

Agreement on the Conservation of Albatrosses and Petrels

Australian paper for the CMS Standing Committee

Background

Following Resolution 6.3 at the 6th Conference of Parties (CoP) to the CMS in South Africa in 1999, Australia held a number of informal consultations with relevant Range States to discuss the development of an international Agreement on albatross conservation. The positive outcomes of these consultations resulted in Australia hosting the first international meeting to which all Southern Hemisphere albatross and petrel Range States were invited.

The meeting was held in Hobart, Australia, from 10-14 July 2000 and aimed to facilitate the development of an Agreement on the Conservation of Albatrosses and Petrels of the Southern Hemisphere. The meeting was a significant step towards effective global cooperation in albatross and petrel conservation.

The high level of agreement arising from the Hobart meeting led to South Africa hosting a formal negotiation in Cape Town, 29 January – 2 February 2001. Twelve countries attended, along with representatives from four relevant international organisations and the international non-government organisation, BirdLife International. Taiwan, referred to as a member economy of the Asia Pacific Economic Cooperation forum, was also represented.

The final report of the Cape Town meeting is at [Attachment 1](#) and the final English text of the Agreement on the Conservation of Albatrosses and Petrels (ACAP) is at [Attachment 2](#). It should be noted that the Spanish and French texts are available on the internet at:

<http://www.ea.gov.au/biodiversity/international/index.html>

Outcomes of the final negotiation session

The Cape Town meeting was very positive, with all attending countries adopting by consensus the Agreement on the Conservation of Albatrosses and Petrels.

Participants supported the removal of the reference to “Southern Hemisphere” in the title of the Agreement, giving it the capacity to include Northern Hemisphere species in future if necessary. The meeting recognised the importance of flexibility for the Agreement, but also noted that the focus should remain on the Southern Hemisphere species currently listed in the short- to medium-term.

The meeting also agreed that it was important for the future Secretariat to be located in the Southern Hemisphere, given the current focus of the Agreement. Australia offered to continue Interim Secretariat functions and host the Depositary. The final location of the Permanent Secretariat will be determined at the first Meeting of Parties.

Current Status

Australia, in its role of interim Secretariat, organised a ceremonial signing event of the Agreement in Canberra, Australia on 19 June 2001. The Agreement was signed by Australia, Brazil, Chile, France, New Zealand, Peru and the United Kingdom, symbolising their international commitment to protect albatrosses and petrels.

Since the signing ceremony, ACAP has been ratified by two countries: Australia ratified on 4 October 2001 and New Zealand on 1 November 2001. ACAP requires five ratifications to enter into force, and Australia expects this will be achieved by mid-2002.

Cape Town, South Africa, 29 January – 2 February 2001

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 this Agreement applies

Existing Convention Appendices I and II	New taxonomy*
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Albatrosses

Diomedea exulans (II)	Diomedea exulans
	Diomedea dabbenena
	Diomedea antipodensis
	Diomedea gibsoni
Diomedea amsterdamensis (I)	Diomedea amsterdamensis
Diomedea epomophora (II)	Diomedea epomophora
	Diomedea sanfordi
Diomedea irrorata (II)	Phoebastria irrorata
Diomedea cauta (II)	Thalassarche cauta
	Thalassarche steadi
	Thalassarche salvini
	Thalassarche eremita
Diomedea bulleri (II)	Thalassarche bulleri
	Thalassarche nov. sp. (platei)
Diomedea chrysostoma (II)	Thalassarche chrysostoma
Diomedea melanophris (II)	Thalassarche melanophris
	Thalassarche impavida
Diomedea chlororhynchos (II)	Thalassarche carteri
	Thalassarche chlororhynchos
Phoebetria fusca (II)	Phoebetria fusca
Phoebetria palpebrata (II)	Phoebetria palpebrata

Petrels

Macronectes giganteus (II)	Macronectes giganteus
Macronectes halli (II)	Macronectes halli
Procellaria aequinoctialis (II)	Procellaria aequinoctialis
Procellaria aequinoctialis conspicillata (II)	Procellaria conspicillata
Procellaria parkinsoni (II)	Procellaria parkinsoni
Procellaria westlandica (II)	Procellaria westlandica
Procellaria cinerea (II)	Procellaria cinerea

The lists above display the existing albatross and petrel taxonomy listed in Appendix I and II of the Convention (Column 1) and a new taxonomy (Column 2). In the event of the adoption by the Conference of Parties of the Convention of the taxonomy listed in Column 2, the taxonomy in Column 1 shall no longer form part of this Annex.

