SECRET.

UNION OF SOUTH AFRICA.

PRIME MINISTER & EXTERNAL AFFAIRS.

Fisheries

(F1)

P.M. 70 / 7 VOL I

SUBJECT (27/4/26 — 15/5/30)

International Council for the Exploration of the Sea with Regard to Whaling

International Control of —

Closed: See Volume 2

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POLAR COMMITTEE

26th Meeting. 5th March, 1930.

The 26th Meeting of the Polar Committee was held in the Conference Room at the Colonial Office at 3.30 p.m. on Wednesday, the 5th March. Sir H.Batterbee was in the Chair, and there were also present:

Mr.Macleod (Canada)
Major Casey (Commonwealth of Australia)
Mr.Crabb (New Zealand)
Mr.Brennan (Union of South Africa)
Admiral Douglas
Mr.Darnley
Mr.Borley
Mr.Rose
Mr.Moss Blundell
Mr.Tait
and Mr.Clutterbuck
Mr.L.B.Pearson, of the Canadian Department of External Affairs, was also present at the Chairman's invitation; and Mr.Bushe, Assistant Legal Adviser to the Colonial Office, was present for the discussion of Item II.

The Chairman said that there were two items on the agenda:

I. The nomination of experts for appointment to the Committee of Experts on Whaling set up by the Economic Committee of the League of Nations and

II. The advice to be given to the experts selected from the United Kingdom and the Dominions.

Having

Having read the telegraphic replies received from Dominion Governments to the Secretary of State's confidential despatch of the 24th October, the Chairman said it would be seen that, so far as the question of personnel was concerned, the Canadian, New Zealand and Irish Free State Governments had not suggested any name, while the Commonwealth and Union Governments had both proposed Mr.Borley for nomination as the expert "belonging to the Dominions". As he had announced at the last meeting of the Committee, Sir Sydney Chapman, as President of the Economic Committee, would be Chairman of the Committee of Experts, and he had received a letter from Sir Sydney, which he would read to the Committee, saying that it was important that Mr.Maurice should be a Member of the Committee of Experts in view of his connection with the International Council for the Exploration of the Sea, and hoping that Mr.Maurice would be selected as the expert from the United Kingdom. Having read the letter the Chairman said that he was sure that the Committee would concur in Sir Sydney Chapman's view, and he accordingly had great pleasure in proposing from the Chair that Mr.Maurice should be nominated as ~~to~~ the expert from the United Kingdom. This proposal met with the general concurrence of the Committee and was carried unanimously.

With regard to the nomination of an expert "belonging to the Dominions", Major Casey said that he had great pleasure in proposing Mr.Borley, whose name had been suggested by the Commonwealth Government. Major Casey's proposal was seconded by Mr.Brennan (Union of South Africa) and was carried unanimously. Mr.Borley said

said that he was deeply conscious of the honour done to him, and was very grateful to the Commonwealth and Union Governments for the confidence which they reposed in him. He had hoped, however, that it would have been possible for Mr.Darnley to be one of the experts selected, and he would like to point out that Mr.Darnley's wide experience of administrative measures in the Falkland Islands would be sorely missed at Geneva. The Chairman said that he was sure that every member of the Committee would support what Mr.Borley had said, but that Mr.Darnley as head of the West Indian Department of the Colonial Office, had a great many responsible duties, and would doubtless have found it very difficult to spare the time for a conference of this character. Mr.Darnley agreed, and said that he would always be available for consultation, and if needed would probably be able to go to Geneva for a few days. Mr.Borley said that he was very glad to hear that he could count on Mr.Darnley's assistance as occasion might require, and on this understanding he would gladly undertake the duties entrusted to him.

Mr.Moss Blundell enquired if it was known whether Professor Hjort would be one of the members of the Experts Committee, and pointed out that it would be necessary that some of the experts should have practical experience of whaling conditions. The general impression of the Committee was that Professor Hjort would be selected as the Norwegian expert, but no definite information on the point was available. Mr.Borley agreed that the Committee would require the best technical advice, and that it would be an advantage if Professor Hjort could be a member. On the other hand we must not look solely

to

to Professor Hjort for technical advice, since that would mean that we would be placed altogether in his hands. Mr.Darnley also added the caveat that Professor Hjort ought not to be accepted as representative of the business side of the industry, and it was generally agreed that it would be wise for Mr.Maurice and Mr.Borley to get into touch with the big British firms and sound them confidentially on the proposals before going to Geneva. It would also be necessary to determine in advance whether it would be desirable for the Committee to call witnesses or to ask for information from the technical experts and the whaling industry generally, and it was agreed that Mr.Maurice, Mr.Borley, and Mr.Darnley should consult together and get into touch with Sir Sydney Chapman immediately on his return from Geneva, with a view to determining what action was desirable.

The Chairman added that the minutes of the Committee would be sent officially to all the Government Departments interested, and as soon as they had been approved, Sir Sydney Chapman would then be asked to communicate to the Economic Committee the names of Mr.Maurice and Mr.Borley.

II. With regard to the second item on the agenda, the Chairman explained that, while the Dominion Governments had found the draft Convention generally acceptable, the Canadian Government had made one or two comments. He proceeded to read the relevant portion of the Canadian telegram of the 7th February, which ran as follows:-

Tentatively

"Tentatively expressed, our view is that draft Convention seems to be generally acceptable except in regard to the second paragraph of Article V. This paragraph apparently contemplates that a contracting party will be required to issue a licence to a vessel belonging to any other party to the Treaty, which would authorise use of territorial waters. Canada has up to the present not looked with favour on floating whale factories and has always refused licences for such and has also refused the use of its ports and territorial waters by such whale factories belonging to other countries. While Article XI meets obvious difficulties in Article VI to VIII it seems questionable whether it would not be preferable to have substance of it included in such Articles. Canadian Government however do not desire to be definitely committed at this stage".

The Chairman said that the Canadian Government had evidently interpreted the second paragraph of Article V as meaning that a licence must be granted on application but that the conditions on which a licence should be granted should be such as the Government concerned might deem to be necessary or desirable. He thought, however, that the Canadian Government were under a misapprehension. This paragraph did not confer rights, but was a saving clause which preserved existing rights, and he thought that a reply could properly be sent to Canada to the effect that there was nothing in Article V, as at present drafted, which would prevent the Canadian Government from continuing its

present

present policy. This view was supported by Mr.Bushe, and it was also pointed out that the Canadian telegram was solely directed, to the question of a ban on whaling in floating factories. This policy could be continued by making it a condition of all licences that whaling should be conducted not in floating factories, but from shore stations. Some discussion ensued as to whether the second paragraph of Article V did in fact preserve the existing right of a High Contracting Party to refuse licences at its discretion, and it was pointed out that it was essential, not only for the Canadian point of view, but also from the point of view of the Falkland Islands that this right should be preserved. The discussion showed that as a matter of legal interpretation there could be no doubt that the paragraph had the effect of preserving existing rights in their entirety and it was explained that although the paragraph as at present drafted was not perhaps too clearly worded, yet great difficulty had been experienced in obtaining general concurrence in its terms, and, in view of the legal opinion expressed by Mr.Bushe there was, therefore, much to be said for leaving it as it stood. It emerged, in the course of discussion that in Scotland there was no power to grant licences for whaling to other than British ships; applications from foreign nationals had therefore to be refused. The Scottish Office were satisfied that it would be possible to continue this policy under paragraph 2 of Article V as at present drafted, and, in view of this and of Mr.Bushe's opinion, it was agreed that the paragraph could properly be

interpreted

interpreted as meeting Canadian requirements. While, however, the Committee recommended that the paragraph should be left as it stood, it was agreed that when the draft Convention was communicated to the United Kingdom and Dominion experts on the Experts Committee they should be asked to make it quite clear, in the discussion on that draft, that the second paragraph of Article V was intended to preserve the full existing rights of a High Contracting Party to deal with applications for whaling in his territory or territorial waters in such manner as he might think fit.

With regard to the second point made by the Canadian Government, Mr.Bushe observed that Article XI referred to the "obligations imposed on the High Contracting Parties". No obligation was, however, imposed on the High Contracting Parties by Article VI and that Article was not, therefore, qualified by Article XI, except indirectly, through Article VII. He thought that a redrafting of Article XI would meet the Canadian point, and he proposed the following revised draft:-

"The provisions of this Convention do not apply -

(a) in respect of vessels, to vessels of any High Contracting Party registered in any of his territories to which the Convention does not apply

(b) in respect of nationals, to nationals of any High Contracting Party habitually resident in any of his territories to which the Convention does not apply;

(c)

(c) in respect of territory or territorial waters, to any territory (or the territorial waters adjacent thereto) of any High Contracting Party to which the Convention does not apply."

General concurrence was expressed in the revised draft but it was agreed that it should be referred officially to Departments. In reply to Mr.Moss Blundell, who at the request of the Board of Trade had raised a question as to the legislation which would be necessary to give effect to the provisions of the Convention, the Chairman said that he would be grateful if the Board of Trade would undertake to furnish a memorandum on the legislative aspect in which they were interested.

