

Antarctic tourism management and regulation: the need for change

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ABSTRACT. Antarctic tourism has experienced a boom period over the last thirty years. Beginning in the 1980s, the number of tourists who visited the continent annually began to rise sharply, and within the space of twenty years the numbers had increased by more than six hundred percent. Despite a global recession and downturn in visitor numbers over the last two austral seasons, the expectation is that Antarctic tourist numbers will trend upward again as the world tourism market recovers and the demand for Antarctic visits increases. In a continent renowned both as the last great global wilderness and as a place dedicated to scientific research in the interests of humankind, tourism on this scale presents a formidable range of issues for the Antarctic Treaty Consultative Parties (ATCPs) to contend with. This article suggests that the rapid growth in Antarctic tourism, and the impacts of that tourism coupled with the lack of a comprehensive regulatory and management framework for tourism now pose a considerable challenge to both the Consultative Parties and to the Antarctic Treaty System (ATS) itself. The obligations and duties of the ATCPs under the Antarctic Treaty and other ATS instruments require a robust, strategic response by them to the issues and concerns generated by the growth of tourism. What is needed, it is argued, is for the parties to initiate a more interventionist pro-active policy approach to create a holistic, binding tourism framework so that they may fulfill more effectively their stewardship and governance roles in Antarctica, prevent degradation of Antarctica's environment, and reduce risks to tourists themselves.

Introduction

Although an industry that was not anticipated to become large-scale, and a policy area that only began appearing with regularity on Antarctic Treaty Consultative Meeting (ATCM) agendas seven years after the signing of the Antarctic Treaty in 1959, Antarctic tourism today, because of its unexpected growth, has become a litmus test for the Antarctic Treaty Consultative Parties (ATCPs) in terms of their ability to generate a comprehensive policy framework and achieve effective management and regulation of tourism in the southernmost continent. The core problems that bedevil the ATCPs in attempting to construct policy instruments in Antarctic tourism involve both structural and process issues, and include the non-sovereign status of Antarctica, the consensus decision-making process at ATCMs, and tensions between national and common interests of the parties in the continent. These are considerable problems to deal with, and the consultative parties have attracted criticism for choosing to place tourism on a 'back-burner' in deference to the possibility that addressing these issues might place too great a strain on the cooperative inter-governmental relationships that underlie the Antarctic Treaty System (ATS). However, engage with these problems the ATCPs must, or risk challenges to the viability and legitimacy of the ATS itself and their place within it.

Antarctica seems an unlikely choice as a tourist destination. Its extreme conditions and status as the coldest, highest, windiest, driest, and most remote place on earth precluded an indigenous population and made it one of the last areas on the globe to be explored (Smith 1994; Stonehouse and Snyder 2010). Even today, sustaining daily human life on Antarctica is difficult and fraught

with dangers. Nor is the journey to the white continent easy. This has been well illustrated in the number of maritime accidents involving cruise ships in the Southern Ocean and Antarctic waters over the last decade (Klein 2010; Liggett and others 2010), with three serious accidents in one eighteen month period alone. Nevertheless, tourism has become the main commercial activity in Antarctica (Liggett, and others 2011: 357). The growth in tourism is relatively recent. In the early 1980s numbers began slowly to increase and by the 1991–1992 austral summer 6,704 ship and land-based tourists were recorded as having visited Antarctica (IAATO 2011c). The tourist numbers continued to increase significantly. In 2000–2001 seaborne and land-based tourist numbers reached 12,248. Six years later, in 2006–2007, seaborne, air-borne, landed and cruise only tourist numbers were recorded at 37,562 (IAATO 2011c). Despite a downturn in numbers over the 2009–2011 seasons, Antarctic tourism figures are predicted to rise once more as the global travel industry recovers, outbound tourism markets in emerging economies such as China, India, the Russian Federation and Brazil continue to grow, and publicity from the recent International Polar Year stimulates 'the desire in many people to visit Antarctica' (IAATO 2009:6; WTO 2012a, WTO 2012b).

