ASOC's update on Marine Protected Areas in the Southern Ocean
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Information Paper submitted by ASOC¹

Summary

The various components of the Antarctic Treaty System, including the Antarctic Treaty, the Convention for the Conservation of Antarctic Marine Living Resources, and the Protocol of Environmental Protection to the Antarctic Treaty, have overlapping but not identical membership, stakeholder groups, and even individual actors. One of the most significant discussions of the past decade affecting the Antarctic Treaty Area has been the ongoing discussion on the establishment of Marine Protected Areas (MPAs) by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). This process is significant in terms of scope, spatial extent, and generally the precedent of conducting systematic conservation planning in a regional scale in Antarctica. In this document ASOC provides its perspectives on recent CCAMLR MPA discussions primarily for the benefit of ATCM/CEP Members, stakeholders and individuals not participating in those discussions.

Introduction

One of the most significant discussions of the past decade affecting the Southern Ocean has been the ongoing discussion on the establishment of Marine Protected Areas (MPAs) by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR),² whose area of responsibility overlaps the Antarctic Treaty area. This process is significant in terms of scope, spatial extent, and generally the precedent of conducting systematic conservation planning on a regional scale in Antarctica.

However, the various components of the Antarctic Treaty System, including the 1959 Antarctic Treaty, the 1980 Convention for the Conservation of Antarctic Marine Living Resources (CAMLR Convention), and the 1991 Protocol of Environmental Protection to the Antarctic Treaty, have overlapping but not identical membership, stakeholder groups, and even individual actors. The ATCM/CEP have discussed spatial marine protection in a number of instances,³ including at the first joint CEP-SC-CCAMLR meeting in 2009, which discussed areas of common interest, mechanisms for cooperation, and lead body.⁴ More recently, many formal and informal discussions between CCAMLR Members have also taken place on the margins of the ATCM and CEP.

In this document ASOC provides its perspectives on the CCAMLR MPA discussions to date, primarily for the benefit of ATCM/CEP Members, stakeholders and individuals not participating in those discussions. Particular detail is given to the XXXIV CCAMLR meeting in 2015. A more detailed account of that meeting is available on the ASOC website,⁵ which also contains additional documentation on CCAMLR MPAs.

Background on CCAMLR MPAs

¹ Lead author Ricardo Roura with contributions from Julian Chen, Claire Christian, Jill Hepp, Rob Nicoll, Barry Weeber and Rodolfo Werner.
² This document uses refers to the Convention for the Conservation of Antarctic Marine Living Resources As "CAMLR Convention" or "Convention" and to the Commission for the Conservation of Antarctic Marine Living Resources as "CCAMLR" or "Commission".
⁴ With respect to lead body, the workshop agreed that "Issues relating to spatial protection and management of Antarctic marine biodiversity would generally be best led by SC-CCAMLR. However, this does not preclude in any way the development by the CEP of ASPAs and ASMAs which have in whole or in part a marine component." XXXII ATCM WP 55, p.13.
The CAMLR Convention, which entered into force in 1982, was established with the primary objective of conserving Antarctic marine life. This was in response to concern over increasing commercial interest in Antarctic krill, a keystone component of the Antarctic ecosystem, and a history of over-exploitation of several other marine resources in the Southern Ocean. Thus, CCAMLR was established in response to over-fishing and the expansion of fishing in the Southern Ocean.

The Convention's primary objective is the conservation of Antarctic marine living resources (Art. II (1)). For the purposes of the Convention, conservation "...includes rational use..." (Art. II (2)). However, "...any harvesting and associated activities..." in the Convention area must be conducted in accordance with three principles of conservation that give rise to CCAMLR’s application of ecosystem and precautionary approaches (Art. II(3)). So, if "...any harvesting and associated activities..." occur, including commercial fishing, they must meet the three conservation objectives of Art. II (3). This structure of the core objective of the Convention makes it clear that conservation is the focus of CCAMLR with fishing accommodated as a secondary activity, where consistent with the Convention.

The CAMLR Commission - CCAMLR\(^7\) - has been discussing the adoption of MPAs since 2002. In 2009 CCAMLR set itself a deadline for 2012 to achieve a representative system of MPAs within the Convention Area,\(^8\) which was divided in nine different planning domains. In 2009 CCAMLR adopted by consensus the South Orkney Islands Southern Shelf MPA (Conservation Measure 91-03), followed in 2011 by the adoption of a General Framework for the Establishment of CCAMLR MPAs (Conservation Measure 91-04). Proposals for MPAs in Domain 7 (East Antarctic Representative System of MPAs, submitted by Australia, the European Union and France) and Domain 8 (Ross Sea MPA submitted by New Zealand and USA) have been examined by CCAMLR's Scientific Committee since 2011 (Fig. 1).

These proposals are conceptually different (in terms of inter alia their design methods and proposed approaches to research and management), underscoring that not "one size fits all" when it comes to designing an MPA. However, CCAMLR's Scientific Committee has agreed that both proposals have been developed using the best available science.

