

## **Report on a Meeting to discuss an Agreement on the Conservation of Southern Hemisphere Albatrosses and Petrels**

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# **REPORT ON A MEETING TO DISCUSS AN AGREEMENT ON THE CONSERVATION OF SOUTHERN HEMISPHERE ALBATROSSES AND PETRELS**

## **Introduction**

- A meeting to discuss a draft Agreement on the Conservation of Southern Hemisphere albatrosses and petrels was held in Hobart, Australia, from 10 to 14 July 2000 at the invitation of the Australian government.

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

Argentina	New Zealand
Australia	Peru
Brazil	Republic of Korea
Chile	South Africa
Indonesia	United Kingdom
Namibia	United States of America

3. The following international organisations were represented:

BirdLife International

Commission for the Conservation of Antarctic Marine Living Resources

Convention on the Conservation of Migratory Species of Wild Animals

Commission for the Conservation of Southern Bluefin Tuna

United Nations Food and Agriculture Organization

4. Apologies were received from the following countries: China, France, Japan, Norway, Poland, Portugal, Russian Federation, Spain, Ukraine and Uruguay.

## **AGENDA ITEM 1: WELCOMING REMARKS**

- The meeting commenced at 10:00 am on Monday, 10 July 2000. Mr Stephen Hunter, Head of Biodiversity Group, Environment Australia, in his capacity as Provisional Chairman of the meeting, welcomed the participants. Mr Hunter introduced the Australian Minister for the Environment and Heritage, Senator the Hon. Robert Hill, and invited him to open the meeting.

## **AGENDA ITEM 2: OFFICIAL OPENING**

- Senator Hill welcomed the participants to the meeting and encouraged participating countries to continue their commitment to albatross conservation. Senator Hill noted a range of issues impacting on seabird populations, especially longline fishing activities.
- Senator Hill also emphasized the importance of habitat conservation and measures to mitigate marine pollution. A number of Australian initiatives were presented to illustrate methods undertaken to address these issues. Senator Hill stressed the importance of education and raising community awareness about seabird conservation. He also noted that a number of countries had implemented technologies and measures to reduce the incidental take of seabirds, in particular albatrosses and petrels.
- Senator Hill recognised the actions taken by individual countries to conserve albatrosses but explained that in Australia's view regional cooperation in the form of an Agreement was required to address effectively the threats to Southern Hemisphere albatrosses. He stated the success of this meeting would assist in ensuring the conservation and protection of albatrosses for future generations.
- Senator Hill acknowledged the commitment that countries and international organisations had made in sending delegates to this meeting. He congratulated all countries on their commitment to albatross conservation to date and on their interest in this Agreement.

**AGENDA ITEM 3: REPORT ON THE BACKGROUND TO THE PROPOSAL FOR THE DEVELOPMENT OF AN AGREEMENT ON THE CONSERVATION OF SOUTHERN HEMISPHERE ALBATROSS AND PETRELS (AUSTRALIA)**

10. The Provisional Chairperson of the Meeting, Mr Stephen Hunter, outlined the factors that have contributed to the development of a draft regional agreement on the conservation of Southern Hemisphere albatross and petrels. Mr Hunter outlined known rates of decline for albatross and petrel species, and illustrated the current inadequacies in the availability of information on mortality and threats, including those from habitat disturbance, fishing and marine pollution.

11. Also outlined were existing legally binding and non-binding instruments that are particularly pertinent, including the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Food and Agricultural Organisation of the United Nations (FAO)'s International Plan of Action - Seabirds, (IPOA - Seabirds) and the Convention for the Conservation of Southern Bluefin Tuna (CCSBT). The benefits of these agreements for the conservation of seabirds were highlighted. Mr Hunter also noted the limitations of these agreements and the need for a conservation agreement that specifically addresses the needs of albatross and petrel populations.

12. The rationale for the development of the Agreement under the Convention on Migratory Species of Wild Animals (CMS) was outlined. The history of consultations in relation to such an agreement was also outlined, including the 1999 meeting of an ad-hoc committee of Valdivia countries that had identified an incompleteness of scientific data, and a need to coordinate action and information exchange and to monitor risk as key concerns for an effective agreement. Recent resolutions of the Conference of the Parties of the CMS encouraging the development of such an agreement were also noted. Mr Hunter also noted the importance of concluding a successful agreement for albatrosses and petrels in a timely manner.

