

HOUSE OF REPRESENTATIVES

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*(As read a first time)*

**ANTARCTIC MARINE LIVING RESOURCES CONSERVATION  
BILL 1981**

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**SCHEDULE**

**CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING  
RESOURCES**



THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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Presented and read a first time, 26 March 1981

*(Acting Minister for Science and Technology)*

## **A BILL**

**FOR**

### **An Act relating to the conservation of marine living resources of the Antarctic and its surrounding seas**

5       **WHEREAS** a Convention entitled "Convention on the Conservation of Antarctic Marine Living Resources" (being the Convention a copy of the English text of which is set out in the Schedule) was opened for signature at Canberra on 1 August 1980:

10       **AND WHEREAS** Australia is a signatory State to, and the Depositary under, the Convention:

15       **AND WHEREAS** it is desirable to make provision for giving effect to the Convention and to conservation measures by which Australia accepts in accordance with Article IX of the Convention to be bound, and to make other provision relating to the conservation of marine living resources of the Antarctic and the seas surrounding the Antarctic:

**BE IT THEREFORE ENACTED** by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

#### **Short title**

20       **1.** This Act may be cited as the *Antarctic Marine Living Resources Conservation Act 1981*.

**Commencement**

2. (1) Sections 1, 2 and 3 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation. 5

(3) The date fixed under sub-section (2) shall not be a date earlier than the date on which the Convention enters into force for Australia.

**Interpretation**

3. (1) In this Act, unless the contrary intention appears—

“another Contracting Party” means a Contracting Party to the Convention other than Australia; 10

“Australia”, when used in a geographical sense, includes the external Territories;

“Australian fishing zone” has the same meaning as in the *Fisheries Act* 1952;

“Australian national” means— 15

- (a) an Australian citizen; or
- (b) a body corporate established by or under a law of the Commonwealth, of a State or of a Territory;

“Australian vessel” means—

- (a) a vessel that is registered in Australia; 20
- (b) a vessel that is under the control or in the possession of any one or more of the following:
  - (i) the Commonwealth (including an arm of the Defence Force) or a State or Territory;
  - (ii) a corporation established for a public purpose by or under a law of the Commonwealth or of a State or Territory; 25
  - (iii) a company or other body corporate incorporated under a law in force in a State or Territory, being a company or other body corporate in which the Commonwealth has a controlling interest; or 30
- (c) a vessel (other than a vessel referred to in paragraph (a) or (b)) that has Australian nationality;

“authority of another Contracting Party” means a permit, licence or other authority issued or given by another Contracting Party under a law of that other Contracting Party or (whether under a law or otherwise) for purposes of, and in accordance with, the Convention, or an arrangement made by another Contracting Party for purposes of, and in accordance with, the Convention; 35

- 5 “conservation measures” means measures for the conservation of Antarctic marine living resources that are adopted from time to time by the Commission for the Conservation of Antarctic Marine Living Resources under Article IX of the Convention and by which Australia accepts in accordance with that Article to be bound;
- “contravention”, in relation to this Act, a provision of this Act, or a condition of a permit, includes a failure to comply with this Act, that provision or that condition;
- 10 “Convention” means the Convention entitled “Convention on the Conservation of Antarctic Marine Living Resources” that was opened for signature at Canberra on 1 August 1980, a copy of the English text of which is set out in the Schedule;
- “Convention area” means the area south of the Antarctic Convergence;
- “foreign person” means a person other than an Australian national;
- 15 “foreign vessel” means a vessel other than an Australian vessel;
- “harvest”, in relation to marine organisms, includes—
- (a) take, collect, catch, capture, kill, injure, interfere with, cut up, dismember, clean, sort, coat, pack, process, preserve, store, carry or transport, for any purpose; or
  - 20 (b) search for with the object of finding and taking for any purpose;
- “inspector” means—
- (a) a person appointed as an inspector under paragraph 13 (1) (a); or
  - (b) a person referred to in sub-section 13 (2);
- 25 “interfere with”, in relation to marine organisms, includes harass, chase, herd, tag, mark or brand;
- “law of the Territory” means a law in force in the Territory other than an Act or instrument (not being an Ordinance or an instrument made under an Ordinance) made under an Act;
- 30 “marine organism” means a marine organism in the Convention area that belongs to any species of living organisms that is found in the Convention area;
- “master”, in relation to a vessel, means the person having command or charge of the vessel;
- “permit” means a permit in force under this Act;
- 35 “special inspector” means a person appointed as a special inspector under paragraph 13 (1) (b);
- “the Territory” means the Australian Antarctic Territory;
- “this Act” includes the regulations;
- “vessel” includes an air-cushion vehicle or other similar craft.

40 (2) Where a provision of this Act requires a notice to be served on a person by the Minister, the notice may be served on that person personally, by post or in any other prescribed manner.

