

Amendments, done at St Kitts and Nevis in the Caribbean on 20 June 2006, to the International Convention for the Regulation of Whaling

Introduction

- 3.1 The treaty action consists of Amendments to the *International Convention for the Regulation of Whaling* (ICRW). The ICRW implements the moratorium on commercial whaling and each year the International Whaling Commission (IWC) meets to extend the moratorium. In 2006, the annual meeting was held in St Kitts and Nevis from 16-20 June.

58th Annual Meeting of the IWC

Amendments to extend the moratorium on commercial whaling

- 3.2 The Committee was informed that the IWC voted by a three quarters majority in 1982 to set the commercial catch numbers to zero,

commencing in 1985.¹ The amendments to extend the moratorium on commercial whaling are automatic every year that the IWC does not vote by a three quarter majority to lift the moratorium.²

- 3.3 To give effect to the Amendments, minor changes have been made to Paragraphs 11 and 12, and Tables 1, 2 and 3 of the Schedule of the ICRW (changes in **bold italics type**):

Substitute the dates **2006/2007** pelagic season, **2007** coastal season, **2007** season, or **2007** as appropriate.

- 3.4 Australia has been a Contracting Government since the ICRW came into force in 1948 and has enforced the ban on commercial whaling since it was adopted by the IWC.³ The amendments are consistent with Australia's position as a strong advocate of whale conservation.⁴

St Kitts and Nevis Declaration

- 3.5 At the 58th annual meeting of the IWC, a resolution known as the St Kitts and Nevis declaration was passed by a simple majority of member countries.⁵ The St Kitts and Nevis declaration is a non-binding statement in favour of resuming commercial whaling.

[The St Kitts and Nevis declaration] outlines what they call the 'normalisation' of the IWC. It states that countries opposed to commercial whaling are acting contrary to the object and purpose of the international convention. They claim that the IWC will collapse unless whaling resumes. It is important to note that the declaration includes no operative paragraphs and does not call on the IWC to take any action.

- 3.6 Binding resolutions of the IWC require a three-quarter majority. At its 58th annual meeting, the IWC had 70 member countries. This means that a binding resolution would require 53 votes to succeed.⁶ The Committee was informed that there are approximately 36 member countries in favour of commercial whaling and 34 in favour of whale conservation.⁷
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1 Ms Robyn McCulloch, *Transcript of Evidence*, 27 November 2006, p. 2.

2 Ms Robyn McCulloch, *Transcript of Evidence*, 27 November 2006, p. 2.

3 National Interest Analysis (NIA), para. 7.

4 NIA, para. 7.

5 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 2.

6 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 2.

7 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 2.

Recent developments

Iceland resumes commercial whaling

- 3.7 Shortly after this treaty action was tabled in Parliament, Iceland resumed commercial whaling, killing the first whale in contravention of the moratorium on Sunday 22 October 2006.
- 3.8 Iceland's relationship with the IWC has varied as a result of its position on commercial whaling. Iceland left the IWC in 1992 but re-adhered to the ICRW in 2002 with a reservation which left open the possibility of commercial whaling. The reservation read, in part:
- ...the Government of Iceland will not authorise whaling for commercial purposes by Icelandic vessels before 2006 and, thereafter, will not authorise such whaling while progress is being made in negotiations within the IWC on the [Revised Management Scheme].⁸
- 3.9 Although not all members of the IWC accepted Iceland's reservation, a majority of governments voted to accept Iceland as a member at a Special Meeting of the Commission in Cambridge, United Kingdom, on 14 October 2002.⁹ The Committee was informed that the Australian government has consistently maintained that the reservation is contrary to the object and purpose of the ICRW.¹⁰
- 3.10 Following Iceland's decision to resume commercial whaling, Australia joined 25 other countries in a demarche to formally protest the decision.¹¹ The IWC has not expressed a formal view on Iceland's actions as it only expresses views as a body through meetings of the Commission. The next scheduled meeting of the IWC is in May 2007 in Anchorage.¹²

8 See International Whaling Commission website 'Iceland and Commercial Whaling', accessed 9 January 2006: <www.iwcoffice.org/conservation/iceland.htm>

9 See International Whaling Commission website 'Iceland and Commercial Whaling', accessed 9 January 2006: <www.iwcoffice.org/conservation/iceland.htm>

10 Mr Clinton Dengate, *Transcript of Evidence*, 27 November 2006, p. 4.

11 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

12 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

- 3.11 Until resuming commercial whaling, Iceland conducted whaling under Article VIII of the ICRW which allows whales to be killed for scientific research purposes.¹³

Japanese Research Program Antarctic (JRPA) 2

- 3.12 Japan currently conducts whaling under the scientific research provision of the ICRW. Japan's whaling program is known as JRPA2 – Japanese Research Program Antarctic. The number of whales killed by Japan as part of its research program is far greater than the number of whales killed by Iceland in contravention of the moratorium on commercial whaling.¹⁴
- 3.13 The Committee was informed that in 2005 under Japan's new scientific whaling program in the Southern Ocean, Japan took 853 minke whales and 20 fin whales.¹⁵ Furthermore, these numbers are expected to increase:

Japanese whaling fleets set sail for the Southern Ocean on 15 November this year. This season, Japan intends to take up to 935 minke whales and 10 fin whales. Next year, they propose to take the same number of minkes, to increase the take of fin whales to 50 and, for the first time, take 50 humpback whales.¹⁶

Entry into force

- 3.14 The Amendments entered into force on 4 October 2006 following the expiry of the 90 day period during which Contracting Governments can lodge an objection.¹⁷ The Australian Government did not lodge an objection.¹⁸

13 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

14 See *Transcript of Evidence*, 27 November 2006, p. 5.

15 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

16 Mr Martin Paull, *Transcript of Evidence*, 27 November 2006, p. 3.

17 NIA, para. 4.

18 NIA, para. 3.

Implementation

- 3.15 Australia already prohibits whaling under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and so the Amendments to the ICRW will not add to Australia's existing obligations.¹⁹

Consultation

- 3.16 The Department of the Environment and Heritage (DEH) meets three times a year with non-government organisations to discuss Australia's position on the ICRW proposals.²⁰ Meetings took place on 11 August 2005, 20 January 2006 and 8 May 2006. A further meeting on 15 August 2006 was held to provide feedback following the meeting in St Kitts and Nevis.²¹
- 3.17 This year the Humane Society International and Project Jonah Australia participated as members of the Australian delegation.²²

Concluding remarks

- 3.18 The Committee understands the importance of whale conservation and strongly supports the treaty amendments which give effect to the moratorium on commercial whaling for the 2006/2007 year. However, the Committee is concerned by recent actions by Iceland, which contravene the moratorium, and Japan, which undermine the moratorium, and encourages efforts which would reduce the number of whales killed under both the scientific research provision and commercial licences.

19 NIA, para. 9.

20 NIA, 'Consultation', para. 1.

21 NIA, 'Consultation', para. 1.

22 NIA, 'Consultation', para. 1.

