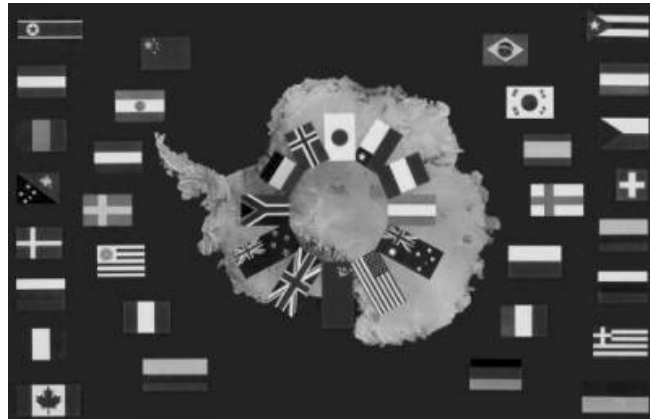


Chapter 7 - Regulation of Antarctic Tourism

By: Michelle Clarke

Antarctica has been formally designated a “natural reserve dedicated to peace and science” (Natural Environment Research Council British Antarctic Survey, 2004 p.1).

Antarctica has no permanent inhabitants, so instead it has been managed for the past half-century through the Antarctic Treaty System (International Association of Antarctic Tourism Operators, 2005). With cooperation of nearly 50 countries this area has and will continue to be a unique and pristine environment. Checks and controls are becoming more important with the increased number of people visiting the Antarctic every year.



(Natural Environment Research Council British Antarctic Survey, 2004)

The Antarctic Treaty System

“The improved technology and knowledge of the last 100 years have allowed humans greater access to the continent, encouraging detailed surveying and research, and the gradual occupation of Antarctica by scientific stations” (Natural Environment Research Council British Antarctic Survey, 2004 p. 7). By the mid 1900s territorial positions had also been asserted, although not agreed upon, creating tension that threatened the cooperation vital to further scientific research (Natural Environment

Research Council British Antarctic Survey, 2004). At this time the United Nations was convinced to implement an event that would promote the co-operation in the sciences (Natural Environment Research Council British Antarctic Survey, 2004). It was decided that July 1, 1957 to Dec 31, 1958 be called the International Geophysical Year (IGY) (Natural Environment Research Council British Antarctic Survey, 2004). During this time scientists from the 12 nations active in Antarctica at that time agreed that their political and legal differences should not interfere with the research of the area (Natural Environment Research Council British Antarctic Survey, 2004). The great success of the IGY led these nations to “agree that peaceful scientific cooperation in the Antarctic should continue indefinitely” (Natural Environment Research Council British Antarctic Survey 2004 p. 8).

Immediately following the IGY, negotiations began for such an agreement. What developed out of these negotiations is known today as the Antarctic Treaty System. This treaty was signed on December 1, 1959 by the 12 nations (Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, United Kingdom, United States and USSR) that had been active during the IGY (Natural Environment Research Council British Antarctic Survey, 2004). These parties are known as consultative parties. Since the first Antarctic Treaty Consultative Meeting in 1961, the parties have met frequently to discuss any issues that may affect the Antarctic. The meetings are now held annually and the parties are committed to making decisions by consensus (U.S Department of State, 2004). The “treaty provides for such states as have acceded to the Treaty and during such times as they have demonstrated their interest in Antarctica by carrying out substantial scientific activity there to become Consultative Parties” (U.S

Department of State, 2004, para.3). This states that other countries can only become consultative parties (therefore having voting power) if they carry out significant scientific work in the Antarctic. Today there are 27 consultative parties. Any other country that is a part of the U.N. is invited to the annual meetings, however, these parties have no power to break consensus; they do not have voting power. This process has been able to meet the special needs of managing activities in the Antarctic, while protecting national interests (Natural Environment Research Council British Antarctic Survey 2004).

The ATS is surprisingly short and simple, yet highly effective. There are only three objectives of the ATS which are “to demilitarize Antarctica; to promote international scientific cooperation in Antarctica; to set aside disputes over territorial sovereignty” (Natural Environment Research Council British Antarctic Survey, 2004). All together there are only 14 articles in the treaty which can be found in full at the end of this paper under Appendix A.