Although it was occurring before the signing of the Antarctic Treaty, extant tourist operations were limited in size and scope (Bauer 1991; Headland 1994; Snyder and Stonehouse 2007) with tourist figures numbering less than a thousand per year between the 1950s and 1970s (Reich 1980; Enzenbacher 1992, 1993). There is no reference to 'tourism' or 'tourist activities' in the text of the Antarctic Treaty, an absence that suggests tourism

was not foreseen as a large-scale industry. Instead, the focus of the treaty is on cooperative international scientific research and on maintaining the continent as a non-sovereign, peaceful, non-militarised, commons. Indeed, the strong scientific culture in Antarctica, as Stonehouse reports, meant that 'tourist' was a term of opprobrium, used by the scientific community to denote 'expedition members who failed to pull their weight', journalists and politicians (Stonehouse 2007: 147).

A constellation of factors altered Antarctic tourism patterns. Increased public awareness of Antarctica following debates in the United Nations in the 1980s about the continent combined with climate change, globalisation, and growing eco-tourist and adventure tourist demand in the global tourist market to produce greater consciousness of Antarctica as a potential tourist destination. Changes in sea ice patterns that extended the period in which ships could navigate the treacherous Southern Ocean and Antarctic waters, as well as the lengthening of the peak tourist austral summer season, supported these changes. Additionally, after the breakup of the Soviet Union in late 1991, former Soviet ice-breakers became available for lease on the private market, allowing tourist operators to expand their Antarctic operations (Buckley 2000: 438–440; Hemmings 2007: 183–184). Changes also occurred within the Antarctic tourism industry. In 1991 seven private operators established the International Association of Antarctica Tourist Operators (IAATO). By 2011 their membership had climbed to over 100 (IAATO 2011a), and they had achieved observer status at ATCMs. IAATO also set up by-laws, codes and guidelines for its members, and required their adherence to protocols and processes that reflected the principles of the Antarctic Treaty and other ATS instruments (IAATO 2011b).

Policy and problems in Antarctic tourism

Although the Treaty is silent with respect to tourism, the growth in tourist numbers and activities reached a level that brought it to the attention of the ATCPs, and tourism featured on ATCM agendas from the mid 1960s onwards as an issue requiring the attention of the parties. From ATCM IV in 1966 to ATCM XXXIII/CEP X111 in 2010, thirty-one official pronouncements (advice, regulations, statements, guidelines) concerning tourism were made, four official sets of regulations issued, and two ATCMs (Madrid in 2003, Baltimore in 2009) specifically considered the results of prior 'expert' meetings on tourism (Antarctic Treaty Secretariat 2011a). The last two decades, in particular, have seen considerable discussion by the ATCPs about tourism. This is a turn-around from earlier days when tourism was a low-priority issue, but has still not resulted in either the articulation by the ATCPs of a clear vision for Antarctic tourism or the introduction of a coherent, integrated tourism management and regulatory framework. As Bastmeijer (2009) notes, in the period from 1990–2008 while there was increasing

discussion about tourism at ATCMs, there was little decision-making by the ATCPs. This was attributable to a variety of reasons. Some parties were reluctant to take a legally binding approach to this policy area, some preferred to rely on industry self-regulation, while still others were resistant even to draft resolutions or measures that might be inconsistent with their domestic legislation. Differences were also apparent between the parties on particular issues such as permanent land-based tourism facilities in Antarctica, and a number of parties did not necessarily perceive tourism issues as problems requiring a solution. Consequently, what little decision-making there has been in tourism by the ATCPs has predominantly had a non-binding legal status, is sometimes unclear, has not addressed strategic issues, and has often been 'based on work established by the self-regulation system of IAATO' (Bastmeijer 2009: 8).

ATCP failure to achieve a comprehensive management and regulatory framework for tourism in Antarctica can also be attributed to the Antarctic Treaty and its Article IV freezing of Antarctic sovereignty claims for the duration of the treaty. Because of this, Antarctica lacks a sovereign government able individually to mandate change, and the condominium governance system provided in the treaty contains a number of procedural obstacles to the easy achievement of policy outcomes. The Article IX(2) requirement that only ATCPs can propose or vote upon measures at the regular ATCMs means that of the fifty states that are signatories to the treaty, only twenty-eight, those with ATCP status, are effectively making policy for the continent (Antarctic Treaty Secretariat 2011b). Despite only a small pool of decision-makers, the agreement threshold for decision-making is extremely high. Article IX(4) of the treaty indicates that unanimity is required for an initiative introduced at an ATCM to reach the status of a measure that is binding upon the parties. Although, in practice, consensus has replaced unanimity as the threshold, this is still extremely difficult to achieve.

