Strategic Issues posed by Commercial Tourism in the Antarctic Treaty Area
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Information Paper
Submitted by ASOC to the XXIX ATCM
(ATCM Agenda Item 12)

I. Introduction

Discussion of the need for regulation of Antarctica tourism recommenced at XXIV ATCM in 2001 and has been a substantive issue at each ATCM since, the subject of an Antarctic Treaty Meeting of Experts in Norway in 2004, and had its own ATCM Working Group since XXVII ATCM in 2004. XXIX ATCM in Edinburgh therefore constitutes the seventh session of discussion of this issue. A considerable number of Working and Information papers on various aspects of Antarctic tourism have been tabled over this period.¹

Remarkably, almost five years on from the inception of discussions, nothing has been done to address the central issue – significant annual increases across all major indices of tourism activity: increases in numbers of tourists, numbers of operators, numbers of expeditions, and sites in Antarctica (particularly in the Antarctic Peninsula) where tourism is the dominant human activity.

Some interesting discussions have been held, and some interesting proposals revealed in relation to the manner of Antarctic tourism activity (site guidelines, reporting obligations, accreditation schemes, etc), but none of these touch on the central issue of the scale and trajectory of commercial tourism in Antarctica. The present areas of focus address only the margins of the tourism debate.

Antarctic tourist numbers are increasing steeply and appear likely to continue increasing steeply. Presently nothing is in place to prevent these numbers – already above 26,000 - reaching high tens of thousands within ten years.

This inexorable growth, accompanied by expansion into ever more areas of Antarctica and seemingly continual diversification of activities, poses severe and unacceptable risks to the Antarctic environment (both in terms of direct tourism impacts and their cumulative effects alongside other pressures on the environment), the value of the area for scientific research, the geopolitical stability of the Antarctic Treaty System², and the quality of the Antarctic experience for those of our citizens fortunate to go to Antarctica as tourists.

The duty to address these issues, and to adopt the measures necessary to regulate Antarctic tourism, rests with the Antarctic Treaty Consultative Parties, and there is urgency to having these measures in place before Antarctic tourism reaches such numbers that it is effectively out of control.

II. Priority Strategic Issues

1. Determining the acceptable rate of growth of tourism activity inside the Antarctic Treaty Area.

¹ See Appendix 2 for a complete listing of ASOC IPs. The full texts of these papers are available at http://www.asoc.org
2. Determining the acceptable levels of tourism activity inside the Antarctic Treaty Area, giving regard to the:
   a. Effects of tourism upon environmental, scientific and geopolitical values or uses;
   b. Legal implications of tourism activity in a juridically complex region; and
   c. Distribution of tourism pressures around the Antarctic.

3. Determining whether particular facets of tourism, such as infrastructure ashore or certain types of activity, should be prohibited.

4. Establishing the legal and administrative basis to give effect to these determinations.

III. Acceptable Rate of Growth of Tourism in the Antarctic Treaty Area

A joint ASOC/UNEP paper at XXVIII ATCM graphically showed the steep increase in Antarctic ship-borne tourism from 1957 to 2004, when 24,591 tourists were taken into the Antarctic Treaty Area. The picture of Antarctic tourism revealed is of low tourist numbers through the 1950s, 60s, 70s and 80s, with a steep and accelerating growth from 1990/91 through to the then present (2003/04). The two subsequent seasons (2004/05 and 2005/06) have shown continued growth in ship-borne tourist numbers.

The industry likes to emphasise figures for “landed” passengers. Whilst ASOC sees these as constituting only part of the picture (Protocol obligations are not triggered only when you land), the picture looks pretty much the same if you take these figures – so let us do so (See Table 1 and Figure 1 in Appendix 1 for detail and sources).

In the 2001/02 operating season following the St. Petersburg ATCM, industry figures suggested a total of 11,588 tourists were landed in the Antarctic Treaty Area (the total number of tourists entering the area, excluding aircraft overflights was, using industry figures, substantially higher at 15,325). For the 2005/06 season just past, the industry landed figure was 26,241 (and 30,873 for all tourists entering the area, minus aircraft overflights). Thus, whether one focuses on a total tourist number, or merely those who land in the area, we have seen a doubling in tourist numbers in five years.

