

Shaming to 'green': Australia–Japan relations and whales and tuna compared

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Abstract

In this article, we consider how states wield shaming strategies to 'be green' and to try to influence other states to 'become green' – environmentally responsible states. We compare Australia–Japan relations in the international politics of whales and tuna, respectively, and show that only at the level of norms and identities, rather than material interests, can two seemingly contradictory behaviors be reconciled, where a country shames another in one case (whales) and deliberately spares it from shaming in another (tuna). We argue that each issue reveals two different ways in which Australia seeks to construct itself as an environmentally responsible state, following a 'preservationist' and a 'conservationist' paradigm, respectively. We thus contribute to the constructivist understanding of the role of norms of global environmental politics and of the links between norms, identities, and the choice of shaming as an instrument of foreign policy.

1 Introduction

In 2005, a report revealed that Japan had been substantially underreporting its catch of southern bluefin tuna (SBT), in violation of its obligations under the Convention for the Conservation of Southern Bluefin Tuna. Japan was one of the original signatories of the Convention in 1993 but had been underreporting its catch for over two decades, by as much as 178,000 mt above its agreed quota of 121,300 mt (6,065 mt a year) (Phillips, Begg and Curtotti, 2009). The damning report, however, was not released to the media; and when the media did become aware of it in 2006, both the Australian government and Australian industry representatives actively avoided media scrutiny.¹ Yet, when it comes to whaling, the Australian government seldom misses an opportunity to mobilize the press to shame the Japanese government: for example, in 2010 when it threatened to take Japan to the International Court of Justice for its stance on whaling. Since Australia no longer has a whaling industry and it has a southern bluefin industry worth around AUD 200 million annually, whose main market is Japan, at first glance this reads as a straightforward case of hypocrisy; or indeed as the incompetence of a government whose branches cannot talk to one another.² However, beyond the blatant double standards – and without wanting to excuse

1 Japan's underreporting was accidentally made public by Richard McLoughlin, the then Managing Director of the Australian Fisheries Management Authority (AFMA), in a seminar at the Australian National University (ANU) where McLoughlin was very critical of AFMA's achievements in several fisheries. ANU made the transcript available on its website, where it was picked up by the media. McLoughlin subsequently resigned, despite not being at the end of his contract, possibly because of this *faux pas* (Ausmarine, 2007). As this was her area of expertise, Kate Barclay was contacted by a researcher for the Australian Broadcasting Corporation soon after the story broke. Not being in a position to comment on this episode, Kate Barclay referred the reporter instead to either the Australian Tuna Boat Owners' Association or the Department of Agriculture, Fisheries and Forestry (DAFF), only to hear that the reporter had been unable to get a response from either. A search of the *atuna*, Archive of Tuna Market News (www.atuna.com), reveals none of media articles on the underreporting scandal from mid-2006 contains comments from an Australian industry organization, DAFF or AFMA, although there were a few guarded comments from the then Minister for Fisheries Forestry and Conservation, Eric Abetz. The government's report on commonwealth fisheries notes that in 2006 the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) 'revealed large, unreported catches of SBT' but does not name Japan as the culprit (Phillips, Begg and Curtotti, 2009, p. 317).

2 DAFF handles SBT, whereas whaling is the bailiwick of the Department of Sustainability, Environment, Water, Population and Communities.

them – is there something more to Australia’s behavior than meets the eye?

We will show that what explains Australia’s erratic behavior vis-a-vis its second most important trading partner are two different self-understandings of what it means to be an environmentally responsible state.³ In fact, in both cases, as we will see, Australia is seeking to obtain the same thing: Japan’s active cooperation in the collective management of two global resources – that Japan ‘green’ its whaling and tuna fishing acts. Australia’s behavior, however, is not necessarily motivated by the concern about how best to influence Japan, as the whaling case illustrates. Rather, in its understanding of what shape that cooperation should take, Australia is working off two very different scripts, which we call ‘conservationist’ and ‘preservationist’, respectively. Each one is rooted in two competing paradigms that lie at the heart of Australia’s construction of itself as a green state. The explanation, in other words, lies in the realm of identity constructions, which has been tabled by the constructivist scholarship in International Relations (IR) as a key driver of state behavior in international politics. What is noteworthy is that such types of explanations should obtain in relation to the exploitation of natural resources, an area that *prima facie* better lends itself to interest-based, and thus so-called rationalist, explanations of international politics.

In this article, we explore the links between the environmental norms state observe, their identity constructions, and their use of shaming as foreign policy instruments. We argue that what explains Australia’s use of shaming strategies vis-a-vis Japan in one case (whaling) and not the other (tuna) is based on the existence of a shared understanding of the terms within which cooperation over the collective management of that common resource, tuna, should take place. The possibility of this common understanding in turn is grounded in the fact that both countries work off a similar, conservationist, normative script. Despite the similarity between these two issue areas, such a shared understanding is impossible in the whaling case where Australia and Japan are bound to two different normative scripts. This in turn is what has brought cooperation to a stalemate in the whaling issue.

3 Japan was Australia’s largest trading partner from the 1950s until it was overtaken by China in the early 2000s.

This article thus contributes to the growing constructivist scholarship analyses of global environmental politics (GEP) in three ways.⁴ First, by drawing out the normative anchorings of international environmental cooperation today. In other words, at a time of a sharpening global ecological crisis, understanding how (or even whether) states cooperate over increasingly scarce shared resources requires understanding the specific ways in which they understand their environmental obligations; the way this has reshaped their appraisal of their interests; and of their identities, leading them to construct themselves as environmentally responsible states. Second, we flesh out the content of these global environmental norms at play in collective resource management by mapping them onto the two foundational scripts, that of preservationism and conservationism. Third, we show that the international has become the space for the construction of these new green state identities. Indeed, what is noteworthy in these two cases is that the space of inter-state relations, rather than the domestic space, is the central locus for Australia's construction of its 'green' identity. Whereas Australia's position on other environmental issues, most notably climate change, is the subject of intense, acrimonious, and divisive debate at the domestic level, whales and tuna today are characterized by comparatively little domestic debate and are relatively consensual.⁵ In these issue areas, and even while it is aimed at domestic consumption, the international arena, rather than the national one, marks out the space where Australia primarily constructs its state identity. Lastly, this article also contributes to IR's understanding of shaming as an instrument of foreign policy in international environmental relations.