It was also pointed out that some Articles of the draft Convention referred to the "taking of" whales, others to the "capture of" whales, and others again to the "taking or capture" of whales, while the word "treatment" seemed to have been omitted in the first paragraph of Article V. The Committee agreed that the Chairman should consult with Mr.Darnley and Mr.Borley with a view to eliminating these inconsistencies and to ensuring the adoption of the correct technical phraseology.

DOMINIONS OFFICE,
6th ~~February~~ March, 1930.

Telephone: REGENT 6760.
Telegraphic Address:—
"OPPOSITELY, LONDON."

fr. 107/30

ALL COMMUNICATIONS SHOULD BE ADDRESSED:—
THE SECRETARY,
OFFICE OF THE HIGH COMMISSIONER FOR THE
UNION OF SOUTH AFRICA,
TRAFALGAR SQUARE, LONDON, W.C. 2.

MINUTE.

DEPARTMENT OF BUITELANDSE SAKE
UNION OF SOUTH AFRICA
11 APR 1930
DEPARTMENT OF EXTERNAL AFFAIRS

SUBJECT:— Control of Whaling.

REFERENCE NUMBERS.	Your ~~No.~~ Cable No. 20 to Dominions Office,	dated	14th February, 1930.
	This Office No. 19/88	dated	17th March, 1930. , which

please quote when replying.

The Secretary for External Affairs,
P R E T O R I A.

I beg to forward, for your information, a copy of the minutes of a meeting of the Polar Committee which was held at the Colonial Office on 5th March.

J. L. Hubball
Secretary.

Indorsed.
11-4

Mr Tyler
To ~~Mines & Ind~~ Bd of Trade
12/4/930

JU/EHD.

P.M. 107/5

CAPE TOWN.

22nd April, 1930.

The Chairman,
Board of Trade and Industries,
CAPE TOWN.

Control of Whaling.

With reference to your Minute No. B.T.I. 114 of the 14th February, 1930, I forward herewith, for your information, a ~~copy~~ copies of the Minutes of a Meeting of the Polar Committee which was held at the Colonial Office on the 5th March, 1930.

SECRETARY FOR EXTERNAL AFFAIRS.

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Copy.

Translation from p. 146 of Proceedings of Norwegian Odelsting, 1929.

At a meeting of the Odelsting on June 14th, 1929 the following Bill concerning the catching of baleen whales was adopted.*

§ 1.

The provisions of the present law shall apply to the catching of baleen whales - including bottle-nosed whales - carried on by Norwegian citizens or companies.

Norwegian shipowners who let "floating factory ships" (kokeriskib) to be chartered for whaling - whether on inland or maritime waters - shall be held responsible that whaling is not carried on in contravention of the present law.

§ 2.

Any person desiring to engage in such fishery or to let "floating factory" ships for the same, must apply to the competent government department. The applications must give such details as the department requires.

§ 3.

It is forbidden to catch:

a) Right whales - "smooth" or "Greenland" whales (glatthvaler, sletthvaler) (Balaenidae).

b) Female whales, accompanied by their calves.

c) Whale calves accompanying their mothers.

Article 4.

The King may forbid the catching of whales in tropical or sub-tropical waters, within boundaries to be more exactly defined.

Article 5.

The King may issue more detailed regulations regarding the whale fishery referred to in Article 1 and regarding its operation and supervision. When such regulations are prepared they shall include instructions to the effect that every whale's carcase** which is regarded as suitable for the production of oil shall at least have the whole of the blubber "tried out" as well as the head and tongue and the tailportion as far as the outer opening of the rectum (anus).

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* Note that certain minor amendments were made in course of the debate (summary attached). Tr.

**Amended in the debate to read "whale" or "whales".

It shall be incumbent on persons responsible for the work (the managers) to ensure that all whale carcases* which are brought in are worked up to the fullest possible extent.

§ 6.

The King may issue regulations for telegraph or telephone communications between whaling ships and "trying out" ships (kokeriskib) or stations on land.

Article 7.

Harpooners and crews of whaling boats may not be engaged on contracts under which the remuneration for their work is entirely dependent on the number of whales harpooned.

§ 8.

The King may order that a tax of 20 öre per "fat" (170 kg) of oil extracted shall be levied on all catches coming under the present law. The proceeds of this tax shall, in that case, be used, according to more detailed instructions to be issued by the King, in scientific research in the interest of Norwegian wahling, and to defray the cost of supervising the observance of the present law. The competent department* shall issue detailed instructions as to the manner in which this charge is to be paid over to it.

In special cases the King may remit the payment of this charge.

Article 9.

The King may issue detailed instructions for supervising the observance of the present law, and may direct therein that the firms and companies referred to in § 1 and the shipping companies owing the "floating factory" ships referred to in the same paragraph, shall arrange for such ships to carry official inspectors.

Article 10.

Any person infringing the present law, or the regulations made thereunder, shall be punishable by a fine or imprisonment up to 3 months. Accessories to such offences shall be similarly punishable. Whales caught illegally, or their value, may be seized for the benefit of the Exchequer. Such seizures may also be executed against any persons through whose agency the offenders have acted.

§ 11.

The present law shall come into force forthwith.

(Signed) O. Eiestland, President
Nils Hjelmtveit, Secretary.

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* Amended in the debate so as to reserve this power to the King.

NOTIFICATION FROM THE MINISTRY OF COMMERCE

of July 4, 1929.

In accordance with the provisions of the Whaling Act of June 21, 1929, every one intending to capture Baleen whales or to let whaling factory ships for such purpose, shall duly notify the Ministry of Commerce hereof.

The notification, which must be sent the Ministry before the ship's departure for the whaling fields - however in no case later than July 31 each year - shall contain information on the following points:

1. Name, tonnage, home-part and name of owner of the whaling factory ship.

2. Taak-capacity for oil in barrels of 170 kilogrammes.

3. Statement regarding the material for manufacture and what it will assumably yield (in tons) of blubber, meat and bones per 24 hours. In connection with the above shall also be stated the number of blubber-boilers and press-boilers, giving the dimensions and the cubic-volume of each, as well as the number of Hartmann-apparatures and their capacity per 24 hours, if possible specified as to blubber, meat and bones.

4. List of crew. NB. The name must be given of the leader of the expedition, however not of the rest of the crew.

5. Number of whaling-boats, their names and machinal power. In what fiels the whaling may be carried on (South Georgia, South Shetlands, the Ross Sea, etc).

Omission to send the Ministry of Commerce such notification with information as indicated above is liable to punishment according to the law.

ROYAL DECREE of August 2, 1929, whereby - in pursuance of the WHALING ACT of June 21, 1929 - the following REGULATIONS for the capture of whales are issued for the whaling-season 1929/30:

§ 1. From every captured whale oil shall be rendered out of at least:

1. All blubber.
2. The head - back to the paddles - with jawbones and tongue.
3. Both limbs (breast-sides).
4. The tail-part forward to the anus.

§ 2. The responsible leader of the expedition shall observe that no more whales are captured than the whaling factory ship can coal with in an adequate manner within a reasonable space of time. He shall therefore observe that the whaling-boats, if necessary, temporarily - altogether or partly - cease operations until butchering of the animals already killed is finished.

§ 3. All whaling factory ships and all whaling-boats, intended for use in antarctic waters, shall have wireless telegraph and telephone installations and qualified attendants to these. As far as the whaling-boats are con-

cerned the Ministry of Commerce can give dispensation from this provision.

§ 4. On all whaling factory ships the capture of whales shall be recorded in a diary (journal), kept by the responsible leader of the master of the 1st mate under the supervision and co-responsibility of the leader. Viz. the Criminal Law, §§ 316 and 421.

The entries in the diary shall be made in chronological order in each watch. Occurences happening during a watch may be temporarily recorded on a memorandum, but must be entered in the journal within the expiry of the 24 hours. The diary shall be logible and properly kept. Entires once made must not be erased, lined through or otherwise rendered illegible. All necessary corrections must be added as remarks. The deary shall be paginated and the pages shall be taped and duly authorised by the Customs or Norwegian Consul. The form shall be approved by the Ministry of Commerce.

§ 5. In the diary the following entries shall be made:

1. Number of captured blue whales, fin whales and other whales per 24 hours.
2. Sex of the whales and approximate length.
3. Number of flensed whales per 24 hours, specified as to blue whales, fin whales and other whales.
4. Number of filled blubber-boilers and press-boilers per 24 hours and also number of filling of the Hartmann-apparatuses with blubber, or meat and bones - all per 24 hours.

If other apparatuses for rendering oil are used, corresponding statements shall be made.

5. Total produce of oil per 24 jours and per week.
6. The midday-position of the whaling factory ship.
7. Direction and strength of wind, sea-conditions and, if possible, ice-conditions.

§ 6. The diary shall be transmitted to the Ministry of Commerce at the end of the expedition together with the diaries of the whaling-boats, or legalised copies of these as far as the capture of whales is concerned.

§ 7. The Ministry of Commerce can, to the extent that is found necessary, demand statistics regarding capture and manufacture.

