Framework for assessing ‘New, Novel or Particularly Concerning Activities’

Framework for assessing ‘New, Novel or Particularly Concerning Activities’

Information Paper submitted by the United Kingdom

***Summary***

Following discussion at ATCM XLII on the development of a framework for pre-assessment relating to new, novel or particularly concerning activities, this paper provides an update on work the United Kingdom has taken forward during the extended intersessional period on how Parties might approach conducting such an assessment and the key issues that might be taken into consideration. The United Kingdom will take forward wider informal discussions in the forthcoming intersessional period with a view to submitting a Working Paper to ATCM XLIV in Berlin in 2022.

***Background***

ATCM XLII/WP 19 presented the Chairs’ report of an informal workshop hosted by the UK and Netherlands in Rotterdam to discuss tourism management in Antarctica. The workshop considered recent trends in (pre-pandemic) Antarctic tourism and focussed on three key areas related to tourism management: future tourism growth; the diversification of tourism activities; and enhancing compliance with existing Treaty regulations, guidance and permit conditions.

The Rotterdam workshop discussed the question of whether there are certain types of activity that simply should not be permitted in Antarctica, either on the basis of considerable safety and environmental concerns, or based on value considerations related to the objectives and principles of the Antarctic Treaty and Protocol on Environmental Protection. The discussion highlighted the challenge for National Competent Authorities (NCAs) in considering proposed activities that have not been conducted before, or conducted only by a few operators, with applications often made with little time in which to properly assess, or consult on, the likely risks and environmental impacts. Additionally, different NCAs would authorise certain activities in different ways. It was also recognised that the cumulative impacts of certain activities could not properly be assessed in the context of a single authorisation or application.

***Concept of the need for a collective position***

The workshop agreed that it would be helpful to establish a mechanism for pre-assessment of the risks and impacts of new, novel or particularly concerning activities, to provide guidance to NCAs when they receive applications. Heli-skiing was identified as the type of activity that would perhaps provide for a useful case study in due course.

CEP XXII (Prague 2019) supported the workshop’s recommendations and discussed the development of a framework for conducting such pre-assessments. It agreed to:

* *include this as a priority activity in the CEP Five-Year Work Plan;*
* *encourage CEP members and observers to work in the intersessional period on such a framework, focussing on the environmental aspects;*
* *note particularly the importance of the framework for facilitating a harmonised consideration of activities by national competent authorities;*
* *note that such a framework could appropriately also address issues within the scope of ATCM discussions, and indicate its willingness to participate in joint work.*

ATCM XXII “*strongly supported the recommendation to develop a framework that would increase collaboration and the consistency of the evaluation of new activities by competent authorities*”. The ATCM recognised that this framework would “*improve understanding of safety and environmental protection issues associated with novel activities and thus assist competent authorities in identifying appropriate mitigation efforts*”. Finally, the ATCM “*noted that the CEP would undertake intersessional work on the framework and encouraged further informal intersessional consultations*”.

***Intersessional Work***

During the extended intersessional period, the United Kingdom has worked on developing an outline for a framework and identifying relevant issues that would need to be taken into consideration in the development of such a framework. Having only been able to consult a small number of Parties during this intersessional period, the United Kingdom plans to take forward wider informal discussions during the forthcoming intersessional period 2021-22, with a view to submitting a Working Paper to ATCM XLIV in Berlin in 2022.

***Considerations for a pre-assessment framework***

***Interaction between Pre-Assessment and Authorisation/EIA Process***

Activities in Antarctica are subject to the Environment Impact Assessment (EIA) provisions contained within Article 8 and Annex I to the Protocol on Environmental Protection to the Antarctic Treaty. The pre-assessment would be additional to that process, considering a type of activity rather than a specific proposal, although it might feed into the EIA process by providing guidance to NCAs or recommending additional activity-specific guidance, as a way of supporting the harmonisation of EIA processes between NCAs, particularly where an NCA may have little prior experience considering a particular type of activity.

It would allow for a broader strategic look at a proposed activity as a whole, beyond any one specific proposal and including how widely the activity is conducted in Antarctica, in order to be able to consider whether an activity, or type of activity, raises particular environmental, safety, or other concerns that might require or benefit from a collective view among Parties. The assessment would also facilitate consideration of issues such as cumulative impacts and what additional management measures might be beneficial in managing the growth and diversification of such types of activities in Antarctica.

In the case of activities already conducted in Antarctica, the assessment process could be informed by Parties’ experience of considering that type of activity, or similar activities. Where activities have not yet been conducted in Antarctica, the outcomes of the assessment process could inform Parties’ approaches to considering such proposals in future.

***Process***

While a framework could take several forms, the most pragmatic approach might be for a Party, or group of interested Parties, to conduct an assessment on a specific type of activity during the intersessional period and prepare a WP for discussion at the ATCM/CEP. This may result from discussions at the previous year’s ATCM/CEP, or from their own initiative.

The WP could provide background and a statement of issues and/or recommendations relevant to that activity, for debate involving all Parties at the ATCM/CEP. After considering a pre-assessment, the ATCM/CEP might determine that some form of regulation specific to that type of activity should be developed or adopted; that activity-specific guidance might usefully be developed or adopted; or that no additional action is required with regard to that type of activity.

