

Eco

International Whaling Commission Annual Meeting

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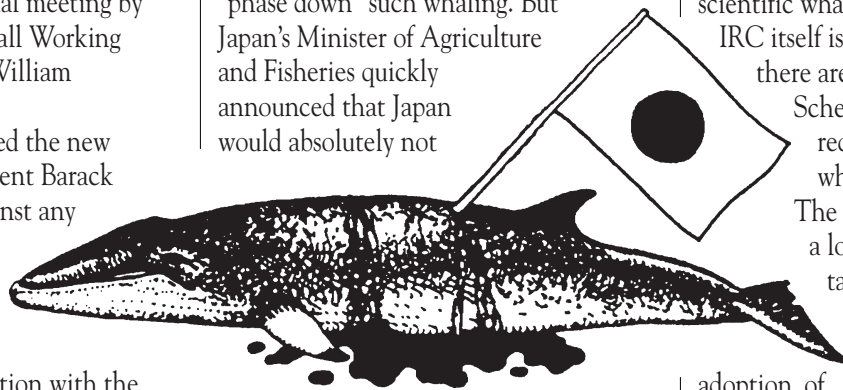
Hogarth IWC Deal Universally Condemned

Environmentalists around the globe have universally condemned a deal outlined in the paper presented to this special IWC Intersessional meeting by the Chairman of the Small Working Group and IWC Chair William Hogarth.

US NGOs have asked the new Administration of President Barack Obama to intervene against any weakening of the IWC moratorium on commercial whaling and to replace Dr. Hogarth and the US IWC Delegation with the new Director of NOAA.

The deal, as outlined, would give IWC approval, as a Schedule Amendment, to coastal whaling by Japan, a long-sought goal by whalers which would breach the IWC commercial whaling moratorium, as whale meat from such hunts is sold

nationwide. Two options are proposed to either “phase out” scientific whaling by Japan in the Southern Ocean or to “phase down” such whaling. But Japan’s Minister of Agriculture and Fisheries quickly announced that Japan would absolutely not



phase out their scientific whaling activity in the Southern Ocean, nor have they offered any specific numbers indicating how much they would alternatively phase down scientific whaling.

“We cannot accept a proposal that would end our research whaling

program,” Fisheries Minister Shigeru Ishiba told reporters.

Furthermore, as NGOs have pointed out, the IWC cannot adopt any legal measure to stop or lower Japan’s scientific whaling permits unless the IRC itself is opened up and changed—

there are no provisions for a Schedule Amendment to require changes in scientific whaling.

The Japan Fisheries Agency has a long history of refusals to take actions they previously pledged to take. They have repeatedly opposed

adoption of the Revised Management Scheme, which would require them to reduce catches of whales to levels considered sustainable. They have further refused to review the catches of small cetaceans offshore Japan, claiming the IWC and Scientific Committee are “not competent” to

concluded on page two

Untrustworthy Japan

The government of Japan has violated a 1984 bilateral agreement with the United States that committed Japan to end all whaling by 1988.

Japan negotiated the agreement in order to avoid heavy economic sanctions against Japan’s fishing industry when Japan violated the International Whaling Commission’s 1984 ban on sperm whaling. Under the bilateral agreement, which the U.S. Supreme Court ruled was comparable to a treaty, the U.S. agreed to ignore Japan’s

violation of both the sperm whaling ban and the overall ban on commercial whaling that went into effect in 1986.

In return for the U.S. deal, Japan committed to end all whaling by 1988 and to withdraw its objection to the commercial whaling ban which it filed in 1982 after the IWC decision.

But Japan stabbed the U.S. in the back in 1988 when it continued its outlaw whaling, claiming it was “research” whaling allowed under IWC rules. Every year since, Japan has sent its whaling fleet into the Southern Ocean and the North Pacific to hunt down

minke, fin and Bryde’s whales, killing thousands of the “protected” whales in order to provide whale meat on the Japanese market.

