# Greenpeace, IFAW, WWF joint statement: 67th meeting of the International Whaling Commission (IWC)

The 67th meeting of the International Whaling Commission (IWC67) to be held in Florianopolis, Brazil, 4-14 September 2018, includes discussions on a number of items that have important implications for the future direction, structure and governance of the Commission. Greenpeace, the International Fund for Animal Welfare (IFAW) and WWF have significant concerns about some of the changes being proposed. These are highlighted below.

## The 'Way Forward' and the 'Florianopolis Declaration'

Contracting Governments at IWC67 will be asked to support or reject two very contrasting visions for the future of the IWC: Japan's 'Way Forward' package and Brazil's 'Florianopolis Declaration'.

Despite its name, the 'Way Forward' proposal seeks to take the IWC back to its history of commercial whaling and would perpetuate the current divides within the IWC. It should be rejected.

The Florianopolis Declaration, by contrast, is forward-looking, recognises the changes since the IWC was established in 1946, and seeks to build a future that aligns with the expectations of the international community for a modern-day conservation body. It deserves support.

Attitudes to whales and the international law surrounding them, the definition of sustainable use, research methods and the ocean environment itself have all changed since the IWC was founded in 1946. Non-lethal sustainable use of whales is now worth over 2 billion US dollars a year worldwide – revenue that far eclipses that of lethal use.

Japan's 'Way Forward' proposal recognises none of this. It is rooted firmly in the past, calling on members to 'ensure that the Commission realizes the objectives of the Convention', which the whalers interpret only as a requirement to set quotas for commercial whaling. This is in contrast to the majority of IWC members who recognise the important objective of the Commission to conserve whale populations and more recent international law such as UNCLOS, Article 65[1] of which provides that an international organization may 'prohibit, limit or regulate the exploitation of marine mammals'.

It further claims it is in the common interest of all members to move forward with the 'orderly development of commercial whaling', rewarding decades of obstruction by the whaling nations, presenting itself as a solution to the problem of their own creation. Japan's package:

- Seeks to divide the IWC into two camps with different programs of work, locking Contracting Governments out of decision making on setting quotas, through a new 'Sustainable Whaling Committee', open only to governments 'committed to promoting sustainable whaling'. This is in sharp contrast to the Conservation Committee, which is open to all, although it has been boycotted by Japan and its allies since its inception.
- Blurs the distinction between commercial whaling and aboriginal subsistence whaling, with the new Sustainable Whaling Committee treating quota setting for both on the same basis – a clear departure from the IWC's past process, which has recognised that the needs of communities conducting aboriginal subsistence whaling require different regulations than commercial whaling.

1. Article 65 of UNCLOS states: "Nothing in this Part restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in this Part. States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study."

- Would overturn the Commission's instructions to the Scientific Committee not to calculate quotas under the Revised Management Procedure (RMP) until an agreed management scheme is in place, including effective rules to ensure that any quotas set are actually obeyed.
- Fails to recognise the broad range of threats to whales, including those caused by the changing ocean environment, which makes them more vulnerable and ignores their role in the marine ecosystem.
- Would commit the Commission to set catch limits at the 2020 meeting, despite a long-standing decision by the Commission that a Resolution, which requires only a simple majority, cannot commit the Commission to agree a future Schedule change. For this reason it cannot be put to vote.

Japan's 'Way Forward' package seeks to return the IWC to its past focus on exploitation and will only perpetuate the divides within the IWC.

The Florianopolis Declaration, by contrast, presents an alternative, positive and forward-looking vision for the IWC to Japan's 'Way Forward'. In particular, it recognises the important role whales play in the ecosystem and the importance of non-lethal use to coastal communities:

- It recognises the changes in the meaning of sustainable use to include non-lethal use, changes in research methods, emerging threats and the changing ocean environment.
- It identifies the threat to socio economic and cultural wellbeing of non-lethal use communities from renewed whaling and calls for the IWC to reorient itself from lethal use to non-lethal use.
- It calls for the maintenance of whale populations in order to fulfil their ecological and nutrient cycling roles in the ocean, and to provide maximum benefit from non-lethal uses to coastal communities.
- The declaration protects aboriginal subsistence whaling.

The Florianopolis Declaration takes account of developments since the ICRW entered into force in 1946, and charts a path into the future for the IWC based on a modern-day understanding of whales. We urge Contracting Governments to support it and ensure its recommendations are implemented.

## Independent Governance Review

While the Florianopolis Declaration presents a forward-looking vision for the IWC, the proposed Resolution on governance reform (IWC/67/14) provides a sensible way to modernize IWC working methods in line with best practices in other multilateral agreements.

At IWC66, the Commission agreed to a comprehensive review of the Commission's institutional and governance arrangements, and established a panel of independent reviewers to conduct the review.

The review team was asked to identify opportunities to align the IWC with best practices for multilateral treaty bodies, regarding principles of transparency, accountability, credibility and effectiveness.

The terms of reference of the review specifically excluded any consideration of the convention text, the schedule, conservation and management status of cetaceans, contracting governments compliance with the schedule, and aligning the Commission's operations with the International Court of Justice's judgment in the case concerning Whaling in the Antarctic (*Australia v. Japan: New Zealand intervening*).

In general, the independent review panel's report presents a series of sensible recommendations for reform to improve the governance and practices of the IWC in line with modern multilateral agreements. These include areas such as: ensuring consistency of the relationships between the Commission and subsidiary bodies, and between these bodies; a more even distribution of funding across the full range of Commission activities; clearer articulation of Commission requests and tracking of how IWC bodies are responding to these requests; increased transparency through changes to financial procedures and budgeting.

The Operational Effectiveness Working Group has prepared a draft Resolution, which proposes a process for gathering input from subsidiary bodies of the Commission, Contracting Governments and other stakeholders on governance reform and preparing a plan to implement such reform, including Terms of Reference for that work. We urge Contracting Governments to support this process. We also urge Contracting Governments to avoid allowing discussions on governance reform to be linked to Japan's proposed 'Way Forward'.