

FINAL REPORT OF THE INTER-SESSIONAL CONTACT GROUP ON SPECIALLY PROTECTED SPECIES IN ANTARCTICA

1. Background

During CEP II (1999), the United Kingdom presented WP 24 “*Specially Protected Species in Antarctica*”, stressing the need to revise the list of Specially Protected Species (SPS) of Appendix A, Annex II of the Protocol. As a result of that, the Committee adopted Resolution 2 (1999), charging SCAR with such a revision. Likewise, at CEP III, Argentina presented WP 17 “*Considerations about the protection of native Antarctic flora and fauna*”, which noted that the category of “Antarctic Specially Protected Species” provided neither criteria nor mechanisms to ensure additional protection to species so designated.

The CEP III Final Report states: “*The Committee noted that Article 3 of Annex II needs clarification in relation to the nature of the special protection afforded by designation as an Antarctic Protected Species*”.

As a consequence, the CEP established an Inter-sessional Contact Group and charged it with the following Terms of Reference (TORs):

- a) Consider if some Antarctic native species require additional protection by designation beyond that afforded to all native species by the Madrid Protocol, and the reasons for this;*
- b) Identify criteria that could be used for assessing a species for inclusion in this category, if additional protection is considered necessary;*
- c) Propose practical mechanisms that might be implemented to provide the appropriate level of extra protection; and*
- d) Consider if the status of Antarctic Specially Protected Species should be applicable to classes of Antarctic organisms besides birds, mammals, and flora.*

At CEP IV, the ICG tabled a Progress Report (WP 5), where some of the issues connected to the above TORs had been resolved, while other still needed further elaboration. Furthermore, during the first round of discussions, new matters were raised within the ICG. Therefore, CEP IV charged the Group with the following new TORs:

- 1. Consider further how the IUCN “red list” criteria could be used to assist in the identification of species, which might be designated as Antarctic Specially Protected Species.*
- 2. Recommend legal and practical mechanisms that could be implemented to provide the special protection to those species proposed for designation as Specially Protected Species.*
- 3. Consider if the status of Special Protected Species should be applicable to Antarctic species other than native mammals, birds and plants.*

The ICG had six rounds of discussions, divided into two inter-sessional periods. Each round was triggered by a series of key questions, associated with the requirements of each TOR.

During these two rounds of discussions, the following Parties and Observers have participated of this group: Argentina (coordination), Australia, Chile, New Zealand, Norway, Sweden, United Kingdom, United States, SCAR, ASOC, and IUCN.

The ICG submits this Final Report, which amalgamates the results of both periods, to the CEP for consideration. This document represents a summary of the issues the group has debated; based on the TORs the CEP has charged it with.

Since some of the TORs of both periods partly overlap, and in order to facilitate the reading, the Chapter 2 “Discussion” has been split into five thematic sub-items, whose titles refer directly to the original TORs. In addition, a section including the main recommendations stemming from the work of this ICG has been included, as Chapter 3, at the end of the Document.

2. Discussion

2.1 Need and reasons for the existence of the category “Specially Protected Species” (TOR a), first round

There was general agreement in that the SPS category is needed. Different reasons were presented supporting the continued existence of the SPS category:

- It may be helpful to have a particular category open to taxa, which (for whatever reason) appear to be at particular risk.
- The existing elements of the ATS are not giving adequate protection to flora and fauna, evidence of which is the fact that several species of Antarctic seabirds are being significantly reduced by human activities with the result that these species are now assessed as vulnerable to extinction.
- The Protocol, through its Article 3(2), establishes the need to avoid detrimental changes in the distribution, abundance or productivity of species or populations of flora and fauna and further jeopardize endangered or threatened species. In this sense:
 - ⇒ The SPS category will assist in creating an environment that could help in reversing a declining trend.
 - ⇒ Giving a species a special protection will result in a higher threshold for planned activities with expected impacts, compared with non-SPS; and will put higher emphasis for monitoring and research activities on these species.
- Special protection will give an extra focus on certain species and, therefore, will strengthen implementation of other provisions of the Protocol.
- Since some species migrate outside the AT Area, this category may give incentives for nations or international bodies outside the AT Area to take appropriate action.

- The SPS category could provide the means by which both the CEP and other instruments with jurisdiction work together to identify common issues, develop conservation measures and monitor their success.
- Categorizing species as SPS (or similar) is the most widely used conservation tool available in the world.

