

## REGULATION OF WHALING

*Protocol signed at London June 24, 1938, amending the agreement of June 8, 1937*<sup>1</sup>

*Senate advice and consent to ratification March 8, 1939*

*Ratified by the President of the United States March 16, 1939*

*Ratification of the United States deposited at London March 30, 1939*

*Entered into force provisionally July 1, 1938; definitively December 30, 1938; for the United States March 30, 1939*

*Proclaimed by the President of the United States April 8, 1939*

*Amended by protocol of November 26, 1945,<sup>2</sup> as extended and supplemented*

*Terminated for the United States and certain other parties June 30, 1949*<sup>3</sup>

53 Stat. 1794; Treaty Series 944

### PROTOCOL

The Governments of the Union of South Africa, the United States of America, the Argentine Republic, the Commonwealth of Australia, Canada, Eire, Germany, the United Kingdom of Great Britain and Northern Ireland, New Zealand and Norway, desiring to introduce certain amendments into the International Agreement for the Regulation of Whaling, signed in London on the 8th June, 1937<sup>4</sup> (hereinafter referred to as the Principal Agreement) in accordance with the provisions of Article 21 thereof, have agreed as follows:

#### ARTICLE 1

With reference to the provisions of Articles 5 and 7 of the Principal Agreement, it is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating humpback whales in any waters south of 40° South Latitude during the period from the 1st October, 1938, to the 30th September, 1939.

<sup>1</sup> For final act of 1938 London conference and map showing waters defined in arts. 7 and 9 of agreement of June 8, 1937, and in arts. 1, 2, and 7 of 1938 protocol, see 53 Stat. 1800 or p. 7 of TS 944.

<sup>2</sup> TIAS 1597, *post*, p. 1328.

<sup>3</sup> Pursuant to notices of withdrawal in accordance with art. 21 of agreement of June 8, 1937 (TS 933, *ante*, p. 460).

<sup>4</sup> TS 933, *ante*, p. 455.

## ARTICLE 2

Notwithstanding the provisions of Article 7 of the Principal Agreement, it is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating baleen whales in the waters south of 40° South Latitude from 70° West Longitude westwards as far as 160° West Longitude for a period of two years from the 8th day of December, 1938.

## ARTICLE 3

(1) No factory ship which has been used for the purpose of treating baleen whales south of 40° South Latitude shall be used for that purpose elsewhere within a period of twelve months from the end of the open season prescribed in Article 7 of the Principal Agreement.

(2) Only such factory ships as have operated during the year 1937 within the territorial waters of any signatory Government shall, after the signature of this Protocol, so operate, and any such ships so operating shall be treated as land stations and remain moored in territorial waters in one position during the season and shall operate for not more than six months in any period of twelve months, such period of six months to be continuous.

## ARTICLE 4

To Article 5 of the Principal Agreement there shall be added the following:

“except that blue whales of not less than 65 feet, fin whales of not less than 50 feet and sperm whales of not less than 30 feet in length may be taken for delivery to land stations provided that the meat of such whales is to be used for local consumption as human or animal food.”

## ARTICLE 5

To Article 7 of the Principal Agreement there shall be added the following:

“Notwithstanding the above prohibition of treatment during a close season, the treatment of whales which have been taken during the open season may be completed after the end of the open season.”

## ARTICLE 6

In Article 8 of the Principal Agreement the word “baleen” shall be inserted after the word “treating.”

## ARTICLE 7

For the areas specified in (a), (b), (c) and (d) of Article 9 of the Principal Agreement there shall be substituted the following areas, viz.:

(a) in the waters north of 66° North Latitude; except that from 150° East Longitude eastwards as far as 140° West Longitude the taking or killing of

whales by such ship or catcher shall be permitted between 66° North Latitude and 72° North Latitude;

(b) in the Atlantic Ocean and its dependent waters north of 40° South Latitude;

(c) in the Pacific Ocean and its dependent waters east of 150° West Longitude between 40° South Latitude and 35° North Latitude;

(d) in the Pacific Ocean and its dependent waters west of 150° West Longitude between 40° South Latitude and 20° North Latitude;

(e) in the Indian Ocean and its dependent waters north of 40° South Latitude.

#### ARTICLE 8

For Article 12 of the Principal Agreement there shall be substituted the following, viz.: The taking of whales for delivery to a factory ship shall be so regulated or restricted by the master or person in charge of the factory ship that no whale carcase shall remain in the sea for a longer period than 33 hours from the time of killing to the time when it is taken up on to the deck of the factory ship for treatment.

#### ARTICLE 9

The present Protocol shall come into force provisionally on the first day of July, 1938, to the extent to which the signatory Governments are respectively able to enforce it.

#### ARTICLE 10

(i) The present Protocol shall be ratified and the instruments of ratification shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland as soon as possible.

(ii) It shall come into force definitively upon the deposit of the instruments of ratification by the Governments of the United Kingdom, Germany and Norway.

(iii) For any other Government which is a party to the Principal Agreement, the present Protocol shall come into force on the date of the deposit of its instrument of ratification or notification of accession.

(iv) The Government of the United Kingdom will inform the other Governments of the date on which the Protocol comes into force and the date of any ratification or accession received subsequently.

#### ARTICLE 11

(i) The present Protocol shall be open to accession by any Government which has not signed it and which accedes to the Principal Agreement before the definitive entry into force of the Protocol.

(ii) Accession shall be effected by means of a notification in writing addressed to the Government of the United Kingdom and shall take effect immediately after the date of its receipt.

(iii) The Government of the United Kingdom will inform all the Governments which have signed or acceded to the present Protocol of all accessions received and the date of their receipt.

#### ARTICLE 12

Any ratification of or accession to the Principal Agreement which may be deposited or notified after the date of definitive coming into force of the present Protocol shall be deemed to relate to the Principal Agreement as amended by the present Protocol.

In witness whereof the undersigned, duly authorised thereto, have signed the present Protocol.

Done in London the twenty-fourth day of June, 1938, in a single copy, which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, by whom certified copies shall be communicated to all the signatory Governments.

For the Government of the Union of  
South Africa:  
C. T. TE WATER  
F. J. DU TOIT

For the Government of the United  
States of America:  
HERSCHEL V. JOHNSON  
REMINGTON KELLOGG  
WILFRID N. DERBY

For the Government of the Argentine  
Republic:  
MANUEL E. MALBRAN  
M. FINCATI

For the Government of the Common-  
wealth of Australia:  
ROBERT G. MENZIES

For the Government of Canada:  
VINCENT MASSEY

For the Government of Eire:  
SEAN O'FAOLAIN O'DULGHAONTIGE  
J. D. RUSE

For the Government of Germany:  
HELMUTH WOHLTAT

For the Government of the United King-  
dom of Great Britain and Northern  
Ireland:

HENRY G. MAURICE  
GEO. HOGARTH

For the Government of New Zealand:  
W. J. JORDAN

For the Government of Norway:  
BIRGER BERGERSEN