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A TALE OF TWO POLES: A COMPARATIVE LOOK

AT THE LEGAL REGIMES IN THE ARCTIC AND THE ANTARCTIC *by Erika Lennon**

INTRODUCTION

The Polar Regions are often linked together due to their parallel physical location, frigid temperatures, and limited accessibility. However, when compared by environmental protections and governance, the Arctic and the Antarctic greatly differ. While the Antarctic has been protected by a binding legal regime since the mid-twentieth century, the Arctic has yet to receive the same treatment. Now, with global warming wreaking havoc on both regions, the need for environmental protections seems more imminent. The rapidly melting ice cap will likely have a dramatic effect on the world. A warming Arctic could result in changing global weather patterns, a rise in sea levels, and the extinction of both wildlife species and indigenous peoples. Thus, it is in the best interest of humanity to encourage action designed to prevent harm to the Arctic due to global warming.

Currently, the world is in the midst of the International Polar Year, a project to conduct research in the Polar Regions, which has increased focus on the poles.¹ Given the physical manifestations of climate change, for example melting glaciers and ice caps, it appears as though the Antarctic and the Arctic will continue to be regions of concentration and concern. While the Antarctic has a treaty in place to protect it, the Arctic remains vulnerable due to its lack of comprehensive laws to determine a uniform governance system and environmental protections. Moreover, in the Arctic, competition between nations in the race to stake claims for resources threatens to further harm the environment, as well as to overtake the debate on stewardship of the fragile environment. This Article examines the legal regimes in the Polar Regions in an effort to inform how existing regimes may aid in developing Arctic governance and environmental protections.

WORLDS APART: GEOGRAPHY

Geographically, the Antarctic and the Arctic differ greatly. Antarctica is a continent, a large, isolated land mass surrounded by water. In contrast, the Arctic is predominantly composed of the Arctic Ocean, which is surrounded by numerous countries, and covered with an ice cap. The Antarctic is more isolated both geographically and politically than the Arctic, which contains territories and pieces of land belonging to a number of differ-

ent sovereign countries. The Arctic's geographic make-up poses difficulties in trying to determine the law governing it, unlike in the Antarctic. Further, the isolated nature of the Antarctic has resulted in no permanent population, which is not true of the Arctic, an area home to various peoples, including entire indigenous communities.² The presence of a permanent population makes the Arctic dramatically different from the Antarctic since it means subsistence is an issue. So while the Antarctic has been deemed a "nature reserve," the Arctic is unlikely to be deemed as such due to both the need for the Arctic peoples to survive and function economically, as well as rights that nations currently holding interests in the Arctic are unlikely to relinquish.³

Despite these physical, legal, and political differences, both the Antarctic and the Arctic are areas highly vulnerable to the impacts of climate change and their reactions to this will drive changes in the rest of the world.⁴ Though separated by the rest of the world, the two Polar Regions are inextricably linked, and thus one may help serve as a governance model for the other.

LEGAL REGIMES

THE ANTARCTIC TREATY SYSTEM

The Antarctic Treaty System provides for the governance of Antarctica. At its core is the Antarctic Treaty, but it also includes the Protocol on Environmental Protection to the Antarctic Treaty ("Madrid Protocol"), the Convention for the Conservation of Antarctic Seals, and Convention of Antarctic Marine Living Resources. Further, the Antarctic Treaty System incorporates the decisions made at the Meetings of the Parties of the Antarctic Treaty, as well as other decisions adopted by various groups within it. Thus, the Antarctic Treaty System provides a legal regime with hard law, but it is also flexible and can adapt to change.

In the middle of the twentieth century, twelve nations, including countries from Europe, Asia, North America, and South America, created the Antarctic Treaty. Designed to promote peace and international cooperation in the region, the Ant-

