



AUSTRALIAN INSTITUTE OF INTERNATIONAL AFFAIRS

NATIONAL PRESIDENT'S FORUM:

“AUSTRALIA AND ANTARCTICA – NATIONAL AND INTERNATIONAL INTEREST”

RAPPORTEUR'S REPORT

The AIIA National President's Forum on “Australia and Antarctica – National and International Interest” took place at Parliament House, Hobart on 23 October 2009. The Forum brought together experts from government, international organisations, academia and the media to discuss Australia's role and interest in Antarctica and make recommendations for policy makers.

Session 1: The Antarctic Treaty System

Retiring Executive Secretary of the Antarctic Treaty Secretariat Jan Huber's opening remarks were brief and carefully worded, but they provoked vigorous discussion. Although the Antarctic Treaty System ('ATS') could be rated a success, he cautioned against excessive self-congratulation. Over the past twenty years, the ATS parties had developed a good regulatory system, but that system was now barely able to cope with emerging problems. The volume of activities in the Antarctic is increasing, in some categories such as tourism quite rapidly, but the system of governance has not reflected that. The ATS was essentially a forum for diplomatic negotiations rather than for effective management. Change was needed. In particular, some treaty states were not allocating enough human resources and there was insufficient exchange of information between or among parties. He was not advocating the granting of new legal powers to the Antarctic Treaty Consultative Meeting ('ATCM') but changes to practice and attitudes. The chief weakness was the absence of guidance to the secretariat between meetings. In reality, he said, the ATCM exists for only two weeks a year,

the duration of its annual meeting, but it should be possible for the parties to establish coordination and information exchange arrangements to carry them through the rest of the year.

The moderator, Sir Guy Green, asked whether Australia itself was devoting enough resources to the ATS and suggested that there might now be a need for the creation of a new entity, a treaty commission. He was not advocating a revision of the treaty proper, just a simple three clause declaration by the consultative parties—establishing a commission, identifying its membership, and listing its functions and status. He also noted that over 80% of the world's population were now represented by the ATS parties.

Acknowledging that the ATS had survived for forty-five years without a secretariat, one participant emphasised that the agenda of ATCM meetings addressed a mixture of philosophical and political issues, and he doubted whether the treaty needed amendment. Another participant took up the question of non-compliance with treaty provisions. Having observed that some countries did not want much delegation to a secretariat, he suggested increased delegation of authority to the ATCM chair between meetings. He also cautioned against pushing for revision of the treaty, since it would open up discussion of Article 4. That view seemed to receive general support, one participant noting that the process of review and amendment of annexe 2 of the Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol) took seven years.

The fundamental question was then raised as to whether the treaty system had been worth the effort and expense. What would the consequences have been if the claimant states had simply acted on their claims? Although not everybody responded to this question there appeared to be a consensus that the ATS had been a worthwhile achievement. In particular it had been possible to develop Antarctica as a continent of peace, science and environmental protection and that during the Cold War even the USSR and the US had kept the lines of communication open. Similarly during the Falklands war, the United Kingdom and Argentina continued to cooperate on Antarctic matters.

Attention was drawn to the fact that the treaty system now extends into the sub-Antarctic, wherein some of the islands indisputably belonged to sovereign states. The question was raised as to whether there was much continuing opposition to the ATCM; experienced practitioners thought not. A related question was whether any environmental groups were lobbying for a different Antarctic treaty regime. Again the answer was “no”. Some concern was expressed about the conservatism of the ATCM's operations, compared with the International Whaling Commission for example, and that there was more need for transparency. One speaker asked how we could be certain that the

continent remained a region of peace, science and environmental protection if some parties did not report regularly. The answer given was the open inspection regime, though the person who gave it emphasised that IMO and ATCM regulations on shipping were in urgent need of more consistent monitoring, especially in the light of increased tourist cruise traffic along the peninsula, which carried the risk of collisions with icebergs. A commission chairman could help ensure such monitoring. Several speakers agreed about the need to prepare for a shipping disaster and the possible application of sanctions against non-compliant parties. It was generally agreed that it would be preferable to improve discipline in this area before a case arose. The only sanction currently enforceable against an offending party was a disqualification from voting following two years of non-payment of membership dues. One person recommended the introduction of performance reviews for ATCM members; another argued that the injection of increased resources could achieve much even without expanded powers to the ATCM, or secretariat.

