

Tabled: Mr Early,  
DEWHA  
26/5/10



**THE HON PETER GARRETT AM MP**

MINISTER FOR ENVIRONMENT PROTECTION, HERITAGE AND THE ARTS

**AUSTRALIA'S AMBITION FOR THE WORLDWIDE CONSERVATION OF WHALES**

**SPEECH TO THE CENTRE FOR INTERNATIONAL & PUBLIC LAW**

**AUSTRALIAN NATIONAL UNIVERSITY**

**CANBERRA, ACT**

**28 APRIL 2010**

[CHECK AGAINST DELIVERY]

**We have come a long way in a short time.**

**Once nearly driven from our oceans, the worlds largest mammals are on their way back.**

**But only by continuing to work together will we ensure their long-term survival.**

**We are now at the cross-roads: some countries want to retreat to the old days of legitimised whale-hunting, continuing as they have done previously under the charade of scientific research.**

**Others, who have banded together with a strong conservation focus - Australia amongst them - are continuing to take up the fight.**

**This speech is an appeal to nations and NGOs at a historic moment in the push for the worldwide conservation of whales.**

Today I want to address one of the most vexed international public policy issues we have faced in recent times, one that successive Australian governments have grappled with since the early 1980's when Australia supported the introduction of a moratorium on commercial whaling.

This was a landmark event in global efforts to protect cetaceans.

And, for a nation which just 50 years earlier had six whaling stations in operation on the east and west coasts, that decision was truly a paradigm shift as was the subsequent 1982 agreement of the International Whaling Commission (IWC) to that moratorium.

Within five years of the IWC's adoption of the moratorium, Chile, Peru, Spain, the USSR and Korea all ended their commercial whaling.

But as this audience and the Australian people know only too well, thanks to the images beamed into our homes courtesy of television news footage every summer, it was not the end of whaling altogether.

While in the final year before the international agreement on the moratorium nearly 14,000 whales were killed, the fact remains that today around 1,600 whales are still killed annually, despite that international moratorium.

Three countries continue to sit outside the tent of international consensus. Norway and Iceland killed more than 688 whales in 2009/10, under objections and reservations to the moratorium.

The third country – Japan – killed 1004 whales in 2008/09, including 681 in the Southern Ocean, exploiting a loophole under Article VIII of the International Convention under which countries purport to issue themselves whaling quotas in the name of 'science'.

As a result, far from becoming an organisation committed to the global conservation of the world's whale species, the IWC has instead been grid-locked for decades, on account of the activities of these three member states.

Instead of constructive dialogue, deliberations at the Commission are characterised by ritualised name calling and table thumping, of pro conservation versus whaling and supporter nations.

This is a clearly unsatisfactory state of affairs and it is time for change; time for resolution, time for the Organisation to come into the 21<sup>st</sup> Century.

It's especially time for procedural and scientific rigour to be put in place, time for the IWC to refashion itself and look outward to the state of the world's cetaceans: dolphins, porpoises and of course the great whales.

#### *Australia's approach to the IWC*

Australian's sees first-hand the beauty of these creatures, but we also see what takes place every year in the waters to our south.

We see the arrival of the whaling fleet, and the dangerous clashes with environmentalists in the Southern Ocean.

We are told of whale meat sold in supermarkets and yet we hear that it is taken in the name of science.

The Japanese have increased their whale quotas over recent years to more than double what they were when they first eschewed the moratorium. Norway and Iceland's quotas are also increasing.

Although the IWC in its initial decades presided over the systematic over-exploitation of whales, the modern era has brought some successes including:

- the moratorium on commercial whaling; and
- the establishment of whale sanctuaries.



Largely as a result of the moratorium we are seeing welcome signs of recovery in some whale populations.

Many of us have now had the experience of watching humpback whales which are increasingly numerous along the east coast of Australia.

But, worryingly, some populations, for example the humpback whales of Fiji, are showing no signs of recovery.

Even the population of Antarctic blue whales, the largest mammal to have ever lived, remains at less than 2% of their pre-whaling numbers.

