CONSIDERATION OF PROPOSALS FOR AMENDMENT OF APPENDICES I AND II

A. Proposal

Proposal from Japan to transfer northern hemisphere stocks of Minke Whales, *Balaenoptera acutorostrata,* (except the Yellow Sea, East China Sea and Sea of Japan stock) from Appendix I to Appendix II with an annotation and export quotas to meet the precautionary measures of Annex 4 of Resolution Conf. 9.24.

NOTES:

1. This proposal incorporates specific provisions to address the comments and concerns expressed by the CITES Secretary General, IUCN and TRAFFIC related to whale downlisting proposals at COP 11.

2. This proposal incorporates restrictions on potential trade to ensure "Precautionary measures" (Annex 4) of CITES Resolution Conf. 9.24 are fully met.

3. Present scientific knowledge shows that Northern Hemisphere stocks minke whales (excluding the Yellow Sea, East china Sea and Sea of Japan stock) are abundant and indeed not threatened with extinction. For this reason, listing on Appendix I is not consistent with the fundamental principles of Article II of the Convention.

This proposal, in accordance with the provisions of Article XV (I) of the Convention and Annex 6 of Resolution Conf. 9.24, proposes the transfer of the northern hemisphere stocks of Minke Whales, *Balaenoptera acutorostrata,* (except the Yellow Sea, East China Sea and Sea of Japan stock) from Appendix I to Appendix II with the following annotation: For the exclusive purpose to allow trade between Parties that are also signatories to the International Convention for the Regulation of Whaling and which have an effective DNA register system to monitor catches, introductions from the sea and imports from other States. To ensure that trade does not result in removals in excess of catch limits, the following additional measures shall be implemented:

a) Notwithstanding the provisions of CITES Article XIV, paragraphs 4 and 5, any trade shall be subject to the provisions of Article IV.

b) Calculation of a safe catch levels using the IWC's Revised Management Procedure (RMP).[1]

c) Establishment of export quotas that shall ensure that trade does not result in removals in excess of catch limits.[2]

d) Indication on the trade documents of the number of animals involved when shipment of products are only parts of animals, and tracking of this number through DNA monitoring of imports.

e) Implementation of domestic legislation to ensure imports are from animals taken legally.[3]

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[1] See section 4.2.3 for description of RMP.

[2] Calculation of flexible export quotas would be determined by subtracting catches whose products are used domestically from the catch limits set for each stock using RMP. The export quotas would then be adjusted in this manner throughout the year. This will ensure that international trade between States does not result in removals in excess of catch limits. Although it may seem irregular to set an export quota in numbers of animals when shipments of products are only parts of animals in fact, with DNA monitoring of imports it is easy to track the number of animals that have been shipped.

f) DNA registers to monitor catches, introductions from the sea and imports and a requirement that all imports be accompanied by certified DNA profiles.[4]

(Note: the footnotes are provided for information. They are not intended as part of the annotation.)

B. Proponent

Japan.

Summary

These measures are proposed in order to meet the precautionary measures in Annex 4 (section B 2.b and d) to Resolution Conf. 9.24 and to address concerns raised by the CITES Secretariat, IUCN and Traffic with respect to whale downlisting proposals at COP 11 by ensuring that adoption of this proposal will not result in any threat to conservation of the stock or lead to unregulated whaling or illegal trade in whale products.

Also in accordance with Annex 4 to Resolution Conf. 9.24, Japan will remove its reservation on the listing of northern hemisphere minke whale stocks within 90 days of the adoption of this proposal.

In accordance with 1 above, if this proposal is accepted by the COP, the Government of Japan will waive its rights under Article XIV.4 of the Convention. (This Article relieves a State party to CITES of its obligations under the present Convention for marine species included in Appendix II taken in accordance with the provisions of another treaty if the party is also party to such treaty and if the treaty was in force at the time CITES came into force.) This means that CITES permits would be issued in accordance with the requirements of Article IV of the Convention.

The West Greenland stock of minke whales is already on Appendix II. Only three other stocks, the **Okhotsk Sea - West Pacific Stock, the Northeast Atlantic stock and the North Atlantic Central stock** may be affected by trade and are therefore the main subject of this proposal. Other stocks of minke whales will not be subject to trade.

Although Annex 3 of Resolution Conf. 9.24 says that "the listing of a species in more than one appendix (split-listing) should be avoided in general in view of the enforcement problems it creates", the use of DNA registers means that such enforcement problems would not result from the transfer to Appendix II of the northern hemisphere minke whale stocks while leaving other stocks of this species on Appendix I. Annex 3

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[3] Under Japan's Decree of Import Trade Control, all imports from non-IWC member nations are prohibited. Importation from IWC member nations is not allowed unless the Japanese Government confirmed the authenticity of the certificate of origin by way of its diplomatic channels or other means.

[4] Japan's DNA register has already been established and will with the addition of some further analysis of samples from frozen stockpiles and some samples from whales taken in Japan's whale research programs be "fully diagnostic" as recommended by the IWC Scientific Committee. A diagnostic register is one such that all animals registered are considered "permitted" and any others are defined as "not permitted". Any illegal import of meat from minke whales would therefore be detected.

