Comparison of Three Antarctic Treaty Meeting of Experts on Shipping and Tourism
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Comparison of Three Antarctic Treaty Meeting of Experts on Shipping and Tourism

Summary
This information paper compares the outcomes of the Antarctic Treaty Meeting of Experts (ATME) (Wellington, New Zealand, December 9-11 2010) with previous ATMEs on shipping (London, 2000) and tourism (Norway, 2004). Overall, Antarctic Treaty Parties have made some progress on the regulation of both shipping and tourism (and the interface of these two activities) with respect to the situation in 2000 and 2004, the year of previous ATMEs. However, progress has been relatively slow, and forced by shipping incidents and tourism developments.

1. Introduction
This information paper summarises ASOC views on the outcomes of the Antarctic Treaty Meeting of Experts (ATME) (Wellington, New Zealand, December 9-11 2010), compares this ATME with previous ATMEs on shipping (London, 2000) and tourism (Norway, 2004), and offers an assessment of the state of play on discussions concerning tourism regulation and shipping following that meeting. A comparison of relevant aspects of the 2009 ATME with previous ATMEs is useful both as a measure of progress and as an indication of what remains to be done. Appendix 1 evaluates the outcome of the 2009 ATME. Appendix 2 compares the two tourism ATMEs in 2004 and 2009.

ASOC would like to express its great appreciation to New Zealand for an extremely well organized and useful meeting.

2. The 2009 ATME on ship-borne tourism in Wellington

2.1 Summary of ATME
On 23 November, the Liberian-flagged M/S Explorer was holed in Antarctica, following a collision with ice, and sank in the Bransfield Strait near the South Shetland Islands, spilling an unknown quantity of fuel. All passengers and crew were rescued. From 9 – 11th December, 2009 Antarctic Treaty Experts met in Wellington, New Zealand to consider matters relating to the management of ship-borne tourism including recent trends and developments, maritime safety, protection of the Antarctic environment, vessels flagged to non-Parties, and future cooperation with relevant bodies. Many of the delegates, in presenting papers or comments, referred to the sinking of the M/S Explorer as a “wake-up call” on the need to improve the safety and management of Antarctic shipping, particularly the ship-borne tourism sector.

Overall, there were interesting discussions during the ATME but most Parties seemed to be reluctant to recommend the ATCM to take major steps in the regulation of ship-borne tourism. There has been progress on some shipping aspects and the growing involvement of IMO is positive considering that many ships operating in Antarctic waters are not registered in Antarctic Treaty States but are registered in IMO states.

1 Lead authors R. Roura and S. Prior.
3 According to statements by the ship's captain, there were 185 m³ of diesel oil on board, as well as 24 m³ of lubricant and 500 litres of gasoline; 210 m³ of fuel oils in total (Quoted in XXXI ATCM/IP011, Background to the pollution incident caused by the sinking of the MS Explorer, submitted by Chile).
4 The meeting was convened by means of Decision 7 (2009).
Of the 17 recommendations passed by the ATME to the ATCM, three recommendations (18%) can be described as “progress”, 10 recommendations (59%) as “limited progress”, and the remaining four recommendations (23%) as “no progress” (Appendix 1). This suggests a fairly average outcome for the ATME given New Zealand’s original high aspirations (as outlined in documentation submitted by New Zealand to the ATME) and the importance of the topic.

2.2 ASOC documents

ASOC submitted four information papers to the Wellington ATME. These are listed here broadly ranging from those covering multiple issues to those addressing single issues:

• **“Antarctic Ship-borne Tourism: Perspectives on Shipping Management” (ATME IP002):**

  This paper focuses on the current management and regulation of shipping, and in particular tourism shipping. The paper’s recommendations draw from various papers and briefings prepared for the Antarctic Treaty Consultative Meetings (ATCMs) and meetings of the International Maritime Organization (IMO) in the past two years by the Antarctic and ASOC. This paper identifies further needs with respect to the management and regulation of shipping to ensure that the highest safety and environmental standards are applied to ships operating in Antarctic waters.

