



FINAL REPORT ON THE SECOND SESSION OF THE
SECOND SPECIAL ANTARCTIC TREATY
CONSULTATIVE MEETING

1. In accordance with the agreement reached at the first session of the Second Special Consultative Meeting held at Canberra, Australia, from 27th February to 16th March, 1978, the States that are Consultative Parties to the Antarctic Treaty (Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, Poland, the Republic of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, met in the city of Buenos Aires from 17th to 28th July, 1978.

The Consultative Parties continued the consultations begun in Canberra about the elaboration of a draft definitive regime for the conservation of Antarctic marine living resources pursuant to the provisions of Recommendation IX-2 of the Ninth Consultative Meeting.

2. The Meeting was officially opened by His Excellency, the Minister of Foreign Affairs and Worship of Argentina, Vice-Admiral Oscar Antonio MONTES.

3. The Representative of Argentina, Ambassador Raul A. MENDINA MUNOZ, was elected President of the Special Consultative Meeting. Counsellor Victor E. BEAUGE, of the Ministry of Foreign Affairs and Worship of Argentina, was appointed

Secretary-General, and Mr Pedro A. GALVALISI, of the Argentine Ministry of Foreign Affairs and Worship, Assistant Secretary-General.

4. The opening session was public. All the Heads of Delegation made opening statements (see Appendix 1).*

5. The consultations proceeded on the basis of the following agenda adopted in Canberra:

1. Opening of the Meeting
2. Election of Officers
3. Opening statements
4. Adoption of Agenda
5. Elaboration of a draft definitive regime for the conservation of Antarctic marine living resources taking into account all the points listed in Recommendation IX-2, Section III.
6. Consideration of steps in connection with the work of the decisive meeting for the establishment of the definitive regime taking into account all the points listed in Recommendation IX-2, Section III.
7. Adoption of Final Report
8. Closure of Meeting.

6. The work of the session took place in Plenary Meetings and meetings of Heads of Delegation and working groups.

* Not available

7. The representatives continued their discussions of the informal text prepared by the Chairman of the Canberra session taking into account various proposals presented by delegations.

In the course of detailed discussions considerable progress was made towards the elaboration of the definitive regime. In particular the representatives expressed satisfaction with the constructive work done on provisions relating to the objectives of the Convention and conservation measures.

8. The view was expressed that further consultations were desirable. The representatives reaffirmed their commitment to conclude in 1978 the definitive regime for the conservation of Antarctic marine living resources on the basis of a draft to be elaborated in accordance with earlier decisions.

9. Representatives expressed their gratitude to the Government of Argentina for the hospitality and facilities extended to them.

NOTE BY THE CHAIRMAN

The attached Draft Convention on the Conservation of Antarctic Marine Living Resources has been prepared as a result of informal consultations among representatives of the Antarctic Treaty Consultative Parties, held in Washington, D.C., September 18 - 26, 1978. The participants based their work upon the informal draft convention prepared by the Chairman of the Canberra Session of the Special Consultative Meeting on Antarctic Marine Living Resources and the further work on that draft accomplished at the Buenos Aires Session of the Special Consultative Meeting.

It is the view of the Chairman of the Washington consultations that the draft represents a fully adequate foundation for formal conclusion of a Convention on the Conservation of Antarctic Marine Living Resources at the decisive meeting foreseen in Recommendation IX-2 of the Ninth Meeting of Antarctic Treaty Consultative Parties.

Without seeking to prejudge the necessary examination by Consultative Party Governments of this text, the Chairman wishes to underline the special importance to the Consultative Parties of the provisions contained in its Articles I, II, III, IV, V, VI, VII, VIII, X, XVII, XIX, XXI, XXII and XXVIII. The Chairman further solicits the favorable consideration of the draft in order to permit the Government of Australia to make the arrangements necessary for a resumption of the Special Consultative Meeting on Antarctic Marine Living Resources and the decisive meeting to conclude the Convention.

The Chairman notes the need for the Governments of the Consultative Parties to convey by the 31st of October their reactions to the attached draft convention to the Government of Australia in order that it satisfy projected scheduling requirements.

Finally, the Chairman expresses deep appreciation for the constructive and cooperative contributions to the Washington consultations made by all participants.

DRAFT CONVENTION ON THE CONSERVATION OF
ANTARCTIC MARINE LIVING RESOURCES

The Contracting Parties,

RECOGNISING the importance of safeguarding the environment and protecting the integrity of the ecosystem of the seas surrounding Antarctica;

NOTING the concentration of marine living resources found in Antarctic waters and the increased interest in the possibilities offered by the utilization of these resources as a source of protein;

CONSCIOUS of the urgency of ensuring the conservation of Antarctic marine living resources;

CONSIDERING that it is essential to increase knowledge of the Antarctic marine ecosystem and its components so as to be able to base decisions on harvesting on sound scientific information;

BELIEVING that the conservation of Antarctic marine living resources calls for international co-operation with due regard for the provisions of the Antarctic Treaty and with the active involvement of all States engaged in research or harvesting activities in Antarctic waters;

RECOGNISING the prime responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the Antarctic environment and, in particular, their responsibilities under Article IX, paragraph 1(f) of the Antarctic Treaty in respect of the preservation and conservation of living resources in Antarctica;

RECALLING the action already taken by the Antarctic Treaty Consultative Parties including in particular the Agreed Measures for the Conservation of Antarctic Fauna and Flora, as well as the provisions of the Convention for the Conservation of Antarctic Seals;

September 26, 1978

BELIEVING that it is in the interest of all mankind to preserve the waters surrounding the Antarctic continent for peaceful purposes only and to prevent their becoming the scene or object of international discord;

RECOGNISING, in the light of the foregoing, that it is desirable to establish suitable machinery for recommending, promoting, deciding upon and co-ordinating the measures and scientific studies needed to ensure the conservation of Antarctic marine living organisms;

HAVE AGREED as follows:

ARTICLE I

1. This Convention applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

2. Antarctic marine living resources means the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.

3. The Antarctic marine ecosystem means the complex of relationships of Antarctic marine living resources with each other and with their physical environment.

