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CANADA

TREATY SERIES, 1945

No. 21

ACTS
OF THE
INTERNATIONAL
WHALING CONFERENCE

Held in London from November 20 to November 26, 1945



OTTAWA
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1948

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SUMMARY

WHALING CONFERENCE

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ACTS OF THE INTERNATIONAL WHALING CONFERENCE HELD IN LONDON FROM NOVEMBER 20 TO NOVEMBER 26, 1945

I

FINAL ACT

An International Whaling Conference was opened in London on the 20th November, 1945, and continued on the 21st, 22nd and 23rd November, 1945.

The Governments of the countries mentioned below were represented as follows:—

(Here follow the names of the representatives of the Union of South Africa, Australia, Canada, Denmark, France, Mexico, Netherlands, Newfoundland, New Zealand, Norway, the United Kingdom and the United States of America.)

Mr. A. T. A. Dobson (United Kingdom) was invited to preside over the conference, and Mr. A. M. Lowe and Miss U. Borenus (United Kingdom), assisted by a member of the United States of America Delegation, acted as Secretaries.

The object of the Conference was to consider what special measures should be put in force by agreement in respect of the whaling season 1946/47. All the Governments represented at the Conference were parties or signatories to the International Agreement for the Regulation of Whaling signed at London on the 8th June, 1937.

The Conference having heard a statement on behalf of the Minister of Food of the United Kingdom on the present position of world stocks of oils and fats, and the prospects in the near future, came to the conclusion that, so far as whaling is concerned, some special relaxation of the Agreement of 1937 and the Protocol of 1938 was desirable for the season 1946/47.

On the other hand the Conference was impressed with two main considerations. In the first place it was of vital importance to further the conservation of existing whale stocks, which prior to the war were already showing signs of depletion. Secondly, it was of equal importance that any temporary relaxation of the existing regulations should not serve to encourage countries that had not taken part in whaling operations before to enter the industry only to find that ultimately their expeditions might not prove financially profitable.

The Conference had the advantage of perusing a number of papers submitted by the various delegates, and in particular was grateful to the Norwegian Delegation for the very full statistical material relating to the whaling industry as a whole which was of inestimable value.

The Conference adopted at its final meeting the following resolutions:—

- (i) "That it is desirable that a Protocol, in the terms of the Annex to this resolution,* should be signed and brought into force as soon as possible; that the Government of the United Kingdom is requested to make early arrangements for the signature of this Protocol by duly accredited representatives; that as this Protocol makes certain temporary amend-

* The Annex is omitted from this document in view of the fact that the Draft Protocol embodied therein is word for word as the Protocol signed on November 26, 1945 and reproduced on page 5 below.

ments to the Agreement of 1937, as amended by the Protocol of 1938, all Governments which are parties to those instruments should be invited either to sign the present Protocol or to accede thereto; that Governments which are signatories to the Agreement of 1937 and Protocol of 1938 but have not become parties thereto by ratification should be invited to ratify those instruments and to sign the annexed Protocol or to accede thereto; and that copies of this Final Act and the Annex thereto should be communicated to all such Governments which are not represented at the present Conference and to any other interested Governments."

- (ii) "That the Governments parties or signatories to the 1937 Agreement take such measures as may be appropriate to facilitate the exchange of scientific and other data on whales and whaling. The Conference likewise recommends the interchange of experts on whale biology and collaboration among those Governments on research and scientific studies pertaining to whales."
- (iii) "That the regulations of the several Governments should provide that (1) the official measurements as required in Article 16 of the 1937 Agreement shall be taken by the inspector when the whale is at rest on deck or platform in accordance with the definition of 'length' in Article 18 of that Agreement, and (2) the other data required by Article 16 shall be verified by the inspector at the time of tally."

The Conference considered a proposal by the Delegation of the United States of America that the contracting Governments should prohibit the sale, loan or delivery of vessels, equipment or supplies designed especially for whaling operations, or known to be intended for such operations, to any Government or the national of any Government not a party or a signatory to the whaling Agreement of 1937. The Conference, however, was unable, owing to uncertainty as to the necessary legislative powers in the various countries, to include these provisions in the Protocol, but recognising the vital necessity for this prohibition adopted the following resolution:—

- (iv) "That the various Governments should take all practicable steps to prohibit the sale, loan or delivery of vessels, equipment or supplies designed especially for whaling operations, or known to be intended for such operations, to any Government or the nationals of any Government not a party or signatory to the whaling Agreement of 1937."

The Conference also gave consideration to urgent representations by the Norwegian and United Kingdom representatives that as, owing to unforeseen circumstances, certain factory ships would be unable to reach the whaling grounds by the 24th November, 1945, they should be permitted to operate with a full complement of catchers for a continuous period of four months from the date in which they were able to commence operations.

The Conference recognised the vital importance of acquiring all the oil possible during the 1945/46 season, and considered that it would be highly detrimental to world oil supplies if the limited number of expeditions were unable to fish for the full four months owing to circumstances not only beyond their control, but due primarily to the aftermath of the war.

While unable to include any provision on this subject in the Protocol on account of the difficulty of obtaining the necessary ratifications in time for this provision to be effective, the Conference adopted the following further resolution:

- (v) "That every effort should be made to overcome the legal difficulties and obtain special authority for the required extension of the 1945/46 season in the case of the particular factory ships which cannot reach the grounds by the opening date."

Done in London the twenty-sixth day of November, 1945, in a single copy which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, and of which certified copies shall be transmitted to all signatory Governments.

(Here follow the names of the signatories for the Union of South Africa, Australia, Canada, Denmark, France, Mexico, Netherlands, Newfoundland, New Zealand, Norway, the United Kingdom and the United States of America.)

