

SCHEDULE

Section 12.

STRICT LIABILITY FOR CERTAIN LOSS OR DAMAGE ETC.

**PART I**

PROVISIONS OF THE CONVENTION HAVING EFFECT OF LAW

*Article 8(2)*

An Operator shall be strictly liable for:

- (a) damage to the Antarctic environment or dependent or associated ecosystems arising from its Antarctic mineral resource activities, including payment in the event that there has been no restoration of the *status quo ante* ;
- (b) loss of or impairment to an established use, as referred to in Article 15, or loss of or impairment to an established use of dependent or associated ecosystems, arising directly out of damage described in sub-paragraph (a) above;
- (c) loss of or damage to property of a third party or loss of life or personal injury of a third party arising directly out of damage described in sub-paragraph (a) above;
- (d) reimbursement of reasonable costs by whomsoever incurred relating to necessary response action, including prevention, containment, clean up and removal measures, and action taken to restore the *status quo ante* where Antarctic mineral resource activities undertaken by that Operator result in or threaten to result in damage to the Antarctic environment or dependent or associated ecosystems.

*Article 8(4)*

An Operator shall not be liable pursuant to paragraph 2 above if it proves that the damage has been caused directly by, and to the extent that it has been caused directly by:

- (a) an event constituting in the circumstances of Antarctica a natural disaster of an exceptional character which could not reasonably have been foreseen; or
- (b) armed conflict, should it occur notwithstanding the Antarctic Treaty, or an act of terrorism directed against the activities of the Operator, against which no reasonable precautionary measures could have been effective.

*Article 8(6)*

If an Operator proves that damage has been caused totally or in part by an intentional or grossly negligent act or omission of the party seeking redress, that Operator may be relieved totally or in part from its obligation to pay compensation in respect of the damage suffered by such party.

*Article 8(12)*

When compensation has been paid other than under this Convention liability under this Convention shall be offset by the amount of such payment.

## PART II

### PROVISIONS FOR CONSTRUING THE PROVISIONS SET OUT IN PART I

#### *Article 1(15)*

“Damage to the Antarctic environment or dependent or associated ecosystems” means any impact on the living or non-living components of that environment or those ecosystems, including harm to atmospheric, marine or terrestrial life, beyond that which is negligible or which has been assessed and judged to be acceptable pursuant to the Convention.

#### *Article 15(1)*

Decisions about Antarctic mineral resource activities shall take into account the need to respect other established uses of Antarctica, including:

- (a) the operation of stations and their associated installations, support facilities and equipment in Antarctica;
- (b) scientific investigation in Antarctica and cooperation therein;
- (c) the conservation, including rational use, of Antarctic marine living resources;
- (d) tourism;
- (e) the preservation of historic monuments; and
- (f) navigation and aviation,

that are consistent with the Antarctic Treaty system.