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The Antarctic Geopolitics Of Peace: A Reassessment

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INTRODUCTION

The greatest natural laboratory of science on the planet, conscientiously kept unmilitarized in every aspect, the Antarctic has experienced multinational governance for over three decades now. The preamble to the Antarctic Treaty of 1959 reads: 'It is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord'. The Antarctic Treaty System (ATS), a network of agreements, measures and instruments, is one of the rare, successful, functioning international agreements of the present century (see Stokke and Vidas, 1996; Rothwell, 1997). Politically, it has sustained a co-operative spirit in regard to the area among a very diverse group of states brought together in an essentially geopolitical framework. It is indeed a geopolitics of peace that pursues consensus based, peaceful, diplomatic resolution of differences, and is sustained and strengthened in return through innovative conflict anticipation and conflict management devices.

I intend in this paper to investigate the factors, conditions, and methods that have contributed to the Antarctic geopolitics of peace? At a time when the geopolitical isolation of the Antarctic is being steadily eroded, not only due to an impressive expansion in the membership of the ATS (Annexure-1), but also because of an enhanced international interest in its ecology and resources, together with leap-frog advances in technology, it is worth reassessing the following questions.

Is it due to physical isolation and relative 'remoteness from the world's centres of population and of political, economic and military activity' (Glassner, 1993: 507) that peace and co-operation have been maintained in the Antarctic? Or is it because, 'Antarctic territory is essentially symbolic? Power and its strategies perform numerous actions on the Antarctic space but they are subjected to such spatial and temporal restrictions that their functions are more representative than

formative' (Manzonie and Pagnini, 1996: 359). Or is it because, so far, the major export from the Antarctic has been science and it is relatively less troublesome to co-operate in the realm of science than in the domains like mineral-resource development (Peterson, 1988: 2)? Or is it due to the persistent unsettling vision of Pandora's box, held by both the claimants and the non-claimants, of what might happen if the ATS were to collapse or rendered redundant (Beck, 1986: 88)? Or is it because of the geopolitical consensus that underlies the ATS, which in turn 'rests on a fair degree of symmetry between the major constellations of power in the world' (Falk, 1986: 275)? Or is it because of yet another common perception of the lack of an alternative, realistic or idealistic, system?

The Cold War Origins Of The Antarctic Treaty

By late 1947, the Antarctic issue had assumed considerable strategic significance in the U.S. foreign policy (Beck, 1986: 22; Parsons 1987: 4), and the impetus for this had 'more to do with the Soviet Union than with events on the ice' (Klotz, 1990: 18). The U.S. Department of State in mid-February 1949, queried the other state parties, excluding the Soviet Union, regarding its note of August 1948 in which it had proposed that the seven conflicting territorial claims could be best managed by some form of internationalization of the area (Hayton, 1960: 352). Both Chile and Argentina categorically rejected the proposal on grounds of their 'incontestable sovereignty' over the Antarctic peninsula (De La Barra, 1954: 59). France and Australia, while welcoming the U.S. proposal for international scientific co-operation in the Antarctic, preferred leaving the sovereignty issue untouched. New Zealand alone stated that it was not averse to the U.S. plans, though Norway indicated that it was amenable to persuasion in this regard.

No doubt the U.S. proposal to internationalize Antarctica was motivated in part by the broader goals of the containment strategy: keeping the Soviet Union out of the frozen continent and its affairs. While diplomatic dialectics over the Antarctic would continue well into spring and early summer of 1950, now well documented (Peterson, 1988: 36-41), the U.S.S.R officially reacted to the 'American engineered' solution to the claims dispute (on 9 June 1950) with a Memorandum which documented the historical Russian interest in the Antarctic, underlined the scientific and economic importance of the area, pronounced the 'illegality of a separate solution' and asserted: 'the

Government of the U.S.S.R. cannot agree that such a question as the regime for the Antarctic should be decided without their participation' (Hanessian, 1960: 444). The U.S. initiative was characterized as a 'fig leaf to cover the American imperialists' design to seize the whole of the Antarctic'.

Once the East-West rivalry for power and influence got extended to the Antarctic, pressures mounted within the U.S. national security bureaucracy to formally assert an American territorial claim—especially to the Antarctic Peninsula. The Central Intelligence Agency, however, opposed such a move on the grounds that that this would only serve to antagonize American allies and further complicate what was already a messy dispute (Sahurie, 1992: 36). Probably, there also remained the considerable uncertainty over establishing 'effective occupation' in highly inhospitable polar environment, coupled with the apprehension that a U.S. claim could well prompt the Soviet Union to go the same way. The conclusion eventually arrived at was that American interests were best served by ensuring access to the whole of the continent.

It was against the combined backdrop of the Hope Bay incident of 1 February 1952 (when the Argentine attempt to prevent the construction of British base there resulted in Argentine soldiers firing shots over the heads of the British); India proposing to the UN General Assembly, even though unsuccessfully (see Chaturvedi, 1990: 70-72) in February 1956, that the 'question of Antarctica' be considered with the aim of realizing an international treaty (under which the resources of Antarctica might be developed for peaceful purposes and the area closed for testing nuclear weapons or military activity); and the biggest-ever international scientific venture, namely, the International Geophysical Year (IGY, July 1957 to December 1958) highlighting the value of Antarctica as a laboratory for fundamental science (adding to the politicization of Antarctica a totally new, unprecedented direction at the height of the Cold War), that the President Eisenhower made an important announcement on 3 May 1958. The U.S. had invited eleven other countries, including the Soviet Union, to discuss the future of Antarctica and seek an 'agreement to disagree', that would possibly preserve legal *status quo* on Antarctica in regard to not only the *claims* of sovereignty but also the *rights* of the other interested parties accruing from their stakes and activities in the Antarctic, including, of course, her own.

Strictly from the viewpoint of U.S. interest too, the conclusion of such a treaty would provide the U.S. with a feasible way of protecting its potential claims from relative deterioration, while providing sufficient

time in which to gauge the situation as it developed and formulate appropriate strategy for the unique, multifaceted Antarctic reality in which geography, science, law and politics were so deeply and inextricably intermeshed. Moreover the treaty would help avoid further conflict between Latin American claimants and Britain over the Antarctic Peninsula—all close allies of the U.S. at that time—and prevent a direct conflict with the Soviet Union.

In the prevailing Cold War context, the Soviet Union, similar to the United States, 'sat on the fence' in regard to the issue of the claims, for the simple reason that it did not wish to—nor perhaps it actually could—stretch its military, technological, economic or political resources. It thus rested content having obtained universal recognition of the Soviet stake and stance in the Antarctic (Chaturvedi, 1985: 222-225).

The claimant States too found in the proposed treaty the best available option. What so obviously entered into their willingness to discuss a political arrangement for Antarctica was not merely the nagging uncertainty over the future of their claims in the event of a concerted occupation of the continent by the United States and the Soviet Union, but also the utter impracticality of defending national interests in Antarctica by conventional military means. Both Argentina and Chile, probably others too, concluded on the basis of pragmatic geopolitical reasoning that their Antarctic claims would be advanced more effectively *within* rather than *outside* the treaty (Morris, 1988: 358).

The Antarctic Treaty System (ATS): An Introduction

The Antarctic Treaty (cited hereafter as the Treaty), with a preamble and fourteen articles, was signed on 1 December 1959 at Washington D.C. by the representatives of the twelve I.G.Y. participating countries. It took effect on 23 June 1961 (text in *Handbook*, 1990; 1987; Chaturvedi, 1990; Watts, 1992).

Article I of the Treaty declares that 'Antarctica shall be used for peaceful purposes only'. All activity of a military nature, such as establishment of military bases and fortifications, carrying out of military maneuvers as well as the testing of any weapons is, accordingly, strictly prohibited. The British, French and the Soviet delegations at the Treaty Conference, besides of those from the southern hemisphere, had vociferously supported this provision. Equally keen to keep the region out of the Cold War were the two superpowers. The expression 'peaceful purposes' thus seems to have been intentionally left undefined. The

signatories, apparently, intended that it should include all activities not clearly, visibly identified as military. The use of military personnel and equipment is however permitted in view of the inhospitable environment of the region, as long as it is in support of scientific research or other peaceful purposes.

Article I is complemented by Article V which prohibits any nuclear explosion in Antarctica and the disposal there of radioactive waste material. The initiative for banning all kinds of nuclear explosions in the Antarctic came primarily from the nations of the southern hemisphere (*Conference on Antarctica*/COM.II/SR/2 (Final) 1 Nov. 1959). So even though the nuclear powers of that time, all located far away from the continent, were not keen on it, the provision was incorporated in the Treaty.