Industry is reasonable at projecting increases a year out, but its past attempts to project further out has been substantially off. IAATO’s five year projection in 2002, envisioned a total of 16,000 passengers by year five (2006/07). In practice that figure was exceeded within two years, with 19,369 landed tourists reported for the 2003/04 season.

The situation is in fact worse than even these figures suggest, since they include potentially unreliable components (numbers relating to non-IAATO operators, which IAATO cannot reasonably be expected to have good quality-control on) and exclude the substantial numbers of crews and guiding staff accompanying the tourists. A total figure of 44,266 for the 2003/04 season was suggested (using IAATO figures) in a paper in Polar Record in 2004. That figure was subsequently contested by IAATO. Our own calculation for the 2004/05 season, using IAATO figures is 46,031.

It is reasonable to see this trend in tourism numbers as producing ~80,000 tourists in the Antarctic Treaty Area in 2010. It will be less if we only count “landed” passengers, it will be higher if we include crews and staff. Is a figure of ~100,000 by 2016 out of the question?

IV. Acceptable Levels of Tourism in the Antarctic Treaty Area

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3 See ASOC/UNEP (2005) ‘Antarctic Tourism Graphics: An overview of tourism activities in the Antarctic Treaty Area’. XXVIII ATCM IP 119. See particularly Figure 1.
What we have seen so far, and what we may expect in the near future, are striking rates of increase in tourism numbers, significant in both absolute and relative terms. Most of these people have gone (and will continue to go) to a relatively limited number of sites. Site guidelines can do something at individual sites, but they do not provide any brake on overall tourism levels.5

In relative terms we are witnessing a dramatic transformation in the ratio of national programme to tourist activity levels. The peak population associated with national programs has been determined by COMNAP at under 3,500 in summer and just over 1,000 in winter.6 At comparable population levels, and even up to two or three times as many tourists as national programme staff, the latter’s impact will be greater – due to infrastructure, activity patterns and residence times. But as the ratio shifts further, the sheer number of tourists (quite aside from their distribution, and activities in the area) overcomes this, and tourism becomes the activity with the greater impact upon the Antarctic environment. Where this point is may be debatable; the fact of it being reached at some point is not.

Effects on environmental, scientific and geopolitical values/uses

The Protocol designates Antarctica “a natural reserve, devoted to peace and science”7 and thus tourism, whilst a legitimate activity, is a contingent activity. Continual unregulated growth and diversification of Antarctic tourism cannot be without effect on these entrenched Protocol values. Tourism focuses on sites perceived to have interest. What constitutes interest is often the fact of that site being biologically rich or the locality of historic or current scientific activity. The line to potential competitive use of sites is thus short and direct.

The environmental principles of the Protocol include the injunction that “Activities shall be planned and conducted in the Antarctic Treaty area so as to accord priority to scientific research and to preserve the value of Antarctica as an area for the conduct of such research, including research essential to understanding the global environment”8. At XXVIII ATCM, this was particularly raised in relation to ‘permanent and semi-permanent’ tourism infrastructure ashore.9 It surely also applies to the relationship between tourism and science activities more generally – whether through the absolute or effectual denial of use of particular areas, degradation of such areas for future science purposes, or merely competitive use with science.

Realistically, large parts of biologically-interesting coastal Antarctic Peninsula are already lost to scientific enquiry, notwithstanding the Article 3 commitment. Tourism activity is now so established and at such a level at many Peninsula sites that any proposal to deny access to tourism and privilege scientific activity at such sites would be greeted with uproar by the tourism industry. The industry now argues de facto rights of access, and often priority of access to sites it has used for some time. Substantial parts of Antarctica are disappearing from exclusive scientific reach. The consequences of this transferral of rights away from a public to a private interest have not been discussed at ATCMs – either in relation to their effects for scientific research, or their ethical implications.10

Legal implications

Substantive problems arise in relation to tourism as a result of the unresolved sovereignty situation, and resulting contested jurisdictional issues in the Antarctic Treaty Area. These include responsibility for criminal and civil law, the assertion of property rights, and assertion of usufruct or other access rights.11 As previously noted, we are already seeing assertions by the tourism industry of supposed rights to access and use, even in the face of seemingly enshrined ATS priority for science.

