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THE LEGALITY OF JAPAN'S ANTARCTIC RESEARCH

The Institute of Cetacean Research (ICR) has today responded to calls in both New Zealand and Australia for legal action to be taken against its research program in the Antarctic.

ICR Director General Dr. Hiroshi Hatanaka said today: "Our research is perfectly legal in every aspect referred to by anti-whaling opponents and scientifically necessary to ensure the best decisions can be made for sustainable resource management."

The ICR research is conducted under a special permit issued by Japanese Government based on its right under Article VIII of the International Convention for the Regulation of Whaling (ICRW), which reads that: "Notwithstanding anything contained in this Convention any Contracting Government [including Japan] 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."

"The fact that Article VIII begins and ends by categorically stating absolutely nothing in the ICRW or its Schedule affects research carried out under this provision. This means that the current moratorium on commercial whaling, which in our view expired in 1990, and the Southern Ocean Sanctuary provide no legal basis on which to stop this research."

Dr. Hatanaka added that while Japan's Antarctic research was perfectly legal, the data obtained would ensure the proper management of whale resources under a future commercial whaling regime.

"While we have one eye on the law, the other is on the need to ensure that whale stocks are utilized sustainably for future generations and our research will help us achieve that."

He added that Japan was also meeting its obligations under the 1959 Antarctic Treaty. "The Antarctic Treaty does not apply to the research activities conducted on the high seas."

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Some media coverage in Australia alleges that Japan is conducting its research in an area called the “Australian Antarctic Sanctuary”. “Article IV of the Antarctic Treaty freezes all claims to the Antarctic. Japan, like most other nations in the world, does not recognize Australia’s territorial claim: the Antarctic is for everyone,” Dr. Hatanaka said.

Furthermore, Article VI of the Antarctic Treaty says: “... nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.”

“The ‘rights’ of any State under international law with regard to the high seas include freedom of fishing,” Dr. Hatanaka said.

Finally, Dr. Hatanaka said that the necessary permits had been duly provided by the Japanese Government under the Convention on the International Trade in Endangered Species (CITES) and that nothing in the CITES is violated.

“The legality of Japan’s research in the Antarctic has been discussed ad infinitum at the IWC and other fora. The legal basis is very clear; the environmental basis is even clearer: the marine resources in the Southern Ocean must be utilized in a sustainable manner in order to protect and conserve them for future generations,” Dr. Hatanaka said.

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Visit also: www.icrwhale.org