

From my personal archive.
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I am worried by the loose terminology and accompanying thinking floating about concerning possible "deals" that might allow some specified commercial whaling.

The biggest worry is about "coastal whaling", which some people seem to think could be defined to mean "within zones of national jurisdictions, specifically EEZs and/or fishery zones.

Coastal whaling is not defined anywhere in IWC documentation.. If it were used to open EEZs to commercial whaling please note that, for example, the entire temperate and arctic zone of the North Atlantic Ocean becomes "coastal" except for a small loophole halfway between Norway and Greenland, and an even tinier piece disputed between Russia and Norway in the eastern Barents Sea.

What IS defined is land-station whaling as distinct from the use of factory ships or whale catchers attached thereto. In a few places the term pelagic is used in the Schedule (eg in the definition of the IO sanctuary (and in the SO sanctuary text, because that was derived from the IO text.) The so-called pelagic moratorium (10(d) actually is defined in terms of a prohibition of factory-ship operations.

"Pelagic " is not defined in the ICRW and Schedule. However it historically means whaling operations in which the whales are flensed on board a ship, and sometimes the carcasses may also be processed (bone meal, oil extraction etc) However further processing does not take place now on the Japanese factory ship nor on the Norwegian mini- factory-catchers engaged in pelagic whaling.

It should be remembered that "on a ship" means a real, mobile ship, not a platform or what used to be called "floating factories" which operated in the Antarctic before the invention of the stern ramp. The floating factories were by definition, not engaged in pelagic whaling. (In IWC records there is much discussion about this in relation to an effort by Japan to det up an anchored flensing platform in the Philippines in the 1970s; Bob Eisenbud was the lawyer on the US delegation who was most involved in putting that issue to rest.)

"Pelagic" went into the IO sanctuary definition because at that time we (Seychelles) wanted to make sure the prohibition would apply to Norwegian and other mini-factories-catchers, of which there were also several pirates such as the Run/Sierra. At that time the IWC had not formally decided as it did after that that such vessels were within the category of "factory ships and catchers attached thereto". Of course, the IO decision and the "pelagic moratorium" were decided at the same meeting, 1979, in that order, and the discussion of definitions is in the Verbatim records after the sanctuary was designated but before the pelagic moratorium was voted in after long procedural debates..

My feeling is that strategic discussion should be limited to "land-stations" provided, of course that they follow catch limits set internationally, and a pelagic moratorium from which the minke exemption is removed, plus of course whatever might be agreed to restrain or

eliminate Article VIII "scientific-commercial" whaling. A way forward might be not to try to eliminate Article VIII whaling as such but to provide that the requirement that catches under Permit be processed, in Article VII, does not mean trade (commercialised) Article VIII says that the catches under Permits must be processed and the proceeds dealt with. That does not necessarily mean enter into commerce and, in fact, the products from many earlier Permit catches by other countries were given away, not sold. The first really big commercialisation was by Japan in the late 1970s when it sold on the market 2000 tons of Bryde's whale meat from the Indian Ocean and near the Solomon Islands.

I think the "coastal whaling" discussion is dangerous also because it leads to an abrogation of UNCLOS. All whale populations are straddling stocks and of course they are all highly migratory species, also. I believe that at least Norwegian and Icelandic whaling is in abrogation of UNCLOS because making an objection to an IWC decision surely cannot be considered as removing that state's responsibility to have catches within its EEZ regulated by IWC-set catch limits. Rationally one might argue that the IWC should have set catch limits, in principle, for whaling under objections - except that the RMP is not yet in place and the NMP is a mess that no one wants to touch. Given the objection procedure that is one of the negative blow-backs from the 1982 decision; if I was doing this again I would have worded what became Para. 10(e) differently. As it is the Norwegians, in exempting themselves from the 1982 zero CL decision (remember they did that twice, because they also objected to PS status under the NMP) they exempted themselves (I think illegally) from all regulation. One might wonder what they would have done is the NE Atlantic minke stock had not been classified as PS before 1986.

In general it is dangerous to begin to define new categories of commercial whaling, and dangerous to eliminate or change any part of the present Schedule except possibly modify 19(e) or add a 10(f) as Justin Cooke has suggested.