The right of inspection to all areas of Antarctica by the Antarctic Treaty Consultative Parties (ATCPs) was provided under Article VII. The primary intention was to oversee the nonmilitarization provisions and to generate mutual trust. The United Stated, from the very beginning, had insisted on incorporating such a clause in the Treaty (Bush, 1982: 70).

The next important principle of the Treaty relates to scientific cooperation in Antarctica. Article II calls upon the contracting parties, to the greatest extent feasible and practicable, exchange: (a) information regarding plans for scientific programmes in Antarctica to allow maximum economy and efficiency of operations; (b) scientific personnel in the Antarctic between expedition and station; (c) scientific observations and results from Antarctica and make them freely available. In implementing this Article, every encouragement is to be given to the establishment of co-operative working relations with those specialized agencies of the UN and other international organizations having scientific/technical interest in Antarctica.

The Treaty accords its original signatories—the twelve that actively participated in the IGY—a privileged status. In contrast to the obligation of the so-called 'acceding' states under Article X to carry out in a sustained manner 'substantial scientific research activity' in Antarctica, (understood to mean establishment of scientific stations or the dispatch of scientific expedition) the original signatories are under no such obligation. Whether the activities demonstrated by a country contending for 'consultative status' in fact constitutes 'substantial scientific interest' or not is again left to the collective decision of the consultative powers (Auburn 1979).

According to Article XII, the Treaty is open for accession by any State which is a member of the UN, or by any other state which may be invited to accede...with the consent of all the contracting parties whose representatives are entitled to participate in the meetings provided for under Article IX...'.

The administrative arrangements provided for in Article IX are most informal in that neither are there any established procedures nor indeed any specific agencies entrusted with the task. It is left to the periodic Antarctic Treaty Consultative Meetings (hereafter cited as ATCMs) among the Antarctic Treaty Parties (ATPs) to recommend measures in furtherance of the objectives of the Treaty. So far, no agency with general administrative competence has been established, and the adoption or acceptance of the recommendations depends entirely on a majority-voting procedure. As pointed out by Watts (1992: 12), the hallmark of the ATS appear to be 'institutional caution, coupled with institutional accretion'. The ATCMs are full-fledged diplomatic encounters but the decisions are arrived at pretty much in ad hoc fashion. In order to become legally effective, each recommendation must go through a 'double veto', that is to say, the recommendation must be approved first by the national representative at the ATCM, and then by the respective national legislatures.

According to Article VI, the Treaty's provisions apply to the area south of 60° South latitude. At the same time, however, Article VI disavows any incursion upon high seas rights as recognized by international law. The Treaty in no way attempts to define explicitly just which maritime areas of the Southern Ocean below 60° South latitude are, or should be, considered high seas. The primary reason for this ambiguity is that five of the seven claimant states demarcate their claims in such a manner so as to include areas of the Southern Ocean.

Anticipating and Managing Conflicts in the Antarctic

The most significant feature of the ATS as a conflict avoiding mechanism is that the most complex and emotionally charged issue of Antarctic sovereignty has been shelved for the duration of the Antarctic Treaty—and there is no date for its termination (see Stokke, 1991: 359). The unresolved, albeit legally frozen, conflict over the Antarctic territorial sovereignty is the key reality of Antarctic geopolitics. Article IV of the Treaty explicitly declares that 'nothing contained in the present Treaty

shall be interpreted as a renunciation by any contracting party of previously asserted right or claims to territorial sovereignty'.

The Treaty had wisely chosen to remain silent over the matter of resources. Rushing what had not yet gone beyond speculation would certainly have exacerbated suspicions and fears of the claimants and jeopardized management of the very issue that was being sought to be diffused, viz., conflicting positions on territorial sovereignty. The utmost priority at the time was, naturally, the generally accepted need for establishing a lasting political basis for international co-operation and avoiding conflict. Nor did the Treaty make any mention of objectives or principles on environmental protection. This is quite understandable given its Cold War related origins and concerns. Moreover, environmental concerns were not a salient component of the international political agenda in the late 1950s.

Agreed Measures for the Conservation of Antarctic Fauna and Flora, 1964

Soon after the Treaty came into force, the sovereignty issue surfaced, albeit in a surreptitious way. The United Kingdom was one claimant State that came to the very first ATCM at Canberra convinced that 'the most explosive issue facing the Treaty, and the one with which it probably could not manage, was anything to do with minerals...the thing that was likely to tear the Antarctic Treaty apart' (Heap, 1992: 37). In a subtle but significant way the problem of sovereignty was approached at the very outset, albeit in an apparently conservation context. The geopolitical reasoning behind the Agreed Measures for the Conservation of Antarctic Fauna and Flora (cited hereafter as the Agreed Measures), subsequently concluded at the Third ATCM at Brussels in 1964 (text in the *Handbook*, 1990: 2402-2406) is neatly summed up by John Heap (1992: 37), formerly the head of the Polar Regions Section of the U.K. Foreign and Commonwealth Office, London and till recently the Director of the Scott Polar Research Institute at Cambridge:

> There was no objective need to conserve Antarctic wildlife; no one was doing anything to Antarctic wildlife, which required that we react by setting out to conserve it. It was almost something of a confidence trick because what we said was 'we dare anyone to say that they are against the conservation of penguins' and we looked each one in the eye and no one dared. The Agreed Measures for the

> Conservation of Antarctic Flora and Fauna raised the issue of issuing permits. This was an issue which touched upon the sovereignty issue because we had to say who could issue these permits and we used the phrase 'competent authority'. To the Chileans the competent authority in the Chilean territory was the Chilean government, but the Chilean territory was partly British territory in the view of the British and partly Argentine territory in view of the Argentines. So the competent authority, in the areas of overlapping claims had to be Britain, Argentina and Chile—there was no getting away from that. That was a big step to have taken, to get these three governments to agree that they would in effect, base their actual operations of these agreed measures on the basis of nationality rather than territory.

The Agreed Measures were the first relevant exercise of prescriptive power on conservation within the purview of the ATS (Sahurie, 1992: 522). The principle of conservation established in Article 6 prohibits 'the killing, wounding, capturing, or molesting of any native mammals... except in accordance with a permit', which might be issued only for scientific purposes or for indispensable food for parties operating within the Treaty area. To realize the goal of protecting fauna and flora, the categories of Specially Protected Areas (SPAs) and Species (SPSs) were established.

From a geopolitical angle it is the very first Article of the Agreed Measures that is of interest. Even though under the Agreed Measures, the entire Treaty area is to be considered a 'Special Conservation Area', the scope of their application was restricted to only land and to ice shelves. Excluded were not only fish and whales in the entire Antarctic area but also mammals in the high seas. Reason for not covering the high seas was said to be the continuing resolve of the ATCPs to not to 'prejudice or in any way affect the rights, or the exercise of rights, of any State under international law with regard to the high seas within the Treaty Area, or to restrict the implementation of the provisions of the Antarctic Treaty with respect to inspection' (Article 1, *Handbook*, 1990: 2403). All said and done, now that the ATCPs, including the so called ABC countries (Argentina, Britain and Chile) with overlapping claims on the Antarctic Peninsula, had agreed to deal with the issue of conserving the Antarctic wildlife on the basis of *nationality* rather than *territoriality*, the stage was set for further expansion of the Antarctic Treaty jurisdiction into the high seas under the conventions that would follow.

The Convention for the Conservation of Antarctic Seals, 1972

The Scientific Committee on Antarctic Research (SCAR), had tabulated and published the statistics on seals and birds captured within the Treaty area during 1964-1969, and reported in 1972 that there was no 'serious direct threat to Antarctic seals and birds and in particular no species was endangered, although the possibility of over-exploitation of some local populations of seals could not entirely be ruled out' (*Handbook*, 1990: 2409). Why then the 1972 London Convention for the Conservation of Seals?

