



**Antarctic Treaty
Consultative Meeting XXXV**

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**Report of the Intersessional Contact
Group 'Outstanding Questions' on
Antarctic Tourism**

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Summary

At its XXXIVth meeting, the ATCM “agreed to convene an open-ended Intersessional Contact Group (ICG) working until ATCM XXXV to prepare for the ATCM’s review of tourism policies”. This report summarizes the outcome of the discussions in the ICG and includes a proposal for the ATCM. Annex I contains the outstanding questions that have been identified and provides an overview of the views of ICG participants regarding the prioritisation of these questions for the ATCM. The Annex also summarizes the more detailed comments of the ICG participants regarding the outstanding questions. A more comprehensive document with the outstanding questions and explanatory comments to all these questions will be tabled at the XXXVth as a separate Information Paper.

1. Introduction

At its XXXIVth meeting, the ATCM “agreed to convene an open-ended Intersessional Contact Group (ICG) working until ATCM XXXV to prepare for the ATCM’s review of tourism policies with the following terms of reference (ToR). The ICG will identify:

- policy questions relating to the management and regulation of tourism, including those identified in ATCM XXXIV (WP 21);
- issues for which it may be appropriate to develop new regulatory instruments or guidelines, such as Measures or Resolutions; and
- a list of priority issues that may be considered at the ATCM, including but not limited to safety and environmental protection.”

In accordance with the Work Plan of the ICG, a draft list of ‘outstanding questions’ (policy questions relating to Antarctic tourism that did not yet receive an answer by the ATCM) was placed on the ATCM Forum on 30 November 2011. Comments on the list were received from Germany, Japan, United Kingdom and the United States of America as well as from IAATO and ASOC. Several other Consultative Parties showed their involvement but did not have comments in this phase of the ICG process. In February 2012, the revised list of outstanding questions was placed on the ATCM Forum.

Based on this revised list, a discussion paper was placed on the Forum at the beginning of March. It briefly explained and discussed each outstanding question. By identifying relevant existing ATS instruments and summarizing discussions on the questions during previous ATCMs and/or ATMEs, the paper aimed to explain the relevance of the question as an ‘outstanding question’. All Consultative Parties and experts were invited to send suggestions

for improvement of the document and to provide their views on two questions (corresponding with the 2nd and 3rd component of the ToR):

- a) What are the outstanding questions for which it may be appropriate to develop new regulatory instruments at the ATCM?
- b) What are the five priority outstanding questions that should be considered at the ATCM?

Views on the discussion paper and these two questions were received from Argentina, Australia, Ecuador, Germany, France, Japan, Norway, New Zealand, Poland, the United Kingdom, the United States of America as well as from IAATO and ASOC. Below in Section 2, these views are summarized under three headings, which correspond with the three components of the ToR: views on the list of outstanding questions (general comments; subsection 2.1); views regarding the question for which questions it may be appropriate to develop new regulatory instruments (subsection 2.2.); and views in respect of the priority questions (subsection 2.3). Section 3 includes proposals for consideration at ATCM XXXV.

Annex I to this Working Paper contains the outstanding questions that have been identified and provides an overview of the views of ICG participants regarding the prioritization of these questions for the ATCM. The Annex also summarizes the more detailed comments of the ICG participants regarding the outstanding questions. The more comprehensive discussion paper with the outstanding questions and explanatory comments from the convener to all these questions, will be tabled at the XXXVth as a separate Information Paper.

2. Views expressed regarding the list of ‘outstanding questions’ on Antarctic tourism

2.1 The list of outstanding questions: General views

Several participants underlined the importance of adopting a strategic approach to Antarctic tourism policy, an approach that was agreed at ATCM XXXIV. Some participants expressed the view that the approach of placing the outstanding questions in the light of the General Principles of Resolution 7 (2009) fitted well to such a strategic approach.

