



# Animal Welfare Institute

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PO Box 3650, Washington, DC 20027  
(703) 836-4300 • [www.awionline.org](http://www.awionline.org)

April 26, 2006

William T. Hogarth, Ph.D.  
Director  
National Marine Fisheries Service  
1315 East-West Highway, 13th Floor  
Silver Spring, MD 20910

Dear Dr. Hogarth:

The Animal Welfare Institute (AWI) is writing to enquire about the status of your reply to our letter of March 29, 2006 (enclosed). If you recall the letter requested that we be provided with written clarification of the U.S. position with regard to the following: the continuation and expansion of the numbers and species of whales killed by special permit whaling by Japan and Iceland and commercial whaling conducted by Norway; a lifting of the whaling moratorium; any linkage between adoption of the Revised Management Scheme (RMS) and lifting of the whaling moratorium; and support for the Southern Ocean Sanctuary.

As detailed in our letter, we are concerned that the policy of the United States with regard to non-subsistence whaling has changed in recent years. This issue is of significant concern to our members and to persons worldwide who oppose the commercial slaughter of whales, including so-called scientific whaling.

Most recently we have heard that the U.S. was approached to join the 12-country demarche to Norway over its continued "unnecessary" whaling.<sup>1</sup> It is our understanding that the U.S. declined to join the demarche which was led by the United Kingdom and included Australia, New Zealand, Argentina, Belgium, Brazil, France, Netherlands, Spain, Germany, Austria and the Czech Republic. Public affirmation that the U.S. remains staunchly opposed to all non-subsistence whaling is necessary if our concerns over these historic and recent U.S. actions are to be allayed.

We look forward to a reply to this and our previous letter.

Sincerely,

A handwritten signature in cursive script that reads "Cathy Liss".

Cathy Liss  
President

cc: Secretary of State Dr. Condolezza Rice and Secretary of Commerce Carlos M. Gutierrez

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<sup>1</sup> *United Kingdom reiterates its opposition to commercial whaling*, DEFRA News Release, April 20, 2006



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March 29, 2006

William T. Hogarth, Ph.D.  
Director  
National Marine Fisheries Service  
1315 East-West Highway, 13th Floor  
Silver Spring, MD 20910

Dear Dr. Hogarth:

The Animal Welfare Institute (AWI) submits this letter to express our serious concern over the apparent change in the policy of the United States in regard to non-subsistence whaling. As this issue is of significant concern to our members and to persons worldwide who oppose the commercial slaughter of whales, including so-called scientific whaling, we respectfully request the U.S. to provide written clarification of the U.S. position with regard to the following: the continuation and expansion of the numbers and species of whales killed by special permit whaling by Japan and Iceland and commercial whaling conducted by Norway; a lifting of the whaling moratorium; any linkage between adoption of the Revised Management Scheme (RMS) and lifting of the whaling moratorium; and support for the Southern Ocean Sanctuary.

In the early 1970s the United States emerged as the global leader in the protection and conservation of the world's whales. In 1971 the U.S. Congress passed a resolution of support for a 10-year long moratorium on whaling. At the first United Nations international conference on the environment held in Stockholm in 1972, the U.S. delegation proposed the ten-year moratorium and was successful in achieving a unanimous vote in favor of the ban. The U.S. took the lead in achieving the global ban on commercial whaling which came about in 1986. Since that time until the early 2000's the United States has been hailed as the whales' savior and champion.

The AWI has attended every meeting of the International Whaling Commission (IWC) since its inception and as an American organization headquartered in our nation's capital we have been proud to have been associated with the United States and its delegation to the IWC, knowing that at each meeting, the U.S. would do its utmost to protect and ensure the survival of whale populations for future generations.

