



# INTERNATIONAL WHALING COMMISSION

## IWC 65 Report 2014: Portorož, Slovenia, By Paul Spong



### **A NEW CHANCE FOR WHALES**

Hovering in the background or perhaps above the 65th meeting of the International Whaling Commission (IWC) in Portorož, Slovenia, is the March 2014 decision of the International Court of Justice (ICJ) which declared Japan's so-called "scientific" whaling in the Antarctic a thinly disguised form of commercial whaling, and ordered it halted immediately. Japan complied, in a manner of speaking, announcing that it would not return to the Antarctic next season. However, it immediately went about plotting counter measures aimed at resuming Antarctic Whaling at the soonest possible moment. Japan's current plan seems to be one of fine-tuning its old rejected plan, making it more "scientific" and less blatantly commercial. It is difficult to see how Japan can accomplish this without bending or breaking the rules that govern science and fair play. Nevertheless, Japan seems bent on trying.

Japan's decision to keep on fighting a fight it cannot win is an enormous waste of opportunity. The Court's decision, to which there was no appeal, gave it a chance to bow out of an increasingly impossible situation gracefully. By doing so, it would have gained stature in its international relations and gained friends in places where it now only sees enemies. Full compliance, including a dismantling of Japan's pelagic whaling fleet would have garnered Japan a moment of such international good will that achieving its dream of a permanent seat on the UN Security Council may well have come within reach. That dream now lies in tatters.

Oddly, Japan has not come to this meeting with a plan in hand. It has talked about creating one, and apparently will use its time here lobbying and searching out sympathetic ears. But no document has been tabled; no resolution has been proposed; there is not even a sign that Japan will call on the Scientific Committee to evaluate its new plan, though that would be an essential step. If this is a strategy, it's a strange one.

Also strange, is the place the ICJ decision is going to hold in the proceedings over the next four days. Despite the earthquake nature of the Court's ruling, a shake up that should have woken everyone up, it does not have a central role in the agenda. The closest it will come is in the form of discussion of scientific permits. A resolution proposed by New Zealand aimed at regulating special permit ("scientific") whaling is also being circulated. Perhaps the intent is to keep Japan in check, but given the tendency in recent meetings for resolutions to vanish from the agenda because time runs out, even this sideways reference to the most important development in recent IWC history, literally a new chance for whales, might not even make it to the floor. We shall see.

Meanwhile, the simple truth is that for the first time in well over 100 years, whales will not die in agony in Antarctic waters during the coming southern summer. The accompanying silence will be as profound as that which followed the cessation of hostilities in World War I. Despite the passage of time, people around the world still pause at the 11<sup>th</sup> hour of the 11<sup>th</sup> day of the 11<sup>th</sup> month each year to remember that moment in 1918 when suddenly, there was peace.

by Paul Spong

September 14, 2014



## **IWC 2014 Day One: TWO THUMBS DOWN**

The 65<sup>th</sup> meeting of the International Whaling Commission, being held in fairytale seaside surroundings in Portoroz, Slovenia, began pretty much where the last meeting in Panama left off, with the issue of Greenland's request to kill whales for "aboriginal" consumption. Readers who have followed the IWC story will recall that Greenland was denied its request in 2012 because its "needs" statement and explanation

could not persuade a  $\frac{3}{4}$  majority of Commission members.

During the interim 2 years, Denmark somehow managed to convince its fellow European Union (EU) members of Greenland's case, so the first substantive issue debated at this meeting opened with a *fait accompli*. The votes of the EU members ensured the  $\frac{3}{4}$  majority needed to enshrine Greenland's "take" of 164 minke, 12 fin, 2 bowhead and 10 humpback whales per year for the next 4 years. Denmark apparently accomplished this by coercion,

threatening to leave the EU if Greenland didn't get its way. The result was an 81% vote in favour of Greenland, despite evidence that the hunt is in part commercial, and that the real needs of Greenland's population are smaller than the demand. Only the Latin American "Buenos Aires" group were opposed. Monaco, Australia and Gabon abstained, and New Zealand voted yes, explaining that though it would have preferred abstaining, it wanted the issue settled. Interesting perhaps, if these 4 votes had been opposed, Greenland would have lost once again. It did not, and emerged triumphant.

