



January 23, 2015

MEMORANDUM FOR THE PRESIDENT

FROM: John F. Kerry *JFK*  
Sally Jewell *SJ*  
Penny Pritzker *PP*

SUBJECT: Actions Taken in Response to Pelly Certification of Iceland

On April 1, 2014, you directed departments and agencies to take a number of actions in response to the certification of Iceland by the Secretary of the Interior under section 8 of the Fishermen's Protective Act of 1967, as amended (the "Pelly Amendment") (22 U.S.C. § 1978), that nationals of Iceland are conducting international trade in whale meat and products that diminishes the effectiveness of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). You further directed us to report to you in six months on the actions taken to urge Iceland to cease its international trade in whale parts and products. Our report of the specific actions we took in the six months after your instructions is attached to this memorandum.

On September 15, 2011, you directed departments and agencies to take a number of similar actions in response to the certification of Iceland by the Secretary of Commerce under the Pelly Amendment that nationals of Iceland are conducting whaling activities that diminish the effectiveness of the International Whaling Commission's (IWC) conservation program. On March 15, 2012, we reported the actions taken to urge Iceland to cease its commercial whaling activities. Following this report, we continued to take actions to urge Iceland to modify its commercial whaling practices following submission of that report. Highlights of those actions from March 2012 to April 2014 are also included in the attached report.

Iceland resumed commercial whaling in 2006. The commercial whaling of fin whales, primarily for export, began in 2009. The Government of Iceland has not changed its whaling policies since either the Secretary of Commerce's certification

on July 19, 2011, or the Secretary of the Interior's certification on January 31, 2014. Iceland continues to issue quotas and permits for Icelandic companies to harvest whales for commercial purposes and engage in international trade of whale meat and products. Iceland took 125 fin whales in 2009, 148 in 2010, 134 in 2013, and 137 in 2014, with a hiatus in 2011 and 2012. This continues to exceed the advice from the IWC's Scientific Committee that a harvest of 46 whales is biologically sustainable.

As the Secretary of the Interior reported in her CITES certification determination, approximately 1,300 kg of minke whale meat and more than 850,000 kg of fin whale meat and products were exported from Iceland from 2008 to 2010. In 2011, Japan reported the import of more than 1,000 kg of fin whale meat from Iceland. In 2012, Japan reported the import of 725,000 kg and an additional 25,000 unspecified units, presumably kg, of fin whale meat from Iceland. Also in 2012, Japan reported the import of 641 kg of minke whale meat from Iceland. While CITES trade data for 2013 and 2014 are not yet available, Iceland continues to allow whale hunting and commercial exports of meat and products, undermining the effectiveness of both the IWC and CITES respectively, and regardless of our Pelly-related actions and outreach.

We continue to emphasize, and Icelandic officials understand, that the Administration opposes and is monitoring Iceland's whaling activities and its international trade in whale products.

The Government of Iceland's response to our actions has been consistent. They assert that quotas established are sustainable according to Icelandic scientists; that Iceland is a country dependent upon fisheries exports; and that, as a matter of principle, it will not prohibit the export of whale products.

Attachments:

- Tab 1 – Report on Actions Taken in Response to the Certification of Iceland for Diminishing the Effectiveness of CITES
- Tab 2 – March 15, 2012, Memorandum on Actions Taken in Response to Certification of Iceland for Diminishing the Effectiveness of the International Whaling Commission Conservation Program

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**Report on Actions Taken in Response to the Certification of Iceland for  
Diminishing the Effectiveness of the Convention on International Trade in  
Endangered Species of Wild Fauna and Flora  
April to October 2014**

On April 1, 2014, the President directed departments and agencies to take a number of actions in response to the certification of Iceland under section 8 of the Fishermen's Protective Act of 1967, as amended (the "Pelly Amendment") (22 U.S.C. § 1978). The President directed:

- (1) relevant departments and agencies to raise concerns with Iceland's trade in whale parts and products in appropriate fora and processes of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and, in consultation with other international actors, to seek additional measures to reduce such trade and enhance the effectiveness of CITES;
- (2) relevant senior Administration officials and U.S. delegations meeting with Icelandic officials to raise U.S. objections to commercial whaling and Iceland's ongoing trade in fin whale parts and products and to urge a halt to such action, including immediate notification of this position to the Government of Iceland;
- (3) the Department of State and other relevant departments and agencies to encourage Iceland to develop and expand measures that increase economic opportunities for the nonlethal uses of whales in Iceland, such as responsible whale watching activities and educational and scientific research activities that contribute to the conservation of whales;
- (4) the Department of State to re-examine bilateral cooperation projects and, where appropriate, to base U.S. cooperation with Iceland on the Icelandic government changing its whaling policy, abiding by the International Whaling Commission (IWC) moratorium on commercial whaling, and not engaging in trade in whale parts and products in a manner that diminishes the effectiveness of CITES;
- (5) the Department of State to inform the Government of Iceland that the United States will continue to monitor the activities of Icelandic companies that engage in commercial whaling and international trade in whale parts and products;
- (6) Cabinet secretaries and other senior Administration officials to evaluate the appropriateness of visits to Iceland in light of Iceland's resumption of fin whaling and ongoing trade in fin whale parts and products; and

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- (7) relevant departments and agencies to examine other options for responding to continued whaling by Iceland.

The President further directed relevant departments and agencies to report through the Departments of State, Commerce, and the Interior within six months on the actions taken to urge Iceland to cease its commercial whaling activities.

**Engagement with Iceland in CITES fora:**

The United States noted in the North American regional reports to the 27th meeting of the CITES Animals Committee (April/May 2014) and the 65th meeting of the CITES Standing Committee (July 2014), including in its oral presentations, the Secretary of the Interior's certification of Iceland under the Pelly Amendment for Iceland's continued whaling activities. It also noted the President's instructions to his Cabinet to increase diplomatic pressure on Iceland to promote non-lethal uses of whales. Unfortunately, Iceland was not present at either meeting.

In addition, under the President's prior directives in response to the Department of Commerce 2011 certification, and not included in our 2012 report, Fish and Wildlife Service Director Dan Ashe, Head of the U.S. delegation to the 16th meeting of the Conference of the Parties to CITES, raised U.S. concerns over commercial whaling and international trade in whale parts and products directly with the head of the Icelandic delegation present at the March 2013 meeting.

**Diplomatic engagement with Iceland on commercial whaling and commercial trade in whale parts and products:**

Senior Administration officials continue to raise our concerns about Iceland's commercial whaling and commercial trade in whale meat and products with Icelandic officials at appropriate meetings. Following certification and subsequent directives from the President in April 2014, the U.S. Chargé d'Affaires in Reykjavik notified the Government of Iceland of the U.S. objection to Iceland's commercial whaling and ongoing commercial trade in fin whale parts and products. In addition, Assistant Secretary of State for European and Eurasian Affairs Victoria Nuland raised our concerns with Icelandic officials during her visit to Iceland in April 2014. Department of State Principal Deputy Assistant Secretary for Economic and Business Affairs Bill Craft likewise raised our concerns with Icelandic officials at trade talks in June 2014.

On September 15, 2014, the United States joined in a demarche to the Icelandic government from the European Union and its member states, Australia, Brazil, Israel, Mexico, and New Zealand in expressing strong opposition to Iceland's

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continuing and increased commercial harvest of whales, particularly fin whales, and to its ongoing international commercial trade in whale products. The demarche recognized Iceland for its responsible marine resource management practices concerning other species, and encouraged it to adhere to the internationally agreed moratorium on commercial whaling and re-examine its decision to continue to issue fin and minke whale quotas, as well as refrain from further export of whale products. Further, the demarche drew attention to the considerable economic, social, and educational benefits of Iceland's growing whale watching industry as a possible alternative to commercial whaling.

