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## Research on Legal Status of Antarctic

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### Abstract

Since Antarctic this ice and snow area was discovered, countries around it and argue for various interests, which constantly create disputes and conflicts, but fortunately there are common interests in the conflicts, looking for counterbalance in the confrontation, the Antarctic treaty creatively use "freeze" way to shelve disputes of territorial claims, and ensure that the development of the scientific research activities and international cooperation, which effectively maintain long-term peace and stability in Antarctic. But the legal status problem of the Antarctic remains unresolved, according to the provisions of Article 4 of "the Antarctic treaty", all countries can still raise a claim in the future, and the old disputes would be likely to continue. So human face global population explosion, environmental deterioration, resource exhaustion in the 21st century, especially under the general background the global climate warming has threatened sustainable development and survival of human beings, how to position legal status of Antarctic? How the Antarctic treaty will be operated and continued to play its significant role and influence? This problem is not only paid close attention to by national politicians, diplomats, scientists and social history and jurists, but also a hot issue widely concerned by people. Article aims to discuss via origin of Antarctic problem and the Antarctic system established by the Antarctic treaty system, strive to have a clear understanding for legal status of Antarctic, thus providing an outlook of the development and prospect of Antarctic.

### Keywords

Territorial and sovereignty claims, the Antarctic treaty, freeze, legal status.

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## 1. The Origin of the Antarctic Region

It has been more than 200 years since the discovery of the Antarctic continent, and the British explorer cook sailed around Antarctic in December 1772, which was the beginning of the Antarctic expedition. In recent years, archaeologists believe THAT Zheng He first discovered snow-covered continent in southern part of the earth 600 years ago. At that time, the climate of Antarctic is bad and abundant resources were not found, and the dispute was not formed. Then the world entered the era of global expansion of capitalism, and the Antarctic region was in condition of a hotly contested spot and mad carving up. Finally, seven countries put forward territorial sovereignty claim within the specific areas, the distribution conditions are shown in the table below, the table describes rough distribution condition of south land territorial claims in south latitude  $60^{\circ}$ , besides Norway has no limit on the north boundary, the rest limit the north boundary in south latitude  $60^{\circ}$  or so. The table does not include territorial claims of islands in the sub-Antarctic region.

In seven states with territorial claims, Britain, France, Australia, New Zealand and Norway have reach tacit agreement; it is not hard to see from the table that the territorial claims of the five countries are closely linked, not only do not overlap, but also have "adding wedge", France and Australia are this case. Within the scope of Australia's whole territorial claim for the large area of Antarctic, a narrow France's "wedge" has been inserted into it. More importantly, the five countries recognized each other diplomatically; the territorial claims of any country have been recognized by the other four countries,

the country also recognized the territorial claim of the other four countries. Thus it can be seen that the "five countries" with territorial claims exclude Chile and Argentina. It is a shuttle of the conflict, And Chile and Argentina not only have overlapping and disputes with the UK, respectively, There is an overlap between the two countries as well, and this makes the problem more complicated.

country	claim scope	time of proposal	proposal form
Britain	20°E—80°E	1908	formally incorporated in the "royal patent licence"
Australia	45°E—136°E	February 7, 1933	Britain transfer
New Zealand	150°W—169°E	July 30, 1923	Britain transfer
France	136°E—142°E	April 1, 1938	president issue decree
Argentina	25°W—74°W	September 2, 1946	government decree
Chile	53°W—90°W	November 6, 1940	president sign decree
Norway	20°W—45°E	January 14, 1939	King state

At that time, the two superpowers -- the United States and the Soviet Union did not raise territorial claims to the Antarctic, which ease the situation the Antarctic situation to a great extent, but the United States and Russia still reserved the right of territorial claims. The Antarctic policies of the United States are paradox and puzzling. However, the United States indicates has refused to recognize any sovereignty claim any part of the Antarctic of that any country proposed, and retain its basic historical right in the Antarctic. Unlike the US, the Soviet Union has never put forward an unofficial sovereignty claim, nor has issued any explicit official statements and take some parts of the Antarctic continent as the sovereignty claim targets in future. However, by counting the number of Russian stations and bases in Antarctic, we can see that the Russian Antarctic plan is becoming larger and larger, and it tries to control the whole Antarctic.

