

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES  
OF WILD FAUNA AND FLORA



Seventieth meeting of the Standing Committee  
Rosa Khutor, Sochi (Russian Federation), 1-5 October 2018

Interpretation and implementation matters

General compliance and enforcement

Compliance matters

Application of Article XIII

INTRODUCTION FROM THE SEA OF SEI WHALES  
(*BALAENOPTERA BOREALIS*) BY JAPAN

1. This document has been prepared by the Secretariat.

I. Mandate

2. At its 69th meeting (SC69, Geneva, November 2017), the Standing Committee reviewed the case of Japan under Article XIII concerning the introduction from the sea of specimens from the North Pacific population of sei whale (*Balaenoptera borealis*), and agreed that:

*The Secretariat should review the responses provided by Japan and, in consultation and cooperation with the Party concerned and the Chair of the Standing Committee, determine whether there is additional information to be considered. The Standing Committee requested the Secretariat at the invitation of the Government of Japan, to conduct a technical mission to the country pursuant to Article XIII of the Convention to assess the scientific, administrative and legislative arrangements for authorizing the introduction from the sea of specimens from the North Pacific population of the sei whale; and report its findings and recommendations to the 70th meeting of the Standing Committee (SC70).<sup>1</sup>*

3. Article XIII of the Convention stipulates that:

*1. When the Secretariat, in the light of information received, is satisfied that any species included in Appendix I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.*

*2. When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.*

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<sup>1</sup> SC69 Summary record, page 21.

3. The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next Conference of the Parties which may make whatever recommendations it deems appropriate.

## II. Background

4. All the stocks of the species *Balaenoptera borealis* were listed in Appendix II of CITES at the first meeting of the Conference of the Parties (Bern, 1976) with exemption of two stocks (A) North Pacific and (B) area 0° longitude to 70°E longitude, from the equator to the Antarctic continent, that were listed in Appendix I.
5. Japan deposited its instrument of acceptance of the Convention on 6 August 1980 and is a Party to the CITES Convention since 4 November 1980. In the same instrument, Japan only entered reservations for one species of whales, *Balaenoptera physalus*, and other CITES-listed species.
6. At the third meeting of the Conference of the Parties (New Delhi, 1981), all the stocks of *B. borealis* listed in Appendix II were transferred from Appendix II to Appendix I
7. By note of 2 June 1981, Japan entered a reservation regarding the amendments to the Appendices of the Convention mentioned in paragraph 7. This reservation is not applicable to stocks in (A) North Pacific and (B) area 0° longitude to 70°E longitude, from the equator to the Antarctic continent, which were already listed in Appendix I since CoP1.
8. As a consequence, international trade from or to Japan in specimens of *B. borealis* from the North Pacific stock is regulated by Article III of the Convention. This includes exports, imports, re-exports and introductions from the sea.

## III. Identification of potential compliance matters regarding introductions from the sea of sei whales from the North Pacific

9. During the period 2016 – 2018, the CITES Secretariat corresponded on a number of occasions with the authorities of Japan regarding the introductions from the sea of sei whales. The correspondence focused on four main trade aspects: i) the parts and derivatives introduced; ii) CITES certificates issued to authorize the introductions; iii) reporting of the introductions in the annual reports; and iv) trade controls related to paragraph c) of Article III (5). The summary of the correspondence is provided in Annex 1.
10. Following the invitation received from the Japanese authorities, the CITES Secretariat conducted a technical mission to Japan from 19 to 22 March 2018. Field visits were made to the Institute of Cetacean Research, Sendai-Shiogama port, Shiogama fish market in Miyagi Prefecture, and Tsukiji market in Tokyo. The Secretariat met and interviewed representatives of the main actors involved in the harvest and subsequent use of the sei whales and their parts. Annex 2 contains the overview of the agenda of the technical mission.
11. During the mission, the Secretariat met with the CITES Management Authority responsible for regulating the introduction from the sea for whales and the CITES Scientific Authority for marine species, which are located in different divisions of the Fisheries Agency of Japan under the Ministry of Agriculture, Forestry and Fisheries. Representatives from different divisions of the Ministry of Foreign Affairs of Japan were also present. The list of government sections and other stakeholders that the Secretariat met during its technical mission can be found in Annex 3.
12. The Secretariat has developed a flow chart that can be found in Annex 4 to facilitate the understanding of the process explained by the Japanese authorities to authorize the introduction from the sea of specimens of the North Pacific population of sei whales and to illustrate the processing of the whale specimens, as well as the administrative steps for the issuance of the correspondent CITES certificate. The flow chart highlights the steps and the stakeholders involved in it.
13. The Secretariat expresses its appreciation to the Government of Japan, and in particular to the Fisheries Agency of Japan and the Ministry of Foreign Affairs, for the technical and logistical support provided in planning and coordinating these visits, and hospitality offered to the Secretariat during its mission. The Secretariat also thanks the representatives of the private sector met during the mission for their frank and open way of providing relevant information.

Review of the responses provided by Japan in writing and during the technical mission

*Regarding the parts and derivatives introduced from the sea*

14. Specimens of sei whales are introduced from the sea by Japan using two methods of scientific research: (a) lethal survey catch using grenade harpoons and (b) non-lethal biopsy sampling. In its letter of 16 January 2018, the Secretariat requested the Management Authority to indicate precisely which specimens Japan authorized for introduction from the sea. In particular, the Secretariat queried whether the whole body of the whales harvested following the method of lethal survey were introduced from the sea and landed into a Japanese port, or whether they were introduced from the sea in the form of parts and derivatives. The Secretariat also requested the Management Authority to specify for the years 2016 and 2017 the volumes and units for the specimens introduced from the sea.
15. In its response of 14 March 2018, the Fisheries Agency of Japan indicated that whales that are introduced into and landed at a Japanese port have been cut into parts, after having being duly processed on board by the research vessel while at sea, in the following manner:
  - a) Every sei whale is subject to scientific research on board such as measurements of overall body length, length of body parts, body weight, and blubber thickness. After that, the bodies are disassembled in order for some body parts, such as earplugs, blubber, eye lenses and sex glands, to be put aside for further scientific analysis carried out in laboratories on land. Those specimens are processed and frozen for storage and transport back to Japan.
  - b) Other utilizable body parts that will not be utilized for further research (e.g. meat, blubber), are also processed into appropriate forms for storage and transport back to Japan (e.g. cut and frozen).
16. During the technical mission, the Management Authority explained that the intact body of the whales could not be transported back and landed at port without being cut in parts for both scientific and logistical reasons: the scientific reason is that most whale parts, such as the gut content and muscle samples, deteriorate rapidly after the catch unless separated and stored appropriately; the logistical reason is that whale bodies are too large to be frozen and stored whole on board. For these reasons, the research whaling expedition consists of two types of vessels: two smaller vessels used for sighting and capture of whales, and a larger vessel that serves as a research base for sampling and measurement and has a facility for cutting, packaging, freezing and storage of the whale parts and derivatives.
17. Once harvested and processed, the whale parts and derivatives are labelled with a unique identifier so that each package of whale samples and parts can be identified down to the individual whale caught. It was mentioned that the parts and derivatives from different whale bodies are never mixed into a single package.
18. The Management Authority explained that the other body parts that can be utilized (e.g. meat and blubber), were introduced from the sea with a view to ensuring effective utilization of whole whale bodies and in accordance with Article 8, paragraph 2 of the International Convention for the Regulation of Whaling (ICRW), which prescribes that “any whales taken under these special permits shall so far as practicable be processed”.
19. Annex 5 to the present document shows the detailed volumes and units for the specimens introduced from the sea in 2016 and 2017 and was provided by the Japanese authorities in their correspondence of 14 March 2018.

