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Antarctica's Treaty and its Future

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ABSTRACT

A vast continent named Antarctic, encircles the South Pole with eternal ice and snow. Surrounded by ice floe, stormy seas and atrocious climate. The great altitude of this continent freezes the air to extremes, and its subsiding to ocean level through a moving ice sheet is known to give rise to the world's strongest winds. Only 0.4% of this continent is ice-free, allowing a small footing for hardy animals and plants.

The uncovering and exploration of Antarctica were modelled by its remoteness and its bleak environment. Seclusion and Insulation control and dominate all those who visit. This reason amalgamation kept humans away for centuries. Keeping in mind the historic terms, the land exploration of Antarctica is contemporary, with a large portion of it being achieved during the 20th century. The better innovation, information and knowledge through these past years have provided more prominent access to the mainland, empowering extensive analysis and research, and the continuous control of the Antarctic by methodical and knowledge-based stations. In the middle of the century, stations were laid out and arrangements and plans were in progress for the International Geophysical Year (IGY) in 1957-1958, the first important and significant multi-country research program in Antarctica.

Also, during that time, regional positions had likewise been affirmed, however, disagreed and not concurred, making pressure that compromised the forthcoming and future scientific cooperation in the continent. This paper also highlights how the treaty has expanded over the years and the challenges and impediments faced by various states across the globe. This research paper also goes into studying that as mineral reserves and fisheries are getting depleted or exhausted elsewhere and the number of travelers and tourists keep on raising will the Antarctic Treaty and other conventions and Protocols at any point be amended or even set aside to accommodate advancements on the rearmost frontier.

Keywords: *Antartica, Treaty, Enviornment, Preservation, Scientific Committee, Future.*

I. INTRODUCTION

The Antarctic Treaty of 1959

The United State in 1959 welcomed eleven different states to a meeting in Washington to draft a treaty and furthermore, sign a settlement covering the tranquil uses of Antarctica. It emerged out of more than 10 years of strategic endeavours to diffuse the competitions and sabre-rattling

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or demoralization that had gone on in the locale since the finish of World War II in addition out of a longing to exploit the scientific collaboration of the International Geophysical Year (IGY).²

Toward the end of the meeting, the Antarctic Treaty of 1959 was signed by the states and this understanding structures the underpinning of the Antarctic Agreement Framework.

The absolute most significant issue that the arrangement marks is that of territorial autonomy in Antarctica, the same is mentioned in Article IV. Seven states in the treaty amongst the twelve signatories have been and still make claims of territorial supremacy over parts of Antarctica. With the matter of sovereignty set to the side, articles provided in the treaty tended to the utilization of Antarctica for tranquil purposes only. The treaty also provided for acting for the greater good of humanity.³

II. PRESERVATION AND THE ADVANCEMENT OF THE TREATY FRAMEWORK

In ancient time in Canberra, 1961 and going on more or less semi-annually. The committee which consisted of Antarctic Settlement Consultative States used to meet to examine matters of normal or prevailing interests.

Protection and ecological safeguards generally take a secondary seat when it comes to economic development. In a place like Antarctica where preservation and conversation used to always be on head start. Traditionally, science used to be Antarctica's fundamental industry. Monitoring of normal peculiarities expects that nature be generally undisturbed, and thus, the biggest entryway in Antarctica's strategy legislative issues, the research scholars, who has an interest in preservation, protection and conservation through planned management. The Treaty consists of the recommendations, actions, final resolution and decisions of the consultative conferences.⁴

III. THE PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY (ALSO KNOWN AS THE MADRID PROTOCOL), 1991⁵

It systematizes and develop a scope before arrangements connecting with conservation of the Antarctic climate. Parties in the concerned protocol focus on safeguarding the climate of the Antarctic and reliant and related biological systems surrounding it. The protocol disallows mining endlessly. It also establishes a committee for environmental protection, to foster guidance and figure out proposals to the Antarctic Treaty on execution of the Environmental

² BAS Team, *British Antarctic Survey*, Natural Environment Research Council, available at-<https://www.bas.ac.uk/about/antarctica/the-antarctic-treaty/the-antarctic-treaty-explained/>

³ *Id.*

⁴ Jeffrey D. Myhre, *Exploiting Antarctica's Minerals: The Treaty System Completed*, Harvard International Review, Vol. 11, No. 4 (Summer 1989), pg. 42-43, 46, available at- <https://www.jstor.org/stable/42760127>

⁵ The Protocol on Environmental Protection to the Antarctic Treaty, 1991.

Protocol. Also, requires the advancement of alternate courses of action to answer ecological crises which might happen.⁶

IV. CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES

The main idea behind this is to protect the aquatic life. This convention does not eliminate harvesting as long as it is executed in a rational and reasoned manner. To protect, preserve and manage the aquatic life in Southern Ocean of Antarctic the convention has set up a Scientific Committee and Commission.

This committee and commission have become a pioneer in formation of what is known now as 'ecosystem approach' for the management of marine life. It has also aided in providing a general framework for marine protected areas and through scientific evidence finding out the areas which need additional protection. Marine protected areas are defined areas where marine species and ecosystem are safeguard and protected from certain activities.

