

## CEP AND INFORMATION EXCHANGE

### Introduction

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1. The following paper considers issues related to the information exchange requirements of the Protocol on Environmental Protection to the Antarctic Treaty (“the Protocol”). A suggestion as to how the CEP could efficiently handle the exchange provisions of the Protocol is provided.

### Protocol Requirements

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2. The Protocol and its annexes include a number of provisions and requirements related to exchange of information between Parties and Members.
3. Several of the Protocol exchange requirements are fulfilled through the Antarctic Treaty Annual Exchange of Information<sup>1</sup> (EoI), where *i.a.* information about number and nature of permits issued for collection/taking of flora and fauna (cf. Article 6 (2) of Annex II in the Protocol) is to be included. Some Parties have on their own initiative partially included the additional information required by the Protocol in their EoI (e.g. Australia<sup>2</sup> and Norway<sup>3</sup> and the United States<sup>4</sup>).
4. In the context of CEP and information exchange it is important to note the requirements of Article 17 of the Protocol:

#### Article 17

##### *Annual Report by Parties*

1. Each Party shall report annually on the steps taken to implement this Protocol. Such reports shall include notifications made in accordance with Article 13 (3), contingency plans established in accordance with Article 15 and any other notifications and information called for pursuant to this Protocol for which there is no other provision concerning the circulation and exchange of information.
  2. Reports made in accordance with paragraph 1 above shall be circulated to all Parties and to the Committee, considered at the next Antarctic Treaty Consultative Meeting, and made publicly available.
5. A number of issues surface from Article 17:
    - Parties are to *report annually* on steps taken to implement the Protocol. The report is to include information on some specific issues, and also information for which

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<sup>1</sup> ATCM Recommendation VIII-6 and related recommendations

<sup>2</sup> <http://www.antdiv.gov.au/information/treaty/exchange/>

<sup>3</sup> <http://npolar.no/e/Antarctic/TreatySystem/>

<sup>4</sup> <http://www.nsf.gov/od/opp/antarct/treaty/>

there today is no other mechanism for exchange (i.e. which today is not covered by EoI).

- Annual reports are to be *circulated* to the Parties, as well as to *the CEP*, and the reports are to be made *publicly available*
- Annual reports are to be *considered* by the ATCM (in this context we assume that CEP considers the reports and provides appropriate advice to the ATCM).

6. In the following we discuss further the issues raised in the above. We furthermore provide a suggestion as to how the CEP could efficiently handle the exchange provisions of the Protocol.

### **Reporting and exchange of information mechanisms**

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7. As seen above, Article 17 and a number of other Protocol provisions require annual reporting of information related to the implementation of the Protocol. Some of the information specified in the Protocol is already included in the current Antarctic Treaty EoI, although a number of issues are not yet covered by the present exchange mechanism.
8. Several Parties have prepared separate Annual Reports pursuant to the Protocol. Over the last few years there has been a move toward a common format for these annual reports. These reports have been submitted as Information Papers to the CEP.
9. There has been a general concern the last few years in the Antarctic Treaty system over the increasingly overwhelming amount of reporting requirements, which seem to a large degree to be overlapping. At ATCM XXIII this issue was discussed extensively (cf. paragraphs 163-168 from the final report of ATCM XXIII). Based on this discussion Australia has coordinated an exchange of views between Parties on the rationalization of information exchange. The exchange of views has led to a proposal supporting a revised Antarctic Treaty EoI encompassing all exchange requirements and needs present in the Antarctic Treaty system, aiming for one exchange mechanism where duplication of information is avoided<sup>5</sup>. If the ATCM agrees to and adopts a new EoI that encompasses all exchange requirements under the Treaty, then it would clearly no longer be necessary for Parties to prepare a separate Annual Report pursuant to the Protocol.

### **Circulation of annual reports**

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10. Article 17 of the Protocol states that annual reports shall be circulated to all Parties and to the Committee, and made publicly available. In the working paper from Australia regarding the revised Antarctic Treaty EoI<sup>5</sup> it is recommended that the EoI in the future should be fully web-based, i.e. there would no longer be an exchange of paper reports. A clarification of the term 'circulate' may consequently be in order.
11. We suggest that the circulation of the information between Parties should be considered to be fully achieved at the time the information is made available on a given website, provided that an electronic notice (e-mail) has been received by the Parties and CEP members informing about such web-posting. The Parties should designate the appropriate e-mail address to be used for this purpose. We would suggest

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<sup>5</sup> Cf. ATCM XXIV WP 7.

that the information also has been circulated to the Committee at the time the information is made available to CEP Members. Public access to the information would be achieved by posting the information on the website with no access restriction. The information should upon request be made available in paper.

### **Consideration of the information**

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12. There is a need to ensure that the CEP/ATCM has the opportunity to consider the annual reports, separately or as a whole, yet avoiding that the CEP/ATCM is overwhelmed by papers that duplicate information.
13. Article 17 of the Protocol stipulates that the annual reports from the Parties shall be considered at the ATCM following circulation of the information. Since no paper report will necessarily be submitted in the future, the CEP needs to come to terms as to how to deal with the ‘consideration’ requirement. CEP has in the past taken note of the annual reports submitted to the meeting, but has to date not discussed their content or form. On the assumption that the Protocol information in the future will be made available through an EoI website, Parties and Members of the Committee will be able to access the information in advance of an ATCM/CEP.
14. Consequently, if any Party or Member of the CEP wish to bring up for discussion issues or concerns related to one or more of the reports, this could as before be done under the heading of the agenda item “Compliance with the Protocol”. Members may, if they wish, notify the CEP in advance of issues that arise from the information exchange that they want the meeting to consider.

### **Conclusion and Recommendation**

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15. Submission of information required to be circulated under the Protocol to a web-based EoI, and giving notice of such posting through an electronic message to CEP members (e.g. CEP National Contact Points) and the Parties, would satisfy the requirement for circulation of information to Parties and the Committee, thus fulfilling the information exchange requirements under the Protocol. Making the information available on the worldwide web would satisfy the requirement for making the information publicly available.
16. To fulfil the Protocol requirement in Article 7(2) that the ATCM (CEP) shall consider the annual reports, it should be assumed that Parties and Members to CEP consider the information provided in the EoIs from the Parties in advance of the meetings posted in accordance with deadlines and procedures agreed to by the Parties<sup>6</sup>. Any Party or Member to the CEP may bring up for discussion any issues or concerns it has with respect to the reports under the agenda item “Compliance with the Protocol”. Such a procedure should be sufficient to satisfy the requirement for ATCM/CEP consideration of the reports.

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<sup>6</sup> Cf. discussions related to ATCM XXIV WP 7.