Report on Effectiveness of Environmental Impact Assessment in Antarctica

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Working Paper submitted by the United Kingdom and the Netherlands

Summary

The UK commissioned an independent assessment of the effectiveness of Environmental Impact Assessment (EIA) in Antarctica, including through comparisons with best practice EIA systems elsewhere in the world. The assessment report found that the Antarctic EIA system remains a meaningful tool in helping to protect the Antarctic environment, but that the effectiveness of the system could be improved in response to the increasing pressures on the Antarctic environment.

The UK and the Netherlands invite the CEP to:

* Discuss whether and how to take forward any of the ‘improvement opportunities’ outlined in the Executive Summary (attached at Annex A) of the report, including potentially by identifying additional actions that could be added to the CEP Five-year Work Plan issue ‘*Environmental Pressure: Implementing and Improving the EIA provisions of Annex I’*;

and the ATCM to:

* Continue to encourage all Parties to the Protocol on Environmental Protection who have yet to do so, to develop and bring into force domestic implementing legislation, particularly in respect of the EIA requirements of Annex I; and
* On reviewing the advice of the CEP, consider any further actions which could improve the effectiveness of the Antarctic EIA system, and discuss whether any work should commence on preparing for a review of Annex I of the Environmental Protocol.

Background

Since the Environmental Protocol entered into force in 1998 there has been scrutiny of the Antarctic EIA system by the CEP at almost every one of its annual meetings. The current CEP Five-year Work Plan includes actions under *‘Environmental Pressure: Implementing and improving the EIA provisions of Annex I’*.

The focus of previous discussions has largely been on the implementation of the current requirements. Until recently there has been little consideration of how the Antarctic EIA system compares to current best practice elsewhere. The UK therefore commissioned Dr Neil Gilbert, former CEP chair and now independent consultant, to undertake a study on the effectiveness of the Antarctic EIA system, including comparison against best practice EIA systems elsewhere in the world.

The Report

Dr Gilbert’s report concluded that there were many strengths to the Antarctic EIA system, and that it is supporting Parties in taking decisions that contribute to protecting the Antarctic environment. The report assessed that many aspects of the Antarctic EIA system are entirely consistent with good practice approaches commonly used in other international and national EIA systems that are considered to be operating to best practice standards. This is particularly true for the more rigorous Comprehensive Environmental Evaluation (CEE) procedures.

However, the report also noted areas where the existing Antarctic EIA system could be improved, both to increase the consistency with which the requirements are met, and also to improve aspects of the system where they fall short in comparison with best practice observed elsewhere.

The report noted a number of areas of potential improvement. In particular, it was highlighted that not all Consultative Parties to the Protocol have implementing legislation in place, and this undermines the effectiveness of the Antarctic EIA system. The report also suggested five other high priority opportunities which would likely have the greatest impact on improving the Antarctic EIA system. These were:

* Better defining the preliminary stage assessment (based on screening and scoping processes observed elsewhere);
* Development of more comprehensive guidance on cumulative impact assessments, based on best practice approaches elsewhere;
* Requirement for mitigation measures for Preliminary Assessment and IEE level assessments; and
* Development of guidelines and/or checklists to support national competent authorities in their assessment of EIAs.
* Remind Parties of their monitoring obligations as set out in the Protocol, and develop a reporting template and procedure to assist Parties in meeting these requirements.

The CEP Five-year Work Plan already includes a series of actions which cumulate in CEP XXVI 2024 considering ‘the options for preparing guidance on identifying and assessing cumulative impacts’. There is also an action for CEP XXV 2023 to ‘ask SCAR to provide guidance on how to do an environmental baseline condition survey, and consider their advice in due course’. The UK therefore suggests that the CEP could consider whether any of the other ‘opportunities for improvement’, as outlined in the annexed report summary, merit the addition of actions to the CEP Five-year Work Plan.

Recommendations

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