted. Despite this, three IWC member countries carry out commercial whaling using loopholes in the IWC Convention, the *International Convention for the Regulation of Whaling* (ICRW). Japan classifies its commercial whaling operations as special permit whaling, technically permitted under Article VIII of the ICRW. Norway lodged an objection to the moratorium and is therefore able to self-award catch limits. Iceland claims to be able to do the same through a reservation to the

moratorium which it took when it rejoined the IWC in 2002, despite having previously accepted the moratorium.

For two decades the IWC has been unable to resolve differences between member countries regarding whaling and the IWC's role. The pro-conservation member countries focus on developing the work of the IWC to address the ever increasing environmental threats to cetaceans and the marine environment, on ensuring the moratorium on commercial whaling remains in place, and on providing for the proper and sustainable management of Aboriginal Subsistence Whaling. Meanwhile the pro-whaling nations relentlessly pressure the IWC to legitimise commercial whaling and blur the clear distinction between commercial whaling and Aboriginal Subsistence Whaling.

Aboriginal Subsistence Whaling

Under IWC regulations, Aboriginal Subsistence Whaling catch limits are granted for specific indigenous communities whose nutritional, subsistence and cultural needs for whaling it has recognised, namely Greenland, Chukotka in the Russian Federation, Alaska, and Bequia in St. Vincent and the Grenadines. The IWC Schedule clearly requires that products including meat and blubber from these whales are **to be used exclusively for local consumption**. It is the responsibility of the national governments to provide the IWC with evidence of the

⁴ Baleen whales (blue, fin, sei, Bryde's, right, pygmy right, gray, bowhead, humpback, and minke whales) and sperm whales

⁵ Except the population of West Greenland minke whales, which are included in CITES Appendix II

nutritional, cultural and subsistence needs of these indigenous communities. The IWC's Scientific Committee provides scientific advice on catch limits for the exploited populations of whales.

The Kingdom of Denmark

The Kingdom of Denmark consists of Denmark and two autonomous overseas territories - the Faroe Islands and Greenland. Denmark is a Member State of the European Union, but the Faroe Islands and Greenland are not. Greenland has a population of 56,000 and the Faroe Islands a population of 49,000. Mainland Denmark has a population of 5.5 million⁶.

Denmark is one of the 16 founding members of the 1946 *International Convention for the Regulation of Whaling* (ICRW), ratifying it in

May 1950⁷. The Faroe Islands comply with the moratorium, but allow the hunting of pilot whales and other small cetaceans which are not subject to the moratorium. Indigenous communities in Greenland are granted ASW quotas for the hunting of large whale species under the IWC's ASW catch quota system and also take large numbers of small cetaceans, the hunting of which is not regulated by the IWC. ASW rules do not allow any international trade in the products from these hunts, which are for local, non-commercial consumption.

According to an opinion poll in February 2012, only 5% of Danish people are in favour of commercial whaling. 72% wanted the Danish Government to clearly oppose proposals aimed at legitimising commercial whaling⁸.



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⁶ <http://storbritannien.um.dk/>

⁷ http://www.iwcoffice.org/_documents/commission/convention_status.pdf, viewed 3rd January 2012

⁸ YouGov (2012): Danish attitudes to whaling. Online poll conducted for WSPA Denmark 2012

3. DENMARK'S BALANCING ACT BETWEEN ITS OVERSEAS TERRITORIES AND THE EU



3.1. Denmark and CITES

Denmark became a Party to CITES in 1977 and shortly afterwards submitted a notification that CITES regulations would not come into force in the Faroe Islands until it had implemented the appropriate legal instruments. However, despite repeated requests over three decades from the Danish Ministry of Environment, there has been no progress by the Faroese Government to implement this legislation. The Faroe Islands are therefore not bound by CITES regulations and are free to trade in whale products with countries holding reservations to the CITES trade ban, including Norway and Iceland.

Between 2003 and 2011, several shipments of minke whale meat and blubber from Norway and Iceland, totalling 23 tons, were imported into the Faroe Islands⁹. In 2003, a few weeks before the first shipment from Norway to the Faroe Islands, Norway asked the Danish Government for clarification of the implementation of CITES provisions with respect to this shipment. It was informed by the Ministry of Foreign Affairs that *"It can be confirmed that for the time being the Faroe Islands are not covered by CITES"*¹⁰. The Faroese Foreign Department of the Prime Minister's office in June 2003 published a lengthy declaration justifying the legal situation¹¹. In this statement the Faroese

authorities made it clear that if it implemented CITES regulations they would be accompanied by reservations to Appendix I listings of several whale species, with the presumed intention of not being bound by the ban on the international trade in whale products. The legality of doing this would be open to challenge.

Denmark has failed to work with the Faroe Islands to progress the implementation of CITES regulations. Instead, Denmark has repeatedly opposed IWC Resolutions that criticised Norway's commercial whaling and export of whale products¹².

Denmark's position with respect to CITES on this matter also violates EU regulations and causes problems for EU members when negotiating a common position on such proposals at CITES meetings.

3.2. Declaration 25 vs. a Common Position by the European Union

In 2008, for the first time, the European Union (EU) adopted a common position¹³ for the Annual Meeting of the IWC relating to proposals for amendments to the ICRW and its Schedule. In advance of the 60th Annual Meeting of the IWC the Danish Commissioner informed the other EU Member States that Denmark would invoke 'Declaration 25' - an annex to the

⁹ Joint letter of almost 50 NGOs to the Government of Denmark, dated 29th November 2011

¹⁰ Verbal note of the Danish Ministry of Foreign Affairs, dated 16th January 2003, as reply to a verbal note by the Norwegian Embassy of the same day.

¹¹ Imports to the Faroe Islands of Minke Whale Meat from Norway; Foreign Dept. Prime Minister's Office, June 2003

¹² Voting records on IWC Resolutions 1998-1 and 2001-5

¹³ Council Decision 9818/08

Maastricht Treaty with respect to EU Member States' overseas countries and territories¹⁴.

In "exceptional circumstances" Declaration 25 allows a Member State to opt out of an EU common position when it is not compatible with the interests of that state's overseas territory. At the IWC meeting itself, Denmark "*clarified its position in relation to that common position. It informed the meeting that, while as an EU Member State Denmark is bound by the EU common position, because Denmark has overseas territories that are not part of the EU (Greenland and the Faroe Islands), it may, in specific cases where the interests of Greenland and the Faroe Islands diverge from those of the EU, need to deviate from the common EU position. It therefore informed the meeting that when Denmark made an intervention, it would be to pursue the interests of its overseas territories and of Greenland in particular*"¹⁵.

In March 2009, the EU Member States agreed a common position for the IWC Annual Meetings from 2009 to 2011¹⁶. At the 61st IWC Meeting in 2009, Denmark continued to act in opposition to the EU common position apparently disregarding its EU obligation¹⁷.