The United States delegation to the IWC has taken a proactive approach to whale conservation since that time and up until the early 2000's, voting in line with conservation-minded nations at IWC meetings and has consistently taken a tough stance against those nations who continue to engage in commercial and/or so-called scientific whaling. For example, in 2000 alone the United States took the following actions in response to Japan's scientific whaling program:

- August 21, the U.S. joined a 14-nation demarche to the Government of Japan.<sup>2</sup>
- August 31, the U.S. announced that it would boycott a United Nations scientific meeting to be held in Japan<sup>3</sup> and declined to participate in bilateral fisheries meeting to be held in Japan in September 2000.<sup>4</sup>
- September 13, the then Secretary of Commerce Norman Mineta formally certified, under what is known as the Pelly Amendment, that Japan's actions were undermining international whaling protections.<sup>5</sup>
- September 13, on Secretary Mineta's recommendation, the President directed the Secretary of State to inform the Japanese government that it would be denied future access to fishing rights in U.S. waters.<sup>6</sup>

The determined and proactive stance of the U.S. with regard to whaling issues continued through the 54th meeting of the IWC held in Shimonoseki, Japan in May 2002. As you are likely aware, at this meeting a US-Russian proposal to renew the quota of bowhead whales to be taken by Alaska and Russian natives failed to obtain the required support by  $\frac{3}{4}$  of IWC member countries with a vote of 32 in favor, 11 against and 2 abstentions.

At the subsequent Special Meeting of the IWC convened in October 2002, the proposal allowing up to 280 bowhead whales to be landed in the period 2003 – 2007 was accepted by consensus. At that meeting, we witnessed the first indication that the resolve of the United States to protect and conserve whales had started to waver when the U.S. delegation broke with the conservation-minded nations and voted in favor of Japanese small-type coastal whaling.

Since that time, we have seen a shift in U.S. whaling policy away from a position of staunch protectionism towards a weaker and more compromising position. We have also observed a distinct reticence on the part of the United States to be proactive in opposing plans to both increase the scope and magnitude of special permit whaling programs and to bring about a resumption of commercial whaling. This shift is subtle and when viewed in isolation, actions taken and statements made by the U.S. may not be wholly indicative of a shift or could be explained away as a necessary part of the diplomatic process. Collectively however, and when viewed, as we have, over the past sixty years of IWC meetings, these actions and statements point to a definite shift. This policy shift was most visibly and recently observed at the IWC intercessional meeting of the RMS Working Group held in Cambridge, England from February 27 through March 2, 2006. Other examples up to that meeting follow:

- June 16, 2003, U.S. statement on the Revised Management Scheme (RMS) -- a scheme that would allow for the resumption of commercial whaling -- which states “[t]he United

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<sup>2</sup> *Presidential Letter to Congress on the Pelly Amendment*, December 29, 2000.

<sup>3</sup> U.S. Department of State *Daily Press Briefing* #89, August, 31, 2000.

<sup>4</sup> *Presidential Letter to Congress on the Pelly Amendment*, December 29, 2000.

<sup>5</sup> *White House Press Briefing by Chief of Staff John Podesta, Secretary of Commerce Norman Mineta, NOAA Administrator D. James Baker, and NOAA Deputy Assistant Secretary for International Affairs, Rolland Schmitt*, September 13, 2000.

<sup>6</sup> *Id.*

States continues to stress the need for equitable compromises to complete an effective and broadly supported Revised Management Scheme. The United States has offered compromises dealing with placement of international observers, the use of DNA to verify catches of whales, and the sharing of the costs of the RMS. The United States will not consider lifting the moratorium on commercial whaling until an effective and transparent management scheme is in place.”<sup>7</sup>

