



Antarctic (Environment Protection) Legislation Amendment Act 1992

No. 156 of 1992

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement

PART 2—AMENDMENTS OF THE ANTARCTIC TREATY (ENVIRONMENT PROTECTION) ACT 1980

3. Principal Act
4. Preamble
5. Insertion of new heading:

PART 1—PRELIMINARY

6. Interpretation
7. Act binds Crown
8. Insertion of new sections and heading:
 - 7A. Necessity to act in accordance with basic environmental principles

PART 2—CONSERVATION OF ANTARCTIC FAUNA AND FLORA

- 7B. Interpretation
9. Insertion of new section:
 - 7C. Specially protected species
10. Repeal of section 7B

TABLE OF PROVISIONS—*continued*

Section

- 11. Repeal of section 8 and insertion of new sections:
 - 8. Antarctic specially protected areas etc.
 - 8A. Historic sites and monuments
- 12. Grant and renewal of permit
- 13. Restrictions applicable to permits
- 14. Variation, suspension and revocation of permits
- 15. New Part and heading inserted:

PART 3—ENVIRONMENTAL IMPACT ASSESSMENT

- 12A. Interpretation
- 12B. Object of Part
- 12C. Part does not apply to certain activities
- 12D. Preliminary assessment of likely impact of activity on Antarctic environment
- 12E. Preliminary determination of likely impact of activity
- 12F. Activity to proceed if impact negligible
- 12G. Initial environmental evaluation
- 12H. Determination of likely impact of activity based on initial environmental evaluation
- 12J. Authorisation of activity likely to have minor etc. impact on environment
- 12K. Comprehensive environmental evaluation
- 12L. Authorisation of activity likely to have more than minor etc. impact on environment
- 12M. Notice of authorisation
- 12N. Variation, suspension and revocation of authorisation
- 12P. Variation etc. of conditions
- 12Q. Monitoring of activities

PART 4—INSPECTORS

- 16. Insertion of new heading:

PART 5—OFFENCES

- 17. Offences relating to the environment
- 18. Insertion of new sections:
 - 19A. Prohibition against mining in the Territory
 - 19B. Prohibition against mining in the Antarctic
 - 19C. Prosecution of offences
- 19. Furnishing information
- 20. Insertion of new section:
 - 21A. Unauthorised activities
- 21. Repeal of section
- 22. Insertion of new heading:

PART 6—MISCELLANEOUS

- 23. Repeal of section 27 and insertion of new section:
 - 27. Delegation
- 24. Review of decisions
- 25. Regulations
- 26. Heading to Schedule
- 27. Further amendments
- 28. Addition of Schedules

TABLE OF PROVISIONS—*continued*

Section

**PART 3—AMENDMENT OF THE ANTARCTIC MARINE LIVING
RESOURCES CONSERVATION ACT 1981**

- 29. **Principal Act**
- 30. **Arrest without warrant**

PART 4—REPEAL OF ANTARCTIC MINING PROHIBITION ACT 1991

- 31. **Repeal of Act**

SCHEDULE 1

**FURTHER AMENDMENTS OF THE ANTARCTIC TREATY
(ENVIRONMENT PROTECTION) ACT 1980**

SCHEDULE 2

**SCHEDULES TO BE ADDED AT THE END OF THE ANTARCTIC TREATY
(ENVIRONMENT PROTECTION) ACT 1980**



Antarctic (Environment Protection) Legislation Amendment Act 1992

No. 156 of 1992

**An Act to amend the legislation relating to the protection
of the environment in the Antarctic**

[Assented to 11 December 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Antarctic (Environment Protection) Legislation Amendment Act 1992*.

Commencement

2.(1) Parts 1 and 3 commence on the day on which this Act receives the Royal Assent.

(2) Subsections 12(2) and 17(2) commence on 1 April 1994.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

(3) Subject to subsection (4), subsection 6(2), section 9, paragraph 12(3)(b), subsections 13(3) and (4) and 17(3), sections 18 and 27 and Part 4 commence on a day to be fixed by Proclamation, being a day not earlier than the day on which the Protocol on Environmental Protection to the Antarctic Treaty done, and opened for signature, at Madrid on 4 October 1991 (the “**Protocol**”) enters into force. 5

(4) If the provisions referred to in subsection (3) do not commence under that subsection within the period of 6 months beginning on the day on which the Protocol enters into force, they commence on the first day after the end of that period. 10

(5) Subject to subsection (6), subsections 4(2) and 6(3), sections 10 and 11, paragraph 12(3)(a), subsections 13(5) and (6), 17(4), 19(2) and 25(2) commence on a day to be fixed by Proclamation, being a day not earlier than the day on which Annex V to the Protocol becomes effective as provided by Recommendation XVI10 adopted by the XVIth Antarctic Treaty Consultative Meeting at Bonn on 18 October 1991. 15

(6) If the provisions referred to in subsection (5) do not commence under that subsection within the period of 6 months beginning on the day on which Annex V to the Protocol becomes effective, they commence on the first day after the end of that period. 20

(7) The remaining provisions of this Act commence on the first day after the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent.

**PART 2—AMENDMENTS OF THE ANTARCTIC TREATY
(ENVIRONMENT PROTECTION) ACT 1980** 25

Principal Act

3. In this Part, “**Principal Act**” means the *Antarctic Treaty (Environment Protection) Act 1980*¹.

Preamble

4.(1) The Preamble to the Principal Act is amended by adding at the end the following paragraphs: 30

“AND WHEREAS Australia is a party to the Protocol on Environmental Protection to the Antarctic Treaty:

“AND WHEREAS it is desirable to make provision for giving effect to that Protocol: 35

“AND WHEREAS it is desirable to make other provision relating to the protection of the environment in the Antarctic:”.

(2) The Preamble to the Principal Act is amended:

(a) by omitting the first and second paragraphs;

(b) by omitting “AND” from the third paragraph. 40

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

Insertion of new heading

5. Before section 1 of the Principal Act the following heading is inserted:

“PART 1—PRELIMINARY”.

5 Interpretation

6.(1) Section 3 of the Principal Act is amended:

- (a) by inserting in the definition of “animal” in subsection (1) “, a native invertebrate” after “bird”;
- (b) by inserting in the definition of “permit” in subsection (1) “Part 2 of” after “under”;
- (c) by omitting from the definition of “Seals Convention” in subsection (1) “the Schedule)” and substituting the following words and paragraphs:

“Schedule 1) as affected by the amendments to the Annex to the Convention that:

- (a) were recommended by the representatives of the Contracting Parties to the Convention at their 1988 Meeting to Review the Operation of the Convention; and
- (b) were included in paragraphs 21, 31 and 36 of their Report of that meeting, a copy of the English text of which is set out in Schedule 2; and
- (c) became effective on 27 March 1990”;
- (d) by omitting from subsection (1) the definitions of “native bird” and “native mammal” and substituting the following definitions:

“**‘native bird’** means:

- (a) any member, at any stage of its life cycle (including eggs), of any species of the Class *Aves* that:
 - (i) is indigenous to the Antarctic; or
 - (ii) comes to the Antarctic seasonally through natural migrations; or
- (b) any dead specimen of any species referred to in paragraph (a);

‘native mammal’ means:

- (a) any member, at any stage of its life cycle, of any species of the Class *Mammalia* indigenous to the Antarctic except whales and seals; or
- (b) any member, at any stage of its life cycle, of any species of the Class *Mammalia* that comes to the Antarctic seasonally through natural migration except whales and seals; or

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

- (c) any dead specimen of any species referred to in paragraph (a) or (b) except whales and seals;”;
- (e) by inserting in subsection (1) the following definitions:
- “**‘basic environmental principles’** means the environmental principles set out in Article 3 of the Madrid Protocol; 5
- ‘CAMLR Convention’** means the Convention on the Conservation of Antarctic Marine Living Resources, a copy of the English text of which is set out in the Schedule to the *Antarctic Marine Living Resources Conservation Act 1981*;
- ‘CEMP site’** means a monitoring site: 10
- (a) established for the purposes of the Ecosystem Monitoring Program conducted by the Parties to the CAMLR Convention; and
- (b) the management plan for which has been adopted by the Commission for the Conservation of Antarctic Marine Living Resources in accordance with Conservation Measure 18/IX adopted by the Commission, which became binding on Australia on 7 May 1991; 15
- ‘Madrid Protocol’** means the Protocol on Environmental Protection to the Antarctic Treaty, a copy of the English text of which (apart from Annex IV to it) is set out in Schedule 3, being the Protocol done, and opened for signature, at Madrid on 4 October 1991 to which, in accordance with Recommendation XVI-10 adopted by the XVIth Antarctic Treaty Consultative Meeting at Bonn on 18 October 1991, the Annex attached to that Recommendation has been added as Annex V to the Protocol; 20
- ‘native invertebrate’** means any terrestrial or fresh water invertebrate, at any stage of its life cycle, indigenous to the Antarctic; 25
- ‘whale’** means any member of the sub-order *Mysticeti* or *Odontoceti* of the order *Cetacea*.”;
- (f) by omitting from subsection (3) “or 7A” and substituting “, 7A or 86”;
- (g) by omitting from subsection (5) “Agreed Measures” and substituting “Madrid Protocol”; 30
- (h) by omitting from subsection (5) “those Measures” (wherever occurring) and substituting “the Protocol”.
- (2) Section 3 of the Principal Act is amended:
- (a) by omitting from the definition of “corresponding law” in subsection (1) “Agreed Measures” and substituting “Madrid Protocol”; 35
- (b) by omitting from the definition of “specially protected species” in subsection (1) “or native bird declared under subsection 40

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

8(7)” and substituting “, native bird or native plant declared under section 7C”;

(c) by omitting from subsection (1) the definition of “authority of another Contracting Party”;

5 (d) by inserting in subsection (1) the following definitions:

“**‘Australian national’** means:

(a) an Australian citizen; and

(b) a body corporate that is incorporated in Australia or carries on its activities mainly in Australia;

10 **‘continental shelf’** has the same meaning as in the *Seas and Submerged Lands Act 1973*;

‘mineral’ means any non-living, non-renewable natural resource;

15 **‘mining activity’** means an activity carried on for, or in connection with, the recovery or exploitation of minerals (including prospecting and exploring for minerals), but does not include an activity that is necessary for scientific investigation or scientific research within the meaning of the Treaty;

‘recognised foreign authority’ means a permit, authority or arrangement that:

20 (a) authorises the carrying on of an activity in the Antarctic; and

(b) has been issued, given or made by a Party (other than Australia) to the Madrid Protocol that has accepted under that Protocol the same obligations as Australia in relation to the carrying on of that activity in the Antarctic;”.

(3) Section 3 of the Principal Act is amended:

(a) by omitting from subsection (1) the definitions of “Agreed Measures”, “site of special scientific interest” and “specially protected area”;

30 (b) by inserting in subsection (1) the following definitions:

“**‘Antarctic specially managed area’** means an area declared to be an Antarctic specially managed area under section 8;

‘Antarctic specially protected area’ means an area declared to be an Antarctic specially protected area under section 8;

35 **‘historic monument’** means a monument declared to be an historic monument under section 8A;

‘historic site’ means a site declared to be an historic site under section 8A;”.

Act binds Crown

40 7. Section 6 of the Principal Act is amended by omitting “and of the Northern Territory” and substituting “, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island”.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

8. After section 7 of the Principal Act the following sections and heading are inserted:

Necessity to act in accordance with basic environmental principles

“7A. In exercising powers and performing duties under this Act, the Minister must act in a manner that is consistent with the basic environmental principles. 5

**“PART 2—CONSERVATION OF ANTARCTIC FAUNA AND
FLORA**

Interpretation

“7B. Except so far as the contrary intention appears, an expression (other than an expression defined in section 3) that is used both in this Part and in the Agreed Measures (whether or not a particular meaning is given to it by those Measures) has, in this Part, the same meaning as in those Measures.” 10

9. After section 7B of the Principal Act the following section is inserted: 15

Specially protected species

“7C.(1) Subject to subsection (2), if a species of native mammal, native bird or native plant is specified in Annex II to the Madrid Protocol for the purpose of designation as a specially protected species, the Minister may, by notice in the *Gazette*, declare that species to be a specially protected species. 20

“(2) If a species of native mammal or native bird was, immediately before the commencement of this section, a specially protected species because of a declaration under subsection 8(7) as then in force, that declaration has effect, for the purposes of this Act, as if it were a declaration made under subsection (1) on the commencement of this section. 25

“(3) The Minister may, by notice published in the *Gazette*, vary or revoke a declaration made under subsection (1) or referred to in subsection (2).” 30

Repeal of section 7B

10. Section 7B of the Principal Act is repealed.

11. Section 8 of the Principal Act is repealed and the following sections are substituted: 35

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

Antarctic specially protected areas etc.

“8.(1) In this section:

‘area’ means:

(a) an area of land or sea within the Antarctic; or

5 (b) an area of any such land and any such sea.

“(2) Subject to subsection (4), the Governor-General may:

(a) by Proclamation, declare an area specified in the Proclamation to be an Antarctic specially protected area; and

10 (b) by the same or by another Proclamation, declare an area specified in the Proclamation to be an Antarctic specially managed area.

“(3) An area may not be declared to be an Antarctic specially protected area or an Antarctic specially managed area unless the Antarctic Treaty Consultative Parties have adopted a management plan in respect of the area under Article 6 of Annex V to the Madrid Protocol.

15

“(4) If an area is declared by Proclamation under subsection (2) to be an Antarctic specially protected area or an Antarctic specially managed area:

20 (a) the subsoil beneath any land within the area, extending to the depth below the surface that is specified in the Proclamation; and

(b) the waters and sea-bed beneath any ice shelf or sea within the area; and

25 (c) the subsoil beneath any such sea-bed, extending to the depth below the sea-bed that is specified in the Proclamation;

is taken to be within the Antarctic specially protected area or the Antarctic specially managed area.