When Japan violated the sperm whaling ban in 1984, a coalition of American conservation and animal welfare groups petitioned the U.S. government to certify Japan’s violation under the Pelly Amendment to the Fishermen’s Protective Act. A Pelly Amendment finding—that a nation “diminishes the effectiveness of an international fishery conservation

concluded on page five

Whaling Tidbits

A new report backed by the European Parliament has called for the current moratorium on commercial whaling to be upheld by the international community. Along with the moratorium, the report supports a ban on international trade in whale products, the elimination of whaling for scientific purposes and the creation of marine sanctuaries where whales are specially protected.

The Whale & Dolphin Conservation Society announced that whale meat was seized from a pet food warehouse in Norway that was on pallets, destined for export to the Faroe Islands. Norwegian authorities seized the meat because the company was not registered to handle human food.

The main shopping centre in Osaka has decided to put whale meat on sale at half price in spite of criticisms from many countries that believe that Japan

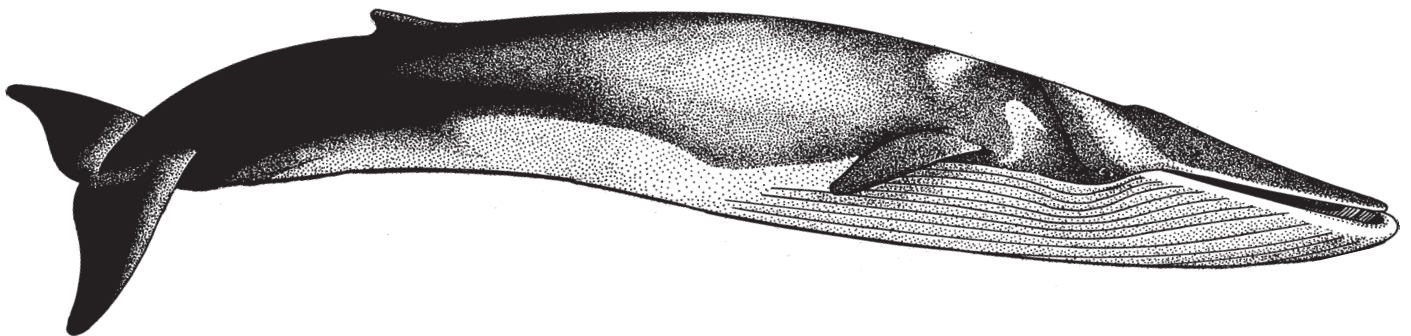
should respect the international ban on whale hunting. Instead of adhering to the moratorium set by the IWC, Japanese authorities continue to avoid it — justifying whale hunting with a vague “scientific research” explanation. Now they have decided to cut prices, trying to increase consumption of the meat.

Culling whales will not increase fisheries catches in tropical waters, according to a new paper supported by the Lenfest Ocean Program and published in the journal *Science*. For years, Japan has argued that reducing the number of baleen whales in the oceans would improve fisheries because whales eat fish that are caught for human consumption. The study published today found that even a complete eradication of whale populations in tropical waters would not lead to any significant increase in fish populations.

A new documentary, *The Cove*, by Louie Psihoyos and the Ocean Preservation Society, premiered at the

prestigious Sundance Film Festival in January, winning the Audience Award. While the feature-length film focuses on the annual slaughter of dolphins in Japan, it includes considerable footage critical of the IWC and Japan’s continued whaling activities, as well as the legacy of toxic dolphin and whale meat. *The Cove* received standing ovations when screened at Sundance, and numerous enthusiastic reviews by film critics. *The Cove* will open in theaters around the world this summer. For more information, go to www.SaveJapanDolphins.org.

According to reports by Greenpeace, Japan possesses a surplus of 4,200 tons of whale meat which has been frozen in storage. Recent polling found that 71 percent of Japanese citizens do not support their country’s whaling industry, a concept verified through the closure of the top whale meat restaurant “Yushin” in Tokyo.



ECO

ECO is published by Earth Island Institute’s International Marine Mammal Project at the Intersessional meeting of the International Whaling Commission in Rome, Italy, on behalf of environmental and animal welfare organizations around the globe.

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Hogarth Deal, concluded from page one address small cetaceans. Environmentalists have repeatedly tested whale and dolphin meat caught in Japan’s coastal waters, demonstrating that the meat is contaminated with mercury, PCBs and other serious toxins, rendering coastal whale and dolphin meat poisonous to the Japanese people. Japan’s health agencies have so far refused to label such meat as toxic in markets or to remove it to protect the health of the Japanese people.

