

Committee for Environmental Protection (CEP): Consequences of Establishment

Introduction

In accordance to The Protocol on Environmental Protection to the Antarctic Treaty a Committee on Environmental Protection (CEP) was established as the Protocol entered into force on 14 January 1998. CEP has its inaugural meeting in conjunction with ATCM XXII in Tromsø, Norway, May 1998.

Norway has found it appropriate to highlight some issues that Parties likely need to consider with respect to the operation of CEP, although an evaluation of the operational consequences of the establishment of CEP can at this stage be but sketchy. Actual consequences will become apparent as the CEP initiates and carries out its work program.

Background

CEP's responsibilities are laid out in Article 12 of the Protocol, summarized as follows in ATCM XXI WP2 (submitted by NZ, SA and NL):

- provide advice on implementation and effectiveness of the Protocol
- provide advice to improve the implementation of the Protocol
- maintain an information base of Protocol-related environmental data

In short: CEP shall formulate advice to the Antarctic Treaty Parties (through ATCM) on issues relating to the implementation of the Environmental Protocol.

Issue 1: Workload, work program and organization

Since 1994 questions regarding the implementation of the Protocol have been considered by ATCM's Transitional Environmental Working Group (TEWG).

During this period there has been a substantial increase in the number of information and working papers submitted to the ATCM. A fair number of these papers have been referred to the TEWG. At ATCM XXI, e.g., TEWG considered approximately 25 working papers and more than 30 information papers. Taking into account the Protocol provisions regarding information to be submitted to and considered by the CEP, it seems reasonable to expect that CEP's workload will remain at the TEWG level or even increase.

CEP is to establish a prioritized work program for its work (mandated by the ATCM) possibly with likely focus on long term strategies for the implementation of the Protocol. However, the CEP will, irrespective of prioritized work program, need to allocate time and resources to handle all matters that are specified in the Protocol as the CEP's responsibilities.

Due to workload, time constraint may eventually affect negatively the quality of the

discussions and recommendations in CEP. Allocation of sufficient time is an essential factor if CEP truly is going to be able to give qualitative sound advice to the Treaty Parties.

The workload pressure can be somewhat reduced by ensuring an appropriate organization of the CEP structure. The establishment of suitable subsidiary bodies will enable a focused and thorough consideration of issues at hand, while giving room for the CEP to consider long term strategies.

Issues to consider:

Parties need to consider how best to ensure that CEP will be enabled to provide high quality advice to the Treaty Parties. Several factors need consideration in this matter: the potential large workload, time necessary and/or available, other resources, etc.

How can CEP organize its work in order to achieve a best possible structure? It has, e.g. been suggested that CEP should establish one subsidiary body for each of the annexes to the Protocol. Would this constitute a possible framework for the work of the CEP?

Issue 2: Keeping the focus on technical, scientific and environmental issues

The CEP has been established to provide the ATCM with technical, scientific and environmental advice with regard to the implementation of the Protocol. Political, legal and policy issues should not be discussed by the CEP. The boundary between "technical, scientific and environmental" and "political, legal and policy" can, however, often have gray areas.

It will be essential that CEP remains a-political in order to enable the Committee to provide professional advice on which ATCM can build political strategies.

Gray areas may also cover areas of a combined nature, consisting of both political and technical issues (i.e. complex issues). These may be issues where the one body might need advice from the other body.

Issues to consider:

Are the intentions laid down in Rule 3 of the Rules of Procedure sufficient to ensure that CEP remains "technical, scientific and environmental"? How should the ATCM/CEP handle "gray areas"?

Issue 3: Consequences for ATCM

The establishment of CEP has provided ATCM with its own body of expertise with respect to technical, scientific and environmental matters. As a consequence, the Transitional Environmental Working Group (TEWG) will no longer have a function in the ATCM.

Furthermore, several agenda items which today are considered in WG II have aspects which should be considered in CEP in accordance with responsibilities laid out in the Protocol (e.g. consideration of inspection reports, tourism issues with regard to Protocol implementation, etc.).

Consequently, the establishment of CEP will likely influence the future operation of the ATCM to a relatively large degree. Treaty Parties need to consider how to respond to this new framework with respect to the operation of the Meetings.

Issues to consider:

Parties will need to reconsider the structure of the ATCMs, taking into account the responsibilities that now have been placed with the CEP, most likely reducing WG II's workload.