“(5) An area that was, immediately before the commencement of this section, a specially protected area or a site of special scientific interest is taken, for the purposes of this Act, to have been declared to be an Antarctic specially protected area by a Proclamation made under subsection (2) on the commencement of this section.

30

“(6) The Governor-General may, by Proclamation:

35 (a) vary the boundaries of an Antarctic specially protected area or Antarctic specially managed area in accordance with an amendment of the management plan adopted by the Antarctic Treaty Consultative Parties; or

40 (b) revoke a declaration made, or taken to have been made, under subsection (2) if the management plan in respect of the area to which the declaration relates is revoked.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

Historic sites and monuments

“8A.(1) Subject to subsection (2), the Governor-General may, by Proclamation, declare a site or monument specified in the Proclamation to be an historic site or an historic monument.

“(2) A site or a monument may not be declared to be an historic site or an historic monument unless the Antarctic Treaty Consultative Parties have approved the listing of the site or monument as an historic site or an historic monument under Article 8 of Annex V to the Madrid Protocol. 5

“(3) The Governor-General may, by Proclamation, vary or revoke a Proclamation made under subsection (1) in respect of a site or monument if the Antarctic Treaty Consultative Parties have amended or revoked the listing of the site or monument as an historic site or historic monument.”. 10

Grant and renewal of permit 15

12.(1) Section 9 of the Principal Act is amended:

(a) by omitting from subsection (1) “(1)(e)” and substituting “(1)(ca), (1)(e)”;

(b) by inserting after subsection (1) the following subsection:

“(1A) The permit must specify the area in which the activity is to be carried on.”; 20

(c) by inserting after subsection (2) the following subsections:

“(2A) The Minister may not grant a permit authorising an activity to which Part 3 applies unless the Minister has, under that Part, authorised the proponent of the activity (within the meaning of that Part) to carry on the activity. 25

“(2B) The Minister may not grant a permit authorising a person to carry on an activity in a CEMP site unless a permit authorising the person to enter the site has been granted:

(a) under regulations made under the *Antarctic Marine Living Resources Conservation Act 1981*; or 30

(b) by another Contracting Party to the CAMLR Convention.”;

(d) by omitting subsection (6).

(2) Section 9 of the Principal Act is amended: 35

(a) by inserting in subsection (1) “(1)(caa)” after “paragraphs”;

(b) by omitting from subsection (1) “, (2)(f)”.

(3) Section 9 of the Principal Act is amended:

(a) by inserting in subsection (1) “, (1)(f)” after “(1)(e)”;

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

- (b) by omitting from subsection (2) “Agreed Measures” and substituting “Madrid Protocol”.

Restrictions applicable to permits

13.(1) Section 10 of the Principal Act is amended:

- 5 (a) by inserting in subparagraph (1)(a)(ii) “, the habitats essential to their existence” after “species”;
- (b) by omitting subparagraph (1)(b)(i) and substituting the following subparagraph:
- 10 “(i) the construction and operation of scientific support facilities; and”;
- (c) by inserting in subparagraph (1)(c)(ii) “or recovery of that species or of the local population” after “survival”;
- (d) by omitting subsection (2) and substituting the following subsections:
- 15 “(1A) A permit authorising a person to kill, take, injure or otherwise interfere with a native bird or mammal must specify as a condition of the permit that the bird or mammal is to be dealt with in the manner that involves the least degree of pain and suffering practicable.
- 20 “(1B) A permit must not authorise a person to gather, collect, endanger or otherwise interfere with a native plant unless:
- (a) the Minister is satisfied, after taking into account the number of native plants of any species that may be affected because of that permit and all other permits granted under section 9 or under corresponding laws, that the variety of species of native plants, the habitats essential to the existence of native animals and native plants, and the balance of the natural ecological systems, existing within the Antarctic will be maintained; and
- 25 (b) the permit is so expressed as to ensure, as far as possible, that the activities authorised by the permit will be carried on to the extent only that they are necessary for:
- 30 (i) the construction and operation of scientific support facilities; and
- 35 (ii) providing specimens for scientific research, public education (including display in museums, herbaria, botanical gardens or other educational or cultural institutions) or such other educational or cultural purposes as the Minister thinks fit.
- 40 “(2) A permit must not authorise a person to bring into the Antarctic:
- (a) a dog; or

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

- (b) a live bird that is not indigenous to the Antarctic.”;
 - (e) by inserting in subsection (3) “(other than a dog or live bird)” after “animal”;
 - (f) by omitting paragraph (4)(b) and substituting the following paragraph: 5
 - “(b) removed from the Antarctic or destroyed:
 - (i) if it has served its purpose before the permit ceases to be in force—as soon as possible after it has served its purpose; or
 - (ii) if subparagraph (i) does not apply—when the permit ceases to be in force.”; 10
 - (g) by omitting subsection (5) and substituting the following subsection: 15
 - “(5) A permit authorising a person to bring into the Antarctic animals or plants that are not indigenous to the Antarctic must:
 - (a) specify:
 - (i) the number of animals or plants to which the permit relates; and
 - (ii) the species of the animals or plants; and
 - (iii) if appropriate in the case of a permit relating to animals—the age and sex of each of the animals; and 20
 - (b) specify as a condition of the permit that the person must take all reasonable precautions to prevent any of the animals from escaping or any of the animals or plants from coming in contact with the native fauna or flora.”; 25
 - (h) by adding at the end of subsection (6) the following word and paragraph: 30
 - “; and (c) if there is a management plan for the area—the activity can be carried on in accordance with the management plan”.
- (2) The amendments made by subsection (1) do not apply in relation to a permit granted before the commencement of that subsection.
- (3) Section 10 of the Principal Act is amended: 35
- (a) by adding at the end of subsection (1B) the following word and paragraph:
 - “; and (c) in the case of a permit relating to a specially protected species:
 - (i) the permit is granted for a compelling scientific purpose; and 40
 - (ii) the Minister is satisfied that the activities authorised by the permit will not jeopardise the existing ecological system

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

or the survival or recovery of that species
or of the local population of plants of that
species.”.

5 (b) by omitting from subsection (3) “the Agreed Measures” and
substituting “Annex II to the Madrid Protocol”.

(4) The amendments made by subsection (3) do not apply in relation
to a permit granted before the commencement of that subsection.

(5) Section 10 of the Principal Act is amended:

10 (a) by omitting from subsection (6) “a specially protected area”
and substituting “an Antarctic specially protected area in respect
of which a management plan has not been adopted”;

(b) by omitting from paragraph (6)(b) “and”;

(c) by omitting paragraph (6)(c);

(d) by adding at the end the following subsections:

15 “(7) A permit must not authorise any activity to be carried
on in an Antarctic specially protected area in respect of which
a management plan has been adopted unless the activity can be
carried on in accordance with the management plan.

20 “(8) A permit authorising a person to carry on an activity in
an Antarctic specially protected area must specify as a condition
of the permit that the person must have the permit in his or
her possession when the person is in the area.”.

(6) The amendments made by subsection (5) do not apply in relation
to a permit granted before the commencement of that subsection.

25 **Variation, suspension and revocation of permits**

14. Section 11 of the Principal Act is amended by inserting after
subsection (1) the following subsection:

30 “(1A) If the holder of a permit so requests in writing (giving reasons
for the request), the Minister may, by notice in writing served as
provided in subsection (1), vary the permit if the Minister is satisfied
that:

(a) the reasons given justify the variation; and

35 (b) the permit if varied would not authorise any activity that is
likely to affect adversely the conservation or protection of the
fauna and flora of the Antarctic.”.

15. After section 12 of the Principal Act the following Part and
heading are inserted:

“PART 3—ENVIRONMENTAL IMPACT ASSESSMENT

Interpretation

“12A. In this Part, unless the contrary intention appears:
‘environment’ means the Antarctic environment and dependent and associated eco-systems. 5

Object of Part

- “12B. The object of this Part is to provide for:
- (a) the assessment of proposed activities in the Antarctic to identify the impact that they are likely to have on the environment; and
 - (b) the regulation of activities that are likely to have an adverse impact on the environment. 10

Part does not apply to certain activities

“12C.(1) The Minister may determine in writing that this Part does not apply to activities of a kind specified in the determination if the Minister is satisfied that, because of their nature, those activities are likely to have no more than a negligible impact on the Antarctic environment. 15

- “(2) This Part does not apply to:
- (a) any mining activity; and
 - (b) any activity of a kind specified in a determination under subsection (1). 20

Preliminary assessment of likely impact of activity on Antarctic environment

- “12D.(1) If, after the commencement of this Part:
- (a) a person or organisation proposes to carry on an activity in the Territory; or 25
 - (b) a person or organisation in relation to whom this Act applies outside Australia proposes to carry on an activity in an area of the Antarctic other than the Territory;
- the person or organisation proposing to carry on the activity (the **‘proponent of the activity’**) must: 30
- (c) make, or cause to be made, a preliminary assessment of the impact (if any) that the activity is likely to have on the environment; and
 - (d) give a written report of the assessment to the Minister. 35

- “(2) If:
- (a) after the commencement of this Part, a change is proposed, or occurs, in an activity (**‘original activity’**) that was being carried on immediately before the commencement of this Part; or

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

(b) a change is proposed, or occurs, in an activity (**'original activity'**) that is authorised to be carried on under this Part;
the activity as proposed to be changed, or as changed, is to be treated, for the purposes of subsection (1), as being a new activity (different from the original activity) that a person or organisation proposes to carry on.

Preliminary determination of likely impact of activity

“12E. After considering the preliminary assessment, the Minister must:

- 10 (a) determine whether the activity is likely to have:
- (i) more than a minor or transitory impact; or
 - (ii) a minor or transitory impact; or
 - (iii) no more than a negligible impact;
- on the environment; and
- 15 (b) inform the proponent of the activity in writing of his or her decision.

Activity to proceed if impact negligible

“12F.(1) If the Minister determines that the activity is likely to have no more than a negligible impact on the environment, the Minister must, by notice in writing, authorise the proponent of the activity to carry on the activity.

“(2) The authorisation may be given subject to the conditions specified in the notice being complied with.

Initial environmental evaluation

25 “12G.(1) If the Minister determines that the activity is likely to have a minor or transitory impact on the environment, the proponent of the activity must prepare or cause to be prepared, and give to the Minister, an initial environmental evaluation in respect of the activity.

30 “(2) An initial environmental evaluation in respect of an activity is a written report that:

- (a) contains (but is not limited to) the matters that under the regulations are required to be included in the evaluation; and
 - (b) assesses the impact that the activity is likely to have on the environment in a manner that allows for a reasoned conclusion to be reached whether the activity is to have:

35 (i) a minor or transitory impact; or

(ii) more than a minor or transitory impact;

on the environment; and
 - (c) if the assessment indicates that the impact on the environment is likely to be minor or transitory—makes recommendations as
- 40

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

to the measures considered necessary for assessing and verifying any impact on the environment.

“(3) If, after considering the initial environmental evaluation, the Minister is of the view that additional information is required to make a determination under section 12H, or to impose conditions on the giving of an authorisation under section 12J, the Minister may request in writing the proponent of the activity to submit a revised evaluation that contains the additional information required.

5

Determination of likely impact of activity based on initial environmental evaluation

10

“12H. After considering the initial environmental evaluation or the revised initial environmental evaluation (as the case may be), the Minister must determine whether the activity is likely to have:

(a) a minor or transitory impact; or

(b) more than a minor or transitory impact;

15

on the environment.

Authorisation of activity likely to have minor etc. impact on environment

“12J.(1) If the Minister determines that the activity is likely to have a minor or transitory impact on the environment, the Minister must, by notice in writing, authorise the proponent of the activity to carry on the activity.

20

“(2) The authorisation may be given subject to the conditions specified in the notice being complied with, being conditions imposed to ensure that the activity is carried on in a manner that is consistent with the basic environmental principles.

25

“(3) The conditions must include (but are not limited to) conditions requiring that specified procedures aimed at assessing, verifying and limiting the impact of the activity on the environment are complied with.

30

“(4) The authorisation is also subject to any prescribed condition.

Comprehensive environmental evaluation

“12K.(1) If the Minister determines under section 12E or 12H that the activity is likely to have more than a minor or transitory impact on the environment, the proponent of the activity must prepare or cause to be prepared, and give to the Minister:

35

(a) a draft comprehensive environmental evaluation in relation to the activity; and

(b) after the procedures provided for in the regulations for dealing with a draft comprehensive environmental evaluation have been

40

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

complied with—a final comprehensive environmental evaluation in relation to the activity.

“(2) A draft comprehensive environmental evaluation and a final comprehensive environmental evaluation are reports that each:

- 5 (a) contain (but are not limited to) the matters that under the regulations are to be included in an evaluation of that kind; and
- (b) make a comprehensive assessment of the impact that the activity is likely to have on the environment; and
- 10 (c) make recommendations as to the measures (if any) considered necessary for assessing and verifying any impact on the environment.

“(3) The regulations may provide for the procedures to be followed by the Minister in dealing with:

- 15 (a) a draft comprehensive environmental evaluation; and
- (b) a final comprehensive environmental evaluation;
- received by the Minister under this section.

Authorisation of activity likely to have more than minor etc. impact on environment

20 “12L.(1) After dealing with the final comprehensive environmental evaluation in relation to the activity as required under the regulations, the Minister must decide whether or not to authorise the carrying on of the activity.

25 “(2) If, having regard to the contents of the final comprehensive environmental evaluation and any other relevant consideration, the Minister is satisfied that the activity, either as proposed or with certain modifications, can be carried on in a manner consistent with the basic environmental principles, the Minister must, by notice published in the *Gazette*, authorise the proponent of the activity to carry on the activity as proposed or modified.

