

Lessons Learned from Antarctica and the Antarctic Treaty System

Michele Zebich-Knos, Ph.D.
International Policy Management Program
Kennesaw State University
Kennesaw, Georgia 30144 USA

- Defining the policy challenge:
- Can the Antarctic Treaty System (ATS) framework serve as a model for the Arctic? Or, is the UN Convention on Law of the Seas a more realistic starting point for international cooperation in the Arctic?
- Theoretical Framework: A Precautionary Approach – Should we take steps to create an Arctic regime before something happens and conflicts arise? Didn’t concern over the Cold War nuclear issue also contribute to ATS formation?
- Media obstacles: Arctic issues exist in a thicket of political activity while Antarctica is largely out of political range for the average American, Canadian, Russian or Norwegian – or just about anyone else for that matter. It’s easy to progress when few are watching (Antarctica), but harder when you reside in an Arctic border state (Canada, United States, Russia, etc.).
- Basics to consider in
- Climate Change: more pronounced in the Arctic.
- Geography: Antarctica is a continent, the Arctic is not.



1

Sovereignty and Jurisdiction

- “Antarctica has effectively been subject to international control under a regime which places strict limitations on the exercise of national sovereignty and jurisdiction,” writes Donald Rothwell.

Source: Donald R. Rothwell, “Polar Environmental Protection and International Law: The 1991 Antarctic Protocol,” *Environmental Journal of International Law* 11 no. 3 (2000), 591-614.



- Claims
- Mineral Resources
 - Conservation
 - Militarization
 - Sea Lanes

2

Policy Recommendations

- Be Creative and Borrow Participatory and Other Useful Schemes from ATS:
 - One useful example is the participation scheme in policy making meetings of the Antarctic Treaty Consultative Parties (ATCP). Following the Antarctic Treaty System
 - According to Art. IX.2, they [34 ratifying countries] are entitled to participate in the Consultative Meetings during such times as they demonstrate their interest in Antarctica by “conducting substantial research activity there.” Sixteen of the acceding countries have had their activities in Antarctica recognized according to this provision, and consequently there are now twenty-eight Consultative Parties in all. The other eighteen Non-Consultative Parties are invited to attend the Consultative Meetings but do not participate in the decision-making.

See: Antarctic Treaty Secretariat, “Parties,” <http://www.ats.aq/devAS/ats_parties.aspx?lang=e>, (January 31, 2009).

3

Begin with the Less Controversial and Find Common Themes like Environmental Preservation

- Borrow from Annex V of the Madrid Protocol, to create Specially Protected Areas (SPAs) or Specially Managed Areas (SMAs) in the Arctic.

SPAs versus SMAs: SPAs are intended to protect land-based or marine areas that hold environmental, scientific, historic, esthetic or wilderness value and must be kept free from human interference. Entry into SPAs is prohibited without a special permit granted by one’s country of origin. SMAs also more loosely defined as areas where “activities are being conducted or may in the future be conducted. . . to assist in the planning and coordination of activities, avoid possible conflicts, improve cooperation between Parties or minimize environmental impacts.”

Source: United Nations. (1998), *Protocol on Environmental Protection to the Antarctic Treaty*. (Madrid Protocol). Annex V, Article 4.

Since Specially Protected Areas are created mainly for environmental conservation, they are jointly administered and represent a multiparty effort to govern together in order to protect and preserve. SPAs are found within claimant areas, yet claimant states abide by the process. It is possible to one day imagine a SPA on what might become Canada or Russia’s extended continental shelf. There is no reason why such Antarctic procedures cannot be adopted to parts of the Arctic seas that merit such protection.

4



- Conclusions:

The UN Convention on Law of the Seas (UNCLOS) versus an Arctic Treaty?

Hans Corell, former Swedish ambassador to the United Nations noted at the Arctic Frontiers Conference (January 2009) that “When the U.S. ratifies the Law of the Sea we have a perfect tool to manage the countries’ claims in the Arctic Sea.” Let’s rephrase this to read: *UNCLOS will provide one useful tool among several with which to manage Arctic claims.*

Source: Jesper Hanson, “An Arctic Meeting Point,” January 22, 2009, <http://arctic-council.org/article/2009/1/an_arctic_meeting_point> (January 31, 2009).

Borgerson reminds us that increased access to mineral resources within an area devoid of a formal legal regime could result in “an armed mad dash for its resources.” Unlike Antarctica, immediacy is the main issue in the Arctic today, and all states actively involved in the Arctic must work together to create a regime with teeth so that the consequences of climate change and rapid ice cap loss do not precipitate greater insecurity and potential harm to the polar environment.

Scott G. Borgerson, “Arctic Meltdown: The Economic and Security Implications of Global Warming,” *Foreign Affairs*, 87(2), Mar/Apr 2008, 63.
- Photo Credits: All photos in this presentation were taken on or around the Antarctic Peninsula by Michele Zebich-Knos.

5