No. 18078

UNITED STATES OF AMERICA
and
AUSTRALIA

Exchange of notes constituting an arrangement relating to cooperation in an observer scheme for whaling. Canberra, 26 January and 3 April 1978

Authentic text: English.

Registered by the United States of America on 14 November 1979.

ÉTATS-UNIS D'AMÉRIQUE
et
AUSTRALIE

Échange de notes constituant un arrangement relatif à la coopération dans le cadre d'un système d'observation des opérations de chasse à la baleine. Canberra, 26 janvier et 3 avril 1978

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 14 novembre 1979.

EXCHANGE OF NOTES CONSTITUTING AN ARRANGEMENT[1] BETWEEN THE UNITED STATES OF AMERICA AND AUSTRALIA RELATING TO COOPERATION IN AN OBSERVER SCHEME FOR WHALING

I

The Australian Department of Foreign Affairs to the American Embassy

736/13/9

The Department of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honour to propose that the two Governments, being parties to the International Convention for the Regulation of Whaling (hereinafter referred to as "the Convention") signed at Washington on 2 December 1946,[2] co-operate in an observer scheme for the whaling station at Cheynes Beach in Western Australia. The Department would propose that the scheme operate on the following basis:

1. For the 1978 whaling season in Australia, which is expected to commence in early March and continue until the end of October or early November 1978, the Government of the United States of America will nominate an observer, who will be appointed by the International Whaling Commission (hereinafter referred to as "the Commission"), for the land-based whaling station at Cheynes Beach in Western Australia.

2. (*a*) The observer will have the status of a senior official. Appropriate measures will be taken by the Government of Australia to provide every courtesy to the observer and to ensure his security and welfare in the performance of his duties.

(*b*) The observer is not invested with any administrative power in regard to the activities of the station, and will have no authority to intervene in any way in those activities.

(*c*) The observer will at all times be responsible to the Commission, and will neither seek nor receive instructions from any authority other than the Commission. The observer will be given the necessary facilities for carrying out his duties, including cabling facilities.

(*d*) The Government of Australia will ensure that the observer may observe freely the operations of the station so that he may verify the observance of the provisions of the Convention and its Schedule in regard to the taking of whales and their utilisation. In particular the observer will be given facilities to ascertain the species, size, sex, and number of whales taken.

(*e*) The Government of Australia will ensure that all reports required to be made, and all records required to be kept or supplied in accordance with the Schedule of the Convention will be made freely and immediately available to the observer for examination, and that the observer will be given all necessary explanations as regards such reports, records and data.

(*f*) The manager or senior officials of the station or the national inspectors appointed in accordance with the provisions of the Convention will supply all information necessary for the discharge of the observer's function.

(*g*) Where the observer has reasonable grounds for believing that any infraction of the provisions of the Convention has taken place he shall immediately notify in writing the manager of the station and the senior national inspector. The observer will, if he considers it sufficiently serious, inform the Commission of the said infraction as soon as possible and will at the same time report the explanation or comments of the manager of the station and the senior national inspector.

[1] Came into force on 3 April 1978, the date of the note in reply, in accordance with the provisions of the said notes.
[2] United Nations, *Treaty Series*, vol. 161, p. 72.

(*h*) The observer will draw up a report covering his observations including possible infractions of the provisions of the Convention and the Schedule which have taken place during the season or part of the season in which he served as an observer, and will submit it both to the manager of the station and to the senior national inspector for information and such explanation or comments as they may wish to make. All such explanations and comments will be attached to the observer's report which will be transmitted to the Government of the United States of America.

The Government of the United States of America will immediately forward the report, with any comments it considers appropriate, to the Secretariat of the International Whaling Commission.

3. (*a*) The Government of the United States of America will pay the salary and other emoluments, travel and cable costs of the observer.

(*b*) The Government of Australia will provide to the observer subsistence and accommodation appropriate to the status of the observer together with medical care and assistance where necessary.

(*c*) The Government of Australia will also provide suitable local transport for the facilitation of the performance by the observer of his duties.

The Department of Foreign Affairs has the honour to propose that, if the foregoing is acceptable to the Embassy, this Note and the Embassy's reply should constitute an arrangement between the two Governments effective on the date of the Embassy's reply.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Canberra, A.C.T., 26 January 1978

II

The American Embassy to the Australian Department of Foreign Affairs

No. 35

The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs and refers to the Department of Foreign Affairs' Note No. 736/13/9 of January 26, 1978, which reads as follows:

[*See note I*]

The Embassy of the United States of America has the honor to inform the Department of Foreign Affairs that the provisions of the Department's Note are acceptable to the Government of the United States of America. The Embassy agrees that the Department's Note and this reply shall constitute an Arrangement between the Government of Australia and the Government of the United States of America, which shall enter into force on the date of this reply.

The Embassy of the United States of America avails itself of this opportunity to renew to the Department of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America

Canberra, April 3, 1978