



International Whaling Commission

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CIRCULAR COMMUNICATION TO COMMISSIONERS AND CONTRACTING GOVERNMENTS

Supervision and Control - Schedule Text (IWC.CCG.2)

The Commissioner for the Netherlands, Mr. Fer von der Assen, wishes to remind Commissioners that:

“At the end of the discussion of the RMS at the Plenary Meeting in Monaco it was agreed that delegates wishing to provide comments on the draft revision of Chapter V of the Schedule entitled ‘Supervision and Control’, which was submitted to the RMS Working Group by the Government of Japan (IWC/49/RMS1), should send these to me before 1 December next. I would appreciate it if you could remind IWC member governments of this agreement. Any comments should preferably be in the form of concrete text proposals to:

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Please note that as from 1 December the telephone and fax numbers of my office will be changed. The new numbers are: telephone (+31) 70 3783921, fax (+31) 70 3786146.

Thank you for your cooperation.”

Enclosed with this Circular Communication for information is the *draft* text of the Chairman’s Report of the 49th Annual Meeting dealing with this matter [agenda items 12.1.1 and 12.3], and a copy of the paper prepared by Japan, IWC/49/RMS 1.

Dr. R. Gambell
Secretary to the Commission

12. REVISED MANAGEMENT SCHEME

12.1 Report of the Working Group on the Revised Management Scheme

The Working Group established following adoption of Resolution IWC 1996-6 last year combined the former groups on supervision and control, and abundance surveys and implementation of the RMS. It was chaired by Mr F. von der Assen (Netherlands).

12.1.1 Inspection and observation schemes

Japan summarised a paper it had prepared which not only took account of previous IWC discussions but also had been drafted in consultation with other whaling nations and with regard to other national inspection schemes and international observer schemes.

The Working Group recorded its appreciation and thanked Japan for this work which was a significant step forward. Several delegations suggested, however, that the Inspection and Observation Scheme needed to include a number of additional items including provisions to track whalemeat and whale products (such as DNA analysis); a review mechanism to ensure transparency; and provisions for the placement of impartial, international observers on all vessels and real-time reporting; and that the Commission consider the use of a vessel monitoring scheme, such as those currently used or being considered by other organisations such as the EU and CCAMLR. One delegation referred to its earlier comments about late introduction of new elements into the RMS and also stressed the need to ensure the confidentiality of such a monitoring scheme in order to protect fishing vessels.

There was strong support from some delegations to a proposal by one delegation that since commercial whaling was a profit-making operation like any other commercial business, the cost of regulation and inspection should be borne by the business conducting the whaling activity and not the IWC or the host country.

One delegation noted that the proposals would have to be adapted to reflect the specificities of various commercial operations.

It was agreed that further work should be undertaken on the basis of the Japanese proposal and comments provided by other parties at or after this meeting in order to produce a revised text as soon as possible. One delegation stressed the importance of setting a deadline, such as the next Annual Meeting in Oman, to complete the Inspection and Observation Scheme.

12.3 Action arising

The Netherlands suggested that, to overcome the difficulty of advancing the work on an Inspection and Observation Scheme during the intersessional period, it would welcome comments on the Japanese proposal before 1 December 1997. These would then be circulated to all Commissioners by the Secretary. The USA, Norway and Oman welcomed this as a constructive proposal, and Japan offered to keep in close contact with the Netherlands.

The attached document is a suggest draft for the revision of Chapter V of the Schedule 'Supervision and Control' prepared by the Government of Japan.

Kazuo Shima
IWC Commissioner for Japan

SECTION A: COMMON ELEMENTS FOR NATIONAL INSPECTION SCHEME FOR WHALING

A.1 Introduction

- (a) The aim of these regulations is to establish a standard of common elements which shall be a minimum requirement in national inspections schemes to be carried out by each Contracting Government under whose jurisdiction commercial whaling operations regulated under the Convention. Contracting Governments may include additional elements considered appropriate in relation to national laws and regulations for their specific commercial whaling activities.
- (b) The national authorities shall determine the extent of inspection within their own jurisdiction. The national inspectors shall be appointed and paid by the Contracting Government having jurisdiction over the vessels to be inspected and shall receive their instructions from their national authorities.
- (c) In this section of the Schedule, unless otherwise provided, 'whaling' means only commercial whaling operation regulated under the Convention.