*Regarding the CITES certificates issued to authorize the introductions from the sea*

20. In its letter of 16 January 2018, the Secretariat requested the Management Authority to clarify three issues related to Japan’s practice of issuing the introduction from the sea (IFS) certificates:
  - a) Whether the certificate annexed to the Japan’s letter of 20 October 2017 was the only CITES document authorizing the introduction from the sea of the specimens;
  - b) When and how it communicates with the Scientific Authority, both in general terms, as well as to obtain the advice that the introduction will not be detrimental to the survival of the species involved; and

- c) How the authorised amount in the certificate, which is expressed in number of bodies, is ‘translated’ into the quantities of products that are actually introduced from the sea.

21. In its 14 March 2018 response, the Management Authority confirmed that:

- a) Three IFS certificates were issued in 2017 for a new whale research programme in the North Pacific (NEWREP-NP), i.e. one IFS certificate for each of the three vessels that constituted the 2017 programme. The IFS certificates were issued in the same manner for 2016. Each IFS certificate contained the same information, except the name of the vessel.
- b) The certificate contains the following information: complete name of the person authorized to introduce from the sea the whales; the name of the authority that issued the document, the purpose of research; the method of research (lethal and non-lethal); the vessel used; species and number of whales authorized to be taken for research purposes; research area; and duration of validity.
- c) The International Affairs Division of the Fisheries Agency of Japan, acting as the CITES Management Authority on the introduction from the sea for whales, issues the certificates. The Resources and Environment Research Division, Fisheries Agency of Japan, acting as the CITES Scientific Authority for marine species, is responsible for making the non-detriment findings. These two Divisions belong to different Departments and are supervised by different Directors within the Fisheries Agency of Japan.
- d) The Management Authority issues the IFS certificates prior to the departure of each research expedition. In order to issue the IFS certificates, the Management Authority obtains prior advice from the Scientific Authority.
- e) The Scientific Authority advises that “the introduction will not be detrimental to the survival of the species involved, in accordance with Article 3, paragraph 5(a) of the Convention” within one to two weeks prior to the issuance of the IFS certificates. The documents that record the decision-making process are kept for five years according to the regulation regarding the management of administrative documents in the Government of Japan. Specific scientific information used in providing NDF advice in 2016 and 2017 is listed below. All of these documents are publicly available at the website of each organization.

2016:

- i) revised research plan for the Japanese Whale Research Programme under Special Permit in the Western North Pacific (JARPN II) submitted and reviewed at the 2004 Scientific Committee annual meeting of the International Whaling Commission (IWC)<sup>2</sup>.
- ii) Hakamada, T., Matsuoka, K. and Nishiwaki, S, “Increasing trend and abundance estimate of sei whales in the western North Pacific”, SC/56/O19, June 2004 (unpublished)<sup>3</sup>, p. 9 (presented to the IWC Scientific Committee.)
- iii) “Current status of International Fisheries Resources” for the fiscal year 2015<sup>4</sup>. Published in March 2016. Japanese only.)

2017:

- i) Report of the IWC Scientific Committee, Bled, Slovenia, 9-21 May, 2017 (IWC/67/Rep01 (2017) rev1)<sup>5</sup>, p.111
- ii) Research plan for NEWREP-NP, finalized in June 2017<sup>6</sup>

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<sup>2</sup> <http://www.icrwhale.org/pdf/SC56O1.pdf>

<sup>3</sup> <http://icrwhale.org/pdf/SC-56-O19.pdf>

<sup>4</sup> [http://kokushi.fra.go.jp/H27/H27\\_54.pdf](http://kokushi.fra.go.jp/H27/H27_54.pdf)

<sup>5</sup> <https://archive.iwc.int/pages/search.php?search=%21collection73&k=>

<sup>6</sup> <http://www.icrwhale.org/pdf/170606newrep-np.pdf>

iii) “Current status of International Fisheries Resources” for the fiscal year 2016<sup>7</sup>. Published in March 2017. Japanese only.)

- f) The IFS certificate contains the number of specimens which may be introduced from the sea for lethal (in number of individuals harvested) and non-lethal (in number of biopsy samples) research. An official from the Management Authority is on board of the vessel for the whole duration of the expedition to ensure that numbers and types of specimens caught and landed are in line with the conditions of the IFS certificate. The official monitors the whole activity, from catching, measurements, collection of scientific samples, disassembly into parts, and to landing.
- g) As mentioned above, the quantity in terms of the weight of parts and derivatives that are actually introduced from the sea at the time of landing (Annex 5) was provided as an annex to the Management Authority’s response letter dated 14 March 2018, showing how the quantity in the IFS certificate is converted from whole bodies into other units.

22. During the technical mission, the Secretariat consulted the IFS certificates issued for the 2016 and 2017 whale research programs, and made the following observations:

- a) An IFS certificate is one of the documents required under Japanese regulations for undertaking research on certain species of whales and whaling. Several documents are required under different legal obligations, as seen in Annex 4, step 4. As mentioned in paragraph 21 a) above, three IFS certificates were issued for the three vessels that are part of the fleet that conduct the research expedition.
- b) The IFS certificates issued by the Management Authority of Japan have a completely different appearance than the “*Standard CITES form*” contained in Resolution 12.3 (Rev. CoP17), Annex 2. This may have resulted in the IFS certificates containing insufficient information, particularly when compared to the “*information that should be included in CITES permits and certificates*” recommended in Resolution 12.3 (Rev. CoP17), Annex 1. In particular, the following information appeared to be missing:
  - i) Logo of the Convention
  - ii) Scientific name of the species in accordance with the adopted standard nomenclature of the Convention
  - iii) Description of the specimens using the nomenclature of specimens distributed by the Secretariat
  - iv) Source and purpose codes

The Secretariat noted, however, that Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates* does not provide any specific guidance on how to issue IFS certificates.

- c) The Management and Scientific Authorities were distinct, and yet the communication between them seemed to be smooth. The two Divisions mentioned in paragraph 21 c) above are located on the same floor of the building of the Ministry of Agriculture, Forestry and Fisheries, and the two Divisions appear to be in regular contact with each other.
- d) The Secretariat saw that the internal process for the preparation, clearance and approval of the research whaling dossier, including the IFS certificate, was well-structured and regulated. The Secretariat also observed how the relevant documents were organized and kept as confidential government official record. The administrative arrangements seemed to be well designed and managed in an organized manner.
- e) Because the IFS certificate is issued prior to the departure of the research expedition, the Management Authority is able to specify the quantity of the specimens only in terms of the quota expressed in the number of bodies. There appears to be no process for modifying the IFS certificate according to the actual catch or for ‘translating’ the number of bodies into weight of parts and derivatives. These result in differences between the description on the IFS certificate (number of whole bodies of whales) and the appearance of the specimens when they are actually landed at the port (frozen packages of parts and derivatives). However, because of the way in which the specimens are packed and labelled (as

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<sup>7</sup> [http://kokushi.fra.go.jp/H28/H28\\_54.pdf](http://kokushi.fra.go.jp/H28/H28_54.pdf)

described in paragraph 15 above), all specimens can be traced back to the specific whale body from which they were obtained.

23. The Secretariat observes that a correct and consistent use of the taxonomic nomenclature, purpose and source codes, volumes and units, and other information in the IFS certificate, would significantly contribute to the transparency of the administrative process and accuracy of the reporting of the trade in the annual reports.

*Regarding reporting of the introductions in the Annual Reports*

24. In its letter of 16 January 2018, the Secretariat requested the Management Authority to describe how the transactions are reported in the CITES annual reports submitted by Japan.
25. The written response of the Management Authority indicated that the specimens concerned were reported in two categories:

	<b>Specimens</b>	<b>Units</b>	<b>Purpose code</b>	<b>Source code</b>
Specimens obtained in lethal scientific research	Whole body	Number	S	W
Specimens obtained in non-lethal scientific research (biopsy sampling)	Skin	Gram	S	W

26. Upon examining the CITES Trade Database, reports for *Balaenoptera borealis* can be found in the above format for each years from year 2010 up to 2015. For the annual report of 2016, however, the Secretariat observed that the source code X was used instead of W. Therefore, the error in the use of the source code seems to have been rectified in the 2016 annual report.
27. The Secretariat underlines the importance of ensuring that the content of the CITES annual report accurately reflects the information in the permits and certificates that correspond to the reported transaction.

