

Annex R

Statements Concerning the South Atlantic Sanctuary

ANNEX R1. THE SOUTH ATLANTIC WHALE SANCTUARY: A TOOL FOR INTERNATIONAL SCIENTIFIC COOPERATION AND APPROPRIATE MANAGEMENT FOR WHALE RESOURCES

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This Annex summarises arguments in favour of the proposed South Atlantic Whale Sanctuary that are considered of relevance to the Scientific Committee of the IWC.

We will not dwell on aspects that are already well covered in IWC/53/7, other than to highlight the fact that the proposal has taken into account previous discussions, especially regarding appropriate boundaries and the usefulness of sanctuaries as a management tool with enough scientific arguments behind it.

If we glance at scientific publications from recent years, we will confirm that the South Atlantic Ocean has been the scene of growing scientific research. Apart from the continued effort of veteran scientists, and in particular we must refer to the extreme high quality work undertaken in South Africa, there is an entire new area being opened up in the western South Atlantic as Latin America progresses towards a better understanding – and better management – of its rich marine mammal heritage. Apart from a growing number of papers published in English language journals – the only ones, we have to regret, that are widely recognised outside our region – one must look at the richness of data emerging on South Atlantic cetacean species at regional scientific meetings, of which the Biennial Meeting of Latin American Marine Mammal Specialists is probably the most outstanding.

This growing preparedness of South Atlantic bordering nations to face the research challenges that lay ahead of us for adequate management of whale resources does not diminish, however, the magnitude of these challenges. Apart from what has been done in recent decades to assess breeding grounds for some of the more coastal-breeding species, both logistics and funding constraints have prevented recent scientific effort from being directed at answering more difficult questions, regarding for instance migratory routes, existence of offshore concentrations of some species, such as those captured historically in the so-called 'Brazil Banks' (one of the greatest questions yet to be answered about whale distribution in the Southern Hemisphere), and longitudinal movements that probably extend well beyond any national jurisdiction.

We would mention blue, Bryde's and sperm whales as classical if not at all exhaustive examples of whale species for which very little comprehensive data exist in the proposed Sanctuary area and which would benefit enormously from an expansion of research effort into wider areas.

Some of these research opportunities can only be tackled by organised international cooperation. While such cooperation indeed exists in the region at the level of different research groups, it can still benefit much further from cooperation promoted at the governmental level and with full involvement of the International Whaling Commission as a catalyst of such cooperation. We foresee the proposed Sanctuary as the appropriate framework for the enhancement of coordinated international research on whale species in the South Atlantic.

While we understand that political considerations are entirely outside the context of the Scientific Committee, we cannot ignore the fact that matters related to management policy have been raised in opposition to previous Sanctuary proposals in this forum. We would like to try to point out some very important issues that, in our view, may help to put the Brazilian proposal in its proper context.

We wish to highlight, first of all, that the research and management policy of Contracting Governments in the South Atlantic have clearly set a course for non-lethal research and for the optimum utilisation of whale resources through non-lethal means. Rather than diminishing the importance of the Scientific Committee's work in that context, it alerts us to the fact that many science-related issues currently being discussed here, such as environmental concerns, habitat degradation and whalewatching, are directly pertinent to management needs of these member nations. The proposed Sanctuary would both strengthen these sovereign policies for research and help such issues to be given proper consideration on a regional scale.

Second, it has been argued in past years that sanctuaries are irrelevant because they do not allow for the use of the Revised Management Procedure in determined regions. With all due respect to all the scientists working hard in the development of an acceptable RMP, and without prejudice to those governments who differ from us in this view, we think that the RMP is a tool designed for a policy framework that does not necessarily apply to all oceans and all nations. The RMP, beautifully designed as it may be in itself, does not stand for anything other than a presumably sustainable result in terms of catches of whales. South Atlantic Contracting Governments of this Commission have clearly indicated that managing commercial whaling *per se* is an insufficient management option, which ignores many other options and values that include non-lethal use and, as a vital part of it, scientific research. We think it is important that the

Committee itself recognise these differing views and detach itself from the false view that providing the Commission with a workable whaling framework and approving sanctuaries are mutually exclusive options. They are not, unless we have the presumption of imposing a one-party (and, in that, highly ideological) regime over the entirety of the world's oceans.