While the consensus requirement hampers quick or easy introduction of tourism-based initiatives, a more fundamental issue preventing attempts to generate a management and regulatory framework for tourism that would consistently integrate policy instruments is the divergence of opinions among ATCPs over Antarctic tourism. There is simply no common agreement on a collective framework for tourism management and regulation among them. As Enzenbacher (2007: 155) has stated, there is 'lack of agreement on how tourism should be addressed [and] varying levels of direct involvement and financial gain from tourism among Member States'. Consequently, the decision-making on tourism issues has been reactive rather than pro-active, with decision-making lagging significantly behind real-time occurrences in tourism. As a result, tourism decisions made at ATCMs have been piecemeal and lack a coherent framework (Beck 1990: 352; Davis 1999: 521; United Kingdom 2004: 1).

The differences of opinion among ATCPs about the nature and scope of tourism in Antarctica can be seen in the working paper (United Kingdom 2009) submitted by the United Kingdom to the Baltimore ATCM XXXII entitled 'Strategic vision of Antarctic tourism for the next decade'. The genesis of the paper was the United Kingdom's proposal from the previous 2008 ATCM XXXI for the subsequent ATCM to develop a strategic vision of Antarctic tourism as part of the celebrations for the 50th anniversary signing of the Antarctic Treaty in 2009. Despite 'much common ground among the contributions' submitted by ATCPs and NGOs with, particularly, 'broad agreement to focus on principles of mitigation of environmental and safety risks', the summary of contributions (United Kingdom 2009: Annex B) states that 'there were few specific areas where there was yet a clear shared overall vision of tourism development or management measures.' The paper goes on to note the 'significant differences between those advocating proposals to limit tourist numbers or types of activities in the future, against those who would resist any kind of limit or prohibition.' Importantly, the paper also remarks that there is potential incompatibility between the positions taken by ATCPs and comments that 'It will be crucial for the Treaty Parties to find a way forward on this conundrum' (United Kingdom 2009: Annex B).

There are still other problems. There is a lack of institutional infrastructure for monitoring tourism, absence of comprehensive tourism statistics to help inform decision-making, and inexperience in tourism management among ATCPs. There is also the lingering suspicion that, despite the treaty placing in abeyance sovereign claims to Antarctica, some parties are still seeking to bolster their claims through a variety of means, including tourism (Rayfuse 2008; Dodds 2011). Another factor that may have contributed to the continued absence of a comprehensive, binding tourism framework is institutional fatigue. It is possible that after a decade of intense debate in international forums about Antarctica and the introduction of a convention prohibiting mining in the continent for fifty years, the ATS simply entered a period of stasis; for instance, Hemmings (2007: 185–187) notes the lack of ATS institutional dynamism and innovation since 1991.

Currently, the core ATS instrument that applies to tourism policy is the Protocol on Environmental Protection to the Antarctic Treaty 1991 (PEPAT). As the preamble indicates, PEPAT is intended to limit damage to the polar environment. The vehicle by which this is to be achieved is Environmental Impact Assessment (EIA) reports, the process for which is laid out in Article 8 and Annex I of PEPAT. Although described as 'un modele au point de vue ecologique' and 'the first comprehensive approach to the issue in any international legal instrument' (Sands 1992: 55), PEPAT was not designed specifically to deal with the impacts of Antarctic tourism. Over the years, its limitations, especially in respect to EIAs, have become obvious. It has subsequently become the focus

of scholarly critique (for instance, Hemmings and Roura 2003; Bastmeijer and Roura 2008) because of the lack of scientific rigour and investigation involved in the reports, lack of expert Antarctic scientific community input into key stages of the process, and the fact that 'the ultimate arbiter of what will be done on the continent belongs to individual national governments' (Joyner 1998: 156).

That Antarctic tourism cannot be categorised simplistically as 'good' or 'bad' is possibly another reason for ATCP inability to agree on a common framework for tourism. It is a complex phenomenon with multiple and varied impacts in Antarctica. For instance, tourism has been credited with initiating the clean-up of polluted research stations, and tourist ships have assisted national scientific programmes by carrying personnel, equipment and supplies to research stations. Tourism also generates revenue from the sale of postal and souvenir services during tours of scientific research stations, and provides opportunities for 'direct advocacy of the research being done there to an interested audience' (Cessford 1997: 9). Additionally, it is argued that Antarctic tourists can become ambassadors for the continent, helping to lobby governments for Antarctic funding and proselytising for protection of the continent (Maher and others 2003: 208). On the other hand, tourism has been associated with less positive factors. Diversion from the treaty's focus on the primacy of scientific research in Antarctica is a negative impact of tourism. Tourism is 'depicted as a threat to not only Antarctica's environment but also its status as a continent for science' (Beck 1994: 381). Anxiety has also been expressed about the potential for tourism to disrupt scientific programmes and for tourists to contaminate sites not yet properly investigated by scientists. There has been criticism, too, of the way in which research stations have had to supplement and support existing search and rescue (SAR) facilities in tourist emergencies (Beck 1994; Murray and Jabour 2004).

