



## Japan's whale hunt and corresponding role of the convention on international trade in endangered species of wild fauna and flora

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### Abstract

Whaling in Japan was evolved and in process between c. 14,000 and 300 BCE. In the 20th century Japan was completely involved in whaling for research activities in a large level but when the IWC International Whaling Commission evolved and most of them supported whaling equally most of them opposed it. In 2014 International Court of Justice held that that Japanese whaling program named as JAPRA-II and whale sanctuary in Australia was not into the international convention for the regulation of whaling and it was not used for scientific purposes as what they claimed. The UN international Court of Justice declared that this research program of whale hunting is not necessary and it did not show any merit scientifically and it does not have a big positive impact in commercial Japan. So this paper will broadly analyze the case of Australia vs. Japan. New Zealand intervening also called as whaling in Antarctic where Japan was accused for whaling in a large scale under the program of Japan whale research and how it interpreted and applied for article 8 of 1946 convention. Also how Japan get satisfied themselves the process of whaling and these programs and highlighting the main points in the international convention for the regulation of whaling 1946, public opinion on hunting whales in Japan.

**Keywords:** Whaling, International whaling commission; International convention for the regulation of whaling

### Introduction

Few States globally supports whaling and in those few States Japan is the important country to support whaling. For many decades Tokyo managed its participation into whaling. Japan's whaling process was highly criticized by the environmental concerned groups mostly the Western governments objecting the activities of whaling and processing it. Whaling in Japan was actually estimated from the 12th century and the industrial process that is whaling industry was began around 1890 in which country started participating with Japan.

This paper discuss about the framework and structure of International Convention for Regulation of Whaling ICRW and provisions of international whaling commission and its importance in addition to the role of CITIES. When we start to see the International perspective of whaling with respect to other countries like Iceland and many with the case Australia vs. Japan (whaling in Antarctic) where Australia accused to Japan for whaling under second phase of special permit and judgement.

### Whaling concerned with international law

In June 1992 the United Nations conference on environment and development was held at Rio de Janeiro. It was a global conference and had a wide response from 179 countries in addition to individuals and non-governmental organization NGO. The main objective of this is to restore the human social economic activities in the world. And the goal of this National conference was to bring a new to equal partnership globally and creating a unique level of combination of space to work International agreements with all global interest concerning the environment and developing issues. This conference mainly had two principles which are mandatory and that are precautionary speech concerning the environmental issues and the issue of sustainable

development. Basic principles were accepted and it was made into Rio declaration. And it was made as an important element for process of whaling. It also has clear and crisp information and concept of development concerning the environmental and its rising the bowing resources. The international convention of regulation of whaling is the direct and primary source for drilling according to international law from 1946 and it gives clear conservation of tissues and give the state head for the development of this industry and it is the WC International whaling Commission founding document from 1946.

The primary obligation of the IWC is to audit and screen the principles built up in the ICRW. These guidelines incorporate total assurance of specific species, building up whale havens, checking whale stocks, and accumulating logical and factual reports. The IWC embraces guidelines on catch limits, whaling techniques and ensured regions, based on a seventy five percent greater part vote. The IWC meets every year and is made out of one democratic delegate from each gathering who might be joined by specialists and counsels. Non-parties and intergovernmental associations are not permitted to go to the gatherings and to be spoken to by spectators, except if they have presented a composed solicitation to the Secretary thirty days before the gathering or on the off chance that they have gone to past meetings. It is set up as the administrative body with authoritative forces to accomplish the motivation behind and objectives set in the ICRW, it doesn't however hold the forces to implement its administrative approaches, all things considered with most global understandings that they need authorization conditions. Non-part conditions of the IWC can direct whaling like Canada, just as part states like Japan, Norway and Iceland. The IWC perceives subsistence whaling by indigenous individuals for nearby utilization, where individuals normally base their economies and diets

intensely upon these enormous bodied marine assets and have done as such for a large number of years. As why the ICRW joined an exemption for native subsistence whaling from whaling bans, an extra goals saving the rights and needs of native individuals who are dependent upon whales for dietary, subsistence and social purposes. The IWC has perceived that native subsistence whaling isn't in a similar nature as business whaling for the distinctive objectives it has. It is guaranteed that dangers of extinction isn't truly expanded with regards to native subsistence whaling, keep up stocks at most elevated net enlistment level and empower gather in no proper to social and healthful necessities.