In the first part of this article, we engage with the IR literature on shaming practices and show why the constructivist focus on norms most effectively accounts for Australia's behavior in these two cases. We thus draw out the relationships between shaming as a foreign policy practice and the normative scripts state observe. We then introduce the two sets of norms that have taken shape around the international management of

4 For an overview of rationalist and constructivist approaches to GEP in IR, c.f. O'Neill (2009) and Vogler and Imber (1996).

5 Even when, in the case of tuna, policies are adopted that had negative economic fallout, such as when Australia significantly reduced the national SBT quota in 2009. Although there were protests from industry, these did not impede the policy change, nor did they generate the level of public debate visible around climate change.

natural resources, and that have become implicated in states' identity constructions, which we call, building on [Charlotte Epstein \(2006\)](#), 'preservationist' and 'conservationist', respectively.

In the second and third parts of this article, we analyze Australia's behavior in the international politics of whaling and tuna, respectively. Through detailed empirical analysis, we show that both its shaming (in the case of whaling) and its not-shaming (tuna) strategies pertain to two different ways by which Australia constructs itself as an environmentally responsible or 'green' state upon the international stage, following a preservationist and conservationist script, respectively. Only by revealing the different normative scripts at play, can one properly make sense of Australia's erratic behavior toward Japan.

2 Shaming, norms, and two ways of 'being green'

In this section, we review the shaming literature and consider alternate, rationalist, explanations for Australia's wielding of its shaming strategies, before settling on the constructivist account. We consider both options, of choosing to shame or to actively eschewing shaming in a relatively similar case, as the two ends of the spectrum of Australia's shaming strategies.⁶ We show that these strategies' effectiveness lies not in the material costs but in the fact that they tap into powerful global norms. We then introduce the two different environmental paradigms underwriting the two sets of norms that account for the difference in Australia's behavior, preservationism, and conservationism.

2.1 *Who shames?*

In the shaming literature in IR, empirically the issue areas where the 'mobilization of shame', to use [Edward Weisband's \(2000\)](#) expression, has received most scholarly attention are human and labor rights. Their naming and shaming practices have been studied in relation to three types of actors, namely states, international organizations (IOs), and

⁶ Adapting slightly here [Mahoney and Gertz's \(2004\)](#) 'possibility principle' for choosing 'negative cases' (cases where an outcome was likely but did not occur), since whaling was the historically prior case and given the proximity between the two issue areas, tuna was a likely case for adopting similar foreign policy strategies. The fact that shaming was actively avoided is what makes it a negative shaming case.

non-governmental organizations (NGOs). Shaming is a key strategy deployed, first, by states, to pressure other states to comply with their United Nations charter obligations to promote respect for human rights – either in multilateral fora such as those provided by United Nations Commission on Human Rights (Donnelly, 1988; Lebovic and Voeten, 2006, 2009) or the United Nations Human Rights Council (Abebe, 2009), or within bilateral relations, for example in diplomatic relations between Australia and China, or the United States and China (Kent, 2001). Second, IOs, such as the International Labour Organization or the Organization for Economic Cooperation and Development, centrally rely upon, to use Weisband's (2000, p. 648) expression again, the 'logic of shame' to develop monitoring mechanisms aimed at bringing states into line with their international treaty obligations – whether in the realms of international labor (Weisband, 2000) or finance law (Sharman, 2008). Third, the power of transnational advocacy networks and NGOs rests entirely upon mobilizing domestic and international public opinion to shame a state into upholding human rights (Sikkink and Risse, 1999; Franklin, 2008) or its obligations to avert environmental destruction (Keck and Sikkink, 1998). Shaming has thus proved a successful means of influence for states, IOs, and NGOs alike.

How is the impact of these shaming strategies accounted for? Explanations here follow IR's traditional theoretical fault lines. Rationalist analyses place the explanatory onus, not on the shaming strategies themselves, but on exogenous, material factors underpinning their deployment. However, constructivist explanations are endogenous: the norms contained in the shaming strategies themselves do the work, because of the ways in which they are intimately bound up with the actors' identities. Here, we will consider the range of explanations and how they can account for Australia's behavior toward Japan.⁷

2.2 How does it work? Rationalist explanations

Shaming strategies aim at correcting reckless behavior and obtaining that states 'toe the moral line'. Insofar as they explicitly invoke norms, they would appear to best lend themselves to the scholarship that has made

7 To be clear, our focus here and in the empirical sections that follow is primarily on Australia's behavior rather than Japan's, that is, on the actor that chooses to mete out shaming or abstain from doing so.

norms one of its central objects, constructivism (Katzenstein, 1996; Finnemore and Sikkink, 2001). Shaming thus appears *prima facie* to be a hard case for rationalists. Rescuing an interest-based logic with regard to shaming strategies has relied, for the rationalist scholarship, upon driving a larger or a smaller wedge between what the states *say* and what they *do*, so as to shift the focus back to material drivers of state behavior. At the far end of the rationalist spectrum, neo-realist scholars press the widest wedge. What states say is discounted as ‘organized hypocrisy’ and the resort to norms and associated shaming strategies is seen as subordinated to the power politics of the given situation (Krasner, 1999; see also Donnelly, 1988 for an example in the area of human rights). In this perspective, schematically, either shaming strategies are relatively toothless, a grandstanding put on for domestic consumption and underwritten by a tacit understanding between the two states that it remains of little material consequence, or, if they are not, it is because of a pre-existing asymmetrical distribution of material capabilities between the two states (the shamed state is weaker). The latter explanation clearly does not apply in Australia–Japan relations. As for the former, it would seem at first glance to offer an explanation for Australia’s posturing on whaling. What it falls short of explaining, however, are the considerable material expenses Australia and the risks of damage to its relationship with its key trading partner that Australia is prepared to incur to maintain that anti-whaling posture. But it is Australia’s stance on tuna that most defies this explanatory framework. Indeed, the cloak of secrecy and the public silence that the Australian government sought to maintain over its tuna dealings with Japan would seem to fit well with the neo-realist suspicion toward states’ pronouncements. Yet, as we will see in the final section, Australia’s choice to ‘not-shame’, or actively protect the silence, was aimed not at maximizing its individual gains and accruing benefits to its own fishery, but rather to preserve the chances of better cooperation with Japan over the management of tuna stocks.

