

Act implementing the Protocol of Environmental Protection to the Antarctic Treaty of 4 October 1991 (Act Implementing the Environmental Protection Protocol)

of 22 September 1994

The Bundestag has promulgated the following Act:

### Article 1

#### Objective of the Act

The objective of this Act is the comprehensive protection of the Antarctic environment and dependent and associated ecosystems as well as the preservation of the Antarctic as a nature reserve devoted to peace and science.

### Article 2

#### Definition of terms, requirements and prohibitions

(1) Within the meaning of this Act:

1. "Antarctic" is the area south of 60 degrees South Latitude;
2. "activities" are expeditions, journeys, voyages and flights for supplies, inspections and other operations undertaken in or to the Antarctic, or the construction, conversion, dismantling or operation of scientific stations or other facilities or installations, which are organised in the Federal Republic of Germany or proceed from its territory. The term "activity" includes any changes in an activity;

3. "Initial Environmental Evaluation" is the preliminary evaluation of environmental impacts in accordance with Article 2 of Annex I to the Protocol of Environmental Protection to the Antarctic Treaty;
  4. "Comprehensive Environmental Evaluation" is the comprehensive evaluation of environmental impacts in accordance with Article 3 of Annex I to the Protocol of Environmental Protection to the Antarctic Treaty; and
  5. "wastes" are moveable property, including liquid and gaseous matter, which the possessor wants to discharge, or the controlled disposal of which is called for in order to preserve public welfare and in particular the protection of the environment; or residual radioactive matter or radioactive components of disassembled or dismantled facilities, the controlled disposal of which should be made in accordance with Article 9a, paragraph 1 indent 2 of the Atomic Energy Act.
- (2) The requirements and prohibitions set forth in Articles 17, 18, 20 to 24, 26, 29, 32 and 34, and in statutory ordinances in accordance with Article 5 (7), are applicable to participants in an activity in accordance with paragraph (1), indent 2, and to natural persons domiciled or habitually resident in the territory of the Federal Republic of Germany.

## Article 3

## General requirement to obtain a permit

- (1) A permit is required for an activity in accordance with Article 2 (1), indent 2, of this Act which is carried out by:
1. German nationals;
  2. other natural persons domiciled or habitually resident in the territory of the Federal Republic of Germany;
  3. legal persons or unincorporated associations resident in the territory of the Federal Republic of Germany; or
  4. foreign legal persons or unincorporated associations.

Permits should be applied for in writing to the Federal Environmental Agency. Foreign legal persons must name a person within the meaning of indents 1 to 3 of this Article to act as an applicant within the meaning of this Act. In the case of a group of persons who want to carry out an activity jointly, a permit covering all those participating can be issued to an applicant authorised in accordance with Articles 14 to 21 of the Administrative Procedure Act (*Verwaltungsverfahrensgesetz*). In the case of activities of a uniform nature carried out regularly in the Antarctic, a permit can be issued for a specific period of time not exceeding one year.

- (2) A permit in accordance with paragraph (1) of this Article is not required for:

1. activities which have been authorised by another Party to the Protocol of Environmental Protection to the Antarctic Treaty;
  2. ships' movements made only for the purpose of crossing the Atlantic without course being set for destinations in the Antarctic;
  3. activities directly related to research on or use of Antarctic seals in accordance with the Act enacting the Convention of 1 June 1972 for the Conservation of Antarctic Seals (Federal Law Gazette 1987 II, p. 90);
  4. activities directly related to research on or use of marine living resources in accordance with the Act enacting the Convention of 20 May 1980 in the Conservation of Antarctic Marine Living Resources (Federal Law Gazette 1982 II, p. 420)
- (3) The Federal Environmental Agency must be informed of activities in accordance with paragraph (2) of this Article.
- (4) A permit may only be issued if the activity in the Antarctic does not give cause to suspect any:
1. adverse effects on climate or weather patterns;
  2. significant adverse effects on air or water quality;
  3. significant changes in the atmospheric, terrestrial, aquatic, glacial or marine environment;

4. harmful changes in the distribution, abundance or productivity of animal or plant species or their populations;
  5. further jeopardy to endangered species or populations;
  6. harm or significant jeopardy to areas of biological, scientific, historic or aesthetic significance or of a primeval nature; or
  7. other significantly detrimental effects on the environment or dependent and associated ecosystems.
- (5) If the intended activity comprises actions which are prohibited under Article 17 (1), Article 18 (2) and (4) or Article 29 (2) and (3) of this Act, a permit may only be issued if the preconditions laid down in Article 17 (2), (3) and (4), Article 18 (5) or Article 30 (1) and (2) of this Act are fulfilled. In this case a permit issued under Article 3 of this Act is also deemed as a permit in accordance with Articles 17, 18 and 29 of this Act.
- (6) In the case of wastes which are shipped into the Federal Republic of Germany in accordance with Article 21 (4) of this Act, the applicant must have documentary proof of intended waste disposal in accordance with Articles 8 and 12 of the Waste and Residual Substances Supervision Ordinance (*Abfall- und Reststoffüberwachungsverordnung*) of April 3 1990 (Federal Law Gazette I, p. 648), or in accordance with Article 9a of the Atomic Energy Act of 23 December 1959 as amended on 25 July 1985 (Federal Law Gazette I, p. 1565).
- (7) A permit can be issued subject to conditions and provisos. It must be restricted to a specified period. After being issued it can, on consideration

of the interests of the beneficiary warranting protection, be wholly or partially revoked or have conditions imposed if facts become known which give cause to suspect that the activity will have effects in accordance with Article 3 (4).

- (8) The Federal Environmental Agency shall decide on the issue of the permit. Before making its decision it shall obtain the comments of the authorities whose area of responsibilities are affected by the activity. Before a decision is made the Alfred Wegener Institute for Polar and Marine Research shall be given the opportunity to be heard.