The way in which Greenland obtained sanction for its objectives perfectly illustrates the way in which the IWC operates. Arms are twisted, deals are made, and the whales are pretty much left to fall by the wayside. Falling by the wayside is pretty much what is happening to the South Atlantic Whale Sanctuary, one again. The proposal, fleshed out in greater detail than ever, has been on the IWC table for more than 20 years. The logic behind its creation is irrefutable in that it would not only protect whales within a huge area of ocean that were once subject to the greatest exploitation in history, thus promoting recovery of decimated populations, but it would encourage and facilitate research, education and tourism in countries around its perimeter. The opposition is knee-jerk, a response to Japan's insistence that whales anywhere and everywhere must remain open to "sustainable use" regardless of their present circumstances. The language used by opponents invariably bears the same stamp: Japan. It will come as no surprise when the vote is held at this meeting if once again it fails to meet the  $\frac{3}{4}$  majority bar. This despite a meeting in Montevideo earlier this year at which numerous African governments opposed to the Sanctuary at the IWC signed on to a resolution supporting its creation. Go figure.

One more bizarre note. The report of the Scientific Committee was dealt with in a 20' slide show replete with "there is no time to discuss" comments by the Chair, Japan's Toshihide Kitakado. Previously, the report of this most essential arm of the Commission was explained piece by piece throughout the meeting, as agenda items were discussed. This time, the scientists' work was compressed such that it might as well have been garbage. The reports of the Committee exist of course, and are available to be read on the IWC web site, but if the casino next door offered the wager, I'd be willing to bet that few at this meeting have read it. Ignorance, they say, can be bliss.

by Paul Spong

September 15 2014



## **IWC 2014 Day Two: The Sound of Silence**

Day Two of IWC 65 began with a downsweep, quite possibly because last night's reception, hosted by the government of Slovenia was long and indulgent, great fun but with consequences that crept into the room this morning. Thought seemed slower, and after the ASW (Aboriginal Subsistence Whaling) agenda item was tidied and put to bed, somewhat vacant. The first clue came when the Chair opened the subject of

reviewing the Southern Ocean Sanctuary, a process that is supposed to happen every 10 years. The last review was in 2004, so it is time for another. Silence descended. Not one comment was forthcoming, causing the Chair to remark "I know it's early morning but I can't make decisions on my own." Eventually, the Chair did nudge some expressions of support for an Australian proposal, but it was hard slogging. Two NGO interventions regarding the proposed South Atlantic Sanctuary (pro and con) followed, signalling the Chair's intention to allow more civil society participation than hitherto. This small step may have large consequences down the line, as the IWC edges towards normalcy as an international organisation.

A potentially large step in this direction came with Monaco's presentation of its resolution on migratory species of cetaceans. This was first introduced in Panama two years ago but withdrawn because of evident lack of support. Like Greenland, Monaco did its homework in the intervening time and came back with a powerful presentation, pointing out that drastic changes have occurred in the world of whales, with more coming. The fact is that many times the number of cetaceans covered by the IWC are roaming the oceans, entirely without protection and increasingly facing environmental threats – marine debris, noise, entanglement, ship collisions, climate change to name a few. Other organisations such as the Convention on Biodiversity are working on some of the problems, and it is time for the IWC to ally with them. Monaco's dream is that the IWC will become a key player in the monitoring of all pelagic cetacean species, thus moving into an arena of international governance it has been reluctant to enter. A lot of what Monaco was talking about has to do with small cetaceans, so naturally there was pushback. Norway led the resistance by stating that many species of small cetaceans are not migratory; Monaco later refuted this claim. Japan backed Norway up by stating that small cetaceans are beyond the competence of the IWC and rather, a regional responsibility. Led by the EU, the room didn't buy the con arguments, and when Monaco's resolution came to a vote, it easily surpassed the 50% bar. In a sense, the IWC has now come of age, because it will increasingly participate in international fora. Thanks to Monaco, it

will come as no surprise if whales are being discussed at the United Nations within a few years.

