

**Japan  
Fisheries  
Association**

**ISARIBI**  
**漁火**  
**Fishing Fire**

**FEB. 2015**

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**Views and Opinions of Japan's Fisheries Industry**

## **ICFA promotes understanding on the role of fishery products in food security**

The annual meeting of the International Coalition of Fisheries Associations (ICFA), the largest international non-governmental organization in the world's fisheries industry (Note 1), was held on September 24-25, 2014, at the headquarters of the U.N. Food and Agriculture Organization (FAO) (Note 2) in Rome. During this period, ICFA representatives also had an informal meeting to exchange views with the FAO. The Japanese delegation was headed by Toshiro Shirasu, President of the Japan Fisheries Association (JFA). An outline of the annual meeting is given below.

### **1. The role of fishery products in food security**

The role fishery products have in food security was highlighted at a meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (UNICPOLOS) held in May as well as in the report of the Committee on World Food Security to the FAO's Committee on Fisheries in June, bringing ICFA's resolution on food security--adopted on February 13, 2014--in line with the world's current mainstream.

Members of ICFA have captured every occasion at various international conferences to refer to that resolution, and showed their intention to continue to underline it at other related meetings after its annual meeting, including the meeting of the Committee on World Food Security (starting on October 13, 2014).

### **2. Report on the situation of restoration in the areas hit by the Great Earthquake and Tsunami in Japan, persistent negative rumors on Japanese seafood, and Japan's effort to expand seafood exports**

After expressing gratitude to the assistance extended by foreign countries to the recovery from the disaster, Japan made the following reports and requests:

#### **(1) Restoration in the area hit by the disaster**

The damage caused by the earthquake and tsunami to Japan as a whole amounted to an astounding JPY1.3 trillion—a figure nearly equivalent to Japan's total fishery production of JPY1.4 trillion and its total seafood imports of JPY1.3 trillion.

The bulk of the damage was covered by the government's budget. As a result, fish landings have recovered to 70% in volume and 80% in value, in comparison with the pre-disaster period.

However, the overall recovery from the aftermath of the earthquake and tsunami has not advanced smoothly

because of rising construction costs and labor shortages. Notably, the rehabilitation of freezing and chilling facilities has been slow due to the loss of the market and customers.

Fisheries in the disaster areas accounts for 20-30% of Japan's entire fisheries industry. It can be said, therefore, that there will be no development of Japan's fisheries industry without the restoration of fisheries in the disaster areas.

In order to accelerate the pace of restoration, it is essential to boost domestic demand for seafood and expand exports.

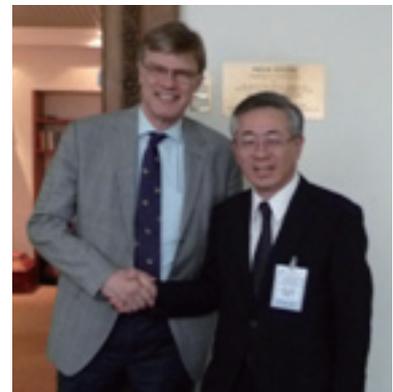
Japan also explained the above situation to, and sought the understanding of, Arni M. Mathiesen, Assistant Director General of the FAO's Fisheries and Aquaculture Department.

#### **(2) Rootless negative rumors on seafood from the disaster area**

Japan reported that there have been persistent rootless negative rumors on the effects of the accident at Fukushima No.1 Nuclear Power Plant on local seafood. Some countries are still continuing import restrictions on the seafood from affected prefectures, regardless of whether radioactive contamination exists.

With regard to this situation, Japan explained:

(i) Fishermen are taking voluntary actions not to fish



Shirasu (right) and Mr. Mathiesen



FAO Headquarters: The banners announce the Committee on World Food Security (CFS) (13-18 October 2014) and the 2nd Conference on Nutrition in November (19-21 November 2014)

in the area near the Fukushima Power Plant. No fishing operation is taking place in the area.

(ii) Thoroughgoing monitoring surveys are conducted so that no fish with radioactive values beyond the benchmark level may be distributed in the market.

(iii) Japan's benchmark level of radioactive cesium of 100 Becquerels is the most rigorous in the world.

