

# Antarctic Treaty Parties meet in Russia

THE 40<sup>TH</sup> ANNIVERSARY OF THE ENTRY INTO FORCE OF THE Antarctic Treaty was marked with a meeting of the Treaty parties in St Petersburg in July. This was the 24<sup>th</sup> Antarctic Treaty Consultative Meeting (ATCM XXIV), and involved representatives from 26 of the 27 Consultative Parties, and nine of the non-consultative Parties. The Treaty's anniversary was given specific recognition in a declaration recording recent achievements of the Antarctic Treaty system.

## Treaty secretariat to be established

One of the most significant outcomes of the meeting was the unanimous decision to establish a permanent secretariat for the Treaty in Argentina. This decision followed the welcome announcement by the United Kingdom delegation that it joined all other Treaty Parties in agreeing to locate the secretariat in Buenos Aires. The announcement opened the way for a long overdue improvement in the operation of the Antarctic Treaty.

Establishment of the Secretariat is expected to lead to immediate efficiencies in the way the Treaty conducts its business. The Antarctic Treaty is unique among international agreements of this stature in not having a permanent body to support its meetings and maintain its records. Since the adoption of the Madrid Protocol in 1991 the Treaty system has had an increasingly complex environmental agenda and a proliferation of working papers. The burden of holding the annual meetings accordingly increased substantially. The long-recognised need for a mechanism to assist with organising the annual consultative meetings and meetings of the Committee for Environmental Protection has become urgent, as has the need to manage the documents of the meetings.

Discussion on the merits of providing secretariat support commenced shortly after the 1961 entry into force of the Treaty, but consensus on its establishment was not possible. More recently, the differences were not so much about whether a secretariat was necessary, but on where it should be located. Agreement was reached in 1992 that a secretariat should be established, and although Argentina offered to host it in Buenos Aires consensus on locating it there was not immediately forthcoming. Other offers to host it were made from time to time, but none enjoyed complete support.

For those who are interested, Appendixes 2 and 3 of the report of the St Petersburg meeting record the statements from Argentina and the United Kingdom which provided the circumstances for consensus to be reached. Australia was amongst the first at the meeting to congratulate Argentina, and to thank the United Kingdom for its decision.

Establishment of the Secretariat will follow formal agreement to the legal provisions and other matters



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*The Australian delegation to ATCM XXIV, St Petersburg, July 2001. From left: Warren Papworth (AAD), Andrew Jackson (AAD), Richard Roe (DFAT), Michael Bliss (DFAT), Professor Michael Stoddart (AAD), Dr Julia Green (IASOS), Dr Tony Press (Director AAD), Tom Maggs (AAD), Bill Bleathman (Tasmanian Government)*

such as the funding and staffing arrangements for the organisation. These will be priority issues for the agenda of next year's ATCM.

## Liability for environmental damage

The St Petersburg meeting also saw useful progress on the vexed question of developing rules for liability for environmental damage – an obligation arising from Article 16 of the Madrid Protocol. Although informal consultations were held in The Hague at the Special ATCM in September 2000, these were the first formal negotiations since the previous consultative meeting in 1999. Informal discussions (that is, without the benefit of interpretation into the Treaty's four languages) were held in Week 1 with the intention of exchanging views on recent developments, which included the revised text proposed by the US delegation and the draft text developed intersessionally by the Chair of the negotiations (Mr Don Mackay of New Zealand).

It was clear that some movement was possible, with those seeking negotiation of a regime which comprehensively addresses all possible circumstances of environmental harm prepared to come part way towards the position of those whose preference is for a regime only regulating response action in the case of environmental emergencies. Likewise, those preferring the latter approach indicated some willingness to engage

in a step-by-step approach which, over time, would provide for the development of rules addressing the broader concerns.