30

“(3) The authorisation may be given subject to the conditions specified in the notice being complied with, being conditions imposed to ensure that the activity is carried on in a manner that is consistent with the basic environmental principles.

35 “(4) The authorisation is also subject to any prescribed condition.

“(5) If the Minister is not satisfied as provided in subsection (2), the Minister must not authorise the carrying on of the activity.

“(6) A decision not to approve the activity must:

- 40 (a) be notified in the *Gazette*; and
- (b) give the reasons for the decision.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

Notice of authorisation

“12M.(1) A notice of authorisation given under section 12F, 12J or 12L must describe the activity that is authorised.

“(2) A notice may specify that the authorisation extends to the persons who are to carry on the activity on behalf of, or under the control, of the proponent of the activity. 5

Variation, suspension and revocation of authorisation

“12N.(1) The Minister may, by notice given in accordance with the regulations, vary an authorisation to carry on an activity given under this Part if the Minister is satisfied that it is necessary to do so to act consistently with the basic environmental principles. 10

“(2) If the person authorised to carry on an activity so requests in writing (giving reasons for the request) the Minister may, by notice given in accordance with the regulations, vary the authorisation if the Minister is satisfied that: 15

- (a) the reasons given justify the variation; and
- (b) it would not be inconsistent with the basic environmental principles to vary the authorisation as requested.

“(3) The Minister may, by notice given in accordance with the regulations, vary, suspend or revoke an authorisation to carry on an activity given under this Part if the Minister is satisfied: 20

- (a) that a condition subject to which the authorisation was given has not been, or is not being, complied with; or
- (b) it is necessary to do so to act consistently with the basic environmental principles. 25

“(4) Subject to subsection (5), an authorisation remains suspended for such period (not exceeding 90 days) as is specified in the notice of suspension.

“(5) If proceedings for an offence relating to the carrying on of an activity authorised under this Part are started during a period when the authorisation is suspended, the suspension may be continued until the proceedings (including any appeal) are completed. 30

Variation etc. of conditions

“12P. If an authorisation under this Part has been given subject to conditions specified in the notice of authorisation, the Minister may, by notice given in accordance with the regulations, vary or revoke any of those conditions or impose further conditions. 35

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

Monitoring of activities

“12Q. The regulations may provide for the monitoring of activities authorised under this Part:

- 5 (a) to find out whether the activities are carried on in accordance with the authorisation; or
 (b) to assess their impact on the environment.

“PART 4—INSPECTORS”.

Insertion of new heading

10 16. After section 18 of the Principal Act the following heading is inserted:

“PART 5—OFFENCES”.

Offences relating to the environment

17.(1) Section 19 of the Principal Act is amended:

- 15 (a) by inserting in paragraph (1)(a) “, a native invertebrate” after “bird”;
- (b) by inserting after paragraph (1)(c) the following paragraphs:
- “(ca) bring into, or keep in, the Antarctic:
- (i) non-sterile soil; or
- (ii) polychlorinated biphenyls; or
- 20 (iii) polystyrene beads or chips or any similar kind of packaging material; or
- “(cb) bring into, or keep in, the Antarctic any pesticide;”;
- (c) by omitting from paragraph (2)(a) “fly” and substituting “use”;
- 25 (d) by omitting paragraphs (2)(b), (c), (d) and (e) and substituting the following paragraphs:
- “(b) use a vehicle or vessel in a manner that disturbs a concentration of birds;
- (c) use an explosive in a manner that disturbs a concentration of birds;
- 30 (d) use a firearm in a manner that disturbs a concentration of birds;
- (e) while on foot, knowingly or recklessly disturb:
- (i) a concentration of birds; or
- (ii) a bird that is breeding or moulting;
- 35 (ea) carry on any activity that results in:
- (i) the habitat of any species of native animal, native bird, native invertebrate or native plant; or

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

- (ii) any population of native animals, native birds, native invertebrates or native plants;
being adversely modified to a significant extent;”;
 - (e) by omitting paragraph (3)(a) and substituting the following paragraph: 5
 - “(a) the action was done in an emergency:
 - (i) to save a person from death or serious injury; or
 - (ii) to secure the safety of a ship or aircraft or the safety of equipment or facilities of high value; or
 - (iii) to protect the environment;”;
 - (f) by omitting from paragraph (3)(b) “domestic fowl” and substituting “bird”; 10
 - (g) by inserting after paragraph (3)(b) the following paragraph:
 - “(ba) in the case of action of a kind referred to in paragraph (1)(cb)—the pesticide is to be used for scientific, medical or hygienic purposes;”;
 - (h) by inserting in paragraph (3)(c) “(1)(ca), (1)(cb),” after “paragraph”. 15
- (2) Section 19 of the Principal Act is amended:
- (a) by inserting after paragraph (1)(c) the following paragraph: 20
 - “(caa) keep a dog, or (being the owner of a dog) allow it to remain, in the Antarctic;
 - (b) by omitting paragraph (2)(f);
 - (c) by inserting in paragraph (3)(c) “(1)(caa),” after “paragraph”;
 - (d) by omitting from paragraph (3)(c) “, (2)(f)”. 25
- (3) Section 19 of the Principal Act is amended by omitting from paragraph (3)(c) “in accordance with an authority of another Contracting Party” and substituting “a recognised foreign authority”.
- (4) Section 19 of the Principal Act is amended:
- (a) by omitting paragraphs (1)(d) to (g) (inclusive) and substituting the following paragraphs: 30
 - “(d) enter, or carry on any other activity in, an Antarctic specially protected area;
 - (e) carry on any activity in an Antarctic specially managed area otherwise than as authorised by the plan of management relating to the area; 35
 - (f) cause any damage to or in an historic site;
 - (g) damage, remove or destroy an historic monument.”;
 - (b) by inserting in paragraph (3)(c) “, (1)(f)” after “(1)(e)”. 35
18. After section 19 of the Principal Act the following sections are inserted: 40

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

Prohibition against mining in the Territory

“19A. A person must not engage in a mining activity:

(a) in the Territory; or

(b) on any part of:

- 5 (i) the continental shelf of the Territory; or
 (ii) the continental shelf of any of the islands known as
 Heard Island and McDonald Islands;
 that is within the Antarctic.

Penalty: \$100,000.

10 Prohibition against mining in the Antarctic

“19B. An Australian national must not engage in a mining activity in or on an area of the Antarctic other than:

(a) the Territory; or

(b) any area of continental shelf referred to in paragraph 19A(b).

15 Penalty: \$100,000.

Prosecution of offences

“19C.(1) An offence against section 19A or 19B is an indictable offence.

20 “(2) Despite subsection (1), a court of summary jurisdiction, may hear and determine proceedings in respect of an offence against section 19A or 19B if satisfied that it is proper to do so and the defendant and the prosecutor consent.

25 “(3) If, under subsection (2), a court of summary jurisdiction convicts a person of an offence against section 19A or 19B, the penalty that the court may impose is a fine not exceeding:

(a) in the case of an individual—\$10,000; or

(b) in the case of a body corporate—\$50,000.”.

Furnishing information

30 **19.(1)** Section 21 of the Principal Act is amended by omitting from subsection (1) all words to and including “shall” and substituting the following words and paragraphs:

“A person who:

(a) in accordance with a permit or an authority of another Contracting Party:

- 35 (i) in the Antarctic gathers, collects, injures or otherwise interferes with any native plant; or
 (ii) in the Antarctic kills, takes, injures or otherwise interferes with any native bird, native mammal or native invertebrate; or

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

- (iii) enters, or carries on any other activity in, a specially protected area; or
 - (b) enters a site of special scientific interest or carries on any other activity on the site in accordance with the plan of management relating to the site; 5
- must”.

(2) Section 21 of the Principal Act is amended:

- (a) by omitting from subparagraph (1)(a)(iii) “a specially” and substitute “an Antarctic specially”; 10
- (b) by omitting paragraph (1)(b). 10

20. After section 21 of the Principal Act the following section is inserted:

Unauthorised activities

“21A.(1) In this section:

‘activity’ means an activity to which Part 3 applies. 15

“(2) If a person knowingly or recklessly carries on an activity in the Antarctic without an authorisation of the Minister under Part 3, the person is guilty of an offence punishable on conviction by a fine not exceeding \$100,000.

“(3) If: 20

- (a) the Minister authorised under Part 3 the carrying on of an activity in the Antarctic subject to a condition being complied with; and
- (b) a person knowingly or recklessly carries on the activity without the condition being complied with; 25

the person is guilty of an offence punishable on conviction by a fine not exceeding \$100,000.

“(4) In a prosecution of a person for an offence against subsection (2) or (3), it is a defence if the person proves:

- (a) that the activity was carried on in an emergency: 30
 - (i) to save a person from death or serious injury; or
 - (ii) to secure the safety of a ship or aircraft or the safety of equipment or facilities of high value; or
 - (iii) to protect the environment; or

- (b) that the person was authorised to carry on the activity under a law of a Contracting Party. 35

“(5) An offence against subsection (2) or (3) is an indictable offence.

“(6) Despite subsection (5), a court of summary jurisdiction, may hear and determine proceedings in respect of an offence against

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

subsection (2) or (3) if satisfied that it is proper to do so and the defendant and the prosecutor consent.

5 “(7) If, under subsection (6), a court of summary jurisdiction convicts a person of an offence against subsection (2) or (3), the penalty that the court may impose is a fine not exceeding:

- (a) in the case of an individual—\$10,000; or
- (b) in the case of a body corporate—\$50,000.”.

Repeal of section

21. Section 24 of the Principal Act is repealed.

10 **Insertion of new heading**

22. Before section 25 of the Principal Act the following heading is inserted:

“PART 6—MISCELLANEOUS”.

15 23. Section 27 of the Principal Act is repealed and the following section is substituted:

Delegation

“27. The Minister may delegate to an officer of, or a person employed in, the Department all or any of his or her functions and powers under this Act other than:

- 20
- (a) a function under section 12L; or
 - (b) the power under section 12N to vary, suspend or revoke an authorisation given under section 12L; or
 - (c) the power under section 12P to vary or revoke any condition to an authorisation given under section 12L is subject.

25 **Review of decisions**

24. Section 28 of the Principal Act is amended by omitting from subsection (1) “or 12” and substituting “, 12, 12E, 12F, 12H, 12J, 12L, 12N or 12P”.

Regulations

30 25.(1) Section 29 of the Principal Act is amended:

- (a) by adding at the end of subsection (1) the following word and paragraphs:

35 “; or (c) providing for the procedures to be followed in dealing with a comprehensive environmental evaluation received from a party to the Madrid Protocol in relation to an activity proposed to be carried on by the party in the Antarctic; or

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

- (d) providing for:
 - (i) the management and disposal of waste in the Antarctic; or
 - (ii) the removal of waste from the Antarctic”;
- (b) by inserting after paragraph (2)(a) the following paragraph: 5
 - “(ab) providing for the payment of a fee in the amount, or at the rate, fixed by or calculated under the regulations in respect of:
 - (i) the processing of an application for a permit; or
 - (ii) the grant of a permit; or 10
 - (iii) the processing of a preliminary assessment, an initial environmental evaluation or a comprehensive environmental evaluation under Part 3; or
 - (iv) the authorisation of an activity under Part 3;”. 15
- (2) Section 29 of the Principal Act is amended:
 - (a) by omitting from subparagraph (1)(a)(ii) “or the Agreed Measures”;
 - (b) by omitting paragraphs (2)(d) and (e) and substituting the following paragraph: 20
 - “(d) regulating the conduct of persons in an Antarctic specially protected area or an Antarctic specially managed area;”.

Heading to Schedule

26. The heading to the Schedule to the Principal Act is omitted and the following heading is substituted: 25

“SCHEDULE 1”.

Further amendments

27. The Principal Act is amended as set out in Schedule 1.

Addition of Schedules

28. The Principal Act is amended by adding at the end the Schedules set out in Schedule 2. 30

**PART 3—AMENDMENT OF THE ANTARCTIC MARINE
LIVING RESOURCES CONSERVATION ACT 1981**

Principal Act

29. In this Part, “Principal Act” means the *Antarctic Marine Living Resources Conservation Act 1981*². 35

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

Arrest without warrant

30. Section 15 of the Principal Act is amended by adding at the end the following subsection:

5 “(4) Nothing in this section prevents the arrest of a person under any other law.”.

**PART 4—REPEAL OF ANTARCTIC MINING PROHIBITION
ACT 1991**

Repeal of Act

31. The *Antarctic Mining Prohibition Act 1991* is repealed.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 1

Section 27

**FURTHER AMENDMENTS OF THE ANTARCTIC TREATY
(ENVIRONMENT PROTECTION) ACT 1980**

Subsection 7(1):

Omit “an authority of another Contracting Party”, substitute “a recognised foreign authority”.

Subsections 8(7) and (8):

Omit the subsections.

Subsection 12(2):

Omit “Agreed Measures”, substitute “Madrid Protocol”.

Subsection 17(8):

Omit “an authority of another Contracting Party”, substitute “a recognised foreign authority”.

Subsection 21(1):

Omit “an authority of another Contracting Party”, substitute “a recognised foreign authority”.

*Antarctic (Environment Protection) Legislatio.
Amendment No. 156, 1992*

SCHEDULE 2

Section 28

**SCHEDULES TO BE ADDED AT THE END OF THE ANTARCTIC
TREATY (ENVIRONMENT PROTECTION) ACT 1980**

SCHEDULE 2

Section 3

**ENGLISH TEXT OF PARAGRAPHS 21, 31 AND 36 OF THE
REPORT OF THE 1988 MEETING OF THE REPRESENTATIVES
OF THE CONTRACTING PARTIES TO THE SEALS CONVENTION**

21. Representatives, pursuant to paragraph 19(a) above, agreed to recommend for approval by their respective Governments, that the Annex be changed in the following way:

Section 1: for 1 July to 30 June read 1 March to the last day in February.