Although some countries do not explicitly put forward the sovereignty and territorial claims, but get a piece of the Antarctic krill resources, mineral resources, scientific research resources, military strategic position and other aspects, it is also obvious and they have been eager to have a try.

These are not the conflicts among the simple declarations, which have caused even the armed conflict, and make the situation very tense at one time in Antarctic. For example, Britain and Argentina once had sea friction in the Antarctic, and they searched and even burned each other's inspection station, which led to armed conflicts. So far, the problem needs to be properly solved so as to ensure the peace and utilization of the Antarctic region. The United States wrote to the other 11 countries on 2 May 1958 and advise hold International Conference on the conclusion of the Antarctic Treaty, which receive a positive response. The Antarctic Treaty emerges as the times require, form the core framework of the Antarctic system. After signing a series of agreements, the legal and political systems of Antarctic are constantly improved.

## 2. The Antarctic System Established by the Antarctic Treaty

In the context of the situation, from October 1959 to December 1959, the 12 original signatory states unanimously adopted the Antarctic Treaty and came into force in June 23, 1961. So far, there are 47 signatory states, account for about 90% of the world's population, and the number of countries that have achieved the status of the negotiated countries has increased to 28. China became signatory in June, 1983 and gained the status of the negotiated country in October 1985. The Antarctic Treaty is a pioneering work for human society to solve international disputes, it shelved the disputes over territorial claims in the way of "freezing", and ensured scientific research activities and international cooperation, effectively safeguard the long-term peace and stability of Antarctic. After decades of development, the System established by the Antarctic Treaty has been more stable and mature, mainly includes the following contents: Antarctica is only for peaceful purposes; guarantee the freedom of scientific research in Antarctica; freeze claims within the validity period of the treaty; prohibit nuclear explosion and store nuclear waste; in the applicable area during the Antarctic Treaty, including all the base, all activities must be open, allow from the air or land to inspect; the meetings of negotiated states are held every two years, and consult or suggest on the relevant policies on the Antarctic; the treaty will be a reviewed to 1991, if the parties agree, the treaty can continue. In fact, the treaty continued to be effective in 1991 with the consent of all parties. At this point, Antarctica is still an area of undetermined sovereignty, its resources development, scientific investigation and non-military utilization and other affairs are have a style of one's own, and a series of agreements have been signed around the Antarctic Treaty to confirm the legal status of the Antarctic.

### 2.1 Peaceful Pure Land

Antarctica is the last uninhabited continent discovered on the earth, as the ice and snow world come into people's vision, every country's territorial and sovereignty claims are constantly put forward. The disputes last for long time, or even rise to armed conflicts, Under the condition that both sides suffer and earn profit, under the promotion of the International Geophysical Year idea, finally, impetuous politicians sit down to negotiate, eventually signed " the Antarctic Treaty", the the purpose of treaty determine "for the benefit of all mankind the Antarctic should be used for peaceful purposes for ever, should not become the places and objects of international disputes, and ensure that" the Antarctic is only for peaceful purposes and maintain international peace, the Antarctic Treaty will promote the purposes and principles of the Charter of the United Nations". The first article of the treaty also reaffirms the purpose of the peaceful use of Antarctic. This article can be interpreted as demilitarization, because the outbreak of war does not have geographical restrictions, so it is undoubtedly that obtaining experience is of great military significance under extreme cold conditions. The Antarctica is for peaceful purposes in provisions of the treaty are an outstanding innovation and an important contribution to the cause of world peace.

However, it must be noted that the provision 1 of article 2 have clear limits for peaceful purposes, the generation of this provision has its own time background, mainly in order to ensure the army, especially the navy is in charge of the Antarctic logistics supply; but for for peaceful purposes, the more difficult problems are research projects with military significance. In the general sense, the first article of the Antarctic Treaty has considerable leeway for the difference in understanding. In fact, almost every technology invention can be used for certain military purposes, so military purposes and peaceful purposes are unlikely to draw a strict boundary. But it is certain that the first article clearly excludes the possibility of establishing military bases and building military fortifications, conducting military exercises and testing any type of weapons in Antarctica.