4. The Antarctic Convergence shall be deemed to be a line joining the following points along parallels of latitude and meridians of longitude:

50°S, 0°; 50°S, 30°E; 45°S, 30°E; 45°S, 80°E;
55°S, 80°E; 55°S, 150°E; 60°S, 150°E; 60°S, 50°W;
50°S, 50°W; 50°S, 0°.

ARTICLE II

1. The objective of this Convention is the conservation of Antarctic marine living resources.

2. For the purposes of this Convention, the term "conservation" includes rational use.

3. Any harvesting and associated activities in the area to which this Convention applies shall be conducted in accordance with the provisions of this Convention and with the following principles of conservation:

(a) Prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment. For this purpose its size should not be allowed to fall below a level close to that which ensures the greatest net annual increment;

(b) Maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and the restoration of depleted populations to the levels defined in subparagraph (a);

and

(c) Prevention of changes or minimization of the risk of changes in the marine ecosystem which are not potentially reversible over two or three decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effect of the introduction of alien species, the effects of associated activities on the marine ecosystem and of the effects of environmental changes, with the aim of making possible the sustained conservation of Antarctic marine living resources.

ARTICLE III

The Contracting Parties, whether or not they are Parties to the Antarctic Treaty, agree that they will not engage in any activities in the Antarctic Treaty area contrary to the principles and purposes of the Treaty and that, in their relations with each other, they are bound by the obligations contained in Articles I and V of the Antarctic Treaty.

ARTICLE IV

1. With respect to the Antarctic Treaty area, all Contracting Parties, whether or not they are Parties to the Antarctic Treaty, are bound by Articles IV and VI of the Antarctic Treaty in their relations with each other.

2. Nothing in this Convention and no acts or activities taking place while the present Convention is in force shall:

- (a) Constitute a basis for asserting, supporting, or denying a claim to territorial sovereignty in the Antarctic Treaty area or create any rights of sovereignty in the Antarctic Treaty area;
- (b) Be interpreted as a renunciation or diminution by any Contracting Party of, or as prejudicing, any right or claim or basis of claim to exercise coastal state jurisdiction under international law within the area to which this Convention applies;
- (c) Be interpreted as prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any such right, claim or basis of claim;
- (d) Affect the provision of Article IV (2) of the Antarctic Treaty that no new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the Antarctic Treaty is in force.

ARTICLE V

1. The Contracting Parties which are not Parties to the Antarctic Treaty acknowledge the special obligations and responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the environment of the Antarctic Treaty area.
2. The Contracting Parties which are not Parties to the Antarctic Treaty agree that, in their activities in the Antarctic Treaty area, they will observe as and when appropriate the Agreed Measures for the Conservation of Antarctic Fauna and Flora and such other measures as have been recommended by the Antarctic Treaty Consultative Parties in fulfilment of their responsibility for the protection of the Antarctic environment from all forms of harmful human interference.
3. For the purposes of this Convention, "Antarctic Treaty Consultative Parties" means the Contracting Parties to the Antarctic Treaty whose Representatives participate in meetings under Article IX of the Antarctic Treaty.

ARTICLE VI

Nothing in this Convention shall derogate from the rights and obligations of Contracting Parties under the International Convention for the Regulation of Whaling and the Convention for the Conservation of Antarctic Seals.

ARTICLE VII

1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as the Commission).

2. Membership in the Commission shall be as follows:

- (a) Each Contracting Party which participated in the meeting at which this Convention was adopted shall be a Member of the Commission;
- (b) Each Contracting Party which has acceded to the Convention pursuant to Article XXVII shall be entitled to be a Member of the Commission during such time as that acceding Party is engaged in research or harvesting activities in relation to the marine living resources to which this Convention applies. Such an acceding State seeking to participate in the work of the Commission shall notify the Depositary of its activities and of its willingness to accept conservation measures in force. The Depositary shall communicate to each Member of the Commission such notification and accompanying information. Within two months of receipt of such communication from the Depositary, any Member of the Commission may request that a special meeting of the Commission be held to consider the matter. Upon receipt of such request, the Depositary shall call such a meeting. If there is no request for a meeting, the acceding State submitting the notification shall be deemed to have satisfied the requirements for Commission Membership.

3. Each Member of the Commission shall be represented by one representative who may be accompanied by alternate representatives and advisors.