Similarly, scientific research shows that the Northeast Atlantic and North Atlantic Central stocks of minke whales are in a healthy state and in no way threatened with extinction. The Northeast Atlantic stock was most recently estimated by the Scientific Committee of the International Whaling Commission (IWC) in 1995, at 112.000 animals. An IWC Scientific Committee estimate from 1990 set the size of the North Atlantic Central stock at 28,000. A new estimate for this stock based on surveys conducted in 1995 (NASS-95), was presented by the North Atlantic Marine Mammal Commission (NAMMCO) in March 1997 (Anon. 1998). Now the number of minke whales in the North Atlantic Central stock was calculated to 72.000. These estimates clearly demonstrates that the two stocks of minke whale may not in any way be regarded as threatened with extinction and therefore do not qualify for inclusion in Appendix I.

of Resolution Conf. 9.24 also says that "when split-listing does occur, this should generally be on the basis of national or continental populations..." The proposed transfer of the northern hemisphere stocks meets this recommendation.

The Government of Japan will consult with range states in accordance with the recommendations contained in Resolution Conf. 8.21 (recommendation a) and Resolution 9.24 Annex 6 section 6. Consultations with the CITES Secretariat, and representatives of IUCN and TRAFFIC will also be held.

This proposal is presented in accordance with Resolution Conf. 9.24 with particular emphasis on the following:

1) The biological criteria (cf. Annex 1, Res. Conf. 9.24) for Appendix 1 stocks are not met for this stock.

2) Precautionary measures (cf. Annex 4, Res. Conf. 9.24) are fully satisfied by the unique combination of measures specified in the annotation. Limited trade controlled by these measures will not threaten stocks, and will not stimulate illegal hunting or trade.

Minke whales are well known as the most robust and healthy whale stocks. The Scientific Committee of the International Whaling Commission (IWC, 1999a; b) endorsed a population estimate of 25,000 animals for the Okhotsk Sea – West Pacific stock. This is well above the optimum and sustainable stock level for this stock of minke whale. Therefore, from a biological perspective there is no reason to retain this stock in Appendix I, which is to include species threatened with extinction.

Although the IWC currently imposes a moratorium for commercial harvest of whales, it should be noted that the IWC Scientific Committee has never provided scientific advice in support of this measure. Therefore, it is critically important for the CITES to support this downlisting proposal in order to demonstrate that the CITES makes its decisions on the basis of scientific and objective information, not for political reasons.

In 1979 the COP adopted a Resolution (Res. Conf. 2.9) recommending the Parties not to issue any import or export permit for species or stocks protected from commercial whaling by the IWC. The application of Resolution Conf. 2.9 (now included in Resolution Conf. 11.4)) to proposals to transfer certain whale stocks from Appendix I to Appendix II at COP 10 and COP 11 has meant that the Parties have in fact imported into CITES the political difficulties and dysfunctional nature of the IWC. This proposal attempts to resolve this matter by proposing that the transfer to Appendix II be accompanied by an annotation such that International trade shall only take place among Parties that are also signatories to the International Convention for the Regulation of Whaling and which have an effective DNA register system and that the transfer be accompanied by a unique combination of conservation measures based on a safe catch quota calculated using the IWC's Revised Management Procedure, domestic legislation to ensure imports are from animals taken legally, a DNA register to monitor imports and, a flexible export quota to ensure that international trade does not result in removals in excess of catch limits. **This is a scientific rather than political means to address this issue.**

Brief history of minke whale in CITES

Minke whale *Balaenoptera acutorostrata* was listed in CITES Appendix II at COP 2 (San Jose, 1979). Despite the recommendation of the Secretariat that this would be in contravention of the Convention, COP4 (Gaborone, 1983) decided to list all cetaceans in Appendix I for which catches were regulated by the IWC and for which the IWC had set a zero catch limit for commercial whaling. This decision meant that minke whale (with the exception of the West Greenland population) was transferred to Appendix I effective as of 1st of January 1986.

C. Supporting statement

1. Taxonomy

1.1 Class: Mammalia

1.2 Order: Cetacea

1.3 Family: Balaenopteridae

1.4 Species: *Balaenoptera acutorostrata* (Lacépède 1804)

1.5 Scientific synonyms: *Balaena rostrata* (Fabricius 1780)

1.6 Common names:

English:	Minke Whale, Pied whale, Pike-head whale, Sharp-headed finner whale, Bag whale, Sprat whale, Least rorqual, Little finner, Bay whale, Summer whale, Lesser finback, Davidson's whale
French:	Rorqual à museau pointu, rorqual à rostre, petit rorqual, baleine d'este a bec
Spanish:	Rorcual enano
Danish:	Sildeskiper
German:	Zwerghval
Icelandic:	Hrefna, hrafnreyour
Japanese:	Koiwashi kujira, minku kujira
Norwegian:	Vagehval, minkehval, minke, rebbehual, vaaghval
Russian:	Malzi, karlikovji polosatik, zalivov, ostromordyi, ostrogolovyi polosatik
Swedish:	Vinkhval, Vikarehval, Vikhval, Spetsnabbad finnfisk

1.7 Code numbers: The code number of minke whale, *Balaenoptera acutostrata,* in the CITES Identification Manual is Code A-111.007.001.001 (1987(I)).

