



## **OPENING STATEMENT TO THE 65<sup>TH</sup> MEETING OF THE INTERNATIONAL WHALING COMMISSION, SEPTEMBER 2014**

The International Whaling Commission (IWC) convenes for IWC 65 at a turning point in its history as an international treaty organization. In March 2014, the International Court of Justice (ICJ), established by the UN Charter in 1945, upheld a complaint brought by one IWC signatory against another, in a case that went to the heart of the International Convention on the Regulation of Whaling (ICRW) and its Article VIII special permit clause which allows a take of whales for scientific purposes. In its decision, the ICJ rejected arguments advanced in defense of a Southern Ocean whaling program, ruling that this program was not covered by article VIII and that the nation involved was in breach of its commitments as an ICRW signatory.

The ICJ decides disputes between countries with their consent and voluntary participation. If a nation agrees to participate in a proceeding, it is obligated to comply with the decision the court renders as part of its natural duty to respect the rule of law. However, the ICJ decision places a special burden upon other nations, including all those that are signatories to the ICRW. The ICJ effectively issued a cease and desist order, and provided guidance for future special permit applications, both of which the IWC member nations should heed. The ICRW was born in the same spirit of comity and acknowledgment of the rule of law that motivated the founding of the United Nations and the ICJ. It is the responsibility of the IWC and of all of the national delegations assembled for IWC 65 in Portorož, Slovenia, to honor the ICJ ruling.

Among other steps, the IWC should ensure that any special permit applications filed under the ICRW are compliant with the guidance of the ICJ. All such proposals should be fully assessed and concluded upon by the Commission with advice from the Scientific Committee. It is also imperative that the IWC reject any decisions or actions that misinterpret or undermine the ICJ ruling. Finally, the Commission's member nations should make a concerted effort to persuade any nation affected by this decision to respect the ICJ decision.

In the same vein, the member nations of the IWC should decline to support any proposals for whaling that would undercut or exploit exceptions to the IWC moratorium on commercial whaling. The category of Aboriginal Subsistence Whaling acknowledges the needs of those peoples with an established and enduring nutritional and cultural requirement for whale meat consumption. The Commission cannot and should not sanction the blurring of distinctions between commercial whaling and aboriginal subsistence whaling, lest it make a mockery of both the moratorium and the aboriginal exception itself. Yet proposals before the Commission this year threaten to produce this very result, and it is a matter of deep regret that the EU nations appear poised to let down their guard on an issue of core significance to the ICRW. The member nations should neither countenance the commercialization of aboriginal subsistence whaling, on the one hand, nor the aboriginalization of commercial whaling, on the other.

At this stage of the IWC's history, there is no doubt of its fundamental role in forging a conservation and welfare agenda for whales. The Commission has made excellent progress on welfare issues during the last several decades and this work should be built upon and expanded to the many human activities now impacting the welfare of cetaceans. One other of the IWC's superordinate achievements in recent years has been the articulation and pursuit of a true conservation agenda for whales. The Commission should take steps to strengthen its ability to fund and promote conservation science and research, which promises to become an ever-expanding part of the IWC's work. The open oceans of the world comprise a greater global commons and their future depends entirely upon effective international cooperation and governance. The IWC can and should play a primary role in efforts focusing on the health and protection of our oceans, and exert greater leadership in respect to the numerous threats that jeopardize cetaceans and other marine life. Oil spills, radioactive contamination, entanglement in fishing gear, marine debris, ship strikes, chemical and noise pollution, emerging diseases, and climate change are all threats to whales and other creatures -- individually, cumulatively and synergistically.

Several years ago, GEO-5, the Global Environmental Report of the United Nations Environment Program (UNEP), explicitly recognized the IWC as one of a number of international organizations whose purposes have evolved in accordance with changing attitudes. "The governance regime for whales has contributed to more sustainable practices and a change in mindsets, allowing a transition from predominantly consumptive exploitation of a natural resource (whaling) to non-consumptive use such as whale watching and related tourism." The IWC should further embrace this evolution, for there is little time to lose.