ARTICLE VIII

1. The function of the Commission shall be to give effect to the objective and principles set out in Article II. To this end, it shall:

- (a) Facilitate research into and comprehensive studies of Antarctic marine living resources and of the Antarctic marine ecosystem;
- (b) Compile data on the status of and changes in population of Antarctic marine living resources and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;
- (c) Ensure the acquisition of catch and effort statistics on harvested populations;
- (d) Analyse, disseminate and publish the information referred to in subparagraphs (b) and (c) above and the reports of the Scientific Committee;
- (e) Identify conservation needs and analyse the effectiveness of conservation measures;
- (f) Formulate, adopt and revise conservation measures on the basis of the best scientific evidence available, subject to the provisions of paragraph 5 of this Article;
- (g) Implement the system of observation and inspection established under Article XXII;
- (h) Carry out such other activities as are necessary to fulfil the objective of this Convention.

2. The conservation measures referred to in paragraph 1 (f) include the following:

- (a) The quantity of any species which may be harvested in the area in which the Convention applies;
- (b) The designation of regions and subregions based on the distribution of populations of Antarctic marine living resources;

- (c) The quantity which may be harvested from the populations of regions and subregions;
- (d) The designation of protected species;
- (e) The size, age and, as appropriate, sex of species which may be harvested;
- (f) Open and closed seasons for harvesting;
- (g) The opening and closing of areas, regions or subregions for purposes of scientific study or conservation, including special areas for protection and scientific study;
- (h) Regulation of the effort employed and methods of harvesting, including fishing gear, with a view, inter alia, to avoiding undue concentration of harvesting in any region or subregion;
- (i) Such other conservation measures as the Commission considers necessary for the fulfilment of the objective of this Convention, including measures concerning the effects of harvesting and associated activities on components of the marine ecosystem other than the harvested populations.

3. The Commission shall publish and maintain a record of all conservation measures in force.

4. In exercising its functions under paragraph 1 of this Article, the Commission shall take full account of the recommendations and advice of the Scientific Committee.

5. The Commission shall take full account of any relevant measures or regulations established or recommended by the Consultative Meetings pursuant to Article IX of the Antarctic Treaty or by existing fisheries commissions responsible for species which may enter the area in which this Convention applies, in order that there shall be no inconsistency between the rights and obligations of a Contracting Party under such regulations or measures and conservation measures which may be adopted by the Commission.

6. Conservation measures adopted by the Commission in accordance with this Convention shall be implemented by Members of the Commission in the following manner:

- (a) The Commission shall notify conservation measures to all Members of the Commission;
- (b) Conservation measures shall become binding upon all Members of the Commission 180 days after such notification, except as provided in sub-paragraphs (c) and (d) below;
- (c) If a Member of the Commission, within 90 days following the notification specified in sub-paragraph (a), notifies the Commission that it is unable to accept the conservation measure, in whole or in part, the measure shall not, to the extent stated, be binding upon that Member of the Commission;
- (d) In the event that any Member of the Commission invokes the procedure set forth in sub-paragraph (c) above, the Commission shall meet at the request of any Member of the Commission to review the conservation measure. At the time of such meeting and within 30 days following the meeting, any Member of the Commission shall have the right to declare that it is no longer able to accept the conservation measure, in which case the Member shall no longer be bound by such measure.

B

ARTICLE IX

1. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels which, in the opinion of the Commission, affects the implementation of the objective of this Convention.

2. The Commission shall draw the attention of all Contracting Parties to any activity undertaken by any Contracting Party's nationals or vessels which, in the opinion of the Commission, affects the implementation of the objective of this Convention or the compliance by that Contracting Party with its obligations under this Convention.

ARTICLE X

1. Decisions of the Commission on matters of substance shall be taken by consensus. The question of whether a matter is one of substance shall be treated as a matter of substance.
2. Decisions on matters other than those referred to in paragraph 1 shall be taken by a simple majority of the Members of the Commission present and voting.

ARTICLE XI

1. The Commission shall meet annually and as provided in Article VIII. It may meet at any other time at the request of one-third of its members.
2. At its first meeting the Commission shall elect from among its members a Chairman and Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election for one additional term. The Chairman and Vice-Chairman shall not represent the same Contracting Party.
3. The Commission shall adopt and amend as necessary the rules of procedure for the conduct of its meetings, except with respect to the matters dealt with in Article X.
4. The Commission may establish such subsidiary bodies as are necessary for the performance of its functions.

ARTICLE XII

1. The Contracting Parties hereby establish the Scientific Committee for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as the Scientific Committee) which shall be a consultative body to the Commission.
2. Each Member of the Commission shall be a member of the Scientific Committee and shall appoint a representative with suitable scientific qualifications, who may be accompanied by other experts and advisers.
3. The Scientific Committee may invite other scientists or experts to participate in its work in the capacity of advisers.

ARTICLE XIII

1. The Scientific Committee shall provide a forum for consultation and co-operation concerning the collection, study and exchange of information with respect to the marine living resources covered by this Convention. It shall encourage and promote co-operation in the field of scientific research in order to extend knowledge of the marine living resources of the Antarctic marine ecosystem.
2. The Scientific Committee shall conduct such activities as the Commission may direct in pursuance of the objective of this Convention, and shall:
 - (a) Establish criteria and methods to be used for determinations concerning the conservation measures referred to in Article VIII;
 - (b) Regularly assess the status and trends of the populations of Antarctic marine living resources;
 - (c) Analyse data concerning the direct and indirect effects of harvesting on the populations of Antarctic marine living resources;
 - (d) Assess the effects of proposed changes in the methods or levels of harvesting and proposed conservation measures;
 - (e) Transmit assessments, analyses, reports and recommendations to the Commission as requested or on its own initiative regarding measures and research to implement the objective of this Convention;
 - (f) Formulate proposals for the conduct of international and national programs of research into Antarctic marine living resources.
3. In carrying out its functions, the Committee shall have regard to the work of other relevant technical and scientific organisations and to the scientific activities conducted within the framework of the Antarctic Treaty.