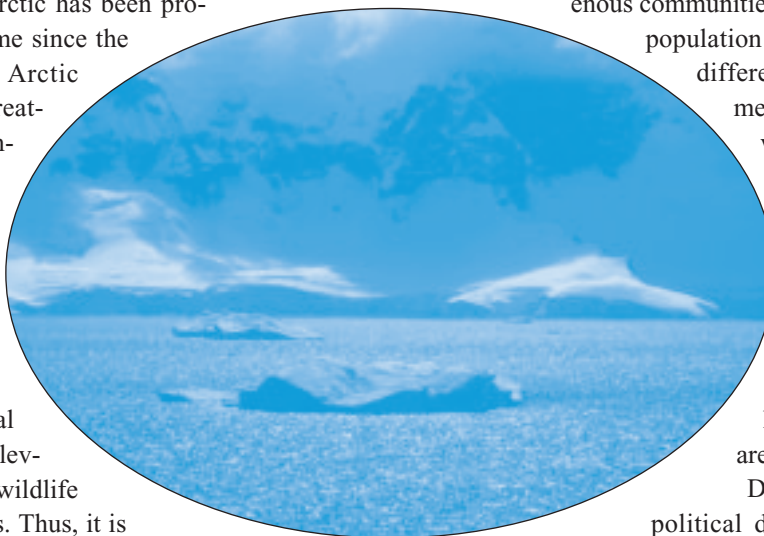


Photo Courtesy of Manuela Altube

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arctic Treaty provided a framework for internationalizing and demilitarizing the continent to protect it for future generations.⁵ Initially a preventative agreement to deflect conflict and the spread of a nuclear arms race, the Antarctic Treaty has adapted to protect the environment.⁶

In the scramble to increase their influence in the world, including sovereign control of Antarctica, seven nations staked their claims on land in Antarctica based on “discovery, exploration, or geographic propinquity,” and still more had engaged in exploration.⁷ However, the United States and the Soviet Union refused to recognize other countries’ claims, but still reserved their rights to claim land.⁸ At the time of the treaty negotiations, none of these claims resulted in violent conflicts, but uncertainty loomed. This instability was only increased by possibilities of natural resources existing on the frozen continent. These uncertainties and the potential for the movement of nuclear weapons to the southern polar region prompted international action and a group of nations came together to discuss the status and future of Antarctica.⁹

The Antarctic Treaty firstly declared that countries and people could use the continent for “peaceful purposes only,” thus demonstrating that arms limitation was a motivating factor in the treaty creation.¹⁰ However, the Treaty further allows for scientific investigation in the region, and encourages cooperation amongst the nations engaging in scientific research.¹¹ The negotiating countries wanted to promote scientific research, though did not want to allow the land grab to continue. Thus, the Treaty specifies that, while it is in force, no country shall claim sovereignty or attempt to create rights of sovereignty in Antarctica.¹² By preventing sovereign claims, the signatories ensured the continued existence of a peaceful Antarctic and also prevented future conflict over the control of potential resources. Further, the Treaty purports to cover the geographic region of Antarctica including ice shelves, but does not attempt to go beyond the limits of the land, therefore excluding the high seas from the Treaty.¹³

Thirty years after signing the Antarctic Treaty, parties adopted the Madrid Protocol.¹⁴ The Madrid Protocol expanded on the Antarctic Treaty by determining that, in addition to ensuring that Antarctica would be used for peaceful purposes and scientific research, the Antarctic’s ecosystem should be protected and so it designated the region as a “natural reserve.”¹⁵ This Protocol recognized that Antarctica occupied a unique position in the world, including prior designations of the region as a conservation area, to support its claims that protection of the Antarctic ecosystem served all mankind’s interests.¹⁶ Therefore, the Madrid Protocol designated the Antarctic, “a natural reserve, devoted to peace and science.”¹⁷ To ensure this, the Madrid Pro-

ocol contains specific goals to avoid harming the environment, including limiting adverse effects on climate patterns and air and water quality, and avoiding activities that would be detrimental to the environment, further endanger already threatened species, or significantly alter the environment of the region.¹⁸ Additionally, like the Antarctic Treaty, the Madrid Protocol calls for cooperation amongst the states to promote scientific research while maintaining the underlying goal of keeping Antarctica a neutral area with no single country having sovereignty.¹⁹

The Madrid Protocol highlighted the importance of the Antarctic ecosystem protection and transformed the Antarctic Treaty System from a Cold War era anti-arms race agreement to an environmental protection one. The Antarctic Treaty initially served to promote peace and prevent nations, primarily

the United States and the Soviet Union, from using the Antarctic as a place to stockpile weapons, and while trying to accomplish this, it created a protected area for research and exploration that was free from division because no country could claim sovereignty. This also meant that no country could completely exploit the resources of the region. Then, the Madrid Protocol used these goals, namely its freedom from sovereignty claims, to declare the area a nature reserve and to promote the environmental protection of Antarctica and its fragile ecosystem.