II

PROTOCOL

The Governments of the Union of South Africa, the Commonwealth of Australia, Canada, Denmark, France, Mexico, the Netherlands, New Zealand, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America;

Desiring, in view of the fact that pelagic whaling operations in the area defined by Article 7 of the international Agreement for the Regulation of Whaling, signed at London on the 8th June, 1937 (hereinafter referred to as the Principal Agreement), as amended by the Protocol signed at London on the 24th June, 1938 (hereinafter referred to as the Protocol of 1938), have been interrupted for a considerable period by the war, and in order to meet the emergency produced by post-war conditions without prejudice to the conservation of stocks of whales, to put into force by agreement such provisions as may be necessary in regard to pelagic whaling for the season 1946/47;

Have agreed as follows:—

ARTICLE 1

Subject to the provisions of Article 3 of the present Protocol, the period fixed by Article 7 of the Principal Agreement, during which factory ships or whalecatchers attached thereto may be used for the purpose of taking or treating baleen whales, shall be extended for the season 1946/47 so as to cover the period from the 8th December to the 7th April inclusive.

ARTICLE 2

Each contracting Government shall give notice to the Government of the United Kingdom when factory ships registered under the law of any territory under its authority or otherwise under its jurisdiction engage in whaling operations in the area defined by Article 7 of the Principal Agreement. The Government of the United Kingdom will inform the other contracting Governments of all notices received under this paragraph and shall itself similarly give notice to the other contracting Governments if factory ships registered under the law of any territory under its authority or otherwise under its jurisdiction engage in whaling operations in the said area.

ARTICLE 3

The prohibition contained in Article 1 of the Protocol of 1938 relating to the taking of hump back whales in any waters south of 40° south latitude shall apply during the season of 1946/47.

ARTICLE 4

(1) During the season of 1946/47 the number of baleen whales caught in the area defined by Article 7 of the Principal Agreement shall not exceed 16,000 blue whale units.

(2) For the purposes of paragraph 1 of this Article blue whale units shall be calculated on the basis that one blue whale equals—

- (a) Two fin whales or
- (b) Two and a half hump back whales or
- (c) Six sei whales.

(3) Each contracting Government undertakes to ensure that the International Bureau for Whaling Statistics shall be provided, within two days after the end of each calendar week, with data on the number of blue whale units caught by each factory ship under the jurisdiction of the said Government in the area defined by Article 7 of the Principal Agreement. The Government of the United Kingdom shall consult from time to time with the International Bureau for Whaling Statistics and if it should appear that the annual quota provided by paragraph (1) of this Article may be reached before the 7th April, the International Bureau for Whaling Statistics shall be requested to determine, on the basis of the data provided, the date on which the annual quota of blue whale units shall be deemed to have been reached and to notify each contracting Government of that date not less than two weeks in advance thereof. The taking of baleen whales shall be illegal after the date so determined.

ARTICLE 5

The provisions of Article 3, paragraph (2), of the Protocol of 1938, regarding the operation of factory ships as land stations in the territorial waters of any contracting Government, shall not apply during the period from 1st May, 1947, to 31st October, 1947, inclusive.

ARTICLE 6

(1) In the present Protocol the following expressions shall have the meanings assigned to them in Article 18 of the Principal Agreement; "factory ship", "whale-catcher", "land station", "baleen whale", "blue whale", "hump back whale", "fin whale."

(2) Sei whale means, for the purposes of this Protocol, any whale known by the name of *balaenoptera borealis*, sei whale, Rudolphi's rorqual, pollack whale, or coalfish whale, and shall be taken to include *Balaenoptera brydei*, Bryde's whale.

(3) The expression "land station" shall, for the purposes of Article 5 of the present Protocol, include a factory ship the movements and anchorage of which are confined to the territorial waters of any contracting Government.

ARTICLE 7

(1) The present Protocol shall be ratified and the instruments of ratification deposited as soon as possible with the Government of the United Kingdom; and it shall be open to accession on behalf of any Government which is a party to the Principal Agreement and the Protocol of 1938 and has not signed the present Protocol.

(2) Accession shall be effected by notification addressed to the Government of the United Kingdom.



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(3) The Government of the United Kingdom shall inform the Governments which are parties or signatories to the present Protocol of all ratifications of this Protocol or accessions thereto.

ARTICLE 8

(1) The Present Protocol shall come into force in its entirety when all the Governments referred to in the Preamble hereof shall have deposited their instruments of ratification or given notifications of accession.

(2) The provisions of this Article and Articles 2, 3, 4, 6 (1), 6 (2) and 7 of the present Protocol shall, when instruments of ratification have been deposited by at least three signatory Governments, become binding on those Governments and shall become binding on each other Government which subsequently ratifies or accedes, on the date of the deposit of its instrument of ratification of its accession.

The ratification of or accession to the present Protocol by a Government which is not a party to the Principal Agreement and the Protocol of 1938 shall not become effective until such Government becomes a party to that Agreement and the Protocol of 1938.

ARTICLE 9

The present Protocol shall bear the date on which it is opened for signature and shall remain open for signature for a period of 14 days thereafter.

In witness whereof the undersigned plenipotentiaries being duly authorised to this end by their respective Governments have signed the present Protocol.

Done at London this 26th day of November, 1945, in a single copy which shall remain deposited in the archives of the Government of the United Kingdom, by whom certified copies will be transmitted to all the Governments referred to in the preamble.

(Here follow the names of the signatories for the Union of South Africa, Australia, Canada, Denmark, France, Mexico, Netherlands, New Zealand, Norway, the United Kingdom and the United States of America.)

