The Continuing International Importance of the Antarctic Treaty

Richard Woolcott AC

I am honoured to address this conference celebrating the 40th anniversary of a very important treaty of continuing value to Australia and to the international community. I am delighted too because it is appropriate that this conference should be in this lovely city on the Derwent, the closest Australian capital to the Antarctic continent and a city with long standing links with Antarctica.

If I may add a personal note I am especially pleased to have the opportunity to speak to this conference because I have both a past professional and continuing personal interest in Antarctica.

During my time as Australia’s Ambassador to the United Nations - between 1982 and 1988 - I had the privilege to be elected Chairman of the New York Group of the Antarctic Treaty parties at the time the validity of the Treaty was challenged by Malaysia and some other countries in the United Nations General Assembly. I also had the good fortune to visit Antarctica for a week in 1985. Those of you who have not been to the Antarctic, I can only encourage you to do so. Although I reached the age of statutory senility and retired from the Australian Public Service nearly a decade ago now, in 1991, I have never lost interest in Antarctic affairs.

I have always admired Douglas Stewart’s epic verse play - underrated in my opinion in the study of Australian literature - “Fire on the Snow”. It described the desperate last days of Scott and his party in what Stewart called the “wide white land” with the ice “breaking under foot like glass” and the snowdrifts like “waves of white iron” as the doomed party faced the winds like “walls of ice”.

Captain James Cook also made an interesting, if incorrect, reference to Antarctica in his journal in 1773, when he became the first person known to force a vessel beyond the Antarctic circle to a longitude of just over 71 degrees, in the Bellinghausen Sea. He recorded that:

_I can be bold enough to say that no man will ever venture further than I have done, and the land which may lie to the South will never be explored._

Cook could hardly have imagined in 1773 that some 190 years later, a major international treaty would have been negotiated to regulate activity in this
vast frozen uninhabited continent and that during the 1980s, it would be at the
centre of an international controversy involving a number of countries, including
Australia and Malaysia.

Although Australia claims 2,360,000 square miles of Antarctica – an area
nearly as large as its own land mass – the wider Australian community has not
focused on Antarctica or the policies which the Government has adopted on
behalf of the Australian people to the extent that it should have and which
conferences like this might help correct.

The theme of the conference is “The Antarctic: Past, Present and Future”. Other
speakers are dealing with the present and the future. I intend this morning
to deal with the serious challenge to the Antarctic Treaty System that developed
during the 1980s, how this challenge was successfully blunted, as well as the
background to the abandonment of the proposed Minerals Convention in 1988 in
favour of the Madrid Protocol of 1991. I will also say something about the
interest taken by two former Prime Ministers during the 1980s, which I can do
as an ex-Public Servant and, hopefully without duplication of what other
speakers will say, something about the enduring value of the Treaty.

As Chairman of the New York Group of the Antarctic Treaty parties, the
body which coordinated the policy response to the challenge to the Treaty,
launched in 1983 by Malaysia, it was my task to defend Australia’s interests and
those of the other Treaty parties.

It was a demanding but rewarding task, additional to my normal duties,
which included representing Australia on the Security Council for two years. It
was to test fully our negotiating skills and bring me into a sharp dispute with
Malaysia, a country in which I had lived and for which I had a real affection.

The Malaysian argument was that the Antarctic Treaty was an “exclusive”
club and “not accountable internationally”. It maintained that the Treaty
Consultative Parties - and they alone - had the right to make decisions about
Antarctica and that these decisions were not subject to review by any other
body. Malaysia also maintained that the Treaty was anachronistic and
discriminatory, that claims to sovereignty should be put to one side as a “relief of
colonialism”, that the system was “secretive” and that it was controlled by
developed countries.

Essentially, what Malaysia was seeking was the replacement of the Treaty
by a universal regime and that any benefits derived from the exploitation of
Antarctic resources should be shared as “the common heritage of mankind”. Malaysia later modified its criticism in the face of the Treaty’s observable
strength and its increasing membership, but the thrust of its attack remained.

Six years after the Malaysian challenge was launched, 39 governments had
by then become parties to the Treaty. This was, at that time, a quarter of the
membership of the United Nations. It included a wide range of countries; all five permanent members of the Security Council, developed and developing countries, aligned and non-aligned, superpowers and small states. Parties to the Treaty in fact represented the majority of the world’s population, as both China and India were members.

