

The Antarctic Treaty System: Perspectives of Environmental Nongovernmental Organizations on Addressing Key Issues

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INTRODUCTION

The overriding objective of the Antarctic and Southern Ocean Coalition (ASOC) is to ensure that the world's last unspoiled wilderness, Antarctica and the Southern Ocean, survives intact as a global commons for the heritage of future generations of humans and wildlife. The ASOC is the only nongovernmental organization with expert observer status to the Antarctic Treaty System (ATS). The ASOC sends teams of scientists and policy experts to key international treaty meetings around the world where Antarctica's future is decided: the Antarctic Treaty Consultative Meeting (ATCM), Commission on the Conservation of Antarctic Marine Living Resources (CCAMLR), International Maritime Organization (IMO), International Whaling Commission (IWC), and Agreement on Conservation of Albatrosses and Petrels (ACAP). We also follow closely other international fora of importance to Antarctica, including the Convention on Biological Diversity (CBD).

A VISION OF ANTARCTICA IN 2060: ASOC'S ASPIRATIONS

Drawing on the presentations at the Antarctic Treaty Summit, it is clear that as we look ahead 50 years and ask what kind of Antarctica we hope will exist then, the ATS faces some significant challenges. Drawing on ASOC's experiences over the past 30 years and recent surveys of Antarctic Treaty Parties, scientists, and the public, there are some bedrock truths to keep in mind.

- There is strong support for using Antarctica to carry out globally significant science for which it is the only, or the best, platform and maintaining in perpetuity the open science regime of the Antarctic Treaty.
- There is strong public support for maintaining the “wilderness and esthetic values” of the Antarctic and for the region to be kept as pristine as possible and emerging awareness among Antarctic Treaty Parties of the desirability of minimizing the “human footprint” of activities in the region. There is increasing support in the ATS for taking more steps to minimize the

human footprint by sharing logistics and infrastructure, avoiding duplication of activities, and generating more of the energy needed for science and logistics from sustainable sources. The ASOC sponsored a resolution on wilderness values at the World Parks Congress in Mexico in December 2009, which was agreed to unanimously.

- There is broad public support for creating more protected areas on land and in the Southern Ocean, including developing a representative network of marine reserves. This has become a priority of CCAMLR and Antarctic Treaty Parties over the past two years. The CCAMLR has set a target date of 2012 for establishing an initial network of marine protected areas (MPAs), and the Atlantic Treaty Consultative Parties (ATCPs) are moving forward to develop a more comprehensive system of Antarctic Specially Protected Areas and Antarctic Specially Managed Areas under Annex V to the Protocol on Environmental Protection to the Antarctic Treaty (Environmental Protocol).
- There is no support for Antarctica becoming a mass tourism destination, with hotels and other infrastructure on land and large vessels carrying thousands of passengers. The Antarctic Treaty Parties have been moving steadily the past few years to control commercial tourism and establish rules to minimize the impacts of tourism.

RECOMMENDATIONS FOR IMPROVEMENTS OF THE ANTARCTIC TREATY SYSTEM

On the basis of views expressed and papers presented at the summit and ASOC's experiences within the ATS during the past 30 years, I have the following suggestions on process and substance issues of importance to the continuing health of the ATS.

PROCESS

- Bringing measures, annexes, and recommendations into force promptly is very important for the credibility and legitimacy of the ATS and also has practical implications. Too many legally binding requirements from past Antarctic Treaty Consultative Meetings are not in force because one or more states have not ratified them. The case of the liability annex (Annex VI to the Environmental Protocol), so far ratified by only four states, is illustrative.

- The information exchange system that lies at the heart of the AT is in some disarray, with around 50% of parties not providing this crucial information either ever or on a timely basis. There needs to be serious commitment by all parties to meet those basic obligations, on time.
- Although the inspection regimes of the Antarctic Treaty and Environmental Protocol are not mandatory, it is important for the credibility of the ATS that regular inspections are undertaken by a wide range of parties working jointly or individually. That step will help improve compliance and promote best practices.
- Promoting positive synergies among the various international agreements with pertinence and/or competence in the Southern Ocean is very important, particularly with the IMO, ACAP, the IWC, and the CBD.
- Giving the ATCM some form of continuing "personality" rather than it having just a two-week life each year would help provide better continuity and follow-up and allow the ATCM to have a "voice" at other international fora. It would also be helpful to have a standing committee for key subjects, rather than the ad hoc intersessional contact groups utilized now.
- The ATS could take further steps toward fuller transparency, including following the precedent of the Edinburgh ATCM to include the media and civil society in the meetings. Most ATCMs are eerily quiet places from the standpoint of the media, which is unsurprising since the press are not invited save for a token opening ceremony photo opportunity and all the working and information papers are embargoed until after the meeting ends. At least these papers are eventually made publicly available on the ATS Web site, but CCAMLR papers are never made public. Even accredited experts such as ASOC cannot regularly access the documents of past CCAMLR meetings. Being more transparent will help build greater public support for the money needed to finance research and logistics in Antarctica. It would also likely speed up the pace of gaining full agreement on important new steps and on bringing into legal force past commitments.
- More countries need to participate actively in the key intersessional working groups established with varying degrees of formality by the ATCM and CCAMLR. Since decisions ultimately are by consensus, the process of building that consensus is crucial. When so many CCAMLR Parties do not participate at the key Working Group on Environmental Monitoring and Management (WG-EMM), for example, that means

the dialogue and discussion take much longer and that often decision makers at the commission level have not been well briefed by their scientists since they were not at the EMM. Hence, it is harder to come to a decision.

