Permanent facilities for tourism and other non-governmental activities in Antarctica

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Working Paper submitted by The Netherlands

**Summary**

One of the questions that has received substantial attention within the broader ATCM debate relates to the desirability or need to prohibit or regulate possible future initiatives to erect permanent facilities for tourism or other non-governmental purposes, such as hotels in Antarctica and accommodation for tourist in or near research facilities, in Antarctica. ATCM discussions on this topic between 2004 to 2008 have not resulted in consensus on specific policy responses, however, since then circumstances have changed. The ATCM has made further steps in its considerations on Antarctic tourism, including the adoption of the General Principles of Antarctic Tourism in 2009, which constitutes a jointly agreed framework for the adoption of more specific policy measures. Furthermore, IAATO has adopted more explicit policy on this issue and recently a number of developments in Antarctica has shown that concerns relating to permanent facilities for tourism or other non-governmental purposes should not be considered theoretically. In light of these changed circumstances, this paper recommends the ATCM to revisit this topic and invites Parties to:

* exchange views on the basis of this Working Paper;
* share information on past and present initiatives to establish permanent facilities for tourism in Antarctica and possible related concerns;
* agree to engage in intersessional discussions on the question whether the ATCM should take action relating to future plans for permanent facilities for tourism in Antarctica and, if so, what action might be appropriate.

1. **Past ATCM discussions on permanent facilities for tourism in Antarctica**

The issue of permanent infrastructure for tourists (any structure or facility such as hotels and other buildings, wharves, jetties, runways, etc.) was already included in the list of topics to be discussed at the 1992 informal meeting on Antarctic tourism (pre-ATCM meeting in Venice). This list was attached to Recommendation XVI-13 (Bonn, 1991; see also ATCM42/IP 26). The inclusion of the topic implies that already 30 years ago Consultative Parties considered possible future permanent infrastructure for tourists an important policy issue. However, the topic received particularly detailed attention at the ATME on tourism in 2004 (Final Report ATME on Tourism, 2004, paras 34-39) and following ATCMs (2004 – 2008). Despite intensive debates, the ATCM was not able to agree specific policy responses. For instance, a proposal for a moratorium on permanent land-based tourist infrastructure, proposed at ATCM XXXII (2008), did not receive consensus (Final Report of XXXIInd ATCM, paras 235-245).

The topic was revisited during the informal discussions of the 2011-12 Intersessional Contact Group on ‘outstanding questions on Antarctic tourism’. The ICG described the question of permanent facilities for tourism as follows: “Should additional regulations be adopted in respect of permanent facilities for tourism in Antarctica (such as hotels), for instance, to prevent further degradation of Antarctica’s wilderness values or to limit the risk of legal debates on ownership?” In the ICG, this question was identified as one of the five priority questions that should be considered by the ATCM. At the XXXVth ATCM, the Consultative Parties continued discussions on the topic (ATCM 35, para. 225-228), but did not take a decision on the issue.

Since 2012 the issue has received little attention at ATCMs, however, the Chairs’ summary of the discussions at the 2019 Rotterdam Tourism Workshop states: “It was noted that, in the past, the ATCM has discussed the need to prohibit or regulate the establishment of permanent facilities for tourism in Antarctica without reaching consensus and that it would be important to revisit this issue” (ATCM42/WP19, §9).

1. **Relevant Protocol provisions, Measures and Resolutions**

The provisions of the Protocol also apply to Antarctic tourism activities that fall under the jurisdiction of the Contracting Parties. Examples of provisions that have particular relevance for tourism activities include Article 3, EIA provisions (Art. 8 and Annex I) and several provisions of the other Annexes to the Protocol. Relevant Measures adopted since the adoption of the Protocol include ASPA designations and related management plans (generally prohibiting tourism in ASPAs with exceptions for a few ASPAs that include historic sites) as well as the two Measures specifically relating to tourism, adopted in 2004 and 2009. However, none of these legal tools provide a clear and explicit answer to the question whether new permanent facilities for tourism or other non-governmental purposes should or should not be allowed in Antarctica.

Resolutions of particular relevance for the topic are Resolutions 5(2007) and 7(2009). Resolution 5 (2007) recommends that Parties “discourage any tourism activities which may substantially contribute to the long-term degradation of the Antarctic environment and its dependent and associated ecosystems”. With the adoption of Resolution 7(2009) the ATCM has agreed on General Principles of Antarctic Tourism, stating that “[t]ourism 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 line with these resolutions, the Final Report of the 35th ATCM (2012, para. 226) stated that “[t]here was substantial support for the view that tourism activities likely to have more than a minor or transitory impact should not be authorised”. These texts imply that permanent facilities in Antarctica should not be allowed, however, the formulations leave space for different interpretations and/or dispute in relation to concrete plans or projects. Furthermore, resolutions are not legally binding, which may be particularly problematic for managing non-governmental activities.