Section 6(a): for 31 October read 30 June and for 1 July to 30 June read 1 March to the last day in February.

31. Accordingly, they agreed on the text of the following amendment to the Annex (new paragraph 8) which they recommended to the Governments of Contracting Parties for their approval.

“8. Cooperation

The Contracting Parties to this Convention shall, as appropriate, cooperate and exchange information with the Contracting Parties to the other international instruments within the Antarctic Treaty System and their respective institutions.”

36. Representatives, noting that they agreed on the desirability of extending the protection afforded to Weddell seals to include pups during the breeding season, agreed to recommend to Governments the deletion in section 2 of the Annex of the words “one year old or older”.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

SCHEDULE 3

Section 3

**PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE
ANTARCTIC TREATY.**

PREAMBLE

The States Parties to this Protocol to the Antarctic Treaty, hereinafter referred to as the Parties,

Convinced of the need to enhance the protection of the Antarctic environment and dependent and associated ecosystems;

Convinced of the need to strengthen the Antarctic Treaty system so as to ensure that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Bearing in mind the special legal and political status of Antarctica and the special responsibility of the Antarctic Treaty Consultative Parties to ensure that all activities in Antarctica are consistent with the purposes and principles of the Antarctic Treaty;

Recalling the designation of Antarctica as a Special Conservation Area and other measures adopted under the Antarctic Treaty system to protect the Antarctic environment and dependent and associated ecosystems;

Acknowledging further the unique opportunities Antarctica offers for scientific monitoring of and research on processes of global as well as regional importance;

Reaffirming the conservation principles of the Convention on the Conservation of Antarctic Marine Living Resources;

Convinced that the development of a comprehensive regime for the protection of the Antarctic environment and dependent and associated ecosystems is in the interest of mankind as a whole;

Desiring to supplement the Antarctic Treaty to this end;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of this Protocol:

- (a) “The Antarctic Treaty” means the Antarctic Treaty done at Washington on 1 December 1959;
- (b) “Antarctic Treaty area” means the area to which the provisions of the Antarctic Treaty apply in accordance with Article VI of that Treaty;

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (c) “Antarctic Treaty Consultative Meetings” means the meetings referred to in Article IX of the Antarctic Treaty;
- (d) “Antarctic Treaty Consultative Parties” means the Contracting Parties to the Antarctic Treaty entitled to appoint representatives to participate in the meetings referred to in Article IX of that Treaty;
- (e) “Antarctic Treaty system” means the Antarctic Treaty, the measures in effect under that Treaty, its associated separate international instruments in force and the measures in effect under those instruments;
- (f) “Arbitral Tribunal” means the Arbitral Tribunal established in accordance with the Schedule to this Protocol, which forms an integral part thereof;
- (g) “Committee” means the Committee for Environmental Protection established in accordance with Article 11.

ARTICLE 2

OBJECTIVE AND DESIGNATION

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

ARTICLE 3

ENVIRONMENTAL PRINCIPLES

1. The protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research, in particular research essential to understanding the global environment, shall be fundamental considerations in the planning and conduct of all activities in the Antarctic Treaty area.
2. To this end:
 - (a) activities in the Antarctic Treaty area shall be planned and conducted so as to limit adverse impacts on the Antarctic environment and dependent and associated ecosystems;
 - (b) activities in the Antarctic Treaty area shall be planned and conducted so as to avoid:
 - (i) adverse effects on climate or weather patterns;
 - (ii) significant adverse effects on air or water quality;
 - (iii) significant changes in the atmospheric, terrestrial (including aquatic), glacial or marine environments;

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (iv) detrimental changes in the distribution, abundance or productivity of species or populations of species of fauna and flora;
 - (v) further jeopardy to endangered or threatened species or populations of such species; or
 - (vi) degradation of, or substantial risk to, areas of biological, scientific, historic, aesthetic or wilderness significance;
- (c) activities in the Antarctic Treaty area shall be planned and conducted on the basis of information sufficient to allow prior assessments of, and informed judgments about, their possible impacts on the Antarctic environment and dependent and associated ecosystems and on the value of Antarctica for the conduct of scientific research; such judgments shall take full account of:
- (i) the scope of the activity, including its area, duration and intensity;
 - (ii) the cumulative impacts of the activity, both by itself and in combination with other activities in the Antarctic Treaty area;
 - (iii) whether the activity will detrimentally affect any other activity in the Antarctic Treaty area;
 - (iv) whether technology and procedures are available to provide for environmentally safe operations;
 - (v) whether there exists the capacity to monitor key environmental parameters and ecosystem components so as to identify and provide early warning of any adverse effects of the activity and to provide for such modification of operating procedures as may be necessary in the light of the results of monitoring or increased knowledge of the Antarctic environment and dependent and associated ecosystems; and
 - (vi) whether there exists the capacity to respond promptly and effectively to accidents, particularly those with potential environmental effects;
- (d) regular and effective monitoring shall take place to allow assessment of the impacts of ongoing activities, including the verification of predicted impacts;
- (e) regular and effective monitoring shall take place to facilitate early detection of the possible unforeseen effects of activities carried on both within and outside the Antarctic Treaty area on the Antarctic environment and dependent and associated ecosystems.
3. Activities shall be planned and conducted in the Antarctic Treaty area so as to accord priority to scientific research and to preserve the

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

value of Antarctica as an area for the conduct of such research, including research essential to understanding the global environment.

4. Activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required in accordance with Article VII(5) of the Antarctic Treaty, including associated logistic support activities, shall:

- (a) take place in a manner consistent with the principles in this Article; and
- (b) be modified, suspended or cancelled if they result in or threaten to result in impacts upon the Antarctic environment or dependent or associated ecosystems inconsistent with those principles.

ARTICLE 4

*RELATIONSHIP WITH THE OTHER COMPONENTS OF THE
ANTARCTIC TREATY SYSTEM*

1. This Protocol shall supplement the Antarctic Treaty and shall neither modify nor amend that Treaty.

2. Nothing in this Protocol shall derogate from the rights and obligations of the Parties to this Protocol under the other international instruments in force within the Antarctic Treaty system.

ARTICLE 5

*CONSISTENCY WITH THE OTHER COMPONENTS OF THE
ANTARCTIC TREATY SYSTEM*

The Parties shall consult and co-operate with the Contracting Parties to the other international instruments in force within the Antarctic Treaty system and their respective institutions with a view to ensuring the achievement of the objectives and principles of this Protocol and avoiding any interference with the achievement of the objectives and principles of those instruments or any inconsistency between the implementation of those instruments and of this Protocol.

ARTICLE 6

CO-OPERATION

1. The Parties shall co-operate in the planning and conduct of activities in the Antarctic Treaty area. To this end, each Party shall endeavour to:

- (a) promote co-operative programmes of scientific, technical and educational value, concerning the protection of the Antarctic environment and dependent and associated ecosystems;

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (b) provide appropriate assistance to other Parties in the preparation of environmental impact assessments;
 - (c) provide to other Parties upon request information relevant to any potential environmental risk and assistance to minimize the effects of accidents which may damage the Antarctic environment or dependent and associated ecosystems;
 - (d) consult with other Parties with regard to the choice of sites for prospective stations and other facilities so as to avoid the cumulative impacts caused by their excessive concentration in any location;
 - (e) where appropriate, undertake joint expeditions and share the use of stations and other facilities; and
 - (f) carry out such steps as may be agreed upon at Antarctic Treaty Consultative Meetings.
2. Each Party undertakes, to the extent possible, to share information that may be helpful to other Parties in planning and conducting their activities in the Antarctic Treaty area, with a view to the protection of the Antarctic environment and dependent and associated ecosystems.
3. The Parties shall co-operate with those Parties which may exercise jurisdiction in areas adjacent to the Antarctic Treaty area with a view to ensuring that activities in the Antarctic Treaty area do not have adverse environmental impacts on those areas.

ARTICLE 7

PROHIBITION OF MINERAL RESOURCE ACTIVITIES

Any activity relating to mineral resources, other than scientific research, shall be prohibited.

ARTICLE 8

ENVIRONMENTAL IMPACT ASSESSMENT

1. Proposed activities referred to in paragraph 2 below shall be subject to the procedures set out in Annex I for prior assessment of the impacts of those activities on the Antarctic environment or on dependent or associated ecosystems according to whether those activities are identified as having:
- (a) less than a minor or transitory impact;
 - (b) a minor or transitory impact; or
 - (c) more than a minor or transitory impact.
2. Each Party shall ensure that the assessment procedures set out in Annex I are applied in the planning processes leading to decisions about any activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

and non-governmental activities in the Antarctic Treaty area for which advance notice is required under Article VII(5) of the Antarctic Treaty, including associated logistic support activities.

3. The assessment procedures set out in Annex I shall apply to any change in an activity whether the change arises from an increase or decrease in the intensity of an existing activity, from the addition of an activity, the decommissioning of a facility, or otherwise.

4. Where activities are planned jointly by more than one Party, the Parties involved shall nominate one of their number to coordinate the implementation of the environmental impact assessment procedures set out in Annex I.

ARTICLE 9

ANNEXES

1. The Annexes to this Protocol shall form an integral part thereof.
2. Annexes, additional to Annexes I–IV, may be adopted and become effective in accordance with Article IX of the Antarctic Treaty.
3. Amendments and modifications to Annexes may be adopted and become effective in accordance with Article IX of the Antarctic Treaty, provided that any Annex may itself make provision for amendments and modifications to become effective on an accelerated basis.
4. Annexes and any amendments and modifications thereto which have become effective in accordance with paragraphs 2 and 3 above shall, unless an Annex itself provides otherwise in respect of the entry into effect of any amendment or modification thereto, become effective for a Contracting Party to the Antarctic Treaty which is not an Antarctic Treaty Consultative Party, or which was not an Antarctic Treaty Consultative Party at the time of the adoption, when notice of approval of that Contracting Party has been received by the Depositary.
5. Annexes shall, except to the extent that an Annex provides otherwise, be subject to the procedures for dispute settlement set out in Articles 18 to 20.

ARTICLE 10

ANTARCTIC TREATY CONSULTATIVE MEETINGS

1. Antarctic Treaty Consultative Meetings shall, drawing upon the best scientific and technical advice available:
 - (a) define, in accordance with the provisions of this Protocol, the general policy for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems; and
 - (b) adopt measures under Article IX of the Antarctic Treaty for the implementation of this Protocol.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

2. Antarctic Treaty Consultative Meetings shall review the work of the Committee and shall draw fully upon its advice and recommendations in carrying out the tasks referred to in paragraph 1 above, as well as upon the advice of the Scientific Committee on Antarctic Research.

ARTICLE 11

COMMITTEE FOR ENVIRONMENTAL PROTECTION

1. There is hereby established the Committee for Environmental Protection.
2. Each Party shall be entitled to be a member of the Committee and to appoint a representative who may be accompanied by experts and advisers.
3. Observer status in the Committee shall be open to any Contracting Party to the Antarctic Treaty which is not a Party to this Protocol.
4. The Committee shall invite the President of the Scientific Committee on Antarctic Research and the Chairman of the Scientific Committee for the Conservation of Antarctic Marine Living Resources to participate as observers at its sessions. The Committee may also, with the approval of the Antarctic Treaty Consultative Meeting, invite such other relevant scientific, environmental and technical organisations which can contribute to its work to participate as observers at its sessions.
5. The Committee shall present a report on each of its sessions to the Antarctic Treaty Consultative Meeting. The report shall cover all matters considered at the session and shall reflect the views expressed. The report shall be circulated to the Parties and to observers attending the session, and shall thereupon be made publicly available.
6. The Committee shall adopt its rules of procedure which shall be subject to approval by the Antarctic Treaty Consultative Meeting.

ARTICLE 12

FUNCTIONS OF THE COMMITTEE

1. The functions of the Committee shall be to provide advice and formulate recommendations to the Parties in connection with the implementation of this Protocol, including the operation of its Annexes, for consideration at Antarctic Treaty Consultative Meetings, and to perform such other functions as may be referred to it by the Antarctic Treaty Consultative Meetings. In particular, it shall provide advice on:
 - (a) the effectiveness of measures taken pursuant to this Protocol;
 - (b) the need to update, strengthen or otherwise improve such measures;
 - (c) the need for additional measures, including the need for additional Annexes, where appropriate;

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (d) the application and implementation of the environmental impact assessment procedures set out in Article 8 and Annex I;
 - (e) means of minimising or mitigating environmental impacts of activities in the Antarctic Treaty area;
 - (f) procedures for situations requiring urgent action, including response action in environmental emergencies;
 - (g) the operation and further elaboration of the Antarctic Protected Area system;
 - (h) inspection procedures, including formats for inspection reports and checklists for the conduct of inspections;
 - (i) the collection, archiving, exchange and evaluation of information related to environmental protection;
 - (j) the state of the Antarctic environment; and
 - (k) the need for scientific research, including environmental monitoring, related to the implementation of this Protocol.
2. In carrying out its functions, the Committee shall, as appropriate, consult with the Scientific Committee on Antarctic Research, the Scientific Committee for the Conservation of Antarctic Marine Living Resources and other relevant scientific, environmental and technical organizations.