(3) A reference in this Act to an offence against this or any other Act, to an offence against regulations made under any Act or to an offence against a provision of this Act shall be read as including a reference to an offence created by section 6, 7 or 7A of the *Crimes Act* 1914 in relation to this Act or that other Act or those regulations, as the case may be. 5

(4) A reference to an inspector in a provision of this Act that confers a function or power or imposes a duty upon inspectors shall be read as including a reference to any special inspector in respect of whom that function, power or duty is specified in pursuance of sub-section 13 (4).

(5) A reference in this Act to a member of the Australian Federal Police or to a member of a police force shall be read as including a reference to a special member of the Australian Federal Police. 10

(6) Except in so far as the contrary intention appears, an expression that is used in this Act and in the Convention (whether or not a particular meaning is assigned to it by the Convention) has, in this Act, the same meaning as in the Convention. 15

**Act to bind Crown**

4. (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Northern Territory and of Norfolk Island.

(2) Nothing in this Act renders the Commonwealth or a State or Territory liable to be prosecuted for an offence. 20

(3) Sub-section (2) does not affect any liability of the master of a vessel of which the Commonwealth or a State or Territory is the owner to be prosecuted for an offence.

**Application of Act** 25

5. (1) Subject to this section, this Act applies both within and outside Australia and extends to every external Territory.

(2) Subject to sub-section 4 (1) of the *Antarctic Treaty Act* 1960 and to sub-section (3) of this section—

(a) to the extent that a provision of this Act has effect in and in relation to any waters or place beyond the outer limits of the Australian fishing zone, that provision applies only in relation to Australian nationals and Australian vessels and the members of the crew (including masters) of Australian vessels; and 30

(b) to the extent that a provision of this Act has effect in and in relation to Australia or the Australian fishing zone, that provision applies in relation to all persons, including foreign persons, and to all vessels, including foreign vessels. 35

(3) This Act has effect subject to—

(a) the obligations of Australia under international law, including obligations under any international agreement binding on Australia; and 40

(b) any law of the Commonwealth giving effect to such an agreement.

**Application of laws of the Territory**

5 6. A law of the Territory does not have effect to the extent (if any) to which it is inconsistent with a provision of the regulations, but such a law shall not be taken for the purposes of this sub-section to be inconsistent with such a provision to the extent that it is capable of operating concurrently with that provision.

**Certain persons not guilty of offences against this Act**

10 7. A person is not guilty of an offence against this Act by reason of any act or thing done by him to the extent that the doing of that act or thing is authorized by—

- (a) a permit, licence or other authority in force, at the time when that act or thing is done, under a law of the Commonwealth other than this Act; or
- 15 (b) an authority of another Contracting Party in force at the time when that act or thing is done.

**Harvesting, and research with respect to, marine organisms prohibited**

20 8. (1) Subject to section 7 and sub-section (2) of this section, where, otherwise than in accordance with a permit, a person in the Convention area harvests, or carries out research with respect to, any marine organisms, the person is guilty of an offence against this sub-section punishable, upon conviction—

- (a) if the offender is a natural person—by a fine not exceeding \$50,000; or
- (b) if the offender is a body corporate—by a fine not exceeding \$100,000.

25 (2) It is a defence to a prosecution for an offence against sub-section (1) if it is proved that—

- (a) the act in question was reasonably necessary to avoid injury to any person or damage to any vessel; or
- 30 (b) where paragraph (a) does not apply and the act in question was done by the holder of a permit—that act was unavoidable in the course of taking action in accordance with the permit or was reasonably necessary to avoid damage to equipment used in taking action in accordance with the permit.

**Permits**

35 9. (1) Subject to this section, upon application made to the Minister in accordance with the prescribed form or, if no form is prescribed, a form approved by him, the Minister may, in his discretion, grant to a person a permit in writing authorizing the person, in, or in a specified part of, the Convention area, to do either or both of the following:

- (a) harvest marine organisms of a specified kind or kinds;
- 40 (b) carry out research with respect to marine organisms of a specified kind or kinds.

(2) A permit shall not be granted under sub-section (1) authorizing a person to do an act, or an act included in a class of acts, that is prescribed for the purposes of this sub-section.

(3) The Minister shall, in and in relation to the exercise of his powers under this section, have due regard to the objective and principles of the Convention. 5

(4) A permit granted under this section—

- (a) is subject to such conditions (if any) as are specified in the permit or as are imposed in pursuance of sub-section (5) in respect of the permit;
- (b) comes into force on a date specified in the permit or, if no date is so specified, on the date on which it is granted; and 10
- (c) remains in force for such period as is specified in the permit.

(5) At any time while a permit is in force the Minister may, upon his own motion or upon application made in accordance with sub-section (6), by notice in writing served on the holder of the permit, vary or revoke a condition to which the permit is subject or impose a further condition in respect of the permit. 15

(6) The holder of a permit may make application in writing to the Minister for the variation or revocation of a condition to which the permit is subject or for the imposition of a further condition in respect of the permit. 20

(7) The Minister shall cause to be kept, in such manner and at such place or places as he directs, a register of permits in force from time to time, showing the purpose for which the permit was granted and the conditions (if any) to which each permit is from time to time subject and such other matters relating to each permit as the Minister thinks fit. 25

(8) Such fees as are prescribed are payable in respect of grants of permits.