*Regarding trade controls related to paragraph c) of Article III (5)*

28. The introduction from the sea of specimens of the North Pacific populations of sei whales is governed by Article III (5), paragraph (c) of the CITES Convention which states that:

*The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:*

...

*(c) a Management Authority of the State of introduction is satisfied that the specimen is not to be used for primarily commercial purposes.*

29. Requirement (c) should be read in conjunction with Resolution 5.10 (Rev. CoP15) on *Definition of 'primarily commercial purposes'* to ensure that the specimens introduced are "not to be used for primarily commercial purposes". Resolution 5.10 (Rev. CoP15) reminds the Parties "of the fundamental principle in Article II, paragraph 1, of the Convention that trade in specimens of Appendix-I species must be subject to particularly strict regulation and only authorized in exceptional circumstances."
30. Pursuant to Article II, paragraph 1 and the final paragraph of the Annex to Resolution 5.10 (Rev. CoP15), the Secretariat asked in its letter of 16 January 2018, how the Japanese authorities are satisfied that the specimens introduced are not to be used for primarily commercial purposes. In particular, the Secretariat queried on the type of trade controls that are put in place, once the specimens had been introduced, to ensure compliance with this requirement.

31. Pursuant to the final paragraph of Resolution 5.10 (Rev. CoP15), the Secretariat further discussed during the technical mission with the Japanese authorities about how they could demonstrate that:
  - a) another species not listed in Appendix I could not be utilized for the proposed purpose; and
  - b) the proposed purpose could not be achieved through alternative means than lethal surveys.
32. During its technical mission, the Secretariat was able to verify the intended use of the different processed parts and derivatives of the caught whales and the Japanese authorities provided detailed information on the proceeds generated by that use. The Secretariat also visited the Institute of Cetacean Research, which conducts the research activity associated with the introduction from the sea of the sei whales. The aim of the visit was to have a clearer understanding of the specific objectives of the scientific research programme. Detailed explanations were provided on the research methodologies and the justification for the need of annual lethal surveys, the vessels used and the geographical areas of research. Many articles published in peer-reviewed scientific journals and other forms containing the results of ICR's research activities were provided to the Secretariat.
33. The Japanese authorities explained that they are satisfied that the specimens introduced from the sea are not to be used for primarily commercial purposes because they are introduced as part of the scientific research under authorized programmes JARPN II and NEWREP-NP. These two scientific research programmes are conducted under the 'special permit' issued pursuant to Article VIII, paragraph 1 of ICRW, for the purpose of contributing to the conservation and management of marine living resources, including whale species in the North Pacific.
34. The authorities also explained that the former research programme JARPN II was conducted in several phases until 2016 and had three primary objectives: i) research on feeding ecology of whales and ecosystem studies; ii) monitoring of environmental pollutants in cetaceans and marine ecosystems; and iii) elucidating the stock structure of large whales. They further explained that these objectives are expected to contribute to the improvement of the conservation and management of marine living resources including whale species.
35. Since 2017 Japan started a new 12-year long research program called New Scientific Whale Research Program in the western North Pacific (NEWREP-NP). With respect to the north Pacific population of sei whales, the primary objective of the current research programme NEWREP-NP (2017-2028) is a "contribution to Revised Management Procedure (RMP) / Implementation Simulation Trial (IST) for North Pacific sei whale". RMP/IST is the conservation and management procedure developed by the IWC.
36. NEWREP-NP also has secondary objectives, which are: i) estimating abundance of North Pacific sei whales taking account of additional variance; ii) estimating biological and ecological parameters in North Pacific sei whales for RMP implementation; iii) studying the pattern of movement of whales of the "pelagic stock" within feeding grounds as well as between feeding and breeding grounds; and iv) specifying RMP/ISTs for North Pacific sei whales.
37. The Japanese authorities further explained that the research under JARPN II and NEWREP-NP is conducted by a non-profit institution (the Institute of Cetacean Research – ICR). As such, it cannot share its surplus or residual benefits resulting from whale meat sales with its members, under relevant domestic laws and regulations, as well as under its own "Articles of Incorporation". They added that all proceeds obtained from sales of the processed whales are appropriated only to the costs of the subsequent research programmes.
38. During the field visit to the ICR, the Secretariat was able to see samples of the stored parts of sei whales obtained in lethal and non-lethal scientific research used for scientific analyses in laboratory on land. The authorities explained that 'research by-products' which are remaining whale parts (e.g. meat, blubber, etc.), available for further utilization after scientific measurements and collection of samples for analyses are completed, are provided for sales for cost-recovery purposes instead of being disposed of, in order to ensure effective use of whale bodies after scientific research in accordance with Article VIII, paragraph 2 of the ICRW, which prescribes that "the proceeds shall be dealt with in accordance with direction issued by the Government by which the permit is granted".
39. The sales operations of 'research by-products' are contracted to a private company (while the ownership remains with ICR), that receives commissions from their sales. The proceeds of the sales of 'research by-products' is received by ICR after commissions and other necessary costs are deducted.

40. According to a breakdown of the survey costs for North Pacific research in 2016 that the Secretariat was shown by ICR, 85% of the total budget is payment to a private company that provides the chartering services of the research vessels, including fuel and vessel crew. 10% goes to another private company for the selling of the 'research by-products' and 5% of the budget covers the management, analysis and survey costs of the research that is encountered by ICR. The ICR representatives explained that the cost-recovery scheme is actually making losses, and that it does not cover the whole budget of the research programme.
41. The information made available to the Secretariat suggests that the 'research by-products' are sold on domestic markets to finance the research programmes. This might be described as a form of cost-recovery scheme for funding scientific research. Associated activity that may be regarded as commercial in nature, i.e. selling of the 'research by-products', is outsourced to a private company.

#### IV. Introductions from the sea: specimens introduced by Japan

42. The Secretariat recalls that, according to Japan's explanation, after being caught, the bodies of whales are cut into parts on board of the vessels at sea and processed.<sup>8</sup> Some parts and derivatives of sei whales (earplugs, blubber, eye lenses and sex glands) are put aside for further scientific research. Other body parts such as meat and blubber, which are not utilized for scientific research, are also processed for storage. The parts and derivatives are labelled with a unique identifier so that they can be traced to an individual whale caught. The identification of parts and derivatives ensures that they are 'readily recognizable' within the meaning of paragraph 1 of Resolution Conf. 9.6 (Rev. CoP16).
43. The Secretariat observes that because the cutting of whales happens at sea, before the introduction from the sea<sup>9</sup> takes place, what is introduced from the sea are specimens of sei whales in the form of readily recognizable parts and derivatives.<sup>10</sup> The Secretariat does not raise compliance concerns with regard to the introduction from the sea of specimens such as earplugs, blubber, eye lenses and sex glands, which are to be used for scientific research and therefore, not for primarily commercial purposes. However, the Secretariat considers that inquiry is warranted with respect to meat and blubber of sei whales which are not utilized in the scientific research to determine whether the Management Authority of Japan has had reasons to be satisfied that those specimens are not to be used for primarily commercial purposes.

#### V. Consideration of potential compliance matters regarding introductions from the sea of specimens of sei whales by Japan under Article III, 5 (c) of CITES

44. The Secretariat has no evidence that the North Pacific population of *B. borealis* is being affected adversely by trade in specimens of that species within the meaning of Article XIII, paragraph 1 of the Convention. However, the Secretariat questions whether Article III, paragraph 5 (c) of the Convention is currently being effectively implemented by Japan and specifically, whether the Management Authority has had reasons to be satisfied that the specimens of sei whales introduced from the sea are not to be used for primarily commercial purposes. The Secretariat stresses that its analysis implies no opinion regarding the scientific value of the research programmes conducted by Japan.

