

# CANADA'S WAR ON WHALES

*Will the Bowhead Survive?*



*A report on the Canadian government's  
mismanagement of whales, suppression  
of science, and hunting quotas on a  
highly endangered species.*

*Prepared for the*  
**CANADIAN MARINE ENVIRONMENT  
PROTECTION SOCIETY**  
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## Summary

Fifty-five years ago Canada was a founding member of the International Whaling Commission. Today the IWC is still the recognized world authority on whale management. Canada, meanwhile, has quit the organization it helped create and is now the only developed nation on earth killing great whales without belonging to the IWC.

Between 1991 and 2000, the Canadian federal government granted five permits for Canadians in the Arctic to kill endangered bowhead whales, two in the Western Arctic and three in the Eastern Arctic. All North Atlantic bowheads, including Canada's Eastern Arctic stocks, are among the most endangered baleen whales in the world and have been under international protection since 1937. Canada's Eastern Arctic bowheads are classified as "highly endangered" by the IWC Scientific Committee. And in the opinion of the world's foremost bowhead scientist, Canada's quota on Eastern Arctic bowheads is "scientifically indefensible."

The IWC has protested each permit and has passed a resolution each time urging Canada to rejoin the Commission and obtain IWC approval for its whaling. Canada has not complied. The Canadian government is also exposing itself to potential legal action at home since Canada's bowhead hunt appears to be in violation of several laws including the United Nations Convention on the Law of the Sea, to which Canada is signatory.

Canada's refusal to rejoin the IWC and seek approval for its whaling is not the only way in which Canada undermines the IWC's authority and future. The Canadian government is also funding, advising and participating in renegade pro-whaling organizations such as World Council

of Whalers, High North Alliance and North Atlantic Marine Mammal Commission, which all seek to usurp the IWC's authority. And Canada's decade-long support of the bowhead hunt has set a precedent for future Canadian whaling, such as the hunts for grays and humpbacks now sought by Vancouver Island aboriginal people on Canada's west coast.

Like some Wild West gunslinger in a Hollywood movie, Canada would rather use the IWC's tin-star badge for target practice than submit to the sheriff's authority. Who turned this once law-abiding nation into a pirate whaler using bogus science to kill an endangered species? The answer: Canada's Department of Fisheries and Oceans. Canada's DFO has become a bureaucratic fortress with a catastrophic and much publicized history of mismanaging Atlantic cod and Pacific salmon, and of subverting scientific inquiry to serve political objectives. In the case of the bowhead whale, DFO bureaucrats have dogmatically ignored or disputed the research of all independent scientists, relying instead on their own dubious population estimates to justify a hunt.

But naming the culprit is only half the battle. In preparing this report, leading scientists and conservationists were asked what needs to be done to fix the problem. Their responses have been compiled into the list of recommendations at the end. But before plunging into the political quagmire of Canada's bowhead hunt and overall whale policy (or lack thereof), let's examine DFO's track record on other marine species.



## Fortress DFO

When the May 1997 issue of *Canadian Journal of Fisheries and Aquatic Sciences* (CJFAS) appeared, it unleashed a tidal wave of controversy. Its pages read like an Orwellian tale from the former Soviet Union: a government agency bent on shaping scientific data to fit predetermined policies, gagging dissident scientists to suppress the truth, punishing or exiling those who defy. Yet this chilling saga wasn't set in a Siberian labor camp but rather at the Department of Fisheries and Oceans in Ottawa. And the authors were Canadian scientists.

In their paper entitled "Is Scientific Inquiry Incompatible with Government Information Control?" authors Jeffrey Hutchings, Carl Walters and Richard Haedrich systematically exposed DFO's manipulation of science to support bad political decisions with disastrous effects on Atlantic cod and Pacific salmon. The trio concluded that "conservation of natural resources is not facilitated by science integrated within a political body." They urged "the formation of a politically independent organization of fisheries scientists" to estimate fish stock levels and to release that information to the public and to DFO simultaneously so that DFO could not keep mangling or suppressing the estimates to serve pre-determined policy objectives.

Their sensational paper spawned a string of articles in the *Ottawa Citizen* and other media quoting former DFO scientists who described how DFO bureaucrats barred them from publishing certain articles, speaking at conferences, or communicating with the media when their data and views didn't support DFO policy. Senior DFO officials vehemently denied the accusations.

DFO deputy minister Bill Rowat slammed the Hutchings' article as "tabloid journalism of the sort one would not expect to encounter in a scientific journal" in an irate letter to the president of the National Research Council, which publishes the CJFAS. Two other DFO officials (assistant deputy minister Scott Parsons, and director general of fisheries and oceans science William Doubleday) tried to stifle the dissent by suing the *Ottawa Citizen*, its publisher, a reporter, and former DFO scientist Ransom Myers for describing how DFO scientists were muzzled by the department. DFO resources (public tax dollars) were used to collect information for the lawsuit, which was advertised on the DFO website.

The lawsuit ultimately went nowhere. The same cannot be said for certain high-ranking DFO officials. Rowat was gone before year's end. Doubleday was transferred to another government agency (the Canadian Centre for Management Development). And Parsons allegedly had a nervous breakdown. Myers, one of DFO's most vocal critics, also left DFO that year after 14 years with the department. He now holds the Killam Memorial Chair in Ocean Studies at Canada's Dalhousie University. And on the IWC front, DFO bureaucrat Dan Goodman, who represented Canada at the IWC for many years, also joined the exodus, quitting DFO to go work for Japanese whalers and represent the Japanese government at the IWC.

Doubleday's old job was split in two: the new fisheries and biodiversity science directorate is headed by Serge Labonté, and the new ocean and aquaculture science directorate is headed by Elisabeth Marsollier. Howard Powles, formerly a DFO senior policy advisor, is now DFO's director of the new biodiversity science branch under Labonté. Powles is also handling DFO's IWC-related work. Powles has represented Canada at IWC and CITES (Convention on International Trade in Endangered Species) meetings in recent years, ever since Goodman quit. And the entire department was renamed Fisheries and Oceans Canada (FOC) in an effort to escape the now-monumental stigma attached to "DFO." The effort was unsuccessful since the public still refers to the department as "DFO."

The House Standing Committee on Fisheries and Oceans convened hearings in late 1997 to collect testimony on the charges against DFO raised in the Hutchings' article and in the media. Doubleday himself was grilled at length by the irate, all-party committee. Through the testimony of Myers and others, the committee learned the gruesome details of DFO's long pattern of intimidating researchers, suppressing scientific uncertainty about stock levels, censoring or rewriting reports, failing to collect or use relevant data, hiding data from researchers, barring scientists from speaking to the media or to colleagues about their findings, threatening to withhold research funding to universities whose staff criticize DFO, and threatening to sue DFO critics.

DFO's gross mismanagement of fisheries and subversion of science resulted in the complete collapse of Canada's Atlantic cod fishery in the early 1990s, costing 10,000 Canadians their jobs. On the Pacific coast, meanwhile,



DFO bureaucrats were busy gagging their scientists so that Alcan Aluminum Ltd. could build a large dam on a salmon river (the Nechako), reducing the flow to a mere trickle of its former self. So intense was DFO pressure on the dissenting scientists (their homes were searched, files confiscated, computer data at work deleted, hard copies destroyed) that one committed suicide, another underwent long-term therapy, and a third moved to a new town where he lives like a recluse behind a secure perimeter. One such scientist, who spoke to me only on the condition of anonymity, described the unwritten job description for DFO scientists as follows: "There was a general feeling, a general perception, that the job of people in the department was to keep the Minister out of trouble, to make the Minister look good. I believe the expression was 'keep his ass out of trouble.'"

But despite the damning testimony to the parliamentary committee and the equally scandalous coverage in the media, and despite DFO's attempt (or pretense) of major restructuring of the department, very little has changed. In fact DFO, under the "new" management and new name, is now presiding over the demise of yet another fishery.

"Every mistake made with the cod fishery is being repeated with the northern shrimp fishery," says Myers of that Atlantic coast fishery. "The collapse won't necessarily happen immediately," he says, "but it's all the (same) management decisions that result in too many fishermen taking too few fish." Nor has fisheries management improved on Canada's Pacific coast. In April, the Sierra Club of British Columbia announced it would oppose any bid to grant ecological certification to BC's wild salmon, saying it "would be an act bordering on consumer fraud" for the Marine Stewardship Council to place its eco-seal of approval on that salmon without dramatic improvements to DFO's management of those stocks.

Professor Myers best sums up the fundamental problem with DFO: "Science functions because questions can be asked, and there is no authority that commands limitation on the truth. When a bureaucrat commands that only certain answers are permitted, the system of science cannot function, and blunders are inevitable. This is at the heart of the problem with science at the Department of Fisheries and Oceans."

Unfortunately, this same blundering agency that destroyed one Canadian fishery and is rapidly exterminating two others is also responsible for managing Canada's whales and setting quotas to kill them.

## Canada's Whaling History

Prior to European contact, aboriginal people in Arctic Canada hunted belugas and narwhals for subsistence. In the Western Arctic they also hunted bowhead. Eastern Arctic bowhead hunting began seriously with the arrival of Dutch, German, British and American fleets, which took at least 120,000 North Atlantic bowhead whales over two and a half centuries, driving the population to near extinction. Commercial whaling in Canada began in the mid-16th century with Basque whalers hunting bowheads in Newfoundland's Strait of Belle Isle. By the late 17th century, French colonists in the St. Lawrence region were commercially hunting belugas. And in the latter half of the 18th century, New England whalers were hunting right whales, humpbacks and possibly bowheads in the Gulf of St. Lawrence. In the 19th century, a fleet of Gaspé whaling ships was active in

the St. Lawrence and along the Labrador coast hunting right whales and humpbacks, plus some fin whales, blue whales and possibly bowheads. British and American whalers, meanwhile, were intensively hunting bowheads in Arctic Canada, dramatically reducing the numbers of this now-endangered species. Aboriginal people in Canada's Eastern Arctic began hunting bowhead with the commercial whalers at this time, using the technology brought by the Europeans and Americans. Canada's Eastern Arctic people did not previously have the tools for hunting the large bowhead whales, although there are anecdotal stories of pre-contact natives stabbing young bowhead with sharpened kayak paddles.

