In opening the ninth round of negotiations, Mr. Matsura (Japan's minister of science) cautioned that this "regime must be strong enough to stand the test of time". Beesy III would biodegrade in a matter of days if exposed to the real world.

What's missing from the draft are protective elements needed to achieve credibility in the international community - the overwhelming majority of which has no significant interest in facilitating mining in Antarctica. In this final article analyzing BB III, ECO identifies six broad areas where significant text changes are needed before the draft Convention can achieve credibility and acceptability in the eyes of the world:

* environmental monitoring, inspection, and effective enforcement,
* the power of the Regulatory Committees in relation to the Commission and the Scientific, Technical and Environmental Advisory Committee,
* environmental impact assessment and public consultation procedures prior to the taking of major decisions,
* procedures for evaluation of information supplied to institutions of the regime, leading to the determination of whether or not sufficient information is available on which to base a rational decision,
* measures to ensure that, at each stage of activity, appropriate areas are identified for protection prior to minerals activities being approved, and
* strict and unlimited liability provisions for operators and firm obligations on operators and sponsoring states to ensure that necessary actions are taken to protect and clean up the environment.

**Environmental Monitoring, Inspection, and Enforcement**

Before it can be determined whether a mining activity is causing damage or is in breach of the Convention or measures adopted pursuant to it, hard data are required on changes in the environment.

These data will be provided by "environmental monitoring." ECO defines this phrase as the collection of basic data on environmental variables, designed to detect changes to the environment which could be damaging. (The term "environmental monitoring" has been used to describe the collection of environmental data, to distinguish it from "monitoring" by governments and institutions to ensure compliance.)

BB III provides for reports containing and analyzing such data to be made available to all the institutions of the regime. What is not adequately provided for, however, are procedures to ensure a considered response by the decision-making institutions to evidence of environmental damage - especially if that damage results from normal operation of an approved management plan. BB III does not even provide for the automatic consequential amendment of existing management plans following adoption of new measures by the Commission to reduce...
Coupled with environmental monitoring is the need for an extended observer network and broad inspection rights to ensure compliance with measures adopted by the Commission or by Regulatory Committees.

All minerals related operations in the Antarctic Treaty area should include at least one resident observer. Such “on-site” observers, joining expeditions at their last port of call before Antarctica, furnish the only practical way of achieving credible monitoring of activities, given the logistical problems of organizing short-duration inspections. Some coastal states have adopted this solution for monitoring fishing in their EEZs.

Inspection rights must also be granted to all parties to the regime - not just to ATCPs and members of the Commission or to institutions of the Convention, as is currently allowed in BB III. Ensuring compliance with the regime is an international responsibility shared by all parties. Parties should be encouraged to cooperate in jointly designating inspectors to share costs and information.

It is important that these inspection rights expand the powers conferred on ATCPs by Article VII of the Antarctic Treaty to include ensuring compliance with the minerals convention. This means that all off-shore installations engaged in minerals activity - whether stationary or moving, permanent or temporary - must be subject to inspection. No “high seas freedoms” rhetoric should be allowed to avoid inspections. Moreover, all ships and aircraft servicing those installations in the Convention area should be subject to inspection.

It is imperative that stringent penalties and powers to cancel rights, revoke licences and suspend management plans be provided for in the Convention, in the event that non-compliance is detected. Moreover, exercise of those powers must be mandatory in cases of serious non-compliance. ECO is concerned that some states are proposing penalties only in cases of wilful and persistent transgressions. This is analogous to writing an advance blank check to the operator. The environment must be protected whether or not damage results from a wilful act.

Penalty provisions should be elaborated by the Commission rather than by the Regulatory Committees, to ensure uniformity of application throughout Antarctica and avoid encouraging activity in an area for which a Regulatory Committee had adopted weak enforcement and penalty rules.

Environmental Impact Assessment and Public Participation in Decision-making
ECO is glad that some delegates are beginning to respond to calls for effective and open environmental impact assessment procedures to be incorporated into the text of the Convention, and for certainty and consistency of application throughout the Convention area. A detailed analysis of
The Antarctic Treaty already prohibits many of the activities which would also be prohibited under World Park management. The new status would, therefore, represent only a modest departure from current practices in some cases. In other cases, World Park status for Antarctica would require a major departure from apparent ATCPs plans for the future. The third article in our series discusses the implications of a World Park policy for minerals development.

Minerals activities in Antarctica would not be permitted. The definition of "minerals activities" would hinge on whether commercial advantage was being taken from the activities, or could be taken at some future date. Geophysical research at the boundary between pure science and prospecting would be permitted, but all data would have to come into the public domain, as is required by the Antarctic Treaty. However, any such research which poses risks to the environment would be prohibited.

Minerals development would conflict with each of the four principles that NGOs consider fundamental to the World Park concept:

**Wilderness Values Should Be Paramount**

One of the principal values of the Antarctic to humans is that it is relatively pristine. This has obvious aesthetic significance and affords unique possibilities for the protection of genetic diversity. This pristine quality is also important for science. Antarctica's characteristics make it possible to carry out scientific research that cannot be done elsewhere, including baseline monitoring of variables which result from human activity in other parts of the world. The dramatically increased level of human presence that would accompany any mineral activity would compromise these values.