During the 65th meeting of the IWC (September 15-18, 2014), the U.S. delegation, led by Russell Smith, U.S. Commissioner to the IWC, raised concerns about Iceland's continued commercial whaling activities and trade of whale parts and products. These concerns were raised directly with the Icelandic delegation, on the floor of the plenary session of the meeting, and in the United States' written opening statement.

In an October bilateral meeting on the margins of the Arctic Circle conference, U.S. Special Representative for the Arctic Robert Papp raised our concerns with Icelandic Foreign Minister Gunnar Bragi Sveinsson, while separately EUR Deputy Assistant Secretary Brent Hartley raised the issue with senior ministry of foreign affairs officials.

In addition, in response to the Department of Commerce 2011 certification, we continued to take actions not included in our March 2012 report. Between March 2012 and April 2014, the Office of the USTR included U.S. concerns over whaling policy and trade at the WTO Trade Policy Review of Iceland in November 2012. In 2013, Deputy Secretary of State William J. Burns raised our ongoing concerns with Deputy Foreign Minister Einar Gunnarsson. Also in 2013, in a letter to then Foreign Minister Ossur Skarphedinsson, Secretary of State John Kerry expressed concern over Iceland's resumption of fin whaling. Other senior Department of State officials raised U.S. concerns about whaling at bilateral and multilateral meetings, such as the Arctic Council Ministerial.

**Encouragement of non-lethal uses of whales in Iceland:**

Through the International Visitors Leadership Program, the Department of State organized the visit of a group of nine Icelandic eco-tourism operators and museum professionals to Washington, DC, and New England in April 2014. The group included the head of IceWhale (the Icelandic whale watching trade association), representatives of five whale watching companies, two representatives from the

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Husavik Whale Museum, and one journalist. The delegation visited with scientists and policy makers from the U.S. government, (including the National Oceanic and Atmospheric Administration's Office of International Affairs and Office of Protected Resources and the Marine Mammal Commission), Congressional staff, museums, educators, and tourism development professionals in order to learn how whale watching has developed into a major tourist industry in communities with a whaling heritage. Members of Iceland's whale watching community have increased their coordination in lobbying the government to end commercial whaling. The Husavik Whale Museum is seeking to develop connections with a partner U.S. museum through the Department of State's Museums Connect program.

In addition, through the Department of State's Bureau of European and Eurasian Affairs, Embassy Reykjavik provided a grant of \$36,500 to IceWhale to support speakers and experts from the United States to travel to Iceland for a series of workshops and public forums intended to strengthen businesses and institutions associated with whale conservation. These workshops will draw in a wide range of stakeholders and broaden the discussion to build a wider constituency equipped to discuss the economic benefits of whale conservation. The embassy organized a signing ceremony for the grant at the Husavik Whale Museum. The Chargé d'Affaires and Public Affairs Officer traveled to the north of Iceland to visit with the whale watching companies located there, went on a whale watch, and participated in the grant signing ceremony with IceWhale at the Husavik Whale Museum. These events garnered significant social media and print media attention. The Department of State's Director of the Office of Ocean and Polar Affairs also met with whale watching companies in Reykjavik and Husavik.

**Bilateral cooperation with Iceland:**

The Department of State continues to evaluate the appropriateness of cooperating with Iceland on bilateral projects, in light of Iceland's commercial whaling policies and ongoing trade in whale products. Commercial whaling in Iceland remains a challenge within an otherwise strong bilateral relationship. That includes close cooperation on European security issues through NATO, promotion of human rights and democratic values, energy security, Arctic issues, fisheries, and a range of scientific research programs.

**Cabinet Secretary visits to Iceland:**

No Cabinet Secretary has visited Iceland since April 2014. Cabinet Secretaries routinely evaluate the appropriateness of participating in events hosted in Iceland, such as the Arctic Circle conference, in light of Iceland's whaling policies.