A new Southern Ocean Sanctuary

would also be approved for five years under the Hogarth Deal, but, as with the existing Antarctic Sanctuary, Japan’s so-called scientific whaling could not be prevented in that proposed Sanctuary.

The Hogarth Deal thus provides the Japan Fisheries Agency their long-sought goal of coastal whaling, allows their scientific whaling scheme to continue apace, and provides no assurance that long-sought conservation goals supported by the majority of the IWC countries would be achieved.

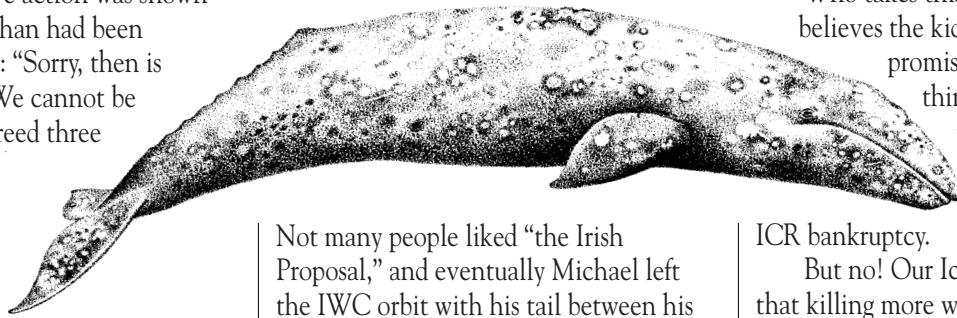
Dr. Sidney Holt's Thoughts on IWC Negotiations

When I first experienced IWC in 1960, a difficult agreement was reached on a British initiative: to reduce Antarctic baleen whale catches to sustainable levels on the basis of independent scientific advice. Japan said: "We don't need more scientific advice," but agreed to the deal. By 1963, when strong positive action was shown to be more urgent than had been thought, Japan said: "Sorry, then is then, now is now. We cannot be held to what we agreed three years ago."

The US then proposed a three-year phase down. Each following year Japan backed out of that deal. Look at the Verbatim Plenary records if you don't believe me.

A few years ago the Irish

Commissioner, Michael Canny, came up with a bright idea: Effectively declare the High Seas to be a sanctuary and allow some limited commercial whaling from selected land stations. I had already come to the conclusion that negotiation was necessary and timely if Southern Hemisphere whales were to be saved.



Not many people liked "the Irish Proposal," and eventually Michael left the IWC orbit with his tail between his legs.

Now we have a discussion in progress that is a parody of a negotiation. The SH whales are being held hostage;

the terrorists holding them give vague signs of being ready to deal. The ransom they want is the whales of the Northeast Pacific, now. The offer - maybe - is perhaps to let the hostages go, a few at a time, during the next five years. Meanwhile, however, the hostages are hungry and beginning to gobble-up all our fish. Big dilemma! Maybe second thoughts next year?

Who takes this seriously? Who believes the kidnapers will keep a promise? With luck, some think, the matter will be resolved peacefully - by the current financial crisis and

ICR bankruptcy.

But no! Our Icelandic friends say that killing more whales will resolve the financial crisis, put corrupt banks in order, appease gullible savers and put back life into a worthless currency.

I think I'll go back to bed.

Wasteful Whaling

Throughout most of the 20th century, the more responsible whaling companies and some of their governments worked towards fuller utilization of the carcasses of whales. They were encouraged to do so by pre-WWII agreements between companies and after by provisions in the IWC founding convention. This was essentially to improve profits—or diminish losses—by producing more marketable by-products than the dominant commodity: whale oil in earlier years (with highly volatile global price), frozen meat later. It involved development of, and investment in, processing plants at land-stations and on large factory ships.

However, in 1951 the IWC decided to exempt the minke whale from the requirement for full utilization [See ICRW Schedule, Paragraph 19(b)]. This was mainly to accommodate Norwegian

and Greenlandic whalers who either flensed the whales hauled transversely across small catchers, or who towed the carcasses ashore to beaches and into harbors instead of up the ramps of land stations equipped with processing facilities. From the same period minke whales have been exempt from meeting minimum length criteria (it being said that measurement would be difficult and could not be enforced) so that the anti-conservation practice of killing large numbers of juveniles has continued through to the present day.