The identified questions were considered relevant for the future work of the ATCM. After revising the list (first phase of the ICG), no additional questions were proposed and only one question was challenged by some participants, namely the question whether the ATCM should establish a system of obligatory or voluntary payments by individual tourists or tourist organizations (as a payment for ‘ecosystem services’). In view of the large number of questions and the complexity of some of these questions, the importance of setting priorities was expressed by several participants. It appears that all participants would be willing to take this approach of prioritizing outstanding questions as all of them sent in their views on which five questions should be considered as priorities for the ATCM.

One of the participants underlined that the term ‘outstanding questions’ does not imply that each question represents a gap in the regulatory system of the ATCM. It rather means that the ATCM did not yet discuss the issue to the full extent necessary or that no decisions have been made on the need to take further action. In other words, discussing the questions is considered important, but the outcomes of these discussions may differ: some questions might lead to the adoption of new regulatory instruments, some might require the use of already existing instruments, some may require action from other international bodies, and some may not require any action at all. Most likely, this was also the reason why many participants maintained an open mind regarding the question for which outstanding question it may be appropriate to develop new regulatory instruments at the ATCM (see below).

2.2 Appropriateness of new regulatory instruments

One of the participants stated that “for any proposal for new legislation, we would first need to undertake an assessment and analysis of the issues, and then consider what options might be available to address these (of which regulation may just be one of several options).” This view was echoed by some other participants. It was stated that the ATCM could best “achieve progress by identifying and agreeing on the scope and scale of any problems associated with tourism and non-governmental activity, and considering the range of options that might exist to address such problems.” Several participants stated that the CEP tourism assessment would be of significant value for assessing such problems; however, it was also stressed that where knowledge is not complete (e.g., because of the limitations of monitoring) an adequate protection of the Antarctic environment requires a precautionary approach. And one participant stated explicitly that it believed “that the Consultative Parties should consider areas for possible regulation, and [that] ideas in this regard should be the subject of debate at the upcoming ATCM in Hobart.”

One participant stated that in considering new regulatory instruments, the ATCM should also pay attention to the need of transposition of such new instruments at the domestic level. Such transposition in each of the Consultative Parties’ national system should be realistic. This constitutes an extra reason for studying the possible use of existing instruments first, when solutions are being sought for addressing new concerns (rather than introducing new legal frameworks). For instance, in respect of several outstanding questions, the further application and improvement of the instrument of Environmental Impact Assessment (EIA) and the designation of Antarctic Specially Protected Areas (ASPAs) may be of high importance and value. More in general, the importance of the adequate implementation of “all existing instruments relating to tourism and non-Governmental activities in Antarctica” (General Principle IV of Resolution 7 (2009)) was stressed.

2.3 The priority questions

Participants that responded to the discussion paper on outstanding questions submitted their views on which questions were to be considered priority questions for the ATCM. A scheme that provides a numeric overview of these views has been attached as Annex I to this Report. The following five outstanding questions were mentioned most often (the letters d), g), h) j)

and k) refer to the numbering of these questions in the full list of outstanding questions – see Annex I):

- d) Should the ATCM take action (in addition to Resolution 3(2004)) to improve the information exchange and cooperation between competent authorities of Contracting Parties to the Protocol? For example, should the forum of competent authorities, initiated by Germany and the Netherlands at CEP VIII (2005) and CEP IX (2006), have a more structured role in the future? Or should the efforts primarily be focused on the continued development and refinement of the EIES to facilitate information exchange?
- g) How should cumulative impacts by visitation (e.g., at popular tourist sites) be measured and managed? For instance:
 - i. Should (joint) action be taken to improve long-term monitoring? And if so, who should be responsible (e.g., National Antarctic Programs/the science community, the tourism industry, jointly)?
 - ii. Should the issue of cumulative impacts be reflected more explicitly in EIA procedures?
 - iii. Should – in addition to existing instruments such as Site Specific Guidelines - more strategic instruments be considered (e.g., opening and closure of areas, maximizing numbers of visitors per regions/site)?
- h) Should the ATCM adopt regulatory instruments to prevent or regulate the further expansion of tourist activities in Antarctica?
 - i. How can Annex I of the Protocol be effectively applied for the establishment of new tourism destinations?
 - ii. Should the ATCM further regulate the expansion of tourist activities into the Antarctic interior?
 - iii. Should pristine areas be closed for any type of human visitation in the future, including all tourism activities, even where none currently take place, e.g., to preserve these areas as reference areas for future scientific research or because of the intrinsic values of these sites?
- j) Currently, Antarctica is, in principle, open for any type and form of tourism and other non-governmental activities, provided they are conducted in accordance with the Environmental Protocol. Would further policy guidance from the ATCM on this issue be desirable in view of the continuing increase of the diversity of activities in Antarctica? More specifically, should Antarctica be open to all types of activities or should “priority [...] be given to tourism focusing on educational enrichment and respect for the environment” (Final Report of ATCM XXXII, 2009, para. 208)?
- k) Should additional regulations be adopted in respect of permanent facilities for tourism in Antarctica (such as hotels), for instance, to prevent further degradation