ICRW Schedule, Section, III, Paragraph 13 gives the general principles for aboriginal subsistence whaling. By proving the existence and need of aboriginal subsistence whaling, there lived a tribe called Makah tribe in Washington who had a long back history of whaling. They were allowed the exclusion since they could demonstrate a healthful reliance on whale meat, that the chase for the whales should be appropriately comprehended as an endeavor to accomplish and keep up a subsistence way of life, lastly, that the whaling custom was a huge part of the Makah culture.

Article VIII of the ICRW says about the Scientific research and killing whale where the first paragraph says the exception and killing whales is legal and it is for scientific purposes and it is legally granted. The second regulation says that whales which are caught can be legally processed by issuing governments. As this framework of ICRW being continued Australia accused Japan for whaling which was handled by International Court of Justice.

**ROLE OF CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora)**

CITES convention on international trade in dangerous species of wild fauna and flora is a worldwide global agreement between many governments. Its main objective is to make sure that it trade which is being global and make the world animals and plants should not be threatened for their survival. This convention there are animals which are divided into three categories and listed in a separate sector and each group will be marked according to how much they are endangered and how much they are in the level of extinction. And the animals with extinction should be protected more and it will also tell how they should be protected with particular specimen of the particular species permitted in the circumstances. 30,000 mentioned in the article 3 of the convention. Particular appendix contain animals species which are to be secure in one country at least and the other parties of CITES should be in assist. In the case of whaling all the species including base which is managed by the international whaling Commission are under the appendix 1 of CITES and this mainly excludes the West Greenland Whales and it is been included in the appendix 2. In addition no types of whales are included in the third part of the appendix in the CITES. CITES has a cooperative function with international whaling commission and it should consult the other governmental bodies which are in function to the species in relation.

### **Australia vs. Japan (Antartic Whaling)**

Proceedings be started in Australia Japan for whaling under the second phase of Japanese will research program in very big and white scale under the permit in Antarctic JAPRA II and also for bridging the duties of Japan that has to be done

under the International convention regulation of whaling 1946 and the other concerned International duties for preserving the animals and also the environment that is surrounded by the sea. Judgement was delivered in 31 March 2014 and the court primarily decided that the court has jurisdiction to continue this case and rejected Japan's decision because of the damage set as been cost which also contains Australians decision in which the court's jurisdiction is mandatory in the case of whaling. According to article 8 of 1946 convention paragraph one gives the total interpretation and applicability of which that they can grant their nationals and they can give authorized permission to kill take and process the Waves by for the purpose of scientific research. According to the government of Australia it with the best of the jurisdiction of the International Court of Justice two parties Australia and Japan under article 36 paragraph 2 of the court's basic statute. Australia as declaration on 2002 March 22 is as follows:

*"The Government of Australia declares that it recognizes as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to the Secretary-General of the United Nations withdrawing this declaration. This declaration is effective immediately. This declaration does not apply to: (b) any dispute concerning or relating to the delimitation of maritime zones, including the territorial sea, the exclusive economic zone and the continental shelf, or arising out of, concerning, or relating to the exploitation of any disputed area of or adjacent to any such maritime zone pending its delimitation."*

So on 2014 March the ICJ International Court of Justice decided that the Japan must continue whaling program in the southern side and this definition I will also not affect the northern Pacific and the other sides which has to be and it was made in the function of it and it is also not fore close Japan in the future whaling and it which is been conducted in the international convention of the regulation of whaling should fulfill the requirements. Mainly Japan violated three provisions of international conventions of the regulation of whaling in a wide scale under the second phase and those three are:

- The moratorium on all commercial whaling
- The moratorium on the usage of ships process whales mainly factory ships
- And in avoidance of t whaling in the southern ocean sanctuary.

