

AGREEMENT ON THE CONSERVATION OF SOUTHERN HEMISPHERE ALBATROSSES

Hobart, Australia, 10-14 July 2000

ANNOTATED PROVISIONAL AGENDA

1. **Welcome Statement by the Chairman, Mr Stephen Hunter, Head, Biodiversity Group, Environment Australia**
2. **Official opening by the Minister for the Environment and Heritage, Senator the Hon Robert Hill**
 - 2.1. **Meeting Secretariat remarks**
3. **Report on the background to the proposal for the development of an Agreement on the Conservation of Southern Hemisphere Albatrosses (Australia)**
4. **Opening Statements**

Delegations are invited to present a brief opening statement. Statements are to be limited to 5 minutes. More detailed statements are encouraged to be submitted in writing to the Meeting Secretariat for distribution.

 - a) Countries
 - b) International Organisations
5. **Adoption of the Agenda**
6. **Discussion of the Draft Agreement on the Conservation of Albatross (and Petrel) Species in the Southern Hemisphere**
 - 6.1 **Key Elements of the Draft Agreement**
 - a) **Article II (Fundamental Principles)**

Fundamental principles and substantive obligations could be set out in a single article as in the Agreement on the Conservation of Small Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS) or in separate articles as in the African-Eurasian Waterbird Agreement (AEWA). The second approach has been adopted in the draft agreement.

As such, article II outlines the fundamental principles embodied by the draft agreement. This article emphasises that all Parties shall undertake both individual and coordinated/cooperative measures with regard to Southern Hemisphere albatrosses.

Examples of general substantive obligations can be found in the draft text in article IV.

b) Article III (Capacity Building)

This article embodies the spirit of cooperation to facilitate capacity building between Parties to the agreement. It encourages expertise, information and technology transfer between Parties.

Examples in the draft text include:

- *standardised level of data collection and data dissemination among Parties;*
- *exchange of expertise, techniques, knowledge and information among Parties;*
- *preparation of material on albatrosses for both researchers and the wider global community; and*
- *development and implementation of training programs on conservation techniques and mitigation measures for albatrosses.*

c) Article IV (General Conservation Measures)

General conservation measures constitute the operative articles of agreements under the CMS. Provision for the adoption of an Action/Conservation Plan can be made in the article dealing with conservation measures. Alternatively, separate articles could deal with General Conservation Measures (as in Article IV in the draft agreement) and the Action Plan and Conservation Guidelines (Article V in the draft agreement). This is the style adopted in the AEWA and is the approach adopted in this draft agreement. It would allow the annexed action/conservation plan to be modified by the Meeting of the Parties (MoP), without further ratification by governments. This approach would also allow for the possible expansion of the regional agreement to incorporate other appropriate species without major amendments to the central articles.

In this formula, the substantive obligations in the text are cross-referenced to an action/conservation plan annexed to the agreement. The objectives and content of such a plan can be clearly stated at this part of the agreement, with procedural matters (adoption, monitoring and amendment of the plan) being covered in the institutional and final clauses.

The obligations currently listed in article IV parallel some capacity building activities contained in article III. Examples of general conservation measures in the draft text include:

- *protection of albatross species;*
- *conduct or support research into the conservation of albatrosses;*
- *examine training requirements;*
- *raise awareness regarding the issues surrounding the conservation of albatrosses;*
and
- *exchange information and results from conservation activities.*

d) Article X (Relations with International Bodies dealing with the Conservation of Albatrosses [and petrels] and their Habitats)

This article makes comprehensive provision for consultation and coordination with a range of appropriate international bodies.

e) Article I (Scope, definitions and interpretation)

• Annex 1 (Species to which this Agreement applies)

These introductory provisions focus the substantive obligations at the heart of each agreement. It encompasses the geographic scope of the agreement, the species covered and any necessary definitions and defines the legal character of the agreement and any annexes attached.

Note that Petrels have been included in square brackets in the draft agreement. This was prompted by the successful listing of seven petrel species on Appendix II of the CMS in November 1999. Given the similarity in breeding and foraging ranges of the petrel species and southern hemisphere albatrosses and their propensity for being caught on longlines, many of the actions that could be proposed for the conservation of southern hemisphere albatrosses would directly benefit petrels as well.

