Square Peg Round Hole

A Study of Non Governmental Organisations’ Participation in the Antarctic Treaty System

A Syndicate Report by

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ABSTRACT

Involvement of both national and international Non-Governmental Organisations (NGOs) in the Antarctic occurred even before there was a formal management regime for this vast region of the south. Their calls for peace and a co-operative approach came amongst claims for sovereignty. In 1958/59 the International Geophysical Year saw a major change in direction for the governance of the continent which led to an agreement, by 12 nations, on the Antarctic Treaty and the consequent development of a unique legal system.

Since then, involvement in this system has been primarily limited to nations, with interested organisations at times struggling to have an effective voice. This paper examines the involvement of Non-Governmental Organisations in the governance of Antarctica, the positive contributions they have made and the problems that have arisen. A new "Advisor" status is recommended to provide a mechanism by which Non Governmental Organisations can be more involved in the Antarctic Treaty System. In addition, governments are encouraged to include national Non-Governmental Organisations in their national Policy formation and delegation processes. This would ensure a more robust regime based on trust and a common interest in the stewardship of this remarkable region.
RECOMMENDATION

The Representatives:

Recalling the Preamble and Article III-2 of the Antarctic Treaty, and the Attachment to Decision XXX-1 (Revised Rules of Procedure (1997));

Recognising that Non-Governmental Organisations have played a valuable role in furthering the objectives of the Antarctic Treaty and have established a proven record of providing important scientific and technical information to Antarctic Treaty Consultative Meetings;

Acknowledging that the relationship between Antarctic Treaty Consultative Parties and Non-Governmental Organisations must be based on trust and that this is best fostered by free access to, and discussion of, information;

Acknowledging that under the current system Non-Governmental Organisations are reliant on invitations to attend Antarctic Treaty Consultative Meetings, either in their own right or as members of national delegations, and that this is not conducive to consistent involvement in Antarctic Treaty System issues, nor to the fostering of strong relationships;

Desiring to formally recognise the contribution of Non-Governmental Organisations and the benefits of their consistent involvement in the Antarctic Treaty System, while also recognising that the nature of Non-Governmental Organisations is fundamentally different to that of nation states.

Recommend that:

1) The status of Advisor be established in the Antarctic Treaty Consultative Meetings to allow for the participation of officially recognised Non-Governmental Organisations at all meetings of the Antarctic Treaty Consultative Parties.

2) All governments which are party to the Antarctic Treaty System be encouraged to include national Non-Governmental Organisations in their policy formation and delegation processes.
INTRODUCTION

Exceptional in both its environs and governance, the Antarctic is a special place. This remote area below 60 degrees south, possesses the most extreme environment on earth, and is subject to a unique style of management. The Antarctic Treaty provides the continent and surrounding waters with a cooperative management system involving over 40 interested nations. Stewardship of the Antarctic poses challenges to the wider community and has led to the involvement of a number of parties that are not nation based. These are Non-Governmental Organisations (NGOs) with scientific, commercial, and environmental interests. The Antarctic Treaty System (ATS) is structured in a way that prevents these organisations from full participation in management of the Antarctic.

Though they have limited capacity in the ATS, NGOs have an extensive history within this system and have provided a valuable contribution. Their interest in Antarctic affairs precedes the instigation of the Antarctic Treaty and the legal framework that surrounds it. NGOs have valid concerns and offer specialist advice in their fields of expertise. Despite the frustration amongst NGOs regarding their limited ability to participate, they have formed alliances and developed strategies which, in part, have allowed their voices to be heard. The aim of this paper is to look at the ways in which NGOs have been involved in the ATS and to recommend a best practice approach for ensuring that they can contribute more effectively.

References in this paper to values of NGOs, refer to the beliefs, information, and methods of operation associated with their organisations. This is in contrast to the values referred to in the Antarctic Treaty documents such as the scientific, aesthetic and wilderness values of Antarctica as in Recommendation XV-1 at ATCM XV (1989).

Non-Governmental Organisations

Although there is a multitude of definitions for NGOs, the United Nations (UN) offers the most comprehensive. The UN definition is applicable to the ATS for the purposes of this paper. The UN uses four criteria to establish the legitimacy of NGOs (Willetts, 1996). In the first instance they must have a “not for profit making aim” and be financed from membership and voluntary contributions, although can represent commercial interests. Secondly, they cannot be openly engaged in violence or advocate violence as a tactic. Thirdly, groups with an objective of replacing governments, especially governments represented at the UN, are excluded. Finally, in the interest of constructive debate, the group should support the goals and aims of the organisation which recognises them. Both single-country and international NGOs are recognised, although the UN prefers to deal, where possible, with those which have a wide international base.
Non-Governmental Organisations in the Antarctic Treaty System

