

## Amendments to the Schedule to the International Convention for the Regulation of Whaling

### Introduction

- 6.1 The *Amendments to the Schedule to the International Convention for the Regulation of Whaling, done at Washington 2 December 1946 (Sorrento, Italy 22 July 2004)* makes two sets of minor amendments to the Schedule of the *International Convention for the Regulation of Whaling* (the Schedule).

### Background

- 6.2 The *International Convention for the Regulation of Whaling* (the Convention) is a multilateral treaty that regulates the conservation and utilisation of whale stocks. The initial focus of the Convention was to ensure international control of post-war development of the commercial whaling industry. More recently, the International Whaling Commission (IWC), established under the Convention, has been a vehicle for conservation measures, such as the 1982 decision to implement a moratorium on commercial whaling. The IWC currently has 60 member countries.<sup>1</sup>

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1 <http://www.iwcoffice.org/commission/members.htm> accessed 09/03/05.

- 6.3 Australia has been a Contracting Government to the Convention since it came into force in 1948 and a strong advocate of conservation measures within the IWC since 1979.<sup>2</sup>
- 6.4 The Schedule is an integral part of the Convention, and is amended from time to time in accordance with Article V to take account of decisions of the IWC.<sup>3</sup>
- 6.5 Australia already prohibits killing, injuring or interfering with whales in Australian waters under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and actually provides a higher level of protection than under the Convention.<sup>4</sup>

## The Amendments

- 6.6 The first set of amendments to the Schedule substitute the dates '2004/2005' for '2003/2004' and '2005' for '2004' in paragraphs 11 and 12 and Tables 1, 2 and 3 for the coming year on commercial whale catch limits. The catch limits for commercial whaling are all set at zero in accordance with subparagraph 10(e) of the Schedule.<sup>5</sup>
- 6.7 The second set of amendments adds two new provisions to paragraph 13(a) of the Schedule, modifying the provisions for aboriginal subsistence whaling in the Northern Hemisphere. These new provisions:
- impose a ban on the taking of calves or any whales accompanied by a calf
  - require that all hunts be conducted under national legislation that accord with paragraph 13.<sup>6</sup>
- 6.8 The amendments also delete the words '...whose traditional aboriginal subsistence and cultural needs have been recognized' in subparagraph 13(b)(2).<sup>7</sup>
- 6.9 Subparagraph 13(b)(2) now reads:

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2 National Interest Analysis (NIA), paras 9 and 7.

3 NIA, para. 2.

4 NIA, para. 14.

5 NIA, para. 8.

6 NIA, paras 10, 11 and 12.

7 NIA, para. 12.

The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by Aborigines or a Contracting Government on behalf of Aborigines, and then only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines.

- 6.10 Following the amendments, some barter, trade or sharing of whale products could be undertaken by aboriginal people under subparagraph 13(b)(2), with relatives, others in the local community or with other persons with whom local residents share familial, social or economic ties.<sup>8</sup> The deletion of these words brings subparagraph 13(b)(2) into line with subparagraph 13(b)(1), (b)(3) and (b)(4).
- 6.11 The Department of the Environment and Heritage, Australian Antarctic Division, noted that :

these modifications are in Australia's national interest because they maintain the strong opposition we have to commercial whaling but support the access of some indigenous communities to whales and whaling to meet demonstrated traditional, cultural and nutritional needs.<sup>9</sup>

## **Automatic entry into force**

- 6.12 Under the Convention, amendments 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.<sup>10</sup> In the event that an objection is lodged during the ninety day period, the amendments would not come into force for any Contracting Government for an additional ninety days. After that, the amendments are binding on all other Contracting Governments apart from those that have lodged objections.<sup>11</sup>

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8 NIA, para. 12.

9 Dr Anthony Press, *Transcript of Evidence*, 7 March 2005, p. 16.

10 NIA, para. 3.

11 NIA, para. 3

- 6.13 Australia did not lodge an objection concerning the amendments to the Schedule to the Convention.<sup>12</sup> The amendments to the Schedule came into force for Australia on 28 October 2004.<sup>13</sup>

## Costs

- 6.14 The amendments to the Schedule will not add to Australia's obligation under the Convention, require any additional measures or impose any additional costs.<sup>14</sup>

## Conclusion

- 6.15 The Committee continues to support the maintenance of the moratorium on commercial whaling. The Committee recognises that the amendments are routine and do not impose any additional costs or obligations on Australia. The Committee support the amendments to the Schedule.

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12 NIA, para. 5.

13 NIA, para. 5.

14 NIA, paras 14-16.