Was it only because the fixed geographical scope of the Treaty, despite the initial stretching attempted under the Agreed Measures, had brought to light a important omission of the seals on Antarctic pack ice having been left unprotected? Since about eighty per cent of the seals, particularly the most threatened Ross Seal, live on pack ice there was an obvious need to expand the area of operation of the Antarctic Treaty, notwithstanding its Article VI, to include the seas south of 60 degrees south. Or could it be due to the possibility lurking on the horizon of renewed sealing in the Antarctic waters? Since sealing was becoming much more politically cumbersome in the Arctic areas —whereas in the Antarctic seals were now recovering from the reckless exploitation of the 19th and early 20th century to reasonable levels— there indeed remained the possibility that commercial sealing may reappear? Moreover, outsiders could easily invoke the saving provision on the freedom of the high seas of Article VI of the Treaty, which certainly included freedom to hunt seals. Or could it be due to the hidden, though not entirely selfish, motive of some of the Antarctic powers to realize in a single stroke of diplomatic genius not only an expansion in the geographical scope of the ATS but also to prepare grounds for dealing with the krill issue? Relatively speaking the krill issue was much more compelling and contentious than the issue of protecting the seals. For the rest in the ATS, there was simply no room left to get around the issue, especially when the language of conservation was used to push through what was yet another attempt to stretch the Treaty further beyond its original jurisdiction.

Be that as it may, the Convention for the Conservation of Antarctic Seals (cited hereafter as the Seals Convention) was negotiated in London in 1972 (text in the *Handbook*, 1990: 4104-4116). Its objectives from conservation point of view are the protection, scientific study and rational use of Antarctic Seals guided by the general principle that 'this resource should not be depleted by over exploitation and that harvesting

should therefore be regulated.' As of yet, however, commercial sealing has not taken place in Antarctica in modern times.

The Seals Convention had made a significant contribution to the ATS with its recognition of pre-emptive conflict management. At the same time, from the point of view of the ATCPs, its significance also lay in the fact that the area of operation under the ATS, notwithstanding Article VI of the Treaty, had been further expanded to include the seas south of 60 degrees South (Heap, 1992: 37). But this time instead of drafting another set of recommendations or agreed measures, the ATCPs decided to produce a convention outside the consultative process. This approach not only promised to avoid legal and political problems posed by the geographical scope of the Treaty, but it also opened the new sealing regime to non-Treaty States. Now that the substance of sovereignty, that is resources, had become the manifest focus of negotiations among the ATCPs, it was found essential by both the claimants and non-claimants to affirm to provisions of Article IV of the Treaty for the purposes of the Seals Convention.

Growing Focus On Resources: The CCAMLR

By 1970s the rather impressive and firm outline of Antarctic resources had emerged as a result of extensive geological and biological research on and off the Antarctic. This was soon to be filled by the perceptions of accelerating growth of population in terms of consumption, and depletion of resources (food, energy, non-renewable and others) in the wake of the oil crisis. It was in this climate of international pessimism that the ATPs perforce saw the Antarctic in a new light and focused their attention on its resource aspects. As Dodds (1997: 42) points out, 'from a geopolitical point of view it was felt, this period [1970s-80s] increasingly witnessed the transformation of the Antarctic from a place of scientific endeavor to a place of common economic heritage'. It was felt that a minerals regime was going to be a much more difficult task to negotiate than was the marine resource convention. Oil and gas today make the nations hungry and passionate as nothing else does, and for obvious reasons. Moreover, the minerals are fixed and finite in contrast to the resources of the Antarctic seas which are renewable and in constant flux. There was, therefore, little hope for an agreement on Antarctic minerals if the Antarctic powers could not devise a marine resources regime first. The question of a marine regime thus acquired a higher priority and did in effect overtake the minerals talks.

At a time when it had become quite a common statement that the total world fish catch could easily be tripled by harvesting Antarctic krill, the manifest activity of the non-Treaty actors taking interest in the Antarctic resources was enough in its own right to galvanize the ATCPs into action. The ATCPs accordingly perceived the need to have a regulatory framework in place before the krill fishery, the dynamic of which were not yet fully understood, was actually over-exploited. Moreover, in the mid-1970s, northern hemisphere countries such as the USSR, Poland, Japan—also South Korea and Taiwan—were excluded from their traditional fishing grounds due to the proclamation of 200-mile fishing zones. The United Nations Environment Programme (UNEP) and the Food and Agriculture Organization (FAO) also indicated research interests in the area.

Against the backdrop of two negotiating sessions in Canberra and Buenos Aires during 1978, and additional sessions at the Tenth ATCM in 1979, the Convention on the Conservation of Antarctic Marine Living Resources (cited hereafter as CCAMLR) was formalized at Canberra in May 1980. After due ratification it came into force in 1982 (text in the *Handbook,* 1990: 4209-4217).

Although created at least in theory outside the ATS, in reality, CCAMLR is organically linked to the latter. The geopolitical consensus underlying Article IV of the Treaty is not only retained but also explicitly reiterated along with its concomitant ramifications for the freedom of the high seas. Article IV of CCAMLR continues to maintain the moratorium on territorial claims and binds all contracting parties to Articles IV and VI of the Treaty. The steadily creeping jurisdiction of the ATS into the seas south of 60 degrees South latitude is further extended to the Antarctic Convergence, this time with the aid and assistance of a sophisticated version of functional ambiguity. Second, political pre-eminence of the ATCPs within the ATS is preserved. This led some to ask, 'on what basis the parties felt they had the right to negotiate in secret a Treaty regarding high seas resources, and then to present the document for the rest of the world to endorse as a *fait accompli*'? (Barnes, quoted in Quigg 1983: 189)

A highly sophisticated, yet subtle, formula of functional ambiguity was agreed upon under what has come to be known as 'bifocal approach to interpreting CCAMLR's jurisdictional purview (Barnes, 1982: 280-81; Bush 1982: 406). Joyner (1992: 226-227) in his highly perceptive and widely acclaimed study on Antarctica and the Law of the Sea has succinctly summarized it as follows:

> In the view of states with territorial claims in Antarctica, Article IV, paragraph 2(b) in CCAMLR protects the rights both above and below 60° South. Conversely, non claimant states are able to contend that this provision pertains to claims south of 60° South latitude, which remain subject to Article VI of the Antarctic Treaty. Only claims north of 60° South therefore are valid and undisputed where they remain unaffected by either agreement. The caveat here is waters adjacent to disputed claims may not necessarily be considered high seas. While Article VI in the Antarctic Treaty does preserve high seas freedoms below 60° South, it neither elaborates on the definition of high seas for the region, nor clarifies the legal implications of Antarctic claims there...This built-in ambiguity permits parties to CCAMLR to avoid a potentially contentious issue...The bifocal approach affirms the moratorium on claims—a key to ATS viability—for living resources, but leaves open the possibility that a state might forgo conservation should exploitation become commercially viable.

As outlined by IUCN (1991: 59), CCAMLR's main strands are that: (1) harvesting of any population should be on the basis of sustainability in the long run; (2) ecological relationships between harvested, dependent, and related populations should be maintained. Depleted populations should be restored to levels that will allow enhanced sustainability in the long terms; and (3) the risk of irreversible changes in the marine ecosystem should be minimized.

It is worth noting that like other Antarctic Treaty provisions, the Convention is not enforceable, even on members, and relies on voluntary compliance. Whereas one could be quite reasonable in hoping that inspections as compliance mechanism may also prove to be adequate for ensuring compliance with environmental rules, or pointing violations, the results so far have been rather disappointing. May be, as Kimball observes (1988: 18) 'parties to the treaty have traditionally been reluctant to 'rock to boat' by asking too many questions about each others activities in Antarctica.'

Behind the congealed appearance of the ATS in the 1960s, then, one could detect a geopolitical reasoning directed at stretching the juridical scope of the Antarctic Treaty. If the ATCPs were keen to bring about a legal framework within which a unique, challenging area could be explored, understood and, if possible, harnessed for human use, they appeared equally aware of the negative implications of a mismatch between constantly evolving geopolitical realities and the legal

formulations laid down in the Treaty. Such legal formulations and definitions of intended activity on being found too static, constrictive or undefined were thus consequently modified with great caution and careful consideration. Political ambitions and interests were balanced with the objective of an out and out scientific co-operation in the understanding and use of Antarctica. It was but natural under the circumstances that within the defined parameters of the Treaty the range and pace of activity be limited, slow, and lacking the daring that the later years would bring. This was to change qualitatively and somewhat rapidly in the 1970s and 1980s with increasing pressure on global resources combined with evolution of appropriate technology to prospect, harness and recover those resources turning international attention to the Antarctic, thought to be exceptionally rich in mineral, marine and other resources (Wassermann, 978; Zumberge, 1979; Puri,1986).