Other problems focus on the multiple impacts caused by human contacts with the environment, such as contamination of sites not fully investigated by scientists; damage to plants and vegetation; introduction of non-indigenous animals, plants or micro-organisms; disruption of wildlife breeding cycles; and the stress and trauma caused to wildlife by close contact with humans. Perhaps the most far-reaching problem is that of cumulative human impacts on the environment. Cumulative impacts have been defined as 'impacts on the natural and social environments from single or multiple sources which occur so frequently in time or so densely in space that they cannot be "assimilated", or that combine with effects of other activities in a synergistic manner' (Harris 1998: 344). Cumulative impacts such as 'disruptions to foraging routes, stress on incubating birds, or inhibited recruitment at breeding sites' (Lynch and others 2009: 128) may be caused by frequent visiting of environmentally sensitive sites. It needs to be acknowledged that these anthropogenic problems are not exclusive or unique to

tourism, and that the human footprint in Antarctica has multiple contributors. However, the increasing number of tourists and tourist vessels and the repetition of tourist contacts with the Antarctic environment magnify the harmful aspects of contact with a fragile ecosystem and significantly increase the prospect of irreparable damage to the continent. These factors also raise issues about the carrying capacity of the sites. This is exacerbated by the pattern of usage in the Antarctic, where approximately 85% of tourists visit the top 20 landing sites, all of them located along the Antarctic Peninsula (Enzenbacher 2007: 155).

Tourists come to Antarctica by air, sea (commercial operations or independent expeditions) or, since the advent of fly-sail or fly-cruise operations in 2004 (Bastmeijer 2005), a combination of both. However, the vast majority of tourists journey to the silent continent by sea. Ship-borne tourism poses its own set of risks, including pollution from the vessels; increased chances of maritime accidents involving passenger and crew injuries and fatalities because of the greater amount of traffic in the Southern Ocean and Antarctic waters; and the environmental hazards that could result from a maritime accident. The omnipresent fear, though, is of a maritime accident involving both loss of human life and environmental disaster. The sinking of the *Exxon Valdez* off Alaska in 1989 with a consequent spill of 11 million gallons of oil into polar waters is an example no one wants to see repeated in Antarctica. And yet, the fear of a similar incident is a well founded one, as the sinking of the *Bahia Paraiso* in 1989 at Anvers Island in Antarctica, with a subsequent discharge of 600,000 litres of diesel fuel, proved. The waters that ships must traverse to reach Antarctica rank among the most dangerous in the world, and the lack of proper hydrographic surveys of the Southern Ocean, unpredictable changes in sea-ice patterns and the extraordinary difficulties of providing SAR facilities for ships in distress in these waters simply compound the multiple risks attached to any sea journey to Antarctica.

The consultative parties and arguments for reform

The ATS is not a government, but as a governance system, the ATCPs have assumed collective stewardship and governance roles in Antarctica (Laws 1985; Berkman 2010; Maggs 2010; Antarctica New Zealand 2011; British Antarctic Survey 2011). As stewards with special interests in and responsibilities for Antarctica, there are good reasons for the ATCPs to be motivated to be conscientious, proactive and strategic in governance, although these are not characteristics that have been discernible in the area of tourism. Molenaar (2005: 249) describes the ATCP actions in the area of tourist policy as 'relatively passive as a collective'. Because of the lack of intervention by the ATCPs, it is the tourism industry itself, in the form of IAATO, that has taken matters into its own hands and self-regulated its members. However, IAATO does not

have the ability to compulsorily require all Antarctic tour operators to become members of the association, or to punish those who remain outside the association. Indeed, the harshest punishment IAATO can mete out to members who breach its rules is expulsion from the association (IAATO 2011b). It is hardly surprising, therefore, that an increasing number of tourist ships operating in the Southern Ocean and Antarctic waters (up to 50%, according to one observer (Cawley 2009: 28)) can operate in Antarctica with impunity. This problem is compounded by independent, or private, expeditions. As Haase and others (2007: 177) note of those commercial operators and independent expeditions that remain outside IAATO, 'there is neither a feasible way of monitoring them nor a mechanism in place to stop them'.

