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Proposed amendments to the Svalbard Environmental Protection Act and associated regulations on nature conservation areas, motor traffic, camping activities and area protection and access to Virgohamna.

Comments from the Norwegian Scientific Academy for Polar Research (NVP)

Proposals for amendments to the Svalbard Environmental Protection Act and associated regulations have received much attention from many quarters, not least from the local population and from the tourism industry in Svalbard, which are particularly affected by the proposed amendments. They will have far reaching consequences for many institutions and stakeholders. Some of the main objections to the majority of the proposed amendments are that they seem poorly prepared, and that scientific data and references which may justify new restrictions are lacking.

There has been a marked increase in ship-based tourism in recent years, with more vessels and more tourists. The essence of the proposal is that expedition tourism shall be limited to vessels with a maximum of 200 passengers, and a general clause that national parks and nature reserves are closed for landings, with the exception of a few named areas. In addition, the proposed regulations set new limits for the number of people landing ashore at any time, for boat speed and distance to seabird colonies, for distances to walruses and polar bears, for the use of motorized vehicles on sea ice and on bare ground, for tented camps, for the use of drones and submarines, etc.

Consequences of new and stricter regulations for tourism and for Svalbard's local population should be left to their institutions to comment upon. The Norwegian Scientific Academy for Polar Research (NVP) wants, however, to present a general comment about the value of visitors, including tourism, in vulnerable environments such as in Svalbard. When visiting, observing, and learning about fragile and vulnerable Arctic nature and ecosystems, acceptance of the need for regulations and protection measures will follow.

An overall question is whether strict new regulations as proposed, and particularly related to landings, really are necessary. In its report no. 316 "Environmental effects of traffic and tourism in the Arctic", The Norwegian Institute for Natural Research (NINA) refers to the fact that environmental consequences from tourism have received much attention, but are quite modest ("*ganske ubetydelige.*") NINA states that concerns about environmental consequences can be greater than the actual knowledge associated with them. NINA's findings are not only applicable to tourism, but to field related research, education, training and monitoring as well.

Furthermore, it may be questioned if stricter regulations are in accordance with the objectives of current law and regulations. For example, "Forskrift om nasjonalparkene Sør-Spitsbergen, Forlandet og Nordvest-Spitsbergen, om naturreservatene Nordaust-Svalbard og Sør-Svalbard, og om naturreservatene for fugl på Svalbard of May 2014", Chapter 1, about Sør-Spitsbergen nasjonalpark, Forlandet nasjonalpark og Nordvest-Spitsbergen nasjonalpark, § 3. reads: «*Formålet med fredningen er å bevare store, sammenhengende og i det vesentligste urørte naturområder på land og i sjøen med intakte naturtyper, økosystemer, arter, naturlige økologiske prosesser, landskap, kulturminner og kulturmiljøer.*» But access is also recognised: "*Områdene skal bevares som referanseområde for forskning og for opplevelse av Svalbards natur- og kulturarv.*" (Our highlighting.) Chapter 2, about



Nordaut-Svalbard og Sørøst-Svalbard naturreservat, § 14. reads: «*Formålet med fredningen er å bevare store, sammenhengende og i det vesentligste urørte naturområder som referanseområde for forskning.*» (Our highlighting.)

NVP is by principle neutral towards new regulations and associated management plans *per se*, but is concerned about the possible consequences of a stricter management regime for field-based research, field-based monitoring and field teaching and excursions required for Bachelor, Master and doctoral thesis work under the auspices of universities, colleges and other research institutions. Research is after all an activity for the benefit of mankind, to be recognized and given priority when possible.

The “Input from the local working groups to the regulatory work relating to Svalbard” represents important support to science when addressing their concerns: *“New regulations must be predictable, and it must be possible to facilitate, maintain and implement research and education as today. Research, education and monitoring the polar regions is important to understand global changes in the environment and the effects of these. The regulations must be designed so that they do not preclude the use of recent technology to reduce the environmental footprint compared with the current technology, e.g., within access and research. It should also be considered to include requirements in the regulations, e.g., on electrification within a given number of years.”* The Academy appreciates the support from the local working groups.