International cooperation is a central concern of neo-liberal institutionalist scholarship, whose interest in shaming lies in understanding how it helps oil the workings of cooperation, particularly when there are close trading ties, as between Australia and Japan. Here too the explanatory weight lies not in the norms contained in the shaming strategy but in its material effects – the costs and benefits to the cooperating actors. Specifically, shaming enters into the neoliberal institutionalist framework

as a corollary to the interest-based analysis of reputation and the effect of the ‘shadow of the future’ upon inter-state interactions (Axelrod and Keohane, 1985; Lebovic and Voeten, 2006; Hafner Burton, 2008). That is, with the shadow of the future looming over them, when countries are having to interact repeatedly in all matters of trade, as do Australia and Japan, states care about their reputation and about what Lebovic and Voeten (2009) call the ‘cost of shame’. The damage inflicted to their reputation by being shamed matters because as these authors show it ‘can spill over into markets’ (Lebovic and Voeten, 2006, p. 868). This was indeed the effect upon which the anti-whaling NGOs counted when they organized repeated boycotts of Japanese goods during the 1970s and 1980s (see Epstein, 2008, chapter 7). These boycotting strategies, however, have today run out of steam. This effect is, therefore, no longer a lever for Australia’s current anti-whaling posture.

Within this broad interest-based framework, shaming strategies have been analyzed along two lines of enquiry. The first asks what type of material damages do states incur as a result of shaming strategies (Lebovic and Voeten, 2009). The second seeks to assess, beyond costliness, their effectiveness in terms of changing another state’s behavior; yielding either cautiously optimistic (Lebovic and Voeten, 2006; Franklin, 2008) or more pessimistic (Hafner Burton, 2008) conclusions. This line of explanation misses Australia’s shaming behavior entirely, given that, after over three decades, it has remain entirely ineffective in terms of its stated objective of bringing Japanese whaling to a halt, as we will see. Moreover, Australia’s more co-operative behavior, where it has shown itself concerned to uphold the rules of cooperation and where it operates more clearly under the effects of the shadow of the future, has consisted in *not* shaming, in the tuna case.

Lastly, shaming strategies for the liberal scholarship remain appraised within a rationalist framework but with more attention to the domestic sources that can account for shaming as the chosen foreign policy strategy. Liberal scholars trace such explanations to the state’s domestic institutions (Moravcsik, 1999). Thus, a democracy’s choice of shaming as a foreign policy is explainable by institutions of accountability and the requirement to channel through voter preferences, such as the Australian public’s anti-whaling sentiment, to the international stage – at the cost of otherwise not being re-elected. In material terms, there is political capital to be earned in the anti-whaling stance. This perspective does help account for the persistence of Australia’s shaming practices vis-à-vis

Japan. But it is the tuna case that draws out the limits of this explanatory framework: if democratic accountability and banking on political capital holds most of the explanatory weight, how can Australia's behavior in the tuna case be explained?

2.3 *The power of norms: constructivist explanations*

Whereas rationalist explanations offer partial accounts for Australia's behavior in one or the other of our cases, shifting the focus to norms illuminates the full range of Australia's behavior in both, as we will show in the next two sections.⁸ Shaming, insofar as it centrally mobilizes norms, beckons constructivist accounts that emphasize the intrinsic power of norms. Two lines of enquiry have been pursued successively in that scholarship: how shaming strategies operate, and why they are successful. With regard to the first, a seminal typology was developed by Keck and Sikkink (1998) to analyze strategies by which NGOs successfully bring about change in state behavior. Shaming, here, features as the linchpin of what they term 'leverage politics'. Casting the focus upon NGOs enabled them to identify a form of leverage that is moral rather than material and that centrally rests upon the mobilization of shame. Through such strategies, in their words:

Network activists exert moral leverage on the assumption that governments value the good opinions of others; insofar as networks can demonstrate that a state is violating international obligations or not living up to its own claims, they hope to jeopardize its credit enough to generate a change in policy or behaviour. (Keck and Sikkink, 1998, pp. 23–24)

Risse and Sikkink (1999, 11 et seq.), for their part, have developed a theoretical framework for understanding the process of socialization. They identify shaming as one of three key mechanisms by which states are socialized into international norms.

2.4 *Where it really hurts: identity constructions*

It is, however, in seeking to understand the success of these shaming strategies – why states actually respond to this form of leverage (the

⁸ Importantly, the constructivist scholarship does not deny the importance of material drivers of state behavior. Rather, where it takes rationalists to task is for falling short of being able to account for non-material, normative drivers *as well*, and on their own terms (without reverting back to materialist frameworks).

second line of enquiry) – that the relationships between shaming and identities have been foregrounded. Because the constructivist scholarship emphasizes the role of identities in shaping state behavior, it has been able to explain why states are sensitive to shaming strategies, not just in terms of material costs incurred but rather in terms of the moral damages to their self-images, that is to say, to their identities. State identity constructions follow specific normative scripts. Moreover, state identities are not produced once and for all; rather, they require being constantly reproduced (Campbell, 1998; Hansen, 2006). State identities are thus dynamic; and their shifts can be explained by states' adopting new normative scripts. In addition, for some states, specifically Japan, constructivist scholars have shown how, because of recent history, casting themselves as a 'good' member of international society is a key feature of their efforts to reposition themselves within international society (Epstein, 2008; Suzuki, 2008). These states tend to be especially responsive to shaming strategies.

Constructivists have thus shown how being seen as a 'modern', 'humane' (Finnemore, 1996), 'civilized' (Jackson, 2006), or indeed 'green' (Epstein, 2008) state can constitute the primary driver of state behavior – whether the state is exerting the shaming or receiving it. Foregrounding identity has served to shine light upon shaming strategies from these two different directions. First, it explains states' responsiveness to them. States use shaming strategies because they are effective; but they are effective because states are concerned about their self-image, and can go to considerable expenses to cast themselves as 'good' members of international society. For example, given the negative publicity Japan has been exposed to at the International Whaling Commission (IWC) for its whaling practices, it is striking that Japan has never opted for Canada's route, quietly withdrawing from organization in order to continue to whale. Instead, Japan has not only steadfastly remained within the IWC but it has taken great care to present itself as a member fully committed to the rules of international cooperation, sustainable resource use, and the advancement of cetology.⁹ The use of shaming, second, enters into this broader identity scripts. It enables

9 Cetology is the science of whales. Japan has been one of the largest contributor to the science, produced at the IWC, in terms of data and funds provision (Epstein, 2003, 2005, 2008).

states to cast themselves as moral agents, as amply illustrated by Australia in the whaling case.