Criticism of the system on the grounds of its “exclusivity” had a hollow ring when such a wide range of countries had found it in their interests to join. By November 1989 the Consultative Parties had more than doubled from the original 12 to 25 out of the 39 states which were then parties to the Treaty. An institution weakening in the face of criticism does not grow. Actually the Malaysian attack helped strengthen the Treaty which continued to become more open and to expand its membership.

The high level meetings of the New York Group of the Antarctic Treaty parties, provided an excellent forum for the cut and thrust of diplomacy. It also provided a test for negotiation as 35 diverse countries sought under Australia’s chairmanship, to hammer out a common approach to countering the attack on the Treaty.

In 1983 the Cold War was at its height but this was the one forum in which the United States and the former Soviet Union, both original signatories of the Treaty could agree. I recall one early meeting at which the following exchange took place between the Russian Ambassador, Alexi Oleandrov, and the American Ambassador and Deputy Permanent Representative, Jose Sorzano. Sorzano had fled Cuba in 1960 and, in a real American success story, by 1983 had become both a Professor at a leading American University and an Ambassador at the United Nations. As Chairman of the group I developed close relations with both.

I recall clearly Sorzano saying at this meeting, “Oleandrov is a big man and a communist. I would not trust him as far as I could throw him but, on this occasion, I have to agree with everything he has just said about the way we should proceed in the defence of the Treaty”. Oleandrov responded in kind. “Sorzano is a reactionary…what Americans call…yes…a reactionary son of a bitch but I agree fully with him on the tactics the Treaty parties should adopt.” This anecdote has a serious point; that is that at the height of the Cold War Antarctica was the main area of effective Soviet/US cooperation.

Interestingly, Sorzano and Oleandrov actually became friends despite their ideological differences outside of Antarctica.

The Convention on the Regulation of Antarctic Mineral Resource Activities (Minerals Convention) was adopted on 2 June 1988 by the 33 Antarctic Treaty Parties present at a special meeting in Wellington. This filled an important gap in the Antarctic Treaty System. In 1959 the original Treaty had not dealt with resources of any kind, living or mineral.
The Minerals Convention was not, as it was sometimes portrayed, an invitation to start mining in Antarctica. On the contrary, it was farsighted in that it looked ahead and established strict rules for possible future exploitation of minerals. It actually prohibited exploration of minerals, unless a rigorous process of approval, including strict environmental safeguards, was undertaken. The protection of the pristine Antarctic environment was an overriding theme running through the text of the Convention.

Nevertheless, having agreed to the Convention only in June of 1988, Prime Minister Hawke in 1989 did a complete turn around, or as Richard Rowe said this morning “pulled the plug,” arguing that Australia would not sign and ratify the Convention to the annoyance of the other signatories, especially the United States, the United Kingdom, Japan and New Zealand. Hawke now said that the Antarctic environment was extremely fragile and important to the whole global ecosystem. Nobody would dispute that. Any mining in Antarctica, he added, would always be dangerous, even “catastrophically” so. In this respect the Minerals Convention was, Hawke said, “basically flawed”. Close cabinet colleagues like Graham Richardson and Gareth Evans were shocked at the time by Hawke’s sudden volte-face.

Hawke understandably maintained that this sudden and unexpected change was a matter of environmental principal on his part. In my opinion the motives for his belated conversion were essentially political and were related to the green vote in the forthcoming Tasmanian State election. His change of mind was firmly and publicly rejected by President Bush and by British Prime Minister Thatcher, as well as by most of the other Treaty parties, except France.

This change brought me, as Secretary of Foreign Affairs and Trade, into direct disagreement with the Prime Minister, which was conducted robustly during an overseas visit on which I accompanied Mr. Hawke to Paris, London and Washington, in June 1989.

