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U.S. GOVERNMENT
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110TH CONGRESS, 2d Session | SENATE | TREATY DOC. 110–22

AGREEMENT ON CONSERVATION OF ALBATROSSES AND PETRELS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS, WITH ANNEXES, DONE AT CANBERRA, JUNE 19, 2001

SEPTEMBER 26, 2008.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE
69–118 WASHINGTON : 2008

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September 26, 2008.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to accession, I transmit herewith the Agreement on the Conservation of Albatrosses and Petrels, with Annexes. In addition, I transmit for the information of the Senate the report of the Department of State, which includes a detailed analysis of the Agreement.

The Agreement, done at Canberra on June 19, 2001, and that entered into force on February 1, 2004, was adopted pursuant to the Convention on the Conservation of Migratory Species of Wild Animals (the "Convention"), done at Bonn on June 23, 1979. Although the United States not a Party to the Convention, the United States may nonetheless become a Party to the Agreement. The Agreement's objective is to achieve and maintain a favorable conservation status for albatrosses and petrels.

I believe the Agreement to be fully in the U.S. interest. Its provisions advance the U.S. goals of protecting albatrosses and petrels. As the Department of State's analysis explains, the Agreement is not self-executing and thus does not by itself give rise to domestically enforceable Federal law. Implementing legislation would be required, which will be submitted separately to the Congress for its consideration.

I recommend that the Senate give early and favorable consideration to the Agreement and give its advice and consent to accession.

GEORGE W. BUSH.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, August 22, 2008.

THE PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Agreement on the Conservation of Albatrosses and Petrels, with Annexes, done at Canberra June 19, 2001 (the Agreement). The Agreement, which entered into for February 1, 2004, sets forth provisions relating to the conservation of albatrosses and petrels. A detailed analysis is enclosed. I recommend that the Agreement be transmitted to the Senate for its advice and consent to accession.

The parties to the Agreement commit to take conservation measures to achieve the primary objective of the Agreement, which is to achieve and maintain a favorable conservation status for albatrosses and petrels. The Agreement also facilitates research, information exchange, technology transfer, and capacity building among the Parties and through regional fisheries management organizations.

The Agreement is not intended to be enforceable directly in U.S. court. The Agreement will require implementing legislation, which will be submitted shortly to Congress for its consideration. All interested departments and agencies join the Department of State in recommending that the Agreement be transmitted to the Senate as soon as possible for its advice and consent to accession.

Respectfully submitted,

CONDOLEEZZA RICE.

Enclosures: As stated

ARTICLE-BY-ARTICLE ANALYSIS OF THE AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS

The Agreement on the Conservation of Albatrosses and Petrels, with Annexes, done at Canberra June 19, 2001 (the Agreement), is "Agreement" within the meaning of Article IV(3) of the Convention on the Conservation of Migratory Species of Wild Animals, done at Bonn June 23, 1979 (the Convention). Although the United States is not a party to the Convention, Article V(2) of the Convention recognizes that non-parties to the Convention may become parties to Agreements referred to in Article IV(3). In other words, there is no legal barrier to the United States becoming a party to the Agreement without being a party to the Convention. Similarly, the United States would have no obligation to become a party to the Convention by virtue of being a party to the Agreement.

Legislation will be required for the United States to implement many of the provisions of the Agreement. Draft implementing legislation has been prepared and will be submitted to the appropriate congressional committees. The following analysis provides a review of the salient aspects of the Agreement.

ARTICLE I

Article I includes a provision on the Agreement's scope, as well as several definitions and interpretations. For example, the Agreement only applies to the species of albatrosses and petrels listed in Annex 1 to the Agreement and to their ranges as defined in Article I(2)(i).

In addition, conservation status of a migratory species will be taken as "favorable" when a series of conditions are met, relating to population dynamics, the range of the species, sufficiency of habitat, and the distribution and abundance of the species.

Article I also provides that the annexes to the Agreement form an integral part thereof.

ARTICLE II

Article II establishes the Agreement's objective. The objective is to "achieve and maintain a favorable conservation status for albatrosses and petrels." Article II provides that the Parties are to "take measures, both individually and together, to achieve this objective." It also states that, in implementing such measures, the Parties are to widely apply the precautionary approach. The Article sets forth a common approach to precaution, i.e., that "where there are threats of serious or irreversible adverse impacts or damage, lack of full scientific certainty shall not be used as a reason for postponing measures to enhance the conservation status of albatrosses and petrels."

ARTICLE III

Article III sets forth a series of actions that the Parties, individually and together, are to take in furtherance of the obligation to take measures to achieve and maintain a favorable conservation status for albatross and petrels.

Article III also requires a Party to prohibit the deliberate taking of, or deliberate harmful interference with, albatrosses and petrels, their eggs, or their breeding sites.

Article III permits a Party to grant an exemption to these prohibitions, but only if there is no other satisfactory course of action and the exemption is made for one of four enumerated purposes. A Party granting such an exemption is to submit full details of the exemption to the Secretariat as soon as possible.

The Agreement does not apply to sovereign immune vessels and aircraft, consistent with customary international law. Because the Agreement does not reflect this exclusion, it is recommended that the United States include the following understanding in its instrument of ratification:

> It is the understanding of the United States of America that the Agreement does not apply to vessels and aircraft that are entitled to sovereign immunity under inter-

> national law, in particular to any warship, naval auxiliary, and other vessels or aircraft owned or operated by a State and used, for the time being, only on government, non-commercial service. However, it is also the understanding of the United States of America that each Party shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Agreement.

Article III also provides that, in furtherance of their obligation to take measures to achieve and maintain a favorable conservation status for albatrosses and petrels, the Parties are to progressively implement the Action Plan.

ARTICLE IV

Article IV provides that Parties are to give priority to capacity building for the implementation of the Agreement through funding, training, information, and institutional support. The Article does not impose any funding obligations.

ARTICLE V

Article V describes the ways that the Parties are to cooperate, including through exchanges of information, training, and implementation of education and awareness programs.

ARTICLE VI

Article VI provides that Annex 2 of the Agreement is to have effect as an Action Plan for the achievement and maintenance of a favorable conservation status for albatrosses and petrels, and that progress in implementing the Action Plan is to be assessed at each session of the Meeting of the Parties.

ARTICLE VII

Article VII contains several provisions on implementation and financing. Each Party is required to designate an authority or authorities to undertake, monitor, and control all activities carried on with a view to the supervision, application, and enforcement of the Agreement. These authorities are to monitor all activities that may have an impact on the conservation status of those albatrosses and petrels for which the Party is a Range State.

Article VII(2) provides that decisions relating to the budget and scale of contributions for the operation of the Secretariat are to be adopted by the Meeting of the Parties by consensus. The term "consensus" in the practice of multilateral bodies means the adoption of a resolution or a decision without a vote in the absence of any formal objection or opposition. Contributions for the operation of the secretariat are mandatory. The Meeting of the Parties may also establish a fund from voluntary contributions for work relating to the conservation of albatrosses and petrels. Annual appropriations will be necessary for the United States to meet the mandatory contribution obligation, which for the United States would be approximately $100,000.

ARTICLE VIII

Article VIII contains several provisions on the Meeting of the Parties, which is the decision-making body of the Agreement. Except as otherwise provided in the Agreement (such as with respect to the budget, as noted above), decisions of the Meeting of the Parties are to be adopted by consensus or, if consensus cannot be achieved, by a two-thirds majority of the Parties present and voting. At any of its sessions, the Meeting of the Parties may, among other things, adopt measures to improve the effectiveness of the Agreement and emergency measures as set forth in Article VIII(13)(c). The Agreement does not authorize the Meeting of the Parties to adopt measures for albatrosses and petrels that are binding under international law; new binding measures would need to be effectuated through amendments. Article VIII provides that the Meeting of the Parties may consider and decide upon proposals to amend the Agreement, Annex 1, or Annex 2 (the Action Plan). As provided in Article XII, the adoption of an amendment of any of these instruments requires a two-thirds majority of the Parties present and voting.

