



ANTARCTIC TREATY

Final Report of the Eleventh Antarctic Treaty Special Consultative Meeting

Madrid

22-30 April 1991; 17-22 June 1991; 3-4 October 1991

SPAIN

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Part II

MEETING ON THE 17ND-22TH JUNE 1991

REPORT BY THE CHAIRMAN OF THE LEGAL DRAFTING COMMITTEE

As was decided at the end of the Second Session, a legal drafting Committee was established to improve the drafting of and remove any legal inconsistencies from the five texts, which would again be considered during the resumed Second Session of the XIth Special Antarctic Treaty Consultative Meeting, and which are expected to be adopted at the end of that Session.

The legal drafting Committee has met from 10-14 June, 1991, in Madrid. Representatives from 23 Consultative Parties have participated. The Committee appointed Mr. Pieter Verbeek, Head of the Netherlands delegation, as Chairman, and Mr. Camilo Villarino Marzo, Deputy Secretary General of the Second Session, as Secretary.

The Committee prepared revised versions of the draft Protocol to the Antarctic Treaty and of three of the four Annexes thereto, namely of Annex I on Environmental Impact Assessment, of Annex II on Conservation of Antarctic Fauna and Flora, and of Annex III on Waste Disposal and Waste Management. The four revised texts are attached to this report.

During the discussions within the Committee also a number of substantive issues have emerged, for example regarding the Articles on Liability and Dispute Settlement. In accordance with its mandate, however, the Committee has refrained from suggesting specific solutions for such issues, leaving it to the resumed Second Session to consider the best way of solving them.

Regarding the fourth draft Annex, on Marine Pollution, the Committee has been unable to prepare a revised version. After it had been established that this draft was still presenting considerable difficulties to a number of delegations, it was agreed that there would be no point at that stage to improve the text only from a drafting and legal point of view. Subsequently, a number of delegations decided that it would be useful to prepare in an informal contact group the substantive discussions on this Annex which would have to take place during the resumed Second Session. This informal contact group has developed an alternative text.

The legal drafting Committee suggests the inclusion in the Protocol of an Article on definitions. A proposal for a list of definitions, which may be not exhaustive, has been added as Article 0. In the final version this Article might be included as Article 1, necessitating a consequential renumbering throughout the Protocol and the Annexes.

**INTERIM REPORT OF THE XIth ANTARCTIC TREATY
SPECIAL CONSULTATIVE MEETING,
SECOND SESSION,
(MADRID 17-22, JUNE 1991)**

1. Pursuant to recommendation XV-1 and in conformity with the Interim Report of the First Session of the XIth ATSCM, held at Viña del Mar (Chile), and the Interim Report of the First Part of the Second Session, held at Madrid (Spain) in April 1991, representatives of the Consultative Parties (Argentina, Australia, Belgium, Brazil, Chile, China, Ecuador, Finland, France, Germany, India, Italy, Japan, The Netherlands, New Zealand, Norway, Peru, Poland, the Republic of Korea, South Africa, Spain, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay), met in Madrid, Spain, from June 17 to 22, 1991 to continue the discussion of the proposals relating to the comprehensive protection of the Antarctic environment and its dependent and associated ecosystems.
2. The Meeting was also attended by delegations from Contracting Parties to the Antarctic Treaty which are not Consultative Parties (Austria, Bulgaria, Canada, Colombia, Cuba, Czechoslovakia, Denmark, Greece, Hungary, the Democratic People's Republic of Korea, Romania and Switzerland).
3. The following organizations attended the Meeting as Observers:
 - the Intergovernmental Oceanographic Commission (IOC),
 - the International Union for the Conservation of Nature and Natural Resources (IUCN),
 - the Antarctic and Southern Ocean Coalition (ASOC).
4. The Meeting decided that the Bureau of the Second Part of the Second Session should be the same that was elected for the First Part. Therefore, Mr. Carlos Blasco Villa, Head of the Spanish Delegation would be the Chairman of the Meeting and Mr. Lorenzo Gonzalez and Mr. Camilo Villarino, both from the Spanish Delegation, would be the Secretary General and the Assistant Secretary General, respectively.
5. The following agenda was adopted:
 1. Opening of the session
 2. Adoption of the Agenda.
 3. Presentation of the report of the Legal Drafting Committee.
 4. Consideration of the report of the Legal Drafting Committee and approval of the report.
 5. Drafting of the Final Act, and the Legal instruments annexed thereto, of the XIth Antarctic Treaty Special Consultative Meeting.
 6. Approval of the Final Act, and the Legal instruments annexed thereto, of the XIth Antarctic Treaty Special Consultative Meeting.
 7. Various items.
 8. Approval of the Final Report of the XIth Antarctic Treaty Special Consultative Meeting.
6. As it was decided by the Plenary at the end of the First Part of the Second Session, a Drafting Committee, under the chairmanship of Mr. Peter Verbeek (Head of the