2. Biological parameters

2.1 Distribution

Minke whales are well known as one of most cosmopolitan cetacean species and widely distributed from the tropics to the ice edges in both hemispheres all over the world's oceans. As in other balaenopterids, they are known to seasonally shift their habitats in accordance with their life cycle moving to higher latitudes for feeding in summer and to lower latitudes for breeding in winter. Although they can be seen offshore as well, minke whales are often seen in coastal and inshore areas.

Almost every summer since the early 1980's Japan (National Research Institute of Far Seas Fisheries) has conducted systematic whale sighting surveys incorporating line transect theory in the western North Pacific and adjacent waters for obtaining population estimates (Kato, 1996; Miyashita *et al.*, 1995; Miyashita and Kato, 1999). Additional information has also been made available through the Japanese Research Program under the Special Permit in the North Western Pacific (JARPN) which has been conducted in accordance with Article VIII of the International Convention for the Regulation of Whaling (ICRW) since 1994 (Fujise et al., 1995, 1996, 1997; Ishikawa et al., 1997; Miyashita and Fujise, 1996, Zenitani et al., 1999).

Okhotsk Sea-West Pacific Stock

Minke whales from the Okhotsk Sea – West Pacific stock occur west of 170°E in the western North Pacific based on genetic evidence (Goto and Pastene, 1999) while the western boundary of this stock is not clear. They are present in waters north of 35°N in summer. According to Hatanaka and Miyashita (1997) the minke whales appear off the Sanriku coast as well as offshore waters there in early summer and they migrate to north during summer. Finally they enter into the Okhotsk Sea and spread there in mid-summer. The historical distribution of the Okhotsk Sea – West Pacific minke whale stock is assumed to be similar to the present distribution.

Range states are China, Federated States of Micronesia, Indonesia, Marshall Islands, Palau, the Philippines, the Russian Federation, and the United States.

North Atlantic Stocks

There is a distinct genetic difference between the Northeast Atlantic Stock and the North Atlantic Central Stock (Danielsdottir et al 1995). The historical distribution of both stocks is assumed to be similar to their present distribution. Known range States (for at least one of the two stocks) are Belgium, Denmark (including the Faroe Islands and Greenland), France, Germany, Iceland, Ireland, the Netherlands, Norway, Portugal, the Russian Federation, Spain, Sweden and the United Kingdom.

Northeast Atlantic stock

During the summer months the stock feeds in the Northeast Atlantic Ocean north to the ice-edge, including the Barents Sea area. The location of the stock during the winter months is less certain. The limited number of observations during winter in both the south-western and south-eastern parts of the North Atlantic makes it difficult to determine whether minke whales aggregate in specific areas or whether they are more or less randomly distributed throughout the southern part of the North Atlantic Ocean during the winter. The latter alternative seems most likely. Some individuals may stay in northern waters throughout the winter.

North Atlantic Central stock

The Central stock feeds in the area around Iceland, East Greenland and Jan Mayen Island during the summer months. The distribution of this stock during the winter is also uncertain.

The IWC recognizes a number of other stocks of minke whales in the north Atlantic however, none of these stocks are or would be subject to trade.

2.2 Habitat availability

As noted above, the minke whale occurs throughout the world oceans to the ice-edge, and habitat availability is therefore not regarded as a crucial issue for this species. There are no indications of large alterations in minke whale habitats.

2.3 Population status

The total number of minke whales throughout the world is estimated to be around 1 million animals (*Rep. Int. Whal. Commn 41, Rep. Int. Whal. Commn 42, Rep. Int. Whal. Commn 43, Rep. Int. Whal. Commn 48*), but this estimate is acknowledged by the IWC to be biased downwards, and the true number could possibly be much higher. The largest populations of minke whale are found in the Southern Hemisphere. The IWC Scientific Committee is currently conducting a reassessment of minke whales in the southern hemisphere. There are also populations in the Western Atlantic, the North Pacific and the Northern Indian Oceans. All known minke whale populations, except one stock, the Yellow Sea, East China Sea and Sea of Japan stock, are in a healthy state. **The Yellow**

Sea, East China Sea and Sea of Japan stock is specifically excluded from this proposal to transfer northern hemisphere minke whale stocks to Appendix II.

Okhotsk Sea-West Pacific stock

Buckland *et al*. (1992), using sighting data from Japanese sighting cruises, estimated the population abundance for the Okhotsk Sea – West Pacific stock to be 25,049 animals (95%CL., 13,700 – 36,600). This estimate was accepted by the Scientific Committee of IWC at its Comprehensive Assessment (CA) on the North Pacific minke whales. However, it is important to note that this abundance estimate is likely an underestimate because it was assumed that the probability of detection on the track line [g(o)] = 1. This leads to an underestimate of the abundance.