Article VIII further includes a provision that would allow for Taiwan to be legally bound by the Agreement.

ARTICLE IX

Article IX provides for the establishment of an Advisory Committee to provide expert advice and information to the Parties, the Secretariat, and others.

ARTICLE X

Article X lists the functions of the Secretariat, such as arranging and servicing the sessions of the Meeting of the Parties and the meetings of the Advisory Committee.

ARTICLE XI

Article XI provides for cooperation and coordination with relevant international, regional, and sub-regional bodies, including those concerned with the conservation and management of seabirds and their habitats and other marine living resources. It provides, inter alia, that the Secretariat may, with the approval of the Meeting of the Parties, enter into arrangements with other organizations and institutions.

ARTICLE XII

Article XII covers amendment of the Agreement. An amendment to the Agreement may be adopted at any ordinary or extraordinary session of the Meeting of the Parties, by a two-thirds majority of the Parties present and voting. An amendment to the body of the Agreement only applies to those Parties affirmatively accepting the amendment.

Any additional Annex or amendment to any Annex may be adopted by a two-thirds majority of the Parties present and voting. Additional annexes or amendments to existing annexes enter into force for all Parties ninety days after adoption, except that a Party may, within those ninety days, enter a reservation with respect to

an additional annex or amendment of an existing annex. In the event that an additional annex or amendment to any annex were to be adopted that was of such a nature that it would need to be sent to the Senate for advice and consent in order for the United States constitutionally to be bound by it, the Executive Branch would take the necessary steps to ensure that such an annex or amendment did not enter into force for the United States absent such advice and consent. A Party may withdraw a reservation at any time and, by doing so, become bound by such an annex or amendment.

ARTICLE XIII

Article XIII provides that nothing in the Agreement derogates from the rights and obligations of any Party deriving from existing international treaties, particularly in relation to the United Nations Convention on the Law of the Sea, and also the Antarctic Treaty and the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), especially Article IV of the last two instruments.

Article XIII provides that, with respect to the Antarctic Treaty area, all Parties, whether or not they are Parties to the Antarctic Treaty, shall be bound by Articles IV and VI of the Antarctic Treaty in their relations with each other. Article XIII also provides that nothing in the Agreement, and no acts or activities taking place while the Agreement is in force, may be interpreted as a renunciation or diminution by any Party of, or as prejudicing, any right or claim or basis of claim to territorial sovereignty or to the exercise of coastal state jurisdiction under international law; or may interpreted as prejudicing the position of any Party as regards its recognition or non-recognition of any such right, claim or basis of claim. This provision is consistent with Article IV of the Antarctic Treaty.

Article XIII provides that Parties are to adopt measures for reducing the incidental taking of albatrosses and petrels agreed to by regional fisheries organizations, or other organizations managing marine living resources more generally, such as the Commission for the Conservation of Antarctic Marine Living Resources (the Commission). The United States is a member of the Commission and of all other regional fisheries organizations that regulate fisheries in which U.S. fishing vessels operate.

Further, Article XIII provides that the Agreement does not affect the right of any Party to maintain or adopt stricter measures for the conservation of albatrosses and petrels and their habitats.

ARTICLE XIV

Article XIV calls upon Parties to cooperate in order to avoid disputes. Where a dispute between Parties is agreed by the Parties to be of a technical nature, the Parties are to confer with each other and the Chair of the Advisory Committee with a view to resolving the dispute amicably. If the Parties to such dispute are unable to resolve the dispute within twelve months of the Chair's having been informed in writing of the dispute by one of the Parties, and if the Chair is of the view that prolongation of the dispute could have an adverse effect on the conservation status of albatrosses

and petrels, the Parties shall refer the dispute to a technical arbitration panel. The final decision of the technical arbitration panel will be binding on the Parties to the dispute.

Any other dispute (i.e., a dispute that any party to the dispute considers nontechnical) is subject to the provisions of Article XIII of the Convention (whether or not parties to the dispute are Parties to the Convention). The Convention (Article XIII) provides for negotiation and arbitration, if all parties to the dispute consent.

ARTICLE XV

Article XV provides for signature, ratification, acceptance, approval and accession.

The Agreement is open to accession by the United States.

ARTICLE XVI

Article XVI includes provisions on entry into force. The Agreement entered into force on February 1, 2004. To date, eleven countries have become Parties to the Agreement.

ARTICLE XVII

Article XVII contains provisions for reservations. Although Article XII allows for a Party to enter a reservation regarding the addition of or an amendment to an existing annex, the Agreement's provisions are not subject to general reservations. Upon signature or, as the case may be, upon ratification, acceptance, approval, or accession, a specific reservation may be entered in respect of any species covered by the Agreement, or in respect of any specific provision of the Action Plan. Such a reservation may be withdrawn at any time.

A Party to the Agreement that is not a party to the Convention may make . declarations or statements to the effect of clarifying its status vis-á-vis either the Agreement or the Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of the Agreement in their application to that Party. Accordingly, it is recommended that the United States include the following declaration in its instrument of ratification:

The United States is not a party to the Convention on the Conservation of Migratory Species of Wild Animals, done at Bonn June 23, 1979. Accordingly, the United States of America shall not be bound by any provision of that Convention, except as provided in Article XIV, paragraph 5, of the Agreement.

The United States does not intend to make any specific reservations upon accession to the Agreement.

ARTICLE XVIII

Article XVIII provides that a Party may denounce the Agreement at any time upon twelve months' notice.

ARTICLE XIX

Article XIX names Australia as the Depositary of the Agreement.

ANNEX 1

Annex 1 lists the albatross and petrel species to which the Agreement applies. Pursuant to Article XII, this Annex may be amended to add or remove one or more albatross or petrel species. In November of 2006, the Meeting of the Parties amended Annex 1 to adjust the taxonomic nomenclature based upon internationally agreed taxonomic reclassifications of species. The Executive Branch proposes that the United States accede to the amended Agreement.

ANNEX 2

Annex 2 contains the Action Plan. The Action Plan includes detailed provisions on species conservation, habitat conservation and restoration, management of human activities, research and monitoring, collation of information by the Advisory Committee, education and public awareness, and implementation.

SECTION 1

Section 1 of the Action Plan contains provisions on species conservation.

Section 1 provides that, in addition to actions specified in Article III and without prejudice to any obligations they may have under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Parties are to prohibit the use of, and trade in, albatrosses and petrels or their eggs, or any readily recognizable parts or derivatives thereof. The Administration understands this provision to apply both to international use and trade as well as to use and trade within the United States and its territories. Section 1 also provides that Parties may grant exemptions to this prohibition according to the exemption provisions set forth in Article III(3) of the Agreement.

Section 1 also provides that, in the event of a request by the Advisory Committee for a Meeting of Parties under the emergency provisions of Article IX(7), the Parties affected, in cooperation with each other and with any others, shall develop and implement emergency measures. The process for adopting and implementing such measures is set forth in Article IX(7).

Section 1 also provides that the Parties are to take a precautionary approach when re-establishing albatrosses and petrels into parts of their traditional breeding range. In such cases, the Parties must develop and follow a detailed re-establishment scheme, based on the best scientific evidence.

Section 1 also requires the Parties to take all feasible action to prevent the introduction into habitats, deliberately or otherwise, of non-native taxa of animals, plants or hybrids or disease-causing organisms that may be detrimental to populations of albatrosses and petrels. In addition, this Section requires Parties to take measures, to the extent feasible, to control and, where possible, eradicate non-native taxa of animals or plants, or hybrids thereof, that are, or may be, detrimental to populations of albatrosses or petrels.