There is a large range of options open to the ATCPs in terms of regulation of the tourism industry, ranging from laissez-faire at one end of the spectrum of policy choices to interventionist at the other end, with multiple policy instruments and combinations of approaches in between. Given that the ATCPs have, to date, preferred to utilise hortatory statements, principles and guidelines relating to tourism, with very few binding regulations and mandatory requirements, the 'approach' that they have taken towards tourism policy and management can be characterised as laissez-faire or, literally, 'the principle of the noninterference of government in economic life' (Heywood 2002: 425). This laissez-faire approach is exemplified in Resolution 7 (2009), 'General Principles of Antarctic Tourism', adopted at the ATCM XXXII-CEP XII in Baltimore (Antarctic Treaty consultative meeting, 2009: 284–285). The greater part of Resolution 7 is, essentially, a re-statement of the Antarctic Treaty and PEPAT meta-principles of minimising impacts on the Antarctic environment and conducting activities in accordance with the Antarctic Treaty. In addition to this, the resolution states that scientific research should have priority over tourism activities, encourages cooperation between tourism operators and the sharing of 'best practice on environmental and safety management issues', and notes that in 'the absence of adequate information about potential impacts, decisions on tourism should be based on a pragmatic and precautionary approach, that also incorporates an evaluation of risks'.

While it is encouraging that the ATCPs are now using the phrase 'precautionary approach' in the context of tourism, it should be noted that there is no explanation given of what a 'pragmatic and precautionary approach' consists of, or how this should be defined, given the inclusion of the qualifier 'pragmatic'. Additionally, Resolution 7 does not mandate this as a legally binding practice for parties or tourism operators, no guidance is given about how risk should be evaluated, and there is no enforcement mechanism for ensuring that this particular approach is actually used by tourism operators. Resolution 7, then, is long on good intentions of what the parties and tourism operators should do, but short on details and explanations, the practical aspects

of how to implement the expressed principles, and compliance and enforcement mechanisms for implementing the principles. In essence, the ATCPs are delegating the practical realisation of the abstract ideas contained in Resolution 7 to IAATO, as the industry representative for Antarctic tourism. While IAATO has often been praised by the Consultative Parties at ATCMs for its responsible approach to Antarctic tourism, it is significant that the ATCPs are effectively relying upon an NGO, that represents commercial interests and is not a part of the ATS, to supervise and manage tourism in the Antarctic.

Yet, there are good reasons for the ATCPs to consider a more interventionist policy approach in Antarctic tourism. According to Article 9 of the Antarctic Treaty, all signatory parties have a duty to preserve and conserve the living resources of Antarctica. As the self-designated stewards (Rayfuse 2008; Antarctica New Zealand 2011; United States National Science Foundation 2011) of the Antarctic environment, the parties are obliged to ensure that tourism does not come into conflict with that duty. That requires the ATCPs, as the governance group and, thus, policy-makers in Antarctica, to actively engage with tourism to prevent any breach of that duty. Governance and stewardship necessarily involve addressing difficult issues, and if the ATCPs cannot bring themselves to do this in the case of tourism, then questions can legitimately be asked as to whether they should continue to be the official governance group and stewards of record in Antarctica. Some of the ATCPs have recognised that this issue is a problematic one. New Zealand and Australia, commenting on self-regulation by IAATO as a possible approach to land-based tourism in the future (New Zealand, Australia 2006: 5), stated that there 'is the further conceptual concern that were the ATCM to delegate responsibility to a non-governmental organization for the regulation of its own members' activity in Antarctica the Treaty System's authority would be weakened'. In a similar vein, the chairman's report from the 2004 Tourism Meeting of Experts stressed that although 'there is merit in a strong industry association', 'establishing the regulatory basis for the industry was the responsibility of the State Parties' (Antarctic Treaty 2004: 3). Australia has also noted (Australia 2004: 2) that the 'lack of an adequate management framework' for tourism within the ATS 'may result in a legal vacuum or ambiguity, or result in other international agreements taking precedence', and that this 'has the potential to undermine the Antarctic Treaty system'.