The NGOs interested in Antarctic affairs fall broadly into three groups. There are those with a scientific basis such as the Scientific Committee on Antarctic Research (SCAR) which has been intimately involved with the development of the ATS since its conception and assists with the co-ordination of Antarctic research programmes. SCAR is also one of three organisations which have been granted “Observer” status, giving it a different level of ATS involvement compared to other NGOs. Also present are environmental NGOs, whose aim is to reflect and generate public opinion regarding environmental concerns, these include Greenpeace and the Antarctic and Southern Oceans Coalition (ASOC). Finally there are the activities based NGOs such as the International Association of Antarctic Tour Operators (IAATO) which represents a group of tour operators with a strong environmental focus.

For some NGOs there is a further distinction between the national and international levels at which they operate. Greenpeace is an example of an organisation which operates at both these levels, whereas ASOC and IAATO operate only at the international level. International NGOs differ from national NGOs in that they represent populations that are determined by a common interest, rather than by state boundaries. NGOs primary strength is in their connection to the wider community, both national and international. Their network operating at international, domestic, branch, and sub-branch levels usually ensures they have regular contact with their community. The structure of their organisations mean that they are dependent on voluntary contributions, and as a result of annual general meetings, are highly accountable to their members. Greenpeace International is linked with their offices in countries around the world, e.g. Greenpeace NZ based in Auckland. A further example is Forest and Bird, a New Zealand national NGO with in excess of 40,000 members situated in branches throughout the country. A national representative from each branch and regular provincial meetings links this network. Practically this provides members with regular face-to-face contact, giving the opportunity to raise awareness and gather support on important issues.

Involvement of Non-Governmental Organisations in Antarctic Affairs

The unique situation of Antarctica has led to extensive social, political and legal interest. The natural environment and the issues posed by the exploitation and degradation of the Antarctic ecosystem have led to increased and wide-ranging NGO involvement. The importance of peaceful management in Antarctica was recognised by NGOs prior to development of the Antarctic Treaty. As early as 1945, the Women’s International League for Peace and Freedom (WILPF) identified significant problems regarding the conflicting claims for sovereignty in Antarctica. It proposed that all claims be surrendered and that the continent be
given the status of “a recognised and organised international area” managed by a commission (Kimball, 1998). The International Council of Scientific Unions (ICSU) played a major role in progressing this philosophy when it organised the International Geophysical Year (IGY) of 1957-58. An event which became the catalyst for agreement on the Antarctic Treaty. SCAR, one of nine committees established to organise the IGY, continued in its role of co-ordinating scientific research in Antarctica and is now the primary scientific advisory body of the ATS.

The increased environmental awareness of the 1970s saw a rise in NGOs with an environmental and conservation based agenda. The Sierra Club and the Centre for Law and Social Policy (CLASP) were extremely active in publicising the poor waste disposal practices at scientific bases and their effect on Antarctic wildlife. It is through their activities that the first NGO representative, the director of the Sierra Club was able to take part in an Antarctic Treaty Consultative Meeting (ATCM) as a member of the US delegation. The directors of both the Sierra Club and CLASP were also part of the US delegation involved in negotiating the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) from 1977-80. CLASP went on to be instrumental in establishing the Antarctic and Southern Ocean Coalition (ASOC) in 1978. ASOC is now an invited Expert International Organisation at the ATCM, and since 1983 representatives from ASOC and/or Greenpeace have regularly been on delegations of Australia and New Zealand at ATS meetings. (Kimball, 1998).

Despite finding the ATS restrictive, NGOs have encouraged an approach of improving the system rather than replacing it. In 1983 the UN began to take a more active interest in Antarctica in response to pressure from the NGOs to open up the ATS. Although there was initial support for doing away with the treaty system and incorporating it as part of the UN organisation, this view changed with time to one of supporting the ATS and encouraging a more open management style. In 1984 Greenpeace issued a formal statement supporting the ATS, while recognising its weaknesses, and encouraging states to accede to the Treaty system.

The Antarctic minerals negotiations of the late 1980s invoked an immediate response from large environmental NGOs including Greenpeace International who became officially involved in the Antarctic campaign. In February 1987 Greenpeace installed its own station at Cape Evans, which continued to operate until removal in 1992, and began regular visits to the Antarctic in order to document and publicise environmental abuses (Szabo & Dalziell, 1994). Further NGO efforts to raise public awareness were successful when the Convention on the Regulation of Antarctic Mineral Resources Activities (CRAMRA) was abandoned due to strong opposition from Australia and France responding to widespread condemnation by NGOs (Beck & Dodds, 1998). The concerns raised by NGOs, of environmental degradation and threats to Antarctic wildlife, became more widely accepted with the agreement on the
Protocol on Environmental Protection in 1991. The Protocol prohibited all mineral resource activities in Antarctica, although allowing for a 50 year review. (Berkman, 2002).