#### Analysis of the legal requirements to determine compliance with Article III, paragraph 5(c)

45. The Secretariat recalls that, under Article III, paragraph 5(c) of CITES, before issuing an IFS certificate, the Management Authority has to determine how the specimen will be used – for primarily commercial purposes or not. The plain text of the requirement therefore puts emphasis on the use of the specimen upon the introduction from the sea, and not on the motivation for the taking of the specimen from the wild. Principle d) of Resolution Conf. 5.10 (Rev. CoP15), which provides further guidance on the definition of 'primary commercial purposes'<sup>11</sup>, further confirms that the element of "use" is of utmost importance in this provision.

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<sup>8</sup> See paragraphs 15-17 of this document.

<sup>9</sup> According to Article I, paragraph (e) of the Convention, "introduction from the sea" means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any state.

<sup>10</sup> According to Article I, paragraph (b)(ii) of the Convention, in the case of an animal of species included in Appendix I, a "specimen" includes any readily recognizable part or derivative thereof.

<sup>11</sup> Resolution Conf. 5.10 was adopted at the 5th meeting of the CoP without objections from the Parties. See *Proceedings of the 5th meeting of the Conference of the Parties (Buenos Aires, Argentina, 22 April – 3 May 1985), Summary Report of the Plenary Session, Seventh Session, 29 April 1985, 14h40-18h20, Item 8. The revision of Resolution Conf. 5.10 at the 15th meeting of the Conference of the Parties was accepted by consensus. See Summary Record of the 15th meeting of the Conference of the Parties, (Doha, Qatar, 13-25 March 2010), Summary Record of the third plenary session, 24 March 2010, 9h15-11h55, Item 18.*



Principle d) states that “Article III, paragraphs 3 (c) and 5 (c), of the Convention concern the intended use of the specimen of an Appendix-I species in the country of import”.

46. The Preamble of the Resolution recognizes that, because the term “primarily commercial purposes” is not defined in the Convention, it can be interpreted by the Parties in different ways. The Resolution further acknowledges that “the facts concerning each import will determine whether a proposed use would be for primarily commercial purposes”. Additionally, the Resolution provides general principles and examples to guide the Parties in assessing the commercial elements of the intended use.
47. Paragraph 1 of the Resolution lists general principles, of which principles a) and b) state:
- a) *Trade in Appendix-I species must be subject to particularly strict regulation and authorized only in exceptional circumstances.*
  - b) *An activity can generally be described as ‘commercial’ if its purpose is to obtain economic benefit (whether in cash or otherwise), and is directed toward resale, exchange, provision of a service or any other form of economic use or benefit.*
48. Furthermore, according to principle c), the term “commercial purposes” should be defined by the country of import as broadly as possible so that any transaction which is not wholly “non-commercial” will be regarded as “commercial”. As a result, “all uses whose non-commercial aspects do not clearly predominate shall be considered to be primarily commercial in nature, with the result that the import of specimens of Appendix-I species should not be permitted.”
49. Therefore, the legal considerations to determine whether Article III, paragraph 5(c) is being effectively implemented are: i) whether the intended use of the specimens in the country of import is commercial; ii) whether the trade is authorized in exceptional circumstances; iii) whether the purpose of the activity is to obtain economic benefit; iv) whether non-commercial aspects of the use clearly predominate.
50. Furthermore, the Annex to Resolution Conf. 5.10 (Rev. CoP15) recognizes categories of transactions in which the non-commercial aspects may or may not be predominant. In example b) on scientific purposes, the Conference of the Parties recognized that:

*Article VII, paragraph 6, of the Convention uses the term “non-commercial loan, donation or exchange between scientists or scientific institutions”. Thus, the Convention acknowledges that scientific purposes may justify a special departure from the Convention’s general procedure. The import of specimens of an Appendix-I species may be permitted in those situations where the scientific purpose for such import is clearly predominant, the importer is a scientist or a scientific institution registered or otherwise acknowledged by the Management Authority of the country of import, and the resale or commercial exchange of the specimens, or their exhibit for economic benefit is not the primary intended use.*

51. In light of those provisions, the Standing Committee may conclude either that: a) the Management Authority has not had reasons to be satisfied that the specimens of sei whales introduced from the sea are not to be used for primarily commercial purposes, which is therefore inconsistent with Article III, paragraph 5(c) of CITES; or b) the Management Authority has had reasons to be satisfied that the specimens of sei whales introduced from the sea are not to be used for primarily commercial purposes. Those alternative approaches are explained below in paragraphs 52-60 and 61-64 respectively. Since the explanation provided by Japan relates to the provisions of the ICRW, the analysis also includes the observations of the Secretariat regarding the relationship between the provisions of CITES and the provisions of the ICRW relied on by Japan. On the basis of the legal analysis, the Secretariat has formulated some recommendations for the consideration of the Standing Committee in Section V.

*Option a): the Management Authority of Japan has not had reasons to be satisfied that the specimens of sei whales are not to be used for primarily commercial purposes*

*Relevance of special permits issued by Japan under Article VIII, paragraph 1 of the ICRW*

52. The Secretariat notes the explanation of the Management Authority of Japan that it is satisfied that the specimens introduced from the sea are not to be used for primarily commercial purposes because they are

introduced as part of the scientific research programmes JARPN II and NEWREP-NP, conducted under the 'special permit' issued pursuant to Article VIII, paragraph 1 of ICRW.<sup>12</sup>

53. Article VIII, paragraph 1 of the ICRW reads:

*Notwithstanding anything contained in this Convention any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking, and treating of whales in accordance with the provisions of this Article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorizations which it has granted. Each Contracting Government may at any time revoke any such special permit which it has granted.*

54. The Secretariat observes that compliance with Article VIII, paragraph 1 of the ICRW does not automatically imply compliance with Article III, paragraph 5(c) of the CITES (see analysis of the relationship between ICRW and CITES below). The Secretariat further notes that no formal determination has been made by the ICRW bodies or any other competent international body whether whaling conducted under the scientific programmes JARPN II and NEWREP-NP is compliant with Article VIII, paragraph 1 of the ICRW.<sup>13</sup> As the website of the IWC states, "the IWC does not regulate special permit whaling".<sup>14</sup> Rather, individual Contracting Governments issue permits under Article VIII, paragraph 1 of the ICRW.

55. In the absence of any formal independent determination on whether JARPN II<sup>15</sup> and NEWREP-NP<sup>16</sup> pursue whaling for "purposes of scientific research" within the meaning of Article VIII, paragraph 1 of the ICRW, the fact that the introduction from the sea happens in the context of the above scientific programmes does not affect our analysis whether the specimens at issue are not used for "primarily commercial purposes". The Secretariat advises that the CITES Standing Committee should conduct its own independent assessment of the implementation by Japan of Article III, paragraph 5(c) – the requirement that the Management Authority shall be satisfied that the specimens at issue are not be used for "primarily commercial purposes".

#### *The "use" of specimens (meat and blubber) of sei whales*

56. The most fundamental consideration is that certain specimens of sei whales that are introduced from the sea – specifically meat and blubber – are themselves not used for scientific research. They are sold on the domestic market of Japan.<sup>17</sup> As the chart in Annex 4 shows, the end use of these specimens is the sale to customers for consumption. In light of the text of Article III, paragraph 5(c) and general principle d) in Resolution Conf. 5.10 (Rev. CoP15), the Secretariat is of the opinion that these whale specimens are introduced from the sea for an intended use of commercial nature, which suggests primarily commercial purposes.

#### *"Exceptional circumstances"*

57. The Secretariat recalls that according to general principle a) of Resolution Conf. 5.10 (Rev. CoP15), trade in Appendix-I species must be authorized only in "exceptional circumstances". In this context, the Secretariat draws the attention of the Committee to the frequency of the taking of sei whales and the number of animals harvested. According to CITES trade data compiled by the UN Environment World Conservation Monitoring

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<sup>12</sup> Paragraph 33 of this document.