#### Article 4

##### General procedure

- (1) To justify his application for a permit the applicant must describe the proposed activity in detail and at the same time state whether it is likely to have effects on environmental assets to be protected set forth in Article 3 (4) of this Act; and which assets are likely to be affected. The statement that the activity will have no effects on these assets shall be accompanied by reasons.
- (2) Documents which contain business or trade secrets or personal data shall be marked as such by the applicant and submitted separately. Insofar as this can be done without disclosing secrets and protected data, their content should be presented by the applicant in such detail as to make it possible for those inspecting the documents to determine whether and to what extent the environmental assets to be protected set forth in Article 3 (4) of this Act may be expected to be impaired. If the Federal Environmental Agency regards the designation of the documents as

business or trade secrets to be unjustified, it shall hear the applicant before reaching a decision as to the interpretation of the documents.

(3) The Federal Environmental Agency shall, on the basis of existing documents, or documents submitted under paragraph (1) of this Article judge whether the activity gives cause to suspect:

1. less than a minor or transitory impact;
2. a minor or a transitory impact; or
3. more than a minor or a transitory impact

on the assets to be protected set forth in Article 3 (4) of this Act. The Federal Environmental Agency shall inform the applicant of its judgement and on how to proceed further.

(4) In the case of paragraph (3), indent 1 of this Act, the Federal Environmental Agency shall issue a permit within six weeks without an **Initial Environmental Evaluation** or a **Comprehensive Environmental Evaluation** being carried out.

(5) In the case of paragraph (3), indent 2 or 3 of this Act, the Federal Environmental Agency shall inform the applicant of the necessity of an **Initial Environmental Evaluation** in accordance with Article 7 of this Act or of a **Comprehensive Environmental Evaluation** in accordance with Article 8 of this Act. The Federal Environmental Agency is to discuss with the applicant the object, scope and methods of the **environmental impact assessment** as well as matters of importance in carrying it out.

Other authorities, experts and third parties may be invited to take part in this discussion. The Federal Environmental Agency is to inform the applicant on the expected scope of the **environmental impact assessment** and on the nature and extent of the documents expected to be submitted. If the Federal Environmental Agency has information which is pertinent to the submission of documents it should make this information available to the applicant.

## Article 5

### Prevention of marine pollution

- (1) If a ship is employed as part of an activity within the meaning of Article 2 (1), indent 2 of this Act, the Federal Environmental Agency shall, with regard to hazards to the marine environment caused by shipping, take into account comments by the Federal Maritime and Hydrographic Office when issuing its permit. Reasons must be given for deviations from these comments.
- (2) If a ship flying a foreign flag is employed as part of an activity within the meaning of Article 2 (1), indent 2 of this Act, the comments by the Federal Maritime and Hydrographic Office shall include the statement whether the requirements of Article 3 (4) of this Act with regard to the ship's traffic and operational safety are fulfilled.
- (3) Paragraphs (1) and (2) of this Article shall apply *mutatis mutandis* in the case of Article 14 (2) and Article 16 of this Act.
- (4) Paragraphs (1) to (3) of this Article shall not affect:



1. the Federal Maritime Responsibilities Act (*Seeaufgabengesetz*);
2. the Seamen's Act (*Seemannsgesetz*);
3. the Transport of Dangerous Goods Act (*Gesetz über die Beförderung gefährlicher Güter*),

and all statutory ordinances enacted on the basis of these Acts.

- (5) The applicant must ensure that records are kept of all wastes and sewages, including all introductions and discharges into the marine environment, caused by ships' operations as part of an activity within the meaning of Article 2 (1), indent 2 of this Act, insofar as these records are not already kept in applying the International Convention of 1973 on the Prevention of Pollution from Ships and the Protocol of 1978 Relating to the Convention. The records shall be submitted to the Federal Maritime and Hydrographic Office on request.
- (6) The applicant must inform the Federal Maritime and Hydrographic Office without undue delay of introductions and discharges in cases of emergency in connection with the safety of the ship and the persons on board, or with saving human life at sea. The Federal Maritime and Hydrographic Office shall pass this information on to the Federal Environmental Agency. The Federal Environmental Agency shall inform the Parties to the Protocol of Environmental Protection and the Committee for Environmental Protection in accordance with Article 11 of the Protocol of Environmental Protection to the Antarctic Treaty of any introductions and discharges carried out in accordance with the first sentence of this paragraph.

- (7) To implement Annex IV to the Protocol of Environmental Protection to the Antarctic Treaty the Federal Ministry of Transport, in agreement with the Federal Foreign Office and the Federal Ministry for the Environment, Nature Protection and Nuclear Safety, is authorised by statutory ordinance:
1. to adopt statutory regulations on the discharge of harmful liquid substances or any other chemical or other substances in accordance with Article 4 of Annex IV to the Protocol of Environmental Protection to the Antarctic Treaty
  2. to adopt statutory regulations on the introduction of waste in accordance with Article 5 of Annex IV to the Protocol of Environmental Protection to the Antarctic Treaty;
  3. to adopt provisions on the discharge of sewage in accordance with Article 6 of Annex IV to the Protocol of Environmental Protection to the Antarctic Treaty.
- (8) Any violation of the regulations of the International Convention of 1973 on the Prevention of Pollution from Ships and the Protocol of 1978 Relating to the Convention, including the revised version in force through the statutory ordinance in accordance with Article 2, (1) of the Act of 23 December 1981, enacting the said Convention and Protocol (Federal Law Gazette 1982 II, p. 2), can also be punished in the case of a person belonging to the group referred to in Article 2 (2) of this Act if it is committed on or by a ship not entitled to fly the German flag.

