

# *Internationalisation of EIA & the Antarctic Treaty System*

**EU-EIA Workshop - Brussels, 28-29 January 2020**

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# Introduction

**I. Introduction to the Antarctic Treaty System**

**II. EIA in Antarctica:**

- For which activities
- Thresholds for three levels of EIA

**III. Internationalisation of EIA in Antarctica**

- a) International coordination regarding EIA
- b) Institutional advice, guidance and discussions on EIA
- c) International consultation regarding draft CEEs
- d) Public participation
- e) Information Exchange – EIA Database
- f) Compliance

**IV. Lessons and limitations of EIA in Antarctica**

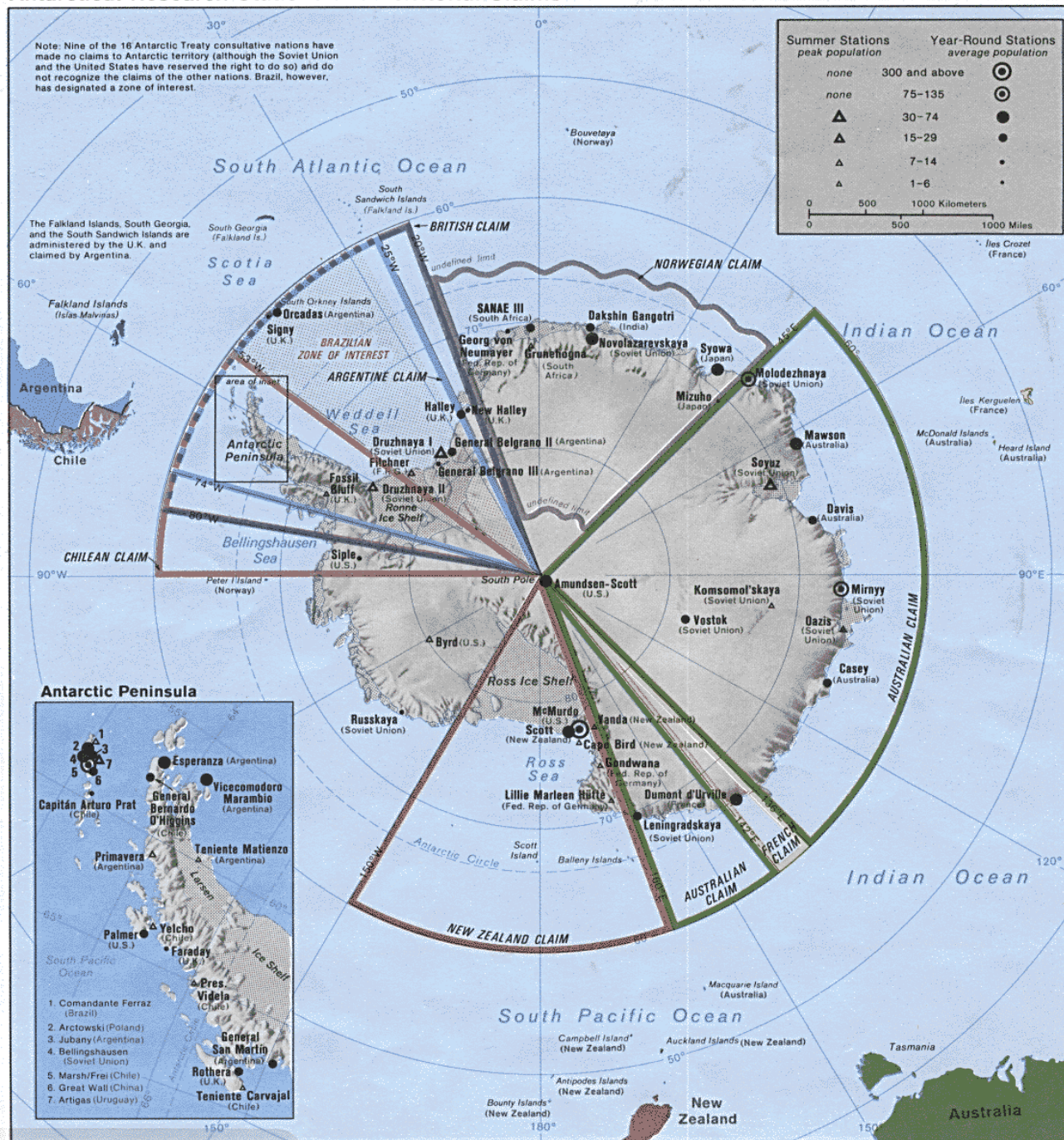
# I. The Antarctic Treaty System

Claims & Art. IV Antarctic Treaty - joint management by 29 Consultative Parties to the Antarctic Treaty