- October 17, 2003, IWC Chair invites the United States to participate in the *Chair's Small Group* to “take the RMS process forward”, along with Japan, Denmark, Iceland – all whaling nations – and also Sweden, Spain, Ireland, and the Netherlands who are not known for their staunch anti-whaling positions. One of the conditions of participation in this *Small Group* was that members could “foresee an RMS being adopted by the Commission in the near future with the consequence of the resumption of a certain level of sustainable commercial whaling.”<sup>8</sup>
- Fall 2003, Mr. Schmitten, head of the U.S. Delegation to the IWC, responded to the invitation agreeing to join the *Small Group*. In his response he stated that “the completion of the RMS may result in the lifting of the IWC's commercial whaling moratorium.”<sup>9</sup> This group met twice in Cambridge and the discussion of the group resulted in a document entitled “*Chair's Proposals for a Way Forward on the RMS*” which was introduced at the 56<sup>th</sup> IWC meeting held in Sorrento, Italy in June 2004.
- July 22, 2004, U.S. delegation to the IWC co-sponsored a resolution at the 56<sup>th</sup> IWC meeting held in Sorrento, Italy entitled “Resolution on Completion of the Revised Management Scheme.” Co-sponsors included Denmark, Iceland, Ireland, Korea, Japan, the Netherlands, Spain, Sweden and Switzerland. The draft text of this resolution called for the Commission “to proceed expeditiously towards the completion of both the drafting of text and technical details of the RMS ... with the aim of having the results ready for consideration and adoption at IWC/57.”[emphasis added] This resolution passed after the change “ready for consideration, including for possible adoption at IWC/57,” [emphasis added] was made.
- June 2, 2005, 16 nations presented a formal diplomatic representation to Japan about its proposed increased whale catch in Antarctic waters.<sup>10</sup> The United States did not join the demarche and instead issued a press release stating its opposition to Japan’s special permit whaling and asking Japan not to expand its program.<sup>11</sup> In pre-2002 days, US press releases against Japanese special permit whaling used words like “urges”, “call on”, and “cease”<sup>12</sup>, and also “halt”<sup>13</sup>.

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<sup>7</sup> *US Position on Whaling*, fact sheet issued by the U.S. Department of State Bureau of Oceans and International Environmental and Scientific Affairs, June 16-19, 2003.

<sup>8</sup> Letter from Mr. Henrik Fischer to Mr. Rollie Schmitten dated October 17, 2003 on IWC Letterhead.

<sup>9</sup> Undated note from Mr. Rollie Schmitten to Mr. Henrik Fischer which accepts the invitation to the U.S. to participate in the Chair’s Small Group and nominates Dr. Mike Tillman to attend the proposed meeting in Cambridge on 8-11 December.

<sup>10</sup> *Australia takes whaling protest to Japan's doorstep*, Australian Minister for the Environment and Heritage, Senator the Hon. Ian Campbell and Australian Minister for Foreign Affairs, The Hon. Alexander Downer MP, June 2, 2005.

<sup>11</sup> *United States Reiterates its opposition to Scientific Whaling and Asks Japan not to Expand its Lethal Research Program*, National Oceanic and Atmospheric Administration Press Release, June 2, 2005.

<sup>12</sup> *Japanese Whaling Vessels Depart for Antarctica*, U.S. State Department Press Statement, November 9, 2001.

- June 23, 2005, U.S. delegation to the IWC voted against a proposed schedule amendment to permit small-type coastal whaling of minke whales from the Okhotsk Sea-West Pacific stock. The U.S. stated that it had voted against the proposal because such commercial whaling would not be consistent with the current IWC schedule and would have to be supported by the Scientific Committee. However the U.S. also stated that it had reached an agreement with Japan on this issue in 2003 and was willing to work with Japan on this issue in the future.
- January 17, 2006, 17 nations presented a formal diplomatic representation to Japan urging it to stop its Antarctic whaling program.<sup>14</sup> The United States was not part of the group. Later, Dr. William Hogarth, stated that the U.S. “saw no value” in joining the demarche because the U.S. had made known its own opposition to Japan’s special permit whaling in at least one private meeting with Japanese officials.<sup>15</sup>

As previously stated, taken individually these actions and statements by the U.S., could be dismissed actions of a member nation to the IWC in an attempt to preserve diplomatic relations with member countries and also to maintain the viability of an international treaty. When viewed collectively however, these actions and statements are cause for concern. When added to the recent actions of the U.S. IWC delegation in Cambridge, there is cause for definite alarm.

