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7707667 (Ms Susanna van der Watt)

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South African ratification of
Lhaling Agreement of
27th June, 1937

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WHEREAS an International Agreement for the Regulation of Whaling was signed on behalf of His Majesty's Government in the Union of South Africa at London, on the 8th June, 1937 ;

AND WHEREAS a Protocol introducing certain amendments into the said Agreement was signed on behalf of His Majesty's Government in the Union of South Africa at London on the 24th June, 1938 ;

AND WHEREAS a Protocol making certain temporary amendments to the said Agreement was signed on behalf of His Majesty's Government in the Union of South Africa at London on the 7th February, 1944 ;

Which Agreement and Protocols are word for word as follows :—

AGREEMENT FOR THE REGULATION OF WHALING.

The Governments of the Union of South Africa, the United States of America, the Argentine Republic, the Commonwealth of Australia, Germany, the United Kingdom of Great Britain and Northern Ireland, the Irish Free State, New Zealand and Norway, desiring to secure the prosperity of the whaling industry and, for that purpose, to maintain the stock of whales, have agreed as follows :—

ARTICLE 1.

The contracting Governments will take appropriate measures to ensure the application of the provisions of the present Agreement and the punishment of infractions against the said provisions, and, in particular, will maintain at least one inspector of whaling on each factory ship under their jurisdiction. The inspectors shall be appointed and paid by Governments.

ARTICLE 2.

The present Agreement applies to factory ships and whale catchers and to land stations as defined in Article 18 under the jurisdiction of the contracting Governments, and to all waters in which whaling is prosecuted by such factory ships and/or whale catchers.

ARTICLE 3.

Prosecutions for infractions against or contraventions of the present Agreement and the regulations made thereunder shall be instituted by the Government or a Department of the Government.

ARTICLE 4.

It is forbidden to take or kill Grey Whales and/or Right Whales.

ARTICLE 5.

It is forbidden to take or kill any Blue, Fin, Humpback or Sperm whale below the following lengths, viz. :—

(a) Blue whales.....	70 feet.
(b) Fin whales.....	55 feet.
(c) Humpback whales.....	35 feet.
(d) Sperm whales.....	35 feet.

ARTICLE 6.

It is forbidden to take or kill calves, or suckling whales or female whales which are accompanied by calves or suckling whales.

ARTICLE 7.

It is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating baleen whales in any waters south of 40° South Latitude, except during the period from the 8th day of December to the 7th day of March following, both days inclusive, provided that in the whaling season 1937-38 the period shall extend to the 15th day of March, 1938, inclusive.

ARTICLE 8.

It is forbidden to use a land station or a whale catcher attached thereto for the purpose of taking or treating whales in any area or in any waters for more than six months in any period of twelve months, such period of six months to be continuous.

ARTICLE 9.

It is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating baleen whales in any of the following areas, viz. :—

- (a) in the Atlantic Ocean north of 40° South Latitude and in the Davis Strait, Baffin Bay and Greenland Sea ;
- (b) in the Pacific Ocean east of 150° West Longitude between 40° South Latitude and 35° North Latitude ;
- (c) in the Pacific Ocean west of 150° West Longitude between 40° South Latitude and 20° North Latitude ;
- (d) in the Indian Ocean north of 40° South Latitude.

ARTICLE 10.

Notwithstanding anything contained in this Agreement, any contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the contracting Government thinks fit, and the killing, taking and treating of whales in accordance with the terms in force under this article shall be exempt from the operation of this Agreement.

Any contracting Government may at any time revoke a permit granted by it under this article.

ARTICLE 11.

The fullest possible use shall be made of all whales taken. Except in the case of whales or parts of whales intended for human food or for feeding animals, the oil shall be extracted by boiling or otherwise from all blubber, meat (except the meat of sperm whales) and bones other than the internal organs, whale bone and flippers, of all whales delivered to the factory ship or land station.

ARTICLE 12.