• **“Making Tangible Progress on a Strategic Vision for Antarctic Tourism” (ATME IP003):**

  This paper examines regulation that is specifically applicable to Antarctic tourism, with an emphasis on ship-borne tourism and the protection of the Antarctic environment. The paper recommends that key legally binding instruments that are still not fully in force become effective as soon as possible; advance from non-binding to binding regulation in implementing the general principles of Resolution 7, 2009 by means of Measures; identify and address gaps in existing tourism regulation; review and improve how EIA is applied to tourism; and use ASPAs and ASMA's proactively as tourism strategic management tools.

• **“Antarctic Ship-borne Tourism and Inspections Under Article VII of the Antarctic Treaty and Article 14 of the Protocol on Environmental Protection” (ATME IP001):**

  This paper reviews official inspections of tourism cruise vessels in the Antarctic Treaty Area. Ten tourist vessels have been inspected since 1959. The inspections have been generally positive about various aspects of the conduct of tourism. Since tourism has now become a major Antarctic activity in terms of the number of people, ships, and sites involved, it makes sense that it becomes the focus of inspections to a greater degree than hitherto. Inspections of tourism vessels, activities and landing sites should be as detailed and critical, where applicable, as those of National Antarctic Program facilities. Purpose-made checklists for tourism may eventually be required.

• **“Coastal Hydrocarbon Pollution: A Case Study From Deception Island, Antarctica” (ATME IP004):**

  This paper is a case study of coastal hydrocarbon pollution. It updates on monitoring activities conducted by ASOC at Deception Island in 2001-2002 jointly with the Institute of Chemical Physics of Materials, Environment and Energy (INQUIMAE, in Spanish), University of Buenos Aires, Argentina, as reported to the SCAR/IASC Open Science Conference, St. Petersburg, Russia, July 8-11 2008. Monitoring identified detectable hydrocarbon concentrations at a number of Deception Island coastal sites. The results suggest that regular and effective monitoring should take place to allow assessment of the impacts of ongoing activities at Deception Island, in accordance with Art. 3(2)(d) of the Protocol of Environmental Protection to the Antarctic Treaty, as well as at other Antarctic sites where high levels of shipping are frequent.

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Some of these papers have been resubmitted to XXXIII ATCM as some Parties were not present at the Wellington ATME, and some are relevant to the Committee for Environmental Protection.

3. Comparison with previous ATMEs

3.1 The 2000 shipping ATME in London

The focus of the 2000 shipping ATME was the development of Antarctic Guidelines for shipping and related activities and it resulted in seven recommendations. A detailed comparison of the seven recommendations from 2000 with the recommendations from the ATME 2009 would, however, be somewhat meaningless, since the proposal for Antarctic Guidelines for shipping has now been overtaken through the expansion of the Arctic Guidelines to encompass Antarctic waters and the commitment given in 2009 and subsequent work now underway within the framework of the International Maritime Organization (IMO) to develop a mandatory Polar Code for shipping.\(^7\)

However, while all of the seven recommendations from the 2000 ATME relate specifically to the development of Antarctic Guidelines, two recommendations are of possible interest at the current time:

- The fact that the ATCM is invited to consider the ATME 2000 working group summary reports and the report of the drafting group on Environmental Protection as a basis for further development of these issues, which indicates that even 10 years ago, the intention was that environmental protection should be encompassed by the instrument under development.

- A recommendation that the ATCM should continue to liaise with IMO was agreed in London in 2000. This earlier recommendation is very similar to Recommendation 16 on liaison between the IMO and the ATCM made in Wellington in 2009:

  *The meeting agreed that enhanced coordination between the Antarctic Treaty Parties with respect to Antarctic-related matters within IMO may be valuable in some circumstances, and noted that mechanisms for coordination should be considered by ATCM XXXIII.*

While this recommendation is important, the fact that it needed to be reiterated nearly 10 years on is an indication of limited progress.