ARTICLE XIV

1. The first meeting of the Scientific Committee shall be held within three months of the first meeting of the Commission. The Scientific Committee shall meet thereafter as may be necessary to fulfil its functions.
2. The Members of the Commission shall transmit to the Executive Secretary the names of their representatives to the Scientific Committee.
3. The Scientific Committee shall adopt and amend as necessary its rules of procedure which shall be approved by the Commission. The rules shall include procedures for the presentation of minority reports.
4. The Scientific Committee may establish, with the approval of the Commission, such subsidiary bodies as are necessary for the performance of its functions.

ARTICLE XV

1. The Commission shall appoint an Executive Secretary to serve the Commission and Scientific Committee according to such procedures and on such terms and conditions as the Commission may determine.
2. The Executive Secretary shall appoint, direct and supervise the staff of the Secretariat according to such rules and procedures and on such terms and conditions as the Commission may determine.
3. The Executive Secretary and Secretariat shall perform the functions entrusted to them by the Commission.

ARTICLE XVI

1. The headquarters of the Commission shall be established at The first meeting of the Commission shall be held within three months of the entry into force of this Convention.
2. The Depositary (as designated in Article XXV of this Convention) shall convene the first meeting of the Commission. Thereafter all meetings of the Commission shall be held at its headquarters, unless decided otherwise by the Commission.

ARTICLE XVII

1. At each annual meeting, the Commission shall adopt by consensus its budget and the budget of the Scientific Committee.
2. A draft budget for the Commission and the Scientific Committee and any subsidiary bodies shall be prepared by the Executive Secretary and submitted to the Members of the Commission at least sixty days before the annual meeting of the Commission.
3. Each Member of the Commission shall contribute to the budget. Until the expiration of 5 years after the entry into force of this Convention, the contribution of each Member of the Commission shall be equal.

Thereafter the contribution shall be determined in accordance with two criteria: the amount harvested and an equal sharing among all Members of the Commission. The Commission shall determine by consensus the proportion in which these two criteria shall apply provided that the proportion of equal sharing should not be less than ____% of the total contribution.

4. The financial activities of the Commission and Scientific Committee shall be conducted in accordance with financial regulations adopted by the Commission and shall be subject to an annual audit by external auditors selected by the Commission.
5. Each Member of the Commission shall meet its own expenses arising from attendance at meetings of the Commission and of the Scientific Committee.

ARTICLE XVIII

1. The Members of the Commission shall, to the greatest extent possible, provide annually to the Commission and to the Scientific Committee such statistical, biological or other data and information as the Commission and Scientific Committee may require in the exercise of their functions, including information on their future fishing programs.
2. The Members of the Commission shall provide, in the manner and at such intervals as may be prescribed, details of harvesting operations, including areas of operation, by their nationals and vessels, so as to enable catch and effort statistics to be compiled.
3. The Members of the Commission shall provide to the Commission at such intervals as may be prescribed information on steps taken to implement the conservation measures adopted by the Commission.
4. The Members of the Commission agree that in any harvesting by their nationals and vessels advantage shall be taken of opportunities to collect data needed to assess the impact of harvesting.

ARTICLE XIX

1. Each Contracting Party shall take appropriate measures within its competence to ensure compliance with the provisions of this Convention and with conservation measures adopted by the Commission to which the Party is bound in accordance with Article VIII.

2. Each Contracting Party shall transmit to the Commission information on measures taken pursuant to paragraph 1, including the imposition of sanctions for any violation.

ARTICLE XX

1. Each Contracting Party undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to the objective of this Convention.
2. Each Contracting Party shall notify the Commission of any such activity which comes to its attention.

ARTICLE XXI

1. The Commission and the Scientific Committee shall co-operate with the Antarctic Treaty Consultative Parties on matters falling within the competence of the latter.
2. The Commission and the Scientific Committee shall co-operate, as appropriate, with the Food and Agriculture Organization of the United Nations and with other Specialized Agencies.
3. The Commission and the Scientific Committee shall seek to develop co-operative working relationships, as appropriate, with inter-governmental and non-governmental organizations which could contribute to their work, including the Scientific Committee on Antarctic Research, the Scientific Committee on Oceanographic Research and the International Whaling Commission.
4. The Commission may enter into agreements with the organizations referred to in this Article and with other organizations as may be appropriate. The Commission and the Scientific Committee may invite such organizations to send observers to their meetings and to meetings of their subsidiary bodies.

ARTICLE XXII

1. In order to promote the objective and ensure observance of the provisions of this Convention, the Contracting Parties agree that a system of observation and inspection shall be established.