One night I well remember was on 21 June 1989 in Bob and Hazel Hawke’s suite at the Hyde Park Hotel. We had attended a dinner at the Mansion House, given by the Lord Mayor of London, Sir Christopher Collett. A few of us had gathered in the suite to plan the next day. Hawke suspected Gareth Evans and senior officials like myself were not fully behind his change of policy on Antarctica. Evans had told the British Foreign Secretary, Sir Geoffrey Howe, who was firmly opposed to the changed Australian position, that if the new Hawke policy failed to gather adequate support then we could go back to the Minerals Convention. Hawke regarded this as undermining his position. As voices rose and Hawke showered criticism on Gareth Evans, me and Kim Beazley, who was also visiting London, Hazel Hawke appeared in a dressing gown, asking what was going on and how she could be expected to sleep. Her intervention may well have saved the situation.
Also, I had attended a small working breakfast on 18 June 1989 with Bob Hawke, John Bowan, a Foreign Affairs officer seconded to Hawke’s staff, the late Jaques Cousteau and his son, Jean-Michel, at the elegant Hotel Maurice in Paris. Hawke was later to argue that Cousteau had agreed with his proposition that Antarctica should become a nature reserve and that mineral exploitation should be totally outlawed for all time.

My recollection, which I recorded at the time, was different. Jaques Cousteau certainly endorsed the idea in principal. But, he added reflectively that in time – I think he said in fifty years – if the world was running out of energy sources and technology had reached a point at which mining could be conducted without damage to the environment, then the issue might need to be reconsidered. Nevertheless Hawke was determined to press this issue and said he had succeeded in using Cousteau’s influence with Socialist Prime Minister Michel Rocard and President Mitterand. France declared it would support the Australian attitude and that it also would not sign the Minerals Convention.

I discovered in May 1990 an interesting piece of history on this issue. I was talking to former Prime Minister, Paul Keating about Antarctica and made the point that, while I had disagreed with the abandonment of the Minerals Convention, Hawke, with the full cooperation of my Department, once the decision to change course had been taken, had been extraordinarily successful in winning over other countries. This had ultimately led to the signing of the Protocol on Environmental Protection to the Antarctic Treaty in Madrid in June 1991. This protocol prohibits totally exploration or mining in Antarctica for at least 50 years.

Keating said that, as Treasurer, he had in fact met in Paris on 30th September 1988 with French Prime Minister Rocard, who had recently been re-elected. That was 9 months before Hawke had met with Rocard. At that meeting Keating said he had told Rocard that he was a strong supporter of environmental protection. He believed Antarctica should be declared a national park. This was a “personal view rather than a Government view”. Keating said Rocard had agreed that this was “a very good idea” and that he would “look at it” in the context of a wider world initiative on the environment which he had in mind and which was secret at this stage. Keating’s point was that it was he who had first put the thought about protecting Antarctica from mining in Rocard’s mind well before Hawke had done so.

Returning to the Malaysian challenge, the struggle continued in the United Nations. The consensus resolutions, which we had achieved in 1983 and 1984 after many hours of negotiations between the Malaysian Ambassador, the late Zain Azrai and myself, were seen as a success and to the advantage to the Treaty parties. As a result of these successes consensus broke down at the United Nations in 1985 when the issue came to a vote for the first time. Although
Antarctica had become something of a routine agenda item by then the debate had developed into a sharper Australian - Malaysian confrontation.

On behalf of the Treaty Parties, I told the General Assembly that it was a matter for regret that we had been unable to achieve consensus in 1985. We would adopt a new technique in that we would not abstain or vote against the main resolution. We would simply maintain that we would not participate in any future voting on a General Assembly resolution if consensus could not be achieved. I called for a roll call vote and each of the Treaty Parties, by prior agreement, stated as their country name was called that they were “not participating” in the vote, thereby standing aside from the process in a new and dramatic way.

Following this 1985 General Assembly I visited Kuala Lumpur at the Australian Government’s request to discuss Antarctica with the Prime Minister, Dr. Mahathir. It was my first of three personal meetings with Dr. Mahathir. He was courteous but firm and well briefed. He listened attentively to my exposition of the Australian approach and that of the other Treaty Parties and to my suggestion that, as regional neighbours, Australia and Malaysia should work to agree again on a consensus resolution at the 1986 General Assembly. We were regional neighbours and agreed on so many issues at the United Nations it was a pity that we could not reduce our differences on Antarctica.

I had the impression that while Dr. Mahathir saw the Antarctic Treaty as a developed nations’ club with colonial overtones, and felt that the continent should be the common heritage of mankind, it was not for him a burning issue. While maintaining Malaysia’s attitude he agreed in principle to examine the prospect of a return to a consensus resolution at the next General Assembly.

