

BRITISH INFLUENCE ON THE ANTARCTIC TREATY
SYSTEM 1959-1964

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"The true story as it emerges from the confidential documents is, in my personal view, painfully at variance with a lot of the published versions. In saying this, I refer, of course, only to the political and other motives of each government. I fear it will be some years before this bit of history can be published."

Personal Communication by Dr. B.B. Roberts, 4 May 1978.
(in H.F.M. Logan. 1979. Cold Commitment.)

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ABSTRACT

A widely adopted historical view of the creation of the Antarctic Treaty and the subsequent development of the Antarctic Treaty System (ATS) places the United States at the centre of both.

It is suggested that this view is too simple and the genesis of the ATS remains poorly understood. It is accepted that the US supplied much of the political drive which led to the Treaty and that there could have been no Treaty without at least the acquiescence of the USSR, Argentina and Chile. It is clear, however, that none of the twelve signatories to the Antarctic Treaty, other than Britain, had any clear idea as to how the consultative procedure, for which the Treaty provides, was to be positively used.

The dissertation concentrates on the first three Antarctic Treaty Consultative Meetings (Canberra 1961, Buenos Aires 1962, and Brussels 1964), and finds that the British had a clear idea as to their positive objectives and were partially successful in achieving them. Previously unavailable diaries written by Dr. Brian Roberts (Head of Polar Regions Section in the Foreign Office from 1943 to 1975) serve as the primary source for this study, along with official Foreign Office documents from the period and secondary sources from Britain and around the world. The negotiations are traced with regard to - :

1. The successful conclusion of the Agreed Measures for the conservation of Antarctic Fauna and Flora
2. The foundation and location of a secretariat
3. The arrangements for telecommunications in the Antarctic
4. The need for clarification over the question of jurisdiction

- Once these have been considered one can reasonably conclude that Dr. Roberts was the driving force between 1961 and 1964 behind a British attempt to strengthen the Treaty against its perceived weaknesses with a view to the long-term stability of the ATS.

Having established this, attention is then turned to the wider question of whether Britain had a more formative role in the negotiation of the Treaty itself than the widely circulated view allows.

INTRODUCTION

In his State of the Union message to the Congress on January 7, 1960, President Eisenhower declared with regard to the Antarctic Treaty:

"There is one instance where our initiative for peace has recently been successful. A multilateral treaty signed last month provides for the exclusively peaceful use of Antarctica, assured by a system of inspection" (US Government printing office 1964).

The Antarctic Treaty, which was signed at the height of the Cold War, has been described as a most remarkable achievement (Myhre 1986: 23). It embodied US policy objectives as laid down in a 1958 policy statement for the region. These were: (1) to prevent the use of Antarctica for military purposes; (2) to provide for freedom of scientific investigation; (3) to establish an orderly joint administration of Antarctica by the countries directly concerned; and, (4) to preserve Antarctica for peaceful purposes only (Joyner & Theis 1997: 29). The Treaty bound the US and the USSR to demilitarise the whole continent, ban nuclear testing in the region and allow the inspection of facilities on the continent. It was also remarkable in that it bound Britain, Argentina and Chile to freeze their overlapping territorial claims for the duration of the Treaty. The territorial claims of Australia, New Zealand, France and Norway were also frozen.

The actions of President Eisenhower, such as his spring 1958 invitation to the eleven nations to attend the 1959 Washington Conference and his message to Congress of 1960, have prompted contemporary historians to support the view that "the United States was not only the chief architect of this (the Antarctic Treaty) agreement but its foremost supporter as well" (Joyner & Theis 1997: 29). Over the last three and a half decades this view of the creation of the Antarctic Treaty and evolution of the Antarctic Treaty System has become the predominant interpretation. While the evidence suggests that the political capital of the United States, along with the acquiescence of the USSR, Argentina and Chile, was required in order that an agreement in the region could be achieved in 1959, it is clear that other states strongly influenced the creation of the Antarctic Treaty. Similarly, the evidence now points to the conclusion that the evolution of the Antarctic

Treaty System was strongly influenced between 1961 and 1964 by the British.

Article IX of the 1959 Antarctic Treaty ordered that the "Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty" (Antarctic Treaty 1961: Article IX).

It has been suggested that few, if any, of the governments invited to the Washington Conference in 1959 were attracted by the positive aspects of the Treaty (Heap 1983:105). The evidence presented in this thesis advances the theory that few states had any clear idea as to how the Treaty could be positively advanced using the consultative procedure, as outlined in Article IX of the Treaty, between 1961 and 1964. The one apparent exception to this rule is the stance taken by the British during this period.

The dissertation concentrates on the first three Antarctic Treaty Consultative Meetings, in Canberra 1961, Buenos Aires 1962 and Brussels 1964. The main primary source used in the dissertation is the personal journal of Dr. Brian Roberts. Having inaugurated Operation 'Tabarin' in 1943 in order to maintain the British claim of sovereignty in the Falkland Island Dependencies against Argentine encroachments, he was appointed to the Foreign Office in 1944 (King & Savours 1995: 126). From 1946 until his retirement in 1975 Roberts was the Head of the Polar Regions Section at the Foreign Office; he thus should be seen as the central figure behind British planning during this period. His diaries serve as a complete record of the first three consultative meetings. They not only represent the daily record as recalled by Roberts, but within each report Roberts incorporated appropriate parts of official telegrams sent to Whitehall from the meetings. Therefore the journals can be said to include a collective appreciation by the British delegation at the three meetings as well as personal reflections (Roberts 1959: 2). This is the first occasion upon which the diaries have been available for public consultation and they paint events of the period in a different light from those histories

which have gone before and call for some revision of the predominant interpretation of events.

The other major primary sources are the set of official Foreign Office telegrams sent to the incumbent Foreign Secretary by the head of the British delegation at the end of each of the Consultative Meetings. These, too, have been previously unavailable and serve as an overall record of the thinking of the delegations and the extent to which British objectives had been achieved and how best obstacles could be overcome at future negotiations. Other sources used in the dissertation include documents from Roberts' colleague Sir Martin Holdgate and personal communications from Dr. Warren Reynolds (part of the American delegation 1961 & 1962, and member of the Conference secretariat at the Washington Conference 1959) and from R. Tucker Scully, currently Director of Oceans and Polar Affairs at the US State Department. Other sources come from the available records from parties involved in negotiations and meetings, as well as previously published works from around the world.

Sir Esler Denning who had been head of the British delegation at the 1959 Washington Conference made it clear that the British saw the substance of the Antarctic Treaty as only a partial success:

"It was originally the view of the United Kingdom that some organisation, vested with more effective and comprehensive powers than that which is now contemplated, would have been desirable, but in deference to the views of others we are prepared to subscribe to a less far-reaching scheme in the interests of general agreement" (Denning 1959: 36).

These sources make it clear that the British understood that the Treaty might in the future come under strain due to the nature of the consensual agreement reached in 1959. In order, therefore, to strengthen the Treaty with a view to the long term stability of the Treaty System, the British initiated a series of short-term objectives to be attempted at Consultative Meetings. It was hoped that in the long term the result of these short-term successes would not only be a strengthening of the Treaty System as a whole but would also bring the Treaty somewhat closer to what the British had envisaged before 1959. The ultimate objective was to put a permanent end to disputes in the area by in some way internationalising the Antarctic (Roberts 1961: 3).

The short-term objectives initiated by the British between 1961 and 1964 can be shown by following the negotiations over four major areas of the Treaty. First, the British believed that any decision made on the creation and home of a Secretariat would have far-reaching effects on the growth of the infant Treaty (Roberts 1961: 3). The British were strongly in favour of establishing such an administrative body in Canberra and opposed to its location in Washington. Second, the negotiations on telecommunications can be seen to be a lightning rod for political questions pertaining to sovereignty during the period. It was vital for the British that the Scientific Committee on Antarctic Research (SCAR - a non-governmental organisation) should play an active role in this debate but should be kept outside political questions. Third, it was felt that the question of jurisdiction, which had been avoided in the text of the Treaty, should be addressed and clarified. The fourth area, the conservation of Antarctic fauna and flora, can be seen as the British using science and conservation as a cloak for the securing of a long-term objective. The 1964 Agreed Measures have been seen as the major accomplishment (and sometimes the only accomplishment of substance) of the Antarctic Treaty Consultative Meetings between 1961 and 1964. It is possible to conclude that this was not only a British initiative but largely a British accomplishment; and that it represented both a conservation measure and an agreement with far-reaching implications for the future of the Treaty System.

Given British influence from 1961 to 1964 and the clear long- and short-term planning of the British (guided by Roberts) it would seem strange that the widely circulated view of the creation of the Antarctic Treaty places limited emphasis on the British contribution. While some of the key documents remain to be released by Her Majesty's Government, it is clear from the journals and the official documents that the British played a more influential role in the formation and the negotiation of the Treaty than the predominant interpretation allows.

CHAPTER 1

THE CREATION OF THE ANTARCTIC TREATY AND THE EVOLUTION OF THE ANTARCTIC TREATY SYSTEM : PREVIOUS INTERPRETATIONS

A. THE PERIOD PRIOR TO THE PREPARATORY NEGOTIATIONS FOR THE WASHINGTON CONFERENCE

Since the signing of the Antarctic Treaty in 1959 and the conclusion of the first three Antarctic Treaty Consultative Meetings in 1964, historians have tended to adopt a particular interpretation of the creation and evolution of the ATS, which places greatest emphasis on the American contribution and which is largely derived from American sources. Influential examples of this interpretation are to be found in Peterson (1988), Quigg (1983), Beck (1986) and Myhre (1986). Most recently, this view has been restated by Joyner and Theis (1997).

Myhre argued that the Treaty was spawned by events prior to 1959 by a United States State Department that faced a possible war between its South American and European allies and that lacked a policy with which to address a potentially sensitive problem.(1986:23)(see also Child 1988:18; Hayton 1960:352; Maquieria 1986: 52; Watts 1992:4).

From 1946 onwards several incidents, described as sabre-rattling for domestic consumption in Argentina, subsequently occurred between Argentina and the British (Myhre 1986:25). Due to the sensitivity over sovereignty in the area, Beck believed that these disputes over "facilities" which would normally have been considered minor came to be regarded as serious by officials in Washington and London (1986:38). These problems were exacerbated by the territorial claims of Chile in the region, and Washington was sufficiently concerned to issue a policy planning staff paper in June 1948 :

"It is a source of embarrassment to the United States because of our close relation to Great Britain and our commitments in the Western Hemisphere. This embarrassment is susceptible of exploitation by the USSR to the further disadvantage of the United States. Our national interest requires that a

settlement of this dispute be reached which will be acceptable to the three countries involved" (Foreign Relations of the US 1948:979).

According to Beck, in the late 1940s various methods of containing the sovereignty problem through internationalisation were considered in Washington. These included UN. trusteeship or a multi-nation condominium composed of interested powers. The Escudero declaration, made in 1948 by a Chilean Professor who would later represent his country at the Washington conference, espoused an alternative international scheme for the region, which some have seen as a forerunner for the principles laid down in the 1959 Treaty (1986:39)(see also Hanessian 1959:436; Triggs 1986:132). This was perhaps the only positive response to American proposals of this time, which foundered upon the ambitions of the Antarctic claimants (Beck 1986:40). Myhre (1986:30) claimed that, by 1950 the US had become heavily involved in the planning and execution of the Korean War and also in that year, the chance of an eight state accord in the region lessened after the USSR issued a note to six of the claimant states (excluding Chile with whom diplomatic relations had been severed) and the US demanding that any Antarctic agreement should include the USSR (see also Elliot 1994:29).

The predominant interpretation of the creation of the Antarctic Treaty then moves from this period to the mid 1950s and places great importance on the scientific community and the International Geophysical Year (IGY), which is seen as a catalyst for improved international co-operation in the region (Sahurie 1992:xxiii). The origins of the IGY can be traced back to an American, Dr. L.V. Berkner, who made the suggestion of an IGY in 1950 to a gathering of international scientists in the home of Professor J.A. Van Allen at Silver Springs, Maryland (Jones 1959: 383). The recommendations formulated there were included at a meeting of the International Council of Scientific Unions (ICSU) who by 1952 had established a committee to formulate plans for what scientists envisaged would be a Third Polar Year in 1957 - 58. In 1953, ICSU expanded these plans creating a Comité Spécial de L'Année Géophysique Internationale (CSAGI) which submitted scientific plans in 1954.

Joyner and Theis asserted that the IGY Antarctic fieldwork which began in 1957 "revived interest in the idea of establishing an international regime for the area" (1997:30). They suggested that by promoting research on

meteorology, the upper atmosphere, cosmic rays and other areas, the IGY inaugurated a unique scientific effort (1997:30). The polar regions saw a concentrated scientific effort during the IGY with twelve nations operating 66 stations in Antarctica. Once again Joyner and Theis placed the United States at the forefront of this effort, having five stations : Little America, Byrd, Amundsen-Scott, Ellsworth and Wilkes (1997:4).

The 1955 resolution by scientists that IGY activities were merely temporary measures and that they did "not modify the existing status of the Antarctic regarding the relations of the participating countries" (Joyner & Theis) allowed there to be successes on two fronts during the IGY. The most obvious were the scientific successes but the more subtle success had implications for a future Antarctic Treaty. During the IGY an understanding was reached between the participating nations that scientific activities would be non-political and would therefore not serve as a basis for territorial claims. In many ways this can be seen as a precursor to the freezing of territorial claims under the 1959 Treaty (Chaturvedi 1990:89).

Peterson's widely accepted understanding of the period 1958 - 59 is that the United States pursued its initiatives and that other participants responded positively due to the relative salience which Antarctic matters had acquired by then (Peterson 1988:67). Joyner and Theis asserted that it was US perseverance that secured an agreement that would continue the co-operation that prevailed during the IGY and preserve the continent as a zone of peace. In this way "the origins of the Treaty can be traced directly to American efforts" (1997:30). It is clear that the sovereignty problems in the region had not been solved despite American concerns aired in the late 1940s. Joyner and Theis claimed that in 1958:

"the United States took the lead. Indeed the Antarctic Treaty represents the culmination of a series of negotiations initiated by the US. government" (1997:32).

In that year President Eisenhower sent a letter to the seven claimant nations and the five other nations with scientific interests in the area stating that there should be a conference held to draw up a Treaty concerning the future of Antarctica. On May 3, 1958, Eisenhower stressed that the purpose of the conference was to prevent the continent from becoming "an object of political

conflict" as well as to keep the continent "open to all nations to conduct scientific and other peaceful activities" (Dept. of State 1958:910).

B. THE PREPARATORY NEGOTIATIONS, THE WASHINGTON CONFERENCE 1959 AND THE ANTARCTIC TREATY

The predominant interpretation asserts that "having initiated the preparatory talks and provided the venue, the US maintained a high profile throughout, exerting a major influence on the course and outcome of the negotiations" (Beck 1985:663). In November 1958, Ambassador Daniels of the US delegation presented a number of draft articles which incorporated many of the themes raised in previous discussions. Although these were depicted as informal working papers, they could have reasonably been described as a draft Treaty. Beck argued that in 1959, much of the material in this draft was included in the fourteen articles of the Antarctic Treaty itself (1985:662).

It is clear from Beck's sources that Ambassador Daniels was especially prominent in these preparatory negotiations, and his "personal influence was pervasive in peacemaking, smoothing points of controversy through semantic gymnastics, and providing working papers which ensured a strong US influence in the final Treaty" (1985:663). The Department of State had realised that these negotiations would not be easy, given the positions of Chile and Argentina and the Cold War political tension between the US. and the USSR. Although the Geneva discussions on nuclear weapons testing in 1958 and the preparation for Khrushchev's visit to Camp David in 1959 aided negotiation, Daniels is considered to be the chief positive mover of this period, while Ledovski (the head of the Soviet delegation) has been portrayed as a stickler, creating blockages delaying the progress of the negotiations (Beck 1985:663).

Quigg accepted the view that a transformation in the Soviet attitude occurred in April 1959 after Ambassador Daniels had met with the Soviet Ambassador in Washington, Mikhail Menshikov (1983:146). While the reasons for the alteration in the Soviet position have never been made public, Beck believed that due to the constraints of the period the acquiescence on the part of the USSR proved decisive in clearing the way for the Washington Conference (1985:663).

Joyner and Theis asserted that the influence exerted by the US in drafting the Treaty during the Washington Conference is reflected in the Preamble (1997:33). This emphasises two cardinal objectives that the US had championed: the peaceful use of the continent and scientific co-operation (Herter 1959:1). If one compares the March 1958 US policy statement proposals with some of the fourteen articles in the Antarctic Treaty, then the major American goals seem to have been achieved within the text of the Treaty. The first goal, the demilitarisation of the continent, is reflected in Article I. The building of military bases and fortifications is prohibited, weapons may not be tested and military manoeuvres are controlled. Likewise, Article V bans nuclear explosions, thereby fulfilling another American goal, that of preserving Antarctica for peaceful purposes only. The third US goal, to provide for freedom of scientific investigation is embodied in Articles II and III, which stipulate the free exchange of research data and results as well as personnel (1997:34). The fourth US goal, the establishment of an orderly joint administration of Antarctica by the countries directly concerned is more difficult to pinpoint in one article. One could argue that the freezing of territorial claims in the innovative Article IV makes it possible to view Article IX (which calls for a Canberra meeting after ratification of the Treaty and regular meetings thereafter) as a framework for the orderly joint administration of Antarctica by the countries directly concerned. Certainly, since no administrative body was formally created Article IX assumed particular importance (Joyner & Theis 1997:35). Joyner and Theis further asserted that the Antarctic Treaty Consultative Meetings, which grew out of Article IX of the Treaty have been "largely responsible for the evolution of the politico-legal framework for managing the Antarctic and has generated a multifaceted system consisting of the treaty itself and several auxiliary instruments concluded pursuant to it"(1997:36).