Denmark did not, however, refer to Declaration 25. This may be because Declaration 25 was an annex to the Maastricht Treaty, which remained in force until 2009 but was superseded by the Lisbon Treaty¹⁸. One legal analysis finds that Declaration 25 is no longer valid and Denmark is now under obligation to comply with the EU Common Position for the IWC and EU environmental law¹⁹. Another legal analysis finds that Denmark may only take a different position to that of the other EU IWC members with respect to ASW decisions²⁰.

In autumn 2011, EU IWC members negotiated a new Council Decision for the common position to be taken at the next three IWC meetings. The Decision was agreed on 19th December 2011²¹ but Denmark submitted a written statement opposing the Council Decision: "*Denmark finds that the EU position ... is unbalanced in relation to the mandate of the IWC and therefore unable to contribute sufficiently to the endeavours to secure sustainable conservation and management of whales through a well-functioning IWC. Consequently Denmark cannot vote in favour of the proposal*" This position is then justified by Denmark with a reference to its overseas territories, without explicitly invoking Declaration 25. "*The EU position ... has a content, which for a large part is incompatible with the interests of the Faroese and Greenland and it will be impossible to find solutions where these interests can coincide with the EU position*"²².

The EU Common Position is focused on opposing commercial whaling, maintaining the moratorium and developing the IWC's work to address environmental threats to cetaceans. This does not compromise the interests of Denmark's overseas territories since Greenland's whaling according to IWC regulations is not permitted to be commercial while the Faroe Islands comply with the moratorium.

It is therefore unacceptable that Denmark refused to comply with the Council Decision for a common position, particularly as the Decision is compatible with the EU Habitats Directive. In opposing it, Denmark is compromising the ability of the EU IWC members to provide strong pro-conservation leadership at IWC meetings, instead causing protracted negotiations amongst themselves.

¹⁴ <http://www.eurotreaties.com/maastrichtfinalact.pdf>

¹⁵ Annual Report of the IWC 2008, p. 2

¹⁶ EU Council Decision 7146/09 of 3 March 2009

¹⁷ Annual Report of the IWC 2009, p. 2

¹⁸ Miller, V. (2011): Declaration 25 of the Treaty on European Union: Danish Territories and whaling. Standard Note SN 5980, dated 24 May 2011, provided to the Members of Parliament.

¹⁹ ClientEarth (2010): The proposed reform of the International Whaling Convention and EU voting rules.

²⁰ Prof. Krämer (2010): Negotiating and voting on whale protection within the IWC. Analysis for the International Fund for Animal Welfare, dated 26 April.

²¹ Council Decision 17641/11

²² EU Council, 12th December 2011, Interinstitutional file 2011/0221 (NLE)

Table 1: Greenland and the Faroe Islands in brief

	Greenland	Faroe Islands
Human Population	56,900	49,267
GDP 2009	USD 1.27 billion ²³	USD 2.20 billion ²⁴
Natural Resources	Rich in minerals (gold, zinc, iron, copper, diamonds, and rare earth elements), oil and gas, increasingly accessible due to effects of climate change including melting ice ²⁵ ; almost 50 billion barrels of oil are estimated to be present off Greenland ²⁶ ; oil exploration presently expanding ²⁷	Hydropower, possibly oil and gas; however, oil reserves of a commercial scale have not yet been confirmed ²⁸
Status	1979: Granted Home Rule 2009: Granted Self Rule (including control of its energy resources), but DK retains responsibility for Foreign Affairs Annual subsidies from Denmark: about 413 Million Euro ²⁹ Independence from Denmark is being sought ³⁰	1948: Granted Home Rule, but DK retains responsibility for Foreign Affairs Annual subsidies from Denmark: about 8.3 Million Euro Further independence from Denmark is under discussion Future status as state in free association with Denmark seems to be the most likely option ³¹
IWC	Catch limits for ASW authorised by the IWC	Commercial whaling catch limits set at zero by the IWC
Hunting of large whales	Minke whales (190 ³²), fin whales (16, but voluntarily reduced to 10), bowhead whales (2), humpback whales (9 ³³)	Hunting of fin whales ended in 1984; however interest in resuming commercial whaling has been repeatedly expressed
Hunting of small cetaceans	Almost 4,000 small cetaceans are killed annually ³⁴ including beluga whales, narwhals, orcas, pilot whales and harbour porpoises Permitted catch limits for belugas and narwhals were for several years ignoring warnings of scientists	Mostly long finned pilot whales (on average 630 per year), also occasionally white-sided dolphins, bottlenose dolphins and harbour porpoises ³⁵ Occasionally bottlenose whales killed after apparently stranding
Status at CITES	A dependent territory to which CITES applies ³⁶ . Denmark has no reservation against the CITES Appendix I listing of large whales and Greenland is therefore bound by it; own contacts for CITES authorities in Greenland since 2004	On CITES website listed as non-party, "authority competent to issue comparable documentation" ³⁷
Relationship to EU	Joined EU as part of Denmark, but, in 1985, altered its link with the EU to that of an overseas territory; Has bilateral trade and fisheries agreements with the EU; Greenland annually receives almost 68 million Euro from the EU ³⁸	Declined EU membership in 1974, but has favourable bilateral trade and fisheries agreements with the EU ³⁹ ; It fears restrictions including with respect to whaling and bird hunting under full EU membership

²³ <http://data.worldbank.org/country/greenland>

²⁴ <http://data.worldbank.org/country/faeroe-islands>

²⁵ Gautier, D. *et al.* (2009): Assessment of undiscovered oil and gas in the Arctic. *Science* 324, pp. 1175-1179.

²⁶ Ministry of Foreign Affairs (2011): Denmark, Greenland and the Faroe Islands: Kingdom of Denmark Strategy for the Arctic 2011- 2020.

²⁷ Bureau of Minerals and Petroleum (2011): Report to Inatsisartut on mineral resource activities, spring 2011. <http://www.bmp.gl/fokusbokse-og-publikationsbokse/publikation1>

²⁸ Ministry of Foreign Affairs (2011): Denmark, Greenland and the Faroe Islands: Kingdom of Denmark Strategy for the Arctic 2011- 2020.

²⁹ Statistical Yearbook 2007: Faroe Islands and Greenland.

³⁰ Nuttall, M. (2008): Self-Rule in Greenland: Towards the world's first independent Inuit state? *Indigenous Affairs* 3-4: pp. 64-70.

³¹ Ackrén, M. (2006): The Faroe Islands: Options for Independence. *Island Studies Journal*, 1(2): pp. 223-238

³² 178 minke whales in West Greenland plus 12 in East Greenland

³³ Only permitted at IWC 62, for the years 2010-2012

³⁴ WDSC & WSPA (2010): Questionable quotas - why a credible IWC must reject the Greenlandic proposal.

³⁵ Whales and whaling in the Faroe Islands - catches 2000-2011.

³⁶ <http://www.cites.org/cms/index.php/lang-en/component/ncd/?country=DK>

³⁷ <http://www.cites.org/cms/index.php/lang-en/component/ncd/?country=FO>

³⁸ EU EEAS (undated): EU Relations with Greenland. http://www.eeas.europa.eu/greenland/index_en.htm

³⁹ Djurhuus, H. *et al.* (2010): The Faroes and the EU - possibilities and challenges in a future relationship. Report to the Minister of Foreign Affairs in the Faroes.