Due to NGO involvement, the threat of environmental degradation from human impacts is now widely accepted by Antarctic Treaty nations. Recently NGO involvement has increased to incorporate a wider range of commercial activity in the Antarctic (Stokke & Vidas, 1996). A coalition of Antarctic tour operators established the International Association of Antarctic Tour Operators (IAATO) and developed guidelines for the safe and responsible conduct of tourism in the Antarctic. This code of conduct was modified by the Treaty Parties to form the basis of recommendations concerning tourism and non-governmental activities in the Antarctic (Recommendation XVIII-I) (McGonigal & Woodworth, 2001).

Though NGO presence is restricted at ATCMs, they have encouraged a greater transparency within the ATS and facilitated important advances. A continued and increased involvement by NGOs will ensure Antarctic ecosystems are better protected and not overlooked in the face of commercial and other external pressures. NGOs need also to be aware that increased involvement in the ATS may result in immersion in the system and loss of their ability to advocate for and promote change externally.

The Antarctic Treaty

The Antarctic Treaty is the core of the ATS and employs a consultative system to govern the continent and its surrounds. Under the Antarctic Treaty, Antarctic Treaty Consultative Meetings (ATCMs) were instituted as the forum for conducting treaty business. These meetings are attended predominantly by governmental representatives of nations that have signed the Treaty. In addition to this Treaty, there are additional agreements, protocols and special conventions that have been formulated by ATS members to minimise human impact on the area, such as CCAMLR and Environmental Protocol (1991). These agreements, the Antarctic Treaty, and recommendations in force that have arisen from the various meetings, form the structure of the ATS. Decisions at ATCM are made through a unanimous vote by the Consultative Parties. There are avenues which other organisations (including NGOs) can access and contribute to the ATCM, though in a very limited and constrictive way. Participants in the ATCM are involved at various levels and treaty participation is defined and conducted in different ways according to a party’s category of membership. The rules of the ATCM are quite specific as to the roles of the different parties:

1. **Consultative Parties** are nations that have acceded to the original Antarctic Treaty and the additional agreements and protocols associated with it. Nations must also have demonstrated a substantial interest in Antarctica through their research and activities (usually the establishment of a base) to become Consultative Parties (Article IX.2) and
have full voting rights at ATCMs, the only parties with these rights. A consultative party member is entitled to attend all aspects of ATCMs with their delegations. They can present both information and working papers and speak to the meeting contributing to discussion and debate.

2. **Non Consultative Parties** (NCPs) are nations that have acceded to the Antarctic Treaty and Environmental Protocol but have not yet demonstrated their scientific involvement. Initially these nations did not participate in the ATCMs, however in 1983 the rules were amended to increase participation. NCPs must be invited to attend, although this has now become a formality. Unlike the Consultative Parties, NCPs can only contribute information papers and must be invited to speak at the meetings. NCPs do have access to all aspects of ATCMs yet can play no role in decision-making and voting.

3. **Observers** are specially co-opted organisations usually from within the ATS like CCAMLR and SCAR. The rules pertaining to Observers are less clear, the role is often confused with that of experts from international organisations. These organisations cannot legally become members since they are not ‘nations’ but represent significant interests in the Antarctic. In 1987, the rules of procedures were amended to permit the attendance of observers from other institutions, having a scientific and technical interest. (Rule 30, AT Rules of Procedure, 1987). They are initially invited and then officially recognised as an observer to the ATCM. SCAR, CCAMLR and Council of Managers of National Antarctic Programs, (COMNAP) are the current Observers to the ATCM. Observers are required to attend meetings for the specific purpose of reporting on the proceedings of their organisations (Rule 34, AT Rules of Procedure, 1987). They can submit working papers relevant to their reports and be invited to speak on them and like the NCPs play no role in decision-making and voting.

4. **Experts from international organisations** are invited by Consultative Parties to attend meetings for the purpose of contributing to specific agenda items. The rules of procedure were amended in 1987 and state that any consultative party may put forward an invitation for an expert to attend who will be of assistance to the next ATCM (Rule 38, AT Rules of Procedure, 1987). They must be invited to each meeting and are not automatically recognised as experts for future ATCMs. This is the category into which NGOs fit and there are rules to define how Experts can contribute to the meetings. Experts are not entitled to a vote but can be invited to address meetings and submit information papers for the secretariat, prior to the meeting, for distribution to Consultative Parties (Rule 44a, AT Rules of Procedure, 1987).

