



INTERNATIONAL COURT OF JUSTICE

Peace Palace, Carnegieplein 2, 2517 KJ The Hague, Netherlands

Tel.: +31 (0)70 302 2323 Fax: +31 (0)70 364 9928

Website: www.icj-cij.org

Press Release

Unofficial

No. 2012/34

21 November 2012

Whaling in the Antarctic (Australia v. Japan)

New Zealand files a declaration of intervention in the proceedings under Article 63 of the Statute

THE HAGUE, 21 November 2012. On Tuesday 20 November 2012, New Zealand, invoking Article 63 of the Statute of the Court, filed in the Registry of the International Court of Justice a declaration of intervention in the case concerning Whaling in the Antarctic (Australia v. Japan).

To avail itself of the right of intervention conferred by Article 63 of the Statute, New Zealand relies on its “status as a party to the International Convention for the Regulation of Whaling”. New Zealand contends that “[a]s a party to the Convention, [it] has a direct interest in the construction that might be placed upon the Convention by the Court in its decision in these proceedings”.

In its declaration, New Zealand further explains that its intervention is directed to questions of the construction, in particular, of Article VIII of the Convention, arising in the case. That article provides, *inter alia*, that “any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit . . .”.

“Given its long-standing participation in the work of the International Whaling Commission, and its views with respect to the interpretation and application of the Convention, including whaling under Special Permit, New Zealand has determined that it is necessary for it to intervene in this case in order to place its interpretation of the relevant provisions of the Convention before the Court”, New Zealand writes in its declaration.

At the end of its declaration, New Zealand provides the following summary of its interpretation of Article VIII:

- “(a) Article VIII forms an integral part of the system of collective regulation established by the Convention.
- “(b) Parties to the Convention may engage in whaling by Special Permit only in accordance with Article VIII.
- “(c) Article VIII permits the killing of whales under Special Permit only if:

- i. an objective assessment of the methodology, design and characteristics of the programme demonstrates that the killing is only “for purposes of scientific research”; and
- ii. the killing is necessary for, and proportionate to, the objectives of that research and will have no adverse effect on the conservation of stocks; and
- iii. the Contracting Government issuing the Special Permit has discharged its duty of meaningful cooperation with the Scientific Committee and the IWC.

(d) Whaling under Special Permit that does not meet these requirements of Article VIII, and not otherwise permitted under the Convention, is prohibited.”

New Zealand underlines in its declaration “that it does not seek to be a party to the proceedings” and “confirms that, by availing itself of its right to intervene [under Article 63 of the Statute], it accepts that the construction given by the judgment in the case will be equally binding upon it”.

In accordance with Article 83 of the Rules of Court, Australia and Japan have been invited to furnish written observations on New Zealand’s declaration of intervention. The time-limit for the filing of such observations has been fixed at Friday 21 December 2012.

*

New Zealand’s declaration of intervention will shortly be available on the Court’s website (<http://www.icj-cij.org>).

*

History of the proceedings

The history of the proceedings can be found in the Annual Report of the Court 2011-2012 (paragraphs 214-218), which can be downloaded from the Court’s website (www.icj-cij.org). Click on “The Court”, and then on “Annual Reports”.

No further information can be provided about the positions of Australia and Japan as expressed in their written pleadings, because at this stage of the proceedings the written pleadings of the two Parties are not in the public domain and remain confidential.

*

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York. The Court has a twofold role: first, to settle, in accordance with international law, legal disputes submitted to

it by States (its judgments have binding force and are without appeal for the parties concerned); and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. Independent of the United Nations Secretariat, it is assisted by a Registry, its own international secretariat, whose activities are both judicial and diplomatic, as well as administrative. The official languages of the Court are French and English. Also known as the “World Court”, it is the only court of a universal character with general jurisdiction.

The ICJ, a court open only to States for contentious proceedings, and to certain organs and institutions of the United Nations system for advisory proceedings, should not be confused with the other — mostly criminal — judicial institutions based in The Hague and adjacent areas, such as the International Criminal Tribunal for the former Yugoslavia (ICTY, an *ad hoc* court created by the Security Council), the International Criminal Court (ICC, the first permanent international criminal court, established by treaty, which does not belong to the United Nations system), the Special Tribunal for Lebanon (STL, an independent judicial body composed of Lebanese and international judges, which is not a United Nations tribunal and does not form part of the Lebanese judicial system), or the Permanent Court of Arbitration (PCA, an independent institution which assists in the establishment of arbitral tribunals and facilitates their work, in accordance with the Hague Convention of 1899).

Information Department:

Mr. Andrey Poskakukhin, First Secretary of the Court, Head of Department (+31 (0)70 302 2336)

Mr. Boris Heim, Information Officer (+31 (0)70 302 2337)

Ms Joanne Moore, Associate Information Officer (+31 (0)70 302 2394)

Ms Genoveva Madurga, Administrative Assistant (+31 (0)70 302 2396)