

The Question of Liability as Referred to in Article 16 of the Protocol

- 1) Referring to paragraph 3c of Decision 3 (1998) Germany is of the opinion that further negotiations on an Liability Annex or Annexes should start with an in depth deliberation of inputs from SCAR, COMNAP and others on risk assessment. Germany will contribute to the discussions by submitting an Information Paper under agenda item 10. Though all national research institutions active in Antarctica as well as the Federal Environmental Agency participated in preparing this information paper, it proved to be very difficult to collect concrete data and facts which are necessary for risk assessment.

- 2) Therefore, Germany referring to Decision 3 (1998) and in order to speed up the forthcoming negotiations proposes to establish a task force. It should be asked in parallel with the deliberations of Working Group I
 - to discuss the papers submitted by CEP, SCAR, COMNAP as well as other contributions, e.g. by Consultative Parties, and to draw appropriate conclusions

 - to elaborate guidelines for the calculation of the amount of compensation, i.a. in the case of unrepaired damage

 - to recommend limits

 - and to identify major outstanding problems of insurability and insurance rates

The task force should submit its findings and recommendations to WG I as soon as possible.

- 3) Opinions and statements on legal provisions such as insurance, limits, strict liability, joint liability, the definition of damage, especially unrepaired damage, and the fund depend on a thorough collection and analysis of facts on the financial magnitude of damage, insurability etc. Germany therefore will reserve its final position on pertinent provisions until objective information on the aforementioned issues is available. Before agreeing to a liability annex there must be certainty, that activities with potential liability consequences are insurable and that the insurance will amount to an order of magnitude which is affordable and justifiable in budgetary terms.