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THE WHITE HOUSE

WASHINGTON

April 4, 1988

MEMORANDUM FOR PHILLIP D. BRADY

FROM: ALAN CHARLES RAUL *ACR*

SUBJECT: Whaling Sanctions

The attached materials relate to the Secretary of Commerce's certification on February 9, 1988 that Japan was conducting whaling activities in contravention of the International Whaling Commission conservation program. Federal law requires the President to report to Congress regarding the actions he has determined to take against an offending country. The recommendation of Ambassador Yeutter and the unanimous TPRG is that the President should take the following actions:

- (1) withhold 100 percent of the fishing privileges that would otherwise be available to Japan in the U.S. exclusive economic zone,
- (2) refrain from applying trade sanctions under the so-called Pelly Amendment (on the theory that withholding 100 percent of Japan's fishing privileges is a severe sanction and the option to restrict imports of Japanese fish would be preserved), and
- (3) review the situation again after Commerce Secretary Verity has evaluated Japan's response to the withdrawal of fishing privileges; Secretary Verity will report back to the President no later than December 1, 1988.

I have reviewed these materials and the corresponding statutes, and they appear unobjectionable. The attached memorandum for your review and signature states that we have no legal objection.

Attachment

THE WHITE HOUSE

WASHINGTON

April 4, 1988

MEMORANDUM FOR CARMEN SURO-BREDIE
DEPUTY EXECUTIVE SECRETARY
ECONOMIC POLICY COUNCIL

FROM: PHILLIP D. BRADY
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Whaling Sanctions

Counsel's Office has reviewed the above-referenced materials and we have no legal objection to the TPRG's unanimous recommendation and the President's signing the proposed letters to Congress.

cc: Rhett B. Dawson

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) / / Name of Correspondent: Rhett B. Dawson☐ MI Mail ReportUser Codes: (A) (B) (C) Subject: Whaling Sanctions

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>Cutler</u>	ORIGINATOR	<u>88.04.01</u>			<u> / / </u>
	Referral Note:	<u>for PDB</u>			
<u>Cuat 24</u>	<u>D</u>	<u>88.04.01</u>			<u>88.04.04</u>
	Referral Note:				
		<u> / / </u>			<u> / / </u>
	Referral Note:				
		<u> / / </u>			<u> / / </u>
	Referral Note:				
		<u> / / </u>			<u> / / </u>
	Referral Note:				

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: Please reply directly to Carmen Puro -
Bredie with an info copy to Rhett Dawson

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 4/1/88

ACTION/CONCURRENCE/COMMENT DUE BY: 4/4/88

SUBJECT: WHALING SANCTIONS

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	☐	☒	HOBBS	☐	☐
BAKER	☐	☒	HOOLEY	☐	☐
DUBERSTEIN	☐	☒	KING	☐	☐
MILLER - OMB	☒	☐	KRANOWITZ	☒	☐
BAUER	☐	☐	POWELL	☒	☐
CRIBB	☐	☐	RANGE	☐	☐
CRIPPEN	☒	☐	RISQUE	☐	☒
CULVAHOUSE	☒	☐	RYAN	☐	☐
DAWSON	☐	☒	SPRINKEL	☐	☐
DONATELLI	☒	☐	TUTTLE	☐	☐
FITZWATER	☐	☒	SURO-BREDIE	☐	☒
GRISCOM	☒	☐	CLERK	☐	☒

REMARKS:

Please provide any comments/recommendations directly to Carmen Suro-Bredie (x6402) with an info copy to my office by Monday, April 4th. Thank you.

RESPONSE:

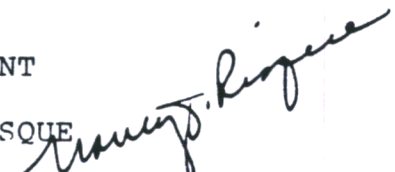
Rhett Dawson
Ext. 2702

THE WHITE HOUSE
WASHINGTON

Received SS
1988 APR -1 PM 3:32

April 1, 1988

MEMORANDUM FOR THE PRESIDENT

FROM: NANCY J. RISQUE 
SUBJECT: Whaling Sanctions

Issue

On February 9, 1988, Secretary of Commerce Verity certified that Japan is conducting whaling activities that diminish the effectiveness of the International Whaling Commission (IWC) conservation program. Under the Pelly Amendment of the Fishermen's Protection Act of 1967, once the Secretary of Commerce certifies a country, you are required to report to Congress 60 days from the date of certification on the type of actions you are taking.

