



THE HON PETER GARRETT AM MP

MINISTER FOR THE ENVIRONMENT, HERITAGE AND THE ARTS

Speech to The Lowy Institute for International Policy, Sydney "The Future of International Whale Conservation"

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*****UNDER EMBARGO UNTIL 4.30pm 18 FEBRUARY 2009*****

I begin by acknowledging the Aboriginal people of this land, the Gadigal people of the Eora Nation, and pay my respects to their elders, past and present.

I also want to thank Allan Gyngell and the Lowy Institute for International Policy for inviting me to speak today on "The Future of International Whale Conservation."

Thirty years ago, a historic transformation took place in Australia's policy towards whales.

A whaling nation from the late 18th century when European settlers first arrived, Australians hunted whales for their oil, bones and baleen.

Whales were plentiful in Australian waters before the era of hunting. The first European settlers to arrive at Hobart killed three sperm whales en route and right whales were so abundant in the Derwent River that small boats had to hug the shore for safety as they approached the settlement.

Whaling was one of Australia's first industries but by the 1970s, in little more than a century, whales had become a rare sight in Australian waters. The pattern was repeated around the globe.

The destruction of the world's whales by industrialised hunting was an environmental catastrophe of the twentieth century, and many countries were complicit. But the scale and intensity of the destruction was nowhere greater than in the Southern Ocean, where blue, fin, right and humpback whales were pursued to the very edge of extinction.

In November 1977, the Australian Government established an inquiry into whales and whaling, headed by Sir Sydney Frost¹. It reported a year later with the inquiry's central conclusion being that "Australian whaling should end and that

¹ Whales and Whaling (Frost Report), Volume 1, Report of the Independent Inquiry conducted by the Hon. Sir Sydney Frost, AGPS, Canberra, p. 206.

internationally Australia should pursue a policy of opposition to whaling". Australia's last whaling station closed in Albany in 1978.

Faced with incontrovertible evidence, and the absence of any need to kill whales, the Fraser Government upheld the report's central recommendations and from that moment on it became Australian policy to save the whales from extinction, to help their populations recover, and to restore their place in the world's oceans.

Australia took action at home and we joined with many others to establish in 1982 a global moratorium on commercial whaling through the International Whaling Commission.

The moratorium was – and remains – critical for the recovery of whales. The recovery of some species is encouraging with humpbacks, for example, increasing in numbers and becoming once again a common sight along Australia's coastlines.

But the destruction of blue, fin and right whales was almost total and their recovery remains far from assured.

But the story did not end there. Three countries continued to hunt whales commercially or under the guise of science: Japan, Norway and Iceland.

Critically, since the 1990s, the International Whaling Commission has been gridlocked; the result of entrenched confrontation between the pro- and anti-whaling blocs, neither of which has a decisive majority. Over the past several years, notwithstanding this gridlock and sustained criticism, the three whaling countries have increased their unilateral quotas.

The annual spectacle of Japan's hunt in the Southern Ocean has angered Australians because they are opposed to whaling. The fact that whales which visit Australia's coastlines journey to the Southern Ocean adds to that concern. And it aggravates the problem further that Japan's hunt defies the international *moratorium on commercial whaling*, that it takes place in the IWC's Southern Ocean Sanctuary, and that it is predicated on a false scientific rationale.

Indeed after 18 years of Japan's so-called scientific whaling program in the Southern Ocean, the International Whaling Commission carried out a comprehensive review of the program in December 2006. This review concluded that the results of the JARPA program, as it was named, were not required for management of whale populations in the Southern Ocean.

Furthermore the review clearly indicated that the program had not met its original or revised objectives of improved knowledge on questions such as stock structure and abundance. It said these objectives could be more effectively addressed with non-lethal whale research methods such as biopsy and sightings surveys.

Moreover, the status quo in the IWC is not acceptable. We cannot accept a continued situation of polarisation and inertia and continued unregulated and unilateral whaling which is in fact increasing.

The fact is, this is just a recipe for the continuation of what we have seen this summer in the Southern Ocean, and observed the summer before that.

Put plainly the status quo gives us an antiquated international regime where we should have a model of 21st century conservation. And it gives us a needless running sore in one of Australia's most important bilateral relationships.

Moving beyond this outmoded status quo and reforming the international regime in relation to whales will not be easy. But in the absence of constructive reform the problems will not go away.

