

Measure 4 (2006) Specially Protected Species: Fur Seals

Introduction

- 5.1 *Measure 4 (2006) Specially Protected Species: Fur Seals* was adopted by consensus at the 29th session of the Antarctic Treaty Consultative Meeting in Edinburgh in Scotland in 2006.¹
- 5.2 The proposed treaty action amends Appendix A to Annex II to the *Protocol on Environmental Protection to the Antarctic Treaty* (the Protocol).² Amendments to annexes³ are adopted by Consultative Parties at the annual Antarctic Treaty Consultative Meeting (ATCM), via a Measure. Measure 4 will remove the fur seal species of the genus *Arctocephalus*, from the list of Specially Protected Species.⁴

1 Mr Jonathon Barrington, *Transcript of Evidence*, 26 March 2007, p. 15.

2 NIA, para. 1.

3 Pursuant to Article 9 of the Protocol and Article IX of the Antarctic Treaty [1961] ATS 12, amendments to annexes are adopted by Consultative Parties. See NIA, para. 2.

4 Mr Jonathon Barrington, *Transcript of Evidence*, 26 March 2007, p. 15.

Background

The Antarctic Treaty

- 5.3 The *Antarctic Treaty* is a multilateral agreement under which Parties ensure that Antarctica is used exclusively for peaceful purposes. The Treaty guarantees freedom of scientific research, promotes international scientific cooperation, allows for inspection of all operations, sets aside potential for disputes over territorial sovereignty in Antarctica, and provides for regular meetings between the Parties.⁵
- 5.4 The Protocol is a multilateral agreement under the Antarctic Treaty. It commits Parties to the protection of the Antarctic environment and its dependent and associated ecosystems, and designates Antarctica as a natural reserve, devoted to peace and science.⁶
- 5.5 Australia has been a Consultative Party⁷ to the Antarctic Treaty since it came into force in 1961.⁸ Australia took a leading role in the formation of both the Treaty and the Protocol, and maintenance of the Antarctic Treaty is a high priority for the Australian government.⁹ Australia has a large territorial claim and an extensive research program in Antarctica.¹⁰

Specially Protected Species

- 5.6 There are seven types of genus of seals that inhabit the Antarctic region. Of the seven, three of these have been on the Specially Protected Species list. They are the Antarctic fur seal, the sub-Antarctic fur seal and the Ross seal.¹¹ Fur Seals were put on the Specially Protected Species list in the 1960s to protect them from

5 NIA, para. 7.

6 NIA, para. 7.

7 Consultative Parties include all original signatories to the Antarctic Treaty and all Parties that acceded to the Treaty and are demonstrating their interest in Antarctica by conducting substantial scientific research activity there. Consultative Parties have voting status at the annual Antarctic Treaty Consultative Meetings. Contracting Parties whose representatives were entitled to participate in the meetings in this context can also be read as Consultative Parties.

8 NIA, para. 6.

9 NIA, para. 7.

10 NIA, para. 7.

11 Mr Jonathon Barrington, *Transcript of Evidence*, 26 March 2007, p. 18.

commercial harvesting.¹² Measure 4 will remove the Antarctic fur seal and the sub-Antarctic fur seal but not the Ross seal, from the Specially Protected Species list.¹³

- 5.7 The term of Specially Protected Species has been developed to provide an internationally recognised special category by which species at risk of extinction can be designated. When it is established that a species is no longer at risk of extinction it is removed from the category.¹⁴

Purpose of the Measure

- 5.8 Since 1999 the Consultative Parties have sought to review the status of species listed as Specially Protected Species and to establish objective criteria for selecting species for listing, adopting guidelines for the listing and delisting of Specially Protected Species in 2005.¹⁵ The Consultative Parties have agreed that fur seals no longer require Specially Protected Species status to ensure their conservation.¹⁶
- 5.9 The Scientific Committee on Antarctic Research (SCAR) has determined that both the Antarctic (*A. gazelle*) and the sub-Antarctic (*A. tropicalis*) fur seals are no longer at significant risk of extinction. SCAR described the recovery of the populations of fur seals in the Antarctic Treaty area as ‘a major conservation success, attributable to the concerted actions taken national and internationally to rescue heavily exploited populations from probable extinction’.¹⁷
- 5.10 The removal of fur seals from the Specially Protected Species list will not result in any potential threat of future commercial exploitation.¹⁸ Fur seals will continue to receive the comprehensive general protections afforded to all Antarctic seal species under the Protocol. These protections include the restriction that taking or harmful interference must be in accordance with a permit, and only for purposes of scientific study, educational or cultural uses, or

12 Mr Jonathon Barrington, *Transcript of Evidence*, 26 March 2007, p. 16.

13 Mr Jonathon Barrington, *Transcript of Evidence*, 26 March 2007, pp. 18 and 19.

14 Mr Jonathon Barrington, *Transcript of Evidence*, 26 March 2007, p. 16.

15 NIA, para. 8.

16 NIA, para. 4.

17 NIA, para. 9.

18 NIA, para. 10.

unavoidable consequences of scientific activity.¹⁹ The grant of permits is also limited by the restrictions that no more fur seals are to be taken than are strictly necessary, no more taken than can be replaced by natural reproduction, and the diversity and ecosystem balance must be maintained.²⁰