C. THE EVOLUTION OF THE ANTARCTIC TREATY SYSTEM 1961 - 1964

The generally accepted understanding of the evolution of the Antarctic Treaty System regards the Antarctic Treaty as the barest outline of a regime. Therefore, in order for the regime to function effectively, Peterson believed, participating governments had to work out a number of procedures and add a number of rules (1988:92). Little of substance has been written about the first three consultative meetings and the rule of confidentiality has often been cited as the major reason for this. Peterson has regarded the rule on

confidentiality as a screen behind which Consultative Parties hide (1988:94). Auburn believed that "general confidence in the work of the meetings is not encouraged by the secrecy of the actual proceedings" (1978:500).

The little that has been written on the first three Consultative Meetings views the activity resulting in relatively minor additions necessary for maintaining the regime (Peterson 1988:92). The common interpretation asserts that during this period participating governments took the bare outline of the authority granted in the Treaty and created a system of rule making in order to serve all of their needs (Peterson 1988:94). Joyner and Theis supported the accepted understanding that the first important addition to the Antarctic regime came in 1964 within the Agreed Measures for the Conservation of Antarctic flora and fauna (1997:44). Joyner and Theis viewed this as a formal legal agreement which showed the commitment of the participating governments to place considerable emphasis on conservation and environmental obligations (1997:44).

In the course of elucidating the predominant interpretation, some historians have accessed sources outside the United States which have hinted that a different interpretation of events might exist. Quigg, for example, noted that during a press conference given by Macmillan in February 1958, the British Prime Minister acknowledged that he had been holding discussions with the Australian and New Zealand premiers on the question of the Antarctic (1983:143). Beck, while acknowledging Daniels' input in the preparatory meetings, noted that contributions made by Roberts behind the scenes were significant (1986:64). Equally, Myhre asserted that during the first consultative meeting, the British took the lead on the question of conservation (1986:47), while Beck claimed that the environmental protection role "accorded with the personal interests of those involved in Consultative Meetings, and Brian Roberts of the UK. has been oft-cited in this connection" (1986:218).

On the basis of previously unreleased British sources - the official Foreign Office delegation reports between 1959 and 1964 and the journals of Roberts - this thesis is able to propose important revisions to the previously dominant interpretation of the creation and evolution of the Antarctic Treaty System which has emphasised the role of the US delegation.

Whereas the post-war years prior to 1961 have received much attention, commentators have paid less attention to the question of the influence of participating nations during period 1961 - 1964 . The next three chapters will therefore seek to study the question of influence on the evolution of the Treaty between 1961 and 1964, while the fifth chapter will return to the accepted understanding of events until 1961 and using previously unavailable material from official British foreign office papers and the Roberts diaries will attempt to illustrate the limitations of the widely circulated view discussed in this chapter.

CHAPTER 2

BRITISH INFLUENCE ON THE FIRST ANTARCTIC TREATY CONSULTATIVE MEETING, CANBERRA 1961

A. BRITISH OBJECTIVES

Beck believed that the Antarctic Treaty embodied both static and dynamic qualities, allowing it to perpetuate the relative international stability of the period immediately prior to 1959 and also enabling the regime to adapt to demands imposed upon it by a changing world (1986:66). This view is reflected in the writing of Roberts who wrote in the introduction to his personal journal of the First Antarctic Treaty Consultative Meeting in 1961:

"In relation to such a large region, the idea of the Antarctic Treaty was something new in the history of international relations. The treaty did little more... than create a framework for international co-operation, leaving the Contracting Parties to feel their way towards the practical arrangements which will be necessary to make that co-operation a reality".¹

It is clear that the British had a clear set of objectives prior to the meeting in Canberra and these can be most clearly seen in a general brief largely written by Roberts, although slightly amended by the American Department at the Foreign Office, which was drafted for the British delegation at Canberra in June 1961.² In this brief, the principal United Kingdom objectives both for the first Consultative Meeting and for the long-term future of the Antarctic Treaty System were addressed. It was noted that the Antarctic Treaty produced the two positive advantages of scientific research and the provision for non-militarisation in the Treaty zone.³ Also noted was the freezing principle pertaining to territorial claims which was to be of most interest to the British:

"whose original hope and aim was to put a permanent end to the disputes in the area by internationalising the Antarctic. In varying degree, however, most of the signatory governments were against any kind of international regime, prominent amongst the opponents on this issue being Australia, Argentina and Chile".⁴

The brief made it clear that the ultimate long-term objective of the British was to bring about whatever progress could be made in the direction of a true international regime. It was accepted that this objective might not be possible during the currency of the Treaty and that this objective should never be made apparent to other delegations, as it could obstruct progress towards improved international co-operation in the area.⁵

Attention was then turned to short-term objectives which were proposed in order that the Consultative Meeting produced some solid results and not merely a series of platitudes doing no more than reaffirming the principles established in the Treaty.⁶ Solid results were important, it was asserted, for two main reasons. First, it was felt that public opinion would be disillusioned if nothing worthwhile emerged from the meeting. Second, failure to produce any solid results at an early stage might have discouraged those actively engaged in Antarctic work and would tend to make the future development of the Treaty as a live force more difficult.⁷ If this were to occur the fear was that this could adversely effect the legal protection of British rights derived from Article IV, because "to the extent that the Treaty was permitted ever to become a dead letter, Article IV would tend to become one too".⁸

The second consideration would appear to have been of highest priority to the British between 1961 and 1964, and the brief called for the United Kingdom delegation to risk controversy rather than permit emasculated recommendations, particularly with relation to four of the 22 agenda items which concern the preservation and conservation of living resources; the arrangements for radio communications; the preservation of historical sites; and co-operation in mail services.⁹ The first two of these agenda items should be viewed as two of the major British concerns reoccurring as themes throughout the first three Antarctic Treaty Consultative Meetings.

The third main area of interest concerns the question of a Secretariat. This is not unrelated to the question of SCAR and the foundation of adequate treaty machinery, and it is clear that between the years 1961 and 1964 this question is a consideration in its own right. The brief asserts that the British:

"should attach considerable importance to this item and do everything possible to ensure that a good foundation is laid for the Treaty

machinery...[and] the concept of a separate technical advisory group...which could deal with technical questions from which politics cannot be entirely eliminated".¹⁰

The question of a Secretariat had clearly been a primary concern for the British since the conclusion of the Antarctic Treaty. Roberts had taken the opportunity of discussing tactics for the Canberra Consultative Meeting during his visits to Australia and New Zealand prior to joining the United States Operation "Deep Freeze 61" as official United Kingdom observer for the Antarctic season 1960 - 61. In November 1960, Roberts met with Dr. Phillip Law, the head of the Australian Antarctic Division at the Department of External Affairs. Although the Australian and British had differed in the late 1950s over their approach to the question of territorial claims in Antarctica, there was an understanding between the two nations which resulted in an ability in 1960/61 to conceive the same problems and to arrive at the same conclusions. It must be noted that neither Roberts nor Law had heard from their representatives working on agenda items for the First Consultative Meeting in Washington and that their discussions therefore amounted to no more than an informal exchange of views. Nevertheless, Roberts was encouraged by the fact that Law (who would be chief advisor to the Australian delegation at the first Consultative Meeting) was "in full agreement with all of our proposals and will support all of them when they reach him through Canberra. His opinion was that the Canberra people had not yet given much thought to any details".¹¹

In particular, Law appeared most anxious that any Secretariat should be located in Canberra and that "they are in agreement with us in wishing for something quite small along the lines we have proposed".¹²

Similarly, on the 23 November, Roberts met with Mr. A.D. McIntosh, Secretary of External Affairs, in New Zealand. On this occasion McIntosh asked Roberts to outline his views about the agenda for the Canberra Meeting, suggesting that the New Zealanders had not yet formulated any policy and would like to know what the British thought.¹³ Although Roberts did not touch upon jurisdiction, McIntosh saw no reason why New Zealand should not agree with the British on every single suggestion. McIntosh clearly saw the Secretariat as the most important item and favoured a very small secretariat, preferably with a southern hemisphere capital. He showed no

sign of wanting it in Wellington and even hinted that New Zealand would support an English location, although he believed that Canberra might be the most suitable.¹⁴ These two meetings tend to support the view that during the formative years of the evolution of the Antarctic Treaty System, the British had very clear ideas as to their long- and short-term objectives and had special relationships with certain Consultative Parties that were inclined to agree with and support British proposals for the evolution of an Antarctic Treaty System.

In the introduction to the journal of the first Antarctic Treaty Consultative Meeting, Roberts made four salient points relating to future international co-operation in the area and British objectives. First, he attached considerable importance to the first meeting, believing it would set the tone for future co-operation under the Treaty. Second, it was noted that the Contracting Parties were an unusual grouping in terms of international politics of that period and that "we are embarking on a new form of co-operation".¹⁵ Third, Roberts clearly saw Antarctic research as a primary concern but believed that satisfactory research in the region depended on the effectiveness of the legal protection given by Article IV of the Treaty. He concluded that the British no longer had to "match Argentine and Chilean claims - blow by blow - in order to safeguard our legal position".¹⁶ Roberts considered the events of the 1940s and 1950s to be "out of keeping with world opinion and must be replaced by something altogether more adult".¹⁷ Finally, Roberts asserted that the British would primarily aim to gain practical progress towards uniform legislation for the Treaty area from the meeting. However, it was noted that other parties regard this aim as too controversial due to it being too suggestive of the notion of "full internationalisation of the Antarctic which has all along been our aim".¹⁸ Thus he conceded that the British "may not be able to achieve much in this direction to start with".¹⁹

B. THE CONSERVATION OF WILDLIFE - FIRST ANTARCTIC TREATY CONSULTATIVE MEETING, CANBERRA 1961.

"The first concrete expression of concern for conservation measures among the ACTP's (Antarctic Treaty Consultative Parties) came in 1964 with the Agreed measures for the Conservation of Antarctic Flora and Fauna...It was the United States that initially recommended the adoption of the Agreed Measures. Their purpose was manifold; to protect native birds, mammals, and

plant life on the continent, safeguard against the introduction of non-indigenous species, prevent water pollution near the coast ice shelves, and preserve the unique character of natural ecological systems." (Joyner & Theis 1997: 103)

J.D. Myhre is one of the few commentators who has attempted to research the first Antarctic Treaty Consultative Meeting in detail. He recognised that the initial discussions in Canberra were hampered by the suddenness of the meeting due to it being set for two months after the Antarctic Treaty entered into force. Thus he concluded that the preparation of conservation positions was somewhat hurried. He did, however, recognise that when the meeting turned its attention to the question of conservation "the British took the lead in proposing that a recently passed resolution of SCAR be adopted as a Recommendation"(1986:47).

Beck supported the view that this initiative came from the British: "this role (environmental protection) accorded with the personal interests of those involved with the Consultative Meetings, and Brian Roberts of the UK has been oft-cited in this connection. This sense of responsibility pervaded the system's work during its first decade" (1986:218).

The evidence provided in the primary sources below supports the view that the Agreed Measures, which have come to be seen as the major achievement of the first three Consultative Meetings, were a British initiative and were driven through largely by the continued efforts of the British during the period 1961 - 64.

A letter from the secretary of the Scientific Committee on Antarctic Research, Dr. Gordon Robin, dated 14 February 1961, suggested that nations should draft applicable regulations relating to the conservation of nature in Antarctica. A draft by Roberts, dated 3 July 1961, based upon the recommendations by made by SCAR represented the British draft initiative, which called for a "convention for the protection of wild life in Antarctica". This was re-drafted on 9 July by Roberts and Arthur Watts, a legal advisor (see appendix 1).

Two days after arriving in Canberra for the first Antarctic Treaty Consultative Meeting, Roberts began redrafting these proposals for wild-life conservation based upon informal discussions with the Australian and the American delegation. Roberts had clearly discussed the short- and long-term British objectives with John Freeland, one of the UK's legal advisors, for after:

"discussions with John Freeland in London, I want to experiment with the idea of initiating a series of conventions to regulate Antarctic affairs. To make some beginning with a concerted procedure for dealing with legislative matters seems to me more important than any practical needs of conservation. This is a good subject to start with because the basic idea of wild life protection is not controversial...The SCAR recommendations are very familiar to me because I attended all the meetings of the Working Group which drafted them in my room at the SPRI [Scott Polar Research Institute, University of Cambridge]".²⁰

Sir Martin Holdgate, in a personal communication (21 May 1997), accepted the primacy of the British with regard to an agreement on the conservation of wildlife in the Antarctic. He wrote that at the SCAR meeting in 1960 Roberts had decided that something had to be done about conservation. Roberts invited Holdgate to work on the first draft of the Agreed Measures in the autumn of 1960 and assured Holdgate (a member of the first SCAR Working Group in Biology) "you write them and I'll negotiate them" (personal communication 1997). Documentary evidence from the time serves to confirm that Holdgate himself wrote the first draft of what became the Agreed Measures supporting his statement that "we were definitely working on what became the Agreed Measures in the Autumn of 1960" (personal communication 1997).

The evening before 11 July, Roberts discussed the issue privately with Dr. Reynolds, a senior member of the United States delegation. Roberts concluded that "We seem to be in agreement about the need for a wildlife conservation, but not at all on how this can best be achieved - by simple agreement, covenant or convention".²¹

Roberts believed that this uncontroversial subject could have wide popular appeal and could convey the idea that the Treaty was more "than a mere device to stop bickering over sovereignty".²² Once again he reiterated the

British objective of initiating common legislation for the whole of the Treaty area to be enacted by an international authority which would be endowed with power to make laws on this and other matters.

However, on 12 July, during an informal discussion with the New Zealanders, it became clear that Roberts' worry that the Canberra Meeting had too little time in which to get anywhere near agreement on an ideal statute, had firm foundation.²³ Robertson, of New Zealand, assured the British that he could not agree to anything which committed his country, even to consider a draft to be discussed at the next meeting. He was not authorised, he said, to approve anything of which a draft had not already been thrashed out in Washington.²⁴ This represented the first cracks that appeared within the unified commonwealth countries' approach to the first Consultative Meeting. On the same day, the British and the Australians informally presented their agreed views to the Americans. The American delegation, however, was only prepared to discuss their own draft Recommendation. George Owen, the head of the US delegation, would not discuss British proposals on the grounds that they had not been tabled in their present form at the Interim Consultative Group meetings in Washington.²⁵ At this point, it became clear to Roberts that it would be a major task to win acceptance of anything which had not already been tentatively agreed in Washington.²⁶

On 14 July, Roberts and Arthur Watts redrafted British ideas, avoiding the word 'Convention' and substituting this for the word 'proposals'. This represented a watering down of British objectives and did not differ in substance from American proposals. It was designed to win American approval but Owen still seemed unwilling to consider it.²⁷ Talks with the Chileans suggested that they would like a draft 'Convention' but both parties realised that this could not be agreed before the second Consultative Meeting.²⁸

On 17 July, formal negotiations on conservation began, and two days later a draft for submission to the full conference was agreed upon which included a provision that the British proposals should be in the agenda for the next Consultative meeting.²⁹ As an interim measure it was recommended that general rules of conduct should be issued along the lines of SCAR's recommendations. Roberts believed that the British would now "have to go more slowly than I had hoped. Although our idea of a Convention has wide

support, especially from the Chileans, it has been blocked by the Americans".³⁰

C. THE SECRETARIAT - FIRST ANTARCTIC TREATY CONSULTATIVE MEETING, CANBERRA 1961.

"Perhaps the most important issue discussed in Canberra was the question of administrative arrangements. Before the Meeting, Australia made it known it wanted a permanent secretariat headquarters in Canberra, manned by Australian Foreign Office personnel. As the proposal circulated, Argentina, Chile and the Soviet Union doubted the need for a secretariat. They preferred to continue the Washington interim meetings, chiefly because all Consultative Powers were represented there with staff knowledge on Antarctic issues" (Myhre 1984: 121).

The primary sources below cast doubt upon the substance of Myhre's final sentence.

In section A of this chapter it was explained that three of the Commonwealth countries had informally concerted their views on a Secretariat prior to the Canberra meeting. On 8 July 1961, the British again shared informal talks with the Australians and established close relations with them.³¹ On the same day the British tried to establish a similar relationship with the American delegation, but the result was unexpected and depressing.³² In particular, Owen refused to discuss anything which had not already been discussed at Washington.³³ Roberts believed that the delegation had been plunged into a series of cold war arguments which in his opinion were not relevant in the Antarctic. When questioned about a Secretariat, Owen asserted that the United States did not want one and hoped that Washington would be the repository of all agreements reached under the Treaty. When asked whether he would like a Treaty Secretariat to be in Washington, Owen indicated that nothing else would be acceptable to the United States delegation.

On 9 July the British redrafted their original proposals for a technical group to advise the Secretariat and presented this to the Australian, American, New Zealand and South African delegations. Roberts believed some focal point for the Treaty Powers was undoubtedly necessary.³⁴ It is claimed that it was not possible to reach an agreement on this during the framing of the Treaty.