V. IN THE CURRENT TIMES IS THE TREATY STILL FIT FOR THE PURPOSE?

Thus, Antarctic as a place for harmony and science is purely a romantic idea and is non-viable and improbable in contemporary times.

Antarctic has been in so many ways exceptional space of operation which was difficult to access in 1950s and out of the ordinary as highlighted above and has been an exception in the global governance.

*"Turning back the pages of history we find that there was indeed a time when Antarctica was the scene of bitter international conflict, disputes and claims . . . the conclusion of the Antarctic Treaty was an important and effective means of preventing disputes, friction and conflict among States . . . its effectiveness and practicality have been verified and proved by its history of almost a quarter of a century"*⁷

Antarctica's Treaty has been a remarkable one and it is worth noting that the treaty has always been inspiring as it not only bears with the test of time it also encouraged other continents and countries to take important and relevant things from the treaty and apply it to a different place. For instance, the Treaty of 1959 accepted Antarctica and its encircled sea to be at liberty and restricted from military activity particularly nuclear testing in its surrounding. These rules were

⁶ Department of Climate Change, Energy, the Environment and Water, Australian Antarctic Division available at- <https://www.antarctica.gov.au/about-antarctica/law-and-treaty/the-madrid-protocol/>

⁷ UN General Assembly, A/C 1/40/PV 49, pg.6, 26 November 1985.

later enforced in outer space in context of demobilization of military also nuclear free zone or the idea to denuclearize implemented by various states in the world. Also, it takes into account not only for what it allows but the limitations and constrictions that the countries to the treaty have to follow. The treaty cherished the object of consensus.

But the system of treaty does not dissolve all the impediments and challenges likewise Antarctica treaty also faced these gray areas. Over the years the membership system has expanded the number of parties or the signatories have escalated to 55 out of which 29 have consultative powers⁸, matters have been more complex and complicated. The most testing area for Antarctic government recently has been over the tension of whaling and fishing basically the exploration of marine life where a group of countries are inclined to fishing and exploitation on the other hand, other group of countries who are more willing to conserve and protect the marine ecosystem majorly in Southern Ocean.

Antarctica is not isolated and confined anymore which will make it accessible to international scrutiny. When it comes to geopolitics, we have to take earnestly how issues of access control, supervision and usage shape both present and future of this continent. Territorial claims over Antarctic never went away be it for scientific purpose or for national reputation and status. Country like China has repeatedly made it direct that it intends to be a considerable player in future in Antarctic's Governance since it has an eminent polar power in the continent. The treaty sort off balance right to exploit with the need to conserve.⁹

The marine protected areas are proving tough to get consent from various countries and still it's unclear that whether these future protected areas will get consensus from the other parties or not therefore, determining to be a worrisome aspect. It is a way of postponing, stopping and deteriorating trust. Its actually important to be honest and open about the issues rather that resolving matters quietly in the denomination of consensus. Nonetheless, in spite of preservation measures, illegal, unregulated and unreported (IUU) fishing still takes place which takes to undermine the conservation endeavours.¹⁰

Also, it is to be noted that bioprospecting is prevalent in Antarctica and there are chances that this exercise will increment later on in the future. The Antarctic Treaty doesn't as of now has official or separate principles and regulations for directing access and interest sharing emerging

⁸ José Luis Agraz and Pablo Wainschenker, *The Secretariat of the Antarctic Treaty* (2022), available at-<https://www.ats.aq/e/secretariat.html>

⁹ Beth C. Marks and James N. Barnes, *The Future of Antarctica Under the Environmental Protocol*, *The Journal of Environment & Development*, Vol. 2, No. 2 (Summer 1993), pg. 169-174.

¹⁰ Denzil G.M. Miller, Natasha Slicer and Eugene N. Sabourenkov, *IUU Fishing In Antarctic Waters: CCAMLR Actions And Regulations*, pg. 175 to 180, available at- <https://doi.org/10.1163/ej.9789004180406.i-610.53>

from bioprospecting. The Protocol of 1991 does include the conservation of widely varied vegetation like flora and fauna and preservation of the surrounding environment in Antarctica. Researchers and preservationists have cautioned that a climb in the worldwide temperature has prompted the melting of the huge Antarctic's Peninsula, causing harm to the mainland's ice sheet. An examination by satellite in 2018 uncovered that Antarctica lost 3 trillion tons of ice somewhere in the range of 1992 and 2017.¹¹ Moreover, the Special Report of the Intergovernmental Panel on Climate Change expressed that a 1.5°C expansion in worldwide temperatures would prompt marine ice sheet instability and could result in a multi-meter ascend in ocean level. It has additionally affected and hampered the mainland's species populaces.¹² The hurdles and threats to the Antarctic Treaty System has instituted an element of unpredictability, instability and vulnerability to international politics in Antarctica.

¹¹ Shepherd, Andrew & Ivins, Erik & Rignot, E. & Smith, Ben & Van den Broeke, Michiel & Whitehouse, *Mass Balance of the Antarctic Ice Sheet from 1992 to 2017*, AnAlysis (2018).

¹² Clare Nullis, *IPCC issues Special Report on Global Warming of 1.5 °C*, Vol 67 (2), (2018).