4. INCONSISTENT POSITIONS BY DENMARK ON WHALING

4.1. Support for Commercial Whaling

Within the EU the hunting, capture and trade in whales and whale products are strictly prohibited by the Habitats Directive and the EU implementation of CITES⁴⁰. Denmark is bound by this legislation. It is also bound by the IWC's ban on commercial whaling, of which it originally voted in favour⁴¹. However it repeatedly supports commercial whaling initiatives at IWC meetings, including those that would weaken or lift the moratorium.

4.1.1. Threatening the Moratorium on Commercial Whaling

Denmark and the RMS discussions

From 1994-2005, the IWC Contracting Governments were engaged in negotiating the Revised Management Scheme (RMS) - the scheme that would manage commercial whaling should it be permitted to resume in the future. Negotiations were difficult and protracted. Pro-conservation IWC members aimed for a progressive scheme that would provide the great whales with the protection they would require should commercial whaling catch limits be granted in the future by the IWC, including strong, independent supervision and robust compliance mechanisms. Pro-whaling countries were opposed to the inclusion of measures that would ensure the RMS was

watertight and would prevent illegal whaling and illegal international trade in whale products. They argued that these measures were too onerous.

Denmark's Opening Statement at IWC 51 in 1999 expressed its interest in a "*quick finalisation and implementation of the Revised Management Scheme (RMS)*", referring to the IWC decision that a management scheme for ASW should not be developed and negotiated before the RMP (Revised Management Procedure - the model by which catch limits for baleen whales would be calculated for commercial whaling) was implemented⁴².

During the RMS negotiations, the then Danish Commissioner was nominated as Chair of the Commission - a position that should be neutral. In an attempt to move the RMS negotiations forward, he convened a 'Friends of the Chair's small working group'⁴³.

From discussions within this group emerged the 'Chair's Proposal for a way forward on the RMS', submitted to IWC 56 in 2004⁴⁴. During this meeting the Danish delegation actively pursued finalisation and adoption of the RMS⁴⁵, stressing the need to link its adoption to the lifting of the moratorium and the resumption of IWC endorsed commercial whaling. This was contrary

⁴⁰ EU Council Regulation 338/97, listing all cetacean species in Annex A, with the exception of West Greenland minke whales in Annex B

⁴¹ ECO Vol. XXI No. 6 of July 24, 1982

⁴² IWC/51/OS Denmark

⁴³ Chair's Report of the RMS Working Group Meeting, Cambridge, 28 Feb - 2 March 2006, http://iwcoffice.org/_documents/commission/RMSdocs/58RMS3.pdf

⁴⁴ Chair's Report of the RMS Working Group Meeting, Cambridge, 28 Feb - 2 March 2006, http://iwcoffice.org/_documents/commission/RMSdocs/58RMS3.pdf

⁴⁵ Chair's Report of the IWC 2004, p. 34

to the position of numerous pro-conservation IWC members and EU legislation. Denmark was a sponsor of Resolution 2004-6 on completion of the RMS, which passed by consensus after several substantial amendments had been made.

Prior to the 57th IWC meeting in 2005, Denmark's Foreign Minister publically announced that *"his country will push for a whaling ban to be lifted at next week's IWC meeting in South Korea"*, claiming that otherwise the IWC would fall apart⁴⁶. At the meeting itself Denmark's proposal to speed up the RMS process⁴⁷ failed with two votes in favour⁴⁸, 26 votes against and 27 abstentions (mostly by pro-whaling nations). A more constructive proposal⁴⁹ was adopted. Denmark expressed disappointment regarding this decision at the following IWC Annual Meeting in 2006, accusing that *"those voting against its (Denmark's) proposed Resolution cemented the level of current catches taken under objection and through whaling under special permit"*⁵⁰.

Despite negotiations on the RMS being abandoned in 2005 due to lack of agreement, the adoption of the RMS remained a priority for the Danish delegation for several years⁵¹.

International DNA register

Given the history of illegal whaling, one of the more protective key elements of the RMS was the proposed establishment of an international DNA register that could effectively track whale products from point of capture to point of retail. This was opposed by several pro-whaling countries plus Denmark⁵².

Denmark also opposed Resolution 1999-8⁵³, which requested the Scientific Committee *"to provide*

advice to the Commission on the development and implementation of a transparent and verifiable system of identification and tracking of products derived from whales taken under the RMP"

In 2000, Denmark and pro-whaling nations opposed a resolution which urged countries to verify catch data by genetic monitoring. Denmark considered *"that individual countries may find it useful to create national DNA registers to control trade, but opposed the establishment of an international control system"*⁵⁴.

In 2001, Denmark opposed Resolution 2001-4 on the Incidental Capture of Cetaceans, which called for both a DNA sample to be forwarded to the appropriate diagnostic registry and also for the incidental capture to be counted against the overall quota for that species or stock. Denmark stated that it *"believed that the Resolution would be difficult, if not impossible to implement in Greenland for various reasons"*⁵⁵.

At IWC 56 in 2004, the Scientific Committee expressed its disappointment at the lack of DNA samples from the Greenland hunt and *"urged the Commission to encourage the Government of Denmark and the Greenland Home Rule authorities to assist with logistical and, if necessary, financial support and encouraged Greenlandic scientists to investigate other potential sources of samples."* During discussion on this problem several IWC members stressed that the data provision *"by Greenland would be unsatisfactory, could be seen as non-compliance and questioned whether restrictions should be imposed on its catch quotas."*⁵⁶

⁴⁶ <http://www.abc.net.au/news/2005-06-16/denmark-urges-end-to-whaling-ban/1593930>

⁴⁷ IWC/57/30

⁴⁸ Apart from Denmark only the Republic of Korea supported this resolution

⁴⁹ IWC/57/31

⁵⁰ Annual Report of the IWC 2006, p. 32

⁵¹ Annual Report of the IWC 2007, p. 29

⁵² Annual report of the IWC 2000, p. 50

⁵³ Voting record on Resolution 1999-8

⁵⁴ Annual report of the IWC 2000, p. 50

⁵⁵ Chair's Report of the Fifty-third Annual Meeting. Agenda item 9 Revised Management Scheme

⁵⁶ Annual Report of IWC 2004

Denmark and the Future of the IWC discussions

The RMS process was replaced by discussions on the Future of the IWC. The process, led by the US government, was essentially aimed at legitimising current commercial whaling by Japan, Norway and Iceland and was widely criticised for its lack of transparency and inclusiveness.

In February 2007, Denmark attended the 'Conference for the Normalization of the International Whaling Commission'⁵⁷ organised by Japan - a meeting that most countries opposed to commercial whaling did not attend. At the meeting the IWC was characterised as dysfunctional and lacking good faith negotiations.

Criticised by Danish NGOs in May 2007 for participating in this meeting, the Danish Government stated that it would attend any meeting related to IWC matters, regardless of who it is hosted by. Denmark did not, however, attend a meeting in April 2007, hosted by the PEW Environment Group⁵⁸ to discuss the future of the IWC.