(9) In this section, “grant” includes grant by way of renewal.

**Contravening conditions of permits**

10. Where a person contravenes a condition of a permit that is applicable to him, the person is guilty of an offence punishable, upon conviction— 30

- (a) if the offender is a natural person—by a fine not exceeding \$5,000; or
- (b) if the offender is a body corporate—by a fine not exceeding \$10,000.

**Suspension of permits**

11. (1) The Minister may, in his discretion, by notice given by any means the Minister thinks appropriate to the holder of a permit— 35

- (a) subject to sub-section (2), suspend the permit for a period not exceeding 90 days if he suspects on reasonable grounds that circumstances exist by reason of which he would be empowered to cancel the permit; or
- (b) revoke the suspension of the permit at any time. 40



(2) Where proceedings for an offence in relation to a permit are commenced during the period of suspension of the permit, the suspension may be continued until the proceedings (including any appeal) are completed.

5 (3) During the period of suspension of a permit, the permit has no force or effect, but the period of currency of the permit continues to run.

### Cancellation of permits

12. The Minister may, in his discretion, by notice in writing served on the holder of a permit, cancel the permit if—

- 10 (a) he is satisfied that there has been a contravention of a condition to which the permit is subject;
- (b) he is satisfied that the holder of the permit has contravened a provision of this Act;
- (c) he is satisfied that the act or acts authorized by the permit may adversely affect a population of any species of marine organisms; or
- 15 (d) the holder of the permit has been convicted of an offence against the *Fisheries Act 1952*, the *Continental Shelf (Living Natural Resources) Act 1968*, the *Antarctic Treaty (Environment Protection) Act 1980*, the *Whale Protection Act 1980* or regulations made under any of those Acts.

### Inspectors and special inspectors

20 13. (1) The Minister may, by instrument signed by him—

- (a) appoint a person as an inspector; or
- (b) appoint a person, upon the nomination of the Commission for the Conservation of Antarctic Marine Living Resources, as a special inspector,

25 for the purposes of this Act.

(2) By force of this sub-section, every member of the Australian Federal Police or of the police force of a Territory is an inspector.

(3) The Minister may, in his discretion—

- 30 (a) determine terms and conditions of appointment, including remuneration and allowances, of a person appointed under sub-section (1); and
- (b) at any time terminate such an appointment.

(4) A person appointed as a special inspector under paragraph (1) (b) has, during the continuance of his appointment, such of the functions, powers and duties of inspectors as are specified in the instrument of his appointment.

### 35 Identity cards

14. (1) The Minister shall cause to be issued to each inspector, other than a member of a police force, and to each special inspector, an identity card in a form approved by the Minister containing a photograph of the holder.

40 (2) Where a person to whom an identity card has been issued under sub-section (1) ceases to be an inspector or special inspector, as the case may be, he shall forthwith return the identity card to the Minister.

(3) A person who contravenes sub-section (2) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$100.

**Arrest without warrant**

15. (1) An inspector may, without warrant, arrest any person if he believes on reasonable grounds— 5

- (a) that the person has committed or is committing an offence against this Act; and
- (b) that proceedings against the person by summons would not be effective.

(2) Where an inspector (other than a member of a police force who is in uniform) arrests a person under sub-section (1), he shall— 10

- (a) if the inspector is a member of a police force—produce, for inspection by that person, written evidence of the fact that he is a member of a police force; or
- (b) in any other case—produce his identity card for inspection by that person. 15

(3) Where a person is arrested under sub-section (1), an inspector shall forthwith bring the person, or cause him to be brought, before a Justice of the Peace or other proper authority to be dealt with in accordance with law.

**General powers of inspectors**

16. (1) Subject to this section, an inspector may search a vessel if he believes on reasonable grounds that there is in, on or attached to that vessel— 20

- (a) a marine organism in respect of which an offence against this Act has been committed; or
- (b) anything that may afford evidence as to the commission of an offence against this Act, 25

and for that purpose stop or detain that vessel.

(2) An inspector shall not search—

- (a) a vessel belonging to an arm of the Defence Force; or
- (b) a foreign vessel of war,

unless permission to do so is given by the person for the time being having command of the vessel and, if that person so requires, personnel of an arm of the Defence Force or of the foreign vessel, as the case may be, are present to supervise the search. 30

(3) An inspector may—

- (a) require any person whom he finds committing or whom he suspects on reasonable grounds of having committed an offence against this Act to state his full name and usual place of residence; and 35

- (b) require any person whom he finds doing or whom he suspects on reasonable grounds of having done an act in respect of which the person is required to hold a permit to produce such a permit or evidence of the existence and contents of such a permit. 40

(4) Where an inspector (other than a member of a police force who is in uniform) stops, or proposes to search or detain, a vessel, he shall—

- 5 (a) if he is a member of a police force—produce, for inspection by the master of the vessel, written evidence of the fact that he is a member of a police force; or
- (b) in any other case—produce his identity card for inspection by that person,

and, if he fails to do so, he is not authorized to search or detain that vessel.