§ 8. It is prohibited to capture:

a. Right whales (balaendinae)
b. Female accompanied by calf.
c. Calf accompanying female.
d. Blue whales under 60 feet and fin whales under 40 feet.

If such whales are shot, it is prohibited to pay the gunner his usual share (whale-part), even under extenuating circumstances.

§ 9. If absolutely compelling reasons should make it impossible in a certain case to follow the provisions of the regulations regarding capture and manufacture, accurate and detailed accounts of the reasons should be entered in the catch-diary. If an official controller is onboard he should be consulted beforehand.

§ 10. All whaling factory ships are under the obligation to take an official controller onboard. He pays

kr. 3.00 per 24 hours for food and berth etc. The inspector shall have access to the catch-diary.

§ 11. Of all oil produced a tax of kr. 0.20 per barrel (of 170 kg) shall be paid. The tax is payable to the Ministry of Commerce at the end of the whaling season - before August 1.

§ 12. A copy of the WHALING ACT and of these REGULATIONS shall be posted onboard all whaling factory ships and whaling-boats in a place easily seen and accessible for all.

§ 13. Violation of the provisions of these Regulations is liable to punishment. Vis. the Whaling Act of June 21, 1929, § 10.

Copy.

Instructions * for whaling Controllers
of August 16, 1929.

§ 1.

The Controller shall closely watch the daily operations and record in a diary anything concerning these that may be of interest. The diary, if necessary accompanied by a supplementary report, shall be transmitted to the Ministry of Commerce on his return.

§ 2.

Any occurrence found to be in violation of the provisions of the Whaling Act of the Whaling Regulations shall immediately be pointed out to the responsible leader, and an ocurate ccount of the fact shall be entered in the diary.

In no other way may the Controller interfere with the actions of the leader.

§ 3.

The Controller has access to the catchdiary, kept by the leader (viz. the Whaling Regulations, § 10), and should ascertain that the said diary is properly and accurately kept.

§ 4.

The attention of the Controller should be directed particularly on the following points:

1. That the captured whales are utilised in compliance with the regulations (viz. the Whaling Regulations, § 10).
2. That the capture is limited according to the capacity of the whaling factory ship (viz. the Whaling Regulations, § 2).
3. That ample and accurate accounts are given whenever § 9 of the Whaling Regulations is applied.
4. That captured whales are properly measured (viz. the Whaling Regulations, § 5, 2).

§ 5.

In his official capacity the Controller shall only address himself to the responsible leader; not to anybody else connected with the expedition.

§ 6.

On his return he should report on how the Whaling Act and the Whaling Regulations have worked in practice.

§ 7.

The Controller must not impart knowledge, received in his official capacity, to anybody but the Ministry of Commerce.

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* Made by the Ministry of Commerce.

Copy.

Instructions * for Whaling Inspectors
of August 16, 1929.

§ 1.

The Inspector shall visit as many whaling factory ships as possible.

He shall keep an accurate diary, which on his return shall be transmitted to the Ministry of Commerce together with a report.

§ 2.

If the whaling factory ship has an official Controller onboard, the Inspector shall, as his superior officer, inspect his work and duly advise him, and can, to the extent that the Law admits, give him such instructions as circumstances may dictate. If there is no Controller onboard the Inspector acts as such visiting the ship (viz. Instructions for Whaling Controllers of August 16, 1929).

§ 3.

The Chief task of the Inspector is to watch closely the daily datch and operations onboard and to notice how the Whaling Act and the Whaling Regulations and also the Instructions for Whaling Controllers are being respected and how they work in practice.

§ 4.

The Inspector should, furthermore, notice the sanitary conditions onboard, particularly with regard to cabins, baths, W.C., etc., also the health-conditions onboard, whether the food-regulations work satisfactorily etc.

§ 5.

The Inspector should note in his diary anything that might contribute to increase the knowledge regarding the quantity and variety of whales and their travels.

§ 6.

If possible the Inspector should also visit land-stations and report thereon. Such visitations should only be made with the permission of the Company in question.

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* Made by the Ministry of Commerce.

Copy.

COUNCIL FOR THE CONSERVATION OF WHALES
AND OTHER MARINE MAMMALS

under the auspices of
THE AMERICAN SOCIETY OF MAMMALOGISTS.

The reforms which the Council for the Conservation of Whales is endeavouring to secure, in order properly to conserve the supply of whales and at the same time refrain from imposing unreasonable and drastic restrictions upon the whaling industry comprise the following details:

Immediate and absolute protection of such whales as are in serious danger of extermination.

Protection on their breeding grounds of those sorts which resort to a circumscribed area for having the young (as the gray whale),

Protection of females nursing young, and of young whales below a specified length.

Compulsory utilization of the entire carcasses.

Prohibition of whaling in certain tropical areas along migration routes, where whales are usually in poor conditions.

Prohibition of airplanes in hunting.

Formation of an international commission to:

Operate a system for licensing pelagic whalers
Secure the cooperation of individual nations in licensing their shore stations
Make proper investigations and secure date on economic conditions of the whale supply.

A. BRAZIER HOWELL

Executive Secretary,
-in behalf of the Council.

DRAFT CONVENTION.

Article 1.

The present Convention applies only to baleens or whalebone whales.

Article 2.

The taking or killing of right whales, which shall be deemed to include North Cape whales, Greenland whales, Southern right whales, Pacific right whales and Southern Pigmy right whales, is prohibited.

Article 3.

The taking or killing of calves or suckling whales, immature whales and female whales which are accompanied by calves or suckling whales, is prohibited.

Article 4.

The fullest possible use shall be made of the carcases of whales taken. In particular:-

1) There shall be extracted by boiling or otherwise the oil from all blubber and from the head and the tongue and, in addition, from the tail as far forward as the outer opening of the lower intestine.

The provisions of this sub-paragraph shall apply only to such carcases or parts of carcases as are not used for human food.

2) Every factory, whether on shore or afloat, used for treating the carcases of whales shall be equipped with adequate apparatus for the extraction of oil from the blubber, flesh and bones.

3) In the case of whales brought on shore adequate arrangements shall be made for utilising the residues after the oil has been extracted.

Article 5.

Gunners and crews of whaling boats shall be engaged on terms such that their remuneration shall depend to a considerable extent upon such factors as the size, species, value of whales taken and the yield of oil and not merely upon the number of whales taken, in so far as payment is made dependent on results.

Article 6.

No vessel of the High Contracting Parties shall engage in taking or treating whales unless a licence authorising such vessel to engage therein shall have been granted in respect of such vessel by the High Contracting Party to which she belongs or unless her owner or charterer has notified

his Government of his intention to employ her in whaling and has received a certificate of notification from the said Government.

Nothing in this article shall prejudice the right of any High Contracting Party to require that in addition a licence shall be required from his own authorities by every vessel desirous of using his territory or territorial waters for the purposes of taking or treating whales, and such licence may be subject to such conditions as may be deemed by such High Contracting Party to be necessary or desirable, i independent of the nationality of the vessel.

Article 7.

(No national of the High Contracting Parties shall engage in whaling on any vessel of any nationality whatever which is not in possession of a licence or certificate of notification granted in accordance with the preceding articles.)

Article 8.

(1. The High Contracting Parties agree to enforce the provisions of this Convention by means of appropriate penalties; a) against all vessels and all persons of whatever nationality on board in respect of all acts or defaults committed in their territory or territorial waters; b) against their own vessels and all persons of whatever nationality on board thereof in respect of all acts or defaults wheresoever committed; c) against their own nationals in respect of all acts or defaults wheresoever committed and on whatsoever vessel such nationals are serving.

2. In regard to the trial and punishment of infractions of the present Convention, the High Contracting Parties agree that in cases where, under the headings a), b) and c) above, the authorities of more than one High Contracting Party have jurisdiction, it is desirable that, in so far as the circumstances render it applicable and practicable, preference should be given to the jurisdiction under heading a) in preference to that under heading b), and to that under a) and b) over that under heading c), without prejudice however to the obligation to exercise the jurisdiction under either heading b) or c) when the jurisdiction, which is preferred thereto, is not applicable, or has not been exercised and cannot reasonably be exercised.)

Article 9.

The geographical limits within which the articles of this Convention are to be applied, shall include all the waters of

the world, including both the High seas and territorial and national waters.

Article 10.

Each High Contracting Party shall obtain with regard to their vessels engaged in the taking of whales information comprising the following particulars with regard to each whale taken, viz:-

1) date of taking;
2) place of taking;
3) species;
4) sex;
5) length measured when taken out of water; estimated if cut up in water;
6) when foetus is present, length and sex if ascertainable;
7) where practicable information as to stomach contents.

Protocol ad 5) of Article 10.

The length referred to in sub-paragraph 5 and 6 of Article 10 shall be the length of a straight line taken from the tip of the snout to the notch between the flukes of the tail.

Article 11.

Each High Contracting Party shall obtain from all factories, on land or afloat, under their jurisdiction, returns of the number of whales of each species treated at each factory and of the amounts of oil of each grade and the quantities of meal, guano and other products derived from them.

Article 12.