#### **AGENDA ITEM 4: OPENING STATEMENTS**

13. All delegations and international organisations thanked Australia for organising and hosting the meeting, for providing support for including a wide range of potential range states and for its initiative in advancing the Albatross and Petrel Agreement. All participants supported the development of an Agreement for the conservation of Southern Hemisphere albatrosses and petrels and the important role of this meeting in doing so.

#### **Delegations**

14. Argentina recalled that its Government had objected to the United Kingdom's extension of the application of the CMS to the Falkland Islands (Islas Malvinas), South Georgia (Islas Georgia del Sur), the South Sandwich Islands (Islas Sandwich del Sur) and their surrounding maritime areas. At the same time, the Argentine Government reiterated its claim to sovereignty over these territories.

15. In response, the United Kingdom stated that it does not have any doubt of its sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and their surrounding maritime areas.

16. The representatives of both delegations committed themselves to work constructively within the meeting and to endeavour to ensure that these issues did not detract from the objective of advancing the development of the Agreement.

17. The United Kingdom noted the limitations of existing international instruments in respect of the conservation measures for albatross and petrel species. The United Kingdom said there is a clear need for an overarching agreement and indicated it favours the CMS as an appropriate vehicle.

18. Brazil stated its interest in the consultations aimed at finalising this relevant agreement, given that its territory falls within the range of albatrosses and petrels. It recalled, inter alia, the active participation of Brazil in negotiations carried out under the scope of the F AO with regard to the incidental catch of seabirds during fishing activities.

19. Chile emphasized the issue of financial and training mechanisms proposed under the Agreement and asked that the perspectives of developing countries be recognised. Chile aspired that the financial system should be based on voluntary contributions.
20. Peru noted the lack of scientific information available on the conservation status of albatrosses at a national level and emphasised the need to prioritise conservation measures in the Agreement.
21. New Zealand recognised the differences in capacity between countries and urged the meeting to work together on an agreement that adopts a cost-effective approach. New Zealand noted that it had recently acceded to the CMS. Existing conventions; the present draft agreement; and also the draft Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific (MHLC) shortly to be concluded, would form an important web of multilateral agreements covering the regional marine environment.
22. Although not a Party to CMS, Indonesia expressed an interest in learning from the process of developing an agreement and expressed a wish to cooperate as much as possible.
23. Namibia indicated that, as it had not attended previous meetings on the subject, its attendance is intended to increase its knowledge of the Agreement.
24. Korea emphasised the desirability of voluntary participation that would result in effective implementation at a regional level and that conservation measures for albatross and petrel species should take into account the efficient operation of fishing vessels.
25. South Africa sought the inclusion of petrel species within an Agreement. South Africa also emphasised the value of an Agreement for albatrosses and petrels and the strong relationship between such an agreement and the principles of sustainable use of natural resources and conservation which are enshrined within its constitution.
26. The United States of America noted the special features of albatross and petrel species' life history in relation to external threats and emphasized the need for international cooperation. Its delegation drew attention to the FAO's IPOA - Seabirds and its potential relationship to the Albatross and Petrel Agreement.
27. Australia emphasised the need for a concerted international approach in order to adequately address the range of threats facing these species.
28. A number of those delegations present congratulated New Zealand on their accession to the CMS.

## **International Organisations**

29. The CMS Scientific Council re-emphasized the importance of taking a coordinated and integrated approach, offering the instruments of CMS to be used as appropriate for this Agreement. BirdLife International and CCAMLR noted significant expertise and knowledge of the subject existed within a number of organizations and that full use should be made of this resource. CMS and FAO emphasised that it would be desirable to avoid duplicating the work of other international instruments.

### **ADOPTION OF THE AGENDA**

30. The Provisional Agenda was adopted with minor alterations (Doc 1.1 Rev. 1 ). The meeting accepted Mr Hunter's offer to remain as Chair.

### **DISCUSSION OF THE DRAFT AGREEMENT**

31. The meeting made substantial and extensive advances in the development of a draft Agreement on the Conservation of Southern Hemisphere albatrosses and petrels. There was a considerable degree of agreement across the whole range of issues discussed, although it was recognized that all decisions and text were *ad referendum* to home Governments.

32. Subject to this qualification the fundamental concepts and values that would underpin an Agreement were identified and a considerable body of text agreed. The draft Agreement attached to this report represents the consensus of the meeting with the following qualifications.

33. Text in square brackets indicates that further consideration is required by the potential parties to the Agreement; in addition some reservations by individual delegations are noted below.

34. Articles XII to XIII and XV to XIX (Final Clauses) were not discussed. Despite this, the meeting did not identify any major areas of difference that would have a substantial effect upon the wording of these clauses. However, the Republic of Korea reserved its position in relation to Article XII (Amendment to the Agreement).