Protocol on Environmental Protection to the AT (1991/1998)

Annual CEP & ATCMs

Antarctica: Research Stations and Territorial Claims



## II. EIA in Antarctica

**EIA:** Art 3, 8 + Annex I, Protocol on Environmental Protection



### Activities subjected to EIA

- **Art. 8(2) Protocol:** “[...] any activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities.” (Article VII (5) Antarctic Treaty: nationals, ships, place of organisation, place of departure)
- **Exceptions:**
  - activities regulated by CCAMLR and the ICRW (Final Act to the Protocol)
  - Emergency situations (Art. 7 Annex I)
- **Art. 8(3) Protocol:** Also any change to such activities

- **Three levels of EIA - threshold:**

- **PA:** “less than a minor or transitory impact”;
- **IEE:** “a minor or transitory impact” (required CEE-components: Art. 2(1) Annex I)
- **CEE:** “more than a minor or transitory impact” (= equivalent of “significant”) (Required CEE-components: Art. 3(2) Annex I; Art.5 Annex I: monitoring required:).



# III. Internationalisation of EIA

## A) International coordination regarding EIA

- **Art. 6(1) Protocol:** “The Parties shall co-operate in the planning and conduct of activities in the Antarctic Treaty area. To this end, each Party shall endeavour to: [...] (b) provide appropriate assistance to other Parties in the preparation of environmental impact assessments.”
- **Art. 8(4) Protocol:** “Where activities are planned jointly by more than one Party, the Parties involved shall nominate one of their number to coordinate the implementation of the environmental impact assessment procedures set out in Annex I.”
- Coordination through the cooperation between **competent authorities** (bilateral or through the informal network of competent authorities)

# III. Internationalisation of EIA

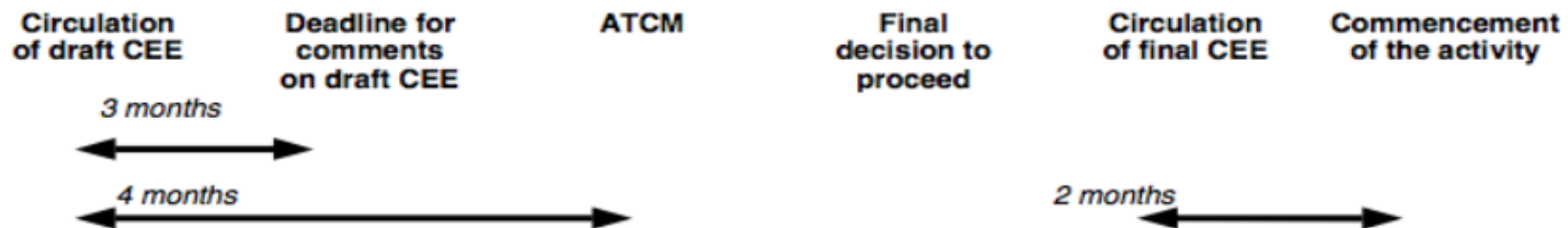
## B) Institutional guidance and discussions on EIA

- **Art. 11 and 12 Protocol: The CEP shall provide advice on:**
  - “(d) the application and implementation of the environmental impact assessment procedures set out in Article 8 and Annex I, [...]”
  - (j) the state of the Antarctic environment; and
  - (k) the need for scientific research, including environmental monitoring, related to the implementation of this Protocol.”
- **Guidelines on EIA** (Resolution 1 (1999); Resolution 4 (2005) and revised and replaced by Resolution 1 (2016))
- **Discussions at the annual CEP and ATCM-meetings**
  - Discussions on the use of the thresholds, difficulties (e.g., wilderness values)

# III. Internationalisation of EIA

## C) International consultation regarding draft CEEs

- Art. 3(3) Annex I: circulation of draft CEE to all Parties: period of 90 days for comments.
- Art. 3(4) Annex I: forwarding of draft CEE to CEP at the same time as it is circulated to the Parties, and at least 120 days before the next ATCM
- Art. 3(5), Annex I: No final decision shall be taken to proceed with the proposed activity unless there has been an opportunity for consideration of the draft CEE by the ATCM on the advice of the CEP (but no delay longer than 15 months from the date of circulation of the draft CEE).
- Art. 3(6) Annex I: A final CEE shall address and shall include or summarise comments received on the draft-CEE. The final CEE, notice of any decisions relating thereto, and any evaluation of the significance of the predicted impacts in relation to the advantages of the proposed activity, shall be circulated to all Parties, which shall also make them publicly available, at least 60 days before the commencement of the proposed activity in the Antarctic Treaty area.