Each of the High Contracting Parties shall communicate statistical information regarding all whaling operations under their jurisdiction to a body which shall be established in order to collect and distribute statistics of whaling. The information given shall comprise at least the particulars mentioned in Article 10 and

1) the name and tonnage of each floating factory;
2) the number and aggregate tonnage of the whale catchers;
3) a list of the land stations which are in operation during the period concerned.

Such information shall be given at convenient intervals not longer than one year.

Article 13.

The provisions of this Convention do not apply:

a) in respect of vessels, to vessels of any High Contracting Party registered in any of his territories to which the Convention does not apply;

b) in respect of nationals, to the nationals of any High Contracting Party habitually resident in any of his territories to which the Convention does not apply;

c) in respect of territory or territorial waters, to any

territory (or the territorial waters adjacent thereto) of any High Contracting Party to which the Convention does not apply.

Article 14.

This Convention is concluded for a period of three years from .....

Six monthsbefore coming to an end of this Convention any of the High Contracting Parties may inform the Secretary General of the League of Nations of his intention to withdraw from the Convention. In the absence of any such notification the Convention shall remain in force for a further period of one year and similarly for successive periods of one year.

Six months before the expiration of these periods of one year, any of the High Contracting Parties may notify the Secretary General of the League of his intention to withdraw from the Convention on the expiration of the current period.

At any time after the coming into force of this Convention any two of the High Contracting Parties may cause a Conference to be called for the purpose of revising the provisions of the present Convention by making a request to that effect to the Secretary General of the League of Nations.

No. 56.

Confidential.

OFFICE OF THE ACCREDITED REPRESENTATIVE,
GENEVA. 9 April 1930.
1, Chemin de Miremont.

The Secretary for External Affairs,
C a p e t o w n.

Whaling.

With reference to my Minute No. 4 of 26 November 1929, I have the honour to report that the Experts Committee sat in Berlin from 3 to 6 April 1930.

Present:

Sir Sidney Chapman, Chairman Economic Committee,
G. Jahn, Oslo, Rapporteur, " "

Experts:

Britain: E.R. Darnley, Colonial Office,
Dominions; J.O. Borley, " "
France: Prof. E. le Danois, Director of Department of Sea Fishing,
Germany: A. Hodt, Hamburg, representing manufacturing interests,
Japan: M. Ohta, Fisheries Section, Ministry of Agriculture and Forests,
Norway: Prof. J. Hjort, Oslo University,
Portugal: Dr. Ramalho, Director of the Aquarium, Lisbon,
United States: Dr. R. Kellogg, National Museum, Washington.

(Also two members of the staff of the Japanese Ambassador, Berlin, and the representatives of Canada and South Africa accredited to the League of Nations).

The experts agreed that international action for the conservation of whales was necessary and feasible, but that pending further information from the "Discovery" and other research work, such action could only be in the nature of a first step in that direction.

The British and Dominions experts submitted a draft convention providing for, inter alia, (a) the introduct-

ion of a licensing system for whaling on the high seas, (b) that the pay of harpooners and crews should not depend mainly or entirely upon the number of whales taken, and (c) that nationals of adhering States should be prohibited from serving in whalers of non-adhering States.

The Norwegian expert objected to these proposals, chiefly on the grounds (a and b) that Norway had just passed her first law on whaling and her Parliament would not care to go over the ground again so soon, (c) that it would be impossible for Norway to control her nationals in distant countries, and, further, that such nationals could easily change their nationality for that of a non-adhering maritime State. It may be of interest to mention here that according to the Norwegian expert 10.000 Norwegians are serving om whaling vessels, and that harpooners are paid up to £ 2.000 per annum.

The Portuguese expert stated that the Azores fishermen take about 200 sperm whales per annum by means of shore boats. He added that a licence, which had about 25 years to run, had been granted for Angolan waters and he was not sure in how far the terms of that licence could now be altered. Further that a concession for Mozambique waters had been applied for, but he did not know with what result.

To this the Norwegian expert replied that this proposed whaling convention had very little to do with sperm whales, as the oil is different and spoils the whale oil proper if mixed with it.

The Dominions expert pointed out, however, that quite a respectable number of sperm whales was being caught in the Falklands.

The Rapporteur to the Economic Committee (M. Jahn) gave figures shewing that in 1928/29 a total of 1758 sperm whales was taken, most of them in South African waters.

The Japanese expert pointed out that sperm whales come in shoals and it was impossible to say which female and calf belonged together.

The German expert (who represented the fats industries and not the seagoing side) stated that the market for whale oil proper was unlimited; it was used mainly for margarine. But sperm oil, used chiefly for cosmetic purposes, was not much in demand and he thought that the hunting of sperm whales would limit itself.

After further discussion the Committee agreed to submit a Draft Convention, (attached) to the Economic Committee of the League of Nations, which will no doubt consult with the Copenhagen International Council for the Exploration of the Sea, and thereafter report to the Assembly of the League, possibly at its next session, in September 1930.

Whilst the Dominions expert will no doubt submit through the Colonial Office a detailed report on the subject, it is thought that the following observations by the present writer may be of interest:-

(a) Any international action, to be fully effective, should be universal. The Argentine, which it is understood is also engaged in this industry, was not represented at the meeting. Whilst it is possible that the influence of the League of Nations and of the initiating States may bring about ultimately the adhesion of all States concerned, it is clear that it would be of no benefit to the Union to adhere if other important States abstained.

(b) In considering the introduction of South African legislation, the control and inspection of whaling, and any levy to cover the cost of such control and inspection, due weight should be given, it is thought, to the danger of diverting shore industries to the high seas or to adjacent territories.

(c) according to the tone of the discussions at the meeting, it is evident that the limitation of catching power, i.e., restriction of the number of whaling ships of each State, would be a natural and desirable future development. In that event, it is thought that the Union should not be handicapped on account of the present small extent of her whaling industry, but should have her full quota of or share in the exploitation as far as she desires it.

(d) Another possible future development is that envisaged in article 4 of the Norwegian Bill, namely the closing of whaling in tropical or sub-tropical waters. Here again it is evident that, to be effective, this action would have to be universal.

Observations in regard
to the separate clauses
<u>of the Draft Convention</u>.

Article 2.

The Japanese expert did not want this article to

apply to the North Pacific, as regards all species of right whales.

Article 3.

It was stated that the "Discovery" expedition had shewn that 80 % of the whales taken in that area were immature.

Article 4.

This article implies the presence in shore factories or on board ship of a Government controller.

Article 5.

The Norwegian contracts with harpooners, which are usually for a term of years, provide for payment by results. The Rapporteur of the Economic Committee, M. Jahn, stated that Norwegian gunners are sportsmen, who attach as much importance to the number shot as to their value. The South African representative suggested to the Secretary to the Economic Committee, who had been a judge in the Belgian Congo, that he might explain to the Rapporteur that African elephant hunters, hunting for both sport and profit, spared immature animals. It is doubtful, however, whether this idea will find favour with those harpooners.

Article 7.

This Article was put in brackets because the experts whilst in favour of it, wished it to be considered by legal advisers before its inclusion was decided upon. The intention of the article is that individual Governments should decide in regard to legal action.

Article 8.

This Article also requires consideration by legal advisers.

Savings.

Provision would have to be made for exemptions to scientific investigators.

The following documents are attached for information

1. Draft Convention.
2. Norwegian Bill 1929.
3. Royal Decree 1929.
4. Ministry of Commerce Notification July 4 1929.
5. Instructions for Whaling Controllers.
6. Instructions for Whaling Inspectors.
7. Memorandum by American Society of Mammalogists Council for the Conservation of Whales and other Marine Animals.

F. F. Pienaar.

Accredited Representative.

JU/MN

P.M.107/5

CAPE TOWN,

15th May, 1930.

The Chairman,
Board of Trade and Industries,
CAPETOWN.

International regulations of Whaling:
Meeting of Experts Committee. Berlin 3rd to
6th April,1930.

With reference to your Minute No.B.T.I.114 of the 14th February, 1930, I forward herewith, for your information, a copy of a letter No.56 of the 9th April,1930, and enclosures, received from the Accredited Representative of the Union at Geneva, on the above subject.

Mogeant

SECRETARY FOR EXTERNAL AFFAIRS.

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REVISE.

6079/28.

No.

NOTE ON THE MEETING OF WHALING EXPERTS HELD IN APRIL, 1930.

THE Meeting of Whaling Experts convened by the Economic Committee of the League of Nations met in Berlin on 3rd April, 1930, and sat on the 3rd, 4th, and 5th of April.

The following were present:

CHAIRMAN: SIR SYDNEY CHAPMAN, K.C.B., C.B.E., President of the Economic Committee.

EXPERTS: MR. M. G. JAHN, Rapporteur to the Economic Committee.

FRANCE: PROF. ED. LE DANOIS, Secretary-General of the Commission of the Mediterranean, Director of the Office Scientifique et Technique des Pêches Maritimes, Paris.

GERMANY: M. A. HODT, Hamburg.

GREAT BRITAIN: E. R. DARNLEY, Chairman of "Discovery" Committee, Colonial Office, London.

DOMINIONS: J. O. BORLEY, O.B.E., Fisheries Adviser, Colonial Office, London.

