

ANTARCTIC TREATY SYSTEM INSPECTIONS:

**Historical Significance and
Future Impact**

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Brian Shoemaker

ABSTRACT

Antarctica, because of the Antarctic Treaty, has become the only significant area on earth that is demilitarized and free from nuclear explosions. Inspection provisions of the Treaty permit any member nation to inspect all areas of Antarctica at any time to satisfy themselves that others are complying with the other provisions.

The reader is treated to a short political history of events leading up to the Antarctic Treaty Conference of 1959 and then through the negotiations focusing on the rationale behind the inspection provisions. Then an analysis of political events surrounding the implementation of inspection provisions in Antarctica is followed by an investigation of the inspection process that has developed during the last 26 years. There is an examination of other select disarmament treaties for comparison of verification provisions and an assessment of recently negotiated environmental and conservation agreements to determine what effect that they will have on the Antarctic Treaty inspection system.

The thesis is concluded on a note of both optimism and concern - optimistic in that the conduct of inspections in Antarctica, if continued in the manner that has contributed to mutual trust and understanding there, can positively influence future disarmament negotiations - concern lest recent issues regarding Antarctica destabilize the Antarctic inspection system and undermine the arms negotiation process.

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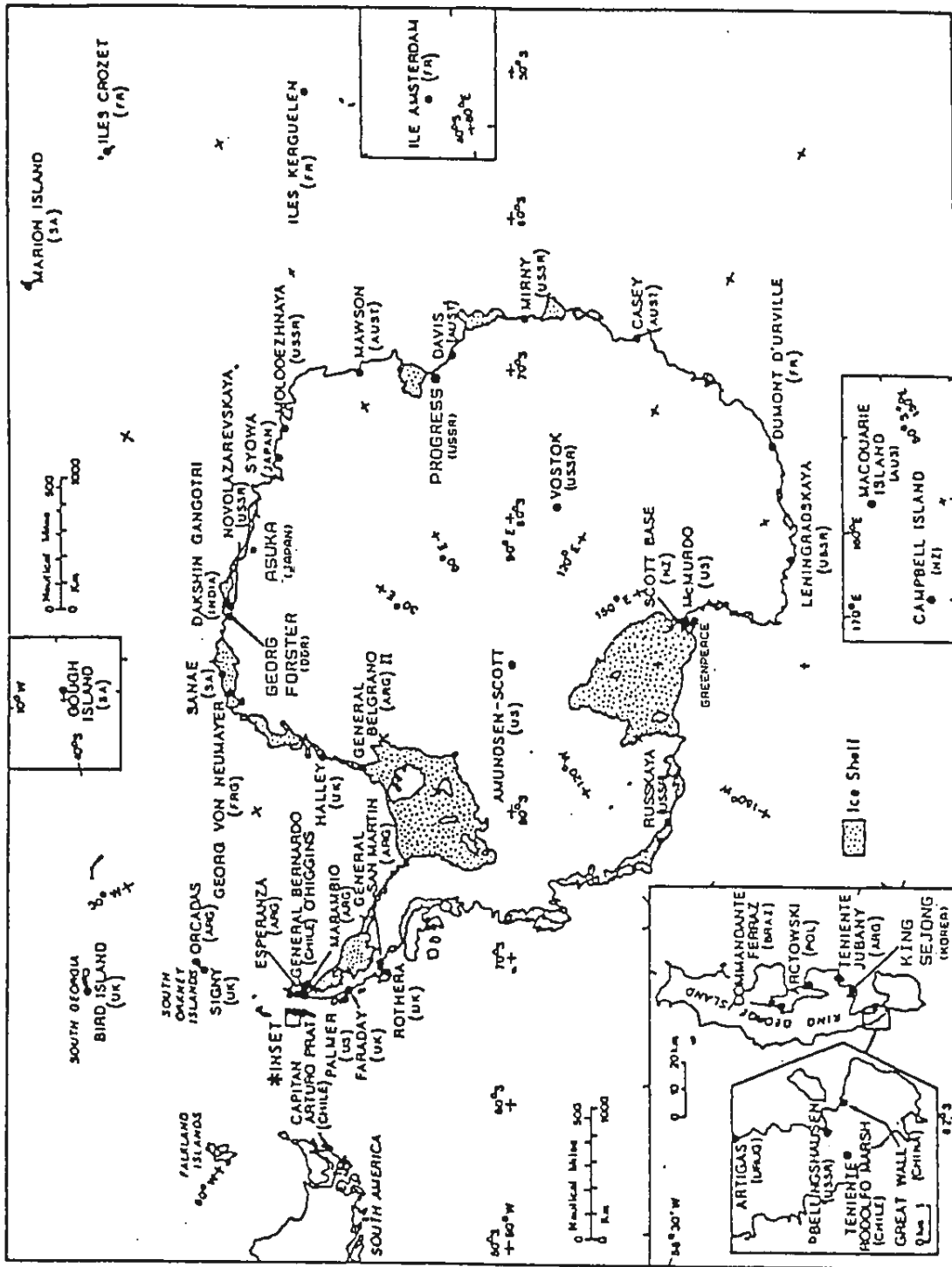
ABBREVIATIONS

