Marine Protected Areas – Steps Forward for the ATCM
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Information Paper Submitted by ASOC to ATCM XXX

(CEP Agenda Item 7; ATCM Agenda Item 10)

1. Introduction

ASOC has taken a keen interest in the Marine Protected Areas (MPAs) issue both within the ATCM and other Antarctic Treaty fora, particularly CCAMLR.\(^1\)

ASOC applauds CEP IX’s recognition that the definition and designation of Antarctic MPAs is urgent and needs to be dealt with on a timely basis.\(^2\) More broadly, the Antarctic Treaty Parties have previously recognised the importance of MPAs by committing to identify such areas within a systematic environmental-geographic framework and to include in the series of Antarctic Specially Protected Areas (ASPas) representative examples of major marine ecosystems.\(^3\)

This paper identifies:

- actions that articulate Antarctic Treaty Parties’ commitments to comprehensively protect the Antarctic marine environment and dependent and associated ecosystems as an opportunity for the Antarctic Treaty Parties to make a major step forward during the 2007-2009 IPY; and
- issues for further consideration by the Antarctic Treaty Parties in developing the existing ASPA and ASMA regimes in order to achieve comprehensive protection of the Antarctic marine environment and dependent and associated ecosystems.

2. The Nature of the Antarctic Treaty Parties’ Obligations

2.1 Wider international obligations

Outside the Antarctic Treaty System, many Antarctic Treaty Parties participated in the agreement reached at the World Summit on Sustainable Development (Johannesburg, 2002) to implement representative networks of MPAs by 2012 with the aim of conserving marine biodiversity and allowing sustainable use of marine resources. The Convention on Biological Diversity has also called for urgent action to address the under-representation of marine and coastal biodiversity in the global protected area system, particularly in areas beyond national jurisdiction. The Eighth Meeting of the Conference of the Parties to the Convention on Biological Diversity (Curitiba, Brazil, 2006) specifically considered MPA discussions and decisions in the CCAMLR context. Most recently, the G8 2007 Environment Minister’s Meeting (Potsdam, 15-17 March 2007) agreed to “intensify our research and enhance our cooperation regarding the high seas in order to identify those habitats that merit protection and to ensure their protection”.\(^4\)

Other international fora participated in by Antarctic Treaty Parties that are concerned with protecting the marine environment through representative networks of MPAs include the United Nations General Assembly and the Food and Agriculture Organization of the United Nations.\(^5\) The Antarctic Treaty Parties are also

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1 Note ASOC Information Paper, ‘Taking Action on Marine Noise Pollution’ submitted to this ATCM.
2 See Final Report XXIX ATCM para 80.
3 See Annex V to the Madrid Protocol, article 3. Previous ATCM work is also noted including the first and second Antarctic Protected Areas Workshops (Tromsø, Norway, 1998 and Lima, 1999 respectively).
5 For example, the UN General Assembly established an Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, which reported during the 61\(^{st}\) session of the General Assembly. The FAO’s Committee on Fisheries (COFI) has agreed
aware of the ongoing work of the IUCN - The World Conservation Union - in relation to the analysis and creation of marine protected areas.

2.2 Antarctic Treaty System obligations

Under the Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol) and its Annexes, the Antarctic Treaty Parties must:

- provide comprehensive protection of the Antarctic marine environment and dependent and associated ecosystems (Article 2); and
- seek to identify within a systematic environmental-geographical framework and include in the series of ASPAs representative examples of major marine ecosystems and a range of other types of areas concerned with environmental values (Annex V, Article 3).

The Protocol and its Annex V therefore mandate a broader role for, in particular, ASPAs than is currently being utilized. This requires a network or a “series” within a systematic environmental-geographic framework that, *inter alia*, protects outstanding environmental values and assists comprehensive protection of the Antarctic environment. It is unlikely that any other regime is as equipped as the Antarctic Treaty System to move forward on the issue of MPAs. Indeed, the Antarctic Treaty System is uniquely positioned to expand the use of its MPA tools in the Southern Ocean and, in doing so, to inform global discussions on the design and application of MPAs and the comprehensive protection of marine environments.

3. Issues for Further Consideration

At CEP IX, the CEP agreed to continue its work towards the elaboration of a ‘systematic environmental-geographic framework and give further specific consideration to the inclusion of marine areas within such a framework. Ultimate achievement of this elaboration may necessitate further development of the ASPA and ASMA regimes in addition to and in parallel with the ongoing CCAMLR bioregionalisation work currently being supported by the CEP. It is noted that the Antarctic Treaty Parties may be assisted in this regard by referring to other broad ocean protection regimes such as the MPA strategy of the OSPAR Commission for the Protection of the Marine Environment of the North-East Atlantic and the Mediterranean Specially Protected Areas Protocol.