Delegation of The Netherlands) met from June 10 to 14, to examine the drafting of the following documents:

- Protocol on Environmental Protection to the Antarctic Treaty (Doc. XI ATSCM/2/30, 29 April 1991).
 - Annex on Environmental Impact Assessment Procedures (Doc. XI ATSCM/2/WG II/Rev. 2, 29 April 1991).
 - Annex on Conservation of Antarctic Fauna and Flora (Doc. XI ATSCM/2/WG II/Rev.1, 29 April 1991).
 - Annex on Waste Disposal and Waste Management (Doc. XI ATSCM/2/WP.8/Rev.2).
 - Annex on Marine Pollution (Doc. XI ATSCM/2/WP.6/Rev.4).
7. The Drafting Committee submitted to the Plenary the following documents on 17 June:
- Protocol on Environmental Protection to the Antarctic Treaty (XI ATSCM/2/LDC).
 - Annex on Environmental Impact Assessment (XI ATSCM/2/LDC).
 - Annex on Conservation of Antarctic Fauna and Flora (XI ATSCM/2/LDC).
 - Annex on Waste Disposal and Waste Management (XI ATSCM/2/LDC).

The Drafting Committee was unable to reach an agreement on a definitive version of the Annex on Marine Pollution. An informal paper on this matter was prepared by an ad hoc contact group.

8. The Plenary decided to start the revision of the work of the Drafting Committee in order to adopt, article by article, the final version of the Protocol and its Annexes. It was decided also that a Working Group, under the chairmanship of Mr. Roberto Puceiro (member of the Delegation of Uruguay), should try to agree on a text for marine pollution.
9. The Plenary was able to adopt all of the Articles of the Protocol, with the exception of Article 25 (ex—Article 24) on the modification or amendment procedure of the Protocol. It was also able to adopt a final version of the four Annexes mentioned above, after the Working Group on Marine Pollution submitted an agreed text on Prevention of Marine Pollution to the Plenary.
10. With respect to Article 25, a new proposal was presented by the Chairman to the Plenary after extensive consultations. This proposal was widely viewed as an acceptable compromise and as such the Chairman requested that all Delegations forwarded it to their respective Governments for their consideration. On the final working day of the Second Part of the Second Session, 22 June, a delegation communicated to the Plenary that its Government was not yet in a position to give a definitive answer.
11. The Chairman of the Meeting proposed to the Plenary that the Second Session could be resumed in the near future, before the XVIth Antarctic Treaty Consultative Meeting that will be held in Bonn next October. This Third Part of the Second Session of the XIth ATSCM, that would also be held in Madrid, should be as short as possible and be devoted to the adoption of Article 25 and the text of the Protocol as a whole, as well as the Final

Act of the Meeting, 80 as to allow the signature of this Final Act and the opening for signature of the Protocol with its Annexes. The Plenary adopted this proposal.