The Convention for the Conservation of Antarctic Seals and the Convention of Antarctic Marine Living Resources govern two very specific areas of importance in Antarctica. These two conventions were enacted under the Antarctic Treaty to help further protect Antarctica.

THE ARCTIC COUNCIL

In contrast to the legal regime in place in the Antarctic, the Arctic remains an area uncontrolled specifically by one international treaty. Currently, several treaties, such as the United Nations Convention on the Law of the Sea (“UNCLOS”),²⁰ the International Convention for the Prevention of Pollution from Ships (“MARPOL 73/78”),²¹ the Polar Bear Treaty,²² and various other bilateral and multilateral agreements govern certain aspects of activity in the Arctic. However, these treaties do not address all of the potential issues that are likely to arise in the Arctic, including which country will have sovereign control over some of the central most regions of the ocean or how to protect the environment specifically. Instead of a treaty system, there is the Arctic Council.

The Arctic Council is a soft law regime that has no actual ability to make binding law, thus it serves as an advisory body. In 1991, the Arctic Environmental Protection Strategy (“AEPS”) came into being as one of the first agreements to address the importance of protecting the Arctic environment.²³ In developing the AEPS, the participating countries recognized the need to

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work together to protect the Arctic since environmental problems and impacts were neither caused, nor felt by, just one country.²⁴ The drafting nations, now the Arctic Council, acknowledged that the vulnerability of the ecosystem necessitated protection of the Arctic. Further, the AEPS created several of the working groups that have since been incorporated into the Arctic Council, which is tasked with implementing the AEPS.

Five years after creating the AEPS, in 1996, several states formed the Arctic Council.²⁵ Canada, Denmark (via Greenland), Finland, Iceland, Norway, the Russian Federation, Sweden, and the United States of America, along with the permanent participants, which currently consists of six indigenous peoples groups, the Aleut International Association (“AIA”), the Arctic Athabaskan Council (“AAC”), Gwich’in Council International (“GCI”), Inuit Circumpolar Council (“ICC”), the Russian Association of Indigenous Peoples of the North (“Raipon”), and the Saami Council, comprise the Arctic Council.²⁶ These six groups, representing the indigenous people that live in the Arctic, have further banded together to form the Indigenous Peoples’ Secretariat to support the groups and ensure their role in the Arctic Council.²⁷ However, their role is limited because the indigenous peoples groups are not voting members. Additionally, the Arctic Council allows other non-Arctic nations, inter-governmental organizations, and non-governmental organizations (“NGOs”) to play a role in the Arctic Council, though with observer status rather than actual power.²⁸ These countries and groups can apply or be nominated to obtain Observer status.²⁹ Thus, though not fully inclusive the Arctic Council does allow for participation by non-Arctic countries.

The Arctic Council is a soft law regime created to address environmental protection and sustainable development³⁰ and includes countries with any land in the Arctic, though this is a larger group than those likely to be able to gain sovereignty over sea areas under UNCLOS.³¹ Additionally, unlike many treaties, the Arctic Council has a rotating Secretariat.³² Every two years, the new chair determines objectives and develops a plan to achieve them.³³ This presents a problem since it means that goals can change every couple years, which could hinder real work from getting done. However, Norway, the current chair, along with Denmark and Sweden, the next two chairs, realized that the ability to get things done required more than two years. In response, these countries created a plan with common objectives and priorities, which will help promote Arctic protection through the continuation of programs designed to fight climate change through the implementation of ACIA recommendations, integrated management of resources, and implementation of policies stemming from IPY research, and create stability over the course of six years.³⁴ Thus, the Arctic Council conducts research designed to enhance Arctic environmental protections, oversees activity in the Arctic, and works to protect it, but does so without creating any binding laws.