The ATS actually encompasses more than just the Antarctic Treaty, it also combines the Agreed Measures for the Conservation of Antarctic Fauna and Flora (1964), Convention for the Conservation of Antarctic Seals (1972), Convention on the Conservation of Antarctic Marine Living Resources (1980), Convention on the Regulation of Antarctic Mineral Resource Activities (1988), and Protocol on Environmental Protection to the Antarctic Treaty (1991) (Natural Environment Research Council British Antarctic Survey 2004). This treaty applies to the area south of 60° south latitude, including all ice shelves (U.S Department of State, 2004). However, the high seas contained within this boundary are covered by international law (Chaturvedi, 1996).

Since the ATS has come into force, it has been recognized as one of the most successful international agreements. The treaty parties remain committed to a system that both protects their individual interests and allows science to proceed unhindered. It also effectively deals with territorial claims. A similar treaty could be used to effectively take care of our common oceans and space exploration if it becomes significant in our future (U.S Department of State, 2004).

The Antarctic Treaty states specific codes of conduct for tour operators, and includes policies and procedures for both the tour operator and the tourist. For the tour operator there are procedures that must take place before an expedition happens, then there are rules and regulations that must be followed while in the zone that the ATS governs, and finally within three months of return of an expedition a report must be filed to the appropriate national authority (U.S Department of State, 2004). The key principles for organizers and operators are as follow.

1. Provide prior notification of, and reports on, their activities to the competent authorities of the appropriate Party or Parties.
2. Conduct an assessment of the potential environmental impacts of their planned activities.
3. Provide for effective response to environmental emergencies, especially with regard to marine pollution.
4. Ensure self-sufficiency and safe operations.
5. Respect scientific research and the Antarctic environment, including restrictions regarding protected areas, and the protection of flora and fauna.
6. Prevent the disposal and discharge of prohibited waste.

(International Association of Antarctic Tourism Operators, 2005).

A full set of principles can be found at <http://www.iaato.org/guidelines.html> or within the Handbook of the ATS at <http://www.state.gov/documents/organization/15279.pdf>. For tourists visiting Antarctica there are five basic principles that must be followed.

1. Protect Wildlife
2. Respect Protected Areas
3. Respect Scientific Research
4. Be Safe
5. Keep Antarctica Pristine

(International Association of Antarctic Tourism Operators, 2005).

These basic principles are further expanded in the Handbook of the Antarctic Treaty System which can also be found at <http://www.state.gov/documents/organization/15279.pdf>

International Association of Antarctic Tourism

One of the most important regulatory organizations for tourism is the International Association of Antarctic Tourism Operators (IAATO). IAATO was formed in 1991 when seven private tour operators conducting excursions in Antarctica joined together to practice and promote the highest possible standards of travel in this region of the world (International Association of Antarctic Tourism Operators, 2005). Now in 2005, this organization has 69 member companies from Argentina, Australia, Belgium,

Canada, Chile, France, Germany, Italy, The Netherlands, New Zealand, United Kingdom and the United States (International Association of Antarctic Tourism Operators, 2005).

IAATO is an industry group whose membership combines ship operators, land-based operators, ship agents, travel agents, one government office and travel companies that charter ships and airplanes from existing operators who work together to maintain environmentally responsible tourism to the Antarctic region of the world (International Association of Antarctic Tourism Operators, 2005). The members of IAATO must follow the policies and procedures set out by the ATS (International Association of Antarctic Tourism Operators, 2005). All regulations by IAATO and its parties are done through self regulation (International Association of Antarctic Tourism Operators, 2005). IAATO has developed a number of guidelines and procedures to assist its members in self regulation. Some of these include: guidelines on numbers of people ashore; wildlife watching; zodiac and helicopter operations; activity reporting; passenger, crew and staff briefing; contingency and emergency medical evacuation plans; and, communication procedures to co-ordinate site visits (International Association of Antarctic Tourism Operators, 2005). In the way of environmental impact, IAATO has gone above and beyond what is recommended by the ATS. The ATS requires that a report about environmental impact be filed with the proper national authority after every expedition (International Association of Antarctic Tourism Operators, 2005). IAATO maintains records of all its members' activities to keep track of cumulative impact and then reports this information to the annual Antarctic Treaty Consultative Meetings (International Association of Antarctic Tourism Operators, 2005).