Table 1 provides a summary of the membership status of the consultative parties and the activities that they enjoy as part of their membership.
Table 1. Membership status of Antarctic Treaty Consultative Meetings

<table>
<thead>
<tr>
<th></th>
<th>Consultative Parties</th>
<th>Non Consultative Parties</th>
<th>Observers</th>
<th>Expert International Organisations</th>
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</thead>
<tbody>
<tr>
<td>Right to attend meetings</td>
<td>Yes</td>
<td>On invitation</td>
<td>On invitation</td>
<td>On invitation</td>
</tr>
<tr>
<td>Attendance at all aspects of ATCMs</td>
<td>Yes</td>
<td>Yes</td>
<td>Only those relevant</td>
<td>Only those relevant</td>
</tr>
<tr>
<td>Present papers for discussion</td>
<td>Yes</td>
<td>Information papers only</td>
<td>Working papers</td>
<td>Information papers only</td>
</tr>
<tr>
<td>Right to speak at meetings</td>
<td>Yes</td>
<td>On invitation</td>
<td>On invitation</td>
<td>On invitation</td>
</tr>
<tr>
<td>Decision making (vote)</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
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</table>

Problems of Non-Governmental Organisations’ Access to Antarctic Treaty Consultative Meetings

The ATS provides a level of involvement for NGOs. There are, however, key issues involved with NGO participation in the system. These issues relate to both the nature of NGOs, and the nature of the ATS. The ability of NGOs to participate in the ATCMs is restrictive. This restriction is due to their status as invited experts. Difficulties can arise due to the characteristics often displayed by NGOs in the international arena. The advantages and disadvantages of NGO involvement must be considered in any review of their position within the ATCM.

Article III of the Antarctic Treaty states that in promoting international cooperation in scientific investigation in Antarctica “every encouragement shall be given to the establishment of cooperative working relationships with those specialised agencies of the United Nations and other international organizations having a scientific or technical interest in Antarctica” (Article III Antarctic Treaty 1959). In respect to this article, some NGOs have access to the ATCM by invitation as an International Expert Organisation. In terms of the treaty this is a recent initiative. Stokke and Vidas (1996) note that revisions to the rules of procedure adopted in 1992 gave all NGOs much more liberal access to ATCMs agenda items so that at the XVIII consultative meeting in 1994, NGOs were barred only from discussions on organisational arrangements at the opening and closing and from debate on the proposed secretariat. While the NGOs were allowed liberal access to ATCMs they could at any time be denied participation in a meeting by a Consultative Party. Further to this, NGOs still have to rely on a Consultative Party to invite them for each ATCM.
At an ATCM there are two formats for submitting papers: information papers and a working papers. There is a distinct difference between the two. Information papers are issued to the secretariat for distribution before the meeting and do not appear on the ATCM agenda unless a Consultative Party asks for that paper to be addressed at the meeting. Due to the amount of information issued to delegates before the meeting, information papers will frequently be overlooked and not brought to the attention of the meeting (Alan Hemmings, pers.comm.). NGOs using this system to introduce documents to the ATCM must rely on either a Consultative Party seeing the report and acting on it, or on building a rapport with a Consultative Party who will make sure it is recognised at the ATCM and translated into the four official languages. A working paper is submitted to the agenda and will be raised for discussion at ATCMs. In the case of Information papers prepared by NGOs, a nation usually requests their papers be talked to, but this practice is not formalised and has been an impediment to active involvement (Maj de Poorter, pers.comm.).

Kimball (1998) notes the grudging access that has been afforded to NGOs in ATCMs by Consultative parties. This could be in part due to the perceived disadvantages of NGOs, including their lack of expertise in making national policy decisions and more limited financial budgets. Because of their structure, NGOs lack the necessary capabilities to be able to formulate policy decisions that affect the public beyond their range of membership. They are also restricted to budgets that are gained from voluntary contributions by members, unlike the larger budgets allocated to government departments. Their methods for engaging the public is an important factor in how they are perceived. The publicity orientated nature of some NGOs is quite different to the approach used by national governments. Though some are well-established organisations, they can also form quickly to respond to various issues. There are often valid questions raised as to what they are, and who they represent. There is no doubt that publicity oriented NGOs are seen by many Consultative Parties as inappropriate to involve in the ATCM process. It has been argued that NGOs often make unrealistic demands of governmental bodies, and are often not good at 'quiet diplomacy'; the art of negotiating sensitive issues away from the public view. National delegations have frequently been wary of the tendency of NGOs to disclose sensitive information to the media (Chris Joyner, pers.comm.). Stokke and Vidas (1996, p93) note “the difficulties of creating, developing and maintaining an international organisation are real both for NGOs and for those who deal with them.” Because of past history, and the tendency of NGOs to stand in opposition to national representation, many national interests do not want to interact with them, and would prefer to keep them out of negotiating and decision-making processes.