By the turn of the century, modern Norwegian shore-based whaling stations were operating along coastal

Newfoundland, prompting Newfoundland to pass the Whaling Industry Act of 1902. The legislation did little to protect the plummeting whale populations in Atlantic Canada. By 1915, more than 7,000 whales (mostly blue, fin and humpback) had been killed and landed at Newfoundland and Labrador stations. Modern shore whaling stations were also springing up on Canada's Pacific coast at this time. In one three-month period,

97 humpbacks were killed in Georgia Strait alone and processed at a Nanaimo station. Humpbacks have scarcely been seen in Georgia Strait since that station closed in 1908. The last whaling station on Canada's Pacific coast closed in 1967. Atlantic Canada's last stations shut down in 1972 when Canada declared a moratorium on commercial whaling, which remains in effect today.

## Canada and the IWC

One by one, each of the great whale species in Canadian waters and beyond was hunted to the brink of extinction or at least "commercial extinction" (when too few remain to justify the cost of pursuing them). Canada was not the only country alarmed by the legacy of four centuries of uncontrolled whaling. So in 1946, Canada and 15 other nations signed the International Convention for the Regulation of Whaling, which established the International Whaling Commission. The IWC's original mandate, as put forth in the convention, was to "provide for proper conservation of whale stocks and thus make possible the orderly development of the whaling industry." Today the

IWC claims 43 member nations, Canada no longer among them (see related sidebar: Pirates Ahoy!). And the IWC's additional functions now include coordinating whale research, establishing whale sanctuaries, advancing whale watching, and monitoring chemical contamination of whales and the related effects on human health (see related sidebar: Toxic Whales).

In 1986, the IWC implemented a worldwide ban on commercial whaling, which is still in effect today. However, there are various exemptions to this ban, which have enabled certain member nations of the IWC to continue whaling. Aboriginal subsistence whaling is exempt from the ban for

### PIRATES AHOY!

*Canada is not the only country killing whales without belonging to the IWC. The two other nations doing likewise are Indonesia (sperm, sei, minke and Bryde's whales) and the Philippines (Bryde's whales).*

*"These are developing countries with corrupt governments and appalling human rights records. Is this really the company Canada wants to keep?" asks Annelise Sorg, executive director of the Canadian Marine Environment Protection Society. CMEPS is Canada's only accredited anti-whaling organization at IWC meetings. In the view of whale biologist Jim Darling, "Nothing less than Canada's overall reputation as a nation with a global perspective on wildlife management issues is at stake." Darling and nine other leading marine mammal scientists in*

*Canada have been lobbying Prime Minister Jean Chretien to get Canada back in the IWC. "Participation in the appropriate global body is critical to fulfillment of responsibilities under the new Oceans Act and to the development of Canada's future policies on whales and whaling, subjects of considerable significance to many Canadians," the ten scientists told Chretien in a 1997 letter. Apparently these subjects were of less significance to Chretien, who has kept Canada out of the IWC while allowing DFO bureaucrats to authorize the killing of two more endangered bowhead whales since then.*

*Marine mammal scientist David Lavigne of the Canadian-based International Marine Mammal Association goes one step further and says Canada has an additional responsibility as a developed nation*

*to set an example. If Canada won't "play by international rules and regulations," how can we expect less developed countries to, Lavigne asks. "It is wrong when developed countries become pirate whalers because they refuse to honour their international obligations," he says.*

*Robbins Barstow, director emeritus of the US-based Cetacean Society International, agrees and says Canada's conduct sets a dangerous precedent. "If Canada is allowed to defy the IWC in this manner, without any penalty, it will mean that other nations will feel free to disregard the Commission," says Barstow. "The whole mechanism set up over so many years to conserve and protect the world's great whales will break down, and whale slaughter will resume without international restraints," he predicts.*

Native people who can demonstrate both a nutritional and cultural need to hunt whales. But aboriginal subsistence whaling is still regulated by the IWC. At present, aboriginal subsistence whaling is conducted with IWC approval by four member countries: the United States (taking bowhead whales in Alaska), Denmark (taking fin and minke whales in Greenland), the Russian Federation (taking gray and bowhead whales in Siberia), and St. Vincent and the Grenadines (taking humpback whales). (See related sidebar: The Makah's Backroom Deal.)

Canada had already banned commercial whaling back in 1972. But Canada remained in the IWC where it continued to cast a pro-whaling vote. Then in 1981, on the eve of the IWC's annual meeting, Canada suddenly announced it was withdrawing from the organization, effective next year, and would attend the current session as an observer only. Jaws dropped. Rumours flew. Was Canada planning to resume commercial whaling? Did Canada want to sidestep the politically embarrassing vote two years away on the proposed worldwide ban on commercial whaling - a vote in

## TOXIC WHALES

*The IWC authorizes limited aboriginal whaling for Native people who can demonstrate both a nutritional and cultural need to hunt whales. And the Wise Use whaling groups that cloak themselves beneath the sacrosanct mantle of Native culture also invoke Native health reasons to justify their whaling campaigns. But how healthy are whale products these days? According to the World Health Organization, not very.*

*In response to the increasing chemical contamination of whales and other marine mammals, WHO has issued guidelines warning a 70-kilogram person to eat no more than 20 grams (four tablespoons) of dioxin-containing blubber per week - a level far below the normal consumption of many Native people, including Canada's Inuit.*

*Seals, walrus and small whales (belugas and narwhals) - all staples of the Inuit diet - have become mobile warehouses for the world's 12 most toxic chemicals. These persistent organic pollutants that collect in the animals' fat are passed on to the Inuit through eating and breast milk. Humans who eat marine mammals are poisoning themselves with a toxic cocktail of DDT, PCBs, dioxins, mercury, lead, benzene and toluene. High levels of these chemicals can cause neurological damage, cancer, immune suppression,*

*reproductive failure and learning disabilities, with children and nursing infants being the most susceptible. The Arctic is especially prone to chemical pollution because the terrain lacks the soil, vegetation and buildings that absorb pollution elsewhere, or the warmer temperatures that eventually break down toxins. Not surprisingly, mothers in Canada's Eastern Arctic and Greenland showed the highest levels of DDT and PCBs in a 1992 study of maternal blood conducted in far northern countries. In Greenland, where people eat large quantities of beluga and narwhal blubber, 95 percent of women exceed the accepted guideline limits for PCB contamination.*

*Inuit hunters are reporting abnormalities in Arctic animals: hermaphrodite polar bears, and seals with burns or no hair. Scientists speculate such deformities may be caused by PCBs, six tons of which reaches the Arctic each year. Arctic people are also exhibiting high cancer rates.*

*Elsewhere in the world, PCB levels in stockpiled Norwegian blubber from minke whales have been measured at 3.8 parts per million, prompting the Norwegian government to issue a warning earlier this year "against eating large meals of whale blubber..." Fortunately for the Norwegians, they don't have a taste for blubber, which was why the Norwegian government*

*was hoping to export its 600 tons of frozen blubber to Japan where it is considered a delicacy and could fetch millions of dollars. However, with PCB levels nearly eight times higher than what the Japanese government allows in food, Norway isn't likely to ring in the sale anytime soon. And a seven-year study on children of the Faroe Islands revealed widespread brain function impairment due to prenatal mercury poisoning resulting from pregnant women eating pilot whales. The Faroese government now warns women to stop eating whale products six months prior to getting pregnant and to not resume until after they finish breast feeding.*

*The human health effects from eating toxic whale products, especially in the Arctic, is also a topic of concern for the IWC. In 1998, the IWC passed a resolution asking governments to send reliable data to the IWC on this issue, and urging further collaboration between WHO and the IWC. The following year, another resolution designated the IWC Scientific Committee to be the appropriate body to "receive, review and collate data on contaminant burdens in cetaceans and forward these as appropriate to the WHO and competent national authorities..." And in 2000, the IWC passed a resolution urging all nations to sign and/or ratify two international protocols to curtail persistent organic pollutants and heavy metals.*

which Canada would doubtless stand with its whaling allies and against world opinion? Or was Canada anticipating a return to killing endangered bowhead whales in the Arctic and therefore stepping out of the IWC before next year's decision to give North Atlantic bowhead complete protection from all forms of hunting?

By way of explanation, Canada stated in a June 26, 1981, press release that "Canada no longer has any direct interest in the whaling industry or in the related activities of the IWC." But things still didn't add up. Canada had banned commercial whaling a decade earlier. So why quit now, and on the eve of the annual meeting? In fact, why quit at all? Canada has whales.

"It was bizarre," recalls whale biologist Kerry Finley, who had been a Canadian delegate on the IWC Scientific Committee for several years. But Finley's own experience that year provides the best insight into the real reason behind Canada's departure, and is yet another example of DFO's shameful pattern of muzzling scientists.

Finley had been researching Canada's aboriginal hunts of narwhals and belugas and found the hunts to be "a mess" due to high loss and wounding rates, inappropriate weapons and ammunition, the tusk trade, and uncontrolled whaling that was severely reducing and endangering some stocks. (Unconfirmed reports suggest that the narwhal hunt is still out of control in parts of the Eastern Canadian Arctic, specifically North Baffin, and that DFO has simply eliminated quotas and turned management over to those communities.) Finley was recommending that the IWC begin regulating narwhals and belugas when DFO came knocking at his door.

"I was ordered by DFO to remove some of the documents that I had presented [to DFO, in advance of the 1981 IWC meeting] on the narwhal hunt," Finley recalls. "I was forced to excise at least one page of recommendations in regard to the hunt." Finley says DFO bureaucrat Dan Goodman ordered it, under the authority of DFO's Bill Doubleday, who subsequently became DFO's director general of fisheries and oceans science. (Goodman, who was the Canadian government's long-time delegate to the IWC, left DFO in 1997 and now works for a Japanese whaling organization and represents the Japanese government at IWC meetings. Doubleday was transferred to another position in 1997 shortly after the searing public indictment of DFO's subversion of science.)