Session 2: Australia's Antarctic Interests

In introducing this theme Dr Anthony Bergin stated that there were five key issues central to Australia's national interest in Antarctica. The first, and most sensitive, was the sovereignty question. This was Australia's "lotto ticket" or, as another speaker commented, an "ace card". Australia's territorial claim should not be pressed too hard, nor should it be abandoned. Active, preferably well funded, participation in the ATS by Australia would continue to be of paramount importance. He noted that the AAD budget had recently been increased slightly, by \$25 million over two years.

The second issue identified was the prevention of the militarisation of Antarctica. The recent Defence White Paper contained only passing reference to our "southern flank", and Dr Bergin saw the possibility of challenges from the military use of space. Environmental protection was the third issue, and there were several dimensions to it, including climate change, shipping, air links, tourism and energy sources. Science was highlighted as the fourth issue area, with climate change again deserving high salience. It was suggested that Australian scientific activity could be identified as "a currency of influence". Economic benefits to Australia were listed as the fifth cluster of issues germane to the national interest. Krill for aquaculture, bio-prospecting and iceberg harvesting were mentioned as possible areas of development, while the impacts of expanded tourism operations were again relevant.

In moderating the discussion, Professor Gillian Triggs posed the question as to whether we might have moved too far away from assertion of sovereignty to adequately protect our national interests.

She predicted that Australian sovereignty would never be formally recognised but was convinced that we have been able to use the sovereignty issue to leverage our influence. This was a view that seemed to be widely shared by participants.

The relevance of the sub-Antarctic to our economic interests was emphasised by several participants, with recent mapping of Australia's continental shelf having revived sensitivities about its basic territorial claim. Another speaker noted that Australia's marine research in the sub-Antarctic was still underdeveloped. Another predicted that China would become more interested in resource development in the sub-Antarctic. Attention was drawn to the difficulty in engaging a "whole of government" focus in considering Australia's Antarctic interests. Should the AAT be shown on Australian maps, for example, as Chilean and Argentine territorial claims are on their respective national maps? More than one speaker lamented that scenarios for Antarctica's future beyond 2020 are not considered. One discussant also felt that DFAT should allocate more staff to Antarctic affairs, but another argued that DFAT can and does utilise a number of staff, with several likely to be addressing Antarctic issues at any one time. It was remarked, however, that there could be loss of corporate memory and continuity of focus from regular staff movement within DFAT.

The importance of Australian scientific research was emphasised, and one speaker observed that the AAD was the only institution in Australia still free to pursue untrammelled research. It was acknowledged that Australia applies the Madrid Protocol everywhere below 60 degrees south, while the US does not.

Australia's failure to capitalise on its tourism prospects was regretted by two speakers, and another claimed that the Australian public found it difficult to understand why government cannot enforce the protection of wildlife and the environment in Antarctica. One participant regretted that the Australian public were less well informed about Antarctic than Canadians were about the Arctic. "We don't look South enough", he claimed.

Session 3: Antarctic Controversies

In his opening comments Tim Bowden recalled that even the early explorers generated elements of controversy—concerning their ambitions, their personalities or their actual achievements. In the run-up to the 1959 treaty there was certainly a fear that the two superpowers, neither of them a claimant state, would embroil the frozen continent in Cold War controversy, and in the early 1950s three claimant states, Britain, Chile and Argentina, were already in dispute over territorial

boundaries, with considerable posturing, and in 1952 Argentine rifle fire at a British survey base site.

Bowden offered some background to the extraordinary achievement of quarantining Antarctica from Cold War controversy, noting in particular the influence of a Soviet negotiator, Andrei Ledowski, in promoting the continent as a nuclear-free zone, countering early American hopes that it be kept open for possible nuclear tests. Australian-Russian cooperation on the continent developed from 1956, when the first Russian station, Mirny, was established within the Australian sector. In inter-personal terms goodwill was apparently assisted by Dr Philip Law's "remarkable resemblance to Vladimir Ilyich Lenin".

Within the history of ANARE-sponsored polar exploration, domestic controversy was regularly centred on the re-building of continental stations—their design, the preferred construction materials—with the AAD facing huge construction difficulties by the mid-1970s. A heritage issue, the preservation of old huts, also generated some controversy within the ranks of Australian scientists and public administrators. The inclusion of a female doctor in an Antarctic expedition for the first time in 1981 also generated some tension initially, as did the first female scientist in 1983 (after her romantic involvement with a ship's officer).

Some ill-will was generated among Treaty partners by the unexpected joint decision of Australia and France to reject CRAMRA in favour of what came to be called the Madrid Protocol.