We are aware of the differing views regarding sanctuaries in this forum and we, of course, respect these views, but we

would fail in our mission as Committee members if we didn't bring to its attention the wealth of possibilities for scientific cooperation that the proposal may bring to fruition. Regardless of the outcome of the proposal itself, we are confident that our peers here will recognise such opportunities and help us develop the South Atlantic as a prime research ground where whale resources are adequately studied and protected through implementing a maximum sustainable non-lethal and perpetual yield of benefits.

ANNEX R2. REVIEW OF THE SCIENTIFIC VALIDITY OF THE PROPOSAL FOR A SOUTH ATLANTIC WHALE SANCTUARY

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Abstract

A whale sanctuary in the South Atlantic as proposed by Brazil (IWC/53/7) is unnecessary for whale conservation given the current moratorium on commercial whaling. Further, it undermines almost a decade of work by the Scientific Committee and the Commission to develop the risk-averse RMP. Once the RMP is implemented, it will only provide safe quotas for abundant stocks. This means that a sanctuary would be unnecessary and contrary to the purpose of the Convention even after the moratorium is no longer in place. Further, the proposal is based on inaccurate or erroneous assumptions and generalisations. Most importantly, the proposal is contrary to Article V (2) of the International Convention for the Regulation of Whaling (ICRW) since it ignores the fact that the stock status of some of the large whale species is well above exploitable level and since the proposal does not show the scientific evidence for the stock status of whale resources in the South Atlantic. The proposal also negates the principle of sustainable utilisation of resources that has now become broadly accepted as the world standard. The proposed sanctuary therefore has no scientific basis and no scientific benefits.

Introduction

The Government of Brazil has proposed a South Atlantic whale sanctuary (IWC/53/7). This paper presents a review of the scientific validity of the proposal highlighting in particular erroneous assumptions and generalisations upon which the proposal is based.

Erroneous assumptions

- (1) The first objective of this proposal is 'to stimulate research in the region.' However the establishment of a sanctuary in the region has no relation to the stimulation of research rather, it may diminish the incentive for research, as shown in the Indian Ocean Sanctuary. On the contrary, the use of whale resources necessitates a wide variety of information, such as stock structure, abundance, survival rate etc., which fosters research activities. In addition, long-term research is always possible without establishing a sanctuary.
- (2) The second objective of this proposal is 'to promote the conservation of large whales'. This statement is quite misleading and wrong. There is no evidence that all of the great whales were depleted (the proposal does not show any evidence). The total abundance of minke

whale which the Scientific Committee 'chose to use' for the Comprehensive Assessment was 761,000 in 1990 (IWC, 1991, p.51) and the minke whale was not regarded as 'depleted' under any criteria. Most stocks of the Bryde's whale have not been exploited fully in the Southern Hemisphere (Ohsumi, 1980), and the IWC has classified them into the Initial Management Stocks. Furthermore, whale stocks in the Southern Hemisphere are already protected by the moratorium at present, and depleted stocks will be protected by the RMP/RMS in future. The breeding areas are not open for whaling under the RMP/RMS. Therefore conservation of whale stocks does not require the sanctuary. The sanctuary is an unnecessary duplication of conservation measures.