***Outputs***

The proposed outputs contained in the WP could provide guidance to support NCAs in their decision-making under their respective national authorisation processes. This would also support the harmonisation of authorisation processes among NCAs, and help ‘*ensure consistent application of best practices and minimise impacts to the Antarctic environment*’, as for example, the CEP has committed to in its Five-Year Work Plan in respect of short overnight stays.

The WP assessment might therefore include:

* an assessment of whether the proposed activity, or type of activity, is consistent with the objectives and principles of the Antarctic Treaty and the Environmental Protocol;
* an assessment of the potential environmental impacts that could occur as a result of the proposed activity, or type of activity;
* a risk assessment that factors in safety concerns and informs the likelihood of an environmental impact;
* recommended mitigation measures that, if followed, would result in the activity having less than a minor or transitory impact;
* recommendations on limiting the activity if it is determined that suitable mitigation measures are not available or possible.

These recommendations might include:

* specific questions to be asked of those proposing to undertake an activity;
* certain minimum conditions that might be attached to the authorisation of an activity, e.g., a higher number of guides per visitor for a particular activity, or the presence of medical staff, or the availability of safety equipment to a minimum standard;
* geographical conditions, either in terms of where certain activities should take place, or more relative in terms of wildlife, e.g., not within a certain distance of breeding colonies;
* additional activity-specific guidelines, following the precedent of the Yachting Guidelines in Resolution 10 (2012);
* new or amendments to existing Measures and/or Resolutions; e.g., incorporating activity-related guidance into existing General Guidelines or Site Guidelines, or a recommendation to Parties that a particular activity is not appropriate in Antarctica, or only appropriate in certain circumstances.

The recommendations of the assessment would be submitted to the ATCM/CEP for discussion under the relevant agenda items, where the ATCM/CEP would then determine what actions might be appropriate.

***Criteria***

The assessment might be based on the Environmental Principles established under Article 3 of the Environmental Protocol as being ‘*fundamental considerations in the planning and conduct of all activities in the Antarctic Treaty area*’:

*The protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research…*

These principles are further elaborated in the General Principles of Antarctic Tourism, Resolution 7 (2009), in particular principles 2, 3 and 6:

*Tourism should not be allowed to contribute to the long-term degradation of the Antarctic environment and its dependent and associated ecosystems, or the intrinsic natural wilderness and historical values of Antarctica. In the absence of adequate information about potential impacts, decisions on tourism should be based on a pragmatic and precautionary approach, that also incorporates an evaluation of risks;*

*Scientific research should be accorded priority in relation to all tourism activities in Antarctica;*

*All tourism organisations should be encouraged to provide a focus on the enrichment and education of visitors about the Antarctic environment and its protection.*

In considering the potential environmental impacts, the pre-assessment would draw on existing EIA practice, including as set out in Annex I to the Environmental Protocol.

The assessment should also consider the safety implications and risks involved in conducting the proposed activity; such considerations should include risks to those who would participate in the proposed activity, as well as to those engaged in governmental and in other tourist and non-governmental activities in Antarctica.

***Cumulative Impacts***

In considering Cumulative Impacts, the pre-assessment might explore the likely impacts of an activity, or type of activity, if it were to be carried out more widely in future, whether repeatedly over time and/or in multiple locations, to identify where the activity may reach a tipping point beyond which it infringes either values, safety, or environmental-based concerns, and what those thresholds might be. Further consideration may be needed on understanding how Antarctic values might be impacted by particular activities.

***Conclusion***

A pre-assessment of new, novel or particularly concerning activities might therefore consider:

* The nature of the activity, how widely it is currently conducted in Antarctica (if so), and potential future growth of such activity;
* Whether the proposed activity would be consistent with the objectives and principles of the Antarctic Treaty, its Protocol on Environmental Protection, and the General Principles of Antarctic Tourism;
* Whether, and to what extent, the proposed activity, taking into account possible cumulative impacts, contributes to the long-term degradation of the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research;
* An evaluation of risks involved in conducting the proposed activity, whether to participants, to governmental activities, or to other tourist and non-governmental operators in Antarctica;
* Whether, and to what extent, the proposed activity interacts with, and if so accords priority to, governmental or non-governmental scientific research;
* Whether existing regulations provide a ‘consistent framework for the management of tourism’ in respect of the proposed activity, or whether additional regulation is needed, including restrictions or conditions;
* Examples of existing practice on environmental and safety management issues from NCAs currently authorising the proposed activity, and what ‘best practice’ would be, in order to facilitate the harmonisation of authorisation processes;
* Whether, and to what extent, the proposed activity provides a focus on the enrichment and education of visitors about the Antarctic environment and its protection.

The United Kingdom looks forward to engaging in informal discussions with Parties during the forthcoming intersessional period 2021-22 on the development of a pre-assessment framework for new, novel or particularly concerning activities, including through the Competent Authorities forum. We would also welcome any comments on the progress to date, as set out in this paper, either directly to UK ATCM/CEP delegates, or to: [polarregions@fcdo.gov.uk](mailto:polarregions@fcdo.gov.uk)