



23 May 2018

By mail and email

Commissioner Karmenu VELLA
 Environment, Maritime Affairs and Fisheries
 Rue de la Loi 200
 Building BERL - 1049
 Brussels
 Belgium

Re: International commercial trade in an endangered whale species

Dear Commissioner Vella,

We, the undersigned NGOs with offices, representatives or supporters in the European Union (EU), note with appreciation the EU's leadership on a range of ocean issues and the efforts of the European Commission under your leadership to find new ways to tackle pressing conservation concerns and improve ocean governance and the conservation of marine species. In this context, we are grateful for the EU's leadership in seeking strong action on an infraction of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) that relates to endangered whales. We look forward to continuing to work closely with the Commission as the issue proceeds towards a decision at the forthcoming 70th meeting of CITES Standing Committee in October 2018.

CITES Article III clearly prohibits any international trade, including "introduction from the sea", of specimens of Appendix I species for "primarily commercial purposes". The sei whale (*Balaenoptera borealis*) is listed on the IUCN Red List of Threatened Species as Endangered and is on Appendix I of CITES. Japan does not have a reservation to the Appendix I listing of the North Pacific population of the sei whale; therefore, as with any other CITES Party, Japan is obligated to comply with all CITES requirements, including Article III. However, since 2002, the government of Japan has overseen and funded the marketing, distribution and sale in Japan of thousands of tonnes of edible products from more than 1,400 sei whales taken by its factory whaling fleet on the high seas of the North Pacific. As the details in the attached briefing demonstrate, this is clearly a violation of CITES Article III (5).

In early 2016, at the request of the EU, the CITES Secretariat began to examine Japan's compliance with Article III (although the issue was known to the Secretariat long before that). After more than a year of correspondence with no change in the situation, the issue was extensively discussed at the last meeting of the CITES Standing Committee in November/December 2017 (SC69) when the majority

of Committee members and observer governments who spoke expressed with concern the view that Japan is not in compliance with Article III (5). We were grateful for the EU's leadership on this issue before and at that meeting and for your subsequent confirmation in a response to a written question from the European Parliament that "[f]ull implementation of the CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) is a priority for the European Union (EU)" and "the Commission will continue to follow this issue very closely in the coming months".¹ However, to ensure a successful outcome at SC70 in October 2018, we urge the European Commission and its Member States to prioritize *leading*, not just following, this issue.

Japan demonstrated at SC69 that it cannot answer the central legal question of how it ensures that edible sei whale products are not used for primarily commercial purposes. We do not believe that a technical mission by the Secretariat to Japan, as requested by the Standing Committee, will yield any new information that satisfactorily answers those questions. Consequently, by SC70, Japan will have received more than two years of due process and Standing Committee members will have all the legal arguments and evidence they need to make a fully informed decision about Japan's non-compliance with CITES on this issue, and how to address it.

This is a unique opportunity to ensure a favorable outcome for sei whales consistent with EU priorities. If the Standing Committee fails to adopt a strong decision regarding Japan for this longstanding violation of the treaty, it will perpetuate a growing perception that CITES tolerates non-compliance by developed countries which contribute significantly to its budget, and disproportionately pursues and punishes developing nations for non-compliance. In contrast, the EU's strong advocacy of a finding of non-compliance and adoption of compliance measures against Japan at SC70 would send the message that the EU and CITES expect a high standard of compliance from **all** parties. Furthermore, demonstrating that CITES is willing and able to tackle egregious abuses of the treaty will enhance its credibility as a rules-based international organization that rigorously enforces its mandate. It will also demonstrate that CITES will not tolerate governments stimulating consumer demand for Appendix I products.

Thank you again for your commitment to wildlife conservation and ocean governance and look forward to seeing strong leadership by the EU on this issue. Please do not hesitate to contact us via the contact details below if you have questions about this matter or would like to discuss it in person with our representatives. We look forward to working with you in the months leading up to the Standing Committee meeting this coming April, and of course during the meeting.

Sincerely,



Staci McLennan
Director
IFAW EU

ON BEHALF OF:

- Animals Asia Foundation
- Animal Conservation and Welfare Foundation
- Animal Defenders International
- Animal Welfare Institute
- Born Free Foundation
- Cruelty Free International
- David Shepherd Wildlife Foundation
- Eastern Caribbean Coalition for Environmental Awareness
- Environmental Investigation Agency UK
- Eurogroup for Animals
- Fondation Brigitte Bardot
- Fondation Franz Weber
- Future for Elephants e.V.
- Gesellschaft zur Rettung der Delphine
- Greenpeace
- Humane Society International
- IFAW
- MEER e.v.
- Oceancare
- ProWildlife
- Robin des Bois
- RSPCA
- Society for the Conservation of Marine Mammals Denmark
- Species Survival Network
- Whale and Dolphin Conservation
- Whaleman Foundation
- Wildlife Conservation Society
- World Animal Protection
- WWF

CC:

- Emmanuelle Maire, Head of Unit, Multilateral Environmental Cooperation, Directorate-General for Environment
- Jorge Rodriguez Romero, Deputy Head of Unit
- Matthias-Leonhard Maier, Team Leader - International Wildlife, including CITES and wildlife trafficking
- Marc Richir, Senior Expert Ocean governance, Marine Biodiversity, Whaling, Trade in Seal Products, and Humane Trapping Standards

¹ <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2018-000816&language=EN>