ABM	Anti-Ballistic Missile
ACDA	Arms Control and Disarmament Agency
ATCM	..	..	..	..	..	..	..	..	..	Antarctic Treaty Consultative Meeting
ATCP	..	..	..	..	..	..	..	..	..	Antarctic Treaty Consultative Parties
ATS	..	..	..	..	..	..	..	..	..	Antarctic Treaty System
CCAMLR	..	..	..	..	..	..	..	..	..	Convention on the Conservation of Antarctic Marine Living Resources
CFE	..	..	..	..	..	..	..	..	..	Conventional Forces Europe
CIA	..	..	..	..	..	..	..	..	..	Central Intelligence Agency
CPA	..	..	..	..	..	..	..	..	..	Center for Polar Analysis
CRAMRA	..	..	..	..	..	..	..	..	..	Convention on the Regulation of Antarctic Mineral Resource Activities
CSAGI	..	..	..	..	..	..	..	..	..	Comité Special de l'Année Geophysique
DOS	..	..	..	..	..	..	..	..	..	Department of State
ICSU	..	..	..	..	..	..	..	..	..	International Council of Scientific Unions
IGY	..	..	..	..	..	..	..	..	..	International Geophysical Year
INF	..	..	..	..	..	..	..	..	..	Intermediate-range Nuclear Force
MIRV	..	..	..	..	..	..	..	..	..	Multiple Independently-targeted Re-entry Vehicle
IWC	..	..	..	..	..	..	..	..	..	International Whaling Commission
OSIA	..	..	..	..	..	..	..	..	..	On-Site Inspection Agency
PPS	..	..	..	..	..	..	..	..	..	Policy Planning Staff
SALT	..	..	..	..	..	..	..	..	..	Strategic Arms Limitations Talks
SNF	..	..	..	..	..	..	..	..	..	Short-range Nuclear Force
START	..	..	..	..	..	..	..	..	..	Strategic Arms Reduction Talks
U.K.	..	..	..	..	..	..	..	..	..	United Kingdom
U.S.	..	..	..	..	..	..	..	..	..	United States

Do not plot harm against your
neighbor
who lives trustfully near you.

Do not accuse a man for no reason -
when he has done you no harm.

Proverbs
3:29, 30



Frontispiece

STATIONS OPERATING IN THE ANTARCTIC
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Chapter 1

INTRODUCTION

The Antarctic Treaty was the first of the post-World War II arms limitation agreements to emerge from the disarmament talks of the 1950's. It has achieved for Antarctica what has only been an illusory goal elsewhere on earth - total disarmament. An area as large as the United States and Europe combined has been set aside for peaceful purposes only. It decrees that the continent is to remain free from nuclear testing and storage of radio-active waste even though, for the safety of all mankind, it would have been wiser to confine these activities to Antarctica - that is if tests are deemed necessary. The continent and surrounding seas are dedicated to scientific research and the results of this research are to be shared by all of the nations working there. It also incorporates a provision that requires all parties to meet regularly for the purpose of exchanging information, consulting together on matters of common interest and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty. This important provision gives the Treaty flexibility to adapt to new requirements and changing times.

To guard the provisions of the Treaty a verification system has been incorporated - any member nation may visit and inspect another's facilities and stations to insure that the provisions of the Treaty are being observed. This provision is the key to building trust and confidence that the other parties are doing nothing improper. Without the inspection article the Antarctic Treaty would never have come into being and without this article the Treaty would never have worked.

For insight as to the need for a treaty it is first necessary to review the historical setting that led up to the Antarctic Treaty Conference of 1959. To comprehend the meaning of the Treaty in general and the inspection provisions in particular it is essential to understand the diplomacy behind the negotiations. Once the Treaty was ratified into effect, inspection provisions had to be implemented - this process, upon examination, sheds light upon the need for adequate verification clauses in all disarmament agreements. Implementation of verification provisions ensures that all other provisions are being complied with and assurance that the agreement is working. In this respect, are Antarctic Treaty inspection provisions and practices precedent-setting? To evaluate this supposition it is necessary to compare inspections under the Antarctic Treaty with treaties enacted afterward. Once the above issues have been thoroughly explored, forecasts concerning the future role of inspections in Antarctica can be advanced and their interplay in the global disarmament process can be estimated.

Chapter 2

ANTARCTIC HISTORY

2.1 TERRITORIAL CLAIMS

In order to understand the Antarctic Treaty one must understand the history of Antarctica. The Treaty is an outgrowth of the historical events in the south polar region and of global political events that accompanied its creation. These events are embedded in its articles and give deeper meaning to the document.

Early exploration of Antarctica was carried out by explorers of many countries, including the United Kingdom, Russia, Belgium, Norway, France, Germany, and the United States. A number of these early explorers declared that they had taken possession of the land that they had discovered on behalf of their governments - sometimes with and sometimes without their governments' permission. The potential for conflicting claims appeared certain. Disputes, however, were avoided mainly because national governments did not follow-up on their explorers' discoveries.

The decade prior to the first world war witnessed the beginning of change. The United Kingdom was the first nation to assert land rights - the Falkland Island Islands Dependencies in 1908, a pie shape wedge between 20° and 80° West longitude (CIA, 1978, p.43). After the first world war the United Kingdom urged her colonies to do the same; New Zealand set up the Ross Dependency in 1923 and the Australians claimed the Australian Antarctic Territory in 1933 (Beeby, 1972, p.5) (See, Fig.1).

