

**EXPLANATORY STATEMENT: 2 of 2007**  
**Amendments, done at Anchorage, Alaska 28-31 May 2007,**  
**to the Schedule to the International Convention for the Regulation of Whaling,**  
**done at Washington on 2 December 1946 [1948] ATS 18**

**Practical and legal effect**

1. This treaty action extends a whaling moratorium for another year and aboriginal subsistence whaling quotas for another five years.

**Nature and timing of proposed treaty matter**

2. The treaty matter proposed will renew provisions within an existing treaty: the moratorium on commercial whaling, and aboriginal subsistence whaling quotas under the International Convention for the Regulation of Whaling (Washington, 2 December 1946), [1948] ATS 18 (the Convention).

3. The renewal will be done by amendments to the Schedule to the Convention. The Schedule is amended from time to time, in accordance with the provisions of Article V of the Convention, to take account of decisions of the International Whaling Commission established under the Convention (the Commission). Amendments to the Schedule become effective (binding) as follows:

- Where no Contracting Government lodges an objection, the amendment becomes effective for all Contracting Governments ninety days following the date the Secretariat of the Commission notified the amendments.
- Where any Contracting Government lodges an objection during this ninety day period, the amendment becomes effective for all Contracting Governments, except any that have lodged an objection, an additional ninety days after the original ninety day period.
- Where any Contracting Government lodges another objection during the additional ninety day period, the amendment becomes effective for all Contracting Governments, except any that have lodged an objection, on the later of the expiration of the additional ninety day period referred to above and thirty days after the last objection is received.

4. The Secretariat to the Convention notified Contracting Governments on 22 June 2007 of the amendments made at the 59<sup>th</sup> annual meeting of Commission held in Anchorage, to maintain the moratorium on commercial whaling and renew aboriginal subsistence whaling quotas. If no objections are lodged, the amendments will come into force generally, including for Australia, on 20 September 2007. If objections are lodged before 20 September 2007 the amendments will come into force for those countries that have not lodged an objection on 19 December 2007. If objections are lodged in the additional ninety day period the amendment will come into force for those countries that have not lodged an objection on a date between 19 December 2007 and 18 January 2008, depending on when the last objection was lodged.

5. The amendments to maintain the moratorium on commercial whaling change the dates relevant for the commercial whale catch limits, with the details set out in the annexure. These whale catch limits are all set at **zero**, therefore amounting to a moratorium on commercial whaling, and these amendments are required annually to maintain the moratorium and the currency of the Schedule. Apart from extending the moratorium for another year the amendments will not add to Australia's obligations under the Convention.

6. The amendments to maintain the aboriginal subsistence whaling quotas change the dates relevant for the aboriginal subsistence whaling catch limits from the last five years to the next five years, with the details set out in the annexure. The amendments have the effect of renewing the existing aboriginal subsistence whaling quotas for the Alaska Eskimo (USA), Chukotka People (Russia), Makah Tribe (USA), and native people of St Vincent and the Grenadines, and increasing the aboriginal subsistence whaling quotas for the native people of Greenland (Denmark). These amendments are required every five years to maintain the aboriginal subsistence whaling quotas and the currency of the Schedule. Apart from extending the aboriginal subsistence whaling quotas for another five years the amendments will not add to Australia's obligations under the Convention.

7. Australia does not propose to lodge an objection to these amendments and therefore no active binding treaty action is required to be taken by Australia.

**Reasons for Australia to take the proposed action relating to the treaty matter**

8. The proposed treaty action extends, by an additional year, the current period of the moratorium on commercial whaling, and by an additional five years, the aboriginal subsistence whaling quotas which applies under the Convention. This is in the national interest because Australia opposes commercial whaling and recognises the needs of some aboriginal communities for continued access to whaling and whale products to meet traditional cultural and dietary needs in subsistence cultures.

**Implementing Legislation**

9. No legislative changes are needed to implement the proposed treaty action.

Marine Division

Department of the Environment and Water Resources.

Submitted to JSCOT: 15 August 2007

Tabled: 15 August 2007

ATTACHMENTS: Consultations; Treaty action .

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**CONSULTATION**

1. The Department of the Environment and Water Resources convenes three consultative forums a year with non-government organisations to canvass views on Commission issues. These meetings were held in August 2006, January 2007 and March 2007, and were attended by representatives of the Animal Protection Association of Australia, Animals Australia, Australian Conservation Foundation, Dolphin Research Institute, Friends of the Southern Right Whale, Greenpeace Australia Pacific, Humane Society International, International Fund for Animal Welfare, Project Jonah Australia, RSPCA Australia, Whale and Dolphin Conservation Society, Whale and Seal Foundation and World Society for the Protection of Animals. The views expressed at the meetings are taken into account in developing Australia's position on the proposals to be considered by the Commission.
2. Following each annual meeting of the Commission, feedback from the delegation is provided to the consultative forum and interested non-government organisations, government departments, scientists and institutions. Feedback on the 2007 annual Commission meeting will be provided at a consultative forum meeting to be held in August 2007.
3. The amendments resulting from the 2007 annual Commission meeting, to maintain the moratorium on commercial whaling, do not affect the States and Territories.