The trickiest part of Day Two came with the introduction of New Zealand's resolution on whaling under special permit ("scientific" whaling). The Chair immediately admonished the room by stating that she did not want debate on the decision of the International Court of Justice at this point, but simply wanted New Zealand to introduce its resolution, with the debate following tomorrow morning. New Zealand did its best to comply, but was soon distracted by comments from Norway and Japan, who clearly don't want the Court's decision to change anything at the IWC. Eventually, New Zealand announced that it would hold a round table discussion at 6pm, to which all delegations who wanted to review its resolution were invited. Mid afternoon, that suggestion morphed into an end to the day's open business, and the meeting adjourned to New Zealand's round table. We will learn the outcome tomorrow.

Two other notes from Day Two. One further explains the title to this story.

Following the discussion on New Zealand's resolution, the Chair moved to the agenda item Future of the IWC. There were no comments, provoking an "apparently the IWC has no future" response from her that drew laughter. Then she moved on to Agenda Item 9, Status of Whale Stocks. Beginning with the Scientific Committee's report on Antarctic minke whales, then moving on to Southern Hemisphere humpback whales, Southern Hemisphere blue whales, Southern Hemisphere right whales, Western North Pacific gray whales, and others, her invitations for comment drew only blanks. Pausing in the silence after each species was named, she said "we extend our thanks to the Scientific Committee for their work." At one point she said "silence is golden". Then a little later after more blanks "I shall just ask the rapporteurs to duplicate my statement". I suppose one could be amused.

On a more positive track, the work of the Conservation Committee is increasingly gaining stature and recognition, such that its role is now secure. Its mandate includes work on a broad range of topics, from entanglement and marine debris, to noise, pollution, ship strikes and climate change. For the most part, the work is exciting and brings hope for the future of cetaceans. Clearly, the IWC is assuming a leading role in dealing with the broad range of urgent problems faced by cetaceans.

There is a down side to the Conservation Committee's work, however, as it is also responsible for welfare issues. This brings it directly into the zone of killing whales, from euthanasia to choices of weapons. Today's discussion was long and tedious, highlighted by Norway and Japan's continued refusal to provide data regarding time to death to the IWC. Japan's delegate bluntly stated his fear that such information could be used against whaling by people who love whales. He's right, of course, but imagination in the absence of knowledge can be a powerful tool too.

by Paul Spong

September 16, 2014



## **IWC 2014 Day Three: THE FINE ART OF HOLDING ONE'S NOSE**

There was some good news today. The "Safety at Sea" agenda item, which Japan routinely uses to bash Sea Shepherd and hitherto Greenpeace for opposing its "research" activities in the Antarctic, was dealt with in just 34 minutes. We're accustomed to it dragging on for hours, staving off sleep in a darkened room while slides and video are projected and the horrors of the latest protest are explained. Perhaps it was the

Chair's general admonition about brevity, or her warning about the consequences of repetition, but mercifully there was barely time to digest lunch before we were out of the Whale Wars and into Other Scientific Activities. This is not to say that the issue is trivial, rather that we've heard it all before and know what to expect. Japan will complain, the flag states (Netherlands and Australia) will explain that the IWC is not the proper forum for airing the complaint (it should be the International Maritime Organization) and New Zealand Australia and the USA will attempt to distribute the blame evenly. The whales are nowhere to be seen in this battle of giants.

