

SECRET.

UNION OF SOUTH AFRICA.

PRIME MINISTER & EXTERNAL AFFAIRS.

Fisheries

P.M.

70/7

/vol 2

SUBJECT

(4/7/30 - 22/11/35)

International Council for the
Exploration of the Sea with regard to
Whaling.

The International Control of Whaling

File

Closed Volume See Vol III

Files.
revised
19/7/35 old.

COPY/EW.

SOCIÉTÉ DES NATIONS.

C.L. 158.1930.II.

LEAGUE OF NATIONS.

GENEVA, July 4, 1930.

Sir,

The Economic Committee annexed to its last report to the Council a preliminary draft Convention for the regulation of whaling. A copy of this report and the Annex are attached to the present letter.

The Council will consider these documents at its September session, when it will be called upon to take a decision on the Economic Committee's proposal to forward the text of the draft to Governments for their observations.

I feel, however, that I should communicate this text to you at once so that you may examine it pending the Council's decision, which I will notify to you as soon as it has been taken.

I have etc.

Sgd. ?

ACTING SECRETARY-GENERAL.

The right Honourable

the Minister of External Affairs

for the Union of South Africa,

Pretoria.

Passed to Polkinghorne, Pres. of Trade's Bd.
to Director

Date 5/9/30
28/7

Initials (Sgd.) D. Spico
(Sec. L.N. 6/29.)

During this meeting, the date of the coming into force of the Convention shall be fixed, and, if necessary, a list drawn up of the Members of the League of Nations and non-Member States whose accession is considered indispensable for the coming into force of the said Convention."

I did not put this point at the Economic Committee, as we only just got through our discussion without an adjournment as it was. The raising of a new issue would inevitably have meant adjournment till October. If we want to take it up we can do so in our observations.

S. J. C.
11th July, 1930.

REVISE.

[Printed from duplicate.]

6079/32.

No.

LEAGUE OF NATIONS.
PROTECTION OF WHALES.

CONSIDERATION OF THE DRAFT CONVENTION BY THE ECONOMIC COMMITTEE OF THE
LEAGUE OF NATIONS AT ITS JUNE SESSION.

Report by Sir Sydney Chapman.

(Confidential.)

THE Economic Committee's report,* copy of which is attached, has now been published and annexed to it is the text of the draft Convention as revised by the Committee. It will be seen that the Committee propose that the draft Convention should be sent to Governments for their observations and that in the light of those observations the question could be considered of convening a diplomatic conference or of opening the Convention for signature at one of the forthcoming Assemblies. In view of the time which must elapse before the report can be considered by the Council of the League, and therefore before Governments can be officially asked for their observations, the Secretary-General has circulated it to Governments for information and examination. A copy of his circular letter, dated 3rd July,† is attached.

Comparing the revised draft with that prepared by the Experts at Berlin, the position is briefly as follows:—

Article 1 replaces Articles 7 and 8 of the Experts' draft.

Articles 2-7 are Articles 1-6 renumbered, and

Articles 8-11 are Articles 9-12 renumbered.

Articles 12-21 are the formal Articles, inserted by the legal section of the League Secretariat, all of which are new, except 17 and 19, which are redrafts of 14 and 13 respectively.

Considerable apprehension was felt at the meeting of the Economic Committee as to the effect of the provisions of Article 8 of the Experts' draft and it will be remembered that this Article was dealt with in No. VII of the remarks attached to the Experts' draft, which reads:—

“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.”

It was thought that the attempt to incorporate detailed provisions would give rise to a number of technical objections and reduce seriously the chance of the general adoption of the Convention. It was therefore decided to replace Articles 7 and 8 by the undertaking in general terms which appears in the new Article 1. It is, of course, open to us to suggest again our clauses regarding enforcement, in sending in our observations, if we desire to do so.