2.2 Applicability of the SPS category (*TOR d], first round; TOR 3], second round*)

There was agreement within the ICG that, from scientific and conservation perspectives, the Specially Protected Species provisions of Annex II should, in principle, be extended to all species indigenous to the Antarctic Treaty Area (or occurring there seasonally through natural migrations).

The ICG also noted that Article 3(4) of Annex II excludes native (terrestrial and freshwater) invertebrates, as defined in Article 1(d) of Annex II to the Protocol, from its provisions.

However, recognizing that jurisdictional/legal issues are associated with this matter, the ICG considered that it would be appropriate that the CEP advised the ATCM to take early steps to seek the agreement of CCAMLR, CCAS (and possibly the IWC) to establish cooperative working relationships and to ensure that common goals are achieved, when addressing SPS proposals for designation of species in Antarctic marine environments.

2.3 Identification of Criteria for designating SPS (*TOR b] first round*)

All participants have agreed to support the use of IUCN criteria as a basis for assessing the need for special protection in the Antarctic continent, mainly based on the following reasons:

- IUCN criteria are scientific, have been developed in robust fora under intense scrutiny, have high objectivity and comparability, and can be used in many situations.
- The system for documenting assessments and guidelines for the IUCN criteria would be essential to ensure transparency and to facilitate the exchange of information.
- IUCN criteria deal with data-deficient species in a systematic manner, giving a strong incentive to the Parties to increase data collection, and possibly research, on these species.
- SCAR has considered their use appropriate to Antarctica.

The group has also agreed that, if gaps existed in the IUCN criteria, specific Antarctic criteria may need to be developed.

2.4 Use of the IUCN criteria to designate SPS (*TOR 1, second round*)

The group considered that the most appropriate process of identification of species, which might be designated as SPS, would be for the CEP to request SCAR to:

- assist it in reviewing (in close cooperation with IUCN) the current situation of all Antarctic species included as “vulnerable” (or above) in the IUCN Red List.
- conduct a similar review for those Antarctic species included in the IUCN Red List as “data deficient” or “near threatened”.
- undertake, as a final step, a further assessment of all other indigenous Antarctic species not included in such categories of the IUCN Red List, but likely to show declines in the Antarctic Treaty Area.

The aim of such reviews will be to determine whether the species under review merit designation as an Antarctic SPS. If that were not the case, but additional protection were still regarded as necessary, further measures might be considered, which may include habitat conservation strategies, using other protection provisions included in the Protocol, data gathering, etc.

The ICG considers that, to justify designation, the situation of each indigenous species within the Antarctic Treaty Area should be assessed, taking into account IUCN criteria used to evaluate designation as (at least) “vulnerable” in the Red List scheme, and based on the above-described process.

According to this ICG, if one or more of the IUCN criteria/sub-criteria (to designate a species as “vulnerable” or higher within the Red List scheme) is met, the species should be recommended for designation as an Antarctic SPS.

The ICG further noted that it would be convenient that the corresponding IUCN category (*vulnerable, endangered, or critically endangered*) be included between brackets. This recognizes that species facing different level of threat are likely to require different measures of management or protection; and it will prompt actions tailored to the level of endangerment for the species in question (see table 1, as a useful example proposing appropriate management or protection options).

Any Party could also make proposals for designation of Specially Protected Species to the CEP, based on adequate scientific information and taking into account IUCN criteria.

The ICG also noted that the SPS category would normally be applied for the whole of Antarctica. However, it was recognised that, in certain cases, a regional (or local) approach would be more appropriate. For example, a regional/local decline in numbers of a particular species might be addressed by practical means (e.g. implementing specific protection measures/management actions). If it was found that such specific management actions were not helping a species to recover, designation of the species as SPS should then be considered.

Finally, to ensure that this review process can develop continuously, the Group agreed

that it would be useful that the CEP places the issue of SPS as a Standing item on its agenda.

2.5 Practical and legal mechanisms to provide special Protection to SPS (TOR c] first round; TOR 2] second round)

There has been general agreement that additional protection mechanisms for species designated as SPS are needed.

The ICG recognizes that suitable mechanisms of protection will depend on the characteristics of the species concerned as well as the status of the species, (e.g. a species that is low and declining in numbers may require different actions than for a species with low but stable numbers).

Protection mechanisms will also need to take into account the nature of human impacts or other threats to the species.