2. The system of observation and inspection shall be elaborated by the Commission on the basis of the following principles:

- (a) Contracting Parties shall cooperate with each other to ensure the effective implementation of the system of observation and inspection, taking account of the existing international practice. This system shall include, inter alia, procedures for boarding and inspection by observers and inspectors designated by the Members of the Commission and procedures for flag state prosecution and sanctions on the basis of evidence resulting from such boarding and inspections. A report of such prosecutions and sanctions imposed shall be included in the information referred to in Article XIX;
- (b) In order to verify compliance with measures adopted under this Convention, observation and inspection shall be carried out on board vessels engaged in scientific research or harvesting of marine living resources in the Convention area, through observers and inspectors designated by the Members of the Commission and operating under terms and conditions to be established by the Commission;
- (c) Designated observers and inspectors shall remain subject to the jurisdiction of the Contracting Party of which they are nationals and shall report on the results of inspections to their Governments which shall in turn report to the Commission.

3. Pending the establishment of the system of observation and inspection, the Members of the Commission shall seek to establish interim arrangements to designate observers

00158

and inspectors and such designated observers and inspectors shall be entitled to carry out inspections in accordance with the principles set out in paragraph 2 of this Article.

ARTICLE XXIII

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of this Convention, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
2. Any dispute of this character not so resolved shall, with the consent in each case of all parties to the dispute, be referred for settlement to the International Court of Justice or to arbitration; but failure to reach agreement on reference to the International Court or to arbitration shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.
3. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this Convention.

ARTICLE XXIV

1. This Convention shall be open for signature at from to by the States participating in the meeting at which this Convention is adopted.
2. The States which so sign will be the original signatory States of the Convention.

ARTICLE XXV

1. This Convention is subject to ratification, approval or acceptance by signatory States. Instruments or ratification, acceptance or approval shall be deposited with the Government of, hereby designated as the Depositary.

2. A signatory State which deposits its instrument of ratification, acceptance or approval after the entry into force of this Convention shall notify the Commission of the status of its implementation of any conservation measures referred to in Article VIII(3).

ARTICLE XXVI

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the . . . instrument of ratification, acceptance, approval or accession by States referred to in Article XXIV.
2. With respect to each State which subsequently deposits an instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day following the deposit by such State of its instrument of ratification, acceptance, approval or accession.

00166-

ARTICLE XXVII

This Convention shall be open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which this Convention applies.

ARTICLE XXVIII

1. This Convention may be amended at any time. The text of any amendment proposed by a Member of the Commission shall be submitted to the Depositary, which shall transmit it to all the Contracting Parties.
2. If one-third of the Members of the Commission request a meeting to discuss the proposed amendment the Depositary shall call such a meeting.
3. An amendment shall enter into force when the Depositary has received instruments of ratification, acceptance or approval thereof from all the Members of the Commission.
4. Such amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the Depositary. Any such Contracting Party from which no notice of ratification has been received within a period of one year from the date of entry into force of the amendment in accordance with paragraph 3 of this Article shall be deemed to have withdrawn from this Convention.

ARTICLE XXIX

1. Any Contracting Party may withdraw from this Convention on 30 June of any year, by giving notice on or before 1 January of the same year to the Depositary, which, upon receipt of such a notice, shall communicate it forthwith to the other Contracting Parties.

2. Any other Contracting Party may, in like manner, within sixty days of the receipt of a copy of such a notice from the Depositary, give notice of withdrawal in which case the Convention shall cease to be in force on 30 June of the same year with respect to the Contracting Party giving such notice.

B

ARTICLE XXX

The Depositary shall notify all signatory and acceding States of the following:

- (a) Signatures of this Convention and the deposit of instruments of ratification, approval, acceptance and accession;
- (b) The date of entry into force of this Convention and of any amendment thereto, and the date on which any withdrawal takes effect.

ARTICLE XXXI

1. This Convention, drawn up in the English, French, Russian and Spanish languages, each text being equally authentic, shall be deposited in the archives of the Government of which shall transmit duly certified copies thereof to all signatory and acceding States.

2. Upon entry into force of the Convention the Depositary shall transmit a certified copy thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

Done at this day of
..... 1979.

B

ANNEX FOR AN ARBITRAL TRIBUNAL

The arbitral tribunal referred to in paragraph 3 of Article XXIII shall be composed of three arbitrators who shall be appointed as follows:

The Party commencing proceedings shall communicate the name of an arbitrator to the other Party which, in turn, within a period of 40 days following such notification, shall communicate the name of the second arbitrator. The Parties shall, within a period of 60 days following the appointment of the second arbitrator, appoint the third arbitrator, who shall not be a national of either Party and shall not be of the same nationality as either of the first two arbitrators. The third arbitrator shall preside over the tribunal.

If the second arbitrator has not been appointed within the prescribed period, or if the Parties have not reached agreement within the prescribed period on the appointment of the third arbitrator, that arbitrator shall be appointed, at the request of either Party, by the

The arbitral tribunal shall decide where its headquarters will be located and shall adopt its own rules of procedure.

The award of the arbitral tribunal shall be made by a majority of its members, who may not abstain from voting.

Any Contracting Party which is not a Party to the dispute may intervene in the proceedings with the consent of the arbitral tribunal.

The award of the arbitral tribunal shall be final and binding on all Parties to the dispute and on any State which intervenes in the proceedings and shall be complied with without delay. The arbitral tribunal shall interpret the award at the request of one of the Parties to the dispute or of any intervening State.

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares.

AMENDMENT WHICH IT WAS AGREED AT BERNE
SHOULD BE ADDED TO THE PREAMBLE OF THE WASHINGTON TEXT

"Bearing in mind the concern regarding the conservation of Antarctic marine living resources expressed by the Consultative Parties at the Ninth Consultative Meeting of the Antarctic Treaty and the importance of the provisions of recommendation IX(2) which led to the establishment of the present Convention."