With regard to Article 15, I am not sure that this is the best arrangement. The particular States who adhere is as important as the number of States, and, in view of this, a deadlock might be reached through ratifications being made conditional on other ratifications which were not forthcoming. But the number of States is also of moment. Even if all the States at present concerned were parties and certain vital territories were covered (*e.g.*, His Majesty's Government in respect of the Falkland Islands), other States not at present interested in whaling might conceivably become so, by reason of the freedom of their nationals to carry on whaling without being bound by the restrictions of the Convention. There would also be the danger of flag transference.

I am disposed to think that an Article on the following lines (modelled on Article XIII of the recent Commercial Convention) would meet the case better than the present Article 15:—

“The Secretary-General of the League of Nations shall, at the request of two of the High Contracting Parties who have ratified the Convention, convene a meeting of the High Contracting Parties who have ratified the Convention, and of those who have submitted a request to accede thereto, in accordance with the provisions of Article 14.

* No. 6079/27.

† Not printed.

§ 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.

The entries in the diary 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 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 (*balændinæ*).
- (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.

§ 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.

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 carcass* 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 carcasses* 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.

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

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

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 protection 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

* 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. HÖDT, 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 KELLOGG, 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

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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 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 carcasses 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 carcasses or parts of carcasses as are not used for human food.

(2) Every factory, whether on shore or afloat, used for treating the carcasses 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.

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 Parties 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.

REVISE.

[Printed from duplicate.]

6079/27.

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

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 carcasses 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 carcasses 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.

Article 20.

The present Convention shall be registered by the Secretary-General of the League of Nations as soon as it has entered into force.

Article 21.

The French and English texts of the present Convention shall both be authoritative.

IN FAITH WHEREOF, etc.

OBSERVATIONS.

I.

The Economic Committee would like to point out that in elaborating the attached draft Convention, they had examined carefully the question of including a provision similar to that appearing in the Norwegian Law of June 21st, 1929, namely, that the prosecution of whaling in tropical and sub-tropical waters might be made unlawful within certain prescribed limits. They were, however, unable at present to recommend the inclusion of such a clause, but, in agreement with the views expressed by the experts consulted on this question, 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.

While the Economic Committee recognised the lack of precision attaching to the word "immature" appearing in Article 4, they were of opinion that at present it was undesirable to attempt a closer definition.

They 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.

III.

As regards sub-paragraph 2 of Article 5, the attention of Governments was 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.

IV.

It should be observed that in drafting Article 6 regard has been had to the terms of contracts generally used in some of the countries especially interested in whaling.

V.

It is understood that in supplying the body mentioned in Article 11 with the statistical data referred to in Article 9, the High Contracting Parties will indicate in their returns the units employed in the statistics so communicated.

VI.

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

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 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 carcasses 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 carcasses or parts of carcasses as are not used for human food.

(2) Every factory, whether on shore or afloat, used for treating the carcasses 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.

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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.

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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.

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.

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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.

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

IX.

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Annexure to No.

DRAFT CONVENTION.

Article 1.

The present Convention applies only to baleens or whalebone whales.

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REVISE.

[Printed from duplicate.]

6079/27.

No.

LEAGUE OF NATIONS.

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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.

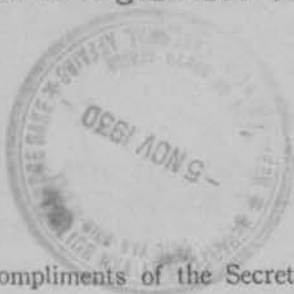
The experts expressed the wish to bring to the notice of the Economic Committee the fact that in elaborating the attached draft Convention, they had considered carefully the question of including a provision similar to that appearing in the Norwegian

UNION OF SOUTH AFRICA.

D.O.I. CONFIDENTIAL.

P.M. 187/5

International Regulation of Whaling.



With the Compliments of the Secretary

of State for Dominion Affairs.

Remaining enclosure to Secretary of State's Conf. despatch Dominions Treaty No. 69 of 30 September 1930.

Dominions Office, Downing Street, S.W.1.