These moves produced reactions from other countries. France claimed a small sector of Wilkes Land based on explorations of Dumont d'Urville

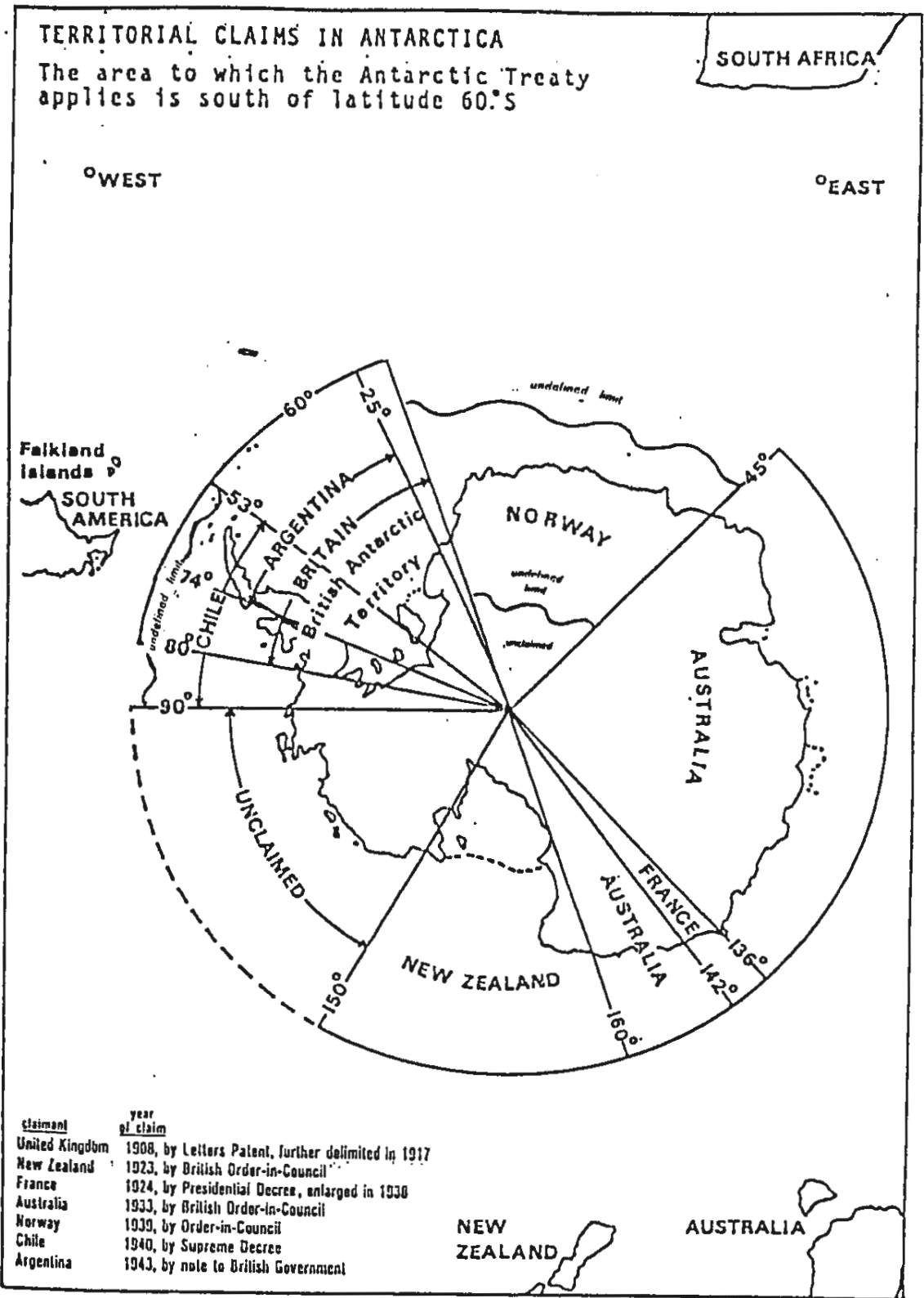


Figure 1. Antarctic Sectors officially advanced as territorial claims.
 Sources: CIA Atlas, 1978; Shapley, 1985, Beck, 1986 and Headland 1989.

eighty years previously. The United States refused to recognize the claims stating that permanent occupation was the only basis for acquisition. Admiral Byrd and other Americans deposited claims markers over a large area of Antarctica during a series of extensive aerial explorations in the 1930s. In 1939 Byrd led an expedition to the Antarctic on behalf of the United States Government with the intent to permanently occupy the continent to strengthen the basis for a U.S. claim (Quigg, 1983, p.33). The second world war intervened, however, and subsequent attempts to establish a permanent presence there were not effective. The Germans were also active in the 1930s dropping claims markers from aircraft in areas that they explored. This prompted a claim by Norway in Queen Maud Land in 1939 (CIA, 1978, p.43).

During the second world war, Argentina and Chile became interested in Antarctic territory. Chile delimited a sector which included the Antarctic Peninsula in 1940 overlapping the British claim. Argentina sent expeditions to Antarctica in 1943 and followed these events up with a claim covering the Antarctic Peninsula and most of the Weddell Sea (Hanessian, 1962, p.3-13). This triple overlap of claims provoked a territorial rivalry that continues to the present day.