A letter from Secretary Verity recommending steps to address the Japanese whaling violations is attached. Also attached is a proposed letter from you to the Congress, outlining the steps the Administration is taking to encourage Japanese compliance with the IWC conservation program. The letter serves as the report to Congress required by the Pelly Amendment.

Background

The International Whaling Commission recently disallowed Japan's request to issue permits to kill 300 minke whales for scientific purposes. Nevertheless, the Japanese proceeded to issue these permits, triggering the Secretary of Commerce's certification process. Once the Secretary certifies, there are two different statutes covering sanctions for whaling violations:

1. The Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act, which requires the Secretary of State to withhold from a certified country (in this case Japan) at least 50 percent of the fishing privileges that would otherwise be available to that country; and
2. The Pelly Amendment to the Fishermen's Protective Act, which permits the President to take additional action to restrict any or all imports of fisheries from the certified country.

Discussion

Secretary Verity's letter incorporates the unanimous recommendations of the Trade Policy Review Group that you:

1. Instruct Secretary Shultz to apply the strongest possible sanctions available under the Packwood-Magnuson Amendment. He would withhold 100 percent of the fishing privileges that would otherwise be available to Japan in the U.S. Exclusive Economic Zone. At present, Japan has requested 3,000 tons of sea snails and 5,000 metric tons of Pacific whiting, but this action would apply to any future requests, as well.
2. Refrain from applying trade sanctions under the Pelly Amendment at this time, reserving this option contingent upon further monitoring of the situation.
3. Review the situation again after Secretary Verity has had time to assess Japan's response to the Packwood-Magnuson sanctions. Secretary Verity would report to you no later than December 1, 1988.

This item will engender controversy among the conservationists, since the killing of whales is always a highly emotional issue, even when it involves a type of minke whale that is not endangered, as in this instance. These groups may militate for stronger action; however, we believe these sanctions are the most effective means to promote change in Japan at this time.

Recommendation

That you approve the recommendation and sign the attached letters to Congress. Ambassador Yeutter and the Trade Policy Review Group have reviewed these recommendations and agree with them.

____ Approve ____ Approve as Amended ____ Disapprove ____ No Action



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

MAR 31 1988

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

On February 9, 1988, I certified to you, under the Pelly Amendment to the Fishermen's Protective Act and the Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act, that Japanese nationals were conducting whaling operations that diminished the effectiveness of the International Whaling Commission (IWC) conservation program.

The Packwood-Magnuson Amendment requires the Secretary of State to withhold from a certified country at least 50 percent of the fishing privileges that would otherwise be available to that country. The Pelly Amendment additionally authorizes the President to restrict any or all imports of fisheries products of the certified country. The Pelly Amendment also provides that within 60 days following the certification (i.e. April 9), you must notify the Congress of any action regarding the certification, and you must inform the Congress of the reasons for any such action that falls short of prohibiting the importation of all fish products of the certified country.

Since my certification of Japan, I have reviewed the options available to you and consulted with the agencies of the Trade Policy Review Group (TPRG) as well as the Council on Environmental Quality and the Marine Mammal Commission.

Because Japan has not yet indicated any intent to undertake remedial or mitigative actions, I recommend that the strongest possible sanctions available under the Packwood-Magnuson Amendment be imposed. This will entail denial of Japan's request for the opportunity to fish for 3,000 metric tons of sea snails and 5,000 metric tons of Pacific whiting. It also entails denial of any future allocations so long as the reasons that gave rise to the certification still prevail. I recommend the maximum level of sanctions under the Packwood-Magnuson Amendment to send a message to Japan that the United States will use leverage to uphold conservation programs established by international agreements.

In view of my recommendation of full sanctions under the Packwood-Magnuson Amendment, I believe it would not be appropriate to impose additional sanctions under the Pelly Amendment at this time. I do recommend that you reserve that option depending upon further monitoring of the situation. The immediate and prospective effects of a 100 percent reduction of fishing allocations, coupled with Presidential review in the near future, is the most effective means of encouraging Japan to embrace the IWC conservation program.

These recommendations have the unanimous concurrence of the TPRG and the other agencies consulted. If you agree, I suggest that you sign the enclosed letters reporting to Congress as required by the Pelly Amendment.