In the early life of the Treaty there could be no executive function for a Secretariat; Roberts believed it would act as a 'post office' for the exchange of information between governments.³⁵ Roberts foresaw a one-man part-time body with Government 'X' providing a Permanent Secretary and being free to nominate different officials for the task of Secretary from time to time. The meetings of such a group would be held in various capitals in rotation and the host government would provide the Secretariat and associated services for the duration of each meeting, and meet all the common expenses of each meeting.³⁶

The British believed they could agree to the concept of a small Secretariat as favoured by the Australians if there was a clear majority in favour of it. The Australians advocated a permanent Secretariat in Canberra along the lines of the Colombo Plan Bureau,³⁷ which had been created in 1950 to promote the development of newly independent Asian member countries (Paxton 1988:50).

The British rejected the Chilean proposal of a rotating Secretary, preferring a permanent Secretary in one location. The American proposal that the Interim Consultative Group might become permanent was rejected on the grounds that a permanent Committee of the Article IX group was ill-equipped to perform the purely administrative tasks of a permanent Secretariat, and likely to attract political discussion to matters which should be dealt with as practical matters by bodies such as SCAR.³⁸

In addition, the British proposed a body to deal with political and technical matters from which SCAR should be distanced. The British believed that this advisory group would have a technological advisory function as well as an arm investigating the potentialities for economic developments. Roberts believed that the Secretariat would be best placed in Canberra, while the advisory body should be in Washington, given that SCAR was located in Cambridge.³⁹

During the evening of 13 July, Roberts had an informal conversation with Admiral Panzarini of Argentina (a chief advisor to the delegation and the Director of the Argentine Antarctic Institute), who said that he was very anxious to co-operate but would have trouble persuading the leader of his delegation, Senor Scilingo who had come with personal instructions from the

President of Argentina, Frondizi.⁴⁰ Scilingo had been instructed to prevent either Washington or Canberra becoming the headquarters of the Treaty. In Roberts' opinion, given the unanimity rule, this would not be a difficult task.⁴¹

Although the plenary session of 12 July had addressed the question of a Secretariat under the uncontroversial title "Administrative Matters", it was not until 19 July that objections to the Anglo-Australian initiative were forcefully aired. The Chileans spoke strongly against the establishment of any form of executive authority for the Treaty and advocated the rotating Secretariat principle to be organised by the host country for each following Consultative Meeting.⁴² The French, similarly, argued against "bureaucratisation", preferring bilateral arrangements between governments. The Argentines and the Americans then blocked any discussion of the proposed British practical measures.⁴³ On 20 July, the Norwegians, New Zealanders and South Africans expressed the wish to accept the Australian temporary secretarial facilities as an interim measure but expressed a desire to avoid a "supra national government". The US argued that a Secretariat would be premature and that recommendations should be communicated to them (the depositary government) so that they could inform other governments. The Soviet delegation also argued against a Secretariat and in favour of using normal diplomatic channels between meetings.⁴⁴

Showing the sensitivity of this matter in relation to continued problems arising out of the sovereignty issue, and in deference to the Latin Americans, the matter was referred to as "procedural arrangements" from that point on. The British had long before realised that agreement on a permanent Secretariat was out of the question and therefore attempted a majority in favour of a temporary secretariat in Canberra.⁴⁵ Having blocked Chilean proposals but having not secured unanimous support for Canberra, the best the British could hope for was a postponement of the whole issue.⁴⁶

The conference Secretariat then prepared a draft which the British saw as dangerous due to its last paragraph, which would have allowed the Americans to achieve their object: namely that consultation between Consultative Meetings should be in Washington and that governments' notification of their acceptance of Recommendations at Consultative Meetings should be communicated to the depositary government (US), who would then inform other governments.⁴⁷ This proposal was supported by

Chile, France and the USSR with the Australians and British in disagreement, and no conclusion was reached at this stage.⁴⁸

Later in the day the Soviet delegation reiterated that they would be supportive of using either normal diplomatic channels or the depository government, while Owen repeated his support of the latter procedure. He asserted that this was purely a legal matter and had nothing to do with administrative arrangements. Roberts, however, having had informal talks with Owen, believed that his statements were not based on legal considerations but "represented a step in his plan to get an embryo Treaty Secretariat in Washington...Eventually, we achieved a draft which leaves the door open for the next Consultative Meeting to reconsider the whole question without commitment".⁴⁹

D. TELECOMMUNICATIONS - FIRST ANTARCTIC TREATY CONSULTATIVE MEETING, CANBERRA 1961.

In 1961, while on 'Operation Deep Freeze', Roberts had informal talks with E.A. Macdonald (Captain, US Navy, Deputy Commander Task Force 43) and J. Tierney (Hydrographic Office, NSF representative on expedition who had spent six seasons in the Antarctic), they "share my view that communications...cannot be suitably dealt with by SCAR".⁵⁰

This followed a similar discussion late in 1960 with Law, who became the senior Australian advisor at the first Consultative Meeting. On this occasion, Law stated that he opposed the opinion of his foreign office seniors in Canberra that radio communications should be the responsibility of the proposed Secretariat rather than SCAR (which it was at that time). He favoured SCAR for the telecommunications subject solely because the existing arrangements worked and he could not see them being handled satisfactorily by a political Secretariat in Canberra. However, at this point he: "Agreed at once that a technical group...could more appropriately deal with such matters and report to the Article IX group through the Secretariat".⁵¹

These two pieces of evidence point to the conclusion that at the start of 1961 British thinking on the telecommunications question was linked to the idea of

a Secretariat with a technical arm able to deal with political questions from which SCAR had to be distanced.

The issue of telecommunications is significant because between 1959 and 1964 this issue allowed the Contracting Parties to explore the efficacy of Article IV of the Treaty. Article IV froze the sovereignty question for the duration of the Treaty, but it was generally understood that Article IV had been the lowest common denominator of agreements and that confidence had to be built between the Contracting Parties if Article IV and the Treaty were to survive in the long term. In this way one can see how the question of communications was linked to the British strategy of strengthening the Antarctic Treaty against its perceived weaknesses.

If one considers that within two days of arriving in Canberra, Roberts had concluded that it would be virtually impossible to create a permanent Secretariat at that meeting, then it is reasonable to conclude that the British position on telecommunications would have to change. It is also important to bear in mind the sentiment in the United Kingdom general brief drafted in June 1961: "It is vital both that SCAR should be kept right outside political questions and at the same time that no machinery should be set up which will interfere with or unnecessarily duplicate the practical work which SCAR [is] successfully performing".⁵²

It is clear from the evidence below that due to the failure to reach agreement on a permanent Secretariat, the British were left with little hope of being able to positively advance the question of telecommunications in the way that had been clearly envisaged by Roberts (during his conversation with Law) in 1960 and that this left them with one option on the question of telecommunications which was not an entirely satisfactory solution.

The SCAR mandate was to advise on the practical aspects of communication within the Antarctic and between the Antarctic and the rest of the world.⁵³ In Roberts' opinion there were two main advantages in leaving this arrangement undisturbed. The first was that communications were vital to the success of the scientific programme and that a change of responsibility might prejudice this. The second was that international agreement on the practical problems associated with the question might be easier to achieve through the small and personal machinery of SCAR rather than more cumbersome inter-

governmental machinery. Importantly, however, Roberts accepted that if this were to happen: "many administrative decisions, some of them with political implications, have to be taken if a marked improvement in radio communications is to be achieved, and SCAR is not really a suitable body to do this".⁵⁴

Therefore, on balance, despite the general desirability of not creating new machinery to deal with matters being handled by SCAR, the British were forced to support the Australian proposal to set up an inter-governmental committee to deal with radio communications which also had US. support.⁵⁵ Roberts gave three caveats to his support. First, any recommendation should provide for close consultation with SCAR in order that a smooth transfer of responsibilities could be achieved. Second, existing arrangements should not be disturbed until after the SCAR meeting of October 1962 in Wellington. Third, the British wanted SCAR and the WMO (World Meteorological Organisation) to be represented on the proposed committee and also the ITU (International Telecommunications Union) to be represented as the occasion demanded.⁵⁶

The British regarded the New Zealand position - that the ITU should be asked to deal with the Antarctic as a special area - as inappropriate and impractical due to it not being able to take the kind of executive action needed in these circumstances. While the British understood that the WMO played an important part in Antarctic radio communications, due to meteorological traffic, they believed it was important not to forget the scientific and administrative importance of Antarctic radio communication. Therefore, the British believed that the WMO should not be allowed to play a leading role.⁵⁷

The Plenary Session approved the Working Group draft recommendation on Radio Communications. The result was unsatisfactory for the British who had wished to align telecommunications with the plans for a technical arm of the Secretariat and to therefore positively advance the Treaty and the question of telecommunications in the Antarctic. It was not possible to avoid the proposal that telecommunications should be the subject of a special meeting to be sponsored by the governments.⁵⁸ In the British opinion, this was unsatisfactory because it would simply duplicate the work already being done efficiently by SCAR, thereby breaking one of the British objectives as laid down in the general brief. In these circumstances, Roberts concluded that

"SCAR will have no alternative but to continue its working group on Communications."⁵⁹

Thus, it is clear that prior to the meeting the British had clear ideas as to how to move the question of telecommunications positively forward. In the course of negotiations it became obvious that the British would have to acquiesce, to some extent, on the matter of telecommunications. SCAR could not be asked to deal with political questions that would arise from the discussion of the matter. The subject was likely to provoke fears over sovereignty due to the traditional way that the telecommunication function had been addressed throughout the world. A government agency had usually been required to look after licensing and it was probable that if this principle was extended to communications in the Antarctic then questions of sovereignty which, in the British opinion, had only been partially laid to rest by the Treaty would be opened up with potentially damaging consequences. Equally, it was undesirable given the territorial sovereignty ramifications of the issue that the international bodies WMO and ITU should be allowed to play too central a role. Given the circumstances, it was an inevitable outcome that the British should want to influence this debate negatively by attempting to stall any progression towards an inter-governmental radio communications committee centred around the WMO or the ITU.

E. BRITISH CONCLUSIONS ON THE FIRST ANTARCTIC TREATY CONSULTATIVE MEETING, CANBERRA 1961.

Roberts wrote after the conclusion of the Canberra meeting that it had been an opportunity for the 12 governments to demonstrate how far they were unanimously prepared to go in furthering the provisions of the Treaty.⁶⁰ In his report to the Foreign Secretary, Robin Edmonds (the head of the British delegation in Canberra) wrote that the paradox of the meeting had been the contrast between the attitudes of the Soviet and the American delegations.⁶¹ According to Edmonds, the former bent over backwards to be conciliatory and on the rare occasions when they found themselves out on a limb, they withdrew with good grace.⁶² Edmonds asserted that the US delegation was led nominally by their Ambassador in Canberra but effectively by Owen, Head of the Antarctic Office in the State Department. Edmonds continued:

"Before the meeting opened, Mr. Owen took the line that his brief was unalterable on the grounds that other governments had 18 months to put their views in Washington and that it was now too late to suggest any new ideas which might require a modification of the United States Delegation instructions".⁶³

Edmonds conceived of there being two reasons for this attitude. First, the US may have feared that the Soviets were attempting to gain a Cold War advantage through the meeting. This is supported by Owen's remark that if a Secretariat were to be established the Soviets would inevitably attempt to make a Troika out of it in time.⁶⁴ Second, Edmonds propounded the view supported by Roberts that "personal ambition had played a large part in determining Mr. Owen's behaviour".⁶⁵

Whatever the reason for the US position at the meeting, Roberts' diary and the official Foreign Office report make it clear that the British had only been partially successful in achieving their aims due to unimaginative stand taken by many delegations with regard to the development of the Treaty as a system. The Latin American approach was exceedingly cautious, while the Norwegian, French, Belgian and Japanese interests were marginal.⁶⁶ On the other hand the UK, Australia, New Zealand and South Africa were broadly at one in hoping to secure agreement on detailed measures to give practical effect to Treaty provisions⁶⁷ and therefore as a rule the British were able to mobilise a majority.⁶⁸

On the preservation and conservation of living resources in the Antarctic, Edmonds wrote that "looking to the future, this was perhaps the most encouraging recommendation passed by this meeting".⁶⁹

The meeting recommended that, as an interim measure, governments should issue rules of conduct along the lines of SCAR's recommendations and consult "on the form in which it would be most suitable to establish in due course internationally agreed measures...taking into account...the documents submitted to the First Consultative Meeting". Edmonds pointed out that the documents included a United Kingdom draft "prepared in a form which would be suitable for an international convention, but deliberately avoided using the word 'convention', which would have frightened a number of delegations".⁷⁰ Here one can conclude that the British objective of wildlife conservation was

moving in the right direction but that its path would be slower than originally conceived if the long-term benefits of strengthening the Treaty were to be achieved.

Roberts wrote that by far the most difficult subject was that concerning administrative arrangements (the Secretariat).⁷¹ He admitted that it became clear from the outset that the British objective, the permanent Secretariat, was unobtainable. He added "most delegations admitted privately the need for permanent machinery of some kind, but for varying motives none was prepared to do so publicly except ourselves".⁷²

Edmonds concurred with Roberts that this left no option but to postpone the issue and to take no decision which prejudged it in any way.⁷³ With this in mind, British tactics were concerted with the Australians throughout.⁷⁴ The first step was to form a majority in favour of a temporary Secretariat in Canberra, the second was to block a Chilean initiative of a rotating Secretariat. Edmonds asserted that "We succeeded in doing this...[and] the rest of our and the Australian efforts had largely to be devoted to preventing the Americans from achieving their object which they sought to do by proposing that consultation between meetings should be in Washington and the Governments "notification of their acceptance of recommendations put forward by consultative meetings should be communicated to the United States Government, as the depository government under the Treaty, which would then inform other governments of such acceptances".⁷⁵

Edmonds stated that during the defeat of this proposal "Owen appeared to take his defeat very much to heart".⁷⁶ He concluded by asserting that in order to save American face, the Australians devised an interim formula which incorporated some ideas of using the depository government but on a lesser scale than that anticipated by Owen. Edmonds concluded this topic by stating that "recommendation 14...is drafted in such a way which obliges the next Consultative Meeting to face the whole question again".⁷⁷ Roberts added to these conclusions by stating that recommendation 14 provided the "basic minimum of administrative services divided between Buenos Aires and Canberra...We are therefore free to pursue our objective at the next Consultative Meeting".⁷⁸

On the question of Roberts' initiative for a technical advisory arm of a Secretariat that could tackle politically sensitive issues from which SCAR should be distanced, Edmonds believed that "The time was not ripe for launching publicly the idea of an Antarctic Technical Advisory Group. Had we done so at this meeting, we should have killed the idea stone dead".⁷⁹

Edmonds made no reference to radio communications in his despatch save for a short paragraph which mentioned the recommendation that meetings of experts were required in order to consider the urgent problem of Antarctic Radio communications. At this meeting, it could be argued that the British placed more emphasis on Recommendations 9 and 12, namely the preservation of historic sites and co-operation in mail services. Both of these items had overtones pertaining to the sovereignty question and Edmonds condoned the tabling of these issues as being in accordance with the general brief which had called for risking controversy rather than permitting emasculated recommendations. Edmonds admitted that efforts on both of these items were in part wasted because: "we aroused Latin American suspicions and met with a negative attitude from the Americans, who actually tabled in their name our own Interim Group resolution on mail services".⁸⁰

Roberts makes it clear that the unanimity rule and the context of the meeting made it impossible for the British delegation to raise all the points that they would have wished. He refers to "other business" that the British had and "will have to be tackled at some future date".⁸¹ This "other business" puts some meat on the Roberts proposition that the British had a clear long-term agenda for the region. It is clear from the "other business" that questions of "inspection", "jurisdiction" and "exploitation of economic resources" would have featured heavily if the British had been allowed to air their "other business".⁸² These questions all pertain to the difficult issue of sovereignty, which the three issues that have been highlighted in this chapter also do. One can reasonably draw the conclusion that British long term interests for the region centred on the question of sovereignty which the British delegation clearly felt was not properly addressed by the Washington Conference and the subsequent Treaty. The long-term objective of an international regime for the region was not simply rhetoric (see appendix 2), for Roberts' brief dated 5 July 1961 contained in Appendix C extracts from the original United Kingdom draft for an international regime in Antarctica.⁸³ This is a most interesting document, showing the forward-thinking proposals that were emanating from

the British during the period. The draft convention not only provided for an Antarctic administration but also a legislature and a judicial system. The British foresaw both a Supreme Court and a constabulary for the continent.⁸⁴ While one could argue that this thinking was naïve given the unanimity rule and the objectives of other Contracting Parties it shows the depth and the extent of the progressive planning that existed in Britain, the most obvious public expression from which in 1961 was the initiative on the convention for the preservation of Antarctic wildlife.