Further, the Arctic Council has six working groups each focusing on a various aspect of Arctic conservation. The working groups are the CAFF (the Conservation of Arctic Flora and Fauna working group), PAME (the Protection of the Arctic

Marine Environment working group), SDWG (the Sustainable Development Working Group), AMAP (the Arctic Monitoring and Assessment Program), ACAP (the Arctic Contaminants Action Program), and EPPR (the Emergency Prevention, Preparedness, and Response Working Group).³⁵ Each of these working groups functions as an individual entity with its own secretariat, own meetings, and own mechanisms for conducting scientific research and carrying out the plans of the Arctic Council.³⁶ The CAFF and the PAME primarily focus their efforts on protecting the Arctic ecosystem, while SDWG focuses on the protection of the economic well-being and overall health of the Arctic people while promoting their lifestyle and economic development in an environmentally sustainable way.³⁷ The newest working group, the ACAP, focuses on limiting and reducing the number of pollutants released into the environment.³⁸ Thus, by focusing research on specific areas of conservation, these working groups promote environmental protection of the Arctic, and help the Arctic Council implement the AEPS.³⁹

Each of these working groups has created environmental protection programs. For example, the CAFF created the Circumpolar Protected Area Network (“CPAN”), which is designed to promote biodiversity through the protection of a network of areas each of which has “a high probability of maintaining ecosystem health and dynamic biodiversity.”⁴⁰ Thus, the CPAN links areas, akin to nature reserves, and preserves them so as to ensure continued biodiversity. Other working groups have instituted projects as well. The AMAP, which monitors and reports on the effects of numerous pollutants, ozone depletion, and climate change on the Arctic, reports back to the Arctic Council in an effort to influence its policies.⁴¹ These two programs demonstrate how the working groups influence the Arctic Council and the diversity of programs they implement to protect the Arctic environment.

The Arctic Council can create policies, though cannot enforce them as binding law. For example, the Arctic Council established Arctic Environmental Impact Assessments (“EIA”) Guidelines to help create uniform policies to promote sustainable development.⁴² These Arctic EIA Guidelines were not designed to replace any national or international EIA guidelines, but rather to create specific guidelines for issues faced when implementing projects in the Arctic.⁴³ Further, the Arctic EIA Guidelines focus on cooperation, flexibility, and inclusiveness in an effort to ensure that all countries can participate and will work to ensure Arctic protection.⁴⁴ The primary focus of these guidelines is to point out that the Arctic environment is unique necessitating different threshold levels and sensitivity criteria.⁴⁵ Here, the Arctic Council has tried to create a uniform system for all countries to use when conducting Arctic area EIAs; however, countries do not need to follow them.

Through its working groups and draft guidelines for activities like EIAs, the Arctic Council works to govern activity in the Arctic. However, the Arctic Council remains disjointed since each working group has its own secretariat and its own home city, and the Arctic Council itself lacks a permanent secretariat. Additionally, as a soft law regime, the Arctic Council lacks the

power to create legally binding documents. Therefore, while the Arctic Council is a good start, it may be insufficient to protect the Arctic environment.

COMPARISON OF THE POLAR REGIONS

While the Antarctic and the Arctic are often linked together in discussions and projects such as the IPY, the two regions are far apart in legal protections. As the IPY framework document points out, the Polar Regions are “integral components of the Earth system” since they not only drive environmental changes around the world, but also respond to changes, such as global warming.⁴⁶ Thus, the IPY is designed to take a scientific and research approach to learning more about these regions. However, it seems that other new projects focused on implementation and not just research must be undertaken to ensure the protection of the Arctic environment.

The Antarctic has been accessible for exploration for longer than the Arctic has, given that much of the Arctic is an ocean covered in ice for large parts of the year, and therefore impassable by ships. However, the rapidly increasing melting ice indicates that soon the Arctic will be more accessible and navigable which will make natural resources more attainable. These environmental changes have created urgency to extend environmental protections and clarify political control of the Arctic. As the Norwegian Minister of Foreign Affairs, Jonas Støre stated in January 2008, “developments in our polar regions are both a serious warning and a call to action.”⁴⁷ This is less of a problem in the Antarctic, where the Antarctic Treaty System implements the treaty’s provision ensuring that the region would be used for peaceful, scientific purposes⁴⁸ and the Madrid Protocol ensuring that these activities do not harm the Antarctic environment.⁴⁹ In contrast, the Arctic does not have an overarching legal regime in place governing all activity, but rather is governed by many different sources of law, both domestic and international, as well as by proposed standards such as the Arctic EIA Guidelines.