The Government therefore intends to make every effort, working with other countries, including those who have different views from our own, to achieve reform. This is the outcome much to be preferred over either band-aid solutions or recurrent confrontation.

This Government has made a firm commitment to improve global protection for whales and we will not waver from that course.

Our long-term objective remains a complete ban on commercial whaling, including an end to so-called scientific whaling. What's more, we wish to see an evolution of the international regime towards conservation.

Our priority is that any reforms must bring an end to Japanese lethal whaling in the Southern Ocean, and get the Commission working effectively on practical programs and actions for conservation.

On 19 December 2007 the Foreign Minister and I announced a set of initiatives to reinvigorate Australia's work on whale conservation. The Government has delivered on every one.

First, the Government has embarked on an intensive diplomatic campaign to persuade Japan to stop whaling in the Southern Ocean. The Prime Minister, the Foreign Minister, myself, our Special Envoy Sandy Hollway, our Ambassador to Japan, and many officials have been working hard on this throughout last year and the effort continues this year. The Government has created a serious dialogue with Japan with the aim of delivering real change in the coming months.

We have made clear to Japan that we wish to get away from the kind of endless wheel-spinning, which is the only possible result of each side tirelessly reiterating arguments well known to the other. We want to give dialogue and confidence-building a chance to work. We still look to Japan to respond in the same spirit.

Second, the Government has proposed new plans for modernising the International Whaling Commission into a genuine conservation-based organisation equipped to respond to the world in the 21st century.

Our view is that by far the best approach is to make the IWC work effectively because it is the only organisation the world has to protect and manage whales collectively.

In three published papers^{2,3,4} we have elaborated – carefully and deliberately – a new strategy for leading the IWC towards conservation.

We have broken the habit of ritual abuse between two sides in the IWC.

That was the practice of our political opponents, the Coalition parties, who over 12 years of well-rehearsed sound and fury and spin watched Japan's quota in the Southern Ocean double. In short, a spectacular failure of engagement that served only to amplify the differences among IWC members and made it harder to make progress.

We have proposed a framework in the IWC for conserving whales and protecting them from contemporary threats, which could improve the chances of survival and recovery for many species.

Instead of its narrow focus on hunting whales, Australia's view is the IWC should address the full environmental contexts in which whales live. This includes current and emerging threats like climate change, marine pollution, ship strikes and habitat disturbance.

The role of science is paramount for reviving the IWC. The Government has therefore also set out proposals for ending unilateral scientific whaling and bringing scientific research under the auspices of a reformed Commission.

On 6 December 2008, I announced that the Australian Government will invest a total of \$32 million over six years in non-lethal research and other initiatives to combat so-called 'scientific' whaling. This investment includes:

- \$14.5 million for the Southern Ocean Research Partnership, supporting a series of innovative surveys in the Southern Ocean using aircraft, ships and yachts to deploy the latest non-lethal research techniques, as well as tracking whales along Australian coasts; and
- \$14.7 million for the Australian Marine Mammal Centre, co-located at Hobart's Australian Antarctic Division, to provide competitive grants for applied, strategic, non-lethal research and related activities.

The Southern Ocean Research Partnership will be launched here in Sydney next month. The Sydney planning workshop has already confirmed participants from many countries, including Argentina, Brazil, Chile, France, New Zealand, Russia and the United States.

² IWC/M08 Whale Conservation and Management: A Future for the IWC. Submitted by the Government of Australia to the 60th annual meeting of the International Whaling Commission, June 2008.

³ IWC/60/15 Conservation Management Plans for Improved Cetacean Management. Submitted by the Government of Australia to the 60th annual meeting of the International Whaling Commission, June 2008.

⁴ IWC/60/16 Regional Non-Lethal Research Partnerships: A Proposal for the Southern Ocean. Submitted by the Government of Australia to the 60th annual meeting of the International Whaling Commission, June 2008.

I am pleased that many nations have already indicated their intention to join in this new scientific collaboration on whales in the Southern Ocean ecosystem. We have also invited Japan to join with us and other countries in this Partnership.

Together we will design and implement a future research and conservation agenda which I am confident will quickly become the locus for scientific research on whales in the Southern Ocean. The contrast with Japan's unilateral program of 'scientific whaling' could not be more stark.