Particular matters for further development may include further elaboration of site selection criteria and considerations, area design and implementation.

3.1 Site selection criteria/considerations

The ATCPs already have access to well-developed criteria for the selection of ASMA and ASPA sites as set out in Annex V of the Madrid Protocol. The CEP has also reiterated the need for a sustainable and scientific approach. The following table summarises some characteristics of ASMAS and ASPAs.
Table – Characteristics of ASMAs and ASPAs

<table>
<thead>
<tr>
<th></th>
<th>ASMAs (art 4)</th>
<th>ASPAs (art 3)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Aims/ objectives to be realized</strong></td>
<td>- To assist in the planning and co-ordination of activities&lt;br&gt;- To avoid possible conflicts&lt;br&gt;- To improve cooperation</td>
<td>- To protect outstanding environmental, scientific, historic, aesthetic or wilderness values, and any combination of those values&lt;br&gt;- To protect ongoing or planned scientific research</td>
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<tr>
<td><strong>Size</strong></td>
<td>Sufficient size to protect the values for which protection or management is required (art 5).</td>
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<tr>
<td><strong>Duration</strong></td>
<td>Indefinite or fixed period (art 6(3)).</td>
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<tr>
<td><strong>Areas</strong></td>
<td>Can include any marine area and does not have to be tied to a terrestrial area (subject to prior CCAMLR approval).</td>
<td>NB: ASMAs are limited to where activities are being conducted or may in the future be conducted.</td>
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</table>

The identification values for ASPAs under Annex V currently comprise the following:

- **Representativeness**: ASPAs shall include representative examples of major terrestrial, including glacial and aquatic, ecosystems and marine ecosystems.
- **Species and habitat considerations**: These include importance, assemblage (including major breeding colonies) and sole habitat considerations.
- **Geoscientific value**: This includes examples of outstanding geological, glaciological or geomorphological features.
- **Aesthetic and wilderness value**.
- **Inviolateness**.
- **Scientific interest**.
- **Other areas as may be appropriate to protect the values set out in Art. 3(1)**.
- **Historic value**.

These values are characteristic of other MPA regimes (see Appendix 1). Issues for further elaboration may include the following.

- **Development of relevant selection criteria** such as ecological significance, representativeness criteria and species and habitat development. The OSPAR regime, for example, specifies factors by which ecological significance can be judged.\(^1\) In relation to representativeness criteria, while bioregionalisation is an important tool in this regard, the achievement of true representativeness may require examination at different levels including the area as whole, its regions and sub-regions.\(^2\) It is noted that some regimes have chosen to define representativeness.\(^3\) While species and habitat considerations already figure prominently in the selection criteria for ASPAs, some issues may warrant further consideration. Other regimes have considered issues such as whether consideration of threatened or declining species and habitats should be expressly articulated and whether such a list should be adopted, whether community considerations should be articulated and whether it is useful to reference a particular selection process (as with the OSPAR Commission’s Guidelines for

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\(^2\) For example, ASOC has recommended to CCAMLR finer-scale analysis of sub-regional biodiversity. See ASOC, “Achieving a network of Marine Protected Areas in the CCAMLR areas” submitted to CCAMLR-XXV, agenda items 6 and 15. Also, compare with OSPAR Commission Guidelines for the Identification and Selection of MPAs in the OSPAR Maritime Area (Reference number: 2003-17), Appendix 1, item 5 – available at: [http://www.ospar.org/documents/dbase/decres/agreements/03-17e_Guidelines%20identification%20MPA.doc](http://www.ospar.org/documents/dbase/decres/agreements/03-17e_Guidelines%20identification%20MPA.doc).

\(^3\) For example, the Mediterranean Specially Protected Areas Protocol, in Appendix 1, part 2(b) defines representativeness as “the degree to which an area represents a habitat type, ecological process, biological community, physiographic feature or other natural characteristic”, Compare with the Mediterranean Specially Protected Areas Protocol, Annex II ‘List of Endangered or Threatened Species’.\(^4\)
the Identification and Selection of MPAs in the OSPAR Maritime Area which references the Texel-Faial process).15

- **Clarification of the network or “series” approach.** The concept of ecological coherence, for example, is inherent in Annex V’s endorsement of a series of ASPAs identified within a systematic environmental-geographic framework. Further elaboration of this concept may be useful. It is noted that the OSPAR MPAs strategy includes guidance on developing an ecologically coherent network.16