ARTICLE 13

COMPLIANCE WITH THIS PROTOCOL

1. Each Party shall take appropriate measures within its competence, including the adoption of laws and regulations, administrative actions and enforcement measures, to ensure compliance with this Protocol.
2. Each Party shall exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to this Protocol.
3. Each Party shall notify all other Parties of the measures it takes pursuant to paragraphs 1 and 2 above.
4. Each Party shall draw the attention of all other Parties to any activity which in its option affects the implementation of the objectives and principles of this Protocol.
5. The Antarctic Treaty Consultative Meetings shall draw the attention of any State which is not a Party to this Protocol to any activity undertaken by that State, its agencies, instrumentalities, natural or juridical persons, ships, aircraft or other means of transport which affects the implementation of the objectives and principles of this Protocol.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 14

INSPECTION

1. In order to promote the protection of the Antarctic environment and dependent and associated ecosystems, and to ensure compliance with this Protocol, the Antarctic Treaty Consultative Parties shall arrange, individually or collectively, for inspections by observers to be made in accordance with Article VII of the Antarctic Treaty.
2. Observers are:
 - (a) observers designated by any Antarctic Treaty Consultative Party who shall be nationals of that Party; and
 - (b) any observers designated at Antarctic Treaty Consultative Meetings to carry out inspections under procedures to be established by an Antarctic Treaty Consultative Meeting.
3. Parties shall co-operate fully with observers undertaking inspections, and shall ensure that during inspections, observers are given access to all parts of stations, installations, equipment, ships and aircraft open to inspection under Article VII (3) of the Antarctic Treaty, as well as to all records maintained thereon which are called for pursuant to this Protocol.
4. Reports of inspections shall be sent to the Parties whose stations, installations, equipment, ships or aircraft are covered by the reports. After those Parties have been given the opportunity to comment, the reports and any comments thereon shall be circulated to all the Parties and to the Committee, considered at the next Antarctic Treaty Consultative Meeting, and thereafter made publicly available.

ARTICLE 15

EMERGENCY RESPONSE ACTION

1. In order to respond to environmental emergencies in the Antarctic Treaty area, each Party agrees to:
 - (a) provide for prompt and effective response action to such emergencies which might arise in the performance of scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities; and
 - (b) establish contingency plans for response to incidents with potential adverse effects on the Antarctic environment or dependent and associated ecosystems.
2. To this end, the Parties shall:
 - (a) co-operate in the formulation and implementation of such contingency plans; and

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

(b) establish procedures for immediate notification of, and co-operative response to, environmental emergencies.

3. In the implementation of this Article, the Parties shall draw upon the advice of the appropriate international organisations.

ARTICLE 16

LIABILITY

Consistent with the objectives of this Protocol for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems, the Parties undertake to elaborate rules and procedures relating to liability for damage arising from activities taking place in the Antarctic Treaty area and covered by this Protocol. Those rules and procedures shall be included in one or more Annexes to be adopted in accordance with Article 9 (2).

ARTICLE 17

ANNUAL REPORT BY PARTIES

1. Each Party shall report annually on the steps taken to implement this Protocol. Such reports shall include notifications made in accordance with Article 13 (3), contingency plans established in accordance with Article 15 and any other notifications and information called for pursuant to this Protocol for which there is no other provision concerning the circulation and exchange of information.

2. Reports made in accordance with paragraph 1 above shall be circulated to all Parties and to the Committee, considered at the next Antarctic Treaty Consultative Meeting, and made publicly available.

ARTICLE 18

DISPUTE SETTLEMENT

If a dispute arises concerning the interpretation or application of this Protocol, the parties to the dispute shall, at the request of any one of them, consult among themselves as soon as possible with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means to which the parties to the dispute agree.

ARTICLE 19

CHOICE OF DISPUTE SETTLEMENT PROCEDURE

1. Each Party, when signing, ratifying, accepting, approving or acceding to this Protocol, or at any time thereafter, may choose, by written declaration, one or both of the following means for the settlement of

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

disputes concerning the interpretation or application of Articles 7, 8 and 15 and, except to the extent that an Annex provides otherwise, the provisions of any Annex and, insofar as it relates to these Articles and provisions, Article 13:

- (a) the International Court of Justice;
 - (b) the Arbitral Tribunal.
2. A declaration made under paragraph 1 above shall not affect the operation of Article 18 and Article 20 (2).
 3. A Party which has not made a declaration under paragraph 1 above or in respect of which a declaration is no longer in force shall be deemed to have accepted the competence of the Arbitral Tribunal.
 4. If the parties to a dispute have accepted the same means for the settlement of a dispute, the dispute may be submitted only to that procedure, unless the parties otherwise agree.
 5. If the parties to a dispute have not accepted the same means for the settlement of a dispute, or if they have both accepted both means, the dispute may be submitted only to the Arbitral Tribunal, unless the parties otherwise agree.
 6. A declaration made under paragraph 1 above shall remain in force until it expires in accordance with its terms or until three months after written notice of revocation has been deposited with the Depository.
 7. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the Arbitral Tribunal, unless the parties to the dispute otherwise agree.
 8. Declarations and notices referred to in this Article shall be deposited with the Depository who shall transmit copies thereof to all Parties.

ARTICLE 20

DISPUTE SETTLEMENT PROCEDURE

1. If the parties to a dispute concerning the interpretation or application of Articles 7, 8 or 15 or, except to the extent that an Annex provides otherwise, the provisions of any Annex or, insofar as it relates to these Articles and provisions, Article 13, have not agreed on a means for resolving it within 12 months of the request for consultation pursuant to Article 18, the dispute shall be referred, at the request of any party to the dispute, for settlement in accordance with the procedure determined by Article 19 (4) and (5).
2. The Arbitral Tribunal shall not be competent to decide or rule upon any matter within the scope of Article IV of the Antarctic Treaty. In addition, nothing in this Protocol shall be interpreted as conferring competence or jurisdiction on the International Court of Justice or any other tribunal established for the purpose of settling disputes between

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

Parties to decide or otherwise rule upon any matter within the scope of Article IV of the Antarctic Treaty.

ARTICLE 21

SIGNATURE

This Protocol shall be open for signature at Madrid on the 4th of October 1991 and thereafter at Washington until the 3rd of October 1992 by any State which is a Contracting Party to the Antarctic Treaty.

ARTICLE 22

RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

1. This Protocol is subject to ratification, acceptance or approval by signatory States.
2. After the 3rd of October 1992 this Protocol shall be open for accession by any State which is a Contracting Party to the Antarctic Treaty.
3. Instruments of ratification, acceptance, approval or accession shall be deposited with the Government of the United States of America, hereby designated as the Depository.
4. After the date on which this Protocol has entered into force, the Antarctic Treaty Consultative Parties shall not act upon a notification regarding the entitlement of a Contracting Party to the Antarctic Treaty to appoint representatives to participate in Antarctic Treaty Consultative Meetings in accordance with Article IX (2) of the Antarctic Treaty unless that Contracting Party has first ratified, accepted, approved or acceded to this Protocol.

ARTICLE 23

ENTRY INTO FORCE

1. This Protocol shall enter into force on the thirtieth day following the date of deposit of instruments of ratification, acceptance, approval or accession by all States which are Antarctic Treaty Consultative Parties at the date on which this Protocol is adopted.
2. For each Contracting Party to the Antarctic Treaty which, subsequent to the date of entry into force of this Protocol, deposits an instrument of ratification, acceptance, approval or accession, this Protocol shall enter into force on the thirtieth day following such deposit.

ARTICLE 24

RESERVATIONS

Reservations to this Protocol shall not be permitted.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 25

MODIFICATION OR AMENDMENT

1. Without prejudice to the provisions of Article 9, this Protocol may be modified or amended at any time in accordance with the procedures set forth in Article XII (1) (a) and (b) of the Antarctic Treaty.
2. If, after the expiration of 50 years from the date of entry into force of this Protocol, any of the Antarctic Treaty Consultative Parties so requests by a communication addressed to the Depositary, a conference shall be held as soon as practicable to review the operation of this Protocol.
3. A modification or amendment proposed at any Review Conference called pursuant to paragraph 2 above shall be adopted by a majority of the Parties, including 3/4 of the States which are Antarctic Treaty Consultative Parties at the time of adoption of this Protocol.
4. A modification or amendment adopted pursuant to paragraph 3 above shall enter into force upon ratification, acceptance, approval or accession by 3/4 of the Antarctic Treaty Consultative Parties, including ratification, acceptance, approval or accession by all States which are Antarctic Treaty Consultative Parties at the time of adoption of this Protocol.
5. (a) With respect to Article 7, the prohibition on Antarctic mineral resource activities contained therein shall continue unless there is in force a binding legal regime on Antarctic mineral resource activities that includes an agreed means for determining whether, and, if so, under which conditions, any such activities would be acceptable. This regime shall fully safeguard the interests of all States referred to in Article IV of the Antarctic Treaty and apply the principles thereof. Therefore, if a modification or amendment to Article 7 is proposed at a Review Conference referred to in paragraph 2 above, it shall include such a binding legal regime.
(b) If any such modification or amendment has not entered into force within 3 years of the date of its adoption, any Party may at any time thereafter notify to the Depositary of its withdrawal from this Protocol, and such withdrawal shall take effect 2 years after receipt of the notification by the Depositary.

ARTICLE 26

NOTIFICATIONS BY THE DEPOSITARY

The Depositary shall notify all Contracting Parties to the Antarctic Treaty of the following:

- (a) signatures of this Protocol and the deposit of instruments of ratification, acceptance, approval or accession;

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (b) the date of entry into force of this Protocol and any additional Annex thereto;
- (c) the date of entry into force of any amendment or modification to this Protocol;
- (d) the deposit of declarations and notices pursuant to Article 19; and
- (e) any notification received pursuant to Article 25 (5) (b).

ARTICLE 27

AUTHENTIC TEXTS AND REGISTRATION WITH THE UNITED NATIONS

1. This Protocol, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to all Contracting Parties to the Antarctic Treaty.
2. This Protocol shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

SCHEDULE TO THE PROTOCOL

ARBITRATION

Article 1

1. The Arbitral Tribunal shall be constituted and shall function in accordance with the Protocol, including this Schedule.
2. The Secretary referred to in this Schedule is the Secretary General of the Permanent Court of Arbitration.

Article 2

1. Each Party shall be entitled to designate up to three Arbitrators, at least one of whom shall be designated within three months of the entry into force of the Protocol for that Party. Each Arbitrator shall be experienced in Antarctic affairs, have thorough knowledge of international law and enjoy the highest reputation for fairness, competence and integrity. The names of the persons so designated shall constitute the list of Arbitrators. Each Party shall at all times maintain the name of at least one Arbitrator on the list.
2. Subject to paragraph 3 below, an Arbitrator designated by a Party shall remain on the list for a period of five years and shall be eligible for redesignation by that Party for additional five year periods.
3. A Party which designated an Arbitrator may withdraw the name of that Arbitrator from the list. If an Arbitrator dies or if a Party for any

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

reason withdraws from the list the name of an Arbitrator designated by it, the Party which designated the Arbitrator in question shall notify the Secretary promptly. An Arbitrator whose name is withdrawn from the list shall continue to serve on any Arbitral Tribunal to which that Arbitrator has been appointed until the completion of proceedings before the Arbitral Tribunal.

4. The Secretary shall ensure that an up-to-date list is maintained of the Arbitrators designated pursuant to this Article.

Article 3

1. The Arbitral Tribunal shall be composed of three Arbitrators who shall be appointed as follows:

- (a) The party to the dispute commencing the proceedings shall appoint one Arbitrator, who may be its national, from the list referred to in Article 2. This appointment shall be included in the notification referred to in Article 4.
- (b) Within 40 days of the receipt of that notification, the other party to the dispute shall appoint the second Arbitrator, who may be its national, from the list referred to in Article 2.
- (c) Within 60 days of the appointment of the second Arbitrator, the parties to the dispute shall appoint by agreement the third Arbitrator from the list referred to in Article 2. The third Arbitrator shall not be either a national of a party to the dispute, or a person designated for the list referred to in Article 2 by a party to the dispute, or of the same nationality as either of the first two Arbitrators. The third Arbitrator shall be the Chairperson of the Arbitral Tribunal.
- (d) If the second Arbitrator has not been appointed within the prescribed period, or if the parties to the dispute have not reached agreement within the prescribed period on the appointment of the third Arbitrator, the Arbitrator or Arbitrators shall be appointed, at the request of any party to the dispute and within 30 days of the receipt of such request, by the President of the International Court of Justice from the list referred to in Article 2 and subject to the conditions prescribed in subparagraphs (b) and (c) above. In performing the functions accorded him or her in this subparagraph, the President of the Court shall consult the parties to the dispute.
- (e) If the President of the International Court of Justice is unable to perform the functions accorded him or her in subparagraph (d) above or is a national of a party to the dispute, the functions shall be performed by the Vice-President of the Court, except that if the Vice-President is unable to perform the functions or is a national of a party to the dispute the functions shall be

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- performed by the next most senior member of the Court who is available and is not a national of a party to the dispute.
2. Any vacancy shall be filled in the manner prescribed for the initial appointment.
 3. In any dispute involving more than two Parties, those Parties having the same interest shall appoint one Arbitrator by agreement within the period specified in paragraph 1 (b) above.

Article 4

The party to the dispute commencing proceedings shall so notify the other party or parties to the dispute and the Secretary in writing. Such notification shall include a statement of the claim and the grounds on which it is based. The notification shall be transmitted by the Secretary to all Parties.

Article 5

1. Unless the parties to the dispute agree otherwise, arbitration shall take place at The Hague, where the records of the Arbitral Tribunal shall be kept. The Arbitral Tribunal shall adopt its own rules of procedure. Such rules shall ensure that each party to the dispute has a full opportunity to be heard and to present its case and shall also ensure that the proceedings are conducted expeditiously.
2. The Arbitral Tribunal may hear and decide counterclaims arising out of the dispute.