Significant advances have been made in the treaty system due to the involvement of NGOs and it is important to provide the advantages of NGOs in contrast to a system of governance that at present is dominated by nation states and their competitive interests. Arguably, NGOs hold a longer-term, global perspective regarding Antarctic issues (Kimball, 1998). Sankey
(1996) also notes their ability to concentrate on universal and timeless values. The electoral timeframe often means that governments have shorter outlooks, and are more likely to be responding to daily events. NGOs have the skill to raise public awareness through a variety of media and public forums to create debate and engender support for issues. Their status often allows them to be viewed as more independent than governments and political interest parties. NGOs have well-established international and national networks. These networks enable information to be disseminated quickly, and increase coordination on important issues. International NGOs have a flavour that is characterised by commonality of interest, and diversity of membership.

NGOs also have the luxury of being able to focus on a single or limited number of issues, unlike governments who have to consider Antarctic requirements amongst a myriad of other demands, some of which may conflict (e.g. access to mineral resources versus environmental preservation). This ability to focus on single issues and recruit members internationally with a variety of skilled backgrounds means they have the capability of, and access to, detailed expertise on specific issues.

Non Direct Access to the Antarctic Treaty System

In lieu of independent access to ATCMs, NGOs have found other avenues for involvement in the ATS. An alternative available for NGOs is to attend as a member of, or an adviser to, one of the national delegations participating in these meetings. The rules state that each consultative party shall be represented by a delegation composed of advisers, and other persons a nation considers necessary. For some nations, this often means a representative from an NGO. Many governments, including Australia, New Zealand, United States of America, United Kingdom and Germany, have included members of NGO environmental groups on their delegations. Participation gives them a different perspective, and ‘keeps political peace on the domestic front’ (Chris Joyner, pers.comm.). Additionally, Maj de Poorter (pers.comm.) considers the role of NGOs important as an accountability measure both on a national and international scale. NGOs also have the further option of impacting on the ATS from ‘outside’, for example by exerting pressure on their governments, and on ATS committees. This is done by lobbying, forming coalitions, or by acting as a catalyst between parties. These methods of involvement in political and policy process have been very important and one of the key tools in an NGOs repertoire.

NGO involvement in the ATS beyond the expert organisation role in ATCMs, provides varying challenges in terms of uniform participation. Article III gives nation parties the mandate to consult with international experts. This can be done on a state-by-state basis by relying on national advisers. Effective communication between governments and NGOs is needed for this approach to work and funding can be an issue. It should also be noted that, while some
countries have welcomed NGOs onto their national delegations, this approach is certainly not universal. The internal politics of some ATCP countries means that NGOs are unlikely to be included in their delegations unless there is a significant shift in the philosophical position of their governments. Moreover, Article III encourages consultation and advice beyond the governmental sphere, but does not make it a formal practice. For NGOs on national delegations, Kimball (1998) notes there are no authorising laws or prescribed conditions governing this participation. This statement refers to both the lack of rules allowing for, or standardising, such a practice. Any member of a delegation is expected to abide by certain conditions, the most significant of these is the restriction on publishing or publicising details. This restriction may increase the trust issues involved with the sensitive material and the publicity focussed nature of NGOs. Further to this, Chris Joyner (pers.comm.) notes that the inclusion of some NGOs on delegations is seen as too controversial. An example is Greenpeace International and their strong opposition to practices of some nation states in the ATS regarding whaling.

Generally, NGOs have had a long history of positive impacts and involvement with the ATS and a proven interest and knowledge in the Antarctic and its environs. At present, NGOs can participate from within the system as part of a national delegation, or as an invited party acting as an observer or expert. Maj de Poorter, Cath Wallace and Alan Hemmings (pers.comms.) all note both roles are important in achieving NGO goals in the ATS, and creating a system of management that stands up to the values promoted in the treaty. They argue that it is possible for NGOs to play an effective role on both the formal and informal level.

This paper recognises the different issues posed by the divergence of practice as to NGO involvement in the ATCMs and on the national level. It also recognises the variance of opinion as to this involvement. NGO participation needs to be less informal, more consistent and be controlled in light of the positive and negative features that NGOs can bring to a system like the ATS.