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In June 2014, Secretary of State John Kerry hosted more than 400 policymakers, ocean scientists, thought leaders, entrepreneurs, environmentalists, and philanthropists from nearly 90 countries to discuss some of the primary challenges facing the ocean today: ocean acidification, sustainable fisheries, and marine pollution. While Iceland is an important partner on ocean issues, given Iceland's commercial whaling policies, the Department of State did not think it appropriate to invite Icelandic officials to participate in the "Our Ocean" Conference.

**Other U.S. Agency actions:**

The Department of Homeland Security, including U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and U.S. Coast Guard, maintains broad legal authorities to combat wildlife trafficking, potentially including any illegal importations or smuggling of Icelandic whale meat into the United States.

CBP currently has targeting rules in place to notify its officers in the field that certain goods may require a CITES permit or certificate for import into the United States. As a result, CBP assists the Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) in their investigations by examining cargo on their behalf when CBP can identify specific risks. CBP also refers suspicious cargo or goods carried by passengers to FWS and NMFS for follow-up. CBP is currently working with ICE Homeland Security Investigations (HSI) to develop an operational response to illegal wildlife trade issues, including trade in CITES-listed species. This work is further supported by staff from FWS and NMFS who recently joined CBP's Commercial Targeting and Analysis Center, a CBP facility that includes interagency partners and is designed to streamline and enhance federal efforts to address import safety issues through improving communication and information-sharing and reducing redundant inspection activities. Interagency collaboration among these agencies bolsters enforcement capabilities and assists CBP with integrating actionable intelligence from these agencies into successful targeting operations and addressing emerging threats, such as Icelandic whale meat and related products.

On April 21-25, 2014, ICE HSI conducted a five-day advanced training course on wildlife trafficking investigations at the Tactical Training Center in Cha-am, Thailand, in support of the U.S. government's National Strategy for Combating Wildlife Trafficking. The training was presented jointly by ICE HSI, FWS, and Freeland, an NGO focusing on wildlife and human trafficking. Funded by the Department of State, International Narcotics and Law Enforcement, this advanced investigation course provided participants with the latest investigative techniques

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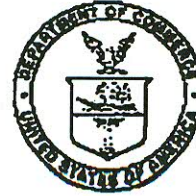
used to gather evidence and documents related to the illegal trade in wildlife and timber at the national and international level. ICE HSI has received approval to conduct this five-day training again in Cha-am in January 2015.

ICE is coordinating with the World Customs Organization, Compliance, and Enforcement Division, to identify capacity-building initiatives in support of the U.S. government's National Strategy for Combating Wildlife Trafficking.

The Department of Homeland Security has not yet had any active investigations related to trade in known or suspected Icelandic whale meat. However, in FY 2013 CBP indicated there were three instances of passengers traveling to the United States with Icelandic whale food products. These cases were referred to the Department of Agriculture and FWS for secondary inspection and ultimate seizure of the food items. However, as part of ICE HSI's wildlife trafficking program, ICE HSI's investigations have involved the illicit sale and/or trade in whale parts and products.

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March 15, 2012

## MEMORANDUM FOR THE PRESIDENT

FROM: Hillary Rodham Clinton *HRC*  
 John Bryson *JEB*

SUBJECT: Actions Taken in Response to Pelly Certification of Iceland

On September 15, 2011, you directed departments and agencies to take a number of actions in response to the certification of Iceland by the Department of Commerce under section 8 of the Fishermen's Protective Act of 1967, as amended (the "Pelly Amendment") (22 U.S.C. 1978) that nationals of Iceland are conducting whaling activities that diminish the effectiveness of the International Whaling Commission (IWC) conservation program. You further directed us to report to you in six months on the actions taken to urge Iceland to cease its commercial whaling activities. Our report of the specific actions we took over the past six months is attached to this memorandum.