It is the belief of IAATO that careful self regulation is enough to protect this pristine environment. Their rigorous membership procedure ensures that companies must work hard toward these standards that allow them to maintain the best environmental policies and can then be accepted.

Antarctic and Southern Ocean Coalition

Another important organization involved in Antarctic regulation is the Antarctic and Southern Ocean Coalition (ASOC). This organization was formed in 1978 and now has 150 members from over 40 countries (The Antarctic Project, 2004). This is a non-governmental organization which works to protect Antarctica, its surrounding islands, and ocean for future generations to enjoy (The Antarctic Project, 2004). Tourism is just one aspect ASOC is involved with. ASOC does not oppose tourism but it is pushing for full regulation on the number of people, landing sites etc. on Antarctica and its islands (The Antarctic Project, 2004). ASOC is arguing that the increasing popularity of Antarctic tourism can not grow forever with out compromising the designation of Antarctica as a nature reserve (The Antarctic Project, 2004). At some point there must be a limit set in order to preserve this area in its pristine state. ASOC does not believe that self regulation is enough and it believes that Antarctica will be another example of a tragedy of the commons (The Antarctic Project, 2004). A tragedy of a commons is when a common area is exploited because each party uses that area as much as possible as quickly as possible until it is completely degraded. This is opposite to using it sustainably so that everyone will be able to use it over a long period of time. The organization believes that IAATO should take on the responsibility of regulating Antarctic tourism (The Antarctic Project, 2004). ASOC believes that no matter how good the intentions of

the people in the industry today, the nature of commercial tourism “is such that its unrepresentative nature, self-interest and structural instability make it an inappropriate sole guardian for some 10% of the surface of the earth” (The Antarctic Project 2004 para.7).

Council of Managers of National Antarctic Programs

Council of Managers of National Antarctic Programs (COMNAP) is an organization that brings together the National Antarctic Programs from 29 countries (COMNAP Secretariat, 2005). A National Antarctic Program is an agency, employed by the government to implement and manage their national activities in Antarctica; this includes scientific research, environmental protection and expedition organization (COMNAP Secretariat, 2005). COMNAP is an organization made of managers and operators that are competent in the realm of operational implementation, safety, technology and information sharing, specific to the Antarctic (COMNAP Secretariat, 2005). COMNAP can provide technical advice to the ATS if requested (COMNAP Secretariat, 2005). COMNAP also includes a permanent committee called the Standing Committee on Antarctic Logistics and Operations (SCALOP) (COMNAP Secretariat, 2005). It is committees such as these which continually provide and exchange information that can then be used to address key issues to support that Antarctic Programs and in turn support the ATS.

What this means for GAP?

Great Adventure People (GAP) is committed to sustainable tourism as most of the company’s expeditions venture into sensitive environments (GAP Adventures, 2004).

However, GAP realizes that as one of the world's last pristine environments and a growing tourist destination, Antarctica possesses special challenges (GAP Adventures, 2004). GAP tries to use local accommodations, modes of transportation and food as much as possible. Also, the company keeps group numbers small where possible. For this particular trip we will not be in an area where it is possible since there will be relatively few locals that we meet once we are on the boat, except while in Argentina. However, during the boating portion of the expedition only 100 people will be allowed ashore at a time (GAP Adventures, 2004). Also, environmentally sound practices will be used while on board. To prove GAP's commitment to ecotourism they have come up with their own set of ecotourism operation standards. These standards will be followed throughout the trip as well as the standards set by IAATO (GAP Adventures, 2004). GAP is currently a provisional member of IAATO (International Association of Antarctic Tourism Operators, 2005). In order for the company to become a full time member it must:

- a) pledge to abide by IAATO Bylaws; b) agree to the above-mentioned categories and to not have more than 100 passengers ashore at any one site at the same time;
- c) be formally accepted by two-thirds of the standing members after review and fulfill any other requirements for membership; and d) agree to carry either an IAATO-approved or National Antarctic Program Observer aboard on a voyage as agreed to by IAATO and to forward a complete, unabridged Observer's report to the Secretariat following the conclusion of the voyage. Reasonable compensation (such as air transportation and related expenses) would be provided for an IAATO-approved Observer by the operator.

(International Association of Antarctic Tourism Operators, 2005).

If GAP becomes a full member it will gain voting power at the IAATO annual meeting. Becoming a full member is desirable because it is important to be able to vote on topics that will affect the company directly.

