



**ORGANIZATION OF  
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**ORGANISATION DE L'UNITE  
AFRICAIN**

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BRIEF NOTES ON THE ANTARCTIC TREATY 1959

Brief Notes on the Antarctic Treaty 1959

Beginning early in this century, a certain number of countries started to lay claims on Antarctica based on various grounds which included inter alia, earlier exploratory activity, scientific exploration and geographical contiguity. Those claims even extended into the deep heart of the continent whether or not the areas had been explored or occupied at all. The "Sector Principle" (previously used in the Arctic) was invoked: where any two points near the periphery had been effectively occupied, not only could the land lying between them be claimed but the entire sector or cone having its apex at the Pole. All the claims (Argentina, Australia, Chile, France, New Zealand, Norway and United Kingdom) were controversial and some of them mutually contradictory.

Between the wars various scientific expeditions were sent to Antarctica. The importance of the region for scientific research, especially because of its important effects on world climates was formally acknowledged during the International geographical basis of cooperation established among groups of different nationalities including the Soviet and American teams. As the year drew at its close, there was concern that the cooperation established should not end and in particular should not be damaged by dispute over sovereignty rights. There was also a fairly general desire to prevent the area being used for military purposes at a time when the cold war between East and West was approaching its greatest intensity. As a result of a U.S. initiative, talks began in May, 1958 in Washington which led to a formal conference in November, 1959 and to the Antarctic Treaty concluded on December, 1 of the same year. The treaty entered into force two years later.

The non-claiming participants to the talks seemed to have been invited on the basis of scientific activity at that time. The 12 original participants were : the seven claimant states, Belgium, Japan, South Africa, USSR and U.S. The main purpose of the Treaty was to provide for the continuing conduct of peaceful scientific research in the area (defined as the area south of 60° latitude). It also banned all military activities as well as nuclear explosions or the dumping of nuclear waste. It froze all existing claims. The area was to be open to scientific expeditions from all states parties and as a safeguard against violation, each signatory was to inform the others of all installations and expeditions and a system of mutual on-site inspections was established.

Although the Treaty was open to accession to all countries, it nevertheless contained provisions for a two-tiered membership system. Only those with consultative status, which the original twelve signatories accorded themselves, could participate in the management of the system. Since its inception only four additional countries among those who have acceded to the Treaty have achieved

consultative status: Poland (1977), West Germany (1981), Brazil and India (1983). This status is conferred to acceding members only if they are judged to have undertaken "substantial scientific research activities." Until recently, non-consultative parties did not attend the consultative members regular biannual and other meetings. However and perhaps in response to growing criticism, they had for the first time last year been admitted to the deliberations as observers. (XII biannual treaty meeting in Canberra in September, 1983).

Through the Treaty's consultative mechanisms, a number of other agreements have been concluded, including the Convention for the Conservation of Antarctic Seals (1972), the Convention for the Conservation of Antarctic Marine Living Resources (1980) and the Agreed Measures for the Conservation of Antarctic Fauna and Flora.

Over the last few years the Treaty has come under increasing criticism. The right of the Treaty powers to exercise authority within the area has been questioned. Critics charge that the purposes of the Treaty and the functions of the Treaty powers, have been gradually enlarged from a system of scientific cooperation to the management of the area's resources. The system remains in the hands of a relatively small self-appointed group - a kind of exclusive club of almost entirely developed countries. That South Africa is a member of that exclusive club further exacerbates criticism from African countries particularly. The vast majority of developing countries, including all African countries, are still non-members.

None of this debate mattered very much so long as the main discussion centred around scientific research since the great majority of countries had little capacity or perhaps the desire to be involved in such research. However, one matter in which a large number of countries feel that they have a vital interest is the question of what system should be introduced to regulate the exploration and exploitation of Antarctica's potential resources.

The Antarctica land mass has long been suspected to contain various resources: Coal, iron ore, copper, nickel, silver, cobalt, manganese, filanium. Because 98% of the continent is covered by ice, however, there is little likelihood that any of these will be exploited within the near future. Most of the interest has therefore concentrated on the immediate shore area, which some experts believe, could be rich in oil and gas. Earlier estimates have, for example, put the resources of the Ross and Weddell seas alone in the range of 50 billion barrels. For comparison recoverable oil in the Alaskan North slope fields is estimated at 10 billion barrels. The question arises therefore: who do the Antarctic resources belong to? Informal discussions on the minerals issue have been taking place for the last ten years. However, in 1982 the consultative parties started to consider the conclusion of a minerals regime a matter of urgency. Discussions on the regime are presently being based on the so-called "Beeby Draft" which was presented by the New Zealand head of delegation Chris Beeby. It was this new sense of urgency given to the talks that triggered the current international debate on the Antarctic arrangements.