Article 6

1. The Arbitral Tribunal, where it considers that *prima facie* it has jurisdiction under the Protocol, may:
 - (a) at the request of any party to a dispute, indicate such provisional measures as it considers necessary to preserve the respective rights of the parties to the dispute;
 - (b) prescribe any provisional measures which it considers appropriate under the circumstances to prevent serious harm to the Antarctic environment or dependent or associated ecosystems.
2. The parties to the dispute shall comply promptly with any provisional measures prescribed under paragraph 1 (b) above pending an award under Article 10.
3. Notwithstanding the time period in Article 20 of the Protocol, a party to a dispute may at any time, by notification to the other party or parties to the dispute and to the Secretary in accordance with Article 4, request that the Arbitral Tribunal be constituted as a matter of exceptional urgency to indicate or prescribe emergency provisional

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

measures in accordance with this Article. In such case, the Arbitral Tribunal shall be constituted as soon as possible in accordance with Article 3, except that the time periods in Article 3 (1) (b), (c) and (d) shall be reduced to 14 days in each case. The Arbitral Tribunal shall decide upon the request for emergency provisional measures within two months of the appointment of its Chairperson.

4. Following a decision by the Arbitral Tribunal upon a request for emergency provisional measures in accordance with paragraph 3 above, settlement of the dispute shall proceed in accordance with Articles 18, 19 and 20 of the Protocol.

Article 7

Any Party which believes it has a legal interest, whether general or individual, which may be substantially affected by the award of an Arbitral Tribunal, may, unless the Arbitral Tribunal decides otherwise, intervene in the proceedings.

Article 8

The parties to the dispute shall facilitate the work of the Arbitral Tribunal and, in particular, in accordance with their law and using all means at their disposal, shall provide it with all relevant documents and information, and enable it, when necessary, to call witnesses or experts and receive their evidence.

Article 9

If one of the parties to the dispute does not appear before the Arbitral Tribunal or fails to defend its case, any other party to the dispute may request the Arbitral Tribunal to continue the proceedings and make its award.

Article 10

1. The Arbitral Tribunal shall, on the basis of the provisions of the Protocol and other applicable rules and principles of international law that are not incompatible with such provisions, decide such disputes as are submitted to it.
2. The Arbitral Tribunal may decide, *ex aequo et bono*, a dispute submitted to it, if the parties to the dispute so agree.

Article 11

1. Before making its award, the Arbitral Tribunal shall satisfy itself that it has competence in respect of the dispute and that the claim or counterclaim is well founded in fact and law.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

2. The award shall be accompanied by a statement of reasons for the decision and shall be communicated to the Secretary who shall transmit it to all Parties.
3. The award shall be final and binding on the parties to the dispute and on any Party which intervened in the proceedings and shall be complied with without delay. The Arbitral Tribunal shall interpret the award at the request of a party to the dispute or of any intervening Party.
4. The award shall have no binding force except in respect of that particular case.
5. Unless the Arbitral Tribunal decides otherwise, the expenses of the Arbitral Tribunal, including the remuneration of the Arbitrators, shall be borne by the parties to the dispute in equal shares.

Article 12

All decisions of the Arbitral Tribunal, including those referred to in Articles 5, 6 and 11, shall be made by a majority of the Arbitrators who may not abstain from voting.

Article 13

This Schedule may be amended or modified by a measure adopted in accordance with Article IX (1) of the Antarctic Treaty. Unless the measure specifies otherwise, the amendment or modification shall be deemed to have been approved, and shall become effective, one year after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Antarctic Treaty Consultative Parties notifies the Depositary, within that time period, that it wishes an extension of that period or that it is unable to approve the measure.

2. Any amendment or modification of this Schedule which becomes effective in accordance with paragraph 1 above shall thereafter become effective as to any other Party when notice of approval by it has been received by the Depositary.

**ANNEX I TO THE PROTOCOL ON ENVIRONMENTAL
PROTECTION TO THE ANTARCTIC TREATY**

ENVIRONMENTAL IMPACT ASSESSMENT

ARTICLE 1

PRELIMINARY STAGE

1. The environmental impacts of proposed activities referred to in Article 8 of the Protocol shall, before their commencement, be considered in accordance with appropriate national procedures.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

2. If an activity is determined as having less than a minor or transitory impact, the activity may proceed forthwith.

ARTICLE 2

INITIAL ENVIRONMENTAL EVALUATION

1. Unless it has been determined that an activity will have less than a minor or transitory impact, or unless a Comprehensive Environmental Evaluation is being prepared in accordance with Article 3, an Initial Environmental Evaluation shall be prepared. It shall contain sufficient detail to assess whether a proposed activity may have more than a minor or transitory impact and shall include:

- (a) a description of the proposed activity, including its purpose, location, duration, and intensity; and
- (b) consideration of alternatives to the proposed activity and any impacts that the activity may have, including consideration of cumulative impacts in the light of existing and known planned activities.

2. If an Initial Environmental Evaluation indicates that a proposed activity is likely to have no more than a minor or transitory impact, the activity may proceed, provided that appropriate procedures, which may include monitoring, are put in place to assess and verify the impact of the activity.

ARTICLE 3

COMPREHENSIVE ENVIRONMENTAL EVALUATION

1. If an Initial Environmental Evaluation indicates or if it is otherwise determined that a proposed activity is likely to have more than a minor or transitory impact, a Comprehensive Environmental Evaluation shall be prepared.

2. A Comprehensive Environmental Evaluation shall include:

- (a) a description of the proposed activity including its purpose, location, duration and intensity, and possible alternatives to the activity, including the alternative of not proceeding, and the consequences of those alternatives;
- (b) a description of the initial environmental reference state with which predicted changes are to be compared and a prediction of the future environmental reference state in the absence of the proposed activity;
- (c) a description of the methods and data used to forecast the impacts of the proposed activity;
- (d) estimation of the nature, extent, duration, and intensity of the likely direct impacts of the proposed activity;

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (e) consideration of possible indirect or second order impacts of the proposed activity;
 - (f) consideration of cumulative impacts of the proposed activity in the light of existing activities and other known planned activities;
 - (g) identification of measures, including monitoring programmes, that could be taken to minimise or mitigate impacts of the proposed activity and to detect unforeseen impacts and that could provide early warning of any adverse effects of the activity as well as to deal promptly and effectively with accidents;
 - (h) identification of unavoidable impacts of the proposed activity;
 - (i) consideration of the effects of the proposed activity on the conduct of scientific research and on other existing uses and values;
 - (j) an identification of gaps in knowledge and uncertainties encountered in compiling the information required under this paragraph;
 - (k) a non-technical summary of the information provided under this paragraph; and
 - (l) the name and address of the person or organization which prepared the Comprehensive Environmental Evaluation and the address to which comments thereon should be directed.
3. The draft Comprehensive Environmental Evaluation shall be made publicly available and shall be circulated to all Parties, which shall also make it publicly available, for comment. A period of 90 days shall be allowed for the receipt of comments.
4. The draft Comprehensive Environmental Evaluation shall be forwarded to the Committee at the same time as it is circulated to the Parties, and at least 120 days before the next Antarctic Treaty Consultative Meeting, for consideration as appropriate.
5. No final decision shall be taken to proceed with the proposed activity in the Antarctic Treaty area unless there has been an opportunity for consideration of the draft Comprehensive Environmental Evaluation by the Antarctic Treaty Consultative Meeting on the advice of the Committee, provided that no decision to proceed with a proposed activity shall be delayed through the operation of this paragraph for longer than 15 months from the date of circulation of the draft Comprehensive Environmental Evaluation.
6. A final Comprehensive Environmental Evaluation shall address and shall include or summarise comments received on the draft Comprehensive Environmental Evaluation. The final Comprehensive Environmental Evaluation, notice of any decisions relating thereto, and any evaluation of the significance of the predicted impacts in relation to the advantages of the proposed activity, shall be circulated to all

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

Parties, which shall also make them publicly available, at least 60 days before the commencement of the proposed activity in the Antarctic Treaty area.

ARTICLE 4

***DECISIONS TO BE BASED ON COMPREHENSIVE
ENVIRONMENTAL EVALUATIONS***

Any decision on whether a proposed activity, to which Article 3 applies, should proceed, and, if so, whether in its original or in a modified form, shall be based on the Comprehensive Environmental Evaluation as well as other relevant considerations.

ARTICLE 5

MONITORING

1. Procedures shall be put in place, including appropriate monitoring of key environmental indicators, to assess and verify the impact of any activity that proceeds following the completion of a Comprehensive Environmental Evaluation.

2. The procedures referred to in paragraph 1 above and in Article 2 (2) shall be designed to provide a regular and verifiable record of the impacts of the activity in order, *inter alia*, to:

- (a) enable assessments to be made of the extent to which such impacts are consistent with the Protocol; and
- (b) provide information useful for minimising or mitigating impacts, and, where appropriate, information on the need for suspension, cancellation or modification of the activity.

ARTICLE 6

CIRCULATION OF INFORMATION

1. The following information shall be circulated to the Parties, forwarded to the Committee and made publicly available:

- (a) a description of the procedures referred to in Article 1;
- (b) an annual list of any Initial Environmental Evaluations prepared in accordance with Article 2 and any decisions taken in consequence thereof;
- (c) significant information obtained, and any action taken in consequence thereof, from procedures put in place in accordance with Articles 2 (2) and 5; and
- (d) information referred to in Article 3 (6).

2. Any Initial Environmental Evaluation prepared in accordance with Article 2 shall be made available on request.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 7

CASES OF EMERGENCY

1. This Annex shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft or equipment and facilities of high value, or the protection of the environment, which require an activity to be undertaken without completion of the procedures set out in this Annex.

2. Notice of activities undertaken in cases of emergency, which would otherwise have required preparation of a Comprehensive Environmental Evaluation, shall be circulated immediately to all Parties and to the Committee and a full explanation of the activities carried out shall be provided within 90 days of those activities.

ARTICLE 8

AMENDMENT OR MODIFICATION

1. This Annex may be amended or modified by a measure adopted in accordance with Article IX (1) of the Antarctic Treaty. Unless the measure specifies otherwise, the amendment or modification shall be deemed to have been approved, and shall become effective, one year after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Antarctic Treaty Consultative Parties notifies the Depositary, within that period, that it wishes an extension of that period or that it is unable to approve the measure.

2. Any amendment or modification of this Annex which becomes effective in accordance with paragraph 1 above shall thereafter become effective as to any other Party when notice of approval by it has been received by the Depositary.

**ANNEX II TO THE PROTOCOL ON ENVIRONMENTAL
PROTECTION TO THE ANTARCTIC TREATY
CONSERVATION OF ANTARCTIC FAUNA AND FLORA**

ARTICLE 1

DEFINITIONS

For the purposes of this Annex:

- (a) “native mammal” means any member of any species belonging to the Class Mammalia, indigenous to the Antarctic Treaty area or occurring there seasonally through natural migrations;
- (b) “native bird” means any member, at any stage of its life cycle (including eggs), of any species of the Class Aves indigenous to the Antarctic Treaty area or occurring there seasonally through natural migrations;

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (c) “native plant” means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi and algae, at any stage of its life cycle (including seeds, and other propagules), indigenous to the Antarctic Treaty area;
- (d) “native invertebrate” means any terrestrial or freshwater invertebrate, at any stage of its life cycle, indigenous to the Antarctic Treaty area;
- (e) “appropriate authority” means any person or agency authorized by a Party to issue permits under this Annex;
- (f) “permit” means a formal permission in writing issued by an appropriate authority;
- (g) “take” or “taking” means to kill, injure, capture, handle or molest, a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected;
- (h) “harmful interference” means:
 - (i) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds and seals;
 - (ii) using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds and seals;
 - (iii) using explosives or firearms in a manner that disturbs concentrations of birds and seals;
 - (iv) wilfully disturbing breeding or moulting birds or concentrations of birds and seals by persons on foot;
 - (v) significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means; and
 - (vi) any activity that results in the significant adverse modification of habitats of any species or population of native mammal, bird, plant or invertebrate.
- (i) “International Convention for the Regulation of Whaling” means the Convention done at Washington on 2 December 1946.

ARTICLE 2

CASES OF EMERGENCY

1. This Annex shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft, or equipment and facilities of high value, or the protection of the environment.
2. Notice of activities undertaken in cases of emergency shall be circulated immediately to all Parties and to the Committee.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 3

PROTECTION OF NATIVE FAUNA AND FLORA

1. Taking or harmful interference shall be prohibited, except in accordance with a permit.
2. Such permits shall specify the authorized activity, including when, where and by whom it is to be conducted and shall be issued only in the following circumstances:
 - (a) to provide specimens for scientific study or scientific information;
 - (b) to provide specimens for museums, herbaria, zoological and botanical gardens, or other educational or cultural institutions or uses; and
 - (c) to provide for unavoidable consequences of scientific activities not otherwise authorized under sub-paragraphs (a) or (b) above, or of the construction and operation of scientific support facilities.
3. The issue of such permits shall be limited so as to ensure that:
 - (a) no more native mammals, birds, or plants are taken than are strictly necessary to meet the purposes set forth in paragraph 2 above;
 - (b) only small numbers of native mammals or birds are killed and in no case more native mammals or birds are killed from local populations than can, in combination with other permitted takings, normally be replaced by natural reproduction in the following season; and
 - (c) the diversity of species, as well as the habitats essential to their existence, and the balance of the ecological systems existing within the Antarctic Treaty area are maintained.
4. Any species of native mammals, birds and plants listed in Appendix A to this Annex shall be designated “Specially Protected Species”, and shall be accorded special protection by the Parties.
5. A permit shall not be issued to take a Specially Protected Species unless the taking:
 - (a) is for a compelling scientific purpose;
 - (b) will not jeopardize the survival or recovery of that species or local population; and
 - (c) uses non-lethal techniques where appropriate.
6. All taking of native mammals and birds shall be done in the manner that involves the least degree of pain and suffering practicable.