Actual or potential controversies involving the activities of Treaty partners in the current era include krill harvesting, off-shore drilling for oil, whaling, the Commission for the Conservation of Antarctic Marine Living Resources' (CCAMLR) failure to persuade all members to accept the black-listing of parties to illegal fishing, Russia's proposed drilling program into the huge sub-glacial Lake Vostok (within the AAT), the American proposal to mark a permanent overland route between McMurdo and the Pole, China's construction of a station on the highest point of the Antarctic plateau (again in the AAT), and the Indian proposal to build a station in the protected part of the Larsemann Hills, also in the AAT. Continental shelf claims under the Law of the Sea have been temporarily resolved but could be challenged. Malaysia's Antarctic presence, with scientific research and invitations to observe ATCMs, together with the conclusion of the Malaysian initiated regular UN debate on "the question of Antarctica" appear to have resolved this issue but as yet Malaysia has not acceded to the Treaty.

In moderating the discussion Associate Professor Marcus Haward posed two questions: What is a controversy in the ATS context? And how can we expect the “common heritage” concept be raised again in discussions over Antarctica?

Several of the potentially contentious issues noted in earlier sessions were re-visited. The risks posed by tourism were again highlighted. More than 100 cruise ships now visited the Antarctic peninsula annually, and it was both difficult and dangerous for passengers to disembark from the larger ships. Ships carrying more than 500 passengers were already prohibited from landing, but the question was asked as to whether planes should be allowed if ships were not. One discussant noted the irony of Australia having little tourist trade of its own while carrying a likely responsibility to help in crises caused by tourism. It was noted that the liability annex to the Treaty does cover accidents but not other disasters, though it begged the question as to who was responsible for managing “clean-ups”.

The future for scientific mining engaged several participants. As noted earlier, some scientific exploration projects presented possible risks to the environment, the Russian drilling program in Lake Vostok for example. Public concern about whaling in sub-Antarctic waters could raise the level of public interest in Antarctica itself and one participant argued for whaling to be a legitimate item for consideration within the ATS. This view was challenged by another. To bring the whaling issue to the ATS would de-stabilize the system or pollute its decision-making process. In any event, Article 6 of the Treaty would appear to eliminate the right to discuss whaling. There seemed general agreement with the proposition that there was considerable scope to emphasise Antarctica’s cultural value to the world.

Session 4: Australia’s Antarctic Future

Introducing this session Professor Don Rothwell suggested that in viewing the future a useful prism would be an international security discourse, noting that there were several dimensions of security in addition to the military. He felt that Australia had sensibly taken a fairly robust approach to Article 4 of the Treaty but that the government should probably do more to ensure protection of the Treaty itself, especially its governance mechanisms. This would require a stronger focus on the treaty from DFAT. With regard to the sovereignty issue, he identified the status of Australia’s outer continental shelf as particularly sensitive. Maritime security issues in the Southern Ocean were also likely to be salient, fisheries and shipping especially. In the environmental resources security sphere, protection of fisheries stocks in sub-Antarctica was likely to continue to attract public

interest and debate, such as the “Sea Shepherd” inquiry, and the permanence of the moratorium on mining in the continent itself needed to be safeguarded. Professor Rothwell addressed the issue of limited public interest in and awareness of Antarctic issues compared with the topicality of Arctic issues in the northern hemisphere, but noted that the Falklands war had involved the Security Council and that the “Rainbow Warrior” dispute between New Zealand and France had attracted considerable international attention. Finally, on the sub-theme of human security, he foresaw a likely greater need of consular services to persons working in or travelling to Antarctica.

In inviting discussion, the moderator, Dr Julia Jabour, posed again the fundamental question of how or whether Australia would, and should consolidate its sovereignty claims. She liked Rothwell’s reference to the history of Australian foreign policy as “dogged, low-gear idealism”. She also highlighted the connectedness of the sovereignty issue with the challenge to CCAMLR in protecting sub-Antarctic resources, noting US interest in extending ATS boundaries into the sub-Antarctic region.

Several speakers advised against pushing the Australian government to excessive activism or assertions of sovereignty, or to press for revision of the treaty itself, though there seemed to be widespread agreement that government would do well to engage in more strategic planning—in particular to plan for the unplanned—and to concentrate on maintaining good domestic governance. One participant reminded the meeting that a strategic review of Australian Antarctic policy was already under way; another warned that the International Seabed Authority would shortly have to make a huge decision with regard to the exclusive economic zone and continental shelf. Another speaker stressed the need for Australia to look for new opportunities for regional collaboration, and it was noted that the G20 states, now increasingly recognised as the key vehicle for global governance, contained thirteen members who are parties to the ATS. In the final minutes of discussion participants were again reminded that Australian voters needed to become engaged on Antarctic affairs if government itself was to become more focussed on Antarctic policy.

- Professor Emeritus Peter Boyce AO