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Editorial

UNCLOS versus the Antarctic Treaty

The overlaps between international treaties have always been an area for concern and the United Nations Convention on the Law of the Sea (UNCLOS) is a topical case in point. One of its important elements is a facility for coastal states to apply to increase the sea bed area under their jurisdiction beyond the normal limits of 12 miles and 200 miles by providing evidence that the sea bed beyond this, up to a maximum of 350 miles, is a natural extension of the coastal geology. The legislation sets a time limit to how long after accession to UNCLOS such a claim may be filed. In most parts of the world the effect of this is to potentially reduce the global commons of the world oceans, and the relationship between coastal states and such extensions can be contentious. This is certainly the case in the Antarctic.

The seven claimant Parties - Argentina, Australia, Chile, France, New Zealand, Norway and the UK - all have coastal areas to their claims and thus, in principle, can apply to extend their claims off shore. Whilst under Article IV(2) of the Antarctic Treaty no *territorial* claim can be improved some lawyers argue that this does not apply to maritime areas. To others it clearly appears possible that if the Treaty were to fail for any reason the claimant states would be likely to renew their existing claims to governance and so should not miss any chance to consolidate the basis of their claims. Add to this the time limit over registering an UNCLOS claim and the race is on.

Australian lawyers not only recognized this but were the first to persuade their government to act, despite the risks of upsetting other Treaty Parties.

Continental shelf rights off the coast have existed for the last 50 years. At present three Antarctic claimants - Australia, Argentina and Chile - have proclaimed them for their territories. The original Australian claim to a 3 mile limit predates the Antarctic Treaty and since Australia extended this in 1990 to 12 miles (which at present defines the Territorial Sea) without any protest a further move of the boundary northwards seemed a risk worth taking. They proclaimed a 200 mile EEZ in 1994, which drew a shoal of protests from other Parties but this did not deflect them from lodging a claim in 2004 for an extended continental shelf under Article 76 of UNCLOS. To substantiate their claim they had funded 19 000 km of seismic mapping of the seabed all along the coast of Australian Antarctic Territory. To try and preserve harmony in the Treaty context they asked that the Commission on the Limits of the Continental Shelf did not examine the Antarctic data for the time being.

Now it appears that the UK will make a similar claim and that, of course, has stimulated Argentina and Chile to announce they will make competing claims. Meanwhile other Parties have re-iterated that they recognize no territorial claims.

Quite apart from the political problems there are serious practical problems, where scientific data is crucial, in applying UNCLOS to Antarctica. Is the baseline to be the edge of the permanent ice or ice shelf, or the actual position of the ice/rock interface before or after compensation for isostatic change, and how accurately is this known? How extensive is the dataset on morphology, sediment thickness and bathymetry needed to define the outer limits of the continental shelf around Antarctica and is it adequate to meet UNCLOS requirements? It looks like the lawyers need more scientific help to progress this field.

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