

SCAR Standing Committee on the Antarctic Treaty System
REPORT TO SCAR EXECUTIVE COMMITTEE ON XXVII ATCM
Cape Town, South Africa, 24 May – 4 June 2004

1. The SCAR delegation to XXVII ATCM comprised D W H Walton, P D Clarkson, C P Summerhayes, and J Thiede (for the first two days). M C Kennicutt II was a member of the US delegation and D M Stoddart was a member of the Australian delegation.
2. In addition to the SCAR Report presented by J Thiede (IP 83), SCAR presented several Information Papers, principally to the Committee for Environmental Protection (CEP) meeting during the first week. These comprised Antarctic Specially Protected Species (IP 73), Progress with planning the International Polar Year (IP 74 presented on behalf of ICSU), Report on marine acoustic technology and the Antarctic environment (IP 78), and Subglacial lakes of Antarctica (IP 100). SCAR provided no written comments on the protected area plans or the draft CEEs tabled.
3. The CEP spent considerable time on four draft CEEs as well as on the revision of Annex II of the Protocol. SCAR had previously provided considerable comment and scientific advice on Annex II and declined to provide any further suggestions in what is now a legal and political process. In addition there were several management plans, a proposal to refine the EIA guidelines, a report on a State of the Antarctic Environment Report (for which SCAR had provided the test data), and draft guidelines for operating aircraft near concentrations of wildlife. SCAR provided input for this last paper which was submitted by COMNAP.
4. The discussion of Specially Protected Species became part of the discussion about the revision of Annex II. SCAR's proposal to provide a "straw man example" for designating a Protected Species was well-received and provided a forum for discussing selection criteria and thresholds for designation. Despite extensive discussions in Madrid on the applicability of the IUCN endangerment criteria, the issue was again revisited. SCAR was asked for an opinion on whether Fur Seals and Ross Seals still required special protection. SCAR suggested that Fur Seals did not require special protection as the population numbers in the millions. A final population census is not yet available for Ross Seals and therefore no opinion was expressed. It was suggested that SCAR could propose criteria for the delisting of a species.
5. There was considerable discussion of the IPY and the ICSU paper presented by SCAR was the last of this agenda item. Many of the principal points regarding IPY contained in the ICSU paper had already been made by Norway and Germany. It is clear that Parties would like to be updated each year on international progress.
6. The marine acoustic paper was presented. Germany indicated that they wished to raise some technical queries and Spain made an intervention about military sonar equipment and cetaceans. SCAR agreed to accept comments and queries until the end of August after which the full SCAR report will be published. SCAR's offer to up-date the ATCM in 2006 on any new advances on the issue was accepted.
7. Dr Robin Bell gave the SCAR lecture on "The Secret Life of Lake Vostok" to an audience of almost 100. The presentation was followed by a SCAR-hosted reception. The presentation was very well-received and will be posted on the SCAR web site. The Information Paper (IP 100) supporting the presentation complemented one from Russia on Vostok Subglacial Lake. SCAR informally requested the organizers of XXVIII

ATCM in Stockholm (2005) to schedule the SCAR lecture during a Plenary session, rather than at lunchtime, to improve attendance and impact. The Swedish organizers have asked for a formal letter from SCAR requesting this and stating the subject of the lecture. This letter should be submitted following the SCAR Executive Committee meeting in Bremen.

8. SCAR hosted a lunch for senior members of SCAR and members of the COMNAP Executive Committee. There was discussion of the forthcoming SCAR and COMNAP meetings in Bremen and Bremerhaven. The SCAR Executive Director discussed the objectives for developing a Strategic Plan for SCAR.
9. At the end of the CEP meeting, the members of the SCAR SC-ATS identified the requests for SCAR input to XXVIII ATCM in Stockholm. At least three Working Papers and at least five Information papers will be required.
10. The proposed Working Papers include:
 - Antarctic Specially Protected Species I – this paper should provide an example of how the IUCN criteria can be applied to birds (probably using the Southern Giant Petrel) to make the case for special protection and what management tools might be invoked in a recovery plan;
 - Antarctic Specially Protected Species II – present the case for delisting Fur Seals using the latest data from the Expert Group on Seals;
 - Biological Monitoring in determining Human Impacts in the Antarctic – this would report the conclusions of the SCAR biological monitoring workshop planned for March 2005.
11. The proposed Information papers are as follows:
 - SCAR Report to XXVIII ATCM;
 - New SCAR Research Programmes;
 - Supporting paper for SCAR/COMNAP lecture;
 - The introduction of non-native species into the Antarctic;
 - Ballast water as a potential source of marine introductions.