In 1951 no one could have expected that the little minke would become the dominant species in commercial whaling, world-wide, being killed by the tens—nay, hundreds—of thousands by pelagic expeditions whose factories were relatively small and not equipped with a processing plant as well as by technically advanced pelagic catcher-factories fitted with freezing plant and cold storage. And in the Antarctic, today, thousands

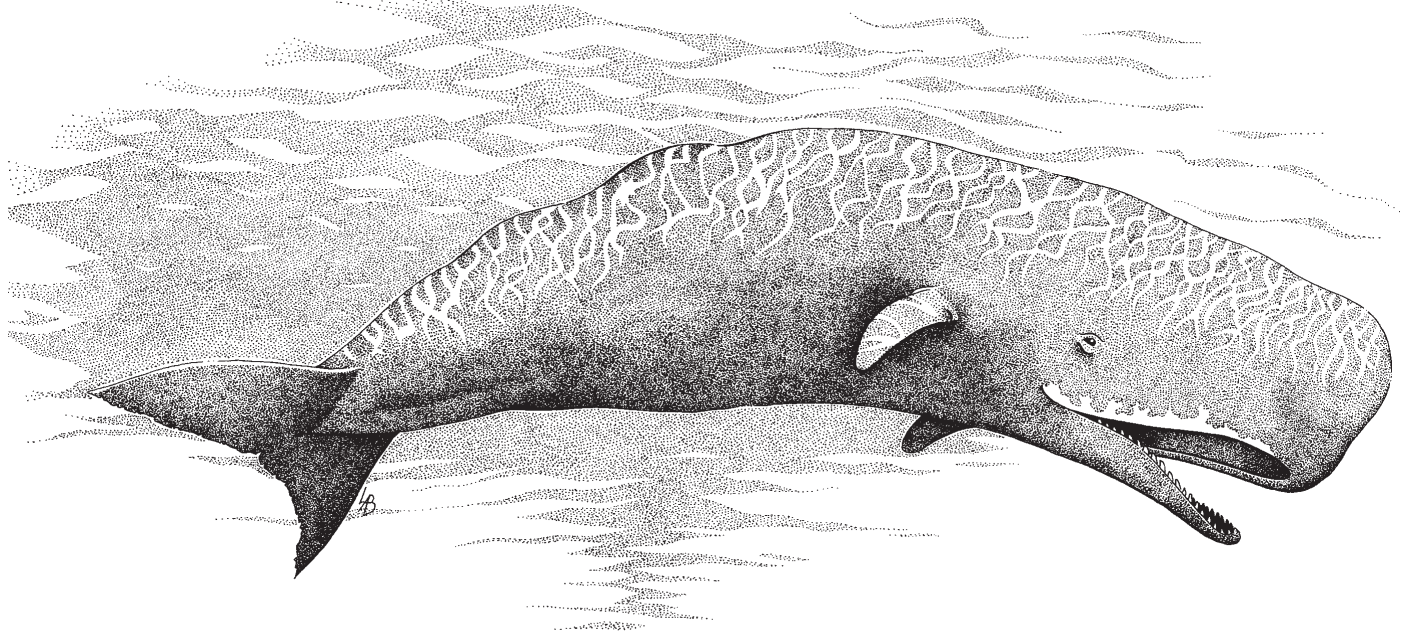
of tons of minke carcasses are jettisoned every year, contrary to the pollution regulations of the Antarctic Treaty system and the IMO.

This is the appallingly wasteful industry that some Members of the IWC's Small Working Group, set up to find ways of legitimizing some commercial-scientific and straight commercial whaling, envisage as a future for the whaling industry.

After all, as the Norwegian Commissioner told the IWC in 1973 "we have never considered the minke to be a real whale. That's why we never provided data about it."

For more information, a review of this matter in digital format, is available from the author at sidneyholt@mac.com. It is entitled "Wasteful Whaling: a memorandum on the subject of bringing of minke whales under the control of the Commission," 2009, 16pp.