"I was quite astounded," Finley says, recalling his own muzzling by DFO back in 1981. "They ordered me to remove it. I removed it. And on the eve that I flew over to the IWC, they announced that [Canada] had withdrawn."

The Canadian government asserted its protectionist stance in the official press release, identifying Canada as "a responsible coastal state with exclusive sovereign rights over all living resources within its 200-mile zone." Canada pledged to "seek the advice" of the IWC's Scientific Committee, but made it clear that Canadian sovereignty "applies particularly to narwhal and beluga stocks in Canada's northern waters, which are hunted on a subsistence basis by aboriginal peoples under Canadian controls designed to ensure the conservation of the stocks."

But Finley, who describes DFO's interference with science and with Canada's role at the IWC as "a long, sordid tale," was not done locking horns with DFO bureaucrats. The bowhead were next.

## THE MAKAH'S BACKROOM DEAL

*The IWC has never approved a gray whale quota for the US Makah natives in Washington state. The Commission rejected the bid in 1996 (Aberdeen meeting) and again in 1997 (Monaco meeting) because the Makah, who had not whaled in more than 70 years, could not demonstrate a nutritional or cultural need - the two conditions that must be met for aboriginal subsistence whaling.*

*But after the IWC turned the US down the second time on the Makah whale hunt, the US brokered a back-room deal with the Russians at the*

*1997 IWC meeting. Russia asked the IWC for five bowhead whales per year from the US quota allotted for the Alaskan Eskimos (who never fill their quota anyway). And the US asked the IWC for five gray whales per year from the Russian quota to give to the Makah.irate commissioners slammed the US for making a slippery end-run around IWC decisions. But the IWC ultimately approved the joint request. The quota applies for five years, from 1997-2002. In 1999, the Makah killed their first gray whale amid much public controversy and much division*

*within the Makah community itself.*

*"The Makah situation is clear," writes Makah elder Alberta "Binki" Thompson in Britain's BBC Wildlife Magazine. "We do not need whale meat for nourishment, and our hunting tradition was broken 70 years ago... It is absurd that the Makah have hired a non-Native ballistics expert to teach them how to kill a whale. He will not be able to teach them how to respect the whale and honour our traditions. The emphasis is on killing and not our cultural heritage."*

## IWC MEMBER COUNTRIES

- Antigua & Barbuda
- Argentina
- Australia
- Austria
- Brazil
- Chile
- Costa Rica
- Denmark
- Dominican
- Finland
- France
- Germany
- Grenada
- Guinea
- Iceland
- India
- Ireland
- Italy
- Japan
- Kenya
- Mexico
- Monaco
- Morocco
- Netherlands
- New Zealand
- Norway
- Oman
- People's Republic of China
- Panama
- Peru
- Russian Federation
- Republic of Korea
- Saint Kitts & Nevis
- Saint Lucia
- Saint Vincent & The Grenadines
- Senegal
- Solomon Islands
- South Africa
- Spain
- Sweden
- Switzerland
- United Kingdom
- United States of America

## BOWHEAD HUNT CHRONOLOGY

- 1972 - Canada declares a moratorium on commercial whaling.
- 1980 - Canada lists bowhead whales as endangered.
- 1981 - Canada suddenly announces its withdrawal from the IWC, effective next year, amid IWC discussion of adding narwhals and belugas to the list of regulated species.
- 1991 - Canada's DFO Minister issues a permit for one bowhead whale to be killed in the Western Canadian Arctic.
- 1993 - The Nunavut Land Claims Settlement Act is proclaimed, granting Canadians in the Eastern Arctic the right to hunt bowhead, subject to conservation concerns and DFO approval.
- 1994 - Canadians in the Eastern Arctic kill one bowhead whale from the Hudson Bay stock (Foxe Basin) without a permit. Charges are filed but dropped two years later for political reasons.
- 1996 - The DFO Minister grants a permit for two bowhead whales to be killed - one in the Western Arctic and one in the Eastern Arctic (Hudson Bay stock). Both whales are taken that year. The IWC protests and passes a resolution urging Canada to rejoin the IWC and to cease whaling without IWC approval.
- 1998 - The DFO Minister grants a permit for one Eastern Arctic bowhead to be killed (Baffin Bay/Davis Strait stock), and it is taken that year. The IWC protests and passes a resolution urging Canada to rejoin the IWC and to cease whaling without IWC approval.
- 1999 - No bowheads in Canada are killed with permits. The IWC passes a resolution on small populations of highly endangered whales, naming Canada's Eastern Arctic bowhead whales and calling on Canada to cease hunting them until the IWC Scientific Committee deems that a hunt won't pose a threat to the survival of these small populations.
- 2000 - The DFO Minister grants a permit for one Eastern Arctic bowhead to be killed (Hudson Bay stock), and it is taken that year. The IWC once again passes a resolution urging Canada to rejoin the IWC and to cease whaling without IWC approval.



# Canada's Bowhead Hunt

The IWC never did commence regulating narwhals and belugas. So Canada's whaling did not receive much further international scrutiny after Canada quit the IWC in 1982 - at least not that decade. But controversy erupted in 1991 when Canada's DFO Minister issued a permit allowing a community in the western Arctic to kill one bowhead whale. Bowhead whales are listed as an endangered species by Canada and internationally by CITES (Convention on

International Trade in Endangered Species). It was the first bowhead the community had hunted in more than 40 years. The United States protested, urging Canada to rejoin the IWC and seek international approval for the hunt (as the US itself does for its aboriginal hunts of bowhead whales) or face US trade sanctions. Canada did not comply, and the US did not follow through with its threat.

In 1994, one year after the Canadian government

## CANADA AS OUTLAW

*The scientific and ethical debates surrounding Canada's bowhead hunt may be moot, since the hunt itself may be illegal under several laws. And at least one Canadian conservation group, the Canadian Marine Environment Protection Society, is researching the options for taking the Canadian government to court.*

*The 1993 Nunavut Land Claims Settlement Act gave Canada's Eastern Arctic Inuit people the right to hunt bowhead subject to conservation concerns. The DFO Minister not only can reject the harvest levels set by the Inuit if they don't meet conservation requirements, by law the Minister must reject them. Canada's Fisheries Act assigns the DFO Minister ultimate responsibility for the conservation of the bowhead. And Canada's Oceans Act requires the Minister to exercise the precautionary principle in managing bowhead.*

*Supporters of the hunt point to the low harvest level (no more than one or two whales in a year since Canada resumed whaling in 1991), and to the symbolic value of the hunt for Canada's northern people. But Canada's foremost bowhead whale scientist says conservation principles dictate that even one whale is too many given the popu-*

*lation parameters of the Eastern Arctic bowhead. "From a biological point of view, this is not a sustainable hunt," says Kerry Finley, who has studied Canada's Eastern Arctic bowhead for more than 25 years.*

*Canada's bowhead hunt also appears to be in violation of international law. At the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro in 1992, Canada signed Agenda 21, an action plan for sustainable development. Agenda 21 explicitly recognizes "the responsibility of the International Whaling Commission (IWC) for the conservation and management of whale stocks and the regulation of whaling..."*

*Canada is also signatory to the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Article 65 of the UNCLOS states that: "States shall co-operate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations or their conservation, management and study." When CMEPS asked Canadian environmental lawyers for a legal opinion about Canada's bowhead hunt, the organization got this reply: "Based upon Article 65*

*[of the UNCLOS], one could make an argument that Canada has agreed to make conservation and management decisions through appropriate international organizations, such as the IWC, and therefore would be prohibited from acting unilaterally in permitting the taking of a species considered endangered." The lawyers add that "it may be possible to bring a judicial challenge of [DFO's decision to authorize a bowhead hunt] on the basis that the government official authorizing the hunt lacks jurisdiction to make decisions about cetaceans outside of an appropriate international organization."*

*Canada has signed the UNCLOS but never ratified it. So in order for this particular legal challenge to succeed, it would be necessary to prove that Article 65 of the UNCLOS is part of international customary law in Canada. This may not be difficult since in previous judicial decisions Canada has taken the position that the UNCLOS is "declaratory of customary international law."*

*The official position of the DFO Ministry is simply that "neither Agenda 21 of the [UNCED] nor Article 65 of the [UNCLOS] oblige Canada to be a member of the IWC." But the final word may be up to the courts.*

and Canada's Inuit people in the Eastern Arctic finalized the Nunavut Land Claims Agreement, one Eastern Arctic bowhead in Foxe Basin was killed without a permit. Eastern Arctic bowheads are so scarce they are deemed "highly endangered" by the IWC Scientific Committee. By the best data available fewer than 500 remain, and probably just 150 remain in the stock targeted by the illegal hunt, although DFO prefers to cite higher figures. Killing bowhead whales without a license has been illegal in Canada since 1979. So charges were laid against the hunters, but were dropped two years later for political reasons.

"It became obvious that this was perceived as a challenge to aboriginal rights," the federal prosecutor of the case stated at the time. "It would not be in the public interest to continue the prosecution."