CANADA: DR. RIDDELL attended as observer.

UNION OF SOUTH AFRICA: MR. PIENAAR attended as observer.

JAPAN: M. OHTA, Expert attached to the Fisheries Section of the Ministry of Agriculture and Forests.

M. Ohta was accompanied by a member of the Embassy staff and another.

NORWAY: PROF. J. HJORT, The University, Oslo.

PORTUGAL: PROF. A. DE MAGALHAES RAMALHO, Director of the Aquarium, Vasco da Gama, Lisbon.

UNITED STATES: DR. REMINGTON KELLOFF, National Museum, Washington.

Secretary: DR. SMEDS.

2. At their first meeting, Sir Sydney Chapman asked whether any experts had any document to lay before the Committee for consideration, when the following (annexed) were submitted:—

A. Norwegian Act concerning whaling. Tabled by Dr. Hjort.

B. Notification of the Norwegian Ministry of Commerce. Tabled by Dr. Hjort.

C. Draft Convention concerning whaling, prepared by the Polar Committee.* Tabled by Mr. Darnley.

D. Memorandum prepared for the American Society of Mammalogists.* Tabled by Dr. Kellogg.

3. It was agreed to take the draft Convention as a basis of discussion, and at the Chairman's suggestion the procedure was adopted of first going through the clauses in a broad sense, after which in any modified form that had then been agreed the ground could be again covered for revision. At the final meeting the document was amended and the covering report to the Economic Committee of their Rapporteur, Mr. Jahn,† was agreed unanimously.

4. Mr. Jahn's report, a copy of which is attached, renders any detailed report on my part unnecessary. The following remarks may, however, be added:—

5. The two points which gave rise to the longest discussion were Article 5 of the draft Convention (Article 6 of the final form) and Article 4 of the draft Convention (Article 5 of the final form).

6. Article 5 of the draft Convention provided that the Contracting Parties should permit their vessels to engage in whaling only under licence. Mr. Darnley and I attached importance to this as providing a documentary proof that any given vessel was a recognised whaler, that her Master was cognisant of his country's regulations in regard to whaling, and as an aid in administering these regulations. We felt also that the introduction of the licence system would facilitate the operation of any restrictions which ultimately may prove necessary or desirable, since a power which can grant a licence can obviously also withhold it. Dr. Hjort urged that as the Norwegian Storting had but recently considered whaling and made an enactment thereon, they would be most unwilling so soon to devote time to the same subject, and accordingly that the clause as it stood might hinder the adhesion of the Norwegian Government to the Convention. After it was ascertained that we were not supported

* Not printed here. † No. 6079/27.

Artarctic.—Gp. 6. 40/2373. 3. 125. 8/30. (6671) M. & S.

by any other experts, in order to meet this point the clause was drafted in its present form by Mr. Darnley. The present form has at least the advantage both of recognising the licence system and giving it priority among the recognised forms of registration.

7. Article 4 of the draft provided that gunners and crews of whaling vessels must not be engaged upon such terms that their remuneration depended entirely or mainly on the number of whales taken. Dr. Hjort urged that this would be considered as an interference with the normal Norwegian practice and would cause such opposition in the fleet as to render agreement by Norway unlikely. I happened, however, to have a copy of the current Norwegian form of contract with gunners which showed that in fact the point aimed at by the clause is met in great measure and probably completely, since not only is the gunner's remuneration in part dependent on the quantity of oil taken (which in itself is inconsistent with remuneration solely by number of whales) but on the species and size of the whales, grading fairly steeply towards decrease of remuneration with decrease of size and towards commercially less valuable species of whale. When the clause was changed from its original negative form to its present positive form, the opposition was withdrawn. The addition of value to the other factors on which, in the Committee's opinion, remuneration should depend, was made at the instance of the Japanese expert, on account of the Japanese use of the whale as food.

8. Some discussion also occurred in regard to the use of the word "immature" in Article 2 of the draft (Article 3 of the final form). Proposals were brought forward to substitute for the word "immature" a definition of the sizes below which respectively it was illegal to capture various species of whales, and for the use of the expression "sexually mature." The first of these proposals was intended as a practicable form of the second. I opposed it because we are not yet sufficiently informed as to the size at maturity of all species taken, nor of whether this differs with region, and because any Contracting Party, before agreeing such a restriction, would naturally demand that adequate evidence was brought forward to convince it both that the size indicated was a reliable estimate of size at maturity and that the number of immature whales captured by its nationals in the ordinary course of their industry would have a material effect in depletion of stock. Ultimately the word "immature" was left unqualified both because the time was not yet ripe for greater precision and because (I think I am right in saying) it was considered desirable at present to allow of variation in the means adopted for securing that portection of small whales not sexually mature to which the clause was directed.

9. Points of minor economic importance are mentioned in this and the next paragraph. The addition of Pacific Right Whales and Pigmy Right Whales specifically in Article 2 is due to the suggestion of Dr. Kellogg. The Japanese expert suggested the exclusion of Pacific Right Whales from benefit on the grounds that it was believed that large stocks of these whales were still to be found in extreme northern Pacific waters. The statistics collected by Dr. Kellogg and Mr. Jahn, however, gave reason to believe that this expectation was not sufficiently well based, and the proposer of the exclusion willingly relegated his statement to "II" of "Remarks."

10. Article 11 of the final form was added to the Convention after a discussion of Document B referred to above, and this and the following Article provide for the communication of data to the International Institute of Whaling Statistics set up by Norway at the request of the International Council for the Exploration of the Sea.

11. I wish to record the opinion that the meeting gained materially by the attendance of Dr. Riddell and Mr. Pienaar. Dr. Riddell gave me valuable information and on one occasion at the request of the Chairman gave information also to the Committee.

12. Before leaving for Berlin, I was furnished by the Secretary of the Polar Committee with copies of the replies received from His Majesty's Governments in the Dominions to Lord Passfield's Confidential despatch Dominions No. 91, of the 24th October, 1929.* The reply from His Majesty's Government in the Commonwealth of Australia included an extremely valuable memorandum on Australian Whaling, drawn up, as I have since learned, by Professor Dakin. As the draft Convention is of a provisional nature, the object being to lay down principles of interpretation rather than detailed regulations, no occasion arose during the discussions for me to advance any views that appeared to me to be likely to represent Australian or South African opinion, with the possible exception of the relation of South African whaling with the destruction of small whales.

13. I gather that one of two courses will now be taken after the draft Convention has been sent by the League to the various Governments concerned, namely, either that

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* No.

a meeting of these Powers will be convened, or that after their observations have been considered the matter will be discussed in the Assembly of the League.

14. As at this stage of the consideration of whaling regulations good will is of the greatest importance I would conclude by stating that the proceedings were marked by complete cordiality among all those present.

J. O. BORLEY,
16th April, 1930.

Annexure A to No.

Translation from p. 146 of Proceedings of Norwegian Odelsting, 1929.

At a meeting of the Odelsting on 14th June, 1929, the following Bill concerning the catching of baleen whales was adopted.

§ 1.

The provisions of the present law shall apply to the catching of baleen whales—including bottle-nosed whales—carried on by Norwegian citizens or companies.

Norwegian shipowners who let "floating factory ships" (*kokeriskib*) to be chartered for whaling—whether on inland or maritime waters—shall be held responsible that whaling is not carried on in contravention of the present law.

§ 2.

Any persons desiring to engage in such fishery or to let "floating factory" ships for the same, must apply to the competent government department. The applications must give such details as the department requires.

§ 3.

It is forbidden to catch:—

(*a*) Right whales—"smooth" or "Greenland" whales (*glatthvaler*), (*sletthvaler*), (*Balænidæ*).

(*b*) Female whales, accompanied by their calves.

(*c*) Whale calves accompanying their mothers.

§ 4.

The King may forbid the catching of whales in tropical or sub-tropical waters, within boundaries to be more exactly defined.

§ 5.

The King may issue more detailed regulations regarding the whale fishery referred to in § 1 and regarding its operation and supervision. When such regulations are prepared, they shall include instructions to the effect that every whale's carcase* which is regarded as suitable for the production of oil shall at least have the whole of the blubber "tried out" as well as the head and tongue and the tail portion as far as the outer opening of the rectum (*anus*)

It shall be incumbent on persons responsible for the work (the manager) to ensure that all whale carcases* which are brought in are worked up to the fullest possible extent.

§ 6.

The King may issue regulations for telegraph or telephone communications between whaling ships and "trying out" ships (*kokeriskib*) or stations on land.

§ 7.

Harpooners and crews of whaling boats may not be engaged on contracts under which the remuneration for their work is entirely dependent on the number of whales harpooned.

§ 8.

The King may order that a tax of 20 öre per "fat" (170 kg.) of oil extracted shall be levied on all catches coming under the present law. The proceeds of this tax shall, in that case, be used, according to more detailed instructions to be issued by the King, in scientific research in the interest of Norwegian whaling, and to defray the cost of supervising the observance of the present law. The competent department† shall issue detailed instructions as to the manner in which this charge is to be paid over to it.

In special cases the King may remit the payment of this charge.