Since the estimate above represents 61% to 88% of the initial (before-exploited) stock level as described in detail in the following sections of this proposal, the abundance of the Okhotsk Sea – West Pacific minke whale stock is far from any protection level from a view point of stock management and does not meet the biological criteria for listing on Appendix I of CITES.

Northeast Atlantic Stock

The most recent estimate adopted by the IWC Scientific Committee is 112,000 animals, with a 95% confidence interval from 91,000 to 137,000. This estimate is based on data collected during a large-scale sighting survey in the summer of 1995 that was conducted according to new guidelines for such surveys developed by the IWC Scientific Committee.

A corresponding revised estimate based on a large-scale survey conducted in 1989 indicated 65,000 animals, with a 95 % confidence interval from 44,000 to 94,000. The report of the Scientific Committee of the IWC gives several explanations why the 1995 estimate is so much higher than the 1989 estimate. The main points are that the 1995 estimate is considered more reliable than the 1989 estimate, and that the numbers also suggest an annual stock increase of at least 2 %.

North Atlantic Central Stock

In 1990 the IWC Scientific Committee accepted 28,000 as the best estimate of the number of minke whales in the Central stock area, with a 95 % confidence interval of 21,600 to 31,400. The calculations were based on 1987 Icelandic aerial and vessel surveys and 1987 Norwegian surveys around Jan Mayen, as well as Icelandic surveys South of 60°N in 1989 (*Rep. Int. Whal. Commn 41*: 66, 138). A new estimate for the size of the North Atlantic Central stock based on surveys conducted in 1995 (NASS-95), was presented by the Scientific Committee of the North Atlantic Marine Mammal Commission (NAMMCO) in March 1997 (Anon. 1998). The number of minke whales in the Central stock area was calculated to 72,100 with a 95 % confidence interval of 44,700 – 116,400.

2.4 Population trends

After cessation of commercial whaling in 1987, stocks of minke whales are obviously expected to have increased.

At the Comprehensive Assessment of North Pacific minke whales by the Scientific Committee of the IWC in 1991, the population trajectory for this stock was calculated using available information. Population level (at 1991) was 61% (MSYR = 0%) to 88% (MSYR = 6%) of initial stock level under the large area option (which is the option mostly scientifically verified by the current JARPN) as reported in IWC (1992).

On the basis of sighting surveys there are indications that the Northeast Atlantic stock has increased over the recent years. The 1983 level of the stock has been estimated to be 70 % (95 % confidence interval of 52 % - 94 %) of the 1952 level (*Rep. Int. Whal. Commn 44*: 323-332). As noted above, the Scientific Committee of the IWC has found that the numbers suggest an annual stock increase of at least 2 % from 1989 to 1995 for this stock.

The average annual catch over the period 1938-1983 was approximately 2,000 animals. This catch level has since been reduced to some hundred animals annually, with a pause in commercial catches from 1988 through 1992. Further information on catches in the period 1988 to 1998, are presented below.

The North Atlantic Central Stock has only been subject to moderate levels of exploitation for a relatively limited period, and scientists consider its present size to be similar to pre-exploitation levels (*Rep. Int. Whal. Commn 41*, 1991, p. 68).

2.5 Geographic trends

Minke whales are in lower latitudes (at least lower than 30N) in the Northwestern Pacific in winter for breeding. According to Hatanaka and Miyashita (1997) they appear in early summer in waters off Pacific northern Japan and move northward during several months, subsequently they penetrate into the Okhotsk Sea. They also occur in waters off the west coast of Kamchatka Peninsula, Kurile islands and Hokkaido in summer, and genetic and morphological evidence suggests they spread west to 170E (Pastene et al., 1999). It is also known there is sexual and reproductive segregation as; immature individuals dominate in waters of the Pacific coast of northern Japan in early summer whereas pregnant females dominate in the Okhotsk Sea and mature males in waters off eastern Hokkaido in late-summer (Kato, 1992).

In the North Atlantic, several sighting surveys conducted over the period 1987-1995 and distribution of catches as shown from compulsory catch reports from 1938 onwards indicate that density distributions in the Northeast Atlantic may shift locally between years, most probably due to shifts in the availability of prey items. Specific studies based on Barents Sea catch data over the period 1952-1983 indicate that local minke whale density shows a cyclic variation around an almost constant level (Rep. Int. Whal. Comm 44: 323-332). There is no evidence of a decline or increase in range area for minke whales in the North Atlantic.