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7 Protocol, Art 2
8 Protocol, Art 3.3
But industry is not the only player. Some claimant states appear unwilling or unable to foreclose on the potential freedom of their citizens and instrumentalities to establish property-rights in that state’s claimed territory; other, including non-claimant, states argue that they lack the legal capacity to prevent their citizens and instrumentalities from conducting many sorts of activities in Antarctica, and most lack the legal capacity to prevent citizens travelling to Antarctica. Some states are even actively encouraging tourism and have built new, or converted existing, infrastructure to service tourism.

The weak legal arrangements in Antarctica allow tourism to be used variously by states as a tool for both asserting and undermining sovereignty, and by industry to stall any regulation.

_Distribution of tourism pressures_

Clearly, the area of greatest tourism pressure is the west coast of the Antarctic Peninsula. In the immediate future it appears that the greatest concentration of activity will be from the South Shetland Islands to northern Marguerite Bay. Regulation of Antarctic tourism entails an immediate focus on constraining further growth, and regulating present activity, in this region.

A secondary focus of activity is the Ross Sea. Here and elsewhere on the continent, tourism pressure could substantially increase through increasing use of air support. In these regions the issue is one of heading off problems before they become serious.

ASOC sees a need for tourism regulation to operate consistently throughout the Antarctic Treaty Area, but this can be achieved on a regional basis that addresses the uneven distribution of pressures.

**V. Facets of Tourism in the Antarctic Treaty Area that should be Prohibited**

A number of Parties, whatever their positions on the need to address overall Antarctic or regional tourist numbers and trends, seem to recognise that particular types of tourist activity or modes of operation should be discouraged or prohibited. Recent ATCMs suggest that at the top of the list is what has been termed “permanent or semi-permanent” tourism infrastructure ashore.\(^\text{12}\) For ASOC too, this has long been a priority issue.\(^\text{13}\)

The concerns with tourism establishing land-based infrastructure include:

1. an increase in environmental footprint (and a footprint for which there is no offsetting public good as there may be for impacts occasioned by important science), both at that site and further destinations for which this infrastructure provides a jumping-off point;

2. a potential acceleration of industry growth rates (higher throughputs, stimulus to air-mediated transport of tourists, etc) that it facilitates;

3. the uncertain legal status of the facilities and uncertainties over the appropriate legal jurisdiction applying to persons there; and

4. the danger that this exacerbates underlying sovereignty tensions and thus compromises international cooperation and harmony in Antarctica.

The options for dealing with this matter range from _a priori_ prohibition in some way, to employment of the EIA system to preclude developments above a certain level of impact. An apparent lack of legal basis in most jurisdictions to do the former has driven the discussion towards constraint through EIA. ASOC does not have problems in principle with this approach, beyond a caution that this not be allowed to corrupt the wider EIA process – i.e. it would not be helpful to see proposals being subjected to only IEE because to conduct

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CEE would automatically put the proposal above the threshold of acceptability. One could hazard a guess that this would not only not help with tourism issues, but also infect the EIA processes for other activities.

Whereas land-based infrastructure is an immediate concern, particular activities may arise which ATCPs wish to discourage or prohibit. Some thought needs to be given to whether some general mechanism might be developed to deal with such situations. ASOC has suggested that an analogue to the “compelling purpose” idea familiar to the scientific community in relation to some sorts of permits might be useful.14

VI. Legal and Administrative Mechanisms

ASOC has not argued for any particular mechanism to achieve the regulation of Antarctic tourism. We have noted a range of options, and the possibility that a combination of these may be required.15 However, the longer regulation is left, the less likely it becomes that simple regulatory units (such as Measures) will be adequate. The ATCM’s tardiness on tourism regulation makes an international case for a stand alone ‘Convention for the Regulation of Antarctic Tourism’ more pressing.