Sincerely,


Secretary of Commerce

Enclosures

THE WHITE HOUSE

WASHINGTON

April 1, 1988

Dear Mr. Speaker:

On February 9, 1988, Secretary of Commerce C. William Verity certified under Section 201(e) of the Magnuson Fishery Conservation and Management Act of 1976, as amended (Packwood-Magnuson Amendment) (16 U.S.C. 1821(e)) and Section 8 of the Fishermen's Protective Act of 1967, as amended (Pelly Amendment) (22 U.S.C. 1978), that Japan has conducted whaling activities that diminish the effectiveness of the International Whaling Commission (IWC) conservation program. This letter constitutes my report to Congress pursuant to subsection (b) of the Pelly Amendment.

The Secretary of Commerce based his decision to certify Japan on the following. The Government of Japan issued permits to its nationals, allowing them to kill Southern Hemisphere minke whales for research purposes, despite a 1987 resolution adopted by the IWC. This resolution recommended that Japan not issue permits until uncertainties in their scientific research proposals were resolved. A revised Japanese research proposal had been reviewed by a special meeting of the IWC Scientific Committee and had not succeeded in satisfying the committee that the defects in the research program had been cured.

Shortly after the Secretary's certification, the IWC adopted a second resolution on February 14, 1988, recommending that Japan not proceed with its revised research program. Japan has continued its whaling activities notwithstanding this second resolution.

Given the lack of any evidence that Japan is bringing its whaling activities into conformance with the recommendations of the IWC, I am directing the Secretary of State under the Packwood-Magnuson Amendment to withhold 100 percent of the fishing privileges that would otherwise be available to Japan in the U.S. Exclusive Economic Zone. Japan has requested the opportunity to fish for 3,000 metric tons of sea snails and 5,000 metric tons of Pacific whiting. These requests will be denied. In addition, Japan will be barred from any future allocations of fishing privileges for any other species, including Pacific cod, until the Secretary of Commerce determines that the situation has been corrected.

The sanctions being imposed are the strongest possible under the Packwood-Magnuson Amendment. The immediate and prospective effects of a 100 percent reduction of fishing allocations, coupled with Presidential review in the near future, is the most effective means of encouraging Japan to embrace the IWC conservation program. Therefore, I will not impose at this time the sanctions available under the Pelly Amendment against Japanese fish products imported into the United States. I am asking Secretary Verity, in cooperation with Secretary Shultz, to monitor Japanese whaling practices during the next few months. He will report to me no later than December 1, 1988.

I also am directing the Secretary of Commerce and the Secretary of State to continue consultations with our IWC partners to ensure that we bring to a halt all whaling that diminishes the effectiveness of the IWC's conservation program, specifically including that under Japan's contested research program. Our actions taken today and in the future should encourage all nations to adhere to the conservation programs of the IWC.

Sincerely,

(Ronald Reagan)

The Honorable Jim Wright
Speaker of the
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

April 1, 1988

Dear Mr. President:

On February 9, 1988, Secretary of Commerce C. William Verity certified under Section 201(e) of the Magnuson Fishery Conservation and Management Act of 1976, as amended (Packwood-Magnuson Amendment) (16 U.S.C. 1821(e)) and Section 8 of the Fishermen's Protective Act of 1967, as amended (Pelly Amendment) (22 U.S.C. 1978), that Japan has conducted whaling activities that diminish the effectiveness of the International Whaling Commission (IWC) conservation program. This letter constitutes my report to Congress pursuant to subsection (b) of the Pelly Amendment.

The Secretary of Commerce based his decision to certify Japan on the following. The Government of Japan issued permits to its nationals, allowing them to kill Southern Hemisphere minke whales for research purposes, despite a 1987 resolution adopted by the IWC. This resolution recommended that Japan not issue permits until uncertainties in their scientific research proposals were resolved. A revised Japanese research proposal had been reviewed by a special meeting of the IWC Scientific Committee and had not succeeded in satisfying the committee that the defects in the research program had been cured.

Shortly after the Secretary's certification, the IWC adopted a second resolution on February 14, 1988, recommending that Japan not proceed with its revised research program. Japan has continued its whaling activities notwithstanding this second resolution.

