Report of the Antarctic and Southern Ocean Coalition (ASOC)

Submitted to the XXVII ATCM by
the Antarctic and Southern Ocean Coalition
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ASOC is delighted to be in Cape Town for this ATCM. We extend our formal thanks to the Government of South Africa for hosting what we fully expect to be an historic ATCM.

We trust that this meeting will see a conclusion and adoption of the outstanding formal commitments in the 11th ATSCM Final Act and Protocol—namely rules and procedures for liability for damage to the Antarctic environment and dependent and associated ecosystems. In addition, we look forward to the election of an Executive Secretary and the full funding of an effective Secretariat.

ASOC calls upon all Parties, Observers and Experts at XXVII ATCM to rededicate themselves to ensuring full and faithful implementation of the Protocol, and concerted efforts to ensure the comprehensive protection of the Antarctic environment as the common heritage of all humankind.

ASOC Worldwide

• ASOC maintains a Secretariat in Washington DC, (USA) – and a central website: http://www.asoc.org.
• ASOC member groups and individuals are present in most ATCPs.
• ASOC Regional Staff are located in: Asia (Seoul, South Korea), Europe (Amsterdam, The Netherlands and Madrid, Spain), Latin America (Santiago, Chile), and Southern Africa (Cape Town, South Africa).
• ASOC National Offices are located in: Australia (Canberra)

ASOC Information Papers for XXVII ATCM:

1. Are More Antarctic Stations Justified?
2. An Update on Some Issues Surrounding Noise Pollution
5. Tourism Accreditation and Inspection under the Antarctic Treaty

KEY ISSUES FOR XXVII ATCM

1) Antarctic Tourism:

ASOC was pleased to participate in the Antarctic Treaty Meeting of Experts (ATME) on Antarctic Tourism (Norway, 22-25 March 2004), and extend our appreciation to Norway for a fine meeting. We have tabled a paper examining the state of play post-ATME.

Like many Parties, ASOC believes an accreditation scheme may be a useful mechanism amongst the raft of measures necessary to regulate Commercial Tourism. We will make some suggestions on linking accreditation to the inspections capacity that Parties have under both the 1959 Antarctic Treaty and the Protocol.

The ATME specifically did not address legal and institutional issues of tourism
regulation. ASOC believes that these remain critical for effective regulation of commercial tourism and hopes to see some discussion here in Cape Town

2) Liability:

Agreement on the substantive form of a first Annex on Liability for damage to the Antarctic environment is essential this ATCM, so that this annex may be adopted at XXVIII ATCM in 2005. Given the restricted nature of the annex presently under consideration – Liability Arising from Environmental Emergencies – a key objective in Cape Town is reaching agreement on language in this annex which enables a subsequent annex or annexes on other aspects of liability to be discussed. This is an essential bridge between the positions of Parties (and ASOC) which recognise a need for more comprehensive coverage in order to meet the obligations of the Protocol, and those for whom the priority has been only an annex addressing emergencies.

3) Secretariat:

ASOC looks forward to the final selection of the first Executive Secretary for the Secretariat, and to the Secretariat beginning to function at the earliest possible date. Considering the significant workload for this ATCM, ASOC hopes that the election of the Executive Secretary will be conducted in an efficient and expedited manner so as not to compromise the other work of the ATCM.

4) Consistent Protocol Implementation:

One of the more disappointing developments since the Protocol entered into force has been the significant gap that developed between those Parties appropriately implementing many Protocol obligations, and those lagging significantly behind. ASOC hopes that with the encouragement of the various components of the Antarctic Treaty System – particularly the Committee for Environmental Protection and, once it begins to function, the Antarctic Treaty Secretariat – this gap will begin to close and there will be a more consistent implementation of the Protocol across all Antarctic operators.

