



WHALING CONVENTION ACT OF 1949



F:\COMP\OCEAN\WHALING

December 3, 2012

WHALING CONVENTION ACT OF 1949

[Chapter 653, Approved Aug. 9, 1950, 64 Stat. 421]

[Amended through chapter 653, Aug. 9, 1950]

AN ACT To authorize the regulation of whaling and to give effect to the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946, by the United States of America and certain other governments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [16 U.S.C. 916 note] That this Act may be cited as the "Whaling Convention Act of 1949".

SEC. 2. [16 U.S.C. 916] When used in this Act—

(a) Convention: The word "convention" means the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946, by the United States of America and certain other governments.

(b) Commission: The word "Commission" means the International Whaling Commission established by article III of the convention.

(c) United States Commissioner: The words "United States Commissioner" mean the member of the International Whaling Commission representing the United States of America appointed pursuant to article III of the convention and section 3 of this Act.

(d) Person: The word "person" denotes every individual, partnership, corporation, and association subject to the jurisdiction of the United States.

(e) Vessel: The word "vessel" denotes every kind, type, or description of water craft or contrivance subject to the jurisdiction of the United States used, or capable of being used, as a means of transportation.

(f) Factory ship: The words "factory ship" mean a vessel in which or on which whales are treated or processed, whether wholly or in part.

(g) Land station: The words "land station" mean a factory on the land at which whales are treated or processed, whether wholly or in part.

(h) Whale catcher: The words "whale catcher" mean a vessel used for the purpose of hunting, killing, taking, towing, holding onto, or scouting for whales.

(i) Whale products: The words "whale products" mean any unprocessed part of whale and blubber, meat, bones, whale oil, sperm oil, spermaceti, meal, and baleen.

(j) Whaling: The word "whaling" means the scouting for, hunting, killing, taking, towing, holding onto, and flensing of whales, and the possession, treatment, or processing of whales or of whale products.

(k) Regulations of the Commission: The words “regulations of the Commission” mean the whaling regulations in the schedule annexed to and constituting a part of the convention in their original form or as modified, revised, or amended by the Commission from time to time, in pursuance of article V of the convention.

(l) Regulations of the Secretary of the Interior¹: The words “regulations of the Secretary of the Interior¹” mean such regulations as may be issued by the Secretary of the Interior¹, from time to time, in accordance with sections 11 and 12 of this Act.

SEC. 3. [16 U.S.C. 916a] (a) The United States Commissioner shall be appointed by the President, on the concurrent recommendations of the Secretary of State and the Secretary of the Interior¹, and shall serve at the pleasure of the President.

(b) The President may appoint a Deputy United States Commissioner, on the concurrent recommendations of the Secretary of State and the Secretary of the Interior¹. The Deputy United States Commissioner shall serve at the pleasure of the President and shall be the principal technical adviser to the United States Commissioner, and shall be empowered to perform the duties of the Commissioner in case of the death, resignation, absence, or illness of the Commissioner.

(c) The United States Commissioner and Deputy Commissioner, although officers of the United States Government, shall receive no compensation for their services.

SEC. 4. [16 U.S.C. 916b] The Secretary of State is authorized, with the concurrence of the Secretary of the Interior¹, to present or withdraw any objections on behalf of the United States Government to such regulations or amendments of the schedule to the convention as are adopted by the Commission and submitted to the United States Government in accordance with article V of the convention. The Secretary of State is further authorized to receive on behalf of the United States Government reports, requests, recommendations, and other communications of the Commission, and to act thereon either directly or by reference to the appropriate authority.

SEC. 5. [16 U.S.C. 916c] (a) It shall be unlawful for any person subject to the jurisdiction of the United States (1) to engage in whaling in violation of the convention or of any regulation of the Commission, or of this Act, or of any regulation of the Secretary of the Interior¹; (2) to ship, transport, purchase, sell, offer for sale, import, export, or have in possession any whale or whale products taken or processed in violation of the convention, or of any regulation of the Commission, or of this Act, or of any regulation of the Secretary of the Interior¹;² (3) to fail to make, keep, submit, or furnish any record or report required of him by the convention, or by any regulation of the Commission, or by any regulation of the Secretary of the Interior¹, or to refuse to permit any officer authorized to enforce the convention, the regulations of the Commission, this Act, and the regulations of the Secretary of the Interior¹, to inspect such record or report at any reasonable time.

¹For transfer of functions of the Secretary of the Interior under this Act to the Secretary of Commerce, see Reorganization Plan No. 4 of 1970 (5 U.S.C. App.).

²So in law. Probably should be “; or (3)”.

(b) It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to do any act prohibited or to fail to do any act required by the convention, or by this Act, or by any regulation adopted by the Commission, or by any regulation of the Secretary of the Interior¹.