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* Amended in the debate to read "whale" or "whales."

† Amended in the debate so as to reserve this power to the King.

§ 9.

The King may issue detailed instructions for supervising the observance of the present law, and may direct therein that the firms and companies referred to in § 1 and the shipping companies owning the "floating factory" ships referred to in the same paragraph, shall arrange for such ships to carry official inspectors.

§ 10.

Any person infringing the present law, or the regulations made thereunder, shall be punishable by a fine or imprisonment up to 3 months. Accessories to such offences shall be similarly punishable. Whales caught illegally, or their value, may be seized for the benefit of the Exchequer. Such seizures may also be executed against any persons through whose agency the offenders have acted.

§ 11.

The present law shall come into force forthwith.

(Signed) G. Eiestland, President.
Nils Hjelmtveit, Secretary.

Annexure B. to No.

Notification of the Norwegian Ministry of Commerce of 4th July, 1929.

In accordance with the provisions of the Whaling Act of 21st June, 1929, every one intending to capture Baleen whales or to let whaling factory ships for such purpose, shall duly notify the Ministry of Commerce hereof.

The notification, which must be sent to the Ministry before the ship's departure for the whaling fields—however, in no case later than 31st July each year—shall contain information on the following points:—

(1) Name, tonnage, home-port and name of owner of the whaling factory ship.

(2) Tank-capacity for oil in barrels of 170 kilograms.

(3) Statement regarding the material for manufacture and what it will assumably yield (in tons) of blubber, meat and bones per 24 hours. In connection with the above shall also be stated the number of blubber-boilers and press-boilers, giving the dimensions and the cubic-volume of each, as well as the number of Hartmann-apparatuses and their capacity per 24 hours, if possible, specified as to blubber, meat and bones.

(4) List of crew. N.B.—The name must be given of the leader of the expedition, however, not of the rest of the crew.

(5) Number of whaling-boats, their names and machinal power. In what fields the whaling may be carried on (South Georgia, South Shetlands, the Ross Sea, &c.).

Omission to send the Ministry of Commerce such notification with information as indicated above is liable to punishment according to the law.

Royal Decree of 2nd August, 1929, whereby—in pursuance of the Whaling Act of 21st June, 1929—the following Regulations for the capture of whales are issued for the whaling season 1929-30:—

1. From every captured whale, oil shall be rendered out of at least:—
   (1) All blubber.
   (2) The head—back to the paddles—with jawbones and tongue.
   (3) Both limbs (breast-sides).
   (4) The tail part forward to the anus.

2. The responsible leader of the expedition shall observe that no more whales are captured than the whaling factory-ship can deal with in an adequate manner within a reasonable space of time. He shall therefore observe that the whaling-boats, if necessary, temporarily—altogether or partly—cease operations until butchering of the animals already killed is finished.

3. All whaling factory-ships and all whaling-boats, intended for use in Antarctic waters, shall have wireless telegraph and telephone installations and qualified attendants at these. As far as the whaling-boats are concerned the Ministry of Commerce can give dispensation from this provision.

4. On all whaling factory-ships the capture of whales shall be recorded in a diary (journal), kept by the responsible leader or the master or the 1st mate under the supervision and co-responsibility of the leader, viz., the Criminal Law, §§ 316 and 421.

The entries in the dairy shall be made in chronological order in each Watch. Occurrences happening during a Watch may be temporarily recorded on a memorandum, but must be entered in the journal within the expiry of the 24 hours. The diary shall be legible and properly kept. Entries once made must not be erased, lined through or otherwise rendered illegible. All necessary corrections must be added as remarks. The diary shall be paginated and the pages shall be taped and duly authorised by the Customs or Norwegian Consul. The form shall be approved by the Ministry of Commerce.

5. In the diary the following entries shall be made:—

(1) Number of captured blue whales, fin whales and other whales per 24 hours.
(2) Sex of the whales and approximate length.
(3) Number of flensed whales per 24 hours, specified as to blue whales, fin whales and other whales.
(4) Number of filled blubber-boilers and press-boilers per 23 hours and also number of fillings of the Hartmann apparatuses with blubber, or meat and bones—all per 24 hours.

If other apparatuses for rendering oil are used, corresponding statements shall be made.

(5) Total produce of oil per 24 hours and per week.
(6) The mid-day position of the whaling factory-ship.
(7) Direction and strength of wind, sea-conditions and, if possible, ice-conditions.

6. The diary shall be trasmitted to the Ministry of Commerce at the end of the expedition together with the diaries of the whaling-boats, or legalised copies of these as far as the capture of whales is concerned.

7. The Ministry of Commerce can, to the extent that is found necessary, demand statistics regarding capture and manufacture.

8. It is prohibited to capture:—

(*a*) Right whales (balænidinæ).
(*b*) Female accompanied by calf.
(*c*) Calf accompanying female.
(*d*) Blue whale under 60 feet and fin whales under 40 feet.

If such whales are shot, it is prohibited to pay the gunner his usual share (whale part), even under extenuating circumstances.

9. If absolutely compelling reasons should make it impossible in a certain case to follow the provisions of the regulations regarding capture and manufacture, accurate and detailed accounts of the reasons should be entered in the catch-diary. If an official controller is on board he should be consulted beforehand.

10. All whaling factory-ships are under the obligation to take an official controller on board. He pays kr. 3.00 per 24 hours for food and berth, &c. The inspector shall have access to the catch-diary.

11. Of all oil produced a tax kr. 0.20 per barrel (of 170 kg.) shall be paid. The tax is payable to the Ministry of Commerce at the end of the whaling season—before 1st August.

12. A copy of the Whaling Act and of these Regulations shall be posted on board all whaling factory-ships and whaling-boats in a place easily seen and accessible to all.

13. Violation of the provisions of these Regulations is liable to punishment, viz., the Whaling Act of 21st June, 1929, § 10.

Instructions for Whaling Controllers, made by the Ministry of Commerce, 16th August, 1929.

§ 1.

The Controller shall closely watch the daily operations and record in a diary anything concerning these that may be of interest. The diary, if necessary accompanied by a supplementary report, shall be transmitted to the Ministry of Commerce on his return.

§ 2.

Any occurrence found to be in violation of the provisions of the Whaling Act or the Whaling Regulations shall immediately be pointed out to the responsible leader, and an accurate account of the fact shall be entered in the diary.

In no other way may the Controller interfere with the actions of the leader.

§ 3.

The Controller has access to the catch diary, kept by the leader (viz., the Whaling Regulations, § 10), and should ascertain that the said diary is properly and accurately kept.

§ 4.

The attention of the Controller should be directed particularly on the following points:—

(1) That the captured whales are utilised in compliance with the regulations (viz., the Whaling Regulations, § 10).
(2) That the capture is limited according to the capacity of the whaling factory-ship (viz., the Whaling Regulations, § 2).
(3) That ample and accurate accounts are given whenever § 9 of the Whaling Regulations is applied.
(4) That captured whales are properly measured (viz., the Whaling Regulations, § 5 (2)).

§ 5.

In his official capacity the Controller shall only address himself to the responsible leader; not to anybody else connected with the expedition.

§ 6.

On his return he should report on how the Whaling Act and the Whaling Regulations have worked in practice.

§ 7.

The Controller must not impart knowledge, received in his official capacity, to anybody but the Ministry of Commerce.

Instructions for Whaling Inspectors made by the Ministry of Commerce, 16th August, 1929.

§ 1.

The Inspector shall visit as many whaling factory-ships as possible.

He shall keep an accurate diary, which on his return shall be transmitted to the Ministry of Commerce together with a report.

§ 2.

If the whaling factory-ship has an official Controller on board, the Inspector shall, as his superior officer, inspect his work and duly advise him, and can, to the extent that the law admits, give him such instructions as circumstances may dictate. If there is no Controller on board, the Inspector acts as such visiting the ship (viz., Instructions for Whaling Controllers of 16th August, 1929).

§ 3.

The chief task of the Inspector is to watch closely the daily catch and operations on board and to notice how the Whaling Act and the Whaling Regulations and also the Instructions for Whaling Controllers are being respected and how they work in practice.

§ 4.

The Inspector should, furthermore, notice the sanitary conditions on board, particularly with regard to cabins, baths, W.C., &c., also the health-conditions on board, whether the food-regulations work satisfactorily, &c.

§ 5.

The Inspector should note in his diary anything that might contribute to increase the knowledge regarding the quantity and variety of whales and their travels.

§ 6.

If possible the Inspector should also visit land-stations and report thereon. Such visitations should only be made with the permission of the Company in question.

REVISE.

[*Printed from duplicate.*]

9579/27.

No.

LEAGUE OF NATIONS.

REPORT TO THE ECONOMIC COMMITTEE ON THE QUESTION OF WHALING PRESENTED BY SIR SYDNEY CHAPMAN (PRESIDENT) AND M. JAHN (RAPPORTEUR).

(E. 582.)

Geneva, 28th April, 1930.

In accordance with a decision taken by the Economic Committee at its 29th Session (July, 1929) a Committee of Experts was convened in Berlin on 3rd April, 1930.