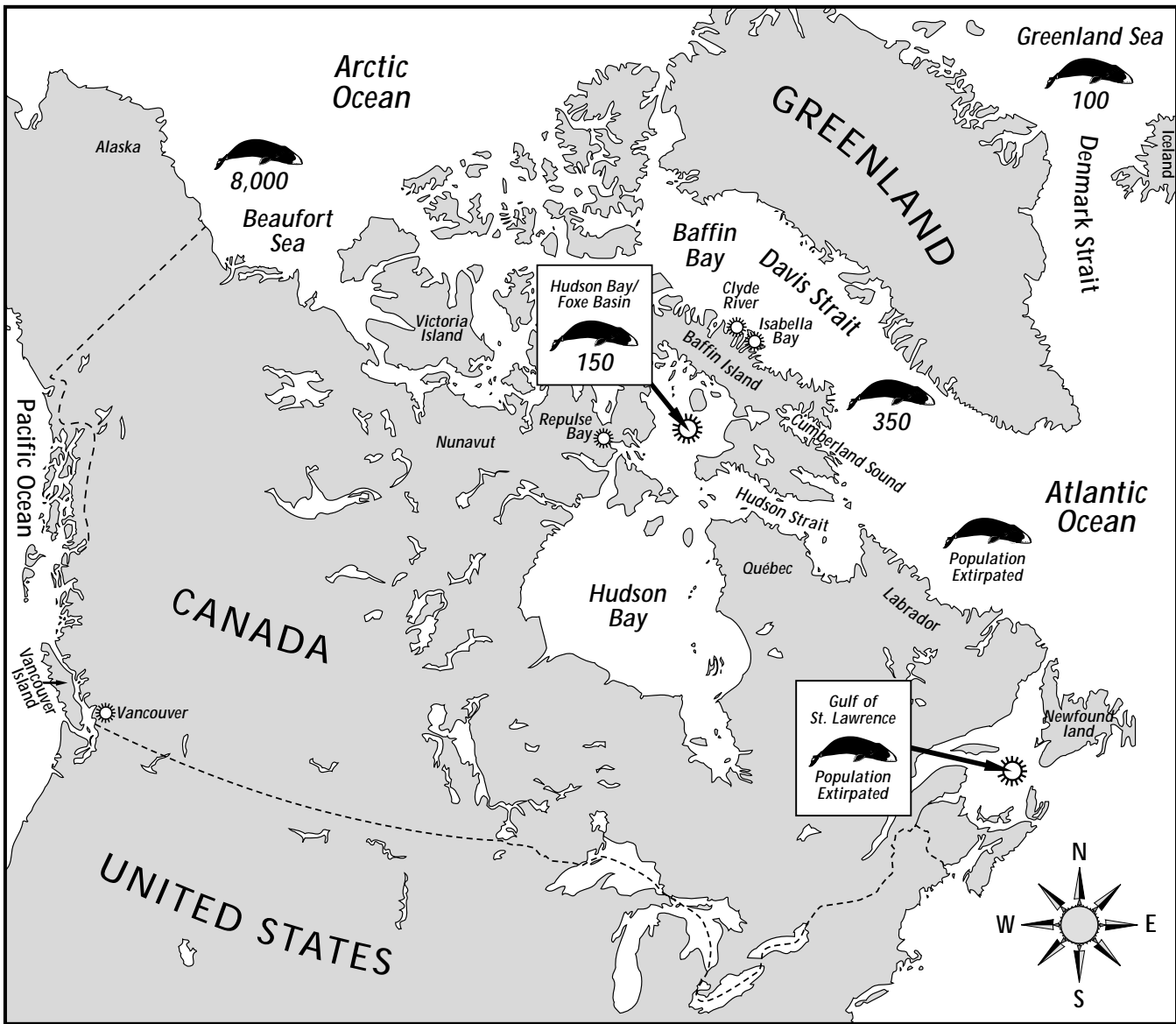
The stage was set. The DFO Minister could either start granting permits for killing Eastern Arctic bowheads or forever have his authority (and the entire Canadian government's authority) flouted by unauthorized hunts that would go unprosecuted. Yet granting permits to kill a critically endangered species doesn't play well in the press. Nor is it necessarily legal (see related sidebar: Canada as Outlaw). So as always, it was DFO's job to supply the necessary population estimates to support the policy objective (granting bowhead permits, in this case) in order to "keep the Minister's ass out of trouble," as one former DFO scientist previously described his job.

In 1996, Canada issued permits for two bowheads - one in the Western Arctic and one in the Eastern Arctic. One bowhead was killed on each permit, arousing international criticism of Canada at the IWC and a resolution urging Canada to rejoin and obtain IWC approval for its whaling, and to cease whaling in the meantime. The highly endangered Eastern Arctic bowhead whale killed in Hudson Bay was pursued for hours by hunters blasting it with harpoons and rifles, all under DFO's watchful eye. When its gas-bloated carcass finally floated to the surface two days later, it was riddled with 17 harpoon hits and hundreds of bullet holes. The slaughter violated all standards of humane killing as well as Canada's Fisheries Act, which stipulates "No person shall attempt to kill a marine mammal except in a manner designed to kill it quickly." A small amount of meat and blubber was removed, and the 45-tonne carcass was left to rot on the beach at Repulse Bay. It was eventu-

ally burned, violating yet another section of the Fisheries Act: "No person who kills a cetacean or walrus shall waste any edible part of it."

The whole episode drew such negative media coverage that when the next Eastern Arctic bowhead was killed in 1998 with a DFO permit, all media were officially banned from the hunt site, ostensibly for "safety reasons." (Two CBC Inuit reporters without cameras were allowed to witness the hunt.) Nevertheless, the hunt was widely reported on wire services. The 13-metre whale taken from the Baffin Bay/Davis Strait stock in Cumberland Sound, was killed with an explosive tipped harpoon and a .50-calibre rifle. The injured whale disappeared for an hour before reappearing and being harpooned. This hunt spurred yet another IWC resolution for Canada to rejoin and to cease whaling until obtaining IWC approval. No bowheads were killed in Canada with DFO permits in 1999. But the IWC passed a resolution that year on small populations of highly endangered whales, specifically naming Canada's Eastern Arctic bowhead stocks, and calling on Canada to stop killing them until the IWC Scientific Committee concludes that those stocks can sustain a hunt. True to form, Canada's DFO Minister ignored that resolution along with the two previous ones, and issued a permit to kill an Eastern Arctic bowhead from the Hudson Bay stock in 2000. The hunt occurred in August, killing one whale, with scarcely a whisper in the media. The IWC passed another resolution in 2000 urging Canada to rejoin the IWC and obtain approval for its whaling, and to cease whaling in the meantime.

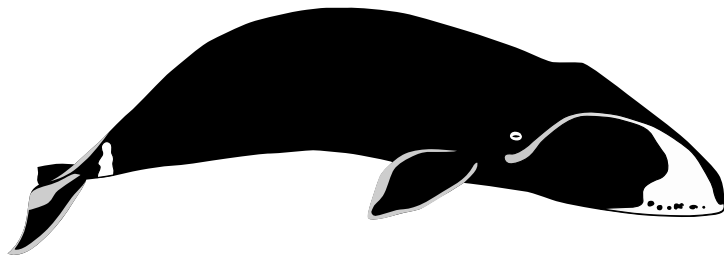
DFO officials routinely sidestep questions about why Canada refuses to rejoin and to subject its aboriginal whaling activities to the scrutiny and approval of the IWC as other nations do. When asked to explain Canada's refusal to bring its bowhead hunt before the IWC, DFO's IWC frontman Howard Powles replies: "Canada is not a member of the IWC because the purpose of the IWC (as in its initial charter) is to regulate the commercial whaling industry, and Canada has no commercial whaling." The answer, which is typical of what scientists, conservationists and journalists have been receiving from DFO for years, ignores the actual question of why Canada won't subject its aboriginal whaling to IWC approval as other nations do. It's as though all DFO bureaucrats have been trained to deflect difficult questions by throwing out non-sequiturs and answering questions that weren't asked.



## BOWHEAD WHALE

*(Balaena mysticetus)*

- Maximum length: 20 metres
- Maximum weight: 100 tonnes
- Life span: Over 200 years
- Calves: 4.5 metres
- Food: Crustaceans



### STATUS:

**In the Western Arctic:**  
Endangered (approx. 8,000)

**In the Eastern Arctic:**  
Highly Endangered (approx. 500)

**In the Greenland Sea:**  
Highly Endangered (under 100)

**Off Labrador's Coast:**  
Extirpated (hunted to extinction)

**In the Gulf of St. Lawrence:**  
Extirpated (hunted to extinction)

## WHATEVER HAPPENED TO WWF – CANADA?

The public may be surprised to learn that DFO's chief ally and defender of Canada's bowhead hunt in the Eastern Arctic is none other than Dr. Peter Ewins, Endangered Species Director for World Wildlife Fund Canada as well as Chair of the Eastern Arctic Bowhead Recovery Team for COSEWIC (Committee on the Status of Endangered Wildlife in Canada).

Like DFO, Ewins rejects the bowhead population estimates of Kerry Finley, the whale biologist with more field experience studying Eastern Arctic bowhead whales than any scientist in the world. Finley's estimates would make a quota of any size scientifically unjustifiable. And such a position is not politically popular with DFO or certain communities in the Arctic, nor apparently with WWF-Canada. Ewins appears to be undaunted by the fact that DFO has never even estimated the bowhead population at Baffin Bay/Davis Strait, which Finley has been researching since 1983 - and with WWF funding, no less.

"In dealing with endangered species, we must balance the conclusions of traditional knowledge with the conclusions of scientific knowledge," Ewins tells media, referring to the conflict between anecdotal information about bowhead stock levels from Canadians in the Arctic (the information DFO opts to use) and the extensive research data of Finley.

Taking it one step further than DFO ever dared, Ewins has been repeatedly quoted in the press describing the DFO-sanctioned killing of this endangered species as being in the

best long-term interest of the bowhead. The bowhead hunt, Ewins tells media, "can become a strong tool for long-term conservation."

But why stop with the Eastern Arctic bowhead? DFO could use some help on the other shore where they would like to see the larger population of Western Arctic bowhead taken off the endangered species list. DFO would also like to allay public anxiety that an aboriginal hunt could expand into a full-blown commercial hunt. In speaking to media, Ewins reassured the public that aboriginal groups have been killing up to 80 bowhead a year from the 8,000-strong Western Arctic population since the 1940s without any resumption of a commercial hunt.

Ewins' public support of Canada's bowhead hunt directly contradicts WWF's own position statement on aboriginal subsistence whaling, which states: "WWF recognizes the legitimate human need for aboriginal subsistence whaling provided that... endangered whale populations are not targeted."