One final piece of the puzzle is still missing to understand Australia's use or foregoing of shaming vis-a-vis Japan, the distinction between conservationism and preservationism. These two environmental paradigms provide states with two relatively different scripts for constructing themselves as environmentally responsible or 'green' states. Here, we briefly contextualize them within the history of environmentalism, in order to be able to show in the subsequent two sections of our paper how Australia constructs itself as a preservationist state in the politics of whaling, whereas it casts itself as conservationist when it comes to tuna.

*2.5 Conservationism and preservationism: two different scripts for 'being green'*¹⁰

In order to understand how norms have entered into the international governance of natural resources, it is useful to consider the three, largely historically successive, paradigms that have regulated our modern societies' relationships to these resources: exploitation, preservationism, and conservationism? The line of divide here revolves around the nature of the values placed upon the environment, which largely maps over the materialist–ideational distinction between rationalist and constructivist IR scholarship. Under exploitation, the environment is valued in strictly monetary terms (as a 'resource'), whereas normative values enter into both preservationism and conservationism. Exploitation is the defining paradigm of the capitalist mode of production and is bound up with the interest-maximizing behavior emphasized in the rationalist scholarship. Left unchecked, its short-term profit-maximizing logic leads to a reckless plundering of collective resources and to 'tragedy of the commons'-type scenarios (Hardin, 1968), of which the ruthless exploitation of whales to the brink of extinction in the first part of the twentieth century has offered a well-known historical example. In the face of such destructive behavior, whereas rationalist scholarship has focused essentially on the material incentives and disincentives (such as the potential damages wrought by shaming) to uphold cooperation, the constructivist insight has been to draw out that the problem lies in the lack of powerful norms

10 This largely builds on Epstein (2006).

that can curb such behavior by casting it as ‘bad’. The problem, in other words, owes to states’ purely material understanding of their interests in the resources. It owes, in other words, to the absence of any link between the actors’ interests, their norms, and their identities. Indeed, the key import of the constructivist scholarship has been to show how norms ‘grip into’ identities, thereby reshaping the actors’ understanding of their self-interests to include such non-material, normative dimensions. The formation of a powerful anti-whaling norm is what accounts for the transformation of some states’ understandings of their interest in whales from a source of oil to an animal whose life is to be valued in its own right (see Epstein, 2008 for an extensive development).

Preservationism was the paradigm that first ushered non-material values into the human–nature relationship, thereby shifting the framing from ‘resources’ to ‘the environment’. Its origins lie in the late nineteenth century debates in the United States around what to do with the newly conquered wild lands of the West. With the creation of Yellowstone in 1872, it yielded the very first environmental institution, the national park. This was a designated area that set aside land in order to remove a piece of nature from unbridled exploitation altogether so as to best preserve it. This process of institution building was soon rapidly emulated around the world, with the second such park established in Australia as early as 1879.¹¹

A product of its history, preservationism retains much of this either–or logic (either preserve or exploit) and is the environmental paradigm that is least compatible with exploitation. The third paradigm, conservationism, seeks to reconcile the need to preserve nature with the need to use its resources in what histories of environmentalism around the world have shown to be a sometimes difficult balancing act. Historically, it emerged once again in the United States in the early twentieth century, as an alternative to preservationism, specifically in the context of the establishment of the first bureaucracies to manage nature under Theodore Roosevelt, the ‘hunter president’, and his advisor Gifford Pinchot – specifically in relation to the exploitation of forests and, relevant for our purposes, fisheries. Under conservationism, the protection of the resource is ultimately geared toward its use. Conservationism remains today the

11 In fact, Sydney’s Royal National Park was technically the first to be termed a ‘national’ park. Yellowstone was only subsequently renamed a national park.

paradigm underpinning the resource management mandate of IOs such as the Food and Agricultural Organization. Its emergence is co-extensive with a scientific outlook on natural resource management, notably in forestry and in the fisheries. Noteworthy also here is that whales were at the forefront of an important impetus given to fisheries science in the 1960s and to the refinement of what has become since key instrument in the management of fish stocks, the maximum sustainable yield (MSY), which exemplifies the conservationist paradigm.¹² This is also the paradigm that subsequently yielded concepts such as sustainable development (Adams, 2001).

Environmentalism has afforded states these two norm-laden scripts for policy-making, preservationism and conservationism. Unlike exploitation, these scripts are bound up not just with their material interest but with their self-understandings. Moreover, one norm, in particular, played a key role in vehicling the two environmental paradigms across the globe, endangered species protection. Elsewhere, Epstein (2006) has analyzed extensively the emergence of this global environmental norm. Developed largely as a prolongation of US federal environmental policy-making, it initially formed as the somewhat uneasy conjoining of conservationist and preservationist imperatives. It features the preservationist focus on a single species, but allows for use. As the norm spread through the international system in the 1960s and 1970s, it carved out the international as a new site of operation for nascent global environmental norms. From then on, the international became one of two key platforms from which NGOs would pressure states (the other being that of the ground-up pressure, c.f. Keck and Sikkink, 1998). Centrally, anti-whaling NGOs played a central role in the making of this first global environmental norm. The key point for us here is that diffusion of the norm also involved diffusion of the two paradigms it contained, which offered two different scripts for becoming green. As we will show in the next section, Australia has cast itself as an environmentally responsible state in the politics of both whales and tuna. We now turn to consider how Australia has made itself as a preservationist green state.

12 MSY is the maximum catch sustainable in the long term. The underlying principle is that all fisheries should aim to catch at the MSY rate, because catching more than MSY depletes stocks and catching less is a waste of food resources (Larkin 1977; see Epstein, 2008, pp. 117–138 for the history of the development of the MSY principle in relation to whaling).