The British were quick to respond to the Argentine and Chilean counterclaims by sending a secret naval expedition, under the code name Tabarin, to the area late in the second world war. Tabarin established British bases that constituted a "more or less continuous occupation" since that time (Beck, 1986, p.32). Both Argentines and Chileans dispatched naval units to the Antarctic Peninsula area after World War II. Their purpose, ostensibly, was to establish new stations and to relieve others. The Royal Navy countered with a cruiser and a frigate. Acrimonious notes

between London and Buenos Aires and London and Santiago demonstrated the deterioration of international relations that the post war period characterized. The situation was tense and on several occasions a military incident was narrowly averted (Beck, 1986, p.34).

Superimposed upon this uneasy situation the Americans launched Operation Highjump in 1947. This was a task force of 12 ships including a carrier and nine aircraft sent to resume the work of establishing an American claim on the continent. Planes from this expedition and several others deposited American claims markers over a large area of Antarctica causing occasional Anglo-American friction. The Americans consistently refused to request permission from any of the claimant nations for sector entry while conducting operations around the periphery of the continent. There was a political problem of serious implications and it was only a matter of time, if these nations went on challenging one another, before a political/military incident would develop (Auburn, 1982, p.63).

2.2 MOVES TO INTERNATIONALIZE

In the wake of growing friction among Great Britain, Argentina, Chile and the United States and worries that the Soviet Union would exploit this friction, the United States in late 1947 began an internal review of its policy concerning Antarctic territorial questions (Hanessian, 1959, p.436).

A concept was developed by which control over the area would be maintained by directly interested parties - that was to be the United States and the claimant nations. From this grew the idea of internationalization of Antarctica under a condominium that would exclude hostile powers, meaning the eastern bloc. A Policy Planning Staff paper,

PPS-31, originally classified secret, was issued in June 1948. By this agreement the United States was to advance a claim, properly timed, so as to exclude the Soviet Union from the unclaimed sector, and the 8 nations would then share sovereignty over the whole area concerned (Myhre, 1986, p.28).

After informal discussions with all concerned, on August 9, 1948, the United States sent formal invitations to the claimant states to join in open discussions on the territorial problem. The note suggested "some form of internationalization" (Hanessian, 1959, p.440). The Soviet Union, which had just launched the Berlin Blockade, and other non-claimant states were excluded from the conference.

The talks started poorly. The Argentines and the Chileans considered their claim to be a national issue and were adamantly opposed to internationalization. Australia was skeptical that it would work, France stalled, Norway favored the *status quo* and New Zealand recommended a UN Trusteeship. Only Great Britain thought the issue had merit - she viewed the proposals as a way of getting out of its territorial disputes with Chile and Argentina (Hanessian, 1959, p.440).

At this point in the negotiations the Soviet Union began to show signs of opposition to attempts to exclude it from Antarctica. This was reflected in a resolution passed by the All-Soviet Geographical Society in February 1949 (Beck, 1986, p.40). It maintained that "no decision on the question of the regime of the Antarctic without participation of the Soviet Union can have legal force" (Hanessian, 1959, p.444). This was formalized in a Soviet memorandum dated June 7, 1950 that added that "the Soviet Government cannot recognize as lawful any decision on the Antarctic regime taken without its participation" (Toma, 1956, p.625). A political

conundrum existed at this point and tensions increased - the Soviet Union was to be a participant, but no one knew what their role would be. The outbreak of the Korean War on June 20, 1950 cut off any chance of exploring the matter with them. The issue was effectively dead and tensions began to mount. The 'cold war' had come to Antarctica.

In the early 1950s the idea for the International Geophysical Year (IGY) had begun to develop as a follow-on to the first and second Polar Years of 1882-83 and 1932-33 respectively. The initiative was spearheaded by the International Council of Scientific Unions (ICSU) representing the world's principal scientific groups. A committee was created to plan a global coordinated multidisciplinary research program, the Comité Spécial de l'Année Géophysique Internationale (CSAGI). The IGY was planned to last from July 1, 1957 to December 31, 1958. Antarctica was to be singled out as a 'region of almost unparalleled interest in the fields of geophysics and geography' (Sullivan, 1957, p.27).

In the past scientific cooperation had been hindered by sovereignty issues in Antarctica, however, the Antarctic governments stood down for a while and pushed aside the sovereignty dispute to facilitate the IGY. According to Ambassador Paul Daniels of the United States:

The governments concerned had reached a sort of gentlemen's agreement not to engage in legal or political argumentation during that period in order that scientific progress might proceed without impediment (Daniels, 1973, p.35).

This "gentlemen's agreement" was a precedent-setting move and a key advance in Antarctic politics as well as for science. The IGY reflected a 'surge in internationalism' and international cooperation on other fronts (Heap, in Orrego-Vicuña, 1983). The Berlin Blockade had been lifted, the

Korean War was ended, and the Geneva Disarmament talks had begun. The political climate was right for cooperation on the Antarctic Continent.

The Americans challenged the Soviets by fielding a large national program - the Soviet Union joined on an equivalent scale (Beck, 1986, p.49). This inclusion of the Russians was significant. They were determined to participate and this scientific *raison d'être* together with the relaxation of sovereignty issues provided the foundation for a political entry on to the Antarctic Continent.

