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THE POLITICS OF MINERAL RESOURCE DEVELOPMENT IN ANTARCTICA: ALTERNATIVE REGIMES FOR THE FUTURE

WILLIAM E. WESTERMEYER

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Antarctica long was ignored by the inhabited world, principally because of the continent's extreme isolation and grossly inhospitable climate. Enticing prospects for natural resource wealth, however, have recently kindled serious political interest in the region and the nature of the legal regime for overseeing activities there. Westermeyer's study, which was conducted as his doctoral dissertation at the University of Southern California, focuses on the problems and means of managing mineral resource allocation on the cold continent. His analysis specifically entails a quantitatively-derived assessment of alternative legal regimes for Antarctic mineral resource development which is based upon the respective national interests held by states evoking particular concern for the area. In substantial measure, this study supplies a very useful and most welcome contribution to the Antarctica-related international politics literature. Further, for the international law specialist, Westermeyer's work lucidly demonstrates that sophisticated quantitative methodology can be employed constructively to amplify and elucidate the importance of political considerations in legal situations.

Structurally, this volume is organized into six chapters. Following an introduction, chapter two reviews problems of resource allocation in the region vis-à-vis the present Antarctic Treaty regime, the groups of state actors politically involved there, and potential environmental impacts likely to occur in the wake of establishing any minerals regime. In the third chapter, twelve possible regimes discussion stands out as especially interesting because, first, it clearly demonstrates that a broad variety of legal options are available for managing resource exploitation on the continent; and second, it pointedly underscores the spectrum of national interest priorities implicit in each particular regime. As designated by the author, these principal regime types are: (1) the Status Quo, the existing Antarctic Treaty System; (2) the Territorial Regime, wherein claimant states would acquire absolute control over their territories; (3) the Open Use Regime, under which Antarctica would be owned by no one, and consequently available for use by anyone (i.e., having the legal status of *res nullius*); (4) the Svalbard Regime, with "tempered" sovereignty,

modeled after the Svalbard Treaty of 1925;¹ (5) the Condominium, with the continent managed under joint sovereignty of several states; (6) the Condominium with Access to Others; (7) the Joint Antarctic Resource Jurisdiction proposal, made by Frank Alexander, wherein the Consultative Parties of the Antarctic Treaty would set up a special jurisdictional resource arrangement;² (8) a Consortium, which involves a joint jurisdictional regime with joint responsibility for developing resources; (9) the New Zealand Proposal, made in 1976, for creation by the Consultative Parties of a special regulatory committee to oversee development; (10) Zonal Managers, in which a special regulatory committee would designate particular sections of Antarctica; (11) an International Regime, modeled after the International Seabed Authority model produced in the Third Conference on the Law of the Sea;³ and (12) a United Nations Trusteeship regime, organized under Articles 82 and 83 of the U.N. Charter.⁴

Chapter four explains the study's conceptual framework of analysis, viz., the use of "multi-attribute utility analysis," for providing a comparative evaluation of national interests in various competing regimes. Westermeyer is quick to note this techniques's imperfections and limitations (e.g., it is a static, rather than dynamic methodology; it is unable to weigh the relative import of Antarctic issues vis-à-vis other external issues affecting Antarctic Treaty Consultative Parties; and the data admittedly are subjective since measures for quantifying the intensity of national interests in Antarctica are non-existent).

The fifth chapter sets out those components employed in the analysis, that is, the national interests which are to be "weighed" within the context of each regime's appeal to salient state actors having special concern for the area. Though subjective, the state interests defined by the author are extremely useful in clarifying policy motivations and in accounting for different political priorities assigned by certain states to certain regional concerns. As explicated, this set of interests includes: protection (or improvement) of juridical position and rights; maintenance of the Antarctic Treaty System; the opportunity to profit from exploitation activities; maintenance of scientific research; sharing resources with the international community; sharing decision-making authority with the international community; maintenance of environmental quality; establishing effective

1. This regime model originated in an analysis made by Barbara Mitchell in *FROZEN STAKES: THE FUTURE OF ANTARCTIC MINERALS* 105-128 (1983).

2. See Alexander, *A Recommended Approach to the Antarctic Resource Problem*, 33 U. MIAMI L. REV. 371 (1978).

3. See United Nations Convention on the Law of the Sea, A/CONF. 62/122, 7 Oct. 1982, at arts. 133-191 (Part XI).

4. See Barnes, *The Emerging Antarctic Living Resources Convention*, 73 PROC. AM. SOC'Y INT'L L. 288-91 (1979).

management mechanisms; sharing advanced technology; minimizing adverse domestic opinion; and insuring security of resource supply.

For this reader, getting to the final chapter felt much like nearing the end of an engrossing mystery novel. Chapter six presents the findings of the analysis, correlating relative aggregate utilities of national interests in various regime alternatives for each Consultative Party and "the International Community." The results are impressive, instructive, and somewhat unexpected. For example, for Argentina and Chile, at least six regime types other than the "territorial" model—which would highlight their respective sovereign claims to portions of the continent—were found to better serve those states' respective utility interests. For the Soviet Union (whose interests actually were scored by U.S. experts because no replies were forthcoming from invited Russian experts), the consortium regime proved most preferable. (Significantly, it was also highest ranked by Argentina, Belgium, Chile, New Zealand, Norway and Poland). The United States, whose paramount interest consideration turned out to be maintenance of the Antarctic Treaty System, held the "best" regime type to be the condominium alternative, with access provisions for outsiders. On balance, these findings are important, quite revealing, and deserve the serious attention of government policy-makers and diplomatic negotiators. At the very least, Westermeyer's cogent study usefully crystallizes and clarifies the disparity of national priorities motivating various states' interests in the Antarctic region, information certainly worthy of apt consideration by responsible officials.

It should be noted, however, that this work is not without faults. These blemishes appear as misspelled words, typographical errors, and misplaced margins which, unfortunately, appear now and again throughout the text. No doubt, a careful proofreading by the publisher's editor would have caught most of these petty flaws which detract somewhat from an otherwise impressive scholarly treatment.

In any event, *The Politics of Mineral Resources Development in Antarctica* embodies an intellectually sound, carefully crafted, thoughtfully conceived piece of analysis. It comes highly recommended for purchase, especially by libraries, as well as by scholars and policy analysts who are seriously interested in the legal status of global commonspace resource regimes.

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