Edmonds concluded that the British would have to reconsider their long-term policy for the region. Given the results of the meeting, Edmonds suggested that the British needed to decide whether they should continue to push hard for measures pointing towards internationalisation of the Antarctic. If the British chose to continue with their long-term objectives, Edmonds believed that the British first call should be on the State Department in order to prepare a common line before Buenos Aires. Edmonds clearly saw Owen as a stumbling block and suggested that in light of the differences encountered at the meeting "we might go over Mr. Owen's head and discuss our differences with his Under-Secretary, Mr. Cleveland".⁸⁵

CHAPTER 3

BRITISH INFLUENCE ON THE SECOND ANTARCTIC TREATY CONSULTATIVE MEETING, BUENOS AIRES 1962

A. BRITISH OBJECTIVES

"A year after the Canberra Meeting, the Consultative Powers met. For some reason, the intervening period does not appear to have been put to much constructive use; many of the delegations were inadequately prepared." (Myhre 1986: 48)

In the case of the British delegation, the above statement is without foundation. As suggested by Edmonds, Lord Hood (British Minister in Washington) met with Mr. Cleveland (Assistant Secretary International Affairs) before the Buenos Aires meeting in order to iron out Anglo-American disagreements. Owen was present and advanced his usual arguments, but in Hood's opinion Cleveland did not seem disposed to accept them without giving them thought.⁸⁶ On the question of a Secretariat, Cleveland said that the American approach had hitherto been a practical one, dependent on saved expenditure and avoiding acrimonious discussion between the contracting parties. He promised to give thought to the idea that within ten years a real international regime for Antarctica might be possible and that Consultative Meetings should start to move in that direction from that point on.⁸⁷

A general brief by Anthony Parsons (of the Foreign Office American department), dated June 1962, for the guidance of the British delegation at Buenos Aires asserts that the British had conducted an extensive lobbying operation culminating in exchanges of view at the preliminary meetings in Buenos Aires.⁸⁸ The general outlook, he insisted, was not encouraging, the discussions with the South Americans not being as fruitful as the British had hoped. The Frondizi government had fallen in Argentina, leaving their Antarctic specialist Dr. Guyer in a precarious position. Equally, the Chilean expert Dr. Gajardo had been fully occupied with the Rio Lauca dispute.⁸⁹ Once again the British had been concerting their views closely with all three

Commonwealth states, but "at the last moment, however, the New Zealand government have tabled a recommendation that future consultations between consultative meetings should take place in Washington".⁹⁰

The British saw this as playing into American hands and believed that any chance of creating a Secretariat in Canberra would be lost if this was allowed to stand.⁹¹ Also, the Soviet Union came out strongly against a permanent Secretariat at the last preliminary meeting in Buenos Aires, thereby hampering British objectives.

It was noted in Parsons' brief notes that discussions with the French in the Quai D'Orsay went well but that the final preliminary meeting "proved that the French cannot be relied upon when it comes to the point". Once again Norway, Belgium and Japan were said to have been sympathetic to the British view.

The brief insisted that the recommendations passed in Canberra were anodyne.⁹² The British believed that co-operation under the Treaty was no further forward than at the time it was signed in 1959.⁹³ The brief therefore stated that the Second Consultative Meeting would be of crucial importance for the development of the Antarctic Treaty. The British delegation were instructed that:

"the general aim should be the same as at Canberra, namely to bring about whatever progress may be possible in the direction of a truly international regime in the Antarctic. The delegation should not, however, 'risk controversy rather than permit emasculated recommendations'".⁹⁴

This represented a change in the British approach which at that point attached importance to avoiding giving the impression that they were trying to hurry other governments. Parsons' brief called for the translation of this policy into three objectives. First, support should be given to the two Australian resolutions (due to the close nature of the Anglo-Australian relationship) on the items concerning the exchange of military information and action on recommendations put forward at consultative meetings. Second, extensive lobbying was to be undertaken in order to move forward the two recommendations tabled by the British. The first covered jurisdiction, the second recommendation covered the draft convention on the conservation of

wildlife.⁹⁵ The Delegation were instructed to fall back on a Chilean proposal to study the possibility of an international convention if the British proposal proved impossible to proceed with. Third, Parsons' brief suggested that the question of the Secretariat was likely to be the most important subject at the meeting. The Delegation was given as free a hand as possible but was not to alter Canberra recommendation XIV without reference to the Foreign Office for instructions.⁹⁶

B. THE CONSERVATION OF WILDLIFE - SECOND CONSULTATIVE MEETING, BUENOS AIRES 1962

It quickly became clear that the stumbling block would not be the principle that wild-life was conserved, rather the form that such an agreement would take. Garjardo, the Chilean, informally preferred a code rather than a convention due to the constitutional difficulties a convention would encounter in Chile. During formal discussion, the Belgian, French and Norwegian representatives all favoured a convention. The Japanese believed that a convention would be possible after a meeting of experts. The South Africans, while supporting the idea of a convention, believed a code to be more suitable whilst the Australians foresaw no difficulty in a convention if it should prove to be the general wish of the meeting⁹⁷. The Argentines, however, while expressing agreement with the need for wild-life conservation, suggested that a set of agreed rules or regulations might be the way to handle the matter⁹⁸. Owen, for the United States, supported a meeting of experts to discuss the form of any agreed recommendation, which he believed was the sticking point⁹⁹. The French suggested that this might prove too costly, and the Soviet delegates said that they were ready to recommend a draft convention to their government.

Owen repeated several times that the Contracting Parties had only received the UK Draft Convention less than three weeks before the meeting, and that this was too short a time in which to consult experts. Robin Edmonds, for the British, asserted that this final draft differed little from the document circulated at Canberra in 1961 and simply represented refinements that now took the form of a formal convention rather than the previous proposals but that everyone at Canberra had understood that the British had aimed at a convention.¹⁰⁰ Privately, Owen informally questioned the whole need for internationally agreed measures for the Antarctic.¹⁰¹

It seems at this point, on 24 July, that relations between the British and American delegations were at their most strained. Roberts questioned whether in these circumstances the British could hope to achieve much political co-ordination in the region, of the sort that SCAR achieved with the American scientist Crary, while Owen continued to hold his present post. This followed a heated formal discussion between Edmonds and Owen, during which the latter had asserted that nothing could be agreed at this meeting because the British had failed to discuss details in advance with the State Department in Washington. Edmonds replied that the British had made every effort to do so and that the Americans had had the substance of the draft convention for more than a year, which was well within the prescribed time limit, but that "it takes two to make a discussion possible".¹⁰²

Roberts believed that Owen, the policy maker, was as uncertain about the future of the Antarctic as the British had been in 1952. He believed that he was still thinking along orthodox nationalistic lines in an attempt to postpone any irrevocable decision which might in later years prove a disadvantage to the United States.¹⁰³ Roberts believed that Owen did not regard the Treaty as "a wonderful opportunity for bold experimentation in a new kind of international regime without risk of damaging the interests of the local population. I am tempted to speculate further and to suggest that George [Owen] still believes that he is an instrument of the 'manifest destiny' of the United States as the controlling influence in future Antarctic Affairs".¹⁰⁴ Roberts believed that the United States could have quite easily taken over the leading role in the region but had not chosen to do so except in a material way. Further, he believed that -:"they [the US] can lead, but they cannot dominate; still less can they expect agreement when they attempt crude dictation of their views. The inevitable result is the stalemate in which we now flounder".¹⁰⁵

The differences between the British and American delegations over the scientific substance of the convention on the conservation of wildlife were raised on 25 July. Owen asserted informally that one of his objections to the British proposals concerned the acceptance of the idea of absolute sanctuaries and the effect this could have on inspection provisions.¹⁰⁶ Freeland had attempted to insert the words "subject to the provision of Article VII of the Antarctic Treaty" in order to meet this point.¹⁰⁷ The British knew

from Hood's meeting with Cleveland that Owen was against the idea of sanctuaries, and on that occasion Hood gave the false impression that the British had no "preconceived ideas on sanctuaries as opposed to other solutions".¹⁰⁸ The problem stemmed from the fact that the US believed no agreement could be reached on the need for nature reserves or sanctuaries until a precise list had been produced with accurately defined boundaries. Roberts, whose scientific field concerned Antarctic birds, believed that the problem could not be settled by producing a scheduled list of species of which there were many about which science knew practically nothing, and which could not be identified by anyone but a specialist. In his opinion this would be similar to being asked to choose a wine before one could look at the wine list.¹⁰⁹

Freeland, who had been looking at South American objections to a convention, believed that the British should aim for a recommendation of the next Consultative Meeting. This was to have an agreed code annexed to it and was to recommend to governments that they accept the code. The code would include a provision enabling it to enter into effect and become binding when it had been accepted by all the Contracting Parties to the Treaty who participated in Consultative Meetings, thus circumventing parliamentary approval of the text.¹¹⁰ The final outcome on 26 July was the approval of the draft recommendation agreed by the working group. The Australians formally stated that they would agree to this reluctantly, while the Argentine delegate asserted that his government could not approve a convention. Freeland emphasised that the British were concerned with achieving an internationally binding instrument rather than the precise form of the instrument itself. Once again, for the moment, the British objective had been unsuccessful and Roberts concluded that "It is unfortunate that we have had to agree to this compromise, but there may be one advantage in dropping the idea of a Convention...we should surely have to wait for many years before their (Chile and Argentina) parliaments are willing to ratify it".¹¹¹

C. JURISDICTION - SECOND CONSULTATIVE MEETING, BUENOS AIRES, 1962

The British linked the question of jurisdiction in the Antarctic to the long-term objective of internationalisation of the region. In many ways jurisdiction can

be seen as part of the conservation/Secretariat package that would in the long term, the British hoped, move the internationalisation debate forward. Roberts had written at the first conference that "this question of jurisdiction is clearly going to be difficult".¹¹² Unlike questions of conservation and administration, the British knew from the outset that this subject was of sufficient weight as to make short-term discussion very difficult for those countries who wished not to discuss matters relating to sovereignty. Despite being under parliamentary obligation to raise the matter at the First Consultative Meeting, the Foreign Office had instructed the Delegation to remain silent on the subject, and to give notice in the closing speech that the UK would wish to discuss the matter at Buenos Aires.¹¹³ Appendix B to a brief on item 21 (other business) in Canberra, makes reference to the fact that the British had put forward a draft Article relating to jurisdiction at the Washington Conference but had been unable to reach an agreement on the matter.¹¹⁴ It is clear therefore that the question of jurisdiction was another subject unresolved, in British minds, by the Antarctic Treaty.

One of the stated objectives of the British brief prior to Buenos Aires was to achieve a recommendation calling for the question of jurisdiction to be studied by a committee of experts.¹¹⁵ Additionally, Article IX 1 (e) of the Treaty expressly included "questions relating to the exercise of jurisdiction in Antarctica" to be one of the subjects to be discussed at Consultative Meetings. Roberts explained on 18 July (the day the Meeting was officially inaugurated) that the satisfactory settlement of matters of jurisdiction was important to the realisation of British policy of internationalisation of the Antarctic for two reasons. First, it encouraged positive co-operation, which in Roberts' opinion was essential for internationalisation. Second, and more important in Roberts' view, it would avoid the dangers inherent in a possible conflict over jurisdiction.¹¹⁶ Such a conflict could lead to acute problems concerning sovereignty and thus could disrupt the international spirit of the Treaty.¹¹⁷ Roberts wrote that the idea of a convention for an international regime, while being an ideal solution, had largely been considered unworkable and that the British had now decided to work from the bottom up, thereby "gradually build[ing] up the jurisdictional prop to our main policy of internationalisation while at the same time not frightening other governments".¹¹⁸ It was hoped that a meeting of experts would keep the question alive, allowing the British to "educate the other governments".¹¹⁹

Due to the perceived sensitivity of the question, the British once more sought instructions from the Foreign Office in London.

The Soviets joined with the Latin American and French representatives in opposing inscription of the item on the agenda.¹²⁰ Freeland gained the impression during informal discussion that the British were unlikely to make progress on this question if they continued to treat it in isolation. He was of the opinion that progress could be achieved if the British dealt with it incidentally, "in the context of practical measures such as those we propose on the conservation of wildlife".¹²¹ With this in mind the British made the gesture of withdrawing the agenda item on 24 July while formally reserving the British position on the principle that a minority has no right to prevent discussion of any subject. Myhre has seen this as one of the significant moments of the second meeting, describing the blocking of this issue by certain countries as "contrary to the spirit of the Treaty and of co-operation that has historically existed in Antarctica"(1984: 125). Indeed, the US National Science Foundation made the point in their report that despite British reservations to the contrary this had set a precedent for, "if you object loudly enough in Antarctic Treaty discussions you can prevent discussion of an item"(NSF: 1962: 1). The British, however, did not see this as a defeat but rather as an opportunity to regroup and push the discussion of this matter in a more subtle manner.

D. SECRETARIAT - SECOND ANTARCTIC TREATY CONSULTATIVE MEETING, BUENOS AIRES 1962

Roberts believed that the most difficult but most important subject of all, as it was at Canberra, would be the question of a Secretariat.¹²² The British brief for Buenos Aires dictated that a more subtle approach to this question was required, although the British delegation were under instructions from the Foreign Office that Canberra recommendation no. XIV should not be altered without reference back to the F.O for instruction.¹²³

At the heart of British policy was the idea that the establishment of an embryo Secretariat in Canberra represented the only practical step that the British believed could be achieved at that stage in order to move towards some form of international regime in the Antarctic. On top of this principal long-term objective, the British were concerned that various delays and difficulties

which had arisen between Canberra and Buenos Aires could only be ironed out by such a mechanism, thereby ensuring the smooth running of the Treaty¹²⁴. Roberts' fear was that the New Zealand proposal calling for all preparatory meetings to be held in a capital where New Zealand was represented, and preferably Washington, would "enhance the danger of the Cold War permeating the Treaty and vitiating its whole future".¹²⁵ The unified commonwealth approach to this question, which had existed at Canberra, appeared in jeopardy, although it seems that both Britain and Australia tried in vain to persuade the New Zealanders to withdraw their proposal before the preparatory meeting of 16 June.¹²⁶

The maximum British objective for the meeting was to gain agreement in principle to the establishment of Canberra, or another agreed non-controversial capital, as the permanent Secretariat, or failing this to persuade the New Zealanders to substitute Canberra for Washington. If the British were to find themselves in a minority over Washington, they were to oppose this on the grounds that a Southern Hemisphere capital was more appropriate and equally convenient. In the event of them being in a minority of one, new instructions were to be sought.¹²⁷

There were two differences on this subject from Canberra that interested the British delegation. First, unlike the relaxed approach of the Soviet delegation at Canberra, at the Buenos Aires preparatory meeting the Soviet delegation strongly opposed the idea of any kind of Secretariat. The British delegation did not know the reason for this change.¹²⁸ The United States view, as voiced by Owen, which remained inflexibly in favour of Washington, as essentially the centre for an embryo Secretariat, was only one view in Washington, as revealed by Cleveland's attitude during talks with Hood. The British therefore believed that Owen would be inclined to listen to a more flexible attitude to the question of internationalisation which clearly existed in Washington.¹²⁹ Owen indicated informally that two schools of thought existed in Washington. First, there were those who believed that the Treaty had gone far enough in the internationalist direction, and, second, those (and Owen clearly believed that Cleveland was an adherent) who were convinced internationalists. It was indicated by Owen that the second school would like to see an Antarctic Commission established in some location other than Washington.¹³⁰

The New Zealand proposal gained support from Norway, Belgium and the US, who modified their previous position slightly by implying that they could accept meetings taking place in rotation around the twelve embassies in Washington rather than at the State Department.¹³¹

The British were uncompromisingly against the New Zealand proposal and explained that they did not wish to undo the Canberra recommendation, preferring instead to settle the problem at the next meeting.¹³² Chile largely agreed with this plan, though for reasons of preventing a consequent supra-national government rather than initiating an international regime. The USSR and the Argentines also believed that the Canberra recommendation should be given more time and that it was premature to suggest any new procedure. The French opposed the New Zealand proposal on the grounds that "Parkinson's Law" might arise out of additional Antarctic bureaucracy, i.e. "that work would expand in order to fill the time available for its completion" (Economist 1955). The Japanese characteristically appeared willing to accept a general compromise on the matter.¹³³ The Australian representative restated the need for a more effective means of implementing the Treaty and foresaw a time when ATCMs would be arranged in order to settle a question best handled by a committee of experts. In these circumstances, and in the case of records which needed to be exchanged between governments, he believed that a Secretariat would be essential.¹³⁴ The South Africans tended to support this view but preferred the centre of such a Secretariat to move from one capital to another, including the capitals of the smaller powers.¹³⁵

E. TELECOMMUNICATIONS - SECOND ANTARCTIC TREATY CONSULTATIVE MEETING, BUENOS AIRES 1962

In Canberra, the British had negatively influenced the question of telecommunications when it became apparent that their positive proposals on the matter had been overshadowed by their inability to gain acceptance of a permanent Secretariat.

Before discussion of the matter began in Buenos Aires, the New Zealanders had accepted the British position that it would be politically unwise to press experts to agree to the de facto application of the International Telecommunications Convention in the Antarctic. At the time, countries operating in the Antarctic notified the ITU of the frequencies (save those

purely military frequencies) regardless of the territory in which they lay. The ITU convention laid down a "notification by territory" principle, and in Roberts' opinion this would raise the controversial issue of sovereignty, which some countries, especially the Latin Americans, were still not comfortable discussing.¹³⁶

In 1962, the question had been complicated by the International Court of Justice's ruling over the Temple of Preah Vihear. This case concerned territory claimed by both Thailand and Cambodia. In 1930, Prince Damrong, formerly Minister of the Interior and at the time President of the Royal Institute of Siam, visited the temple with the permission of the King of Siam on a visit that had quasi-official character (ICJ 1962 : 30). When he arrived at Preah Vihear, he was officially received there by the French Resident for the adjoining Cambodian province, on behalf of the Resident Superior, with the French flag flying. The court found in favour of Cambodian sovereignty for the region due to the fact that such Cambodian action demanded a reaction from Prince Damrong. Thailand, however, did nothing, and Damrong even sent pictures of his visit to the French Resident upon his return to Bangkok, admitting that France had acted as the host country (ICJ 1962: 30). This is all the more interesting due to the fact that one of the four judges ruling was Sir Gerald Fitzmaurice, who had been British legal advisor at the Washington Conference. In this context, it is clear that any notification by territory could result in countries being forced to admit that their telecommunication installations were within the territory of the "host territory", thereby tacitly admitting the sovereignty of another country to the territory which for the purposes of the Treaty had been frozen. The British fear was that the mechanisms created by the Treaty were not strong enough, and more importantly, did not have full confidence of all the Contacting Parties to allow them to withstand such an incident.