- (9) It is incumbent on the Federal Maritime and Hydrographic Office to control the implementation of the provisions of Annex IV of the Protocol of Environmental Protection to the Antarctic Treaty. The Federal Environmental Agency is to be informed on measures introduced.
- (10) More stringent regulations concerning the protection of the marine environment shall apply in accordance with the Act of 23 December 1981 enacting the International Convention of 1973 on the Prevention of Pollution from Ships and the Protocol of 1978 Relating to the Conventions (Federal Law Gazette 1982 II, p. 2) and the Act enacting the Convention of 15 February 1972 and 29 December 1972 for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (Federal Law Gazette 1977 II, p. 165)

## Article 6

### Research activities

- (1) Scientific research activities in the Antarctic and activities serving their conduct or preparation which gives cause to suspect less than a minor or transitory impact in accordance with Article 4 (3), indent 1 of this Act, should, notwithstanding Article 3 (1) of this Act, be notified in writing to the Federal Environmental Agency not later than three months before their commencement. The notification must state clearly that the activity will only have less than a minor or transitory impact on the environmental assets to be protected set forth in Article 3 (4) of this Act. Article 4 (1) of this Act shall apply *mutatis mutandis*.
- (2) If the examination indicates that the activity notified gives cause to suspect only less than a minor or transitory impact on the environmental

assets to be protected set forth in Article 3 (4) of this Act, Article 4 (4) of this Act shall apply *mutatis mutandis*. If the Federal Environmental Agency does not comment within six weeks of receipt of the notification, this shall be considered a permit.

- (3) Scientific research activities in the Antarctic and activities serving their conduct or preparation which give cause to suspect a minor or transitory impact according to Article 4 (3), indent 2 of this Act, or a more than minor or transitory impact in accordance with Article 4 (3), indent 3 of this Act, are subject to an official permit in accordance with Article 3 (1) of this Act. If the Federal Environmental Agency determines that an activity notified in accordance with paragraph (1) of this Article fulfils the conditions of Article 4 (3), indent 2 or 3 of this Act, the notification shall be deemed to be an application for a permit in accordance with Article 3 (1) of this Act.
- (4) When examining a scientific research activity or activity serving its conduct of preparation, which fulfils the conditions of Article 4 (3), indent 2 or 3 of this Act, the Federal Environmental Agency shall take into account the judgement of the activity by a committee of independent experts appointed jointly by the Federal Foreign Office, the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, and the Federal Ministry for Research and Technology. Reasons must be given for any deviations from this judgement.
- (5) The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, in agreement with the Federal Foreign Office and the Federal Ministry for Research and Technology, is authorised to determine

by statutory ordinance the composition, appointment and procedure of the committee.

#### Article 7

Permit procedure accompanied by **Initial Environmental Evaluation**

- (1) Activities which are likely to have at least minor or transitory impacts must be subjected to an **Initial Environmental Evaluation** provided the Federal Environmental Agency does not, on the basis of its judgement in accordance with the first sentence of Article 4 (3) of this Act, consider a **Comprehensive Environmental Evaluation** to be necessary. For this purpose the applicant has to submit documents with the following information:
  1. a description of the proposed activity, including its purpose, its location and likely area of impact its duration and intensity; and
  2. a description of alternatives to the proposed activity and all likely impacts of the proposed activity, including cumulative impacts in the light of existing and known planned activities.
- (2) If the examination indicates that the activity gives cause to suspect only a minor or transitory impact on the environmental assets to be protected set forth in Article 3 (4) of this Act, a permit will be issued. It will be subject to conditions, or if necessary be issued under provisos, which will ensure that the requirements of this Act are met.
- (3) The result of the **Initial Environmental Evaluation** is to be included in the justification for the permit?

- (4) The Federal Environmental Agency will on request make available the permit, the documents under paragraph (1), including the description under the second sentence of Article 4 (2) of this Act with the exception of the documents under the first sentence of Article 4 (2) of this Act, and also, if Article 6 (4) of this Act applies, the committee's comments.

## Article 8

Permit Procedure accompanied by **Comprehensive Environmental Evaluation**

- (1) Activities which may be expected to have more than a minor or a transitory impact shall be subject to a **Comprehensive Environmental Evaluation**.
- (2) The **Comprehensive Environmental Evaluation** is an integral part of the procedure for issuing a permit. It serves to identify, describe and evaluate the impact of the activity on the environmental assets to be protected set forth in Article 3 (4) of this Act. It shall be conducted with the participation of the public in accordance with the provisions of this Act.
- (3) In this connection, the applicant must submit the results of an assessment of the activity and its environmental impact in the English and German languages; the assessment must include the following information:
1. a description of the proposed activity, including its purpose, location, likely area of impact, duration and intensity, and a description of possible alternatives to the activity, including the alternative of not proceeding, and the consequences of these alternatives;

2. a description of the initial environmental reference state in the area of impact of the activity with which predicted changes are to be compared, and a prediction of the future environmental reference state in the absence of the proposed activity,
3. a description of the methods and data used to forecast the impacts of the proposed activity;
4. a description of the nature, extent, duration and intensity of the likely direct impacts of the proposed activity;
5. a description of possible indirect impacts of the proposed activity;
6. a description of cumulative impacts resulting from the proposed activity in the light of existing activities and other known planned activities;
7. identification of measures, including monitoring programmes, that could be taken in order to minimise or mitigate impacts resulting from 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;
8. identification of unavoidable impacts of the proposed activity;
9. a description of the effects of the proposed activity on the conduct of scientific research and on other existing uses and values;

10. an identification of gaps in knowledge and uncertainties encountered in compiling the information required under this paragraph;
11. a non-technical summary of the information provided under this paragraph; and
12. the name and address of the person or organisation which submitted the results of the evaluation, and the address to which comments thereon should be directed.