6.2 Action Plan

a) Article V (Action Plan)

See notes under Article IV (General Conservation Measures).

b) Annex 2 (Draft Action Plan)

Ideally, action plans should be flexible instruments that can be regularly updated and strengthened to clarify the actions which Range States should take to implement the draft agreement. The draft action plan attached to the draft agreement provides a framework for identifying prioritised conservation actions to be undertaken by Parties to the draft agreement. A possible framework was developed at the inaugural meeting of the Ad Hoc Valdivia Working Group on Albatrosses held in Canberra, Australia in June 1999.

6.3 Institutional Mechanisms

These articles contain clauses relating to the Meeting of Parties, the Scientific Committee, the Agreement Secretariat and the financial arrangements, where relevant, and if not covered under previous articles.

a) Article VI (Implementation and Financing)

In general terms, the draft agreement avoids rigid budgetary constraints in the text and leaves the MoP free to adopt a different scale of contributions without the need for formal amendments. The draft agreement confers a general power on its MoP to adopt and amend financial regulations.

The MoP also has discretion to consider the establishment of a conservation fund to finance specific conservation projects and develop the necessary regulations for its management. An express reference to such a fund in the draft agreement is included in this article.

b) Article VII (Meeting of the Parties)

This article provides for convening the first and subsequent ordinary sessions, and extraordinary sessions, of the MoP, suggested content for MoP's, admission of observers and voting.

c) Article VIII (Scientific Committee)

This article provides for establishing a Scientific Committee that would service the MoP with regard to advice, recommendations and report on activities. The Scientific Committee can also assess whether an extraordinary session of a MoP is required to address an emergency situation with any species covered by the draft agreement.

d) Article IX (Agreement Secretariat)

This article outlines the functions required of the Agreement Secretariat necessary for the implementation of the draft agreement.

6.4 Final Clauses

The final clauses of the agreement could cover areas such as those listed as Article XI through to Article XVIII in the draft agreement.

- a) **Article XI (Amendment of the Agreement)**
This article contains procedures for the amendment of the draft agreement and its annexes, communication of the proposed amendments, adoption and entry into force of any agreed amendments.
- b) **Article XII (Effect of this Agreement on International Conventions and Legislation)**
In accordance with international nature conservation instruments, this article specifies the effect of this draft agreement on other international instruments and the right of Parties to adopt stricter national measures than those contained in the draft agreement.
- c) **Article XIII (Settlement of Disputes)**
This draft article is based on the ACCOBAMS model, which provides for the possibility of judicial settlements rather than just arbitration.
- d) **Article XIV (Signature, Ratification, Acceptance, Approval, Accession)**
This article contains clauses relating to the signature, ratification, acceptance, approval and accession to the draft agreement.
- e) **Article XV (Entry into Force)**
This article requires the insertion of the minimum number of Parties necessary for the draft agreement to enter into force.
- f) **Article XVI (Reservations)**
This article provides for specific reservations to be entered and withdrawn. The draft agreement is not subject to general reservations.
- g) **Article XVII (Denunciation)**
This article outlines the procedure for denunciation of the draft agreement by a Party.
- h) **Article XVIII (Depositary)**
The Depositary is responsible for communication to Parties and the draft agreement Secretariat of signatures; deposits of instruments of ratification, approval etc; entry into force of the draft agreement, additional annexes, amendments thereto etc; reservations; withdrawals of reservations; denunciations; and the texts of any reservations, additional annex and any amendment to the draft agreement or to its annexes.

6.5 Preamble

The main purpose of the Preamble is to set out the basic motives for the conclusion of the agreement and to refer to relevant treaties to emphasise areas of substantive complementarity.

Although the Preamble offers an introduction to the complete agreement, Australia believed that full discussion of the articles contained in the draft agreement would provide a useful context to range states prior to considering statements for inclusion in the Preamble. Hence, its placement on the agenda after the draft agreement clauses.

7. Proposals for future actions

This agenda item seeks to identify actions for Parties to undertake following the conclusion of the meeting.

- a) Draft Agreement
- b) Draft Action Plan

8. Other business

Any other issues/activities of interest to participants may be raised for consideration under this agenda item.

9. Report Writing and Adoption

CLOSE