



The Hon. Tony Burke MP

T R A N S C R I P T

Press Conference

4 January 2010

Subjects: Whaling – Australia's legal action in International Court of Justice

E&OE only

TONY BURKE: Thanks very much for coming here to Kingsgrove. There's been a lot reported today about the actions of the Japanese whaling fleet in the Southern Ocean. I want to make a few things clear.

First of all, Australians believe whaling is wrong. The Gillard-Labor Government believes whaling is wrong and should stop.

That's why we've taken action in the International Court of Justice to be able to take international legal action to end whaling.

There's been some comments from the Opposition over the last 24 hours that have involved Tony Abbott trying to crawl away from his words of not even 12 months ago.

Make no mistake, on the 12 January last year Tony Abbott put himself on the record in The Age newspaper opposed to us taking legal action against Japan. He put himself on the record saying the diplomatic conversation should effectively go on forever, because that's what it meant when he opposed us taking action in the International Court of Justice.

If we had continued along the path that the Liberal Government had when they were last in power and that Tony Abbott wanted not even a year ago, then there would be no action being taken internationally at the moment.

Instead, we have done exactly what we said we'd do. We gathered the evidence to be able to take that action by sending a Customs vessel out to take the relevant photographic material that we needed to form a legal case. We then said that if the diplomatic solution was not successful, we would take legal action. We tried diplomatic means. When they weren't successful, we took legal action.

That is evidence of the Gillard Government's opposition to whaling. It matches the views of Australians and it's as far away as you can get of the equivocation that Tony Abbott has continued to show on this issue.

QUESTION: When you just talk about diplomatic means does that include any discussion with Japan about them continuing there whaling but reducing the number of whales that they kill.

TONY BURKE: Australia's position is, and has always been, that whaling should end.

QUESTION: But was there any discussion with the Japanese?

TONY BURKE: Australia's position is, and has always been, that whaling should end. There's been no shift, there never has been. The difference is it used to be Australia's position under the previous government, under the Liberal Government, that whaling should end but they were never willing to take it to the International Court. The change is that under the Labor Government, we do still believe, absolutely, that whaling should end. We believe that Japan should stop whaling. We're prepared to take international legal action to bring that to a head.

QUESTION: So you're saying that they [indistinct]

TONY BURKE: I can only continue to repeat what the position has always, always been - Australia's position has always been that whaling should end. We said that we would collect evidence and if diplomatic solutions failed, then we would take international legal action. That's exactly - exactly what we've done.

QUESTION: So we know that Australian's think whaling should end, but did you talk to Japan about a reduction in levels of the whales?

TONY BURKE: I presume you're wanting me to do here is comment on the leaked cables. It's consistently been the position of the government that we don't comment on leaked cables. What I can tell you is what the

position of Australia has always been, and that's that whaling should end.

QUESTION: Did the deputy chief of staff of Stephen Smith when he was Foreign Minister, did he tell Japan that we would accept a reduced number of kills and then therefore be happy to continue with Japan's whaling?

TONY BURKE: I'm not sure how I'm meant to be answering questions on behalf of the staff members of other people. I can tell you what the position of Australia has always been, and I've done that. The difference between us and the liberal party is we've been prepared to take action on that.

QUESTION: Now you're going to take action, where are you up to with the court case in the international court?

TONY BURKE: The process was this. Over the summer of 2007 and 2008, we dispatched a Customs vessel to undertake surveillance and to get the photographic evidence that we believed was necessary to be able to launch a case. We then went into preparation of that legal case and the documents were filed in 2010, to be able to conduct that case. The timing then goes through the International Court of Justice.

Obviously, our position, we would like whaling to be able to end immediately. That has always been our position, and we've pursued international means to be able to do that.

The processes within the International Court of Justice are processes which are now underway. I can't give you precise dates on individual hearings, and when we get to a decision on that. But our legal strategy is simple: we want to have a case that ends whaling. And that's what we've initiated.

QUESTION: Do you have a rough timeline then when it might go before the court?

TONY BURKE: I'm not in a position to be able to offer that.

QUESTION: Should we be sending a monitoring vessel to the southern ocean given there's been some confrontations with Sea Shepards. Over the weekend and over the past couple of weeks, should we be sending a vessel?

TONY BURKE: There's been no decision taken on any of that at this stage, but can I make clear where Sea Shepherd and the Japanese whaling fleet

are at the moment - they are in the New Zealand search and rescue zone, they are south-east of New Zealand in the Southern Ocean. That is, they are on the other side of New Zealand in the Southern Ocean. They're within their search and rescue zone. They are not within the Australian search and rescue zone.

There has only been one occasion, I'm advised, when a customs vessel has been sent out, and that was over the summer of 2007-2008 when we sent the customs vessel out to be able to collect the evidence, the material that was required to be able to run the court case.

QUESTION: [Inaudible question]

TONY BURKE: As I say we are in the New Zealand search and rescue zone at the moment. The only time that surveillance of this nature is taking place I'm advised by a customs vessel is when we needed for that specific purpose.

QUESTION: What's this doing with our relationship with Japan?

TONY BURKE: Australia continues to have a good relationship with Japan, but make no mistake; this is an issue where we have a markedly different view from Japan. This is not something where the Government or Australians generally see a whole lot of grey areas. Our view is simple, and that is Australians believes whaling is wrong and it should stop.

QUESTION: Would you be willing to, if the court ruled it, accept the fact that maybe some whales will be attacked down there and will be used for research down there as they say they are doing?

TONY BURKE: We don't accept so-called scientific whaling. We don't accept an argument that you conduct scientific research on a whale by harpooning it. The position of Australia is that whaling should end, and that's our intention with international case.

QUESTION: There's been an accusation from the opposition today that the governments effectively lied, pretty strong words...

TONY BURKE: The Opposition would do anything, anything to deflect attention from their own position on this one. Tony Abbott, 12 January, in The Age, last year, opposing us taking legal action. If they'd been in government, the court case would not have been initiated.

Greg Hunt, their Environment Spokesman - same concept. He believed you had to get a coalition of countries together before you

conduct any sort of action.

Our position was simple - the view of Australians is strong, the view of the government is strong: whaling should end. There's no room for prevarication on this. There's no room for mealy-mouthed apologists here.

Tony Abbott would have continued to go cap in hand saying please whale again. He never would have taken legal action. The view of the Labor Government compared to Tony Abbott's view could not have a more stark difference.

QUESTION: Why doesn't the government come out and just be honest and tell us once and for all did this happen? Was a deal struck with Japan? Why won't you just say yes or no?

TONY BURKE: Well I think on the question there as to whether a deal's been struck, it's pretty apparent - we've taken them to court. We're opposed to whaling. We want them to stop. We've taken international legal action to stop it. It's as simple as that.

QUESTION: What were some of the diplomatic means that you discussed before that you attempted before taking this legal action?

TONY BURKE: Oh, there was an appointment of a Whaling Commission, a position that was filled by Sandy Hollway at the time. There would have been a series of different meetings prior to the time that I was Environment Minister that these would have taken place.

Then ultimately you had a decision of government as to whether what was on offer diplomatically satisfied Australia, and Australia's view was that whaling should end. Nothing in the diplomatic discussions, as it turned out was going to bring an end to whaling by Japan. Therefore we took them to court.

Thank you very much.

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