In summary, difficulties with the current system include:

- NGOs reliance upon invitation to attend meetings
- Inability of NGOs to submit working papers
- NGOs can be denied participation at any time
- Differences in modus operandi lead to mistrust
- Perceived lack of transparency in the ATS
- NGO participation restricted by lack of resources
- NGO scientific and community expertise is not fully acknowledged and utilised
- No official process to ensure NGO participation
In view of these concerns, ongoing involvement in the ATS for NGOs must be addressed. Their contribution has been valuable, but the inconsistent nature of this to date has caused difficulties for both parties. NGOs feel they have an important contribution which is only accepted when they have spent significant resources to gather strong public support. Members of the ATS have become frustrated in dealing with NGOs who have been forced to advocate for change from the outside. A new approach is needed that allows for parties to work together in benefit and utilises the strengths of them all.

RECOMMENDATION DESCRIPTION

**Recommendation 1:** That an Advisor Status be established at Antarctic Treaty Consultative Meetings, to allow for the participation of officially recognised Non-Governmental Organisations at all meetings of the Antarctic Treaty Consultative Parties.

This recommendation for the establishment of an Advisor status for NGOs would involve including a new category of attendance in the Rules of Procedure for ATCMs in addition to the four that currently exist. This would elevate the status and the role of NGOs within the ATS. In order to fully understand the recommendation presented there must be a definition of the roles that an Advisor status would have within the ATCMs.

The position of Advisor would be similar to that of the NCPs and Observers. Advisors would be able to attend meetings (without having to be invited) and all formal Committees or Working Groups, comprising all Consultative Parties, unless a Representative of a Consultative Party requests otherwise in any particular case. Additionally NGOs would also be able to put forward working papers that will be circulated for discussion at ATCP meetings, rather than being limited to producing information papers which are not addressed at meetings. NGOs with Advisor status would be able to address the meetings without having previously obtained the permission of the chairman. These changes are summarised below.

This recommendation will enable NGO Advisors to:

- Attend Antarctic Treaty Consultative Meetings, unless a Consultative Party requests otherwise
- Have representation at all aspects of Antarctic Treaty Meetings, unless a Consultative Party requests otherwise
- Present full working papers to ATCP meetings for discussion
- Address the meetings without having obtained the permission of the chairman prior to the meeting
- Contribute to the decision making process, but without voting powers

NGOs, which have a history of involvement with the ATS to their mutual satisfaction, may choose not to pursue this option. For example, it is unlikely that SCAR would wish to apply for Advisory status as doing so might compromise their current working relationships within the ATS.

The process for 'Official Recognition' as Advisor is as follows: NGOs would be the only parties eligible to fill the role of Advisor. In order to apply for the status of Advisor to the ATCMs a NGO would need to meet certain criteria and be officially recognised, through an approval process, by the Consultative Parties. The four criteria used by the UN to define an NGO would be adopted for the ATS. These criteria include:

- Not for profit aim
- Cannot advocate violence as a tactic
- Cannot have an objective of replacing governments
- Must support the aims of the ATS

Before qualifying for an advisory role, an NGO must meet these criteria and show that it is a well established and internationally recognised organisation which has demonstrated either a scientific, technical or environmental interest in Antarctic matters.

Table 2 below outlines the abilities of each of the four existing categories, as earlier summarised in Table 1, and includes the proposed new category for Advisors. NGOs currently fit into the role of Expert International Organisations. Under the above recommendation NGOs would fall into the new category of Advisors.
### Table 2: Membership Status of the Antarctic Treaty System including proposed Advisory Party status.

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<thead>
<tr>
<th>Rights</th>
<th>Consultative Parties</th>
<th>Non Consultative Parties</th>
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**Recommendation 2:** That all governments which are party to the Antarctic Treaty System be encouraged to include national Non-Governmental Organisations in their policy formation and delegation processes.

This recommendation recognises that in most cases NGOs are not involved at a national pre-policy level. Under the current system, in order to participate in the ATS at international forums, NGOs must be members, or advisors, to a national delegation participating in these meetings. The United States, Australia and New Zealand are among countries who invite NGOs to take part in their delegations at ATS meetings. This Recommendation is a reaffirmation of Article III-2 of the Antarctic Treaty.

'In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other technical organizations having a scientific or technical interest in Antarctica.'

It is aimed to increase the participation of NGOs in national Antarctic policy meetings and ATCM delegations. Also relevant is Decision XXX-1 which gave SCAR and CCAMLR observer status at ATCMs.
It is recommended that an ideal model (based on that of the US, Australia and New Zealand) be put forward to encourage national governments to include national NGOs at a pre-policy and policy-making level.

This model would require that:

- The national NGO must be a recognised and established NGO with a legitimate interest in the Antarctic
- The foreign ministry allow NGO representatives to attend policy meetings and partake in the discussions concerning national Antarctic policy prior to policy formation
- The foreign ministry consider papers written by NGOs that support the nation’s policy direction for inclusion as that nation’s government paper at the ATCM
- The foreign ministry provide a place for an NGO on their delegation in an advisory role to the delegate. The NGOs must select a representative to this position. Funding for this position will be at the discretion of individual governments.