10 (5) Where an inspector (other than a member of a police force who is in uniform) makes a requirement of a person in pursuance of sub-section (3), he shall—

- (a) if he is a member of a police force—produce, for inspection by that person, written evidence of the fact that he is a member of a police force; or
- 15 (b) in any other case—produce his identity card for inspection by that person,

and, if he fails to do so, that person is not obliged to comply with the requirement.

20 (6) A person who, without reasonable excuse, fails to comply with a requirement made of him by an inspector under this section is guilty of an offence punishable, upon conviction, by a fine not exceeding \$1,000.

(7) For the purposes of paragraph (3) (b), “permit” includes an authority of another Contracting Party that is in force.

### **Seizure and forfeiture**

25 17. (1) Where a court convicts a person of an offence against this Act, the court may order the forfeiture to the Commonwealth of any vessel or article used or otherwise involved in the commission of the offence.

30 (2) An inspector may seize any vessel or article that he believes on reasonable grounds has been used or otherwise involved in the commission of an offence against this Act and may retain it until the expiration of a period of 60 days after the seizure, or, if proceedings for an offence against this Act in the commission of which it may have been used or otherwise involved are instituted within that period, until the proceedings are terminated.

35 (3) The Minister may authorize a vessel or article seized under sub-section (2) or anything in, on or attached to such a vessel to be released to its owner, or to the person from whose possession it was seized, either unconditionally or on such conditions as he thinks fit, including conditions as to the giving of security for payment of its value if it is forfeited.

40 (4) A vessel or article forfeited under this section may be sold or otherwise disposed of as the Minister thinks fit.

(5) An inspector may seize any marine organisms in respect of which he believes on reasonable grounds that an offence against this Act has been committed.

(6) The Minister may cause any marine organisms seized under sub-section (5) to be retained or disposed of and, if an offence against this Act was not committed in respect of them, any person who has suffered loss or damage by reason of the seizure is entitled to reasonable compensation.

**Prosecution of offences against sub-section 8 (1)**

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18. (1) Subject to sub-section (2), an offence against sub-section 8 (1) is an indictable offence.

(2) Notwithstanding that an offence against sub-section 8 (1) is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

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(3) Where, in accordance with sub-section (2), a court of summary jurisdiction convicts a person of an offence against sub-section 8 (1), the penalty that the court may impose is—

- (a) if the offender is a natural person—a fine not exceeding \$5,000; or
- (b) if the offender is a body corporate—a fine not exceeding \$10,000.

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**Evidentiary certificates**

19. (1) The Minister or a person authorized in writing by him to give certificates under this section may give a certificate—

- (a) that, at a time specified in the certificate, a vessel specified in the certificate was, or was not, an Australian vessel;
- (b) that an area specified in the certificate is in the Convention area, or is in a part of the Convention area specified in the certificate;
- (c) that, at a time specified in the certificate, an area specified in the certificate was part of the Australian fishing zone;
- (d) that, at a time specified in the certificate, a person specified in the certificate was, or was not, the holder of a permit authorizing the person, in the Convention area, or in a part of the Convention area specified in the certificate, to harvest marine organisms of a kind or kinds specified in the certificate;
- (e) that, at a time specified in the certificate, a person specified in the certificate was, or was not, the holder of a permit authorizing the person, in the Convention area, or in a part of the Convention area specified in the certificate, to carry out research with respect to marine organisms of a kind or kinds specified in the certificate.

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(2) A person giving a certificate under paragraph (1) (d) or (e) that a person was, at a time specified in the certificate, the holder of a permit may, in the certificate, certify that conditions specified in the certificate were the conditions to which the permit was subject at the time so specified.

(3) In proceedings for an offence against this Act, a certificate given under this section is *prima facie* evidence of the matters specified in the certificate.

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(4) For the purposes of this section, a writing purporting to be a certificate under this section shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

**Officers and employees of governments and authorities**

5       20. The Governor-General may make arrangements with the Governor of a State or the Administrator of the Northern Territory for the performance of functions and duties and the exercise of powers under this Act by officers or employees of that State or Territory or of an authority of that State or Territory, as the case may be.

10      **Programs, &c., relating to Antarctic marine living resources**

21. The Minister may make arrangements for, or co-operate with any government, organization or person in—

- (a) the formulation and implementation of programs;
- (b) the carrying out of research; and
- 15      (c) the dissemination of information,

relating to the conservation of Antarctic marine living resources.

**Delegation**

20      22. (1) The Minister may, either generally or as otherwise provided in the instrument of delegation, by writing signed by him, delegate to a person any of his powers under this Act, other than his powers under sub-section 9 (5) (except where a power referred to in that sub-section is exercised in pursuance of an application under sub-section 9 (6) by the holder of a permit), sections 11 and 12 and this power of delegation.