The Academy's comments to the proposed amendments are mainly focused upon issues related to field-based research, teaching, education and monitoring. With this in mind, we have focused on finding out whether needs for such activities are taken care of in revised regulations, e.g. whether the Governor of Svalbard's authority and roles for granting dispensations are clear. Research and associated activities, as well as environmental and ecological monitoring, are important for understanding environmental changes in the polar regions and their global consequences. New regulations must be designed so that they do not prevent the researchers' work, including the use of new technology on land and at sea.

When that is said, field-based research, teaching, education and monitoring must at all times strive to have minimum environmental impacts. There can be situations where such activities must take second place to environmental restrictions and/or be amended to conform with these. But such situations should be addressed and resolved in dialogues between the researchers/ their institutions and management authorities.

According to the consultation paper, the proposed amendments are based upon scientific advice and guidance from the Norwegian Environmental Agency in cooperation with the Governor of Svalbard, the Directorate for Cultural Heritage and the Norwegian Polar Institute. We want to emphasize that there are places in the document where references to scientific findings are weak, and indeed in some places, lacking altogether. It is reasonable to ask for scientific data and references for justification of the many statements and suggestions, e.g. Chapter 6.2.3 Number of landings and landing sites, and particularly Chapter 6.4 Proposed regulation of landing in connection with tourist activities, Chapter 6.4.1 The need for regulation of landing in connection with tourist activities, and Chapter 6.4.2 The main features of the proposal/ Prohibition against landings with exceptions. Questions that remain unanswered include: What are the scientific justifications for a general prohibition against landing in all of the eight protected areas with only a few specified exceptions?



Will landing be prohibited in Indre Wijdefjorden National Park? Scientific references are lacking and the arguments that there are currently few visits to the national park and that there are few landings from boats on organised tours is irrelevant for such prohibitions.

Chapter 6.4.3. Reasons, has only three references, about the Norwegian Red List of Species 2015, about the reaction of Harbour Seals to Cruise Ships, and about disturbance to a foraging seabird by sea-based tourism. Arguments presented in Chapter 6.4.3 and in Chapter 6.4.7 are not supported by relevant scientific data and/ or references to published research.

According to the consultation paper, the proposals only apply to tourist activities and not to others who go ashore, e.g., researchers, individual travellers, and permanent residents. However, and as far as we can see, such dispensations are not incorporated into the proposed amendments. More specifically our comments are:

- Section 6a. Prohibition against unmanned remotely operated devices (drones), etc. reads: *“It is prohibited to use unmanned vessels (drones) and other remotely operated or autonomous unmanned devices in the air, on the ground, on and under water.”* The section does not address dispensation opportunities for research, teaching, academic training and monitoring.
- Section 18. Prohibition against access and passage around protected cultural heritage sites. *“Landing and access and passage are prohibited the whole year round in delimited areas around the automatically protected cultural remains on Zieglerøya, Delitschøya, Spekkholmen with adjacent islets and skerries, Haudegen and on Halvmåneøya as shown on the maps in Annex 3.”* The section does not address dispensation opportunities for research, teaching, academic training and monitoring.
- Section 22. Prohibition against unmanned remotely operated devices (drones), etc. *“It is prohibited to use unmanned vessels (drones) and other remotely operated or autonomous unmanned devices in the air, on the ground, on and under water.”* The section does not address dispensation opportunities for research, teaching, academic training and monitoring.
- Section 33a. Prohibition against unmanned remotely operated devices (drones), etc. *“It is prohibited to use unmanned vessels (drones) and other remotely operated or autonomous unmanned devices in the air, on the ground, on and under water.”* It is unclear to see what the differences are between Sections 22 and 33a. The section does not address dispensation opportunities for research, teaching, academic training and monitoring.

Chapter 8.2 Prohibition against motor traffic on sea ice in selected fjords proposes a permanent ban on the use of snowmobiles and tracked vehicles on sea ice in some fjords on West Spitsbergen, with exceptions for permanent residents to traverse the sea ice on the shortest navigable routes on Billefjorden, Tempelfjorden and Van Mijenfjorden, and some exceptions also for visitors to Svalbard. As far as we can see, similar exceptions for research, teaching, academic training and monitoring are not mentioned.