1. **IAATO bylaws**

According to IAATO’s bylaws (Article II, Section E) IAATO members “subscribe to the principle that their planned activities will have no more than a minor or transitory impact on the Antarctic environment […].” In the past, interventions by IAATO at ATCM have suggested that this bylaw excludes the option of establishing permanent facilities in Antarctica, although temporary facilities accompanied by site-remediation which can occur within a season, could be acceptable (Final Report ATCM 35 (2012), para. 226).

1. **Current developments: recent plans for permanent facilities in Antarctica and related concerns**

***Recent plans***

In the past various plans for establishing permanent facilities for tourism in Antarctica have been developed. Examples include a plan of Lars Erik Lindblad (1974) to lease Cape Hallett station in the Ross Sea region (capacity: 60 people) and a plan of Rhode and partners (1989) to establish ‘Project Oasis’, a joint science and tourism facility in the Vestfold Hills with an envisaged capacity of 344 tourists, 70 scientist and 174 staff. These plans have never materialised. Initiatives at a smaller scale that have been implemented, includes the E(ducational)-Base by Robert Swan’s organisation ‘2041’.

Recent developments have shown that further plans for permanent infrastructure for tourism or other non-governmental activities are being developed. A concrete example is the proposal for establishing ‘The Andromeda Project’ near the Belgium Princess Elisabeth Station. The project, initiated by the Belgium non-governmental ‘International Polar Foundation’, is presented as a new facility for science and education and is referred to as the first Antarctic University. While research and education connect well with ATS principles, it would be the first full non-governmental initiative to establish permanent infrastructure in Antarctica with expected revenues for flights and visit of above 20 million Euro in 2030 (Brochure of the International Polar Foundation, ‘The Andromeda Project’, 2020). As noted in previous ATCM discussions, there is a risk that in the future infrastructure may also be used for other purposes, such as tourism. Furthermore, these initiatives make the step towards the establishment of other non-governmental permanent infrastructure, such as hotels, smaller.

***Related concerns***

Permanent facilities for tourism and non-governmental activities may challenge or threaten ATS principles and values in various ways. Based on previous ATCM discussions (summarised in the Final Report of the XXVIIth ATCM, §195 and ATCM42/IP 26, p.35)) include the following:

* environmental impact as a result of the building and use of the facilities;
* (cumulative) impacts on Antarctica’s wilderness values;
* inconsistency with Antarctica's designation as a "natural reserve devoted to peace and science";
* increasing air traffic to and from Antarctica;
* possible jurisdictional issues;
* “the potential assertion of private property rights, and the possible assertion of ‘rights to use’ through regular permitting.”

Most of these concerns have been discussed in more detail over the years. For instance, in relation to property rights, one of the Consultative Parties has “noted that non-governmental property in Antarctica could be mortgaged, leased, sold, and inherited. The new owner may be a citizen of a country which is not a Member of the Antarctic Treaty and the Protocol. In this case permanent structures may be used not for their initially intended purpose even if an EIA was available” (ATCM 35, para. 227; see also Final Report ATCM 2005, §173, referring to ATCM 2005/IP 71 (ASOC)).

1. **Proposal to the ATCM**

Since the last intensive debates on the topic of permanent facilities for tourism in Antarctica (2004-2008), circumstances have changed:

* In the 2019-2020 season, the number of tourists in Antarctica had doubled compared to the 2006-07 season. While the pandemic has resulted in a dramatic drop in numbers over the last season, it is expected that in a few years the numbers will increase again;
* The COVID-19 crisis provides an unprecedented momentum for green and inclusive economic recovery based on the principle of *‘building back better’.* It also underlines the importance of stepping up our global climate ambition, ambitious carbon reduction targets and active international promotion of the need for climate measures.
* The ATCM has made further steps in its considerations on Antarctic tourism, including the adoption of resolutions on general standards for acceptable environmental effects by tourism and the General Principles of Antarctic Tourism in 2009, which constitutes a jointly agreed framework for the adoption of more specific policy measures. These resolutions imply that permanent facilities for tourism and other non-governmental activities in Antarctica should not be allowed, however, the formulations leave space for different interpretations and/or dispute in relation to concrete plans or projects, which may cause serious concerns for competent authorities;
* IAATO has adopted more explicit policy on this issue; and
* recently a number of developments in Antarctica has shown that concerns relating to permanent facilities for tourism or other non-governmental purposes should not be considered theoretically.

In light of these changed circumstances, this paper recommends the ATCM to revisit this topic and invites Parties to:

* exchange views on the basis of this Working Paper;
* share information on past and present initiatives to establish permanent facilities for tourism in Antarctica and possible related concerns;
* agree to engage in intersessional discussions on the question whether the ATCM should take action relating to future plans for permanent facilities for tourism in Antarctica and, if so, what action might be appropriate.