- 5.11 There are additional conditions attached to permits for taking species on the Specially Protected Species list, namely, the taking must be for a compelling scientific purpose, not jeopardise the survival of the species, and use non-lethal techniques where possible.²¹
- 5.12 The NIA states that removal of fur seals from the Specially Protected Species list will be in the national interest because it is expected to improve the efficiency and effectiveness of the Antarctic Treaty and associated agreements.²² The fur seal's removal reinforces the operation of the Specially Protected Species designation as a mechanism for protecting Antarctic species at significant risk of extinction.²³

Entry into force and withdrawal

- 5.13 The measure will automatically become effective one year after the close of the next ATCM (that is, on 23 June 2007), unless, prior to that date, one or more of the Consultative Parties
- requests an extension of the time period, or
 - states that it is unable to approve the measure.²⁴
- 5.14 Neither the Measure nor the Protocol contains a specific withdrawal provision.²⁵ Australia can withdraw as a Party from either the Antarctic Treaty or Protocol at any time so long as it has the consent of all Parties following consultation.²⁶

19 NIA, para. 14.

20 NIA, para. 14.

21 NIA, para. 13.

22 NIA, paras 5 and 11.

23 NIA, para. 15.

24 NIA, para. 3.

25 NIA, para. 24.

26 NIA, para. 26.

Consultation

- 5.15 Prior to the ATCM in June 2006, the Department of Foreign Affairs and Trade (DFAT) held consultative meetings with other government departments, including the Australian Government Antarctic Division of the Department of the Environment and Water Resources, the Attorney-General's Department, and the Department of Industry, Tourism and Resources. The consultative forum hosted by DFAT was attended by the Antarctic and Southern Ocean Coalition, a coalition of environmental non-government organisations. The views of these organisations were taken into account in developing Australia's position in relation to proposals considered at the ATCM.²⁷
- 5.16 The Measure does not affect the States and Territories as the measure only applies to the Antarctic Treaty area.²⁸

Costs

- 5.17 The proposed treaty action is not expected to impose any additional costs to Australia. The Measure will not require any new domestic agencies or management arrangements to be put in place.²⁹

Other Matters

- 5.18 In response to a question on branding seals, the Committee was informed that the Australian Antarctic Ethics Committee imposes strict ethical standards for research on fur seal and elephant seal populations at Macquarie Island. Branding is strictly prohibited. Tagging of seals involves the insertion of a small tag into the flipper of the animal.³⁰

27 A representative from the Antarctic and Southern Ocean Coalition participated as a member of the Australian delegation at ATCM XXIX. The State Government representative on the Australian delegation to ATCM XXIX was from the Department of Economic Development of the Government of Tasmania. NIA, Consultation, paras 1 and 2.

28 NIA, Consultation, para. 1.

29 NIA, para. 18.

30 Department of Environment and Water Resources (DEWR), *Submission 1*.

- 5.19 In addition, the Committee requested further information on the recovery of seal populations in the Antarctic region from the 1960s and were informed that Antarctic fur seals were considered extinct until a colony was found on Bird Island, South Georgia in 1950. This colony of approximately 1,000-3,000 fur seals then recovered at a spectacular rate. The colony emigrated from its founder colony to many previous sites in its former range. In the past half century the Antarctic fur seal population has grown to over 1.6 million. About 95 per cent of these seals still live in South Georgia, but other colonies around the Southern Oceans are continuing to recover at a rapid rate (almost 10 per cent each year).³¹
- 5.20 The recovery of the sub-Antarctic fur seals has probably also taken place in the past 50 years. Its population is smaller (>300,000) and is primarily located on Gough Island (South Atlantic Ocean) and Prince Edward Island and Amsterdam Island in the southern Indian Ocean.³²

Conclusion and recommendations

- 5.21 The Committee welcomes scientific research indicating that fur seal numbers have reached a level that no longer requires their inclusion under the Specially Protected Species designation.
- 5.22 The Committee was also reassured:
- That fur seals would continue to receive the comprehensive general protection afforded to all Antarctic seal species under the Protocol, and that they would not be exposed to any potential threat of commercial exploitation in future as a result of their de-listing as Specially Protected Species.³³
- 5.23 In view of this research and in recognition of the importance of maintaining a current list of species that do require the level of protection offered under the Specially Protected Species Designation the Committee supports the removal of the words, 'All species of the genus *Arctocephalus*, Fur Seals' from the measure.

31 DEWR, *Submission 1*.

32 DEWR, *Submission 1*.

33 NIA, para. 10.

Recommendation 4

The Committee supports *Measure 4 (2006) Specially Protected Species: Fur Seals* and recommends that binding treaty action be taken.