SCHEDULE 2—continued

ARTICLE 4

***INTRODUCTION OF NON-NATIVE SPECIES, PARASITES AND
DISEASES***

1. No species of animal or plant not native to the Antarctic Treaty area shall be introduced onto land or ice shelves, or into water in the Antarctic Treaty area except in accordance with a permit.
2. Dogs shall not be introduced onto land or ice shelves and dogs currently in those areas shall be removed by April 1, 1994.
3. Permits under paragraph 1 above shall be issued to allow the importation only of the animals and plants listed in Appendix B to this Annex and shall specify the species, numbers and, if appropriate, age and sex and precautions to be taken to prevent escape or contact with native fauna and flora.
4. Any plant or animal for which a permit has been issued in accordance with paragraphs 1 and 3 above, shall, prior to expiration of the permit, be removed from the Antarctic Treaty area or be disposed of by incineration or equally effective means that eliminates risk to native fauna or flora. The permit shall specify this obligation. Any other plant or animal introduced into the Antarctic Treaty area not native to that area, including any progeny, shall be removed or disposed of, by incineration or by equally effective means, so as to be rendered sterile, unless it is determined that they pose no risk to native flora or fauna.
5. Nothing in this Article shall apply to the importation of food into the Antarctic Treaty area provided that no live animals are imported for this purpose and all plants and animal parts and products are kept under carefully controlled conditions and disposed of in accordance with Annex III to the Protocol and Appendix C to this Annex.
6. Each Party shall require that precautions, including those listed in Appendix C to this Annex, be taken to prevent the introduction of micro-organisms (e.g., viruses, bacteria, parasites, yeasts, fungi) not present in the native fauna and flora.

ARTICLE 5

INFORMATION

Each Party shall prepare and make available information setting forth, in particular, prohibited activities and providing lists of Specially Protected Species and relevant Protected Areas to all those persons present in or intending to enter the Antarctic Treaty area with a view to ensuring that such persons understand and observe the provisions of this Annex.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 6

EXCHANGE OF INFORMATION

1. The Parties shall make arrangements for:
 - (a) collecting and exchanging records (including records of permits) and statistics concerning the numbers or quantities of each species of native mammal, bird or plant taken annually in the Antarctic Treaty area;
 - (b) obtaining and exchanging information as to the status of native mammals, birds, plants, and invertebrates in the Antarctic Treaty area, and the extent to which any species or population needs protection;
 - (c) establishing a common form in which this information shall be submitted by Parties in accordance with paragraph 2 below.
2. Each Party shall inform the other Parties as well as the Committee before the end of November of each year of any step taken pursuant to paragraph 1 above and of the number and nature of permits issued under this Annex in the preceding period of 1st July to 30th June.

ARTICLE 7

*RELATIONSHIP WITH OTHER AGREEMENTS OUTSIDE THE
ANTARCTIC TREATY SYSTEM*

Nothing in this Annex shall derogate from the rights and obligations of Parties under the International Convention for the Regulation of Whaling.

ARTICLE 8

REVIEW

The Parties shall keep under continuing review measures for the conservation of Antarctic fauna and flora, taking into account any recommendations from the Committee.

ARTICLE 9

AMENDMENT OR MODIFICATION

1. This Annex may be amended or modified by a measure adopted in accordance with Article IX (1) of the Antarctic Treaty. Unless the measure specifies otherwise, the amendment or modification shall be deemed to have been approved, and shall become effective, one year after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Antarctic Treaty Consultative Parties notifies the Depositary, within that time period, that it wishes an extension of that period or that it is unable to approve the measure.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

2. Any amendment or modification of this Annex which becomes effective in accordance with paragraph 1 above shall thereafter become effective as to any other Party when notice of approval by it has been received by the Depositary.

APPENDICES TO THE ANNEX

APPENDIX A:

SPECIALLY PROTECTED SPECIES

All species of the genus *Arctocephalus*, Fur Seals. *Ommatophoca rossii*, Ross Seal.

APPENDIX B:

IMPORTATION OF ANIMALS AND PLANTS

The following animals and plants may be imported into the Antarctic Treaty area in accordance with permits issued under Article 4 of this Annex:

- (a) domestic plants; and
- (b) laboratory animals and plants including viruses, bacteria, yeasts and fungi.

APPENDIX C:

***PRECAUTIONS TO PREVENT INTRODUCTION OF
MICRO-ORGANISMS***

1. Poultry. No live poultry or other living birds shall be brought into the Antarctic Treaty area. Before dressed poultry is packaged for shipment to the Antarctic Treaty area, it shall be inspected for evidence of disease, such as Newcastle's Disease, tuberculosis, and yeast infection. Any poultry or parts not consumed shall be removed from the Antarctic Treaty area or disposed of by incineration or equivalent means that eliminates risks to native flora and fauna.

2. The importation of non-sterile soil shall be avoided to the maximum extent practicable.

**ANNEX III TO THE PROTOCOL ON ENVIRONMENTAL
PROTECTION TO THE ANTARCTIC TREATY**

WASTE DISPOSAL AND WASTE MANAGEMENT

ARTICLE 1

GENERAL OBLIGATIONS

1. This Annex shall apply to activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

Treaty area for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities.

2. The amount of wastes produced or disposed of in the Antarctic Treaty area shall be reduced as far as practicable so as to minimise impact on the Antarctic environment and to minimise interference with the natural values of Antarctica, with scientific research and with other uses of Antarctica which are consistent with the Antarctic Treaty.

3. Waste storage, disposal and removal from the Antarctic Treaty area, as well as recycling and source reduction, shall be essential considerations in the planning and conduct of activities in the Antarctic Treaty area.

4. Wastes removed from the Antarctic Treaty area shall, to the maximum extent practicable, be returned to the country from which the activities generating the waste were organized or to any other country in which arrangements have been made for the disposal of such wastes in accordance with relevant international agreements.

5. Past and present waste disposal sites on land and abandoned work sites of Antarctic activities shall be cleaned up by the generator of such wastes and the user of such sites. This obligation shall not be interpreted as requiring:

- (a) the removal of any structure designated as a historic site of monument; or
- (b) the removal of any structure or waste material in circumstances where the removal by any practical option would result in greater adverse environmental impact than leaving the structure or waste material in its existing location.

ARTICLE 2

***WASTE DISPOSAL BY REMOVAL FROM THE ANTARCTIC
TREATY AREA***

1. The following wastes, if generated after entry into force of this Annex, shall be removed from the Antarctic Treaty area by the generator of such wastes:

- (a) radio-active materials;
- (b) electrical batteries;
- (c) fuel, both liquid and solid;
- (d) wastes containing harmful levels of heavy metals or acutely toxic or harmful persistent compounds;
- (e) poly-vinyl chloride (PVC), polyurethane foam, polystyrene foam, rubber and lubricating oils, treated timbers and other products which contain additives that could produce harmful emissions if incinerated;

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (f) all other plastic wastes, except low density polyethylene containers (such as bags for storing wastes), provided that such containers shall be incinerated in accordance with Article 3 (1);
- (g) fuel drums; and
- (h) other solid, non-combustible wastes;

provided that the obligation to remove drums and solid non-combustible wastes contained in subparagraphs (g) and (h) above shall not apply in circumstances where the removal of such wastes by any practical option would result in greater adverse environmental impact than leaving them in their existing locations.

2. Liquid wastes which are not covered by paragraph 1 above and sewage and domestic liquid wastes, shall, to the maximum extent practicable, be removed from the Antarctic Treaty area by the generator of such wastes.

3. The following wastes shall be removed from the Antarctic Treaty area by the generator of such wastes, unless incinerated, autoclaved or otherwise treated to be made sterile:

- (a) residues of carcasses of imported animals;
- (b) laboratory culture of micro-organisms and plant pathogens; and
- (c) introduced avian products.

ARTICLE 3

WASTE DISPOSAL BY INCINERATION

1. Subject to paragraph 2 below, combustible wastes, other than those referred to in Article 2 (1), which are not removed from the Antarctic Treaty area shall be burnt in incinerators which to the maximum extent practicable reduce harmful emissions. Any emission standards and equipment guidelines which may be recommended by, *inter alia*, the Committee and the Scientific Committee on Antarctic Research shall be taken into account. The solid residue of such incineration shall be removed from the Antarctic Treaty area.

2. All open burning of wastes shall be phased out as soon as practicable, but no later than the end of the 1998/1999 season. Pending the completion of such phase-out, when it is necessary to dispose of wastes by open burning, allowance shall be made for the wind direction and speed and the type of wastes to be burnt to limit particulate deposition and to avoid such deposition over areas of special biological, scientific, historic, aesthetic or wilderness significance including, in particular, areas accorded protection under the Antarctic Treaty.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 4

OTHER WASTE DISPOSAL ON LAND

1. Wastes not removed or disposed of in accordance with Articles 2 and 3 shall not be disposed of onto ice-free areas or into fresh water systems.
2. Sewage, domestic liquid wastes and other liquid wastes not removed from the Antarctic Treaty area in accordance with Article 2, shall, to the maximum extent practicable, not be disposed of onto sea ice, ice shelves or the grounded ice-sheet, provided that such wastes which are generated by stations located inland on ice shelves or on the grounded ice-sheet may be disposed of in deep ice pits where such disposal is the only practicable option. Such pits shall not be located on known ice-flow lines which terminate at ice-free areas or in areas of high ablation.
3. Wastes generated at field camps shall, to the maximum extent practicable, be removed by the generator of such wastes to supporting stations or ships for disposal in accordance with this Annex.

ARTICLE 5

DISPOSAL OF WASTE IN THE SEA

1. Sewage and domestic liquid wastes may be discharged directly into the sea, taking into account the assimilative capacity of the receiving marine environment and provided that:
 - (a) such discharge is located, wherever practicable, where conditions exist for initial dilution and rapid dispersal; and
 - (b) large quantities of such wastes (generated in a station where the average weekly occupancy over the austral summer is approximately 30 individuals or more) shall be treated at least by maceration.
2. The by-product of sewerage treatment by the Rotary Biological Contactor process or similar processes may be disposed of into the sea provided that such disposal does not adversely affect the local environment, and provided also that any such disposal at sea shall be in accordance with Annex IV to the Protocol.

ARTICLE 6

STORAGE OF WASTE

All wastes to be removed from the Antarctic Treaty area, or otherwise disposed of, shall be stored in such a way as to prevent their dispersal into the environment.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 7

PROHIBITED PRODUCTS

No polychlorinated biphenyls (PCBs), non-sterile soil, polystyrene beads, chips or similar forms of packaging, or pesticides (other than those required for scientific, medical or hygiene purposes) shall be introduced onto land or ice shelves or into water in the Antarctic Treaty area.

ARTICLE 8

WASTE MANAGEMENT PLANNING

1. Each Party which itself conducts activities in the Antarctic Treaty area shall, in respect of those activities, establish a waste disposal classification system as a basis for recording wastes and to facilitate studies aimed at evaluating the environmental impacts of scientific activity and associated logistic support. To that end, wastes produced shall be classified as:

- (a) sewage and domestic liquid wastes (Group 1);
- (b) other liquid wastes and chemicals, including fuels and lubricants (Group 2);
- (c) solids to be combusted (Group 3);
- (d) other solid wastes (Group 4); and
- (e) radioactive material (Group 5).

2. In order to reduce further the impact of waste on the Antarctic environment, each such Party shall prepare and annually review and update its waste management plans (including waste reduction, storage and disposal), specifying for each fixed site, for field camps generally, and for each ship (other than small boats that are part of the operations of fixed sites or of ships and taking into account existing management plans for ships):

- (a) programmes for cleaning up existing waste disposal sites and abandoned work sites;
- (b) current and planned waste management arrangements, including final disposal;
- (c) current and planned arrangements for analysing the environmental effects of waste and waste management; and
- (d) other efforts to minimise any environmental effects of wastes and waste management.

3. Each such Party shall, as far as is practicable, also prepare an inventory of locations of past activities (such as traverses, fuel depots, field bases, crashed aircraft) before the information is lost, so that such locations can be taken into account in planning future scientific

SCHEDULE 2—continued

programmes (such as snow chemistry, pollutants in lichens or ice core drilling).

ARTICLE 9

CIRCULATION AND REVIEW OF WASTE MANAGEMENT PLANS

1. The waste management plans prepared in accordance with Article 8, reports on their implementation, and the inventories referred to in Article 8 (3), shall be included in the annual exchanges of information in accordance with Articles III and VII of the Antarctic Treaty and related Recommendations under Article IX of the Antarctic Treaty.
2. Each Party shall send copies of its waste management plans, and reports on their implementation and review, to the Committee.
3. The Committee may review waste management plans and reports thereon and may offer comments, including suggestions for minimising impacts and modifications and improvement to the plans, for the consideration of the Parties.
4. The Parties may exchange information and provide advice on, inter alia, available low waste technologies, reconversion of existing installations, special requirements for effluents, and appropriate disposal and discharge methods.

ARTICLE 10

MANAGEMENT PRACTICES

Each Party shall:

- (a) designate a waste management official to develop and monitor waste management plans; in the field, this responsibility shall be delegated to an appropriate person at each site;
- (b) ensure that members of its expeditions receive training designed to limit the impact of its operations on the Antarctic environment and to inform them of requirements of this Annex; and
- (c) discourage the use of poly-vinyl chloride (PVC) products and ensure that its expeditions to the Antarctic Treaty area are advised of any PVC products they may introduce into that area in order that these products may be removed subsequently in accordance with this Annex.

ARTICLE 11

REVIEW

This Annex shall be subject to regular review in order to ensure that it is updated to reflect improvement in waste disposal technology and procedures and to ensure thereby maximum protection of the Antarctic environment.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 12

CASES OF EMERGENCY

1. This Annex shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft or equipment and facilities of high value or the protection of the environment.
2. Notice of activities undertaken in cases of emergency shall be circulated immediately to all Parties and to the Committee.

