

TRATADO ANTARTICO
XIV REUNION CONSULTIVA

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THE OPERATION OF THE ANTARCTIC TREATY:
INSTITUTIONAL AND ADMINISTRATIVE ASPECTS

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Detailed attention to the operation of the Antarctic Treaty system has become a regular feature of Antarctic Treaty Consultative Meetings (ATCMs). Important recommendations were adopted on this topic at both ATCM XII and ATCM XIII and the operation of the Antarctic Treaty system has a prominent place on the agenda of ATCM XIV.

At the previous ATCM - ATCM XIII in Brussels - three recommendations were adopted bearing directly upon the operation of the operation of the Antarctic Treaty system:

XIII-1 - Operation of the Antarctic Treaty System:
Information; XIII-2 - Operation of the Antarctic Treaty System: Overview; and XIII-15 - Matters Relating to the Appointment of Observers at Consultative Meetings. ATCM XIII also agreed that there should be further consideration given to three elements of the subject, both separately and collectively, at ATCM XIV: possible cost sharing, permanent infrastructure and more frequent consultative meetings.

BACKGROUND

The Antarctic Treaty itself does not address institutional or administrative matters in any detail. Article IX of the Treaty provides for the system of meetings which have become known as ATCMs and take place on a biennial basis. Article IX defines the purposes of these meetings as the exchange of information, consultations on matters of common interest pertaining to Antarctica and recommending to governments measures in furtherance of the principles and objectives of the Treaty.

The Treaty also establishes a number of obligations regarding exchange of information among its parties. There is provision for exchange of information among all Contracting Parties regarding plans for scientific programs in Antarctica and for scientific observations and results from Antarctica to be exchanged and made freely available (Article III). The Treaty obliges each Antarctic Treaty Consultative Parties (ATCPs) to transmit reports of any inspections it carries out under Article VII of the Treaty to all other ATCPs. Each Contracting Party is required to give advance notification of the other Contracting Parties of expeditions to Antarctica by its ships or nationals, and expeditions organized in or proceeding from its territory; of all stations it occupies in

Antarctica and of any military personnel or equipment, permitted under the Treaty, that it intends to introduce into Antarctica (Article VII).

Finally, the Treaty includes the possibility to a conference to review the operation of the Treaty at any time thirty years after its entry into force (Article XII) and makes provision for the depositary function (Articles XII, XIII and XII).

DEVELOPMENT OF ADMINISTRATIVE PROVISIONS

Based on the provisions of the Treaty, the ATCPs took a series of initial steps in connection with ATCM I to deal with administrative support of the consultative mechanism. The ATCPs first agreed upon a sequence of hostship of ATCMs. It included acceptance of the offer made by the Government of Australia to host ATCM I combined with an informal understanding that subsequent meetings should be hosted by Consultative Parties in alphabetical order in the English language beginning at ATCM II with Argentina.

Recommendations I-14 and I-16, adopted at ATCM I, dealt with the preparation and organization of future ATCMs. Recommendation I-14 called upon the host government of ATCM I

to send to each participating government a certified copy of the final report and any other documents relative to the meeting and to comply with any additional request, or answer any questions on the subject and supply any additional information on ATCM I requested by participating governments. These procedures developed for ATCM I, though seen at the time as interim, have remained ATCM practice since then.

Recommendation I-14 also called upon the host of the next ATCM to consult with other governments entitled to participate in regard to the provisional agenda and the dates of the meeting. In essence, this recommendation establishes a rotating secretariat since the venue of the meetings alternates among Consultative Parties. The country hosting the next meeting serves as the repository and source for information regarding that meeting.

Another recommendation from the First Consultative Meeting (I-16) requests that governments distribute reports, studies and documentation for the next consultative meetings through diplomatic channels one month in advance of the meeting. This responsibility was broadened at the Seventh Consultative Meeting, when it was agreed that the country hosting the last consultative meeting would send a complete set of all documents of the meeting to the host country of the next meeting, thus improving the continuity of information.

At the Twelfth Consultative Meeting, a further requirement was added to the administrative responsibilities of the host government. It was agreed in Recommendation XII-6 that all Contracting Parties which were invited to the meeting shall receive copies of the final report and other documents of the meeting. (This reflects the fact that Parties to the Antarctic Treaty that are not ATCPs - the Non-Consultative Parties (NCPs) began attending ATCMs at ATCM XII.) The host government is also called upon to send a copy of the final report to the Secretary General of the United Nations and draw the attention of any specialized agency of the United Nations or other international organization to any part of the final report or other meeting document which might be relevant to that agency. Finally, the host government is charged with updating the Antarctic Treaty Handbook. Taken together, the above recommendations obligate the host government to provide considerable information to the increasing number of Treaty Parties.

Recommendation XII-6 also addressed the question of the public availability of Consultative Meeting documents and called upon the depositary government to examine the issue. As a result, at ATCM XIII, Recommendation XIII-1 was adopted which calls upon the Consultative Parties to designate "national contact points" as sources of specific kinds of information

about the Antarctic Treaty system. In discussion of this matter, a number of ATCPs noted the magnitude of the effort involved in dissemination of such information and took the view that it could best and most effeciently be carried out in centralized fashion.

At ATCM XIII, the possibility of the establishment of a permanent infrastructure was also discussed from a number of other perspectives, and it was agreed to consider the issue again at ATCM XIV, with particular reference to the need for a centralized organization, plus the possibility of annual meetings, and the need for the sharing of meeting costs.