<sup>13</sup> According to the IWC website, the IWC has a special procedure under which the IWC Scientific Committee reviews all special permit whaling proposals and the results of any programmes. The Scientific Committee's findings are reported then to the Commission. The Commission may make comments on proposals it receives from member Governments to establish or modify special permit programmes by way of passing resolutions. The resolutions of the IWC are not legally binding. See further Special Permit Whaling, available at: <https://iwcc.int/permits>

<sup>14</sup> Special Permit Whaling, available at: <https://iwcc.int/permits>

<sup>15</sup> The expert panel that reviewed the results of JARPN II emphasized some of the scientific achievements of the programme in relation to one of the three objectives and noted that two of the three scientific objectives of the programme do not appear to be achieved. See International Whaling Commission, Report of the Expert Panel of the Final Review on the Western North Pacific Japanese Special Permit Programme (JARPN II), 22-26 February 2016, Tokyo, Japan, Doc. No. SC/66b/REP/06, p. 48.

<sup>16</sup> From the information on the IWC website, it appears that NEWREP-NP is still under review by the IWC Scientific Committee.

<sup>17</sup> See paragraphs 38 and 41 of this document.

Centre, from 2007 to 2016 (with the exception of 2013), Japan introduced from the sea 90 to 100 bodies<sup>18</sup> of sei whales annually (98 bodies in 2007, 100 in 2008, 100 in 2009, 98 in 2010, 95 in 2011, 100 in 2012, 90 in 2014, 90 in 2015, 90 in 2016). The Secretariat is of the view that the frequency and number of introductions from the sea cast doubt on whether the trade is authorized by the Management Authority of Japan “only in exceptional circumstances”, as recommended in Resolution Conf. 5.10 (Rev. CoP15).

*Existence of “economic benefit”*

58. The proceeds from the sales of whale meat and blubber are used to finance whaling research programmes such as JARPN II and NEWREP-NP. Specifically, the proceeds from the sales are received by the ICR as a form of cost-recovery. According to general principle b) in Resolution Conf. 5.10 (Rev. CoP15), the existence of economic benefit does not depend on the purpose for which the economic benefit is derived. Regardless of whether the proceeds from the activity are used for scientific purposes or not, an activity can be qualified as commercial under general principle b).
59. The Secretariat considers that the sale of meat and blubber on the domestic market is an activity that can generally be described as ‘commercial’ because its purpose is to obtain economic benefit, and is directed toward a form of economic use and benefit, noting that the proceeds from the sale are used to finance research programmes. In the view of the Secretariat, it is not relevant that the cost recovery scheme does not cover the whole budget of the research programme. Rather, the fact that it provides at least some part of the budget demonstrates the existence of economic benefit through the sale of specimens of *B. borealis* listed in Appendix I. The application of general principle b) to the relevant facts therefore strongly suggests that the activity at issue is commercial.
60. Application of Article III, paragraph 5(c), and of the general principles a), b), and d) in Resolution Conf. 5.10 (Rev. CoP15) to the matter before the Standing Committee provides grounds for the Standing Committee to conclude that the Management Authority of Japan has not had reasons to be satisfied that certain specimens of sei whales introduced from the sea (meat and blubber) are not to be used for primarily commercial purposes.

*Option b): the Management Authority of Japan has had reasons to be satisfied that the specimens of sei whales are not to be used for primarily commercial purposes*

61. The Secretariat notes that the Standing Committee may take an alternative approach to this potential compliance matter. The Annex to Resolution Conf. 5.10 (Rev. CoP15) recognizes categories of transactions in which the non-commercial aspects may or may not be predominant as *per* principle c), among which is example b) pertaining to scientific purposes. The example acknowledges that “scientific purposes may justify a special departure from the Convention’s general procedure”. Given the spirit of this provision, the Standing Committee may wish to consider whether the fact that the introduction from the sea of specimens of sei whales (meat and blubber) happens as part of the scientific research programmes JARPN II and NEWREP-NP is sufficient to conclude that those specimens are not used for primarily commercial purposes.
62. In this respect, the Secretariat considers it relevant that the example contains three conditions for the import of specimens of Appendix-I listed species: 1) situations where the scientific purpose for such import is clearly predominant; 2) the importer is a scientist or a scientific institution registered or otherwise acknowledged by the Management Authority of the country of import; and 3) the resale or commercial exchange of the specimens, or their exhibit for economic benefit is not the primary intended use. Concerning the first condition in the example, the specimens of meat and blubber that are introduced from the sea are not used for scientific research and are sold on the domestic market. It is therefore hard to conceive that their introduction from the sea pursues a predominantly scientific purpose, unless the Committee agrees that selling the specimens to finance scientific research constitutes a scientific purpose. Unlike the requirement in the third condition in the example, the primary intended use of meat and blubber introduced from the sea is its sale.
63. On the basis of the foregoing, the Secretariat considers that the spirit of example b) in the Annex to Resolution Conf. 5.10 (Rev. CoP15) may provide some grounds for the Standing Committee to conclude that the Management Authority of Japan has had reasons to be satisfied that despite the existing commercial

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<sup>18</sup> As discussed above, Japan uses the measure ‘body’ to quantify and report specimens introduced from the sea. As the Secretariat explained above in paras. 42-43, it considers that the specimens introduced from the sea are not bodies but rather parts and derivatives of sei whales.

elements, the specimens of sei whales introduced from the sea by Japan are not to be used for primarily commercial purposes.

64. Finding so requires the Standing Committee to agree that financing the costs of scientific research through the introduction from the sea and sale of specimens of Appendix-I listed species constitutes a scientific purpose, and to disregard a number of legal provisions: as the element of “use” in the text of Article III, paragraph 5(c) and recommended principles 1 (a), (b) and (d) in Resolution Conf. 5.10 (Rev. CoP15), which point to the use for primarily commercial purposes as well.

*Relationship between the provisions of the CITES and the ICRW*

65. It has been explained in paragraphs 53-56 above that the fact that the whaling is conducted under special permits issued by Japan pursuant to Article VIII, paragraph 1 of the ICRW is not relevant to the determination whether Japan effectively implements Article III, paragraph 5(c) of the Convention.
66. Japan further argues that the sale of whale meat and blubber processed under special permits is conducted in accordance with Article VIII, paragraph 2 of the ICRW, which requires (or permits) such sale.<sup>19</sup> It appears implicit in Japan’s argument that, by virtue of this provision, it would not be in contravention of CITES to sell whale meat from the specimens of sei whales introduced from the sea. This section addresses the merit of this argument through the legal analysis of the relationship between the relevant provisions of CITES and ICRW.
67. The Secretariat is mindful of its mandate under Article XIII, paragraph 1 to communicate information regarding whether the provisions of CITES are being effectively implemented. Therefore, the Secretariat is not in a position to apply or interpret the provisions of the ICRW. The analysis that follows examines how the provisions of CITES regulate its relationship with other rules of international law and whether the requirements of Article VIII, paragraph 2 of the ICRW should be somehow accommodated by CITES legal provisions.
68. For the purpose of clarity, the Secretariat recalls that Article VIII, paragraph 2 of the ICRW states:

*Any whales taken under these special permits shall so far as practicable be processed and the proceeds shall be dealt with in accordance with directions issued by the Government by which the permit was granted.*

69. CITES recognizes the existence of other international rules by virtue of Article XIV, paragraphs 2 and 4 of which are relevant to our analysis. Article XIV, paragraph 4 reads:

*A State party to the present Convention, which is also a party to any other treaty, convention or international agreement which is in force at the time of the coming into force of the present Convention and under the provisions of which protection is afforded to marine species included in Appendix II, shall be relieved of the obligations imposed on it under the provisions of the present Convention with respect to trade in specimens of species included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement.*

70. The provision at issue relates to the conventions under which protection is afforded to marine species included in Appendix II. Under this provision a State can be relieved of obligations under CITES, if it complies with the provisions of such other convention when taking specimens of marine species listed in Appendix II. Since the provision does not mention ICRW explicitly, there is no automatic exemption from the obligations under the CITES for any Party that follows the provisions of the ICRW.
71. Rather, the conditions of Article XIV, paragraph 4 have to be fulfilled for any CITES Party to be relieved of its obligations under CITES. The Secretariat notes that pursuant to the text of the provision the CITES Party only gets relieved of its obligations with regard to specimens of the species listed in Appendix II. Since Japan introduces from the sea specimens of the species listed in Appendix I, Article XIV paragraph 4 is not applicable to this situation. Article XIV, paragraph 4 does not relieve any CITES Party of the obligations relating to Appendix-I species whether it follows the provisions of the ICRW, including Article VIII, paragraph 2, or not.