A.2 Deployment

National inspection schemes shall include the following:

- (i) Each factory ship shall during the whaling season permanently deploy at least two national inspectors for the purpose of maintaining twenty-four hour inspection.
- (ii) Each catcher equipped to flense whales taken onboard shall during the whaling season permanently deploy at least one national inspector.
- (iii) National inspectors need not be appointed to ships which, apart from the storage of products, are used during the season solely for freezing or salting the meat and entrails of whales intended for human or animal food.
- (iv) Each land station shall during the whaling season permanently deploy at least one national inspector.

A.3 Duties and competence

National inspectors shall be authorised to check and ensure compliance with the provisions of the Convention and national regulatory measures so that they may demand changes and/or corrections related to non-compliance. Specifically inspectors shall

- (i) collect samples and record data in accordance with the provisions of the Convention and the national regulation;
- (ii) report to their national authorities on the inspection, especially on violations, and
- (iii) have access to the logbooks of the vessels and the right to communicate with the national authorities through the communication equipment of the vessel.

A.4 Satellite positioning system

Whaling vessels shall be equipped with an autonomous system able to transmit automatically satellite signals to a land-based receiving station permitting a continuous tracking of the position of the vessel by the Contracting Government.

The national inspector shall maintain this equipment and its records.

SECTION B: INTERNATIONAL OBSERVATION SCHEME

B.1 Introduction

The purpose of the international observer scheme is to provide a mechanism for IWC to monitor compliance with the regulations contained in the Convention pertaining to commercial whaling operations. For this purpose, the Commission may appoint observers to whaling vessels and land stations operated under the control of Contracting Governments.

B.2 Deployment

There may be maintained at maximum two IWC observers appointed by the Secretariat on each factory ship and at each land station engaged in commercial whaling operations regulated under the Convention. There may be maintained one observer on each catcher vessel equipped to flense whales taken on board.

B.3 Qualifications

- (a) Each IWC observer shall be will informed of the provisions of the Convention, the national regulatory measures of the country where he/she carries out his/her duties, and have the minimum of biological knowledge necessary to carry out the duties prescribed in the Schedule.
- (b) Each IWC observer must be able to communicate in the languages spoken in the country where he/she carries out his/her duties. On a factory ship and at a land station, an observer may use an interpreter. Where an interpreter is used, such person shall be included in the number of observer provided for in paragraph B.2 above.
- (c) No person included under any of the following items shall be registered as an observer by the Secretariat:
 - (i) persons who have been engaged in or paid by the whaling industry at any time during the previous 5 years;
 - (ii) persons who have publicly espoused an anti-whaling position or have been associated with the activities of organisations opposed to whaling;
 - (iii) persons convicted of any crime related to the interruption of the conduct of business, or an attempt to do damage to individuals, organisations, property or authorities involved in whaling operations conducted in accordance with the Convention.

B.4 Registration

Contracting Governments may recommend its nationals as candidates observers and interpreters. Individuals to serve as IWC observers as well as interpreters accompanying IWC observers shall be registered with the Secretariat in the following manner for a renewable period not exceeding 1 year.

- (i) Contracting Governments may submit a list of the candidates for the following year to the Secretariat by 15 November. Such list shall include information concerning the qualifications of candidates.
- (ii) The Secretariat shall, by 30 November, circulate a combined list of recommended candidates to member countries for approval. Contracting Governments may object to the appointment of any candidate, provided that such notification of objection shall be received by the Secretariat by 15 December and provided that such objections shall be based on the provisions of paragraph B.3.
- (iii) The Secretariat shall circulate the list of candidates approved by all Contracting Governments to the Commission by 31 December. Only those candidates approved by all Contracting Governments shall be appointed as observers.

