

*Describe a major lesson that has arisen from the last 50 years of Antarctic Treaty System policymaking and explain how it could be applied to another global or international commons of your choice.*

How the strong scientific focus and organisation of the Antarctic Treaty System and related instrument has overcome international politics and how this framework can be applied to fisheries on the high-sea commons.

The Antarctic Treaty System (ATS) has created policies that have largely transcended political differences. The Antarctic region has remained an area reserved chiefly for scientific study, and nations have worked in relative harmony to achieve this. The values embodied in the System have given rise to policies with a strong scientific base. This paper will discuss the ATS-born Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) and how its strong independent scientific-based policies, and the diplomatic harmony this encourages, may be applied in a similar fashion to the high-seas for greater control over fishing in international waters.

### **The science-based policies of the ATS and CCAMLR**

The political will to govern a peaceful commons is made clear in the words of the Antarctic Treaty. However, without the strong science-based policies of the treaty system, this perceived political will would possibly be only rhetoric. The interaction between scientific research and the policy decisions made by the ATS strengthen the legitimacy of the policies in the international arena. An example of such policy-instruments can be seen in the evolution of the CCAMLR treaty.

CCAMLR emerged from Article IX of the Antarctic Treaty in 1982, as a response to the concerns regarding the uncontrolled fishing of krill in the Southern Ocean. Controlling fisheries in what was seen by most as a commons attached to the continent of Antarctica presented a challenge to the politicking nations. Using the 'ecosystem' approach, which is a whole of environment protection policy; members control their fisheries in the area. Using the Treaty mechanisms of observation, inspection and constant rationalisation, CCAMLR has so far been mostly successful in member actions in the area below the Antarctic convergence zone. Scientific research governs the central catch documentation scheme (CDS), which is constantly revised according to stock levels.

The strength of science being the centrepiece of policy decisions and governance has been a valuable lesson learned from the last fifty years of the ATS. Science has so far transcended political agendas in Antarctica, unlike what, controversially, appears to be the case in climate change policies. However, this strong science-based policy is not infallible. Illegal, unreported and unregulated fishing is viewed as one of the largest problems in the Antarctic region. Flag of convenience fishing vessels work outside the CCAMLR and ATS policies, and treat the region like the relatively ungoverned high seas.

### **The application of strong science-based policies to the high seas**

The mechanisms used in the ATS, and in CCAMLR, are recognised as being strong international instruments to prevent environmental destruction in the global commons. However, this does not extend to the non-member states in the high seas areas of the CCAMLR region. The question is whether the instruments that have guarded the Antarctic continent against large-scale environmental damage can be extended to high-seas areas of both the CCAMLR area and beyond. Science has strengthened the policies of the ATS thus far, but can the treaty ideals be adopted by non-member states that do not recognise policy instruments? Independence of scientific research and advice, stock management which favours no region or state over another, and mechanisms of clear and frank explanation, observation, inspection and revision can all be transcribed from ATS and CCAMLR policies into an international regime covering the heavily exploited high seas.

#### *Independence of science*

The ATS system uses the Scientific Committee on Antarctic Research (SCAR) to develop policies

independent of possible member-state bias. States that facilitate flags of convenience may be suspicious of research from wealthier states, and the independence of a SCAR-like instrument could encourage their interest in the management of the high-seas fisheries. While funded by memberstates, a science-based organisation such as SCAR could still be viewed with some suspicion. But with other mechanisms such as transparency of data sources and mutual explanation, observation, inspection and revision, perhaps some of this suspicion could be allayed.

#### *Non-biased quotas*

A system like CCAMLR which favours no particular member over another in terms of quota allowances may also encourage traditionally non-member states to become signatories. Sound stock management stems from sound scientific advice, and through the independence of the overriding scientific body, states may be assured of equality. While admittedly an enormous task of diplomacy and transparency, areas would be governed by all those using the region as fisheries grounds, much like member-states govern the Antarctic continent. Vessel identification numbers and member-state surveillance may provide incentives and regulation, much like CCAMLR-licensed vessels in the Southern Ocean.

#### *Explanation, observation, inspection and revision*

In an international high seas regime, members could apply the clear boundaries, observation rights, inspection right and annual revision of stock numbers that are successfully used with the CCAMLR members. This may assure the less politically strong members of true transparency and openness. The ATS fosters an open operations culture, which enables members to ensure other members are following the policy instruments satisfactorily. While initially political in nature, this relationship with other countries may lead to greater transparency, better practices (such as seabird deterrents and less by-catch) and mutual education. Problems could be mediated through another independent body, such as the International Courts of Justice as it is used by the ATS.

While the scope of high-seas fisheries governance is admittedly enormous, more localised regional instruments such as CCAMLR may be created for parts of the high-seas, especially for those currently heavily fished. Instruments currently govern marine pollution, collision regulations, and there are regional agreements afoot that govern fisheries in common areas. However, a larger-scoped instrument with more members and bodies that are deemed independent of political agendas, such as SCAR, may have more success in reigning in flag of convenience nations and nations usually left out of international regime governance. Inclusion, independent advice and transparency are important to nation-states, and currently the ATS and CCAMLR embody these values. During the next fifty years, while the world is facing climate and economic crises, broader and inclusive instruments such as these are needed to ensure the environmental and economic futures of all nation-states.

#### *References :*

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- Convention for the Conservation of Antarctic Marine Living Resources: <http://www.ccamlr.org/>
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- Scientific Committee for Antarctic Research: <http://www.scar.org/treaty/>