These initiatives are part of a comprehensive strategy to build the capacity, expertise and partnerships that will show once and for all that whales do not need to be killed in the name of science.

Third, the Government has carefully examined its options to take international legal action against Japan's so-called scientific whaling. Evidence for this purpose was gathered by monitoring the Japanese fleet early last year.

The Government announced in December 2007 that it would obtain and consider legal advice on its options from the public service and from independent legal counsel. All the available options are being evaluated, including the many arguments raised by NGOs and academics.

Whilst legal action remains an option, the Government's preference is for a diplomatic solution because we believe that at present greater progress can be made – and more quickly – through the IWC.

It is also incumbent on us to make every effort to resolve this dispute through diplomacy before resorting to legal action. This is in the best interests of our important relationship with Japan and we would expect no less from any other country in its dealings with Australia.

The Government has built and implemented a comprehensive policy approach in a short space of time. Japan is under no misapprehension about our seriousness and sincerity. And our proposals in the IWC have been warmly welcomed by many countries because they hold the potential to revive the organisation and rebuild consensus for the conservation of whales.

The Government is also committed to advancing a productive and mutually-beneficial bilateral relationship with Japan. Whaling is a point of dispute in our relationship because of differences of policy, not because of any animosity towards Japan.

We firmly believe that it is in the best interests of the bilateral relationship for whaling to be addressed directly and constructively. That is exactly what we have done and we will continue to do.

In the closing months of last year, the Government asked Japan to suspend its Southern Ocean hunt for the current summer to allow time to reach an agreement in the IWC on the future of scientific whaling. Japan responded that it wanted to consider any changes in the context of negotiations in the IWC.

It is therefore particularly disappointing that the Japanese fleet is continuing to hunt whales in the Southern Ocean. That disappointment will be felt by many like-minded governments and by people in many countries.

Late last year, we saw reports – never confirmed – that Japan was considering reducing the number of whales it is targeting this summer. As I said at the time, I would welcome such a move as a step in the right direction. It would indeed be a welcome step, not only because of the fewer whales killed but also as a signal of Japan's willingness to work towards a resolution of the underlying issue.

But clearly, for Australia, a reduction – temporary or permanent – cannot constitute such a resolution. It cannot, in itself, resolve the difference of view between Australia and Japan. That can be achieved only when unilateral scientific whaling is brought to an end.

An opportunity has emerged in the International Whaling Commission to make progress towards Australia's objectives.

All members of the IWC agreed in June last year to try to negotiate a package of reforms that would resolve long-standing and intractable differences over whaling. A 28 nation Small Working Group, of which Australia is an active member, was established to consider possibilities. It met in September and again in December last year.

It is critical that Australia continues to engage in the Small Working Group to find ways to reform the IWC and negotiate some of the controversial issues within the organisation. The process at this stage is one of discussion.

Finding a package in the IWC is a stern task. The schism between those opposed to whaling and those in favour of it will not be erased quickly.

None of the whaling states will simply abandon their views or activities which they believe to be legitimate and justified. And nor will Australia abandon its fundamental principles.

Australia will continue to explore all avenues to find a solution to the whaling issue. And in pursuing these avenues, we will talk to all relevant players. We do not expect that every view or option put forward, whether by other IWC members or by the IWC Chair, will reflect Australia's strong position.

We may not agree with every proposal under consideration but we will make sure we understand fully the implications of each and every proposal.

Real progress can be achieved only by persuading others to change their views and this will be a long-term challenge. This is no different to multilateral negotiations in any other field.

The fact that all IWC members have committed to try to resolve their differences is an important development. Frustration with the IWC has grown on all sides and this is leading many countries to examine their approach.

Meaningful engagement is needed to find solutions that will break the current gridlock, an impasse which continues to see whale conservation efforts slide backwards.

The Government has decided to participate actively in these negotiations in the IWC because it is the best available means of advancing our objectives at this time. It is impossible to protect highly migratory species like whales without effective international agreements and none of our objectives for whales can be achieved beyond Australian waters unless the IWC is working effectively.

In the spirit of finding a way forward, we are willing to listen to and discuss all proposals. But the Australian Government will never support any lifting of the moratorium on commercial whaling.

The latest development is the preparation of a paper by the Chairman of the IWC and the Chair of the IWC's Small Working Group. This provides their suggestions on how contentious issues might be addressed, taking into account a range of national opinions and priorities.