## Article 9

### Making available for public inspection; objections

- (1) The application for a permit to be issued and the evaluation pursuant to Article 8 (3) of this Act shall, with the exception of documents in accordance with the first sentence of Article 4 (2) of this Act, be made available for inspection at the headquarters of the Federal Environmental Agency for ninety days. During this period of inspection, objections to the evaluation can be made in writing to the Federal Environmental Agency or taken on record. Written objections should also be submitted in the English language. If a translation into English is not submitted without undue delay the Federal Environmental Agency can procure one itself at the objector's expense and demand an advance payment from the objector therefor to the amount of the costs likely to arise. There shall be no objections after the period for objections has expired.



- (2) The Federal Environmental Agency must officially announce the inspection period at least three weeks beforehand in the Federal Gazette. The announcement should indicate:
1. where and when the application for a permit, and the documents pursuant to Article 8 (3) of this Act, are to be laid out for inspection; and
  2. that objections are to be made to the Federal Environmental Agency during the inspection period and that late objections shall not be considered at the hearing or in the decision.
- (3) After expiry of the inspection period, the objections for a permit within the correct period to the application shall be discussed with the applicant and the objectors.

#### Article 10

Informing the Parties to the Protocol of Environmental Protection to the Antarctic Treaty and the Committee for Environmental Protection

- (1) The assessment made pursuant to Article 8 (3) of this Act shall be circulated to all the Parties to the Protocol of Environmental Protection to the Antarctic Treaty. When this information is circulated attention should be drawn to the fact that any comments must be submitted within a period of 90 days.
- (2) The assessment pursuant to Article 8 (3) of this Act shall be circulated to the Committee for Environmental Protection within the meaning of

Article 11 of the Protocol of Environmental Protection to the Antarctic Treaty.

### Article 11

#### Consideration by Consultative Meeting of the Contracting Parties to the Antarctic Treaty

- (1) No decision shall be taken on the application for a permit for an activity subject to a **Comprehensive Environmental Evaluation** pursuant to Article 8 of this Act until a Consultative Meeting of the Contracting Parties to the Antarctic Treaty (Article 11 of the Antarctic Treaty) has had adequate opportunity to examine the documents pursuant to Article 8 (3) of this Act. Adequate opportunity for examination only exists when the result of the assessment pursuant to Article 8 (3) of this Act has been received by the Committee for Environmental Protection at least one hundred and twenty days before the start of the Consultative Meeting. The Federal Environmental Agency must await the comments of the Consultative meeting before deciding and take these into account in making its decision.
- (2) The first sentence of paragraph (1) of this Article shall not apply if no Consultative meeting takes place within fifteen months of the documents being received by the Committee for Environmental Protection or if consideration of the documents cannot be completed within this period.

### Article 12

Permit following **Comprehensive Environmental Evaluation**

- (1) Basing its statement on the assessment pursuant to Article 8 (3) of this Act, the comments of other Parties to the Protocol of Environmental Protection to the Antarctic Treaty, the comments of the Consultative Meeting of the Contracting Parties to the Antarctic Treaty, the comments of other bodies, and the objections, the Federal Environmental Agency shall prepare a summary description of the activity's impacts, including interactions, on the environmental assets to be protected set forth in Article 3 (4) of this Act. The results of its own investigations shall be incorporated. The comments obtained and the objections received from other bodies shall be presented separately.
- (2) If there is cause to suspect the activity will have more than a minor or a transitory impact on the environmental assets to be protected set forth in Article 3 (4) of this Act, a permit may only be issued if it can be ensured through conditions and provisos that the requirements of this Act will be fulfilled.
- (3) An assessment of the proposed activity's likely adverse effects compared to its benefits shall be made in the statement of reasons for the permit. If the Federal Environmental Agency deviates from the result of the examination or from the positions of other official bodies or the Consultative Meeting of the Contracting Parties to the Antarctic Treaty, its reasons for doing so must be given. This will be without prejudice to the determination of the traffic and operational safety of ships in accordance with Article 5 (2) of this Act.

### Article 13

#### Informing Third Parties

- (1) Permits in accordance with Article 12 (2) of this Act, together with the statement of reasons and all documents important for the decisions made, shall be:
  1. kept for public inspection at the headquarters of the Federal Environmental Agency, and
  2. circulated through diplomatic channels to the Parties to the Protocol of Environmental Protection to the Antarctic Treaty and to the Environmental Committee in accordance with Article 11 of said Protocol. The applicant shall be informed of the date of circulation.
- (2) Any activity for which a permit has been issued under Article 12 (2) of this Act may not be commenced before the expiry of sixty days after the documents referred to in paragraph (1) of this Article have been circulated to the Parties to the Protocol of Environmental Protection.

#### Article 14

##### Verification and Review

- (1) The Federal Environmental Agency shall be responsible for verifying compliance with this Act and the permits issued.
- (2) The Federal Environmental Agency shall at regular intervals verify what environmental impacts are caused by activities permitted in accordance with Article 4, 6, 7 or 12 of this Act. It shall consider the extent to which these impacts are consistent with the Protocol of Environmental Protection to the Antarctic Treaty.

- (3) The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety shall be authorised to determine by statutory ordinance, in agreement with the Federal Foreign Office and the Federal Ministry for Research and Technology, the organisation of verification, cooperation with other authorities in this connection and the appointment of environment officials for activities in the Antarctic.

## Article 15

### Regular Information

- (1) The following shall be circulated annually to the Committee for Environmental Protection in accordance with Article 11 of the Protocol of Environmental Protection to the Antarctic Treaty, and to the Parties to that Protocol:
1. a description of the procedures pursuant to Articles 3 to 14 of this Act;
  2. a list of the permits in accordance with Article 7 of this Act; and
  3. appropriate information resulting from verification in accordance with Article 14 of this Act.
- (2) The Federal Environmental Agency must keep the information referred to in paragraph (1) of this Article available for public inspection.

