



FIVE DECADES OF COOPERATION AND COMMITMENT TO SCIENCE AND ENVIRONMENTAL PROTECTION

XXXIV ANTARCTIC TREATY CONSULTATIVE MEETING - BUENOS AIRES JUNE 20TH - JULY 1ST, 2011

Agenda Item:	ATCM 5
Presented by:	Netherlands, Germany
Original:	English

An additional procedure for intersessional consultations among ATCPs

An additional procedure for intersessional consultations among ATCPs

Submitted by The Netherlands. Co-sponsored by Germany

Summary:

Intersessional requests for information about the Antarctic Treaty System by relevant international actors risk to remain unanswered because no adequate mechanism is in place for timely consultations among the ATCPs about the content of a substantial response. Rule 46 of the Rules of Procedure has proven to be too cumbersome for efficient use. A new mechanism for intersessional consultations, to be added to the Rules of Procedure, is proposed.

In the past intersessional period, the Antarctic Treaty Secretariat received requests for information from the United Nations Office of Legal Affairs and the UN Division for Ocean Affairs and the Law of the Sea. In their letters, these UN-divisions asked (i.a.) whether the Antarctic Treaty (system) could:

- contribute to the assessment of progress to date in the implementation of the outcome of the major summits on sustainable development;
- contribute to the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction;
- inform the UN of its relevant activities in the field of ocean affairs and the Law of the Sea.

These requests have not been answered in a substantial way, because the Secretariat has no mandate to do so and because no adequate mechanism is in place to deal with such requests intersessionally.

The Netherlands and Germany consider it important to respond to requests such as those above. The Antarctic Treaty area covers a significant part of the globe, and the management of the Treaty area by the 28 ATCPs is relevant for many international actors, including the UN and several of its agencies and specialized organisations.

It may be argued that international organisations having a scientific or technical interest in Antarctica attend (or could attend) the ATCM as experts upon invitation, and that their needs for information can be covered to a large extent either by doing so, or by consulting ATCM Final Reports, Measures, Decisions and Resolutions, all of which are in the public realm.

In the Netherlands' and German views, this is not sufficient. We believe that intersessional requests for information by international organisations having a scientific or technical interest in Antarctica deserve a timely and substantial response on behalf of all ATCPs.

The application of Rule 46 of the Rules of Procedures would not seem appropriate to respond to such requests for information. Rule 46 only applies when legally required under relevant instruments of the ATCM and when the exigencies of the circumstances require action to be taken before the opening of the next ATCM. Neither is the case here. Moreover, the procedure of Rule 46 is cumbersome and very time consuming for the Secretariat, with mandatory acknowledgements of receipt of transmissions by all ATCPs. Rule 46 is therefore not often used. For example, even the negotiations about the Washington Ministerial Declarations of 2009 were not conducted on the basis of Rule 46.

In the Draft Decision below, we therefore propose a simplified procedure for intersessional consultations, to be added to the Rules of Procedure, and to be used for responding to information requests from international organisations. This procedure does not seek to extend the current mandate of the Secretariat, but will be carried out under the responsibility and guidance of the next ATCM host state as indicated:

Decision X (2011)

An additional procedure for intersessional consultations

The Representatives,

Recalling Decision 1 (2008) containing the Revised Rules of Procedure of the Antarctic Treaty Consultative Meeting,

Conscious of the fact that the Antarctic Treaty area covers a substantial part of the globe and that the management and study of this area by the Consultative Parties contributes to the comprehensive protection and understanding of the Antarctic environment and dependent and associated ecosystems,

Considering that the Consultative Parties should be able to provide accurate, timely, substantial and up-to-date information to international organisations having a scientific or technical interest in Antarctica about their cooperation as well as the achievements and functioning of the Antarctic Treaty System,

Decide to add the following Rule to the Revised Rules of Procedure (2008):

Rule 46bis.

Intersessionally, when a request is received from an international organisation having a scientific or technical interest in Antarctica, the ATCM National Contact Point on Treaty Matters, designated in accordance with Recommendation XIII-1 (Brussels, 1985), of the next ATCM Host Government shall coordinate a response, using the following procedure:

- a) The Executive Secretary shall transmit the request to all Consultative Parties as an ATS Circular;
 - b) The Executive Secretary shall prepare and transmit to all Consultative Parties a draft response to the request, subject to approval by the ATCM National Contact Point on Treaty Matters of the next ATCM Host Government;
 - c) Any comments shall be provided by Consultative Parties before the date specified in the transmission referred to in paragraph (b) above;
 - d) If comments are provided before the date specified in the transmission referred to in paragraph (b) above, the Executive Secretary shall revise the response and transmit the revised response to all Consultative Parties, subject to the approval of the of the National Contact Point on Treaty Matters of the next ATCM Host Government;
 - e) If any further comments are provided before the date specified in the transmission referred to in paragraph (d) above, the Executive Secretary shall repeat the procedure referred to in paragraph (d) above until no further comments are provided;
 - f) If no comments are provided before the date specified in the transmission referred to in paragraph (b) or (d) above, the response is signed and sent to the international organization concerned by the next ATCM Host Government, on behalf of all Consultative Parties.
 - g) The Executive Secretary will provide a copy of the signed response to all Consultative Parties.
- Decide* that the “Revised Rules of Procedure (2012)” annexed to this Decision shall replace the Rules of Procedure for Antarctic Treaty Consultative Meetings attached to Decision 1 (2008).