Given the lack of any evidence that Japan is bringing its whaling activities into conformance with the recommendations of the IWC, I am directing the Secretary of State under the Packwood-Magnuson Amendment to withhold 100 percent of the fishing privileges that would otherwise be available to Japan in the U.S. Exclusive Economic Zone. Japan has requested the opportunity to fish for 3,000 metric tons of sea snails and 5,000 metric tons of Pacific whiting. These requests will be denied. In addition, Japan will be barred from any future allocations of fishing privileges for any other species, including Pacific cod, until the Secretary of Commerce determines that the situation has been corrected.

The sanctions being imposed are the strongest possible under the Packwood-Magnuson Amendment. The immediate and prospective effects of a 100 percent reduction of fishing allocations, coupled with Presidential review in the near future, is the most effective means of encouraging Japan to embrace the IWC conservation program. Therefore, I will not impose at this time the sanctions available under the Pelly Amendment against Japanese fish products imported into the United States. I am asking Secretary Verity, in cooperation with Secretary Shultz, to monitor Japanese whaling practices during the next few months. He will report to me no later than December 1, 1988.

I also am directing the Secretary of Commerce and the Secretary of State to continue consultations with our IWC partners to ensure that we bring to a halt all whaling that diminishes the effectiveness of the IWC's conservation program, specifically including that under Japan's contested research program. Our actions taken today and in the future should encourage all nations to adhere to the conservation programs of the IWC.

Sincerely,

(Ronald Reagan)

The Honorable George Bush
President of the Senate
Washington, DC 20510

Trade Whales

THE WHITE HOUSE

Office of the Press Secretary
(Santa Barbara, California)

For Immediate Release

April 6, 1988

TEXT OF A LETTER FROM THE PRESIDENT
TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
AND THE PRESIDENT OF THE SENATE

April 6, 1988

Dear Mr. Speaker: (Dear Mr. President:)

On February 9, 1988, Secretary of Commerce C. William Verity certified under Section 201(e) of the Magnuson Fishery Conservation and Management Act of 1976, as amended (Packwood-Magnuson Amendment) (16 U.S.C. 1821(e)) and Section 8 of the Fishermen's Protective Act of 1967, as amended (Pelly Amendment) (22 U.S.C. 1978), that Japan has conducted whaling activities that diminish the effectiveness of the International Whaling Commission (IWC) conservation program. This letter constitutes my report to the Congress pursuant to subsection (b) of the Pelly Amendment.

The certification of the Secretary of Commerce was based on the issuance by the Government of Japan of permits to its nationals, allowing them to kill Southern Hemisphere minke whales for research purposes, despite a 1987 resolution adopted by the IWC. This resolution recommended that Japan not issue permits until uncertainties in their scientific research proposals were resolved. A revised Japanese research proposal had been reviewed by a special meeting of the IWC Scientific Committee and had not succeeded in satisfying the Committee that the defects in the research program had been cured.

Shortly after the Secretary's certification, the IWC adopted a second resolution on February 14, 1988, recommending that Japan not proceed with its revised research program. Japan has continued its whaling activities notwithstanding this second resolution.

Given the lack of any evidence that Japan is bringing its whaling activities into conformance with the recommendations of the IWC, I am directing the Secretary of State under the Packwood-Magnuson Amendment to withhold 100 percent of the fishing privileges that would otherwise be available to Japan in the U.S. Exclusive Economic Zone. Japan has requested the opportunity to fish for 3,000 metric tons of sea snails and 5,000 metric tons of Pacific whiting. These requests will be denied. In addition, Japan will be barred from any future allocations of fishing privileges for any other species, including Pacific cod, until the Secretary of Commerce determines that the situation has been corrected.

The sanctions being imposed are the strongest possible under the Packwood-Magnuson Amendment. The immediate and prospective effects of a 100 percent reduction of fishing allocations, coupled with Presidential review in the near future, is the most effective means of encouraging Japan to embrace the IWC conservation program. Therefore, I will not

more

(OVER)

impose at this time the sanctions available under the Pelly Amendment against Japanese fish products imported into the United States. I am asking Secretary Verity, in cooperation with Secretary Shultz, to monitor Japanese whaling practices during the next few months and to report to me no later than December 1, 1988.

I also am directing the Secretary of Commerce and the Secretary of State to continue consultations with our IWC partners to ensure that we bring to a halt all whaling that diminishes the effectiveness of the IWC's conservation program, specifically including that under Japan's contested research program. Our actions taken today and in the future should encourage all nations to adhere to the conservation programs of the IWC.

Sincerely,

RONALD REAGAN

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