25      (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Minister.

(3) A delegation under this section does not prevent the exercise of a power by the Minister.

**Review of decisions**

30      23. (1) An application may be made to the Administrative Appeals Tribunal for a review of a decision of the Minister made under section 9, 11 or 12.

(2) In sub-section (1), “decision” has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

**Regulations**

35      24. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act, the Convention or conservation measures and, in particular—

- 40      (a) providing for functions and powers to be conferred, and duties to be imposed, upon inspectors; and

(b) providing, in respect of an offence against a provision of the regulations, for the imposition of—

(i) if the offender is a natural person—a fine not exceeding \$2,000 or \$200 for each day during which the offence continues; or

(ii) if the offender is a body corporate—a fine not exceeding \$5,000 or \$500 for each day during which the offence continues.

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(2) The power to make regulations conferred by this Act may be exercised—

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case; and

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(b) so as to make, as respects the cases in relation to which it is exercised, the same provision for all those cases or different provision for different cases or classes of case.

(3) The power to make regulations conferred by this Act shall not be taken, by implication, to exclude the power to make provision for or in relation to a matter by reason only of the fact that—

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(a) provision is made by this Act in relation to that matter or another matter; or

(b) power is expressly conferred by this Act to make provision by regulation for or in relation to another matter.

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(4) The limitation imposed by paragraph (1) (b) on the penalties that may be prescribed by the regulations does not prevent the regulations from requiring a person to make a statutory declaration.



SCHEDULE

Sub-section 3 (1)

CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE  
LIVING RESOURCES

The Contracting Parties,

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

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

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

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

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

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

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

BEARING in mind the concern regarding the conservation of Antarctic marine living resources expressed by the Consultative Parties at the Ninth Consultative Meeting of the Antarctic Treaty and the importance of the provisions of Recommendation IX-2 which led to the establishment of the present Convention;

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

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

HAVE AGREED as follows:

ARTICLE I

1. This Convention applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.
2. Antarctic marine living resources means the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.
3. The Antarctic marine ecosystem means the complex of relationships of Antarctic marine living resources with each other and with their physical environment.
4. The Antarctic Convergence shall be deemed to be a line joining the following points along parallels of latitude and meridians of longitude:  
50° S, 0°; 50° S, 30° E; 45° S, 30° E; 45° S, 80° E; 55° S, 80° E; 55° S, 150° E; 60° S, 150° E; 60° S, 50° W; 50° S, 50° W; 50° S, 0°.

ARTICLE II

1. The objective of this Convention is the conservation of Antarctic marine living resources.
2. For the purposes of this Convention, the term "conservation" includes rational use.
3. Any harvesting and associated activities in the area to which this Convention applies shall be conducted in accordance with the provisions of this Convention and with the following principles of conservation:
  - (a) prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment. For this purpose its size should not be allowed to fall below a level close to that which ensures the greatest net annual increment;

**SCHEDULE—continued**

- (b) maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and the restoration of depleted populations to the levels defined in sub-paragraph (a) above; and
- (c) prevention of changes or minimization of the risk of changes in the marine ecosystem which are not potentially reversible over two or three decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effect of the introduction of alien species, the effects of associated activities on the marine ecosystem and of the effects of environmental changes, with the aim of making possible the sustained conservation of Antarctic marine living resources.

**ARTICLE III**

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

**ARTICLE IV**

1. With respect to the Antarctic Treaty area, all Contracting Parties, whether or not they are Parties to the Antarctic Treaty, are bound by Articles IV and VI of the Antarctic Treaty in their relations with each other.
2. Nothing in this Convention and no acts or activities taking place while the present Convention is in force shall:
  - (a) constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the Antarctic Treaty area or create any rights of sovereignty in the Antarctic Treaty area;
  - (b) be interpreted as a renunciation or diminution by any Contracting Party of, or as prejudicing, any right or claim or basis of claim to exercise coastal state jurisdiction under international law within the area to which this Convention applies;
  - (c) be interpreted as prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any such right, claim or basis of claim;
  - (d) affect the provision of Article IV, paragraph 2, of the Antarctic Treaty that no new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the Antarctic Treaty is in force.

**ARTICLE V**

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

**ARTICLE VI**

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

**ARTICLE VII**

1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as "the Commission").
2. Membership in the Commission shall be as follows:
  - (a) each Contracting Party which participated in the meeting at which this Convention was adopted shall be a Member of the Commission;



**SCHEDULE—continued**

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

**ARTICLE VIII**

The Commission shall have legal personality and shall enjoy in the territory of each of the States Parties such legal capacity as may be necessary to perform its function and achieve the purposes of this Convention. The privileges and immunities to be enjoyed by the Commission and its staff in the territory of a State Party shall be determined by agreement between the Commission and the State Party concerned.