The Government of Iceland (GOI) has not changed its whaling policies since certification under the Pelly Amendment. It continues to engage in international trade of whale meat and is likely to continue to permit Icelandic companies to harvest whales for commercial purposes. While the sole company harvesting fin whales did not harvest any in 2011 (probably due to damage to their processing facilities in Japan caused by the April 2011 tsunami), the company has publicly stated that it will resume hunting in the summer of 2012.

In September and October of 2011, Iceland issued permits to export 257,190 kg of whale meat and other whale products to Japan. For 2011, these permits totaled more than 941,581kg. In January 2012, Iceland issued permits to export 129,540 kg of whale products. In October, minke whale meat was found to be for sale at the duty free shop at Keflavik International Airport. The United States quickly alerted the authorities that importation of marine mammal products into the United States, even as personal effects, violates the Marine Mammal Protection Act, the Endangered Species Act and contravenes the Convention on International Trade in

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Endangered Species and Wild Fauna and Flora (CITES). In October 2011, the U.S. CITES Management Authority (within the Department of the Interior) sent a letter to the Icelandic CITES Management Authority, urging them to remove such products from the duty free shop, in accordance with CITES recommendations. Icelandic officials subsequently removed these products from the shelves of Icelandic duty free shops.

On January 1, 2012, the GOI went through a reorganization that included the replacement of the Minister of Fisheries and Agriculture and the appointment of a new chairman of The Icelandic Marine Research Institute (MRI). The MRI provides scientific advice for Iceland's fishing and whale quota management. These organizational changes are expected to facilitate Iceland's European Union (EU) accession negotiations, which will include a discussion of the EU's objection to Iceland's whaling policies, but are unlikely to change Iceland's whaling policy in the near term. Iceland continues to assert that the whale quotas it sets are sustainable, as they are based on input from the MRI. Even if the moratorium on commercial whaling is lifted, these quotas far exceed the advice of the International Whaling Commission's Scientific Committee.

Apart from the Department of Commerce's Pelly certification of Iceland for undermining the effectiveness of the IWC; the Department of the Interior was petitioned by several non-governmental organizations to certify Iceland under Pelly for undermining the effectiveness of the CITES. Its review is ongoing and expected to be concluded soon.

We have emphasized, and the Icelandic officials understand, that the Administration continues to monitor Iceland's whaling activities and its international trade in whale products, particularly as we approach the start of the 2012 whaling season this summer.

Attachment:

Report on Actions Taken in Response to the Certification of Iceland for Undermining the Effectiveness of the International Whaling Commission

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## **Report on Actions Taken in Response to the Certification of Iceland for Undermining the Effectiveness of the International Whaling Commission**

On September 15, 2011, the President directed departments and agencies to take a number of actions in response to the certification of Iceland under section 8 of the Fishermen's Protective Act of 1967, as amended (the "Pelly Amendment") (22 U.S.C. 1978). The President directed:

- (1) relevant U.S. delegations attending meetings with Icelandic officials and senior Administration officials visiting Iceland to raise U.S. concerns regarding commercial whaling by Icelandic companies and seek ways to halt such action;
- (2) Cabinet secretaries to evaluate the appropriateness of visits to Iceland depending on continuation of the current suspension of fin whaling;
- (3) the Department of State to examine Arctic cooperation projects, and where appropriate, link U.S. cooperation to the Icelandic government changing its whaling policy and abiding by the IWC moratorium on commercial whaling;
- (4) the Departments of Commerce and State to consult with other international actors on efforts to end Icelandic commercial whaling and have Iceland abide by the IWC moratorium on commercial whaling;
- (5) the Department of State to inform the Government of Iceland that the United States will continue to monitor the activities of Icelandic companies that engage in commercial whaling; and
- (6) relevant U.S. agencies to continue to examine other options for responding to continued whaling by Iceland.

The President directed relevant departments and agencies to report through the Departments of State and Commerce on the actions taken to urge Iceland to cease its commercial whaling activities within six months.