Ewins even went on Canada's national CBC radio and denounced the IWC's 2000 resolution opposing Canadian whaling of highly endangered bowheads in the Eastern Arctic. And although one of the major recommendations of WWF's Arctic whales program is that Canada rejoin the IWC, Ewins nixed that idea as well to radio listeners last year.

Ewins has become a tool of anti-environmental interests and Wise Use whaling groups with his support of Canada's bowhead hunt. And he has

given the WWF a big black eye in the process. The World Council of Whalers, in its media kit, proudly cites WWF as a "leading environmental organization" that supports the main thrust of the WCW's Wise Use agenda. What more could the Wise Users wish for than a scientist and high-ranking official of a world-renowned environmental organization promoting a government-ordered kill of a highly endangered species of whale? Ewins is repeatedly trotted out in right-wing, anti-environmental media to show "conservationist" support for the bowhead hunt, and he drags WWF's name through the mud with him each time.

Ewins's support of killing this endangered species is presumably linked to his 13-year-long unsuccessful campaign to establish Canada's first whale sanctuary for the Eastern Arctic bowheads at Isabella Bay on Baffin Island. Ewins can't afford to jeopardize WWF's relationship with DFO or the Arctic community of Clyde River if the project is to succeed, which is looking less likely as the years drag on. As WWF-Canada's Arctic Program Director, Ewins is also working with other Arctic whaling organizations and whaling communities on various projects including tracking beluga whales by satellite, and monitoring toxins in the Arctic ecosystem. That might explain WWF silence on the bowhead hunt. But Ewins has gone far beyond mere fence-sitting, and has instead leapt over the fence and raced down the pasture, well ahead of DFO or the whale hunters.

## DFO's Political Science

The debate over Canada's bowhead hunt is often characterized as a clash of values between Native rights and animal rights. Such a portrayal generally works in favour of the pro-hunt faction, which includes DFO and, oddly enough, World Wildlife Fund Canada (see related sidebar: Whatever Happened to WWF?). But what is lost in this analysis is the science.

Due to the extremely small size of Canada's two populations of Eastern Arctic bowheads, and due to their population parameters, to kill even one of these whales is simply "not scientifically defensible," according to one of the foremost experts on Eastern Arctic bowhead.

"From a biological point of view, this is not a sustainable

hunt," says whale biologist Kerry Finley, who has researched and surveyed Canada's Eastern Arctic bowhead since 1974, giving him more field experience with these highly endangered whales than any other scientist in the world.

Canada's Eastern Arctic bowhead are comprised of two stocks: the Hudson Bay/Foxe Basin population, which Finley estimates at less than 200, and the Baffin Bay/Davis Strait population, which Finley estimates at 250-350. Bowhead whales are large, long-lived animals, perhaps the most long-lived mammal, exceeding 200 years in some cases. They also have a very low reproductive rate - a mere five percent in the Bering Sea population in the Western Arctic, and just 2.5 percent in Baffin Bay in the

### SCIENCE FOR HIRE AT COSEWIC?

*In March 2001, Kerry Finley's definitive paper on bowhead whales was published in the peer-reviewed journal Arctic. But it began as a status report to the Canadian government's Committee on the Status of Endangered Wildlife in Canada - a report that was never accepted. And the story is yet another shameful example of how Canada's Department of Fisheries and Oceans suppresses science to serve its pre-determined political objectives, even reaching into other government agencies to do so.*

*In 1996, Finley was asked by COSEWIC to revise an existing status report on bowhead whales that had been shelved due to the pending aboriginal hunt and the political sensitivity of the issue. Finley has studied and surveyed Canada's Eastern Arctic bowheads since 1974 and has more field experience researching these whales than any scientist in the world. Finley reluctantly accepted the politically volatile task on the condition that the review process be impartial. COSEWIC assured Finley that "COSEWIC works only with the scientific and technical aspects of the issue and*

*will not permit political or other considerations to stand in the way of our [decisions]." Finley was also assured that only one DFO employee was on the marine mammal sub-committee, which would review his report. In 1998, Finley submitted his report to COSEWIC.*

*He received no response from COSEWIC for more than a year and so submitted his report to the IWC's Scientific Committee at the 1999 annual meeting, and also to Arctic for publication. The report was highly praised by both audiences. In January 2000, Finley finally received the feedback from the COSEWIC reviewers.*

*Four of the five reviewers were directly or indirectly tied to DFO. Not surprisingly, they were highly critical of Finley's bowhead estimates and conclusions, which cannot support a hunt of any size.*

*"It would appear the sub-committee was stacked against an objective review," Finley told COSEWIC coordinator Sylvia Normand in a letter.*

*Finley was asked to revise the report. He told COSEWIC what it would cost, and in September 2000,*

*Dr. Andrew Trites (chair of the marine mammal sub-committee) offered to find the money for Finley to complete the report. One month later Trites was whistling a different tune. He informed Finley that the sub-committee was simply rejecting the report.*

*In January 2001, COSEWIC put out a call for bids to prepare a new status report on bowhead whales, this time offering \$10,000. That's \$6,500 more than Finley was paid. And the new COSEWIC contract forces the author to sign over copyright and waive moral rights. It also has a new secrecy clause, ordering the author "not to use, copy, divulge or publish the report." It appears that COSEWIC will pay what it takes to get the data DFO needs, and will suppress undesirable findings along the way.*

*"There's something very screwy going on there," says Finley. "They want to get somebody who will give them the numbers they want, obviously. They've been working on these reports since 1990 [without accepting one]. It's quite ridiculous."*

Eastern Arctic. As well, the two eastern Arctic populations in Canada are likely comprised of very old individuals. These factors make the survival of those whale populations precarious even without a hunt, Finley explains in his definitive paper on the Eastern Arctic bowhead, published in the peer-reviewed journal *Arctic* in March 2001. (Finley's paper was originally written as a report for the Committee on the Status of Endangered Wildlife in Canada, but was rejected by a DFO-stacked team of reviewers; see related sidebar: Science for hire at COSEWIC?)

"What we're looking at here is a population that probably has a highly skewed age distribution as well as sex distribution," Finley says in an interview. "So in fact your real population, the one that's capable of reproducing, is much less than the total population. So if we're talking about a total population of 250, then the effective [reproductive] population could be 50," Finley explains. And of those 50, it's possible that only one or none would reproduce in any given year. "[DFO] cannot justify a quota, given the population parameters of these relict populations particularly," says Finley.

But DFO ignores (and when necessary, disputes) the data of Finley and other outside scientists. In 1997, DFO drafted a population assessment on the Eastern Arctic bowhead without contacting Finley or any other independent bowhead researcher. "It is incredible that DFO scientists have prepared a population assessment paper on the bowhead without once contacting us about our research," Finley told the DFO Minister in a letter. "It is inexcusable that we have never been asked to participate in any discussion on the status and conservation of this species," he added. DFO official Stu Innes replied to Finley, saying "I can assure you that your contribution to the knowledge about bowhead was part of our assessment..."

Lacking hard data, DFO has chosen instead to place much weight on Traditional Ecological Knowledge or "TEK" - anecdotal information and opinions from Arctic people. The Nunavut Wildlife Management Board in the Eastern Canadian Arctic conducted an Inuit Bowhead

Knowledge Study, which DFO cites when defending the bowhead hunt. Many of the Eastern Arctic people questioned for the study believed that the number of bowhead whales had increased significantly since the 1960s. However, accepting TEK without question denies it the status of worthwhile data, argue Finley and other scientists.

"Opinions from scientific experts cannot be accepted as proof that something is true, any more than local opinions can," Finley writes in *Arctic*. "Opinions can be used to develop a hypothesis, but they must withstand scrutiny for potential biases considering political context, vested interests, and the pitfalls of leading questions and circular reasoning," Finley explains. Indeed, federal permission to hunt bowhead in the Eastern Canadian Arctic was contingent on satisfactory results of the bowhead traditional knowledge study - something the Inuit were aware of. Finley also outlines various socio-economic factors that could account for a perceived increase in bowheads. "The perceived increase in numbers of bowheads could be explained by increased opportunities to see them and the ability to report these sightings," Finley concludes.

Where field surveys are concerned, DFO has no real estimate on the size of the Baffin Bay/Davis Strait population because they've never studied it. And DFO runs with an estimate of at least 345 for the Hudson Bay/Foxe Basin population, which Finley calls "a highly suspect number based on very, very limited coverage in a very concentrated area."

In Finley's view, "DFO abuses science to rationalize the quota in the face of clear documentation by the International Whaling Commission that the population cannot sustain any takes on it." And if something doesn't change, the Eastern Arctic bowhead may succumb to the same political predation from DFO that exterminated the Atlantic cod stocks. Unfortunately, the bowhead aren't the only ones imperiled by Canada's pirate whaling and DFO's mismanagement. The future of the IWC is also on the line.

## Whalers Get Wise

When Canada first defied the authority of the International Whaling Commission in 1991 by unilaterally authorizing an aboriginal hunt of endangered bowhead whales, it sent a loud message to other whaling nations also wishing to escape IWC restrictions: just do it. Three prominent pro-whaling organizations emerged in the last decade, inspired in part by Canada's pirate whaling.

They are: the North Atlantic Marine Mammal Commission (NAMMCO), the High North Alliance (HNA), and the World Council of Whalers (WCW). The Canadian government has counselled, participated in, and even funded these organizations.

Based in Norway, NAMMCO was created in 1992 by Norway, Iceland and two Danish territories (the Faroe

Islands and Greenland) because of their stated dissatisfaction with the IWC's ban on commercial whaling. Canada, Russia and Japan attended the founding meeting as observers. Canada continues to send DFO officials to the yearly NAMMCO meetings as observers. Norway has remained in the IWC but resumed commercial whaling in 1993, using the IWC's "objection" procedure to get around the ban. Denmark has also remained in the IWC and is conducting aboriginal whaling. Iceland withdrew from the IWC in 1992, but announced its return in 2001, and presumably

intends to resume commercial whaling.