Finally, we should pay attention to one point, in accordance with the the treaty, peaceful purposes are only applied to the Antarctic, namely the provisions 10 of article 6 stipulate the area in the latitude 60 degrees south, and keep freedom freedom on the high seas. Therefore, north military fortifications and conflict in 60 degrees south olatitude "the Antarctic Treaty" is at a loss what to do.

## 2.2 "Frozen" Region

As everyone knows, the conflicts escalation of the Antarctic issue is due to the territorial and sovereignty claims of all countries before the treaty came into being, and the Antarctic Treaty frozen all sovereignty claims and has temporarily shelved the problem, respected and maintained the status. It can be seen from the article 4 that how the treaty participants overfastidious in wording, repeatedly deliberate and carefully put forward at that time. As American senator Grunen points out: it shows what it does not mean, but it does not explain what it means. It is precisely because of this ambiguity that people are worried about the effect continuation and the practical application of future treaty.

As a scholar has said, the article 4 of the Antarctica Treaty is a still photo that records all disputes in the Antarctic Territory. If the Antarctic Treaty is terminated in future, it means that the starting point of all territorial disputes will return to the situation before 1959. The Antarctic Treaty only maintains the status politically, and does not provide a way to solve territorial disputes, but only "freeze" or "shelve" the territorial disputes. But this freezing is not completely, seven countries with Antarctic territorial claims, can continue issue territory claims statements, and other signatory states cannot claim during the treaty come into force, but have the right to issue statement to deny. At this time, it is too late to consider the views of all countries, author makes a little analysis on the opinions of all countries in order to make the problem clear in the following.

2.2.1. Discover. In addition to Argentina and Chile, all the other countries that claim sovereignty over Antarctica, and countries that raise sovereignty for claim the Antarctic regard this article as main legal basis. According to international law, it is not enough to determine the ownership of territory and sovereignty only by discovery, even the discovery with actual occupation intention. At this point, the United States' official policy believes that the discovery cannot be used as a basis for sovereignty claims, unless some practical measures are followed immediately. So a very ridiculous scene appeared, in 1939, American Ellsworth put some signs on the plateau area of Antarctica, it is equivalent to claim sovereignty for this vast area. Just as looked at the moon, it raise the sovereign claims for the moon, which was almost absurd.

2.2.2 Effective occupation. There is no country only according to the discovery and then raise sovereignty claim, and the seven countries regard discovery as basis and raise sovereignty claim, only Norway and Australia complete effective occupation after discover Antarctic about 25 years, although this time interval is reasonable or not is still in dispute. According to the previous cases, for those distant and uninhabited areas, the criterion for measuring the validity of sovereignty claim may be broadened. Considering the harsh climate Antarctic, it is not suitable for habitation, and it is impossible to achieve effective occupation. For those countries that raise territorial claims, the criterion of occupying action seems to be relatively lower than that in a temperate and densely populated area. However, under the current circumstances, there is no clear actual occupation. In addition, the reduction of standard is still a difficult problem.

2.2.3. Sector theory. The sector theory is put forward based on the specific circumstances of the Arctic and its historical evolution, this principle does not apply to the Antarctic, the first is Polar natural environment is greatly different to Antarctic, the Antarctic Circle did not extend in other countries, geographically, the theory has no merit; secondly, it is also inconsistent with the method of the territory acquisition recognized by the international law, and violate ownership convention in a early stage of territory establishment the according to the discovery right; thirdly, sector theory involves the high seas, which makes the problem more complicated and difficult to solve, if applicable, it will also make the Arctic into conflict again; finally, although the countries that raise sovereignty except Norway support the sector theory, but the countries without raising sovereignty all opposed, in fact, the International Court of Justice does not support the sector theory. Therefore, the sector theory cannot be used as a fair and effective method to demarcate the borde.

2.2.4. Scientific investigation station. The sovereignty of some areas requires that some countries should put it on small scientific research stations built in coastal areas. According to international law,

it is unrealistic to use a base to support large claims. So can we only put forward the claim for the base area? I believe that scientific activities usually cannot be regarded as the basis of sovereignty claims. Scientific investigation and administrative management have nothing in common, so they cannot be regarded as weights for sovereignty.