2.6 Role of the species in its ecosystem

Whales are top predators in the ocean ecosystem. In the North Pacific, their diet varies according to year, season, geographical area and prey availability. Kasamatsu and Tanaka (1992) reported that the change of prey of minke whales from chub mackerel (*Scomber japonic*us) to Japanese pilchard (*Sardinops melanostictus*) off the Pacific coast of Hokkaido in 1977 corresponded with a change of the dominant species taken by commercial fisheries in the same area in 1976. In recent years, prey species of minke whales sampled during summer (July to September) were mostly Pacific saury (*Cololabis saira*). Moreover, prey species of minke whales also differs depending on the season. Japanese anchovy (*Engraulis japonicus*) is an important prey species during early summer (May to June). On the other hand, in the coastal Japanese waters of the Okhotsk Sea, krill (*Euphausia pacifica*) are thought to be the dominant prey species. Minke whales consume various prey of pelagic zooplankton and pelagic schooling fishes and are adaptive to oceanic conditions and prey abundance in the North Pacific (Tamura 1998). Tamura and Osumi (1999) reported that the annual consumption by minke whale in the North Pacific was calculated to be 1.5 – 2.2 million tons. Thus, minke whales are considered one of the key species and play an important role in the ecosystem in the North Pacific Ocean.

Norwegian scientists have also reported that the diet of minke whales in the North Atlantic varies according to season, geographical area and what is available. In the North Sea mackerel and

sandeel are thought to be the dominant prey. In the Northeast Atlantic and in the Barents Sea a variety of prey is consumed, the most important species being krill, capelin and herring, but gadoids, notably cod, saithe and haddock, are also significant prey items. Predation from minke whales may have a significant impact on mortality in many fish populations. It has been calculated that for the years 1992-1995 the minke whales in the Northeast Atlantic annually consumed on average about 633.000 tonnes of herring, 256.000 tonnes of cod, 142.000 tonnes of capelin, 128.000 tonnes of haddock and 54.000 tonnes of other fish species. (Haug et. al, 1996, Haug in prep., and Rep. Int. Whal. Commn 46: 371). In Icelandic and adjacent waters minke whales have been estimated to consume around 1 million tons of finfish annually (Sigurjonsson and Vikingsson, 1997). Consumption of commercially exploitable species is large enough to be of concern to those living from the resources of the sea and will have to be taken into account in the management of relevant fisheries.

2.7 Threats

There are at present no serious threats to the survival of minke whales in the world's oceans.

3. Utilization and trade

3.1 National utilization

Whaling has always been an important means of livelihood for coastal communities of Japan. At the present time, the meat from minke whales hunted in the North Pacific for research purpose under Article VIII of the ICRW, is consumed in Japan. This utilization of whale meat after obtaining scientific data and sample tissues is required by Article VIII (2) of the ICRW and the proceeds from the sale are used to partially offset the costs of the research for the following year. From 1994, Japan initiated a research take under special permit involving an annual removal of up to 100 animals from this stock. This represents 0.4% of the estimated stock size and has negligible effects on any population trend. The research take of minke whales was increased to 150 animals in 2002.

DNA of all the minke whales taken by the research are analyzed and registered. DNA analysis on whale meat sold in the Japanese markets was conducted sporadically in the past, but more regular market monitoring will be conducted in the future. A relatively small number of animals are also taken incidentally by set net fisheries in coastal waters.

Japan's DNA register will be "diagnostic" as recommended by the IWC Scientific Committee. A diagnostic register is one such that all animals registered are considered "permitted" and any others are defined as "not permitted". In order to achieve this, a system needs to be established whereby by-caught and stranded animals also included in the register if products of these animals end up in the market. This is the reason for the change in Japan's domestic regulations (Ministerial Ordinance 92 implemented in April 2001) requiring the submission of a DNA sample from whales caught incidentally in set nets in the coastal waters of Japan if the meat from such whales enters the market.

Traditionally, the Northeast Atlantic stock of minke whale has been hunted only by Norway, while the North Atlantic Central stock has been hunted by Iceland and Norway. There is also an annual catch of a few minke whales from this stock in East Greenland. No minke whales have been caught in Icelandic waters since 1985.

Whaling has always been an important means of livelihood for Norwegian coastal communities and a seasonal activity for some fishermen. All whaling vessels are ordinary fishing boats, on average some 65 feet long. The vessels are generally owned and operated by families and carry a crew of 4 - 8 men, including the owner. In the one to two months whaling season they are equipped with a harpoon gun and other gear for the hunt. The harpoon gun is used with pentrite granades which are highly effective. Whales are flensed at sea and catches are usually landed at short intervals. In the

period 1990-1999, a total of 2,929 minke whales were caught by Norway, 2,657 from the North East Atlantic stock and 272 from the North Atlantic Central stock. Details about legislation, management and control relating to minke whale hunting in Norway are presented below.

Although whale meat is much in demand in Norway, whale blubber is not currently used for human consumption. Blubber is no longer in demand because the food processing industry found substitutes for blubber when the supply of whale products was discontinued. Research is being done to develop alternative uses of blubber in Norway, *inter alia* with regard to health care and medical treatment (see for example Østerud et al. 1995). Blubber which has not been subject to DNA analysis, will not be exported.