35. The representative of the United Kingdom noted that some of the potential requirements of this Agreement address competencies which, for the Government of the United Kingdom and certain other potential Parties, are exercised on their behalf by the European Union. He noted that this is particularly true in relation to fishing activities covered by the Common Fisheries Policy. The United Kingdom representative advised in relation to any proposals or provisional agreement made by their Delegation that these did not imply approval of any obligations in respect of fisheries management beyond those already entered into by the European Union.

36. Annex 2 provides an agreed structure and broad direction for the draft Action Plan to the draft Agreement. However, because of inconsistencies in the level of technical support available across delegations, its detailed contents could not be given close assessment. As such it does not have the same level of endorsement as the other parts of the draft Agreement. Accordingly the detail contained in the draft Action Plan should be regarded as a working document for further development.

### **Inclusions of Petrels in the Draft Agreement**

37. Petrels are included in the draft Agreement following the successful nomination by South Africa to list seven petrel species on Appendix II of the Convention on Migratory Species of Wild Animals (CMS) in November 1999. The meeting agreed that the nature of the threats facing these species is essentially the same as for albatrosses.

### **Application of the Agreement beyond the Southern Hemisphere Albatrosses and Petrels**

38. The meeting discussed the merits of developing an agreement that, while dealing in the first instance with Southern Hemisphere albatrosses and petrels, would be capable of a later extension to the Northern Hemisphere. It was agreed that further consultations by potential parties on this issue would be required.

### **Definitions**

39. In respect of Article I (Scope, definitions and interpretation), it was agreed that at the next meeting, a working group would consider the suitability of the definitions in the context of an agreement on albatrosses and petrels.

### **Precautionary Approach/Principle**

40. The meeting noted that in the further development of the draft Agreement potential parties will need to resolve whether it is the precautionary 'approach' or precautionary 'principle' which is to be used in the text of the Agreement. However, the Republic of Korea expressed its reservation on elaborating the precautionary approach or precautionary principle.

### **General Conservation Measures**

41. The meeting agreed that there was a need to harmonize Article III (2) (General Conservation Measures) and paragraphs 1.1.1, 1.1.2 and 1.1.3 of the draft Action Plan (General Measures), and that the preferred approach of the meeting was to replace Article III (2) with the above paragraphs of the Action Plan. By this means, the fundamental obligations would appear in the Agreement text itself and in the preferred format.

## **Capacity Building**

42. There was general agreement that Article IV on Capacity Building could be elaborated in relation to Article IX and the Action Plan of this Agreement.

## **Scale of Contributions**

43. The meeting agreed that further consideration be given to the approach that should be taken to setting a scale of contributions under the Agreement (Article VII Implementation and Finance). There was general acknowledgement of the need to consider the differing financial means of Parties. In that context, some countries believed that the United Nations Scale would be appropriate. Some countries pointed to precedents of a different character.

44. Two alternatives were identified for the process by which a scale of contributions would be adopted. The first is to settle the matter in the context of finalising the Agreement itself. The second would be to require the first Meeting of the Parties to the Agreement to determine the issue by consensus.

## **Decision of the Meeting of Parties**

45. Participants agreed that decisions by the Meeting of Parties should be made preferably by consensus (Article VIII Meeting of the Parties). There was general, but not unanimous, agreement that where such decisions are not possible a two thirds majority of those present and voting would be necessary.

46. In respect of voting, it was agreed that when a regional economic integration organisation participated in the taking of decisions, the total number of parties so participating, in respect of that regional economic integration organisation, should not exceed the total number of member states of that organisation which are parties to the Agreement in their own right and which are present and voting.

## **Relationship to Current International Agreements**

47. There was general concurrence that the Agreement should complement and support current relevant international instruments as far as possible.

## **Implementation of Actions under FAO IPOA - Seabirds**

48. Some participants reserved their position in relation to a proposal that Article III (General Conservation Measures) specifically provide for implementation of actions elaborated in the FAO IPOA - Seabirds that complement the objectives of the Agreement, on the grounds that this would have the effect of making those actions relevant to the conservation of albatrosses and petrels legally binding.

## **Relationship to Convention on Migratory Species (CMS)**

49. The Executive Secretary of CMS submitted a paper (Inf 1.5) explaining for the representatives of the non-CMS Party countries the global importance, role, instruments and advantages for regional Agreements under the Convention. The representative of Australia tabled a paper (Inf 1.4 Rev. 1 ) on potential reasons and benefits of establishment of an agreement under the CMS. The representative of Australia indicated that a number of agreements have been developed under the auspices of the CMS and that these established agreements do not require that a signatory party be a member of CMS, nor is there the expectation or pressure for a party to join CMS.