It is recognised that some countries do not have established working relationships with NGOs and may not readily accept these recommendations. This is due to differences in the political climate of member nations. However, in the interests of democracy, it is an important first step towards the continued protection of the Antarctic environment. Allowing NGOs more participation in the Antarctic Treaty System will ensure that the economic interests of some ATCPs do not overlook the Antarctic ecosystem.

**JUSTIFICATION OF THE RECOMMENDATION**

"I want you to consider this your home. Until recently these words might have caused astonishment. The United Nations was considered to be a forum of sovereign states alone. Within the space of a few short years, this attitude has changed. Non-governmental organisations are now considered full participants in international life." (Boutros Boutros-Ghali, in a welcome to NGOs during 1994 UN conference, cited in Willetts, 1996, p59).

The inclusion of NGOs into mainstream politics is not new to international life. NGOs history of involvement in the UN spans half a century. However it is only in the last decade that they have been fully accepted. Their status as worthy commentators in the political forum has often caused disagreement regarding the official roles NGOs can take. A brief examination of the role of NGOs in the UN is important as it offers the only current model of inclusive NGO participation.
NGOs gained ‘consultative status’ at the UN during the 1940s. Their accreditation as a United Nation NGO is through an NGO committee, which classifies them according to interest, whether specialised, broad, or general. These formal arrangements mean three aspects in terms of NGOs’ behaviour: they have access to all official UN documents, they have security passes at meetings, allowing them the opportunity to have direct access to delegates, and their right to be involved is legitimised (Willetts, 1996). Their acknowledged expertise is utilised in a variety of ways. Firstly, they have the power to set agenda items. They are able to participate within committees, hold forums and generate media exposure on relevant issues. Of particular importance is their contribution to the gathering of long-term scientific and expert information. Some organisations (e.g. Greenpeace International) include significant monitoring programmes and provide a wealth of important data to the consideration process.

Non-governmental organisations offer the same benefits to the Antarctic Treaty System as they do to the United Nations. Defined as “the conscience of the world” by Peter Willetts in his examination of their role in the UN, NGOs occupy a valuable international function not able to be performed by nation states. NGOs exist for the simple reason that ‘something is not right with the world’. Their role of critical commentator in the national and international arena is crucial in effecting change.

In justifying our recommendations for increased inclusion of NGOs in the Antarctic Treaty System, the following points are relevant:

- Positive experience with past involvement in the Antarctic Treaty System; both within national delegations and as invited independent observers/experts.
- Past history of achieving positive change
- Provision of timely and full information allowing constructive participation
- Specialised expertise and knowledge gathered internationally and over time
- Represent of a diverse range of Antarctic interests
- Focus on single or narrow range of issues
- Long-term commitment
- Provide an independent, non-political voice
- Intimacy with wider community, at both national and international levels
- Ability to raise and focus public awareness
- Promotion of innovative and new ideas
- Capacity to consider wilderness, aesthetic and intrinsic values separate from the economic domain

In addition, national and international NGOs serve a number of distinct purposes:
• Consultation with NGOs partially fulfils governmental requirements to consult with the wider community
• National NGOs have specific information and national expertise relevant to the interests of their community
• International NGOs are able to transcend national boundaries and facilitate cooperation on divergent issues

Identified earlier were a number of disadvantages of NGOs. These disadvantages need not be used to exclude them from increased participation. It was argued that NGOs often make unrealistic demands of governmental bodies, more often as a result of lack of access to timely and comprehensive information. Inclusion of NGOs in a more permanent role within the ATS would give them greater access to information. Reduction of the release of ‘misinformation’ would occur as a result. It would also enable NGOs to be kept abreast of recent developments in the ATS, and allow them to participate more constructively in the process. A conservative view would hold that including NGOs in the system means there would be an increased measure of control over their behaviour (Klaus Dodds, pers.comm.).

Their perceived lack of ‘quiet diplomacy’ is often a result of dissatisfaction with the exclusive nature of meetings that seek to preclude them (Maj de Poorter, pers.comm.). Frustration at this exclusion is expressed by Barney Brewster (1982, p118), a member of Friends of the Earth at the commencement of negotiations on a minerals regime, “Like all previous Treaty negotiations, these will be held in secret: no official records will be kept, no observers permitted, and the communiqués issued at the end of each session will give little insight into what has been discussed.”

