

The International Whaling Commission remains vitally important to the conservation and management of cetaceans

A RESPONSE TO BRIDGEWATER ET AL., *DISMANTLE 'ZOMBIE' WILDLIFE PROTECTION CONVENTIONS ONCE THEIR WORK IS DONE* ([NATURE](#), AUG. 15, 2024).

Bridgewater et al. call for the termination of the International Convention for the Regulation of Whaling (ICRW) and the dismantling of the International Whaling Commission (IWC) because, they claim, the IWC has “so little to show from the past four decades of operations.”¹ As non-governmental organizations (NGOs) who have participated in every aspect of the IWC’s management and conservation work over the last 40 years, we strongly disagree.

The IWC Continues to Play an Important Role in the Management of Whaling

The IWC’s moratorium on commercial whaling—one of the most significant environmental achievements—has saved the lives of hundreds of thousands of whales and averted extinctions. In the decades before it was adopted, commercial whalers killed around 38,000 whales each year, decimating populations. Although Norway and Iceland still take whales for commercial purposes under an objection or reservation to the moratorium, and Japan hunts as a non-member of the IWC, the moratorium has continuing relevance and a global significance that would be lost if the IWC were terminated. While some species and populations of whales have recovered (or are slowly recovering) since the moratorium, many are still threatened with extinction. The moratorium, the ICRW’s other provisions and the IWC’s scientific expertise were decisive factors in Australia’s International Court of Justice case against Japan, which played its part in Japan’s ultimate withdrawal from whaling in the Southern Ocean. Bridgewater et al.’s suggestion that the case had “no discernible impact on whale conservation” is belied by the many thousands of additional whales now swimming safely in the Antarctic. Furthermore, in deference to the IWC, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) banned international commercial trade in the parts and products of the great whales. With the IWC and its moratorium gone, CITES could allow international trade to resume, stimulating markets for new commodities that would increase demand for commercial whaling.

Other International Agreements are not Positioned to Absorb the Work of the IWC

Bridgewater et al. argue that other treaties could replace the IWC (just as they contend that the United Nations Framework Convention on Climate Change (UNFCCC) could subsume the Montreal Protocol on Substances that Deplete the Ozone Layer, and that the Convention on Biological Diversity (CBD) could take up the work of the Ramsar Convention on Wetlands). The assertion that one international agreement can easily absorb the work of another indicates a fundamental misconception of how such agreements work since they cannot go beyond their agreed upon mandate and because not all countries are parties to all agreements. In addition, all the multilateral environmental agreements are increasingly thinly stretched financially, and none are in a position to take on major new areas of work. Any suggestion that the additional costs would be met by

1. Bridgewater et al., Dismantle ‘zombie’ wildlife protection conventions once their work is done, *Nature*, 632, 500–502 (Aug. 15, 2024), <https://www.nature.com/articles/d41586-024-02604-1>.

transferring the budget of the terminated agreement to the agreement that takes up its mandate is unrealistic. Agreements are funded by the contributions of their member countries, and the reality is that if an agreement is terminated it is these countries that will recoup the savings.

Regarding the agreements which Bridgewater et al. contend could take up the mandate of the ICRW; CITES does not have the competence to regulate the hunting of whales or any other species and, given that most whales hunted today are not internationally traded, its application is limited. The Convention for the Conservation of Migratory Species of Wild Animals (CMS) provides an obligation on its parties to prohibit the taking of endangered species listed under its Appendix I. However, that obligation is only binding for states that are parties to CMS and not for non-Parties that, like Iceland, Japan, Russia, St Vincent and the Grenadines and the United States, currently conduct commercial or subsistence whaling. And, while Denmark is a party to CMS, its accession excludes Greenland which conducts subsistence whaling.² Additionally, Norway has reservations to the CMS listings for Antarctic minke, Bryde's, fin, and sperm whales.³ Thus, although CMS requires parties to prohibit the killing of endangered migratory species, that obligation would not apply to virtually all current whaling. By contrast, all of the abovementioned countries except Japan are members of the IWC.

The IWC's Scientific Committee is an unrivalled specialist body of some 200 of the world's preeminent cetacean scientists. It is uniquely qualified to monitor the conservation status of these species and provide advice on sustainable removals, the impact of anthropogenic threats, including emerging challenges such as deep-sea mining and plastic pollution, and improving human-cetacean coexistence. In contrast, the CMS Scientific Council, with its much broader remit covering more than 1,000 migratory species across multiple taxa,⁴ is not equipped, or resourced,⁵ to address such issues at the level of expertise required.

The IWC Provides Critical Capacity to Address the Issues Cetaceans Currently Face

Bridgewater et al. acknowledge that: "today, the biggest threats to whales are ship strikes, pollution and climate change," yet they do not acknowledge the IWC's work to address these threats, which is far from done. As our oceans and climate degrade, the IWC's Conservation Committee, through its large work program, tackles today's biggest threats to cetaceans — entanglement in fishing gear, ship strikes, chemical, plastic and noise pollution, and climate change. The Committee's work to mitigate these challenges, and the IWC's coordination and leadership on them within other international fora, including CMS, CITES, the International Maritime Organization (IMO), regional fisheries management organizations and the Food and Agriculture Organization of the United Nations, would be silenced without the IWC. For the authors to say that the IWC "has done little to help conserve the great whales" is simply not true and ignores that the IWC's important conservation mandate extends to threats other than whaling and to small cetaceans too. It also dismisses its suite of conservation management plans and task teams to maximize coordination between governments and capacity-building on high-risk cetacean populations.

