



XXXIX ANTARCTIC TREATY  
CONSULTATIVE MEETING  
SANTIAGO - CHILE 2016  
25 YEARS PROTOCOL ON ENVIRONMENTAL PROTECTION

Agenda Item: ATCM 17  
Presented by: Norway, France,  
Netherlands,  
New Zealand,  
United Kingdom  
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## **Communication mechanisms: National Competent Authorities**



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### **Summary**

The Special Working Group for competent authorities at ATCM XXXVIII concluded that there was a need to develop several instruments/processes to enhance communication between competent authorities. Some of these conclusions entail concrete actions, on which it appeared to be a consensus among that the participants of the Special Working Group. Norway, France, New Zealand, the Netherlands, and the United Kingdom would like to propose that some of the more practical actions, the establishment of a contact list and a forum for competent authorities, could be implemented fairly easily already at this stage.

### **Introduction**

As Parties will recall, a Special Working Group, focused on discussion of competent authorities' issues relating to tourism and non-governmental activities in Antarctica, was held at ATCM XXXVIII.

A general summary and concluding remarks of the session was referred in the final report from ATCM XXXVIII para 315-318:

(315) The Special Working Group gave NCAs the opportunity to exchange experiences and information on a number of relevant issues and challenges faced by NCAs in handling non-governmental activities in Antarctica. The Meeting noted the utility of having the opportunity for such exchange at suitable intervals in the future.

(316) The Meeting concluded that there was a need to develop: contact lists for Competent Authorities and the five relevant RCCs; more comprehensive guidance for assessment of various types of activity; the development of principles for communication between NCAs; a forum to exchange information between Competent Authorities; further development of the EIES to enhance its usefulness for Competent Authorities; understanding and guidance on Measure 4 (2004); informing other NCAs on non-permitted or authorised activities, both in terms of the formal decline of permits/ authorisation and on those operators who had been engaged with and discouraged from activity; and increasing outreach to new proponents of Antarctic activity.

(317) The Meeting reported on continuing issues with regards to: dealing with participants in activities who were not nationals of the Parties that authorised the activity; and how to direct legal action against those individuals.

(318) The Meeting also noted the utility of post visit reports in considering these issues; and the desirability of bringing Measure 4 (2004) into force.

One of the assignments for the ongoing ICG on Developing a Strategic Approach to Environmentally Managed Tourism and non-governmental Activities in Antarctica is to take into account the outcomes of the Special Working Group. However, it seems timely to follow up some of the more practical conclusions from the Special Working Group separately at this year's ATCM. The Proponents, as some of the initiators of the Special Working Group, would therefore like to suggest concrete action on some of the items the competent authorities appeared to agree upon.

### **Contact list for Competent Authorities**

There are several situations when communication between Competent Authorities from different Parties is necessary or useful. For example, when nationals from different countries are involved in the same activity in Antarctica, or when a Competent Authority receives inquiries from nationals from other countries. Competent Authorities may also have questions on details of approved or denied activities, or they may be seeking information on how another Competent Authority has assessed certain kinds of activities. In general,

and as agreed upon among the participants at the Special Working Group, communication between Competent Authorities is a useful instrument to move towards comparable practices and to avoid forum shopping.

In many situations however, it is difficult to identify the right authority to contact, and to know to which person(s) within that authority such inquiries should be directed. Currently, there is no contact list that has this information readily available.

The Special Working group concluded that there was a need to develop a contact list for Competent Authorities, and that the relevant RCCs should be included in this list, cf. the final report from ATCM XXXVIII para 316.

The Proponents therefore suggest the following steps:

- 1) All Parties provide the Secretariat with information on what department or organization is the responsible national competent authority, contact point information for this authority and preferably at least one contact person. The relevant Parties also provide the same information on their RCCs.
- 2) The Secretariat creates a contact list for publication on [www.ats.aq](http://www.ats.aq).
- 3) Once a year the Secretariat should remind Parties to update their contact list information, if necessary, to ensure that the information is up-to-date.

### ***Discussion Forum for Competent Authorities***

A contact list will be helpful when a Competent Authority seeks contact with one or more specific Competent Authority/Authorities. For more general inquiries, e.g. how other Competent Authorities assess a certain activity, it might be more suitable to ask the question in a forum since the answers and comments to such inquiries might be of interest to all Competent Authorities.

Today there is informal communication on e-mail between (selected) competent authorities on topics that might be interesting for other competent authorities than the ones taking part in this communication. When having this communication in a forum, the discussions and information exchange will be available to all, and it will be available on a more permanent basis as reference in future discussions. A forum might also be a more convenient instrument for the Competent Authorities to share experiences.

This forum could also be useful to give other Competent Authorities information on non-permitted or non-authorized activities. A formal decline of permits/authorisation would be registered in EIES, but a post in the forum could give additional information on the reasons for the decline. The forum could also be used to share information on operators who have been engaged with and discouraged from an activity without a formal decline of permit/authorisation. This information could be valuable to avoid forum shopping.

There was a forum for Competent Authorities ten years ago, but few participated and the forum was only active for two seasons. Now that Competent Authorities have gained more experience and more Parties have domestic regulations implementing the Environmental Protocol, it might be a suitable time to reinvigorate and develop the Forum further. At the Special Working Group, the competent authorities expressed a renewed interest for a discussion forum.

The Proponents therefore suggests that a discussion forum for Competent Authorities is established to enhance informal consultations between Competent Authorities. We would also like to suggest some initial thoughts on possible principles for such a forum:

- A password protected forum at [www.ats.aq](http://www.ats.aq) where all Competent Authorities can participate. This forum could be separate from the ATCM forum and the CEP forum, with its own password and username.
- The forum can be arranged in different topics, corresponding to activities in the ATCM and CEP forums. The agenda points from the Special Working Group at ATCM XXVIII could serve as inspiration for the first topics.
- All participants can start discussion threads under these topics.
- It should be possible to subscribe on new posts on specific topics and discussion threads.

- The meeting might discuss how the forum can best facilitate a free and open exchange of thoughts, experiences and challenges.

The forum will give competent authorities access to a low-threshold and informal way to discuss and share experiences on a wide range of relevant topics. It will be valuable by itself that such opportunity exists, and the value should not be measured by the frequency of use alone. The forum, and the way it is used, can be changed over time. When some experience is gained, it could e.g. be considered useful to appoint moderators.

### ***Other outcomes of the Special Working Group***

Other outcomes of the Special Working Group were:

- more comprehensive guidance for assessment of various types of activity;
- the development of principles for communication between NCAs;
- further development of the EIES to enhance its usefulness for Competent Authorities;
- understanding and guidance on Measure 4 (2004);
- Increasing outreach to new proponents of Antarctic activity.

We believe these outcomes are better considered separately from this document. For example, as suggested in other forums, they could be followed up in the ATCM's strategic 5-year plan. This might allow Parties to prepare for discussion in a timely manner, and allow for substantial discussions at the Meetings.

### ***Proposal***

Norway, France, New Zealand, the Netherlands, and the United Kingdom propose that:

- 1) ATCM agrees to establish a contact list for competent authorities and relevant RCCs at the ATS web site and asks the Secretariat to assist keeping the information on the contact list updated.
- 2) ATCM agrees to establish a discussion forum for competent authorities at the ATS web site, based on the same interface as the ATCM and CEP forum