00170

A STATEMENT BY THE CHAIRMAN OF THE BERNE MEETING
MADE ON 14 MARCH, WITH A FOOTNOTE WHICH WAS ADDED
ON 16 MARCH

"I was asked if, in the context of Item 2 of our discussion, I could express a view, which I hope would become the view of the meeting, as to the situation which would exist under the Washington text of our draft convention with regard to conservation powers in waters adjacent to an island within the convention area over which a contracting party has sovereignty recognised by all other contracting parties.

Pursuant to its sovereignty, the contracting party has powers in relation to conservation, management and exploitation. These powers would remain unaffected by the entry into force of the convention. The contracting party has power to introduce conservation measures at any time. All states would be required to observe these measures in accordance with international law.

The convention would empower the Commission to adopt certain measures in relation to conservation. The contracting party, as a member of the Commission, would have power to withhold its consent to any proposals for such measures which might come before the Commission. It could thus ensure that there was no disharmony between measures

adopted by the Commission and measures which the contracting party itself might consider appropriate. If the Commission should fail to adopt any conservation measures, the contracting party could adopt its own measures, which would be binding under international law. If for any reason the contracting party desired to introduce measures more stringent than those adopted by the Commission, it would have the power to do so. It could make access contingent on the observance of its own measures.

With regard to matters not dealt with by the convention, the contracting party's powers would remain unaffected either by the provisions of the convention or by the measures adopted by the Commission."

Footnote

"All delegations agreed that the Chairman's statement represented a correct interpretation of the Washington text regarding a particular situation which might arise in the operation of the convention. The French delegation noted, however, that the statement in and of itself did not overcome its objections to certain provisions of the Washington text."

POINTS RELATING TO THE EEC PROPOSED BY AUSTRALIA
AS A BASIS OF CONSENSUS IN RELATION TO THE EEC ISSUE

Discussions among representatives of the Antarctic Treaty Consultative Parties were held at Berne from 12 to 16 March 1979. Representatives of the European Economic Community attended the discussions by invitation on the understanding that their attendance was without prejudice to the position of any of the Consultative Parties as to the participation of the European Economic Community in the Diplomatic Conference or the status of the European Economic Community with regard to the proposed convention on the conservation of Antarctic marine living resources. It was agreed on 16 March 1979 that Australia would put forward points which in its opinion might form the basis of consensus.

The points proposed as a basis of consensus and which would be reflected in the proposed convention are set out below. (There would be no specific reference to the European Economic Community in the convention.)

- (1) The special responsibilities of the Antarctic Treaty Consultative Parties as reflected in the Antarctic Treaty and the proposed convention shall be fully preserved.

- C
- (2) States which are Antarctic Treaty Consultative Parties or are engaged in research or harvesting of Antarctic marine living resources shall sign and ratify the Convention in accordance with its provisions whether or not they are members of a regional economic organization to which they have transferred certain competences.
 - (3) States which are parties to the convention and which satisfy the provisions of Article VII of the convention shall be members of the Commission to be established by the convention whether or not they are members of a regional economic organization to which they have transferred certain competences.
 - (4) The states members of the European Economic Community have transferred to the European Economic Community certain competences with respect to the conservation of marine living resources.
 - (5) The European Economic Community shall be invited to be present as an observer at the Diplomatic Conference.
 - (6) The convention shall make provision for accession by regional economic organizations to which member states of such organizations have transferred competences with respect to the conservation of marine living resources.

5. The understandings, set forth in paragraphs 1-4 above, regarding the application of the convention to waters adjacent to the islands of Kerguelen and Crozet, also apply to waters adjacent to the other islands within the convention area over which contracting parties have sovereignty recognised by all other contracting parties.

TEXT OF ANNEX WITH AMENDMENTS INTRODUCED BY FRANCE ON FRIDAY 29 JUNE

STATEMENT REGARDING THE APPLICATION OF THE CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES TO THE WATERS ADJACENT TO KERGUELEN AND CROZET OVER WHICH FRANCE HAS JURISDICTION AND TO THE WATERS ADJACENT TO OTHER ISLANDS WITHIN THE CONVENTION AREA OVER WHICH CONTRACTING PARTIES HAVE SOVEREIGNTY RECOGNIZED BY ALL OTHER CONTRACTING PARTIES.

1. Measures for the conservation of Antarctic marine living resources of the waters adjacent to Kerguelen and Crozet, over which France has jurisdiction, adopted by France prior to the entry into force of the Convention, would remain in force after the entry into force of the Convention until modified by France acting within the framework of the Commission or otherwise.

2. If, after the convention has come into force, the Commission should wish to undertake examination of the conservation needs of the general area in which the waters adjacent to Kerguelen and Crozet are to be found, it would be open to France either to agree that the waters in question should be included in the area of application of such measures taken to meet those needs or to indicate that they should be excluded. In the latter event, the Commission would give no consideration to conservation measures to apply in the waters in question unless and until France should indicate its agreement to see such measures discussed by the Commission. France could also adopt such national measures as it might deem appropriate for the waters in question.