There was another related development at ATCM XIII which bears on the question of the administrative requirements of the Treaty's organizational structure. The meeting agreed that there was a growing need for greater interchange among the various components of the Antarctic Treaty system. This term is used to describe the Treaty itself and the body of actions and recommendations from the Consultlative Meetings, the Convention for the Conservation of Antarctic Seals, the Convention on the Conservation of Antarctic Marine Living Resources, and the Scientific Committee on Antarctic Research. It would also include the anticipated future agreement on Antarctic mineral resources. Recommendation XIII-2 calls for reports from the components of the system at each ATCM.

DEVELOPMENTS BEARING UPON INSTITUTIONAL AND ADMINISTRATIVE
REQUIREMENTS

The emphasis which has emerged at recent ATCMs upon institutional and administrative requirements reflects a number of trends in the evolution of the Antarctic Treaty system. First, there is the simple fact that participation in the Antarctic Treaty has grown in significant fashion since 1961. The number of Contracting Parties to the Treaty has tripled and the number of ATCPs has almost doubled. Beginning in 1983, the non-consultative parties also attend ATCMs.

Second, the complexity and volume of matters being dealt with at ATCMs are increasing. This mirrors growth in activities in Antarctica as well as increased emphasis upon multi-disciplinary scientific research aimed at understanding global processes. The body of agreed recommendations and other actions taken at ATCMs has expanded concomitantly.

Third, and relatedly, there has been expansion in the interaction between matters dealt with at ATCMs and the activities of other international bodies. The presence of experts from other international organizations, for the first time, at ATCM XIV testifies to the growth in such interaction.

Fourth, the Antarctic Treaty has evolved into a system which includes two complementary but distinct treaties - one on seals and the other on Antarctic marine living resources - and which is likely soon to include a third on Antarctic mineral resources. These additional agreements incorporate or foresee permanent institutional structures.

Finally, there has been a significant expansion in interest in Antarctica, including interest among countries and organizations outside of the Antarctic Treaty system.

IMPLICATIONS

These trends have a number of implications for the operation of the Antarctic Treaty system. The preparations for and organization of ATCMs have become more complex, more demanding and more costly. This situation is complicated by the fact that, for reasons external to the Antarctic Treaty system some ATCPs are not in a position to host ATCMs (lack of diplomatic relations). This increases the burden on the remaining ATCPs.

Second, the requirements for direct communication among the Contracting Parties to the Treaty in fulfillment of the obligations of the Treaty and agreed ATCM recommendations has

expanded significantly. Again, the lack of diplomatic relations among some ATCMs makes discharge of these obligations increasingly difficult. For example, the United States as depositary is receiving growing numbers of requests to facilitate such communications.

Third, an important objective of recent recommendations on the operation of the Antarctic Treaty system has been to ensure the availability of adequate and accurate information about the system. However, the demand for information about Antarctica and the Antarctic Treaty system has grown enormously. Individuals and organizations, as well as countries newly active and/or interested in Antarctic matters, seek with increasing frequency detailed information about activities in Antarctica as well as how the Treaty and its related instruments function. The debates on Antarctica at the UN General Assembly illustrate a wide disparity in understanding of Antarctic matters, in part related to the availability of information.

Fourth, there is need for improved coordination among the Contracting Parties to the Treaty in the periods between ATCMs. The pace of activities in Antarctica itself and the increased frequency with which Antarctic related issues arise on other fora call for closer and more continuous coordination among Contracting Parties.

Fifth, there is growing need for coordination among the components of the Antarctic Treaty system. The provision for reports from those components in Recommendation XIII-2 is one response to this need. As the nature and scale of activities in Antarctica increase, it will be important to ensure that the mechanisms of the Treaty system responsible for managing the various categories of these activities work in continuous and complementary fashion to prevent conflict in uses and ensure achievement of the system's overall objectives.

Sixth, there is growing need to oversee and develop the cooperative working relationships between the Antarctic Treaty Consultative mechanism and other international bodies involved in Antarctic matters. Increased linkage in the substantive work of the ATCMs and other international organizations requires closer and more continuous contact and coordination.

INSTITUTIONAL AND ADMINISTRATIVE FUNCTIONS

Examination of the operation of the ATCMs and the evolution in their operation makes it possible to identify several categories of institutional and administrative functions necessary for the successful working of the Antarctica Treaty Consultative mechanism. The following list - which is not intended to be exhaustive - is designed to illustrate these categories:

1) Meeting support

-- planning, organization, and reporting of Preparatory, Consultative, and Special Consultative Meetings.

-- preparation of draft agendas, distribution of documents, final reports, and revision of the Antarctic Treaty Handbook.

-- secretariat services at Consultative Meetings including circulation of meeting documents.

2) Information/Archive

-- archiving of documents and information about the Antarctic Treaty system.

-- publication and distribution reports, including Final Consultative Meeting Reports and the Treaty Handbook.

-- response to requests for information about the Antarctic Treaty system from participants within the system, from states and organizations outside the system and from the interested public.

3) Representation/Coordination

-- communications with other international organizations non-parties and the public.

-- monitoring and assistance in the coordination of the activities of other components of the Antarctic Treaty System.

-- representation of the Antarctic Treaty Parties in meetings of other international organizations.

4) Financial

-- costs of the operation of the Consultative mechanism (of carrying out the functions identified above).

-- possible sharing of costs, including development of Antarctic Treaty budgets and methods of assessing costs.

RECOMMENDATION

We believe that at ATCM XIV there should be a structured discussion of the administrative/institutional functions to support ATCMs. The purpose of this discussion would be to

assess how those functions are currently being performed and which of them need to be performed on a more centralized and/or continuous basis to properly support the evolving requirements of ATCMs. If such functions are identified, it should be possible to develop means of providing the necessary centralization and/or continuity pending decisions on the establishment of a permanent infrastructure.