Like other Wise Use groups (see related sidebar: Wise Use Abuse), private whaling clubs such as NAMMCO seek to confuse the public about who the legitimate world authority really is on their topic of concern. NAMMCO has chosen to call itself a "Commission," like the IWC. It holds annual meetings where it makes recommendations on whaling, like the IWC. And it has its own "Scientific Committee," like the IWC. Indeed, NAMMCO's stated objective is to "contribute through regional

## WISE USE ABUSE

*Private whaling clubs whose industry backing is cloaked beneath "native rights" and "cultural tradition" are just one expression of a much larger industry-funded, anti-environmental movement known as the Wise Use movement. The movement was born and named at the 1988 Multiple Use Strategy Conference held in the US city of Reno, Nevada. The conference was organized by the US-based Center for the Defense of Free Enterprise, headed by anti-environmental guru Ron Arnold.*

*The conference drew industry leaders and resource users from across the US and Canada, all of whom signed the "Wise Use Agenda." The agenda includes such stated goals as oil drilling in the Arctic National Wildlife Refuge, clearcutting old growth forests on US national forest lands, penalizing citizens who bring lawsuits against industry, and softening the US Endangered Species Act. But the real power of the Wise Use movement lies in its strategy for battling environmentalists, and its ability to organize industrial and commercial interests around the world to all deploy the same strategy. A cornerstone of that strategy is to create and fund pro-industry citizen activist groups to hide behind.*

*"The public is completely convinced that when you speak as an industry you are speaking out of nothing but self-interest," Arnold*

*told Canada's Ontario Forest Industries Association in a 1988 speech. It's a speech he had delivered many times before, and would deliver many times again (for a hefty fee) to a wide array of corporate groups. Arnold is generally considered the godfather of the now-global Wise Use movement.*

*"The pro-industry citizen activist group is the answer to these problems," Arnold told the Ontario logging companies. "It can be an effective and convincing advocate for your industry. It can evoke powerful archetypes such as the sanctity of the family, the virtue of the close-knit community, the natural wisdom of rural dwellers... And it can turn the public against your enemies... I think you'll find it one of your wisest investments over time," says the greatest Wise User of them all. All major logging regions in the US and Canada now have such groups. And other industries, including commercial whaling, are following suit. These industry-funded groups invariably describe themselves as "grassroots" citizens organizations. But environmentalists call them "astroturf" groups because their grass is fake.*

*Another common tactic of Wise Use groups the world over is to confuse the public by hijacking language. Wise Users frequently identify themselves as "conservationists" or even "environmentalists," and relabel the true conservationists*

*"radical environmentalists" or "preservationists." They also name their astroturf organizations strategically to mislead the public about their real agenda. Who would suspect that the Sea Lion Defense Fund was set up by the Alaska fishing industry to defend the industry's huge and unsustainable increase in its pollock catch? Or how about the Wilderness Impact Research Foundation, funded by mining, timber and petroleum companies to fight new wilderness area designations. Or the National Wetlands Coalition, funded by petroleum companies to lobby for commercial development and decreased protection of sensitive wetlands. Or the Abundant Wildlife Society of North America, created by a cattle rancher to oppose the re-introduction of endangered gray wolves into Yellowstone National Park in the US. The list goes on and on.*

*It is no longer necessary for Ron Arnold to race around lecturing each industry on how to hide behind feel-good names and sacrosanct values like "jobs," "community," and "local wisdom." The Wise Use movement has taken on a life of its own and is now self-replicating. And this is the political context in which the industry-funded whaling organizations such as North Atlantic Marine Mammal Commission, High North Alliance, and World Council of Whalers must be viewed.*

consultation and cooperation to the conservation, rational management and study of marine mammals." Unless you read between the lines, you wouldn't know this is an organization of whalers and sealers.

The Canadian government aids this confusion and the Wise Use agenda behind it. When Canada is confronted on the illegality of whaling outside of the IWC, government officials frequently respond that Canada is upholding its international obligations to work through the appropriate international organizations by being an observer at both NAMMCO and IWC meetings, as though there is some equivalency between these two organizations.

But NAMMCO is "an illegitimate international organization in that it's a club," says David Lavigne, executive director of the Canadian-based International Marine Mammal Association. "Range states [countries with marine mammals] don't automatically qualify for membership. Only whaling and sealing interests qualify. So they don't have to deal with opposition," Lavigne explains.

Another Norwegian-based whaling club, the High North Alliance, is more forthright in identifying its real constituency. HNA describes itself as "an umbrella organization representing whalers and sealers from Canada, Greenland, the Faroe Islands, Iceland and Norway." In 1997, the Canadian federal government (Department of Fisheries and Oceans) helped fund a 27-page colour booklet for HNA promoting whaling, sealing and the sale of marine mammal products.

"Given the fact that Canada banned commercial whaling in 1972, pouring money into the local and international whaling industry is at best counterproductive and at worst displays breathtaking contempt for Canadian taxpayers," says Annelise Sorg, executive director of the Canadian Marine Environment Protection Society. CMEPS is Canada's only accredited anti-whaling organization at IWC meetings.

In January 1997, Japanese and Norwegian whaling interest joined forces with certain Canadian aboriginal people to form the World Council of Whalers, currently headquartered on Vancouver Island on Canada's Pacific coast. The founding of the organization and its location coincide with a bid from certain Nuu-Chah-Nulth native people to hunt gray whales and humpbacks off Vancouver Island's west coast. To deflect public criticism of the commercial whaling interests behind WCW, the organization is chaired by a Nuu-Chah-Nulth chief, Tom Happynook, whose grandfather carried out the last Nuu-Chah-Nulth whale hunt in 1928.

The Canadian government provides funding and strategic advice to WCW. In 1999, Canada's Department of Indian and Northern Affairs contributed \$12,000 to help stage WCW's annual general meeting in Iceland. The same department

sent senior advisor Brian Roberts to the meeting to coach international whalers on how to use aboriginal people to fight whaling opponents based on lessons learned from the anti-sealing and anti-fur campaigns in Canada. "The first step," Roberts said in his speech to the meeting, "was to neutralize the appeal of the animal protection lobby. To accomplish this it was necessary to mount an equally emotionally powerful counter appeal. This counter appeal was based on the survival needs of aboriginal communities which depended upon the continuing taking of fur-bearing animals." The lessons learned from Canada's sealskin and fur wars "may be very useful for other wildlife resource users--including whalers," Roberts told the audience. Roberts advised the whalers to use this technique "to deal with a poorly informed and emotional public, and with politicians seeking electoral approval from such publics."

WCW's chairman echoed this typical Wise Use strategy. "At a time when most whale populations are thriving, we have to ensure that the world's endangered whaling cultures will survive," Happynook told the same audience in his closing address.

The Sea Shepherd Conservation Society calls the WCW a clever public relations device "meant to cloke illegal commercial whaling operations with a politically correct facade." Such disguises are a common ploy of the Wise Use movement. But Sea Shepherd isn't the only one who sees through the disguise. Many native people such as Makah elder Alberta "Binki" Thompson object to being exploited by Wise Use whaling interests. The Makah, a Nuu-Chah-Nulth tribe in the United States, killed their first gray whale in more than 70 years in 1999 amid intense public controversy. (See related sidebar: The Makah's Backroom Deal).

"We have become the pawns of countries such as Norway and Japan, who are using us in their global campaign to resume commercial whaling," Thompson wrote in Britain's *BBC Wildlife Magazine*. "We must not let ourselves become the mercenary killers of whales for Japanese food markets," says Thompson.

Steve Lawson of the Canadian-based First Nations Environmental Network agrees. "The Japanese have been lobbying First Nations Peoples on the West Coast and around the world to open the door on 'cultural whaling'," says Lawson in a FNEN press release titled "Not all indigenous people support Makah whaling." FNEN supports Native treaty rights, says Lawson, but "this is a political reason being used for killing and not a true meaning of need when it comes to the taking of another being's life." Using treaty rights in this way "may set a dangerous precedent," he warns.

WCW admits that it is funded by commercial whaling interests. Furthermore, "the Council does not distinguish between commercial and non-commercial sustainable whaling," WCW says. "If whaling is conducted on a sustainable basis, based on the best scientific advice and with effective monitoring and controls in place, the Council believes it does not matter if whale products are sold or not," WCW states in its media kit. WCW members such as some Nuu-Chah-Nulth people on Vancouver Island agree. One Nuu-Chah-Nulth leader told a Canadian newspaper: "As far as I'm concerned, if we have the right to whale, we should be able to dispose of the whale as we see fit."

Whatever one's view may be on the Nuu-Chah-Nulth people's "right" to kill whales, there should be no mistaking these proposed hunts for "subsistence" whaling. The blubber will most likely find its way to Japan where it can fetch more than \$200 a kilogram.

Like other Wise Use groups, WCW hijacks language to define itself as a "conservation organization." This further confuses the public and shoves the real conservationists off the podium and into the media scrap heap of "radical environmentalists." And WCW is only too glad to prop up its own manufactured "conservation" credentials by associating itself with established conservation organizations such as World Wildlife Fund, which support some portion of the WCW agenda (see related sidebar: *Whatever Happened to WWF - Canada?*).

WCW also makes much noise about defending the "dietary rights" and "health" of aboriginals and other "whaling peoples," many of whom haven't whaled for decades in the case of Canadian and US natives. Happynook attributes Nuu-Chah-Nulth health problems to the loss of whale and seal oil from the diet. And he wants to see whale products available to people everywhere. "The whaling issue is about food," says Happynook.

## Fixing the Problem

The problems surrounding Canada's management of whales and oceans may seem as gargantuan as the bowheads being killed in the Arctic. But every problem has a solution so long as some person (or government) is creative enough to envision it and bold enough to implement it. Various scientists and conservationists

"It is about feeding the world's growing human population." But if WCW were truly concerned about health and not just Japanese Sushi bars, they probably wouldn't be advocating eating whales, given the soaring toxicity of marine mammals (see related sidebar: *Toxic Whales*).