Public citizens are often cynical regarding the activities of political representatives, believing their actions are not entirely transparent. Actions perceived as lacking transparency attract concern by NGOs. Consequently, NGOs have sought to make public any happenings of which they have become aware. Exclusion from the discussion process has generated this mistrust, NGOs believing in the democratic right of the public to have knowledge about decisions being made regarding public domain. Closer inclusion in the ATS would allow a process of quiet consideration and negotiation to develop, regarding the use of sensitive information. NGOs can offer a voice that is politically independent and non-aligned.

The ATS already offer examples of NGO inclusion. NGOs in the United States initiated a process whereby they are now involved in a formal level in the exchange of information regarding Antarctic policy, both in formulation and review (Willetts, 1996). The Ministry of Foreign Affairs and Trade in the New Zealand government also meets with NGOs to brief them on national Antarctic policy and has a practice of including NGOs in national delegations to ATCMs and meetings of CCAMLR (Felicity Wong, pers.comm.). Greenpeace International
Campaigner, Janet Dalziell (pers.comm.), sees the New Zealand government as one of the more inclusive in the ATS, including members in its delegations, and also conducting quite lengthy consultations with the NGO community. In practice, despite invitations to attend, NGOs may choose not to. This is often related to their limited resource base and their need to prioritise spending which may result in their exclusion even though they may make a valuable contribution. Although some governments are proactive on this issue, NGO participation would be greatly strengthened if others followed their example.

NGOs exist to fulfil the needs of certain interests within the community. For example, the Royal Forest and Bird Society (Forest and Bird) retains its focus on preservation of the unique flora and fauna in New Zealand. Their interest in the Antarctic is in encouraging knowledge, understanding and preservation of Antarctic flora and fauna. Similarly, IAATO exists to guide the development of tourism operators within the Antarctic. This focus on a narrow range of issues means that NGOs can retain an enduring interest in one area, without risking deviation from their central aim. In a democratic environment, NGOs have a more permanent structure than national representation. Their concentration on single issues means their overall objectives remain relatively consistent over a longer time span.

Environmental NGOs form a large number of the NGOs with an interest in the Antarctic. Members of the community recognise that governments have a primary aim to ensure the economic stability and growth of a nation. This may conflict with the communities desire to recognise and acknowledge the values that a wilderness may bring aside from economic use. NGOs such as World Wildlife Fund and Forest and Bird place the ecological, wilderness, and other intrinsic values ahead of economic interests. This places them in a valuable position when attempting to balance conflicting issues in the Antarctic. Maj de Poorter (pers.comm.) commented that participation in the treaty system did not reflect activity in the Antarctic. Greenpeace has had more of a presence in the Antarctic than some of the ATS nations, but is not involved in treaty management.

In recommending a new status of ‘Advisor’, recognition is made that NGOs offer unique factors to the ATS, not fully catered for by the present system. As noted by Kimball (1998, p56), "...more direct involvement in Antarctic affairs increases the value of their contributions.” The current situation of ‘invited guests’ creates uncertainty and limits the strengths NGOs can bring. The depth of their expertise and wide international audience means they have the ability to put forward working papers to the ATS of a high quality. Increasingly the international world is seeking NGOs expertise and knowledge.

Nitin Desai, Secretary-General for Policy Coordination and Sustainable Development with the UN in a 1994 address reviewing arrangements of NGO involvement in the UN, recognised the benefits of closer inclusion of NGOs in an intergovernmental body. NGOs are seen as
promoters of new ideas, possessing skills to alert the international community to emerging issues, and with an extensive expertise and talent that is vital to the work of the United Nations (cited in Morphet, 1996)

Wide recognition of the importance of NGOs in the community must act as a guide to the importance of including them in a permanent role of providing the expertise and skills that they possess. Increasingly, the public are also demanding access and inclusion in policy formulation and accountability at national level. NGOs have traditionally risen to fulfil this demand and raise the people’s voice. If increased NGO participation in the ATS does not occur, the important values of NGOs will not be realised. The Treaty System has significant gaps in its ability to appreciate and consider all the values of the Antarctic. For the sake of science, environmental protection, and ongoing peaceful use of the Antarctic, NGOs voice must be heard to represent different views not held by national governments. In a democratic system that prizes knowledge, participation, and consensus decision-making, NGOs can play a vital role at both national and international level in seeking, and relaying information to their audiences.

The ATS was not designed to regulate Antarctic activities in detail, but simply to establish broad principles. It does, however, provide a mechanism that allows for more detailed measures to be adopted, if and when, the parties consider it appropriate. On a general assessment, the ATS is sufficiently flexible to allow for growth. This flexibility allows for increased NGO participation. Activities in the Antarctic, such as tourism and fishing, have caused difficulties for treaty nations, and the apparent lack of ability for them to solve these problems has been seen as a major impediment within the ATS. It is for these reasons that a formal structure to ensure solid NGO participation becomes vital.
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