15 OCT 1930 19

Handwritten signature

to.

F NATIONS.

MEETING ON THE QUESTION OF WHALING
LAPMAN (PRESIDENT) AND M. JAHN

Geneva, 28th April, 1930.

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and took part in the meeting:—

Secrétaire Général de la Commission de la Pêche de l'Office Scientifique et Technique des Pêches.

of.

Consular Office, London.

Fisheries Adviser, Colonial Office, London.

attaché à la Section de la Pêche du Ministère de l'Agriculture, la Forêt, Tokio.

Norway:

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

Portugal:

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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

the draft, particularly in regard to Articles 7 and 8 and the formal clauses. The Committee recommended that the modified text, which is printed as an Annex to their Report, should be distributed to the various Governments for observations and added that "it would seem expedient to wait until the replies have been received from the Governments before considering the desirability of convening a Conference at some future date or of simply opening, during one of the forthcoming Assemblies, a protocol for signature by any States wishing to become parties thereto".

6. It is understood that the Report of the Economic Committee will come before the Council of the League in September. In the meantime, in anticipation of the Council's approval of the procedure recommended by the Committee, the Secretary-General has already circulated the Report to Governments for consideration (C.L.158.1930.II of the 3rd July). A copy of a confidential report by Sir Sydney Chapman, dealing with the modifications introduced into the draft Convention by the Economic Committee, is enclosed and it would be of assistance to His Majesty's Government in the United Kingdom in their examination of the draft Convention if they could be informed of any views which His Majesty's Governments in the Dominions may have formed on the modified text recommended by the Economic Committee.

I have the honour to be,
Sir,
Your most obedient,
humble servant,

Thomas

of a central institution, whose function it would be to collect and distribute statistics of whaling, and for the communication of such statistics to the institution by the participating countries. It is understood that it was contemplated by the Experts that the institution should be located in Norway where it could most easily be formed by the elaboration of the existing organisation set up for this purpose by the International Council for the Exploration of the Sea.

(3) Article 14, relating to the duration of the Convention. It is understood that in the initial discussions of the Experts Committee it was contemplated that the Convention should be concluded for a minimum period of 5 years. It was felt however by some of the Experts that this period should be reduced and Article 14, fixing a minimum period of 3 years as the duration of the Convention and providing that it should continue in force until denounced or modified, was finally incorporated to meet the general view.

5. The report of the Experts' Committee was considered by the Economic Committee of the League of Nations at their Thirty-second Session held at Geneva from the 2nd to 6th June. The Committee's Report to the Council has now been published and circulated to Members of the League (C.353.M.146.1930.II) but a copy is enclosed for convenience of reference. It will be observed from section VI that the Committee while approving in general the provisions of the draft Convention recommended by the Committee of Experts introduced certain modifications in

the

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follows later*

4. It will be observed that the draft Convention recommended by the Experts Committee reproduced in large measure the draft referred to in paragraph 2 above. The only modifications of substance introduced by the Experts Committee were as follows:-

(1) Article 6 (Article 5 of original draft)

This Article, which, in its original form, required that no vessel should engage in whaling without a licence from its home Government was modified in order to permit of the adoption of an alternative system of control over whaling vessels. In this connection attention is invited to paragraph 6 of Mr. Borley's report. While it would doubtless have been preferable that the original requirements of the Article should have been retained in their entirety, it was held that this modification would not in practice seriously detract from the effectiveness of the Article since under the provisions of Article 8 of the draft Convention (Article 7 of the original draft) it would be incumbent on each participating country to enact legislation requiring its nationals and vessels to conform to the provisions of the Convention. While therefore a "certificate of notification under Article 6 might be issued without conditions, the recipient would none the less be bound, by the laws of his country, to conduct his operations in accordance with the provisions of the Convention.

(a) Article 12.