SECTION 2

Section 2 contains provisions on habitat conservation and restoration.

A paragraph provides that, so far as appropriate and necessary, the Parties are to take such management action, and introduce such legislative and other controls, as will maintain populations of albatrosses and petrels at, or restore them to, favorable conservation status and prevent the degradation of habitats.

Section 2 also includes provisions on land-based conservation, including the protection of breeding sites, as well as on the conservation of marine habitats.

Section 2 also requires Parties to take special measures, individually and collectively, to conserve marine areas which they consider critical to the survival and/or restoration of species of albatrosses and petrels that have unfavorable conservation status.

SECTION 3

Section 3 includes provisions on the management of human activities.

Section 3 requires the Parties to assess the potential impact on albatrosses and petrels of policies, plans, programs and projects that they consider likely to affect the conservation status of albatrosses and petrels before any decision on whether to adopt such policies, plans, programs or projects, and to make the results of these assessments publicly available.

Section 3 also requires Parties that are parties to other relevant treaties, such as CCAMLR, or members of relevant international organizations, such as FAO, to encourage the institutions of, and other parties to or members of such treaties or organizations, to give effect to the objective of the Agreement.

Section 3 also requires the Parties to endeavor to adopt additional measures to combat illegal, unregulated and unreported fishing activities that may have an adverse effect on albatrosses and petrels.

Section 3 also requires the Parties to take appropriate measures, within environmental conventions and by other means, to minimize the discharge of land-based sources and from vessels, of pollutants that may have an adverse effect on albatrosses and petrels either on land or at sea.

Section 3 also requires the Parties to seek to manage, in ways consistent with the aims of the Agreement, mineral exploration and exploitation in waters under their jurisdiction which are frequented by albatrosses and petrels.

Section 3 further requires the Parties, in both marine and terrestrial habitats, to seek to minimize disturbance of albatrosses and petrels, and to establish and maintain some areas that are kept free from disturbance.

Section 3 also requires the Parties to seek to avoid or minimize disturbance caused . by tourism, and in particular by controlling the proximity of approach to breeding albatrosses or petrels.

SECTION 4

Section 4 sets forth provisions on research and monitoring both at sea and on land.

Section 4 requires Parties, through the use of at-sea observers on fishing vessels or through other appropriate methods, to collect reliable and, where possible, verifiable data to enable the accurate es-

timation of the nature and extent of albatross and petrel interactions with fisheries.

SECTION 5

Section 5 contains provisions on the content of the reports of the Advisory Committee, including assessment of population trends, identification of important breeding sites, information on the foraging range and migration routes, identification and assessment of threats, review of data on mortality and several other topics.

SECTION 6

Section 6 includes provisions on education, public awareness and training.

SECTION 7

Section 7 contains provisions on implementation. This Section requires the Advisory Committee to develop conservation guidelines to assist with the implementation of the Action Plan.

AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS

THE CONTRACTING PARTIES,

RECALLING that the Convention on the Conservation of Migratory Species of Wild Animals, 1979, (the Convention) encourages international cooperative action to conserve and manage migratory species, and that its Parties are encouraged to conclude Agreements on wild animals which periodically cross national jurisdictional boundaries;

CONSIDERING that the fifth meeting of the Conference of Parties to the Convention, held in Geneva in April 1997, listed all Southern Hemisphere albatross species on either Appendix I or II;

RECALLING that the sixth meeting of the Conference of Parties to the Convention, held in South Africa in November 1999, listed a number of petrel species on Appendix II, noted the threats posed by fisheries by-catch in general to a wide range of species, and in particular to albatrosses and petrels, and requested relevant Parties to develop an Agreement, under the Convention, for the conservation of Southern Hemisphere albatrosses;

APPRECIATING the work of the Group of Temperate Southern Hemisphere Countries on the Environment (known as the Valdivia Group) in considering the need to address the threats posed to Southern Hemisphere albatross populations, and the work of Australia in taking forward this need in the context of the Convention;

RECOGNISING that albatrosses and petrels are an integral part of marine ecosystems which must be conserved for the benefit of present and future generations, and that their conservation is a matter of common concern, particularly in the Southern Hemisphere:

AWARE that the conservation status of albatrosses and petrels can be adversely affected by factors such as degradation and disturbance of their habitats, pollution, reduction of food resources, use and abandonment of non-selective fishing gear, and specifically by incidental mortality as a result of commercial fishing activities;

CONVINCED that the vulnerability of Southern Hemisphere albatrosses and petrels to such threats warrants the implementation of specific conservation measures, where they do not already exist, by Range States;

ACKNOWLEDGING that, notwithstanding past or ongoing scientific research, knowledge of the biology, ecology and population dynamics of albatrosses and petrels is limited, and that it is necessary to develop cooperative research and monitoring of these species in order to implement fully effective and efficient conservation measures;

CONSCIOUS of the cultural significance of albatrosses and petrels to some indigenous peoples;

CONVINCED that the conclusion of a multilateral agreement and its implementation through coordinated, concerted actions will contribute significantly to the conservation of Southern Hemisphere albatrosses and petrels and their habitats in the most effective and efficient manner;

NOTING that Northern Hemisphere albatrosses and petrels may in future benefit from incorporation into this Agreement with a view to promoting co-ordinated conservation actions between Range States;

RECALLING the obligation in the United Nations Convention on the Law of the Sea, 1982, to protect and preserve the marine environment;

RECOGNISING the significance of the Antarctic Treaty, 1959, and the Convention on the Conservation of Antarctic Marine Living Resources, 1980, whose Commission has adopted conservation measures to reduce incidental catch within the area of application of that Convention, particularly of albatrosses and petrels;

RECOGNISING further that the Convention for the Conservation of Southern Bluefin Tuna, 1992, enables its Commission to adopt conservation measures to reduce the incidental catch of seabirds;

ACKNOWLEDGING that the Food and Agriculture Organization of the United Nations International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries was adopted in 1999, and that a number of conventions relating to the conservation and management of marine living resources have the capacity to contribute positively to the conservation of albatrosses and petrels;

RECOGNISING the Rio Declaration on Environment and Development, 1992, Principle 15, that, in order to protect the environment, the precautionary approach should be widely applied;

RECALLING further that the Convention on Biological Diversity, 1992, obliges its Parties to cooperate with each other or through competent international organisations to conserve biological diversity,

HAVE AGREED AS FOLLOWS:

ARTICLE I

Scope, definitions and interpretation

1. This Agreement shall apply to the species of albatrosses and petrels listed in Annex 1 to this Agreement, and their range as defined in paragraph 2(i) of this Article.

2. For the purpose of this Agreement:

   a) "Albatross" and/or "petrel" means one of any species, subspecies or population of the albatrosses and/or, as the case may be, petrels listed in Annex 1 to this Agreement;

   b) "Secretariat" means the body established under Article VIII of this Agreement;

   c) "Convention" means the Convention on the Conservation of Migratory Species of Wild Animals, 1979;

   d) "UNCLOS" means the United Nations Convention on the Law of the Sea, 1982;

   e) "CCAMLR" means the Convention on the Conservation of Antarctic Marine Living Resources, 1980;

   f) "Convention Secretariat" means the body established under Article IX of the Convention;

   g) "Advisory Committee" means the body established under Article IX of this Agreement;

   h) "Party" means, unless the context otherwise indicates, a State or regional economic integration organisation that is a Party to this Agreement;

   i) "Range" means all the areas of land or water that any albatross or petrel inhabits, stays in temporarily, crosses, or over-flies at any time on its normal migration routes;

   j) "Habitat" means any area which contains suitable living conditions for albatrosses and/or petrels;

   k) "Parties present and voting" means the Parties present and casting an affirmative or negative vote; those abstaining from voting shall not be counted amongst the Parties present and voting;

