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### THE ANTARCTIC TREATY AND THE FALKLAND CRISIS

The conflict between the United Kingdom and Argentina over possession of the Falkland Islands has some parallels in the conflict over claims in the Antarctic prior to the adoption of the Antarctic Treaty in 1961. Certain features of the Antarctic Treaty may be applicable to resolution of the Falkland Islands crisis. These are:

1. No recognition of or dispute of the sovereignty claims of any state; in effect, deferral of the sovereignty issue for the period of the treaty.
2. Jurisdiction over inhabitants and visitors maintained by the states of which they are citizens.
3. Freedom of access by all treaty signatories, including the right of aerial observation and inspection of all installations.
4. Free exchange of scientific information and a mechanism for ensuring such exchange.

5. Use of the islands for peaceful purposes only; military weapons and combat personnel prohibited.
6. Disputes settled peacefully by the parties concerned or by the International Court of Justice.

#### Applying These Provisions to the Falklands

There are two ways in which provisions of the Antarctic Treaty might be applied in the Falkland dispute:

particular administrative of key facilities such as the port of Stanley should

- The Falklands might be brought under the jurisdiction of the Antarctic treaty by extending the area it covers to include the Falklands.
- A separate treaty embodying appropriate provisions of the Antarctic Treaty might be forged for the Falklands alone.

There are at present 14 signatories to the Antarctic Treaty, and their concurrence would have to be obtained to extend its jurisdiction—a difficult, perhaps impossible task. Antarctic issues are complicated enough without adding the Falkland issue. A separate treaty is much is preferable.

Sovereignty Considerations

In the Antarctic, national flags fly over national installations quite without regard for whether these installations are located in territory claimed by the country from which the inhabitants come. Many national bases in the Antarctic are located on territory claimed by another country. Applied to the Falklands, this principle would mean that the presence or absence of the Argentine flag (or of the UK flag or any other) would have no sovereignty implications. The citizens of all nations could go about their business, and nations fly their flags over the operations in which their citizens are engaged or the buildings where their affairs are managed. Joint or third party administration of key facilities such as the airfield at Stanley would have to be arranged.

Argentine and British sector claims in the Antarctic partially overlap (as does the claim of Chile--see map) in the Antarctic Treaty area south of 60 degrees South Latitude. The Argentine press has already heralded Argentina's possession of the Falklands as strengthening its Antarctic sector claims. Since nations marking sector claims in both the Arctic and the Antarctic have based them on the extension of lines from their sovereign territory adjacent to the polar areas (though this proposition is not recognized in international law), any solution which confirms the sovereignty of either the UK or Argentina has the apparent effect of undermining the Antarctic sector claim of the other. Thus, in any resolution of the immediate crisis the parties must accept the proposition that the arrangement has no bearing on the Antarctic sector claims of either nation.

### Resource Considerations

To date, no major mineral or petroleum resources have been found either on land or in the 200-mile offshore zones around the islands. A similar situation prevailed in Antarctica when that treaty was signed; accordingly, that issue was finessed. That approach would not work in the Falklands, whose inhabitants have long assumed the right to exploit any resource they find, even though they have lacked the funds and expertise to do anything in a big way. The best approach would probably involve sharing the costs and benefits of new efforts to find and exploit currently untapped resources.

With respect to the offshore resources that may attach to control over the Falklands, a compact for joint exploration and exploitation might be worked out that combined British money and know-how in offshore oil drilling with Argentine logistical support and labor and would be in the best long-term interests of both countries. The absence to date of major finds of mineral resources provides some breathing space for the development of a mutually satisfactory arrangement against the time when major economic interests may be at stake.

### Settlement Considerations

The vast Antarctic is essentially uninhabited; only a few people in a few isolated bases spend the winter there. There is enough room so that bases and

activities of various countries can be separated if desired--although, in some cases they tend to be clustered to afford opportunities for mutual support and cooperation. Nevertheless, there are no conflicts over land use.

By contrast, before the Argentine invasion, the Falklands were almost entirely inhabited by UK citizens. Although their settlements are small and dispersed, they use most of the available territory for economic endeavors, mainly sheep farming. Under an Antarctic-style treaty, new settlements (analogous to new bases in the Antarctic) could be established by citizens of other nations in places not now inhabited, but unless the economic base of the islands were expanded, there would be nothing for the new settlers to do except interfere with the activities of the existing inhabitants. Accordingly, provision would have to be made in such a treaty for preservation of the property rights and economic interests of the present inhabitants, and immigration would have to be controlled to correspond with expansion of the economic base.

#### Parties to the Treaty

The Antarctic Treaty was signed by the 12 nations that at the time conducted operations there. The treaty provided, however, that any member of the UN might subsequently join and, in addition, become a consultative member by mounting a scientific expedition to the region and establishing a base there. Argentina would certainly and the UK would probably oppose any similar

provision in a treaty covering the Falklands. Participants would have to be limited to the two states concerned plus an honest broker or two. Conceivably the UN or the US could serve in this role, but in the latter case Argentina might prefer to add a Latin American country to counterbalance the presumed US tilt toward the UK.