SEC. 6. [16 U.S.C. 916d] (a) No person shall engage in whaling without first having obtained an appropriate license or scientific permit. Such licenses shall be issued by the Secretary of the Interior¹ or such officer of the Department of the Interior as may be designated by him: *Provided*, That the Secretary, in his discretion and by appropriate regulation, may waive the payment of any license fee or the requirement that a license first be obtained, in connection with the salvage of any "Dauhval" or unclaimed dead whale found floating or stranded.

(b) The following licenses and fees shall be required for each calendar year or any fraction thereof and shall be nontransferable except under such conditions as may be prescribed by the Secretary:

(1) Land-station license for primary processing of whales, \$250.

(2) Land-station license for secondary processing of parts of whales delivered to it by a land station licensed as a primary processor, \$100.

(3) Factory-ship license for primary processing of whales delivered by whale catchers, \$250.

(4) License for any vessel used exclusively for transporting whale products from a factory ship to a port during the whaling season, \$100.

(5) Whale-catcher license, \$100.

(c) All moneys derived from the issuance of whaling licenses shall be covered into the Treasury of the United States, and no license fee shall be refunded by reason of the failure of any person to whom a license has been issued to utilize the facility in whaling for which such license was issued.

(d) Any person, in making application for a license to operate a whale catcher, must furnish evidence or affidavit satisfactory to the Secretary of the Interior¹ that, in addition to conforming to other applicable laws and regulations, (1) the whale catcher is adequately equipped and competently manned to engage in whaling in accordance with the provisions of the convention, the regulations of the Commission, and the regulations of the Secretary of the Interior¹; (2) gunners and crews will be compensated on some basis that does not depend primarily on the number of whales taken; and (3) no bonus or other partial remuneration with relation to the number of whales taken shall be paid to gunners and crews in respect of the taking of any whales, the taking of which is prohibited.

(e) Any person, in making application for a license to operate a land station or a factory ship must furnish evidence or affidavits to the satisfaction of the Secretary of the Interior¹ that, in addition to conforming to other applicable laws and regulations, such land station or factory ship is adequately equipped to comply with provisions of the convention, of the regulations of the Commission, and

¹ See footnote 1 to section 2(l).

of the regulations of the Secretary of the Interior¹ with respect to the processing of whales or the manufacture of whale products.

SEC. 7. [16 U.S.C. 916e] Any person who fails to make, keep, or furnish any catch return, statistical record, or any report that may be required by the convention, or by any regulation of the Commission, or by this Act, or by a regulation of the Secretary of the Interior¹, or any person who furnishes a false return, record, or report, upon conviction, shall be subject to such fine as may be imposed by the court not to exceed \$500, and shall in addition be prohibited from whaling, processing, or possessing whales and whale products from the date of conviction until such time as any delinquent return, record, or report shall have been submitted or any false return, record, or report shall have been replaced by a duly certified correct and true return, record, or report to the satisfaction of the court. The penalties imposed by section 8 of this Act shall not be invoked for failure to comply with requirements respecting returns, records, and reports.

SEC. 8. [16 U.S.C. 916f] Except as to violations defined in clause 3 of subsection (a) of section (5) of this Act, any person violating any provision of the convention, or of any regulation of the Commission, or of this Act, or of any regulation of the Secretary of the Interior¹ upon conviction, shall be fined not more than \$10,000 or be imprisoned not more than one year, or both. In addition the court may prohibit such person from whaling for such period of time as it may determine, and may order forfeited, in whole or in part, the whales taken by such person in whaling during the season, or the whale products derived therefrom or the monetary value thereof. Such forfeited whales or whale products shall be disposed of in accordance with the direction of the court.

SEC. 9. [16 U.S.C. 916g] (a) Any duly authorized enforcement officer or employee of the Fish and Wildlife Service of the Department of the Interior; any Coast Guard officer; any United States marshal or deputy United States marshal; any customs officer; and any other person authorized to enforce the provisions of the convention, the regulations of the Commission, this Act, and the regulations of the Secretary of the Interior¹, shall have power, without warrant or other process but subject to the provisions of the convention, to arrest any person subject to the jurisdiction of the United States committing in his presence or view a violation of the convention or of this Act, or of the regulations of the Commission, or of the regulations of the Secretary of the Interior¹ and to take such person immediately for examination before a justice or judge or any other official designated in section 3041 of title 18 of the United States Code; and shall have power, without warrant or other process, to search any vessel subject to the jurisdiction of the United States or land station when he has reasonable cause to believe that such vessel or land station is engaged in whaling in violation of the provisions of the convention of this Act, or the regulations of the Commission, or the regulations of the Secretary of the Interior¹. Any person authorized to enforce the provisions of the convention, this Act, the regulations of the Commission, or the regulations of the Secretary of the Interior¹ shall have power to exe-

¹ See footnote 1 to section 2(l).

ecute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this Act, and shall have power with a search warrant to search any vessel, person, or place at any time. The judges of the United States district courts and the United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Subject to the provisions of the convention, any person authorized to enforce the convention, this Act, the regulations of the Commission, and the regulations of the Secretary of the Interior¹ may seize, whenever and wherever lawfully found, all whales or whale products taken, processed, or possessed contrary to the provisions of the convention, of this Act, of the regulations of the Commission, or of the regulations of the Secretary of the Interior¹.