While the ultimate scope of the liability regime has not been settled, excellent progress was made on some of the issues which in the past have highlighted the differences of approach. Four such issues were examined in small open-ended contact groups: one addressing the definition of 'operator' and the associated jurisdictional problems (this group was chaired by Australia); another examined the scope of 'response action'; one looked at preventative measures; and a further group examined the meaning, in terms of a liability regime, of 'dependant and associated ecosystems'. The products of these small groups built on the so-called 'areas of convergence' identified during the previous negotiations in Lima.

COMNAP's contribution to the liability discussions, including in a joint working paper with SCAR aimed at providing practical advice, will continue between now and the next meeting.

### Other developments

Since the last ATCM in 1999, Australia has been leading an inter-sessional contact group aimed at improving the way information exchange obligations under the Antarctic Treaty and the Madrid Protocol are satisfied. The St Petersburg meeting accepted the proposals from the contact group and agreed to rationalise the information which is exchanged, and to establish a centralised web site which will provide public access to the information. The site will be hosted by Argentina and its establishment will be supported by Australia.

In a complementary development, the Parties will also commence intersessional consultations on ways of improving the efficiency of the Treaty meetings themselves. This work will be coordinated by Germany.

Reports of inspections conducted under Article VII of the Antarctic Treaty and which examined a number of scientific stations in Antarctica indicated high levels of compliance with the Treaty and with the environmental obligations of the Madrid Protocol and its annexes.

A number of issues relating to tourism and private adventure expeditions were also discussed, with a particular focus on safety and self-sufficiency concerns. The Treaty parties have decided to include these issues as priorities for discussion at the next meeting.

An effective dialog between CCAMLR and the Antarctic Treaty was evident, including between the Committee for Environmental Protection and the CCAMLR Scientific Committee, for which Dr Tony Press (Australia) is the CEP's observer. Australia proposed that the ATCM support the work of CCAMLR in combating illegal, unreported and unregulated fishing and encourage implementation of the CCAMLR Catch Documentation Scheme. This was adopted as Resolution 1 of the ATCM.

The St Petersburg meeting was the first at which Estonia was represented since joining the Treaty. Estonia's accession takes the total number of Parties to 45. Also welcome was the announcement that Ukraine has acceded to the Madrid Protocol.

The next Consultative Meeting will be held in Poland, which has offered to host ATCM XXV in Warsaw from 3 to 14 September 2002. Further details of ATCM XXIV can be found in the report of the meeting at <http://www.24atcm.mid.ru/>.

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## Treaty meeting looks at tourism



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The implications of the continuing growth and increasing diversity of Antarctic tourism were raised at the Antarctic Treaty Consultative Meeting in July. The discussion had been triggered by the recent experience of some Treaty Parties with private expeditions which had got into difficulties. A further stimulus came from the information papers submitted by IAATO (the International Association of Antarctic Tour Operators) and by ASOC (the Antarctic and Southern Ocean Coalition).

The safety and self-sufficiency of small adventure expeditions had been highlighted by a number of recent incidents in which expeditions had got into difficulties. In some cases search and rescue had to be provided to small adventure expeditions by national program operators, and other incidents involved damage to tour vessels during extreme sea conditions.

The Treaty Parties have raised a general concern about the potential disruption to research programs caused by non-government activities, and by the lack of adequate insurance in some instances. Concerns have also been raised about potential environmental consequences, including the risks of cumulative impacts in the absence of good monitoring programs.

IAATO reported to the meeting that it had recently changed its criteria for membership and would now accept operators of vessels carrying more than 400 tourists, provided those vessels do not land passengers in Antarctica. IAATO's figures indicate that overall tourism numbers in 2000-01 were slightly down on the previous year (which were possibly inflated by 'millennium' events). However, it is clear that the industry is continuing generally to grow and diversify. ASOC raised a number of questions about the conduct and management of private sector activities.

Recognising the importance of ensuring tourism and other non-government activities in the Antarctic are properly managed, the St Petersburg meeting decided that the matter should be subject to detailed discussion at the Treaty meeting in 2002.