3.2 Legal international trade

Aside from "introduction from the sea" for minke whale products taken in Japan's whale research programs there is no trade in minke whale products.

In the case of resumption of international trade in whale products resulting from the adoption of this proposal, trade would only be allowed between Parties that are also signatories to the ICRW and which have an effective DNA register system. Trade would also be limited by export quotas calculated for each stock using the IWC's Revised Management Procedure and accounting for domestic consumption (See section A).

Under Japan's Decree of Import Trade Control, all imports from non-IWC member nations are prohibited. Importation from IWC member nations is not allowed unless the Japanese Government confirms the authenticity of the certificate of origin by way of its diplomatic channels or other means. Further, imported products will also be subject to a DNA monitoring and control system in order to prevent possible illegal trade.

Traditionally, Norway has exported small amounts of meat as well as most of the blubber to a limited number of countries. A small amount of whale meat was previously also imported into Norway from Iceland however no trade occurred from 1986.

3.3 Illegal international trade

Under the strict trade control mechanism and effective enforcement activities, Japan has successfully prevented attempts of illegal imports of whales into Japan in the past. Monitoring and enforcement capability will be further strengthened with the extensive utilization of DNA sampling.

The export of whale products from Norway without a license is a criminal offence subject to prosecution under the Norwegian Penal Code. In 1993 an attempt of unlicensed export of whale meat from Norway to Japan was detected. Charges were brought and the matter was dealt with by the Norwegian court. Report of one seizure of 10 tons of whale meat allegedly smuggled from Norway to Japan in 1996 is still under police investigation in Japan although no proof was found of any connection to Norway.

Pursuant to Resolution Conf. 9.12, the Secretariat will be kept continuously updated with regard to any development in these cases as well as on any other developments regarding illegal trade in whale products.

3.4 Actual or potential trade impacts

Minke whale stocks will not be threatened by trade because:

a) Precautionary measures specified in Annex 4 of Resolution Conf. 9.24 are fully met by the annotation to accompany the transfer to Appendix II.

b) The Revised Management Procedure completed by the Scientific Committee of the IWC will be used for the calculation of a safe catch quotas for each stock and as the basis for calculation of flexible export quotas. This will ensure catches and international trade will pose no threat to the stocks;

c) Measures specified in the annotation to accompany the transfer will ensure that the transfer does not stimulate illegal whaling or illegal trade in whale products.

3.5 Captive breeding for commercial purposes (outside country of origin)

Although some minke whale have been held in captivity in Japan for short periods, captive breeding is not thought to be feasible from a practical point of view or even useful for conservation purposes.

4. Conservation and Management

4.1 Legal status

4.1.1 National

Under the Japanese domestic laws, all the whale species are either protected or utilized under strict conservation and management measures. Unless a license is issued by the Ministry of Agriculture, Forestry and Fisheries, no whaling for minke whales can be conducted (Fisheries Law, Article 52). Currently, only research permits for catching are issued by the government in accordance with the provisions of the ICRW. The research is conducted by the Institute of Cetacean Research (ICR), a non-profit organization. No commercial harvest for minke whales has been conducted since the 1987/88 season.

The scientific research in the northwestern Pacific (JARPN: the Japanese research program under the special permit in the North Western Pacific) was initiated in 1994 for the purpose of collecting data on stock structures and feeding ecology of the minke whales in the area. Up to 100 whales were taken annually between 1994 and 2001. This represents 0.4% of the estimated stock size and has negligible effects on any population trend. In 2002, the catch of minke whales was increased to 150 whales to provide samples from previously unsampled nearshore areas.

In Norway, the Ministry of Fisheries is the responsible authority for the management of marine mammals. The principal legislation for the management of whaling is the Sea-Water Fisheries Act of 1983 (*Lov om saltvannsfiske*) and the Act of 1999 relating to the right to participate in fishing and hunting (*Deltakerloven*). The Sea-Water Fisheries Act sets out general provisions for fisheries activities whereas the Act relating to the right to participate in fishing and hunting gives the conditions for doing so. In addition, a number of provisions are set out in relevant regulations made pursuant to these two Acts. Of particular relevance are the annual regulations for (1) the hunting of minke whales, including quotas and catch periods, (2) the permission to hunt minke whales, including rules for vessels and crew, (3) the practice and procedures for the hunt, including obligatory training programs and **(**4) the requirement of having an inspector on board.

4.1.2 International

The International Whaling Commission (IWC) has responsibility for the management of minke whale stocks. The objective of the 1946 International Convention for the Regulation of Whaling which established the IWC is "to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry."

In 1982, the IWC adopted a moratorium on commercial whaling which became effective in 1986. Since 1994, the IWC has been working to complete a revised management scheme which would include *inter alia,* a conservative method of calculating catch quotas (RMP) as well as an observation and inspection scheme. This scheme which could replace the moratorium remains the subject of political debate within the IWC because of its polarized and dysfunctional nature with some members opposed to the resumption of commercial whaling irrespective of the status of stocks and others favouring a resumption of whaling on a sustainable basis.