The Rise And Decline Of The Minerals Issue

When the initiatives for a minerals regime surfaced in early 1970s, few thought that commercial activity was likely, or feasible—let alone imminent—for decades to come. In the prevailing economic, technological and geopolitical climate at the time, mining the Antarctic was simply inconceivable, for nobody could have the slightest notion about the sites and structures for the purpose, the costs involved, and the environmental-ecological consequences that might follow. Why did then the ATCPs consider it to be a matter of such an urgency as to negotiate a regime on the Antarctic minerals?

When the question of Antarctic minerals was taken up by the ATCPs in 1970, the common feeling of course was that once some mineral deposits on commercial scale were to be found and commercial curiosity was excited, the question of territorial sovereignty would inevitably surface, jeopardizing consensus within the ATS. Under the circumstances, it was just as well that precise or full knowledge of the minerals map of the continent was not to hand. This geopolitical reasoning clearly illustrates that the reality with which the ATCPs were concerned, while negotiating the minerals issue, was not the reality as it *existed*, but a *future* reality which they wished to realize in the form of an agreement over the minerals issue. At the same time, they wished to prevent a *future* reality from happening: the breakdown of the ATS on account of the reasons mentioned above.

When the issue was first informally raised by UK and New Zealand in 1970 at the Tokyo ATCM, it had taken the delegates virtually by storm (Butler,1977: 46). But the scientific-technological and geopolitical developments in the world at large had been so rapid that by the time the ATCPs assembled for the 7th ATCM in Wellington, two years later, they were nearly unanimous in demanding that the subject 'Antarctic Resource—Effects of Mineral Exploration', be carefully studied and included on the agenda of the Eighth Consultative Meeting (VII-6 1972). It was also decided that a voluntary restraint in this regard (VIII-14, see Bush 1982: 328-329) would remain in place until some basic ground rules could be mutually agreed upon. At their recommendation, SCAR was also to appoint a special committee to prepare a preliminary assessment of the environmental implications of mineral exploration and exploitation for consideration of the next [1977] ATCM at London

At London, the governments were further asked to urge their nationals as well as other states to refrain from all exploration and exploitation of Antarctic mineral resources while working out an agreement over Antarctic mineral resource activities (Bush, 1982: 343-45). Changing attitudes of various ATCPs over the sovereignty-resource interface had obviously led to considerable alarm and apprehensions within the ATS. The majority of them (including New Zealand, Japan, South Africa and Australia) were energy-dependent nations, who probably perceived in the Antarctic the last hope of satiating their thirst for oil (Quigg, 1988: 196; 451-61; Auburn, 1977: 145-46).

However, by the time serious discussions began at Washington and Buenos Aires (December 1980-March 1981), almost all the extreme positions had mellowed down considerably. The growing sense of urgency had induced a feeling that consensus and accommodation among the divergent positions within the ATS must be achieved at all costs (Wolfrum, 1991: 11-15). If the ATCPs pulled in opposite directions and failed to put up a common stand before the law of the Sea Convention concluded, all sorts of pressures could emanate from the Group of 77.

The key question appeared to be whether the legal *status quo* under the Treaty could be reconciled with an equitable plan to develop mineral resources to the satisfaction of both the claimants and the non-claimants states. And what about the interests of the developing countries? India, Brazil, China and Uruguay, after being admitted as consultative members in 1983, formed a lobby of countries in their condition to watch and promote developing countries' interests in the minerals negotiations.

Without doubt, a great deal of give and take was called for in what were expected to be most sensitive and complex negotiations. No wonder then, that the ATCPs felt obliged to reiterate in Wellington that mineral resource regime should not prejudice their respective positions on the question of territorial claims in Antarctica (XI-1, Bush, 1982: 442).

Evolving consensus in this regard turned out to be a formidable task indeed (see Orrego-Vicuña, 1988: 356-61, Wolfrum, 1991: 3-11; Chaturvedi, 1996: 120-126). The negotiators over the next six years or so would, first and foremost, have to find a way of adjusting, reconciling the diverse views on the territorial status of Antarctica. The question of ownership of the subsoil is so directly connected with the concept of territorial sovereignty that a mere reiteration of article IV of the Antarctic Treaty would not do. The claimant countries wanted a more particular manifestation of their position; but a direct reference to their claims might imply 'recognition' of some sort of a preferential position for them, which the non-claimants would certainly interpret as prejudicial to their own views.

In November 1988 the Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA) was opened for signature in Wellington, New Zealand (text in *Handbook*, 1990: 4311-4334). CRAMRA closed the Antarctic to all exploitation or development activity unless there was consensus that such activity had satisfied the prescribed rules.

Provisions having a direct or indirect bearing on the environmental [protection] aspect of potential minerals activity abound all through CRAMRA. Some of these provisions could be characterized as purely environmental in nature, while others were general but certainly had implications for the environment. CRAMRA prescribed tough procedures to be followed before any patch of land or off-shore area could be identified for exploration and development.

CRAMRA declared that certain sensitive zones, like Specially Protected Areas (SPAs), and Sites of Special Scientific Interest (SSSIs), would remain closed to mining. In identifying the area for exploration and development the decision invariably had to be based on consensus, and once done the area was subject to specified monitoring, inspection, liability and penalty provisions including suspension, cancellation and fines. Expert and comprehensive environmental and technical evaluations were required at all stages of the decision-making process.

In January 1988 when CRAMRA seemed a virtual certainty, dispatch of an expedition to service the Greenpeace's World Park base at Cape Evans highlighted the persistent and well articulated campaign of the

Greenpeace movement, along with many other national and international environmental groups, against the very idea of mining the Antarctic (Greenpeace, 1985: 15-17, 26-27).

Undoubtedly a significant addition to the ATS —and an eloquent, enduring testimony to the flexibility of the ATS to respond to complex, dynamic situations though—CRAMRA's prospects darkened, to disappear eventually, when, in May 1989, the Government of Australia announced that it would not sign since it now felt strongly committed to the view that no mining at all should take place in and around Antarctica. Australia would pursue instead the urgent negotiations of a comprehensive environmental protection convention within the framework of the ATS; it would seek and canvass international support for this position, including the establishment of an 'Antarctic Wilderness Park'. French support for the Australian position promptly followed. In order to enter into force, CRAMRA needed to be ratified by all the countries having territorial claims in Antarctica. The consensus within the ATS was obviously threatened.

The 'U' Turns In The ATS: Crisis Of Consensus

The 'U' turns by Australia and France on CRAMRA undermined the collective understanding of the ATCPs to abide by the norms of the system, and seriously undermined the capability of the ATS to resolve intra-system conflicts (see Elliott, 1994: 174-179). Australia now asserted, quite simply, that even when undertaken under the stringent environmental regulations and controls embodied in CRAMRA, mining was environmentally unacceptable.

Apparently, in Australia, Antarctica was slowly but surely emerging as the touchstone for 'green credentials' for Bob Hawke's government, especially in the wake of the Tasmanian State election results of 13 May 1989. As the five newly elected 'green' members became crucial for the incoming minority Labour administration, the compulsion for Hawke's government to foster a national perception, 'the environment is Labour territory' became decisive. It became political obligatory and imperative for the government to oppose those thinking of mining in the Antarctic. If the Australian rejection of CRAMRA was motivated by political and electoral considerations, it is equally obvious that the environment aspect too had a major, if not decisive, consideration.

It has also been suggested that the Australian shift was owing to narrow, selfish consideration in that it protected Australia's own mining

industry at some stage in the future from being competitively disadvantaged as a result of subsidized activity in the Antarctic by non-Australian companies. The Australian delegation to the minerals negotiations had argued, unsuccessfully though, for an anti-subsidy clause. Treasury in particular was unhappy with the absence of provisions in CRAMRA for specific royalty payments to claimant states. The Australian Mining Industry Council, on the other hand, while certainly preferring an anti-subsidy clause in the Convention, was particularly critical of the Australian government's position on CRAMRA (Dunn, 1989).

An argument which only considers the domestic electoral considerations (or even strictly economic motivations) and overlooks the overall environmental factors, looks inadequate as an explanation of Australia's decision of not signing CRAMRA and, instead, pursuing a comprehensive convention on the Antarctic environment (Beck, 1990b: 115). Similarly, France joined Australia in opposing CRAMRA, it is believed, principally on environmental grounds, but other practical considerations were also important. The rise of pro-environmentalists political parties in the country, and the concomitant keenness, not to relinquish its claim of sovereignty on the Antarctic were also instrumental.