This paper is explicitly the view of the Chairs and a work in progress, and it will contribute to discussions at the Rome intersessional meeting in March before the next full meeting of the IWC in June.

The Australian Government will not prejudice the good will of these discussions through speculation at a time when there are no formal proposals on the table, and we will be particularly concerned to review progress after the March intersessional meeting of the Commission.

But let me make Australia's position very clear.

We remain resolutely opposed to commercial whaling, including so-called scientific whaling, and this is the position we will continue to advocate in the IWC.

We believe the IWC must bring an end to unilateral scientific whaling. The Commission's approach to science must be reformed so that the Commission can address contemporary conservation challenges, and we need to ensure genuine conservation benefits for whales.

In the context of the present discussions, we need to ensure that the moratorium on commercial whaling is maintained, that any reforms are robust and that countries could not opt-out and resume hunting whales a few years down the track.

And while there are no formal proposals under consideration, Australia does not view trying to legitimise scientific whaling or simply shifting the killing of whales from one part of the world to another as solutions to the issues confronting the IWC or as means to advance whale conservation.

If progress is to be made in the IWC this year, it must take us closer to our objective, consistent with bringing a permanent end to commercial whaling and so-called scientific whaling.

There is still enough time before the annual meeting for continued diplomacy to try to bridge the differences and establish a new direction for the IWC.

We will do our utmost to achieve tangible progress but no one should expect this process to be easy or for everything to be settled by June.

Nevertheless, we must try, and that is for a very simple reason.

There are some who would have us believe the status-quo at the IWC is advancing whale conservation.

The fact is, the status-quo is taking us backwards. It is seeing the unilateral killing of whales in increasing numbers, by countries under objection to the commercial whaling moratorium, and on false scientific pretences. It has seen the doubling of Japan's quota in the Southern Ocean as recently as 2005 and the continuing decline of a number of populations of large whales.

This is not an acceptable status-quo, and that is why the Australian Government is advancing reform proposals through the IWC and why it is critical we take part in discussions on the future of the Commission.

There is some precedent to the Australian Government's current engagement, and it's one that our political opponents are very familiar with.

While the Liberal Party might find it convenient to pretend the last twelve years never happened, those years are unavoidably the story of where we find ourselves today.

Twelve years when the Government's public engagement on whaling became ritualised chest-thumping, content to manage and contain the domestic debate while the prospects for international whale conservation slid backwards. Twelve years when divisions at the IWC became further entrenched and Japan unilaterally doubled its 'scientific' quota.

This was also a period – notably in 2002 - when the previous Government engaged in IWC discussions on models for a Revised Management Scheme – a scheme for calculating the number of whales that could be killed in commercial whaling.

I would like to think the previous Government did not engage in these discussions comfortably, nor did they resile from Australia's long-standing objection to commercial whaling. But that they took the view that in the IWC, Australia should seek to influence every debate and remain at the table as a strong voice for conservation, advocating a precautionary approach.

And so the Rudd Government remains at the table and remains opposed to commercial whaling. This engagement is the most constructive way of advancing the Government's objectives, to change the status quo and transform the IWC into a modern, conservation-focused body.

It is too early to say whether the Small Working Group will offer that kind of tangible progress, and we will see what discussions produce between now and the next IWC annual meeting in June 2009.

But for any progress to be made, Japan must indicate its readiness to make a fundamental change, to bring scientific whaling under the authority of the IWC, thereby preventing unilateral scientific whaling in the future.

The Government has brought new energy and ideas to advancing Australia's long-standing objectives for the conservation of whales. We are determined to make progress and to bring an end to whaling in the Southern Ocean. We believe there are some prospects for making progress in the year ahead and we will explore those prospects thoroughly. And we will do all of this with our long-term objectives clearly in mind.

The Government will continue to work very hard, as it has in its first year, to advance the protection of whales – and we will do this with substantial efforts on many fronts, not just one.

We will continue to press frank and constructive dialogue with Japan. We will urge an end to so-called scientific whaling.

We will ensure Australia remains a creative and strong pro-conservation force in discussions at the IWC. We will advocate strongly for moving the international regime towards conservation. And we will put our money and commitments into scientific research and conservation programs which all countries are welcome to join.

This is our preferred direction, and we urge others to join Australia as this critical and important journey gets underway.

[ENDS]