According to the above, we can know that the issue of territorial sovereignty of the Antarctic region is very complicated, not only because of the natural conditions of the out of the ordinary, because there are many countries and is also more and more national interests are intertwined, "Antarctic Treaty" itself is the geopolitical conflict balance results. It is difficult to anticipate whether such a balance will be broken with the change of political interests and the addition of new roles. To be sure, no matter the resolution or revision of the Antarctic Treaty in the future, it is impossible to return to the moment in 1959. Once the picture was tore, it could not be pieced together again. Because in addition to 12 original consultative countries, the Antarctic continent, 16 consultative countries and 21 other contracting parties have been gradually joined for Antarctica this piece of cake. There may be more countries to join in the future.

### **2.3 Scientific Research Base**

The second article of the Antarctic Treaty is about scientific research. The main purpose of the Antarctic Treaty is to lay the foundation for the continuation and development of international cooperation established on the basis of the principles of freedom of scientific research. Scientific activities, relatively speaking, can avoid complex political problems with their sovereignty.

Nongovernmental organizations have made great contributions to this point of scientific research. Their Antarctic aims are to promote international cooperation and strive for the benefit of Antarctic scientific activities to all countries. The most representative is the Antarctic Research Science Committee (SCAR), one of the three major international organizations to manage Antarctic affairs. SCAR is the International Council of Scientific Unions (International Council of Scientific Unions, ICSU) under a multidisciplinary science committee, it was built in 1957, and the original intention is the scientific research activities during the coordination of the international geophysical year, mainly engaged in international Antarctic research plan, initiate, promote and coordinate. Through the biennial conference and organizing a series of academic seminars, we regularly publish the latest development of international Antarctic research, and put forward the new priority areas of Antarctic scientific research, pointing out the research direction for Member States. SCAR is the highest academic authority in the international Antarctic scientific research so far. SCAR has played an important role in promoting the freedom of scientific research and the spirit of scientific cooperation advocated by the Antarctic Treaty. This is also the embodiment of the third article of the Antarctic Treaty.

As mentioned before, there is no strict definition of scientific research, neither a boundary between basic science and applied science, nor a boundary between civil science and military science. But in any case, the freedom of scientific investigation is a prerequisite for the development of science. In the Antarctic area, the principle of scientific investigation established in the form of treaties is conducive to the further understanding of Antarctic area by scientists, so as to serve the interests of all mankind. In the Antarctic area, under the guidance of the treaty, many scientific research bases were established, and gradually formed an unique scientific research base in the Antarctic area to ensure the scientific research activities in the Antarctic area, which is beyond doubt.

### **2.4 "Treasury" of Resources**

Today, around the world, the Antarctic region is covered with ice and snow, and in the far south of the earth, but the region is rich in resources such as krill, seals, whales and mineral resources, the tourism industry in recent years is increasingly clear the value of A new force suddenly rises., with interest and profit way in the minds of the people. The front and the national sovereignty is so clear and fight for every inch of land is a large part of the reason, it is out of the competition.

Mineral resources is another sensitive issue in the territorial claims of Antarctica, before concluding this problem already exists, the parties to seek common ground, avoiding the problem of resources in the contracting process, but will focus on how to properly resolve the territorial dispute, which led to the conclusion of treaties, into the "resources" cannot find the words this is the text of the treaty.

Zhu Jiangang, director of polar information center of China Polar Research Center, thinks that with the development of population expansion and energy crisis on the earth, the rich Antarctic resources will be utilized by mankind sooner or later. In the past, there were technical barriers to the development of the Polar regions. Today, the United States has broken through the technical problems of mining oil in the Arctic without damaging the environment. Therefore, some scholars believe that the arrival of the "era of resource development" in Antarctica is only a matter of time. Certainly, when resources problem has become the issues at stake, the sovereignty dispute will become more difficult to solve.