Yes, some claim that the IWC is dysfunctional and on the verge of collapse.

But in the absence of any other kind of relevant international forum Australia still regards the IWC as the primary international body with the responsibility to conserve and manage cetaceans.

We recognise that whilst there are many difficulties and challenges we say it is time to shake off the shackles of perpetual dissension and take another big step forward, just as nations did when the moratorium was introduced a few short decades ago.

In fact we believe there is now the opportunity to build on the successes of the past to bring the IWC into line with modern conservation focussed international organisations, capable of effectively addressing contemporary environmental challenges.

At present much of the collective work of the Commission and its members is undermined by the Convention provisions under which signatory countries opt-out of responsible collective management through:

- the use of reservations and objections, and
- the self-issue of whaling quotas under the Article VIII special permit scientific whaling provision.

As we know, it is the resulting tensions between countries and procedural difficulties that hamper constructive moves towards modernising the IWC.

As such, action to address real emerging threats to cetaceans such as climate change, fishery activities, marine pollution, poorly regulated whale watching industries, ship strikes and habitat disturbance remains a stunted aspiration.

It is why, since coming to government, we have pursued a multi-faceted approach to the reform of the Commission, advancing proposals to make the Commission more conservation focused, to close the loopholes and to break the gridlock and to engage in real science which truly informs our understanding of the problems experienced by cetaceans worldwide.

The Rudd Government's approach has been a significant departure from the more obstructionist yet ultimately futile efforts of our domestic political opponents.

We have been and remain fully committed to pursuing a permanent end to all commercial and so-called scientific whaling and to advancing whale research and conservation, nationally, regionally and globally.

To this end the Government has invested \$32 million over six years to further whale research and conservation.

Important activities under this program include:

- the world's largest non-lethal international whale research program - the Southern Ocean Research Partnership,
- groundbreaking non-lethal cetacean research undertaken or coordinated by the Australian Marine Mammal Centre, based at the Australian Antarctic Division, and
- Conservation Management Plans to protect whales from new and emerging threats like ship-strikes, climate change, and habitat degradation.

We are particularly proud of the Southern Ocean Research Partnership, and I had the pleasure of launching this year's voyage alongside the New Zealand Minister for Research Science, Dr Wayne Mapp.

It goes without saying that this approach to scientific research stands in stark contrast to that of Japan and its current 'special permit' program (JARPA II).

In our view there is simply no need to kill whales to learn more about them.

The Partnership also reflects our commitment to linking our whale research to IWC scientific and conservation priorities in the Southern Ocean.

By working closely with other IWC partners we are establishing strategic linkages with other relevant non-lethal international research efforts, and ensuring that we share the rationale, methodologies and results of the research.

However our commitment to reform is also why, for nearly two years now, the Government has been engaged in the discussions within a Small Working Group process established by the IWC to assist the Commission to resolve a number of intractable issues which have eluded agreement in the past.

#### *The Future of the IWC*

What has been clearly demonstrated through the negotiations is that reforming treaties and conventions written long ago is no easy matter.

That said, at its 60<sup>th</sup> annual meeting in Santiago in June 2008, the IWC did embrace the need for reform, and created the Small Working Group charged with assisting the Commission to arrive at a consensus solution to the main issues it faces.

Australia has actively contributed to efforts to identify the elements of a reform package for the IWC. But we have also done so on the proviso that we will not write a blank cheque for open ended dialogue.

We have always said that the process must deliver on our key goal – better conservation of the world's whale species.

Just last week a critical juncture was reached. Notwithstanding the best efforts of officials from Australia and others participating in the Support Group set up to advise the IWC Chair, the Support Group discussions did not result in any consensus on the best way forward.



Australia believes the proposal before us falls well short of any outcome that Australia could accept. And now New Zealand, previously a proponent of compromise, has stepped back from the proposal put forward by the IWC Chair.

We have a number of objections to the package put forward.

