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MAY 1999

NOTES & COMMENT

## Flouting the Convention



*The ongoing campaign to ban all commercial whaling is driven by politics rather than science, and is setting a terrible precedent*

by [William Aron](#), [William Burke](#), and [Milton Freeman](#)

*(The online version of this article appears in two parts. [Click here to go to part two.](#))*

THIS month the [International Whaling Commission](#) will hold its [fifty-first annual meeting](#), in Grenada. Once again pro- and anti-whaling forces will barrage the

commission and each other with press releases, angry denunciations, and publicity stunts. Once again politics will drown out science and will push the commission into a state of posturing irrelevancy. And once again the result will be a disservice to the people who whale, to the commission itself, and, most troubling, to international environmental law and sound resource management. Indeed, the continuing dysfunction of the IWC -- one of the most prominent conservation groups in the world -- should worry everybody who has concerns about preserving our natural heritage.

Discuss this article in **Post & Riposte**.

More on **politics & society** in *The Atlantic Monthly* and *Atlantic Unbound*.

**From the archives:**

**"To Whale or Not to Whale,"**  
by **Mark Derr**  
(October, 1997)

A controversy over subsistence and commercial hunting threatens to tear apart the International

In 1946 a fifteen-year effort by whaling nations to exert multilateral control over the whaling industry finally produced the International Convention for the Regulation of Whaling, the fundamental purpose of which was "to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry." The convention established the fourteen-nation IWC, which was empowered to regulate the industry but was granted no authority to amend the convention itself. In adopting, revising, or terminating regulations the IWC is required always to follow the convention's intent -- namely, as explicitly stated in Article V, "to provide for the conservation, development, and optimum utilization of the whale resources," taking into consideration "the interests of the consumers of whale products and the whaling industry." Simply put, no possible interpretation of the

Whaling Commission and worsen the problem of illegal whaling.

convention allows for putting an end to whaling when credible scientific opinion supports the sustainable use of abundant whale resources.

**"Empowering Species," by Charles C. Mann and Mark L. Plummer (February, 1995)**

The Endangered Species Act, in the view of its opponents, threatens to wreck our very economy. Proponents declare the law inadequately enforced and demand that its protections be extended. Is there a way to make the law more responsive to both sides?

The IWC started off badly. For nearly thirty years after its inception it tolerated whaling at unsustainable levels. Many of the largest species declined so precipitously that in 1972 the United States began calling for a ten-year moratorium on all commercial whaling. The proposal was intended to shock the IWC into getting its house in order -- that is, putting into effect a management system that would both maintain the whaling industry and allow whale populations to recover. When the moratorium was voted down in 1972 and 1973, activists threatened to boycott goods from whaling nations; targets included Russian vodka, Japanese cameras and TV sets, and Norwegian and Icelandic fish products. The whaling industry was forced to compromise.

**"The Butterfly Problem," by Charles C. Mann and Mark L. Plummer (January, 1992)**  
The Endangered Species Act

In 1974 the IWC endorsed the New Management Procedure -- an Australian plan, with strong backing from the United States, that essentially banned whaling of all overexploited stocks but permitted commercial catches of abundant stocks at levels that would not threaten their existence. The plan satisfied the IWC Scientific Committee, most of whose members had objected both to the excessive size of the earlier whale quotas and to the idea of a moratorium on commercial

insists that we attempt to save every threatened species. This inflexibility, the authors say, has now become economically untenable.

**"The Destruction of Dolphins," by Kenneth Brower (July, 1989)**

In spite of laws intended to protect them, federal indifference and cruel fishing methods once again endanger dolphins.

**See an index of Atlantic articles about the environment.**

**Related links:**

**International Convention for the Regulation of Whaling**

The full text of the 1946 convention. Posted by the

whaling, which they also viewed as excessive. The NMP took effect in the 1975-1976 whaling season. Since then not one whale population has been jeopardized by a commercial whaling operation.