Later in 1987 I had lengthy and hopeful discussions with Malaysia’s new Ambassador to the UN, Dato Jusuf Hitam, who had replaced Zain Azrai. These discussions continued overnight and until just before the vote. Again we failed to reach consensus, not because of Malaysia but because some of its small third world co-sponsors, such as Antigua and Barbuda, had become more resistant on the issue. So the process continued.

My successor as Australian Ambassador to the United Nations, the late Dr Peter Wilenski, noted in 1989 that, in reviewing the history of the Antarctic debate, that it had become little more than a “sterile annual ritual”. Although it may have been a sterile ritual, any challenge in the United Nations, or elsewhere, to the Treaty needed and will continue to need to be met.

Hindsight often produces a revised analysis. Looking back on this unusual diplomatic episode, the course we followed was, I believe, both correct and successful. We had protected something of value. I believe the Antarctic Treaty System is indeed an institution of enduring worth for the following six main reasons.
• the Treaty is not a closed shop; it is open to accession by any member state of the United Nations or to a country which might be invited to accede with the consent of the Consultative Parties. It is therefore as universal as interests in Antarctica make it;

• the Treaty is of unlimited duration and, in its introductory language, establishes Antarctica as a region of international cooperation in the interests of all mankind;

• notwithstanding the Malaysian challenge, the Treaty is based on the United Nations Charter and is entirely consistent with it. It promotes the principles and purposes of the Charter and establishes Antarctica as a zone of peace. Antarctica is, in fact, the only effective, complete and functioning nuclear free zone in the world today thanks to the Treaty and the efforts of the Treaty parties;

• the Treaty has encouraged and facilitated scientific research and the dissemination of information, which is made available for the benefit of all states. So far the continent’s only export has been knowledge;

• the Treaty provides a system of on-site inspection by observers to ensure compliance with its provisions; and

• it has reduced international tensions and potential conflict over Antarctica by establishing a means to deal with claims of sovereignty in Antarctica.

The Treaty successfully excluded Antarctica from the arms race, when the fragile consensus amongst the victors of the Second World War broke down and the Cold War began. It prohibited any measures of a military nature, such as the establishment of military bases and installations, the carrying out of military manoeuvres, or the testing of any weapons, including nuclear weapons, and it banned the dumping of nuclear waste on the continent. Both the United States and the former Soviet Union scrupulously observed these provisions. It has to be open to question whether they would have done so without the Treaty.

On this latter point, it is true the Cold War is over. But this does not mean that the successful security provisions of the Antarctic Treaty will be less important in the future than they have been in the past. It remains a global strategic interest that Antarctica should always be demilitarised and denuclearised. We cannot predict the future. New major powers, for example China and India have nuclear capacity, and new tensions could arise, so the continuity of the Treaty is important in a strategic sense.

When I became Australia’s Ambassador to the United Nations in 1982 I knew less than I should have known about both the inner workings of the United Nations system and processes of the Antarctic Treaty system, although I had been interested and had some knowledge of both matters.
The fundamental question I had to face in New York in 1983 was, could the United Nations provide a practical alternative to the activities, including environmental protection and demilitarisation in Antarctica? On the basis of my own experience - and as a supporter of the multilateral system - I would, in this case, have to answer “No”. I came to hold strongly the view that Australia should continue to deal with all issues relating to Antarctica through the established Treaty system.

My personal experience at the United Nations and in Antarctica itself demonstrated to me that one system – the United Nations system – works less effectively than I had hoped, probably because of its sheer size, while the other system - the Antarctic Treaty System - works more effectively than I had expected. So we do have something very worthwhile to celebrate today. My involvement led me to the conclusion that United Nations involvement in Antarctica, however well intentioned, would prove less effective in the management of that continent, including the protection of its environment, than the Treaty System.

The Antarctic Treaty has shown flexibility and a capacity to change and to make any necessary adjustments. It is a successful, evolving, open and effective Treaty, which has served the international community well. It should not be replaced or dismantled. Rather its flexible framework could be built on to meet any concerns of new member countries. I believe the Treaty will continue to be a valuable international instrument in this century and – to use the language of the Treaty itself – it will continue to prove to be “in the interest of all mankind.” For these reasons I was proud to have been able to lead a successful defence of the Treaty through five sessions of the General Assembly.