3.2 The 2004 tourism ATME in Norway

The two tourism ATMEs in 2004 and 2009 are more comparable to each other than with the 2000 shipping ATME. However, while the 2009 ATME focused solely on ship-borne tourism, the 2004 ATME had a broader remit, namely:

1. Monitoring, cumulative impact and Environmental Impact Assessment;
2. Safety and self-sufficiency, including search and rescue and insurance;
3. Jurisdiction, industry self-regulation, and an analysis of the existing legal framework and identification of gaps;
4. Guidelines;
5. Adventure (extreme) tourism and government sponsored tourism; and

Of these, aspects of 1, 2, 3, and 6 were discussed in Wellington while 4 and 5 were not.

Appendix 2 compares the outcomes of both Norway and Wellington ATMEs, based on ASOC (2004). After the Norway ATME ASOC concluded:

*The ATME discussion was largely focused on technical issues. A number of the technical proposals are reasonable enough. The question is essentially whether they are a sufficient response to the challenges posed by the growing and diversifying tourism industry. ASOC thinks that without some*

\(^7\) See the separate paper on vessels submitted by ASOC for this ATCM: Working Towards A Polar Vessel Code.
strategic commitments on the part of the Antarctic Treaty Parties, these initiatives will have very little effect on the core issues.

The same words can be applied to the tourism situation after the Wellington ATME as they did six years earlier. However, several developments have taken place since:

1. The consolidation of some sites in Antarctica into tourism destinations where visits by organised tourism groups take place frequently through the tourism season;
2. A continued growth of tourism, albeit partly slowed down by the 2009 global financial downturn;
3. A growing diversification of the industry and the activities offered by various operators;
4. The “codification” of many IAATO guidelines into ATCM guidelines;
5. The development of site specific guidelines as a primary tool for tourism management;
6. The de-facto establishment of 500 passengers as the accepted upper limit for passenger landings (up from the limit of 400 passengers previously used by IAATO), later adopted in Measure 15 (2009);
7. The involvement of large ships carrying numerous passengers in Antarctic tourism, including companies within and without IAATO;
8. A series of incidents involving tourism ships, including passing the benchmark of the first ship fully dedicated to tourism to sink in the Antarctic.

Further developments relevant to tourism, albeit not strictly related to shipping issues:

9. A growing number of land based facilities of different kinds used for tourism, including companies within and without IAATO; and
10. Possible use of infrastructure from some state operators to support tourism.

The overall picture is one of greater consolidation of tourism as an Antarctic industry, which is now rather substantially different from that that was discussed in the 2004 ATME.

4 Closing remarks

Overall, Antarctic Treaty Parties have made some progress on the regulation of both shipping and tourism (and the interface of these two activities) with respect to the situation in 2000 and 2004, the year of previous ATMEs. However, progress has been relatively slow.

With respect to shipping issues, progress in last years include the adoption of the Polar Guidelines, the ban on heavy fuel oil and the work to develop a mandatory Polar Code. These developments, however, has been forced by the sinking of the MV Explorer and other incidents that appear to have focused minds and resolved commitment to take action. However, there is still much to be done, particularly through the development of a comprehensive, mandatory Polar Code.

With respect to tourism issues, the 2004 meeting in Norway took the issue of tourism regulation forward, so that it was then up to the full ATCM to build on this momentum. It is increasingly apparent that the principle of some form of regulation is quite widely accepted by Antarctic Treaty Consultative Parties and even the mainstream tourism industry. However, barring Measures 4 (2004), Measure 15 (2009), and the hortatory guiding principles of Resolution 7 (2009), the ATCM has not really taken effective action on tourism regulation. The focus has remained the streamlining of tourism at highly visited sites, through the development of site-specific guidelines and more broadly through the “codification” of IAATO guidelines. More recently, a worthwhile development has been the study of tourism conducted by the CEP, which promises to bring some clarity as to the true scope of Antarctic tourism and its actual and potential impacts.

