

**XXIII ATCM/ WP20 REV.1**

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**Agenda Item 7f)**

**CEP II Agenda Item 5e)**

**Automatic Protection of Pre-1957  
Historic Remains**

Submitted by  
Norway

## *Automatic protection of pre-1957 historic remains*

### **Purpose**

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This paper proposes to the Parties to the Antarctic Treaty System a mechanism for protecting yet undiscovered and unrecorded historical artefacts in Antarctica, so that these are not destroyed or otherwise damaged upon discovery. The concept of automatic protection is introduced as a potential mechanism.

### **Introduction**

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1. The history of man's endeavours in Antarctica stretch back to the last half of the 18<sup>th</sup> century. Accordingly, the historic sites, structures and objects in Antarctica associated with this history are given full recognition as part of mankind's cultural heritage through the protective measures adopted through the Antarctic Treaty System.
2. At the VII<sup>th</sup> Antarctic Treaty Consultative Meeting (ATCM) in 1972 it was decided that a list of Historic Sites and Monuments in Antarctica should be developed. The sites and monuments on this list are protected from damage, removal or destruction through article 8 of Annex V to the Protocol on Environmental Protection to the Antarctic Treaty (Environmental Protocol). This protective measure has been successful and the list now comprises 73 sites and monuments that are protected against harmful interference.

### **Protection of unrecorded historic remains**

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3. In Antarctica there are historic remains known from literature which are buried by snow and not now precisely located. Roald Amundsen's tent on the South Pole and Robert Scott's last camp are prime examples of this type of historic remains. Other examples are previous stations and camps in snow-covered areas. In addition to the remains known from the literature, unknown remains from early expeditions might also still be found, e.g. cairns, ship wrecks and remains from the early sealing expeditions. In the last few years both cairns and wooden sailing ships have been discovered in Antarctica.
4. There is a concern that such undiscovered or unrecorded, and potentially historic/scientific significant remains from the early period of Antarctic exploration might become substantially disturbed due to the effects of expanding tourism and souvenir-hunting, clean-up operations, etc.<sup>1</sup> Disturbance to these historic artefacts can potentially disrupt the historical record, as they may be

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<sup>1</sup> There is no good indication of how extensive the problem of artifact removal is. However, it is clear that historic artifacts have been removed from Antarctica in the past. There have now been instances where such artifacts are being returned. In January this year, for example, artifacts taken from one of the historical huts in the Ross Sea region were returned to the area (see eg. [http://www.seattletimes.com/news/nation-world/html98/anta\\_012699.html](http://www.seattletimes.com/news/nation-world/html98/anta_012699.html))

moved out of their historic context and/or be lost before adequate protective measures can be implemented.

5. At present the undiscovered and unrecorded historic remains have no immediate legal protection, unless they by chance fall within areas protected for other purposes (e.g. Antarctic Specially Managed/Protected Areas - ASMA/ASPA), and upon discovery there are no formal measures that prevent such remains from being removed or damaged. It is possible to protect the artefacts by including them in the ATCM's list of protected historic sites and monuments. This does not, however, protect the artefacts between the time of discovery and the time of the listing. Furthermore, it may also necessitate listing of artefacts for which the historic significance has yet not been established (cf. eg. Measure 2 (1998) through which a wooden sailing ship was added to the historic sites and monuments list before it was identified and before its historic significance was established).
6. It therefore seems advisable that the Antarctic Treaty Parties consider a measure that secures adequate protection also for yet undiscovered and unrecorded historic items, so that these are not destroyed or otherwise damaged upon discovery.

#### **Automatic designation/protection**

7. Automatic designation based on age is a practical measure by which such protection can be afforded. Such procedures give automatic protection to any unrecorded historic artefacts that are older than an agreed upon age<sup>2</sup>. In this manner unknown remains that may be of significant historic value can be protected until the Parties have had due opportunity to consider further protective measures (listing, management plans, etc.).

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<sup>2</sup> Automatic protection is a protection practice used several places in the world, eg: Greece automatically protects all pre-1830 monuments and the surroundings of pre-1453 monuments. In Malta, all buildings and sites more than 50 years old automatically enjoy legal protection. In Denmark, all pre-1536 immovable properties enjoy automatic protection and in Norway, all pre-1537 cultural heritage items, all Sami monuments and sites more than a hundred years old and all wrecks more than a hundred years old which have been brought ashore. In Svalbard (Norway), all pre-1945 cultural heritage remains enjoy automatic protection.

Automatic designation based on age has been used in Norway as a legal measure since 1905. Legal protection automatically applies to all artefacts from before the Reformation (1537). The provisions of the regulations concerning the cultural heritage in Svalbard conform as far as practicable with those of the Cultural Heritage Act of mainland Norway, but are adapted to local conditions. The emphasis has been to make the regulations a useful tool in preserving the cultural heritage.

Elements of the cultural heritage in Svalbard - permanent or movable - originating from 1945 or before are automatically protected by law. The regulations prohibit exploitation or removal of such historical monuments and artefacts. Finders of movable artefacts are obliged to notify the authorities. Removing movable artefacts from the site of discovery is not allowed.

By establishing time limit for automatic designation as recent as 1945, it has been possible to achieve the preservation of artefacts in Svalbard from all the major historical events and epochs preceding the development of modern communities and fields of activity after the Second World War.