**ARTICLE IX**

1. The function of the Commission shall be to give effect to the objective and principles set out in Article II of this Convention. To this end, it shall:
- (a) facilitate research into and comprehensive studies of Antarctic marine living resources and of the Antarctic marine ecosystem;
  - (b) compile data on the status of and changes in population of Antarctic marine living resources and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;
  - (c) ensure the acquisition of catch and effort statistics on harvested populations;
  - (d) analyse, disseminate and publish the information referred to in sub-paragraphs (b) and (c) above and the reports of the Scientific Committee;
  - (e) identify conservation needs and analyse the effectiveness of conservation measures;
  - (f) formulate, adopt and revise conservation measures on the basis of the best scientific evidence available, subject to the provisions of paragraph 5 of this Article;
  - (g) implement the system of observation and inspection established under Article XXIV of this Convention;
  - (h) carry out such other activities as are necessary to fulfil the objective of this Convention.
2. The conservation measures referred to in paragraph 1 (f) above include the following:
- (a) the designation of the quantity of any species which may be harvested in the area to which this Convention applies;
  - (b) the designation of regions and sub-regions based on the distribution of populations of Antarctic marine living resources;
  - (c) the designation of the quantity which may be harvested from the populations of regions and sub-regions;
  - (d) the designation of protected species;
  - (e) the designation of the size, age and, as appropriate, sex of species which may be harvested;
  - (f) the designation of open and closed seasons for harvesting;
  - (g) the designation of the opening and closing of areas, regions or sub-regions for purposes of scientific study or conservation, including special areas for protection and scientific study;

## SCHEDULE—continued

- (h) regulation of the effort employed and methods of harvesting, including fishing gear, with a view, *inter alia*, to avoiding undue concentration of harvesting in any region or sub-region;
  - (i) the taking of such other conservation measures as the Commission considers necessary for the fulfilment of the objective of this Convention, including measures concerning the effects of harvesting and associated activities on components of the marine ecosystem other than the harvested populations.
3. The Commission shall publish and maintain a record of all conservation measures in force.
  4. In exercising its functions under paragraph 1 above, the Commission shall take full account of the recommendations and advice of the Scientific Committee.
  5. The Commission shall take full account of any relevant measures or regulations established or recommended by the Consultative Meetings pursuant to Article IX of the Antarctic Treaty or by existing fisheries commissions responsible for species which may enter the area to which this Convention applies, in order that there shall be no inconsistency between the rights and obligations of a Contracting Party under such regulations or measures and conservation measures which may be adopted by the Commission.
  6. Conservation measures adopted by the Commission in accordance with this Convention shall be implemented by Members of the Commission in the following manner:
    - (a) the Commission shall notify conservation measures to all Members of the Commission;
    - (b) conservation measures shall become binding upon all Members of the Commission 180 days after such notification, except as provided in sub-paragraphs (c) and (d) below;
    - (c) If a Member of the Commission, within ninety days following the notification specified in sub-paragraph (a), notifies the Commission that it is unable to accept the conservation measure, in whole or in part, the measure shall not, to the extent stated, be binding upon that Member of the Commission;
    - (d) in the event that any Member of the Commission invokes the procedure set forth in sub-paragraph (c) above, the Commission shall meet at the request of any Member of the Commission to review the conservation measure. At the time of such meeting and within thirty days following the meeting, any Member of the Commission shall have the right to declare that it is no longer able to accept the conservation measure, in which case the Member shall no longer be bound by such measure.

## ARTICLE X

1. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels which, in the opinion of the Commission, affects the implementation of the objective of this Convention.
2. The Commission shall draw the attention of all Contracting Parties to any activity which, in the opinion of the Commission, affects the implementation by a Contracting Party of the objective of this Convention or the compliance by that Contracting Party with its obligations under this Convention.

## ARTICLE XI

The Commission shall seek to co-operate with Contracting Parties which may exercise jurisdiction in marine areas adjacent to the area to which this Convention applies in respect of the conservation of any stock or stocks of associated species which occur both within those areas and the area to which this Convention applies, with a view to harmonizing the conservation measures adopted in respect of such stocks.

## ARTICLE XII

1. Decisions of the Commission on matters of substance shall be taken by consensus. The question of whether a matter is one of substance shall be treated as a matter of substance.
2. Decisions on matters other than those referred to in paragraph 1 above shall be taken by a simple majority of the Members of the Commission present and voting.
3. In Commission consideration of any item requiring a decision, it shall be made clear whether a regional economic integration organization will participate in the taking of the decision and, if so, whether any of its member States will also participate. The number of Contracting Parties so participating shall not exceed the number of member States of the regional economic integration organization which are Members of the Commission.
4. In the taking of decisions pursuant to this Article, a regional economic integration organization shall have only one vote.