Negotiations on the 'Future of the IWC' were not a success and were effectively abandoned during the 62nd Annual Meeting of the IWC in 2010. Before this meeting the Government of Denmark publically stated that the EU should support a compromise on the Future of the IWC⁵⁹ that would grant Japan, Norway and Iceland IWC endorsed commercial whaling catch limits, thus eroding the moratorium on commercial whaling.

Neither the RMS nor the 'Future of the IWC' discussions had negative implications for Greenland's ASW or the Faroe Islands. It is therefore

difficult to understand why Denmark supported flawed processes that aimed at legitimising Japan's, Norway's and Iceland's commercial whaling in contravention of EU legislation and the Council Decision for a common position. Its Opening Statement to IWC 62 in 2010 stated: "*If we want the IWC to survive as a relevant and responsible conservation and management organization we should all be prepared to give and take in order to reach a common ground. Denmark, which continues to remain in the middle of the IWC, would like to see a constructive result of this meeting, reflecting and respecting the staggering amount of work and skill put into the Chairs' Consensus proposal.*" Contrary to most other EU member states, at IWC 63 Denmark spoke in favour of the USA's and New Zealand's 'Resolution to maintain progress at the IWC'⁶⁰, which tried to revitalise the 'Future' discussions that had failed the year before.

4.1.2. 'Sustainable Use' versus EU legislation on whales

In the 1990s, Denmark's IWC Opening Statements declared it would "*support the rational and sustainable use of wildlife and natural resources*"⁶¹. One decade later the wording had changed to "*The Kingdom of Denmark supports the sustainable use of all living resources of the Sea, based on the best available scientific advice. This applies to fish as well as to whales*"^{62, 63, 64, 65}. This Statement appears to represent the views of the entire Danish Kingdom and not just those of Greenland and Faroe Islands. With respect to Denmark itself, it contradicts the principles, objectives and provisions of EU legislation, to which Denmark is committed as a member of the EU. This includes prohibiting the take of whales, dolphins and porpoises.

⁵⁷ http://iwcoffice.org/_documents/commission/future/IWC-M08-INF02.pdf, IWC59/11

⁵⁸ Symposium on the state of the conservation of whales in the 21st century; http://iwcoffice.org/_documents/commission/IWC59docs/59-11.pdf

⁵⁹ EU resists Nordic push, led by Denmark, to ease the whaling ban. Reuters, 12th June 2010

⁶⁰ IWC/63/7rev Resolution to Maintain Progress at the IWC

⁶¹ IWC/50/OS Denmark

⁶² IWC/60/OS Denmark

⁶³ http://iwcoffice.org/_documents/commission/IWC61docs/GovOS.pdf

⁶⁴ http://iwcoffice.org/_documents/commission/IWC62docs/62-OS%20GO.pdf

⁶⁵ http://iwcoffice.org/_documents/commission/IWC63docs/63-OS%20Denmark.pdf

4.1.3. Sympathy for 'Scientific Whaling'

In 1987, the year after the implementation of the moratorium, Japan began issuing special permit whaling quotas, under Article VIII⁶⁶ of the IWC Convention (ICRW). Japan began 'scientific whaling' as it is commonly known, in the Antarctic (JARPA I). In 1994 it expanded its 'research programme' to the North Pacific (JARPN I).

Initially these programmes targeted minke whales but have been expanded to include fin whales in the Antarctic (JARPA II) and sperm, sei, and Bryde's whales in the North Pacific (JARPN II).

Despite Japan's 'scientific whaling' programmes being repeatedly criticised for not delivering scientific data required for managing whale populations, Denmark has been inconsistent in opposing Japan's scientific whaling.

In 2000, it abstained on Resolution 2000-5 that urged the Government of Japan to refrain from issuing special permits for whaling under JARPN II. However it supported Resolution 2000-4 that requested Japan to refrain from issuing whaling permits for whaling under JARPA⁶⁷.

In 2001, Denmark abstained on Resolution 2001-8⁶⁸ condemning JARPN. However it voted in favour of Resolution 2001-7 condemning JARPA. Similar positions were taken in the following years. It would appear that Denmark differentiates between 'scientific whaling' in the Antarctic Sanctuary, the creation of which it voted in favour of, and in the North Pacific

where the whaling is not taking place in a whale sanctuary.

During the 2011 EU internal negotiations on setting a Common Position for the next three IWC meetings, Denmark asked the EU to delete a paragraph from the draft common position, which reads "*support proposals aimed to end the conduct of 'scientific whaling' outside IWC control*"⁶⁹. Taking this position suggests that Denmark supports Japan's abuse of Article VIII for the purposes of maintaining a commercial whale hunt.



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⁶⁶ Article VIII

1. Notwithstanding anything contained in this Convention any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking, and treating of whales in accordance with the provisions of this Article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorizations which it has granted. Each Contracting Government may at any time revoke any such special permit which it has granted.
2. Any whales taken under these special permits shall so far as practicable be processed and the proceeds shall be dealt with in accordance with directions issued by the Government by which the permit was granted.
3. Each Contracting Government shall transmit to such body as may be designated by the Commission, in so far as practicable, and at intervals of not more than one year, scientific information available to that Government with respect to whales and whaling, including the results of research conducted pursuant to paragraph 1 of this Article and to Article IV.
4. Recognizing that continuous collection and analysis of biological data in connection with the operations of factory ships and land stations are indispensable to sound and constructive management of the whale fisheries, the Contracting Governments will take all practicable measures to obtain such data.

⁶⁷ Voting records on Resolutions 2000-4 and 2000-5

⁶⁸ Voting record on Resolution 2001-8

⁶⁹ Internal protocol of the EU Council working group of 5th October 2011

4.1.4. St. Kitts Declaration

At IWC 58 in 2006, for the first time in several years, pro-whaling countries achieved a simple majority of votes on a resolution they had put forward and adopted the highly controversial 'St. Kitts and Nevis Declaration'⁷⁰. Although not one of the original proponents of the Declaration⁷¹, Denmark was the only EU Member State to vote in favour of this pro-whaling manifesto and essentially cast the deciding vote.

The 'St. Kitts and Nevis Declaration' passed with 33 votes in favour and 32 against. The resolution introduced the divisive term '*normalizing the functions of the IWC*' and included the spurious concept of commercial whaling contributing to poverty reduction and food safety. The declaration pressured pro-conservation countries to work towards a 'compromise' that would allow some legitimisation of commercial whaling.

4.1.5. CITES and International Trade in Whale Products

All large whales except the West Greenland population of minke whales are listed on Appendix I of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES), and are thereby protected from international trade. Denmark has not acted consistently with the European position of supporting the CITES Appendix I listing of whale populations. Instead it has supported or abstained on proposals to downlist these species^{72,73,74}. Since ASW products are not permitted to be traded internationally, the

Appendix I listings do not impact on Greenland's whaling.