Geographically, the sheer distance of the Antarctic from other countries diffuses the interests of any one nation, while the Arctic Ocean directly abuts the territory of individual nations and the Arctic region includes territories of several sovereign nations. Thus, treaties like UNCLOS, which governs much of the activity in the Arctic, do not play a large role in the Antarctic.⁵⁰ UNCLOS allows countries to claim sovereignty over an exclusive economic zone (“EEZ”), which is the area extending two hundred nautical miles from the coast. Therefore, the Arctic, almost completely surrounded by various countries, is subject to division by nations trying to assert control of the natural resources there by claiming that areas are within their EEZ.

Currently, though the Antarctic has more binding protections than the Arctic does, the increasing effects of global

warming might cause this to change. Forty years ago, when the Antarctic Treaty came into being, the Antarctic was the land with resources the world wanted. Now, the focus is on Arctic resources, and as the Antarctic did prior to the treaty negotiation, the Arctic lacks a binding regime not only to protect the environment, but also to determine which countries have control over the area.

Unlike in the Antarctic where, under the Antarctic Treaty, countries were prevented from making further claims of sovereignty over the region, the Arctic is now facing a potential land or seabed grab. In summer 2007, Russia planted its flag on the Lomonosov Ridge on the basis that it was a continuation of its continental shelf.⁵¹ While this has little legal impact, it demonstrates the potential conflicts that could arise. UNCLOS provides a mechanism for determining which country has sovereign control, but that mechanism requires scientific information about the ocean floor that is not easy to obtain.⁵² To date, the Commission on the Limits of the Continental Shelf has yet

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to approve either of the two proposals it has received involving regions in the Arctic.⁵³ Therefore, UNCLOS may not be the best mechanism for determining which country controls which part of the Arctic. Recently, an article by Scott Borgerson warned that the increased access to Arctic resources and lack of legal regime could cause the Arctic to “erupt in an armed mad dash for its resources.”⁵⁴ Thus, he recommended that the Arctic countries meet to create a treaty to address how to extract resources including an agreement on “how to carve up the region’s vast resource pie.”⁵⁵ Antarctica, on the other hand, does not face this conundrum because the Antarctic Treaty prevents countries from making sovereign claims over the region.⁵⁶

Additionally, without binding legal standards it is hard to ensure environmental protections. Each country has its own standards for shipping, air quality, and other similar environment related issues, however, no guarantee exists that these standards are the same across borders. While several treaties, including ones governing the law of the sea, the release of pollutants, and the protection of species, exist, none of these treaties specifically addresses Arctic environmental protection in and of itself. The Arctic Council works to protect the region; however, it lacks the enforcement mechanism and power to make the participating countries alter their actions. In contrast, the Antarctic is protected by the Madrid Protocol, a binding legal regime. Thus, the Antarctic really is an area of peaceful, scientific research as opposed to these goals being merely aspirational.

OPTIONS FOR THE FUTURE

Despite the urgency to act, the way to protect the Arctic is still unknown. The Antarctic Treaty System provides a very good model for environmental protection; however, the feasibility of a similar system working in the Arctic is unclear. The Ant-

arctic Treaty focuses on using Antarctica for peaceful, scientific purposes and preventing any country from making sovereign claims.⁵⁷ This works in Antarctica since it is an isolated, unpopulated land mass, unlike the Arctic, which is not as isolated and is populated. Thus, to some extent the Arctic resources will have to be used, however, this can be done sustainably. While the Antarctic is a natural reserve, political conflicts and the desire for natural resources might prevent the Arctic from being declared one as well. However, the Arctic Council has set up the CPAN to ensure the environmental protection of large portions of the Arctic.⁵⁸ Thus, the Antarctic Treaty System could inform a potential Arctic Treaty even if it cannot serve as a direct model.