## Article 16

**Environmental Impact Assessments** of other Parties

- (1) Documents on environmental impact assessments circulated by other Parties to the Protocol of Environmental Protection to the Antarctic Treaty shall be sent by the Federal Environmental Agency to the bodies referred to in Article 3 (8) of this Act. These shall then be given an opportunity to comment within thirty days.
- (2) The documents shall be laid out publicly at the headquarters of the Federal Environmental Agency for a period of three weeks. The second to fifth sentences of Article 9 (1) and (2) of this Act shall apply *mutatis mutandis*.
- (3) Comments delivered within the prescribed period shall be transmitted to the Parties concerned.

## Article 17

### Conservation of Antarctic Fauna and Flora

- (1) In the Antarctic it is prohibited:
  1. to kill, injure, capture or handle 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; or
  2. to harmfully interfere with native Antarctic fauna and flora; harmful interference means:
    - a) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds and seals;

- b) using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds and seals;
  - c) using explosives or firearms in a manner that disturbs concentrations of birds and seals;
  - d) wilfully disturbing breeding or moulting birds or concentrations of birds and seals by persons on foot;
  - e) significantly damaging concentrations of terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means;
  - f) any other activity that results in the significant adverse modification of habitats of any species or population of mammal, bird, plant or invertebrate.
- (2) Acting in agreement with the Federal Agency for Nature Conservation, the Federal Environmental Agency may within the scope of Article 3 (1) of this Act in individual cases allow exceptions from the prohibitions in paragraph (1) of this Article. A permit may only be issued:
- 1. to provide specimens for study or scientific information;
  - 2. to provide specimens for museums, herbariums, zoological and botanical gardens, or other educational or cultural institutions or uses; or

3. to provide for unavoidable consequences of the construction and operation of scientific support facilities or of scientific activities that are not otherwise authorised under indent 1 or 2 above.
- (3) The issue of such permits shall be limited so as to ensure that:
1. no more mammals or birds are killed, injured, captured or handled, or plants taken from their natural environment, than are strictly necessary to meet the purposes set forth in paragraph (2)<sup>\*</sup> ;
  2. only small numbers of mammals or birds are killed and in no case more mammals or birds are killed from local populations than can, also in combination with other permitted removals, normally be replaced by natural reproduction in the following season; and
  3. the diversity of species, as well as the habitats essential to their existence, and the balance of the ecological systems existing in the Antarctic are maintained.
- (4) All species of the genus *Arctocephalus* (fur seals) and *Ommatophoca rossii* (Ross seal) shall be accorded special protection. Permits for killing, injuring, capturing or handling these species can only be issued for a compelling scientific purpose, if the survival or recovery of that species or local population is not jeopardised, and non-lethal techniques are used as far as possible.
- (5) The permit must name the issuing authority and the receiver of the permit as well as the time and place of the activity permitted.

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<sup>\*</sup> Transl. note: surely not (1), as stated in German text.



- (6) All killing, injuring, capturing or handling of mammals or birds shall be done in the manner that involves the least degree of pain and suffering possible.
- (7) The Act implementing the Convention of 1 June 1972 for the Conservation of Antarctic Seals (Federal Law Gazette 1987 II, p. 90) and the Act implementing the International Convention of 2 December 1946 for the Regulation of Whaling (Federal Law Gazette 1982 II, p. 558) shall remain unaffected.
- (8) The Act implementing the Convention of 20 May 1980 on the Conservation of Antarctic Marine Living Resources (Federal Law Gazette 1982 II, p. 420) shall remain unaffected as far as the by-catch of birds is concerned.

## Article 18

### Introduction of Animals and Plants into the Antarctic

- (1) It is prohibited to introduce dogs into the Antarctic.
- (2) A permit is required in order to introduce soil, animals or plants not native to the Antarctic onto land or ice shelves, or into water of the Antarctic.
- (3) Paragraph (2) of this Article shall not apply to the importation of food into the Antarctic provided that no live animals are introduced for this purpose and all plant and animal parts and products are constantly controlled. Unconsumed poultry shall be removed from the Antarctic or disposed of

by incineration so as to render it sterile. Articles 21 to 27 of this Act shall apply in all other respects.

- (4) It is prohibited to bring live poultry or other live birds into the Antarctic. Dressed poultry shipped to the Antarctic must be inspected for evidence of disease, such as Newcastle disease, tuberculosis, and yeast infection. It is prohibited to bring dressed poultry into the Antarctic if traces of a disease are detected.
- (5) The Federal Environmental Agency may in individual cases issue permits in accordance with paragraph (2) of this Article only if these refer to soil for experimental purposes, cultivated plants or laboratory animals or plants including viruses, bacteria, yeasts and fungi. Before the permit expires, soil, animals and plants introduced into the Antarctic shall be removed from there or disposed of by incineration so as to render them sterile. This obligation shall be stated in the notice of the permit.
- (6) Anyone bringing non-native animals or plants or soil into the Antarctic without a permit, or taking these to the Antarctic before the entry into force of this Act, must remove them from there without delay or dispose of them by incineration so as to render them sterile. The Federal Environmental Agency may only permit exceptions if the specimens pose no risk to native fauna and flora.

## Article 19

### Export Control

- (1) The Federal Ministry of Finance and the customs offices designated by it shall assist in controlling the export of soil, animals or plants for

introduction into the Antarctic. The designated authorities can stop soil, animals or plants, including their means of transport or packaging, during export.

- (2) The Federal Ministry of Finance is authorised, in agreement with the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety and the Federal Ministry for Research and Technology, to regulate by statutory ordinance the details of verifying the prohibitions under Articles 17 and 18 of this Act. In doing so it can make provisions requiring announcements, registration or the supply of information, the performance of auxiliary services, and acquiescence to inspection of business papers and other documents and to inspections and the taking of specimens and samples free of charge.