Source figure: Hemmings and Roura 2003



Type of project	Number	Countries that sent in a draft CEE (years of draft CEEs)
(Re)construction of research stations	14	France (1992), South Africa (1993), Norway (2003), Czech Republic (2003), UK (2004), Germany (2004), Belgium (2005), India (2006), China (2007, 2013 and 2018), South Korea (2010), Belarus (2013), USA (2019)
Transport Infrastructure	3	USA (surface traverse; 2004), Italy (construction and operation of a gravel runway near station; 2016), UK (Rothera wharf reconstruction and coastal stabilisation, 2018)
Drilling projects	7	New Zealand, (rock drilling, 1992, ice and sea floor drilling, 2002), France (ice drilling, Final CEE in 1994), Germany (ice drilling, 1999), USA (ice drilling, 2003), Russia (sub-glacial lake research, 2002), UK (sub-glacial lake research (2008)
Other	1	Ukraine (construction of a new fuel tank, 2006)
<b>Total</b>	<b>25</b>	

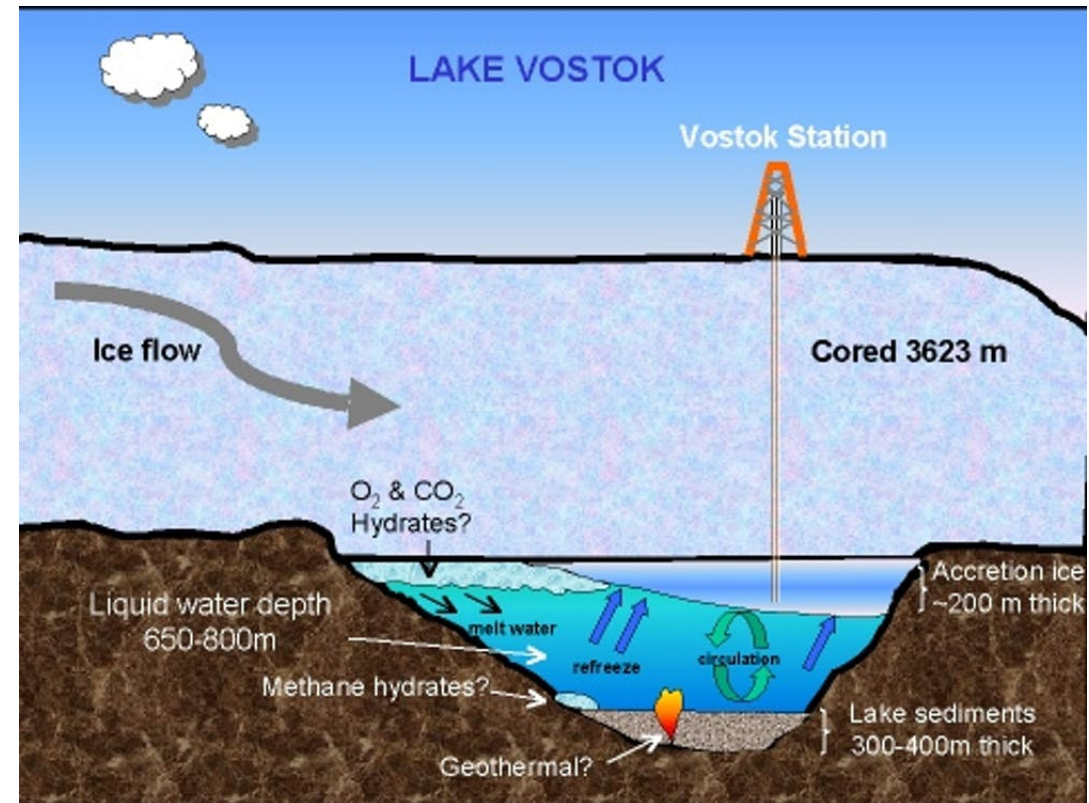
**Table 1: Draft Comprehensive Environmental Evaluations for international consultation since the signing of the Protocol( 1991-2019), based on Antarctic Treaty Secretariat’s EIA Database and draft CEE-documents**

## C) International consultation regarding draft CEEs

- International consultation regarding draft CEEs (Resolution 2 (1997), revised in 2007)
- Procedures for intersessional CEP consideration of draft CEEs (last update 2017)

Example intensive debates: Lake Vostok Drilling Project (Russia)

- **Decision making:**  
Art. 4 Annex I: “Any decision on whether a proposed activity, to which Article 3 applies, should proceed, and, if so, whether in its original or in a modified form, shall be based on the [CEE] as well as other relevant considerations.”



