



# The Antarctic and Southern Ocean Coalition

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## Protecting the Southern Ocean Sanctuary ASOC Opening Statement to the IWC Santiago, Chile June 23-27, 2008

### I. Overview

The Antarctic and Southern Ocean Coalition (ASOC)<sup>1</sup> submits that it is timely for the International Whaling Commission (IWC) to take a fresh look at the realities facing the Southern Ocean Whale Sanctuary (SOWS), and to consider additional steps that will help protect the Sanctuary's integrity. In preparing this statement we have drawn upon relevant historical steps, which are elucidated in an Annex, summarized below.<sup>2</sup>

A significant shift by governments and international organizations is needed to fund the sorts of research called for in this paper. To this end, ASOC welcomes the call by the Government of Australia, first expressed at the March 2008 IWC Intersessional Meeting in London, for the launch of a cooperative, long-term, non-lethal international research effort, provisionally called the Southern Ocean Whale Research Partnership. ASOC calls on Parties to the International Convention for the Regulation of Whaling (ICRW), Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), the Antarctic Treaty and its Protocol on Environmental Protection, and other international bodies to adjust their collective marine research priorities for the Southern Ocean to take full account of the international community's long-term duty of care towards the Southern Ocean Whale Sanctuary and the whales in it.

For all of the reasons set out in this paper, ASOC calls upon the Commission to end pseudo-scientific commercial whaling activities in the Southern Ocean, and to act on the following four Recommendations, which will help ensure the full integrity of the Southern Ocean Whale Sanctuary.

### II. Recommendations

1. The IWC should instruct its Scientific Committee to arrange for the preparation of a comprehensive, non-lethal and long-term programme of research to (a) study and monitor the changes in the Southern Ocean ecosystem as they may affect whales and (b) to track the expected recovery of whale populations and the Antarctic ecosystem structure and properties since the 1982 decision setting all commercial whaling catch limits to zero for an indefinite time (the "moratorium") and the designation of the Southern Ocean as a sanctuary in 1994. This programme should take into account relevant research continuing outside the orbit of the IWC; should invite international organizations that have in the past contributed to the Commission's efforts towards the conservation of whales, including but not limited to UNEP, FAO and the World Conservation Union (IUCN), to participate<sup>3</sup>; and steps should be taken by Parties to ensure that adequate funding is made available for this.

<sup>1</sup> ASOC is an IRS Section 501(c)(3) environmental organization incorporated in Washington, DC, which has had expert-observer status to the Antarctic Treaty Consultative Meeting and the Convention on the Conservation of Antarctic Marine Living Resources for many years. ASOC also has observer status to the Agreement on Conservation of Albatross and Petrels. Thirty-one environmental organizations around the world are dues-paying members of ASOC. ASOC's governance documents and information papers may be found at [www.asoc.org](http://www.asoc.org).

<sup>2</sup> ASOC is grateful to Dr. Sidney Holt for his research and assistance in preparing this paper.

<sup>3</sup> ASOC suggests that these organizations be asked to resume their participation in meetings of the Commission and its subsidiary bodies and their cooperation in its work, and in particular to advise the Commission on aspects of the ecosystem approach to management of human activities in the Southern Ocean.

2. The IWC should urge its members not to issue further Special Permits for the taking of whales under Article VIII of the ICRW. Furthermore, the IWC should (a) request Governments which have undertaken Special Permit programs to make fully and freely available all scientific data obtained from these activities, and (b) instruct its Scientific Committee to engage in a cooperative assessment of the scientific findings from those data.
3. The IWC should agree to take the necessary actions to draw up a management plan for the SOWS. In this context, the IWC should begin cooperating with (a) International Maritime Organization (IMO) and the relevant instruments of the Antarctic Treaty in assessing the pollution effects of pelagic whaling operations on the Southern Ocean and especially on the IMO Special Area south of 60 degrees south latitude; (b) Parties to the Convention on Biological Diversity (CBD) and CCAMLR in evaluating the impacts of past whaling on the biodiversity of the Southern Ocean; (c) the Secretary of the Convention on Migratory Species (CMS) with the aim of bringing forward to the ICRW and CCAMLR Parties proposals regarding the conservation of Southern Ocean cetacean species, practically all of which are designated in the UNCLOS as "Highly Migratory Species", and particularly those for which the IWC as a whole has not accepted regulatory responsibility; (d) the Intergovernmental Oceanographic Commission (IOC) of UNESCO, which should be invited to provide the IWC with a summary of the present state of knowledge of the changing physical and biological oceanography of the Southern Ocean, particularly as it may affect cetaceans and their conservation.
4. The IWC should invite the international organizations and national authorities engaged in research on climate change, especially in polar regions, and the interpretation of its consequences for human life and natural ecosystems, to include in their studies, reports and advice information regarding cetaceans and their conservation.

## **Executive Summary of Annex**

In the years prior to the IWC's historic 1982 decision setting all commercial catch limits to zero for an indefinite time (the "moratorium"), the Commission had already put in place a number of important protection measures, among which the setting of individual zero catch limits, over time, for all the large baleen whales in the Southern Hemisphere, a moratorium of indefinite duration on the catching of sperm whales, and a prohibition on pelagic whaling (i.e., whaling using factory ships accompanied by catcher boats) for all species and stocks except the minke whale. Thus the direct effect of the 1982 decision, as far as the Southern Ocean was concerned, was to set zero catch limits for the minke whale throughout the Southern Hemisphere, and to confirm all of the existing zero catch limits for the other species.