Issue 4: Expert advice in matters pertaining to the implementation of the Protocol

Established practice has it that ATCM confers with other Antarctic expertise such as SCAR, COMNAP, CCAMLR, etc. in questions which now are issues regarding the implementation of the Protocol. The ATCM has increasingly referred matters to SCAR and COMNAP as the amount of issues has grown. As a consequence of the increased amount of work related to environmental management, SCAR has established a Group of Specialists on Environmental Affairs and Conservation (GOSEAC).

With SCAR's role as a scientific organization and COMNAP's focus on technical and operational issues, requesting advice on environmental matters from these expert organizations should be focused within their competence.

SCAR's and COMNAP's, as well as possibly other organizations' expertise will without doubt be a benefit to the deliberations of the CEP, and CEP will have to lean heavily on advice from these expert organizations. It will be important to underline the primacy of the CEP as the ATCM's advisory body, with SCAR, COMNAP etc. providing advice, based on their expertise, to the CEP.

Issues to consider:

Parties need to consider the relationship between the ATCM, the CEP, and other expert organizations in order to ensure that there is a clear understanding with respect to the division of labor and the relationship between the bodies.

Issue 5: Exchange of information/data management/document distribution

The Protocol contains provisions regarding exchange of information. The CEP needs to develop an information exchange system that is both efficient, timely and appropriate. The establishment of the CEP provides the ideal opportunity for Parties to consider what sort of information is required, and how it is to be collected, stored and disseminated.

The Protocol requires collection/exchange of a relatively large amount of information. The collection, storing and transmission of all this information will require a well defined organizational structure, whether be it the host country for a CEP meeting, the Chairperson's country or a secretariat.

It is important that these issues are considered thoroughly. Efficient systems for

information exchange, data management and document distribution will provide a solid foundation on which CEP can base its work.

Issues to consider:

Parties need to establish what information CEP shall collect, how it should be collected, stored and disseminated.

Parties need to reflect on who should be responsible for the collection, storage, etc. as long as there is no secretariat to provide this service. What will be the role of the host country of the next CEP meeting and what will be the role of the Chairperson's country.

Appendix I

Information required by Protocol to be considered by CEP

Article	Information Regarding
Protocol	
Article 12 Consultation with: (2)	<ul style="list-style-type: none">• SCAR• CCAMLR Scientific Committee• other relevant scientific, environmental and technical organizations
Article 14	Inspection reports (including comments from the Parties which the inspections concern)
Article 17	Annual report by each Party on the measures taken to implement the Protocol: <ul style="list-style-type: none">• Notifications made in accordance with Article 13 (3)• Contingency plans established in accordance with Article 15• Any other notifications and information called for pursuant to this Protocol for which there is no other provision concerning the circulation of information
All Annexes	
Article 7, Annex I	Report on activities undertaken in cases of emergency having led to the non-application of the provisions of the annexes.
Article 2, Annex II	
Article 12, Annex III	
Article 7,	

Annex IV
Article 11,
Annex V

Annex I

Article 3 Draft Comprehensive Impact Evaluations
(4)

Article 6 A description of national impact evaluation (IEE) procedures (and all
(1) (a) substantial modifications)

Article 6 An annual list of all IEEs and all decisions made thereunder
(1) (b)

Article 6 Significant information obtained, and any action taken in consequence thereof,
(1) (c) prom procedures put in place in accordance with Articles 2 (2) and 5

Article 6 Information concerning
(1) (d)

- final CEE
- comments received on the draft
- all decisions regarding the final evaluation
- all evaluations of the scope of the projected impacts compared with the advantages of the activity under consideration

Article Information Regarding

Annex II

Article Information about all measures taken under Article 6 (1):
6 (2)

- collecting and exchanging records (incl. record of permits) and statistics concerning the numbers or quantities of each species of native mammal, bird or plant taken annually
- the status of native mammals, birds, plants and invertebrates and on the level of protection required
- number and nature of permits issued in the preceding period of July 1 to June 30

Annex III

Article Copies of waste management plans and reports on their implementation and review
9 (2)

Annex V

Article All management plans for ASPA or ASMA proposed by the Parties, taking into
6 (1) account any comments from the SCAR and the CCAMLR Commission

Article The number and nature of permits issued under the Annex in the preceding period
10 (2) of 1st July to 30th June

Article Measures taken to implement the provisions of the annex, including any site
10 (4) inspections and any steps taken to address instances of activities in contravention of
the provisions of the management plans for the area.

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