With this explanation, Japan submitted data of its monitoring surveys on the safety of seafood, and requested continued understanding and cooperation regarding imports of Japan's seafood.

In response to Japan's presentation, some ICFA members including a member from the National Fisheries Institute (NFI) of the United States and an Australian member indicated that they are promoting publicity activities using video presentations on their websites regarding the impact of the nuclear power accident on the safety of seafood and the actual safety of Japanese-produced seafood.

In conclusion, Japan emphasized that the Japanese government is taking measures to ensure that fish with radioactive cesium exceeding the standard limit is not sent to the market by conducting rigorous monitoring of radioactive cesium.

### (3) Promotion of exports of fishery products

Japan reported that it is promoting the expansion of seafood exports in line with the restoration from the disaster.

In addition to the above, Japan stated, as new aspects of seafood export expansion, that

(i) demand for seafood is expanding globally;

(ii) notably, demand for Japanese seafood which enjoys a high reputation for its safety is rising; and

(iii) Washoku (Japanese cuisine) was registered as an Intangible Cultural Heritage by UNESCO.

The Japan International Seafood & Technology Expo, sponsored by the JFA, is now located next in line only to the world's three major seafood shows--Boston, Brussels and China. Japan encouraged ICFA members to take part in the next expo in the summer of 2015, saying that many buyers will visit it from overseas.

### 3. Tuna issues

Japan made a presentation regarding the following tuna issues

i) The strengthened draft Conservation and Management Measure (CMM) on Pacific bluefin tuna adopted in September by the Northern Committee of the Western and Central Pacific Fisheries Commission (WCPFC) (this draft CMM is expected to be adopted at WCPFC 11 in December 2015);

ii) Control on overfishing capacity of large scale purse seiners: CMM2013-01 (the multi-year management program for 2014-2017 on tropical tunas) adopted by WCPFC10 in December 2011 includes epoch-making provisions such as the reduction of the number of large scale purse seiners by certain members to the 2012 year-end level. The Commission shall develop a scheme for the reduction of overcapacity, etc., in order to attain the objectives of this CMM. All members concerned shall cooperate in fully implementing this CMM;

iii) Rejecting the entry of products from IUU fishing activities into major markets is obviously effective in tackling IUU fishing. In this regard, lists of legitimate fishing vessels maintained by RFMOs and documentation systems (in which documents containing information on harvest are issued by the relevant authorities of exporting countries and forwarded to the relevant authorities of importing countries) are of paramount importance;

iv) Introduction of IMO vessel numbers to be used as Unique Vessel Identifiers (UVI) in tuna related RFMOs as an additional means for tackling IUU fishing; and v) As for sharks, inappropriate and excessive control measures should not be taken under the name of the protection of sharks. Ensuring adequate management of shark stocks and full utilization are important.

### 4. Moves to ban bottom trawling

Regarding the issue surrounding the conservation of deep sea ecosystems, Japan noted that there have been two management approaches: management through the establishment of the EBSA (European Biosafety Association) promoted by the Convention on Biological Diversity (CBD); and management through the establishment of VMEs (Vulnerable Marine Ecosystems) promoted by the FAO and regional fisheries management organizations.

Regarding the project--now being implemented by the FAO and the United Nations Environment Program (UNEP)--to enhance the management of marine resources and fisheries including bottom trawling, Japan stated that it strongly hopes that the EBSA should be excluded from the project and that, on that condition, the FAO launch the project. Japan requested the cooperation by member countries so that the project will be promoted within the framework of the VMEs which takes science seriously.

### 5. Eco-labels

Some ICFA members exchanged views with FAO officials in charge of eco-labeling. Japan explained the possibility for the FAO and related countries, including developing countries, and private organizations to coordinate among themselves from the viewpoint of promoting overseas development of the fishery products certified under the Marine Eco-label Japan (MEL Japan)

scheme from sustainable fisheries.

Japan also made a similar presentation to ICFA members and request for cooperation.

ICFA decided to hold its next annual meeting in Vigo, Spain in early October 2015 so that the meeting will be conducted at the time of the event marking the 20th anniversary of the adoption of the FAO's Code of Conduct for Responsible Fisheries.