50. In particular, it was noted that for those Range States of albatrosses and petrels that are Parties to the CMS, the development and implementation of an agreement is consistent with their obligations under Article IV (3) of the Convention, where Parties 'shall endeavour to conclude Agreements'.

51. Australia advised that an agreement established under the auspices of the CMS would provide the opportunity for some countries to establish links on a scientific and administrative level with countries that they would not normally associate with. Furthermore, the significant ecological benefit gained by establishing an albatross and petrel conservation agreement under the CMS was noted. Australia advised that the CMS integrates marine, terrestrial and species-specific conservation actions, thus providing this Agreement uniquely with the ability to develop and implement land-based and marinebased conservation measures and actions for targeted species. This integration would prevent the need for more than one agreement for albatrosses and petrels.

52. Finally, it was noted that the CMS provides the institutional backing of the United Nations (UN), as well as other global organizations e.g. the bodies of the Convention on Biological Diversity (CBD), the Convention on International Trade in Endangered Species of Flora and Fauna (CITES), the Ramsar Convention, the Global Environment Facility (GEF) and the World Conservation Union (IUCN) amongst others with their established capabilities, mechanisms and instruments. An albatross and petrel conservation agreement developed independently of the CMS would not have access to the institutional backing and support afforded by the CMS.

53. The meeting noted the reasons for establishment of an agreement under the CMS and agreed that there were a number of benefits.

## **Presentations to the Meeting**

54. A number of valuable presentations were delivered during the course of the meeting:

- a report on the status of and threats to albatrosses (Dr. Rosemary Gales);

- a collaborative project on the biology of albatrosses in southern Chile and their interaction with fisheries (Dr Graham Robertson); and
- a report on albatross and petrel mortality in longline fishing, arising from an international workshop held in Honolulu, Hawaii, USA, 11-12 May 2000 (Dr John Cooper).

### **Dispute Settlement Procedures**

55. The meeting agreed that further careful consideration will need to be given to the dispute settlement procedures in the draft Agreement (Article XIV Settlement of Disputes). In particular, it was agreed that the Protocol to the London Convention (1972) would be examined as a possible model to replace the provisions of Article XIV paragraph 2.

### **Next steps**

56. The meeting welcomed the offer made by Australia to continue to act as a focal point for the development of the draft Agreement. It was noted that the Australian offer of support was available for the current financial year, until June 2001.

57. The meeting recognised that important and substantial progress had been made towards the development of the text of a draft Agreement to conserve albatrosses and petrels. The wide-ranging discussion had exposed and clarified relevant issues in the draft Agreement.

58. The meeting urged all participants to convey the urgency of the need to finalise an agreement to conserve Southern Hemisphere albatrosses and petrels to their Governments, other relevant countries and international organisations, and to support the convening of a formal negotiation meeting for the Agreement as soon as practicable.

59. Australia offered to facilitate and provide support for such a meeting. Countries, especially those in the Southern Hemisphere, were urged to consider hosting the proposed meeting. The United Kingdom also offered funding support for the next meeting.

60. It was recognised that all major issues of significance had been discussed in detail. This had resulted in very considerable progress with texts. It was hoped, therefore, that when the new texts were considered by home Governments, there would be no need for extensive comment by the countries represented at the meeting on the bulk of the draft Agreement, although more attention might be needed by countries which had been unable to attend, or in respect of the limited number of Articles which had not been fully discussed.

61. In relation to the matters of detailed content that require further consideration in the context of the draft Action Plan, it was agreed that the Chair of the CMS Scientific Council would act as a focal point. Comment on the draft Action Plan should be

provided by end September 2000. With the administrative support of Australia, a revised text of the Action Plan will be distributed as soon as practicable thereafter. Additionally, it was agreed that a technical meeting of suitably qualified persons to further develop the content of the draft Action Plan could be held immediately prior to the proposed negotiation session.

62. The United Kingdom and Argentinean representatives, on behalf of other delegations, expressed their thanks to the Australian Government for hosting the meeting and the energy of its officials in driving forward the proposals for an agreement. They also expressed appreciation for the tireless support of the Secretariat and the translators, for the commitment shown by the presence of major fishing nations, and to the Chairman for the skill, wisdom and good humour with which the meeting had been steered to so successful a conclusion. The Australian delegation concurred.