8. Introducing automatic protection into the Antarctic Treaty System would be a reasonably simple measure, and is expected to require a minimum of additional effort from the Antarctic Treaty Parties, as well as the ATCM, since unrecorded historic remains will be protected without necessitating any listing procedure or decisions.
9. Automatic protection should comprise all undiscovered and unrecorded remains, permanent as well as movable. All artefacts/monuments and sites older than an agreed upon age should then be automatically protected according to these procedures.
10. When new remains assumed to be older than the given age are found, the finder should leave the artefacts in-situ. If it is considered necessary to remove small and movable artefacts, then these should be delivered to the appropriate authorities in the home country of the finder. In these instances the location of the discovery must be duly noted. Parties whose nationals have discovered new remains should notify the other Antarctic Treaty Parties about the findings (what, where and when, and, if removed from Antarctica, where the artefacts are kept). The remains should then be considered protected until Parties have had sufficient time to consider their inclusion in the existing protective measure system of the ATS. In this period it should be possible to conduct research/studies of the remains/artefacts in order to establish their origin and historic value.
11. Three years should give the Parties ample time to consider indefinite protection of the remains. Thus, three years after the existence of a newly found remain has been made universally known to the Parties, the historic remains should no longer be considered protected if no other measures have been initiated.

#### **Automatic designation in the framework of existing procedures**

12. Automatic designation is not to be a new form of protection, but should rather be an intermediate stage between non-protection and full protection. The existing management tools/measures should therefore not be altered by this additional measure. On the contrary, automatically designated artefacts which prove to be of recognised historic value can (and should) be included in these management regimes when appropriate.

#### **Year**

13. In order for the concept of automatic protection to be an effective protection tool, a reasonable cut-off date should be established.
14. It is suggested that 1957 could be used as the cut-off date due to the fact that the International Geophysical Year (57-58) marks the beginning of extensive international effort in the Antarctic, and at which time the level of activity increased significantly and an extensive network of bases were established around the continent.
15. A discussion considering the establishment of the cut-off date is given in Appendix 1.

**Draft Measure (1999)**  
**Automatic protection of pre-1945 historic remains**

The Representatives,

*Recalling* Recommendations VI-14 which recommend that the Governments adopt all adequate measures to preserve and protect from damage the historic monuments situated in the Antarctic Treaty area,

*Recognising* the unique value of all the cultural remains of early exploration of the Antarctic continent, and

*Noting* that increased activity in Antarctica has increased the pressure on historic and cultural sites and artefacts not protected by current measures,

*Recommend to their Governments the following Measure for approval in accordance with paragraph 4 of Article IX of the Antarctic Treaty:*

1. That all pre-1957 historic artefacts/sites in Antarctica for which the existence or present location has not been established should be granted automatic protection.
2. That any person/expedition who discovers pre-1957 historic remains should notify the appropriate authorities in their home country. If movable remains are removed from Antarctica, these should be delivered to the appropriate authorities in the home country of the discoverer.
3. That the Party whose nationals have discovered pre-1957 historic remains should notify the other Treaty Parties about the discovery, indicating what remains have been found, where they have been found and when the discovery was made.
4. That the remains should be considered automatically protected until the Parties have had due time to consider their inclusion into the established protection system of the ATS
5. That three years after the discovery of a new historic remain has been made universally known to the Treaty Parties, it shall no longer be considered protected unless it has been afforded protection through existing protective measures as described in the Protocol on Environmental Protection to the Antarctic Treaty.

## Appendix 1.

There are various discernible epochs of Antarctic exploration that have left structures which can be argued as being historically interesting and relevant for preservation and inclusion in a legal automatic protection framework.

The earliest known historic remains in Antarctica are from the sealing and whaling period on the Antarctic and sub-Antarctic islands. Sealing boomed in the 1820s, while whaling had its peak at a later time.

It is the “Heroic Era” (1899-1917) in Antarctic history that has given us the historic sites which are a central part of the international cultural heritage. Remains from this period of early Antarctic ventures are visible symbols of historic events connected with the exploration of our world. To keep their symbolic value intact, these remains should preferably be left in situ. Most of the known historic remains from the Heroic Era are listed and protected today. However, there are remains known from literature which have not yet been located (e.g. Roald Amundsen’s tent left on the South Pole, Scott’s last camp, etc.). Other unknown or unrecorded remains of early expeditions might still be found. These have no legal protection.

The Heroic Era drew to a close with the relief of Shackleton’s Ross Sea Party in 1917. There was then a hiatus in major Antarctic land exploration, lasting until the mechanised era of exploration began in 1928 with the first flights over Antarctica by e.g. Hubert Wilkins and Richard Byrd.

With the history and traditions of Antarctic expeditions in view, it is possible to discern another phase in Antarctic history. Although permanent and non-permanent bases were established in Antarctica already from the beginning of the century, there is a clear change appearing in the mid-1940s, when several permanent bases were established. It could therefore be reasonable to a cut-off date around this period.

The International Geophysical Year (IGY) of 1957-58 was an important upgrading of the international efforts in Antarctica. Antarctica was then visited by scientists from many nations who joined the research programmes that were a co-operative effort between twelve different countries. Around the continent new bases were set up and old bases were reopened. This successful international scientific co-operation eventually was the forerunner to the creation of the Antarctic Treaty. The IGY could be seen as a suitable celebratory year and time limit for the automatic preservation of relics from preceding historic events and developments.