   l) "Migratory species" means the entire population or any geographically separate part of the population of any species or lower taxon of wild

animals, a significant proportion of whose members cyclically and predictably cross one or more national boundaries;

m) "Conservation status of a migratory species" means the sum of the influences acting on the migratory species that may affect its long-term distribution and abundance;

n) Conservation status will be taken as "favourable" when all of the following conditions are met:

i. population dynamics data indicate that the migratory species is maintaining itself on a long-term basis;

ii. the range of the migratory species is neither currently being reduced, nor is likely to be reduced, on a long-term basis;

iii. there is, and will be in the foreseeable future, sufficient habitat to maintain the population of the migratory species on a long-term basis; and

iv. the distribution and abundance of the migratory species approach historic coverage and levels to the extent that potentially suitable ecosystems exist and to the extent consistent with wise wildlife management;

o) Conservation status will be taken as "unfavourable" if any of the conditions set out in sub-paragraph n) of this paragraph is not met;

p) "Range State" means any State that exercises jurisdiction over any part of the range of albatrosses or petrels, or a State, flag vessels of which are engaged outside its national jurisdictional limits in taking, or which have the potential to take, albatrosses and petrels;

q) "Taking" means taking, hunting, fishing, capturing, harassing, deliberate killing or attempting to engage in any such conduct; and

r) "Regional economic integration organisation" means an organisation constituted by sovereign States of a given region which has competence in respect of matters governed by this Agreement and has been duly authorised, in accordance with its internal procedures, to sign, ratify, accept approve or accede to this Agreement.

3. Any regional economic integration organisation which becomes a Party to the Agreement without any of its member States being a Party to the Agreement shall be bound by all the obligations under the Agreement. Where one or more member States of such an organisation are also Party to the Agreement, the organisation and its member States shall decide on their respective responsibilities for the performance of their obligations under the Agreement. In such cases, the organisation and the member States shall not be entitled to exercise rights under the Agreement concurrently.

4. In their instruments of ratification, acceptance, approval or accession, regional economic integration organisations shall declare the extent of their competence

with respect to the matters governed by the Agreement. They shall also promptly inform the Depository, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

5. This Agreement is an AGREEMENT within the meaning of Article IV (3) of the Convention.

6. The annexes to this Agreement form an integral part thereof. Any reference to the Agreement includes a reference to its annexes.

ARTICLE II

Objective and Fundamental Principles

1. The objective of this Agreement is to achieve and maintain a favourable conservation status for albatrosses and petrels.
2. The Parties shall take measures, both individually and together, to achieve this objective.
3. In implementing such measures the Parties shall widely apply the precautionary approach. In particular, where there are threats of serious or irreversible adverse impacts or damage, lack of full scientific certainty shall not be used as a reason for postponing measures to enhance the conservation status of albatrosses and petrels.

ARTICLE III

General Conservation Measures

1. In furtherance of their obligation to take measures to achieve and maintain a favourable conservation status for albatrosses and petrels, the Parties, having regard to Article XIII, shall:
   a) conserve and, where feasible and appropriate, restore those habitats which are of importance to albatrosses and petrels;
   b) eliminate or control non-native species detrimental to albatrosses and petrels;
   c) develop and implement measures to prevent, remove, minimize or mitigate the adverse effects of activities that may influence the conservation status of albatrosses and petrels;
   d) initiate or support research into the effective conservation of albatrosses and petrels;
   e) ensure the existence and appropriateness of training for, *inter alia*, the implementation of conservation measures;
   f) develop and maintain programmes to raise awareness and understanding of albatross and petrel conservation issues;
   g) exchange information and results from albatross and petrel, and other relevant, conservation programmes; and

h) support the implementation of the actions elaborated in the FAO International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries which complement the objectives of this Agreement.

2. The Parties shall, subject to paragraphs 3 to 5 of this Article, prohibit the deliberate taking of, or harmful interference with, albatrosses and petrels, their eggs, or their breeding sites.

3. Parties may grant an exemption to the prohibitions in paragraph 2 of this Article, but only if there is no other satisfactory course of action and the exemption is made for one of the following purposes:

    a) to enhance the propagation, re-establishment or survival of albatrosses or petrels;

    b) on a selective basis and to a limited extent for scientific, educational or similar purposes;

    c) to accommodate the traditional needs and practices of indigenous peoples; or

    d) in other exceptional circumstances, in which case, unless an exceptional circumstance is of the nature of a short-term emergency, a prior environmental impact assessment shall be carried out and made publicly available in accordance with requirements in the Action Plan established by Article VI.

4. Any exemption under paragraph 3 of this Article, shall be precise, and limited in space and time, and shall not operate to the detriment of the conservation status of albatrosses or petrels. Any Parties granting such exemptions shall, as soon as possible, submit full details of them to the Secretariat.

5. Humane killing, by duly authorised persons, to end the suffering of seriously injured or moribund albatrosses or petrels shall not constitute deliberate taking or harmful interference.

6. In furtherance of their obligation to take measures to achieve and maintain a favourable conservation status for albatrosses or petrels, the Parties shall progressively implement the Action Plan.

ARTICLE IV

Capacity Building

1. Effective implementation of this Agreement requires assistance to be provided to some Range States, including through research, training or monitoring for implementation of conservation measures for albatrosses and petrels and their habitats, for the management of those habitats as well as for the establishment or improvement of scientific and administrative institutions for the implementation of this Agreement.

2. The Parties shall give priority to capacity building, through funding, training, information and institutional support, for the implementation of the Agreement.

ARTICLE V

Cooperation between Parties

The Parties shall cooperate, having regard to the Action Plan, to:

a) develop systems for collecting and analysing data, and exchanging information;

b) exchange information regarding adoption and enforcement of legislative and other management approaches to conservation of albatrosses and petrels;

c) implement education and awareness programmes for users of areas where albatrosses and petrels may be encountered;

d) design and implement comprehensive programmes for public information in relation to the conservation of albatrosses and petrels;

e) develop and implement training programmes on conservation techniques and measures to mitigate threats affecting albatrosses and petrels; and

f) undertake exchange of expertise, techniques and knowledge.

ARTICLE VI

Action Plan

1. Annex 2 of this Agreement shall have effect as an Action Plan for the achievement and maintenance of a favourable conservation status for albatrosses and petrels.

2. With due consideration to the capabilities of Parties to implement such actions, and with specific reference to Article IV, the Action Plan shall at all times set out the actions that the Parties shall progressively undertake in relation to albatrosses and petrels, consistent with the general conservation measures specified in Article III, including:

   a) species conservation;

   b) habitat conservation and restoration;

   c) management of human activities;

   d) research and monitoring;

   e) collation of information;

   f) education and public awareness; and

   g) implementation.

3. Progress in implementing the Action Plan shall be assessed at each ordinary session of the Meeting of the Parties and the content of the Action Plan reviewed in light of that assessment.

4. The Meeting of Parties shall consider any proposed amendment to the Action Plan in the light of the provisions of Article III before deciding on its adoption in accordance with Article XII.

ARTICLE VII

Implementation and Financing

1. Each Party shall:

   a) designate an Authority or Authorities to undertake, monitor and control all activities carried on with a view to the supervision, application and enforcement of this Agreement. Such Authority or Authorities shall, *inter alia*, monitor all activities that may have an impact on the conservation status of those albatross and petrel species for which the Party is a Range State;

   b) designate a Contact Point and communicate without delay its name and address to the Secretariat to be circulated forthwith to the other Parties; and

   c) in relation to each ordinary session of the Meeting of the Parties, beginning with the second session, provide information through the Secretariat to the Advisory Committee so that it may prepare a synthesised report on the implementation of the Agreement, with particular reference to the conservation measures undertaken, in accordance with Article IX (6) d).