It is this problem that the Secretary General of CITES was referring to when he said he did not want the political problems of the IWC imported into CITES (see CITES Secretariat's COP 11 Provisional Assessments p.4) "...The Secretariat is concerned that the difficult political discussion that has divided that body for so many years now is "exported" to the CITES Conference of the Parties with the risk of causing similar negative effects on the relationship between the Parties." (see also July 4, 2000 letter from CITES Secretary General to the Chairman of the IWC which basically repeats this expression of concern.) Adoption of this proposal to transfer the northern hemisphere stocks of minke whales to Appendix II with conservation measures in the annotation including export quotas calculated using the IWC's RMP would mean that CITES was acting on the basis of scientific advice to ensure no threat to the stock while avoiding the political problems of the IWC. (See also last paragraph of Section A Proposal.)

Other international resource management conventions support the principle of sustainable use. Note for example the preambular paragraph of the Convention on Biological Diversity which says " *Noting* that, ultimately, the conservation **and sustainable use** (emphasis added) of biological diversity will strengthen friendly relations among States and contribute to peace for humankind".

4.2 Species management

4.2.1 Population monitoring

In the western North Pacific and adjacent waters, Japan has been annually conducting systematic sighting surveys incorporating the line-transect theory since the early 1980's to provide data for abundance estimates as well as to monitor population trends for major cetacean species. As the Government of the Russian Federation agreed to collaborate on this kind of sighting survey, it has also been conducted in the Okhotsk Sea.

The results of the population monitoring of northeast Atlantic stocks have been noted above. Since 1996, 1/6 of the area has been surveyed every year, and it is planned to continue this survey pattern, thus covering the whole area every six years. The sighting surveys are conducted by Norway according to the guidelines laid down by the Scientific Committee of the IWC, including oversight by that body. Scientists from many countries participate in the surveys. In the Central North Atlantic large scale sighting surveys are conducted every 5-6 years (NASS surveys).

4.2.2 Habitat conservation

To maintain the favorable conditions in the habitats of minke whales, it is important to conserve the marine environment, which requires extensive international cooperation. In that sense, Japan, Norway, Iceland and many of the range states of the northern hemisphere minke whale stocks have been contributing to that cause by being active in many of the international arrangements for the conservation of the marine environment such as the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL).

4.2.3 Management measures

The IWC's Revised Management Procedure is a risk averse method of calculating catch quotas. Quotas are only provided for abundant stocks. No quotas are provided for stocks that are below 54% of their initial population size. The objective is that in 100 years after exploitation based on RMP the population will still be around 72% of the initial population size. Population estimates used for RMP calculations are based only on those animals seen - they are therefore minimum or under-estimates. RMP includes built in safety factors including possible impacts of environmental changes, possible error in abundance estimates of up to 50% and unequal sex ratios in catches. RMP calculations are based on thousands of simulation trials over a period of 100 years. RMP is a feedback system requiring new abundance surveys every 5 years. Most commercial fisheries would be closed if such a conservative regime were used - in fact, RMP wastes whale resources because it is too conservative. The Revised Management Procedure constitutes the most advanced and robust management mechanism ever developed for any wild species.

4.3 Control measures

See also 4.1.1 and 4.1.2 above.

4.3.1 International trade

See 3.2 above.

4.3.2 Domestic measures

Hunting

Hunting of minke whales of the Okhotsk Sea – West Pacific Stock is conducted under research permit only. Catch levels pose no risk to the stock. Governmental officers are on board the research vessels to inspect all of the activities.

In the Northeast and Central Atlantic, minke whales are at present exploited by Norway and Greenland. Norwegian quotas are set by application of the Revised Management Procedure (RMP) developed by the IWC Scientific Committee in 1994 (*Rep. Int. Whal. Commn 44*: 145-167). The RMP of the IWC is based upon the precautionary principle, and is designed to minimise the probability of accidentally reducing the stock to below a certain protection level. The procedure has been widely tested by computer simulations to ascertain its proper function under a large variety of risk assumptions.

All whale species are protected under Norwegian law, but individual permits for catching whales may be issued by the government. In the period 1988 through 1992, no commercial whaling was allowed in Norway. Over this period, only 146 minke whales were caught for scientific purposes. Commercial hunting was resumed in 1993. In the years 1993-1998, a little over 30 vessels have annually participated in the minke whale hunt. The table below shows the total Norwegian quotas and catches of minke whale in Norway in the period from 1990 to 2001.

Each of the participating vessels are given a licence and the right to hunt a certain number of whales in specified areas. Hunting of whales in Norway requires vessels with special equipment. Since 1993 government inspectors have been onboard every Norwegian whaling vessel throughout the catching operations. Furthermore, the Coast Guard patrols the catch areas. The whalers and inspectors are trained before every season to make sure that the rules and regulations for the hunt are well understood. The whalers also have to pass hunting proficiency tests, including knowledge of regulations and laws, as well as technical

issues concerning the hunt itself. The inspectors are authorised to stop the hunt if the rules are not abided by. All meat and blubber is also controlled on shore by the health authorities.