Although scientific research provided the foundation around which most national activity was organized, politics still played a prominent role during the IGY. Base locations appeared to be a function of non-scientific considerations; claimants established bases only within 'their' sectors and gratuitously allowed others to establish bases therein (Auburn, 1982, p.89). Amundsen-Scott Station was built at the South Pole - the nexus of Antarctic sectors - by the Americans to deny it to the Russians (Siple, 1959) as well as downplay the claims of other nations. The Americans also mounted a large-scale aerial exploration effort which uncovered much of the interior of the continent, dropping claims markers along the route - a practice begun by Admiral Byrd in 1929 (Sullivan, 1957, p.343; Dater, 1958, memorandum). Both the Soviets and the Americans, although their efforts were significant in exploring new areas, refused to advance claims - both reserving the right to advance claims at some future date (Taubenfeld, 1961, p.257).

Even though cooperation and openness in scientific research was one of the cornerstones of field activity during the IGY, suspicion reigned about the political intentions of the other parties. Australians were

worried about the Soviets in their sector as were the Americans (Hayton, 1960, p.353). The U.S., Japan and the Southern Hemisphere nations were worried about Soviet intentions on the strategic sea lanes that passed just north of the Antarctic Continent. The Soviet Union launched its first Sputnik as part of the IGY in October 1957 - less than six weeks after launching their first intercontinental ballistic missile (Sullivan, 1961, p.1). This raised fears that the Soviets might transform their stations to rocket bases from which Southern Hemisphere nations would be held hostage. To exacerbate matters the Soviets announced that they intended to remain on the continent after the IGY at a meeting in September 1957 (Hanesian, 1958, p.157).

Suspicion was not limited to concerns about the Russians. Mutual fears existed among the original eight nations concerning one another's activities and intentions. Bases were isolated from each other and it was difficult to obtain timely accounts of what was happening at one another's stations - a situation that gave rise to speculation and rumor. Scientists and observers were exchanged, but they were too few in number, they did not always have unrestricted access to their host nations' facilities. Their reports, though usually pacifying, sometimes aggravated the situation (Dater, 1958, memorandum; Dufek, 1958, letter).

On the other hand everybody was happy with the way scientific research was moving ahead in the unrestricted environment of the 'gentlemen's agreement'. This same unrestricted environment, paradoxically, was not conducive to orderly political and military activities that by necessity accompanied the scientific research. It was apparent to all nations that were operating in Antarctica during the IGY that it would be

impossible to return to the *status quo* that existed before 1955 and that when the 'gentlemen's agreement' expired at the end of 1958 a new regime would be required.

Chapter 3

TREATY NEGOTIATIONS

3.1 PRELIMINARY POLITICS

In order to defuse the tensions and allay the suspicions that had been generated during the IGY in Antarctica, a number of diplomatic initiatives were launched. Great Britain conducted an international policy review in early 1958 and was actively considering earlier proposals that had been advanced by the Americans for internationalization. Parallel initiatives were pursued by the other Commonwealth claimant nations and Prime Minister Macmillan visited Australia in February 1958 for discussions on the matter with Prime Minister Nash of New Zealand and Prime Minister Menzies of Australia. The three proposed an end to national claims and an internationalization and demilitarization of the Antarctic as well as a continuation of the international cooperation that had so successfully characterized the IGY (Taubenfeld, 1961, p.278).

While the Commonwealth consulted, the U.S. Secretary of State John Foster Dulles named a very experienced Foreign Service officer, Ambassador Paul C. Daniels, as special adviser on Antarctica (Quigg, 1983, p.142). Daniels directed a comprehensive multi-agency review of the entire U.S. Antarctic policy. After many months of national consultation, the other 11 governments involved in Antarctica were sounded out to see if they felt that an agreement could be reached that would contribute to maintenance of peace and continuance of scientific research. Confidential consultations gave assurance that this was possible (Daniels, 1973, p.36).

On May 3, 1958 President Eisenhower announced that he had sent notes to the 11 other nations that had been active in Antarctica during the IGY proposing that it was time to consider some form of international agreement to ensure that Antarctica "shall be used only for peaceful purposes" (U.S. DOS, 1960, p.2).

The note had been carefully crafted to arouse the interest of all parties and was an interesting bit of diplomacy in itself, both for what it included and what it omitted. Basically it contained most of the elements that were included in the final treaty text; however, to win the acceptance of Chile and Argentina the U.S. proposed freezing the sovereignty issue by stating that:

... such a treaty can be concluded without requiring any ... nation to renounce whatever basic historic rights it may have in Antarctica, or whatever claims of sovereignty it may have asserted. ... In other words, the legal status quo in Antarctica would be frozen for the duration of the Treaty ...

The note carefully omitted a direct reference to linking the principle of non-militarization with an inspection system, although it hinted that this would be necessary:

Provision would likewise be made for such joint administrative arrangements as might be necessary and desirable to ensure the successful accomplishment of the agreed objectives.

Inspections were, however, the heart of the U.S. position. President Eisenhower had proposed "a comprehensive and effective system of inspection and disarmament" to the Soviet Union in Geneva in 1955 - his "Open Skies" proposal and a similar proposal for the Arctic in 1958. Both were rejected by the Soviets who feared that inspections undermined their sovereignty and threatened their national security (Solle, 1973, p.53). It was necessary to get the Soviet Union to the table where the

issue of inspections could be broached as part of the issue of the treaty as a whole.