One of the main reasons for the 1982 decision was to allow the depleted species and populations an opportunity to recover, not only in terms of their abundance but also to permit them eventually to reassume a more robust and natural age and sex composition. This was further reinforced by the IWC's subsequent decision, in 1994, to establish the Southern Ocean Whale Sanctuary (SOWS), covering the summer feeding grounds of an estimated 80-90% of the world's whales. The rationale for creation of the SOWS included several elements, perhaps most importantly the need for long-term protection of all the whale species for which the IWC has acknowledged conservation responsibility (especially in the context of the development of the Revised Management Procedure (RMP) within the IWC's Scientific Committee in the early 1990s). However, in contrast to the 1982 decision, the SOWS proposal included the concept of ecosystem restoration, with a view to healing the deeply wounded Southern Ocean ecosystem as a whole. While some whale species and populations appear to be increasing under protection it remains unclear to what extent the Southern Ocean ecosystem might return to anything like its bio-diverse and biologically productive state before "modern whaling" began in the early 20<sup>th</sup> century. For a number of IWC members the SOWS was also part and parcel of a strategy of protecting the precious and unique Antarctic region as a whole. It was furthermore hoped that the creation of the sanctuary would encourage long-term non-lethal research on these populations, of a type and on a scale that had not been supported by Commission members until then. Since the 1982 decision came into force, however, government funding of research on the status of whales in the

Southern Ocean has been largely directed to studies related to the possible resumption of commercial whaling on particular species.

While it is the IWC's duty to monitor the consequences of its own decisions, prime among them the landmark decisions of 1982 and 1994, a unique opportunity to do so in the Southern Ocean has been lost by the IWC's failure so far to organize long-term surveillance of the region. The IWC's Scientific Committee now has no accepted estimate even of the approximate number of Southern Hemisphere minke whales. ASOC finds it remarkable that no attempt has yet been made by the IWC to estimate the numbers of the other baleen whale species from the second and third circumpolar sighting series conducted as part of the IWC's IDCR.

The research conducted in the Antarctic over the last two decades under Article VIII of the ICRW has involved the killing of nearly ten thousand minke whales and 13 fin whales. The majority of the IWC's Scientific Committee, and the Commission itself, have repeatedly said that this "scientific whaling" has contributed little or nothing either to information needed for proper management of any renewed whaling under Article V of the ICRW or to better scientific knowledge about whales in general. In particular, **reviews carried out by the Scientific Committee have shown unequivocally that the JARPA (Japanese Whale Research Program under special permit in the Antarctic) programme has failed to attain any of its originally stated objectives, such as estimation of the natural mortality rate of minke whales and the nature of interactions among baleen whale species.**

As the Annex shows, **at no time in the negotiation of the ICRW 1946 or even of the legal instruments that preceded it was it contemplated that the provision allowing permits to be issued for the taking of some whales outside the normal rules governing whaling would be utilized for the conduct of large-scale whaling, and still less that it would be used, as now, to provide funds for research on whales by sale of the products obtained from the "samples". It has also become obvious now, if it was not earlier, that the scale and type of current whaling under Article VIII of the ICRW is mainly determined by commercial and operational considerations, not scientific ones.**

Analysis of the composition of the minke whales taken pursuant to JARPA (contained in Section 4.3 of the Annex) reveals that **it is not sufficient to assess the effects of Article VIII whaling merely in terms of the numbers of animals removed, as has been the IWC's practice. The taking of large numbers of immature, juvenile animals in what is in fact full-scale whaling for commercial purposes (including the purpose of raising funds for further research), practically nullifies the protective regulations not only of the IWC but even those made by whaling companies early in the 20<sup>th</sup> century.**

ASOC is also concerned by the pollution of the Southern Ocean arising from the large quantities of organic waste that are regularly dumped into Antarctic waters each year by Special Permit expeditions. For example, fragmentary information in reports from the 2005/06 whaling operations show that the amount of waste material dumped during that season totaled about 2300 tonnes, derived from 853 minke whales and ten fin whales. These residues are routinely thrown overboard while the vessel is moving through Antarctic waters, usually south of 60°S latitude. **This form of continuous pollution of the high seas is contrary to IMO and Antarctic Treaty guidelines and provisions; it is not reported to any international authority.**<sup>4</sup>

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<sup>4</sup> Within the "Special Area" designated in 1990 by IMO under Annex V of MARPOL 73/78, the disposal, at sea or on shore, of garbage from ships is banned. Furthermore, ASOC calls attention to the fact that the *Nisshin Maru* must refuel each year during the whaling season, and it does so with the help of an auxiliary transport vessel. During this procedure, fuel is transferred by hose from the auxiliary vessel to the factory ship. In the most recent season (2007/08) three such transfers were observed taking place in the Antarctic south of 60°S. With the recent increases in the numbers and species of whales killed under Special Permits it has become necessary for frozen meat to be off-loaded in mid-season, at sea, to a chartered refrigerated transport vessel (which is also the auxiliary vessel used for refueling), one flying a flag of convenience. This is another potential source of accidents and incidents in the Southern Ocean related to whaling activities.