No date has been set for when the Nuu-Chah-Nulth will begin killing whales off Canada's west coast. Happynook maintains that "the Nuu-Chah-Nulth whalers could go whaling tomorrow if they wished" because their right to whale is enshrined in the Canadian Constitution. The Nuu-Chah-Nulth, who never ceded their territory through any treaty, are now in the midst of negotiating their first treaty with Canada. And from the outset, whaling has been included as one of the substantive issues, says Happynook, who wants the Nuu-Chah-Nulth to hunt both humpback and gray whales.

As with the bowhead whale hunt in the Canadian Arctic, Canada's Department of Fisheries and Oceans is supposed to approve the hunt first by granting a license. "We do not have to follow this procedure," Happynook says, "but in the interest of cooperation, the license might be applied for before the hunt takes place." There are unconfirmed reports that crew members for the first hunt are already being selected. And the looming prospect of a west coast whale hunt is yet another reason why Canada balks at returning to the IWC.

But one thing is certain. The west coast of Vancouver Island is far more accessible to media and protesters than the Eastern Canadian Arctic. This is the same region that drew thousands of people from around the world to protest clearcut logging in Clayoquot Sound in 1993, resulting in mass arrests of more than 800 people. When the Nuu-Chah-Nulth begin killing whales there, the whole world will indeed be watching.

were asked how to improve the situation for Canada's whales, how to increase government accountability on whale and ocean management, and how to break free of the bureaucratic shackles choking scientific inquiry. Their answers follow.

## **WHAT CANADA'S WHALES WANT**

### ***Remove Marine Mammals from Fisheries Bureaucrats***

*Some scientists favour taking whales and other marine mammals away from DFO altogether and handing them over to the Canadian Wildlife Service under Environment Canada on the assumption that CWS couldn't possibly do any worse. Other scientists resist that proposal because CWS is obliged by law to work cooperatively with provincial governments, which in some cases might push for even more regressive policies on marine mammals. Those scientists would prefer to see marine mammals remain with DFO but be removed from the fisheries section (they're not fish, after all) and placed in their own separate management section. There is no disagreement among independent scientists that DFO's current management of marine mammals is unacceptably bad, and that it is a direct conflict of interest for the people who manage fish for maximum commercial harvest to also manage their predators.*

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### ***Implement Meaningful Federal Legislation to Protect Whales and Other Marine Mammals***

*This could entail a Marine Mammal Protection Act similar to that in the United States. And it should certainly include an Endangered Species Act, which Canada has still not managed to bring forth. In any event there must be some kind of legislation to protect vital whale habitat in Canada such as Isabella Bay, the most important Arctic site for Canada's endangered bowhead whales of Baffin Bay/Davis Strait.*

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### ***Undertake a Federal Review of Canada's Bowhead Whale Hunt***

*This task should be carried out publicly by the House Standing Committee on Fisheries and Oceans, and has already been called for by the Progressive Conservative party's fisheries critic, Gerald Keddy. However, in order to be truly effective such a review needs to receive better media coverage and more meaningful government response than the 1997 public hearings the same committee conducted into charges of DFO's political interference with science.*

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### ***Establish an Independent Whale Advisory Group***

*A panel of independent whale scientists and other parties with an interest in whales (e.g., whale-watching tour operators, coastal communities, conservationists, Natives) should be created to advise government on whale policy. To avoid manipulation or suppression of information, this advisory group should release its recommendations and data directly to the public at the same time they are released to government.*

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### ***Rejoin the IWC Once the Above Conditions Have Been Met***

*For both legal and moral reasons, Canada must rejoin the IWC if Canada is going to continue whaling. But conservationists do not universally welcome this proposition since, without further reforms, Canada would simply cast a pro-whaling vote as before. And with two other pro-whaling nations rejoining the IWC this year (Iceland and Panama), conservationists do not want to see a third pro-whaling country added to the IWC roster. Certain domestic changes in Canada's management of whales and in DFO bureaucracy (described in the preceding recommendations) **must occur first** so that Canada's representation at the IWC accurately reflects current Canadian scientific knowledge as well as all public and economic interests in whales, not just whale-killing.*

*But any effort to improve Canada's management of whales will be thwarted until the larger problems of DFO's general mismanagement of stocks, subversion of science, and lack of accountability are also addressed.*

## **WHAT CANADA'S OCEANS NEED**

### **Create an Independent Fish-Science Organization**

*To escape the disastrous pattern of DFO bureaucrats subverting science to serve political objectives, a publicly funded, independent fisheries research organization must be established, along the lines of Canada's defunct Fisheries Research Board. And all information on fish stock levels arising from this organization must be released to the general public at the same time that it is presented to DFO. Scientific disagreements should be publicly aired along with estimates of uncertainty factors.*

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### **Create an Arctic Unit Responsible for Arctic Management**

*Canada's vast Arctic currently falls under four different jurisdictions with very little integration of management. Arctic scientists such as Kerry Finley want to see a single department responsible for the Arctic. "Our record in Arctic research is appalling," says Finley, who is urging the creation of an Arctic Unit similar to the British Antarctic Survey. Such a unit existed in the past as part of Canada's defunct Fisheries Research Board and should be revived.*

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### **Create a Federal Oceans Protection Committee**

*Canada needs some advisory or policy-setting organization with an unambiguous mandate to protect Canada's oceans and their inhabitants. "We need something that's going to take a strong new look at what Canadians want for their oceans," says whale biologist Jim Darling. And one of the topics it needs to cover is marine mammals. Wide public input will be paramount to the success and validity of this new organization.*

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### **Bring Lawsuits Against DFO**

*Citizens groups must use the Fisheries Act and other laws to take DFO to court for its gross mismanagement of fisheries and destruction of the ocean bottom. "They're obviously contravening the Fisheries Act," says Professor Ransom Myers, who holds the Killam Chair in Ocean Studies at Canada's Dalhousie University. "But until we sue the bejesus out of them, I don't think they're going to do anything about it," Myers adds, pointing out that "this is the way it works in the U.S." One such group, the Canadian Marine Environment Protection Society, is currently researching the possibility of bringing a suit against DFO over the bowhead whale hunt in the Arctic (see related sidebar: Canada as Outlaw).*

## **Conclusion**

The world's whales and oceans are besieged by an onslaught of mounting perils. Increasing chemical pollution has turned marine mammals into toxic waste dumps. Overfishing is disrupting entire ecosystems and ridding the oceans of a food source for whales and humans alike. Global warming is already wreaking havoc with oceans and their inhabitants by melting Arctic ice, with worldwide consequences. (The biomass of macro-zoo-plankton in the US coastal state of California has decreased by 80 percent since 1951, while the surface water has warmed a mere 1.5 degrees.) The US Navy's Low Frequency Active Sonar system has already caused a mass stranding of

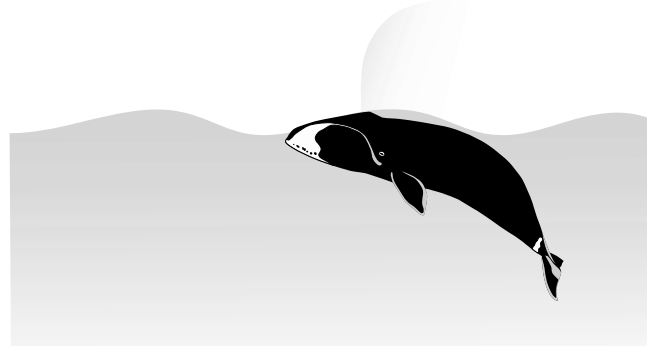
whales in the Bahamas, and is believed to damage whales' breathing and immune systems and to cause reproductive failure. Ozone depletion, resulting in massive holes in the ozone layer over the Antarctic, threatens the entire marine foodchain by destroying phytoplankton (as well as whales) with ultra-violet radiation. Boat collisions and net entanglements claim countless whales and dolphins yearly.

All of these perils have been created by our species. It is therefore our responsibility to take immediate action to reduce the perils, rectify the damage already done, and above all to not increase our destruction of whales and oceans. In the face of such a multitude of marine hazards,

the IWC's 15-year-old ban on commercial whaling is all that stands between many great whale species and extinction.

One such species is the bowhead whale, particularly Canada's Eastern Arctic populations, which the IWC Scientific Committee has classified as "highly endangered." For Canada to be killing these whales against IWC sanctions, while refusing to rejoin the IWC, is indefensible scientifically, legally and morally. And recent research into "whale culture" adds an additional philosophical dimension to the polarized debate over whaling (see related sidebar: Whale Culture). Clearly Canada must rejoin the IWC, but not without first revamping its entire bureaucracy for fisheries and oceans management so that scientists are allowed to work free of tyranny and suppression, so that all data is presented and debated openly, and so that the Canadian public's full interest in whales is fairly represented at the IWC.

The world's whales and oceans, along with the many threats they face, know no national boundaries. Pollution doesn't stop at the border, and neither do whales. There is simply no room for petty national protectionism and isolationism in safeguarding our global marine ecosystems and their inhabitants. It is time Canada rejoined the world community on whale management.



