

Bulletin of Peace Proposals

Vol. 4, No. 4, 1973

The Antarctic: 'Troubles' Revisited

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In his article 'Troubles in the Antarctic?'¹ Jozef Goldblat of the Stockholm International Peace Research Institute advocates that the Antarctic, in some way or other, should be internationalized. While by no means original, the idea of internationalization nevertheless remains an interesting challenge to the adventurousness and cooperative spirit of mankind.

Mr. Goldblat's case for internationalization, however, appears in part to be based on a somewhat inadequate understanding and assessment of the existing political situation in the Antarctic, notably with regard to the Antarctic Treaty and some of its provisions. More particularly, Mr. Goldblat leaves the reader with the impression that (1) the Antarctic Treaty is primarily an arrangement prohibiting militarization of the area; and (2) the Antarctic Treaty is a 'closed' or 'exclusive' rather than an 'open' or 'universal' agreement. The former impression would be incomplete, the latter would be erroneous.

While it is true that the Treaty, *inter alia*, is a non-militarization arrangement, its primary purpose was to facilitate international cooperation in the field of scientific investigation. When evaluating the Treaty's structure and functioning, while assessing its shortcomings and positive potential, one necessarily has to consider it in the total perspective of the several objectives it was intended to serve. This perspective should not be forgotten when one compares the Antarctic Treaty with certain other treaties which are primarily arms-control agreements of universal interest.

Discussing the need 'to minimize the risks of surprise militarization and of use of force, as well as of other action contrary to the spirit of the Antarctic Treaty on the part of states

not yet bound by the treaty obligations', Mr. Goldblat states categorically that 'the most obvious step in this direction is *to make the treaty universal or almost universal*' (italics mine). Later on, he claims that '... the treaty is *marked with exclusiveness*' (italics mine), and suggests furthermore that 'If participation of more states in the treaty is to be encouraged, *the principle of sovereign equality of nations would have to be recognized and enforced*' (italics mine).

While it is true that active participation in the Antarctic Treaty is subject to certain qualifying conditions, this should not be allowed to overshadow the essentially open nature of the Treaty structure. Article XIII of the Antarctic Treaty states unequivocally:

It (i.e. the Treaty) shall be open for accession by any State which is a Member of the United Nations, or by any other State which may be invited to accede to the Treaty with the consent of all the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX of the Treaty.

In view of the steadily-increasing universal character of UN membership, this means that the Antarctic Treaty, for all practical purposes, *is open for universal participation*.

Active participation in the decision-making process within the Treaty is, however, restricted to the original 12 signatories plus any acceding party which 'demonstrates its interest in the Antarctic by conducting substantial scientific research activity there, such as the establishment of a scientific station or the dispatch of a scientific expedition' (cfr. Art. IX, 2.). There is sufficient evidence to show that this particular restrictive measure has had considerable instrumental merits with regard to the peaceful developments which have taken place in the Antarctic. It should, however, be

1. *Bulletin of Peace Proposals*, Vol. IV, 1973, pp. 286-288.

stressed that the restriction on active participation is essentially of a *non-discriminatory and open* nature: Any state may, actually, participate, *providing* it deems participation sufficiently interesting and important to bother to fulfil the qualification requirements.

This should not appear to be an entirely unreasonable set-up. It certainly does not call for the contention that 'the principle of sovereign equality of nations' is not 'recognized and enforced'. Quite to the contrary. Under the present arrangement, those very states which, by their own choice and through their own actions, have a genuine stake in Antarctic developments, may between themselves discuss and deliberate on matters which primarily concern themselves. If these matters were left in the hands of, say, an international body comprising 130-odd states, one could indeed ask what had become of the principle of sovereign equality of nations.

However, be that as it may, whether the rules of admission to the Antarctic 'club' are sufficiently egalitarian or not. Admittedly, the requirement for an active role in the decision-making process – namely, that the party concerned conduct 'substantial scientific research activity' in the Antarctic – is strict enough so as effectively to exclude a multitude of states. It is, however, well-nigh absurd to tie this issue of relative 'exclusiveness' together with the issue of possible violations of the non-militarization arrangement by third parties. Such states as Upper Volta or Bhutan may not possess the sufficient operational capability to qualify for full-fledged participatory status, but those states are not the most likely would-be violators of the non-militarization arrangement. Such third-party states as *might* represent a problem in this respect, for instance

China, India, or Brazil, also possess the capabilities needed to acquire full-fledged participatory status under the Treaty, if they so may wish. Thus, to the extent that the Antarctic Treaty has any element of exclusiveness, that element constitutes no problem whatsoever for those states which could conceivably represent a threat to the Antarctic non-militarization set-up.

Mr. Goldblat's demonstrated interest in Antarctic developments is commendable. My objections to certain of his notions should not be interpreted as a rejection of the very idea of conducting a critical appraisal of the operation of the Antarctic Treaty. Undoubtedly, there are aspects of the existing arrangement which might be improved upon, so as to render it even more conducive to the cause of international cooperation and continued peaceful developments. Actually, the Antarctic Treaty parties themselves appear to be highly aware of the need for improvements in the form of readjustments to emerging challenges and problems, including the issue of the future relationship between the Treaty and third parties. Almost needless to say, such improvements must eventually be based on a thorough understanding of the Treaty structure and of its possible shortcomings. To obtain such an understanding one would necessarily have to take into account also the flexibility and developmental potential inherent in the existing arrangement. If properly exploited, these are characteristics of the Antarctic Treaty which should render it a most useful instrument to insure that, in the very words of the Treaty, 'the Antarctic shall continue for ever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord'.