

CHAPTER V

CONCLUSION

The whaling industry countries started to realize a significant decreasing number of whale stocks which would lead to the whale's extinction. Under the International Convention for the Regulations of Whaling (ICRW), the whaling industry countries are aiming at working together in the conservation of whale stocks for future development of whaling industry. International Whaling Commission (IWC) is a main body of ICRW, established to ensure the implementation of the Convention. IWC is a voluntary regime which originally consists of fifteen pro-whaling nations.

Over the years, the purpose of IWC has shifted to the complete conservation of whales through the moratorium of commercial whaling in 1986. Its shifting was corresponding to the pro-whaling countries which turned to become anti-whaling countries (e.g. the US), as well as to the increasing number of non-whaling countries that joined the IWC in the 1970s. It is resulting in the dominant percentage of anti-whaling members within IWC. Together with the US, IWC has successfully applied the moratorium by enforcing the US domestic law (The Pelly Amendment and The Packwood-Magnuson Amendment) to the members of IWC. Many countries are threatened by the sanctions including Japan and later comply with it.

Japan which historically has conducted whaling since hundred years ago, used to utilize the whale products as a part of their culture. After the moratorium took effect, Japanese did not give up. Regarding the Article VIII of the Convention, under the special permit, the scientific purposes of whaling are allowed. Immediately, the following year after the moratorium took effect, Japan changes its position focusing on the scientific research program. Japan has aggressively lobbied the IWC to get the special permit for scientific whaling by

establishing the Institute of Cetacean Research in 1987. The Japan's Research Program in the Antarctic (JARPA) was a legal program to conduct whaling given by the IWC, commenced in the two periods at the time. JARPA I ran in 1987 while JARPA II ran in 2005.

An overexploitation of whales by Japanese whalers has been unstoppable even though Australia brought the issue to the International Court of Justice. Later on, ICJ stated that Japanese whaling in the Antarctic Ocean was illegal and revoked JARPA II in 2014. However, the Japanese whaling has still been conducting and formed in the twelve-year research program called New Scientific Research Program in the Antarctic Ocean (NEWREP-A) started since austral summer season 2015/16.

The failure of IWC in tackling Japan's Whaling in the Antarctic Ocean was elaborated and analyzed with the data collected and the theoretical framework used in the previous chapter. First, the IWC's lack of power on bounding all the member states was revealed. IWC as an international regime has no authority on giving enforcement of the regulations as well as giving the sanctions to the violators. Nevertheless, the US helped IWC to enforce its domestic law to the member states, even though it was limited.

Second, it was about Japan's loophole of the moratorium. The Article VIII of the Convention emerged a loophole for Japan to still conduct the commercial whaling under the special permit. Meanwhile, the other country such as Iceland decided to quit IWC when the ban was approved. In the function of the rulemaking, stated by Jacobson, an international organization has a role to create a new regulation, or agreement signed to bind the member states. Based on this case, the regulations of IWC have ineffectively bound all the members because the authority is in each member states. The contracting state would possibly voice an objection (opt-out) and not involved in the regulations. Moreover, as a voluntary group, the member of IWC might join and quit easily.

Lastly, it was the IWC's supervision. As mentioned by Jacobson, the function of supervision is related to take action or to ensure the enforcement of a regulation by the international actors. For decades, since the moratorium took effect, the issue seems to be untouched by the Commission, even though the meeting is held biennially. The insufficient coverage with national inspectors, hampering the inspectors and observers, and IWC authority limitation to collect reliable scientific data have become the obstructions on the failure of IWC in tackling Japan's whaling.