12. The Meeting agreed, as is customary, to request the Chairman to release a press communiqué.
13. The Meeting expressed its very warm appreciation to the Government of Spain, the Chairman of the Meeting, the Secretary General and Assistant Secretary General and their staff, as well as to the Chairman of the Drafting Committee, Mr. Verbeek, and to the Chairman of the Working Group, Mr. Puceiro.
14. The following documents, in the four official languages of the Meeting, are attached to this Interim Report:
 - Protocol on Environmental Protection to the Antarctic Treaty, with the last proposal of Article 25 within square brackets (XI ATSCM/2, 21 June 1991).
 - Annex I on Environmental Impact Assessment (XI ATSCM/2, 21 June 1991).
 - Annex II on Conservation of Antarctic Fauna and Flora (XI ATSCM/2, 21 June 1991).
 - Annex III on Waste Disposal and Waste Management (XI ATSCM/2, 21 June 1991).
 - Annex IV on Prevention of Marine Pollution (XI ATSCM/2, 21 June 1991).
15. The Interim Report of the Second Part of the Second Session of the XIth Antarctic Treaty Special Consultative Meeting was adopted by consensus. The Meeting was adjourned on June 22, 1991.

PRESS RELEASE

The continuation of the Second Session of the Eleventh Antarctic Treaty Special Consultative Meeting was held in Madrid from 17th to 22nd June.

The purpose of this meeting was to establish a text for a Protocol for the Protection of the Antarctic Environment, based on the document drawn up in Madrid, between 23rd and 30th of last April, which had been widely accepted and considered sufficient in order to reach an agreement.

In the course of the debates, one delegation pointed out that its Government was unable to accept the document in its entirety, since in the opinion of this delegation the document included provisions which could be interpreted as a permanent prohibition of mineral activities in Antarctica.

As a result of this Session, a text for the Environmental Protection Protocol to the Antarctic Treaty has been established, with the exception of the clause relating to the modification or amendment of this Protocol. Four annexes are incorporated in it: dealing with an environmental impact assessment, the conservation of Antarctic fauna and flora, waste disposal and the prevention of marine pollution.

As it was impossible to accept the Protocol text in its entirety, this being acceptable to all delegations but one, it was decided that before the next Sixteenth Ordinary Meeting to take place in Bonn, a brief meeting should be held in Madrid in order to approve the pending article and therefore establishing a definitive text which could be signed by all the Contracting Parties to the Antarctic Treaty.

**LIST OF DELEGATIONS ATTENDING
THE SECOND SESSION (MADRID, 17th-22nd JUNE 1991)
OF THE ELEVENTH ANTARCTIC TREATY SPECIAL
CONSULTATIVE MEETING**

I. CONSULTATIVE PARTIES

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Representative

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Director-General for Malvinas, South Atlantic and the Antarctica
Ministry of Foreign Affairs

Delegates

Jorge A. MASTROPIETRO
Secretary of Embassy
Direction for Malvinas, South Atlantic and the Antarctica
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Marcia LEVAGGI
Secretary of Embassy

AUSTRALIA

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Ministry of Foreign Affairs and Trade

Delegates

Henry BURMESTER
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International Law Office
Ministry of Justice

Hugh WYNDHAM
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Ministry of Foreign Affairs and Trade

Brendan DORAN
Head of Service
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Ministry of Foreign Affairs and Trade

Wendy FLETCHER
Political Department
General Direction of Antarctica
Ministry of Culture, Sports, Environment, Tourism and Territories

Lyn GOLDSWORTHY
Antarctic and Southern Ocean Coalition (ASOC)

BELGIUM

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Ministry of Foreign Affairs

Delegates

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Belgian Embassy, Madrid

BRAZIL

Representative

Henrique R. VALLE
Ambassador
Head of the Department for Environment
Ministry of External Relations

Delegates

Antonio de AGUIAR PATRIOTA
Ministry of External Relations

CHILE

Representative

Oscar PINOCHET DE LA BARRA
Ambassador, Director of the Diplomatic Academy «Andrés Bello» and
Acting Director of the Chilean Antarctic Institute

Assistant Representative

Jorge BERGUÑO BARNES
Ambassador
Head of Special Policies Department
Ministry of Foreign Affairs

Delegates

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Assistant
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Song LI
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