

## EXPLANATORY STATEMENT 5 of 2010

### Amendments to the Schedule to the International Convention for the Regulation of Whaling, done at Washington on 2 December 1946 [1948] ATS 18 done at Agadir, Morocco 21-25 June 2010

#### Practical and legal effect

1. This treaty action extends the whaling moratorium for another year and brings into effect changes to the limits of aboriginal subsistence whaling for the aborigines of Greenland under the *International Convention for the Regulation of Whaling* (Washington, 2 December 1946), [1948] ATS 18 (the Convention).
2. The extension of the moratorium maintains the status quo with regard to commercial whaling. The changes to aboriginal subsistence whaling in Greenland will have no practical effect on Australia. The proposed amendments will have no financial or legal impact on Australia.

#### Nature and timing of proposed treaty matter

3. At its 62<sup>nd</sup> Annual Meeting in Agadir, Morocco, the International Whaling Commission agreed to maintain the moratorium on commercial whaling by changing the dates relevant for the commercial whale catch limits. The whale catch limits are all set at **zero**, therefore amounting to a moratorium on commercial whaling. 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.
4. In addition, the Commission agreed, by consensus, to a proposal which will 1) reduce the number of fin whales struck by aborigines from the West Greenland stock; 2) reduce the number of minke whales struck by aborigines from the West Greenland stock and 3) establish a new strike limit for humpback whales taken by aborigines from the West Greenland stock. The amendments will not add to Australia's obligations under the Convention. This agreement requires changes to Table 1 and to paragraph 13 (b) 3, including the addition of a new subparagraph 13 (b) 3 (v).
5. The renewal of the moratorium 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. The Secretariat to the Convention notified Contracting Governments on 15 July 2010 of the amendments. Due to the general election being called on 17 July 2010, this treaty amendment was unable to be tabled for the consideration of the Joint Standing Committee on Treaties before the Parliament was prorogued. In accordance with the provisions of Article V of the Convention, if no objections are lodged, the amendments automatically enter into force, including for Australia, on 90 days from the date of notification by the Secretariat. On 8 October 2010 the Secretariat to the Convention circulated a communiqué from the Government of the Czech Republic. The communiqué notified all Contracting Governments that the Czech Republic had lodged an objection to the amendments. This communiqué also explained that the reason the Czech Republic had lodged an objection was because that country's constitution makes it compulsory for their parliament to consider treaty amendments before they come into force. As the initial 90-day period before the amendments would have come into force did not allow enough time for the parliament of the Czech Republic to consider the amendments, their Government lodged an objection. As this objection was lodged before 13 October 2010, the amendments will come into force for those countries that have not lodged an objection on 11 January 2011 (following an additional 90-day period). If objections are lodged during the additional ninety day period, the amendment will come into force for those countries that have not lodged an objection on a date between 11 January 2011 and 10 February 2011, depending on when the last objection was lodged.
6. Australia has not lodged 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

7. Australia opposes commercial whaling and supports the continuation of the moratorium. However, Australia 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 as stipulated and determined by the Convention.

## **Implementing Legislation**

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

Marine Division  
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Population and Communities  
ATTACHMENTS: Text of Schedule Amendments

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