Such an Authority or Authorities and Contact Point shall be the central Government Ministry or agency, as the case may be, responsible for the administration of this Agreement.

2. a) Decisions relating to the budget and any scale of contributions shall be adopted by the Meeting of the Parties by consensus, having regard to the differing resources of the different Parties.

   b) If consensus cannot be reached, the previously approved budget shall continue to apply until superseded by a new, agreed budget.

   c) Following the accession of any new Party, the Meeting of the Parties shall, at its next session, review and replace the scale of contributions unless it agrees such review and replacement to be inappropriate.

3. The Meeting of the Parties may establish a fund from voluntary contributions of Parties or from any other source for the purpose of work relating to the conservation of albatrosses and petrels, including monitoring, research, technical development, training, education and habitat management. No surcharge shall be levied on such voluntary contributions or on such a fund to meet administrative overheads of the Secretariat or any organisation providing services to it.

4. The Parties shall, in support of their obligations under Article IV, endeavour to provide training, technical and financial support to other Parties on a multilateral or bilateral basis to assist them in implementing the provisions of this Agreement. No surcharge shall be levied on the costs of such training, technical or financial

support to meet administrative overheads of the Secretariat or any organisation providing services to it.

5. A fund may be used to meet expenses related to the participation of Party representatives in sessions of the Meeting of the Parties and the Advisory Committee. This shall not preclude such expenses being met by other arrangements, bilateral or otherwise.

ARTICLE VIII

Meeting of the Parties

1. The Meeting of the Parties shall be the decision-making body of this Agreement.
2. The Depositary shall, in consultation with the Convention Secretariat, convene a session of the Meeting of the Parties not later than one year after the date of the entry into force of this Agreement. Ordinary sessions of the Meeting of the Parties shall be held at intervals of not more than three years, unless the Meeting of the Parties decides otherwise.
3. On the written request of at least one third of the Parties, the Secretariat shall convene an extraordinary session of the Meeting of the Parties.
4. The Meeting of the Parties shall make provision in its rules of procedure, adopted in accordance with paragraph 11 of this Article, for governing the attendance and participation of observers and to provide for transparency in the activities relating to the Agreement. Such rules shall not be unduly restrictive in this respect and shall provide for timely access to the records and reports relating to the Agreement. The Meeting of the Parties shall adopt such rules of procedure, taking account of potential costs, as soon as possible.
5. Any State not a Party to the Agreement, the United Nations, any specialised Agency of the United Nations, any regional economic integration organisation, and any secretariat of relevant international conventions, particularly those concerned with the conservation and management of marine living resources or the conservation of albatrosses and petrels, may participate as observers in sessions of the Meeting of the Parties and its subsidiary bodies. Such participation shall be subject to the rules of procedure.
6. Any relevant scientific, environmental, cultural or technical body concerned with the conservation and management of marine living resources or the conservation of albatrosses and petrels, may participate as an observer in sessions of the Meeting of the Parties and its subsidiary bodies. Such participation shall be subject to the rules of procedure. Rules of procedure in relation to this paragraph, including provision for the attendance of observers, may include provision for voting different from that in paragraph 9 of this Article.
7. Each Party shall have one vote, but regional economic integration organisations which are Parties to this Agreement shall, in matters within their competence, exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the Agreement. A regional economic

integration organisation shall not exercise its right to vote if its Member States exercise theirs, and *vice versa*.

8. The Meeting of the Parties shall establish and keep under review the financial regulations of this Agreement. The Meeting of the Parties shall, at each of its ordinary sessions, adopt a budget for the next financial period. Financial regulations, including the provisions of the budget and scale of contributions as well as their modifications, shall be adopted by consensus.

9. Unless provided otherwise in this Agreement, decisions of the Meeting of the Parties shall be adopted by consensus or, if consensus cannot be achieved, by a two-thirds majority of the Parties present and voting.

10. The Meeting of the Parties may require any information relevant to the effective functioning of this Agreement to be supplied to the Parties by way of the Secretariat, in addition to the information required by Article VII (1) c).

11. At its first session, the Meeting of the Parties shall:

    a) adopt its rules of procedure by consensus;

    b) determine the financial arrangements, a scale of contributions and a budget by consensus;

    c) establish a Secretariat to perform the secretariat functions listed in Article X of this Agreement;

    d) establish the Advisory Committee provided for in Article IX of this Agreement; and

    e) adopt criteria to define emergency situations that require urgent conservation measures and determine the modalities for assigning responsibility for action to be taken.

12. At each of its ordinary sessions, the Meeting of the Parties shall:

    a) consider reports, advice and information from any of its subsidiary bodies;

    b) consider actual and potential changes in the conservation status of albatrosses and petrels, and the habitats important for their survival, as well as the factors that may affect them;

    c) review any difficulty encountered in the implementation of this Agreement;

    d) consider any matters relating to the financial arrangements for this Agreement and adopt a budget by consensus;

    e) deal with any matter relating to the Secretariat, and membership and funding of the Advisory Committee;

    f) adopt a report to be communicated to the Parties to this Agreement and to the Conference of the Parties of the Convention; and

    g) determine the time and venue of its next session.

13. At any of its sessions, the Meeting of the Parties may:

    a) amend the rules of procedure;

b) make such recommendations as it deems necessary or appropriate;

c) adopt measures to improve the effectiveness of this Agreement and, as the case may be, emergency measures as provided for in Article IX (7) of this Agreement;

d) consider and decide upon proposals to amend this Agreement;

e) amend Annex 1;

f) amend the Action Plan in accordance with Article VI (4) of this Agreement;

g) establish such subsidiary bodies as it deems necessary to assist in the implementation of this Agreement, in particular for coordination with bodies established under other relevant international treaties;

h) vary any time limits set in this Agreement for the submission of documents or otherwise; and

i) decide on any other matter relating to the implementation of this Agreement.

14. At every third session of the Meeting of the Parties, it shall review the effectiveness of the Secretariat in facilitating the achievement of the objectives of this Agreement. The previous session of the Meeting of the Parties shall agree the Terms of Reference for the review.

15. The Meeting of the Parties may adopt by consensus provisions for the relationship to this Agreement by any member economy of the Asia Pacific Economic Co-operation forum whose vessels fish within the range of albatrosses and petrels. Those provisions, once adopted, shall enable the member economy to participate in the work of the Meeting of the Parties and its subsidiary bodies, including decision-making, and to comply with all obligations under this Agreement. For this purpose, references under those provisions to those participating in the Meeting of the Parties or its subsidiary bodies shall include such a member economy as well as Parties.

ARTICLE IX

Advisory Committee

1. The Meeting of the Parties shall establish an Advisory Committee ("the Committee") to provide expert advice and information to Parties, the Secretariat and others.

2. Each Party shall be entitled to appoint one member to the Committee. Each Committee member may be accompanied by one or more advisers.

3. The Committee may invite other experts to attend its meetings. It may establish working groups.

4. The Parties shall seek to support the expenses of experts attending meetings of the Committee so as to optimise the contributions of all Parties to achieving the objective of the Agreement.