* New taxonomy follows:

Robertson, C.J.R. and Nunn, G.B. 1997. Toward a new taxonomy for albatrosses. Pp. 413-19 in *Albatross biology and conservation*, ed. by G. Robertson and R. Gales. Surrey Beatty & Sons, Chipping Norton; as modified by Croxall, J.P. and Gales, R. 1997. An assessment of the conservation status of albatrosses. Pp. 46-65 in *Albatross biology and conservation*, ed. by G. Robertson and R. Gales. Surrey Beatty & Sons, Chipping Norton; and Ryan, P.G. 1998. The taxonomic and conservation status of the spectacled petrel *Procellaria conspicillata*. *Bird Conservation International* 8: 223-235.

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.

REPORT ON A MEETING TO NEGOTIATE AN AGREEMENT ON THE CONSERVATION OF ALBTROSSES AND PETRELS

Outcome Statement

Twelve Range States participated in the meeting to negotiate on the Agreement on the Conservation of Albatrosses and Petrels held in Cape Town, South Africa, 29 January– 2 February 2001. They concluded negotiations and *ad referendum* adopted by consensus the following text of an Agreement on the Conservation of Albatrosses and Petrels under the Convention on the Conservation of Migratory Species of Wild Animals (CMS).

Those States undertook to give their early consideration to becoming party to the Agreement, and to encourage other Range States and Regional Economic Integration Organisations not represented at the meeting to also become party, with a view to entry into force of the Agreement by the time of the Conference of the Parties of the CMS scheduled for September 2002.

It was further resolved that, recognising the urgency of the conservation needs of albatrosses and petrels, and pending entry into force of the Agreement, those Range States and other potential Parties which may be in a position to do so would use their best endeavors to give effect to the objectives of the Agreement and implement provisions as though it had already entered into force.

Participants in the meeting looked forward to receiving confirmation from the Depository Government of the date and place on which the Agreement would be open for signature, acceptance or ratification, once an authentic text in the languages of the Convention had been circulated.

Introduction

A meeting to negotiate the text of an Agreement on the Conservation of Albatrosses and Petrels under the auspices of the Convention on Migratory Species was held in Cape Town, South Africa from 29 January to 2 February 2001.

All Range States of Southern Hemisphere albatrosses and petrels, and distant water fishing nations who interact with albatrosses on the high seas were invited. The following countries participated in the negotiation:

- Argentina
- Australia
- Brazil
- Chile
- France
- New Zealand
- Norway
- South Africa
- Ukraine
- United Kingdom
- United States of America
- Uruguay

The following international organisations were represented:

- BirdLife International
- Commission for the Conservation of Antarctic Marine Living Resources
- Convention on Migratory Species (Bonn Convention)
- Food and Agriculture Organisation of the United Nations
- World Wide Fund for Nature

A member of the Asia Pacific Economic Co-operation forum was also represented

Apologies were received from the following: China , the European Community, Peru, Poland, Indonesia, Germany and the World Conservation Union (IUCN).

Official Opening

Mr. Mohammed Valli Moosa, Minister of Environmental Affairs and Tourism, welcomed all delegates to South Africa and thanked them for choosing Cape Town to negotiate this important Agreement. He thanked Australia, New Zealand and the United Kingdom for their support for these negotiations. He invited delegates to enjoy their stay in Cape Town. Minister Moosa wished delegates a fruitful meeting and looked forward to the early finalisation of an Agreement. He committed South Africa to working with all nations represented at the meeting in furthering the conservation of albatrosses and petrels.

Mr John Cooper, head of the Secretariat, thanked Minister Moosa for his welcome and presented him with a gift on behalf of the meeting participants.