## Article 20

### Introduction of Substances and Products

Polystyrene beads, polystyrene chips, or similar forms of packaging, polychlorinated biphenyls (PCBs) and pesticides may not be introduced onto land or ice shelves or into water.

## Article 21

### Fundamental Principles of Waste Avoidance and Disposal

- (1) The production and disposal of wastes in the Antarctic are to be avoided as far as possible.
- (2) Wastes generated outside the Antarctic may not be disposed of in the Antarctic.

- (3) Disposal of wastes onto ice-free land areas or into freshwater systems is prohibited. Their storage is also prohibited in freshwater systems.
- (4) Wastes removed from the Antarctic shall be taken to the Federal Republic of Germany or any other country in which arrangements have been made for the disposal of such wastes in accordance with relevant international agreements. If they are taken to the Federal Republic of Germany Article 13 of the Waste Avoidance and Waste Management Act (*Abfallgesetz*) shall remain unaffected. Article 14 (3) of the Radiation Protection Ordinance (*Strahlenschutzverordnung*) shall not apply.

## Article 22

### Removal of Wastes from the Antarctic

- (1) The following wastes produced in the Antarctic shall be removed from there:
  1. radioactive substances within the meaning of the Atomic Energy Act;
  2. electrical batteries;
  3. fuel, both liquid and solid;
  4. wastes containing harmful levels of heavy metals or acutely toxic or harmful persistent compounds;

5. polyvinyl chloride (PVC), polyurethane, polystyrene foam, rubber, lubricating oils, treated timbers and other products which contain additives that could produce harmful emissions if incinerated;
  6. all other plastic wastes, except soft polyethylene containers, which should be incinerated in accordance with Article 23 (1) of this Act;
  7. fuel drums;
  8. other solid, non-combustible wastes;
  9. residues of carcasses of imported animals;
  10. laboratory culture of micro-organisms and plant pathogens; and
  11. introduced avian products.
- (2) The obligation under paragraph (1) of this Article shall not apply to wastes under paragraph (1), indents 9 to 11 of this Article, if they are incinerated, autoclaved, or otherwise treated to be made sterile. Nor shall it apply to wastes within the meaning of paragraph (1), indents 7 and 8 of this Article, if the removal of such wastes would result in greater adverse environmental impact than leaving them in their existing locations.
- (3) It is prohibited to discharge the wastes set forth in paragraph (1) of this Article in the Antarctic.

## Article 23

### Waste Incineration

- (1) Combustible wastes which are not removed from the Antarctic shall be burnt in incinerators which to a maximum extent practicable avoid harmful emissions. The solid residue of such incineration are wastes within the meaning of Article 22 (1), indent 8 of this Act.
- (2) Open burning of wastes is prohibited.
- (3) The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, taking into account the relevant recommendations of the Environmental Committee established under Article 11 of the Protocol of Environmental Protection to the Antarctic Treaty, and of the Scientific Committee on Antarctic Research, shall be authorised to lay down by statutory ordinance emission limits and equipment specifications within the meaning of paragraph (1) of this Article.

#### Article 24

##### Disposal of Liquid Waste

- (1) Domestic liquid waste and other liquid waste not listed in Article 22 (1) of this Act produced in the Antarctic shall as far as possible be removed from there.
- (2) Waste within the meaning of paragraph (1) of this Article which may be disposed of in the Antarctic is prohibited from being disposed of on ice-free land areas, sea ice, ice shelves or the grounded ice-sheet. The first sentence shall not apply to substances generated by stations located on ice shelves or the grounded ice-sheet, provided that such waste is disposed of in deep ice pits where this 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) The disposal of waste within the meaning of paragraph (1) of this Article into the sea shall be subject to a permit.

#### Article 25

##### Field camps

Wastes generated at field camps shall, to the maximum extent practicable, be removed to supporting stations or ships for disposal.

#### Article 26

##### Storage of Waste

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

#### Article 26

##### Work Sites and Waste Disposal Sites

- (1) Subject to the provisions of paragraph (2) of this Article, past and present waste disposal sites on land and abandoned work sites shall be cleaned up by the generators of such wastes and the users of such sites. This shall not apply if the removal of any structure or waste material would result in greater adverse environmental impact than leaving the structure or waste material in its existing location.

- (2) Structures designated as historic sites or monuments shall not be removed or changed.

## Article 28

### Planning

- (1) The Federal Environmental Agency, in agreement with the Alfred Wegener Institute, will establish a waste classification system as a basis for recording wastes arising in the Antarctic from activities by the persons mentioned in Article 3 (1) of this Act and to facilitate studies on the environmental impacts of scientific activities and associated supporting activities. Under this system wastes shall be classified into at least the following groups:
  1. sewage and domestic liquid wastes (Group 1);
  2. other liquid wastes and chemicals including fuels and lubricants (Group 2);
  3. solids to be incinerated (Group 3);
  4. other solid wastes (Group 4); and
  5. radioactive material (Group 5).
- (2) The Federal Environmental Agency, in agreement with the Alfred Wegener Institute, will prepare and annually review and update plans on waste reduction and disposal for the Antarctic area. Such plans specify for each fixed site, for field camps generally, and for each ship:



1. programmes for cleaning up existing waste disposal sites and abandoned work sites;
2. current and planned waste management arrangements;
3. current and planned arrangements for analysing the environmental effects of waste and waste management; and
4. other current and planned measures aimed at minimising the environmental effects of waste and waste management.

No separate information in accordance with paragraph (2), indents 1 to 4 of this Article shall be required for small boats which are part of the operations of fixed sites or of ships.