**(Note 1)** ICFA members as of the time of the 2014 annual meeting are:

- Chinese Fisheries Association of the Republic of China
- Danish Fishermen's Association
- Fisheries Association of Iceland
- Fisheries Council of Canada
- Japan Fisheries Association

- National Fisheries Institute (USA)
- New Zealand Seafood Industry Council
- Spanish Fishing Confederation
- Pelagic Freezer-trawler Association (consisting of organizations from the Netherlands, Germany, France, the United Kingdom, and Lithuania)
- Japan Tuna Fisheries Cooperative Association
- Seafish (UK)
- Union des Armateurs à la Pêche de France (UAPF)
- The Fisheries Research and Development Corporation (FRDC) (Australia)

**(Note 2)** The FAO is a specialized agency of the United Nations dedicated to attaining the goal of eliminating hunger through the improvement of food production and distribution in the world and the enhancement of living standards.

## Future of Japan's Antarctic Research Whaling --on the basis of the ICJ judgment--

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### **Outline of the ICJ's judgment**

Late in June 2013, I was called back on short notice from my overseas assignment to join the Japanese delegation at the International Court of Justice (ICJ) regarding the lawsuit filed by Australia (with New Zealand intervening) against the Second Phase of Japan's Research Whaling Program in the Antarctic (JARPA II). It was truly disappointing to see the ICJ's judgment issued on March 31, 2014. I have been involved in the whaling issue over a span of many years and have encountered unreasonable allegations and behavior of anti-whaling proponents from time to time, and therefore I initially felt indignation against the ICJ's decision which at first glance seemed irrational similar to those responses by anti-whaling proponents. However, as I re-read the text of the judgment time and again to try to understand it more deeply, I came to find several interesting points.

The gist of the ICJ judgment is that JARPA II does not fall within the provisions of Article VIII paragraph 1 of the International Convention for the Regulation of Whaling (ICRW) and therefore is not regarded as a research for scientific purposes under the special permit issued pursuant to the provisions of ICRW. Based on this judgment, the Court determined in succession that JARPA II constitutes a violation of the commercial whaling moratorium, a violation of the moratorium on factory-ship whaling, and a violation of the Southern Ocean Whale Sanctuary. On the basis of these assumptions, the ICJ handed down a rigorous

judgment that the current permit for JARPA II should be revoked and no special permit for JARPA II should be issued in the future.

### **Criteria of examination leading to the judgment**

The text of the judgment shows the criteria for examination and explanation of the process by which the ICJ decided that JARPA II does not fall within the provisions of Article VIII paragraph 1 of the ICRW. First, the ICJ judgment mentions the non-lethal research methods. Japan just asserted, the ICJ says, that other nonlethal research methods are inefficient and have low level feasibility, although it has been conducting sighting surveys and biopsy sample collection. The ICJ says that Japan has not conducted sufficient verification regarding the feasibility or non-feasibility of non-lethal research.

Second, it is noted that Japan's consideration regarding the establishment of the target sample size of minke whales lacked transparency and that the actual catch is unreasonable because it is largely smaller compared with the target sample size. Third, the judgment decided it is questionable to characterize JARPA II as research for scientific purposes because of its open-ended time frame. Fourth, it was also pointed out that there are few peer-reviewed papers on the results of JARPA II published in prominent scientific journals or other publications, and, fifth, the significant cooperation with other scientific organizations both in Japan and overseas was absent.

Mainly on the basis of the above five criteria, JARPA II was not validated as reasonable to implement and to

achieve its stated objectives, although JARPA II can be characterized as scientific research in a broad sense. It was decided that the special permit granted for JARPA II is not "for purposes of scientific research" pursuant to Article VIII paragraph 1 of the ICRW, and therefore, constitutes a violation of the Convention.

However, there exist views that all five points are false charges. Some point out that, although Japan presented detailed presentations to clarify those points, the Court did not use many of the explanations raised in the presentations at all. For these reasons, I initially felt that the ICJ's judgment is very dissatisfactory.