3. Accordingly, when such conservation measures are considered with the agreement of France within the framework of the Commission then:

- (a) France would be bound by any conservation measures adopted by consensus with its participation for the duration of those measures. This would not prevent France from promulgating national measures that were more strict than the Commission's measures or which dealt with other matters:
- (b) In the absence of consensus, France could promulgate any national measures which it might deem appropriate.

4. Conservation measures, whether national measures or measures adopted by the Commission, in respect of the waters adjacent to Kerguelen and Crozet, would be enforced by France. The system of observation and inspection foreseen by the convention would not be implemented in the waters adjacent to Kerguelen and Crozet.

5. The understandings, set forth in paragraphs 1-4 above, regarding the application of the convention to waters adjacent to the islands of Kerguelen and Crozet, also apply to waters which contracting parties have sovereignty recognised by all other contracting parties.

TEXT PUT TOGETHER BY US, FRANCE, SOVIET UNION AND AUSTRALIA
ON 6 JULY

STATEMENT REGARDING THE APPLICATION OF THE CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES TO THE WATERS ADJACENT TO KERGUELEN AND CROZET OVER WHICH FRANCE HAS JURISDICTION AND TO THE WATERS ADJACENT TO OTHER ISLANDS WITHIN THE CONVENTION AREA OVER WHICH CONTRACTING PARTIES HAVE SOVEREIGNTY RECOGNIZED BY ALL OTHER CONTRACTING PARTIES.

1. Measures for the conservation of Antarctic marine living resources of the waters adjacent to Kerguelen and Crozet, over which France has jurisdiction, adopted by France prior to the entry into force of the convention, would remain in force after the entry into force of the convention until modified by France acting within the framework of the Commission or otherwise.
2. If, after the convention has come into force, the Commission should (wish to) (France suggests inclusion, USSR and USA suggest deletion) undertake examination of the conservation needs of the general area in which the waters adjacent to Kerguelen and Crozet are to be found, it would be open to France either to agree that the waters in question should be included in the area of application of such measures taken to meet those needs or to indicate that they should be excluded. (In the latter event, the Commission would give no consideration to conservation measures to apply in the waters in question unless and until France should indicate its agreement to see such measures discussed by the Commission (alternative I, suggested by France.) (In the latter event, the adoption by the Commission of conservation measures applicable to the waters in question would require the approval of France (alternative II, suggested by USSR and USA)). France could also adopt such national measures as it might deem appropriate for the waters in question.
3. (Accordingly, when such conservation measures are considered, with agreement of France within the framework of the Commission, then: (Alternative I, suggested by France)). (Accordingly, when such conservation measures are considered, in accordance with the procedures envisaged in paragraph 2 of this statement, within the framework of the Commission, then: (alternative II suggested by USSR and USA)).

- (A) France would be bound by any conservation measures adopted by consensus with its participation for the duration of those measures. This would not prevent France from promulgating national measures that were more strict than the Commission's measures or which dealt with other matters;
- (B) In the absence of consensus, France could promulgate any national measures which it might deem appropriate.

4. Conservation measures, whether national measures or measures adopted by the Commission, in respect of the waters adjacent to Kerguelen and Crozet, would be enforced by France. The system of observation and inspection foreseen by the convention would not be implemented in the waters adjacent to Kerguelen and Crozet (except as agreed by France). (France suggests deletion, USSR and USA suggest inclusion).

5. The understandings, set forth in paragraphs 1-4 above, regarding the application of the convention to waters adjacent to the islands of Kerguelen and Crozet, also apply to waters adjacent to the other islands within the convention area over which contracting parties have sovereignty recognized by all other contracting parties.

PROPOSED AMENDMENTS TO THE WASHINGTON TEXT TO GIVE
EFFECT TO THE POINTS RELATING TO THE EEC PROPOSED
BY AUSTRALIA AS A BASIS OF CONSENSUS IN RELATION TO
THE EEC ISSUE AND CIRCULATED BY AUSTRALIA FOLLOWING
THE BERN MEETING

June 26, 1979

ARTICLE I

1. This Convention applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

2. The Antarctic Convergence shall be deemed to be a line joining the following points along parallels of latitude and meridians of longitude:

50°S, 0°; 50°S, 30°E; 45°S, 30°E; 45°S, 80°E;
55°S, 80°E; 55°S, 150°E; 60°S, 150°E; 60°S, 50°W;
50°S, 50°W; 50°S, 0°.

(Note: Paragraphs 2 and 3 of Article I of the Washington Text have been included as paragraphs 2 and 3 of Article I Bis. Paragraph 2 above is the same as paragraph 4 of Article I of the Washington Text.)

June 26, 1979

ARTICLE I BIS

1. "Competent regional economic integration organization" (hereinafter referred to as the "competent organization") means a regional intergovernmental body, which includes among its members one or more States Parties to this Convention, to which the States members have transferred, in whole or in part, competences with regard to the matters covered by this Convention.

2. Antarctic marine living resources means the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.

3. The Antarctic marine ecosystem means the complex of relationships of Antarctic marine living resources with each other and with their physical environment.

June 26, 1979

...43/

ARTICLE VII

1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as the Commission).