- (3) Existing waste reduction and disposal plans for ships are to be taken into account in preparing the plans.
- (4) The Federal Environmental Agency shall, as far as is practicable, prepare an inventory of locations of past activities, including traverses, fuel depots, field bases, crashed aircraft and the like.
- (5) The plans under paragraph (2) of this Article and reports on their implementation shall be included in the annual exchange of information in accordance with Articles III and VII (5) of the Antarctic Treaty. They are also, together with the inventories referred to in paragraph (4) of this Article, to be transmitted annually to the Committee for Environmental Protection provided for in Article 11 of the Protocol of Environmental

Protection. When updating the plans the Federal Environmental Agency shall take into account the advice and suggestions of the Committee for Environmental Protection.

- (6) A suitable person shall be appointed waste management officer for each station and work site. This officer shall monitor the implementation of the waste reduction and disposal plans and make proposals for their continued development; he shall annually transmit to the Federal Environmental Agency the information which the latter needs in order to fulfil its functions in accordance with paragraphs (1) and (2) of this Article.

## Article 29

### Protection and Management of Areas, Historic Sites and Monuments

- (1) The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, in agreement with the Federal Ministries for Research and Technology and of Economics, is authorised to designate by statutory ordinance, in accordance with the Recommendations of the Antarctic Treaty Consultative Meeting:
  1. Specially Protected Areas within the meaning of Article 3 of Annex V to the Protocol of Environmental Protection to the Antarctic Treaty;
  2. Specially Managed Areas within the meaning of Article 4 of Annex V to the Protocol of Environmental Protection to the Antarctic Treaty; and

3. Historic Sites and Monuments within the meaning of Article 8 of Annex V to the Protocol of Environmental Protection to the Antarctic Treaty.
- (2) Anyone entering, moving within or flying over the Areas designated in legal regulations in accordance with paragraph (1), indent 1 of this Article, shall require a permit.
- (3) It is prohibited to damage, remove or destroy Historic Sites and Monuments designated in legal regulations in accordance with paragraph (1), indent 3 of this Article.

### Article 30

#### Permits

- (1) The Federal Environmental Agency may grant exemptions from the prohibition in accordance with Article 29 (2) of this Act if the activity proposed by the applicant meets the requirements of the Management Plan drawn up for the Area by the Consultative Meeting of the States Parties to the Antarctic Treaty in accordance with Article 5 of Annex V to the Protocol of Environmental Protection to the Antarctic Treaty. The permit shall be accompanied by the relevant sections of the Management Plan. It 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) If there is no Management Plan a permit may only be issued if the proposed activity is conducted for compelling scientific purposes which

cannot be served elsewhere and which will not jeopardise the natural ecological system in that Area.

- (3) The permit must be carried by the permit-holder while in the Area concerned.
- (4) The Federal Environmental Agency shall inform the Contracting Parties and the Committee for Environmental Protection before the end of November of each year of the number and type of permits issued in the preceding period of 1 July to 30 June.

### Article 31

#### Management Plans

The Federal Environmental Agency is responsible, in conjunction with the Alfred Wegener Institute for Polar and Marine Research, for drawing up Management Plans in accordance with Article 5 of Annex V to the Protocol of Environmental Protection to the Antarctic Treaty.

### Article 32

#### Prohibition on Mining

- (1) Prospecting for, exploration, development or extraction of mineral resources in the Antarctic is prohibited.
- (2) Paragraph (1) shall not apply to scientific research activities.

### Article 33

#### Training

- (1) The applicant and the person making the notification under Article 6 (1) of this Act shall ensure that all participants in the activity received suitable training so as to have adequate knowledge with respect to environmental protection in the Antarctic and to the provisions of this Act.
- (2) The applicant and the person making the notification under Article 6 (1) of this Act shall discourage the use of polyvinyl chloride (PVC) products. If such products are nevertheless introduced into the Antarctic, the participants in the activity shall be advised of the obligation to subsequently remove them from the Antarctic.
- (3) The Federal Environmental Agency shall make information available to all persons who are in the Antarctic or intend to enter it in order to ensure that they understand and comply with the provisions of Articles 17, 18 and 29 of this Act. Such information should particularly list prohibited activities and include lists of especially endangered species, Specially Protected and Managed Areas, and Historic Sites and Monuments.

#### Article 34

#### Inspections

- (1) Acting in agreement with the Federal Ministry of Economics, the Federal Ministry of Transport, the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety and the Federal Ministry for Research and Technology, the Federal Foreign Office is responsible for carrying out inspections in accordance with Article 14 of the Protocol of Environmental Protection to the Antarctic Treaty, and for drawing up inspection reports.

- (2) The Federal Foreign Office shall circulate the inspection reports drawn up in accordance with paragraph (1) of this Article, and make its comments in accordance with Article 14, paragraph (4), of the Protocol of Environmental Protection to the Antarctic Treaty, on the inspection reports of other Contracting Parties to the Antarctic Treaty.
- (3) Anyone conducting an activity in the Antarctic is obliged to cooperate with the observers from the States Parties to the Antarctic Treaty who are carrying out the inspection, and to ensure them access to all parts of stations, installations, equipment, ships and aircraft which are open to inspection under Article VII (3) of the Antarctic Treaty, and to all records kept thereon which are required under the Protocol of Environmental Protection to the Antarctic treaty.

### Article 35

#### Regulations concerning Costs

- (1) Fees and expenses shall be payable for official acts performed in accordance with this Act and any legal regulations based thereon.
- (2) The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, in agreement with the Federal Ministry of Economics, the Federal Ministry of Transport and the Federal Ministry for Research and Technology, shall be authorised to define in details by statutory ordinances the facts incurring charges and to provide fixed rates or parameters therefor. No fees and expenses shall be charged in the case of official acts performed in accordance with this Act concerning scientific research.