There were also strong words to assure American hard-liners and to advise other nations of what the U.S. position would be if there were no treaty in force after the IGY:

The United States has had ... substantial rights and interests in Antarctica. Throughout a period of many years ... many areas of the Antarctic region have been discovered, sighted, explored and claimed on behalf of the United States. ... In view of the activities of the United States and its nationals referred to above my Government reserves all of the rights of the United States with respect to the Antarctic regions including the right to assert a territorial claim or claims.

However, in the next sentence President Eisenhower states:

... that the interests of mankind would best be served ... if the countries which have a direct interest in Antarctica were to join together in the conclusion of a treaty which would have the following peaceful purposes:

A. Freedom of scientific investigation throughout Antarctica by citizens organizations, and governments of all countries; and a continuation of the international scientific cooperation which is being carried out so successfully during the current International Geophysical Year.

B. International agreement to ensure that Antarctica be used for peaceful purposes only.

C. Any other peaceful purposes not inconsistent with the Charter of the United Nations.

In short the United States was willing not to pursue any title that she reserved for herself if Antarctica were neutralized and set aside only for peaceful purposes.

On June 4, 1958 the United States announced that the invitation had been unanimously accepted and that an informal working group representing the 12 nations active in Antarctica would soon begin negotiations (Beck, 1986, p.63).

3.2 PREPARATORY TALKS

As a rule, convening an international conference dealing with such novel and controversial questions is unwise unless adequate preparations are first made. Accordingly, in June 1958 a Preliminary Working Group made up of representatives of all governments concerned was formed to conduct preparatory talks. It was decided to hold these talks with the intent of reaching a broad area of agreement on the major provisions of the proposed treaty - the details to be formally negotiated at treaty conference (Daniels, 1973, p.39).

When the group first met in Washington DC it was fully expected that a treaty conference would be held within the next few months and that an Antarctic treaty would be agreed upon before the International Geophysical Year drew to a close. However, the talks ran into a roadblock at the second session. The reason for the delay was the obstructionist tactics of the Soviet Union. Clearly the USSR was not prepared for the depth of the discussions that were anticipated by the other 11 nations - they were prepared only to discuss matters of procedure and a schedule for formal negotiations. There were bigger issues at stake than Antarctica. A voluntary nuclear test ban had just gone into effect and negotiations were taking place on permanent test bans and on disarmament issues (Wright, 1964, p.34). The Soviets were not prepared during negotiations of minor importance such as Antarctica to set precedents which would be contrary to their interests elsewhere. With respect to inspections, the position of the Soviet Union was quite inflexible - they regarded them as a threat to their national security when they were proposed for application within the borders of the Soviet Union. Would

they entertain discussions on the application of inspections in Antarctica? They were the key to an agreement there. The western bloc had to proceed cautiously, slowly. Accordingly, the talks dragged on for 15 months through approximately 60 meetings - a year longer than had been anticipated.

With the exception of the Russian representative, most of the other delegates were convinced that with substantive preparatory work and general agreement on the major issues, a formal conference could not fail to produce a successful and effective treaty. Rather than permitting the talks to break down at this juncture, the members proceeded to air the issues as 'a voluntary expression of views' (Beck, 1985, p.656). Under this semantic umbrella, instituted to appease the Soviets, the discussions ranged broadly and encompassed a wide range of substantive proposals and ideas (Neidle*, personal interview, 1989).

Malcolm Booker, of Australia, circulated a tentative list of headings for possible articles for an Antarctic treaty at the second meeting on 24 June. It contained most of the elements of what was to become the final document - one of the exceptions was a reference to inspection and observation (Beck, 1985, p.655). The New Zealand representative, G.D.L. White, came to the fifth meeting with an amplified version of the Australian proposal. In keying on a 'peaceful purposes only' clause that was to be the main focus of the Treaty he insisted that it should not be interpreted as excluding the use of armed forces for logistic support. He also noted that in order to ensure that the provision for peaceful purposes was observed that observers might be exchanged, the first suggestion that inspections would be needed. It was not pressed,

* Mr Alan Neidle was the aide to Paul Daniels who compiled the minutes of the meetings.

however, and the matter was discreetly held in abeyance to await further developments.

Because of the extended time-frame of the talks, the delegates took the opportunity to discuss Antarctic issues in much greater depth than would have been possible if the preparatory talks had been squeezed into three months as had originally been intended. They became more familiar with each other's points of view and they gained confidence that a treaty could be crafted that would work to the best interests of all parties. The Soviet delegates were affected by the progress and their original suspicions concerning American motives behind the treaty were eased - they still refused to participate in substantive discussions. They did, however, participate in discussion on the 'peaceful purposes only' concept and cooperated in the drawing up of a draft Rules of Procedure for the formal Antarctic conference to be forwarded to the respective governments for their comment (Beck, 1985, p.662).

Prompted by this apparent thaw and armed with a draft agenda provided by the Australian delegation, in November Ambassador Daniels felt confident enough to present a series of draft treaty articles based on the nine point program that Booker had presented at the second meeting in June. He incorporated many of the issues that were discussed in the previous meetings and again raised the issue of 'peaceful' use in an article enlarging upon G.D.L. White's proposals. He did not, however, include wording for military involvement, but he did enlarge upon the 'exchange of observers' wording suggested by White in July and tabled it for discussion as a separate article (Beck, 1986, p.73). This draft article contained most of the elements that are now included in the present Article VII, however, the numbers of observers were limited and

inspections were tied specifically to demilitarization. With these critical exceptions, this and other articles, described as 'informal working papers' to appease the Soviets, amounted almost to a final treaty, with most of the material that constituted the substance of the final negotiations the following October (Beck, 1985, p.662).