This Article was inserted by the Experts Committee with a view to providing for the establishment

of

enclosed in my confidential despatch under reference, was subjected to final scrutiny by the Polar Committee at a special meeting which representatives of Dominion High Commissioners were invited to attend. The Polar Committee noted with gratification that the draft Convention had met with the general concurrence of His Majesty's Governments in the Dominions and a formal resolution was passed, recommending that it should be communicated to the Experts mentioned in paragraph 1 for their use at Berlin. It was also recommended that certain textual amendments should be made, partly in the light of observations received from His Majesty's Government in Canada and partly with a view to eliminating inconsistencies in phraseology. Copies of the draft Convention as finally revised and communicated to the Experts above mentioned prior to the meeting at Berlin are enclosed.

3. A copy of the Report eventually submitted by the President and Rapporteur of the Committee of Experts to the Economic Committee of the League had been received from Sir Sydney Chapman and printed copies are forwarded herewith. Copies of a report by Mr. Borley on the proceedings of the Committee are also enclosed. It will be seen that the Experts agreed unanimously that it was possible to assist the whaling industry by international convention and came to the conclusion that the principles and rules embodied in the draft Convention attached to their Report "should be recommended to the attention of the Economic Committee and further to the consideration of the Governments".



P.M. 107/5.

UNION OF SOUTH AFRICA

Dominions Treaty No. 69

Confidential.

Downing Street,

30 September, 1930.

Sir,

With reference to my confidential despatch Dominions Treaty No. 91 of the 24th October 1929 and to subsequent correspondence on the subject of the international regulation of whaling, I have the honour to state, for the information of His Majesty's Government in the Union of South Africa that the Committee of Experts appointed by the Economic Committee of the League of Nations met at Berlin on the 3rd of April under the Presidency of Sir Sydney Chapman, the President of the Economic Committee. Mr. J. O. Borley, O. B. E., Fisheries Adviser to the Colonial Office, whose name had been suggested by His Majesty's Governments in the Commonwealth of Australia and the Union of South Africa, was invited by the Economic Committee to serve on the Experts Committee and Mr. E. R. Darnley, Chairman of the Discovery Committee, was similarly invited as an Expert from the United Kingdom.

2. Prior to the meeting of the Committee of Experts, the draft Convention, of which copies were enclosed

THE MINISTER OF EXTERNAL AFFAIRS,
UNION OF SOUTH AFRICA.

J. O. Borley
24/10

the draft, particularly in regard to Articles 7 and 8 and the formal clauses. The Committee recommended that the modified text, which is printed as an Annex to their Report, should be distributed to the various Governments for observations and added that "it would seem expedient to wait until the replies have been received from the Governments before considering the desirability of convening a Conference at some future date or of simply opening, during one of the forthcoming Assemblies, a protocol for signature by any States wishing to become parties thereto".

6. It is understood that the Report of the Economic Committee will come before the Council of the League in September. In the meantime, in anticipation of the Council's approval of the procedure recommended by the Committee, the Secretary-General has already circulated the Report to Governments for consideration (C.L.158.1930.II of the 3rd July). A copy of a confidential report by Sir Sydney Chapman, dealing with the modifications introduced into the draft Convention by the Economic Committee, is enclosed and it would be of assistance to His Majesty's Government in the United Kingdom in their examination of the draft Convention if they could be informed of any views which His Majesty's Governments in the Dominions may have formed on the modified text recommended by the Economic Committee.

I have the honour to be,
Sir,
Your most obedient,
humble servant,

(Signed) J. H. THOMAS

of a central institution, whose function it would be to collect and distribute statistics of whaling, and for the communication of such statistics to the institution by the participating countries. It is understood that it was contemplated by the Experts that the institution should be located in Norway where it could most easily be formed by the elaboration of the existing organisation set up for this purpose by the International Council for the Exploration of the Sea.

(3) Article 14, relating to the duration of the Convention. It is understood that in the initial discussions of the Experts Committee it was contemplated that the Convention should be concluded for a minimum period of 5 years. It was felt however by some of the Experts that this period should be reduced and Article 14, fixing a minimum period of 3 years as the duration of the Convention and providing that it should continue in force until denounced or modified, was finally incorporated to meet the general view.