## 2.5 Ecological Protection Area

The preservation of the Antarctic habitat is the goal of all forces in the ice and snow. Although governments and the Consultative Conference whose core competitiveness is concerned, the first thing is the scientific research, economic interests and political interests of the Antarctic area, and environmental protection is placed at a secondary position. Over the years, both the treaty countries, the consultative countries, the United Nations and related organizations, or non-governmental organizations, have repeatedly stressed the importance of the Antarctic environment, all of which are striving for the last piece of pure land on the Antarctic continent to be free from interference and destruction. Following the "Antarctic Treaty" signed, in consultation and have passed the following Treaties: "protocol on environmental protection to the Antarctic Treaty" (The Protocol on Environmental Protection to the Antarctic Treaty), "Convention on the conservation of Antarctic seals" (Convention on the Conservation of Antarctic Seals, referred to as CCAS), "Convention on the conservation of Antarctic marine living resources" (Convention on the Conservation of Antarctic Marine Living Resources, referred to as CCAMLR), "agreed measures for the conservation of Antarctic fauna and flora" (The Agreed Measures for the Conservation of Antarctic Fauna and Flora), the activities of Antarctic Mineral Resources Management conventions and non-effective "(Convention on the Regulation of Antarctic Mineral Resources Activities, referred to as CRAMRA). In May 1998, according to the provisions of the "environmental protection to the Antarctic Treaty Protocol" eleventh session of the twenty-second, the Antarctic Treaty Consultative Meeting on the formal establishment of the "Environmental Protection Committee" on the Antarctic Treaty protocol, namely the Antarctic Environment Protection Committee (CEP), the main purpose is to develop environmental protection plans, Antarctic regulations and measures, and responsible for the implementation of the plan, guidance, coordination, supervision and arbitration etc.. These are the efforts made by people for the Antarctic ecosystem and the living environment. The United Nations and its related organizations have been working to integrate Antarctica into the UN system or to form a systematic regulatory framework for the Convention on the law of the sea and other global conventions. Unofficial efforts also include the appeal and propaganda of Antarctic environmental protection, such as ASOC, IUCN and Greenpeace, and their criticisms of the relevant government's unilateral pursuit of interests.

However, the activities of human beings in the Antarctic have brought a partial impact on the environment there. For example, in 1968 the Soviet Union and Chile in an important ecological significance in Fildes Peninsula is established on the base; 1977 Poland established a station is dangerously close to the local birds and mammals especially in the region. In addition, serious pollution to the surrounding environment is caused by poor disposal of garbage at all bases. There is also an important and annual increase in the impact of the gradual development of the Antarctic commercial tourism.

Another problem that cannot be ignored is that people coveted on the Antarctic resources, along with the exploitation of resources, if not the Antarctic ecosystem has been severely damaged, will be no longer the original, for the domino earth's ecological system, it is not a good fortune.

### **3. Prospect of the Antarctic Region**

#### **3.1 Effect Issue of the Antarctic Treaty**

It can be said that the prospect of the Antarctic region is largely determined by the effectiveness of the Antarctic Treaty and a series of agreements. The original parties initially for 30 years on the validity of the "treaty", in the sixteenth session of the Consultative Conference will expire (1991), the parties issued a joint statement, fully affirmed the positive role of "treaty" in the Antarctic affairs, that continued peaceful use of Antarctica in line with the interests of all mankind, agreed to extend for 10 years; at the turn of the century in 1999, the parties issued a statement again in the twenty-third session of the Consultative Conference on cooperation and uphold the spirit of consensus should always contribute to the peace and the cause of science, and to deal with the challenges of the future. In fact, this is an infinite extension of the treaty until it is considered necessary to modify the mainstream of cooperation between the parties to the contracting parties.

However, the problem cannot be ignored is that from the essence of the treaty, the treaty is the result of international conflicts, but the end is not contradictory, with the change of the deduction of time and circumstances, compromise and balance between the parties has changed, new contradictions arise, the treaty must be modified or fail in order to adapt to the current situation. Because of this, the validity of the treaty is always effective.

In the May 13, 2009. deadline in accordance with the delimitation of the continental shelf for most coastal states submitted to consider the application of the outer limits of the continental shelf, Argentina, Norway and Australia and other countries in the recent Antarctic territorial claims submitted to the Commission for the Antarctic outer continental shelf, the Antarctic territorial sovereignty and expand the content, so that the Antarctic territorial dispute renewed smoke. Instead of questioning the contents of the Antarctic Treaty, the non contracting parties opposed the issue of their support in the UN General Assembly, which made the issue of the validity of the Antarctic Treaty continue to be influenced by the power of new challenges. This also makes people worried about the good aspirations of the Antarctic Treaty forever.