SUBSTANCE

- Developing a regulatory system for commercial tourism remains a high priority. Although some initial steps have been taken, so far there is no agreement on a comprehensive, legally-binding system that will prevent mass tourism, land-based infrastructure such as hotels, and use of larger, riskier vessels.
- Working closely with the IMO on a legally binding Polar Code for all vessels operating in Antarctica is a high priority, and although linked to the first point on tourism to a certain degree, it is far broader in its scope. There are major concerns about vessel accidents causing loss of human life and pollution of the marine environment, which would be a tragedy and also give the ATS a black eye in terms of its management of the region. These fears were enhanced by the sinking of the MV *Explorer*. The Polar Code negotiations began in February 2010 at the IMO. The initial discussions show good support for appropriate ice-strengthening standards and other vessel- and crew-related rules to better protect the environment and human life. The ATCPs support negotiation of a mandatory Polar Code by the IMO and are participating actively, through their national representatives.
- Creating a representative system of large marine reserves and more land-based protected areas using the tools of the protocol and CCAMLR is a major priority and opportunity. It is very positive that the ATCPs, working through the Committee for Environmental Protection (CEP), and CCAMLR Parties have endorsed a target of 2012 for achieving the first phase of an MPA system, focusing on the list of 11 areas that have been identified so far. In this context, the first joint meeting of the CEP and CCAMLR Scientific Committee took place in April 2009, which engendered substantial progress toward a representative network. On the MPA list is the Ross Sea, which is a particular priority for ASOC and scientists around the world. Having more regular joint meetings of the CEP and Scientific Committee of CCAMLR would build on this good precedent and help ensure a harmonized approach within the ATS.
- Illegal fishing—a large, valuable international business involving many companies and vessels, including some from ATS Parties—is estimated to be 15% to 25% of the legal fisheries. All Antarctic Treaty and CCAMLR Parties ritually condemn illegal fishing in the Southern Ocean, and the public wants it stopped. The question is how to use the available assets and tools cooperatively to do this. We should take note of the new Port States Agreement, which offers new tools. I hope it is ratified and brought into force quickly. At the same time, there are many steps parties can take both individually and collectively to bring to a halt the pirate fishing, which is focused on Antarctic and Patagonian toothfish. These steps include better use of sophisticated imaging and tracking devices, ideally on a cooperative basis, and more robust enforcement within the ATS area.
- Completing an ecosystem-based, small-scale management unit system for the krill fishery, the base of the marine food chain, will constitute an important step forward for CCAMLR as well as providing a model for other regional fishery management organizations. Although this has been under discussion at CCAMLR for several years regarding Area 48, the focus of the krill fishery, so far it has not been possible to reach agreement on the precise methodology to follow. This is partly because of lack of adequate data about impacts on predators.
- Developing a framework to cover commercial biological prospecting, which is developing into a major commercial activity, is an important task. This has been on the agenda of the ATCM for several years, but so far without agreement on any form of regulatory structure. Although substantively this should be a joint task of the ATCM and CCAMLR, so far only the ATCM has discussed it. One key problem goes back to a procedural issue referred to above: the poor response of ATCPs to providing the information required by Recommendation 2 of Resolution 7 (2005), which requires parties to provide detailed information on biological prospecting by its scientists and companies as well as details on patents and products utilizing Antarctic organisms. Shared information about scientific research and expeditions lies at the heart of the ATS and is a key obligation of all parties. Failure to comply with this obligation risks undermining the Antarctic Treaty over time.
- Antarctica provides a preeminent platform for carrying out scientific research on climate change of

global importance. Over the past 50 years, the Antarctic Peninsula has warmed four times faster than the global average, making it one of the most rapidly warming regions on the planet. Dramatic changes to terrestrial and marine ecosystems are occurring in areas of warming. The southward retreat of the High Antarctic Zone and successful invasions of nonindigenous species on subantarctic islands are among the trends in biotic change brought by increasing human activity and increasing temperatures. In the past few years the ATCM and CCAMLR have begun elevating climate change to a mainstream and crucial item of discussion at their meetings, and the first special meeting of experts on climate change took place in April 2010 in Norway. Those experts conveyed 30 recommendations to the 2010 ATCM in Punta del Este, Uruguay, which were endorsed by the ATCM. Taking account of climate change impacts through management decisions about fisheries and protected areas, taking actions in Antarctica to mitigate impacts, and utilizing Antarctic science in international

negotiations to help avoid dangerous climate change are priorities for the ATS.

CONCLUDING REMARKS

The Southern Ocean is a commons of immense value to the world for science, wildlife, wilderness, and sustainable use of its marine resources. Antarctica helps to regulate the planet's climate by acting as a heat sink, and the Antarctic Circumpolar Current links the world's major oceans, driving global ocean circulation. The Antarctic merits protection for its uniqueness, beauty, biological diversity, and scientific value. It is an exceptional platform for carrying out globally significant science and recording the environmental health of the planet. Protecting the Antarctic region as a whole is important to ensuring a sustainable future for the global environment. The ASOC plays an important role in these efforts and looks forward to working with Antarctic Treaty System Parties, other ATS experts and observers, and scientists in the coming decades.