To the extent that a tourism regulatory regime is emerging, it is regulating an industry that has evolved substantially from what it was six years before. While it is important for Parties to consider the issues surrounding tourism carefully, a certain tempo in setting up regulation is also relevant to avoid the ATCM to be always “catching up” with developments. This is also true of shipping aspects. ASOC hopes that progress on these two significant areas of Antarctic operations continues so that “regulation” has eventually a

substantive effect on the level, *modus operandi* and trajectory of commercial tourism, including through the use of higher shipping standards as established in a mandatory Polar Code.
Appendix 1 – Outcome of the 2009 Wellington ATME on ship-borne tourism: What was achieved?

The following assessment reviews each of the recommendations from the ATME and attempts to identify whether each recommendation makes progress towards improving the management of tourism-related shipping in Antarctic waters and/or reducing the risks of a major incident involving tourism vessels. More broadly, this assessment also reflects progress on the development of an Antarctic tourism regulatory regime.

<table>
<thead>
<tr>
<th>#</th>
<th>Recommendation</th>
<th>What change will result</th>
<th>Assessment(^\text{a})</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Incidents involving tourist vessels in the Antarctic Treaty Area should be considered by the Antarctic Treaty Parties for the Antarctic specific lessons they may provide for the avoidance of similar incidents in the future. Parties with relevant links to such incidents (especially flag or authorising States) should be asked to provide information to assist such considerations.</td>
<td>While this recommendation is good and necessary, it is likely to result in very little change. Such reports are important to gain a more thorough understanding of the problems causing incidents in the region, they should be provided routinely to both the IMO and to the ATCM. Non-Antarctic specific lessons from recent Antarctic incidents may also be useful to prevent further incidents in the future – after all most ships sink by filling up with water, which is not Antarctic-specific!</td>
<td>(✓)</td>
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<td>2</td>
<td>Drawing on the checklists currently available for other Antarctic operations, the Treaty Parties should consider the development of a specific checklist for Antarctic Treaty inspections of tourist vessels and tourist activities in Antarctica.</td>
<td>This was one of ASOC’s recommendations (ATME IP001). It is a useful but not essential step. Actually conducting more inspections of tourism vessels and activities would be more important than producing a checklist.</td>
<td>(✓)</td>
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<tr>
<td>3</td>
<td>That the Treaty Parties make use as appropriate of the views expressed in discussions amongst experts about the proposed IMO mandatory Polar Code in their preparations for the upcoming meetings of the IMO Sub-Committee on Ship Design and Equipment and the ATCM, and discuss at the ATCM how the Treaty Parties might best input into the IMO discussions.</td>
<td>The discussion and output from the informal contact group of experts at the ATME was largely around overarching principles and lacked depth. It could be pretty meaningless in terms of the development of a Polar Code, since discussion around the overarching principles is already underway, and will “miss the boat” if it is not input into the IMO process ahead of the first DE meeting in February 2010.</td>
<td>(✓)</td>
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<td>4</td>
<td>That the Treaty Parties should continue to contribute to hydrographic surveying and charting information and consider advising vessels intending to operate in the Antarctic Treaty area that many areas have not been surveyed to modern standards.</td>
<td>While important this doesn’t really move anything forward – Parties are supposedly already contributing to hydrographic surveying and charting information, but it is clear that data is still inadequate.</td>
<td>×</td>
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\(^{a}\) Key:

✓ = progress

(✓) = limited progress

× = no progress
<table>
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<tr>
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<th>What change will result</th>
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<tr>
<td>5</td>
<td>That the Treaty Parties should continue to contribute to the continuation and improvement of sea ice services in the Antarctic Treaty Area.</td>
<td>Again, while important this recommendation doesn’t actually achieve anything beyond what is already happening.</td>
<td>×</td>
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<tr>
<td>6</td>
<td>That the Treaty Parties proactively apply to tourist vessels bound for the Antarctic Treaty area the existing regime of port State control (PSC), through PSC memoranda of understanding or agreements if appropriate, so that they can meet all applicable legally binding international standards.</td>
<td>This could result in increased inspections of vessels bound for Antarctica, however there is no commitment to inspect a particular % of vessels bound for Antarctica and no agreed level of Port State Control, other than that required more generally though the existing schemes.</td>
<td>✓</td>
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<td>7</td>
<td>The Meeting agreed that the five Parties with Search and Rescue coordination responsibility in the Antarctic area should share their plans and further coordinate with national programmes, and IAATO</td>
<td>The sharing of plans and greater coordination is welcome, although a process needs to be identified to ensure it happens and that action is taken as a result of sharing of plans.</td>
<td>✓</td>
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<td>8</td>
<td>That all crew on vessels planning to navigate in Antarctic waters should be required to undertake relevant training appropriate to the conditions expected to be encountered, and where appropriate in accordance with Chapter 14 of the IMO’s Guidelines for Ships Operating in Polar Waters.</td>
<td>Obviously important, however the commitment for all crew on vessels planning to navigate in Antarctic waters to undertake relevant training in accordance with the Guidelines has been made through the adoption of the Guidelines during 2009.</td>
<td>✓</td>
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<tr>
<td>9</td>
<td>The Antarctic Treaty Parties should continue to encourage tourist and non-governmental organisations’ vessels not participating in the IAATO or COMNAP vessel monitoring schemes to report their positions regularly to the relevant MRCC. All tourist and NGO vessels should closely follow the IMO’s ‘Enhanced contingency planning guidelines for passenger ships operating in areas remote from SAR facilities’ in accordance with ATCM resolution 6 (2005).</td>
<td>This already happens so while it is important that Treaty Parties continue to encourage vessels to report positions – it doesn’t actually change current practice.</td>
<td>×</td>
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<td>10</td>
<td>That those Antarctic Treaty Parties that have not yet done so should consider approving Measure 4 (2004) on Insurance and Contingency Planning for Tourism and Non-governmental Activities in the Antarctic Treaty Area as a matter of priority.</td>
<td>This should already have happened so is again a commitment to do something that was actually agreed some 5 years ago.</td>
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<td>This was recommended by ASOC in IP04 – which also listed Measure 15 (2009) and Annex IV of the Protocol as requiring ratification.</td>
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<td>11</td>
<td>The meeting recommended that the relevant committees and groups of the ATCM (such as the CEP and the Operations Working Group) give further consideration to how the assessment of the environmental aspects and impacts of</td>
<td>This could be an important step forward in terms of reducing the environmental impact of shipping in Antarctic waters, but is unlikely to address shipping accidents.</td>
<td>✓</td>
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<tr>
<td>#</td>
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<td>12</td>
<td>The meeting recommended that Parties and those involved in non-governmental activities be encouraged to provide spatial and temporal data in support of future studies and syntheses for discussion by the CEP and ATCM.</td>
<td>This information is very important for the future discussion of shipping routes and management tools such as areas to be avoided, traffic separation schemes, etc., but the recommendation won’t necessarily lead to direct action.</td>
<td>(√)</td>
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<td>13</td>
<td>The Treaty Parties should exchange information on contingency planning undertaken in fulfilment of Article 15, for responding to incidents with potential adverse impacts on the Antarctic environment.</td>
<td>This could be important in terms of a coordinated response to an incident, however it is not directly linked to action other than exchange of information.</td>
<td>(√)</td>
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<td>14</td>
<td>That the ATCM consider developing guidelines for responding to large-scale marine oil spills in the Antarctic Treaty area.</td>
<td>Provided a process is established, this could be an important recommendation.</td>
<td>(√)</td>
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<tr>
<td>15</td>
<td>The meeting agreed that enhanced coordination between the Antarctic Treaty Parties with respect to Antarctic-related matters within IMO would be valuable, and noted that mechanisms for coordination should be considered by ATCM XXXIII.</td>
<td>This is important, and should really already be happening. In the long term it is feasible that it could result in improved management of Antarctic shipping.</td>
<td>(√)</td>
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<tr>
<td>16</td>
<td>The meeting agreed that enhanced coordination between the Antarctic Treaty Parties with respect to Antarctic-related matters within IMO may be valuable in some circumstances, and noted that mechanisms for coordination should be considered by ATCM XXXIII.</td>
<td>This is important, and should really already be happening.</td>
<td>(√)</td>
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<td>17</td>
<td>The IHO-HCA should continue to be invited to annual ATCMs to report the status of hydrographic survey and nautical chart production in Antarctic waters. Parties also agreed that, as appropriate, the ATCM should be represented at IHO-HCA meetings. Where an IHO-HCA meeting was to be held in a country that was also a Consultative Party, then that Consultative Party should consider attending the HCA meeting.</td>
<td>This is useful / important, and should really already be happening.</td>
<td>(√)</td>
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### Appendix 2 – Comparison of the 2004 and 2009 tourism ATMEs