- (3) Two papers were presented at the 45th Scientific Committee meeting in order to evaluate the Southern Ocean Sanctuary (Butterworth and Punt, 1994; Butterworth and De Oliveira, 1994). The points raised in these papers are very relevant to the proposal for the South Atlantic Sanctuary. The Committee should refer to these documents when considering the proposal.
- (4) Last year, in the Scientific Committee's review of the proposal for a sanctuary in the South Pacific, a number of points were put forward for consideration. These included: the fact that the proposed sanctuary made no distinction between species and stocks that are depleted and vulnerable and those that are large and apparently not threatened; that the proposal made no distinction between areas that might be of significance to the species and those that are of lesser or no importance; that the proposal did not specify which threats to the conservation of whale stocks it was addressed and how it was going to be effective. The current proposal for a sanctuary in the South Atlantic is similarly deficient. The author of these comments on the proposed South Pacific sanctuary noted that sanctuaries can only play an important role in conservation if they are realistic and practical. The current proposal by Brazil does not meet these criteria.

Article V of the ICRW

The Article V(1) of the ICRW provides that 'The Commission may amend from time to time the provisions of the Schedule by adopting regulations with respect to the conservation and utilisation of whale resources ...' and that such regulations may include the designation of sanctuary areas.

¹ Associated with Walløe, Diake, Hyram, Forde, Lawrence, Rennie, Vikingsson, Simmonds, J., and Hester.

However, the proposal contains a major error of omission since it fails to note that Article V(2) requires that such regulations,

(a) shall be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilisation of the whale resources; (b) shall be based on scientific findings; (c) shall not involve restrictions on the number or nationality of factory ships or land stations, nor allocate specific quotas to any factory ship or land station or to any group of factory ships or land stations; and (d) shall take into consideration the interest of the consumers of whale products and the whaling industry.

It is important to emphasise that these conditions are obligatory since the word 'shall' is used and that clearly the proposed sanctuary does not meet these conditions particularly since it would apply irrespective of the status of whale stocks. This and other legal arguments against the sanctuary have been submitted to the Commission with respect to the Southern Ocean Sanctuary and the proposed South Pacific Sanctuary (see e.g. IWC/52/23). These arguments apply equally to the proposed sanctuary for the South Atlantic. In summary, adoption of sanctuaries that do not meet the criteria of Article V(2) of the ICRW is beyond the mandate of the IWC and illegal.

Contradiction with sustainable use

- (1) The sustainable utilisation of resources is now broadly recognised as the world standard. Sustainable lethal utilisation is consistent with the conservation of biodiversity and the precautionary principle. In fact, the sustainable lethal utilisation of whale resources in the South Atlantic could help to conserve biodiversity by maintaining a balance within the ecosystem. The proposal for a sanctuary in the South Atlantic wrongly assumes sustainable lethal utilisation of whales is incompatible with the conservation of biodiversity and the precautionary principle.
- (2) Overprotection of certain species including whales could even damage the marine ecosystem and human activities which rely on the good balance within the ecosystem. Increasing incidents of competition between marine mammals and fisheries are being reported from many parts of the world and the South Atlantic is no exception. This aspect is very important because many coastal communities surrounding the South Atlantic, including the western African countries are heavily dependant on fisheries for their subsistence and development. This issue is now widely recognised by the international community as shown by the results of the FAO Fisheries Committee and its Council.
- (3) The proposal ignores the fact that the RMP is itself an application of the precautionary approach and that it specifically precludes commercial whaling in breeding areas. The sanctuary would in reality therefore only be a restriction for small scale subsistence whaling in coastal waters.
- (4) The establishment of the sanctuary would make it completely impossible to realise the sustainable utilisation of whale resources in the area. It is therefore in direct contradiction with the ICRW whose objective is 'to provide for the proper conservation of whale stocks and thus makes possible the orderly development of the whale industry.' Appropriate measures should be applied to depleted stocks, while the stocks above the exploitable level should be utilised sustainably.
- (5) Finally, the third objective of this proposal is 'to develop the sustainable and non-lethal economic use of whales for the benefit of coastal communities, through