On the question of an international radio communications meeting, while the Americans had tentatively offered Washington as a venue for such a meeting, the British did not want to support any possible Australian suggestion that all members of the ITU should be invited to send representatives to such a meeting.¹³⁷ It was the British opinion that the radio network in the Antarctic had been set up by the participating nations and that only these representatives should attend, although the ITU and SCAR should be represented by observers.¹³⁸

The problem at Buenos Aires seems to have been one of arranging the precise date for a meeting of experts. The Soviets were vociferous in calling for a meeting immediately preceding the next Consultative Meeting. The British saw recommendation II-III as a compromise which provided for a government-sponsored meeting of radio-communication specialists between 1 May and 31 August 1963. The British believed this an unsatisfactory discussion of the issues, reflecting "the inefficiency of our present machinery to implement the treaty".¹³⁹ One again this sentiment relates to the original British intent of linking such politically sensitive questions to a technical arm of a proposed permanent Secretariat. Thus, the British were forced to agree informally with the Australians that if no decision on a date for the meeting had been reached within three months, the Australian government would take the initiative through diplomatic channels. Roberts restated the negative British position that had been forced upon them by discussions on the Secretariat in Canberra - "we, ourselves, do not wish to take any initiative in this matter because we believe (and have explained ad nauseam) that it can be dealt with most easily by the existing non-government SCAR Working Group, which need not invoke all the complications of the existing ITU arrangements".¹⁴⁰

F. BRITISH CONCLUSIONS - SECOND ANTARCTIC TREATY CONSULTATIVE MEETING, BUENOS AIRES 1962

Myhre has commented in conclusion that, "the Second Antarctic Treaty Consultative Meeting was rather unglorious. Preparation was poor, and the Americans made it clear that meeting in Belgium would be pointless unless 'full preparations for a useful and profitable meeting had been completed'"(1984: 131)(NSF 1962: 4).

The British concluded similarly that, as had been expected, little progress was made at Buenos Aires.¹⁴¹ The British, however, believed that the main obstacle to the United Kingdom policy of "putting teeth into the Treaty" was the continued opposition of the Latin American countries to any suggestion which could affect their claims to territory in the area. Further, the British believed that any progress on the issue of full preparations for the meetings in the longer term depended on changing "the United States Government's insistence on Washington as the only possible Treaty centre".¹⁴²

George Middleton (the Head of the British delegation), writing a confidential dispatch to Lord Home (the Foreign Secretary), concluded that the twelve delegations held broadly the same position as they had done a year before.¹⁴³ He believed that the Latin Americans were the chief obstacle to British objectives in the region and that off the record conversations with the Americans indicated that it could be worth pursuing the internationalist attitude. Equally, the French privately assured the British that they no longer had the same reservations about the question of jurisdiction and recognised that continuity between meetings had to be assured by some means.¹⁴⁴

Regarding the two proposals submitted by the UK delegation, Middleton concluded that in the withdrawal of the item of jurisdiction from the agenda, the British gained a measure of sympathy by the decision not to press the question to a vote. At the same time the delegation made it clear this in no way altered Her Majesty's Government's view on the matter. Middleton also made the point that there was a clear majority in favour of tabling the item on jurisdiction.¹⁴⁵ On the subject of wildlife conservation, Middleton asserted that "a clear majority of delegations also supported the United Kingdom proposal that an International Convention should be negotiated for the conservation of wildlife. Middleton laid the blame for the inability to achieve the favoured British result at the door of the Latin American countries due to sovereignty implications, and also the US delegation which "appeared unwilling to admit that the principle that Governments should accept binding commitments on this subject"¹⁴⁶ Middleton believed that Recommendation II-II was a compromise which did not guarantee that agreement would be reached at the next Consultative Meeting, but that "it is so worded that it will be embarrassing for Governments if they do not then agree on the text of internationally binding measures on this important subject".¹⁴⁷ Also, if this were to be the case, the recommendation would bind Governments to consider the United Kingdom draft Convention.

Again, as with the official dispatch from Canberra, Middleton only briefly touched upon the issue of radio communications, preferring to concentrate on the New Zealand proposition concerning consultation between Consultative Meetings. Middleton admitted that Washington was not publicly acknowledged as the preferred venue for the embryonic Secretariat, but the New Zealanders made it clear that this was the capital they had in mind. It

was the United Kingdom's view that it was too early to consider breaking up the package deal achieved in Canberra, and, thus, the New Zealanders withdrew their proposal at the end of the debate.¹⁴⁸ The lack of progress on the substantive issue, namely the question of a Secretariat, was then linked by Middleton to Britain's long-term objectives for the region. Middleton expressed the belief that substantial progress in achieving long-term goals seemed to be limited at Consultative Meetings. In his opinion, "our general influence in Antarctic affairs is likely now to depend more on our physical effort on the ground".¹⁴⁹ If the British could raise this, Middleton believed, then it would help to safeguard the British position in the British Antarctic Territory, "a position which might otherwise be susceptible to rapid erosion if and when the Treaty comes to an end".¹⁵⁰ Middleton also asserted that this raised level of activity would give the British a more powerful voice in Antarctic affairs, especially in the deliberations of the Antarctic Treaty powers. The question of sovereignty outside the zone of application was still a large issue for the British in relation to Antarctic Treaty policy, for as Middleton concluded, "anything more which we can do in the Antarctic will to some extent strengthen our position in the Falkland Islands and in the Falkland Islands Dependencies - a question which the Argentine Government have not forgotten, even though they are not pressing it actively at the present time".¹⁵¹

The last paragraph of the dispatch could be seen in two ways. Either one could believe that concerns outside the zone of application of the Treaty were playing a large part in controlling British policy in the Treaty area, or one could take the attitude that this represented a request for heightened Whitehall interest in the area in general and that the most effective way of raising interest was to highlight the possibility of future conflict and therefore great expenditure. The comment by Roberts in his conclusions of the Buenos Aires meeting confirms the second of these suspicions as probably the most important. He wrote that the second meeting has made it clearer than ever that "in October and November this year we must initiate a review of our whole policy in the South Atlantic and go back to the Cabinet for decisions on a number of these".¹⁵² Paragraph eight, it is claimed (the final paragraph of Middleton's dispatch) is designed to initiate the idea in London of an increased level of activity in the region in order to safeguard British influence in Antarctic affairs. As well as new icebreakers, Roberts wanted to see decisions being taken on the future status of South Georgia and the South

Sandwich Islands, on new stamp issues for the British Antarctic Territory and on aligning BAS policy in London to the present attitudes and "probable activities of Argentina, Chile and the United States."¹⁵³

CHAPTER 4

BRITISH INFLUENCE ON THE THIRD ANTARCTIC TREATY CONSULTATIVE MEETING, BRUSSELS 1964

A. BRITISH OBJECTIVES

A Foreign Office dispatch of 13 January 1964 reported that Sir George Middleton's fears (voiced in the official dispatch following the Buenos Aires meeting) that Britain had just about exhausted the possibilities of practical progress in the context of Antarctica for the time being, might be laid to rest by the third Antarctic Treaty Consultative Meeting. The reason for this change was "the encouraging progress which has been made...by the somewhat fortuitous emergence of a successful centre for regular talks in Brussels".¹⁵⁴

Held from March 1963 to May 1964, the ten preparatory meetings, initiated by the Belgian Government, concerned matters of substance and actual arrangements for the Brussels conference (Myhre 1984:133). The British believed that these meetings had been a constructive temporary addition to the Treaty machinery and had "developed into something more than the limited administrative gatherings which have taken place before previous consultative meetings".¹⁵⁵ Due to the unwillingness of some countries to upset the Canberra Recommendation I-XIV, the British believed that it was unlikely that the preparatory meetings would lead to any permanent arrangements being made for consultation between Consultative Meetings.¹⁵⁶ The first preparatory meeting had set the tone for the last eight, (the final meeting concerned arrangements for the conference), with four major topics being covered. These were the date of the third meeting, the protection of Antarctic fauna and flora, the state of Antarctic telecommunications and the question of holding a governmental meeting on logistics (Myhre 1984:133). Roberts asserted that during these preparatory meetings "it has been possible to negotiate a draft text on Agreed Measures on this [fauna and flora] subject. We have throughout taken the initiative on this matter and it is encouraging that we have been able to get so near to finding an acceptable form and text".¹⁵⁷

In the introduction to his personal diary of the third Consultative Meeting, Roberts listed an agreement on the conservation of wildlife as one of the two

main subjects that the British had to direct itself to at the meeting. The second was the Anglo-Australian relationship, and Roberts believed that "we are at cross purposes with them on almost every subject".¹⁵⁸ He believed that this first became apparent at the Treaty meeting on telecommunications held in June 1963, but revealed "differences of opinion over the whole range of problems connected with the status of Treaty meetings".¹⁵⁹ The worry was that at the third meeting the British would not be able to avoid open conflict with the Australians. This was particularly prejudicial to the British long-term objective of internationalisation in the Antarctic, for the Australians had hitherto been stalwart allies over the need for a permanent Secretariat in Canberra. This position had not changed, but it is probable that difficulties with the Australians over other Treaty subjects, coupled with the attitudes of the Latin Americans, dictated a new approach to progressive initiatives for the region being aired at such meetings. This is confirmed by Roberts who wrote of "the Treaty beginning to settle down to a humdrum existence" and this "being disappointing to those who look to it to provide a long-term international solution to the problems of the area".¹⁶⁰

Roberts wrote of this being a period of "cooling down of discussions within the Treaty" and consequently the British believed that the Americans had a more flexible approach to Treaty questions, the most tangible change being the omission of Owen on the American delegation. The Foreign Office brief of January 1964 ordered that the British maintain such momentum as the Treaty had but "not to add to our reputation as Treaty busybodies".¹⁶¹ With this in mind, Roberts wrote that a major objective at Brussels was the "desirability of limiting formal discussion of the controversial subjects which include Jurisdiction and the Secretariat".¹⁶² Although internationalisation was still the long-term objective, the British did not now want to press the issues at the risk of offending other Participating nations. The British brief made it clear that the United Kingdom should still object to Washington as the centre of preparatory meetings as this would be "the first step towards making Washington the capital of the Antarctic and this would in turn expose the Treaty to Cold War pressures. Our opposition to centralising consultation on Washington would for the same reason apply equally to Moscow, London or Paris".¹⁶³ This is significant as the first occasion that the British had officially ruled out London as the centre for a permanent Secretariat, stressing the need to rectify relations with the Australians, given British preference for the Secretariat being situated in Canberra.

B. THE CONSERVATION OF WILDLIFE - THIRD CONSULTATIVE MEETING, BRUSSELS 1964.

The British recognised before the Brussels meeting that "it will almost certainly be necessary to separate pelagic sealing into a separate agreement from that dealing with the problems of conservation on land".¹⁶⁴ This does not mean to say that the British were against a legally binding agreement on pelagic sealing. On the contrary, Roberts wrote that "I feel a strong urge not to postpone international discussions merely because they are difficult...If we must have all the complications of United Kingdom legislation, I think we should try to include all the essential requirements of conservation".¹⁶⁵ By this, Roberts did not merely mean protection for seals, but internationally agreed measures for rational exploitation, with sufficient controls. The British felt that these mechanisms were required due to the probability of southern pelagic sealing by Norway and possibly Denmark beginning in the 1964-65 season.¹⁶⁶

In the course of negotiations at the Third Meeting it became clear that the original British fear had foundation and that an international agreement on pelagic sealing would have to be delayed. Roberts believed that all delegations shared the desire to protect seals, but four main reasons inhibited agreement. First, there was a considerable problem related to rights on the high seas (at that time it was considered that this was too controversial a subject to raise at ATCMs). Second, the Russians wanted any agreement to be open to accession by any nation, a wish which was generally unpopular among other nations. Third, Roberts asserted that the Australians threatened to wreck the remaining issues under Agreed Measures unless pelagic sealing was satisfactorily covered. Fourth, the Norwegians were understandably reluctant to agree to any sealing restrictions until the results of their reconnaissance expedition south that year were known.¹⁶⁷

Eventually, pelagic sealing was dropped almost completely from the Agreed Measures. The eventual compromise of Recommendation III-XI was reached after both the Russians and the Norwegians had referred the draft back to their respective governments, after which they refused further discussion. Roberts believed that this compromise "satisfies no one, but in the circumstances nothing else was possible".¹⁶⁸ The question was therefore left

over for the next consultative meeting with Article X of the Agreed Measures providing the only basis for any regulation of sealing activity. The discussion of the issue of pelagic sealing under the auspices of the Agreed Measures is important in representing the positive will of the British to move forward both discussion and legislation, eventually leading to the Convention for the Conservation of Antarctic Seals (signed in 1972).

The foundations for the successful passing of the Agreed Measures for the Conservation of Antarctic Flora and Fauna were laid at the preparatory meetings in Brussels which preceded the Third Consultative Meeting. It was clear from these negotiations that any agreement on sealing would be difficult and that some countries had widely differing views. At this point the British still held hope that an agreement could be reached on sealing as part of the Agreed Measures and even persuaded the Norwegian delegation that a clause could be inserted to allow sealing expeditions under permit. This was met at the Eighth preparatory meeting by the assertion by Cumes, the Australian head of delegation, that if animals or birds on floating ice outside territorial waters were not protected then "eighty per cent of the Agreed Measures would be nullified".¹⁶⁹ This raised the issue of rights on the high seas which the British had hoped to postpone until the Antarctic Treaty Consultative Meetings were more stable. Roberts was able to question Cumes at the preparatory meeting and Cumes admitted that the Australian position had been prepared by Robert Carrick, the Australian biologist. Roberts asserted that these instructions made "no allowance for the practical, political or legal difficulties...Most of it makes sense in the rather special context of Macquarie Island (outside the Treaty Area), but many of (these) arguments are hardly applicable south or on the other side of Antarctica".¹⁷⁰ This example illustrates the problem of heads of delegations attempting to piece together internationally binding agreements while being required to argue from unalterable briefs prepared by scientists, who in turn, did not have adequate understanding of the political and legal difficulties.

As far as the rest of the proposed Agreed Measures was concerned, it seems as though by the end of the Eighth Preparatory Meeting, the British had apparently achieved agreement that the draft Articles of the Agreed Measures should have headings and be arranged in the following order for the next working paper¹⁷¹:

- I. Area of application

- I.(bis) Implementation
- I.(tiers) Non application in an emergency
- II. Definitions
- III. Protection of species
- IV. Prevention of harmful interference
- V. Protection of Areas
- VI. Precautions relating to introduced species
- VII. Restriction upon trading in specimens
- VIII. Enforcement
- IX. Consultation an Exchange of Information
- X. Publicity
- X Amendment
- XI. Entry into force, accession and registration
- XII. Languages and deposit

ANNEX

Schedule A. Specially Protected Species

Schedule B. Specially Protected Areas

In effect this was the working paper which the Third Consultative Meeting used and there seems to have been a general desire that the meeting should achieve some tangible result with respect to conservation of Antarctic fauna and flora. An example of this will arose during discussion of that part of the Agreed Measures relating to accession when the Australian representative said that it was not for him to oppose discussion of anything concerning the Agreed Measures.¹⁷²

At Brussels much of the controversy centred on sealing rather than other areas covered by the brief. One could argue that the Agreed Measures had been on the agenda for three years and once agreement had been attained at the preparatory meeting the Third Consultative Meeting was, on the whole, concerned with minutiae rather than more substantial concerns.

Questions of enforcement, amendment, accession and deposit were discussed at length. These issues led to discussion of Article IX (2) of the Antarctic Treaty. The Soviet delegation, in particular, was concerned that the document, the objective of which was to preserve the unique character of Antarctic fauna and flora, would only entitle those governments under Article IX to adhere to the Agreed Measures.¹⁷³

- I.(bis) Implementation
- I.(tiers) Non application in an emergency
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Myhre has asserted that "the US and others felt that any state eligible to accede to the Treaty should be allowed to accede to the Agreed Measures separately"(1984:167). The Australians were of the opinion that accession should only be open to the signatories to the Treaty because if the Soviet or the US view was taken then there was a danger that the Agreed Measures might not be approved by governments.¹⁷⁴ The US Department of State report of the US Delegation to the Third Consultative Meeting made the point that all three points of view had problems. If independent accession was allowed then the legal question would arise as to what right kind of an interest a non treaty state had to have in Antarctica in order that it might accede. Similarly, if non treaty states were allowed to accede to certain recommendations, why could they not then attend the meetings that produced those recommendations? Finally, what would happen if recommendations existed for Consultative Parties only (1964:7)? In the face of these three arguments and the prevailing mood of the meeting in favour of reaching a binding agreement on conservation, the Australian proposal to limit accession to signatories was adopted.