Agreement could not, however, be achieved without a significant change in the Soviet position. In January 1959 the mood was decidedly pessimistic with many observers fearful that the talks would drag on for ever or break down for lack of a means to break the impasse. In March, Ambassador Daniels reported to the National Security Council that "he would venture a 50-50 chance that the Treaty Conference would come into being" (Mooney, 1959, memorandum) and contingency plans were drawn up on the event that negotiations should fail.

At this point external events came to bear on the negotiations. There was a thaw in the 'cold war' and disarmament negotiations in other arenas were making progress. The voluntary moratorium on nuclear testing instituted between the eastern and western blocs appeared to be working and nuclear arms limitations talks were also making progress. Symbols of earnestness to cooperate became important to both sides. Mutual exchange visits were planned and Nikita Khrushchev was scheduled to visit the United States in the fall. A token of earnestness to disarm was necessary to demonstrate mutual good faith. The Antarctic was an area where both sides could demonstrate good faith without fear of losing strategic position.

The substance of the Antarctic treaty talks and the positions of the other representatives had undoubtedly been reported to Moscow on a routine basis. This permitted the Soviet Union to assess the proceedings

without making a commitment. The earnestness of the other nations to set aside Antarctica as a zone of peace was apparent and more importantly the 'informal working papers' constituted the elements of a treaty that was not threatening to Soviet security nor a violation of their sovereignty.

In late March the Soviet delegation returned to the conference table and reversed their tactics and their representative, Andrei Ledovski, became an active participant in the rest of the proceedings. Progress was rapid from here on and in May it was announced that a conference would assemble in Washington in the following October (Quigg, 1983, p.147).

By June 1959 a set of draft treaty articles had been agreed upon to be presented as a foundation for the October conference deliberations. There were significant areas that needed detailed work: the 'peaceful purposes' clause had not been worked out in detail and it had not been tied to the need for the military to support logistics, as does the final version; there was no clause for prohibition of nuclear explosions and storage of radioactive waste; and the clause for observation and inspection had not been worked out satisfactorily - it was still considered a sticky issue.

3.3 THE CONFERENCE ON ANTARCTICA

The Antarctic Treaty Conference took place in Washington from October 15 to December 1, 1959 a remarkably short period of time in which to agree upon such a precedent-setting agreement. The delegates had the draft articles before them that had been worked up in the course of the preparatory talks. "This was a novel situation, because frequently

specific treaty proposals are advanced by a given country, and sponsored by it, rather than by representatives of all countries acting jointly" (Daniels, 1973, p.39). No doubt this was one of the benefits of the earlier protracted consultations where provisions for further discussion had been thrashed out in depth. Nevertheless a good deal of work had to be done.

The groundwork for inclusion of a viable verification system started in the first plenary session on 15 October. Each of the representatives made an opening speech and all expressed optimism that a treaty would be produced in short order. Each expressed his government's support of the general provision that Antarctica would be used for 'peaceful purposes only'. The representative from New Zealand, Mr McIntosh, raised the issue of banning the use of nuclear weapons and one of the representatives, Sir Esler Dening of Great Britain, expressed hope that approval "would be given to proposals for a system of observation and inspection sufficient, in the special conditions prevailing in the Antarctic, to ensure that the basic purpose of preserving the area from military activities is achieved" (U.S. DOS, 1960, p.35).

The draft Articles approved the previous June were the starting point for discussions. Surprisingly, after the intransigence that they had shown the previous year, the Soviet Union worked concertedly to make the conference a success. After listening to some heated discussions on demilitarization balanced by the need for military logistics to support science, the Soviet representative proposed a modification to the basic language for the first article under consideration. With minor grammatical clarifications it stands today as Article I of the Antarctic Treaty.

As had been hinted at during the public speeches during the opening session of the conference, Australia introduced a new article to curb the use of nuclear explosions and to prevent the disposal of radio-active waste. There was some argument that the nuclear issue was adequately covered under the provisions of Article I. The Southern Hemisphere nations, however, were adamant that peaceful explosions had to be covered separately - these nations prevailed and a new article was added to those proposed by the Preliminary Working Group (Hanevold, 1971, p.105).

The most controversial issue proved to be the inspection clause. When, in July 1958, G.D.L. White of New Zealand first proposed an exchange of observers, it was tied exclusively to demilitarization (Beck, 1985, p.659). This view remained unquestioned throughout the preparatory talks and the draft article on inspection presented to the conference by the Preliminary Working Group specifically referenced the proposed Article I. This linkage was questioned on the second day of deliberations by the Southern Hemisphere nations. Australia insisted that inspections include nuclear matters as well as military ones. This position was also strongly endorsed by other Southern Hemisphere nations. This provoked an analysis as to the purpose of inspections - what were the limits? Military facilities only? Military/nuclear issues? Military/nuclear/scientific research? In the end the reference to Article I was dropped - inspections were to be virtually unrestricted - almost everything was to be open to the scrutiny of observers (see Section 4.4 for an analysis). New Zealand, however, representing the majority, said that they accepted the deletion of reference to demilitarization with the understanding that the primary function of the observer system was to ensure scrupulous observance of non-militarization.

