REGULATING COMMERCIAL TOURISM IN ANTARCTICA: THE POLICY ISSUES

Madrid, 9/20 de junio 2003
REGULATING COMMERCIAL TOURISM IN ANTARCTICA:
THE POLICY ISSUES

Information Paper submitted by the Antarctic and Southern Ocean Coalition (ASOC)
REGULATING COMMERCIAL TOURISM IN ANTARCTICA:
THE POLICY ISSUES

In papers XXIV ATCM/IP 40 and XXV ATCM/IP 83, ASOC presented the case for regulation of Antarctic tourism, and for the discussion of Antarctic Tourism as a policy issue by the ATCM and Parties.

ASOC strongly commends France and those other Parties which have discussed, through an informal intersessional open ended contact group, the issue of Antarctic Tourism regulation.

With the significance of Commercial Tourism now established, and given the earlier papers available to Parties, ASOC is contributing to the debate at this ATCM by identifying some key facets of the issue.

Accordingly, this Information Paper identifies Commercial Tourism as the priority focus of attention for XXVI ATCM – providing reasons for this – and suggests some aspects of Commercial Tourism that the ATCM will need to consider.

1. THE FOCUS OF ATTENTION
The focus of attention is **Commercial Tourism** – wherein services are provided by companies (commercial operators) to paying clients (tourists).

Government-sponsored tourism and other forms of non-governmental activity (including yacht operations, private expeditions and expeditions by environmental non-governmental organisations) may all pose issues warranting attention, but in terms of scale, apparent rate of growth and tractability using existing obligations and mechanisms, they are a lesser issue than Commercial Tourism. ASOC does not believe it is useful to categorise off-duty activities by national programme staff as essentially equivalent to tourism. These people, and their activities, appear most easily regulated as part of their national programmes.

Thus the measure of significance argued by ASOC is not in the first instance moral selectivity, an anti-corporate bias or a wish to stigmatise each and every current tourist operator. The significance of Commercial Tourism resides in its scale, rate of growth, circumpolar reach (which predisposes it to create pressures on the Antarctic environment) and its revenue-generating capacity which seems to be creating national and corporate pressures on the stability of the present system of Antarctic governance provided by the Antarctic Treaty System. It raises many of the same issues posed by consideration of minerals or marine living resources exploitation (and conceivably in the future, with bioprospecting), whereby it exacerbates not only competition between participants in the ATS (including claimant and non-claimant states), but between ATS and non-ATS states.

Following previous Antarctic Treaty System practice in relation to emerging commercial activities, ASOC believes there are good reasons for supposing that difficult as it may already be, the establishment of a regulatory framework for Commercial Tourism in the region becomes more difficult with the passage of time and the growth and further entrenchment of that industry.

**2. WHY DOES COMMERCIAL TOURISM REQUIRE REGULATION?**

(i) **Scale** – In terms of numbers of people and vessels it is now the largest single activity occurring in the Antarctic Treaty Area;

(ii) **Rate of growth** – It is the fastest growing activity in the Antarctic Treaty Area;

(iii) **Limited effectiveness of EIA** - The principle gatekeeper for human activity provided by the Protocol does not fit the activity class of tourism very well. It was developed essentially on the basis of experience with national Antarctic programmes;

(iv) **Evidence of increasing incidence of misadventure** – Sooner or later, without regulation, a serious, high-profile disaster will occur, which will trigger less balanced and careful reaction than is presently possible. Regulation cannot entirely eliminate the possibility of misadventure, but through the establishment of constraints and standards, it can reduce its incidence;
(v) **Absence of informal mechanisms** - As non-governmental activity, tourism is not subject to the informal mechanisms which provide feedback and control on at least some national programme activities. Commercial Tourism is unlikely to be responsive to any substantive constraint short of legal obligation, whereas potentially problematical scientific proposals may be constrained by policy directives, funding or operational mechanisms;

(vi) **Challenges to established values** – Values relating to peace, science and the environment are embedded in the Antarctic Treaty and Protocol. The Antarctic Treaty establishes a commitment to “international harmony” in the region. The Protocol designates Antarctica as “a natural reserve, devoted to peace and science” and establishes obligations on State Parties to maintain comprehensive protection of the Antarctic environment. To the extent that any activity poses a challenge to these norms, it warrants appropriate regulation;

(vii) **Industry-specific regulation** – This has been the approach taken by the ATS to date with sealing (CCAS), marine living resource harvesting (CCAMLR) and (until abandoned in favour of the Protocol) putative minerals resource activity (CRAMRA).

3. **WHAT PARAMETERS OF COMMERCIAL TOURISM WARRANT ATTENTION?**

(i) **Absolute numbers and activity levels** - Whatever short-term constraints are imposed by the market, the international situation or technical limitations, unless some limits are agreed, the general pattern of tourism growth can be expected in Antarctica. Unless Parties are to see the Antarctic scene dominated by tourist activity at some point – with the inevitable consequential impacts on governance mechanisms, political tensions, the environment and safety – some constraint on numbers is required. This almost certainly has ATS-wide and regional components;

(ii) **Geographical penetration of the region** – The enhanced technical means available to Commercial Tourism operators, coupled with growth and marketing, means that tourism activities may now reach any part of the region, and may do so in advance of substantive knowledge of particular locations, and possible effects of activity upon them.

(iii) **Types of activity** - There are some activities which may pose particular threats that we wish to avoid entirely. On grounds of potential environmental effect, coupled with uncertain politico-legal consequences, the establishment of tourism facilities ashore must be avoided. Alongside activities which can only be realised in Antarctica (such as observing a Chinstrap penguin colony) are those which are not region-critical (like water skiing, jetboating, or sky-diving).
It is legitimate to consider whether, in order to better secure other values in Antarctica, constraints may be put on some activity classes;

(iv) **Evaluation and review mechanisms** - EIA, strategic review, monitoring and compliance monitoring of Commercial Tourism warrant attention given the significant differences in its nature and modus operandi from national programme activity. This may require systemic examinations at discrete break-points in the growth of the activity. Whether this was determined on the basis of numbers, residence time, type of activity, location, or other criteria would need to be examined in detail.

### 4. WHAT REGULATORY RESPONSE IS REQUIRED FROM THE ATCM?

ASOC canvassed the apparent options in XXVATCM/IP 84. We believe the issues go beyond those properly covered by the Protocol (including safety issues, and effects on the wider stability of the ATS).

We continue to believe that a combination of mechanisms is required. Accordingly, ASOC suggests that Parties establish a Working Group tasked with evaluating options for the regulation of Commercial Tourism.