

**AMENDMENT, DONE AT CAMBRIDGE, UNITED KINGDOM ON
14 OCTOBER 2002, TO THE SCHEDULE TO THE
INTERNATIONAL CONVENTION FOR THE REGULATION OF
WHALING, DONE AT WASHINGTON ON 2 DECEMBER 1946**

Documents tabled on 3 December 2002:

National Interest Analysis

Text of the proposed treaty action

Current status list

NATIONAL INTEREST ANALYSIS: CATEGORY B TREATY

SUMMARY PAGE

Amendment, done at Cambridge, United Kingdom on 14 October 2002, to the Schedule to the International Convention for the Regulation of Whaling, done at Washington on 2 December 1946

Date of Proposed Treaty Action

1. 3 December 2002.

Nature and Timing of Proposed Treaty Action

2. The Schedule is an integral part of the International Convention for the Regulation of Whaling, 1946 (the Convention). It is amended from time to time, in accordance with the provisions of Article V of the Convention, to take account of decisions of the International Whaling Commission established under the Convention (the Commission).

3. Amendments to the Schedule become effective with respect to each Contracting Government ninety days following the date of notification from the Secretariat of the Commission unless a Contracting Government lodges an objection to the amendments in that period. Should any Contracting Government lodge an objection, the amendment would not enter into force for any of the Contracting Governments for an additional ninety days. Thereafter the amendments become binding on all Contracting Governments other than those that have lodged objections.

4. It is proposed that Australia not lodge an objection to this amendment and that accordingly binding treaty action is not required.

5. The Commission notified Contracting Governments on 21 October 2002 of the amendment made at the special meeting held in Cambridge. If no objections are lodged, the amendment will come into force generally on 19 January 2003. If objections are lodged before 19 January 2003 the amendment will come into force for those countries that have not lodged an objection on 19 April 2003. The amendment will therefore come into force for Australia on 19 January 2003 if there are no objections or 19 April 2003 if there are.

Overview and National Interest Summary

6. The amendment to the Schedule to the Convention renews a quota for aboriginal subsistence whaling in the Bering-Chukchi-Beaufort Seas of the Northern Hemisphere. This is in the national interest because, while Australia is a strong opponent of commercial whaling, Australia has consistently recognised the needs of some subsistence cultures for continued access to whaling and whale products to meet demonstrated traditional, cultural and dietary needs.

Reasons for Australia to take the proposed treaty action

7. Australia has been a Contracting Government to the Convention since it came into force in 1948. The amendment renews the shared quota for aboriginal subsistence whaling by Alaskan Eskimos and the indigenous people of the Chukotka Peninsula (Siberia).

8. The amendment arises from the need to review aboriginal subsistence whaling catch limits of baleen whales, which are set by paragraph 13 of the Schedule. These limits apply to whale populations that do not occur in Australian waters. While the three other aboriginal subsistence quotas were renewed at the 54th annual meeting held in Japan in May 2002, the Commission did not agree to set a catch limit for bowhead whales taken by indigenous peoples of the United States and Russia. Negotiations among IWC member States resulted in the convening of the special meeting, which produced this separate Schedule amendment.

9. The special meeting agreed to renew the previous quota of bowhead whales for five years, by substituting the dates '2003, 2004, 2005, 2006 and 2007' for '1998, 1999, 2000, 2001 and 2002'. The limits will continue to be reviewed annually in light of the advice of the Scientific Committee. A new condition is also imposed – that the hunt shall be modified in accordance with the recommendations of the Committee's in-depth assessment of this whale population, due in 2004.

10. The Convention is a multilateral treaty which regulates the conservation and utilisation of whale stocks. Although negotiated at a time when the primary focus was to ensure international control of the post-war development of the commercial whaling industry, the Convention and the Commission created by it have proven more recently to be an effective vehicle for some major conservation measures. These include the 1982 decision to implement a moratorium on commercial whaling and the establishment in 1994 of the Southern Ocean Sanctuary.

11. Australia has been a strong advocate of conservation measures within the Commission since the closure of the last Australian shore-based whaling operation in 1979. The Commission is considered the most appropriate forum for pursuit of international efforts to improve the conservation of whales. The special meeting's amendment accords with Australia's long-held position – to ban commercial whaling, but to permit limited hunting of whales by aboriginal subsistence cultures to meet demonstrated traditional, cultural and dietary needs.

Obligations

12. As the amendment to the Schedule concerns the renewal of aboriginal subsistence whaling catch limits off Siberia and Alaska, it will not add to Australia's existing obligations under the Convention.

Implementation

13. The amendment to the Schedule does not require any additional measures by Australia. The *Environment Protection and Biodiversity Conservation Act 1999* prohibits the killing of whales and provides for the preservation, conservation and protection of whales and other cetaceans in Australian waters, including to the outer limits of the Exclusive Economic Zone.

Costs

14. The proposed treaty action is not expected to impose any additional costs to Australia. The amendment to the Schedule will not require any new domestic agencies or management arrangements to be put in place, it simply permits aboriginal whalers in parts of Siberia and Alaska to continue their hunts.

Consultation

15. Environment Australia convenes a number of consultative meetings with non-government organisations and other Government departments prior to each annual Commission meeting to canvass views on Commission issues. An additional meeting was held in October, prior to the special meeting. The views expressed at the meetings are taken into account in developing Australia's position on the proposals to be considered by the Commission. Following each annual meeting of the Commission, a report from the delegation is made available to non-government organisations, government departments, scientists and institutions. Representatives of two non-government organisations (Project Jonah and Humane Society International) participated as members of the Australian delegation at the 2002 annual meeting.

16. The amendments resulting from the 2002 special Commission meeting, to renew a shared U.S.-Russian aboriginal subsistence whaling catch limit, do not affect the States and Territories.

Regulation Impact Statement

17. The Office of Regulatory Review, Productivity Commission has been consulted and confirms that a Regulation Impact Statement is not required.

Future treaty action

18. The Schedule may be amended from time to time in accordance with the provisions of Article V of the Convention. Article V provides that a three-quarter majority of the Commission may decide to amend the Schedule where the amendments are such as are necessary to carry out the objectives and purposes of the Convention and to provide for the conservation, development, and optimum utilisation of whale resources; are based on scientific findings, do not involve restrictions on the number or nationality of factory ships or land stations, nor allocate specific quotas to any factory ship or land stations; and take into consideration the interests of consumers of whale products and the whaling industry (Article V(2)).

19. Amendments are usually, but not necessarily, made at meetings of the Commission (Article III(2)). The Rules of Procedure provide that between meetings of the Commission or in the case of emergency, a vote may be taken by post, or other means of communication. Any future amendments to the Schedule would have to be agreed by the Commission and would be subject to further treaty action under the Convention.

20. There are no current proposals for the development of additional Protocols, which would require a Conference of Governments outside the normal Commission meetings.

Withdrawal or denunciation

21. Australia may lodge an objection to any amendment to the Schedule within ninety days of notification from the Commission. Thereafter such an amendment will not become binding on Australia.

22. Australia may withdraw from the Convention, of which the Schedule is an integral part, by giving notice to the Depository Government (the Government of the United States of America) on or before 1 January of any year, whereby the withdrawal becomes effective as of 30 June following the notification.

Contact Details

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