



KING'S ACADEMY MODEL UNITED NATIONS 2026

International Court of Justice

**AUSTRALIA V. JAPAN**

*By Faysal Alwir*

**Name- ICJ-KAMUN-02**

**Date: February 2026**

**TRIAL CHAMBER I**

**Before:**

**Judge Faysal Alwir**

**SITUATION REGARDING**

**THE CASE OF**

***AUSTRALIA V. JAPAN***

**Under Seal**

**CASE DOCUMENTS**

## INDICTMENT

The Prosecutor, acting on behalf of Australia hereby charges the state Japan with the following offense:

CLAIM ONE: Japan breached obligations under the International Convention for the Regulation of Whaling (ICRW) and relevant rules of international law, including but not limited to:

- a) Conducting whaling in the Antarctic through JARPA II in a manner not justified under the ICRW's "special permit" exception, and/or
- b) Failure to comply with the IWC Schedule and the global moratorium on commercial whaling as reflected in the Schedule, and/or
- c) Breach of the duty to act in good faith in the interpretation and application of treaty obligations, and/or
- d) Failure to respect the conservation purpose of the ICRW and related international commitments protecting whale stocks.

### Possible Testimonies:

For the Prosecution:

**Tony Burke**

*Australian, Minister for Sustainability*

**Dr. Nick Gales**

*Australian, Senior Marine Scientist*

**Peter Garrett**

*Australian, Former Environment Minister*

For the Defense:

**Joji Morishita**

*Japanese, Senior Representative for ICW*

**Dr. Yoshihiro Fujise**

*Japanese, Director General of the Institute of Cetacean Research.*

**Shigetoshi Nikiwaki**

*Japanese, Prominent Researcher*

Note on witnesses: It is not essential to use these witnesses for your case and others may be introduced, these are just examples for reference.

## **OVERVIEW OF THE INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING (ICRW), THE IWC SCHEDULE, AND SPECIAL PERMITS**

The International Convention for the Regulation of Whaling (ICRW) was adopted in 1946 to establish a system of international regulation for whaling that would ensure the conservation of whale stocks while also enabling orderly management of whaling activities. The treaty created the International Whaling Commission (IWC), which serves as the central body responsible for reviewing scientific information and adopting binding regulatory measures through the Convention's Schedule. The ICRW's language reflects a dual purpose that has shaped international debate for decades: protecting whale populations from irreversible depletion while regulating the conditions under which exploitation might occur.

A pivotal development under this regime was the IWC's decision in 1982 to establish a pause on commercial whaling beginning with the 1985/1986 season. This measure, widely known as the commercial whaling moratorium, remains one of the most influential contemporary rules governing whaling. Its significance lies not only in limiting kills but also in setting a conservation baseline that frames how states justify any continued lethal takes. The moratorium is implemented through the Schedule and sits at the heart of the modern legal and political divide within the IWC.

However, the ICRW also contains an exceptional mechanism that has been central to controversy: Article VIII. This provision allows contracting governments to issue special permits authorizing the taking of whales for purposes of scientific research. Under the structure of the treaty, the authority for issuing and regulating such permits rests primarily with national governments rather than the IWC itself. This means that the legality of special-permit whaling depends heavily on whether the permits and the programs they authorize genuinely meet the scientific threshold envisioned by the Convention's architecture and object and purpose.

The legal significance of Article VIII is that it creates a zone of tension between national discretion and collective conservation governance. On one hand, states argue that lethal research may be necessary to obtain certain biological or ecosystem data. On the other hand, critics emphasize that if the scale, methods, or design of a program appear indistinguishable from commercial whaling, the permit system risks undermining the moratorium and the credibility of international whale conservation.

## FACTS STIPULATED

Japan conducted the Japanese Whale Research Program under Special Permit in the Antarctic (JARPA) beginning in the late 1980s and later introduced the Second Phase of that program (JARPA II) in 2005. JARPA II was designed as a larger-scale long-term research program, involving both lethal and non-lethal methods, and it focused primarily on Antarctic minke whales, with planned sampling also including fin whales and humpback whales. The humpback component was not carried out amid strong international opposition.

JARPA II's operational system relied on special permits issued by the Government of Japan under Article VIII of the ICRW. The Institute of Cetacean Research functioned as the central research institution associated with the program, while the whaling fleet in the Antarctic historically operated around the *Nisshin Maru* mothership structure.