The 15th ATCM in Paris [October1989], brought to surface both agreement and disagreement among the ATCPs over many a substantive issues. Even though all seemed to share the need for comprehensive measures for the protection of the Antarctic environment and dependent and associated ecosystems in principle, sharp disagreement arose over the best possible ways to achieve them. If France and Australia advocated elaboration of an exhaustive convention, then Chile pleaded for some kind of agreement similar to the Agreed Measures of 1964. Many contested the proposal for a new single, comprehensive regime on the grounds that it would necessarily entail yet another lengthy, time consuming and arduous process of reconsidering carefully crafted compromises incorporated into the existing agreements; Some, if not all, of the claimants feared that their position would be prejudiced by the manner in which the environmental protection measures, proposed and contemplated, may eventually be cast.

No one, however, could afford to brush aside the fear that with the collapse of CRAMRA and absence of a consensus on minerals development in Antarctica, the moratorium on minerals prospecting, exploration and development in the Final Act of the IV Special ATCM, would also cease to exist. Prospecting, then, at least in theory, could go forward subject only to controls, if any, enacted by the national

governments. And once a tangible manifestation of interest in the development of Antarctic minerals is there—say, consequent upon a galvanizing discovery—it would be extremely hard to negotiate under pressure a regime like CRAMRA with environmental safeguards contained in the former. Will ATS be capable of bearing the strains placed on it at that time? The polarization of views in the ATS clearly suggested that the problem defied simple or hasty solutions.

By the time the ATPs assembled at Viña del Mar, Chile, from 19 November to 6 December 1990 for the XI special ATCM, the nature of alignments with the ATS over the question of CRAMRA and its future stood considerably changed. Italy and Belgium had joined Australia and France in proposing formally that a permanent ban on mineral resources activities be incorporated into a comprehensive convention on environmental protection. The permanent ban demand was supported in addition by New Zealand and Sweden among the ATCPs, and by Denmark, Greece and the Democratic Republic of Korea among the non-ATCPs. The countries at the other end of the spectrum were the UK, USA, Argentina, Norway and Uruguay. The rest were more or less of the view that the issue should be resolved before it further strained the viability and the achievements of the ATS.

By the time ATCPs assembled in Madrid for the second session of the XIth Special ATCM, (April 1991) the alignments within the ATS over the question of CRAMRA had once again undergone a change. The British Government now announced its agreement to support a fixed term moratorium—no period was specified—on the condition that the moratorium would be kept under constant review and would be replaced by a minerals regime prior to its expiry. Curiously, Germany announced its support for a permanent ban in the week before the Madrid meeting, which took USA and U.K., the known stalwarts of CRAMRA by surprise.

Significantly, Article 24 of the Draft Protocol came out with a carefully worded compromise package involving two stages: First, after fifty years agreement of 51% of the ATCPs was required for the ban to be lifted; Second, 75% of ATCPs, including all 26 States that were ATCPs at the time of adoption of the Protocol, must ratify the amendment to allow it to enter into force. Any lifting of the prohibition must also include the negotiation of a legal regime on mining so as to avoid the lifting of the prohibition into a vacuum. The package was designed to give something to both: those wanting a permanent ban, and those willing to accept only a moratorium on mining activities. Quite obviously

CRAMRA was not in the picture any more; dead in letter, but not so much in spirit, as para 4 of Article 24 insisted on there being a legal regime on mining of binding nature before the prohibition on mining could be lifted.

At the end of the April session at Madrid, the ATCPs agreed to meet again in June to finalize the text of the new Environmental Protocol, thinking that it would be a good idea to sign the new agreement on the day of the thirtieth anniversary of the Antarctic Treaty due on 23 June 1991. Instead, what was in store for them was the announcement by the United States government, on the evening of 12 June, of its inability to accept the Articles in the Protocol relating to the Minerals prohibition. More specifically, serious reservations were being expressed with regard to the 'near permanent ban' on mineral resource activities as outlined in the April text. USA decided to reserve its position on Article 6 (pertaining to the prohibition on mineral resource activities) pending resolution of the Amendment provisions. It argued that these provisions made it virtually impossible to lift a ban as any of the 26 countries had the opportunity to block any proposed amendment. The USA government accepted the 50-year ban, but proposed an addition to these 'Amendment or Modification' provisions (Article 26) to allow a nation to 'walk away' from the ban provisions, if ratification of an amendment is held up beyond 3 years.

The changed US position fractured the carefully worked out and skillfully negotiated package of compromise among diverse positions, and effectively reduced the ban-lifting provision to only the 51% required to allow the lifting of ban. As few countries would ever be prepared to allow unregulated mining activity to occur outside of the Treaty rules, any country threatening to use the 'walk away' clause would have an almost guaranteed smooth path to lifting the ban, assuming support from just 51% of the ATCPs.

At the Third Session of the XIth Special ATCM at Madrid (19-22 June) instant reaction of the ATCPs to the changed US position was that it had undermined the stability as well as viability of the ATS by attacking the principle of consensus that had sustained the entire edifice of co-operative arrangements for the Antarctic over more than three decades. Moreover, a 'walk away' clause relating to the minerals provision might also encourage other countries to do likewise for other obligations. Italy argued that the US proposal was contrary to the Vienna Convention on the Law of the Treaties because the latter asked for the withdrawal of a

country from some of its obligations under the Protocol while remaining a full and functioning member of the Protocol. Most delegations however believed that no agreement could be possible without accommodating the U.S. concerns in some form.

Subsequently, the agreement finally reached was that the numbers needed to adopt an amendment would be 75%. It underlined the need to safeguard all interests in accordance with Article 4 of the Antarctic Treaty in negotiating an amendment, retained the ratification provisions at 75% of all ATCPs, including all 26 existing ATCPs, but allowed a nation to 'walk away' from the provisions of the entire Protocol (not just Article 6 of the Protocol as desired by the United States) if ratification was not completed within 5 years; notification of intent to withdraw to be given after three years.

The announcement by President Bush on 4 July 1991, of the U.S. decision to sign the Protocol on Environmental Protection to the Antarctic Treaty marked, in a way, the end of the most critical trial of the inner strength and viability of the ATS. This crisis of consensus over the minerals issue had been much more threatening than the campaigns of the critical lobby in the UN, for the obvious reason that this time, the divide and dispute was internal to the ATS and not between the ATS and those opposed to it.

The Protocol on Environmental Protection to the Antarctic Treaty (hereafter cited as the Protocol) was concluded by consensus on 4 October 1991 at Madrid. It will come into force after the ratification, acceptation, approval or accession by all the twenty six current ATCPs.

In final analysis, then, the reasons behind adopting a protocol, rather than an independent instrument, can be stated as the formal reaffirmation of the dominant role of the ATCPs in the matter of Antarctic governance. The decision-making process for protecting the Antarctic remains firmly in the hands of the ATCPs, with the ATCMs to continue as the exclusive forum for deliberation concerning both the creation of new norms and the inspection and supervision ensuring compliance with the Protocol. The only exceptions to the perceived requirement of continuity and supervision—by now a tradition within the ATS—are the projected establishment of a secretariat and the decision to convene ATCMs annually instead of biennially. And there are no reasons to believe that the secretariat will have anything more than a general competence in matters concerning the Protocol.

THE PROTOCOL: AN ASSESSMENT

The Protocol designates Antarctica as a 'natural reserve devoted to peace and science' (Article one), and binds its present and future signatories to total protection of the Antarctic environment —its intrinsic and extrinsic worth, including its wilderness, aesthetic value, and its value as an area for scientific research, especially that which is essential to understanding global environment (Text in *Handbook*, 1994: 1-77). It categorically prohibits any activity relating to mineral resources, 'other than scientific research' (Article 7).

The Protocol sets out some basic environmental principles to govern all human activity in Antarctica, be it scientific, tourism related, governmental, non-governmental or related to logistic support. It supplements the Antarctic Treaty without modifying or amending it. Nor does it derogate from rights and obligations enjoined by other instruments in force in the ATS. Declaring consistency with the other components of the ATS, the Protocol calls upon its Parties, to consult and co-operate with the contracting Parties to the other international instruments in force within the ATS and their respective institutions (Article 5).

The Protocol, vide its Article 11, has established a new institution of immense value and considerable competence: the Committee for Environmental Protection [CEP] comprising all signatories to the Protocol. The Protocol relies upon its State parties in addressing questions of monitoring and compliance, who must take 'appropriate measures within [their] competence' to ensure compliance with the provisions of the Protocol. Regular and effective monitoring is to be encouraged but centralized responsibility for this is lacking. Inspections are to be conducted under the terms of the Antarctic Treaty, on an individual and collective basis.