Prior to CCAMLR XXXIV in 2015, discussed in the following section, these two MPA proposals were discussed at regular CCAMLR meetings in 2012, 2013, and 2014, and at a special intersessional meeting in Bremerhaven, Germany, in July 2013. So far, CCAMLR has not achieved consensus on either proposal, despite the "erosion by negotiation" that has occurred to both proposals (Fig. 1) to satisfy some CCAMLR Members' concerns about e.g. MPA size, duration, review, and access to fishing areas.

**MPA discussions at CCAMLR XXXIV**

CCAMLR held its XXXIV Meeting at the Secretariat Headquarters in Hobart (Australia), from October 19 to 30, 2015. As in previous years, the issue of MPAs was high on the agenda.

The proposals for East Antarctica and the Ross Sea MPAs were once again on the table. Most Members agreed that the revised proposals had addressed the concerns expressed by Members at previous meetings, and that each proposal was consistent with the framework established in CM 91-04, and that the proposals were ready for further discussion. However, two Members noted that while some of the concerns expressed in previous meetings had been met, there were many substantive concerns as yet unresolved and thus they were not able to support consideration of either proposal in the conservation measures drafting group, a necessary first step for the adoption of MPAs.\(^9\)

\(^6\) The term "rational use" is most often but not exclusively used as a synonym for fishing. However, "rational use" is not defined in the Convention and thus subject to interpretation e.g. "rational use" could refer to non-harvesting forms of use of the CCAMLR Area. In contrast, the Convention refers to "harvesting" when it explicitly means this type of activity.

\(^7\) CCAMLR is a decision-making body established under Art. VII of the CAMLR Convention that gives effect to the Convention’s objectives and principles set out in Article II. The Commission includes a Scientific Committee also established by the CAMLR Convention. Several working groups established by the Scientific Committee meet through the year and help in formulating scientific advice on various topics.


However, on the morning of the last day of the Commission meeting, a revised proposal for the Ross Sea MPA was presented to the Commission. This new version included the following elements:

- The proposal was 20% larger than the proposal submitted initially to CCAMLR in 2015 with a total size of 1.57 million km$^2$.
- The increase comes from the addition of 322,328 km$^2$ of a Krill Research Zone (KRZ) on the western boundary. Only krill fishing that meets the research goals of the marine protected area would be allowed in this area. This also closes off an area that could have been open to toothfish fishing.
- The overall no take area was reduced by 22,000 km$^2$ along the western boundary.
- All krill research fishing in that area will be subject to the existing conservation measures that limit the total catch of krill in that zone to 15,000 tons.
- The text defining the MPA has a square bracketed (or marked for further discussion) sunset clause ("hard end"), with the period specified as 50 years (also bracketed). This is an important change as none of the proposals had specified a fixed term previously.

The revised proposal for the Ross Sea MPA is currently being considered in advance of further discussions in 2016 at CCAMLR. Elements like the newly proposed Krill Research Zone will presumably need to be considered by CCAMLR's Scientific Committee and relevant science Working Groups, prior to its consideration by CCAMLR in October 2016.

There was considerable feedback during the last CCAMLR meeting on the East Antarctic MPA proposal, primarily focused on duration and review that is being considered further by Australia, EU and France.

There were some updates on other MPA proposals as well:

- Germany gave an update on progress in developing the Weddell Sea MPA and noted that it was planning to present a formal proposal to the Scientific Committee in 2016.
- Argentina gave an update on progress in developing the Antarctic Peninsula MPA, noting that it was the intention of the proponents to present a proposal to CCAMLR in 2017.

In addition, CCAMLR also discussed the proposal for an MPA checklist submitted by Japan. The purpose of the checklist is to verify that a proposed MPA complies with CM 91-04. Japan agreed that the document could be considered non-binding and voluntary.

**Closing remarks**

The adoption of a representative network of MPAs in the CAMLR Convention Area would be a major development in the conservation of the Southern Ocean. Despite substantial progress made early on by CCAMLR, the past several years have been characterised by delays and the "erosion by negotiation" of the current MPA proposals. In this context, ASOC suggests that although CCAMLR must accommodate different concerns, CCAMLR should stick to its conservation principles. The agreed MPAs need to remain of the same size while changes could be made through management and review.

For the ATCM and CEP these developments are significant not only for those Parties/Members that are active in CCAMLR, but also more generally, as they are closely connected to the work undertaken to give effect to the environmental principles of the Protocol in the Antarctic Treaty Area, which includes part of the Southern Ocean, and cover activities that are not the remit of CCAMLR.

It is our hope that in the 25th anniversary of the signature of the Protocol the bold, forward looking thinking used by the ATCM in the past could help inspire CCAMLR Members in their deliberations on MPAs. ASOC hopes that CCAMLR adopts the MPA proposals for East Antarctica and the Ross Sea at CCAMLR XXXV in 2016, and additional proposals in years to come.
Fig 1 - Changes on the RSMPA and EARSMPA since first submitted to CCAMLR. The oval shows the area where changes were introduced in CCAMLR XXIV in 2015.