- **Prioritization of site selection.** Annex V is relatively silent on this potentially important component of MPA selection. It is noted that the issue has however been recognized by the CEP which has stated that “risk should be a primary consideration for selecting areas for protection” (CEP IX report). It is recommended that the CEP and the ATCPs continue to consider this issue more broadly. Relevant concepts have been considered in, for example, the OSPAR Commission’s Guidelines for the Identification and Selection of MPAs in the OSPAR Maritime Area.17

- **Site designation procedure.** It may be useful for ATCPs to consider the need for interim protection to be afforded to areas identified as candidate sites requiring more information before a conclusion on protection can be finalized. Such interim protection may be short or long-term providing the period is sufficient to protect future options while data collection and decision processes are completed.18

### 3.2 Area design

Important principles for area design are comprehensiveness, adequacy and representativeness. The full development of ASPA and ASMA mechanisms will also necessitate further consideration to be given to area design. One of the uses of bioregionalisation is to provide a scientific basis for decisions on the design of protected areas. However, it must be noted that bioregionalisation does not provide a complete mechanism within itself for the design of an MPA system (IUCN, p. 11).19

### 3.3 Implementation

There already exists a fairly well-developed system for site management of ASPAs and ASMAs. Further development of some aspects of the management plan regime may be necessary in order to achieve fuller implementation of the ASPA and ASMA regimes. Another example of a management plan regime can be found in the OSPAR Commission’s MPA strategy.20 Other important aspects of implementation include enforcement and review.

### 4. ATCM-CCAMLR Cooperation

The CEP has recognised the importance of cooperation on the issue of marine protected areas across the Antarctic Treaty System and particularly between the CEP and CCAMLR. This cooperation is essential if the degree of protection of the Antarctic marine environment required by the Madrid Protocol is to be achieved. It is noted that Article 6 of Annex V provides that no marine area shall be designated as an ASPA

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17 See OSPAR Commission Guidelines for the Identification and Selection of MPAs in the OSPAR Maritime Area (Reference number: 2003-17) – available at: http://www.ospar.org/documents/dbase/decrecs/agreements/03-17e_Guidelines%20identification%20MPA.doc. Also consider other factors raised by Appendix 1, part 4 of the Mediterranean Specially Protected Areas Protocol such as existence of threats.


19 IUCN The World Conservation Union, ‘Marine Protected Areas: discussions and decisions in the CCAMLR context’. Information paper presented at COP8, Curitiba, Brazil, 20-31 March 2006, p. 11.

or ASMA without the prior approval of CCAMLR. ATCM proposals with marine components currently are provided to CCAMLR for review.

CEP IX agreed to endorse cooperation with CCAMLR on the protection of the marine environment and particularly on the development of scientifically-based principles and criteria for MPAs.\(^{21}\) The CEP is also represented on the steering committee of CCAMLR’s 2007 Bioregionalisation Workshop (Brussels, 13-17 August 2007).\(^{22}\) Besides bioregionalisation, the issues discussed in part 3 of this paper, particularly site selection and implementation, will be best served by joint engagement between CCAMLR and the ATCM regime. It is therefore timely for the CEP and ATCM to consider the establishment of joint mechanisms with CCAMLR to cooperate further on the protection of the marine environment across the Antarctic Treaty System.\(^{23}\)

5. Conclusions

The Antarctic Treaty System is uniquely positioned to expand the use of its MPA tools in the Southern Ocean and, in doing so, inform global discussions on the design and application of comprehensive protection of marine environments.

ASOC applauds the Antarctic Treaty Parties for its consideration of the MPA issue to date and its commitment to elaborating the systematic environmental-geographic framework mandated by Annex V to the Environmental Protocol. The Antarctic Treaty Parties have the opportunity to bestow the 2007-2009 IPY with a lasting legacy regarding MPAs.

ASOC recommends that the Antarctic Treaty Consultative Parties and the CEP take the following steps:

- Agree in the context of the 2007-2009 IPY to establish a comprehensive and fully-representative series of ASPAs and ASMAs by 2012, which will help leave a positive legacy for the IPY in this respect.
- Articulate a clearly defined process and accompanying timeline for establishing an ecologically coherent series of ASPAs and ASMAs that achieves comprehensive protection of the Antarctic marine environment and dependent and associated ecosystems.
- Consider incorporating into this process all aspects of a fully developed MPA regime, including issues such as site selection considerations, area design and implementation.
- Further consider means of cooperation with CCAMLR on the protection of the marine environment, and particularly on the development of scientifically-based principles and criteria for MPAs.