2. Membership in the Commission shall be as follows:

- (a) Each Contracting Party which participated in ~~the~~ meeting at which this Convention was adopted shall be a Member of the Commission;
- (b) Each Contracting Party which has acceded to the Convention pursuant to Article XXVII shall be entitled to be a Member of the Commission during such time as that acceding Party is engaged in research or harvesting activities in relation to the marine living resources to which this Convention applies. Such an acceding State seeking to participate in the work of the Commission shall notify the Depositary of its activities and of its willingness to accept conservation measures in force. The Depositary shall communicate to each Member of the Commission such notification and accompanying information. Within two months of receipt of such communication from the Depositary, any Member of the Commission may request that a special meeting of the Commission be held to consider the matter. Upon receipt of such request, the Depositary shall call such a meeting. If there is no request for a meeting, the acceding State submitting the notification shall be deemed to have satisfied the requirements for Commission Membership.
- (c) Each competent organization that has acceded to this Convention pursuant to Article XXVII.

3. Each Member of the Commission shall be represented by one representative who may be accompanied by alternate representatives and advisors.

ARTICLE X BIS

In cases where the competent organization is a member of the Commission pursuant to the provisions of Article VII (2) (c), the following provisions shall apply, with regard to the taking of decisions by the Commission:

- (a) Members States of the Commission being members of the competent organization shall notify, in respect of each item coming before the Commission, whether negotiation of that item is to be the responsibility of the States members of the competent organization or of the competent organization itself;
- (b) Members of the Commission being members of the competent organization shall not, in relation to matters in respect of which negotiating responsibility rests with the competent organization, participate in the taking of decisions pursuant to Article X;
- (c) The competent organization shall not, in relation to matters in respect of which negotiating responsibility rests with its States members, participate in the taking of decisions pursuant to Article X;
- (d) A notification pursuant to sub-paragraph (a) of this Article shall not be open to challenge by the competent organization within the Commission or under any of the provisions of this Convention.

June 26, 1979

ARTICLE XXVII

1. This Convention shall be open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which this Convention applies.

2. This Convention shall be open for accession by competent organizations.

June 26, 1979

ARTICLE XXVIII

1. This Convention may be amended at any time.
2. Any State Party being a member of the Commission may propose an amendment which shall be submitted to the Depository which shall transmit it to all the Contracting Parties.
3. If one-third of the Members of the Commission request a meeting to discuss the proposed amendment the Depository shall call such a meeting.
4. An amendment shall enter into force when the Depository has received instruments of ratification, acceptance or approval thereof from all the Members of the Commission.
5. Such amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the Depository. Any such Contracting Party from which no notice of ratification has been received within a period of one year from the date of entry into force of the amendment in accordance with paragraph 3 of this Article shall be deemed to have withdrawn from this Convention.

(Note: Paragraphs 3, 4 and 5 above are the same as paragraphs 2, 3, and 4 of Article XXVIII of the Washington Text.)

June 26, 1979

27 June 1979

Suggested amendments to the Draft Convention on the Conservation of Antarctic Marine Living Resources.

Article X bis

1. In the taking of decisions pursuant to Article X on matters falling in whole or in part under the competence of a regional economic integration organization referred to in Article XXIV, such organization shall, subject to paragraph 2, exercise its right to vote with a number of votes equal to the number of its Member States which are members of the Commission.

2. In cases where Member States, having competence in the matter under consideration exercise their right to vote, the organization's voting rights shall be reduced accordingly.

Article XXIV

" 1. This Convention shall be open for signature

at ... from ...

to ... by

- States, and

- Regional economic integration organizations constituted by sovereign States to which their Member States have transferred powers with regard to matters covered by this Convention,

which participated in the meeting at which this Convention is adopted.

2. The States and regional economic integration organizations which so sign will be the original signatories of the Convention.

3. Regional economic integration organizations referred to above shall, upon deposit of their instruments of approval, become Contracting Parties with the same rights and obligations as States Parties under the provisions of this Convention to the extent that these rights and obligations relate to matters where powers have been transferred to them by their Member States."

ARTICLE VII

1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as the Commission).

2. Membership in the Commission shall be as follows:

- (a) Each Contracting Party which participated in the meeting at which this Convention was adopted shall be a Member of the Commission;
- (b) Each State Party which has acceded to this Convention pursuant to Article XXVII shall be entitled to be a member of the Commission during such time as that acceding party is engaged in research or harvesting activities in relation to the marine living resources to which this Convention applies;
- (c) Each regional economic integration organization which has acceded to this Convention pursuant to Article XXVII shall be entitled to be a member of the Commission during such time as its States members are so entitled;
- (d) A Contracting Party seeking to participate in the work of the Commission pursuant to subparagraphs (b) and (c) above shall notify the Depositary of the basis upon which it seeks to become a member of the Commission and of its willingness to accept conservation measures in force. The Depositary shall communicate to each Member of the Commission such notification and accompanying information. Within two months of receipt of such communication from the Depositary, any Member of the Commission may request that a special meeting of the Commission be held to consider the matter. Upon receipt of such request, the Depositary shall call such a meeting. If there is no request for a meeting, the Contracting Party submitting the notification shall be deemed to have satisfied the requirements for Commission Membership.

51.

3. Each Member of the Commission shall be represented by one representative who may be accompanied by alternate representatives and advisors.

Submitted by the Chairman

6/29/79

...52/

ARTICLE XXVII

1. This Convention shall be open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which this Convention applies.

2. This Convention shall be open for accession by regional economic integration organizations, constituted by sovereign states, which include among their members one or more States members of the Commission, and to which the State members of the organization have transferred, in whole or in part, competences with regard to the matters covered by this Convention.

Submitted by the Chairman

6/29/79

...55/