5. The Committee shall elect a Chair and Vice-chair and establish its own rules of procedure.

6. The Committee shall:

   a) provide scientific, technical and other advice and information to the Meeting of the Parties and, through the Secretariat, to the Parties;

   b) endorse a standard reference text listing the taxonomy and maintain a listing of taxonomic synonyms for all species covered by the Agreement;

   c) make recommendations to the Meeting of the Parties concerning the Action Plan, implementation of the Agreement and further research to be carried out;

   d) prepare a report to each ordinary Meeting of the Parties after the first on the implementation of the Agreement, with particular reference to the Action Plan and the conservation measures undertaken. Each such report shall include a synthesis of such information as Parties are required to submit to the Committee through the Secretariat under Article VII (1) c), and an assessment of the status and trends of albatross and petrel populations, but:

      i) the format of such reports from the Committee shall be determined by the first session of the Meeting of the Parties and reviewed as may be necessary at any subsequent session of the Meeting of the Parties; and the nature of the information to be provided by the Parties shall be determined by the Committee at its first meeting, subject to any direction from the Meeting of the Parties, and reviewed as may be necessary at any subsequent meeting; and

      ii) each such report from the Committee shall be submitted to the Secretariat not less than one hundred and twenty days before the ordinary session of the Meeting of the Parties at which it is to be discussed; and, subject to any direction from the Meeting of the Parties, the Committee may set such prior time limits for the submission of information by Parties for this purpose as it may from time to time see fit;

   e) submit to the Secretariat for circulation to the Parties, not less than one hundred and twenty days before each ordinary session of the Meeting of the Parties, a report on its own activities;

   f) develop a system of indicators to measure the collective success of the Parties to the Agreement in addressing the objective set out in Article II (1), and subsequently apply it in the reports made under paragraph 6(d) of this Article; and

   g) carry out any other appropriate tasks referred to it by the Meeting of the Parties.

7. Where, in the opinion of the Committee, there has arisen an emergency that requires the adoption of immediate measures to avoid deterioration of the conservation status of one or more albatross or petrel species, the Committee may request the Secretariat to convene urgently a meeting of the Parties concerned. These Parties shall meet as soon as possible thereafter to establish a mechanism

with a view to giving protection to the species identified as being subject to a threat. Where a recommendation has been adopted at such a meeting, the Parties concerned shall inform each other and the Secretariat of the measures they have taken to implement it, or of the reasons why the recommendation could not be implemented.

8. The Committee may incur such expenditure from the budget of the Agreement as may be authorised by the Meeting of the Parties under Article VIII (12) e).

ARTICLE X

Agreement Secretariat

The functions of the Secretariat shall be:

a) to arrange and service the sessions of the Meeting of the Parties as well as the meetings of the Advisory Committee;

b) to execute the decisions addressed to it by the Meeting of the Parties;

c) to promote and coordinate activities under the Agreement, including the Action Plan, in accordance with decisions of the Meeting of the Parties;

d) to liaise with non-Party Range States and regional economic integration organisations and to facilitate coordination between Parties and non-Party Range States, and international and national organisations and institutions whose activities are directly or indirectly relevant to the conservation, including the protection and management, of albatrosses and petrels;

e) to invite the attention of the Meeting of the Parties to matters pertaining to the objectives of this Agreement;

f) to provide to each ordinary session of the Meeting of the Parties a report on its work;

g) to administer the budget for the Agreement and, if established, the fund provided for in Article VII (3);

h) to provide information to the general public concerning the Agreement and its objectives, and promote the objectives of this Agreement;

i) to develop a system of performance indicators to measure the effectiveness and efficiency of the Secretariat and report to each ordinary session of the Meeting of the Parties in terms of these;

j) to collate as appropriate information provided by Parties through the Secretariat under Article VII (1) c) and Article VIII (10); and

k) to perform such other functions as may be entrusted to it by or under the Agreement.

ARTICLE XI

Relations with Relevant International Bodies

1. The Parties shall promote the objectives of this Agreement and develop and maintain coordinated and complementary working relationships with all relevant international, regional and sub-regional bodies, including those concerned with the conservation and management of seabirds and their habitats and other marine living resources, particularly with the Commission of CCAMLR and the Food and Agriculture Organization of the United Nations, particularly in the context of the International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries.

2. The Secretariat shall consult and cooperate, where appropriate, with:

   a) the Convention Secretariat, and the bodies responsible for secretariat functions under Agreements concluded pursuant to Article IV (3) and (4), of the Convention, that are relevant to albatrosses and petrels;

   b) the secretariats of other relevant conventions and international instruments in respect of matters of common interest; and

   c) other organisations or institutions with competence in the field of conservation of albatrosses and petrels and their habitats, as well as in the fields of research, education and awareness raising, including the Committee for Environmental Protection established under the Protocol for Environmental Protection to the Antarctic Treaty.

3. The Secretariat may enter into arrangements, with the approval of the Meeting of Parties, with other organisations and institutions as may be appropriate.

4. The Secretariat shall consult and cooperate with these bodies in exchanging information and data, and may, with the consent of the Chair of the Advisory Committee, invite these bodies to send observers to relevant meetings.

ARTICLE XII

Amendment of the Agreement

1. This Agreement may be amended at any ordinary or extraordinary session of the Meeting of the Parties.

2. Any Party may make proposals for amendment.

3. The text of any proposed amendment and the reasons for it shall be communicated to the Secretariat not less than one hundred and fifty days before the opening of the session. The Secretariat shall transmit copies of any proposed amendment forthwith to the Parties. Any comments on a proposed amendment by the Parties shall be communicated to the Secretariat not less than sixty days before the opening of the session. The Secretariat shall, as soon as possible after the last day for submission of comments, communicate to the Parties all comments submitted by that day.

4. An amendment to the Agreement, other than an amendment to its annexes, shall be adopted by a two-thirds majority of the Parties present and voting. Parties

accepting the amendment shall deposit their instruments of acceptance with the Depositary. Amendments enter into force for accepting Parties on the thirtieth day after the date on which two-thirds of the Parties to the Agreement on the date of the amendment's adoption have deposited their instruments of acceptance. For each Party that deposits an instrument of acceptance after the date on which two-thirds of the Parties have deposited their instruments of acceptance, the amendment shall enter into force on the thirtieth day after the date on which it deposits its instrument of acceptance.

5. Any additional annex or amendment to an annex shall be adopted by a two-thirds majority of the Parties present and voting and shall enter into force for all Parties on the ninetieth day after the date of its adoption by the Meeting of the Parties, except for Parties that have entered a reservation in accordance with paragraph 6 of this Article.

6. During the period of ninety days provided for in paragraph 5 of this Article, any Party may, by written notification to the Depositary, enter a reservation with respect to an additional annex or an amendment to an annex. Such reservation may be withdrawn at any time by written notification to the Depositary, and the additional annex or the amendment shall enter into force for that Party on the thirtieth day after the date of withdrawal of the reservation.

ARTICLE XIII

Relationship between this Agreement and other Legislation and International Conventions

1. For the purposes of this Agreement:

   a) nothing in this Agreement shall derogate from the rights and obligations of any Party deriving from existing international treaties, particularly in relation to the United Nations Convention on the Law of the Sea (UNCLOS), and also to the Antarctic Treaty and CCAMLR and especially Article IV in both instruments;

   b) with respect to the Antarctic Treaty area, all Parties, whether or not they are Parties to the Antarctic Treaty, shall be bound by Articles IV and VI of the Antarctic Treaty in their relations with each other;

   c) nothing in this Agreement and no acts or activities taking place while the present Agreement is in force shall:

      i) be interpreted as a renunciation or diminution by any Party of, or as prejudicing, any right or claim or basis of claim to territorial sovereignty or to the exercise of coastal state jurisdiction under international law within the area to which this Agreement applies; or

      ii) be interpreted as prejudicing the position of any Party as regards its recognition or non-recognition of any such right, claim or basis of claim.

2. In relation to fishing activities under the auspices of a regional fisheries organisation, or other organisations managing marine living resources more generally, such as the Commission of CCAMLR, the Parties shall consider information and evaluations from that organisation, and shall adopt, in its area of competence, the measures agreed by that organisation for reducing the incidental taking of albatrosses and petrels. Notwithstanding this, and in conformity with paragraph 3 of this Article, the Parties may implement measures that are more strict than those measures, when such measures are within their competency, taking account of the provisions of Article I (3).

3. The provisions of this Agreement shall in no way affect the right of any Party to maintain or adopt stricter measures for the conservation of albatrosses and petrels and their habitats.