The question of the depository government for the Agreed Measures is an interesting example of the continued British reluctance to give the US further responsibilities. The US report of the meeting made this point with reference to the Australian view on matters pertaining to rights on the high seas, that the attitude "reflected their habitual view that Washington should not be allowed to take over the Treaty"(1964:6). With regard to a depository for Agreed Measures, the British asserted that it had been generally accepted that the government of Belgium would act as depository government. This view was supported by the Australians, but the US delegate made the point that Canberra Recommendation I-XIV implied that the US was automatically the depository government for all recommendations.¹⁷⁵ The Belgian chairman, believed that it would appear slightly absurd for Belgium to be the depository government for just one recommendation and that the matter should be the province of the US government in order to prevent any disorder in Antarctic Treaty procedures. The chairman believed that a majority were in favour and dropped the Article. This minor issue shows that throughout the negotiation of the Agreed Measures and despite differences of opinion over other policies, the Australians and British always kept in mind the long-term agenda for the Antarctic Treaty System.

C. TELECOMMUNICATIONS - THIRD ANTARCTIC TREATY MEETING, BRUSSELS 1964

The method of negatively influencing the telecommunications question, which the British had adopted at the first two Consultative meetings (see chapter 3), altered slightly at the third. Roberts believed that many of the disagreements with the Australians stemmed from the Washington Treaty Meeting on Telecommunications held in 1963.¹⁷⁶ Roberts asserted that these discussions revealed "differences of opinion over the whole range of problems connected with the status of Treaty meetings".¹⁷⁷ The policy adopted at Brussels is best explained with reference to the brief for Santiago in 1966, which outlined the developments on the question of telecommunications and gave clues as to how British policy evolved in 1964.

The 1966 brief commented that the Australians had believed in 1964 that the 1963 Washington Meeting on telecommunications had taken the status of a Consultative Meeting under Article IX (2) of the Treaty.¹⁷⁸ The British on the other hand took the view that the meeting had been a "meeting of experts" and had merely acted in an advisory capacity. For this reason the British, against the wishes of the Australians, had not taken any steps to approve the recommendations of 1963 because they would have opposed the British policy of letting SCAR deal with the question of telecommunications in the Antarctic rather than the WMO.¹⁷⁹ By 1966, the British had formally realised that "telecommunications have been consistently entangled with radio reporting of meteorological data from the Antarctic".¹⁸⁰ With this in mind they proposed that "we should attempt to keep them separate in the future".¹⁸¹ It is possible to conclude that the policy laid down in 1966 was evolving during the 1964 Brussels Meeting.

In 1964, Roberts wrote that during discussion of Item 2 on telecommunications the Russians articulated the view that they were not happy with delays in receiving meteorological information at their stations. Also, they were opposed to the proposal that the WMO should have a Standing Committee for the Antarctic, preferring the efforts of the SCAR Working Group on Telecommunications. One would expect British agreement with this stand, but the progress of the negotiations show that the

British were prepared to acquiesce on the question of meteorological information. During Item 3, the relationship between WMO and the Treaty, a paper by Davies (the British secretary-general of WMO) was tabled, calling for Treaty governments to agree to the establishment of a Permanent Committee for Antarctic Meteorology. Roberts, who possibly did not wish to have a confrontation with the WMO seems to have shifted his ground, commenting that "it was unfortunate that the WMO did not go ahead with this proposal, but, instead, asked for this agreement which is not likely to be forthcoming".¹⁸² The British then "put forward our draft recommendation and mentioned that the WMO Executive Committee now meeting in Geneva, would like to know soon that the Treaty powers agreed with their proposal".¹⁸³

This seems to point to a two-tiered policy of being prepared to acquiesce on the question of passing responsibility for meteorological reporting over to the WMO while keeping to the long-term goal of using the SCAR Working Group for the management of other radio communication in the Antarctic. It seems as though recommendation III-V of the Third Consultative Meeting again negatively influenced the telecommunications question by merely calling for the examination of "the results of Recommendations made by the Washington Telecommunications Meeting" and the consideration of measures to improve Antarctic radio communications in the future".¹⁸⁴ Once again the British had kept to their long-term goal of keeping SCAR outside politically sensitive questions but had managed to retain, at least for the moment, its responsibility for radio communication.

D. BRITISH CONCLUSIONS ON THE THIRD ANTARCTIC CONSULTATIVE MEETING, BRUSSELS 1964

Roberts, writing the introduction to his diary on the third Consultative Meeting, believed that "if the Agreed Measures are approved by the Meeting they will form the first significant addition to international agreement on the Antarctic since the Treaty itself and will thus represent a considerable step forward".¹⁸⁵ These sentiments were echoed by the British brief (drafted by Roberts, David Anderson and John Heap and dated 24 October) for the Fourth Consultative Meeting in Santiago in 1966, which asserted that the Third Meeting unlike the Second had achieved a certain amount of useful progress.¹⁸⁶ The item on the conservation of Antarctic fauna and flora, the brief claimed, "arose largely from a British initiative...[and] had been in

gestation for more than five years and marked the first substantial international agreement stemming directly from the Antarctic Treaty".¹⁸⁷

The official departmental report from Sir Roderick Barclay to Foreign Secretary R.A. Butler immediately after the Brussels meeting put the Agreed Measures into context. Barclay began by restating the belief addressed in the despatch from the Second Meeting that at that time it had been hoped that the major obstacles that had prevented an agreement between 1961 and 1962 might not in the future be as formidable as had been feared in those years. Barclay believed that this suspicion had proved to be the case and the tangible result was the Agreed Measures (see appendix 3). Originally envisaged as a convention, Barclay stated that negotiations at Brussels proceeded on the assumption that the best which could be achieved was the adoption of "agreed measures" as provided for in Article IX of the Treaty, with an accession clause covering States eligible to accede to the Treaty.¹⁸⁸ Barclay asserted that vigorous opposition, particularly from Australia and Argentina had made it clear that a convention would not be possible. The dispatch claimed, however, that the provisions of the Agreed Measures satisfied "almost completely the aims of my delegation and the document as a whole represents a substantial step forward in the implementation of the Antarctic Treaty".¹⁸⁹

The tone of the rest of the dispatch is cautiously optimistic and Barclay concluded that "we can take encouragement from this meeting...the agreed measures on the Conservation of Fauna and Flora have so amplified and projected the principles of the Treaty as to merit the character of additional international agreements".¹⁹⁰ An element of caution was added, which was repeated in the British brief for Santiago in 1966. Here it was suggested that due to the closeness of the British to the Agreed Measures, the Delegation had been "more pleased about the results of the meeting as a whole than its overall results warranted".¹⁹¹ Barclay made the point that "the subjects of most importance to us in the long term, such as jurisdiction and the creation of a Secretariat were not discussed".¹⁹² The British brief for 1966 concluded that at Brussels the British dropped any hope of an open debate on these two subjects in favour of a policy of "creeping internationalism". It is clear in 1966 that this policy was still in place, with the British envisaging for the long term "some kind of simple secretariat...in Canberra...(clearly not attainable at present)".¹⁹³

Barclay concluded that Consultative Meetings had begun to behave like the meetings of an international legislative body. He hoped that during the 30 years before the Treaty could come to be reconsidered, the governments could begin, through recommendations, to legislate on "the basic subjects such as jurisdiction". In this way, Barclay hoped, British "policy to achieve a final international agreement on these matters" could be addressed.¹⁹⁴

CHAPTER 5

BRITISH INFLUENCE ON THE NEGOTIATION OF THE ANTARCTIC TREATY

The previous three chapters have shown the positive influence exercised by the British on the development of the ATS between 1961 and 1964. The evidence presented has shown that in 1961 the British had clear short- and long-term objectives and appear to have been the primary country willing to use the Consultative Meetings positively, as provided for under Article IX of the Antarctic Treaty, in order to strengthen the Antarctic Treaty System against its perceived weaknesses. The best example of this influence is the Agreed Measures for the Conservation of Antarctic Flora and Fauna. Although Joyner and Theis asserted that: "It was the United States that initially recommended the adoption of the Agreed Measures"(1997:103), it has been shown that the initiative for this agreement was British and that it was only after years of continual perseverance on their part that the Agreed Measures were concluded.

The vast majority of Antarctic commentators have supported Joyner and Theis' view that this agreement represented the first important addition to the Antarctic regime. If one considers that questions of a Secretariat and Jurisdiction were also enacted by the British with a view to the long-term stability of the Treaty, then it is possible to conclude that they were the primary positive thinkers of the period 1961 - 64. It is interesting therefore, that a country so influential between 1961 and 1964 has been largely omitted from the most generally adopted interpretation of events leading up to 1959. This omission calls for a brief review of events leading up to 1959. Using the previously unavailable writings of Roberts and Foreign Office dispatches it is possible to go some way to demonstrate the extent of British influence prior to and during the Washington Conference.

A. THE ORIGINS OF THE WASHINGTON CONFERENCE

Much has been made of the fact that in 1948 the US had proposed an international solution to the Antarctic problem. However, as Quigg has pointed out, this solution did not include the freezing of the legal status quo and included no provision for coupling non-militarisation with an inspection

system (1983:144). This condominium proposal was only addressed to claimant states and became a dead letter in 1950 when the Soviet Union insisted that she be included in any agreement. In this respect, it is vastly different from those proposals emanating towards the end of the decade, which resulted directly in the Antarctic Treaty.

The scientific activities of the IGY between 1954 and 1957 engendered a spirit of international co-operation in the Antarctic. Politically and diplomatically the greatest spur for an internationally binding agreement in the Antarctic may be traced to a paper which Roberts prepared for Cabinet in 1956 (King & Savours 1995:5). Although this paper is yet to be released, there is evidence that the sentiments expressed formed the basis for a paper subsequently sent to Washington for consultation. Warren Reynolds, a member of the American delegations of 1961 and 1962, has confirmed (personal communication 1997) that the British paper was passed to Daniels at the time the drafts were being prepared for the Preparatory Meetings in Washington. Although the extent to which Daniels used British ideas cannot be proved, it is Reynolds' belief that once the 1956 Cabinet paper is released, significant similarities will be noted between its contents and the final Antarctic Treaty and that along with Daniels, Roberts will gain recognition as one of the foremost founding fathers of the Antarctic Treaty (personal communication 1997).

Whether this proves to be the case or not, the following extracts from the introduction of Roberts' diary of the Washington Conference paint events in a rather different light from previous studies and contribute to the assertion that a seamless string of events run from 1957 to the conclusion of the Antarctic Treaty in 1959. Roberts asserted that United Kingdom proposals for an international regime in the Antarctic were initially discussed in London during August and September of 1957.¹⁹⁵ The discussions involved the Australians, New Zealanders and South Africans, with the Canadians present as observers.¹⁹⁶ Following this, talks were subsequently held in Washington between the British, Australians, New Zealanders and Americans.

Roberts claimed that by the start of 1958 virtual agreement had been reached, subject to approval by the four governments, on many aspects of the proposals put forward by the UK.¹⁹⁷ The principles included non-militarisation, international collaboration in science, provisions for an

executive body with a consultative council submitting reports to the UN, and, most importantly, the freezing of the legal status quo for as long as the scheme remained in place.¹⁹⁸ Roberts suggested that at the end of January 1958, the Australian Government decided that they could not accept more than a limited scheme for the purpose of securing the non-militarisation of the continent and the continuation of scientific co-operation.¹⁹⁹ These obstacles were overcome following talks between the Australian Prime Minister (Menzies) and the British Prime Minister (Macmillan) in February and between the Australian Minister for External Affairs and the US Secretary of State (Dulles) and the New Zealand Prime Minister (Nash) in Manila, all in 1958. After this the Australians accepted the proposal agreed previously in Washington that the legal status quo had to be frozen during the currency of the agreement.²⁰⁰

On 11 February 1958, a press conference during Macmillan's Commonwealth tour allowed the British Prime Minister to report that the leaders of Britain, Australia and New Zealand agreed on the principle that scientific activity should be free and that the continent should not be allowed to become a base for military activity²⁰¹ (Quigg 1983:143). Roberts believed that the press leakages that followed gave a "fairly full account of the tentative proposals put forward by the United Kingdom".²⁰²

Roberts asserted that this press activity "led to precipitate action on the part of the United States".²⁰³ An aide memoire of 24 March 1958 was addressed to all the countries later to be present at the Washington Conference, requesting views of most of the proposals discussed in Washington the previous year (including the idea of freezing the legal status quo). In deference to the Australians, no mention was made of the need to regulate exploitation of mineral resources, as they wished "if possible to retain exclusive sovereign rights in this respect".²⁰⁴ The formal invitation to the Washington Conference was made on 2 May 1958 and a Presidential statement to this effect followed from President Eisenhower.

Roberts suggested that the British regarded the extension of invitations to the conference to Belgium, Japan and South Africa without first asking British approval as "premature". However, Roberts wrote, "we had no regrets that the United States had put out, as their own, proposals which had originated from a British initiative. Since they themselves are not claimants and have never

recognised the claims of others in the Antarctic, they are in a stronger position than we ourselves to convene a conference".²⁰⁵ Also, the British felt that a direct request would look to the Chileans and Argentines like a sign of weakness and might have hardened the resolve of the two countries not to attend.²⁰⁶

The preparatory meetings held in Washington produced a basic draft treaty submitted to the working group by the United States. Agreement was made possible by Soviet compromise from January 1959 onwards, which allowed the Conference to go ahead and involved the submission of a separate paper containing a Soviet redraft of the American proposals. For their part, the British may have found it convenient for the US rather than themselves to formally submit papers, but they presented re-drafts of individual Articles and Roberts wrote after the preparatory meetings that "the United Kingdom Government originally proposed a scheme far more comprehensive than is now envisaged. We wanted to establish a High Authority which would effectively exercise control throughout the continent...we [now] want the Treaty to be as comprehensive as possible".²⁰⁷

B. THE WASHINGTON CONFERENCE, 1959

At the Washington Conference the British contribution was guided by two principal aims. The primary one was that the Conference should produce a binding Treaty and the secondary one that any Treaty should be as comprehensive as possible. It would be possible at this point to produce a history of the negotiation of the minutiae of the Articles of the Treaty. However, in order to gain a broad overview of British influence during the Conference it is possible, with the help of the diaries, to look at four questions arising during the Conference which the British believed were central to their aims. The official Foreign Office dispatch will then be addressed in order to show how the British viewed their influence at the Conference and to what extent they were satisfied with the results achieved.

On 14 October, one day before the Conference officially opened, Sir Esler Denning (head of the British delegation) met with M. Charpentier (head of the French delegation) and was officially told that the French refused to accept Article IV and therefore the freezing of the legal status quo. Charpentier claimed that to discuss this would cast doubt on the validity of French

sovereignty and that this stand was supported by the French legal expert Professor Gros and even more strongly by the French Foreign Minister.²⁰⁸ Denning showed Charpentier correspondence between Gros and Fitzmaurice (the British legal expert) of 1958, when the substance of Article IV had been agreed. The British viewed the French stand as dangerous because "the draft article IV, is in our view essential to a successful Treaty".²⁰⁹ This British position was supported by the Australians, for whom Casey sent off a strongly worded letter to the French Foreign Minister while Denning told Charpentier that the French and the British were in "diametrically opposed camps" and that the subject had been agreed at the preparatory negotiations.²¹⁰ Phleger, the United States chairman of the Conference, suggested to Fitzmaurice that the US might suggest a total deletion of rule 37 (eliminating the necessity for unanimity) given the French attitude. Roberts commented that "if the French refuse to change their minds, there may be something to be said in favour of an eleven Power Treaty, if all of them can agree. It is more doubtful if the deletion of rule 37 is the best way of achieving this end".²¹¹

Finally, the French only agreed to the retention of Article IV after Professor Gros came from Paris and had discussions with Fitzmaurice, Phleger, and Tunkin (USSR) and suggested amendments to satisfy the French Parliament that no diminution of French rights had occurred.²¹² In Roberts' opinion the French position had been "somewhat supercilious" and mirrored the attitude of M. Scalabre (deputy of the French delegation) who told Freeland on a day that the drafting committee met that he cared much more about preserving the integrity of the French language than about the contents of the Treaty.²¹³

One of the British objectives was to gain an Article on jurisdiction. On this objective they were unsuccessful despite producing two significant draft articles on the subject. On 11 November the Soviets asserted that they could not accept the draft Article on Jurisdiction as agreed by other delegations and wished to retain Article I of the UK original draft. This stymied the British, who in the face of South American opposition to the Soviet proposal, noted that the revised UK draft had been created for the purpose of reaching a compromise.²¹⁴ Article VIII provided the only advance on the issue ordering that observers, exchanged scientific personnel and their staffs were under the jurisdiction of the state that designated them observers or sent them on the exchange (Myhre 1984:99). Denning, in the official dispatch after the Conference, claimed that the British objective was unsuccessful due to the

attitude of "the Argentine and Chilean delegations (supported by France), from which they refused to budge even though quite vigorously attacked by the Soviet Union".²¹⁵ Denning suspected that the inability to compromise would mean that "in practice both the United States and the Soviet Union will insist upon exercising exclusive jurisdiction where their own nationals are concerned".²¹⁶

Denning described the third British concern, that of nuclear explosions for peaceful purposes. He explained that "the subject had never been raised before the Conference assembled and no preliminary views on it were available".²¹⁷ This view seems to be corroborated by the omission of the subject from Roberts' introduction to the Washington Conference, where accession is expected to be "the most serious of the outstanding points to be decided at the Conference".²¹⁸ Initially the Argentines and the Chileans proposed an addition to Article I but withdrew this because it was envisaged that Article I would deal with non-militarisation only.²¹⁹ Denning wrote that it became clear that the five Southern Hemisphere states had large concerns about the nuclear explosion issue and Roberts noted that these states "were clearly not prepared to have their views over-ridden by what they call the nuclear powers".²²⁰ Denning asserted that the next step was a joint Australian and Argentine draft Article which sought to prohibit nuclear explosions and the disposal of radioactive waste except after prior consultation, but did not impose an absolute ban. The absence of a total ban was probably due to lobbying by the British and Americans, although for presentational purposes the Australians did not mention the fact that Farinholt (US), Roberts, Holland (Australia) and Shuttleworth (South Africa) had jointly prepared the draft two days before.²²¹ Denning claimed that after the presentation of the revised proposals, the Soviet delegate stated categorically that there were two alternatives. The first was to have no mention in the Treaty of nuclear explosions for peaceful purposes, and the second was to impose an absolute ban. The Soviets abandoned the first idea of permissively not mentioning the problem and Roberts believed that this was because Tunkin, the Soviet delegate, "was unable (or unwilling) to resist such a splendid opportunity presented to him for splitting the Western ranks on the issue of nuclear detonations for peaceful purposes".²²² Denning noted in the end it was "the United States which gave way" and Tunkin who "won".²²³

On the question of accession, Denning made it clear that the remaining participating nations would accept what was agreeable both to the US and the Soviet Union.²²⁴ Roberts had predicted before the Conference that this would be the most controversial question, and despite being over-shadowed by the nuclear question it showed that the Soviets were able to strongly influence the Treaty negotiation. Initially the New Zealand representative called for a proposal under Article X, whereby the Treaty would be open for accession by any state which was a member of the United Nations or of the Specialised Agencies.²²⁵ The Soviets countered with the proposal which provided for the Treaty to be open to any state carrying out scientific investigations in Antarctica.²²⁶ From the British perspective this could feasibly in the future produce the problem of the Soviet Union vetoing the accession of the German Federal Republic. Similarly, it would mean the possible bargaining of West German accession for that of East Germany.²²⁷ Roberts believed that the only solution would be to make accession open to members of the United Nations and to any other state whose application to accede was approved by a majority of the parties to the Treaty (including a majority of those entitled to participate in the meetings provided for in Article VIII).²²⁸ This proved unacceptable to the Soviet delegation, whose position prevailed over that of the US, and in Denning's words "they may be said to have won on points".