Closely related to this is a second, pragmatic argument as to why the parties should initiate interventionist policies in Antarctic tourism. Many observers have suggested that it is not a matter of if, but when a serious maritime environmental and tourism disaster will occur in Antarctica (for instance, Chair's report 2009: Annex 4; *The Independent* (London) 12 April 2009; *The Economist* 2009). The legitimacy of the 'ATCPs' long-standing assertion of exclusive competence in the conduct and

regulation of activities in the Antarctic' (Murray and Jabour 2004: 309) would be seriously compromised by an incident of that nature. Continuing to pursue a laissez-faire approach to tourism policy and self-regulation by the Antarctic tourist industry in preference to direct regulatory intervention to protect the Antarctic environment and tourists may, despite the vigorous defence by the ATCPs in the United Nations (UN) in the 1980s of their special role in Antarctica (Blumenfeld 2010: 8), suggest to observers that the ATCPs are either not capable of, or are unwilling to, assume important governance responsibilities. In that context, assertions of negligence and abdication of governance responsibilities by the ATCPs could well gain traction. It might also revive the 'Antarctica issue' debate in the General Assembly of the UN and give new life to suggestions made in earlier decades that the UN would be the most globally representative intergovernmental organisation to take over governance in the continent (Hayashi 1986; Howkins 2008). The direction that the ATCPs have taken recently in relation to ship-borne tourism, which is to effectively delegate policy reforms in Antarctic shipping to a UN agency, the International Maritime Organization (IMO), could add weight to these suggestions. The IMO has attempted to address some of the issues about Antarctic ship-borne tourism pollution and safety through three initiatives: an amendment to the International Convention for the Prevention of Pollution from Ships 1973 and Protocol of 1978 (MARPOL); a re-drafting and updating of the IMO's Guidelines for Ships Operating in Polar Waters; and the introduction of a mandatory international code of safety for ships operating in polar waters (the Polar Code) that is anticipated to come into effect in 2014. Because the IMO has a much larger membership (including all the states that have signed the Antarctic Treaty), jurisdiction over all marine areas (not just the Antarctic Treaty area), plus more flexible decision-making processes, it is more easily able to capture states within its policy ambit than the ATCPs can within theirs. Indeed, the decision to permit the IMO to take over this aspect of Antarctic regulation, formerly a jealously guarded preserve of the ATCPs, would enhance the argument that the Consultative Parties have begun to realize the limitations of their governance in Antarctica.

There is another dimension that the parties should consider in this context: the status of Antarctica within the global community. Antarctica is routinely described as a 'commons', or as part of the Common Heritage of Mankind (Baslar 1998; Buck 1998). The Antarctic Treaty enshrined the continent's fate as a non-sovereign area and a place that 'will further the purposes and principles embodied in the Charter of the United Nations'. Antarctica, therefore, is not the sole preserve of the fifty signatory parties. It is a place to be used in the 'interests of science and the progress of all mankind' (Antarctic Treaty 1959: Preamble). This raises serious questions about distributional justice and intergenerational equity and means that, until these issues can be resolved, the signatory parties

are, *de facto*, the trustees for the international community in Antarctica (Brundtland Commission 1987: 16). Consequently, they have another duty: to ensure the beneficial conservation and sustainability of the continent until the justice and equity issues can be worked out among the members of the global community. It could be argued that currently there is a conflict of interest between the ATCP's *laissez-faire* approach to tourism and delegation of management responsibilities to IAATO, and their duty of beneficial conservation and ensuring the sustainability of Antarctica. By privileging a non-ATS, commercial entity in this way, the ATCPs are contributing to the commercialisation and commodification of Antarctica, a situation that seems at odds with the concepts of beneficial conservation and sustainability. At the very least, it raises questions about whether the ATCPs are acting in good faith and with sufficient prudence in not taking decisive action, consistent with a trusteeship position, to prevent or mitigate the degradation of Antarctica.