(ASOC raised the issue of use of anti-foulant paints (tributyl tins) in Antarctica. SCAR might anticipate any discussion by doing a scientific review of the issue.)
12. Parties also mentioned two other subjects that may require scientific input from SCAR. Germany suggested that it would be helpful to have a paper from SCAR on the scientific opportunities and consequences of bioprospecting. Russia, in IP 44 on monitoring of ASPAs, suggested that SCAR should provide recommendations on what should be measured to determine the baseline status of an ASPA when it was proposed to allow future changes to be tracked. In neither case has SCAR agreed to provide papers.
13. The CEP Meeting was dominated by the revision of Annex II and consideration of the four draft CEEs. It became clear that, despite the efforts over three years to reach consensus, the changes proposed for Annex II were too far reaching for some Parties. It was decided to refer the outstanding contentious issues to the Legal and Institutional Working Group at XXVIII ATCM. This augurs badly for the proposed rolling review of the Annexes. There was, however, agreement that the work on Specially Protected Species should continue regardless of this. Several questions were raised over the CEEs, especially over the traverse route to South Pole and the new Czech Station for

James Ross Island. Regarding the traverse route, concerns were expressed about the effects on wilderness values and how these might be assessed. Concern was also expressed about possible use of the route by private expeditions. Regarding the Czech Station, it was questioned whether the planned science programme actually justified the building of a new station and, in practical terms, doubts were expressed that it would actually be possible to land the building materials by sea due to the regular extent of the pack ice and the very shallow, shelving nature of the sea floor in Brandy Bay

14. Management plans for two Antarctic Specially Managed Areas were adopted:

- ASMA 2 McMurdo Dry Valleys, Southern Victoria Land;
- ASMA 3 Cape Denison, Commonwealth Bay, George V Land.

Management plans for five Antarctic Specially Protected Areas were adopted:

- ASPA 113 Litchfield Island, Arthur Harbour, Anvers Island, Palmer Archipelago;
- ASPA 122 Arrival Heights, Hut Point Peninsula, Ross Island;
- ASPA 139 Biscoe Point, Anvers Island;
- ASPA 142 Svarthamaren, Mühlig-Hofmannfjella, Dronning Maud Land;
- ASPA 160 Mawson's Huts, Commonwealth Bay, George V Land, East Antarctica.

The cumbersome nature of the previous multiple Intersessional Contacts Groups was noted and a single ICG was established to deal with all future ASPA and ASMA proposals. Seven of these will require comment during the coming year:

- ASPA 132 Potter Peninsula, King George Island, South Shetland Islands;
- ASPA 133 Harmony Point, Nelson Island, South Shetland Islands;
- ASPA 149 Cape Shirreff and San Telmo Island, Livingston Island, South Shetland Islands;
- ASPA new Dashkin Gongotri Glacier Snout, Dronning Maud Land;
- ASPA new Edmonson Point, Wood Bay, Ross Sea;
- ASPA new Scullin and Murray Monoliths, Mac. Robertson Land, East Antarctica;
- ASMA new Deception Island.

The Meeting also adopted two additions to the "List of Historic Sites and Monuments":

- HSM 77 Cape Denison, Commonwealth Bay, George V Land, including Boat Harbour (this subsumes the original HSMs 12 and 13). (67°00'30"S, 142°39'40"E);
- HSM 78 Memorial plaque at India Point, Humboldt Mountains, Wohlthat Massif, Central Dronning Maud Land. (71°45'08"S, 11°12'30"E).

The SC-ATS will need to consider if any scientific comments are necessary on the proposed plans and if so how this might be achieved.

15. The CEP accepted the "Guidelines for the Operation of Aircraft near Concentrations of Birds in Antarctica" authored by COMNAP with advice from SCAR. This is now a Resolution of the ATCM.

16. The CEP established an ICG on Environmental Monitoring co-ordinated by Yves Frenot in France. They continued the ICG on State of the Antarctic Environment (to which there has been significant data input from SCAR). After further discussion of EIA, the CEP established an ICG (co-ordinated by Tom Maggs, Australia) for up-dating the Guidelines to deal with cumulative impacts.

17. Dr A (Tony) J Press (Australia) was re-elected for a second term as Chairman of the CEP.
18. On 27 May 2004, Mr Jan Huber (Netherlands) was elected as the first Executive Secretary of the Antarctic Treaty Secretariat. He is scheduled to take up the appointment in Buenos Aires, Argentina, on 1 September 2004. SCAR members tried to meet with Mr Huber during the meeting but this proved not possible. He is intending to attend the Bremen meeting and it would be useful to discuss future links between SCAR and the ATS Secretariat then.
19. On 27 May 2004, the Parties agreed that Ukraine should be accorded Consultative status, bringing the total of Consultative Parties to twenty-nine.
20. The Working Group on Tourism based its discussions on two key issues that had emerged from the Antarctic Treaty Meeting of Experts on Tourism that was held in Norway during March 2004, namely:
 - regulations covering tourism activities; and
 - the assessment of the consequences of tourism on the environment.