## WHALE CULTURE

*Much emphasis has been placed on aboriginal culture and rights in the current debate over Canadian whaling. However, no mention has been made of the second culture involved - namely, whale culture.*

*The oversight isn't surprising.*

*Cetacean culture is a relatively new area of research, but one that has already yielded exciting results with far-reaching implications.*

*"Quite a few whale and dolphin species show types of learning and patterns of behaviour that we think are most easily explained by cultural transmission," says whale biologist Luke Rendell at Canada's Dalhousie University. "Killer whales, for example, appear to have a culture that is transmitted behaviourally and vocally," Rendell says. A forthcoming article on cetacean culture by Rendell and Dalhousie biology professor Hal Whitehead, to be published in **Behavioral and Brain Sciences**, has already provoked discussion. And the hot topic of marine mammal culture will be featured at a workshop this fall in Vancouver, Canada, at the*

*biennial conference of the Society for Marine Mammalogy. But the case for cetacean culture is already strong enough to lead some to speculate on the philosophical and moral implications of these new discoveries.*

*"Whales and dolphins should now be included with us in an extended moral community," says philosophy professor Michael Allen Fox of Queen's University in Canada. "Chimpanzees, gorillas and orang-utans - also animals with their own culture - share with humans a common extended moral community," explains Fox. "And this entails that each member has three basic rights: to life, individual liberty and freedom from torture." Fox believes whales and dolphins are now entitled to these same rights, given the findings of Rendell, Whitehead and other scientists.*

*"If such basic moral rights were also reaffirmed by law, cetaceans would then receive sanctioned protection from hunting, captivity, wounding, habitat threats, or invasive experimentation," writes*

*Fox in his forthcoming article on the philosophical implications of cetacean culture, to be published in **Behavioral and Brain Sciences**. In Fox's view, this would be an "enormous step forward," not only for cetaceans but also for human moral evolution. "What the rest of us have to decide," he concludes, "is whether we are ready for the new world of interspecies communication, empathy and responsibility that is now dawning on the horizon of human knowledge."*

*Some groups such as the Canadian-based First Nations Environmental Network have already made that decision. "At this point in human history, we feel that spiritually and morally the act of killing whales cannot be justified," the FNEN wrote in a press release opposing the 1999 killing of a gray whale off the US Pacific coast by Makah natives.*

*But what about the rest of us? If we're not ready to make the decision yet, will we be ready in time to save such critically endangered whales as Canada's Eastern Arctic bowheads?*

## IWC RESOLUTIONS ON ENVIRONMENTAL CONCERNS

**1990**

Resolution in support of the United Nations General Assembly Initiative regarding large-scale pelagic driftnet fishing and its impact on the living marine resources of the world's oceans and seas. Rep. Int. Whal. Commn 41:49.

**1992**

Resolution on the need for research on the environment and whale stocks in the Antarctic region. Rep. Int. Whal. Commn 43:39.

**1993**

Resolution on research on the environment and whale stocks. Rep. Int. Whal. Commn 44:35.

**1993**

Resolution on the preservation of the marine environment. Rep. Int. Whal. Commn 44:36.

**1994**

Resolution on research on the environment and whale stocks. IWC Resolution 1994-13.

**1995**

Resolution on the environment and whale stocks. IWC Resolution 1995-10.

**1996**

Resolution on environmental change and cetaceans. IWC Resolution 1996-8.

**1997**

Resolution on environmental change and cetaceans. IWC Resolution 1997-7.

**1998**

Resolution on environmental changes and cetaceans. IWC Resolution 1998-5.

**1998**

Resolution for the funding of work on environmental concerns. IWC Resolution 1998-6.

**1998**

Resolution on IWC concern about human health effects from the consumption of cetaceans. IWC Resolution 1998-11.

**1999**

Resolution for the Funding of High Priority Scientific Research. Resolution 1999-5.

**2000**

Resolution on POP's and heavy metals. IWC Resolution 2000-6.

**2000**

Resolution on environmental change and cetaceans. IWC Resolution 2000-7.



## *IWC Resolution 1996 - 9*

### **RESOLUTION ON CANADIAN WHALING**

**WHEREAS** the International Whaling Commission (IWC) Scientific Committee "remains very concerned about the status and small size of the Davis Strait and Hudson Bay stocks of bowhead whales," which are "conservatively estimated at 450 whales";

**WHEREAS** Canada withdrew from the IWC in 1982, stating that it "no longer has any direct interest in the whaling industry or in the related activities of the IWC" (Official Canadian Press Statement, June 26, 1981);

**WHEREAS** the Nunavut Land Claims Agreement in Canada contains a clause that would allow the taking of at least one bowhead whale from the area of the Davis Strait and Hudson Bay stocks;

**WHEREAS** the Government of Canada has accepted a recommendation from the Nunavut Wildlife Management Board that a license

request be issued this year, although a license has not yet been issued;

**NOW THEREFORE** the Commission:

**CONCERNED** about whaling not conducted in accordance with the International Convention for the Regulation of Whaling (1946);

**EXPRESSES** particular concern over the possible whaling on the Davis Strait and Hudson Bay stock of bowhead whales;

**ENCOURAGES** the Government of Canada to:

- reconsider any outstanding permits it has issued;
- rejoin the IWC if it continues to have a direct interest in whaling;
- refrain from issuing further permits, unless it obtains IWC approval for its whaling activities.

## *IWC Resolution 1998 - 13*

### **RESOLUTION ON CANADIAN MEMBERSHIP TO THE IWC**

**WHEREAS** Canada withdrew from the International Whaling Commission (IWC) in 1982, stating "it no longer has any direct interest in the whaling industry or in the related activities of the IWC";

**NOTING** that Canadian representation has been limited to Observer Status at annual IWC meetings since then;

**WHEREAS** Canada issued its first license to take one bowhead whale in 1991 in the western Arctic from the Bering-Chukchi-Beaufort bowhead whale stock and then has continued to issue such licenses on a regular basis;

**WHEREAS** Canada issued its first license to take one bowhead whale in 1996 from the Hudson Bay-Foxe Basin stock and one whale was landed;

**WHEREAS** the Nunavut Wildlife Management Board has again requested that the Government of Canada authorize the landing of one bowhead whale from the Davis Strait/Baffin Bay stock;

**NOW THEREFORE** The Commission:

**REAFFIRMS** its opposition to all whaling not conducted under the International Convention for the Regulation of Whaling;

**INVITES** the Government of Canada to rejoin the IWC and, in the meantime, not to issue further licenses for any whaling not conducted under the International Convention for the Regulation of Whaling.

## *IWC Resolution 1999 - 7*

### **RESOLUTION ON SMALL POPULATIONS OF HIGHLY ENDANGERED WHALES**

**RECALLING** that the International Convention for the Regulation of Whaling recognizes the interests of the nations of the world in safeguarding the great natural resources represented by the whale stocks;

**NOTING** that the following small populations, (numbering 500 or less), of great whales remain highly endangered from previous over-exploitation and some are threatened with extinction:

- (1) The Okhotsk Sea and Spitsbergen stocks of bowhead whales;
- (2) The Eastern Canadian Arctic (the Baffin Bay/Davies Strait and the Hudson Bay) stocks of bowhead whales;
- (3) The Western North Pacific stock of gray whales;
- (4) All four Northern stocks of right whales; and
- (5) Various blue whale stocks in both the Northern and Southern Hemispheres;

**FURTHER NOTING** that some of these small populations have been subjected in recent years to direct takes and anthropogenic sources of mortality, including bycatches and ship strikes;

**NOW THEREFORE** the Commission:

**WELCOMES** the initial agenda for the 2000 meeting of the Scientific Committee at which the status and trends of small populations of highly endangered great whales will be discussed and the summary findings reported to the Commission;

**ENCOURAGES** member and non-member governments to send appropriate representatives and documents to the next meeting of the Scientific Committee to facilitate this work;

**CALLS UPON** all governments whose nationals have in recent years taken whales from any of these populations of highly endangered whales to refrain from authorising any further takes until the Scientific Committee concludes that adequate scientific advice is available to demonstrate that such takes will not cause a continued threat to the survival or recovery of these populations; and

**REQUESTS** that the Secretariat transmit the text of this Resolution to the Government of Canada.

## *IWC Resolution 2000 - 2*

### **RESOLUTION ON WHALING OF HIGHLY ENDANGERED BOWHEAD WHALES IN THE EASTERN CANADIAN ARCTIC**

**WHEREAS** the 52nd meeting of the Scientific Committee concluded that the Davis Strait and the Hudson Bay-Foxe Basin bowhead whale stocks are two distinct and separate populations, both of which number in the low hundreds;

**CONSIDERING THAT** the Government of Canada withdrew from the IWC in 1982 but continues to allow the taking of bowhead whales in the Eastern Canadian Arctic;

**CONCERNED THAT** the Government of Canada has agreed to grant one license if requested from the Nunavut Wildlife Management Board to take one bowhead whale from the Hudson Bay-Foxe Basin stock in 2000-2001;

**WHEREAS** the IWC is concerned about whaling not conducted under the International Convention for the Regulation of Whaling (1946);

**NOTING THAT** the Government of Canada has been notified of IWC Resolutions 1996-9, 1998-13 and 1999-7, each of which calls for refraining from issuing permits to hunt either highly endangered bowhead whale stocks in the Eastern Canadian Arctic;

**FURTHER NOTING THAT** Canada is signatory to the United Nations Convention on the Law of the Sea (1982) which under Article 65 (Marine Mammals) requires that States co-operate through the appropriate international organizations for the conservation, management and study of cetaceans;

**NOW THEREFORE THE COMMISSION:**

**REAFFIRMS** its opposition to whaling conducted on highly endangered stocks of whales;

**EXPRESSES** particular concern that whaling activities in the Eastern Canadian Arctic are ongoing outside the control of the IWC;

**URGES** the Government of Canada to refrain from issuing a license for the taking of one bowhead whale from the Hudson Bay-Foxe Basin population;

**INVITES** the Government of Canada to rejoin the IWC and, in the meantime, not to issue further whaling permits;

**REQUESTS THAT** the Secretariat transmit the text of this Resolution to the Government of Canada.

## ABOUT CMEPS

The Canadian Marine Environment Protection Society was established in 1992 to work for the protection of Canada's marine environment.

### CMEPS SUPPORTS:

- the creation of no-take marine reserves;
- all efforts to establish marine sanctuaries;
- the protection of marine mammals, endangered ocean species and marine habitats;
- the continuation of the global moratorium on commercial whaling.

CMEPS is Canada's only accredited non-governmental anti-whaling organization participating in the annual meetings of the International Whaling Commission.



CMEPS Executive Director Annelise Sorg represents CMEPS at the IWC meetings.



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*With angels on the take  
and the gangsters in the yard  
Hey don't the wars come easy  
Hey don't the peace come hard*

*From "THE BIG ONES GET AWAY"  
~ Buffy Sainte-Marie*



**CANADIAN MARINE  
ENVIRONMENT  
PROTECTION SOCIETY**