## Article 36

## Penalty Regulations

- (1) An administrative offence shall be deemed to be committed by a person who by intent or negligence:
1. carries out an activity in the Antarctic without a permit pursuant to Article 3 (1) of this Act;
  2. violates a statutory ordinance in accordance with Article 5 (7) of this Act, if it refers to this penalty regulation for a specific fact;
  3. contrary to Article 17 (1), indent 1 of this Act, kills, injures, captures or handles an animal, or takes or damages plants;
  4. contrary to Article 17 (1), indent 2 of this Act, interferes harmfully with the fauna or flora;
  5. contrary to Article 18 (1) or first sentence of paragraph (4) of this Act, takes a dog, live poultry or another live bird into the Antarctic;
  6. without a permit pursuant to Article 18 (2) of this Act takes soil, an animal or a plant onto land or ice shelves or introduces it into water;
  7. contrary to the third sentence of Article 18 (4) of this Act takes dressed poultry to the Antarctic;

8. contrary to the second sentence of Article 18 (5) of this Act does not remove soil, an animal or a plant or dispose of it by incineration to render it sterile;
9. contrary to Article 20 of this Act takes polystyrene beads or polystyrene chips or similarly constituted packaging material, polychlorinated biphenyls (PCBs) or pesticides onto land or ice shelves or introduces them into water;
10. disposes of wastes contrary to Article 21 (2) of this Act;
11. stores or deposits wastes contrary to Article 21 (3) of this Act;
12. discharges wastes contrary to Article 22 (3) of this Act;
13. burns wastes in the open contrary to Article 23 (2) of this Act;
14. contrary to Article 24 (2) of this Act, disposes of wastes on ice-free land areas, sea ice, ice shelves or the grounded ice-sheet;
15. without a permit pursuant to Article 24 (3) of this Act, disposes of wastes into the sea;
16. contrary to Article 26 of this Act, stores wastes in such a way that they are dispersed into the environment;
17. without a permit pursuant to Article 29 (2) of this Act, enters, moves into or flies over the Areas designated by statutory ordinance in accordance with Article 29 (1), indent 1 of this Act;



18. contrary to Article 29 (3) of this Act, in conjunction with a statutory ordinance in accordance with Article 29 (1), indent 1 of this Act, damages, removes or destroys an Historic Site or Monument;
  19. contrary to Article 32 (1) of this Act, prospects areas or explores, develops or extracts mineral resources; or
  20. contrary to Article 34 (3) of this Act, does not ensure access to observers.
- (2) In the cases referred to in paragraph (1), indents 1-6, 8-16, 18 and 19 of this Article, an administrative offence can be punished by a fine of up to one hundred thousand German marks, and in the cases in paragraph (1), indents 7, 17 and 20, by a fine of up to twenty thousand German marks.
- (3) In the cases referred to in paragraph (1), indent 2 of this Article, a regulatory offence can also be punished if it is committed on or from a vessel not entitled to fly the German flag.
- (4) For the purposes of Article 36 (1), indent 1, of the Law on Administrative Offences, the administrative authority shall be the Federal Environmental Agency in the cases of paragraph (1), indents 1 and 3-20, and in the cases of paragraph (1), indent 2, the Federal Maritime and Hydrographic Agency.

### Article 37

#### Penal Regulations

- (1) Anyone who for gain or habitually commits an offence referred to in Article 36 (1), indents 1-4 or 9-19 of this Act, shall be punished by a fine or sentence of imprisonment of up to three years.
- (2) Anyone who commits an offence referred to in Article 36 (1), indents 1-16 or 19 of this Act, and thereby endangers the health of another person or causes serious harm to animals, plants, or other matters of significant value belonging to third persons in the Antarctic, shall be punished by a fine or a sentence of imprisonment of up to five years.
- (3) The attempt shall be punishable.
- (4) Anyone who causes the danger or harm in the cases of paragraph 2 of this Article by negligence, shall be punished by a sentence of imprisonment of up to one year or by a fine.
- (5) Paragraphs (1) to (4) of this Article shall not apply if the offence is threatened with the same or a heavier penalty in accordance with Article 342, 326, 330 or 330a of the Criminal Code.

### Article 38

#### Confiscation

Where an administrative offence has been committed pursuant to Article 36 of this Act, or a punishable offence pursuant to Article 37 of this Act, objects which have been used or were intended for its committal or preparation can be confiscated. Article 23 of the Law on Administrative Offences and Article 74a of the Criminal Code shall apply.

Article 39  
Arbitration

The Federal Foreign Office shall be responsible for the arbitration set out in the Schedule to the Protocol of Environmental Protection to the Antarctic Treaty.

Article 40  
Requirement to Report

It shall be the function of the Federal Environmental Agency to draw up the annual report in accordance with Article 17 of the Protocol of Environmental Protection to the Antarctic Treaty.

Article 41  
Cases of Emergency

- (1) The regulations of this Act shall not apply in cases of emergency in which the safety of human life or of ships, aircraft or equipment and facilities of high value, or the protection of the environment require:
  - a) an activity within the meaning of Article 3 (1) of this Act before the procedures set out in this Act have been completed; or
  - b) an activity prohibited under Articles 17 to 31 of this Act.
- (2) The circulation of notice to the other States Parties to the Antarctic Treaty and to the Committee for Environmental Protection of activities in accordance with Article 7 (2) of Annex I to the Protocol of Environmental

Protection to the Antarctic treaty shall be carried out by the Federal Environmental Agency.

- (3) Anyone carrying out an activity in the Antarctic in accordance with paragraph (1) of this Article must without undue delay provide the Federal Environmental Agency with the data necessary for the circulation of notice in accordance with paragraph (2).

#### Article 42

##### Entry into Force

- (1) Articles 5 (7) and 6 (5) of this Act shall enter into force on the day after its promulgation. This Act shall otherwise enter into force on the day on which the Protocol of Environmental Protection to the Antarctic treaty of 4 October 1991 enters into force for the Federal Republic of Germany.
- (2) The date of entry into force shall be announced in the Federal Law Gazette.