Action Now On The French Airstrip!

The ATCPs must take action over the issue of the French airstrip under construction in these rookeries in Adelie Land. They must act, and they must do it now, at this meeting. If they fail to do so, the credibility of the entire Antarctic Treaty system is jeopardised. If one takes at face value the assertions of the ATCPs that the Antarctic Treaty system is extremely important for the future of the Antarctic, then there are absolutely no excuses.

It has been suggested by several ATCPs that the issue might be dealt with under the agenda item "Man's impact on the Antarctic Environment". ECO believes this is totally avoiding the issue - the Treaty system must be seen to confront such issues face on. In this case, the ATCPs must address the allegations that have been made by NGOs, with which several ATCPs, at least, are known not to disagree. These allegations must be addressed as a separate agenda item, so that discussion cannot be diverted into generalisations by those who do not wish the issue to be discussed.

The mere fact that it is so difficult to get a serious discussion within the Treaty system of a breach of the Treaty system's own rules is itself an important question that should be examined. With the eyes of the world increasingly focusing on Antarctica, the question must be asked: Is it more or less likely that in future there will be other allegations of breaches of the rules of the Treaty system? ECO contends the history of other international agreements shows it is almost certain there will be more abuses.
The meeting on Antarctic mineral resources in Rio de Janeiro, 25 February – 8 March, was the sixth in a continuing series of special negotiations by the 16 Antarctic Treaty Consultative Parties (ATCPs) to reach an agreement on a minerals regime for the Antarctic. As with the previous meetings, the negotiation was held in secrecy. This was an historic occasion: the first time that the "second class citizens" of the Treaty - the Non-Consultative Parties (NCPs) - have been allowed to be present and to participate as observers. ECO congratulates the ATCPs for taking this positive step. We look forward to working closely with the NCPs on policy questions.

By all accounts the Rio meeting was productive, setting the stage for delegations to make the compromises necessary to conclude a legal regime. There apparently is a general feeling on the part of the ATCPs that it is now time to look at what is being called "the deal" - a package solution that will accommodate the needs of claimants, non-claimants and potential miners.

The Rio meeting continued the agenda left over from Tokyo, based on consultations among key ATCPs in Wellington in mid-January and informal consultations by Chris Beeby of New Zealand, the peripatetic chairman of the negotiation since its inception in New Zealand in 1982. The meeting marked the first significant discussion of "legal" issues, including compliance, enforcement, liability and compensation. But the key issues discussed were the composition of and decisionmaking in the institutions of the regime, and the functions of those institutions. It is no secret that there are still large differences of opinion among the ATCPs as to these critical aspects. Moreover, the NCPs have barely begun to be heard, and their views may be quite different from those of the NCPs. ECO looks forward to seeing the detailed comments and proposals of the NCPs regarding the regime.

The "Beeby II" draft continues to be used as the negotiating text. Although Beeby has held extensive personal consultations with all ATCPs during the last few months, he will not prepare a new draft until after the next negotiating session, tentatively scheduled for 23 September to 4 October in Paris.

Although excluded from any role in developing the agenda for plenary sessions, the NCPs were given adequate opportunity to participate in the debate. No ATCP used the somewhat restrictive rules of procedure to block any comment by an NCP. Sweden put forward a paper outlining its views at the beginning of the plenary, but initially there was a hesitancy on the part of the NCPs to intervene actively. By the end of the first week, however, those NCPs that wanted to speak were doing so rather freely - a good sign. The most active were Denmark, Sweden, Italy, Peru and the Netherlands.

Three "contact" or working groups met. A group on legal issues was chaired by Rudiger Wolfrum of the FRG. It considered the detailed papers put forward by the UK on compliance, dispute resolution and liability and papers by the FRG on liability and responsibility. Wolfrum prepared a chairman's report that was circulated to all delegations. It is a somewhat limited document, covering legal aspects of amendment, withdrawal and dispute resolution, and not dealing with compliance, enforcement and liability, topics that were discussed informally by a number of delegations after the USSR and Indian delegations left on March 8.

John Heap of the UK convened the environmental working group, which worked mainly on redrafting the articles on principles and objectives of the regime. Chile and Argentina have proposed a lengthy list of objectives, but most delegations seem to prefer a short list that will serve as a guide for the implementation of the regime. Chile also proposed firm links for the regime to the Antarctic Treaty System in the article on objectives, and a principle making it clear that science and fishing have priority over minerals activities. ECO strongly supports this. It is interesting to note that the US, UK, FRG, Norway, Japan and South Africa - all countries with the capability of conducting minerals activities at an early date opposed such prioritization.
ECO understands that Heap's new draft excludes the concept of "restoration", although of course this provision is still in the Beeby II draft. ECO objects to deletion of that important concept. Australia proposed a paragraph on "rational use", which was supported by India and Argentina, but it was strongly opposed by the US, FRG and some other delegations. Heap produced a chairman's report that was circulated to all delegations.