The view of all non-aligned countries, with the possible exception of some of those who are also Treaty consultative parties, have adopted the basic position expressed at New Delhi last year that Antarctica "should be accessible to all nations" and that "the exploration of the area and the exploitation of its resources shall be carried out for the benefit of all mankind, ...". Most non-aligned members while recognizing the undeniable achievements under the present Antarctica system, do not however consider that the system is now adequately attuned to the international political situation prevailing today. In 1959 there were only 81 states members of the United Nations; today there are 159 members, most of them developing countries which are increasingly seeking a greater measure of participation in international decision-making and a more equitable sharing of the world's resources.

The two-tiered membership structure of the Antarctica Treaty is criticised as precisely the type of system which effectively bars developing countries from any meaningful participation in the management of international affairs. Claims of sovereignty are also indirectly questioned and in some instances obliquely referred to as reminiscent of past colonial practices. Overwhelming support among the non-aligned is being given to the concept of 'common heritage of mankind' applied to Antarctica.

However as far as the future is concerned, no universal proposal has emerged except for the recurrent theme that "a new international regime" was necessary and a "widening of international cooperation in the area" was needed. While practically all non-aligned members acknowledge the achievements made under the present Antarctica system, some of the more specific alternative suggestions made ranged from bridging the gaps in the system to predominant involvement of the United Nations in the administration of minerals exploitation or the whole area itself.

Partly as a result of the growing criticism from non-members of the system, the Treaty parties particularly those with consultative status have made some recent decisions to widen participation in their deliberations. As has been mentioned earlier, Brazil and India, two developing countries, achieved consultative status in September, 1983. The acceding members participated in a consultative meeting for the first time in Canberra last year as observers. Minerals talks which had until the latest session held in Tokyo in May/June this year, been confined to consultative members only. The other twelve acceding members were invited to send representatives to Tokyo but they would not be allowed to participate as 'observers' since the decision of this matter was not unanimous among consultative members.

In favour of the status quo and eventually the expansion of the system to cover such matter as minerals exploitation, are naturally the Treaty parties. The gist of the arguments put forward are the following: the Treaty has so far served the international community well; it is open to all member states of the United Nations; it has averted to date, international strife and conflict over Antarctica; it has promoted international scientific cooperation for the benefit of the world community; it has established an effective demilitarised and nuclear-weapon-free zone in Antarctica and made possible the prohibition of the testing of nuclear devices and dumping of nuclear wastes. To put those arrangements into question now would jeopardize all the benefits that the World Community has derived so far. Finally it should also be mentioned that current claims and the right to put forward claims in the future are maintained and in some cases have even been reinforced recently.

DRAFT RESOLUTION

QUESTION OF ANTARCTICA

sponsored by Mauritius

The Council of Ministers of the Organization of African Unity, meeting in its Forty-second Ordinary Session in Addis Ababa, Ethiopia, from            to            , 1985.

Bearing in mind the Antarctic Treaty and its relevant provisions which relate to international cooperation,

Recalling the relevant paragraphs of the Declaration of Heads of State or Government of the Non-Aligned countries at their Seventh Conference held at New Delhi from 7 to 12 March, 1983, which recognized the considerable environmental, climatic, scientific and potential economic significance of the Antarctica to the world,

Taking into account the debate on this item at the thirty-eighth session of the United Nations General Assembly,

Recalling United Nations General Assembly resolution (38/77) of 15 December, 1983,

Conscious of the need to widen the scope of international cooperation in the Antarctic Area for the benefit of all mankind,

Reaffirming the conviction that, in the interest of all mankind, Antarctica should continue forever to be used exclusively for peaceful purposes, and that it should not become the scene or object of international discord;

1. DECLARES Antarctica to be the common heritage of mankind,
2. CALLS UPON all member states of the Organization of African Unity to take appropriate steps at the forthcoming Fortieth Session of the United Nations General Assembly to seek recognition of Antarctica as the common heritage of mankind,
3. REQUESTS the Secretary-General to monitor developments and report to the Council of Ministers of the Organization of African Unity at its next ordinary session.

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