of Antarctica's wilderness values or to limit the risk of legal debates on ownership?

In setting these priorities, some participants distinguished between certain sub-questions. For instance, in respect of question g), two participants explicitly stated that sub-question iii) should only receive attention after discussing sub-questions i) and ii). The interrelationships between certain questions were also underlined. For instance, in qualifying question d) ('improved info-exchange & cooperation') as a priority, several participants expressed the view that this question is related to or should even include question e) ('Consistency interpretation and implementation'). Annex I provides a summary of the more detailed comments that ICG-participants made regarding the outstanding questions.

3. Follow-up proposals to ATCM XXXV

The ICG proposes the ATCM, at its XXXVth meeting, to:

- I. identify priority questions and engage in a substantive debate on those questions, including the desirability of adopting new regulatory instruments, and taking into account the CEP tourism assessment, this Working Paper, and other relevant papers presented at the ATCM;
- II. discuss the desirability of developing a multi-year work plan for the future work of the ATCM on tourism issues, suitable for inclusion in a broader ATCM work plan, as appropriate.

Annex I to the Report of the ICG on ‘Outstanding Questions’: Overview Priorities Consultative Parties & Experts and summary of comments

	Prioritized by:	Summary of comments on the questions (in addition to the general comments summarized elsewhere in this Report)
Outstanding Questions:		
(a) Clear definitions: Would there be benefit in clearly defining the use of the term tourism and/or visitor within the ATCM context, e.g., to avoid either confusion, or misinterpretation of requirements in the future?	No CPs IAATO	One participant stated that the development of a shared understanding of ‘tourism’ merits attention, but that this discussion should not receive attention at the expense of inaction on substantive issues. Another participant stated that the ATCM should not adopt a definition of “visitor” or “tourist” because of its disadvantages.
(b) Third state vessels: Should the ATCM take (further) action (in addition to Resolution 7(2010) on Port State Control) in view of the possible future increase of vessels (including yachts), used for tourism purposes, sailing the flag of states that are not a Contracting Party to the Treaty and/or the Protocol?	1 CP	One participant suggested asking the relevant coastal states which measures are in use in accordance with Articles 218 and 219 UNCLOS and which other measures are necessary to improve port state control.
(c) Improved supervision Should the ATCM take action to improve the supervision of whether tourist activities comply with the regulations of the Environmental Protocol and the measures/resolutions? For instance: Should the ATCM develop a joint observation scheme? (See the discussions of the ICG 2010-2011 and ICG 2011-2012, chaired by Argentina).	2 CPs	One participant expressed the view that the ATCM should take more proactive action on this matter and made a reference to the Report of the ICG on supervision and the concrete suggestions in that Report.
(d) Improved info-exchange & cooperation Should the ATCM take action (in addition to Resolution 3(2004)) to improve the information exchange and cooperation between competent authorities of Contracting Parties to the Protocol? For example, should the forum of competent authorities, initiated by Germany and the Netherlands at CEP VIII (2005) and CEP IX (2006), have a more structured role in the future? Or should the efforts primarily be focused on the continued development and refinement of the EIES to facilitate information exchange?	9 CPs IAATO ASOC	Special attention was asked for cooperation regarding EIAs for tourist activities and the easy access of EIA outcomes through the EIES. One participant underlined the importance of the continued development and refinement of the EIES to facilitate information exchange. Other participants advocated the revival of the forum of competent authorities and the organisation of a workshop for competent authorities was proposed.
(e) Consistency interpretation and implementation Should the ATCM take action to ensure greater consistency of interpretation and implementation of the Protocol’s provisions and Measures relevant for Antarctic Tourism? For instance, is it desirable that the ATCM studies and discusses existing differences among the domestic legal and administrative arrangements that are being applied to Antarctic tourist activities and the possible consequences of these differences (e.g., forum shopping)?	1 CP IAATO	Some participants included this question or referred to it when prioritizing question (d). One participant expressed the view that the ATCM should not interfere with domestic and legal arrangements. Another participant stated that it considered question e) to be less an outstanding question and more an outstanding action point for the Parties.
(f) Speeding up entering into force Measures In view of the delays in entering into force of the instruments that are meant to be legally binding (e.g., Annex VI, various Measures), should the ATCM consider some form of fast tracking procedures?	1 CP	
(g) Monitoring & preventing cumulative impacts How should cumulative impacts by visitation (e.g., at popular tourist sites) be measured and	7 CPs IAATO	In relation to this question, one participant emphasized the role of the CEP. Another participant pointed to the concern over cumulative impacts and