ARTICLE XIV

Settlement of Disputes

1. Parties shall co-operate in order to avoid disputes.

2. Where a dispute between two or more Parties is agreed to be of a technical nature, the Parties shall confer with each other and the Chair of the Advisory Committee with a view to resolving the dispute amicably. Where the Parties are unable to resolve the dispute within twelve months of the Chair having been informed in writing of the dispute by one of the parties, and prolongation of the dispute could, in the view of the Chair, have an adverse effect on the conservation status of albatrosses and petrels listed in this Agreement, they shall refer the dispute to a technical arbitration panel.

3. The technical arbitration panel shall be established by the Chair of the Advisory Committee, in consultation with the Parties in dispute, and shall be drawn from members of the Advisory Committee, and such other experts as necessary. The panel shall confer with the Parties in dispute and endeavour to reach a final decision within five months of establishment of the panel. That decision shall be binding on the Parties in dispute.

4. The procedures relating to technical arbitration panels and other procedures to resolve disputes shall be determined by the Meeting of the Parties.

5. Any other dispute, that may arise between two or more Parties with respect specifically to the interpretation or application of this Agreement, shall be subject to the provisions of Article XIII of the Convention, which shall apply whether or not the Parties to the dispute are also Parties to the Convention.

6. This Article does not preclude the application of the dispute settlement provisions of any other treaty in force between the Parties in dispute in relation

to disputes covered by those provisions.

ARTICLE XV

Signature, Ratification, Acceptance, Approval, Accession

1. This Agreement shall be open for signature by any Range State or regional economic integration organisation, whether or not areas under its jurisdiction lie within the area of this Agreement, by:

   a) Signature without reservation in respect of ratification, acceptance or approval; or

   b) Signature with reservation in respect of ratification, acceptance or approval, followed by ratification, acceptance or approval.

2. This Agreement shall remain open for signature at Canberra until the date of its entry into force.

3. This Agreement shall be open for accession by any Range State or regional economic integration organisation on and after the date of its entry into force.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

ARTICLE XVI

Entry into Force

1. This Agreement shall enter into force on the first day of the third month after at least five Range States or regional economic integration organisations have signed without reservation in respect of ratification, acceptance or approval, or have deposited their instruments of ratification, acceptance or approval in accordance with Article XV.

2. For any Range State or regional economic integration organisation which has:

   a) signed without reservation in respect of ratification, acceptance, or approval;

   b) ratified, accepted, or approved; or

   c) acceded to

this Agreement after the date on which the number of Range States or regional economic integration organisations necessary to enable entry into force have signed it without reservation or have ratified, accepted or approved it, this Agreement shall enter into force on the first day of the third month following the signature without reservation, or deposit, by that State or regional economic integration organisation of its instrument of ratification, acceptance, approval or accession.

ARTICLE XVII

Reservations

1. The provisions of this Agreement shall not be subject to general reservations.
2. However, a specific reservation in respect of any species covered by the Agreement or any specific provision of the Action Plan may be entered by any Range State or regional economic integration organisation on signature without qualification in respect of ratification, acceptance or approval or, as the case may be, on depositing its instrument of ratification, acceptance, approval or accession.
3. Such a reservation may be withdrawn at any time by the Range State or regional economic integration organisation which had entered it, by notification in writing to the Depositary. Such a State or regional economic integration organisation shall not be bound by the provisions that are the object of the reservation until thirty days after the date on which the reservation has been withdrawn.
4. The provisions contained in paragraph 1 of this Article do not preclude a Party to this Agreement that is not a Party to the Convention from making declarations or statements to the effect of clarifying its status *vis-à-vis* each instrument, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that Party.

ARTICLE XVIII

Denunciation

A Party may denounce this Agreement by written notification to the Depositary at any time. The denunciation shall take effect twelve months after the date on which the Depositary has received the notification.

ARTICLE XIX

Depositary

1. The original of this Agreement, in the English, French and Spanish languages, each version being equally authentic, shall be deposited with the Government of Australia, which shall be the Depositary. The Depositary shall transmit certified copies of these versions to all Range States and regional economic integration organisations referred to in Article XV(1) of this Agreement, and to the Secretariat after it has been established.
2. As soon as this Agreement enters into force, a certified copy thereof shall be transmitted by the Depositary to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.
3. The Depositary shall inform all Range States and regional economic integration organisations that have signed or acceded to the Agreement, and the Secretariat, of:

   a) any signature;

   b) any deposit of instruments of ratification, acceptance, approval or accession;

c) the date of entry into force of this Agreement as well as of any amendment to the Agreement;

d) any reservation with respect to the Agreement;

e) any notification of withdrawal of a reservation; and

f) any notification of denunciation of the Agreement.

4. The Depositary shall immediately transmit to all Range States and regional economic integration organisations that have signed or acceded to this Agreement, and to the Secretariat, the text of any reservation, any additional annex or amendment to the Agreement or to its annexes.

In witness whereof the undersigned, being duly authorised to that effect, have signed this Agreement.

Done at ..... this ..... day of 2001

Annex 1.

Albatross and Petrel Species to which the Agreement will apply.

Albatrosses (19 species)
Diomedea exulans
Diomedea dabbenena
Diomedea antipodensis
Diomedea amsterdamensis
Diomedea epomophora
Diomedea sanfordi
Phoebastria irrorata
Thalassarche cauta
Thalassarche steadi
Thalassarche salvini
Thalassarche eremita
Thalassarche bulleri
Thalassarche chrysostoma
Thalassarche melanophrys
Thalassarche impavida
Thalassarche carteri
Thalassarche chlororhynchos
Phoebetria fusca
Phoebetria palpebrata

Petrels (7 species)
Macronectes giganteus
Macronectes halli
Procellaria aequinoctialis
Procellaria conspicillata
Procellaria parkinsoni
Procellaria westlandica
Procellaria cinerea

Annex 2

Action Plan

1. Species Conservation

1.1 *Species Conservation*

1.1.1 In addition to actions specified in Article III and without prejudice to any obligations they may have under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Parties shall prohibit the use of, and trade in, albatrosses and petrels or their eggs, or any readily recognisable parts or derivatives thereof.

1.1.2 Except for provisions made for species listed under CITES, the Parties may grant exemptions to the prohibition in Paragraph 1.1.1 according to the circumstances provided for in Article III(3).

1.1.3 The Parties shall, where they consider it appropriate, co-operate to develop and implement conservation strategies for particular species or groups of species of albatrosses or petrels. The Secretariat shall co-ordinate the development, harmonisation and implementation of such conservation strategies.

1.2 *Emergency measures*

In the event of a request by the Advisory Committee for a meeting of Parties under the emergency provisions of Article IX (7), the Parties affected, in co-operation as appropriate with each other and with any others, shall develop and implement emergency measures.

1.3 *Re-establishments and re-establishment schemes*

The Parties shall take a precautionary approach when re-establishing albatrosses and petrels into parts of their traditional breeding range. In such cases, they shall develop and follow a detailed re-establishment scheme. Such schemes shall be based on best scientific evidence and should be publicly available. The Parties shall inform the Secretariat where possible in advance of all re-establishment schemes.

1.4 *Non-native Taxa*

1.4.1 The Parties shall take all feasible action to prevent the introduction to habitats, deliberately or otherwise, of non-native taxa of animals, plants or hybrids or disease-causing organisms that may be detrimental to populations of albatrosses and petrels.

1.4.2 The Parties shall take measures to the extent feasible to control and, where possible, eradicate non-native taxa of animals or plants, or hybrids thereof, that are, or may be, detrimental to populations of albatrosses or petrels. Such measures should satisfy to the extent feasible, humane and environmental considerations.

2. Habitat Conservation and Restoration

2.1 *General Principles*

So far as is appropriate and necessary, the Parties shall take such management action, and introduce such legislative and other controls, as will maintain populations of albatrosses and petrels at, or restore them to, favourable conservation status, and prevent the degradation of habitats.