At IWC 51 in 1999, Denmark abstained on Resolution 1999-6 on Cooperation between the IWC and CITES⁷⁵. At IWC 53 in 2001, Denmark opposed Resolution 2001-5 which recalled "*that all species of whales in the Schedule to the IWC have been listed in Appendix I of CITES*" and "*requests that the Government of Norway refrain from issuing export permits for whale products*"⁷⁶. By taking these positions, Denmark essentially expressed opposition to the moratorium, the CITES trade ban, and EU legislation with respect to whales.

At IWC 59 in 2007, Denmark abstained⁷⁷ on Resolution 2007-4 that referred to the importance of the moratorium and confirmed that revoking the CITES trade ban could weaken the moratorium. The resolution requested parties not to seek a downlisting of whale species from CITES Appendix I.

In June 2007 at the 14th Conference of the Parties to CITES, Greenland spoke in favour of a proposal by Japan to review the CITES Appendix I listing of all large cetaceans⁷⁸ - which was an attempt to undermine the ban on the international trade in whale products. The statement by Greenland had no relevance to its ASW quotas as they are "*to satisfy aboriginal subsistence need*"⁷⁹ and are permitted "*only when the meat and products are to be used exclusively for local consumption*"⁸⁰. Denmark did not break EU consensus, however, and voted against Japan's proposal, which failed with 26 votes in favour and 54 against (13 abstentions)⁸¹.

⁷⁰ Resolution 2006-1

⁷¹ IWC/58/16Rev

⁷² E.g. at CITES CoP 10 (1997): www.cites.org/eng/cop/10/E10-ComI.pdf (p. 191)

⁷³ E.g. at CITES CoP 10 (1997): www.cites.org/eng/cop/10/E10-ComI.pdf (p. 194) and at CITES CoP11 (2000): www.cites.org/eng/cop/11/other/Com_I.pdf (p. 30)

⁷⁴ At CITES CoP 13 (2004): www.cites.org/eng/cop/13/rep/E13-ComIRep14.pdf (p. 2)

⁷⁵ Voting records

⁷⁶ Voting records

⁷⁷ Voting records

⁷⁸ Summary records CITES Committee I of 6 June 2007: www.cites.org/eng/cop/14/rep/E14-Com-I-Rep-03.pdf

⁷⁹ §13 (a) of the IWC Schedule

⁸⁰ §13 (a) of the IWC Schedule

⁸¹ CITES CoP14 Com. I Rep. 3 (Rev.2), Annex, vote 2



4.2. Blurring the Boundaries between ASW and Commercial Whaling

The IWC sets catch limits for two categories of whaling - commercial whaling and ASW. Since 1986 commercial whaling catch limits have been set at zero but Japan, Norway and Iceland carry out commercial whaling using loopholes in the IWC Convention.

Norway and Iceland set their own commercial whaling catch limits because Norway has lodged an objection to the moratorium and Iceland claims to be permitted to do the same through its self-recognised reservation to the moratorium⁸². Japan portrays its commercial coastal whaling operations as 'traditional' or 'small-type coastal whaling'. Norway and Iceland tend to refer to their minke whaling operations as 'traditional' or 'coastal'. It would appear that the aim is to legitimise a third category of whaling which might appear more acceptable than commercial whaling, and blur the distinction between commercial whaling and ASW, undermining the interests of aboriginal whaling communities.

Denmark has repeatedly expressed support for coastal whaling operations by these three whaling nations, although they are clearly commercial and undermine the moratorium:

4.2.1. Support for Japan's 'Small Type Coastal Whaling'

Since the moratorium on commercial whaling was implemented, Japan has repeatedly requested a commercial quota of 50 minke whales to be taken by coastal whalers "in order to alleviate the hardship in the community-based whaling communities"⁸³. This request refers to the four communities of Abashiri, Ayukawa, Wadoura and Taiji and has been repeatedly supported by Denmark^{84, 85, 86, 87}.

⁸² For 2011 Norway set a quota for minke whales of 1,286, while Iceland set a quota of 154 fin whales (which were not taken) and 337 minke whales.

⁸³ IWC/50/16; IWC/51/29; Chair's Report 2000; IWC/53/34;

⁸⁴ Iwasaki-Goodman, M. (1994): Polarization in IWC. http://luna.pos.to/whale/iwc_iwa_8c.html

⁸⁵ IWC/57/12 and voting records

⁸⁶ Chair's Report of IWC 2006, p. 38

⁸⁷ Chair's report of IWC 5th special meeting, 14 October 2002, Cambridge, p. 10

In 2003, Japan increased the quota request to 150 minke whales, stating *"The quota will alleviate the economic, social and cultural hardship and/or improve the economic situation in the coastal whaling communities"*.

Several communities around the world have implemented the ban on commercial whaling and adjusted to the loss of whaling, calling into question Japan's claims of hardship more than a quarter of a century after the implementation of the moratorium. Granting this request would undermine the moratorium and set unacceptable precedents. In addition, people in these communities hunt other species of whales, dolphins and porpoises not subject to the moratorium. Indeed, the four communities have also been allowed to hunt minke whales as part of Japan's self-allocated JARPN scientific permit whaling.

In 1995, Denmark supported an Action Plan presented by Japan *"for an interim relief allocation of 50 minke whales"*⁸⁸.

In 1996, it backed Japan's proposal for a schedule amendment on establishing an interim relief quota of 50 minke whales, stating that it *"favoured small type coastal and traditional whaling and therefore supported the proposal"*⁸⁹. The proposal was not agreed.

In 1997, Denmark supported a resolution by Antigua and Barbuda to permit a take of minke whales to be allocated to four Japanese community-based whaling communities. The resolution failed to be adopted⁹⁰.

In 1999, Denmark argued that *"properly regulated, such small type whaling activities will not adversely affect the conservation status of whale stocks. A solution to the problems facing small traditionally whaling-dependent communities*

*around the world imposes itself and should be given a high priority"*⁹¹.

In 2000, the Danish Commissioner stated that to him *"it was clear that small-type whaling could not be equated with large-scale commercial whaling"*⁹².

In 2001, Denmark supported Resolution 2001-6⁹³, which *"reaffirms the Commission's commitment to work expeditiously to alleviate the distress caused by the cessation of minke whaling to the communities of Abashiri, Ayukawa, Wadaura and Taiji"*

At IWC 54 in 2002, Denmark stated that it *"fully understood the tradition, social and cultural needs connected to minke whaling described by Japan and supported its proposed Schedule amendment"*⁹⁴.

Denmark's statements in support of Japan's proposals for a coastal whaling quota clearly demonstrate its open support for commercial whaling quotas.

4.2.2. Support for Norway's Whaling

Denmark, referring to its special situation with respect to whaling in its overseas territories, repeatedly states that it has a balancing position at the IWC between pro-whaling nations and pro-conservation countries. Although it has responsibilities of representation for Greenland's ASW communities, its self-appointed balancing act is incompatible with EU legislation and undermines decisions adopted by the IWC.

Norway's formal objection to the moratorium has resulted in Norwegian whalers killing over 10,000 whales since the moratorium was implemented in 1986.