<p>managed? For instance:</p> <ul style="list-style-type: none"> i. Should (joint) action be taken to improve long-term monitoring? And if so, who should be responsible (e.g., National Antarctic Programs/the science community, the tourism industry, jointly)? ii. Should the issue of cumulative impacts be reflected more explicitly in EIA procedures? iii. Should – in addition to existing instruments such as Site Specific Guidelines - more strategic instruments be considered (e.g., opening and closure of areas, maximizing numbers of visitors per regions/site)? 	<p>ASOC</p>	<p>proposed to address monitoring (questions g), i) and m)) separately. One CP and IAATO expressed the view that attention should be given to sub-questions i) and ii); and that sub-question iii) could be given attention (as a second step) on the bases of identified and agreed concerns. Furthermore, a participant stressed the importance of updating site guidelines and emphasized the role of station managers in site-monitoring. Finally, the interrelationship of this question with questions c) and m) was emphasized.</p>
<p>(h) Further expansion of tourism Should the ATCM adopt regulatory instruments to prevent or regulate the further expansion of tourist activities in Antarctica?</p> <ul style="list-style-type: none"> i. How can Annex I of the Protocol be effectively applied for the establishment of new tourism destinations? ii. Should the ATCM further regulate the expansion of tourist activities into the Antarctic interior? iii. Should pristine areas be closed for any type of human visitation in the future, including all tourism activities, even where none currently take place, e.g., to preserve these areas as reference areas for future scientific research or because of the intrinsic values of these sites? 	<p>5 CPs ASOC</p>	<p>Some participants stressed the importance and usefulness of the adequate application of the EIA and ASPA instrument (preferred in comparison to the development of new instruments). One participant stated that tourism should only be conducted in a manner that is consistent with Antarctica’s status as a “natural reserve, devoted to peace and science”. Another participant highlighted the importance of sub-question ii) as it was concerned about the lack of guidelines, industry standards or regulation relating to land-based activities in the interior of Antarctica. The interrelationship of this question with question (j) was highlighted by some participants. Furthermore, one participant stated that the increase of the level of activity at current sites should also receive attention.</p>
<p>(i) Tourism & climate change: Do the (possible) interrelationships between Antarctic tourism management and climate change require the attention of the ATCM?</p>	<p>1 CP</p>	<p>In respect of this question, one participant highlighted the importance of taking note of ongoing discussions in the CEP. Another participant stated that there is no evidence of implications on climate change due to tourism activities.</p>
<p>(j) Diversification of tourism Currently, Antarctica is, in principle, open for any type and form of tourism and other non-governmental activities, provided they are conducted in accordance with the Environmental Protocol. Would further policy guidance from the ATCM on this issue be desirable in view of the continuing increase of the diversity of activities in Antarctica? More specifically, should Antarctica be open to all types of activities or should “priority [...] be given to tourism focusing on educational enrichment and respect for the environment” (Final Report of ATCM XXXII, 2009, para. 208)?</p>	<p>6 CPs</p>	<p>One participant proposed to delete the 2nd sub - question to leave options open. Another participant expressed the view that the diversity of tourism activities and number of tourists should be kept at the current level and that priority should be given to “educational tourism”. The interrelationship of this question with question r) and with the principles of Article 3 of the Protocol was highlighted by a participant; this participant stated that one option would be to focus on education as a key element when assessing and authorizing activities.</p>
<p>(k) Permanent facilities for tourism Should additional regulations be adopted in respect of permanent facilities for tourism in Antarctica (such as hotels), for instance, to prevent further degradation of Antarctica’s wilderness values or to limit the risk of legal debates on ownership?</p>	<p>4 CPs</p>	<p>One participant stressed that the discussion should not be limited to ‘hotels’ or to the question whether structures can be removed, but that it should relate to all forms of long term use of particular sites.</p>
<p>(l) Use of ‘science infrastructure’ Should the potentially increasing use by tourists of infrastructure, established with the</p>	<p>2 CPs ASOC</p>	<p>One participant highlighted the interrelationship of this question with questions b) and k).</p>