Australia has long opposed both commercial whaling and the expansion of lethal research whaling in the Southern Ocean. After years of dispute and unsuccessful negotiation within the IWC, Australia is now lodging formal proceedings against Japan at the International Court of Justice, arguing that Japan's Antarctic program breached obligations under the ICRW and its Schedule.

Japan argues that JARPA II was established for legitimate scientific purposes under the treaty's special permit framework. From Japan's perspective, lethal sampling was an authorized and necessary tool for collecting biological and ecosystem data that could contribute to long-term whale management and the understanding of Antarctic marine dynamics. Japan therefore asserts that the dispute reflects an over-politicization of the IWC process rather than a clear legal violation of the ICRW's scientific provisions.

Australia, by contrast, argues that the scale, design, and outputs of JARPA II were not reasonably connected to genuine scientific necessity and that the program's structure effectively undermined the moratorium by enabling large annual kills under an exceptional legal label.

## **TIMELINE OF MAJOR EVENTS**

- 1946: The International Convention for the Regulation of Whaling (ICRW) is adopted, establishing the International Whaling Commission (IWC) and the Schedule mechanism for binding regulatory measures.
- 1982: The IWC adopts the decision to pause commercial whaling, creating the commercial whaling moratorium, to take effect from the 1985/1986 season
- 1987: Japan begins the Japanese Whale Research Program under Special Permit in the Antarctic (JARPA), operating under Article VIII special permits.
- 1994: The IWC adopts the Southern Ocean Sanctuary, covering waters around Antarctica through the Schedule.
- 2004/05: JARPA concludes after roughly 18 years of operation, with scientific and political debate continuing within the IWC over the size, methods, and necessity of lethal sampling.
- 2005: Japan announces the Second Phase program, JARPA II, with expanded objectives and larger planned sample sizes for Antarctic minke whales and planned inclusion of fin and humpback whales.

## **APPLICABLE STATUTORY LAW**

### **Statute of the International Court of Justice:**

Article 36: Jurisdiction of the Court.

Article 38: Sources of international law applied by the Court (international conventions, international custom, and general principles of law).

Article 41: Power to indicate provisional measures to preserve the rights of parties.

Article 59: Binding force of ICJ judgments between the parties.

Article 94 of the UN Charter (linked provision): Obligation of UN members to comply with ICJ decisions.

### **International Convention for the Regulation of Whaling (ICRW):**

The Convention's object and purpose as reflected in the treaty text and the regulatory authority of the IWC Schedule.

Article VIII: Special permits for scientific research whaling issued by national authorities.

The IWC Schedule provisions implementing the commercial whaling moratorium.

## EXAMPLE WITNESS AFFIDAVIT

*(Witnesses do not have to memorize affidavits so the affidavits can be long, the most important part is that they are well-trained and properly understand themselves and their role in the case.)*

### **Dr. Nick Gales:**

#### WITNESS FOR THE PROSECUTION

I, Dr. Nick Gales, being duly sworn, state as follows:

My name is Nick Gales. I am an Australian marine scientist who has held senior leadership roles in Antarctic and marine research, including directing Australia's Antarctic science and contributing to the national scientific understanding of Southern Ocean ecosystems and large marine species. My professional background is grounded in cetacean biology, conservation science, and the responsible management of wildlife in fragile polar environments.

I appear before this Court in support of Australia's position that Japan's Antarctic whaling program conducted under special permits, particularly the large-scale lethal components associated with JARPA II, cannot be reasonably defended as "for purposes of scientific research" within the meaning and intent of Article VIII of the International Convention for the Regulation of Whaling. While scientific research is a legitimate and necessary foundation for conservation policy, the special permit exception must be interpreted narrowly and faithfully, so that it does not become a mechanism that undermines the broader regulatory structure of the Convention and the conservation commitments reflected in the IWC Schedule.

From my perspective as a scientist, the critical issue is proportionality and necessity. A program that relies on substantial annual lethal sampling in a region that the international community has treated with heightened conservation concern raises grave doubts about whether the scientific objectives could be met through non-lethal or less intrusive methods. Modern cetacean science has advanced to a point where population assessment, ecosystem monitoring, and behavioral research can increasingly rely on techniques that do not require large-scale killing. The continued justification of high lethal quotas therefore demands an exceptionally strong, transparent, and scientifically compelling rationale, which Japan does not have.