B.5 Scope of observation and appointment

- (a) The Commission shall establish by consensus annual priorities for the scope of observation activities for the coming year, within the budget adopted by the Commission. The Secretariat shall be responsible for the practical administration and coordination of these activities.
- (b) Contracting Governments whose nationals intend to conduct whaling operations in the next whaling season shall give notice by 30 September to the Secretariat of the respective numbers of factory ships, catchers equipped to flense whales taken on board and land stations. The Secretariat shall appoint the number of observers in accordance with paragraph B.2 and shall by 31 January transmit to each Contracting Government the list of IWC observers appointed to observe the whaling operations under the jurisdiction of that country.
- (c) An individual shall not be appointed to observe in the country or on vessel registered in the country, of which he/she is a national or resident.
- (d) Neither the owner or the captain of a ship, nor the owner or the manager of a land station that is to be observed, can oppose observation by an observer appointed in accordance with the provisions of the Schedule and accepted by the country where the observation is to be carried out.

B.6 Standing of IWC observers

- (a) IWC observers are responsible to the Commission for the conduct of their duties described under the provisions of the Schedule, and can neither seek nor receive instructions from any other person, organisation or authority.
- (b) None of the provisions of this section permits IWC observers to have enforcement powers. Therefore it is forbidden for IWC observers to intervene in any matter associated with the operation of vessels and/or land stations or in any matter associated with the catch of whales.
- (c) The national authority and the inspectors shall, to the extent possible without hindering operations or the safety of crew, take appropriate measures to ensure the safety, freedom and dignity of the observer and shall to the extent possible cooperate with the observer so that the observer can fulfill his/her duties properly and efficiently.
- (d) Observers are required to obtain all necessary visas and immigration documents. Observers shall, prior to the commencement of duties, sign a waiver absolving the IWC, National Governments, vessel owners, operators and employees, land station owners, managers and employees of an liability for injury or loss due to any cause including accidents, except in the case of negligence.

B.7 Right and function

- (a) Each IWC observer shall carry out his/her duties subject to the national authorised provisions of the country where he/she carries out his/her duties, including the authorised mandate of the captain of the whaling vessel and the manager of the land station and the customs and order existing on the vessel and the land station.
- (b) IWC observers shall be permitted to check the following items:
 - (i) the information required in the provisions of Article VI of the Schedule;
 - (ii) licenses and other relevant certifications;
 - (iii) logbooks;
 - (iv) equipment used to catch and flense whales;
 - (v) rooms and space on vessels and within land stations used for whaling operations;
 - (vi) equipment and data referred to in A.4.

B.8 Report

- (a) IWC observer shall prepare a report of the observations carried out, and send it to the Secretariat, with a copy to the authorities of the country in which the observations have taken place.
- (b) The Secretariat shall prepare an annual report of the observation scheme, in which the implementation of the scheme is described for review by the Commission. Observer reports shall include a record of any violations, as well as other relevant comments and shall be in the form as agreed to by the Commission.
- (c) IWC observers shall report any violation of the regulations in a given area, and as soon as possible, send a report of such violations to the Secretariat, with a copy to the authorities in the country in question, as well as to the owners of the vessel or the manager of the land station in question. The captain, those in possession of the license, the manager and the national inspector, shall be given the opportunity in a special paragraph of the report, to record their comments.
- (d) Observer's reports shall be written in a language of the country where the observations were carried out, as well as in English. Comments of national inspectors, vessel captains or land station operators may be written in the language of choice.
- (e) Observers shall ensure confidentiality with respect to the conduct of their duties and their reports.

B.9 Interpreter

The provisions of paragraphs B3(c), B.5(d), B.6(a)(b)(c) and (d), B.7(a) apply also to interpreters accompanying IWC observers.

B.10 Costs

All costs related to the activities of the IWC observers shall be paid by the IWC unless other arrangements have been agreed to by the Commission and the country which sends the observer. When an IWC observer is accompanied by an interpreter, the salary and other necessary expenses of that interpreter shall be paid by the Contracting Government recommending the observer.

SECTION C: MEASURES TO ENSURE CATCH LIMITS ARE NOT EXCEEDED

C.1

For each stock for which a catch limit for commercial whaling is set in accordance with the Schedule;

- (i) in the case where only one Contracting Government gives notice as provided in B.5(b) of the Schedule, the Government shall develop and implement appropriate measures to ensure that the catch limit is not exceeded or,
- (ii) in the case where more than one Contracting Government has given notice as provided in B.5(b) of the Schedule, these Governments shall implement appropriate measures to ensure that the catch limit is not exceeded. Such measures shall include an agreement on national allocation of the catch limit. Information related to such measure shall be transmitted to the Secretariat prior to the commencement of whaling operations.