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<sup>19</sup> Paragraph 38 of this document.

72. The other relevant provision is Article XIV, paragraph 2 of the Convention, which states:

*The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields.*

73. This is a delineation provision which coordinates the spheres of application of CITES with the obligations of Parties deriving from certain other treaties. Specifically, the provisions of the CITES shall not affect those provisions of any domestic measures or obligations deriving from other agreements relating to “other aspects of trade, taking, possession or transport of specimens” – in other words, aspects different from those regulated by CITES.

74. To the extent that, as Japan argues, Article VIII, paragraph 2 of the ICRW requires (or permits) the sale of whale meat and blubber, this provision is not an obligation of another agreement “relating to other aspects of trade, taking, possession or transport of specimens”. Rather, this provision relates precisely to the aspect of trade governed by the CITES rules and, specifically, by Article III, paragraph 5(c), which prohibits the introduction from the sea of specimens of Appendix I listed species to be used for “primarily commercial purposes”. In other words, the aspects of trade of whale specimens regulated by the ICRW are those also regulated by CITES and not ‘other aspects’ as envisioned by Article XIV, paragraph 2. Consequently, the applicability of the CITES rules is not limited by virtue of Article VIII, paragraph 2 of the ICRW.

75. Since the CITES provisions do not provide for any exception or subordination to the provisions of ICRW, Japan has to comply with the requirements of Article III, paragraph 5(c) of the CITES, regardless of whether there is any difference in requirements between Article III, paragraph 5(c) of the CITES and Article VIII, paragraph 2 of the ICRW.

76. The Secretariat finds further support for this conclusion in Resolution Conf. 11.4 (Rev. CoP12) on *Conservation of cetaceans, trade in cetacean specimens and the relationship with the International Whaling Commission*. The preamble of this Resolution indicate that, rather than having a relationship of subordination or exclusion of one another, CITES and ICRW are to be applied in a mutually supportive manner to protect certain stocks and species of whales.

## VI. Recommendations

77. In light of the above, the Secretariat recommends that the Standing Committee determine that the provisions of the Convention are not being effectively implemented with regard to: a) the description of the specimens introduced from the sea by Japan; b) the IFS certificates issued by the Management Authority of Japan; and c) the use of source codes in the annual reports submitted by Japan before 2016, and recommend that Japan adopt technical remedial actions, as appropriate.

78. With regard to the compliance matter under Article III, paragraph 5(c) of the Convention, the Standing Committee may wish to determine which of the two approaches developed by the Secretariat in paragraphs 52-60 and 61-64, apply to the present case.

79. Depending on the determination made by the Standing Committee, it may decide to adopt or not one or more of the compliance measures in accordance with paragraphs 29 and 30 of the Annex to Resolution Conf. 14.3 on *CITES compliance procedures*. This may include a recommendation that Japan suspend the issuance of certificates of introduction from the sea for the specimens of sei whales from the North Pacific that are to be used for primarily commercial purposes (e.g. whale meat and blubber).

80. If necessary, the Standing Committee may wish to recommend that Japan report to the Secretariat on progress made in the implementation of the remedial actions mentioned in paragraph 77 and other relevant measures, as appropriate, by 1 February 2019, in order for the Secretariat to convey this report and its recommendations at the 71st meeting of the Standing Committee.

## Correspondence between CITES Secretariat and the authorities of Japan

### 2016 Correspondence

1. As recorded in the Summary Record of SC67 (Johannesburg, 23 September 2016), the Secretariat advised the Standing Committee that it was corresponding with Japan on whaling issues and would keep the Committee informed of preliminary consultations pursuant to Article XIII.
2. On 12 September 2016, the Secretariat requested Japan to provide information on the implementation of Article III, notably on the requirements established in paragraphs 5 a) and c) regarding the introduction from the sea of 90 sei whales from the North Pacific in 2016. It also noted that it intended to communicate orally on this matter to the 67th meeting of the Standing Committee (SC67) under item 12 (Application of Article XIII).
3. The Government of Japan responded on 22 September 2016, informing that it had conducted the second phase of a Japanese Whale Research Programme under Special Permit in the Western North Pacific (JARPN II) for purposes of scientific research. The 'special permit' was issued pursuant to Article 8, paragraph 1 of the International Convention for the Regulation of Whaling (ICRW). It also confirmed that Japan had caught 90 sei whales under this programme in 2016.
4. Concerning the introduction from the sea of sei whale specimens, the Government of Japan stated that the Fisheries Agency, the Management Authority of Japan in charge of the management of whale species, had granted certificates of introduction from the sea to the Institute of Cetacean Research which conducted JARPN II.

### 2017 Correspondence

5. The Secretariat received information from different sources in 2017 regarding Japan's special permit to allow the catch of 134 sei whales in 2017 introduced from a planned research area in the North Pacific.
6. On 22 September 2017, the Secretariat sent a letter requesting the Management Authority of Japan to advise if the information provided in the paragraphs 3 and 4 above also applied to the 2017-catch. Further, the Secretariat requested Japan to provide an example of a certificate of introduction from the sea that the Management Authority had issued to authorize such introductions and a detailed report of the number of such documents issued, the volumes (quantities) authorized and the units and source code used in the certificates for the years 2016 and 2017.
7. In this regard, the Secretariat drew the attention of the Management Authority of Japan to Article VI of the Convention and Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates* and in particular to the section regarding the standardization of CITES permits and certificates.
8. The Secretariat also invited the Management Authority of Japan to provide more detailed information on the intended use of the processed parts and derivatives of the caught whales and the proceeds generated by that use.
9. On 20 October 2017, the Secretariat received a letter from the Fisheries Agency of Japan, reiterating the general points made in its email of 22 September 2016 together with additional relevant information regarding the newly launched research program of the New Scientific Whale Research Program in the western North Pacific (NEWREP-NP) and attaching a sample of the certificate of introduction from the sea issued for 2017.

### 2018 Correspondence

10. Following the SC69 recommendations, on 16 January 2018, the Secretariat sent another letter to the Management Authority of Japan requesting it to provide more detailed information on trade aspects of the introduction from the sea of sei whales. In the same communication, the Secretariat confirmed its availability to undertake a technical mission to Japan at the invitation of the Government of Japan, in relation to Article XIII of the Convention.

11. The Secretariat requested the Management Authority of Japan to send a response no later than one month after the date of the letter in accordance with Resolutions Conf.11.3 (Rev. CoP17) on *Compliance and enforcement* and Conf. 14.3 on *CITES compliance procedures*.
12. On 15 February 2018, the International Affairs Division of the Fisheries Agency of Japan responded, acknowledging receipt of the Secretariat's communication and seeking the Secretariat's guidance on a number of procedural issues. The Secretariat provided in writing the requested guidance on 19 February 2018.
13. On 23 February 2018, the Fisheries Agency of Japan officially invited the Secretariat to undertake a technical mission in March 2018, adding that the relevant authorities of Japan were closely working together to compile a response to the letter sent by the Secretariat on 16 January 2016. The official communication containing the detailed responses was sent by the Fisheries Agency of Japan to the Secretariat on 14 March 2018.