Suggestions of likely practical mechanisms of additional protection to be applied to any species designated as SPS, include:

- Require that lethal techniques might only be used for species designated as SPSs only for compelling scientific reasons (e.g. scientific activities whose goal is strictly related to the implementation of conservation strategies).
- Prepare guidelines to help Parties decide if issuing permits to “take” or cause “harmful interference” to species designated as SPSs is appropriate.
- Prepare guidelines on how to approach and/or handle species designated as SPSs, once permits have been issued.

Other practical measures would also include:

- Designation of Protected Areas for species/habitat protection purposes,
- Increased or more targeted monitoring activities,
- Preparation and implementation of education/awareness programs,
- Development of action-focused Species’ Recovery Plans, possibly as part of Conservation Management Plans, that may well include some or all of the above.

Depending on the level of endangerment of a certain SPS (*vulnerable, endangered or critically endangered*), different options of management/conservation can be implemented:

Species status	Action to be taken
SPS (<i>Vulnerable</i>)	CEP should: <ul style="list-style-type: none"> • Seek specialist advice from SCAR, or others, to identify causes of decline and possible measures to reverse such declines; • review the status every 3 years depending on life cycle/practicality.
SPS (<i>Endangered</i>)	CEP should: <ul style="list-style-type: none"> • seek specialist advice from SCAR, or others, to identify causes of decline and measures to reverse it as a priority in a <i>Species Recovery Plan (SRP)</i> for the species, • consider recommending increased restrictions on taking or harmful interference, in formulating its advice to the ATCM, and • establish in the SRP a yearly review of SPS status.
SPS (<i>Critically Endangered</i>)	CEP should: <ul style="list-style-type: none"> • seek specialist advice from SCAR, or others, to identify causes of decline and most efficient measures to reverse it as a priority in a SRP for the species, • propose establishment of a contact group to implement these measures as an urgent priority, • consider recommending increased restrictions on taking or harmful interference in formulating its advice to the ATCM, and, • review status annually.

Regarding likely legal mechanisms to provide extra protection to SPSs, the ICG agreed that the CEP should incorporate the recommendations that stem from the work of this contact group, in the review of Annex II (to be initiated at CEP V), and advise the ATCM accordingly. Additionally, the CEP should consider in future reviews of Protocol Annexes how extra protection might be afforded to Specially Protected Species.

3. Summary of Recommendations

The ICG recommends that:

1. The CEP maintains the category of SPS in the framework of Annex II.
2. Article 3(4) of Annex II be amended so as to include native (terrestrial and freshwater) invertebrates, as defined in Article 1(d) of Annex II to the Protocol.
3. The CEP advises the ATCM to take early steps to seek the agreement of CCAMLR, CCAS (and possibly the IWC) to establish cooperative working relationships and to ensure that common goals are achieved, when addressing SPS proposals for designation of species in Antarctic marine environments.
4. The CEP uses the IUCN criteria when assessing designation of SPS, when appropriate.
5. The situation of each indigenous species within the Antarctic Treaty Area be assessed, to justify designation as SPS, taking into account IUCN criteria used to evaluate designation as (at least) “vulnerable” in the Red List scheme, and based on a process, which would be for the CEP to request SCAR to:
 - assist it in reviewing (in close cooperation with IUCN) the current situation of all Antarctic species included as “vulnerable” (or above) in the IUCN Red List.
 - conduct a similar review for those Antarctic species included in the IUCN Red List as “data deficient” or “near threatened”.
 - undertake, as a final step, a further assessment of all other indigenous Antarctic species not included in such categories of the IUCN Red List, but likely to show declines in the Antarctic Treaty Area.
6. The corresponding IUCN category (vulnerable, endangered, or critically endangered) be included between brackets, when a species is recommended for designation as an Antarctic SPS.
7. The characteristics of the species, its status, as well as the nature of human impacts or other threats imposed to it, be taken into account, when addressing likely mechanisms of protection to Antarctic SPS.
8. The CEP considers the implementation of the management options, included as suggestions under point 2.5 of this Document.
9. The CEP places the issue of SPS as a Standing item on its agenda.
10. The CEP incorporates the above recommendations in the review of Annex II (to be initiated at CEP V), and advises the ATCM accordingly.

4. The way forward

The group concluded that it is necessary to establish a proper framework to ensure that the implementation of the SPS category is feasible, practical and effective. Although, at this respect different alternatives had been proposed within this ICG, the proposal of reviewing Annex II, raised at CEP IV by the Committee, offers an excellent opportunity to initiate a proper discussion of the recommendations merging from this document.