The Court found that Japan met the procedural necessities for audit of grants by the International Whaling Commission, found in the ICRW Schedule, 30

The outcome is that Japan must renounce any surviving approval, grant or permit to execute, take or treat whales in connection to JARPA II and abstain from conceding any further allows in compatibility of JARPA II. The Court saw that it is not out of the ordinary that Japan will assess the thinking and ends contained in this Judgment as it assesses the plausibility of allowing any future allows under Article

VIII, passage 1, of the Convention<sup>1</sup>.

The cases for this situation relied on the realities affirmed by each gathering in regards to the logical idea of JARPA II. In a past case the Court was forcefully condemned, by its very own portion made a decision just as popular sentiment, for poor treatment of noteworthy logical and specialized issues. This case displayed a analytical methodology. The strategy for introducing logical proof pursued a severe and fast calendar. The gatherings were to advise the Court by December 28, 2012 of the master proof they proposed to introduce, including a rundown of specialists to be called at the consultation. They at that point had one month to remark on each other data and to revise their own. The experts' articulations were to be given to the Court inside more than two months after that; they were likewise given to New Zealand. The Court at that point gave the gatherings around one month to react recorded as a hard copy. The oral hearings were held around one month later (June 26 to July 16, 2014), when the majority of the composed entries were made open. Two specialists were called by Australia, one by Japan; the specialists were inspected and interviewed and they reacted to questions presented by the judges. The Court didn't name its own master, which it is approved to do under article 50 of the ICJ Statute<sup>ii</sup>. In the case of Australia vs. Japan whaling in Antarctic judgement was an important landmark in the International Court of Justice and it gives an analytical view of which it differentiate the *opinio juris* and their participation in this and the role of scientist and their participation in this issue. It also mainly gives clear approach to the damages that has been environmentally cost and the way of how the issue of science should be addressed with respect to the dispute held. The definition of the court cannot solve the basic culture fight between the people who believe the whales should be hunted and should not be hunted because of environmental issues. The court also confirm that the aim and the framework of international Commission for the regulation of whales are mainly on the both taking care of Whaling industry and also conservation of Whales. Though after the judgement from the ICJ Japan has applied for a review for the decision made by the ICJ. And there is no law in international law where there is a prohibition of killing waves and it is up to the countries that is parties of international Commission for the regulation of whaling. Ande should decide how and when the Whales can be killed. it also examine that the international Commission for the regulation of whaling and how it provided a sufficient answer how the CI TES convention on the biological diversity with collaboration with international law and the environmental norms would react to their reply<sup>6</sup>.

### Conclusion

Paper mainly demonstrated the regulation and framework of the International Commission for regulation of whaling by beginning how the United Nations conference in 1992 was conducted by concerning the environmental and development issues among 179 countries with NGOs and non-governmental organizations and their primary of obligation of international whaling Commission. The duties of the parties of international whaling Commission and also by discussing the international commission for the regulation of whaling provisions of article 11, article 36, the role of CITES continuing with the case of International Court of Justice jurisdiction where Australia was against Japan because of whaling. During this controversial

activities media was more attentive to this issue and the attention gradually increased many television series was evolved for anti-whaling and some for supporting whaling like Eco tourist and this made them increase their ratings day by day. At last from the case of Australia vs. Japan whaling in Antarctic the International Court of Justice decided that the process of whaling in Japan was actually not for scientific purposes and it was not completely proved. So the order from the International Court of Justice is that Japan should immediately cancel the license for the permission to kill cold and process bills from the seas and this is not be any permission granted hereafter for Japan for whaling. This decision of the International Court of Justice was in the favor of Australia and the two former environmental ministers of Australia appreciated the decision and they had a word that Japan would respect it. Whereas the main part is the definition of the International Court of Justice was held final and no appeal can be applied in this hereafter. Finally a media published that in September 2014 some Japanese scientist or officials are willing to submit a review of the International whaling Commission conservation and program that is to be held in in November 2014.

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