Tourism policy options

It would behove the ATCPs to consider carefully what steps might be taken to develop a more pro-active, full and effective approach to tourism policy. While the introduction of a multilateral tourism convention would undoubtedly provide the most comprehensive means of addressing the current dearth of ATS management and regulation and of engaging with problematic issues, there are other discrete reforms, of both structural and process issues, that could be made in this policy area that would have significant impacts. Structural reforms could include initiatives such as giving a greater role to expert Antarctic scientific groups in ATS decision-making; for instance, by allowing the Committee on Environmental Protection (CEP) final decision-making authority with EIA applications and, similarly, giving the Scientific Committee on Antarctic Research (SCAR) ultimate authority in designating Specially Protected Areas under Annex V of PEPAT. This would be compatible with the Antarctic Treaty's prioritisation of scientific values and have the additional benefit of preventing conflicts between national and common interests of the ATCPs in these arenas. Other potential reforms might involve permitting more NGO representation at ATCMs, encouraging NGOs to provide wider advice and information streams to the ATCPs and to contribute as tourism compliance monitors, becoming on the ground 'eyes and ears', observing Antarctic tourism practices and reporting back to the ATCMs. These are innovations that would permit greater participation by civil society in Antarctic affairs, provide much needed assistance with the monitoring of tourism in and around the continent, and help inform ATCM decision-making.

Changing the current consensus decision-making system to a more flexible mechanism that would not allow one or two recalcitrant ATCPs to hold the entire system

hostage to their refusal to consent to an ATCM-proposed initiative would also allow collective decisions to be made more easily, and decision-makers to react more rapidly to policy issues that demand a quick response. For instance, consensus need not be perceived as unanimity (as it is currently), but could be regarded as agreement by an overwhelming majority, perhaps 75% or 80%, of the ATCPs. Such a change would undoubtedly be contentious as it would require amendment of Article 4 of the Antarctic Treaty. This would be a difficult feat to achieve, not least because such an amendment would involve the ATCPs giving up the powerful leverage that the *de facto* veto power under the current system allows them. Additionally, if implemented, it would require intense diplomatic activity by representatives of the ATCPs to negotiate difficult or sensitive issues where the parties have opposing viewpoints, and to preserve the cooperative spirit of the ATS. However, if the ATCPs wish to retain the long-term viability and legitimacy of the ATS they would be wise to heed Australia's warning (Australia 2004: 2–3) that in order to counter the threat of having the ATS undermined, 'the Treaty Parties must remain pro-active and take the lead on key initiatives so that it is widely regarded as the key forum for addressing the management of Antarctica'.

Changes to process could include initiatives such as: the introduction of 'green' taxes in the tourism industry, with operators being charged on a volume and activities basis; certification of tourist operators by the ATCPs with a concomitant refusal of coastal state treaty parties to allow non-certified operators to access port facilities in their states and denial of tourist group visits to ATCP research stations in Antarctica; limits on the number of tourists permitted to land in Antarctica each austral summer; and confinement of future tourism to designated parts of Antarctica, such as the Antarctic Peninsula. Generating annual revenue from green taxes would allow the ATCPs to consider establishing institutional infrastructure to support Antarctic tourism regulation and management. This could be in form of an Antarctic tourism secretariat that would oversee the collection of green taxes and accreditation of tourist operators; coordinate tourist visits and activities with accredited operators; receive information about compliance with tourism regulations and guidelines; maintain a database of tourism statistics; act as a clearing house for tourism research; and provide educational material on Antarctic tourism for prospective visitors.

Conclusion

For decades, tourism has been a back-burner issue in the ATS, deferred time and again because of the many difficulties associated with attempting to achieve consensus over diplomatically sensitive issues in a delicately balanced, condominium governance system. However, the ATCPs are on borrowed time with Antarctic tourism. Tourists and tourist vessels are now an important

presence in Antarctica, and likely to expand in numbers in the coming years. Their continued presence raises critical questions that have yet to be answered, not just about issues of risk and safety in human–nature interaction in Antarctica, but also about how the ATCPs collectively intend to deal with the relationship between tourism, scientific research and the environment under the rubric of the Antarctic Treaty. As the governance body and self-designated stewards of Antarctica, the ATCPs need urgently to move beyond a laissez-faire approach to tourism and take on the task of creating a regulatory and management framework for tourism in the white continent. While it is acknowledged that there are impediments to easy achievement of this task, it is a vital one if the ATCPs wish to maintain the viability and legitimacy of the ATS. It is within the scope and powers of the ATCPs to introduce reforms both in the collective decision-making process and in tourism policy to achieve that outcome if they have the political will to do so. If they do not act now to achieve a comprehensive tourism management and regulatory framework in Antarctica that protects tourists and the environment from each other, and maintains the prioritisation of scientific research promised by the Antarctic Treaty, their claim to legitimate governance and stewardship of the continent will lack credibility and encourage consideration of alternatives to the ATS. That would be an ignoble fate for the unique governance system in the earth's last great wilderness.

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