# III. Internationalisation of EIA

## D) International public participation in draft CEEs

- Art. 3(3) Annex I: “The draft Comprehensive Environmental Evaluation shall be made publicly available and shall be circulated to all Parties, which shall also make it publicly available, for comment. A period of 90 days shall be allowed for the receipt of comments.”
- 3(6) Annex I: Circulation of the final CEE, summary, comments received, final decisions, etc. at least 60 days before the commencement of the proposed activity.

# III. Internationalisation of EIA

## E) Information Exchange

- Exchange of information:  
Art. 6 Annex I – **EIA Database**

YEAR	PARTY	CATEGORY	TITLE	ACTIVITY	
2019	GERMANY	IEE	Continued operation of Neumayer III station	Operation of Neumayer III wintering station	→
2019	NEW ZEALAND	IEE	2012-2021 Initial Environmental Evaluation for the Ross Sea Heritage Restoration Project for the Historic Huts at Cape Adare, Antarctica	Ross Sea Heritage Restoration Project for the Historic Huts at Cape Adare, Antarctica	→
2019	NEW ZEALAND	IEE	2015-2019 Antarctica New Zealand Management and Execution of the New Zealand Antarctic programme IEE	Management and Execution of the New Zealand Antarctic programme	→
2019	NEW ZEALAND	IEE	2016 – 2020 Initial Environmental Evaluation for Heritage Expeditions Antarctic Cruise programme	Heritage Expeditions Antarctic Cruise programme -tourist vessel	→
2019	NEW ZEALAND	IEE	2017-2021 Initial Environmental Evaluation for the Ross Ice Shelf Programme	Ross Ice Shelf Programme - science to gain an improved understanding of ice shelf dynamics	→
2019	NEW ZEALAND	IEE	2018-2023 Antarctica New Zealand Traverse Operations IEE	Traverse Operations	→
2019	NORWAY	IEE	IEE for MS Midnatsol, Fram and Roald Amundsen 2019/2020	Cruise Activity	→
2019	POLAND	IEE	Initial Environmental Evaluation of the tourist activity conducted in the Antarctic Peninsula by the yacht "Chief One"	Private tourist cruise with planned landings by the yacht "Chief One"	→
2019	SOUTH AFRICA	IEE	FDS3 Fuel Depot Camp	Preparation of ski-way and refuelling of 4 NGO flights	→ ↓
2019	SOUTH AFRICA	IEE	Inspection of Crown Bay Penguin Colony	Overflight or 2 km walk about to inspect the Penguin Colony suitability for viewing by NGOs	→

# III. Internationalisation of EIA

## F) Compliance – relevant tools and mechanisms

- **Critical debates** in the CEP and at the ATCM (e.g., level IEE/CEE, planned location, content and quality of assessments, etc.)
- **Informal Network** of Competent Authorities
- International **inspections**: Art. 14 Protocol
- In case of conflict:  
**general provisions on dispute resolution apply**

## IV. Lessons and limitations of EIA in Antarctica

**The Antarctic Treaty System has an impressive EIA system with a relatively high level of internationalisation, but:**

1. Real environmental protection requires not only EIA but also **substantial norms**. If such norms are missing EIA in itself will not ensure protection (examples Antarctica: no prohibition of (semi)permanent facilities for tourism, no max. number of stations, etc.)
2. Certain values receive very little attention in EIA, e.g. **wilderness values** (are these values recognised in the BBNJ discussions? The Earth' last true wildernesses may be found in the high seas)

## IV. Lessons and limitations of EIA in Antarctica

3. Having three levels of EIA may ensure that all activities are subjected to EA. Transparency on the use of the threshold criteria (EIA Database, public access of IEEs) enables discussions on the use of these criteria. However, leaving the **application of the threshold-criteria** to individual Parties without formal review may result in a relatively rare use of the most comprehensive level of EIA (Antarctica: 25 CEEs in more than 25 years; 400 reported IEEs in the last 5 years, number of PAs is unknown)

## IV. Lessons and limitations of EIA in Antarctica

4. Assessing **cumulative impacts** (required for IEEs and CEEs) proves to be problematic. Instruments to address this problem are weak or missing in the Antarctic Treaty System (e.g., designation of Antarctic Specially Protected Areas only relates to relatively small areas, strategic environmental assessment-instruments are lacking, there is no policy on the number of tourists or the number of sites to be visited, no policy regarding increasing diversity of human activities and no limitations to the number of research stations and logistic support facilities)