Opening statements

All delegations thanked South Africa for hosting the meeting, as well as Australia, New Zealand and the United Kingdom for their contributions. The Secretariat was also thanked for its work done in support of the meeting.

Argentina, as a member of the Valdivia group, reiterated its pledge to work towards the conservation of these threatened species and expressed its wish to contribute to the success of the negotiations.

Australia noted with pleasure progress on the Agreement at and since the Hobart meeting. It welcomed the participants to the negotiations. Australia noted the need for urgent action and that existing instruments were not sufficient to provide for the holistic conservation of albatrosses and petrels. Australia supported the establishment of a legally binding multilateral Agreement which addressed the range of threats to these species particularly through a focus on capacity building and the exchange of knowledge, information and expertise.

Brazil re-iterated its commitment to the conservation of endangered species generally and to the related outcomes of the United Nations Conference on the Environment and Development (Rio, 1992). The representative of Brazil noted that although it was not a party to CMS Brazil was an active member of other conventions concerned with species conservation. Brazil expressed its desire to complete a definitive version of the Agreement at this meeting.

The representative of Chile stated that as a fishing nation and having important reproductive colonies of albatrosses and petrels on its territory, this Agreement is of special concern. The Chilean Congress is now discussing a reform of its Fishing Law, that makes an obligation to have qualified observers on board fishing vessels operating on its economic zone waters. The Chilean Government will provide State funds for research on the monitoring of populations and mitigation measures for incidental catch of seabirds by longliners. These actions are indicative of our government commitment to conservation and protection of albatrosses and petrels. The representative of Chile looked forward to finalising the negotiations on the Agreement at this meeting.

France apologised for not attending the Hobart meeting and assured that this was not due to a lack of support for the proposed Agreement. France noted that seven species of albatrosses breed in French territories and that it had conducted much research on these species over the last 40 years. France noted that international efforts were needed and its particular concern about the impacts of Illegal Unregulated and Unreported (IUU) fishing. France committed itself to work intensively to develop this Agreement.

New Zealand stated its strong support for the proposed Agreement, its desire to see the widest possible participation by those fishing within the range of albatrosses and petrels and the completion of the Agreement at this meeting. It urged other potential parties to intensify their efforts to improve the conservation status of albatrosses and petrels in advance of the entry into force of this Agreement. New Zealand stated that if any permanent Secretariat was established, it should be cost effective and situated in the Southern Hemisphere.

Norway stated that it was strongly committed to solving the challenges being addressed by the draft Agreement and that it already participated in other relevant conservation agreements. Norway expressed hope that the Agreement text could be finalised at this meeting.

South Africa noted that it was a privilege and a pleasure to host this negotiation. South Africa was impressed with the work already done in Hobart and subsequently. It indicated its desire to join with other parties in finalising the Agreement text.

Ukraine expressed support for the development of the Agreement and noted that the Ukraine had joined the Convention for Migratory Species in 1999.

The United Kingdom stated that formal international action was needed to address the threats to albatrosses and petrels. It noted the need for the Agreement to be complementary to existing fishing agreements and that it should be attractive to potential distant water fishing parties. The United Kingdom looked forward to a successful outcome to the negotiations

The representative of the United States of America looked forward to working with all delegations in the common goal of ensuring the preservation of endangered albatrosses and petrels.

The representative of Uruguay supported the statements made by Argentina, Brazil and Chile.

The representative of the CMS Secretariat expressed pleasure that the Agreement is being developed under the auspices of the Bonn Convention. He noted that the spirit of CMS lay in international co-operation which was the heart of this meeting and the proposed Agreement

The representative of CCAMLR noted that the Convention was already seeking to address the issues with which the proposed Agreement is concerned within its area of competence. CCAMLR is pleased to see the entire range albatrosses and petrels being addressed in the international context and expressed best wishes for the negotiation.

The representative of the Food and Agriculture Organisation noted that the organisation had recently developed the International Plan of Action for the reduction of incidental seabird mortality. It noted that while the IPOA is a voluntary arrangement, the proposed Agreement would be legally binding and should be seen as complementary to the IPOA. FAO noted that already the bycatch problem had reduced due to technical information being available.