For some unclear reason, this year's meeting is being held over just 4 rather than the customary 5 days, so there has been pressure to complete the agenda from the outset. Getting rid of the Scientific Committee's report in 20' was a good start, and things had been going along quite swimmingly on this benign Adriatic shore (with customary postponements of tricky items) until they came to a grinding halt post afternoon coffee break when the usually easy topic of Infractions came up. It suddenly became a big deal that the Commission had

failed to tidy up its rejection of Denmark's request on behalf of Greenland at the last meeting in Panama. That meeting was followed by business as usual in Greenland, where hundreds of whales were slaughtered without formal permission from the IWC. Given that Greenland got its way right out of the gate at this year's meeting, settling the issue for the next 4 years, it might have been easy to turn a blind



eye to the slip. But wait. What happened in Panama was the IWC saying NO followed by Greenland doing whatever it wanted. The broader implications of the situation were easy to grasp. A giant loophole has been created, in which a country denied a quota can just go ahead and kill whales anyway, with apparently no consequences. As of the end of today, there was no resolution to this conundrum, and how to handle it was pushed back to tomorrow.

Already, it is clear that time is running out. The list of items pushed back to tomorrow is long, with some of them being the most difficult and important issues IWC 65 has before it. At the head of the line is how to handle the ICJ (International Court of Justice) decision against Japan's "scientific" whaling in the Antarctic. From the language it has been using, Japan seems to think it actually won a victory at the ICJ. One gets the impression that Japan thinks it was given equal permission to kill and conserve whales by the IJC, and that it merely has to change the number II to III in its Antarctic research plan to proceed. There is a long lineup of delegations who beg to differ. New Zealand's resolution on special permit ("scientific") whaling pretty much must be dealt with tomorrow, and despite fiddling and arm twisting, attempts to find common ground have so far failed. It will be interesting to see what happens, because two forces are at work here. One is the urge to work things out, the other to stand and fight. New Zealand, which uses fighting words to make it clear that it is firmly on the side of whales, also revealed a disturbing weak side today. It is apparently quite content to allow the Maui dolphin to slip quietly into oblivion (biological extinction) by failing to take urgent actions to protect its habitat. Maui dolphins are being caught as "by-catch" in gill nets. Fewer than 50 of them remain, yet it possesses sufficient genetic diversity to have a good chance of recovery if it is fully protected. New Zealand claims to be trying, but cites the need to "balance a range of considerations, some of which are broader than those considered by the IWC" in designing its actions. What New Zealand is talking about are commercial interests – a gill net fishery, ocean mining, and oil and gas development. For shame.

Also a matter for national shame is Japan's response to the ICJ judgement. As mentioned, Japan is hard at work designing a new program to replace the discredited JARPA II in the belief that this will allow it to get back to business as usual. In the meantime, a tricky question about what to do with the data collected under a programme that has been declared illegal arises. A split occurred in the Scientific Committee when the Chair ordered (requested) it to conduct a review of JARPA II, with possibly a majority of the Committee refusing. That refusal took up a good chunk of time today, and the issue of how to deal with JARPA II data is still open. Odds are that it will be dealt with by a vote tomorrow, which Japan may well lose.

Tomorrow is going to tell us a lot about resolve and direction in this fragile body. Will Japan get its way and achieve its dream of opening up coastal whaling? Will JARPA II data become acceptable though tainted? Will New Zealand suddenly find room to accommodate Japan's desire to go back to the Antarctic and kill whales for "research" purposes? Will a majority of Commission members learn enough about the fine art of holding one's nose to get to the end of the day?

Stay tuned.

by Paul Spong  
Portoroz, Slovenia,  
September 17, 2014



## **IWC 2014 Day Four: THE BLOCKING MINORITY**

Several pertinent comments were made during the rush to complete the agenda of IWC 65 before delegates headed for the exit. My favourite is one Antigua and Barbuda's Commissioner Daven Joseph made after Japan once again failed to obtain a "small type coastal whaling" quota. Bluntly stating there was no way a South Atlantic