**SCHEDULE—continued**

**ARTICLE XIII**

1. The headquarters of the Commission shall be established at Hobart, Tasmania, Australia.
2. The Commission shall hold a regular annual meeting. Other meetings shall also be held at the request of one-third of its members and as otherwise provided in this Convention. The first meeting of the Commission shall be held within three months of the entry into force of this Convention, provided that among the Contracting Parties there are at least two States conducting harvesting activities within the area to which this Convention applies. The first meeting shall, in any event, be held within one year of the entry into force of this Convention. The Depositary shall consult with the signatory States regarding the first Commission meeting, taking into account that a broad representation of such States is necessary for the effective operation of the Commission.
3. The Depositary shall convene the first meeting of the Commission at the headquarters of the Commission. Thereafter, meetings of the Commission shall be held at its headquarters, unless it decides otherwise.
4. The Commission shall elect from among its members a Chairman and Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election for one additional term. The first Chairman shall, however, be elected for an initial term of three years. The Chairman and Vice-Chairman shall not be representatives of the same Contracting Party.
5. The Commission shall adopt and amend as necessary the rules of procedure for the conduct of its meetings, except with respect to the matters dealt with in Article XII of this Convention.
6. The Commission may establish such subsidiary bodies as are necessary for the performance of its functions.

**ARTICLE XIV**

1. The Contracting Parties hereby establish the Scientific Committee for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as "the Scientific Committee") which shall be a consultative body to the Commission. The Scientific Committee shall normally meet at the headquarters of the Commission unless the Scientific Committee decides otherwise.
2. Each Member of the Commission shall be a member of the Scientific Committee and shall appoint a representative with suitable scientific qualifications who may be accompanied by other experts and advisers.
3. The Scientific Committee may seek the advice of other scientists and experts as may be required on an ad hoc basis.

**ARTICLE XV**

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

**SCHEDULE—continued****ARTICLE XVI**

1. The first meeting of the Scientific Committee shall be held within three months of the first meeting of the Commission. The Scientific Committee shall meet thereafter as often as may be necessary to fulfil its functions.
2. The Scientific Committee shall adopt and amend as necessary its rules of procedure. The rules and any amendments thereto shall be approved by the Commission. The rules shall include procedures for the presentation of minority reports.
3. The Scientific Committee may establish, with the approval of the Commission, such subsidiary bodies as are necessary for the performance of its functions.

**ARTICLE XVII**

1. The Commission shall appoint an Executive Secretary to serve the Commission and Scientific Committee according to such procedures and on such terms and conditions as the Commission may determine. His term of office shall be for four years and he shall be eligible for re-appointment.
2. The Commission shall authorize such staff establishment for the Secretariat as may be necessary and the Executive Secretary shall appoint, direct and supervise such staff according to such rules, and procedures and on such terms and conditions as the Commission may determine.
3. The Executive Secretary and Secretariat shall perform the functions entrusted to them by the Commission.

**ARTICLE XVIII**

The official languages of the Commission and of the Scientific Committee shall be English, French, Russian and Spanish.

**ARTICLE XIX**

1. At each annual meeting, the Commission shall adopt by consensus its budget and the budget of the Scientific Committee.
2. A draft budget for the Commission and the Scientific Committee and any subsidiary bodies shall be prepared by the Executive Secretary and submitted to the Members of the Commission at least sixty days before the annual meeting of the Commission.
3. Each Member of the Commission shall contribute to the Budget. Until the expiration of five years after the entry into force of this Convention, the contribution of each Member of the Commission shall be equal. Thereafter the contribution shall be determined in accordance with two criteria: the amount harvested and an equal sharing among all Members of the Commission. The Commission shall determine by consensus the proportion in which these two criteria shall apply.
4. The financial activities of the Commission and Scientific Committee shall be conducted in accordance with financial regulations adopted by the Commission and shall be subject to an annual audit by external auditors selected by the Commission.
5. Each Member of the Commission shall meet its own expenses arising from attendance at meetings of the Commission and of the Scientific Committee.
6. A Member of the Commission that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Commission.

**ARTICLE XX**

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

**SCHEDULE—continued**

**ARTICLE XXI**

1. Each Contracting Party shall take appropriate measures within its competence to ensure compliance with the provisions of this Convention and with conservation measures adopted by the Commission to which the Party is bound in accordance with Article IX of this Convention.
2. Each Contracting Party shall transmit to the Commission information on measures taken pursuant to paragraph 1 above, including the imposition of sanctions for any violation.