In 1998, Resolution 1998-1 was passed calling on Norway to *"reconsider its objection to paragraph*

⁸⁸ Chair's Report of the Forty-seventh Annual Meeting, Agenda Item 7. Socio-Economic implications of Small-Type Whaling

⁸⁹ Chair's Report of the Forty-eighth Annual Meeting, Agenda Item 5. Socio-Economic Implications of Small-Type Whaling

⁹⁰ Chair's Report of the Fiftieth Annual Meeting, Agenda Item 5. Socio-Economic Implications of Small-Type Whaling

⁹¹ IWC/51/05 Denmark

⁹² Annual report of IWC 2000, p. 12

⁹³ Voting Records

⁹⁴ Annual Report of IWC 2002

10 (e) of the Schedule and to halt immediately all whaling activities under its jurisdiction."

Despite Norway's whaling undermining the moratorium, Denmark voted against the resolution, stating that Norway's whaling was sustainable⁹⁵.

In 2001 at IWC 53, Denmark opposed Resolution 2001-5 requesting the Government of Norway to refrain from issuing export permits for whale products⁹⁶. By doing so Denmark demonstrated its contempt for the moratorium and the CITES ban on the international trade in whale products.

4.2.3. Support for Iceland's Whaling

In 2002, Denmark supported a proposal which enabled Iceland to rejoin the IWC with an unprecedented reservation to the moratorium. It passed by one vote.

In 2011, a demarche condemning continued whaling by Iceland was initiated by the US. Denmark argued that a demarche against Iceland would undermine the pending negotiations on Iceland's EU accession and would prevent any compromise⁹⁷. However the European Commission in 2009 had clarified that "*trade in whaling products and current whaling operations carried out by Iceland would not be compatible with the *acquis communautaire**"⁹⁸, i.e. the EU's objectives, substantive rules, policies and legislation.

During the EU consultation meeting on this matter in February 2011, Denmark also stated that it had no position on Iceland's commercial whaling despite its obligation to EU legislation⁹⁹.

4.2.4. Humpback Whale Catch Quota for Greenland

Around the turn of the century Denmark increased its requests for Greenland's ASW

Concerns within the EU regarding the Greenlandic quota for humpback whales

Many EU Member States opposed the repeated Danish request for new species to be included in Greenland's ASW quotas for the following reasons:

- The term 'local consumption' in Greenland has not been defined. According to the conditions for ASW the whale products should be for local consumption only. However, there are exports of whale products from Greenland to Denmark of about 2.5 tonnes annually.
- Previous catch quotas granted to Greenland had not been fully used for many years.
- A significant portion of the whale meat from ASW quota is being sold commercially in supermarkets and restaurants, as well as to tourists within Greenland.
- Calculations for ASW quota requirements for subsistence needs do not take into account the products from other wild animals including 4,000 small cetaceans killed annually, which provide between 170,000 and 350,000 kg of meat/blubber products per year. This is the equivalent of one-third of the products provided by the fin and minke whale hunts (see also 4.3.4).

For more information see:
WSPA (2008): Exploding myths - an exposé of the commercial elements of Greenlandic Aboriginal Subsistence Whaling.
www.wspa.org.uk/Images/ExplodingMyths_tcm9-3402.pdf

WDCS & WSPA (2010): Questionable quotas - why a credible IWC must reject the Greenlandic proposal. www.wdcs-de.org/docs/Questionable_quotas_English.pdf



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quotas including for the exploitation of additional species apparently based on increased national demand from an increasing population. The proposed quotas were criticised as whale meat and blubber from previous hunts had not been

⁹⁵ Voting Records

⁹⁶ Voting Records

⁹⁷ Internal protocol of the EU Permanent Representatives Committee Meeting, 23th February 2011, Brussels

⁹⁸ Stefan Leiner, European Commission, 30 Nov. 2009, in reply to a sign on letter of NGOs of 12 October 2009, coordinated by the WDCS.

⁹⁹ by which all cetaceans are strongly protected from killing within Community waters

fully utilised. Between 1998 and 2002, only 72% of the minke whale quota and 44% of the fin whale quota¹⁰⁰ were taken and it was reported that supply was higher than demand¹⁰¹.

Between 2008 and 2011, 82% of the minke whale quota and 60% of the fin whale quota were taken. Denmark explained that unused quotas were due to poor weather conditions or absence of whales. It continued to request increased quotas for Greenland, creating significant challenges for IWC decision making and particularly for EU IWC member governments.

At IWC 57 in 2005, Greenland announced "*that it was willing to make a voluntary reduction in its fin whale quota from 19 individuals per year to 10 per year for the years 2006 and 2007*", in response to advice from the Scientific Committee to reduce the fin whale catch quota and concerned statements by several IWC Parties¹⁰².

In 2006, Denmark argued that "*the current quotas in West Greenland do not meet the documented need as accepted by the Commission, of 670 tons of meat from large whales and that only 450 tons had been provided, i.e. 220 tons less than the need*"¹⁰³.

Despite Greenland not using its entire quota of whales for several years, Denmark stated that Greenland required other whales to replace the fin whales removed from the quota, "*in particular, it [Denmark] was seeking advice [from the Scientific Committee] on the viability of obtaining the missing 220 tons of meat from catches of other species of large whale such as bowheads and humpbacks*". The Commission agreed to allow the Scientific Committee to address Denmark's request¹⁰⁴.

In 2007 at IWC 59, Denmark on behalf of Greenland presented a request "*for a quota of 10 humpback whales struck annually and a quota of two bowhead whales struck annually and including by-caught animals*". A lengthy discussion followed, during which several countries including Germany, Italy, Belgium, France, the Netherlands, United Kingdom (UK), Austria and Luxembourg expressed their concerns. Greenland was, however, granted an increase in its annual quota for minke whales from 175 to 200 and a quota for two bowhead whales¹⁰⁵.

In 2008, a report published by the World Society for the Protection of Animals (WSPA) exposed significant commercial trade associated with Greenland's Aboriginal Subsistence Whaling¹⁰⁶. At the ASW Sub-Committee meeting in 2008, the UK referred to this data expressing its concerns about this commercial trade.

Greenland, speaking as a member of the Danish Delegation, replied that NGO reports were not official IWC documents "*so there should not be any discussion of its content or the allegations made by UK*"¹⁰⁷. Greenland "*reported that the calculated need has never been met by IWC catch limits. It further noted that the number of Greenlanders living in Greenland has increased by 7.9% since 1991 and that in recent years the catch of key species of other marine mammals and seabirds has been reduced through management regulations*"¹⁰⁸.

This statement is not in line with an interview some months before with the Minister for Finance and Foreign Affairs, Home Rule Government of Greenland, Aleqa Hammond, who said "*The number of Greenlanders living*

¹⁰⁰ WDCCS (undated): Greenland's compliance with IWC regulations.

