

**WRITTEN TESTIMONY OF
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**OVERSIGHT HEARING ON
“60TH ANNUAL MEETING OF THE INTERNATIONAL WHALING
COMMISSION”**

**BEFORE THE
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND OCEANS
UNITED STATES HOUSE OF REPRESENTATIVES**

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Introduction

Good afternoon, Madam Chair and members of the Subcommittee. I appreciate the opportunity to speak with you today about the upcoming 60th annual meeting of the International Whaling Commission (IWC).

I am William Hogarth, U.S. Commissioner to the IWC. I recently retired from the Federal Government after many years of service, and accepted the position of Dean of the College of Marine Sciences, University of South Florida. With the support of constituents and the Administration, I retained my position as the U.S. IWC Commissioner and continue to serve at the pleasure of the President. Dr. Doug DeMaster of the National Marine Fisheries Service remains the Deputy Commissioner. In 2006, I was elected by consensus to assume the role of Chair of the IWC and I continue to serve in that position. I would like to make it very clear, however, that I am testifying today exclusively in my capacity as the U.S. IWC Commissioner and not as Chair of the IWC.

My testimony will provide background information on the IWC, give a history of U.S. whaling policy development, discuss the main issues currently confronting the IWC, and discuss the future of the organization. U.S. positions on major issues for this year’s annual meeting of the IWC will also be included where appropriate.

International Whaling Commission

The International Convention for the Regulation of Whaling (ICRW) was signed in 1946, as a direct result of decades of overharvesting of the great whale species of the world. Its primary purpose is the conservation and management of the great whales. The IWC was formed by the ICRW, and is responsible for managing the 13 great whale species—bowhead, North Atlantic right, North Pacific right, southern right, gray, blue, fin, sei, Bryde's, common minke, Antarctic minke, humpback, and sperm. The IWC adopts regulations by periodically amending the Schedule to the Convention (Schedule), an

integral document to the ICRW, which lists measures that govern the conduct of whaling. Amendments to the Schedule must be based on scientific findings and require a three-quarters majority of those IWC members who voted. The ICRW contains provisions that allow member countries to object to Schedule amendments within certain time frames, in which cases such Schedule amendments do not bind the objecting country.

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

There are currently 79 member countries to the IWC, with the Commission being split between pro-commercial whaling countries and anti-commercial whaling countries.

History of U.S. Policy Development

The United States was instrumental in establishing the international framework that directs the conservation and management of whales, which included playing a lead role in the negotiation that led to adoption of the ICRW. As a reflection of its leadership role in the creation of the IWC, the United States serves as depositary for the ICRW. The IWC has been and will continue to be the primary forum for the United States to implement its foreign policy regarding whaling. This foreign policy is informed by three Acts of Congress: the Whaling Convention Act (WCA) of 1946, the Marine Mammal Protection Act (MMPA) of 1972, and the Endangered Species Act (ESA) of 1973. The Whaling Convention Act implements the ICRW, including the objectives stated in its preamble. Under the Endangered Species Conservation Act of 1969, the Department of the Interior listed sperm whales and all baleen whales, except minke and Bryde's whales. This was the first step taken by the United States against commercial whaling, as regulated by the IWC. The first time the United States supported a worldwide commercial whaling moratorium was at the 1972 Stockholm United Nations Conference on Human Environment.

The Marine Mammal Protection Act lays out the basic U.S. domestic policy governing the conservation, trade, and use of whales, and also guides U.S. policy in the IWC. Among other things, the MMPA establishes a moratorium on the taking, commercial harvest, and importation of marine mammals and their products, subject to certain exceptions such as Native Alaskan subsistence harvest of marine mammals. The MMPA also states Congress' desire for international whale conservation policy, advising that "the Secretary [of Commerce], through the Secretary of State, shall initiate the amendment of any existing international treaty for the protection and conservation of any species of marine mammals to which the United States is a party in order to make such treaty consistent with the purposes and policies of this Act."

Efforts to conserve and manage whales through the IWC have proceeded unevenly. In the early 1970s, many IWC members did not support a general moratorium on commercial whaling. In 1974, the United States accepted an Australian compromise to

develop a New Management Procedure that implemented “selective moratoria” and worked to make this approach consistent with sound principles of resource protection and conservation as outlined in the purposes and policies of the MMPA. The IWC adopted the New Management Procedure in 1974, implementing it in 1975. Then in 1982, as a result of efforts by the United States and others, the IWC implemented a commercial whaling moratorium to take effect in 1985/1986. Iceland, Norway, and the Russian Federation have all taken reservations or lodged objections to the moratorium, and thus are not bound by it. The IWC agreed to keep the moratorium under review, based on scientific advice. The IWC also agreed to undertake a comprehensive assessment of the effects of the moratorium by 1990 at the latest, and to consider modification of the moratorium and the establishment of catch limits. To date, the IWC has not completed this assessment, although the Scientific Committee has completed work contributing to it, such as the Revised Management Procedure (RMP) for setting catch limits.

Over the ensuing years, the United States has continued to support the MMPA’s policies encouraging protection of large whale stocks, while also supporting aboriginal subsistence whaling. High-level U.S. government officials have also issued statements that apply these policies to whaling issues and enable U.S. delegations to address contemporary management issues at the IWC. In a 1993 Message to the Congress on Whaling Activities of Norway, President Clinton stated:

“The United States is deeply opposed to commercial whaling: the United States does not engage in commercial whaling, and the United States does not allow the import of whale meat or whale products. While some native Alaskans engage in narrowly circumscribed subsistence whaling, this is approved by the IWC through a quota for ‘aboriginal whaling.’ The United States also firmly supports the proposed whale sanctuary in the Antarctic.