There shall not at any time be taken for delivery to any factory ship or land station a greater number of whales than can be treated efficiently and in accordance with article 11 of the present Agreement by the plant and personnel therein within a period of thirty-six hours from the time of the killing of each whale.

ARTICLE 13.

Gunners and crews of factory ships, land stations and whale catchers shall be engaged on terms such that their remuneration shall depend to a considerable extent upon such factors as the species, size and yield of whales taken, and not merely upon the number of the whales taken, and no bonus or other remuneration, calculated by reference to the results of their work, shall be paid to the gunners and crews of whale catchers in respect of any whales the taking of which is forbidden by this Agreement.

ARTICLE 14.

With a view to the enforcement of the preceding article, each contracting Government shall obtain, in respect of every whale catcher under its jurisdiction, an account showing the total emolument of each gunner and member of the crew and the manner in which the emolument of each of them is calculated.

ARTICLE 15.

Articles 5, 9, 13 and 14 of the present Agreement, in so far as they impose obligations not already in force, shall not until the 1st day of December, 1937, apply to factory ships, land stations or catchers attached thereto which are at present operating or which have already taken practical measures with a view to whaling operations during the period before the said date. In respect of such factory ships, land stations and whale catchers, the Agreement shall in any event come into force on the said date.

ARTICLE 16.

The contracting Governments shall obtain with regard to all factory ships and land stations under their jurisdiction records of the number of whales of each species treated at each factory ship or land station and as to the aggregate amounts of oil of each grade and quantities of meal, guano and other products derived from them, together with particulars with respect to each whale treated in the factory ship or land station as to the date and place of taking, the species and sex of the whale, its length and, if it contains a foetus, the length and sex, if ascertainable, of the foetus.

ARTICLE 17.

The contracting Governments shall, with regard to all whaling operations under their jurisdiction, communicate to the International Bureau for Whaling Statistics at Sandefjord in Norway the statistical information specified in Article 16 of the present Agreement together with any information which may be collected or obtained by them in regard to the calving grounds and migration routes of whales.

In communicating this information the Governments shall specify:—

- (a) the name and tonnage of each factory ship;
- (b) the number and aggregate tonnage of the whale catchers;
- (c) a list of the land stations which were in operation during the period concerned.

ARTICLE 18.

In the present Agreement the following expressions have the meanings respectively assigned to them, that is to say:—

- “factory ship” means a ship in which or on which whales are treated whether wholly or in part;
- “whale catcher” means a ship used for the purpose of hunting, taking, towing, holding on to, or scouting for whales;
- “land station” means a factory on the land, or in the territorial waters adjacent thereto, in which or at which whales are treated whether wholly or in part;
- “baleen whale” means any whale other than a toothed whale;

- "blue whale" means any whale known by the name of blue whale, Sibbald's rorqual or sulphur bottom ;
- "fin whale" means any whale known by the name of common finback, common finner, common rorqual, finback, fin whale, herring whale, razorback, or true fin whale ;
- "grey whale" means any whale known by the name of grey whale, California grey, devil fish, hard head, mussel digger, grey back, rip sack ;
- "humpback whale" means any whale known by the name of bunch, humpback, humpback whale, humpbacked whale, hump whale or hunchbacked whale ;
- "right whale" means any whale known by the name of Atlantic right whale, Arctic right whale, Biscayan right whale, bowhead, great polar whale, Greenland right whale, Greenland whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, pigmy right whale, Southern pigmy right whale or Southern right whale ;
- "sperm whale" means any whale known by the name of sperm whale, spermacet whale, cachalot or pot whale ;
- "length" in relation to any whale means the distance measured on the level in a straight line between the tip of the upper jaw and the notch between the flukes of the tail.

ARTICLE 19.

The present Agreement 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. It shall come into force upon the deposit of instruments of ratification by a majority of the signatory Governments, which shall include the Governments of the United Kingdom, Germany and Norway ; and for any other Government not included in such majority on the date of the deposit of its instrument of ratification.