3 Constructing a preservationist state: Australia's whaling politics¹³

3.1 *From whaling champion to whale saver*

Australia has not always championed the anti-whaling cause as it does today. In fact, after the tabling of first proposal for a moratorium on commercial whaling at the IWC in 1972 and until it outlawed whaling in 1979, Australia stood in a position similar to that of Japan today, on the receiving end of the anti-whaling shaming measures meted out by NGOs and newly anti-whaling states. It was regularly taken to task on the floor of the IWC, notably by New Zealand, for its obstructionist tactics and for systematically undermining attempts to cap the total number of whales caught by country. It was the targeted site for the creation of local chapters of successful international NGOs, such as Greenpeace and Project Jonah, who were riding on the success of the first global environmental movement. Australian groups also formed to join the anti-whaling chorus. These NGOs worked to educate the Australian public and to mobilize it into shaming its government. This pressure from below added to the inter-state shaming practices at the IWC, creating a textbook case of a 'boomerang effect' described by [Keck and Sikkink \(1998\)](#). Australia soon relented and whaling was banned by 1979.

Unlike Japan's today, however, Australia's whaling stance was underwritten by the exploitation paradigm¹⁴ – driven by the concern to maximize economic returns, and competing for every whale with all the other whaling countries in what became known as a ruthless whaling Olympics. Importantly, these exploitative dynamics undermined the possibility of a common ground developing across whaling nations, simply because they pitted each one against every other, and all whalers against one another, since everyone was vying for the same whale. Interest-maximizing behavior ruled, leaving little room for norms and

13 This section builds on our existing published works, notably [Epstein \(2003, 2005, 2008, 2010\)](#).

14 Australia's behavior, rather than Japan's, here remains our main focus in this article. However, to briefly map Japan's stance onto the three paradigms, Japan hunts only those species of whales, notably minke, that have established to be safe from endangerment; it calculates its annual quotas using the scientific formula developed by IWC scientists under the IWC's own Revised Management (based on notions similar to the MSY). Japan's goal, the sustainable exploitation of whale stocks, is thus a conservationist rather than an exploitative one (c.f. [Epstein, 2008](#) for extensive developments).

ideational factors to develop and shore up a common whaling identity.¹⁵ So destructive were these dynamics that within Australia they had run the industry into the ground even before the state outlawed whaling (the last whaling operation at Cheynes Beach had just folded when law was passed in 1979). Australia had remained the last English-speaking whaling bastion.

Material factors can help account for how, having lost its last whaling interests, Australia had also lost its last reasons not to partake in the powerful anti-whaling alliance that was taking shape around the globe and to reap the green publicity from doing so. Where they fall short, however, is in being able to capture the lengths to which Australia subsequently went to embrace the anti-whaling cause and the costs it has been prepared to incur in doing so, and not just in its bilateral relations with Japan. Whereas prior protective legal action regarding endangered species (notably in the United States) had targeted the broader category of cetaceans, the very next year Australia passed the Whale Protection Act (1980), the world's first protective legislation tailored exclusively for one animal, thereby singling out whales to carve out a distinctly preservationist policy course. Since this was before the advent of the whale-watching industry (which dates to the early 1990s; see Epstein, 2008), this was not driven by a concern to protect a resource. Moreover, had Australia merely been jumping on the anti-whaling bandwagon as a low-cost option for acquiring green credentials, it would have behaved like most other former whaling states (Russia, France, Germany, Spain, Portugal, Brazil, and Argentina), nodding to the anti-whaling cause while moving to the backstage. Instead the driving concern has been to 'do the right thing' for the whales; Australia has consistently been on the frontline in the international politics of whaling; and it has repeatedly shown itself prepared to expend effort and cash for whales. A recent example is the AUD 32 million scientific program Australia launched in 2009, the Southern Ocean Research Partnership, aimed at developing non-lethal research methods.

15 This contrasts significantly with today's 'pro-whaling' identity, where a mutual recognition of one's whaling traditions and associated collaborative practices (notably the sharing of information and even collectively celebrated whaling rituals) has developed across a broad group bringing together very different types of actors (states, NGOs, and indigenous peoples). For an extensive analysis of whaling, anti-whaling, and pro-whaling identities, c.f. Epstein (2008).

Our argument is that the new preservationist green identity that Australia constructed for itself around the anti-whaling is the key explanatory factor in accounting for Australia's behavior in the international politics of whaling since 1979. Of course, whaling offered a low-cost opportunity for doing so – compared, for example, with the domestically far more divisive issue of climate change in a large coal-producing country. However, in a context where the rise of a new global environmental discourse in the early 1970s signified that states could no longer simply plunder the planet's riches (see Epstein, 2008), whaling constituted the issue where Australia embraced this attitude with a rare gusto. With its anti-whaling stance, which (much like endangered species protection for the United States) remains to this day the hallmark of Australia's international environmental policy-making, Australia has carved out for itself an identity as an environmentally responsible state.

3.2 Australia's (anti)whaling foreign policy toward Japan

In the whaling issue, Australia's and Japan's normative scripts were always out of step with one another. When Australia whaled, the perverse dynamics of the whaling Olympics within which it was caught up with Japan offered weak identity groundings, as we have seen.¹⁶ When it ceased to whale, it shifted dramatically from exploitation to preservation. While this mirrors the succession of paradigms in the history of environmentalism, it contrasts with the conservationist script Australia has chosen to work off when it comes to tuna. Consequently, although Japan has also moved away from exploitation to adopt a conservationist stance in whaling, and insists on the similarity of its approach in tuna and whales, no common grounds of understanding have developed between the two countries with regard to whaling. This lack of a common normative framework is what makes shaming possible in relation to whaling, and more difficult when it comes to tuna. In this section, we consider the range of strategies deployed in Australia's foreign policy toward Japan and locate shaming within them.

Since it began championing the anti-whaling cause, the goal of Australia's foreign policy is straightforwardly preservationist: convincing

16 This fits the pattern of 'enmity', characterized by competitive behavior, identified by Wendt (1999), as yielding the least integrated international social system (which he calls 'Hobbesian'), which enables only the weakest form of common identity to develop.

Japan to end whaling once and for all, rather than work toward some sustainable exploitation of whale stocks. To this end, it has employed a wide range of strategies that have mobilized public opinion to a greater or a lesser extent. On the less public end of the spectrum of methods, one instance of state-to-state diplomacy was the appointment in 2009 of a special whale envoy (Sandy Holloway), who was sent to Tokyo to come to an arrangement between the two countries away from the limelight – a move that earned Kevin Rudd the title of ‘Neville Chamberlain of Conservation’ from the leader of the most aggressive anti-whaling NGO, the Sea Shepherd (Watson, 2009). Largely considered unsuccessful, the whale envoy was not subsequently repeated.