5. The report of the Experts' Committee was considered by the Economic Committee of the League of Nations at their Thirty-second Session held at Geneva from the 2nd to 6th June. The Committee's Report to the Council has now been published and circulated to Members of the League (C.353.M.146.1930.II) but a copy is enclosed for convenience of reference. It will be observed from section VI that the Committee while approving in general the provisions of the draft Convention recommended by the Committee of Experts introduced certain modifications in

the

~~not available~~

4. It will be observed that the draft Convention recommended by the Experts Committee reproduced in large measure the draft referred to in paragraph 2 above. The only modifications of substance introduced by the Experts Committee were as follows:-

(1) Article 6 (Article 5 of original draft)

This Article, which, in its original form, required that no vessel should engage in whaling without a licence from its home Government was modified in order to permit of the adoption of an alternative system of control over whaling vessels. In this connection attention is invited to paragraph 6 of Mr. Borley's report. While it would doubtless have been preferable that the original requirements of the Article should have been retained in their entirety, it was held that this modification would not in practice seriously detract from the effectiveness of the Article since under the provisions of Article 8 of the draft Convention (Article 7 of the original draft) it would be incumbent on each participating country to enact legislation requiring its nationals and vessels to conform to the provisions of the Convention. While therefore a "certificate of notification under Article 6 might be issued without conditions, the recipient would none the less be bound, by the laws of his country, to conduct his operations in accordance with the provisions of the Convention.

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*Murdoch's
Committee on
Colonial Fisheries
825 6/20*

UNION OF SOUTH AFRICA

Dominions Treaty No. 69

Confidential.

Downing Street,

30 September, 1930.

Sir,

With reference to my confidential despatch Dominions Treaty No. 91 of the 24th October 1929 and to subsequent correspondence on the subject of the international regulation of whaling, I have the honour to state, for the information of His Majesty's Government in the Union of South Africa that the Committee of Experts appointed by the Economic Committee of the League of Nations met at Berlin on the 3rd of April under the Presidency of Sir Sydney Chapman, the President of the Economic Committee. Mr. J.O. Borley, O.B.E., Fisheries Adviser to the Colonial Office, whose name had been suggested by His Majesty's Governments in the Commonwealth of Australia and the Union of South Africa, was invited by the Economic Committee to serve on the Experts Committee and Mr. E.R. Darnley, Chairman of the Discovery Committee, was similarly invited as an Expert from the United Kingdom.

2. Prior to the meeting of the Committee of Experts, the draft Convention, of which copies were enclosed

THE MINISTER OF EXTERNAL AFFAIRS,
UNION OF SOUTH AFRICA.

satisfactory system of regulation should be worked out for the world's whaling as a whole. To carry out this programme will necessarily take many years, and the interim measures now suggested appear to afford the best hope of dealing with the situation meanwhile. They are evidently beset with great difficulties of both an international and practical character, but if the industry is to be saved from collapse these difficulties must be faced.

2, Whitnall Gardens, S.W.1.

October 18th, 1930.

Only exploration and research can determine exactly which areas would by their closure produce the best effect, and the necessary observations should certainly be pushed forward energetically. Should closure of areas be the course decided upon however, to await the conclusion of these investigations would be to apply the remedy too late for it to exert its proper influence. The enquiries should be continued if necessary after closure.

8. From a practical standpoint it is obvious that if closure is to be sought an area should be selected which is extensive,

is such as to give reason to expect that it contains great numbers of whales,

is not at present intensely hunted, so that vested interests are at a minimum, and

is as remote as possible from well peopled countries whose interest in local development of whaling might be a serious objection to closure.

For all these reasons the area whose closure is indicated appears to be along the ice edge and in its vicinity in that portion of the Antarctic bordering on the Pacific Ocean. Its exact limits are naturally a matter for discussion, but probably to produce the effect desired should not be less than from say 95° to 150° W. Long.