Whereas Article 16 of the Protocol mentions the liability for the damage from unauthorized activity in the Protocol's jurisdiction, it leaves the question more or less open: the ATCPs are engaged at present in elaborating rules and procedures in this regard. The Protocol establishes binding and compulsory dispute settlement procedures with respect to the prohibition on mineral activity, environmental impact assessment, emergency response action, the annexes (unless they provide otherwise) and compliance with those particular provisions. Any party, including a non-ATCP, can raise the issue of a violation of the Protocol under these procedures. Regulation of Antarctic tourism under the

Protocol also leaves much to be desired (see Wace, 1990; Beck, 1994b; Boczek, 1988; 465; Vidas, 1992). Whether the Protocol itself, after coming into force, will somehow muddle through the increasingly complex issue of Antarctic tourism, or a new annex will eventually be negotiated among all those involved upon realization that peculiarities of Antarctic tourism demand clearly defined rules and practices remains to be seen.

Organically linked to the Antarctic Treaty and other components of the ATS, the Protocol in no way alters the 'special legal and political status of Antarctica'. Still, it does break new ground, while raising certain pertinent questions about the protection of the Antarctic environment in the wake of mounting global awareness and interest of all kinds, growing capability of certain nations to devise new uses or find new values of the area, and as advances in high-tech expand general levels of science and capability.

Then, there are questions arising from the goals set under the Protocol, particularly with regard to the objective of realizing environmental principles through Eisai (See Lyons, 1993). Article 3(2) of the Protocol states that:

> activities in the Antarctic Treaty area shall be planned and conducted on the basis of information sufficient to allow prior assessments of, and informed judgements about, their possible impacts on the Antarctic environment and dependent and associated ecosystems and on the value of Antarctica for the conduct of scientific research....

How much is sufficient information and who can provide it? (see Lyons,1993: 116-117). What constitutes the key environmental parameters, and how are they to be defined? Or, for that matter, how are the adverse effects of a particular activity defined, detected and identified in terms of the complex looking categories: 'minor or transitory impact' or 'less or more than a transitory impact'? How does one ensure that 'appropriate national procedures', in accordance with which the different stages in the EIA are going to be carried out, are otherwise appropriate as well? Given the complexity, at places even ambiguity, in such crucial areas as these, how does one mitigate conflict potential among the ATCPs in this regard?

All attempts at creating an institution with effective law-making or enforcement powers under the Protocol seem to have been thwarted by the claimant states perceiving a threat to their declared sovereignty on portions of Antarctica. As a result, the Committee for Environmental

Protection (CEP), has been assigned at best certain advisory functions *vis a vis* the ATCMs—the latter retaining final responsibility and powers in regard to the environmental protection of the Antarctic.

So, the Protocol in spite of its substantial promise of ushering in an era of meaningful collaboration for conservation of the environment, remains inadequate and incomplete in many ways (see Puri, 1997: 243-245). It also suffers from a host of handicaps and hazards caused by the sovereignty related realities impregnating the ATS. Fear has also been expressed that this 'innovation may become a victim of its own success' for at least two reasons (Francioni, 1993: 72). First, moratorium on mining could paradoxically exercise a negative influence on the scale and intensity of scientific commitment because of the diminished incentive to invest in a normative framework that no longer allows the prospect of future remuneration in terms of mineral resources. After all, in was no coincidence that quite dramatic increase in Antarctic programmes occurred during the 1980s, the decade dominated by the mineral issue. Second, the transformed post-Cold War geopolitical realities which accompanied the collapse of the Soviet empire, renewed worldwide emphasis on domestic economic reforms under the pressures of emerging global market economy, and the regional and global alignments at political and economic levels may push the Antarctic further down on the priority list of most countries if the continent 'loses its stature as an arena for the geopolitical rivalries of the major powers' (Ibid.: 72). Having said that, there is little doubt that the Protocol has introduced a new environmental ethics in both Antarctic science and politics (Elliott, 1994: 81).

Antarctica And Its Resources: Common Heritage? Whose Heritage? Common To Whom?

The discussion so far may give the impression that the Antarctic and its governance have throughout been the exclusive concern of those inside it. To the contrary, the interest of the 'outsiders' in the icy continent arose as early as early 1980s and somewhat in direct proportion to the origins and evolution of minerals issue within the ATS. It is pertinent to pause and take note of this development and the way in which the ATCPs have responded to it.

It is unfortunate indeed that the world community stands badly divided over the management of Antarctica, especially when the criticality and centrality of the South Polar Region to the overall health, even

survival of our planet in the long run, is been increasingly established and universally acknowledged. Both the UN and the so-called Third World stand badly divided over the 'Question of Antarctica'. It is no accident that the more developed among the developing countries—which include India, China and Brazil—are in the ATS. The majority in the so-called 'critical lobby' in the United Nations is of the least developed, who have recently become aware of both the multi-dimensional promise of the Antarctic and the serious limitations they suffer from in regard to their respective economic-scientific-technological condition to be able to benefit from the opportunity.

One can always look at the UN debate on Antarctica in terms of North-South divide which rather simplifies the complexity of diverse national interests and national capabilities involved in the situation. The conflict over acquiring a meaningful physical as well as political access to Antarctica and its present as well as potential resources, is not so much ideological as it is geopolitical. The reality is that the persisting divide in the international community over Antarctica is not due to 'value conflict', but one that is caused, on the contrary, by the mismatch between the growing interest of developing countries in the Antarctic on the one hand and their lack of capability to have a say in the decision-making over the present and future of that area, on the other.

Is the ATS 'legitimate' or 'illegitimate'? Does it or does it not represent the interests of humankind as a whole? How 'effective' or 'ineffective' is it as a caretaker of Antarctic science as well as environment? And most explosive of all, should the ATS remain, or be replaced by some UN-based system of management for the Antarctic? Answers to these and similar questions from both the critics and the supporters of the ATS continue to highlight the persisting divide in perceptions as well as the prescriptions on these issues (see Beck, 1993; Beck, 1994a; Hayashi, 1986; Chaturvedi, 1986; Sahuri, 1992: 72-73).

The Malaysian Prime Minister, Dr. Mahathir-bin-Mohammed launched his offensive on the ATS just a few months before the Law of the Sea signing ceremony. In a speech to the UN General Assembly on 29 September 1982 he dismissed the Antarctic Treaty as an agreement between a select group of privileged nations which does not represent the true feelings of the members of the UN, and desired a new international agreement (UN. 1982:17-20). Ever since Malaysia has emerged as the most vociferous and dissatisfied among the critics of the ATS. On the question of territorial claims on Antarctica, Malaysia has argued that if non-claimant ATPs assert that the entire continent and its

resources are open to their use, then, 'why should such assertion not be made applicable to international community?' The significance and validity of these claims is, according to Malaysia, suspect under the international law: If such claims to sovereignty have not been so recognized, then why should Antarctica not be a 'common heritage' and invested in UN?

The Malaysian position has reflected, in part or whole, that of the most of the developing nations including Antigua, Barbuda, Pakistan, Bangladesh, Cameroon, Cape Verde, Egypt, Ghana, Nigeria, the Philippines, Sri Lanka and Zambia, to name a few. All have been critical of the allegedly exclusive nature of the system, the membership of South Africa (no longer an issue in the UN debate), and the distribution of Antarctic resource benefits.

On the other hand, the ATPs have rejected as 'misconceived' and 'misrepresenting' the accusation that ATS is anachronistic, discriminatory, harbours colonial territorial claims, is exclusive and thus should be replaced by the common heritage of mankind principle. Whereas the growing membership of the ATS (including the accession to the Antarctic Treaty by India and China among others) is underlined to refute the charge of exclusiveness, the 'widely observed principle in international relations whereby those countries primarily engaged in particular activity are responsible for management and decision making' is being emphasized as 'sensible and working' for the Antarctic (UN. 1984: 87-88).

The ATCPs remain unanimous that replacement of the ATS by any other form of management is neither feasible nor desirable. The critics, on the other hand, allege that in the name of peaceful management of Antarctica a handful of developed and industrialized countries are engaged in Machiavellian machinations to gobble up the Antarctic mineral wealth at the cost of the underprivileged Third World. They would therefore ask:

> Why should the United Nations be excluded from involvement? ...We wish to see that the system for management of that continent is one which would be accountable to international community, which would make it possible for the relevant international agencies to be more directly involved and which would ensure that the fruits of the exploitation of its resources could be more equitably shared as the common heritage of mankind. (UN. 1985: 67-70)

The 1985 session marked the end of a dialogue that had begun

during 1983-1984 in the UN in the hope of creating better international understanding on the subject. Instead has emerged polarization of views on how to manage Antarctica despite the shared objectives of preserving it as a zone of peace, environmental protection, and international scientific co-operation in 'the best interests of all mankind'. It is obvious that the ATCPs perceive no real role for the UN except as a forum for international exchange of views, or an occasional dialogue, and that too strictly within the parameters of the ATS.

