

## EXPLANATORY STATEMENT 1 OF 2007

### AMENDMENT, ADOPTED AT CHRISTCHURCH IN NOVEMBER 2006, TO ANNEX 1 OF THE AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS (ACAP) OF 19 JUNE 2001, [2004] ATS 5

#### Practical and legal effect

1. The proposed treaty matter will change taxonomic classifications used in the above treaty (ACAP) for certain birds (which are listed in Annex 1 of ACAP). The practical and legal effect of this taxonomic reclassification is negligible. This is because, although some **taxa** are now described differently in Annex 1 of ACAP, the birds covered by the Agreement are the same.

#### Nature and timing of proposed treaty matter

2. The ACAP Advisory Committee established a Taxonomy Working Group (the Group). The Group, chaired by an Australian, prescribed a standard procedure for assessing the specific status of **taxa** at its first meeting in July 2005. The Group then reviewed the taxonomy originally used in ACAP and recommended changes in the taxonomic status of three pairs of **taxa**, namely:

- a) Antipodean and Gibson's albatrosses;
- b) Buller's and Pacific albatrosses; and
- c) Shy and White-capped albatrosses.

3. At the second Meeting of the Parties of ACAP in November 2006 (MoP2) the Parties, including Australia, accepted all of the above recommendations of the Group. MoP2 also adopted Resolution 2.5 (2006) to amend Annex 1 of the ACAP (which is the list of albatross and petrel species to which ACAP applies). The Resolution noted that the Antipodean and Gibson's albatrosses should not be recognised as separate species, nor should the Buller's and Pacific albatrosses. However, the Shy and White-capped Albatrosses should be recognised separately.

4. The effect of the Amendment is therefore to remove the Gibson's and Pacific species of albatrosses from Annex 1 (with the birds of those species now considered part of the Antipodean and Buller's species respectively). The Shy and White-capped albatrosses were maintained on the list as discrete species.

5. The amendment was made via a 'tacit acceptance' procedure in Article XII (5) of ACAP, which provides for automatic entry into force 90 days after its adoption. Australia lodged a foreshadowed reservation (attached), under Article XII (6), on 14 February 2007 with the depositary for the ACAP in order to allow sufficient time for Australia to complete its domestic treaty review process (thereby preventing the Amendment coming into force for Australia on 15 March 2007). Consistent with the Government's continuing support for Australia accepting the Amendment in MoP2, it now wishes the reservation to be withdrawn so that the Amendment will enter into force for Australia. Australia proposes to withdraw its reservation to the above amendment after consideration by the Joint Standing Committee on Treaties.

#### Reasons for Australia to take the proposed action relating to the treaty matter

6. Australia's endorsement of Resolution 2.5 (2006) is consistent not only with Australia's longstanding support for efficient and effective scientific research - which is relevant to ACAP - but also with Australia's active backing of (and participation in) the Group.

#### Implementing legislation

7. No legislative changes are needed to implement the proposed treaty action.



N° ILB 07/41

The Department of Foreign Affairs and Trade has the honour to refer the Depositary of the Agreement on the Conservation of Albatrosses and Petrels, done at Canberra on 19 June 2001, to the amendment to Annex 1 to the Agreement adopted on 17 November 2006 by the Second Session of the Meeting of Parties, recorded as Resolution 2.5 of the Meeting.

The Department of Foreign Affairs and Trade has the further honour, in accordance with Article XII(6) of the Agreement, to inform the Depositary that, in order to allow completion of Australia's domestic process for the consideration of treaties, the Government of Australia enters a reservation to the entry into force at this time of the amendment to the Annex for Australia.



CANBERRA  
14 February 2007