

ICELAND

Whaling

*Agreement effected by exchange of letters
Signed at Washington September 14 and 15, 1987;
Entered into force September 15, 1987.*

*The Acting Secretary of Commerce to the Icelandic Chargé
d'Affaires ad interim*

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

September 14, 1987

Mr. Hordur H. Bjarnason
Charge d'Affaires ad interim
of Iceland
Embassy of Iceland
2022 Connecticut Avenue, N.W.
Washington, D.C. 20008

Dear Mr. Bjarnason:

I am writing to you regarding the recent meeting between representatives of the Government of Iceland and the Government of the United States concerning possible certification of Iceland under the Pelly Amendment to the Fishermen's Protective Act.

Article VI of the International Convention for the Regulation of Whaling¹ provides that the International Whaling Commission (IWC) may make recommendations to its member nations on any matter relating to whales or whaling and to the objectives and purposes of the Convention. Pursuant to Article VI, the IWC, at its 1987 annual meeting, adopted a resolution regarding the Government of Iceland's research whaling program. Adopting the view that Iceland's program does not fully satisfy the criteria set forth in the IWC's 1986 Resolution on Special Permits for Scientific Research, the IWC recommended that Iceland suspend research whaling "until the uncertainties (in its program) identified in the Scientific Committee Report (IWC/39/4) have been resolved to the satisfaction of the Scientific Committee" (IWC/39/4).

Under paragraph 1 of the arrangement set forth in the "Summary Discussions," enclosed with this letter, Iceland has undertaken for 1988 to submit its research program for review by the IWC Scientific Committee and to carry out the scientific recommendations of that Committee. By this undertaking I understand Iceland to have agreed not to resume research whaling in 1988 until it has, to the satisfaction of the IWC Scientific Committee: (1) resolved the uncertainties

¹ TIAS 1849; 62 Stat. 1716.

in its current program identified in Scientific Committee Report IWC/39/4; or (2) responded to recommendations the Committee may make regarding a revised program submitted by Iceland in the interim.

Under paragraph 2 of the arrangement set forth in the "Summary of Discussions," the Secretary of Commerce undertakes not to certify Iceland for the 80 fin whales, and provided that Iceland has previously agreed to the understanding, as set forth in this letter, the Secretary of Commerce will not certify for the taking of any or all of the 20 sei whales in 1987. When the Secretary of Commerce determines that nationals of a foreign country are conducting fishing operations which diminish the effectiveness of an international fishery conservation program, the Pelly Amendment requires the Secretary to certify that fact to the President.

After consulting with the United States Commissioner to the IWC, I have determined that the taking of 80 fin whales and 20 sei whales in 1987 by Icelandic nationals for scientific purposes would not, in light of the undertaking made by Iceland for 1988, diminish the effectiveness of the International Convention for the Regulation of Whaling or its conservation program.

My determination is based, *inter alia*, on the following factors: Iceland has agreed to comply, to the satisfaction of the IWC Scientific Committee, with the recommendations of the Committee before resuming research whaling in 1988. Iceland's research whaling program is an ongoing program, having commenced in 1986. Iceland had already begun taking fin whales in 1987 by the time the IWC adopted the resolution directed to Iceland. Iceland's research whaling program for 1987 had called for 200 whales — 80 fin, 40 sei and 80 minke; Iceland has agreed to take only 100 whales this year — 80 fin and 20 sei.

Under paragraph 3 of the arrangement, the United States undertakes to work with Iceland and other IWC Commissioners to review and make recommendations regarding the structure of the IWC Scientific Committee process for the review of research permits, so as to build confidence in that process and its scientific basis. Although we look forward to working with you in this regard, it must be understood that the undertaking by Iceland under paragraph 1 of the arrangement is not in any respect conditioned upon the outcome of the efforts to be undertaken to implement paragraph 3.

I look forward to your letter that will confirm the Government of Iceland's acknowledgment of the understanding set forth in this letter of the Summary of Discussions dated September 14, 1987. The agreement between our two Governments will become effective immediately upon the receipt of your response to that effect.

Sincerely,

Bruce Smart
Acting Secretary of
Commerce

Enclosure

September 14, 1987

SUMMARY OF DISCUSSIONS ON ICELANDIC WHALING FOR
SCIENTIFIC PURPOSES, SEPTEMBER 9, 1987, OTTAWA, CANADA

Dr. Anthony Calio
United States Commissioner to the
International Whaling Commission
Ambassador Ingvi Ingvarsson
Ambassador of Iceland to the
United States of America

The latest in a series of meetings between Iceland and the United States were held in Ottawa, Canada, September 9, 1987, in an effort to determine whether it would be possible, in accordance with the laws and regulations in effect in each country, for the United States Secretary of Commerce to refrain from "certifying" whaling for scientific purposes by Icelandic nationals, if they take whales under the conditions reflected by the terms of this arrangement:

1. For 1988 and thereafter, the Government of Iceland would submit its research program for review by the IWC Scientific Committee and would carry out the scientific recommendations of that Committee.
2. The United States would not certify the Government or nationals of Iceland for the 80 fin whales and the 20 sei whales taken in 1987, nor for the whales taken in 1988 and thereafter in the Icelandic program of scientific research, so long as the Government of Iceland complies with the provisions of paragraph 1.
3. The United States will work with Iceland and other IWC Commissioners to review and make recommendations regarding the structure of the IWC Scientific Committee's process for the review of research permits, so as to build confidence in that process and its scientific basis.

*The Icelandic Chargé d'Affaires ad interim to the Acting
Secretary of Commerce*

EMBASSY OF ICELAND
2022 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20008

15 September 1987

Dear Mr. Secretary,

I am in receipt of your letter of September 14, 1987, and acknowledge that it sets forth the United States interpretation and understanding of the three-point agreement discussed by representatives of our respective Governments in Ottawa on September 9, 1987. The Government of Iceland intends to implement the three-point agreement from Ottawa, which reads as follows:

1. For 1988 and thereafter, the Government of Iceland would submit its research program for review by the IWC Scientific Committee and would carry out the scientific recommendations of that Committee.
2. The United States would not certify the Government or nationals of Iceland for the 80 fin whales and the 20 sei whales taken in 1987, nor for the whales taken in 1988 and thereafter in the Icelandic program of scientific research, so long as the Government of Iceland complies with the provisions of paragraph 1.
3. The United States will work with Iceland and other IWC Commissioners to review and make recommendations regarding the structure of the IWC Scientific Committee's process for the review of research permits, so as to build confidence in that process and its scientific basis.

The Honorable
Bruce Smart
Acting Secretary of Commerce
Washington, D.C.

The Government of Iceland does not believe that it is necessary to offer interpretations of the three-point agreement, the intent and effect of which are clear on its face.

This agreement between our two Governments will become effective immediately upon the delivery of this response.

Sincerely,

Hordur H. Bjarnason
Chargé d'Affaires, a.i.
Embassy of Iceland