## **Agenda of the Secretariat's technical mission to Japan**

### **Monday, 19 March 2018**

Tokyo:

- Initial meeting with the Fisheries Agency (CITES MA on the introduction from the sea for whales and SA for marine species) and the Ministry of Foreign Affairs
- Institute of Cetacean Research – briefing on the scientific research and visit to its storage facility

### **Tuesday, 20: March 2018**

Tokyo:

- Meeting with the Fisheries Agency (CITES MA on the introduction from the sea for whales and SA for marine species) and Ministry of Foreign Affairs – continued

Sendai, Miyagi prefecture:

- Meeting with representatives from KYODO SENPAKU CO. Ltd.
- Visit to the landing and storage facility at Sendai-Shiogama port

### **Wednesday, 21 March 2018**

Shiogama, Miyagi prefecture:

- Visit to Shiogama fish market and middle whale wholesaler (Naka-oroshi) of whale parts

### **Thursday, 22 March 2018**

Tokyo:

- Meeting with representatives from KYODO HANBAI CO. Ltd.
- Visit to Tsukiji market
- Meeting with primary (*O-oroshi*) and middle wholesaler of whale parts
- Wrap-up meeting with the Fisheries Agency (CITES MA on the introduction from the sea for whales and SA for marine species) and the Ministry of Foreign Affairs

### **Friday, 23 March 2018**

Tokyo:

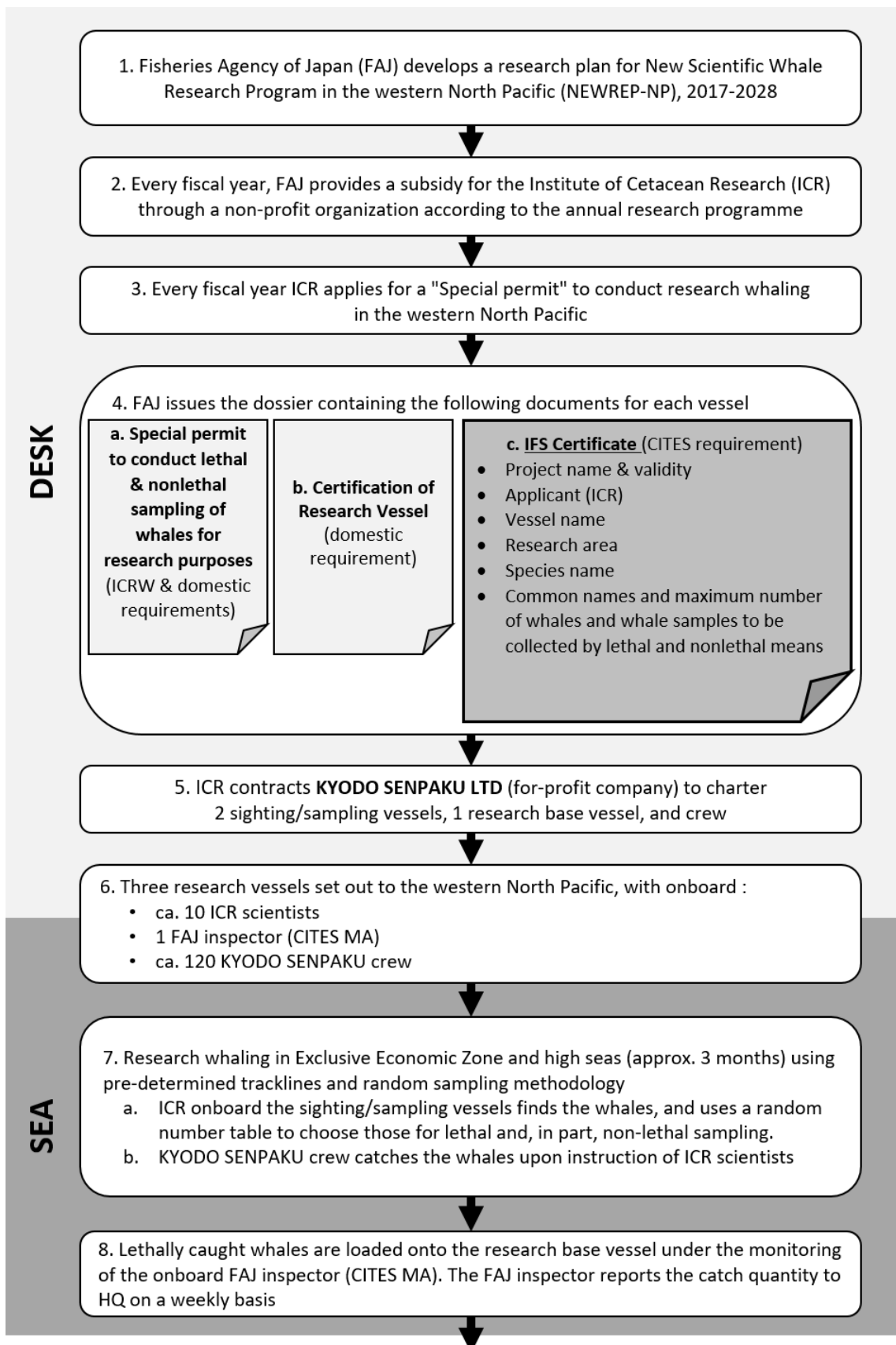
- Meeting with the Ministry of Economy, Trade and Industry (primary CITES MA) and the Ministry of Foreign Affairs



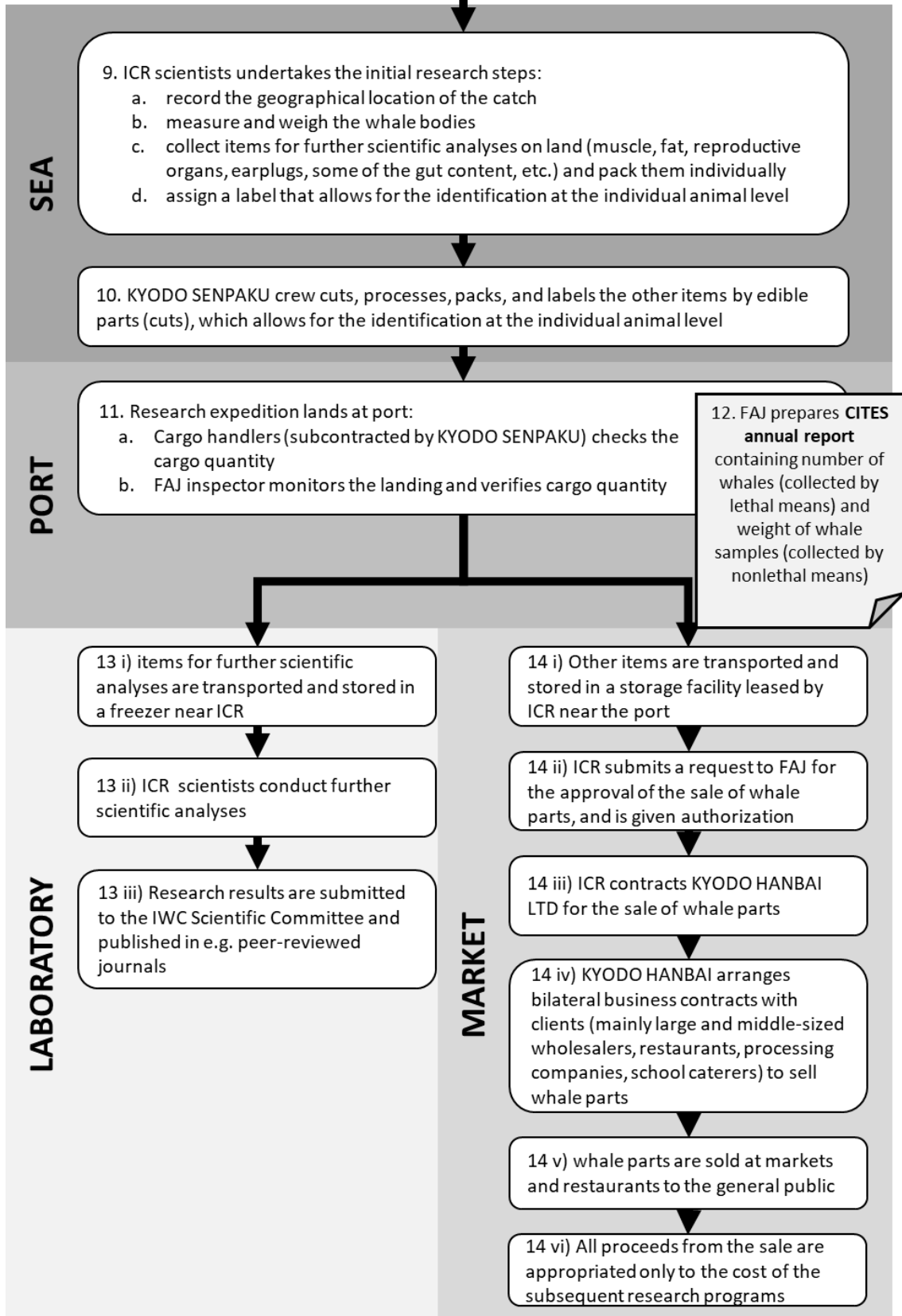
### **List of stakeholders met in Japan**