There was a great deal of discussion on tourism but little substantive progress was made.

Two Resolutions were adopted:

- Tourism and Non-Government Activities: Enhanced Cooperation amongst Parties;
- Guideline on contingency Planning, Insurance and Other Matters for Tourist and Other Non-Governmental Activities in the Antarctic Treaty Area.

One Measure was adopted:

- Insurance and Contingency Planning for Tourism and Non-Governmental Activities in the Antarctic Treaty Area.

The meeting also established an ICG on an “Accreditation Scheme for Antarctic Tour Operators”.

21. A further paper (IP 106) was tabled on Bioprospecting dealing with industrial exploitation of existing patents. Discussion focused on the UNCLOS interest in deep sea resources, the FAO Treaty on plant genetic resources, and the recent Biodiversity Convention meeting which has decided to undertake a gap analysis to see where benefit sharing and other rules have yet to be applied. It was suggested that a Working Paper from a concerned Party at the next meeting would stimulate discussion on what rules were required for the Antarctic.
22. Ambassador Don Mackay (New Zealand) chaired the Working Group on Liability during the first week of the meeting. The starting point was the revised Chairman’s draft of an Annex on Liability for Environmental Emergencies.

Limits on compensation were discussed in relation to insurance, based on the current maximum insurance (\$10M) obtained by tour operators for shipping and a maximum of \$3M (land-based) amounts for worst case scenarios developed by COMNAP. It was uncertain whether yachts would be able to obtain cover to \$10M. Self-insurance (a government underwriting its own operator) was explained. The relation to other liability conventions was discussed but further deliberation on these matters is still needed. Concerning compensation, there was a difficulty introduced by the division of competence of the European Community and its Member States due to recent

developments in European Community law. The Chairman proposed to leave the matter aside until it was clear that this is an issue.

There was general support for the proposal that only State Parties could bring a legal action or could initiate response action. The date of taking response action would be the trigger for starting the 3-year period in which to claim compensation. There was discussion on dispute settlement mechanisms and whether domestic courts should determine the level of compensation.

The definition of “operator” was discussed extensively, together with the nexus between “operator” and “party”. The definition of “response action” was discussed and also a definition of “reasonable” with respect to “preventative measures” and “response actions”.

One delegation tried to re-introduce the notion that scientific activities should be exempt or should have special treatment with respect to liability for environmental damage but there was very little support for this.

The Chairman expressed his satisfaction with the progress made. He reiterated his aim to conclude the negotiations on the draft Annex at XXVIII ATCM in Stockholm. He suggested that, with good intersessional work and the will of Parties to compromise on certain issues, consensus would be achievable.

23. Ambassador Ovalle (Chile) chaired the Working Group on Operations and Safety. It was agreed that COMNAP’s revised shipping guidelines should be sent to the IMO with a letter from the ATCM Chairman (Mr Horst Kleinschmidt) asking that they be attended to with the minimum of delay. The Working Group agreed to continue ongoing work on the exchange of information.
24. XXVIII ATCM will be held in Stockholm, Sweden, 6–17 June 2005.
25. XXIX ATCM is scheduled to be held in Edinburgh, United Kingdom in 2006. Informal offers to host future ATCMs were made by Ukraine, Uruguay, and India. The United States proposed to host XXXII ATCM in 2009, during the 50th anniversary year of the signing of the Antarctic Treaty in Washington DC on 1 December 1959.

List of Acronyms and Abbreviations

ASMA	Antarctic Specially Managed Area
ASP	Antarctic Specially Protected Area
ATCM	Antarctic Treaty Consultative Meeting
ATS	Antarctic Treaty System
CEE	Comprehensive Environmental Evaluation
CEP	Committee for Environmental Protection
COMNAP	Council of Managers of National Antarctic Programmes
EIA	Environmental Impact Assessment
FAO	Food and Agriculture Organization of the United Nations
ICG	Intersessional Contact Group
ICSU	International Council for Science
IP	Information Paper
IUCN	World Conservation Union
SCAR	Scientific Committee on Antarctic Research
UNCLOS	United Nations Conference on the Law of the Sea

List of SCAR papers tabled at XXVII ATCM

- IP 073 Antarctic Specially Protected Species
- IP 074 Progress with Planning the International Polar Year 2007–2008
- IP 078 SCAR Report on Marine Acoustic Technology and the Antarctic Environment
- IP 083 SCAR Report to XXVII ATCM
- IP 100 Subglacial Lakes of Antarctica