ASOC is concerned that the Protocol is being revised by stealth. A number of the internationally progressive initiatives of the Protocol are being ignored or weakened. Whatever has happened to obligations in relation to ‘dependent and associated’ ecosystems? One simply sees no evidence of this innovative and environmentally sane concept in the practical operation of the Protocol. Obligations to address cumulative impact are still poorly met, and seem to be conceived as either a research project for some future age or a pro forma undertaking with no possible significance for the outcome of the project being considered. The capacity to designate ‘marine areas’ as protected areas under Annex V has, so far, been made contingent upon CCAMLR agreement. With CCAMLR now solely a regional fisheries agreement, there is not the slightest chance of it ever agreeing to deny any appreciable marine area to Members’ fishing fleets. Ergo, marine protected areas larger than handkerchiefs are hardly more likely now than they were under the Agreed Measures. The capacity to designate ‘specially protected species’ under Annex II and commitments regarding ‘comprehensive’ protection of the Antarctic environment now also founders on CCAMLR hegemony.

In a region where every bird and mammal (and much of the terrestrial flora and fauna) is dependent upon the marine environment, the repeated denial of adequate competence in Protocol on the grounds that this particular facet is within the sole purview of one of the other instruments of the Antarctic Treaty System is the kiss of death to its effective operation. In ASOC’s view comprehensive protection as stated in Art. 2 of the Protocol
is absolutely impossible without effective integration of the various activities conducted in the Antarctic region, and where else can this be done but under the Protocol?

5) **Review of Protocol Annexes:**

As part of the rolling review of the Annexes to the Madrid Protocol, ASOC participated in the Intersessional Contact Group (ICG) on Annex II review lead by Argentina. ASOC congratulates Argentina and the other participants for the valuable effort they have made during this second intersessional period. ASOC supports the Report on the ICG to be tabled at CEP VII and looks forward to discussions of the amended draft text of Annex II submitted by the ICG for the consideration of the CEP.

6) **Annex V:**

ASOC encourages the development of practical mechanisms to give effect to the formal capacity to designate marine areas as ASPAs or ASMAs under the Antarctic Protected Areas system. This requires the establishment of effective cross-institution mechanisms between the Protocol and CCAMLR.

ASOC has participated in the Deception Island ASMA process, and is encouraged by the use of Annex V of the Protocol as a tool to prevent conflict of interests between environmental conservation and human activities, and between science and tourism or other activities. However, questions remain about whether or not ongoing Commercial Tourism activities at the largest penguin rookery in the island (Baily Head) are compatible with the objectives of the management plan and of the Protocol, and also whether they are in compliance with the “information sufficient” requirements of the Protocol. ASOC would like to express its appreciation to the Coordination of the Deception Island Group for the work carried out over the past three years, which lead to the completion of the Deception Island “Management Package”, and thanks other participants for their contribution. We look forward to a comprehensive discussion of this package at this meeting.

We are pleased to see several new and revised management plans are up for review at this meeting and we expect that the Parties will give them the attention that they deserve.

7) **Antarctic Subglacial Lake Exploration and Research:**

ASOC encourages all Parties involved in subglacial lake exploration and research to adhere to the guiding principles of subglacial lake exploration enunciated in the SCAR/COMNAP Cambridge 1999 workshop and subsequently adopted by SCAR. These principles include that research should be internationally coordinated, multi- and interdisciplinary in scope, and that the design and execution of the program has non-contaminating techniques and minimum disturbance as fundamental considerations throughout the process.

In the particular case of Lake Vostok, consideration should also be given to designation of appropriate protected area status under Annex V of the Protocol.

8) **Promotion of Ukraine to Consultative Party Status:**

ASOC welcomes the application of Ukraine to become a Consultative Party, and looks forward to the swift approval of this application.
9) Biological Prospecting:

ASOC applauds Parties’ decision to place Biological Prospecting on the Agenda of the meeting and assign it to the Legal & Institutional Working Group, in addition to the continuing examination of this item in the CEP. We are sorry to see that, as of this writing, there have been no papers submitted on this topic. We urge the Parties to employ the Precautionary Principle on this issue and establish a formal mechanism for dealing with potential commercial bioprospecting issues before conflict arises, not after the fact. The ATCM should not accept bioprospecting as a fait accompli and abrogate its oversight responsibility on this growing issue.

