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Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

By email: ec.sen@aph.gov.au

31 January 2011

Dear Sir or Madam

Re: Environment Protection and Biodiversity Conservation Amendment (Prohibition of Support for Whaling) Bill 2010

Humane Society International (HSI), the world's largest conservation and animal welfare organisation, welcomes the opportunity to provide the following submission to this Senate inquiry on behalf of 11 million supporters worldwide, and 40,000 Australian supporters.

On 15 January 2008 HSI secured a historic victory against the Japanese whalers in the Australian Federal Court. After a four year long court case the Federal Court issued a judgement that declared Japanese whaling in the Australian Whale Sanctuary in Antarctica to be a breach of Australian law and issued an injunction ordering the hunt to be stopped.

HSI brought the case against the Japanese whaling company Kyodo Senpaku Kaisha which has an annual permit from the Japanese government to kill 935 minke whales and 50 fin whales in Antarctica every summer – ostensibly for scientific research. Based on records of previous hunts, every other year approximately 90% of these whales are killed in the Australian Whale Sanctuary.

The decision from the Federal Court was historic in that it was the first time the Japanese whalers have been taken to court and it confirms that the illegality of the hunt. HSI served the order that the hunt be stopped at the company's headquarters in Tokyo and we have repeatedly called on them to abandon the hunt. They have ignored the injunction and their continued whaling in the Australian Whale Sanctuary is in contempt of the Australian Federal Court.

In light of this, HSI was pleased when the Rudd Government supported HSI's case against the Japanese whalers and when prior to the 2007 Federal election it was stated they would enforce the Federal Court injunction. Since this promise, instead of sending a Government vessel to enforce the injunction in the following season, the Oceanic Viking was sent to the Australian Whale Sanctuary to 'monitor' the hunt and gather evidence for a separate international court case.

In January 2010, HSI learnt through media reports (*Sydney Morning Herald*, *The Age* and

other media outlets) that a Melbourne company trading as Direct Air Charter operated charter flights from Western Australia and Tasmania in early December 2009 and on 1 January 2010, for the purposes of locating the *Steve Irwin*, a vessel operated by the Sea Shepherd Conservation Society. Media reports indicated that the charter flights were paid for by the Wellington-based Omeka Communications and identified its principal, Mr Glenn Inwood, as having been a participant in the flights. Omeka Communications provides public relations services for Japanese whaling operations. HSI considered that the provision of these surveillance flights to assist the Japanese whaling fleet to continue whaling in the Australian Whale Sanctuary to be in contempt of court. Accordingly, HSI instructed its solicitors, the Environmental Defender's Office Ltd, to write to the Environment Minister, Peter Garrett MP, in addition to the offending companies involved based in both Australia and New Zealand.

HSI applauded the Australian Government for instituting proceedings against Japan in the International Court of Justice (ICJ) with respect to Japan's JARPA II program (*JARPA II* case) in May 2010.¹ This was welcomed as an important step which we hope will bring to an end the abuse of Article VIII of the International Convention for the Regulation of Whaling (ICRW). This Article, which allows for legitimate lethal scientific research, is exploited by Japan to undertake what is in effect a commercial whaling program in both the North Pacific and the Antarctic. We also welcomed Prime Minister Gillard's confirmation that the government will continue to vigorously pursue the JARPA II case within the ICJ.

However, in light of this ongoing international legal action, it is imperative that Australia takes every opportunity to promote its long-standing anti-whaling position. As witnessed at the June 2010 meeting of the International Whaling Commission in Morocco, Australia continues to demonstrate global leadership to drive conservation-centred reform of the Commission and end all commercial whaling. In light of this leadership role, HSI considers the proposed amendments contained within the *Environment Protection and Biodiversity Conservation Amendment (Prohibition of Support for Whaling) Bill 2010* to be wholly appropriate. The proposed amendments would enable the Government to take strong and swift action should the need arise in the future. This is an important complimentary strategy in the face of ongoing whaling in the Southern Ocean, including within the Australian Whale Sanctuary.

As an organisation actively working to stop whaling, we ask that Australia take every action to promote its long-standing anti-whaling position. We therefore support the *Environment Protection and Biodiversity Conservation Amendment (Prohibition of Support for Whaling) Bill 2010* and adoption of the amendments into legislation.

Yours sincerely

Michael Kennedy
Director

¹ *Dispute Concerning Japan's JARPA II Program on "Scientific Whaling"* (Australia v. Japan) Application Instituting Proceedings (31 May 2010) See http://www.haguejusticeportal.net/Docs/Court%20Documents/ICJ/Australia%20against%20Japan_Applications%20instituting%20proceedings.pdf