Any property so seized shall not be disposed of except pursuant to the order of a court of competent jurisdiction or the provisions of subsection (b) of this section, or, if perishable, in the manner prescribed by regulations of the Secretary of the Interior¹.

(b) Notwithstanding the provisions of section 2464 of title 28 of the United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on receiving from the claimant of the property a bond or stipulation for double the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction, conditioned to deliver the property seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court.

SEC. 10. [16 U.S.C. 916h] (a) In order to avoid duplication in scientific and other programs, the Secretary of State, with the concurrence of the agency, institution, or organization concerned, may direct the United States Commissioner to arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the convention.

(b) All agencies of the Federal Government are authorized, on request of the Commission, to cooperate in the conduct of scientific and other programs, or to furnish facilities and personnel for the purpose of assisting the Commission in the performance of its duties as prescribed by the convention.

SEC. 11. [16 U.S.C. 916i] Nothing contained in this Act shall prevent the taking of whales and the conducting of biological experiments at any time for purposes of scientific investigation in accordance with scientific permits and regulations issued by the Secretary of the Interior¹ or shall prevent the Commission from discharging its duties as prescribed by the convention.

¹ See footnote 1 to section 2(l).

SEC. 12. [16 U.S.C. 916j] (a) The Secretary of the Interior¹ is authorized and directed to administer and enforce all of the provisions of this Act and regulations issued pursuant thereto and all of the provisions of the convention and of the regulations of the Commission, except to the extent otherwise provided for in this Act, in the convention, or in the regulations of the Commission. In carrying out such functions he is authorized to adopt such regulations as may be necessary to carry out the purposes and objectives of the convention, the regulations of the Commission, this Act, and with the concurrence of the Secretary of State, to cooperate with the duly authorized officials of the government of any party to the convention.

(b) Enforcement activities under the provisions of this Act relating to vessels engaged in whaling and subject to the jurisdiction of the United States primarily shall be the responsibility of the Secretary of the Treasury in cooperation with the Secretary of the Interior¹.

(c) The Secretary of the Interior¹ may authorize officers and employees of the coastal States of the United States to enforce the provisions of the convention, or of the regulations of the Commission, or of this Act, or of the regulations of the Secretary of the Interior¹. When so authorized such officers and employees may function as Federal law-enforcement officers for the purposes of this Act.

SEC. 13. [16 U.S.C. 916k] Regulations of the Commission approved and effective in accordance with section 4 of this Act and article V of the convention shall be submitted for appropriate action or publication in the Federal Register by the Secretary of the Interior¹ and shall become effective with respect to all persons and vessels subject to the jurisdiction of the United States in accordance with the terms of such regulations and the provisions of article V of the convention.

SEC. 14. [16 U.S.C. 916l] There is hereby authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the convention and of this Act, including (1) contributions to the Commission for the United States share of any joint expenses of the Commission agreed by the United States and any of the other contracting governments, and (2) the expenses of the United States Commissioner and his staff, including (a) personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and the Classification Act of 1923, as amended; (b) travel expenses without regard to the Travel Expense Act of 1949 and section 10 of the Act of March 3, 1933 (U.S.C., title 5, sec. 73b); (c) transportation of things, communication services; (d) rent of offices; (e) printing and binding without regard to section 11 of the Act of March 1, 1919 (U.S.C., title 44, sec. 111), and section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5); (f) stenographic and other services by contract, if deemed necessary, without regard to section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5); (g) supplies and materials; (h) equipment; (i) purchase, hire, operation, maintenance, and repair of aircraft,

¹ See footnote 1 to section 2(l).

motor vehicles (including passenger-carrying vehicles), boats, and research vessels.

SEC. 15. [16 U.S.C. 916m] If any provision of this Act or the application of such provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

SEC. 16. [16 U.S.C. 916n] The Whaling Treaty Act of May 1, 1936 (49 Stat. 1246; 16 U.S.C. 901–915), is hereby repealed and the Secretary of the Interior¹ is authorized to refund any part of a license fee paid under said Act that is in excess of the license fee required under this Act.

¹ See footnote 1 to section 2(l).