

## **FINAL ACT OF THE ELEVENTH ANTARCTIC TREATY SPECIAL CONSULTATIVE MEETING**

The final session of the XIth Antarctic Treaty Special Consultative Meeting, convened in accordance with the Recommendation XV-I, was held at Madrid on the 3rd and 4th of October, 1991. The Meeting was attended by representatives of the Antarctic Treaty 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, the United States of America and Uruguay). 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). Representatives of international governmental and non-governmental organisations attended the Meeting as observers (Antarctic and Southern Ocean Coalition, Scientific Committee on Antarctic Research, Commission for the Conservation of Antarctic Marine Living Resources, Commission of the European Communities, Intergovernmental Oceanographic Commission, World Meteorological Organisation, International Union for the Conservation of Nature and Natural Resources).

As a result of the deliberations, summarised in the Final Report of the XIth Antarctic Treaty Special Consultative Meeting, the Antarctic Treaty Consultative Parties adopted in the official languages of the Antarctic Treaty the "Protocol on Environmental Protection to the Antarctic Treaty" and four Annexes to the Protocol, which form an integral part thereof, namely: Annex I on Environmental Impact Assessment, Annex II on Conservation of Antarctic Fauna and Flora, Annex III on Waste Disposal and Waste Management, Annex IV on Prevention of Marine Pollution. The text of the Protocol and the four Annexes is attached to this Final Act. The Protocol provides for the possibility of adopting additional Annexes.

The Protocol provides that it will be opened for signature in Madrid on the 4th of October, 1991, and thereafter in Washington D.C. until the 3rd of October, 1992.

In the Protocol the Parties commit themselves to the comprehensive protection of the Antarctic environment and dependent and associated ecosystems, and designate Antarctica as a natural reserve devoted to peace and science.

In this context, the Meeting agreed that, pending entry into force of the protocol, which would take place as soon as possible, current constraints on Antarctic mineral resource activity should continue.

The Meeting noted that the harvesting of ice was not considered to be an Antarctic mineral resource activity; it was therefore agreed that if the harvesting of ice were to become possible in the future, it was understood that the provisions of the Protocol, other than Article 7, would apply.

The meeting noted that nothing in the Protocol shall derogate from the rights and obligations of Parties under the Convention on the Conservation of Antarctic Marine Living Resources, the Convention for the Conservation of Antarctic Seals and the International Convention for the Regulation of Whaling.

With respect to the activities referred to in Article 8, the Meeting noted that it was not intended that those activities should include activities undertaken in the Antarctic Treaty area pursuant to the Convention on the Conservation of Antarctic Marine Living Resources or the Convention for the Conservation of Antarctic Seals.

The Meeting underlined the commitment of the Parties to the Protocol in its Article 16 to elaborate rules and procedures relating to liability for damage arising from activities taking place in the Antarctic Treaty area and covered by the Protocol, with a view to their inclusion in one or more Annexes and expressed the wish that work on their elaboration could begin at an early stage. In this context, it was understood that liability for damage to the Antarctic environment should be included in such an elaboration.

The Meeting noted that, with regard to the competence of the Arbitral Tribunal under Articles 19 and 20 of the Protocol to make an award upon any matter, it was understood that the Tribunal would not make determinations as to damages until a binding legal regime had entered into force through an Annex or Annexes pursuant to Article 16.

With reference to Article 18, the Meeting agreed that an inquiry procedure should be elaborated to facilitate resolution of disputes concerning the interpretation or application of Article 3 with respect to activities undertaken or proposed to be undertaken in the Antarctic Treaty area.

The Meeting acknowledged that, while reservations to the Protocol would not be permitted, this did not preclude a State, when signing, ratifying, accepting or approving the Protocol, or when acceding to it, from making declarations or statements, however, phrased or named, with a view, inter alia, to the harmonisation of its laws and regulations with the Protocol, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the Protocol in its application to that State.

The Meeting agreed that the contents of this Final Act are without prejudice to the legal position of any Party under Article IV of the Antarctic Treaty.

The Meeting agreed that it was desirable to ensure the effective implementation at an early date of the provisions of the Protocol. Pending the entry into force of the Protocol it was agreed that it was desirable for all Contracting Parties to the Antarctic Treaty to apply Annexes I-IV, in accordance with their legal systems and to the extent practicable, and to take individually such steps to enable it to occur as soon as possible.

Done in Madrid, this fourth day of October, 1991, in a single original copy in the four languages of the Antarctic Treaty to be deposited in the Archives of the Government of

the United States of America, which will transmit a certified copy thereof to all Contracting Parties to the Antarctic Treaty.