ARTICLE 13

AMENDMENT OR MODIFICATION

1. This Annex may be amended or modified by a measure adopted in accordance with Article IX (1) of the Antarctic Treaty. Unless the measure specifies otherwise, the amendment or modification shall be deemed to have been approved, and shall become effective, one year after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Antarctic Treaty Consultative Parties notifies the Depositary, within that time period, that it wishes an extension of that period or that it is unable to approve the amendment.
2. Any amendment or modification of this Annex which becomes effective in accordance with paragraph 1 above shall thereafter become effective as to any other Party when notice of approval by it has been received by the Depositary.

**ANNEX V TO THE PROTOCOL ON ENVIRONMENTAL
PROTECTION TO THE ANTARCTIC TREATY**

AREA PROTECTION AND MANAGEMENT

ARTICLE 1

DEFINITIONS

For the purposes of this Annex:

- a) “appropriate authority” means any person or agency authorised by a Party to issue permits under this Annex;
- b) “permit” means a formal permission in writing issued by an appropriate authority;
- c) “Management Plan” means a plan to manage the activities and protect the special value or values in an Antarctic Specially Protected Area or an Antarctic Specially Managed Area.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 2

OBJECTIVES

For the purposes set out in this Annex, any area, including any marine area, may be designated as an Antarctic Specially Protected Area or an Antarctic Specially Managed Area. Activities in those Areas shall be prohibited, restricted or managed in accordance with Management Plans adopted under the provisions of this Annex.

ARTICLE 3

ANTARCTIC SPECIALLY PROTECTED AREAS

1. Any area, including any marine area, may be designated as an Antarctic Specially Protected Area to protect outstanding environmental, scientific, historic, aesthetic or wilderness values, any combination of those values, or ongoing or planned scientific research.

2. Parties shall seek to identify, within a systematic environmental-geographical framework, and to include in the series of Antarctic Specially Protected Areas:

- (a) areas kept inviolate from human interference so that future comparisons may be possible with localities that have been affected by human activities;
- (b) representative examples of major terrestrial, including glacial and aquatic, ecosystems and marine ecosystems;
- (c) areas with important or unusual assemblages of species, including major colonies of breeding native birds or mammals;
- (d) the type locality or only known habitat of any species;
- (e) areas of particular interest to ongoing or planned scientific research;
- (f) examples of outstanding geological, glaciological or geomorphological features;
- (g) areas of outstanding aesthetic and wilderness value;
- (h) sites or monuments of recognised historic value; and
- (i) such other areas as may be appropriate to protect the values set out in paragraph 1 above.

3. Specially Protected Areas and Sites of Special Scientific Interest designated as such by past Antarctic Treaty Consultative Meetings are hereby designated as Antarctic Specially Protected Areas and shall be renamed and renumbered accordingly.

4. Entry into an Antarctic Specially Protected Area shall be prohibited except in accordance with a permit issued under Article 7.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 4

ANTARCTIC SPECIALLY MANAGED AREAS

1. Any area, including any marine area, where activities are being conducted or may in the future be conducted, may be designated as an Antarctic Specially Managed Area to assist in the planning and co-ordination of activities, avoid possible conflicts, improve co-operation between Parties or minimise environmental impacts.
2. Antarctic Specially Managed Areas may include:
 - (a) areas where activities pose risks of mutual interference or cumulative environmental impacts; and
 - (b) sites or monuments of recognised historic value.
3. Entry into an Antarctic Specially Managed Area shall not require a permit.
4. Notwithstanding paragraph 3 above, an Antarctic Specially Managed Area may contain one or more Antarctic Specially Protected Areas, entry into which shall be prohibited except in accordance with a permit issued under Article 7.

ARTICLE 5

MANAGEMENT PLANS

1. Any Party, the Committee, the Scientific Committee for the Antarctic Research or the Commission for the Conservation of Antarctic Marine Living Resources may propose an area for designation as an Antarctic Specially Protected Area or an Antarctic Specially Managed Area by submitting a proposed Management Plan to the Antarctic Treaty Consultative Meeting.
2. The area proposed for designation shall be of sufficient size to protect the values for which the special protection or management is required.
3. Proposed Management Plans shall include, as appropriate:
 - (a) a description of the value or values for which special protection or management is required;
 - (b) a statement of the aims and objectives of the Management Plan for the protection or management of those values;
 - (c) management activities which are to be undertaken to protect the values for which special protection or management is required;
 - (d) a period of designation, if any;
 - (e) a description of the area, including:

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (i) the geographical co-ordinates, boundary markers and natural features that delineate the area;
- (ii) access to the area by land, sea or air including marine approaches and anchorages, pedestrian and vehicular routes within the area, and aircraft routes and landing areas;
- (iii) the location of structures, including scientific stations, research or refuge facilities, both within the area and near to it; and
- (iv) the location in or near the area of other Antarctic Specially Protected Areas or Antarctic Specially Managed Areas designated under this Annex, or other protected areas designated in accordance with measures adopted under other components of the Antarctic Treaty System;
- (f) the identification of zones within the area, in which activities are to be prohibited, restricted or managed for the purpose of achieving the aims and objectives referred to in subparagraph (b) above;
- (g) maps and photographs that show clearly the boundary of the area in relation to surrounding features and key features within the area;
- (h) supporting documentation;
- (i) in respect of an area proposed for designation as an Antarctic Specially Protected Area, a clear description of the conditions under which permits may be granted by the appropriate authority regarding:
 - (i) access to and movement within or over the area;
 - (ii) activities which are or may be conducted within the area, including restrictions on time and place;
 - (iii) the installation, modification, or removal of structures;
 - (iv) the location of field camps;
 - (v) restrictions on materials and organisms which may be brought into the area;
 - (vi) the taking of or harmful interference with native flora and fauna;
 - (vii) the collection or removal of anything not brought into the area by the permit-holder;
 - (viii) the disposal of waste;
 - (ix) measures that may be necessary to ensure that the aims and objectives of the Management Plan can continue to be met; and

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

- (x) requirements for reports to be made to the appropriate authority regarding visits to the area;
- (j) in respect of an area proposed for designation as an Antarctic Specially Managed Area, a code of conduct regarding:
 - (i) access to and movement within or over the area;
 - (ii) activities which are or may be conducted within the area, including restrictions on time and place;
 - (iii) the installation, modification, or removal of structures;
 - (iv) the location of field camps;
 - (v) the taking of or harmful interference with native flora and fauna;
 - (vi) the collection or removal of anything not brought into the area by the visitor;
 - (vii) the disposal of waste; and
 - (viii) any requirements for reports to be made to the appropriate authority regarding visits to the area; and
- (k) provisions relating to the circumstances in which Parties should seek to exchange information in advance of activities which they propose to conduct.

ARTICLE 6

DESIGNATION PROCEDURES

1. Proposed Management Plans shall be forwarded to the Committee, the Scientific Committee on Antarctic Research and, as appropriate, to the Commission for the Conservation of Antarctic Marine Living Resources. In formulating its advice to the Antarctic Treaty Consultative Meeting, the Committee shall take into account any comments provided by the Scientific Committee on Antarctic Research and, as appropriate, by the Commission for the Conservation of Antarctic Marine Living Resources. Thereafter Management Plans may be approved by the Antarctic Treaty Consultative Parties by a measure adopted at an Antarctic Treaty Consultative Meeting in accordance with Article IX(1) of the Antarctic Treaty. Unless the measure specifies otherwise, the Plan shall be deemed to have been approved 90 days after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Consultative Parties notifies the depositary, within that time period, that it wishes an extension of that period or is unable to approve the measure.

2. Having regard to the provisions of Articles 4 and 5 of the Protocol, no marine area shall be designated as an Antarctic Specially Protected Area or an Antarctic Specially Managed Area without the prior approval

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

of the Commission for the Conservation of Antarctic Marine Living Resources.

3. Designation of an Antarctic Specially Protected Area or an Antarctic Specially Managed Area shall be for an indefinite period unless the Management Plan provides otherwise. A review of a Management Plan shall be initiated at least every five years. The Plan shall be updated as necessary.

4. Management Plans may be amended or revoked in accordance with paragraph 1 above.

5. Upon approval Management Plans shall be circulated promptly by the Depositary to all Parties. The Depositary shall maintain a record of all currently approved Management Plans.

ARTICLE 7

PERMITS

1. Each Party shall appoint an appropriate authority to issue permits to enter or engage in activities within an Antarctic Specially Protected Area in accordance with the requirements of the Management Plan relating to that Area. The permit shall be accompanied by the relevant sections of the Management Plan and shall specify the extent and location of the Area, the authorised activities and when, where and by whom the activities are authorised and any other conditions imposed by the Management Plan.

2. In the case of a Specially Protected Area designated as such by past Antarctic Treaty Consultative Meetings which does not have a Management Plan, the appropriate authority may issue a permit for a compelling scientific purpose which cannot be served elsewhere and which will not jeopardise the natural ecological system in that Area.

3. Each Party shall require a permit-holder to carry a copy of the permit while in the Antarctic Specially Protected Area concerned.

ARTICLE 8

HISTORIC SITES AND MONUMENTS

1. Sites or monuments of recognised historic value which have been designated as Antarctic Specially Protected Areas or Antarctic Specially Managed Areas, or which are located within such Areas, shall be listed as Historic Sites and Monuments.

2. Any Party may propose a site or monument of recognised historic value which has not been designated as an Antarctic Specially Protected Area or an Antarctic Specially Managed Area, or which is not located within such an Area, for listing as a Historic Site or Monument. The

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

proposal for listing may be approved by the Antarctic Treaty Consultative Parties by a measure adopted at an Antarctic Treaty Consultative Meeting in accordance with Article IX(1) of the Antarctic Treaty. Unless the measure specifies otherwise, the proposal shall be deemed to have been approved 90 days after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Consultative Parties notifies the Depositary, within that time period, that it wishes an extension of that period or is unable to approve the measure.

3. Existing Historic Sites and Monuments which have been listed as such by previous Antarctic Treaty Consultative Meetings shall be included in the list of Historic Sites and Monuments under this Article.

4. Listed Historic Sites and Monuments shall not be damaged, removed or destroyed.

5. The list of Historic Sites and Monuments may be amended in accordance with paragraph 2 above. The Depositary shall maintain a list of current Historic Sites and Monuments.

ARTICLE 9

INFORMATION AND PUBLICITY

1. With a view to ensuring that all persons visiting or proposing to visit Antarctica understand and observe the provisions of this Annex, each Party shall make available information setting forth, in particular:

- (a) the location of Antarctic Specially Protected Areas and Antarctic Specially Managed Areas;
- (b) listing and maps of those Areas;
- (c) the Management Plans, including listings of prohibitions relevant to each Area;
- (d) the location of Historic Sites and Monuments and any relevant prohibition or restriction.

2. Each Party shall ensure that the location and, if possible, the limits, of Antarctic Specially Protected Areas, Antarctic Specially Managed Areas and Historic Sites and Monuments are shown on its topographic maps, hydrographic charts and in other relevant publications.

3. Parties shall co-operate to ensure that, where appropriate, the boundaries of Antarctic Specially Protected Areas, Antarctic Specially Managed Areas and Historic Sites and Monuments are suitably marked on the site.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 10

EXCHANGE OF INFORMATION

1. The Parties shall make arrangements for:
 - (a) collecting and exchanging records, including records of permits and reports of visits, including inspection visits, to Antarctic Specially Protected Areas and reports of inspection visits to Antarctic Specially Managed Areas;
 - (b) obtaining and exchanging information on any significant change or damage to any Antarctic Specially Managed Area, Antarctic Specially Protected Area or Historic Site or Monument; and
 - (c) establishing common forms in which records and information shall be submitted by Parties in accordance with paragraph 2 below.
2. Each Party shall inform the other Parties and the Committee before the end of November of each year of the number and nature of permits issued under this Annex in the preceding period of 1st July to 30th June.
3. Each Party conducting, funding or authorising research or other activities in Antarctic Specially Protected Areas or Antarctic Specially Managed Areas shall maintain a record of such activities and in the annual exchange of information in accordance with the Treaty shall provide summary descriptions of the activities conducted by persons subject to its jurisdiction in such areas in the preceding year.
4. Each Party shall inform the other Parties and the Committee before the end of November each year of measures it has taken to implement this Annex, including any site inspections and any steps it has taken to address instances of activities in contravention of the provisions of the approved Management Plan for an Antarctic Specially Protected Area or Antarctic Specially Managed Area.

ARTICLE 11

CASES OF EMERGENCY

1. The restrictions laid down and authorised by this Annex shall not apply in cases of emergency involving safety of human life or of ships, aircraft, or equipment and facilities of high value or the protection of the environment.
2. Notice of activities undertaken in cases of emergency shall be circulated immediately to all Parties and to the Committee.

*Antarctic (Environment Protection) Legislation
Amendment No. 156, 1992*

SCHEDULE 2—continued

ARTICLE 12

AMENDMENT OR MODIFICATION

1. This Annex may be amended or modified by a measure adopted in accordance with Article IX(1) of the Antarctic Treaty. Unless the measure specifies otherwise, the amendment or modification shall be deemed to have been approved, and shall become effective, one year after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Antarctic Treaty Consultative Parties notifies the Depositary, within that time period, that it wishes an extension of that period or that it is unable to approve the measure.
 2. Any amendment or modification of this Annex which becomes effective in accordance with paragraph 1 above shall thereafter become effective as to any other Party when notice of approval by it has been received by the Depositary.
-

NOTES

1. No. 103, 1980, as amended. For previous amendments, see No. 65, 1985; No. 76, 1986; and No. 63, 1988.
2. No. 30, 1981, as amended. For previous amendments, see No. 163, 1991.

*[Minister's second reading speech made in—
House of Representatives on 14 October 1992
Senate on 9 November 1992]*