9. It is evidently desirable that conclusions should be reached as to the intensity of whaling that is consistent with the maintenance of the supply of whales and that a

- i the universal adoption of the licensing system, the number of licences granted by each country being determined by agreement.
- ii the establishment of close seasons, in which whaling is interrupted in certain chosen regions, or
- iii the establishment of great reserve areas, in which by common agreement whaling shall not be carried on.

6. The establishment of reserves was discussed in 1929 at the meeting of the International Council for the Exploration of the Sea; and the Committee of Experts mentioned in paragraph 4 considered that the nations whose adhesion to the Convention was desired should be recommended to pursue such investigations as would assist in reaching a conclusion as to the desirability of such closure, and as to the choice of areas suitable for the purpose.

7. It is clear that areas whose closure may most usefully be considered are of two kinds:

- i For some species of whales, certain tropical and sub-tropical waters, which may be regarded as probable breeding grounds for these species, and/or where small and immature whales are so frequent as to predominate in the catch, and where moreover they are in poor condition
- ii Areas in or near the Antarctic, the seas near the Antarctic being at present the greatest feeding ground of Blue and Fin whales (the species of greatest commercial importance) and the region of the greatest abundance of these species.

3. Examples of direct restrictions of whaling now in force are the prohibition of killing calves or cows accompanied by calves, and of killing any individuals of certain species, which are contained in both the Falkland Islands Regulations and the Norwegian Law referred to, and in part in certain regulations elsewhere. A far more important restriction, however, is the limitation of catching power enforced on the licensed companies working in the Falkland Islands Dependencies by the limitation of the number of whale catchers that may be employed; unfortunately however, the majority of Antarctic whalers, operating pelagically, are not affected by the Falkland Islands or any other licensing system.

4. It is satisfactory to note that a start has been made towards international treatment of the regulation of whaling. The Economic Committee of the League of Nations has proposed that the Council of the League shall transmit to the various Governments for observations a draft of an international convention for the regulation of whaling. This draft, which resembles in its provisions the Norwegian Law and the Falkland Islands Regulations, was based on the recommendation of a Committee of Experts to which nearly all nations engaged in whaling had nominated members.

5. The utility of the measures already in operation, and of those proposed in the draft Convention, is admitted, but their scope is extremely limited. The main problem of adequately protecting the stock of whales has as yet hardly been touched. What the whaling situation needs is a cessation of the growth of catching power or even its diminution, the measures enforcing this to be regarded as provisional in character. The methods by which this can be secured appear to be either:

NOTE AS TO POSSIBLE MEASURES FOR THE PRESERVATION OF
THE WHALING INDUSTRY.

1. A thoroughly rational regulation of the whaling industry can be based only on an adequate knowledge of the races of whales pursued, their rates of reproduction and of growth, their migrations and the effect upon the stock of whales of the destruction by whalers. Investigations bearing on these matters have been carried on for many years, and have made progress. From their variety and scope it is inevitable that they are at present far from complete; and if the stock of whales is to be saved from a depletion disastrous to the industry, measures for their preservation must be taken without delay. Such measures should be considered to be of an interim character, to be tightened up or relaxed, modified and improved as the growth of relevant information dictates.

2. Such measures are of two kinds. One attempts to ensure the proper carrying on of the industry by the minimising of waste, the other aims at the direct restriction of whaling within agreed limits. Licensed whaling in the Falkland Islands sector is carried out under regulations which are examples of the first kind, providing as they do that certain parts of the whale in addition to the blubber shall be worked up in all cases, and the Norwegian Law of June 21st, 1939, contains similar provisions. Such regulations have some restrictive effect on the intensity of whaling, since if rigidly enforced they limit the destruction of whales to the number which the factory can treat. Another indirect restriction of whaling is brought about by restriction of the port facilities accorded to whaling vessels, as in Newfoundland.