- Ministry of Foreign Affairs
  - Global Environment Division, International Cooperation Bureau
  - Fisheries Division, Economic Affairs Bureau
  - International Judicial Proceedings Division, International Legal Affairs Bureau
- Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries
  - International Affairs Division (CITES Management Authority on Introduction from the Sea of whale)
  - Ecosystem Conservation Office, Resources and Environment Research Division (CITES Scientific Authority on marine species)
- Institute of Cetacean Research
  - Survey and Research Division
  - General Affairs Division
- KYODO SENPAKU CO. Ltd.
  - Production and processing Division
- KYODO HANBAI CO. Ltd.
  - Sales Division
- Chuo Gyorui CO. Ltd. (primary wholesaler at Tsukiji market)
- Middle wholesaler at Shiogama fish wholesale market
- Middle wholesalers at Tsukiji market

**Flowchart on the introduction from the sea (IFS) process of Japan of specimens from the North Pacific population of the sei whale (*Balaenoptera borealis*)**



(Continued from previous page)



### Parts and derivatives volume list

(source: *Weight and numbers of research items for sei whale obtained in lethal scientific research and introduced from the sea*, submitted by the Fisheries Agency of Japan)

Year: 2016

Research item	Sei whale			Samples taken	Sample quantity (per individual)
	Male	Female	Total		
Collection of earplug for age determination	38	52	90	Both sides	Whole
Collection of eye for age determination	38	52	90	Both sides	Whole
Collection of vertebral epiphyses for growth study	38	52	90	Sixth thoracic vertebra, third lumbar vertebra	Portion
Measurement of mammary gland and collection of histological sample for reproductive study	-	52	52	Mammary gland	1.5cm*1.5cm*1.5cm
Collection of endometrium histological sample for reproductive study	-	11	11	Central of endometrium	2cm*2cm
Collection of ovary	-	52	52	Both sides	Whole
Collection of foetal blubber tissue for genetic study	-	25	25	Skin (including the dermal layer)	5mm*5mm*5mm (3 pieces)
Collection of foetal eye for age determination	-	25	25	Both sides	Whole
Collection of testis histological sample for reproductive study	38	-	38	Center on the right testis	1.5cm*1.5cm*1.5cm (1piece)
Collection of testis for epidemiological study	38	-	38	Center on the right testis	100g and 1.5cm*1.5cm*1.5cm (1piece)
Collection of plasma sample	38	51	89	Blood	15ml
Collection of skin tissue for genetic study	38	52	90	Skin (including the dermal layer)	5mm*5mm*5mm (3 pieces)
Collection of blubber, muscle, liver and kidney tissues for heavy metal analysis	38	52	90	Muscle, Blubber, Liver and Kidney	100g each
Collection of blubber tissue for fat acid analysis	38	52	90	Blubber	200g (2 sets)
Collection of blubber, muscle, liver tissues and stomach contents for stable isotope analysis	38	52	90	Muscle, Blubber and Liver	50g each
Collection of tissues for various analyses	38	52	90	Muscle, Blubber, Liver and Kidney	100g each
Collection of lung tissue for pollutant analysis	10	-	10	Central part of the lung	100g
Collection of blubber and muscle tissues for nutritional function analysis	2	3	5	Muscle and Blubber	500g each
Collection of blubber tissue for fatty content analysis	38	52	90	Blubber	200g
Collection of baleen plate for stable isotope analysis	7	12	19	Center and longer part of left baleen	1plate

Other items

Item	Description	Quantity (kg) 2016
Meat	Red meat, breast meat, etc.	603,260.0
Ventral grooves	Meat/blubber of ventral grooves	94,384.9
Blubber	Dorsal blubber, abdominal blubber, etc.	57,208.7
Other parts	Tongue, internal organs, tail flukes, etc.	169,673.0
	<b>TOTAL</b>	<b>924,526.6</b>

Year: 2017

Items for further scientific analyses on land

Research item	Sei whale			Samples taken	Sample quantity (per individual)
	Male	Female	Total		
Collection of earplug for age determination	63	71	134	Both sides	Whole
Collection of eye for age determination	63	71	134	Both sides	Whole
Collection of baleen plate for age determination	1	0	1	Center and longer part of left baleen	1 plate
Collection of vertebral epiphyses for growth study	63	71	134	Sixth thoracic vertebra, third lumbar vertebra	Portion
Measurement of mammary gland and collection of histological sample for reproductive study	-	71	71	Mammary gland	2cm*2cm
Collection of endometrium histological sample for reproductive study	-	25	25	Center of endometrium	2cm*2cm
Collection of ovary	-	71	71	Both sides	Whole
Collection of foetal blubber tissue for genetic study	-	31	31	Skin (including the dermal layer)	5mm*5mm*5mm (3 pieces)
Collection of foetal eye for age determination	-	30	30	Both sides	Whole
Collection of testis histological sample for reproductive study	63	-	63	Center on the right testis	1.5cm*1.5cm*1.5cm
Collection of testis for epidemiological study	59	-	59	Center on the right testis	100g and 1.5cm*1.5cm*1.5cm (1piece)
Collection of plasma sample	55	66	121	Blood	15ml
Collection of skin tissue for genetic study	63	71	134	Skin (including the dermal layer)	5mm*5mm*5mm (3 pieces) each
Collection of blubber, muscle, liver and kidney tissues for heavy metal analysis	63	71	134	Muscle, Blubber, Liver and Kidney	50g
Collection of blubber tissue for fatty acid analysis	63	71	134	Blubber	200g (2 pieces)
Collection of blubber, muscle and liver tissues for stable isotope analysis	63	71	134	Muscle, Blubber, and Liver	Several g each
Collection of tissues for various analyses	63	71	134	Muscle, Blubber, Liver and Kidney	200g (3 pieces)
Collection of lung tissue for pollutant analysis	10	-	10	Central part of the lung	100g
Collection of blubber and muscle tissues for nutritional function analysis	3	3	6	Muscle and Blubber	500g each
Collection of blubber tissue for lipid content analysis	63	71	134	Blubber	100g
Collection of baleen plate for stable isotope analysis	11	16	27	Center and longer part of left baleen	1 plate

Other items

Item	Description	Quantity (kg)
Meat	Red meat, breast meat, etc.	905,890
Ventral grooves	Meat/blubber of ventral grooves	141,965
Blubber	Dorsal blubber, abdominal blubber, etc.	71,566
Other parts	Tongue, internal organs, tail flukes, etc.	258,564.0
	<b>TOTAL</b>	<b>1,377,985</b>