“The United States has an equally strong commitment to science-based international solutions to global conservation problems. The United States recognizes that not every country agrees with our position against commercial whaling. The issue at hand is the absence of a credible, agreed management and monitoring regime that would ensure that commercial whaling is kept within a science-based limit.”

While still supporting the moratorium, statements like these allowed the U.S. delegation to participate in (and sometimes lead) good faith negotiations to complete the Revised Management Scheme (RMS), which would regulate commercial whaling on baleen whales. An RMS would include the Revised Management Procedure, the scientific component adopted by the IWC in 1994. It would also contain a fully effective inspection and observation scheme to ensure that any subsequently agreed management measures would be enforced. More than 15 years of negotiations regarding the RMS have reached an impasse, as declared by the IWC, in early 2006.

Current Issues Facing the IWC

Unregulated Whaling

Many issues need to be resolved at the IWC. One very serious problem is the fact that unregulated scientific and commercial whaling is occurring.

The moratorium on commercial whaling is a needed conservation measure to protect whales. However, given the continuation of whales being killed for commercial purposes since the moratorium took effect in 1986, it has become clear that the moratorium may not be enough to achieve the long-term conservation and policy goals of the United States.

Article 8 of the ICRW allows member countries unilaterally to grant Special Permits to kill, take, and treat whales for the purpose of scientific research. Although Iceland, Japan, and Norway have used this provision at different times since the commercial whaling moratorium took effect in 1986, Japan is currently the only member country conducting lethal scientific research. Although scientific whaling is legal under the ICRW, many countries including the United States question the necessity of the lethal research for IWC purposes and object to commercial sale of the meat derived from the research programs. The commercial sale of such meat is allowed under the ICRW.

Scientific research whaling is not regulated by the IWC and has been responsible for the largest increase in the take of whales over the past ten years. In 1998, approximately 300 whales were taken through scientific research whaling. Since then, this number has increased to more than 1,000 per year. The United States has continued to strongly oppose research whaling programs and believes that most scientific data needed to improve the management and to promote the recovery of large whale populations can be collected through non-lethal means.

Despite more than two decades of international condemnation and IWC criticism of lethal research programs, the practice has escalated. The IWC has examined the problem of scientific whaling for many years, and has found no easy solution. In order to prohibit scientific whaling through legal means, a change to the ICRW would be necessary, or relevant countries would need to enter into a separate binding international side agreement with regard to scientific whaling.

Small-Type Coastal Whaling

Every year since 1987, Japan has proposed a Schedule amendment to allow small-type coastal whaling (STCW) for four coastal whaling operations, but these proposals have consistently failed to gain the necessary three-quarters majority needed for approval. The United States and many other IWC members have not supported Japan's STCW proposal because of the commercial nature of the proposal and because Japan's STCW proposal is not based on review and input from the IWC's Scientific Committee. Any proposal for the commercial harvest of whales should at least be based on recommendations of the IWC's Scientific Committee, using the Revised Management Procedure for setting catch limits. No RMP-determined catch limits have been established for the stocks at issue in Japan's proposal.

South Atlantic Sanctuary

The ICRW provides for the establishment of closed areas for the purpose of fostering the conservation and recovery of whale stocks. The United States was a major sponsor of the Southern Ocean Sanctuary adopted by the IWC in 1994. Since 2000, there have been efforts to establish a South Atlantic Sanctuary to complement the Southern Ocean Sanctuary. The United States continues to support the establishment of this sanctuary, as it promotes the conservation and recovery of whale stocks.

Sanctuaries generally provide opportunities to conduct non-lethal research on undisturbed whale stocks, including studies on their life history and population dynamics. The status of most major whale stocks is either still depleted or unknown. Therefore, it is imperative that the IWC make further efforts to establish sanctuaries and maintain existing ones to allow for full recovery of all the great whale stocks.

The Future of the IWC

The IWC's polarization is compromising its ability to properly conserve and manage cetaceans. This is not surprising, considering the very nature of the ICRW's objective to conserve whales and manage their harvest, which does not lend itself well to consensus or even the required three-quarters majority for Schedule changes. At the 59th annual meeting in Anchorage, the IWC decided to begin discussions regarding the "Future of the IWC" through an intercessional meeting that was held in March and at the upcoming 60th annual meeting of the IWC.

The United States is committed to participating in discussions on the future of the IWC, and believes the IWC should be preserved as the premiere international forum for resolving current conservation issues, coordinating critical research, and developing international agreement on whale conservation. It is imperative that the IWC achieve a stronger level of functionality for the future conservation and management of the great whales.

The United States supports discussions on the future of the IWC because we believe the lethal use of whales must be regulated and monitored by the IWC as the only relevant international management body. The discussion at the 60th annual meeting regarding the "Future of the IWC" is intended to address the difficulties within the IWC and thereby strengthen the body, and the United States will participate in these discussions. The discussion may lead to an intersessional process following the meeting where major substantive issues are identified for negotiation and possible resolution at IWC61 in 2009. The Administration will need to evaluate the results of that process before determining whether to lend U.S. support to any particular outcome.

Conclusion

In closing, Madam Chair, I would like to state that the United States' position on whale conservation and management has not changed. We continue to support the moratorium on commercial whaling and will continue our efforts to end lethal scientific research whaling. Moreover, we will actively participate in discussions on the future of the IWC to ensure that body's effectiveness in ensuring the conservation and management of the

great whales. I would like to thank the Subcommittee members and your staff for supporting the conservation and management of whales.