These more traditional means of engagement, however, remain the exception in Australia–Japan whaling relations. By and large, Australia has mostly eschewed classic state-to-state, closed door diplomacy, with shaming and the mobilization of public opinion the cornerstone of Australia’s engagement with Japan on whales. Kevin Rudd’s 2007 electoral promise to enact the much more public strategy of taking Japan to International Court of Justice was fulfilled by the Guillard government in June 2010. Thus, if the government had learned something from varying its strategy in the tuna case in 2005 (keeping the issue out of the limelight), that did not trickle back into the whaling issue. This suggests that the search for the most efficient strategy for influencing Japan is not the main driver of the Australian state’s behavior. In fact, after over three decades of anti-whaling policies, Australia’s bilateral strategies with Japan have been remarkably unsuccessful in getting Japan to change course.

Australia’s shaming strategies have become deeply entrenched practices involving a wide-range of actors who have vested their interests in them. This explains their persistence despite their lack of impact upon Japan. They are embedded in an enduring connivance between state officials, NGOs, and the media, which together form a close triad in which each actor in their own way fans the flames of the public’s anti-whaling sentiment. Media coverage is an essential component of anti-whaling activism and the key target of NGO campaigns (see DeLuca, 1999; see also Epstein, 2003, 2005, 2008). Greenpeace’s and the Sea Shepherd’s self-produced footages of their blocking of the Japanese whaling fleets offers readymade, attention-grabbing images to the media in a country where anti-whaling sentiment runs high. Given that such actions often

take place on the remote high seas, the NGO footage is often the only visual material available to journalists. Both Japanese Antarctic whaling (around December–January) and the annual meetings of the IWC (June–July) are regular features of the Australian media life cycle.

This tacit connivance between the government and NGOs has become integral to the running of these NGO campaigns. The government adopts a laissez-faire attitude toward anti-whaling NGOs activities in Australian waters. It has not intervened to restrict them, including in the case of actions normally considered piracy under customary maritime law, such as boarding another ship without its consent. Moreover, while the Australian Customs Service vessel, the *MV Oceanic Viking*, publically maintained a position of studied neutrality in the confrontation between the Japanese government's *Nisshin Maru* and the Sea Shepherd's vessel in 2009, the *Oceanic Viking* was ostentatiously shooting footage in order to mount a court case against Japan, and was suspected in Japan of having tipped off the NGOs as to the location of the Japanese whaling fleet.¹⁷

As another measure of the degree of Australia's investment in its public anti-whaling stance, the government sends the most highly ranked elected politician to the annual meetings of the IWC, often the environment minister in person – thereby also further maintaining high levels of public attention upon the issue. This direct representative of the people's vote thus performs Australia's anti-whaling identity upon the international stage. Moreover, elected politicians, who often share the widespread Australian distaste for whaling, benefit from and capitalize upon the anti-whaling publicity. As an example of these close ties between state and NGO actors, as soon as former environment minister Ian Campbell lost office in 2007, he attended the next IWC meeting in 2008 as Sea Shepherd's representative and is listed in Sea Shepherd's Board of Advisors under Legal and Law Enforcement.¹⁸

Even Australian measures taken on the seemingly neutral terrain of scientific research are centrally geared toward publically shaming Japan. Thus, Australia used the IWC 2008 meeting as a publicity platform to announce the Southern Ocean Research Partnership before the world.

17 Interviews with journalists from the *Nikkei* and the *Asahi Shinbun*.

18 Under 'Who We Are' on the Sea Shepherd website: <http://www.seashepherd.org> (20 August 2012, date last accessed).

The program itself was launched on 23 March 2009 by the former rock-singer-turned-minister for the environment Peter Garrett (2009) at a public event to which the crème of cetologists and IWC commissioners from around the world had been invited. It was thus staged as a full-blown ‘media event’ to use media analyst DeLuca’s (1999) term, aimed at showcasing Australia’s anti-whaling activism before a national and international audience. Given that Japan whales under the scientific research exemption under by Article V of the International Convention for the Regulation of Whaling, the framing of Australia’s scientific program as a search for non-lethal research methods is designed to show that Japan has no grounds for pursuing its lethal scientific program. Since Australia has no means of enforcement vis-à-vis Japan, the success of that strategy relies on Japan being sufficiently ‘ashamed’ by these measures to end whaling once and for all. The strength of the anti-whaling motivation is such that Australia’s scientific contributions to cetology are somewhat partial (see also Epstein, 2010). In the same waters of Oceania where Australia proposed to carry out its new program, Australia (and New Zealand) failed to provide figures to the International Union for the Conservation of Nature (IUCN) for its periodic reassessment of humpback whales in 2007. At the outset of that process, it was concluded that most humpback populations could be safely reclassified from ‘vulnerable’ to ‘population of least concern’.¹⁹ Australia’s and New Zealand’s failure to provide information of their waters meant the IUCN had ‘insufficient data’ to reclassify those humpback whale populations. Australia and New Zealand are the two most vocal anti-whaling countries, with the preservationist anti-whaling script the backbone of their green identities. Australia’s failure to participate in a scientific-data-gathering effort that could have lent credence to Japan’s argument on the sustainability of whaling demonstrates how strongly the preservationist script influences Australia’s behavior with regard to whales.

The mobilization of shame has been an enduring feature of Japan–Australia relations in an issue area whose politics are ostentatiously shaped by Australia’s single-minded determination to bring Japanese whaling to an end. Yet, for more than three decades, Australia’s

19 Upon which Japan announced its intention to resume a small catch of humpbacks. The extent of the overseas public outcry was such that it abandoned this plan.

strategies have been remarkably unsuccessful in achieving that aim. Shaming continues, but not because it is the best way of ending whaling. Rather, entrenched vested interests; the domestic political capital to be reaped; and the lack of any whaling interests underpin the continued persistence of shaming as a foreign policy strategy.