Although there was general agreement on the need for a system of observation and inspection, the question of how the inspections were to be carried out caused considerable disagreement. Three major issues dominated - whether inspections should be multilateral (international) or unilateral (single nation), the number of inspections and the size of the inspection parties and the question of the legal status of the inspectors (Hanevold, 1971, p.106).

The United States envisioned unlimited, unilateral, on-site inspections. Each country would appoint its own observers without limitation to numbers and without limitation to the number of inspections. Observers would have access to all areas of Antarctica at all times and be under the jurisdiction of their parent state.

The French and British were the champions of multilateral inspection. They favored the establishment of an Administrative Committee which would appoint and assign observers. Observers would carry out inspections in groups, would be limited in number and should be accorded full freedom of access to all installations. Inspection would be solely linked to demilitarization. Their position was based on a paper drafted by Mr M. Moch, the French delegate to the Geneva disarmament talks in 1956. Mr Moch's proposal revolved around an international 'Control System' set to monitor both the conventional and nuclear weapons disarmament process. The 'Control System' would be set up within the borders of each nation that was disarming. It envisioned a 'Control Organ' that would report to an international 'Control Agency', have its own staff of inspectors and "within the boundaries of the control functions which they exercise, unimpeded access at all times to all objects to be controlled". The objects to be controlled would be the

weapons delineated in a particular treaty. The French believed that "control is the simultaneous restoration of security with disarmament and international confidence" (Moch, 1956). In short, this is a multilateral, unlimited (inspectors could inspect at any time), on-site (on the ground as opposed to aerial) inspection system.

The United States representative, Herman Phleger, took a strong position in favor of unlimited, unilateral, on-site inspections. In the preliminary negotiations, the United States favored an inspection similar to the Moch model, but changed its position due to internal politics (Hanessian, 1959, p.471). The United States Senate, constitutionally responsible for ratification of treaties, was not enamored by the multilateral disarmament verification process. This approach failed to provide the verification agreed to by the Korean Armistice of 1952 because obstructionist actions by some members of the inspection teams impeded timely observation. Phleger's position was non-negotiable - he knew that any agreement without an unlimited, unilateral, on-site inspection clause would fail ratification in the Senate and there would be no treaty (U.S. Senate, 1960, hearings, p.41).

After the issue had been thoroughly aired the representative of the Soviet Union, Grigory Tunkin, gave his support to the United States on the expediency of establishing an effective inspection system in Antarctica which included unlimited, on-site inspections and unlimited observers (Hanessian, 1959, p.467). Up to this point the dialogue on inspections was between western powers and it was not clear what the Soviet position would be on the form of inspections or even if it favored inspections at all. An important milestone had been achieved and a precedent in international relations had been realized - there would be

an Antarctic Treaty and inspection would go far to ensuring compliance with it. Tunkin later wrote that the Soviet Union could accept unlimited on-site inspections in Antarctica "where inspection can not be used against national security" (Tunkin, 1960, p.45).

The United Kingdom, at this stage, turned mediator and proposed a compromise article on inspection by which unilateral inspections and multilateral inspections were both possible. The proposal also left the door open for other types of inspections such as bilateral exchanges of observers and joint inspection teams if the nations so desired. This wording with some semantic modifications survived and is the basic language of Article VII of the Antarctic Treaty today (Hanevold, 1971, p.108).

All of the delegates, except the French, endorsed the British proposal. The French representative expressed a reservation declaring that "the reservation of his Delegation was based upon the fact that the text does not reflect the idea that control, which is the foundation of non-militarization, should be of an international character" (Auburn, 1982, p.146). This reservation carried through the plenary session and is in effect to this day as a matter of French policy on disarmament in a broader context.

After this episode events moved smoothly and final details were sent to the drafting committee by mid-November. The Antarctic Treaty was signed in Washington on December 1, 1959 and delivered to the governments of the 12 signatory nations for ratification.

3.4 RATIFICATION AND INSPECTION

The Antarctic Treaty did not automatically go into effect once it had been signed - it still faced ratification by the governments of the powers concerned. Examination of the ratification process, particularly with regards to the inspection clause, gives some idea of how important Article VII was to the policy makers in the capitals of the treaty nations and sheds light on how inspections were to be carried out in the future.

The "gentlemen's agreement" to ban things political, in effect since 1955, had been extended while treaty negotiations were in progress. Military activities were curtailed, there were no nuclear explosions, scientific cooperation reigned and all nations were talking about Antarctic matters in international fora. The Treaty had been signed on December 1, 1959 and this *status quo* was to be extended until the ratification process was complete. Once ratified, however, this *status quo* would be formalized. There would be one change, however, in the *modus vivendi* on the Antarctic continent itself; inspections were to be introduced to ensure that in the future the then formalized "gentlemen's agreement" was strictly adhered to - formal inspections, by a process whereby inspectors presented their credentials to a station leader whose routine would be interrupted while his activities were exposed to a foreign power. Words to the contrary, it would be a relinquishment of sovereignty and was then, as it is today, potentially confrontational. Ratification involved close scrutiny of the inspection provisions and nowhere was approval automatic.