Conclusion

All the parties involved with regulation of Antarctic Tourism seem to understand the uniqueness that is offered by this environment. It also seems to be understood that finding a balance that will allow individuals to enjoy Antarctica today and in the future is essential. Although as the tourism industry increases in this part of the world regulations will have to continue to change and adapt in order to maintain this area in its natural state. The continued support for the ATS, which is at heart of all regulation including tourism, is a strong indication of world's commitment to keeping Antarctica a natural reserve dedicated to peace and science (International Association of Antarctic Tourism Operators, 2005).

Appendix A
The Antarctic Treaty System

Article I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, *inter alia*, any measure of a military nature, such as the establishment of military bases and fortifications, the carrying out of military manoeuvres, as well as the testing of any type of weapon.
2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

Article II

Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

Article III

1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the Contracting Parties agree that, to the greatest extent feasible and practicable:
 - a. information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy of and efficiency of operations;
 - b. scientific personnel shall be exchanged in Antarctica between expeditions and stations;
 - c. scientific observations and results from Antarctica shall be exchanged and made freely available.
2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those specialised agencies of the United Nations and other international organisations having a scientific or technical interest in Antarctica.

Article IV

1. Nothing contained in the present Treaty shall be interpreted as:
 - a. a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;
 - b. a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;
 - c. prejudicing the position of any Contracting Party as regards its recognition or nonrecognition of any other State's right of or claim or basis of claim to territorial sovereignty in Antarctica.
2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

Article V

1. Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.
2. In the event of the conclusion of international agreements concerning the use of nuclear energy, including nuclear explosions and the disposal of radioactive waste

material, to which all of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX are parties, the rules established under such agreements shall apply in Antarctica.

Article VI

The provisions of the present Treaty shall apply to the area south of 60° South Latitude, including all ice shelves, but nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

Article VII

1. In order to promote the objectives and ensure the observance of the provisions of the present Treaty, each Contracting Party whose representatives are entitled to participate in the meetings referred to in Article IX of the Treaty shall have the right to designate observers to carry out any inspection provided for by the present Article. Observers shall be nationals of the Contracting Parties which designate them. The names of observers shall be communicated to every other Contracting Party having the right to designate observers, and like notice shall be given of the termination of their appointment.
2. Each observer designated in accordance with the provisions of paragraph 1 of this Article shall have complete freedom of access at any time to any or all areas of Antarctica.
3. All areas of Antarctica, including all stations, installations and equipment within those areas, and all ships and aircraft at points of discharging or embarking cargoes or personnel in Antarctica, shall be open at all times to inspection by any observers designated in accordance with paragraph 1 of this Article.
4. Aerial observation may be carried out at any time over any or all areas of Antarctica by any of the Contracting Parties having the right to designate observers.
5. Each Contracting Party shall, at the time when the present Treaty enters into force for it, inform the other Contracting Parties, and thereafter shall give them notice in advance, of
 - a. all expeditions to and within Antarctica, on the part of its ships or nationals, and all expeditions to Antarctica organized in or proceeding from its territory;
 - b. all stations in Antarctica occupied by its nationals; and
 - c. any military personnel or equipment intended to be introduced by it into Antarctica subject to the conditions prescribed in paragraph 2 of Article I of the present Treaty.

Article VIII

1. In order to facilitate the exercise of their functions under the present Treaty, and without prejudice to the respective positions of the Contracting Parties relating to jurisdiction over all other persons in Antarctica, observers designated under paragraph 1 of Article VII and scientific personnel exchanged under sub-paragraph 1(b) of Article III of the Treaty, and members of the staffs accompanying any such persons, shall be subject only to the jurisdiction of the Contracting Party of which they are nationals in respect of all acts or omissions occurring while they are in Antarctica for the purpose of exercising their functions.
2. Without prejudice to the provisions of paragraph 1 of this Article, and pending the adoption of measures in pursuance of subparagraph 1(e) of Article IX, the Contracting Parties concerned in any case of dispute with regard to the exercise of jurisdiction in Antarctica shall immediately consult together with a view to reaching a mutually acceptable solution.