This, however, gives only a partial account of Australia's whaling behavior. What it does not capture is that Australia *genuinely believes* that it is doing the right thing with regard to whales. Indeed, the Australian government has gone further than it needs to if it's posturing was 'just for show', since some of the measures taken have been non-public. What a focus on material drivers alone thus eludes is the degree of Australia's moral investment in the anti-whaling norm – to the point that Australia remains oblivious to the potential damages of its shaming strategy to its trade relations with Japan, much to the bafflement of its Japanese counterparts. Thus, shifting the focus to the underlying norms reveals what *else* Australia is achieving in pursuing its failed foreign policy strategy, namely, constructing itself as a green preservationist state. We now turn to consider how, with regard to SBT, it has adopted a different normative script to construct its green identity.

4 Constructing a conservationist state: Australia's tuna politics

4.1 *From overfisher to champion of international fisheries management*

Australia has not always been driven by conservationist concerns with regard to SBT. Australian vessels started fishing for SBT off south-east Australia in the 1930s, spreading to South Australia, Western Australia, and Tasmania. The global fishery for SBT peaked in the early 1960s at 81,605 mt taken in one year, with Australian fisheries management, like that of other countries, facilitating maximization of national catches rather than attempting to curb them. By the early 1980s, it was clear that the stock was overfished (Phillips, Begg and Curtotti, 2009). In 1989, Australia, Japan, and New Zealand entered tripartite talks to conserve stocks, which became formalized in the Convention for the Conservation of Southern Bluefin Tuna, which came into force in 1994

with a Commission (CCSBT) to administer implementation of the Convention.

During the first few years of the CCSBT, there were heated disagreements over the status of SBT stocks, because of a large amount of uncertainty in the data. The Japanese solution for this was to have an Experimental Fishing Program to go out to places where there was no fishing and sample the stocks, thus building more comprehensive data sets, in line with its behavior on whaling. Japan wanted 6,000 mt of quota for this on top of the global quota of 11,750 mt (of which Japan's commercial quota was the largest at 6,065 mt). In addition, Japan argued for an increase in the quota for commercial fisheries, based on Japanese scientists' predictions of stock recovery. Australia agreed that an Experimental Fishing Program could resolve questions of uncertainty, but the Australian scientists' interpretation of the data about stock status was more pessimistic and they felt that increasing the quota to allow for the Program could cause further damage to stocks. In Australia's view, the appropriate course of action in this context was to apply the 'precautionary principle' and avoid taking more fish (CCSBT, 1996).

Australia's behavior at this time was not unambiguously conservationist, but still showed exploitationism, in that Australia was demonstrably protecting the relative position of its national industry. If the conservationist logic had been stronger, Australia could have gone the route of New Zealand, which, as a grand green gesture, had unilaterally reduced its quota far below that of other countries when the national quotas were set in 1989 (New Zealand's quota was 420 mt compared with Australia's of 5,265 mt). Or, Australia could possibly have taken some of its national quota away from industry to use for an experimental program. Yet, Australia left its commercial quota untouched. On the other hand, exploitationism cannot fully explain Australia's actions over the Experimental Fishing Program. A country driven purely by a desire to exploit the resource might have used the scientific uncertainty as an opportunity to increase its own quota, and certainly not risked damaging relations with a key trading partner over it. Instead, Australia stood its ground with regard to not increasing the quota.

After several years of stalemate over the Experimental Fishing Program in 1998, Japan unilaterally declared a 1,425 ton scientific quota on top of their 6,065 ton fishing quota. Australia responded by closing its 200 nautical mile exclusive economic zone to Japanese boats. In

January 1999, Australia extended the ban to Australian ports as well. In May 1999, Japan declared their intention to take more than 2,100 ton for the 1999 scientific quota. In July 1999, Australia and New Zealand filed a request for an injunction against Japan's Experimental Fishing Program with the International Tribunal for the Law of the Sea (ITLOS) in Hamburg. Their request was successful, but Japan countered by challenging the jurisdiction of ITLOS to determine the matter in an Arbitral Tribunal administered by the International Centre for Settlement of Investment Disputes. This tribunal found that ITLOS jurisdiction did not override the CCSBT and so the issue was sent back to the CCSBT. The CCSBT resolved the issue of the Experimental Fishing Program by establishing an Independent Scientific Committee, chaired by a scientist not from any of the member states. Relations between Japan and Australia, however, remained hostile within the CCSBT and they were unable to agree on quotas for another couple of years (in the meantime, they continued with the existing quotas set in 1989). Relations between the Australian and Japanese delegations in CCSBT remained sour until after the 2005 revelation of Japanese over-catching.

Despite cooperative international management of the SBT fishery since 1989, SBT stocks showed no signs of recovering by 2009. The scientific data presented in 2009 were pessimistic enough to persuade the CCSBT members that they needed to reduce their catches further. The combined international quota was to have been 11,810 tons. It was cut to 9,449 tons for 2010–11, with each member reducing its national quota to accommodate the cut. Australia's longstanding quota of 5,265 mt shrank to an 'effective catch limit' of 4,015 mt (CCSBT, c.2010), causing an outcry by the Australian industry and others concerned about the effect on the economy of Port Lincoln (Haxton, 2009). By 2011, the scientific data indicated some recovery in stocks, and the CCSBT decided to cautiously increase the quota incrementally back to over 12,000 tons in 2014.²⁰

4.2 Australia's foreign policy toward Japan on tuna

Australia's identity as a green state forged in its anti-whaling activism from 1979 was taken through as it entered into international cooperation

²⁰ See the papers of the CCSBT Scientific Committee at http://www.ccsbt.org/site/reports_past_meetings.php.

on SBT from 1989. In its first major problem with Japan over the Experimental Fishing Program, Australia borrowed directly from its own anti-whaling script. It resorted to confrontation in an international court and shaming of Japan in the media. The Australian government's Resources Minister of the time, Senator Warwick Parer, was quoted as saying: 'Japan's proposed experimental fishing program is nothing more than a pretext for increasing its catch. It will do little to assist the Commission's scientific work and poses a threat to the recovery of the stock. It is as spurious as scientific whaling' (Mitchell, 1998, p. 1).