—Dr. Sydney Holt



Voices Condemn Hogarth Deal

“The American people care deeply about protecting whales and do not want the U.S. to be the broker who capitulated to those who still want to kill whales for commercial gain,” Congressman Nick Rahall, Chairman of the House Natural Resources Committee, wrote to the acting head of the US Commerce Department.

“This ‘back of a napkin’ deal is a concession to Japan, and marks an abrupt shift in American policy. It’s a devastating blow to whale protection and conservation around the globe, and a failure in U.S. leadership at the International Whaling Commission,” said Kitty Block, vice president of Humane Society International. Anticipating the secret bargain, a coalition of groups, including Humane Society International, asked President Barack Obama to renew and strengthen U.S. policy.

“This is a complete sell-out of the United States’ long-held opposition to commercial whaling and the commitment of the American people to

whales,” charged David Phillips, Director of the International Marine Mammal Project (IMMP) of Earth Island Institute. “It’s time for the Obama Administration to remove William Hogarth and other Bush holdovers and change the US delegation to the IWC to leading the protection of whales and dolphins. The Japan Fisheries Agency has repeatedly defied the global moratorium on commercial whaling by calling their catch ‘scientific’, but selling the meat in Japanese markets and restaurants. Now, under this proposed ‘deal,’ Japan would get out from under international scorn and criticism, switching to killing whales in their own coastal waters while continuing the charade of ‘science’ in the Antarctic and North Pacific.”

“The endgame (of the deal) appears to contemplate a legitimisation of scientific whaling and gives them coastal whaling,” states Patrick Ramage of the International Fund for Animal Welfare. “For any government serious about whale conservation, it’s going to be

difficult to sign up to a package that means the end of the moratorium—with whatever weasel words—and a legitimisation of both coastal and scientific hunting.”

“World Wildlife Fund is glad to see the IWC taking steps toward ending the deadlock on commercial whaling, and to ending commercial whaling under the guise of science once and for all, but these compromise packages give too much to the whalers and not enough to whale conservation,” said Dr. Susan Lieberman, director of WWF International’s Species Programme. “What is needed is a plan to put an immediate halt to all scientific whaling, which simply has no place in the 21st Century.”

“Greenpeace is calling on President Obama to take just a few minutes to end this potentially damaging negotiation by ensuring a new IWC Commissioner is appointed with experience in high-level international negotiations to ensure the US position in these negotiations matches the agenda of the Obama Administration and the American people.”

Untrustworthy, concluded from page one agreement”—empowers the U.S. president to embargo any or all fishery products of the offending country. The certification also triggers the Packwood-Magnuson Amendment, a law aimed at outlaw whaling nations that automatically imposes immediate economic sanctions.

Japan knew that the Packwood-Magnuson law threatened its large fishing fleets operating in the richest fishery in the world—the Bering Sea—as well as along the U.S. west coast and in vast areas of the Pacific surrounding U.S. territorial islands. Pelly certification would ban Japanese fishing fleets from all

waters in the U.S. 200-mile exclusive economic zone (EEZ). During the 1980s the Japanese fleets were taking more than \$40 million of fish annually from U.S. waters under fishery access agreements with the U.S.

Japan's foreign ministry desperately pleaded to the U.S. State Department in the summer of 1984 that Pelly certification and the automatic loss of fishing licenses would touch off a crisis in Japan-U.S. relations. So the four-year exemption deal was quietly worked out at the highest levels of the two governments. The bilateral agreement was signed just as the legal deadline approached for action on the environmentalists' petition for certification.

When the environmental groups learned of the back-room deal, they filed suit in U.S. Federal Court, charging that the U.S. obligations under the IWC

treaty overrode the bilateral agreement. The case, *American Cetacean Society vs. Baldrige*, was taken on pro bono by Washington's largest and most powerful law firm, Arnold & Porter.

The U.S. District Court ordered the U.S. to certify Japan. The Japanese government pressed the Reagan Administration to appeal; the conservative court of appeals unanimously upheld the District Court decision. Japan then demanded that the

case be appealed again, this time to the Supreme Court.