principal aim of supporting scientific activities (e.g. air connections, bases etc), be considered as a concern, and if so, how should the ATCM respond to this concern?		
(m) Application of the precautionary approach/principle Related to several of the previous questions, how can precautionary action be taken, given the dynamic character of the tourism industry and the absence of effective monitoring mechanisms at most sites used for tourism purposes?	No CPs ASOC	Several participants highlighted the importance to take into account the precautionary approach when discussing other questions.
(n) Cooperation other international bodies As lead responsibility for many “safety” issues fall largely to others such as the International Maritime Organisation, should the ATCM engage more actively with such bodies and, if so, how?	3 CPs	Several participant noted that benefits might be derived from closer cooperation with other bodies, such as IMO on the development of the Polar Code, and CCAMLR with respect to a range of issues. One participant stressed the importance of an environmental chapter in a mandatory Polar Code.
(o) Interference with scientific research Are current tourism activities interfering with scientific research at frequently visited sites and is further ATCM action needed to prevent such interference?	1 CP	One participant expressed the view that SCAR should consider this question. Another participant stated that the greatest possible impact on Antarctic scientific research would be a loss of the special environmental values of the Antarctic or the protection afforded by the Treaty System.
(p) Limiting the ‘free-riders’ problem Should the ATCM take action in view of a possible increase of tour operators operating outside of the self-regulatory system of IAATO (‘free riders’)?	2 CPs	
(q) Codification IAATO- guidelines: Are there any bylaws, guidelines or best practices of the tourism sector that require codification in a recommendation or measure of the ATCM?	1 CP	
(r) Greater focus enrichment and education Should ATCM and/or individual Contracting Parties to the Protocol take additional initiatives to encourage tourism organizations to provide a greater focus on the enrichment and education of visitors about the Antarctic environment and its protection (in line with Resolution 7 (2009))? For instance: <ul style="list-style-type: none"> i. Should the ATCM develop a trainer’s manual for tourism operators with the relevant existing regulations (e. g. measures/resolutions on tourism including the general and specific site guidelines for visitors, tourism relevant regulations of the Environmental Protocol)? ii. Should the ATCM establish a system of obligatory or voluntary payments by individual tourists or tourist organizations (as a payment for ‘ecosystem services’)? What would be the purpose of levying such charges? (e.g., financing long-term monitoring, financing educational programs)? 	1 CP	Several participants highlighted the interrelationship between this question and question (j). Some participants expressed the view that they were not in favor of the idea reflected in r(ii) and one participant proposed to delete this sub-question. Some participants advocated the development of a trainer’s manual for tourism operators with the relevant existing regulations in order to have an optimal information and education of visitors. One participant stressed the importance of this question as in its view Antarctic tourism should focus on the intrinsic values of Antarctica – its landscapes, flora and fauna, scientific research and historical aspects of human presence in this polar region.