Australia, however, rapidly shed the whaling script in its tuna dealings with Japan. It quickly realized the importance of keeping Japan on board to oil the workings of cooperation. Indeed, the developments around the Experimental Fishing Program had left the two countries unable to agree on substantive matters for some three years. It was also, however, a turning point in Australia's tuna relations with Japan. From then on, the whaling issue became the example to avoid. Indeed, when Kate Barclay interviewed Australian government officials and industry representatives about the dispute in 2002, they were alarmed by any connections drawn between the scientific whaling program and the SBT scientific program, because they felt the IWC was dysfunctional and it was important that the CCSBT remain an organization where Japan and Australia could work together.

By the early 2000s, CCSBT member states seem to have agreed that the 1998–2000 court case had been a too high cost strategy, and together they settled upon a strategy of minimizing public confrontation. They instituted an unusual method of dealing with contentious issues within the CCSBT meetings. Most discussion was held in the normal CCSBT meeting, including delegations with several government officials, scientists, industry representatives, and representatives from environmental organizations. For contentious issues, the heads of delegations (one per country) met privately and then rejoined the larger meeting once positions had been settled, a method which, given the levels of media attention upon the IWC, would be inconceivable in that arena. From then on, cooperation, rather than confrontation, became the key driver of state behavior within the CCSBT.

For its part, Australia's behavior toward Japan since the early 2000s reflects that of a state driven primarily by a conservationist norm (accepting the conflict inherent in that norm between the motivations to exploit

versus protect natural resources). If Australia's motivation was mainly exploitation rather than conservation, it would have tried to maximize its quota, to benefit the Australian industry (in the short term) and protect the domestic political capital tied up in a successful industry in Port Lincoln. The eschewance of shaming would then have been a strategy to placate Japan such that Australia could gain a larger quota. Australia, however, has not used not-shaming to increase its own quota – quite the reverse. In the quota cuts made in the 2009 CCSBT meeting, Australia went further than the multilaterally agreed cut of 20% and voluntarily restricted its quota by another 225 tons, with consequent negative publicity in the domestic sphere (McDonnell, 2009). Japan, which already had a reduced quota as recompense for its over-catching from 1985–2005, took no voluntary cut below the agreed level. New Zealand was the only country other than Australia that took a voluntary cut in 2009. Once again, however, the Australian government made no recourse to the media to try to shame Japan into taking a further cut by, for example, publicizing Japan's responsibility for the dismal 2009 stock assessment figures. Australia's behavior with regard to SBT, both in eschewing shaming as a strategy toward Japan in the over-catching scandal and in accepting a greater than necessary cut in quota to try to address stock declines, only makes sense if it was driven by a conservationist norm.

Australia had initially adopted the whaling shaming script in its tuna dealings with Japan. Once the damage wrought by 'airing the dirty laundry in public' to international cooperation became clear, however, over the Experimental Fishing Program, Australia has actively eschewed shaming Japan over SBT even when Japan's behavior over SBT was revealed to have been much more environmentally destructive than its whaling has been. This alternative, cooperative rather than confrontational, mode of engagement owes to Australia's more fundamental shift to a different, conservationist rather than preservationist, normative script in relation to tuna. To be sure, protection of industry interests is inherent in Australia's conservationist goals, since conservationism is about the sustainability of the resource industries. But here, Australian protection of its industry's interests was arguably balanced with the goal of conserving fish stocks, which ultimately remained the priority, thereby strengthening the rules of international cooperation. By 2009, Australia's identity with regard to SBT was sealed as a conservationist green state. The difference between Australia's approach to whaling as an issue of

preservation and tuna fishing as an issue of conservation, both within an overarching construction of Australian state identity as green, explains why Australia has employed the two contradictory strategies of shaming and not-shaming Japan toward the same end – protection of natural resources.

5 Conclusion

In whaling politics, Australia never loses a chance to shame Japan to the hilt; whereas when it comes to tuna, it is very careful to spare Japan such humiliation and indeed public scrutiny. In this article, we have shown that making sense of this behavior required shifting away from a rationalist focus upon interests alone to a constructivist concern with norms and identities. In the context of the development of global environmental norms, what is at stake today for states in the international politics of marine resources is no longer merely how best to maximize their economic interests, but also how they perform themselves as environmentally responsible states on the international stage. Casting themselves as ‘green’ is now an integral part of how states see themselves *and* their interests in the collective management of global resources such as whales and tuna. The differences in Australia’s behavior in the two cases, then, are explained by the two different normative scripts underwriting Australia’s construction of its environmental identities, which we have called preservationist and conservationist, respectively. What makes shaming possible in the whaling issue is the lack of such common grounds of understanding. These exist in the tuna case, where both states are conservationist, appraising their environmental responsibilities as conserving tuna stocks at sufficient levels to enable their sustainable, long-term exploitation. Thus, even when Japan was shown in 2005 to have breached these rules of good conservationist behavior by over-catching tuna, it was in recognition of their sharing common normative scripts as to what is the right thing to do in this fishery, and thus what is required to sustain long-term cooperation, that Australia spared Japan its well-honed shaming strategies liberally deployed in the otherwise similar case of whaling.

With regard to shaming, in these cases, it was used as an instrument of foreign policy when the two states’ normative frameworks were not aligned. When the states’ normative scripts overlapped, shaming was

abandoned and replaced with a different type of identity-based shaming behavior, which we call ‘not-shaming’. This was not simply the absence of shaming but a deliberate choice to eschew shaming, and even to proactively shield the target state from the humiliating effects of public shaming – not in order to maximize a state’s own gains, but in order to sustain a shared framework of understanding and thus mutual interests in cooperating to conserve the resource.

Lastly, our cases have added to the understanding of the normative underpinnings of international environmental cooperation. What underwrites the possibility of cooperation is not merely the alignment of material interests that have been emphasized by the rationalist, neoliberal institutionalist literature, but the existence of a shared normative framework, which in turn impacts the very understanding of what shape cooperation should take. Indeed, even if states share common interests in conserving a resource toward its long-term exploitation, these material interests remain inoperative without a normative script to work off. Thus, although Japan’s and Australia’s material interests in conserving tuna stocks were always aligned, they could only work together to sustain these common interests once they came to a common normative framework. Conversely, cooperation within the IWC for Australia is about bringing whaling to an end, not about finding common grounds with conservationist Japan. The lack of a common framework of understanding as to its purpose, in other words, is what has ground cooperation to a halt in that IO. Given the intensifying urgency of global environmental cooperation, it is incumbent on us to seize every opportunity to understand what makes it work – or indeed stall.

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