It proposes that IWC parties accept the legitimacy of limited commercial whaling and agree to a quota on the number of whales that can be killed each year for the next decade by Japan, Norway and Iceland. The package effectively rewards those who have opted out of IWC management decisions of in the past.

It proposes the sanctioning of whaling in an IWC sanctuary – the Southern Ocean Whale Sanctuary-and to allow coastal whaling off Japan.

The arrangement would also allow whaling on threatened species including sei and fin whales and it would establish the quotas of whales to be killed through ad-hoc measures, which the arrangement's supporters claim are scientific but are not based on any IWC agreed scientific procedures.

Critically, the proposed arrangement also fails to provide a guaranteed mechanism or timetable to address the reform of Article VIII on scientific whaling, to close the loophole under which the Japanese have claimed their use of a grenade tipped harpoon as whaling constitutes 'science'.

In short, we believe that should the Chair's proposal be implemented without substantive change, it would set whale conservation back by decades.

Sanctuary status would remain a paper protection. Yes, the establishment of a South Atlantic Whale Sanctuary would be a positive step under the proposed agreement, and one which pro-conservation countries have sought for many years. But this achievement would be greatly devalued if the arrangement simultaneously sanctions whaling in the Southern Ocean Sanctuary.

Some argue that that the proposed ten-year arrangement would be an improvement over the status quo since whaling would be controlled.

There would be an agreed cap on the number of whales killed, and only the three countries currently whaling would be allowed to kill whales.

They argue that there will be a significant reduction in the number of whales killed, with as many as 5000 whales to be saved over 10 years, and that this should be the main criterion upon which the entire arrangement should be assessed.

It is not clear whether any reductions will be benchmarked against the quotas which the three whaling countries issue themselves or against the actual number of whales taken, which are often much lower than the quotas.

Of course, at first glance any reduction in the number of whales killed sounds positive. A diplomatic agreement that got us a step closer to achieving an end to whaling could be a positive step.

But the numbers in the current proposal have been put forward by the IWC Chair, not the whaling nations who have refused to offer any credible reductions despite that being one of the premises upon which the Support Group was constituted.

Consequently there is no indication yet that whaling countries will agree to them. Right now, the so-called reductions exist on paper only. In effect, they are paper whales.

And we need to ask the critical question: what price are we being asked to pay for these reductions, if they were to be agreed?

The number of whales to be killed is only one aspect of this arrangement. Critically, the arrangement would not close the scientific whaling loophole.

Even worse, discussions on how to achieve this are put off until later in the ten year period.

And if all that is not bad enough the whaling nations want the costs of funding the proposed new provisions to monitor and inspect the way the whalers are conducting their hunts and managing the distribution of whale meat and whale products, to be shared across the IWC membership.

In effect this is asking the Australian taxpayer to foot the bill for supporting whaling operations around the world. It should not surprise others that we find much to object to on this count.

Moreover, the arrangement says nothing about what will happen at the end of the ten year period.

We hold concerns that if limited commercial whaling is sanctioned and guaranteed for the next ten years, this may have the unforeseen consequence of breathing new life into this dying industry.

Iceland has already indicated it wishes to engage in increased international trade in whale meat and whale products. This would surely represent a very real first step in the dismantling of the moratorium.

#### *Australia's proposal*

We believe that whales are worth more alive than dead. Simple.

Whilst we have advanced scientific, principled arguments to support our position, we also firmly believe in the economic benefits that can be reaped through the conservation of whales.

The commercial whaling industry today is in decay, with ageing infrastructure, low and falling demand, oversupply, and increasing debt sustained only through government subsidies.

Left to market forces, this industry would and should be long gone.

Compare this with the thriving and growing global whale watching industry.

In 2008, 13 million people participated in whale watching in 119 countries and territories, generating total revenues of \$2.1 billion. Whale watching revenues have doubled in just over a decade.



Up and down the coasts of Australia, and around the world, hundreds of thousands of people travel to see firsthand these great sea creatures. And this number is growing.