In contrast, some view the Arctic not as an environment to protect for the good of the world, but rather as a potential battleground for nations wanting the hidden natural resources.⁵⁹ As melting ice increases access to the region, more countries are likely to lay claim over areas with natural resources, such as petroleum. While a treaty may be necessary to prevent fighting, this approach could overlook the necessity of creating environmental protections. Although, an Antarctic Treaty-like regime could come about to prevent the potential land grab. Regardless, the increased focus on the melting Arctic sea ice seems to indicate that a more binding legal regime than the Arctic Council needs to be created. In creating this regime though, a primary focus should be on environmental protections, rather than on natural resources harvesting, because the world as a whole needs to ensure that climate change will not wreak havoc on the Arctic environment, and consequently the rest of the worlds.’

CONCLUSION

While the Antarctic and the Arctic share similar attributes and are often referred to together, they differ in many respects. The Arctic lacks the comprehensive legal framework that has protected the Antarctic environment. Currently, the Arctic environment has become a focus of concern as climate change, and the rapid rate at which the ice cap is melting, becomes a more prominent issue. However, there is not this level of concern for the Antarctic. Thus, now might be time to create binding laws, similar to those that protect the Antarctic environment, to protect the Arctic environment, and consequently the rest of the world.

The Antarctic currently has relatively well-established protections, but the Arctic does not. Thus, as competition for emerging natural resources fuels new interest in the Arctic, and simultaneously climate change and IPY draw attention to environmental concerns in the region, there is a unique opportunity for both progress and peril. While environmental concerns could get lost in a battle for resources, it is also possible that the current political system will focus on pushing forward environmental agreements to prevent environmental change and protect the world. To not lose this battle, environmental protection plans must be developed and readied to be introduced in the international arena either on their own or as part of another agreement when the time comes to act in the Arctic.



Endnotes: *A Tale of Two Poles continued on page 65*

- ¹ See International Polar Year website, <http://www.ipy.org/> (last visited Apr. 18, 2008).
- ² LINDA NOWLAN, IUCN, ARCTIC LEGAL REGIME FOR ENVIRONMENTAL PROTECTION 1 (IUCN 2001), available at <http://www.iucn.org/themes/law/pdfdocuments/EPLP44EN.pdf> (last visited Mar. 1, 2008).
- ³ NOWLAN, *id.*; Protocol on Environmental Protection to the Antarctic Treaty art. 2, Oct. 4, 1991, 30 I.L.M. 1455 (entered into force Jan. 14, 1998) [hereinafter Madrid Protocol].
- ⁴ INT'L COUNCIL FOR SCIENCE, A FRAMEWORK FOR THE INTERNATIONAL POLAR YEAR 2007–2008, 7 (2004), available at <http://216.70.123.96/images/uploads/framework.pdf> (last visited Mar. 1, 2008) [hereinafter IPY Framework].
- ⁵ U.S. Dep't of State, The Antarctic Treaty Background, available at <http://www.state.gov/www/global/arms/treaties/arctic1.html> (last visited Oct. 10, 2007) [hereinafter Antarctic Treaty background].
- ⁶ Antarctic Treaty background, *id.*
- ⁷ Antarctic Treaty background, *id.* (noting that Argentina, Australia, Chile, France, New Zealand, Norway, and the United Kingdom made claims of sovereignty based on discovery).
- ⁸ Antarctic Treaty background, *supra* note 5.
- ⁹ Antarctic Treaty background, *supra* note 5.
- ¹⁰ The Antarctic Treaty art. I, Dec. 1, 1959, 12 U.S.T. 794 [hereinafter Antarctic Treaty].
- ¹¹ Antarctic Treaty, *id.* pmbl., art. II–III.
- ¹² Antarctic Treaty, *id.* art. IV(2).
- ¹³ Antarctic Treaty, *id.* art. VI (specifying “the area south of 60° South Latitude” as the area to which this treaty applies).
- ¹⁴ Madrid Protocol, *supra* note 3, pmbl.
- ¹⁵ Madrid Protocol, *supra* note 3, art. 2.
- ¹⁶ Madrid Protocol, *supra* note 3, pmbl.
- ¹⁷ Madrid Protocol, *supra* note 3, art. 2.
- ¹⁸ Madrid Protocol, *supra* note 3, art. 2(b)(i)–(v).
- ¹⁹ Madrid Protocol, *supra* note 3, art. 6 (noting the importance of co-operation of nations).
- ²⁰ United Nations Convention on the Law of the Sea, Dec. 10, 1982, 21 I.L.M. 1245, 1833 U.N.T.S. 3 [hereinafter UNCLOS].
- ²¹ International Convention for the Prevention of Pollution from Ships, 17 I.L.M. 546, 1340 U.N.T.S. 61 (1983) [hereinafter MARPOL 73/78].