CRAMRA was bound to reactivate the otherwise dwindling attack on the alleged exclusivity of the ATS, now additionally sustained by the escalating pressures exerted by the NGOs upon the ATCPs regarding environmental protection of the Antarctic in general and the minerals regime in particular. CRAMRA was being perceived by many among the critics as a serious threat to the polar environment, quite in line with the NGOs support for declaring Antarctica a 'world park' with a total ban on mining. Antigua and Barbuda would not 'accept the right of a small group of countries to arrogate to themselves the exploitation, and probably the devastation, of a continent' (UN. 1988: 11).

It was becoming quite obvious by the end of 1980s that the demand for an alternate regime to the ATS, the possible framework for which was never even outlined, was as much a geopolitical move to acquire the capability to share the decision-making over Antarctica and the utilization of its resources as it was a strategy to deny those in the ATS to make good of their privileged position in this regard. No wonder then that well up to the point when the greening of Antarctic geopolitics caused serious fissures within the ATS and eventually led to the abandonment of CRAMRA, the critics talked more about the minerals than about the environment, and the vocabulary of criticism was applied accordingly.

Owing to the much enhanced visibility of Antarctica in the global environmental context on the one hand, and the breakdown of consensus within the ATS over the adoption of CRAMRA on the other, the context for applying the CHM principle to Antarctica by the anti-ATS lobby in the UN, now stands transformed from having been resource-driven all these years to loudly environment-oriented. The ATS, nevertheless, continues to be under attack.

For example, during the 1990 round, the conservationist emphasis of the attack on the ATS was now marked by an accentuated focus on Antarctic science. Antarctic science activities were being criticized on account of rapid growth in the number of base stations, and the resulting

overcrowding, notably on King George Island. Adverse environmental impacts arose, it was alleged, from waste disposal, constructional and other activities at base, oil spills from the ships (e.g., the *Bahia Paraiso* incident of 1989), and the alleged infringement of conservation measures (UN. 1990a: 4). The overcrowding of scientific stations was linked to the need to satisfy the 'substantial research activity' required for ATCP status in article IX(2) of the Treaty. ATCPs were also being blamed for unnecessarily duplicating research, and logistical activities. Some critics alleged that a number of ATCPs were prospecting and exploring for minerals under the cover of scientific research. As the delegate from Antigua and Barbuda would allege, 'recent publications make it very clear that, for instance, the United Kingdom science programme in Antarctica has an open bias towards research related to mineral resources' (UN.1990b: 29).

Quite obviously, a shift has taken place in the strategy of the critics in that a point to point criticism of the 'legitimacy' and 'effectiveness' of the ATS is now to be cemented by a direct action on Antarctica itself by setting up a UN-sponsored station. That the move was politically motivated was beyond doubt, even though not surprising. An obvious geopolitical implication of having a UN-sponsored 'international base' on Antarctica from the point of view of the ATCPs is that it would in a way symbolize the contention of the critics that ATS is not 'international' and that there is a dichotomy between the ATS and the international community at large. They therefore remain strongly opposed to the whole idea, pointing to the UN's scarce resources, the Antarctic research data already being made publicly available to the UN, and the existing framework of co-operative relations with the UN specialized agencies. They find it hard to see any scientific merit in a proposal perceived by them as having an underlying 'political purpose' (UN. 1990c: 12).

A majority of the ATCPs has always perceived a threat to the legitimacy and functioning of the Treaty system from the CHM principle. Both the claimants and the non-claimants in the ATS remain convinced that any attempt to bring the south polar region within the scope of the UNCLOS III would raise questions for which there are simply no answers available. The claimants perceive in that principle an outright rejection of their claims, and not without reason.

The linkages as well as contradictions between economic growth and the imperatives of environmental conservation, sometimes so casually covered under the term 'sustainable development', are being reflected

in the UN debate on Antarctica as well. Should Antarctica be mined if the fast depleting marine and mineral resources elsewhere on the planet so demand, or should it be preserved as a natural-scientific laboratory? Those supporting CRAMRA in the ATS—as we observed, not all in the ATS eventually supported the mineral convention— interpreted it in such a way as to demonstrate that 'sustainability' in the context of resource development-environmental conservation interface was desirable as well as practical only by way of putting CRAMRA in place and force. The majority outside the ATS does not agree, also for the reason of their perception that sustainability, however defined, must be matched by considerations related to 'equity'. In other words, who decides as to who gets what, when, where and how from the various uses of Antarctica, especially the resource-related ones? Whereas the Antarctic Treaty Parties underline the need for an expert handling of Antarctica and its affairs, and would insist upon the openness, fairness and capability of the ATS to provide both 'sustainable' and 'equitable' management for the Antarctic, the critics in the UN—by and large the less developed among the developing countries, and those relatively lagging behind economically as well as technologically—would desire a system for Antarctic governance that gives them a say in decision-making.

The considerations of the *realpolitik*, nevertheless, seem to dictate that whereas the UN would continue to be used as a platform to express dissent and disagreement over various institutional and functional aspects of the ATS by its critics, the decisions that actually matter in the case of the Antarctic would continue to be taken in the ATCMs, and not in the UN. Also, given the fact that most influential of the actors of the world system are in the ATS, there is virtually no chance, at least in the foreseeable future, that any move to replace the ATS would be a success. But then, how desirable or meaningful is this deadlock over an experiment with the joint-management of a disputed sovereignty that has so far kept a huge continent insulated from international discord and conflict? The ATS is far from being perfect, and there is a lot that is valid and even constructive in the views of the 'critical lobby'. But in demanding replacement of the ATS, the critics must also carefully and realistically consider the prospect of their proposed alternative being at least as viable as, if not actually superior to, the ATS; and one which would include, of course, a mechanism that provides for 'freeze' of claims and counter-claims of sovereignty over Antarctica as well as the 'rights' asserted thereon.

Changing Directions In Antarctic Science-Politics Interface

Science in general has never been apolitical, and the same can be said of the Antarctic science. This is not to suggest that science done in the Antarctic has not been motivated by human curiosity, or what may be called the basic research considerations. The contributions of the Antarctic science community to enriching human knowledge about the mysteries of the inhospitable south polar region are universally praised and acknowledged. And yet it is difficult to overlook the fact that Antarctic science has often been driven by non-scientific factors, perceptions and motivations. Consequently, the basic research motives are occasionally tempered with commercial, political, and, of late, environmental motives—the so called external factors.

Antarctic scientific research, spurred by the IGY and institutionalized under the Treaty, remained until the last decade or so largely confined to local or regional phenomena. At the close of the century, however, that very science is becoming increasingly sophisticated technologically, entails coordinated study and interaction among a variety of scientific disciplines, and is more and more integrated with investigations of global scientific phenomena. Moreover, since the mid-1970s, growing international political awareness of Antarctica's role in global environmental processes has highlighted the bearing of this research on conservation related issues.

As Antarctic science steadily becomes more inter-disciplinary, highly sophisticated, and quite global in scope, unfamiliar intricacies, unwelcome tensions and troubles in its management are likely to surface. Conducting sophisticated science today is a costly affair; its results are long-term and productivity characterized by low visibility, if that. Only a very select class of countries can afford to indulge in it, especially when for obvious reasons budgetary allocations for Antarctic research have even been lowered. This high-tech research is, accordingly, getting beyond the reach of all but a handful of countries. Not only the aircraft and shipping costs that have traditionally consumed a disproportionately high percentage of Antarctic science programme funds, but also the application of state-of-the art satellite and computer technologies are likely to add to the cost of Antarctic infrastructure, equipment and logistics. The impact of these rising costs is multiple.

Multinational projects are likely to be affected as the shrinking budgets would compel the States to reserve available slots for their own respective nationals. And yet, conversely, it might also happen that some

countries are obliged to operate their facilities at less than full capacity, opening new opportunities for participation by foreign nationals. The third adverse impact of rising costs of Antarctic science would be—and it has already started showing—on the States trying to establish their credentials and qualifications for consultative status in the ATS. Both the quality of science and environment are also bound to suffer as the new aspirants inevitably tend to focus more on the easily accessible coastal regions of Antarctica for setting up scientific stations. This has already led to concentration of such stations in select areas that in turn diminish scientific returns, duplicate scientific research and cause adverse environmental effects arising from their cumulative impact. And this situation has little prospect of being corrected or reversed unless certain immediate steps are taken both at the individual governmental level and by the ATS.