The following experts were invited and took part in the meeting:—

France:

Prof. Ed. Le Danois, Secrétaire Général de la Commission de la Méditerranée, Directeur de l'Office Scientifique et Technique des Pêches Maritimes, Paris.

Germany:

M. A. Hodt, Hamburg.

Great Britain:

E. R. Darnley, Colonial Office, London.

Dominions:

J. O Borley, O.B.E., Fisheries Adviser, Colonial Office, London.

Japan:

M. Ohta, expert attaché à la Section de la Pêcherie du Ministère de l'Agriculture et de la Forêt, Tokio.

Norway:

Professeur J. Hjort, de l'Université, Oslo.

Portugal:

Dr. A. de Magalhaes Ramalho, Directeur de l'Acquarium Vasco da Gama, Lisbonne.

United States:

Dr. Remington Kellogg, National Museum, Washington.

Under the terms of reference of the above-mentioned decision of the Economic Committee, the experts were especially asked to consider "whether, and in what terms and in what areas, international protection of whales could be established."

The experts agreed unanimously that it was possible to assist the whaling industry by international convention, and proceeded to consider what provisions could at present be recommended for inclusion in such a Convention.

Having taken into consideration a Norwegian Bill which was put into force on 21st June, 1929, together with a Royal Decree of 2nd August, 1929, and notifications of the Ministry of Commerce of 4th July, as well as proposals put before the Committee by some of the experts, the Committee came to the conclusion that the principles and rules embodied in the attached draft Convention should be recommended to the attention of the Economic Committee and further to the consideration of the Governments, it being understood that this draft is intended to lay down only the main principles which the experts consider it desirable to include in a future Convention, that in the absence of legal experts it has not been possible to deal with the questions of law involved, and that these clauses which are common form in such conventions have not yet been added.

Remarks.

I.

The experts expressed the wish to bring to the notice of the Economic Committee the fact that in elaborating the attached draft Convention, they had considered carefully the question of including a provision similar to that appearing in the Norwegian

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law referred to above, namely, that the prosecution of whaling in tropical and sub-tropical waters might be made unlawful within certain prescribed limits, but although they were unable at present to recommend the inclusion of such a clause, they thought that it should be strongly recommended to the High Contracting Parties to pursue such scientific investigations as might enable a conclusion to be reached as to whether the closure to whaling of any areas would be in the interest of the industry and, if so, what areas should be thus closed.

II.

The Japanese expert wished it recorded that in his opinion the North Pacific should be excluded from the application of Article 2 as regards all species of right whales.

III.

While the experts recognised the lack of precision attaching to the word "immature" appearing in Article 3, they were of opinion that at present it was undesirable to attempt a closer definition.

They unanimously expressed the hope that the Governments of the High Contracting Parties might be in a position to arrive at a more precise definition when scientific researches have progressed sufficiently to enable conclusions to be reached.

IV.

As regards sub-paragraph 2 of Article 4, it was recommended that the attention of Governments should be drawn to the desirability of ensuring that floating factories should so conduct their operations that the remains of whales should not be allowed to drift ashore in localities where this would cause a nuisance.

V.

It should be observed that in drafting Article 5 regard has been had to the terms of contracts generally used in some of the countries especially interested in whaling.

VI.

While unanimously agreeing upon the underlying principle of Article 7 the experts did not consider themselves in a position to recommend such a provision since it involved legal questions upon which they did not feel qualified to express an opinion.

It should be understood that the intention of this Article is that decisions regarding the institution of prosecutions should be left to individual Governments.

VII.

While unanimously agreeing upon the underlying principle of Article 8, the experts did not consider themselves in a position to recommend such a provision since it involved legal questions upon which they did not feel qualified to express an opinion.

VIII.

It is understood that in supplying the body mentioned in Article 12 with the statistical data referred to in Article 10, the High Contracting Paries will indicate in their returns the units employed in the statistics so communicated.

IX.

It is understood that provision would have to be made to give the necessary exemptions for scientific investigations.

Annexure to No.

DRAFT CONVENTION.

Article 1.

The present Convention applies only to baleens or whalebone whales.

Article 2.

The taking or killing of right whales, which shall be deemed to include North Cape whales, Greenland whales, Southern right whales, Pacific right whales and Southern Pigmy right whales, is prohibited.

Article 3.

The taking or killing of calves or suckling whales, immature whales and female whales which are accompanied by calves or suckling whales, is prohibited.

Article 4.

The fullest possible use shall be made of the carcases of whales taken. In particular :—

(1) There shall be extracted by boiling or otherwise the oil from all blubber and from the head and the tongue and, in addition, from the tail as far forward as the outer opening of the lower intestine.

The provisions of this sub-paragraph shall apply only to such carcases or parts of carcases as are not used for human food.

(2) Every factory, whether on shore or afloat, used for treating the carcases of whales shall be equipped with adequate apparatus for the extraction of oil from the blubber, flesh and bones.

(3) In the case of whales brought on shore adequate arrangements shall be made for utilising the residues after the oil has been extracted.

Article 5.

Gunners and crews of whaling boats shall be engaged on terms such that their remuneration shall depend to a considerable extent upon such factors as the size, species, value and yield of oil of whales taken and not merely upon the number of whales taken, in so far as payment is made dependent on results.

Article 6.

No vessel of the High Contracting Parties shall engage in taking or treating whales unless a licence authorising such vessel to engage therein shall have been granted in respect of such vessel by the High Contracting Party to which she belongs, or unless her owner or charterer has notified his Government of his intention to employ her in whaling and has received a certificate of notification from the said Government.

Nothing in this article shall prejudice the right of any High Contracting Party to require that in addition a licence shall be required from his own authorities by every vessel desirous of using his territory or territorial waters for the purposes of taking or treating whales, and such licence may be subject to such conditions as may be deemed by such High Contracting Party to be necessary or desirable, independent of the nationality of the vessel.

Article 7.

(No national of the High Contracting Parties shall engage in whaling on any vessel of any nationality whatever which is not in possession of a licence or certificate of notification granted in accordance with the preceding article.)

Article 8.

(1) The High Contracting Parties agree to enforce the provisions of this Convention by means of appropriate penalties :—(*a*) against all vessels and all persons of whatever nationality on board in respect of all acts or defaults committed in their territory or territorial waters; (*b*) against their own vessels and all persons of whatever nationality on board thereof in respect of all acts or defaults wheresoever committed; (*c*) against their own nationals in respect of all acts or defaults wheresoever committed and on whatsoever vessel such nationals are serving.

2. In regard to the trial and punishment of infractions of the present Convention, the High Contracting Parties agree that in cases where, under the headings (*a*), (*b*) and (*c*) above, the authorities of more than one High Contracting Party have jurisdiction, it is desirable that, in so far as the circumstances render it applicable and practicable, preference should be given to the jurisdiction under heading (*a*) in preference to that under heading (*b*), and to that under (*a*) and (*b*) over that under heading (*c*), without prejudice, however, to the obligation to exercise the jurisdiction under either heading (*b*) or (*c*) when the jurisdiction, which is preferred thereto, is not applicable, or has not been exercised and cannot reasonably be exercised.

Article 9.

The geographical limits within which the articles of this Convention are to be applied, shall include all the waters of the world, including both the high seas and territorial and national waters.

Article 10.

Each High Contracting Party shall obtain with regard to their vessels engaged in the taking of whales information comprising the following particulars with regard to each whale taken, viz. :—

(1) date of taking;
(2) place of taking;
(3) species;
(4) sex;
(5) length measured when taken out of water, estimated if cut up in water;
(6) when foetus is present, length and sex if ascertainable;
(7) where practicable information as to stomach contents.

Protocol ad (5) *of Article* 10.

The length referred to in sub-paragraphs 5 and 6 of Article 10 shall be the length of a straight line taken from the tip of the snout to the notch between the flukes of the tail.

Article 11.

Each High Contracting Party shall obtain from all factories, on land or afloat, under their jurisdiction, returns of the number of whales of each species treated at each factory and of the amounts of oil of each grade and the quantities of meal, guano and other products derived from them.

Article 12.

Each of the High Contracting Parties shall communicate statistical information regarding all whaling operations under their jurisdiction to a body which shall be established in order to collect and distribute statistics of whaling. The information given shall comprise at least the particulars mentioned in Article 10, and

(1) the name and tonnage of each floating factory;
(2) the number and aggregate tonnage of the whale catchers;
(3) a list of the land stations which are in operation during the period concerned.

Such information shall be given at convenient intervals not longer than one year.

Article 13.

The provisions of this Convention do not apply:

(*a*) in respect of vessels, to vessels of any High Contracting Party registered in any of his territories to which the Convention does not apply;

(*b*) in respect of nationals, to the nationals of any High Contracting Party habitually resident in any of his territories to which the Convention does not apply;

(*c*) in respect of territory or territorial waters, to any territory (or the territorial waters adjacent thereto) of any High Contracting Party to which the Convention does not apply.

Article 14.

This Convention is concluded for a period of three years from . . . .

Six months before the coming to an end of this Convention any of the High Contracting Parties may inform the Secretary-General of the League of Nations of his intention to withdraw from the Convention. In the absence of any such notification the Convention shall remain in force for a further period of one year and similarly for successive periods of one year.