- ²² Agreement on the Conservation of Polar Bears, Nov. 15, 1973, 13 I.L.M. 13, pmbl. (1974) [hereinafter Polar Bear Treaty].
- ²³ ARCTIC COUNCIL, ARCTIC ENVIRONMENTAL PROTECTION STRATEGY (1991), available at http://arctic-council.org/filearchive/artic_environment.pdf (last visited Mar. 3, 2008) [hereinafter AEPS]; see NOWLAN, *supra* note 2, at 2 (noting that the AEPS came about following the Exxon-Valdez oil spill in 1989 and increased recognition of the impacts of industrialization on the environment).
- ²⁴ AEPS, *supra* note 23, at 6.
- ²⁵ About Arctic Council, Arctic Council website, <http://arctic-council.org/article/about> (last visited Mar. 1, 2008).
- ²⁶ About Arctic Council, *id.*
- ²⁷ Arctic Peoples: Arctic Council Indigenous Peoples' Secretariat, Arctic Peoples website, <http://www.arcticpeoples.org/about/> (last visited Mar. 1, 2008).
- ²⁸ Arctic Council Observers, Arctic Council website, <http://arctic-council.org/section/observers> (last visited Mar. 1, 2008) (providing links to lists of countries and organizations with observer status); Declaration on the Establishment of the Arctic Council, para 3, Sept. 19, 1996, available at <http://arctic-council.org/filearchive/Declaration%20on%20the%20Establishment%20of%20the%20Arctic%20Council.pdf> (last visited Mar. 1, 2008).
- ²⁹ Arctic Council Rules of Procedure, annex 2, Sept. 17–18, 1996, available at <http://arctic-council.org/filearchive/Arctic%20Council%20-%20rules%20of%20procedure.pdf> (last visited Mar. 1, 2008) (outlining that the countries or organizations have to explain how they would contribute to the Arctic Council).
- ³⁰ Declaration on the Establishment of the Arctic Council, *supra* note 28, pmbl., para. 1.
- ³¹ See UNCLOS, *supra* note 20, arts. 55–75 (explaining how to determine a country's exclusive economic zone as an extension from its continental shelf. However, not all of the Arctic Council countries have a coastline on the Arctic Ocean).
- ³² About Arctic Council, *supra* note 25.
- ³³ Arctic Council website, http://arctic-council.org/section/the_arctic_council (last visited Mar. 1, 2008) (linking to the chairmanship objectives for the current and upcoming chairs).
- ³⁴ Arctic Council, Common objectives and priorities for the Norwegian, Danish and Swedish chairmanships of the Arctic Council (2006–2012), available at http://arctic-council.org/filearchive/Formannskapsprogram_ArcticCouncil.pdf (last visited Apr. 17, 2008) (including in their plan ways to help improve the health and living conditions of the indigenous peoples and to continue to improve the efficiency of managing the Arctic Council).

³⁵ Arctic Council, Arctic Council Working Groups, http://arctic-council.org/section/working_groups (last visited Mar. 1, 2008) (providing links to descriptions of the working groups and links to each working group's individual website).

³⁶ About Arctic Council, *supra* note 25.

³⁷ See Conservation of Arctic Flora and Fauna, <http://arcticportal.org/en/caff/> (last visited Mar. 1, 2008); Protection of the Arctic Marine Environment, <http://arcticportal.org/en/pame/> (last visited Mar. 1, 2008); Sustainable Development Working Group, <http://portal.sdwg.org/> (last visited Mar. 1, 2008).

³⁸ See Arctic Contaminants Action Program website, <http://acap.arctic-council.org/> (last visited Mar. 1, 2008) [hereinafter ACAP website].

³⁹ Declaration on the Establishment of the Arctic Council, *supra* note 28.

⁴⁰ Circumpolar Protected Area Network, <http://arcticportal.org/en/caff/caff-expert-groups/circumpolar-protected-area-network-cpan> (last visited Mar. 3, 2008).