It is estimated that 3,300 operators offer whale watching trips around the world employing an estimated 13,200 people.

The IWC is in an ideal position to provide the practical tools and advice for countries developing their whale watching industries to help them to minimize the impacts on whales and their environment.

The Australian Government has therefore looked beyond the superficial attraction of a short-term reduction in the number of whales killed, and instead put forward a strong conservation focused proposal.

Our proposal addresses the fundamental flaws of the Chair's proposal and charts a new way forward which contains the elements of compromise but necessarily demands concessions from both sides of the debate, not just our own.

The key elements of our proposal are:

- a swift and internationally agreed end to Southern Ocean whaling, including in the Southern Ocean sanctuary
- for all whaling (other than current aboriginal subsistence whaling) to be phased down within a reasonable timeframe, including the phasing down and out of whaling in the Southern Ocean within five years
- an immediate halt to the issuing of 'scientific whaling' permits, and
- an immediate end to the hunting of vulnerable and endangered species.

We will continue to push hard to achieve a more robust and balanced proposal than the one currently on the table.

Our proposal introduces substantially greater conservation outcomes. It explicitly calls for the maintenance of the moratorium and rejects the use of interim measures dressed up as the 'best available science' to determine whale quotas for the ten year duration of the package.

And it would not allow whaling on threatened populations or on those populations where scientific knowledge is poor or unavailable.

Unrealistic? I don't think so.

While our proposal explicitly recognises that our end goal – the permanent elimination of all whaling other than aboriginal subsistence whaling – will be difficult to achieve immediately, to acquiesce to a proposal that asks us to abandon the gains of the past, is not a place that I hope many nations would wish to be in the future.

I have been speaking to counterparts all around the world over the last few weeks – many are supportive –and I will be ramping-up that dialogue in the weeks to come.

With the June meeting of the IWC looming as the critical deadline for negotiations, the Government will mobilise our diplomatic resources in the coming weeks to make clear our views.

The IWC proposal – which would legitimise the commercial whaling of nearly 1300 whales per year– falls well short of any outcome that Australia could accept.

We have said consistently, that we are prepared to take international legal action to stop so called 'scientific' whaling in the Southern Ocean.

We have asked officials to prepare detailed options for the Government, including the option of legal action to stop Japan's 'scientific' whaling. As we weigh up all the relevant developments, if we judge that we are unlikely to achieve our objectives diplomatically, the Government will be ready to proceed with legal action.

## **Conclusion**

In the face of significant opposition, Australia has stayed strong in its commitment to whale conservation.

We have won welcome support for our position from other allies, particularly in South America and some countries in Europe.

We have seen genuine engagement among IWC member nations on the need to reform the IWC and acknowledgment of the need for a more pro-conservation agenda for the organisation.

But with the release of final papers for the annual IWC meeting this past week, one thing is very clear – we are still far from consensus.

So I'll conclude by clearly restating our position.

We remain resolutely opposed to commercial and so-called 'scientific' whaling.

We are committed to the moratorium on commercial whaling, and we want to see an end to whaling in the Southern Ocean.

We recognise the significant difficulties to be overcome to achieve this goal.

But we are considering all our options, diplomatic and legal, in the period ahead.

Looking forward to the June meeting in Agadir, I expect the discussion will be serious and intense. If it comes to a vote, numbers on the floor of the IWC will be close as a 75 per cent majority is required for a proposal to be endorsed.

It is critical that the voices and opinions of civil society are heard on this issue in the scant few weeks we have left before IWC 62.

To this end, I can assure you that until the meeting itself, the Government will be working hard, both publicly and behind closed doors in an effort to drive real reform at the IWC.

Australia, and all those who are campaigning for an end to whaling hope that in the lead up to this years IWC meeting in Morocco, member nations can rediscover that same spirit of cooperation that allowed the Commission to agree to a moratorium on commercial whaling back in 1982.



We must seize the moment and move forward on the conservation of these great sea creatures, and ensure their future for generations to come.

**[ENDS]**