The consensus of informed opinion with regard to future prospects is thus moving rapidly towards the view that the intense whaling of the present day is a grave menace to the industry. The "Discovery" Committee are unanimously of opinion that the matter is one of great urgency and that no effort should be spared to explore the possibility of imposing some limit upon whaling operations.

time to adopt remedial measures.

Having for several years devoted continuous attention to the position in regard to Antarctic Whaling, the "Discovery" Committee have reached the conviction that the near future of the whaling industry is gravely menaced by the rapid growth of catching power now in progress. Dr. Kemp, Director of the Committee's Scientific Investigations states that "it is the confirmed opinion of all who have attempted to study the question on scientific lines that hunting at the present rate cannot continue much longer. This also is the opinion of all the more sober-minded members of the whaling community, among whom speculation as to the number of years that the industry can last is a favourite topic of conversation".

Anxiety on the subject is not confined to biologists. Mr. A. Ingebrigtsen, an experienced whaler, has recently published his own opinion on the subject (Conseil permanent International pour l'Exploration de la Mer, Rapports et Procès-Verbaux, Vol. LVI, 1929, pp. 25, 26). After giving instances of the decline of the whaling industry in various localities, he concludes as follows:- "The great extension of whaling in the Antarctic will undoubtedly, in spite of the vast tracts of ocean and the apparently enormous numbers of whales, produce in the course of some years the same results as in all other waters, namely a decreasing stock of whales from year to year". Mr. S. Risting, Secretary of the Norwegian Association of Whaling Companies and the Editor of the Norwegian Whaling Gazette, a journal produced in the interests of the Norwegian whaling community, from articles published by him in that journal evidently shares the apprehensions expressed above.

WARNING AS TO THE EFFECT OF THE GROWTH OF ANTARCTIC WHALING
ON THE FUTURE OF THE WHALING INDUSTRY.

The "Discovery" Committee are seriously concerned with regard to the alarming increase in the magnitude of whaling operations in the Antarctic area. In the season 1925-26 the production of whale-oil, in this region, was about 780,000 barrels. In 1928-29 it had increased to some 1,600,000 barrels; and in 1929-30 to more than 2,500,000 barrels. There is unfortunately no reason to believe that the upward movement has yet reached its maximum.

The growth of the industry has been intimately related with that of the fleet of "pelagic" whalers, particularly during the seasons after 1927-28. Until then the greater part of the catch had been made by Companies working under lease or licence from shore-stations or harbours, where they were subject to certain restrictions. The operations are now conducted, for the most part, by vessels of large size (up to 25,000 tons displacement), equipped as complete floating factories, capable of carrying out all the processes necessary for the production of the oil on board. These "pelagic" whalers, with their attendant "whale-catchers", pursue the whales in the high seas, where the catching power employed is subject to no restriction.

It has long been known to biologists that operations on even a much less extensive scale are likely to have most serious results. In all parts of the world where whaling has been successfully carried on in the past, the same results have followed. An initial period of great prosperity has been succeeded, after a certain number of years, by a decline in the catch; and in one locality after another whaling has ceased to be profitable and the industry has collapsed. There is no reason to doubt that what has happened elsewhere, in all cases, will happen in the Antarctic area unless steps can be taken in

A. J. R. 107/2

(THIS DOCUMENT IS THE PROPERTY OF HIS BRITANNIC MAJESTY'S GOVERNMENT.)

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IMPERIAL CONFERENCE, 1930.

COMMITTEE ON POLAR QUESTIONS.

Regulation of Whaling.

The "Discovery" Committee recently issued a public warning as to the effect of the growth of Antarctic whaling on the future of the whaling industry. Copies of this warning notice, together with copies of a confidential note prepared by the "Discovery" Committee as to possible measures for the preservation of the whaling industry, are circulated for the information of members.

(Sd) P. A. CLUTTERBUCK.

Secretary.

2, Whitehall Gardens, S.W.1.

17th October, 1930.

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