

**NORWEGIAN DELEGATION TO  
THE 5<sup>TH</sup> SPECIAL MEETING  
OF THE IWC**

Cambridge, UK, 14 October 2002.

## **OPENING STATEMENT**

This 5<sup>th</sup> Special Meeting of the IWC has been convened for the sole purpose of overturning a decision made by the same Commission at its recent 54<sup>th</sup> Annual Meeting. Norway questions the wisdom of instigating a new practice whereby any Contracting Party (or, as the case may be, a privileged few) is allowed to call a Special Meeting whenever it is dissatisfied with decisions made by the Commission's regular Annual Meetings. Norway would furthermore caution against the new practice of convening a Commission Meeting in contravention of the Commission's own Rules of Procedure.

This Meeting has been convened in order to reconsider the Commission's previous decision concerning a proposal for a Schedule amendment concerning the allocation of a catch quota for bowhead whales, to be harvested in terms of so-called "aboriginal subsistence whaling". This Commission's basic legal instrument and very foundation – the *1946 International Convention for the Regulation of Whaling*, which laid down the guiding principles, objectives and rules of the IWC – does not recognize any such concept as "aboriginal subsistence whaling".<sup>1</sup>

The Commission's practice of distinguishing between the two categories of viz. "commercial" and "aboriginal subsistence" whaling is artificial, illogical, and morally wrong. It is a dangerous practice which discriminates between human beings on the grounds of ethnicity, and which purports to give a stamp of disapproval on "commercialism", i.e. on the normal way that human beings strive to make a living in a market economy. This medieval and anti-capitalist notion is not condoned by Norway.

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<sup>1</sup> Nor does the *Schedule* to the Convention introduce such a separate category of whaling, except in the most indirect, opaque and spurious way: Whereas the terms "commercial whaling" or "killing for commercial purposes" are used, seemingly haphazardly, in such paragraphs as 6 (under the caption of Ch. III. CAPTURE) and para 10 (which deals with "Classification of Stocks"), the term "aboriginal subsistence whaling" appears, with no explanation, in para 13 (which deals with "Baleen Whale Catch Limits").

The question to consider is not whether a whaling operation is a "commercial" or an "aboriginal subsistence" operation. The crucial question is whether it is conducted in accordance with the objectives of the 1946 Convention, whether it is *sustainable*.

At this year's 54<sup>th</sup> Annual Meeting in Shimonoseki, Norway supported the proposal for the allocation of a catch quota for the Bering/Chukchi/Beaufort Seas stock of bowhead whales, - the very same proposal that we now have been summoned to give renewed consideration. Our position is simple and consistent. Norway has in the past supported all requests for catch quotas – whether they be designated "commercial", "small-type coastal", "interim relief" or "aboriginal subsistence" - provided they are *sustainable*. When doing so, however, we also expect those Contracting Parties who make such requests to respect the requirements of other Contracting Parties. Unfortunately, that was not the case at the 54<sup>th</sup> Annual Meeting. Thus, despite the inauspicious and hardly immaculate conception of this 5<sup>th</sup> Special Meeting of the Commission, we may yet rejoice at the prospect thus provided for righting some of the wrongs made at the 54<sup>th</sup> Annual Meeting. In particular, the matter of fulfilling Japan's request for a so-called "interim relief" quota of minke whale is long overdue, and should easily be solved in conjunction with a renewed consideration of the bowhead catch quota proposal.

Another matter which urgently needs to be solved, is the issue of Iceland's membership in the IWC. The continued and unlawful refusal to let Iceland assume its rightful place as a full-fledged member of the IWC is not only disgraceful and outrageous – it is also most damaging to the reputation and the credibility of the Commission itself. The lack of a timely and just solution to this embarrassing situation is also bound to have a detrimental effect on the Commission's working atmosphere and its ability to conduct any of its business in a normal and orderly way.

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The initial purpose of our meeting here in Cambridge, was the decision by the 54<sup>th</sup> Annual Meeting to hold an intersessional Workshop in order to make progress towards achieving the Commission's top priority task – to reach agreement on a so-called Revised Management Scheme (RMS). This is an exercise that was launched 10 years ago.

In 1982 the IWC decided, with effect as from 1986, to suspend its functions as a management organization pending the completion of certain tasks that would, ostensibly, enable the Commission to resume such functions "by 1990 at the latest". We all know that this vision (which, actually, was a binding commitment) never materialized. To the extent that the RMS process was conceived in good faith as a path towards the eventual accomplishment of this goal, it has been a resounding failure. With every year that has passed, the goal has become ever more distant.

It is imperative that this RMS Workshop should not turn out to be yet another exercise in futility. At the 54<sup>th</sup> Annual Meeting, Norway questioned the wisdom of convening at this stage yet another intersessional working group, given the scant prospect of success especially taking into account the obvious lack of enthusiasm and initiative that pervaded the deliberations on the RMS at the Shimonoseki meeting. It is, however, appropriate that this Workshop is convened with the express aim of addressing the "political differences" that stand in the way of reaching an agreement on the RMS. In sorting out these political differences, the IWC and its Member States should recognize and take into account the realities on which an eventual RMS must be based. These realities include the stark fact that the IWC (by default or design) *has no management regime and has not had one for the past 15 years*. In contrast, Norway has now for 10 years had in place a management regime for its minke whale operations, based on the catch-limit mechanism (RMP) developed by the Scientific Committee of the IWC (but which the Commission never deemed fit to implement). Almost 10 years of experience has shown it to be a successful and robust management regime. Thus, if the IWC is genuinely interested in achieving its stated goal of creating an RMS, the Commission would be well advised – and most welcome – to adopt the system which Norway has already had in place for a decade.

It follows from the above that although Norway remains firmly committed to work with the IWC in order to assist the Commission to make the RMS a reality, we cannot be expected to accept an RMS that would be substantially inferior to the management regime that we already have in place. There are certain minimum demands that cannot be dispensed with, including:

- The lifting of the moratorium (*Schedule*, para 10(e)), and the implementation of the RMP.<sup>2</sup> The RMS must be negotiated as one whole package, not to be adopted piecemeal.
- The RMS should not comprise extraneous elements such as requirements concerning killing methods, DNA-testing/-register, control or monitoring of trade, animal welfare or environmental concerns. Likewise, whaling under scientific permits in terms of ICRW, art. VIII is no concern of the RMS.
- The RMS must reflect the sovereign rights and duties of the coastal states as these are defined in international law and reflected in the 1982 U.N. Convention on the Law of the Sea, and not detract from the sovereign rights of coastal states to manage their marine resources in their respective Exclusive Economic Zones.

These are some of the minimum requirements. Obviously, there are other matters that need to be sorted out if we are to talk in earnest about entrusting the IWC with operating a management regime.

It is not a foregone conclusion that the IWC is capable of coping with such a task. With its 1982 moratorium decision, and with the launching in 1992 of the RMS concept, the IWC embarked on a path that has taken the Commission down a slippery slope, ever further removed from the realities of the industry that it was supposed to manage. It is now up to the Commission to prove that it has not descended beyond the point of no return.

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<sup>2</sup> Unabridged version, as recommended by the IWC Scientific Committee.