BROADER ANTARCTIC ENVIRONMENTAL ISSUES

1) Southern Ocean Fishing:

The high level of Illegal, Unregulated and Unreported (IUU) fishing for toothfish, and associated seabird and other bycatch, continues at unsustainable levels. During the past year the arrest of two Uruguayan flagged vessels, Viarsa I and Maya V, after alleged illegal fishing for Patagonian toothfish inside the Australian EEZ, are just two clear examples. Some information published in the press recently even mentioned that during poaching operations of the Maya V, seabirds and marine mammals, including whales and fur seals, where killed by shooting or dynamite explosions caused by the officers of that vessel. Those press reports confirm the negative practices carried out by IUU fishing vessels in the Southern Ocean.

These and other events continue to highlight the inability of CCAMLR to seriously and effectively combat IUU fishing. Everyone involved seems to acknowledge the failure of the current system (indeed the evidence is overwhelming) and yet CCAMLR continues to approve new permits, and CCAMLR Parties continue to allow the importation of suspicious toothfish.

The notion that this issue can somehow be safely left to CCAMLR and that largely the same people, from the same states, meeting at an ATCM need not trouble themselves with an unrelenting assault on the integrity of the Antarctic environment, has no credibility. The greatest threat presently facing the Antarctic environment – which the Protocol seeks to secure – is the debacle surrounding Antarctic fishing. It is therefore both appropriate and necessary for the ATCM to seriously address this threat, and mechanisms of response by ATCPs.

While ASOC applauds those few Parties that are taking aggressive enforcement actions, ATCPs as a whole are failing to utilise their individual and collective capacity to address IUU fishing. Available mechanisms include cooperative use of satellite imagery, enforcement vessels, and various port-state enforcement options.

ASOC encourage all states – whether members of CCAMLR or not – to take the steps urgently needed to halt this illegal activity and to effectively implement the toothfish Catch Documentation Scheme (CDS). ASOC has developed several trade and management solutions that would assist in the elimination of IUU fishing and thereby assist in the conservation of Southern Ocean marine living resources. These are not radical solutions. They have, in fact, been adopted by other international organizations faced with similar problems. These include (1) centralized monitoring and compliance, (2) increased enforcement and inspection powers including the adoption of an enforcement protocol, and (3) strengthening the CDS, including actions to be taken when Port States are presented with toothfish without a verifiable DCD or from unregulated
waters. The CDS will only be able to track the trade in toothfish and assist states in closing markets to illegally caught toothfish if implemented by all states involved in the toothfish trade.

ASOC has created an IUU vessel ‘Red List’, available at www.asoc.org to assist governments in identifying and scrutinizing vessels that may be involved in IUU fishing in the Southern Ocean. Also the Coalition of Legal Toothfish Operators (COLTO) has created a list of suspected IUU vessels and offers a reward for the apprehension of pirate fishers.

2) Agreement on the Conservation of Albatrosses and Petrels:

ASOC applauds the Ratification of the Agreement on the Conservation of Albatrosses and Petrels (ACAP) by five Parties - Australia, New Zealand, Ecuador, Spain and the Republic of South Africa – which allowed it to come into force on 1 February 2004. Since its entry into force the UK has also ratified the agreement. ASOC encourages all ACAP Range States, particularly those who are also Parties to ATS treaties that have not yet ratified this agreement, to do so as soon as possible. At the same time ASOC also recommends that the ATS considers mechanisms of co-operation with the ACAP Secretariat, when this is constituted, in order to protect those magnificent seabirds.

3) Marine Acoustic Technology:

At ATCM XXVI, ASOC raised the issue of the use of acoustic pollution in the Antarctic Treaty Area, and the potential impacts this technology has on the marine environment at all levels of the ecosystem. We have submitted an Information Paper to provide Delegates information on recent developments scientifically, legally and politically, as well as a short commentary on where we see progress on the Recommendations we made last year and remaining opportunities. We look forward to a continuing dialogue at this ATCM, and in particular to agreement on concrete steps to address various aspects of acoustic pollution.