Sanctuary for whales would ever happen unless concessions were made, he said "We have a blocking minority". It was a revealing moment, putting into explicit words what we've known for a long time, that Japan's allies at the IWC, who for the most part are small developing nations, systematically vote as a bloc and deliberately foil the work of many nations that have only the best interests of whales and our planet's oceans at heart. It explained perfectly why the IWC's work has been hampered in so many ways for so many years. I also liked Australia's comment during the wrap up session in which the wording of the summary document was approved: "I wonder why there's no mention of the outcome of the vote on the Monaco resolution?". It turned out not to be quite true, but the fact was that this significant step forward for the IWC was buried in fine print and difficult to discern. It will be interesting to find out whether the Chair's promise to note Australia's comment and request will influence the layout of the final document. Australia wanted the highlights to be clear, with bullet points, and considered Monaco's resolution to be one of them. The Chair, despite her (for the most part) even-handed performance during the meeting is solidly on the whalers' side. Having cut verbose Commissioner Joseph off a couple of times during the meeting, she contributed a pretty good line herself in the closing moments when she joked: "My colleague from Antigua and Barbuda may not want to talk to me after the meeting".

Levity at the end of a predominantly dark week aside, the last day of this 65<sup>th</sup> meeting of the IWC did have outcomes that brought some grains of hope to whales. Despite the failure once again of the Buenos Aires Group (Latin American nations) to achieve their dream of a South

Atlantic Whale Sanctuary, they edged ever closer to their goal, this time with 69% support. That's close enough to  $\frac{3}{4}$  to warrant another couple of years' work in the Scientific Committee and Conservation Committee aimed at reinforcing the real benefits to science, education and economy that will flow to coastal communities in South America and Africa from a Sanctuary designation. The case was eloquently stated, almost as an aside, by a video presentation from Ecuador following the afternoon coffee 'n cake break. We were treated to scenes from a small Pacific coastal community that has been transformed from poverty into economic sustainability by the presence of humpback whales. The humpbacks return to local waters annually and have inspired a thriving whale watching industry. The people love whales, they can't stand the thought of killing them, and the more than 100,000 visitors who come each year have real money to spend. It's a win-win-win situation that could be duplicated again and again, including in the poor and developing nations that currently support Japan's intransigence. The world has moved on since the days before the Moratorium, as New Zealand and Australia are fond of pointing out. People love whales; so get with the programme.



In some ways, what is happening at the IWC parallels what is happening in the outside world regarding the Climate Crisis. There are those who understand perfectly what is happening to our planet's climate and how to deal with it; and there are the Deniers. Japan's bloc is in much the same position as Canada and Australia's prime ministers. With their head in the sand attitude, the blocking minority are letting the world pass them by. Unfortunately, in the meantime they are wasting real opportunities and causing real harm.

Certainly a highlight of the last day, and quite possibly the highlight of the meeting, was the passage of New Zealand's resolution on special permit ("scientific") whaling. The text had been debated and negotiated for days, apparently with some willingness to compromise on both sides, but in the end remained pretty much where it began. When the vote came, it garnered 64% support, far more than was needed to pass, and the NO votes included several countries who thought the resolution didn't go far enough. It will now be the job of the Scientific Committee to put in place a system for authorising permits for lethal ("scientific") whaling that meets the bar set by the International Court of Justice. Japan has one last kick at this can before new rules are set, in that it will host a meeting early in the new year, i.e. before

the next meeting of the Scientific Committee, to draft its new Antarctic “research” plan. If Japan fails to come up with a plan that satisfies the ICJ decision, it will lose the Antarctic big time. It’s really quite a gamble, but given that we are meeting next door to a casino, perhaps not all that surprising.

Two more encouraging notes, both thanks to Chile. “Civil Society” will play a bigger role in future meetings, bringing the IWC in line with other international organisations like CITES, where NGOs participate more, contribute significantly, and are respected. The Scientific Committee will also get a nudge in the direction of allocating more of its resources to conservation.

By the end of this last day of IWC 65, pretty much everyone had fallen under the benign spell of Slovenia’s lovely Adriatic coast, and there were smiles all round. Japan, which had lost on just about every front it fought on, walked off with the prize of Vice Chair, which will bring it to the head of the table four years from now. Only Iceland seemed intent on clinging to the gloom.

by Paul Spong  
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September 18, 2014