The Reagan Administration, arguing that the bilateral agreement was comparable to a treaty in legal status, persuaded the Supreme Court to hear its appeal. The deputy attorney general was sent to argue the case before the nine justices in 1986, claiming that Japan had committed to end “all whaling” by 1988, just two years beyond the IWC's ban. Persuaded that the whales would be the winners in the end, five of the justices overturned the lower court decisions and allowed the bilateral treaty to stand - and the blocked the certification of Japan under the Pelly Amendment.

But Japan's ruthless whaling industry, backed by the powerful ministry of agriculture, forestry and fisheries, was not about to end “all whaling.” The Antarctic fleet was sent out in the fall of 1987 to launch the 1988 whaling season. The U.S. was betrayed.

As soon as the first whale was reported killed, the U.S. environmentalists went back into federal

court, filing a new suit identical to the 1984 complaint. The U.S. State Department, joined by the Commerce Department which oversees IWC policy, knew that the bilateral agreement was violated and that there was no defense against Pelly certification and Packwood-Magnuson sanctions.

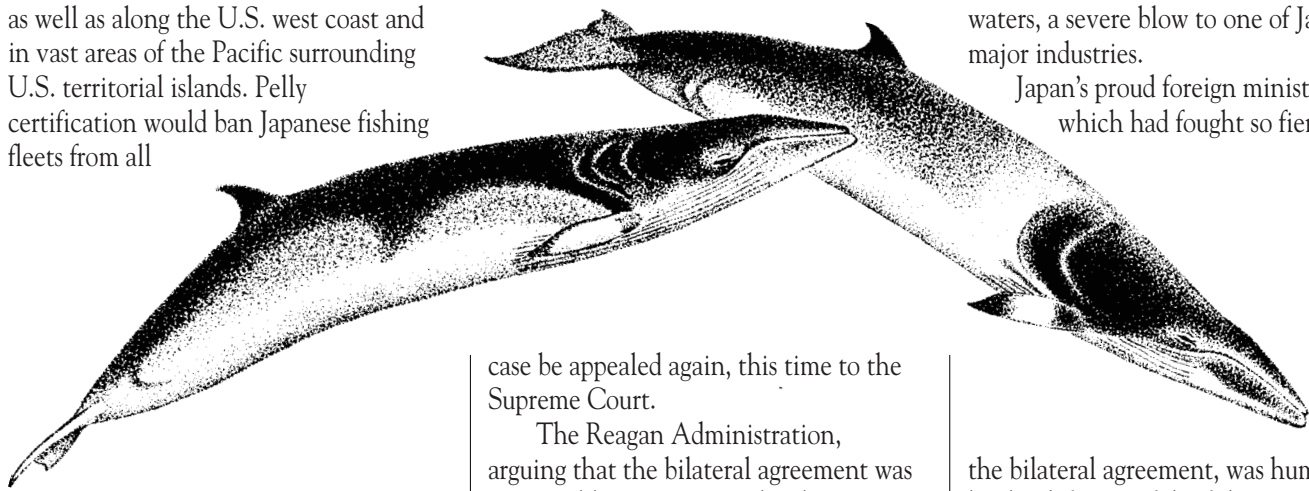
So the sword fell on Japan's fishing industry in early 1988. Several fishing fleets were ordered out of the U.S. EEZ immediately. To this day, all Japanese fishing boats are banned from U.S. waters, a severe blow to one of Japan's major industries.

Japan's proud foreign ministry, which had fought so fiercely for

the bilateral agreement, was humiliated by the defiance of the fisheries ministry. The U.S. State Department quietly expressed its outrage over the diplomatic debacle.

Japan's embarrassed diplomats exacted a certain revenge on the outlaw whalers later in 1988 when the foreign ministry withdrew Japan's 1982 objection to the IWC whaling ban—the only commitment honored in the bilateral deal. That effectively blocked any large-scale expansion of the Japanese whaling fleets; the “research” whaling has limited Japan's whaling over the past 21 years to relatively few whales compared to previous decades.

The Obama Administration should reopen the bilateral agreement - which still has the effect of a treaty under the Supreme Court ruling - and press Japan to abide by the terms of the deal: no more whaling. Japan would then be compelled to hold a sumo match between the competing ministries.



Iceland Seeks Its Own Deal?

As NGOs have pointed out, if the IWC establishes a deal with Japan to allow violation of the two-decades-old moratorium on commercial whaling, other nations will quickly follow suit to gain their own deals.