Specifically, actions taken and statements made at the Cambridge meeting by the U.S. include:

- The U.S. willingness to engage in efforts to move the RMS process forward at seemingly, any cost.
- The U.S. statement that, while it is opposed to the resolution of outstanding RMS issues through ministerial, diplomatic, or other high-level channels,<sup>16</sup> it is prepared to broker deals with Japan bilaterally over the issue of special permit whaling and to secure a non-binding agreement for other interested IWC member nations to sign on to.
- The U.S. statement that it could accept an RMS package option that includes a lifting of the moratorium on commercial whaling.
- The lack of will displayed by the U.S. to support the Southern Ocean Sanctuary through its noticeably absent interventions in support of the Sanctuary coupled with the complete omission of whaling in this sanctuary in the draft *Code of Conduct for Special Permit Whaling*, a document co-authored by the U.S. Deputy Commissioner.
- Failure to certify Japan under the so-called Pelly Amendment for its expanded special permit whaling program, and failure to re-certify Norway and Iceland under the same Amendment for their continued commercial and special permit whaling;

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<sup>13</sup> U.S. Repeats Call for Japan to Halt Lethal Whaling Program, U.S. State Department Press Statement, August 9, 2001.

<sup>14</sup> UK in diplomatic protest over Japanese scientific whaling, United Kingdom Department for Environment, Food and Rural Affairs News Release, January 17, 2006.

<sup>15</sup> Teleconference with non-governmental organizations, February 10, 2006.

<sup>16</sup> IWC Document IWC/F06/RMSWG 5 entitled “Comments from Contracting Governments regarding approaches to further RMS discussions” dated January 8, 2006.

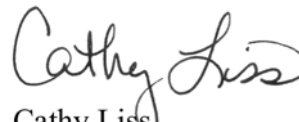
Dr. William Hogarth, Head of the U.S. IWC delegation has recently stated that the “long-standing position that the U.S. has had against scientific whaling and commercial whaling has not changed one bit.”<sup>17</sup> This statement appears to conflict with the observed actions and statements discussed above.

The U.S. may argue that to negotiate on the RMS is not an approval of the resumption of commercial whaling, although Dr. Hogarth himself has called the RMS “a Revised Management Scheme (RMS) for commercial whaling”<sup>18</sup> and the former Head of the U.S. IWC delegation has said that “the completion of the RMS may result in the lifting of the IWC's commercial whaling moratorium.”<sup>19</sup> If the position of the United States with regard to whaling has indeed changed, then such a significant policy shift requires environmental impact analysis, public involvement and consultation in accordance with the National Environmental Policy Act and the Endangered Species Act.

The purpose of this letter is to provide the U.S. with the opportunity to allay our concerns by providing written clarification of the U.S. position with regard to the following: the continuation and expansion of the numbers and species of whales killed by special permit whaling by Japan and Iceland and commercial whaling conducted by Norway; a lifting of the whaling moratorium; any linkage between adoption of the Revised Management Scheme (RMS) and lifting of the whaling moratorium; and support for the Southern Ocean Sanctuary.

We look forward to receipt of a formal response to the issues raised herein. Thank you for your prompt attention to this matter.

Sincerely,



Cathy Liss  
President

cc: Secretary of Commerce Carlos M. Gutierrez  
Secretary of State Dr. Condolezza Rice

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<sup>17</sup> Teleconference with non-governmental organizations, February 10, 2006.

<sup>18</sup> Testimony of William T. Hogarth, Ph.D. before the Subcommittee on Fisheries Conservation, Wildlife and Oceans, Committee on resources, U.S. House of Representatives, International Fishery Conservation and Management Issues, May 22, 2003.

<sup>19</sup> Undated note from Mr. Rollie Schmitt to Mr. Henrik Fischer which accepts the invitation to the U.S. to participate in the Chair's Small Group and nominates Dr. Mike Tillman to attend the proposed meeting in Cambridge on 8-11 December.