2. The Danish instrument of ratification excludes Greenland and the Faroe Island from the scope of application within Denmark ("Avec déclaration de non-application aux îles Féroi et au Groenland"). *U.N. Treaty Series*, 1651, 575 (1991), https://treaties.un.org/doc/Publication/UNTS/Volume_1651/v1651.pdf. However, by Note Verbale dated May 31, 1989, Denmark stated that CMS now applied with respect to the Faroe Islands. *U.N. Treaty Series*, 1774, 642 (1994), https://treaties.un.org/doc/Publication/UNTS/Volume_1774/v1774.pdf.

3. CMS, Reservations regarding species in the CMS Appendices (2015), https://www.cms.int/sites/default/files/document/territories_reservations_2015.pdf.

4. CMS, Scientific Council, UNEP/CMS/Resolution 12.4 (Rev. COP14) (2024), https://www.cms.int/sites/default/files/document/cms_cop14_res.12.4_rev.cop14_scientific-council_e.pdf; CMS, CMS Appendices I and II of the Convention on the Conservation of Migratory Species of Wild Animals (CMS) (effective May 17, 2024), https://www.cms.int/sites/default/files/uploads/revise-appendices_cop14_e.pdf.

5. At CMS COP14 in February 2024, the CMS Scientific Council proposed increasing the number of Party-appointed councillors in response to the high workload of the Council. Due to the financial implications, the COP did not agree on the proposal (See Paras. 100-107 of CMS COP14 Final Report: https://www.cms.int/sites/default/files/document/cms_cop14_report_e.pdf)

The IWC is also the best-positioned organization to address the welfare of cetaceans, which it does by regulating the whaling methods and equipment used to kill whales and by helping to mitigate the pain and distress cetaceans experience as a result of strandings and entanglement in fishing gear (including by providing practical training).

Nearly 80 years ago, the ICRW recognized “the great natural resources represented by the whale stocks.” At the time, its signatories—all of them whaling nations—were more focused on how many whales they could “harvest” for oil and meat than on the intrinsic value of healthy whale populations. But the treaty language was prescient and the IWC’s mandate has evolved over its lifetime. Today it recognizes that cetaceans are essential ecosystem engineers who contribute to carbon sequestration, boost marine productivity, and provide huge economic value to coastal communities through whale watching. The IWC leads groundbreaking work on these issues that no other global organization is equipped to inherit.⁶

Finally, the IWC’s Indian Ocean and Southern Ocean sanctuaries are helping the international community fulfil its commitment to protect 30 percent of the ocean by 2030.⁷ This makes adoption of a proposed IWC whale sanctuary in the South Atlantic (at the IWC’s next meeting in September 2024), which would encompass the critical breeding grounds, feeding sites, and migratory passages for more than 51 cetacean species, vital and long overdue.

In summary, as the only international organization with the mandate, membership, and competence to regulate whaling of all kinds in “all waters” and the dedicated expertise to understand and mitigate threats to cetaceans and promote the value of their non-consumptive use, the IWC is and will remain essential to the future of cetacean conservation and management. That the IWC achieves so much despite the efforts of whaling nations and their supporters to continually frustrate its work (including by not paying their membership fees) is remarkable. NGOs long committed to this work believe the IWC needs to be adequately funded, not dismantled, to meet the serious conservation challenges facing cetaceans today.⁸

6. For a comprehensive assessment of the competence of the IWC, see Wold, Chris, 40 years after the moratorium on commercial whaling: assessing the competence of the International Whaling Commission to confront critical threats to cetaceans, *Pace Int’l L. Rev.*, 36, 271–333 (2024), <https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1436&context=pilr>.

7. CBD, Kunming-Montreal Global Biodiversity Framework, [CBD/COP/DEC/15/4](https://www.cbd.int/doc/decisions/2022/01/CBD-COP-DEC-15/4), Target 3 (Dec. 19, 2022)

8. <https://iwc50yearvision.org/>

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- ANIMAL WELFARE INSTITUTE
 - AUSTRALIAN MARINE CONSERVATION SOCIETY
 - CATCA ENVIRONMENTAL AND WILDLIFE SOCIETY
 - CENTER FOR BIOLOGICAL DIVERSITY
 - CENTRO DE CONSERVACION CETACEA
 - CETACEAN SOCIETY INTERNATIONAL
 - CET LAW
 - CONSERVACION DE MAMÍFEROS MARINOS DE MÉXICO COMARINO
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 - GREENPEACE
 - HUMANE SOCIETY INTERNATIONAL
 - INSTITUTO DE CONSERVACIÓN DE BALLENAS - ARGENTINA
 - INTERNATIONAL FUND FOR ANIMAL WELFARE (IFAW)
 - INTERNATIONAL MARINE MAMMAL PROJECT OF EARTH ISLAND INSTITUTE
 - IRUKA & KUJIRA ACTION NETWORK (IKAN)
 - LEGASEAS
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 - NATURAL RESOURCES DEFENSE COUNCIL (NRDC)
 - OCEANCARE
 - ORCA
 - ORGANIZACIÓN PARA LA CONSERVACIÓN DE CETÁCEOS (OCC)
 - ORIGAMI WHALE PROJECT
 - WORLD FUTURE COUNCIL
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