In his dispatch to the Foreign Secretary (Selwyn Lloyd), Denning made it clear that "although the invitation to the conference had been issued by President Eisenhower..., the original initiative had come from the United Kingdom".²²⁹ The principal motive for the British, he claimed, had been to provide "a solution to problems caused by the Argentine and Chilean claims in the Falkland Islands Dependencies".²³⁰ Denning concluded his dispatch by asserting that "we have secured the establishment of a continuing organisation which, though it falls short of what we had hoped for in the way of international control, does provide a means by which we may, in the course of time, reach agreement on a number of points which the Treaty does not cover at all (such as exploitation of mineral resources), or covers in a manner not wholly satisfactory to us (ie. Jurisdiction and settlement of disputes)".²³¹

In the final entry to the Washington Conference journal, Roberts offered his overall appreciation of the Treaty. He commented, "I think it represents an important milestone in Antarctic affairs. But it is only a beginning."²³²

CONCLUSION

A widely circulated view of the creation and evolution of the Antarctic Treaty System has placed the US at the centre of both. Chapters 2, 3 and 4 presented a revised view of the evolution of the ATS, one highlighting the influence of the British as a catalyst for positive initiatives designed to strengthen the Antarctic Treaty against its perceived weaknesses. The previously unavailable journals of Dr. Brian Roberts (head of the Polar Section at the Foreign Office, 1943 - 75) and previously unavailable Foreign Office dispatches from the first three Antarctic Treaty Consultative Meetings show the British as perhaps the only Contracting Party to the Treaty prepared to use Article IX to initiate positive ideas (designed to strengthen the Treaty), and possessing the political will to see the initiatives through to fruition.

Joyner and Theis (1997: 44) have asserted that the first important addition to the Antarctic regime came in 1964 with the Agreed Measures for the Conservation of Antarctic Fauna and Flora. The primary sources used here for the first time confirm this view. However, it was also shown that this was a British initiative emanating from Roberts and Holdgate, who worked on the first draft of what became the Agreed Measures at the Scott Polar Research Institute in Autumn 1960. This positive short-term aim was initiated in order that the Treaty System might one day be strong enough to contemplate additional agreements on such issues as a mineral regime. Also, it was hoped that the primary British aim of internationalisation (which had become 'creeping internationalisation' by 1964) would, in the long-term, be made possible by the achievement of such short term objectives.

The primary sources show that the British had been unhappy with the consensus achieved at Washington in 1959. An international regime had been contemplated by the British, and the Roberts journals show that in 1960, before the first ATCM, Roberts was concerting his views on a proposed Secretariat with high-ranking polar officials from Australia and New Zealand. The Australian proposal of a Secretariat in 1961 was influenced by the British, although Roberts had envisaged a small Secretariat in Canberra, and a technical arm in Washington to allow the efficient running of the Treaty as well as keeping SCAR outside politically sensitive questions. This initiative was eventually blocked by those Contracting Parties that feared further internationalisation of the Antarctic Treaty System and that believed that the

consensus of 1959 was as far as internationalisation in the region should go. The British initiative for jurisdiction in the region is another example of a short-term aim designed to achieve the long-term goal of internationalisation. However, under pressure from the Argentine and Chilean delegations, the British withdrew this Item from the agenda for the second time in 1962.

The new primary sources also show that the British had positive ideas for advancing the question of telecommunications in the Antarctic in 1960/61. These were linked to the idea of a Secretariat and a technical arm able to deal with politically sensitive questions. Due to the weakness of the 1959 agreement, discussion on telecommunications underlined the efficacy of Article IV of the Treaty. At the first ATCM it became clear that a Secretariat could not be established. The British were therefore forced to withdraw their positive proposals and negatively influence the question in order to keep SCAR outside political questions that would surely arise in relation to telecommunications. This they did with success between 1961 and 1964, managing to limit the influence of the ITU and the WMO in the region, thereby securing the position of SCAR outside damaging political questions.

Having used the new primary sources to show the large positive influence of the British between 1961 and 1964, attention was then turned to the widely held interpretation of the creation of the Antarctic Treaty. The assertion by Joyner and Theis that "the United States took the lead. Indeed the Antarctic Treaty represents the culmination of a series of negotiations initiated by the US government" (1997: 32), was shown to be at best only partially true. The Roberts journals, the Foreign Office dispatches of the period and a personal communication from Reynolds show that in the future it may be possible to prove that a seamless string of events ran from the presentation of a paper to Cabinet by Roberts in 1956 to the signing of the Antarctic Treaty in 1959. Particularly important in the negotiation of the Treaty was the notion of the freezing of the legal claims on the continent and provision for the coupling of non-militarisation within an inspection system (Quigg 1983:144). While it was impossible to prove the exact extent to which British initiatives influenced the work of Ambassador Daniels, for their part the British were certain of their primacy to many ideas adopted in the Treaty although the scheme proposed by them was more comprehensive than that finally agreed.

In 1995 Heap, Roberts' successor at the Foreign Office, wrote that "the story of Brian Roberts at the Foreign Office remains to be written; it will be a major undertaking, but until it is, there can be no clear, in depth understanding of how it has come about that the United Kingdom has made a contribution to international polar affairs far beyond that which might reasonably have been expected of it" (King & Savours 1995: preface). This work initiated a study of a small portion of Roberts' diplomatic career and to demonstrated the influence exerted by the British on the Treaty System between 1961 and 1964. It was made possible by the release of important and previously unseen primary British sources which have added another piece to the jigsaw-like history of the evolution and the creation of the ATS. Many other primary sources remain inaccessible. As and when they become open to study, it may be possible to accord appropriate credit to other participant countries. This thesis argues that, in particular, the British contribution has been previously underestimated, but much more remains to be done, both on British and other national sources. As Roberts himself wrote at the end of the Washington Conference in 1959, "it is only a beginning".

APPENDIX 1

DRAFT CONVENTION OF THE PROTECTION OF WILDLIFE IN THE ANTARCTIC

(BY A. WATTS & B. ROBERTS, 9 JULY 1961)

Article I

The provisions of the present Convention shall apply to the area south of 60 Degrees South Latitude, including all ice shelves, but nothing in the present Convention shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

Article II

In this convention 'native mammal' shall mean any individual, at any stage of the life cycle, or any species belonging to the Class Mammalia excepting members of the Order Cetacea (whales), indigenous to the Antarctic or occurring there by natural agencies of dispersal. Similarly 'native bird' shall mean any individual, at any stage of the life cycle (including eggs), of any species of the Class Aves indigenous to the Antarctic or occurring there by natural agencies of dispersal.

Article III

Each Party shall prohibit the killing, wounding, capturing or molesting of any native mammal or bird, as well as all attempts to kill, wound, capture or molest them, except as provided in Article IV of the present Convention.

Article IV

1. Notwithstanding the provision of Article II of the present Convention, and subject to the provision of sub-paragraph of this Article, any appropriate authority may expressly permit the killing, wounding, capturing or molesting of any native mammal or bird for the following purposes:

a. to provide food for men or dogs,

b. to provide scientific specimens, or to obtain scientific information, or to provide specimens for museums, zoological gardens, or other educational or cultural uses,

c. to provide specimens for a private collection,

d. to provide specimens or products for commercial purposes.

2. The permission granted by the appropriate Authority in accordance with subparagraph 1 of this Article must state the species and number of native mammals or birds affected by it, and the method or methods which maybe employed to kill, wound, capture or molest them. No such permission, however, may be granted if to do so would infringe Articles VI or VII of the present Convention.

3. In this Article and Article V, "appropriate Authority" shall mean the Government of the Contracting Party of which the person concerned is a national or which has organized or is responsible for the expedition or base of which that person is a member, or any body or person nominated by such government for the purpose in question.

Article V

Within the area to which the provisions of the present Convention apply each Contracting Party shall prohibit the private possession or control, or the buying or selling or attempts to buy or sell any native mammal or bird or product derived therefrom, unless the possession of or dealing in such mammals and birds has been authorised by the appropriate Authority.

Article VI

Species of native mammal or bird which merit special protection shall, with the agreement of the Contracting Parties to the Antarctic Treaty, be designated by them as "absolutely protected species", and once thus designated each Contracting Party to the present Convention shall prohibit the killing, capturing, wounding or molesting of such mammals and birds except for purposes of scientific study or in an emergency.

Article VII

Areas which are of outstanding scientific interest shall, with the agreement of the Contracting Parties to the Antarctic Treaty, be designated by them as "absolute sanctuaries", and within areas thus designated each Contracting Party to the present Convention shall prohibit the killing, capturing, wounding or molesting of any native mammal or bird except for scientific purposes or in an emergency. They shall furthermore prohibit the interference with such areas by the structural alteration of the terrain, the construction of installations, the overflying of aircraft or helicopters at low altitudes, the passage of vehicles or parties on foot, or any other activity likely to disturb or to alter the habitat, other than for purposes of scientific research or in an emergency.

Article VIII

Each Contracting Party shall prohibit the importation into the Antarctic of any species of vertebrate animal which does not naturally occur there, apart from:

- a. sledge dogs
- b. domestic stock or other animals to be kept under controlled conditions for scientific research or for food.

They shall completely prohibit any alien species thus imported to range without restriction in any part of the Antarctic

Article IX

The Contracting Parties may make such arrangements as they consider necessary for:

- a. collecting records of the numbers of each species of native bird and mammal killed or captured annually in the Antarctic;
- b. obtaining information as to the status of native birds and mammals in the Antarctic, and the extent to which any species needs protection;
- c. obtaining advice as to the species which should be designated 'absolutely protected species' under Article VI above, and the areas which should be designated 'absolute sanctuaries' under Article VII above;
- e. preparing and circulating to organising authorities, expeditions, and bases, lists of absolute sanctuaries, a brochure explaining the aims of provisions of this Convention, and other literature relevant to the conservation of wildlife.

Article X

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in the Antarctic contrary to the principles or purposes of the present Convention.

Article XI

The present Convention may be modified or amended at any time by unanimous agreement of the Contracting Parties. Any such modification or amendment shall enter into force when the depository Government has received notice from all the Contracting Parties that they have ratified it.

Article XII

1. The present Convention shall be open to accession by any State which is a Contracting Party to the Antarctic Treaty signed at Washington on December 1, 1959.
2. The present Convention shall be subject to ratification by each acceding State, in accordance with its constitutional process. Instruments of ratification shall be deposited with the Government of, hereby designated as the depository government. The Government shall inform all acceding States of the date of each deposit of an instrument of ratification, the date of entry into force of the Convention and of any modification or amendment thereto.
3. The present Convention shall be registered by the depository Government pursuant to Article 102 of the Charter of the United Nations.

Article XIII

The present Convention, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the depository Government, which shall transmit duly certified copies thereof to the Governments of all acceding States.

APPENDIX 2

APPENDIX C TO BRIEF ON ITEM 21 FIRST ANTARCTIC TREATY CONSULTATIVE MEETING 1961

EXTRACTS FROM THE ORIGINAL UNITED KINGDOM DRAFT CONVENTION FOR AN INTERNATIONAL REGIME IN ANTARCTICA

CHAPTER I

THE INTERNATIONAL REGIME FOR ANTARCTICA

Article I (Definition of Antarctica)

The Territory of Antarctica shall, for the purposes of the present Convention, comprise all the land, and appurtenant territorial waters and continental shelf, situated in the whole are between latitude 60 degrees South and the South Pole, shall not extend to any waters in the said area consisting of high seas beyond the limits of territorial waters.

Article II (Establishment of the International Regime)

1. The Contracting Parties, without prejudice to any title or claim of title, which any of them may have to any part of the Territory of Antarctica as defined in Article 1, agree to establish, and there is hereby established, an international regime for the said territory, to function in accordance with the provisions of the present Convention.

2. The international regime for the Territory of Antarctica shall comprise a High Authority, having executive and legislative powers; a Council of the Contracting Parties, having supervisory powers; and a Supreme Court for Antarctica having judicial powers, in each case respectively as provided in the Convention.

Article VI

(Administration)

1. In and for the purposes of the exercise of its functions, the Authority shall, subject to the provisions of the present Convention, be deemed to possess all

the normal powers of a government, with full rights of administration, jurisdiction and control in and over the Territory and all persons therein.

2. In and for the purposes of the excursus of its functions, the Authority may recruit and appoint personnel and staff of every kind and determine the relevant conditions of service. It may also set up such institutions and subsidiary organs, whether within or without Antarctica, as it may think necessary.

3. The Authority may delegate any part of its functions, and may, for the discharge of these, make use of any existing organisation, organs or institutions, particularly such as may already be operating in or with respect to any part of the Territory, or which may be specialised to do so.

Article VII (Legislation)

The authority may by proclamation, rode or decree make laws for the Territory. It shall cause to be drafted and shall promulgate a uniform civil and penal Code for Antarctica. The contents of the Code shall, initially, be confined to the minimum considered necessary for the order and good government of the Territory. Without prejudice to the principle of uniformity, the Authority shall, in making law for Antarctica, take account of any existing legislation heretofore applicable in any part of the Territory.

Article VIII (courts and Constabulary)

1. The Authority shall appoint such magistrates and other judges, whether visiting or resident, as may be appropriate to the circumstances of the Territory, who shall administer its laws and decrees, and shall for that purpose and excursus all normal judicial functions and powers as defined in the Authority's Code.

2. The Authority shall appoint a Constabulary in such numbers as may be appropriate to the circumstances of the Territory, for the preservation of law and order and the enforcement of judicial orders or decisions. The functions and powers of the Constabulary shall be defined in the Authority's Code.

3. Sentences of imprisonment shall, as the magistrate or judge may determine, be served either in Territory belonging to the State of which the offender is a national, or in the territory of any one of the Contracting parties nearest to the place of trial, by virtue of arrangements to that effect to be entered into by the Authority with the Contracting Parties.

CHAPTER IV

THE SUPREME COURT FOR ANTARCTICA

Article XXV (establishment and Composition)

1. There shall be a Supreme Court for Antarctica, composed as provided in its statute which is set out in Annex 3 hereto.
2. There shall be a Registrar and a Registry for the Court appointed and selected as provided in the said Annex.
3. The court shall sit at the permanent seat of the Authority.

Article XXVI (Functions)

1. The functions of the Supreme Court shall be (a) to act as an Administrative Tribunal to hear and determine all questions and disputes of an internal and administrative character arising within the Authority, or affecting its staff, organs, institutions; (b) to act as a Court of Appeal from the decisions of magistrates and judges appointed by the Authority to administer justice and hear causes at first instance in or respecting the Territory of Antarctica, and provided for by Article VIII above.
2. In the exercise and discharge of these functions the Supreme Court shall act as set out in, and shall apply the provisions, both procedural and substantive, of its Statute.