#### **3.2 Reform Issue of the Antarctic System**

The 28 treaty negotiating countries are the main force to monopolize Antarctic affairs, especially the Antarctic political problems. They are also the countries engaged in substantive activities in the Antarctic and have made significant achievements in scientific research. They are interested in all the major issues such as Antarctic territorial sovereignty, scientific research, resource development and environmental protection. It can be said that they have the most say and decision-making power for Antarctic affairs. This makes other countries extremely dissatisfied with the Antarctic system. They believe that the main drawback of the Antarctic Treaty is the limitation of the constituent states of the State Party and the exclusive nature of only the consultative country in the decision-making process. This is clearly a challenge to the existing system.

Academic point of view, many members of the international community is unfamiliar to the "Antarctic Treaty", individual countries hope to the Antarctic "United Nations" of the motion has been a considerable part of the United Nations support, so the legal status of the Antarctic does not solve the "current Antarctic order still faces challenges. This view is reasonable, but by analyzing the composition of the members of the State Party, especially the composition of the consultative member countries, it is not difficult to see that this possibility is not large. There is also an academic view that the Antarctic Treaty is not legally binding on great powers when the problem of resources becomes the focus of the Antarctic competition. This view is that the United States, Russia, China and India have the possibility of withdrawing from the Antarctic Treaty, which undermines the existing Antarctic order. As a kind of speculation may have its basis, but after all, it is only speculating. As a matter of

fact, the Antarctic Treaty System has been established and operated for several decades, and it is not easy for any country to withdraw from the treaty system.

For the Antarctic region and the existing Antarctic system, there are three forces that have a decisive impact on it in the past and now. The first is the treaty members, especially has an indelible impact on the establishment and development of the system of parties, although the "Antarctic Treaty" has been viewed as a regional agreement according to the Charter of the United Nations "and to ensure all aspects, and try to follow the" UN Charter "for the purposes and principles of but in fact, since, since" the Antarctic Treaty "entered into force, atcp has been the internationalization of the Antarctic and the United Nations mediator wary, alert. Under normal circumstances, the Antarctic Treaty Consultative Group or refusing to cooperate with other relevant international organizations, or to take measures to obstruct the implementation of the plan of Antarctic activities by external forces. All of these have made the Antarctic system integrated and less controlled and managed by the United Nations. However, since 1983, the Antarctic issue is officially listed on the agenda of the United Nations. Up to now, Antarctic Treaty and its member states are receiving the supervision and challenge of the United Nations. At a later session of the general assembly, the "Antarctic issue" has become one of the necessary bills in the general assembly. The main purpose of the United Nations on the question of Antarctica and intervention are: to promote the purposes and principles of the UN Charter can be better realized in the Antarctic region, to ensure that the Antarctic is only for peaceful purposes, shall not engage in any military activity in Antarctica, including in the Antarctic setting and destruction of nuclear weapons; ensure the natural and ecological environment by the Antarctic the protection of; to promote the international cooperation and coordination of scientific research in Antarctica and other beneficial aspects of human peaceful activities; Antarctic affairs management should be wide participation of the international community. It can be said that the United Nations is on the Antarctic

#### 4. Conclusion

Survival problem of "the Antarctic Treaty" is the focus which affectsthe interests of all countries, the prospect of the Antarctic region is unpredictable due to numerous complex disputes and conflicts. However, As the current situation shows, under the background of global peace and development, The interests and claims of the parties are checked and balanced, it can be predicted that the Antarctic law, Antarctic activities, Antarctic management, Antarctic tourism, biological resources development of Antarctic Antarctic and ecological protection of Antarctic and other aspects in the future, the United Nations will further influence and play a role as well, and how the United Nations treaty system face the challenges will be a problem worthy of attention and still needs further observation. The Antarctic steadily maintain established system since "the Antarctic Treaty" took effect in situation which is bound to stabilize hardly, The main motivation and objectives are peace and cooperation, in the modern era of technological conditions that are increasingly conducive to human civilization, scientific research, resource development, environmental protection are motive force to maintain its peace and cooperation, therefore, it can be convinced that the guiding purpose will not change. As for the final situation, the assertion is early, and it is difficult to make a conclusion.

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