Enter Iceland, which indeed increased their own illegal whaling quotas six-fold within days of the announcement of the Hogarth Deal for Japan. Clearly, Iceland is positioning itself to get its own deal with the IWC, racking up obscene sized quotas so they can negotiate down to somewhat more

reasonable levels to kill endangered fin whales and depleted minke whales.

In response to public outcry both inside and outside Iceland, the new Icelandic government proposed to review the inflated whale numbers, but quickly retreated by allowing the quotas to stand for at least the coming year. The original annual quota was for 38 minke whales and no endangered fin whales, but the new quotas will allow the slaughter of 100 minke whales and 150 endangered fin whales. Fin whales are listed as endangered world-wide by the

IUCN.

To their credit, the United States, Germany, Britain, France, Finland and Sweden presented a demarche to the Icelandic government, expressing “extreme disappointment” in the new quotas.

Two British supermarket chains, Waitrose Ltd. and M&S, have written the Icelandic government expressing their dismay over the new quotas and threatening to boycott Icelandic fish products. The Icelandic tourism industry is also opposed to the whaling, fearing the negative impact of whaling on tourists.

Japan Arrests Greenpeace Activists

Two Japanese activists from Greenpeace have been arrested by Japan when they reported the routine theft of whale meat by Japanese whalers.

Talk about “killing the messengers”!

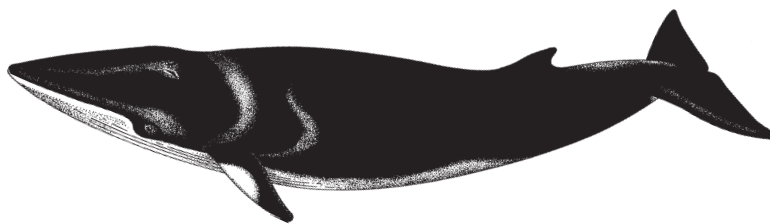
Greenpeacers Junichi Sato and Toru Suzuki are now being prosecuted, and risk up to ten years in jail if convicted, after they exposed a major corruption scandal surrounding the Japanese government-sponsored whaling program.

They had reported their findings to Japanese police with the intention of raising awareness about the abuse of taxpayer subsidies, and in order to prompt an independent investigation into the whalers’ theft of whale meat.

Sato and Suzuki discovered firm evidence that cardboard boxes containing whale meat, from Japan’s so-called “scientific” whaling operation in the Southern Ocean, were being secretly

shipped to the homes of whaling fleet crew—and then sold for personal profit. Junichi Sato delivered a box of this whale meat to the Tokyo Prosecutors’ Office in May 2008, and filed a report of embezzlement. However, the embezzlement investigation was dropped on 20 June—the same day that both men were arrested and then held for 26 days before being charged with theft and trespass.

They are now under house arrest while the legal wrangling drags on.



Japan's Litany of Deceit

During the past year of negotiations with Japan to achieve the Hogarth Deal, Japan has repeatedly demonstrated its contempt for the process and for the majority of the IWC countries by:

- Pursuing its so-called “Scientific” whaling scheme full-bore in the Antarctic.
- Accepting 77 tons of whale meat imported from Iceland and Norway.
- Continuing so-called “scientific”

whaling in the North Pacific, which includes killing coastal whales.

- Continuing to kill over 22,000 coastal dolphins and small cetaceans in the cruelest manner imaginable.
 - Refusing to label or remove toxic dolphin and whale meat from their markets, effectively poisoning their own people.
- ECO observes that this *cannot* be construed as “negotiating in good faith.”

Japan Threatens to Block June Meeting

True to form, the Japanese representative for the IWC states that the IWC should stop meeting if a bid to bridge the gulf between pro- and anti-whaling nations fails in Rome this week.

“This year is a moment of truth for the IWC,” Joji Morishita, a counselor with Japan’s Fisheries Agency, told reporters. “This is almost a final try. If we fail, we will need a cooling-off period.” That could mean meetings stop for several years, he said.

Will the IWC put up with the Japan Fisheries Agency’s constant threats and bow to the pressure by approving the insidious Hogarth Deal?