¹⁰¹ Hjarsen, T. (2003): Greenland's International obligations - a report on Greenland's fulfillment of international conventions and agreements on nature protection, species, conservation and wildlife management. WWF Denmark

¹⁰² Chair's Report of the IWC 2005, p. 23-24

¹⁰³ Annual Report of the IWC 2006, p. 27

¹⁰⁴ Chair's Report of the IWC 2006, p. 27-28

¹⁰⁵ Chair's Report of the IWC 2007, p. 19-23

¹⁰⁶ WSPA (2008): Exploding myths - an exposé of the commercial elements of Greenlandic Aboriginal Subsistence Whaling.

¹⁰⁷ Report of the ASW Sub Committee, IWC/60/Rep. 3, p. 8

¹⁰⁸ Chair's Report of the IWC 2008, p. 18-24

only off hunting could have dropped by as much as 6,000 in the past 10 years, from 8,000 to only 2,000 now. That's a significant social change in a country with a population of around 56,000"¹⁰⁹.

Despite this apparent decrease in demand for food provided by hunting in Greenland, at IWC 60 Denmark estimated an increased requirement for whale products, stating that, "*the current minimum need in West Greenland from large whales is 730 tonnes. Greenland reported that catches from West Greenland in 2007 delivered only around 420 tonnes of whale meat, i.e. 250 tonnes less than the endorsed annual need*"¹¹⁰.

In response to Denmark's request for ten humpbacks for Greenland, Slovenia, speaking on behalf of the EU, stated "*that after a lengthy discussion and a thorough examination of the existing information relating to the recognised documented and recognised subsistence needs, the EU did not support the request for the humpback quota*". Then Slovenia, on behalf of the EU, stressed the special situation of the EU with its requirement to find a common position. Several EU member states including Germany, the UK and France, explained their difficulties with the Danish proposal¹¹¹. Nevertheless Denmark called for a vote and its request was defeated with 29 votes in favour, 36 against and two abstentions.

In 2009 at IWC 61, Denmark again tabled the humpback quota request for Greenland, "*Noting that its view that the Greenlandic hunt should be based on scientific findings, Denmark reported to the Commission that this had led this year to a proposed new annual quota of 10 humpback whales for the period 2010-2012 inclusive and a reduction in the proposed take for minke whales*

in West Greenland from an annual quota of 200 to 178 animals"¹¹². Later "*Greenland informed the Commission that based on consultations, it was reducing its request for humpback whales to one year only (i.e. 10 humpbacks for 2010)*"¹¹³.

Questions remained and the quota was therefore not granted.

In advance of IWC 62 in 2010, the EU IWC members faced difficulties achieving a common position on Denmark's request for a humpback quota for Greenland. A compromise solution was sought including a reduction in the number of fin and humpback whales to be taken.

Discussion on this quota request dominated proceedings at IWC 62. Eventually a quota was approved for nine humpback whales, in exchange for a reduction in fin and minke whale quotas, despite the fact that a satisfactory needs statement was not provided.

4.3. Constraining Conservation

4.3.1. Conservation Committee

In 2003 at IWC 55, the 'Berlin Initiative' was proposed to ensure that greater focus was placed on the work of the IWC to effectively address present and emerging environmental threats to cetaceans, rather than the alternative of primarily focusing on whaling. The Berlin Initiative included the establishment of a new Conservation Committee, which was opposed by whaling nations and Denmark. Since its establishment, most pro-whaling IWC members have never attended meetings of the Conservation Committee despite its success. Denmark attends but does not actively engage in the Committee's work^{114, 115, 116, 117}.

¹⁰⁹ Painter, J. (2007): Greenland sees bright side of warming. BBC News 14 September, <http://news.bbc.co.uk/2/hi/6993612.stm>

¹¹⁰ Chair's Report of the IWC 2008, p. 19

¹¹¹ Annual Report of the IWC 2008, p. 16

¹¹² Annual Report of the IWC 2009, p. 23

¹¹³ Annual Report of the IWC 2009, p. 25

¹¹⁴ Annual Report of the IWC 2007, pp. 54-55

¹¹⁵ Annual Report of the IWC 2008, pp. 37-40

¹¹⁶ Chair's Report of the IWC 2009, pp. 44-47

¹¹⁷ Annual Report of the International Whaling Commission 2011, Annex G, Report of the Conservation Committee, Wednesday 6 July 2011, St. Helier, Jersey

4.3.2. Opposition to new Whale Sanctuaries within the IWC

At IWC 52 in 2000, Latin American countries proposed that a South Atlantic Whale Sanctuary (SAWS) be adopted by the IWC. At the same time Australia and New Zealand proposed establishment of a South Pacific Whale Sanctuary (SPWS). Despite support by EU Member States for these two sanctuary proposals, Denmark opposed both¹¹⁸.

At IWC 58 in 2006, the report of the Conservation Committee noted "*The Conservation Committee endorsed the South Atlantic Whale Sanctuary proposal, with the exception of Denmark*"¹¹⁹. According to the report, "*Denmark could not support the proposed sanctuary because it would not protect whale stocks from other threats.*" Furthermore Denmark expressed opposition to the South Pacific Whale Sanctuary, as it had done in previous years¹²⁰. Conversely, Denmark had opposed attempts by Japan and other pro-whaling countries to lift the Southern Ocean Whale Sanctuary.

At IWC 59 in 2007, Denmark again voted against the proposal for a South Atlantic Whale Sanctuary. The sanctuary proposal required a three quarters majority support but failed with 39 in favour, 29 opposed and 3 abstentions¹²¹.

In 2011, with the Danish Parliament agreeing Denmark's position in advance of IWC 63, Denmark was obligated to support the proposal for SAWS, however no vote took place.

4.3.3. Transparency and Good Governance

For years it has been alleged that Japan has used its overseas development aid to persuade developing countries to join the IWC and support Japan at IWC meetings.

To improve IWC Governance and ensure best practice, the UK submitted a proposal to IWC 63 in 2011, '*Resolution on Improving the Effectiveness of Operations within the IWC*'¹²². The Resolution also included proposals for greater participation by NGOs in IWC proceedings.

During discussions of the proposal, Denmark stated that "*... a more lax treatment of NGOs would not bring benefits, and that it [Denmark] would need to be convinced of the appropriateness of any changes over time. It indicated it could accept a modernisation of the present system such as the one instituted by the Chair where NGOs spoke after Contracting Governments for a total of not more than 30 minutes and limited to three points on the agenda, with both sides of the debate represented*"¹²³. Denmark's resistance to greater and more effective participation by NGOs is contrary to the Aarhus Convention, the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, to which EU members are bound.

4.3.4. Small Cetaceans

The IWC's work is not limited to the management and conservation of great whale populations. It has carried out work for more than four decades to address threats to small whales, dolphins and porpoises (small cetaceans). Several pro-whaling countries and Denmark, however, take a position that the IWC does not have the competency to address small cetacean issues. At the 51st Annual Meeting of the IWC, Denmark stated "*Since there has been no agreement for 13 years on the nine baleen whale species, so what prospect was there with 70 small cetacean species?*"¹²⁴

¹¹⁸ Voting Records

¹¹⁹ Annual Report of the IWC 2006, p. 34

¹²⁰ Annual Report of the IWC 2006, p. 57

¹²¹ Annual Report of the IWC 2007, pp. 54-55

¹²² IWC/63/8/rev2 Final Text

¹²³ Annual Report of the IWC 2011, p. 47

¹²⁴ Chairman's Report of the 51st Annual Meeting of the IWC



Government for the two species were frequently exceeded^{133, 134, 135}.