The Government of the United Kingdom will inform the other Governments of the date on which the Agreement thus comes into force and the date of any ratification received subsequently.

ARTICLE 20.

The present Agreement shall come into force provisionally on the 1st day of July, 1937, to the extent to which the signatory Governments are respectively able to enforce it ; provided that if any Government within two months of the signature of the Agreement informs the Government of the United Kingdom that it is unwilling to ratify it the provisional application of the Agreement in respect of that Government shall thereupon cease.

The Government of the United Kingdom will communicate the name of any Government which has signified that it is unwilling to ratify the Agreement to the other Governments, any of whom may within one month of such communication withdraw its ratification or accession or signify its unwillingness to ratify as the case may be, and the provisional application of the Agreement in respect of that Government shall thereupon cease. Any such withdrawal or communication shall be notified to the Government of the United Kingdom, by whom it will be transmitted to the other Governments.

ARTICLE 21.

The present Agreement shall, subject to the preceding article, remain in force until the 30th day of June, 1938, and thereafter if, before that date, a majority of the contracting Governments, which shall include the Governments of the United Kingdom, Germany and Norway, shall have agreed to extend its duration. In the event of such extension it shall remain in force until the contracting Governments agree to modify it, provided that any contracting Government may, at any time after the 30th day of June, 1938, by giving notice on or before the 1st day of January in any year to the Government of the United Kingdom (who on receipt of such notice shall at once communicate it to the other contracting Governments) withdraw from the Agreement, so that it shall cease to be in force in respect of that Government after the 30th day of June following, and that any other contracting Government may, by giving notice in the like manner within one month of the receipt of such communication, withdraw also from the Agreement, so that it shall cease to be in force respecting it after the same date.

ARTICLE 22.

Any Government which has not signed the present Agreement may accede thereto at any time after it has come into force. 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.

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

In faith whereof the Undersigned, being duly authorized, have signed the present Agreement.

Done in London the 8th day of June, 1937, in a single copy, which shall remain deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, by whom certified copies will be transmitted to all the other contracting Governments.

For the Government of the Union of South Africa :
F. J. DU TOIT.

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

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

For the Government of the Commonwealth of Australia :
S. M. BRUCE.

For the Government of Germany :
WOHLTHAT.

For the Government of the United Kingdom of Great Britain and Northern Ireland :

HENRY G. MAURICE.
GEO. HOGARTH.

For the Government of the Irish Free State :
SEAN O'FAOLAIN O'DULCHAONTIGH.

For the Government of New Zealand :
G. McNAMARA.

For the Government of Norway :
BIRGER BERGERSEN.

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, (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.

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 carcass 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 authorized 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 Commonwealth of Australia :
ROBERT G. MENZIES.

For the Government of Canada :
VINCENT MASSEY.

For the Government of Eire :
SEAN O'FAOLAIN O'DULCHAONTIGH.
J. D. RUSH.

For the Government of Germany :
HELMUTH WOHLTAT.

For the Government of the United Kingdom 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.

PROTOCOL.

THE Governments of the Union of South Africa, the United States of America, the Commonwealth of Australia, the United Kingdom of Great Britain and Northern Ireland, Canada, Eire, New Zealand and Norway,

Being parties or signatories to the International Agreement for the Regulation of Whaling signed at London on the 8th June, 1937 (hereinafter referred to as the Agreement of 1937), and to the Protocol signed at London on the 24th June, 1938, introducing certain amendments into the Agreement of 1937 (hereinafter referred to as the Protocol of 1938); and

Desiring, in view of the fact that pelagic whaling operations in the area to which Article 7 of the 1937 Agreement applies have been interrupted for a considerable period by the existence of hostilities and in order to meet the present emergency without prejudicing the conservation of stocks of whales, to put into force by agreement such provisions as may be necessary with regard to pelagic whaling in this area when whaling operations are resumed there:

Have agreed as follows:—

ARTICLE 1.