### **Views regarding the object and purpose of the Convention**

In spite of this very rigorous judgment, I gradually came to find a number of significant views endorsed, so to speak, by the ICJ, after I re-read the judgment text closely. Those views include confirmation of validity of research whaling providing scientific information that cannot be collected through non-lethal research and suggestions on what form future research whaling should take. Thus, I came to understand that the judgment contains some very useful suggestions for us.

The ICJ clarified that it is impossible to alter the object and purpose of the Convention as such even though it is possible to emphasize one or other objective through Schedule Amendments or IWC resolutions. In other words, it was recognized that the objective provided in the preamble of the ICRW: "... conservation of whale stocks and thus make possible the orderly development of the whaling industry" cannot be altered at all. It was also made clear that research whaling pursuant to Article VIII of the ICRW is not subject to the obligations under the Schedule concerning the commercial whaling moratorium, the Southern Ocean Whale Sanctuary and the moratorium relating to factory ships; neither a restrictive nor an expansive interpretation of Article VIII is justified; research whaling should foster scientific knowledge; and research whaling may pursue an aim other than those for the conservation or sustainable exploitation of whale stocks (if it is for scientific purposes). In addition, views were expressed that the sale of whale meat and the use of the proceeds are possible for the aim to accommodate funds for research, and the Revised Management Procedure (RMP) is applicable as a management procedure. Furthermore, the ICJ found that the activity of JARPA II involving lethal sampling can broadly be characterized as "scientific research". (Nevertheless, I still find it difficult to understand the logical consequence of the judgment that determined that JARPA II "does not fall within the purview of the research for scientific purposes.")

The ICJ stated clearly that it is not feasible to obtain some kinds of scientific data through non-lethal alternatives and it is reasonable to use lethal methods. From this, we can say we have proved that the allegation by anti-whaling NGOs and others that "all the information that are obtained by Japanese research whaling can be obtained through non-lethal methods" is totally fake propaganda.

### **Suggestions for the implementation of research whaling in the future**

There were also some suggestions regarding the future state of research whaling programs and their implementation. First, as a matter of principle, it was expressed clearly that the reasoning and conclusions contained in the judgment should be taken account of in evaluating the possibility of granting any future permits for research whaling. In other words, the ICJ suggested that, if Japan considers to issue a special permit for research whaling in the future, analyses and verification regarding the feasibility of the use of non-lethal research methods should be carried out properly, and transparent process and clear evidence should be presented when establishing objectives of the research and calculating target sample size. Seen from a reverse angle, it has been made clear that if the contents of the ICJ judgment are fully taken care of and reflected in a research program, there would be no impediment for issuing the special permit. It means that the ICJ judgment provides us a very useful suggestion in developing future research whaling programs not only by Japan but also by any other IWC member country.

### **Regarding future research whaling**

Following the ICJ's judgment in March 2014, the then Minister of Agriculture, Forestry and Fisheries, Yoshimasa Hayashi, made clear in his statement on April 18 the Japanese Government's basic policy of pursuing the resumption of commercial whaling, by conducting research whaling based upon international law and scientific evidence in order to gather scientific data that is essential for the management of whale resources. The Minister further stated that the government will submit a new research program for the research whaling in the Antarctic from fiscal 2015 (April 2015-March 2016), which will reflect the criteria mentioned in the ICJ judgment, and will continue its research in the northwestern Pacific making minor adjustments in the program taking also account of the judgment. In accordance with the Minister's statement, the Japanese government developed a draft plan of a new Antarctic research whaling program, and submitted it to the Scientific Committee of the International Whaling Commission (IWC) on November 18, 2014.

The new research program will be finalized, after revisions and modifications as necessary, through the legitimate review process by the IWC Scientific Committee, and the research whaling in the Antarctic for fiscal 2015 will be carried out under the new research program.

I hope the readers understand that the recent judgment of the ICJ, though it was disappointing when only seen from its conclusion, provides useful advice regarding the future state of Japan's research whaling. In the years to come, the Japanese government will implement research whaling both in the Antarctic and the northwestern Pacific under programs adequately taking account of the ICJ's judgment and will continue the collection of scientific information necessary for the resumption of commercial whaling with the view to realize the actual resumption of sustainable commercial whaling at the earliest possible time.