Six months before the expiration of these periods of one year, any of the High Contracting Parties may notify the Secretary-General of the League of Nations of his intention to withdraw from the Convention on the expiration of the current period.

At any time after the coming into force of this Convention any two of the High Contracting Parties may cause a Conference to be called for the purpose of revising the provisions of the present Convention by making a request to that effect to the Secretary-General of the League of Nations.

Article 8.

The geographical limits within which Articles 1-6 of this Convention are to be applied, in the manner prescribed in Article 7, and subject to the provisions of Article 11, shall include all the waters of the world, including both the high seas and territorial and national waters.

Article 9.

Each High Contracting Party will obtain with regard to their vessels engaged in the taking of whales information comprising the following particulars with regard to each whale taken, viz. :—

(1) Date of taking;
(2) Place of taking;
(3) Species;
(4) Sex;
(5) Length measured when taken out of water; estimated if cut up in water;
(6) Where practicable length of fœtus, if any;
(7) Where practicable information as to stomach contents;

and will communicate such information to such of the other High Contracting Parties as may require it, but the names of the vessels concerned need not be communicated.

Article 10.

Each High Contracting Party shall obtain from all factories, on land or afloat, under their jurisdiction, returns of the number of whales of each species treated at each factory and of the amounts of oil of each grade and the quantities of meal, guano and other products derived from them. But no High Contracting Party shall be under any obligation to communicate such returns to any other High Contracting Party.

Article 11.

The provisions of this Convention do not apply—

(*a*) in respect of vessels, to vessels of any High Contracting Party registered in any of his territories to which the Convention does not apply;

(*b*) in respect of nationals, to the nationals of any High Contracting Party habitually resident in any of his territories to which the Convention does not apply;

(*c*) in respect of territory or territorial waters, to any territory (or the territorial waters adjacent thereto) of any High Contracting Party to which the Convention does not apply.

REVISED DRAFT.

MARCH, 1930.

Convention between .....
for regulating the Whale Fishing in all parts of the World both within and without Territorial Waters.

Article 1.

The taking or killing of North Cape whales, Greenland whales and Southern right whales is prohibited.

Article 2.

The taking or killing of suckling whales, immature whales and female whales which are accompanied by suckling whales is prohibited.

Article 3.

The fullest possible use shall be made of the carcases of whales taken. In particular:—

(1) There shall be extracted by boiling or otherwise the oil from all blubber and from the head and the tongue and, in addition, from the tail as far forward as the outer opening of the lower intestine.

(2) Every factory, whether on shore or afloat, used for treating the carcases of whales shall be equipped with adequate apparatus for the extraction of oil from the blubber, flesh and bones.

(3) Every factory on shore shall in addition be equipped with adequate apparatus for utilizing the residues after the oil has been extracted.

Article 4.

The harpooners and crews of vessels engaged in the taking of whales must not be engaged upon such terms that their remuneration for their work is dependent entirely or mainly upon the number of whales taken.

Article 5.

No vessel of the High Contracting Parties shall engage in taking or treating whales unless a licence authorising such vessel to engage therein shall have been granted in respect of such vessel by the High Contracting Party to which she belongs, and it shall be a condition of every such licence that the provisions of this Convention shall be duly observed, and such licence shall be revocable on proof of any breach thereof.

Nothing in this article shall prejudice the right of any High Contracting Party to require that in addition a licence shall be required from his own authorities by every vessel desirous of using his territory or territorial waters for the purposes of taking or treating whales, and such licence may be subject to such conditions as may be deemed by such High Contracting Party to be necessary or desirable, independent of the nationality of the vessel.

Article 6.

No national of the High Contracting Parties shall engage in whaling in any vessel of any nationality whatever which is not in possession of a licence granted in accordance with the preceding articles.

Article 7.

(1) The High Contracting Parties agree to enforce the provisions of this Convention by means of appropriate penalties: (*a*) against all vessels and all persons of whatever nationality on board in respect of all acts or defaults committed in their territory or territorial waters; (*b*) against their own vessels and all persons of whatever nationality on board thereof in respect of all acts or defaults wheresoever committed; (*c*) against their own nationals in respect of all acts or defaults wheresoever committed and on whatsoever vessel such nationals are serving.

(2) In regard to the trial and punishment of infractions of the present Convention, the High Contracting Parties agree that in cases where, under headings (*a*) (*b*) and (*c*) above, the authorities of more than one High Contracting Party have jurisdiction, it is desirable that, in so far as the circumstances render it applicable and practicable, preference should be given to the jurisdiction under heading (*a*) in preference to that under heading (*b*), and to that under (*a*) and (*b*) over that under heading (*c*), without prejudice however to the obligation to exercise the jurisdiction under either heading (*b*) or (*c*) when the jurisdiction, which is preferred thereto, is not applicable, or has not been exercised and cannot reasonably be exercised.

Pm 107/5

TELEGRAMADRES
TELEGRAPHIC ADDRESS } "BOTRIN."

TELEFOON
TELEPHONE } No. CEN. 2123.

DEPARTEMENT VAN BUITELANDSE SAKE
DEPARTMENT OF EXTERNAL AFFAIRS
15 FEB 1930
UNION OF SOUTH AFRICA

Adresseer a.u.b. alle briewe aan die Voorsitter.

All communications to be addressed to the Chairman.

In antwoord verwys a.u.b. na
In reply please quote

No. B.T.I. 114

UNIE VAN SUID-AFRIKA.—UNION OF SOUTH AFRICA.

RAAD VAN HANDEL EN NYWERHEID,
BOARD OF TRADE AND INDUSTRIES,

75 | PARLEMENTSTRAAT,
PARLIAMENT STREET.

KAAPSTAD,
CAPETOWN, 14th February, 1930.

The Secretary for External Affairs,
75 Parliament Street,
CAPE TOWN.

CONVENTION FOR REGULATING WHALE FISHING IN ALL PARTS OF THE WORLD BOTH WITHIN AND WITHOUT TERRITORIAL WATERS.

Owing to the impracticability of sending an expert from South Africa to attend the above Convention, the Honourable the Minister of Mines and Industries has decided to invite Mr. Borley, Fisheries Adviser to the Colonial Office, to represent South Africa at this Convention, in accordance with the Resolution passed at the Meeting of Dominion Representatives on the Interdepartmental Committee on the Antarctic, held in London, on the 26th July, 1929.

The Revised Draft Convention of October, 1929, in so far as it affects South Africa should be adopted and Mr. Borley should be asked to adhere to the various articles set forth therein. Should any suggestions be put forth departing from these articles, it is desired that Mr. Borley should first consult the

South....

There is nothing new in this minute. The main thing that the Union Govt. wishes to be consulted before the Convention is materially altered, is embodied in our tel. of 14/2/30

P. 31/3/30

To: Secretary for External Affairs.
Date. 14.2.30.
Page. Two.

South African Government before giving his consent to any revision. As far as this is concerned, the question of the imposition of size limits for the various species of whales and also the enforcing of close seasons may be broached and the views of the South African Government should first be obtained before any agreement is made.

As far as the first question is concerned our whaling regulations provide protection for female sperm whales under 30 feet in length.

The futility of establishing a close season in South African waters is apparent while no provision is made along similar lines in the Antarctic.

The Board would appreciate it if a communication embodying the above suggestions could be transmitted to Mr. Borley at the time of inviting him to act on our behalf.

F. V. Fahey.

for CHAIRMAN,
BOARD OF TRADE AND INDUSTRIES.

TELEGRAM.

FROM: Minister of External Affairs.

TO: Secdomin, London.

14 FEB 1930
DEPARTMENT OF EXTERNAL AFFAIRS

14.2.30.

20. Confidential. With reference to your telegram of 7th February. No. 18 Confidential and your despatch Dominions Treaty 91 of 24th October. His Majesty's Government in the Union of South Africa would be grateful if Mr. Borley, Fisheries Adviser to the Colonial Office could represent the interests of the Union of South Africa on Committee of Experts on Whaling at Geneva. Draft Convention is generally acceptable to Union Government, who would like to b e consulted if any departure therefrom is proposed.

Entered and Copies to Mr van Zyn.

[illegible] 14/2/30

Mr van Zyn.
14.2.30

BS

Pend 31/3/30

DEPARTEMENT VAN BUITENLANDSE ZAKE
UNIE VAN SUID-AFRIKA
14 FEB 1930
UNION OF SOUTH AFRICA
DEPARTMENT OF EXTERNAL AFFAIRS

TELEGRAM.

FROM: Minister of External Affairs.

TO: Seedomin, London.

14.2.30.

20. Confidential. With reference to your telegram of 7th February. No. 18 Confidential and your despatch Dominions Treaty 91 of 24th October. His Majesty's Government in the Union of South Africa would be grateful if Mr. Borley, Fisheries Adviser to the Colonial Office could represent the interests of the Union of South Africa on Committee of Experts on Whaling at Geneva. Draft Convention is generally acceptable to Union Government, who would like to b e consulted if any departure therefrom is proposed.

BS