Article IX

1. Representatives of the Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty, including measures regarding:
 - a. use of Antarctica for peaceful purposes only;
 - b. facilitation of scientific research in Antarctica;
 - c. facilitation of international scientific cooperation in Antarctica;
 - d. facilitation of the exercise of the rights of inspection provided for in Article VII of the Treaty;
 - e. questions relating to the exercise of jurisdiction in Antarctica;
 - f. preservation and conservation of living resources in Antarctica.
2. Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such times as that Contracting Party demonstrates its interest in Antarctica by conducting substantial research activity there, such as the establishment of a scientific station or the despatch of a scientific expedition.
3. Reports from the observers referred to in Article VII of the present Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.
4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all the Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.
5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article.

Article X

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.

Article XI

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of the present Treaty, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
2. Any dispute of this character not so resolved shall, with the consent, in each case, of all parties to the dispute, be referred to the International Court of Justice for settlement; but failure to reach agreement on reference to the International Court shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.

Article XII

- 1.a. The present Treaty may be modified or amended at any time by unanimous

agreement of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX. Any such modification or amendment shall enter into force when the depositary Government has received notice from all such Contracting Parties that they have ratified it.

b. Such modification or amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the depositary Government. Any such Contracting Party from which no notice of ratification is received within a period of two years from the date of entry into force of the modification or amendment in accordance with the provision of subparagraph 1(a) of this Article shall be deemed to have withdrawn from the present Treaty on the date of the expiration of such period.

2.a. If after the expiration of thirty years from the date of entry into force of the present Treaty, any of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX so requests by a communication addressed to the depositary Government, a Conference of all the Contracting Parties shall be held as soon as practicable to review the operation of the Treaty.

b. Any modification or amendment to the present Treaty which is approved at such a Conference by a majority of the Contracting Parties there represented, including a majority of those whose representatives are entitled to participate in the meetings provided for under Article IX, shall be communicated by the depositary Government to all Contracting Parties immediately after the termination of the Conference and shall enter into force in accordance with the provisions of paragraph 1 of the present Article

c. If any such modification or amendment has not entered into force in accordance with the provisions of subparagraph 1(a) of this Article within a period of two years after the date of its communication to all the Contracting Parties, any Contracting Party may at any time after the expiration of that period give notice to the depositary Government of its withdrawal from the present Treaty; and such withdrawal shall take effect two years after the receipt of the notice by the depositary Government.

Article XIII

1. The present Treaty shall be subject to ratification by the signatory States. It shall be open for accession by any State which is a Member of the United Nations, or by any other State which may be invited to accede to the Treaty with the consent of all the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX of the Treaty.

2. Ratification of or accession to the present Treaty shall be effected by each State in accordance with its constitutional processes.

3. Instruments of ratification and instruments of accession shall be deposited with the Government of the United States of America, hereby designated as the depositary Government.

4. The depositary Government shall inform all signatory and acceding States of the date of each deposit of an instrument of ratification or accession, and the date of entry into force of the Treaty and of any modification or amendment thereto.

5. Upon the deposit of instruments of ratification by all the signatory States, the present Treaty shall enter into force for those States and for States which have deposited instruments of accession. Thereafter the Treaty shall enter into force for any acceding State upon the deposit of its instruments of accession.

6. The present Treaty shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

Article XIV

The present Treaty, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the signatory and acceding States.

(U.S. Department of State, 2004).

References

- Chaturvedi, S. (1996). *The Polar Regions*. Toronto ON: John Wiley & Sons Ltd.
- COMNAP Secretariat. (2005). *Welcome to COMNAP*. Retrieved November 6, 2005 from <http://www.comnap.aq/>
- GAP Adventures (2004). *Sustainable Tourism*. Retrieved October 29, 2005 from http://www.gapadventures.com/sustainable_tourism/sustainable_tourism
- International Association of Antarctic Tourism Operators. (2005) *About IAATO*. Retrieved November 3, 2005 from <http://www.iaato.org/index.html>
- Natural Environment Research Council British Antarctic Survey. (2004). *Antarctic Treaty System* Retrieved November 3, 2005 from www.antarctica.ac.uk
- The Antarctic Project. (2004). *What We Do*. Retrieved November 3, 2005 from <http://www.asoc.org/>
- U.S Department of State. (2004). *Hand Book of the Antarctic Treaty System*. Retrieved November 3, 2005 from <http://www.state.gov/g/oes/rls/rpts/ant/>