Birdlife International expressed strong support for the proposed Agreement. It noted the high degree of public interest in the outcome and its effect on the conservation of albatrosses and noted that an agreement of the kind being negotiated will give a powerful impetus to the conservation efforts of all with an interest in this issue..

The representative of WWF encouraged the development of a campaign to pledge against plastic pollution in particular by users of the southern oceans and therefore achieve minimising of plastic pollution. With regard to the conservation of habitats on breeding islands, WWF encouraged responsible States including South Africa, to commit

resources, including funding research and more particularly to monitoring needs. The WWF representative expressed strong support for the drafting of this Agreement.

Member Economy of the Asia Pacific Economic Co-operation Forum

The meeting noted the attendance of a delegation representing an APEC member economy and acknowledged the major contribution it could make to the conservation of albatrosses and petrels and implementation of the Agreement given its extensive distant water fishing fleet. All delegations worked constructively to find a way in which the APEC member economy could participate in the work of the Agreement

Voluntary Fund

The meeting agreed that it would be necessary to develop guidelines for the acceptance of voluntary contributions to the fund referred to in Article VII (3). These guidelines could draw on those already developed for voluntary contributions under the CMS.

Interim Secretariat Responsibilities Prior to the First session of the Meeting of the Parties

The meeting warmly welcomed Australia's offer to provide an Interim Secretariat to the Agreement.

The Interim Secretariat shall, at the earliest opportunity following the Cape Town meeting, develop an indicative secretariat budget and options for a scale of contributions. This paper will be circulated to prospective Parties for consideration and consultation.

Taking into account the results of the above consideration and consultation the Interim Secretariat will develop proposals for consideration at the first session of the Meeting of the Parties in relation to the following items:

- (i) options for determining a scale of contributions
- (ii) draft terms of reference for a draft budget
- (iii) draft budget
- (iv) draft rules of procedure
- (v) draft rules for financial management

The Interim Secretariat will also seek formal indications from prospective Parties to this Agreement and relevant organisations on whether they may wish to host the Permanent Secretariat. The Interim Secretariat will report to the first session of the Meeting of the Parties on any offers and outline the financial and other relevant implications.

The Interim Secretariat will work with prospective Parties to develop an agenda and supporting documentation for the first session of the Meeting of the Parties.

The Interim Secretariat will make all efforts to consult with all prospective Parties to the Agreement on issues to be canvassed at the first session of the Meeting of the

Parties. The aim of these consultations will be to present proposals which are likely to be adopted by consensus at the meeting.

Statements by delegations

Statement By The Representative Of The USA

The United States fully supports efforts to conclude these negotiations concerning the conservation of Southern Hemisphere Albatrosses and Petrels. However, as a Northern Hemisphere State, the United States has not yet decided whether to sign the Agreement. Therefore we are unable to recommend our government to sign and ratify the Agreement as it stands.

Statement By The Representative Of New Zealand

New Zealand notes particularly the significance of Albatrosses and Petrels to the Maori people of New Zealand and will consult appropriately as to the best way to implement the Agreement and its provisions bearing in mind their approaches.

New Zealand noted the meeting was very close to reaching Agreement on an Annex (Contained in doc ACAPSH2 WTO Rev 5: 2 Feb 2001) covering the participation of the APEC member economy and given the late hour joined consensus on the adoption of the text while reserving its position in light of the need to consider the implications of Article VIII (15).

Statement By The Representatives Of The United Kingdom, Chile And France

The representatives of the above noted a similar doubt about Article VIII (15)

Statement By The Representative Of South Africa

The South African delegation indicated that it was joining with the other Meeting participants in adopting the Draft Agreement text as an indication of its commitment to the Agreement's early entry into force and to the conservation of the albatross and petrel species identified. It looked forward to expediting its own bureaucratic, administrative and legal procedures to clear the way for the Agreement's signing and ratification.

Translations

The meeting noted that the Interim Secretariat will provide copies of this report and the text of the Agreement in French and Spanish to relevant delegates for consideration of their accuracy in relation to the final English Agreement text.