

# **CONSIDERATION OF COMPREHENSIVE ENVIRONMENTAL EVALUATIONS BY THE COMMITTEE FOR ENVIRONMENTAL PROTECTION**

## **New Zealand Working Paper**

### **INTRODUCTION**

1 At its first meeting in Tromsø the Committee on Environmental Protection (the Committee) discussed its obligations under the Protocol on Environmental Protection (the Protocol) to provide the Antarctic Treaty Consultative Meetings (ATCMs) with advice on draft Comprehensive Environmental Evaluations (CEEs). Following this discussion, the Committee agreed that the Protocol gives the CEP the opportunity to consider and give advice on scientific, technical or procedural issues in draft CEEs. Furthermore, as laid down in Article 3(4) of Annex I, the Committee recognised that draft CEEs are to be forwarded to the CEP at the same time that they are circulated to the Parties, and at least 120 days before the next ATCM for consideration as appropriate.

2 In order to achieve this, New Zealand considers it important to agree on a mechanism by which the Committee develops advice on draft CEEs. This paper is a contribution to that process.

3 Annex I of the Protocol contains a number of provisions relevant to the consideration of draft CEEs by the Committee:

Article 3(3) "The draft CEE shall be made publicly available and circulated to all parties, which shall also make it publicly available for comment. A period of 90 days shall be allowed for the receipt of comments."

Article 3(4) "The draft CEE shall be forwarded to the Committee [CEP] at the same time as it is circulated to the Parties, and at least 120 days before the next ATCM, for consideration as appropriate."

Article 3(5) "No final decision shall be taken to proceed with the proposed activity in the Antarctic Treaty area unless there has been an opportunity for consideration of the draft CEE by the ATCM on the advice of the Committee [CEP] ..."

### **PROPOSED GUIDELINES**

4 We suggest the process by which the Committee considers draft CEEs be divided into the following steps:

- i) Draft CEE provided by originating party to all other parties and to the Committee 120 days prior to ATCM, as required by Articles 3 (3) and 3 (4) of Annex I of the Protocol. In general the objective of the Committee will be to develop its advice for the ATCM within this time period, if possible.
- ii) Committee Chair circulates draft CEE to each national representative of the Committee.
- iii) Unless there is agreement that it is not appropriate in accordance with the Protocol to consider the draft CEE further and develop advice for the ATCM, the Committee Chair will seek advice on and then invite an appropriate facilitator from among the Committee representatives to lead an informal open-ended contact group whose task is to prepare draft advice on the draft CEE for the Committee.
- iv) If there is no agreement on an appropriate facilitator the Committee Chair will undertake this role.
- v) Facilitator coordinates the open-ended contact group, and collects input from members of the Committee, their experts and advisers, through appropriate discussion, for example by e-mail.
- vi) Facilitator of open-ended contact group prepares and circulates draft advice, on the draft CEE based on this input, to Committee representatives prior to the annual meeting, and also presents the draft advice to the CEP meeting for formal consideration, possible modification and adoption.
- vii) The advice as adopted by the Committee is conveyed to the ATCM as part of its report.

## **COMMENTS ON SEVERAL ISSUES**

5 New Zealand makes the following comments on aspects of the steps proposed:

- i) Advice to be developed by an informal group before consideration by the Committee as a whole unless there is agreement that it is not appropriate to provide this advice.

This is a common and efficient means used by many committees to develop advice, which is then subject to scrutiny by the whole committee. Some consideration was given to the possibility that the size of such a group should be limited, but the Committee's Rules of Procedure make no provision for this, and provide only for informal open-ended contact groups.

- ii) The identification of a facilitator for the open-ended contact group.

The procedure recommended in this paper provides for the Chair to consult all

representatives.

- iii) The nature and size of the report containing the draft advice.

New Zealand considers it difficult to be too prescriptive on this issue without a specific CEE case or cases to consider, but envisages that the report could outline the scope of the activity; main environmental concerns addressed; quality of the consideration given to environmental concerns; and any issues that the contact group believes should be considered by the Committee, and subsequently the ATCM, further.

## **RECOMMENDATIONS**

6 New Zealand offers the following recommendations for adoption by the Committee:

- i) that the Committee agree to adopt guidelines for developing advice on draft CEEs for the ATCM;
- ii) that unless there is agreement that it is not appropriate for the Committee to provide advice to the ATCM on a particular draft CEE, the Committee establishes an open-ended contact group with a facilitator to coordinate its work;
- iii) that the facilitator of the open-ended contact group produce a short report for the Committee that outlines the scope of the activity, main environmental concerns addressed; quality of the consideration given to environmental concerns; and any issues that should be considered further by the Committee or the ATCM;
- iv) That the Committee considers the facilitator's report and any other relevant material, and conveys the Committee's advice to the ATCM as adopted.