Such success was not enough for the anti-whaling forces, however, who seized on the fact that the NMP called for scientific data, such as abundance estimates, growth rates, and identification of regional stocks, that were difficult to obtain with precision. Most of the Scientific Committee believed that the gaps in data were not important enough to stop controlled whaling. But the United States and other anti-whaling countries, urged on by the emerging animal-rights movement, tipped the scales in their own favor by recruiting additional nonwhaling nations to the commission -- increasing its membership from the original fourteen to forty. (Any nation can accept the 1946 convention and become an equal voting member of the IWC.) Citing the alleged data-collection problems, the newly inflated IWC passed a moratorium on all commercial whaling in 1982. The vote for this moratorium marked a significant change: instead of trying to force the IWC to comply with the convention and support only sustainable whaling, the anti-whaling majority was trying to force the commission to flout it.

In a small compromise that has turned out to be an empty gesture, anti-whaling nations asked the Scientific Committee to undertake

International Whaling Commission.

**World Council of Whalers**

News, essays, and general information geared toward those involved in the whaling industry.

**The High North Alliance**

"The High North Alliance's objective is to defend the right of coastal communities to utilize marine mammals sustainably." Features news, links, and a comprehensive collection of articles, including a section devoted specifically to articles discussing the International Whaling Convention.

**Some anti-whaling sites:**

a comprehensive assessment of whale stocks by 1990 -- at which time the IWC was to reconsider the fate of the moratorium. The committee was also asked to develop an up-to-date replacement for the NMP. The result was the Revised Management Procedure, completed in 1993, which permitted whaling only if impartial systematic surveys had determined that an individual stock was not in danger. When the commission resisted even this modest plan for sustainable whaling, the chairman of the Scientific Committee quit.

In 1994 the RMP -- a risk-averse successor to a management scheme that had already proved successful by terminating the harvest of all whales in jeopardy -- was accepted in principle by the commission. In practice, however, the IWC has yet to allow a return to commercial whaling; instead it has deliberately dragged out negotiations over monitoring and enforcing the RMP. By focusing on increasingly arcane questions of logistics, costs, and methodology, each needing lengthy debate, the anti-whaling majority has successfully pushed the target for the whaling nations ever further into the future -- a procedure that has been likened to moving the goal posts.

The cause of this charade is obvious: a majority of the IWC wants to halt all commercial whaling, no matter what the convention says. Indeed, Australia, Great Britain, New Zealand, and the United States -- and, more recently, Austria and Italy --

**Greenpeace****Sea Shepherd Society****Whales on the Net****West Coast Anti-whaling Society**

have explicitly stated that they will not approve commercial whaling under any conditions. In 1991 the Australian commissioner stated flatly that there was no longer any need to hunt "such large and beautiful animals" for food. Conceding that no scientific reason exists to ban all whaling, the U.S. commissioner announced in 1991 that he would defend the U.S. position on ethical grounds.

Such an approach, based on moral judgments rather than science, plainly violates both the convention and the international rule of law. And because anti-whaling activists will accept nothing less than a total ban, they leave no room for good-faith negotiation and compromise. The whaling industry will not cooperate in its own elimination, nor will the governments of whaling nations permit their citizens to be victimized. As a result, scientists, whalers, and activists are locked in a never-ending battle. The bitter standoff violates international law, fosters tensions between otherwise friendly nations, and undermines environmental legislation. Worst of all, the cynical actions of the IWC's anti-whaling majority constitute a clear warning to all nations engaged in negotiating multilateral environmental agreements: Beware, for the United States and its allies may suddenly adopt new interpretations of long-standing principles, and use them against you. Even if you accept treaties, these countries may (for purely domestic reasons) apply sanctions



against you for actions fully in compliance with those treaties.

**Continued...**

*The online version of this article appears in two parts. Click here to go to part two.*

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Illustration by Philip Anderson

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