<table>
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<tr>
<th>2004 Norway ATME&lt;sup&gt;10&lt;/sup&gt;</th>
<th>2009 Wellington ATME</th>
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<tr>
<td>The ATME did not address legal mechanisms to regulate commercial tourism. ASOC raised considerations such as the need to limit the overall level of tourism, but that issue was not discussed further.</td>
<td>The ATME addressed some legal mechanisms to regulate commercial tourism but in a generic rather than specific, action-oriented manner.</td>
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<tr>
<td>A distinct shift has occurred in Parties’ thinking about the need for tourism regulation, with declining reliance on industry self-regulation and increased acceptance of a central role for the Antarctic Treaty System in establishing the regulatory basis for the industry.</td>
<td>This shift has been maintained over the recent years albeit it has not resulted in substantive regulatory action, with the exception of Measures 4 (2004) and Measure 15 (2009), which are not yet into force.</td>
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<tr>
<td>Regulating shipping aspects of Antarctic tourism is largely falling to the IMO – while positive at a number of levels there is urgent need for Antarctic Treaty Parties coordination and for guidance to be provided to the IMO. In addition, some aspects of regional management of shipping are more appropriately initiated within the framework of the Antarctic Treaty System. There is concern that the current effort in the IMO may provide an excuse for Antarctic Treaty Parties not to take action on shipping issues.</td>
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<td>The industry association is still seen by some Parties as having a privileged role in the management of tourism, but the Norway meeting saw acceptance of the risk that changes in the industry’s structure may lead to more companies not becoming part of the association.</td>
<td>This is still the case, in part because IAATO has filled in a niche that Parties have been unable or unwilling to fill in, such as in providing information about tourism. Recent changes in industry dynamics – including for instance that small-to medium-sized Antarctic-specialist companies are now owned by global multinationals new to the Antarctic – do not seem to be seen as a problem to most Parties.</td>
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<tr>
<td>The ATME discussion was largely focused on technical issues. A number of the technical proposals are reasonable enough. The question is essentially whether they are a sufficient response to the challenges posed by the growing and diversifying tourism industry. ASOC thinks that without some strategic commitments on the part of the Antarctic Treaty Parties, these initiatives will have very little effect on the core issues.</td>
<td>This ATME focused on the interface between tourism and shipping, with the emphasis on shipping rather than tourism. This is reasonable given recent incidents involving tourist ships and the prevalence of ship-borne tourism as the main form of Antarctic tourism. At the same time the tourism discussion is becoming even more technical than hitherto, and furthermore much of the expertise on shipping issues lies outside the ATS. The discussion of tourism regulation should not be limited to shipping aspects.</td>
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<tr>
<td>Overall the meeting in Norway has taken the issue of tourism regulation forward, and it is up to the full ATCM to build on this momentum.</td>
<td>Barring Measures 4 (2004), Measure 15 (2009), and the hortatory guiding principles of Resolution 7 (2009), the ATCM has not really taken effective action on tourism regulation.</td>
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