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\(^{21}\) Final Report IX CEP, para. 98. See also, for example, CEP IX, Working Paper 4 (agenda item CEP 7), submitted by the United Kingdom, ‘Marine Protected Areas (MPAs) – Tools for Protection and Management’.

\(^{22}\) ATCM Decision 9 (2005).

\(^{23}\) It is noted that the Scientific Committee for the Conservation of Antarctic Marine Living Resources (SC-CAMLR) last year discussed the usefulness of a joint meeting between CEP and SC-CAMLR to develop effective ways of working together. See Report of SC-CAMLR XXV (2006), para. 93.
### Appendix 1: Selection Criteria and Identification Values for a Sample of Frameworks Concerned with Broader Ocean Protection

<table>
<thead>
<tr>
<th>ASPAs*</th>
<th>OSPAR – ecological criteria/considerations for identification of MPAs**</th>
<th>Protocol concerning specially protected areas and biological diversity in the Mediterranean***</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Representativeness</strong>&lt;br&gt;Art. 3(2)(b) - representative examples of major terrestrial, including glacial and aquatic, ecosystems and marine ecosystems.</td>
<td>Criteria 5 – representative of the OSPAR maritime area as a whole or for biogeographic regions/sub-regions.</td>
<td>Art. 4 - safeguard representative types of coastal and marine ecosystems. Annex 1, part 2 – Natural representativeness: highly representative of ecological processes, or community or habitat types or other natural characteristics. (Nb definition of “representativity”.)</td>
</tr>
<tr>
<td><strong>Species and habitat</strong>&lt;br&gt;Art. 3(2)(c) - areas with important or unusual assemblages of species, including major colonies of breeding native birds or mammals Art. 3(2)(c) - the type locality or only known habitat of any species.</td>
<td>Criteria 1- Threatened or declining species and habitats/biotopes (as identified by the Texel-Faial selection process). Criteria 2 - Important species and habitats/biotopes (as identified by the Texel-Faial selection process). Criteria 6 - Sensitivity of habitats/biotopes or species.</td>
<td>Art. 4 – safeguard habitats: in danger of disappearing; having a reduced natural area of distribution; critical to the survival, reproduction and recovery of endangered, threatened or endemic species. (Also art. 8; Appendix 1, part 2(c).)</td>
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<tr>
<td><strong>Aesthetic and wilderness value</strong>&lt;br&gt;See art. 3(2)(g).</td>
<td>Naturalness, ie lack of disturbance, degradation - eg of habitats/biotopes or species (Criteria 7)</td>
<td>Art. 4 – safeguard sites of scientific or aesthetic interest. (Also art. 8.)</td>
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<tr>
<td><strong>Inviolateness</strong>&lt;br&gt;Art. 3(2)(a) - areas kept inviolate from human interference so that future comparisons may be possible with localities that have been affected by human activities)</td>
<td>Naturalness, ie lack of disturbance, degradation - eg of habitats/biotopes or species (Criteria 7)</td>
<td>Appendix 2, part 2(d) – Naturalness: the area has a high degree of naturalness as a result of the lack or low level of human-induced disturbance and degradation.</td>
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<tr>
<td><strong>Ecological significance</strong></td>
<td>Criteria 3 - Ecological significance of area (eg high proportion of a habitat/biotope type or biogeographic population; feeding, breeding, mouthing, wintering or resting areas; nursery, juvenile or spawning area; natural biological productivity).</td>
<td>Art. 8 – sites containing ecosystems specific to the Mediterranean. Appendix 1, part 2(a) – Uniqueness: the area contains unique or rare ecosystems, or rare or endemic species.</td>
</tr>
<tr>
<td><strong>Biological diversity</strong></td>
<td>Criteria 4 - Degree of natural biological diversity of species or habitats/biotopes</td>
<td>Art. 8 – sites of importance for conserving components of biological diversity in the Mediterranean. Appendix 1, part 2(c) – consider if the area has “a high diversity of species, communities, habitats or ecosystems”.</td>
</tr>
<tr>
<td><strong>Geoscientific value</strong>&lt;br&gt;Art 2(3)(f) - examples of outstanding geological, glaciological or geomorphological features.</td>
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<td><strong>Scientific interest</strong>&lt;br&gt;Art 2(3)(e) - Areas of particular interest to ongoing or planned scientific research)</td>
<td></td>
<td>Art. 4 – safeguard sites of, inter alia, scientific interest.</td>
</tr>
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* Source: Annex V to the Madrid Protocol, art. 3.


*** Source: Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean (signed Barcelona, 10 June 1995; into force 12 December 1999).