This has also led some to argue that the criterion of acquiring consultative status in the ATS needs to be reviewed (Pannatier, 1994). The interpretation of 'substantial scientific research activity' it has also been pointed out needs to be critically re-examined and imaginatively reformulated taking into account new directions in Antarctic science that would enable a country to undertake substantial research activity, or to substantially add to the pool of Antarctic scientific knowledge, through satellite programmes or ship-based activities or multinational collaborative projects, without the need to set up a base on Antarctica. In view of the fact that science ceases to be the only reason for the States to express or demonstrate interest in the Antarctic, or both, with the commercial fishing in the Antarctic waters already under way and with the practically simultaneous onset of tourism, the ATCPs will have to consider, perhaps sooner than later, whether science-based criterion can hold for long as the only legitimate criterion to share in the Antarctic decision-making.

The tenor of scientific collaboration in the Antarctic is likely to be set by those nations, which possess major logistics capabilities (Drewry, 1993). The high costs of logistics and station facilities are increasingly out of the reach of most countries today. The political implications of this are not hard to work out. An increasing interest in the Antarctic may not quite match the ability of the states to operate there. If countries guided by political rather than scientific objectives employ inadequate, inefficient logistics, or lack in sufficient experience and capability to carry out science programme in Antarctica, science will automatically become increasingly politicized, thereby enhancing the political role of

Antarctic logistics and political significance of coordinating logistics.

The Antarctic science is also profoundly impacted by the changing geopolitical setting of the Antarctic that in itself stands transformed due to the ongoing debate—both within and outside the ATS—over resource management vis a vis environmental conservation, the Law of the Sea negotiations, and the emergence of new actors on the Antarctic scene, including the environmentalist interest groups and tourism related organizations. The collapse of the Soviet Union too has deeply affected the scale and intensity of Antarctic science.

Antarctic Secretariat In Search Of A Location

In the light of the Protocol and prohibition imposed by it on all mineral activities for at least 55 years, the attention is now sharply focused on here and now in matters Antarctic. Does the Treaty need a secretariat, if only to handle the flow of information between member states and the planning and recording of ATCMs? For scientific activities the SCAR Secretariat performs the appropriate role, but the activities of the ATS go way far beyond collaborative research. What more is needed? Where should it be situated?

Whereas of late there has been a widespread support among the ATCPs for the establishment of a small, modern, cost-effective Secretariat, responsible to and under the authority of the ATCMs, to support and sustain the operation of the ATCM mechanism in view of expanding agenda of the ATS and the Committee for Environmental Protection in performing its functions, differences can be located on a number of substantive issues. As to the costs of the Secretariat, those in favour of having it agreed that these should be kept at the minimum. Some of the ATPs have favoured a division weighted on some basis, while others have argued for an equal division of costs. And then, there are those who argue that all or part of the costs of holding ATCMs should be included. More complex differences perhaps related to the question of location of the proposed secretariat. Argentina has long been insistent on having it in Buenos Aires, in a sharp contrast to the demand of some in the ATS, including Peru, that it must not be located in the 'claimant states'.

Summary And Conclusions

So far so good then for this experiment in the Antarctic geopolitics of peace. The international system has always been described by Doctrinal

Realists and the old geopolitics, in its condition of 'anarchy', as one in which the threat and use of force is inevitable. The state system is believed intrinsically to be a 'war system'. The Antarctic experiment in the joint governance of a disputed territory stands out in support of the reality that 'even though the contemporary world remains a long way from having 'peace system', even if there is a long way to go, before such oases of stable peace [Antarctic being one] spread to create a wider peacefulness, it is still too soon to declare that the state system is immutably a war system' (Booth, 1991: 337).

At the same time what emerges from this paper is that it has neither been a straight forward nor a problem-free passage to peace and co-operation in the Antarctic. It is equally obvious that more than one factor have contributed to the political success of the ATS. Moreover, political success in governance, although a vital prerequisite, does not necessarily guarantee that the ATS is going to be equally successful in managing increasingly diverse, in some cases even conflicting, uses of Antarctica (Chaturvedi, 1996: 203). The emergence of environmental issues also raises a number of pressing, but essentially familiar questions for the Antarctic geopolitics of peace, of which three are essentially important. First, in what ways do environmental issues affect the distribution of power and give rise to new patterns of alignments and antagonism among the Antarctic Treaty Parties? Second, to what an extent have environmental concerns rekindled a structural conflict between rich and poor countries, between 'North' and 'South' within the ATS? And third, how does the ATS and the related existing mechanisms facilitate or hinder the identification and management of environmental problems?

Even though geography continues to pose enormous challenges of operating in a harsh environment, the advances of science and communications have opened up Antarctica today so that it can no longer be regarded as unrelated to the rest of the world. The transformation of the Antarctic space into *territory* during the course of the present century both by the claimant states and by the Antarctic Treaty System has essentially been conservative in its territorial conception (Dodds, 1997; Manzoni and Pagnini, 1996). Little surprise therefore that the most significant element of continuity in Antarctic geopolitics relates to the array of territorial claims on the continent which, despite Article IV of the Antarctic Treaty, seems to have acquired new dimensions of complexity and contestation (Chaturvedi, 1996).

Whereas the ATCPs have been able to cope up with the enormous

pressures that erosion of geopolitical isolation has brought to bear on them, especially on the floor on the UN, they have barely survived the crisis of consensus within the ATS on the minerals issue. The stress and strain this has caused to the 'internal accommodation' efforts among the ATCPs does indicate that it is relatively easier to co-operate in the realm of science. But at the same time, the manner in which CRAMRA was negotiated, difficult accommodations arrived at, and consensus was lost and restored shows that if political will and political commitment are present then it is well within the realm of possibility to negotiate and conclude an agreement on the issue of Antarctic minerals resource development. Having said that, whether similar kind of agreement will be possible further down the road, in the *interests of all mankind*, is difficult to say.

What appears to have brought the ATS back on the rails, after consensus was lost over CRAMRA, then, is not merely the Pandora box vision shared by all the ATCPs but also the continuing consensus among the ATCPs that there are no viable alternatives to this system of functional co-operation, that has gone far beyond the initial Cold War context and considerations of the Treaty. All seem to agree at the same time that the benefits of maintaining the ATS far outweigh the costs of agreeing to disagree on who owns the Antarctic and its resources, even it means injecting a few more intentional ambiguities to the system.

With the aid and assistance of the ATS as a conflict avoiding mechanism, the ATCPs have over the years successfully negotiated and adopted *by consensus* a variety of international instruments to regulate activity in the Antarctic. These instruments have been developed by a strategy of addressing matters before they assumed the shape and proportion of problems to threaten the prospect of consensus. To stay ahead of the possible contestations thus seems to have become a guiding principle for the ATCPs in tackling new issues and problem areas. Inspite of the adoption of a comprehensive agreement on environmental protection, it can not be concluded that a paradigm shift has occurred in the Antarctic regime. The future of the protocol, therefore, is still speculative (Elliott, 1994; Puri, 1997). Moreover, at a fundamental level, 'only a generalized political and ethical arrangement, of innovative, or even revolutionary conception and adopted by the entire international community, could halt the expansion of the human presence in Antarctica and achieve the integral conservation of its natural environment' (Manzoni and Pagnini, 1996: 363).

It has been observed that 'regimes institutionalize and constrain

international behaviour; they therefore direct behaviour away from the narrow self-interest of 'state of nature' into paths of order and ultimately community' (Booth, 1991: 346). Where does the ATS stand today in this regard? Whereas some might still question the state and status of the ATCPs as a community within the ATS, the success of latter in directing the behaviour of its participating members away from the Cold War geopolitics into a path of peaceful productive geopolitics (see Parker, 1991) is hard to dismiss. The co-operation so far realized within the ATS has gone far beyond co-operation arising solely out of self-interest. Once again, this is not to deny the persisting resilience of the problematic of territorial claims, and the role played by the aggressive South American variety of geopolitics until recently in this regard (see Dodds, 1993), but to highlight the infusion that seems to have taken place between this kind of behaviour and the principles and norms of the ATS.

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