**ARTICLE XXII**

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

**ARTICLE XXIII**

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

**ARTICLE XXIV**

1. In order to promote the objective and ensure observance of the provisions of this Convention, the Contracting Parties agree that a system of observation and inspection shall be established.
2. The system of observation and inspection shall be elaborated by the Commission on the basis of the following principles:
  - (a) Contracting Parties shall co-operate with each other to ensure the effective implementation of the system of observation and inspection, taking account of the existing international practice. This system shall include, *inter alia*, procedures for boarding and inspection by observers and inspectors designated by the Members of the Commission and procedures for flag state prosecution and sanctions on the basis of evidence resulting from such boarding and inspections. A report of such prosecutions and sanctions imposed shall be included in the information referred to in Article XXI of this Convention;
  - (b) in order to verify compliance with measures adopted under this Convention, observation and inspection shall be carried out on board vessels engaged in scientific research or harvesting of marine living resources in the area to which this Convention applies, through observers and inspectors designated by the Members of the Commission and operating under terms and conditions to be established by the Commission;
  - (c) designated observers and inspectors shall remain subject to the jurisdiction of the Contracting Party of which they are nationals. They shall report to the Member of the Commission by which they have been designated which in turn shall report to the Commission.
3. Pending the establishment of the system of observation and inspection, the Members of the Commission shall seek to establish interim arrangements to designate observers and inspectors and such designated observers and inspectors shall be entitled to carry out inspections in accordance with the principles set out in paragraph 2 above.

**ARTICLE XXV**

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of this Convention, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

**SCHEDULE—continued**

2. Any dispute of this character not so resolved shall, with the consent in each case of all Parties to the dispute, be referred for settlement to the International Court of Justice or to arbitration; but failure to reach agreement on reference to the International Court or to arbitration shall not absolve Parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 above.
3. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this Convention.

**ARTICLE XXVI**

1. This Convention shall be open for signature at Canberra from 1 August to 31 December 1980 by the States participating in the Conference on the Conservation of Antarctic Marine Living Resources held at Canberra from 7 to 20 May 1980.
2. The States which so sign will be the original signatory States of the Convention.

**ARTICLE XXVII**

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

**ARTICLE XXVIII**

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the eighth instrument of ratification, acceptance or approval by States referred to in paragraph 1 of Article XXVI of this Convention.
2. With respect to each State or regional economic integration organization which subsequent to the date of entry into force of this Convention deposits an instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day following such deposit.

**ARTICLE XXIX**

1. This Convention shall be open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which this Convention applies.
2. This Convention shall be open for accession by regional economic integration organizations constituted by sovereign States which include among their members one or more States Members of the Commission and to which the States members of the organization have transferred, in whole or in part, competences with regard to the matters covered by this Convention. The accession of such regional economic integration organizations shall be the subject of consultations among Members of the Commission.

**ARTICLE XXX**

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

**ARTICLE XXXI**

1. Any Contracting Party may withdraw from this Convention on 30 June of any year, by giving written notice not later than 1 January of the same year to the Depository, which, upon receipt of such a notice, shall communicate it forthwith to the other Contracting Parties.
2. Any other Contracting Party may, within sixty days of the receipt of a copy of such a notice from the Depository, give written notice of withdrawal to the Depository in which case the Convention shall cease to be in force on 30 June of the same year with respect to the Contracting Party giving such notice.

**SCHEDULE—continued**

3. Withdrawal from this Convention by any Member of the Commission shall not affect its financial obligations under this Convention.

**ARTICLE XXXII**

The Depositary shall notify all Contracting Parties of the following:

- (a) signatures of this Convention and the deposit of instruments of ratification, acceptance, approval or accession;
- (b) the date of entry into force of this Convention and of any amendment thereto.

**ARTICLE XXXIII**

1. This Convention, of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Government of Australia which shall transmit duly certified copies thereof to all signatory and acceding Parties.
2. This Convention shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.  
Drawn up at Canberra this twentieth day of May 1980.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention.

*(Here follow the signatures on behalf of the parties to the Agreement, including Australia.)*

**ANNEX FOR AN ARBITRAL TRIBUNAL**

1. The arbitral tribunal referred to in paragraph 3 of Article XXV shall be composed of three arbitrators who shall be appointed as follows:
  - (a) The Party commencing proceedings shall communicate the name of an arbitrator to the other Party which, in turn, within a period of forty days following such notification, shall communicate the name of the second arbitrator. The Parties shall, within a period of sixty days following the appointment of the second arbitrator, appoint the third arbitrator, who shall not be a national of either Party and shall not be of the same nationality as either of the first two arbitrators. The third arbitrator shall preside over the tribunal.
  - (b) If the second arbitrator has not been appointed within the prescribed period, or if the Parties have not reached agreement within the prescribed period on the appointment of the third arbitrator, that arbitrator shall be appointed, at the request of either Party, by the Secretary-General of the Permanent Court of Arbitration, from among persons of international standing not having the nationality of a State which is a Party to this Convention.
2. The arbitral tribunal shall decide where its headquarters will be located and shall adopt its own rules of procedure.
3. The award of the arbitral tribunal shall be made by a majority of its members, who may not abstain from voting.
4. Any Contracting Party which is not a Party to the dispute may intervene in the proceedings with the consent of the arbitral tribunal.
5. The award of the arbitral tribunal shall be final and binding on all Parties to the dispute and on any Party which intervenes in the proceedings and shall be complied with without delay. The arbitral tribunal shall interpret the award at the request of one of the Parties to the dispute or of any intervening Party.
6. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares.