Chapter 8.6 argues in favor of a prohibition against underwater vehicles. The purpose of the proposed ban is to prevent disturbances to wildlife. Although there are large gaps in the knowledge of the consequences from the use of underwater vehicles, it is argued that environmental objectives in Svalbard mean that efforts must be made to ensure that the natural environment is as unaffected as possible by human activity – i.e. an application of the precautionary principle referred to in the



consultation paper's Chapter 2.1. (cumulative environmental effects and precaution.) Specific environmental concerns highlight that preservation of the distinct characteristics of wilderness is one of several overriding objectives for the Svalbard policy, highlighted in the consultation paper with reference to Meld. St. 32 (2015-2016.) The consultation paper specifically mentions that *"... the Arctic environment is extremely vulnerable, and it is a statutory objective to maintain a virtually intact environment on Svalbard in terms of continuous wilderness, landscape, flora, fauna and cultural remains."*

With reference to *"... the Arctic environment is extremely vulnerable"*, the Academy wants to emphasize that Chapter 8.6 does not address fishing activities within the protected areas, including within the Northeast Svalbard nature reserve boundaries, i.e. the Hinlopen Strait. Fishing and trawling are incompatible with the proposed prohibition against underwater vehicles, with important principles and objectives as of Meld. St. 32 (2015-2016), and also with several of the objectives and regulations for the nature reserves and other protected areas, including waterways which are part of them, as outlined in the Governor of Svalbard's maps of protected areas. Trawling and other fishing in the Hinlopen Strait has far-reaching negative consequences for seabirds, seals, walruses and whales. Hinlopen Strait has several large seabird colonies, has important haul-outs for walruses, and is particularly important for large whales such as blue whales and fin whales. A few sightings of bowhead whales have also been made in the Hinlopen Strait in recent years – an endangered and very vulnerable species.

Concerns about trawling activities in the Hinlopen Strait were raised by the Governor of Svalbard's working group for research when new regulations for East Svalbard were prepared in 2012/ 2013. The working group warned against trawling activities due to the negative consequences for the sea-bottom ecosystem. Such concerns were not followed up at that time. No concerns related to trawling and fishing in the Hinlopen Strait have been addressed in the proposed amendments.

We find this regrettable, not least because the consultation paper's Chapter 2.1. specifically refers to the principles of cumulative environmental effects and precaution (the precautionary principle), which are enshrined in sections 7 and 8 of the Svalbard Environmental Protection Act. In this context, we also want to refer to the Protected Area Categories System by the International Union for Conservation of Nature (IUCN), which are internationally recognized, including by Norway being a State Member of IUCN. The classification of nature reserves reads: *"Protected areas that are strictly set aside to protect biodiversity and also possibly geological/geomorphological features, where human visitation, use and impacts are strictly controlled and limited to ensure protection of the conservation values."* Main objectives include *"To preserve ecosystems, species and geodiversity features in a state as undisturbed by recent human activity as possible"* and *"To secure examples of the natural environment for scientific studies, environmental monitoring and education, including baseline areas from which all avoidable access is excluded."* (Our highlighting.)

The accident with the fishing vessel "Northguider", which came into distress and grounded in the Hinlopen Strait in December 2018, serves as an example of our concerns. As the Governor of Svalbard states, the area is very demanding with low temperatures and dangerous sea ice, rapid changes in wind and weather conditions, total darkness much of the year, with unstable radio connection and with incomplete mapping. Luckily, the accident with "Northguider" did not lead to major oil pollution, but the possibility for such accidents is always there when fishing and trawling are permitted.



Fishing and trawling within the nature reserves and their waterways, and particularly in the Hinlopen Strait, are incompatible with the overall objectives of the Svalbard Environmental Protection Act, with the precautionary principle and with IUCN's internationally recognized classification of nature reserves. We recommend that prohibition of such activities is incorporated in the amendments to the Svalbard Environmental Protection Act and associated regulations.

On behalf of the Norwegian Scientific Academy for Polar Research (NVP)

Grete K. Hovelsrud
President

Thor S. Larsen
Secretary general