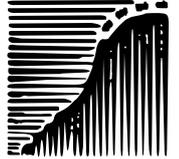


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landbouw, natuurbeheer
en visserij

uw brief van	uw kenmerk	ons kenmerk	datum
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Dear Ray,

Please find attached a composite text of the Draft Revision of Chapter V of the Schedule "Supervision and Control" prepared by the Government of Japan (IWC/49/RMS1), into which the comments I received have been incorporated to the extent possible. The letters containing the comments and the list of outstanding issues in relation to the RMS have been sent to you by separate mail.

The changes and additions resulting from the comments are underlined in the text and their origin has been indicated between brackets (e.g. ed = editorial; UK = United Kingdom, etc.). Alternative texts have been placed between square brackets.

Although some of the comments were made in the form of text proposals, most of them were not. I have inserted the latter proposals into the text where I thought they would fit best. Some of the proposals partly overlap and could probably be combined. However, having considered the various proposals, I thought it best to keep to the words in which they were put and not do any major editing until the substance has been discussed and hopefully decided on in Oman.

I trust that this text will provide sufficient material for useful debate and further progress.

Yours sincerely,

Fer von der Assen

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DRAFT REVISION OF CHAPTER V OF THE SCHEDULE “SUPERVISION AND CONTROL”

SECTION A: COMMON ELEMENTS FOR NATIONAL INSPECTION SCHEMES FOR WHALING (ed.)

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 inspection schemes to be carried out by each Contracting Government under whose jurisdiction commercial whaling operations are (ed.) 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:

- (a) In pelagic whaling: (Nor)
- (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.
- (b) In coastal whaling:
- (i) National inspectors remain permanently on board whaling vessels or at landing places during the hunting season, alternatively
 - (ii) National inspectors carry out random control of hunting vessels and landing places. (Nor)

A.3 Duties and competence

(a) National inspectors shall be authorized 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 regulations (ed.);
- (ii) record time to death for each whale taken (US);
- (iii) report to their national authorities on the inspection, especially on violations, and
- (iv) have access to the logbooks of the vessels and the right to communicate with the national authorities through the communication equipment of the vessel.

(b) Whaling countries shall maintain individualized DNA records for each whale taken. A copy of the unique DNA sequencing shall be forwarded to the IWC, together with a sample of the whale meat that can be used to confirm the DNA sequencing. (US)

[Proposal by NZ to provide for:

- DNA testing to track whale products through domestic and international markets;
- free access to DNA registries; and
- random surveys of markets by independent agencies.]

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.]

[Proposal by NZ that whaling vessels shall be equipped with satellite transponders automatically providing position fixes to the IWC Secretariat twice daily.]

[Proposal by UK to provide for automatic reporting to IWC (with appropriate safeguards) via satellite of whaling vessels positions.]

[Electronic monitoring systems

The national authorities develop and implement regulations for the electronic transmission of information to enable the controlling authorities to ascertain the vessel's position etc.

The regulations shall require the following types of reports:

- (i) Report of commencement of activity - report on time and place when leaving port or when weighing anchor

- (ii) Report of position - regular daily report on position
- (iii) Report of catch - report on the time and position of the catch, and subsequent treatment of catch
- (iv) Report of termination of activity - report on time and place when arriving at port or when anchoring.

On board all vessels conducting whaling operations an instrument must be installed for recording the specific activities during whaling, which can then be monitored after the return to port. (Nor)]

A.5 Registration of whaling vessels and land stations

Proposal by UK that all whaling vessels and approved land stations shall be registered with the IWC Secretariat ; whale meat and products only to be landed at registered land stations.

SECTION B: INTERNATIONAL OBSERVATION SCHEME

B.1 Introduction

The purpose of the international observer scheme is to provide a mechanism for the (ed.) 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.

[(a) In pelagic whaling there may(text unaltered)

(b) In coastal whaling observers may be maintained onboard a vessel if it has an inspector onboard and there is enough space, or on shore at landing places. (Nor)]

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

(US)]

B.3 Qualifications

(a) Each IWC observer shall be well 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.

[Proposal by UK to require that observers are able to communicate effectively with the officers of the vessel on which they are stationed.]

(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 antiwhaling position or have been associated with the activities of organizations opposed to whaling.

[Proposal by Austria, NZ and UK to bring this section into line with section (i).]

(iii) persons convicted of any crime related to the interruption of the conduct of business, or an attempt to do damage to individuals, organizations, 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 vessels 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, organization 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.
[Proposal by UK to allow for governments permitting IWC observers to help enforce national regulations.]
- (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.
[Proposal by UK to amend so that safety and freedom of the observer are not subordinated to the continuation of whaling operations]
- (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 land station owners, managers and employees of any 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 authorized provisions of the country where he/she carries out his/her duties, including the authorized 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:

_____ [IWC observers shall be permitted to check and document the following items _____ by appropriate means: (Austria)]

- (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.

[Proposal by UK to provide for:

- international observers to have powers to conduct spot checks on all land based whaling facilities and on all points in the wholesale/retail chain for whale products;
- records of vessel trips, landings and transshipments to be kept to verify catches and full records to be kept by land stations of all whales processed;
- full records of whale products to be kept at all stages of the marketing and distribution chain; consideration should be given to basing this on a DNA register.]

B.8 Report

(a) IWC observers 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.

[Proposal by NZ to provide for:

- real time reporting by observers to IWC of kills and possible infractions, and
- collection of other data relevant to IWC's work, e.g. times to death.]

[Proposal by UK to provide for:

- immediate reporting of any suspected infractions to IWC and relevant government;
- reporting of all strikes (including struck and lost) to the IWC on at least a daily basis;

- reporting of complete details of strikes, including times to death, number of harpoons, means of secondary killing.]

(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.

Proposal by NZ and US to provide for IWC panel for review of observers reports which includes non-governmental and governmental participants.

B.9 Interpreter

The provisions of paragraphs B.3(c), B.5(d), B.6~~(a)(b)(c)~~ and ~~(d)~~, (ed.) 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.

[All costs related to the activities of the IWC observers shall be paid by the Contracting Governments having jurisdiction over the vessels to be observed. (US)]

[Proposal by UK to provide that costs of the supervision and control scheme are borne by the whaling industry in countries with a commercial whaling quota.]

[Proposal by NZ to provide that all costs associated with an observation/inspection scheme should be borne by the whaling industry, including but not limited to:

- observer training, transport, accommodation and wages;
- administrative costs of review panel;
- deployment of satellite transponders on all whaling vessels;
- administrative costs of real-time reporting system at IWC Secretariat.]

SECTION C: MEASURES TO ENSURE CATCH LIMITS ARE NOT EXCEEDED

C.1

- (i) For each stock for which a catch limit for commercial whaling is set in accordance with the Schedule; in the case where only one Contracting Government gives notice as provided in paragraph B.5(b) of the Schedule (ed.), 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 paragraph B.5(b) of the Schedule (ed.), 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 measures shall be transmitted to the secretariat prior to the commencement of whaling operations.

UK comments that this element of the RMS goes beyond the Supervision and Control Scheme, which is intended to ensure that catch limits for commercial whaling are observed. It proposes various elements under this heading, which supposedly would form a separate part of the Schedule. (ref: letter of C.I. Llewelyn dated 2 December 1997)