No minke whaling has been conducted from Iceland since 1985.

Table of Norwegian quotas and catches.

Year	Quota	Catch	Scientific quota	Scientific catch	Total catch
1990	0	0	5	5	5
1991	0	0	0	0	0
1992	0	0	92	92	92
1993	160	154	136	63	217
1994	206	203	95	70	273
1995	232	217	0	0	217
1996	425	388	0	0	388
1997	580	503	0	0	503
1998	671	625	0	0	625
1999	753	789	0	0	789
2000	655	487	0	0	487
2001	549	552	0	0	552

Trade/commerce

Both Japan and Norway have implemented DNA-registers.

DNA analysis allows us to identify species (a commonly accepted method is the analysis of mtDNA control region sequences), identify individuals (a commonly accepted method is the use of a set of microsatellite primers) and determinate the gender of the individual whale (using analysis of the SRY gene). On the basis of these methods, Japan and Norway have implemented control systems that distinguish between species and different stocks of minke whales including the Yellow Sea, East China Sea and Sea of Japan Stock which is specifically excluded from this proposal. Ordinary and dwarf forms minke whales can also be distinguished and individual minke whales identified.

This control system, thus, will be able to detect any illegally traded whale products. The key element in this control system is a tissue sample taken from each minke whale harvested Genetic analysis (e.g., DNA sequence analysis and polymorphic microsatellite analysis) is performed for each individual whale. For animals harvested by Japanese vessels (as well as for animals from by-catches in set nets that end up on the market) the information is registered in a searchable database in the Institute of Cetacean Research under the supervision of the Government. For animals caught by Norwegian vessels, DNA profiles are maintained in an official and searchable database at the Directorate of Fisheries.

5. Information on Similar Species

Hunting and Trade/commerce

As noted above, the West Greenland stock of minke whales is already on Appendix II. Only three other stocks in the northern hemisphere, the **Okhotsk Sea - West Pacific Stock, the Northeast Atlantic stock and the North Atlantic Central stock** may be affected by trade. Minke whales taken in Japan's whale research program in the Antarctic (up to 440 per year) conducted in accordance with Article VIII of the ICRW also enter trade as introductions from the sea. Antarctic minke whales are classified as a different species (*Balaenoptera bonaerensis).* Since DNA testing can distinguish southern hemisphere from northern hemisphere stocks, introduction from the sea from Japan's whale research program does not pose a problem related to the transfer of northern hemisphere stocks to Appendix II.

Other species of large whales are hunted in the United States, Russian Federation, Greenland and St. Vincent and the Grenadines for aboriginal/subsistence purposes under IWC quota. This includes gray whales, humpback whales, bowhead, fin and minke whales. Products derived from aboriginal/subsistence hunting are for local consumption only. Products from whaling by non-IWC member countries including Canada and the Philippines do not enter into international trade.

6. Other Comments

Range states have been consulted however only a few have responded. Of these, some were supportive while others were opposed to the proposal. Technical comments from two of the range states (Iceland and Norway) have been incorporated in this document.

7. Additional Remarks

Present knowledge shows that the northern hemisphere stocks of minke whales, except the Yellow Sea, East China Sea and Sea of Japan stock which is specifically excluded from this proposal not threatened with extinction and for that reason, their listing on Appendix I is inconsistent with the fundamental principles of Article II of the Convention. In addition, since this stocks are abundant, widely distributed and show no current declining trend, these stocks do not meet any of the biological criteria specified in Annex I of Resolution Conf. 9.24 for listing in Appendix I.

The proposed annotation to accompany the transfer to Appendix II will ensure that international trade does not pose a threat to the stocks and that it will not illicit illegal hunting or trade. These measures together with Japan's commitment to remove its reservation on the listing of these stocks in CITES appendices fully satisfies the precautionary measures specified in Annex 4 of Resolution Conf. 9.24.

While in 1983, there might have been reasons to believe that the listing of Minke whales on Appendix I was warranted, scientific information now available strongly proves otherwise.

With the adoption of Resolution Conf. 11.4 (which was a consolidation of previous resolutions related to whales), CITES Parties carried forward their earlier recommendation that Parties agree not to issue any import or export permit, or certificate for introduction from the sea, for primarily commercial purposes for any specimen of a species or stock protected from commercial whaling by the ICRW. However, the IWC has been at a political impasse (as described above in section 4.1.2) since the adoption of the moratorium on commercial whaling in 1982. This means in effect that the anti-whaling majority of approximately 20 IWC members is holding to ransom the work of over 150 countries that are Parties to CITES. Parties to CITES constitute an independent organization. Consistent with the express wishes of the CITES Secretary General, the Government of Japan urges that the political difficulties that prevent the IWC from carrying out its mandate not be imported into CITES. This means that the above recommendation contained in Resolution Conf. 11.4 should be set aside and that decisions within CITES on matters concerning the listing of species on its Appendices should be made on the basis of the best scientific advice available.

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