⁴¹ Arctic Monitoring & Assessment Program, *AMAP Strategy:2004+*, 1 (Nov. 2004), available at <http://www.amap.no/> (providing a link to this strategy plan by following the "Strategy and Workplan" link) (last visited Mar. 3, 2008); see also Arctic Monitoring and Assessment Programme, <http://www.amap.no/> (providing links to the work plans and reports) (last visited Mar. 3, 2008).

⁴² FINNISH MINISTRY FOR THE ENVIRONMENT, ARCTIC ENVIRONMENTAL PROTECTION STRATEGY 1997, GUIDELINES FOR ENVIRONMENTAL IMPACT ASSESSMENT (EIA) IN THE ARCTIC 4 (1997), available at <http://arcticcentre.ulapland.fi/aria/procedures/eiaguide.pdf> (last visited Mar. 3, 2008) [hereinafter ARCTIC EIA GUIDELINES].

⁴³ ARCTIC EIA GUIDELINES, *id.* at 45.

⁴⁴ See ARCTIC EIA GUIDELINES, *id.* at 9–10.

⁴⁵ ARCTIC EIA GUIDELINES, *id.* at 11.

⁴⁶ See IPY Framework, *supra* note 4, at 7.

⁴⁷ Speech by Jonas Gahr Støre, Norwegian Minister of Foreign Affairs, "Climate Change Policy from a Polar Perspective," Jan. 30, 2008, http://www.regjeringen.no/en/dep/ud/About-the-Ministry/Minister-of-Foreign-Affairs-Jonas-Gahr-S/Speeches-and-articles/2008/climate_polar.html?id=498580 (last visited Mar. 4, 2008).

⁴⁸ Antarctic Treaty, *supra* note 10, pmb., arts. I, III.

⁴⁹ Madrid Protocol, *supra* note 3, art. 3.

⁵⁰ *But see* Humane Society International, *Australian Federal Court orders stop to Japanese whale hunt*, <http://www.hsi.org.au/> (last visited Apr. 25, 2008) (noting that the Australian court has jurisdiction to hear a case against Japanese whalers hunting in the Southern Ocean because they are in a region that is part of Australia's exclusive economic zone since it is adjacent to Australia's Antarctic territory. This story is accessible through HSI's main website by clicking on the link).

⁵¹ See Richard A. Lovett, *Russia Plants Underwater Flag, Claims Arctic Seafloor*, NAT'L GEOGRAPHIC NEWS, Aug. 3, 2007, available at <http://news.nationalgeographic.com/news/2007/08/070802-russia-pole.html> (last visited Mar. 2, 2008).

⁵² See UNCLOS, *supra* note 20, art. 76, annex II (allowing for the extension of the continental shelf beyond 200 nautical miles).

⁵³ See Submission by the Russian Federation to the CLCS Overview, http://www.un.org/Depts/los/clcs_new/submissions_files/submission_rus.htm (last visited Mar. 1, 2008) (detailing Russia's claim over Arctic areas which it believes it has control); Submission by Norway to the CLCS Overview, http://www.un.org/Depts/los/clcs_new/submissions_files/submission_nor.htm (last visited Mar. 1, 2008) (detailing Norway's claim over Arctic areas).

⁵⁴ Scott G. Borgerson, *Arctic Meltdown: The Economic and Security Implications of Global Warming*, FOREIGN AFFAIRS, Mar./Apr. 2008, at 63–77, available at <http://www.foreignaffairs.org/20080301faessay87206/scott-g-borgerson/artic-meltdown.html>. (last visited Apr. 13, 2008); see also Arctic Council, *An Arctic War is Getting Closer* (Mar. 5, 2008), available at http://arctic-council.org/article/2008/3/an_arctic_war_is_getting_closer (last visited Apr. 17, 2008).

⁵⁵ Borgerson, *supra* note 54.

⁵⁶ Antarctic Treaty, *supra* note 10, art. IV(2).

⁵⁷ Antarctic Treaty, *supra* note 10, pmb., art. II–III; Madrid Protocol, *supra* note 3, art. 6.

⁵⁸ Circumpolar Protected Area Network, *supra* note 40.

⁵⁹ See Borgerson, *supra* note 54.