### **Diplomatic engagement with Iceland on Whaling:**

Senior Administration officials have raised our concerns on whaling with Icelandic Government officials at every opportunity. The U.S. Ambassador to Iceland raised the issue of Iceland's commercial whaling activities at meetings with Iceland's Prime Minister, Foreign Minister and Fisheries Minister as well as with Iceland's

representative to the International Whaling Commission (IWC). Moreover, the U.S. Ambassador to Iceland regularly articulates the U.S. position in his public remarks and in media interviews. Deputy Assistant Secretary of State for European and Eurasian Affairs Marie Yovanovitch raised our concerns with Icelandic officials during her visit to Iceland in October. She and Deputy Assistant Secretary of State for Oceans and Fisheries David Balton discussed the issue on multiple occasions when they met with several of Iceland's high-level officials in Washington. In January, Assistant Secretary of State for European and Eurasian Affairs Phil Gordon set forth our concerns with the Icelandic Foreign Ministry Permanent Secretary, as did the Department of Energy with Icelandic President Grimsson in Abu Dhabi at the World Future Energy Summit. Finally, high-level officials from the Department of State and Department of Defense raised the issue of Iceland's commercial whaling during the U.S.-Iceland strategic dialogue and throughout a two-day series of meetings with Icelandic officials. In particular, we underscored the requirement to examine the appropriateness of cooperating with Iceland on Arctic initiatives in light of Iceland's current commercial whaling activities.

The GOI's response to our actions has been consistent: insisting that the whale quotas it sets are sustainable and asserting that it will not prohibit commercial whaling so long as it deems the catch limits sustainable.

#### **Cabinet Secretary visits to Iceland:**

No Cabinet Secretaries have visited Iceland since September.

#### **Arctic Cooperation:**

The Department of State continues to examine the appropriateness of cooperating with Iceland on Arctic projects, in light of its commercial whaling activities. As noted above, this issue has been raised in our strategic dialogue discussions with Iceland.

#### **Consultation with other International Actors:**

The Departments of Commerce and State have reached out to officials of the European Commission to discuss our joint concerns with Iceland's commercial whaling activities, its continued international trade in whale products, as it regards Iceland's possible accession to the European Union (EU). EU member states have

publically indicated that they expect Iceland to adhere to the EU's anti-commercial whaling policy as a condition for entry.

The U.S. delegation to the International Whaling Commission (IWC) continues to work bilaterally and multilaterally with other IWC delegations on potential future actions and efforts to facilitate the end of Icelandic commercial whaling. The U.S. delegation will express our opposition to commercial whaling and our continued support for the IWC moratorium on commercial whaling at the July 2012 IWC annual meeting.

#### **Inform Government of Iceland of U.S. Monitoring:**

As noted above, the U.S. Ambassador in Reykjavik informed the Government of Iceland that we continue to monitor the activities of the companies engaged in commercial whaling activities. In 2011, Iceland issued permits to export more than 941, 581 kg of whale meat and other whale products to Japan, including 257,190 kg following Pelly certification. In January 2012, Iceland issued permits to export 129,540 kg of whale products, with additional permits likely to follow. We do not have data regarding the amount of whale products imported into Japan.

In October, minke whale meat was found to be for sale at the duty free shop at Keflavik International Airport. The United States quickly alerted the authorities that importation of marine mammal products into the United States, even as personal effects, violates the Marine Mammal Protection Act, the Endangered Species Act and contravenes the Convention on International Trade in Endangered Species and Wild Fauna and Flora (CITES). In October 2011, the U.S. CITES Management Authority within the Department of Interior sent a letter to the Icelandic CITES Management Authority, urging them to remove such products from the duty free shop, in accordance with CITES recommendations. Icelandic officials removed these products from the shelves of Icelandic duty free shops.

#### **Other U.S. Agency Response:**

The Department of the Interior is completing a review of Iceland's activities to determine if they are undermining the effectiveness of the Convention on International Trade in Endangered Species and Wild Fauna and Flora (CITES). Its review is ongoing and expected to be concluded soon.