APPENDIX 3

AGREED MEASURES FOR THE CONSERVATION OF ANTARCTIC FAUNA AND FLORA

PREAMBLE

The Governments participating in the Third Consultative Meeting under Article IX of the Antarctic Treaty,

Desiring to implement the principles and purposes of the Antarctic Treaty;

Recognising the scientific importance of the study of Antarctic Fauna and Flora, their adaptation to their rigorous environment, and their inter-relationship with that environment;

Considering the unique nature of these fauna and flora, their circumpolar range, and particularly their defencelessness and susceptibility to extermination;

Desiring by further international collaboration within the framework of the Antarctic Treaty to promote and achieve the objectives of protection, scientific study, and rational use of these fauna and flora; and

Having particular regard to the conservation principles developed by the Scientific Committee on Antarctic Research (SCAR) of the International Council of Scientific Unions;

Hereby consider the Treaty Area as a Special Conservation Area and have agreed on the following measures:

Article I

1. These Agreed Measures shall apply to the same area to which the Antarctic Treaty is applicable (hereinafter referred to as the Treaty Area) namely the area south of 60 degrees South Latitude, including all ice shelves.
2. However, nothing in these Agreed Measures shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within the Treaty Area, or restrict the implementation of the provisions of the Antarctic Treaty with respect to inspection.

3. The Annexes to these Agreed Measures shall form an integral part thereof, and all references to the Agreed Measures shall be considered to include the Annexes.

ARTICLE II

For the purposes of these Agreed Measures:

- (a) "Native Mammal" means any member, at any stage of its life cycle, of any species belonging to Class Mammalia indigenous to the Antarctic or occurring there through natural agencies of dispersal, excepting whales.
- (b) "Native bird" means any member, at any stage of its life cycle (including eggs), of any species of the Class Ave indigenous to the Antarctic or occurring there through natural agencies of dispersal.
- (c) "Native Plant" means any kind of vegetation at any stage of its life cycle (including seeds), indigenous to the Antarctic or occurring there through natural agencies of dispersal.
- (d) "Appropriate authority" means any person authorized by a Participating Government to issue permits under these Agreed Measures.
- (e) "Permit" means a formal permission in writing issued by an appropriate authority.
- (f) "Participating Government" means any Government for which these Agreed Measures have become effective in accordance with Article XIII of these Agreed Measures.

ARTICLE III

Each Participating Government shall take appropriate action to carry out these Agreed Measures

ARTICLE IV

The Participating Governments shall prepare and circulate to members of expeditions and stations information to ensure understanding and observance of these Agreed Measures, setting forth in particular prohibited activities, and providing lists of specially protected species and specially protected areas

ARTICLE V

The provisions of these Agreed Measures shall not apply in cases of extreme emergency involving possible loss of human life or involving the safety of ships or aircraft.

ARTICLE VI

1. Each Participating Government shall prohibit within the Treaty Area the killing, wounding, capturing or molesting of any native mammal or native bird, or any attempt at any such act, except in accordance with a permit.
2. Such permits shall be drawn in terms as specific as possible and issued only for the following purposes:
 - (a) to provide indispensable food for men and dogs in the Treaty Area in limited quantities, and in conformity with the purposes and principles of these Agreed Measures;
 - (b) to provide specimens for scientific study or scientific information;
 - (c) to provide specimens for museums, zoological gardens, or other educational or cultural institutions or uses.
3. Permits for Specially protected Areas shall be issued only in accordance with the provisions of Article VIII.
4. Participating Governments shall limit the issue of such permits so as to ensure as far as possible that:
 - (a) no more native mammals or birds are killed or taken in any year than can normally be replaced by natural reproduction in the following breeding season;
 - (b) the variety of species and the balance of the natural ecological systems existing within the Treaty Area are maintained.
5. The species of native mammals and birds listed in Annex A of these Measures shall be designated "Specially Protected Species", and shall be accorded special protection by Participating Governments.
6. A Participating Government shall not authorize an appropriate authority to issue a permit with respect to a Specially Protected Species except in accordance with paragraph 7 of this Article.
7. A permit may be issued under this Article with respect to a Specially Protected Species, provided that:
 - (a) it is issued for a compelling scientific purpose, and
 - (b) the actions permitted thereunder will not jeopardise the existing natural ecological system or the survival of that species.

ARTICLE VII

1. Each Participating Government shall take appropriate measures to minimize harmful interference within the Treaty Area with the normal living conditions of any native mammal or bird, or any attempt at such harmful interference, except as permitted under Article VI.

2. The following acts and activities shall be considered as harmful interference:

- (a) allowing dogs to run free,
- (b) flying helicopters or other aircraft in a manner which would unnecessarily disturb bird and seal concentrations, or landing close to such concentrations (e.g. within 200m),
- (c) driving vehicles unnecessarily close to concentrations of birds and seals (e.g. within 200 m)
- (d) use of explosives close to concentrations of birds and seals,
- (e) discharge of firearms close to bird and seal concentrations (e.g. within 300 m)
- (f) any disturbance of bird and seal colonies during the breeding period by persistent attention from persons on foot.

However, the above activities, with the exception of those mentioned in (a) and (e) may be permitted to the minimum extent necessary for the establishment, supply and operation of stations.

3. Each Participating Government shall take all reasonable steps towards the alleviation of pollution of the waters adjacent to the coast and ice shelves.

ARTICLE VIII

1. The areas of outstanding scientific interest listed in Annex B shall be designated "Specially Protected Areas" and shall be accorded special protection by the Participating Governments in order to preserve their unique natural ecological system.

2. In addition to the prohibitions and measures of protection dealt with in other Articles of these Agreed Measures, the Participating Governments shall in Specially Protected Areas further prohibit;

- (a) the collection of any native plant , except in accordance with a permit ;
- (b) the driving of any vehicle.

3. A permit issued under Article VI shall not have effect within a Specially Protected Area except in accordance with paragraph 4 of the present Article.

4. A permit shall have effect within a Specially Protected Area provided that:

- (a) it was issued for a compelling scientific purpose which cannot be served elsewhere: and
- (b) the actions permitted thereunder will not jeopardise the natural ecological system existing in that Area.

ARTICLE IX

1. Each Participating Government shall prohibit the bringing into the Treaty Area of any species of animal or plant not indigenous to that Area, except in accordance with a permit.
2. Permits under paragraph 1 of this Article shall be drawn in terms as specific as possible and shall be issued to allow the importation only of the animals and plants listed in Annex C. When any such animal or plant might cause harmful interference with the natural system if left unsupervised within the Treaty Area, such permits shall require that it be kept under controlled conditions and, after it has served its purpose, it shall be removed from the Treaty Area or destroyed.
3. Nothing in paragraphs 1 and 2 of this Article shall apply to the importation of food into the Treaty Area so long as animals and plants used for this purpose are kept under controlled conditions.
4. Each Participating Government undertakes to ensure that all reasonable precautions shall be taken to prevent the accidental introduction of parasites and diseases into the Treaty Area. In particular, the precautions listed in Annex D shall be taken.

ARTICLE X

Each participating Government undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in the Treaty Area contrary to the principles or purposes of these Agreed Measures.

ARTICLE XI

Each Participating Government whose expeditions use ships sailing under flags of nationalities other than its own shall, as far as feasible, arrange with the owners of such ships that the crews of these ships observe these Agreed Measures.

ARTICLE XII

1. The Participating Governments may make such arrangements as may be necessary for the discussion of such matters as:

- (a) the collection and exchange of records (including records of permits) and statistics concerning the numbers of each species of native mammal and bird killed or captured annually in the Treaty Area;
- (b) the obtaining and exchange of information as to the status of native mammals and birds in the Treaty Area, and the extent to which any species needs protection.
- (c) the number of native mammals or birds which should be permitted to be harvested for food, scientific study, or other uses in the various regions;
- (d) the establishment of a common form in which this information shall be submitted by Participating Governments in accordance with paragraph 2 of this Article.

2. Each Participating Government shall inform the other Governments in writing before the end of November of each year of the steps taken and information collected in the preceding period of 1st July to 30th June relating to the implementation of these Agreed Measures. Governments exchanging information under paragraph 5 of Article VII of the Antarctic Treaty may at the same time transmit the information relating to the implementation of these Agreed Measures.

ARTICLE XII

1. After receipt by the government designated in Recommendation I-XIV (%) of notification of approval by all governments whose representatives are entitled to participate in meetings provided for under Article IX of the Antarctic Treaty, these Agreed Measures shall become effective for those governments.

2. Thereafter any Contracting Party to the Antarctic Treaty may, in consonance with the purposes of Recommendation III-VII, accept these Agreed Measures by notifying the designated Government of its intention to apply the Agreed Measures and to be bound by them. The Agreed Measures shall become effective with regard to such Governments on the date of receipt of such notification.

3. The designated Government shall inform the Governments referred to in paragraph 1 of this Article of each notification of approval, the effective date of these Agreed Measures and of each notification of acceptance. The designated Government shall also inform any Government which has accepted these Agreed Measures of each subsequent notification of acceptance.

ARTICLE XIV

1. These Agreed Measures may be amended at any time by unanimous agreement of the Governments whose Representatives are entitled to participate in meetings under Article IX of the Antarctic Treaty.

2. The Annexes, in particular, may be amended as necessary through diplomatic channels.

3. An amendment proposed through diplomatic channels shall be submitted in writing to the designated Government which shall communicate it to the Governments referred to in paragraph 1 of the present Article for approval; at the same time, it shall be communicated to the other Participating Governments.

4. Any amendment shall become effective on the date on which notifications of approval have been received by the designated Government and from all of the Governments referred to in paragraph 1 of this Article.

5. The designated Government shall notify those same Governments of the date of receipt of each approval communicated to it and the date on which the amendment will become effective for them.

6. Such amendment shall become effective on that same date for all other Participating Governments, except those which before the expiry of two months after that date notify the designated Government that they do not accept it

ANNEXES TO THESE AGREED MEASURES

Annex A Specially Protected Species

Annex B Specially Protected Areas

Annex C Importation of animals and plants

The following animals and plants may be imported into the Treaty Area in accordance with permits issued under Article IX ("") of these Agreed Measures:

- (a) sledge dogs,
- (b) domestic animals and plants,
- (c) laboratory animals and plants.

ANNEX D Precautions to prevent accidental introduction of parasites and diseases into the Treaty Area

The following precautions shall be taken:

1. Dogs; All dogs imported into the Treaty Area shall be inoculated against the following diseases:

- (a) distemper;
- (b) contagious canine hepatitis;
- (c) rabies;
- (d) leptospirosis (*L. canicola* and *L. icterohaemorrhagicae*)

Each dog shall be inoculated at least two months before the time of its arrival in the Treaty Area.

2. Poultry: Notwithstanding the provisions of Article IX (3) of these Agreed Measures, no living poultry shall be brought into the Treaty Area after 1st July, 1966.

APPENDIX 4

THE ANTARCTIC TREATY

The Governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Recognizing that it is in the interest of all mankind that Antarctica shall continue for ever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Acknowledging the substantial contributions to scientific knowledge resulting from international co-operation in scientific investigation in Antarctica;

Convinced that the establishment of a firm foundation for the continuation and development of such co-operation on the basis of freedom of scientific investigation in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;

Convinced also that a treaty ensuring the use of Antarctica for peaceful purposes only and the continuance of international harmony in Antarctica will further the purposes and principles embodied in the Charter of the United Nations;

Have agreed as follows:

ARTICLE I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, inter alia, any measure of a military nature, such as the establishment of military bases and fortifications, the carrying out of military manoeuvres, as well as the testing of any type of weapon.

2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

ARTICLE II

Freedom of scientific investigation in Antarctica and co-operation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

ARTICLE III

1. In order to promote international co-operation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the Contracting Parties agree that, to the greatest extent feasible and practicable:

- a. information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy of and efficiency of operations;
- b. scientific personnel shall be exchanged in Antarctica between expeditions and stations;
- c. scientific observations and results from Antarctica shall be exchanged and made freely available.

ARTICLE IV

Nothing contained in the present Treaty shall be interpreted as:

a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;

a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;

prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's rights of or claim or basis of claim to territorial sovereignty in Antarctica.

No acts or

activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

ARTICLE V

1. Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.

2. In the event of the conclusion of international agreements concerning the use of

nuclear energy, including nuclear explosions and the disposal of radioactive waste material, to which all of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX are parties, the rules established under such agreements shall apply in Antarctica.

ARTICLE VI

The provisions of the present Treaty shall apply to the area south of 60deg. South Latitude, including all ice shelves, but nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

ARTICLE VII

1. In order to promote the objectives and ensure the observance of the provisions of the present Treaty, each Contracting Party whose representatives are entitled to participate in the meetings referred to in Article IX of the Treaty shall have the right to designate observers to carry out any inspection provided for by the present Article. Observers shall be nationals of the Contracting Parties which designate them. The names of observers shall be communicated to every other Contracting Party having the right to designate observers, and like notice shall be given of the termination of their appointment.

2. Each observer designated in accordance with the provisions of paragraph 1 of this Article shall have complete freedom of access at any time to any or all areas of Antarctica.

3. All areas of Antarctica, including all stations, installations and equipment within those areas, and all ships and aircraft at points of discharging or embarking cargoes or personnel in Antarctica, shall be open at all times to inspection by any observers designated in accordance with paragraph 1 of this Article.

4. Aerial observation may be carried out at any time over any or all areas of Antarctica by any of the Contracting Parties having the right to designate observers.

5. Each Contracting Party shall, at the time when the present Treaty enters into force for it, inform the other Contracting Parties, and thereafter shall give them notice in advance, of

all expeditions to and within Antarctica, on the part of its ships or nationals, and all expeditions to Antarctica organized in or proceeding from its territory;

all stations in Antarctica occupied by its nationals; and

any military personnel or equipment intended to be introduced by it into Antarctica

subject to the conditions prescribed in paragraph 2 of Article I of the present Treaty.

ARTICLE VIII

1. In order to facilitate the exercise of their functions under the present Treaty, and without prejudice to the respective positions of the Contracting Parties relating to jurisdiction over all other persons in Antarctica, observers designated under paragraph 1 of Article VII and scientific personnel exchanged under sub-paragraph 1(b) of Article III of the Treaty, and members of the staffs accompanying any such persons, shall be subject only to the jurisdiction of the Contracting Party of which they are nationals in respect of all acts or omissions occurring while they are in Antarctica for the purpose of exercising their functions.

2. Without prejudice to the provisions of paragraph 1 of this Article, and pending the adoption of measures in pursuance of subparagraph 1(e) of Article IX, the Contracting Parties concerned in any case of dispute with regard to the exercise of jurisdiction in Antarctica shall immediately consult together with a view to reaching a mutually acceptable solution.

ARTICLE IX

1. Representatives of the Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty, including measures regarding:

use of Antarctica for peaceful purposes only;

facilitation of scientific research in Antarctica;

facilitation of international scientific co-operation in Antarctica; facilitation of the exercise of the rights of inspection provided for in

Article VII of the Treaty;

questions relating to the exercise of jurisdiction in Antarctica; preservation and conservation of living resources in Antarctica. 2.

Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such times as that Contracting Party demonstrates its interest in Antarctica by conducting substantial research activity there, such as the establishment of a scientific station or the despatch of a scientific expedition.

3. Reports from the observers referred to in Article VII of the present Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.

4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all the Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.

5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article.

ARTICLE X

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.

ARTICLE XI

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of the present Treaty, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

2. Any dispute of this character not so resolved shall, with the consent, in each case, of all parties to the dispute, be referred to the International Court of Justice for settlement; but failure to reach agreement on reference to the International Court shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.

ARTICLE XII

1. The present Treaty may be modified or amended at any time by unanimous agreement of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX. Any such modification or amendment shall enter into force when the depositary Government has received notice from all such Contracting Parties that they have ratified it. Such modification or amendment shall thereafter enter into force as to any other

Contracting Party when notice of ratification by it has been received by the depository Government. Any such Contracting Party from which no notice of ratification is received within a period of two years from the date of entry into force of the modification or amendment in accordance with the provision of subparagraph 1(a) of this Article shall be deemed to have withdrawn from the present Treaty on the date of the expiration of such period.

2. If after the expiration of thirty years from the date of entry into force of the present Treaty, any of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX so requests by a communication addressed to the depository Government, a Conference of all the Contracting Parties shall be held as soon as practicable to review the operation of the Treaty.

Any modification or amendment to the present Treaty which is approved at such a Conference by a majority of the Contracting Parties there represented, including a majority of those whose representatives are entitled to participate in the meetings provided for under Article IX, shall be communicated by the depository Government to all Contracting Parties immediately after the termination of the Conference and shall enter into force in accordance with the provisions of paragraph 1 of the present Article. If any such modification or amendment has not entered into force in accordance with the provisions of subparagraph 1(a) of this Article within a period of two years after the date of its communication to all the Contracting Parties, any Contracting Party may at any time after the expiration of that period give notice to the depository Government of its withdrawal from the present Treaty; and such withdrawal shall take effect two years after the receipt of the notice by the depository Government.

ARTICLE XIII

1. The present Treaty shall be subject to ratification by the signatory States. It 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.

2. Ratification of or accession to the present Treaty shall be effected by each State in accordance with its constitutional processes.

3. Instruments of ratification and instruments of accession shall be deposited with the Government of the United States of America, hereby designated as the depository Government.

4. The depository Government shall inform all signatory and acceding States of the date of each deposit of an instrument of ratification or accession, and the date of entry into force of the Treaty and of any modification or amendment thereto.

5. Upon the deposit of instruments of ratification by all the signatory States, the present Treaty shall enter into force for those States and for States which have deposited instruments of accession. Thereafter the Treaty shall enter into force for any acceding State upon the deposit of its instruments of accession.

6. The present Treaty shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XIV

The present Treaty, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the signatory and acceding States.

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