ecotourism and educational activities such as whalewatching'. Four points are relevant to this statement. Firstly, whalewatching and lethal sustainable use are not mutually exclusive and in fact they co-exist in many places in the world. Secondly, the existence of whalewatching in a number of countries clearly shows that a sanctuary is not required for the successful operation of the whalewatching industry. Thirdly, whalewatching can be developed only when certain geographical and economic conditions (e.g. close to whale migration area, availability of hotel, transportations, etc.) are satisfied, and it is wrong to assume that every whaling activity can be replaced by whalewatching. Further, most whalewatching activities occur close to shore whereas the proposed sanctuary includes large areas that would be outside of the areas where whalewatching operations would occur. Fourthly, previously published estimates of the economic benefits of whalewatching have been shown to be grossly overestimated because of the use of faulty methodology as demonstrated by a bioeconomic and social-economic analysis of whale watching presented to this years meeting of the Scientific Committee. The analysis also demonstrates that the economic returns from whale resources can be maximised by retaining a whale hunting option for cases where resource populations rise above that necessary for conservation or tourism activities (SC/53/WW8).

Summary

In summary, the proposed sanctuary for the South Atlantic:

(a) is based on erroneous assumptions; (b) has no scientific basis; (c) it is not required for conservation reasons (d) it undermines the work of the Scientific Committee and the Commission to develop and implement the RMP; (e) makes no distinction between species and stocks that are depleted and vulnerable and those that are large and not threatened; (f) makes no distinction between areas that might be of significance to the species and those that are of lesser or no importance; (g) it does not contribute to the conservation of biodiversity and rational utilisation of the ecosystem in the ocean; (h) does not specify which threats to the conservation of whale stocks it was addressed and how it was going to be effective; (i) ignores the requirements of Article V(2) of the ICRW; (j) would not necessarily increase whale research in the area; (k) is contrary to the broadly accepted principles of sustainable use and; (l) unnecessarily eliminates the economic benefits of whale hunting.

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ANNEX R3. COMMENTS ON THE SOUTH ATLANTIC WHALE SANCTUARY PROPOSAL

S. Childerhouse, P. Berggren, M. Brown, R.L. Brownell, C. Carlson, J. Cooke, P. Deimer, M. Donoghue, K.-H. Kock, C. Fortuna, G. Lauriano, R. Leaper, G. Lento, T. Lyrholm and M. Simmonds

The Committee has been asked to comment on the scientific aspects of the proposal submitted by the Government of Brazil to the Commission this year to create a Sanctuary for great whales in the South Atlantic (IWC/53/7). Ten species are known to occur within the proposed sanctuary area: blue, humpback, sperm, southern right, fin, sei, Antarctic minke, dwarf minke, Bryde's and pygmy right whale. All of these, except the pygmy right whale have been harvested commercially at some stage, and most populations are considerably depleted. Over two million whales were killed in the Southern Hemisphere last century, and extensive catches were taken in the South Atlantic.

The proposed South Atlantic Sanctuary will provide protection for the full range of whale populations whose summer range lies within the existing Southern Ocean Sanctuary, thereby allowing populations to recover to pre-exploitation levels. The protection of the complete range of populations will enable long-term scientific monitoring of the recovery of depleted whale populations to their carrying capacity, leading to a better understanding of whale

population dynamics, and its interaction with environmental constraints, including the nature of the density-dependence in life history parameters.

For example, continuation under a regime of full protection, of the existing 30-year time series of demographic data for the right whale population in the southwest Atlantic, obtained exclusively by non-lethal means, will eventually provide a complete time series of demographic data in a population recovering from extremely low abundance.

The use of non-lethal methods is particularly important in this monitoring, because it enables the reproductive history of individuals to be monitored through their lifetime, which is essential for understanding how population-level processes are manifested at the individual level.

Scientists in the region have emphasised the importance of a South Atlantic whale sanctuary in order to foster long-term multi-national and interdisciplinary research collaborations throughout the region.
