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WHALING COMMISSION

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## Circular Communication to Commissioners and Contracting Governments **IWC.CCG.1124**

### **IWC65: Discussion of material related to Special Permits, JARPAII and the outcome of the recent case at the International Court of Justice**

On 31 March 2014 the International Court of Justice provided its Judgement arising from the case 'Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)'.

Following the issuance of the Judgement, Commissioners and Contracting Governments will be aware of a proposal developed at the June 2014 meeting of the IWC Bureau<sup>1</sup>. The proposal was for the parties to the case to work intersessionally through their respective capitals to present the Commission with a joint document outlining the ICJ Judgement.

The parties to the case have since considered the proposal and have subsequently decided that the Court's own Judgement and the summary, which is not an official document, would be distributed.

Accordingly, the Judgement and the summary have been admitted to the list of documents for consideration at IWC65. Given the length of the Judgement and summary, I would encourage all Commissioners to familiarize themselves with these documents before the private commissioners meeting, so as to ensure informed and meaningful discourse.

For IWC65 the Government of Japan has requested an opportunity to make a presentation on the ICJ Judgement in order to draw attention of Commissioners and Contracting Governments to aspects of the ICJ Judgement which it considers to be of particular relevance.

Recognising the reduced time frame for the Commission meeting but noting the importance of the discussions on the ICJ outcomes I am suggesting the following approach:

- 1 Japan will make a presentation on the ICJ Judgement during the Private Meeting of Commissioners which will be held on Sunday 14 September 2014. The purpose of this presentation will be to allow for initial explanation and clarifications. The Government of Australia has reserved the right to make a presentation or observations at this time if it so wishes. New Zealand has also reserved its right to make some observations at this time.
- 2 New Zealand will introduce its draft Resolution entitled 'Whaling under Special Permit' under Item 6 – Resolutions – expected to be opened on Tuesday 16 September 2014 under the current draft of the plenary timetable for IWC65.

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<sup>1</sup> Chair's Report of the IWC Bureau Meeting held on 4 June 2014. See page 4.

- 3 The current draft of the plenary timetable for IWC65 devotes the majority of the entire morning session on Wednesday 17 September 2014 to discussion of Scientific Permits and Other Related Items. This will allow discussion of the ICJ Judgement and the Government of Japan has indicated it wishes to repeat a shorter version of its presentation from the Private Commissioner's Meeting. Again, the Governments of Australia and New Zealand have reserved the right to make presentations or observations at this time.

The morning session on 17 September will also provide opportunity for continuation of discussions on the Resolution entitled 'Whaling under Special Permit'.

Finally, Contracting Governments will have noted the annotations under Item 2 of the Provisional Agenda for IWC65 which recorded the Government of Australia's view that following the decision of the ICJ, consideration of JARPAII matters should not occur under Agenda Item 14 entitled 'Scientific Permits'.

Therefore, in consultation with the parties to the case, I have asked the Secretary to rename Item 14 to 'Scientific Permits and Other Related Items'. A revised version of the IWC65 annotated provisional agenda will shortly be uploaded to the IWC website.



Jeannine Compton-Antoine  
Chair, International Whaling Commission

C.C. Intergovernmental Organisation observers to the IWC

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