At the IWC in 1999, Denmark noted in its Opening Statement "We see no need for IWC management when dealing with small cetaceans already being managed through regional agreements and organisations"¹³⁶. At IWC 57 in 2005, Denmark "expressed concern regarding reopening the sensitive question of small cetaceans and was keen to ensure that the [Conservation] Committee did not replicate work done by other organisations or other groups within the IWC"¹³⁷.

In response to the killing of tens of thousands of Dall's porpoises in Japan's coastal waters each year, Resolution 1990-4 called on Japan to significantly reduce the numbers taken. Japan abstained on the vote and Denmark was the only country to vote against the resolution. Denmark also opposed Dall's Porpoise Resolutions 1999-9 and 2001-12¹²⁵.

For decades concern has been expressed by scientists, NGOs and several international agreements including the IWC about the status of narwhals and beluga whales¹²⁶. Both of these small cetacean species are hunted in Greenland in much greater numbers than scientists believe are sustainable^{127, 128, 129, 130}. Beluga whales and the West Greenland population of narwhals are classified in the Greenland National Red List as 'Critically Endangered'¹³¹. Despite warnings by the Greenlandic Institute of Natural Resources¹³², until recently the high quotas set by the Greenlandic

Even regional organisations such as the North Atlantic Marine Mammal Commission (NAMMCO) and the Canada Greenland Joint Commission on Narwhal and Beluga (JCNB), which are in principle sympathetic to granting hunting quotas for marine mammals, repeatedly criticised the numbers of hunted belugas and narwhals in Greenland. A press release by NAMMCO in 2006 stated "NAMMCO has previously expressed grave concern on the apparent decline of stocks of narwhal and beluga in West Greenland, and while commending Greenland for the recent introduction of quotas and the reduction in the harvest, there is still serious concern that present takes of narwhals and belugas in West Greenland, according to the advice of both the NAMMCO Scientific Committee and the JCNB Scientific Working Group, are not sustainable and will lead to further depletion of the stocks".

¹²⁵ IWC Resolution 1995-1 and Resolution 1993-1

¹²⁶ IWC Scientific Committee in 2004, Resolutions 2001-13, Resolution 1998-9, 1992-11

¹²⁷ SIKU News (2006): Greenland needs to cut narwhal, beluga hunts, published 28 April, <http://www.sikunews.com/News/Denmark-Greenland/Greenland-needs-to-cut-narwhal%2C-beluga-hunts-1276>

¹²⁸ <http://www.sikunews.com/News/Denmark-Greenland/Greenland-ignores-biologists%27-recommendations-4986>

¹²⁹ Sejersen, F. (2001): Hunting and Management of Beluga Whales (*Delphinapterus leucas*) in Greenland: Changing Strategies to Cope with New National and Local Interests. *Arctic* 54(4): pp. 431-443

¹³⁰ <http://www.sikunews.com/News/Denmark-Greenland/Decision-to-up-narwhal-quotas-sparks-criticism-2474>

¹³¹ Bortmann, D. (2007): Grønland Rødliste 2007.

¹³² Narwhal quota increase 2005-2006 in Greenland. www.ecoadvise.dk/news_narwhal.html

¹³³ SIKU News (2006): Greenland needs to cut narwhal, beluga hunts, published 28 April, <http://www.sikunews.com/News/Denmark-Greenland/Greenland-needs-to-cut-narwhal%2C-beluga-hunts-1276>

¹³⁴ Beluga whale quota has been exceeded by 29. News article, AF editorial department, 26th October 2008, <http://sermitsiaq.ag/node/66236>

¹³⁵ George, J. (2006): Greenland narwhal, beluga in big trouble, Nunatsiaq online 28 April.

¹³⁶ IWC/51/05 Denmark

¹³⁷ Annual Report of the IWC 2006, p. 62

5. CONCLUSIONS AND RECOMMENDATIONS

Conclusions

1. For over two decades Denmark's position and initiatives at the IWC and CITES have been predominantly out of line with the principles, objectives and provisions of EU legislation in the context of the conservation of cetaceans;
2. Despite being a member of the EU and supporting the adoption of the international moratorium on commercial whaling, Denmark has been actively supportive of Iceland, Japan and Norway with respect to their commercial whaling operations and aspirations to undermine the moratorium;
3. Denmark has not separated its responsibilities and commitments to its overseas territories that are not members of the EU from its own responsibilities as a member of the EU;
4. Denmark's responsibilities towards the Faroe Islands and Greenland as territories that hunt cetaceans are clearly distinct from the interests of countries carrying out commercial whaling, i.e. Iceland, Japan and Norway;
5. Denmark has not ensured that Greenland complies with the requirements of the IWC with respect to Aboriginal Subsistence Whaling including provision of accurate and up-to-date needs statements. Instead it has actively sought increased catch limits including for additional species;
6. Denmark has opposed work by the IWC to gain greater protection for small cetaceans especially from hunting;
7. For 30 years Denmark has failed to ensure that the Faroe Islands implement CITES regulations, instead turning a blind eye to its imports of whale products from Iceland and Norway over the past decade;
8. Denmark has been unsupportive of initiatives to improve transparency and good governance within the IWC despite being a member of the EU and a signatory to the Aarhus Convention.

Recommendations

It is recommended to the new Government of Denmark that it:

1. fully engages with EU IWC members in strengthening the conservation and welfare of cetaceans in accordance with EU legislation, clearly separating its responsibilities towards its overseas territories from its own engagement as a member of the EU including at IWC meetings;
2. works cooperatively with EU IWC members in implementing the Council Decision for a common position at the IWC;

3. no longer supports commercial whaling activities by Japan, Norway and Iceland, which undermine the IWC moratorium;
4. ensures that requests for catch limits for Greenland's Aboriginal Subsistence Whaling strictly comply with IWC regulations relating to this type of whaling, including provision of a comprehensive needs statement and other relevant information in advance of IWC 64 in June 2012;
5. actively engages with the Conservation Committee in its work to address the present and emerging environmental threats to cetaceans including small cetaceans;
6. plays a constructive role in the IWC with respect to welfare and ethics;
7. works constructively with the Government of the Faroe Islands to implement CITES regulations before the next CITES Conference of the Parties in 2013.

It is also recommended that the EU Commission ensures that the position of the Danish Government:

1. complies with EU legislation with respect to cetacean conservation and welfare including at the IWC and CITES;
2. clearly separates its responsibilities for its overseas territories and as a member of the EU, particularly with respect to participation and negotiations at the IWC and CITES;
3. complies with the Council Decision for a common position at the next three meetings of the IWC, working cooperatively with EU IWC members, and refrains from blocking implementation of the Council Decision at the forthcoming IWC Meetings.



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