2.2 *Land-based conservation*

2.2.1 Where feasible, the Parties shall give protection to the breeding sites of albatrosses and petrels, using existing mechanisms where available. For all such protected areas, the Parties shall endeavour to develop and implement management plans and take other actions which maintain and enhance the conservation status of the species, including *inter alia* the prevention of habitat degradation, the reduction of disturbance to habitats and the minimisation or elimination of damage by introduced non-native animals, plants, hybrids or disease-causing organisms.

2.2.2 The Parties shall, wherever possible and relevant, co-operate on habitat protection initiatives, especially to ensure the protection and restoration of as many as possible of the breeding sites of albatrosses and petrels that have unfavourable conservation status.

2.2.3 The Parties shall individually or collectively ensure that all breeding sites of international importance for albatrosses and petrels are given priority attention.

2.3 *Conservation of marine habitats*

2.3.1 The Parties shall endeavour individually and collectively to manage marine habitats so as to:

a) ensure the sustainability of marine living resources that provide food for albatrosses and petrels; and

b) avoid pollution that may harm albatrosses and petrels.

2.3.2 The Parties shall individually or collectively seek to develop management plans for the most important foraging and migratory habitats of albatrosses and petrels. Such plans shall seek to minimise risks in accordance with paragraph 2.3.1.

2.3.3 The Parties shall take special measures individually and collectively to conserve marine areas which they consider critical to the survival and/or restoration of species of albatrosses and petrels which have unfavourable conservation status.

3. Management of human activities

3.1 *Impact Assessment*

The Parties shall assess the potential impact on albatrosses and petrels of policies, plans, programmes and projects which they consider likely to affect the conservation

of albatrosses and petrels before any decision on whether to adopt such policies, plans, programmes or projects, and shall make the results of these assessments publicly available.

3.2 *Incidental mortality in fisheries*

3.2.1 The Parties shall take appropriate operational, management and other measures to reduce or eliminate the mortality of albatrosses and petrels resulting incidentally from fishing activities. Where possible, the measures applied should follow best current practice.

3.2.2 In relation to fishing activities under the auspices of a regional fisheries organisation, or other organisations managing marine living resources more generally, such as the Commission of CCAMLR, the Parties shall consider information and evaluations from that organisation, and shall adopt, in its area of competence, the measures agreed by that organisation for reducing the incidental taking of albatrosses and petrels. Notwithstanding this, and in conformity with the provisions of Article XIII (3), the Parties may implement measures, that are more strict than those measures, when such measures are within their competency, taking account of the provisions of Article I (3).

3.2.3 The Parties which are also parties to other relevant treaties (such as CCAMLR), or members of relevant international organisations (such as FAO), shall encourage the institutions of, and other parties to, or members of, such treaties or organisations, to give effect to the objective of this Agreement.

3.2.4 The Parties shall endeavour, within the context of this Agreement, to adopt additional measures to combat illegal, unregulated and unreported fishing activities that may have an adverse effect on albatrosses and petrels.

3.3 *Pollutants and marine debris*

3.3.1 The Parties shall take appropriate measures, within environmental conventions and by other means, to minimise the discharge from land-based sources and from vessels, of pollutants which may have an adverse effect on albatrosses and petrels either on land or at sea.

3.3.2 The Parties shall seek to manage, in ways that are consistent with the aims of this Agreement, mineral exploration and exploitation in waters under their jurisdiction which are frequented by albatrosses and petrels.

3.4 *Disturbance*

3.4.1 In both marine and terrestrial habitats, the Parties shall seek to minimise disturbance of albatrosses and petrels, and to establish and maintain some areas that are kept free from disturbance.

3.4.2 The Parties shall seek to avoid or minimise disturbance caused by, *inter alia*, tourism, and in particular by controlling the proximity of approach to breeding birds.

3.4.3 In permitting access to breeding sites of albatrosses and petrels for purposes of scientific research, particularly where species are of unfavourable conservation status, the Parties shall require that such research is designed and carried out so as to avoid unnecessary disturbance to birds, or impact on their habitats.

4. Research and monitoring

4.1 Parties shall seek to undertake research and monitoring in order to fulfil the requirements of Article III, both at sea and on land. Where appropriate, they shall do so co-operatively, and shall seek to facilitate the development of improved research and monitoring techniques.

4.2 The Parties shall, through the use of at-sea observers on fishing vessels or through other appropriate methods, collect reliable and, where possible, verifiable data to enable the accurate estimation of the nature and extent of albatross and petrel interactions with fisheries.

5. Collation of information by the Advisory Committee

5.1 The reports of the Advisory Committee under Article IX (6) c), should as appropriate include:

a) assessments and reviews of the status of populations of albatrosses and petrels, including an assessment of population trends of the species, especially those in poorly known areas and of species for which few data are available;

b) identification of internationally important breeding sites;

c) reviews to characterise, on the basis of the best available evidence, the foraging range (and principal feeding areas within this) and migration routes and patterns, of populations of albatrosses and petrels;

d) identification and assessment of known and suspected threats affecting albatrosses and petrels;

e) identification of existing and new methods by which these threats may be avoided or mitigated;

f) reviews, and updating on a regular basis, of data on the mortality of albatrosses and petrels in, *inter alia*, commercial, and other relevant fisheries;

g) reviews of data on the distribution and seasonality of effort in fisheries which affect albatrosses and petrels;

h) reviews of the status at breeding sites of introduced animals, plants and disease-causing organisms known or believed to be detrimental to albatrosses and petrels;

i) reviews of the nature of, coverage by, and effectiveness of, protection arrangements for albatrosses and petrels;

j) reviews of recent and current research on albatrosses and petrels with relevance to their conservation status;

k) lists of authorities, research centres, scientists and non-governmental organisations concerned with albatrosses and petrels;

l) a directory of legislation concerning albatrosses and petrels;

m) reviews of education and information programmes aimed at conserving albatrosses and petrels; and

n) reviews of current taxonomy in relation to albatrosses and petrels.

5.2 The Advisory Committee should identify gaps in information as part of the above reviews, with a view to addressing these in future priorities.

6. Education and Public Awareness

6.1 The Parties shall seek to make information on the conservation status of albatrosses and petrels, the threats facing them, and the activities taken under the Agreement, available to the scientific, fishing and conservation communities, as well as to relevant local authorities and other decision-makers, and to neighbouring states.

6.2 The Parties shall seek to make local communities and the public in general more aware of the status of albatrosses and petrels and the threats facing them.

6.3 The Parties shall cooperate with each other, the Secretariat and others with a view to developing training programmes and exchanging resource materials.

6.4 The Parties shall, where necessary, arrange for training programmes to ensure that personnel responsible for the implementation of this Action Plan have adequate knowledge to implement it effectively.

7. Implementation

7.1 The Advisory Committee shall develop conservation guidelines to assist the Parties in the implementation of this Action Plan. Where possible, these guidelines should be consistent with those developed under other international instruments.

7.2 The Parties shall collaborate with other countries and organisations involved with albatross and petrel research, monitoring and management for the purpose of exchanging knowledge, skills and techniques to ensure more effective implementation of this Action Plan.

7.3 The Parties shall urge parties of other relevant international instruments, in particular CCAMLR, to recognise as appropriate the objectives of this Action Plan.

7.4 The Secretariat shall regularly undertake a review of potential means for providing necessary resources (*viz* both funds and technical assistance) for the implementation of this Action Plan, and shall report on this to each ordinary session of the Meeting of the Parties.

7.5 The Parties shall, either individually or through the Secretariat, draw the attention of any state which is not a Party to this Agreement to any activity undertaken by its nationals or vessels which affects the implementation of the Action Plan.

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