But whatever mechanism is employed, it has to be legally binding. A raft of hortatory injunctions is, finally, without teeth, and in most jurisdictions leaves governments facing industry lawyers seeking judicial review of attempted regulation that lacks a clear legal basis. Hortatory measures may be useful supplements, but they are insufficient as the prime mechanism of regulation for a major industry in Antarctica.

Recent ATCM discussions show clearly that for many Parties there is simply insufficient legal basis to prohibit particular tourism activities under existing Protocol obligations as codified in domestic implementing legislation. The problem is so general that it seems unlikely that this is merely a product of poor domestic implementing legislation. The underlying difficulty is that the Protocol itself does not provide what is needed. The ‘take-home’ message seems to be that we need a clear additional basis to come out of the ATCM. What that is may vary with the issue, but an immediate need seems to centre on capacity to prevent permanent or semi-permanent land based tourism infrastructure (above).

VII. Conclusions

Consultative Parties need finally to come to grips with the central problems posed by commercial tourism in the Antarctic Treaty Area – the scale and trends of the industry. After five years of tentative discussion at the margins of the issue, XXIX ATCM should see a focus on the ‘main game’. Limits need to be set to Antarctic tourism, if it is not to become one of the major problems in the region over the next decade.

The Edinburgh meeting should see not only the opening of this substantive debate, but concrete moves towards the prohibition of permanent or semi-permanent tourism infrastructure ashore. It is not in the wider interests of the Antarctic environment, its value for science, or the global interest, to see hotels, airstrips and other infrastructure built to service mass tourism.

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Appendix 1: Actual and Projected Tourism Growth 2001/02-2006/07

Table 1: Industry sources and figures for actual and projected tourism growth

<table>
<thead>
<tr>
<th>Source</th>
<th>Operating Season</th>
<th>Tourists Landed Immediate Past Season</th>
<th>Total Tourists Immediate Past Season Minus Overflights</th>
<th>Projected Tourists Landed (years ahead)</th>
</tr>
</thead>
<tbody>
<tr>
<td>XXV ATCM IP 73</td>
<td>2001/02</td>
<td>11,588</td>
<td>15,325</td>
<td>13.964 14.500 15,000 15,000 16,000</td>
</tr>
<tr>
<td>XXVI ATCM IP 71</td>
<td>2002/03</td>
<td>13,263</td>
<td>15,995</td>
<td>- 21,348 - 23,940 - -</td>
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<tr>
<td>XXVII ATCM IP 63</td>
<td>2003/04</td>
<td>19,369</td>
<td>24,872</td>
<td>- - - 27,687 - -</td>
</tr>
<tr>
<td>XXVIII ATCM IP 82</td>
<td>2004/05</td>
<td>22,175</td>
<td>27,208</td>
<td>- - - - - -</td>
</tr>
<tr>
<td>XXIX ATCM IP 86</td>
<td>2005/06</td>
<td>26,241</td>
<td>30,873</td>
<td>- - - - - 28,825</td>
</tr>
</tbody>
</table>

Note: At XXV ATCM (2002) IAATO projected landed tourists ahead for 5 years. Subsequent papers have only offered projections for the succeeding season.

Figure 1: Tourist numbers plotted – actual and projections
Appendix 2: ASOC Information Papers on Antarctic Tourism Regulation:


‘Improving Awareness of Protocol Obligations Amongst Antarctic Yacht Operators’. *XXV ATCM IP 76.*

‘Regulating Antarctic Tourism’. *XXV ATCM IP 83.*


‘Preventing Marine Pollution in Antarctic Waters’. *XXVI ATCM IP 64.*


‘What Does Regulation of Commercial Tourism Mean?’ *ATME Paper #21.*


