



# 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](http://www.icj-cij.org)

## Press Release

Unofficial

No. 2013/16

17 July 2013

### **Whaling in the Antarctic (Australia v. Japan: New Zealand intervening)**

#### **Conclusion of the public hearings**

#### **Court to begin its deliberation**

THE HAGUE, 17 July 2013. The public hearings in the case concerning Whaling in the Antarctic (Australia v. Japan: New Zealand intervening) were concluded yesterday. The Court will now begin its deliberation.

During the hearings, which opened on 26 June 2013 at the Peace Palace, seat of the Court, the delegation of Australia was led by Mr. Bill Campbell, Q.C., General Counsel (International Law), Attorney-General's Department, as Agent; the delegation of Japan was led by Mr. Koji Tsuruoka, Deputy Minister for Foreign Affairs, as Agent; and the delegation of New Zealand was led by Dr. Penelope Ridings, International Legal Adviser, Ministry of Foreign Affairs and Trade, as Agent.

The Court's Judgment will be rendered at a public sitting, the date of which will be announced in due course.

\* \*

#### **Final submissions of the Parties**

At the end of the oral proceedings, the Parties presented the following final submissions to the Court:

##### **For Australia:**

"1. Australia requests the Court to adjudge and declare that the Court has jurisdiction to hear the claims presented by Australia.

2. Australia requests the Court to adjudge and declare that Japan is in breach of its international obligations in authorizing and implementing the Japanese Whale Research Program under Special Permit in the Antarctic Phase II (JARPA II) in the Southern Ocean.

3. In particular, the Court is requested to adjudge and declare that, by its conduct, Japan has violated its international obligations pursuant to the International Convention for the Regulation of Whaling to:

- (a) observe the zero catch limit in relation to the killing of whales for commercial purposes in paragraph 10 (e) of the Schedule;
- (b) refrain from undertaking commercial whaling of fin whales in the Southern Ocean Sanctuary in paragraph 7 (b) of the Schedule;
- (c) observe the moratorium on taking, killing or treating of whales, except minke whales, by factory ships or whale catchers attached to factory ships in paragraph 10 (d) of the Schedule; and
- (d) comply with the requirements of paragraph 30 of the Schedule.

4. Further, the Court is requested to adjudge and declare that JARPA II is not a program for purposes of scientific research within the meaning of Article VIII of the International Convention for the Regulation of Whaling.

5. Further, the Court is requested to adjudge and declare that Japan shall:

- (a) refrain from authorizing or implementing any special permit whaling which is not for purposes of scientific research within the meaning of Article VIII;
- (b) cease with immediate effect the implementation of JARPA II; and
- (c) revoke any authorization, permit or licence that allows the implementation of JARPA II.”

\* \*

For Japan:

“Japan requests that the Court adjudge and declare:

- (1) — that it lacks jurisdiction over the claims brought against Japan by Australia, referred to it by the Application of Australia of 31 May 2010; and  
— that, consequently, the Application of New Zealand for permission to intervene in the proceedings instituted by Australia against Japan lapses;
- (2) in the alternative, that the claims of Australia are rejected.”

\* \*

Intervention of New Zealand

It is recalled that on Tuesday 20 November 2012 New Zealand filed in the Registry of the Court a Declaration of Intervention in the present case.

By an Order dated 6 February 2013, the Court granted New Zealand permission to intervene as a non-party (see Press Release No. 2013/2 of 13 February 2013). New Zealand presented its oral observations to the Court on Monday 8 July 2013.

\*

\* \*

#### Internal Judicial Practice of the Court with respect to deliberations

Deliberations take place in private in accordance with the following procedure: the Court first holds a preliminary discussion, during which the President outlines the issues which require discussion and decision by the Court. Each judge then prepares a written Note setting out his or her views on the case. Each Note is distributed to the other judges. A full deliberation is then held, at the end of which, on the basis of the views expressed, a drafting committee is chosen by secret ballot. That committee consists in principle of two judges holding the majority view of the Court, together with the President, unless it appears that his views are in the minority. The committee prepares a draft text, which is first the subject of written amendments and then goes through two readings. In the meantime, judges who wish to do so may prepare a declaration, a separate opinion or a dissenting opinion. The final vote is taken after adoption of the final text of the Judgment at the second reading.

---

Note: The Court's press releases do not constitute official documents. The complete verbatim records of the hearings held from 26 June to 16 July 2013 are published on the website of the Court ([www.icj-cij.org](http://www.icj-cij.org)).

---

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)