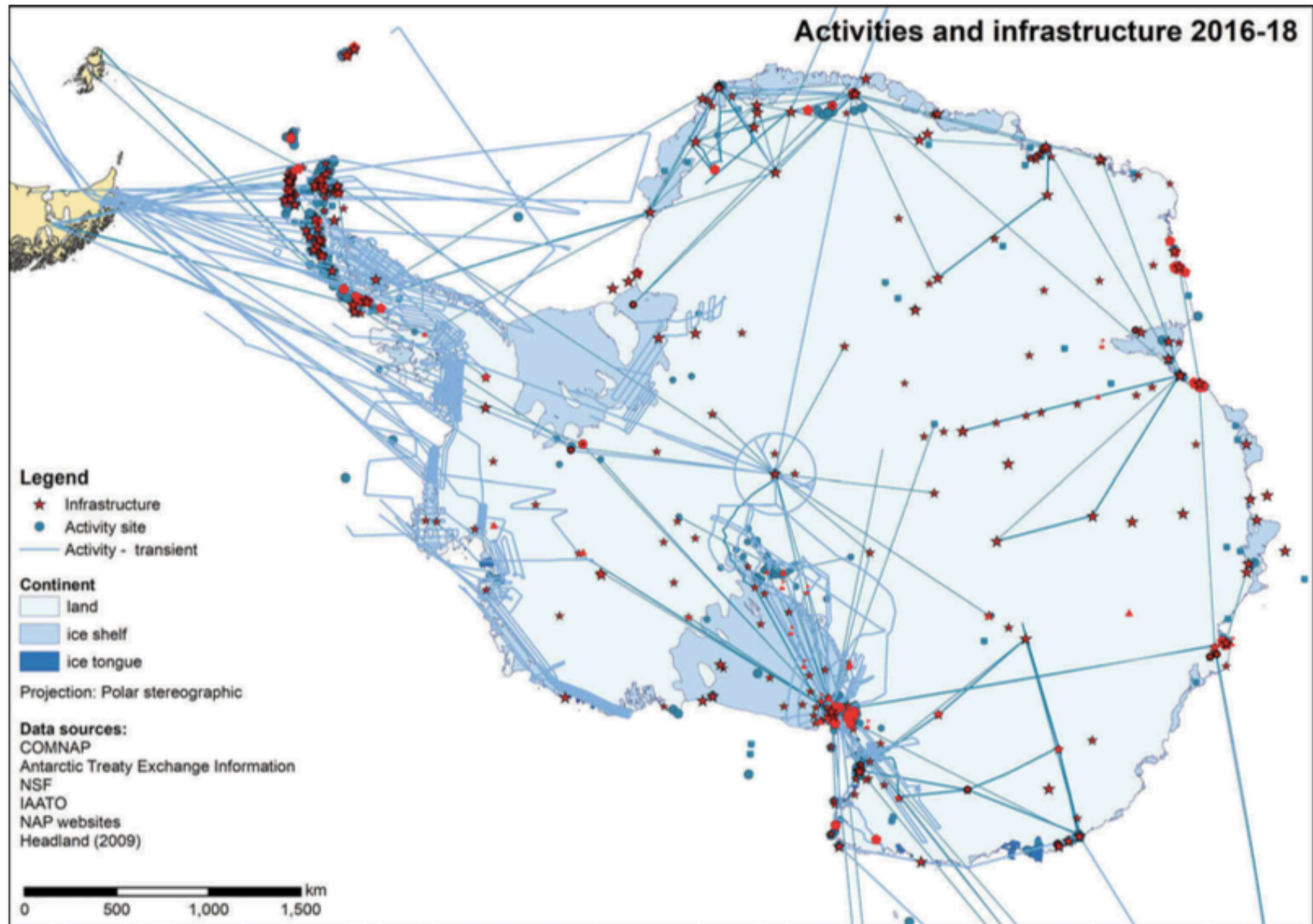


## IV. Lessons and limitations of EIA in Antarctica

5. Absence of **international decision-making** on whether the activity may proceed is - particularly in combination with weak substantial norms - likely to result in a practice in which countries will authorise all or most of their governmental activities (Antarctica: 25 projected subjected to CEE – all 25 proceeded)
6. Proper EIA practice may be severely hindered when good **monitoring** (both, general ecosystem monitoring and post-EIA monitoring) is missing

# Human Footprint Antarctica

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**Figure 7.** Aggregate long-term and transient human footprint in Antarctica for the period 2016–2018. Symbols not to scale. See the Appendix for data sources.



**Thank you!**

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