The environmental working group will be reconvened at the next negotiating session, and will consider in detail how the draft articles will work in terms of the decisions that must be made at each stage of minerals activity, and how principles and objectives will be translated into practical rules, regulations and procedures. Some delegations have proposed that such phrases as "no further effect on depleted species" be interpreted in a practical way, so that everyone will know what they mean.

Heap also has suggested that the environmental working group consider the role of observers and the public. To that end, delegations have been asked to come prepared to discuss such questions as (1) what constitutes an adequate public record, (2) what documentation should be made available to observers, (3) the timing of such distribution, (4) what opportunities for comment observers will have, and (5) how to determine whether the information available is adequate for making a decision at any stage. ECO strongly supports consideration of those questions by the working group.

A third working group met to consider the troublesome issue of prospecting. A few delegations, led by Australia, have continued to press for some minimal regulation of prospecting, but most have strenuously opposed any form of "prior authorisation." Unfortunately, Australia appears to have backed down from its earlier position favouring regulation of all prospecting, by tabling a paper during the second week containing no specific review procedures. Even that paper, however, is opposed by the US and FRG as creating unnecessary impediments to mining because of its procedural details about oversight of prospecting. ECO strongly supports the approach of the earlier Australian paper. There is also dispute over what activities should be included in the definition of prospecting. The FRG, Japan and South Africa argue strongly in favour of allowing "deep drilling". It appears, however, that all other delegations favour excluding deep drilling, although there is no agreement on what "deep" means. ECO urges that all drilling and dredging should be excluded from the definition of prospecting.

The prospecting working group also considered further the question of "proprietary information". The US and FRG argued for having no arbitrary time limit on release of data obtained from prospecting and exploration, preferring that it be up to companies to decide when the information no longer had "commercial value." ECO notes that not even the industry favours the early protection of all prospecting information, preferring that stratigraphic wells be drilled with all data openly available to treaty members, companies and the public. Some industry spokesmen have suggested, in fact, that a relatively short time period be set for the full proprietary privilege, noting that such provisions are easy to live with in the US and other developed countries.

During the two weeks in Rio Beeby held numerous consultations with small groups of ATCPs, mostly during the afternoons and evenings. This meant that much of the most important work was done away from the gaze of observers - NCPs and NGO members on several delegations. While ECO fully understands the need for the chairman of a complex negotiation to hold private meetings, the way in which the most important document to emerge from Rio was prepared does not augur well for the "real" participation of the NCPs. ECO wonders if there was, indeed, any consultation with the NCPs regarding the content of the document that outlines a possible "package" on the key articles, or whether the NCPs were given copies for study leading up to the next minerals meeting.
If this is true, surely there is a powerful argument to be made for a system whereby any such allegations of a breach could be routinely examined? In other international institutions, such as the International Whaling Commission, "Infractions Committees" have been constituted. Now is the time for the Antarctic Treaty system to follow suit.

ECO stresses that the NGOs which have been trying for several years now to publicize the French airstrip project have been doing so with two aims. Firstly, and perhaps most obviously, the airstrip project has been, and will continue to be, detrimental to the Antarctic environment and Antarctic wildlife. To resolve that particular problem, there is only one solution - the project itself must be stopped.

Second, however, it is seen by NGOs as symptomatic of a wider malaise within the Antarctic Treaty system. The ATCPs must display a willingness to adhere to measures they unanimously agreed. They must be prepared to investigate the possibility that some of their number might be flouting the rules. Why should we take them seriously when they claim, as we have so often heard, that in the event of possible mineral extraction, the protection of the Antarctic environment will be foremost?

Delegates to the 13th Consultative Meeting: this is your chance to demonstrate to the world at large that you are prepared to put aside political or diplomatic considerations in the interests of the Antarctic environment and, indeed, in the interests of the Treaty system itself.

HOW TO FIND US

As at most previous meetings of the Antarctic Treaty system over the last several years, non-governmental lobbyists from several countries are at the Brussels meeting to talk with delegates. We're spreading a little thinner than we'd hoped, because this week the SCAR-IUCN symposium on the Antarctic is being held in Bonn as well. No brownie points to the person or persons unknown who are responsible for the clash! And further, the Convention on International Trade in Endangered Species is also meeting this week, in Buenos Aires. It never rains, but it pours!

The NGO groups in Brussels can be reached in one of two ways. Firstly, you can contact us at our hotel, Residence Astor, Rue Crespel 8, 1050 Brussels, telephone 512-8086 or 512-4938 and ask for Room 19. That's not too far at all from the Egmont Palace.

Second, we can be reached through the local Greenpeace office, at Cominesstraat 41, 1040 Brussels. The phone number there is 230-1307. If we're not contactable, please leave a message at either place.

And we would like you to contact us!