(i) The period fixed by Article 7 of the Agreement of 1937, during which factory ships or a whale catcher attached thereto may be used for the purpose of taking or treating baleen whales, shall be extended for the first season in which whaling operations are resumed in the area referred to in the said Article 7, so as to cover the period from the 24th November to the 24th March, both dates inclusive.

(ii) Each Government party to the present protocol shall give notice to the Government of the United Kingdom when whale 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 in Article 7 of the Agreement of 1937. The Government of the United Kingdom will inform the other Governments party to the present protocol of all notices received under this paragraph and shall itself similarly give notice to the other contracting Governments if whale 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.

(iii) For the purposes of paragraph (i) of this article the first season in respect of which any notice has been given under paragraph (ii) above, shall be deemed to be the first season in which whaling operations are resumed. This season is hereinafter referred to as "the first season".

ARTICLE 2.

The provisions of Article 1 of the Protocol of 1938 relating to the taking of humpback whales in any waters south of 40 degrees south latitude shall apply during the first season.

ARTICLE 3.

(i) During the first season, the number of baleen whales caught in the area referred to in Article 7 of the 1937 Agreement shall not exceed 16,000 blue whale units.

(ii) For the purposes of paragraph (i) of this article, blue whale units shall be calculated on the basis that one blue whale equals—

- (a) 2 fin whales, or
- (b) $2\frac{1}{2}$ humpback whales, or
- (c) 6 sei whales.

(iii) The Government of the United Kingdom shall consult all the Governments who have given notice under Article 1 (ii) of this agreement in order to arrange by co-operation and agreement the measures necessary to ensure that the total number of baleen whales caught during the first season does not exceed the number specified in paragraph (i) of this article.

ARTICLE 4.

In the absence of agreement to the contrary none of the provisions of the present protocol shall operate except in the first season.

ARTICLE 5.

The present protocol shall be ratified and the instruments of ratification deposited as soon as possible with the Government of the United Kingdom.

ARTICLE 6.

(i) The present protocol shall be open to accession on behalf of any Government which was a party to the 1937 Agreement and has not signed the present protocol.

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

ARTICLE 7.

(i) The Government of the United Kingdom shall inform the Governments of the United States of America, Canada, Eire, Mexico, New Zealand and Norway of all ratifications of this protocol or accessions thereto.

(ii) The present protocol shall come into force as soon as ratifications or accessions have been deposited on behalf of all Governments referred to in paragraph (i) of this article and of the Government of the United Kingdom.

(iii) The ratification of or accession to the present protocol by a Government which is a signatory but not a party to the Agreement of 1937 shall not become effective until such Government becomes a party to that agreement by ratification.

In witness whereof the undersigned plenipotentiaries, being duly authorized to this effect by their respective Governments, have signed the present protocol and affixed thereto their seals.

Done at London this 7th day of February, 1944, 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 Article 7 (i).

For the Government of the Union of South Africa :

(L.S.) DENEYS REITZ.

(L.S.) A. P. VAN DER POST.

For the Government of the United States of America :

(L.S.) LOYD V. STEERE.

For the Government of the Commonwealth of Australia :

(L.S.) S. M. BRUCE.

For the Government of the United Kingdom of Great Britain and
Northern Ireland :

(L.S.) A. T. A. DOBSON.

(L.S.) J. E. DE WATTEVILLE.

For the Government of Canada :

(L.S.) VINCENT MASSEY.

For the Government of Eire :

For the Government of New Zealand :

(L.S.) W. J. JORDAN.

For the Government of Norway :

(L.S.) BIRGER BERGERSEN.

NOW THEREFORE His Majesty's Government in the Union of South Africa, having considered the Agreement and Protocols aforesaid, hereby confirm and ratify the same and undertake faithfully to perform and carry out all the stipulations therein contained.

IN WITNESS WHEREOF I, JAN CHRISTIAAN SMUTS, Minister of External Affairs of the Union of South Africa have signed and sealed these Presents at Cape Town on this the *twentieth* day of *February* One Thousand Nine Hundred and Forty-six.



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