**Complete Protection for Wildlife**

The increased human presence caused by mineral activity in the Antarctic would result in shore-based support facilities being established. Whether minerals activities were terrestrial or offshore, the favored locations for logistical facilities would be in the very few areas of Antarctica that are ice-free and have easy sea access. These are the same areas that are colonized by Antarctica's wildlife, for precisely the same reasons. It is therefore unlikely that any large-scale mineral activity could be conducted in Antarctica without having detrimental effects on wildlife, either in their breeding areas or elsewhere in their range.

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**A Zone of Limited Scientific Activity, With Cooperation Between Scientists of all Nations.**

The Antarctic Treaty provides for a unique system of international cooperation in science, which cuts across political and cultural barriers. The success of this system is largely attributable to the fact that there has been no advantage in non-cooperation, and definite advantages in cooperation. Opening the Antarctic to minerals exploitation would result in reclassification of much geoscience research as "prospecting" and consequent jealous guarding of data in the hope that it may have commercial value.

The CCAMLR experience underscores the conflict between the sharing of data and commercial enterprises. Within CCAMLR, the USSR has not provided relevant historical fishing data - ostensibly because of the problems in processing and preparing the huge volume of material for CCAMLR use - while consistently vetoing the imposition of meaningful controls on fishing, citing the lack of detailed data. Meanwhile, scientists from other states are very concerned that Antarctic fish stocks are being drastically depleted.

There is no reason to assume that data collected during minerals related research would be made freely available under a minerals regime. Nor, based on the CCAMLR experience, is there reason to believe that member states of the proposed minerals regime would act to protect environmental values if other interests were in any way threatened. Rather, in the same way as occurs at CCAMLR, political and economic imperatives would be likely to prevail over environmental protection.

**A Zone of Peace, Free of Nuclear and Other Weapons.**

It is likely that any minerals sought in the Antarctic will have strategic value. The very high costs of extraction of Antarctic minerals will mean that states will not go to Antarctica unless there is a large economic or strategic benefit in doing so.

Countries which are heavily dependent on foreign oil are leading the way with offshore seismic work in Antarctic waters, and could be expected to be among the first to seek oil supplies there. Were a major conflict to erupt in the Middle East, it could stimulate interest in Antarctica's supposed resources. In the case of the Middle East, some states already have indicated that they would be prepared to intervene militarily to safeguard their sources.
On November 16 and 19, 1966 the United Nations will continue its debate on Antarctica, in the First Committee. This has been an annual event since 1981, largely due to international concern about ATCP plans for minerals exploitation in the region. At the conclusion of the first two debates, the General Assembly agreed to Resolutions by consensus, preparing the way for a major Study on the Question of Antarctica by the Secretary General.

At the 1985 General Assembly, however, that consensus broke down. Most Consultative (ATCPs) and Non-Consultative Parties (NCPs) declined even to “participate” in the voting, although it remains unclear how many NCPs actually favored that decision. The ATCPs informed the NCPs what their position should be, with no opportunity for discussion.

Is a return to consensus possible this year? Although most countries say they favor a restoration of consensus, the ATCPs apparently prefer the present situation: not having participated in any decision allows them to argue that they have no obligation to provide information to the General Assembly about the ongoing minerals negotiation.

Dr. Mahathir Mohamad, Prime Minister of Malaysia, set the stage for this year’s debate in his statement to the General Assembly on September 29:

I am pleased with the interest shown by you and the support that is given by this Assembly on the issue of Antarctica. This positive commitment by the UN strengthens Malaysia’s and other like-minded countries’ will to continue to pursue the objective of an Antarctica that is for all mankind, and not for an exclusive few.

The importance of Antarctica to mankind is beyond dispute. It is for this reason that we can never yield to pressure mounted by certain quarters in order that we relent and renounce our commitment. Antarctica should be under an internationally accepted regime and managed for the benefit of all mankind. We remain committed to working towards these objectives with all interested parties including the Consultative Parties to the Antarctic Treaty...

We do not seek confrontation. Neither do we desire to threaten the security and interests of the Consultative Parties, nor do we wish to destroy the framework that the Consultative Parties have built.

What we want is an internationally accepted system of management over Antarctica that caters for the interests of mankind in its entirety. What we are after is improvement over the present situation which is deficient and inclined towards exclusivity, and therefore not in harmony with international aspirations...

LAST YEAR’S ACTION
At the close of the 1985 debate, three resolutions were passed. One resolution requested the Secretary General to update and expand his 1984 study on Antarctica. The second requested the ATCPs to report on the minerals negotiations. The third called for the ATCPs to exclude South Africa from participation at meetings of the Consultative Parties at the earliest possible date.

These resolutions were adopted by majority vote following a failure to reach consensus on compromise draft resolutions. Only three members of the Antarctic Treaty participated in those votes. China abstained on the first two resolutions, and voted in favor of the South Africa Resolution. India voted in favor of the South African resolution and declined to participate in the other votes. Peru voted in favor of resolutions on the Secretary General’s study and South Africa, and abstained on the question of minerals.

As negotiations toward consensus began, the group represented by Malaysia proposed two draft resolutions, one on the South Africa issue and another on the establishment of an Ad Hoc Committee on Antarctica at the UN. The former called for the exclusion of South Africa from the Antarctic Treaty. The latter expressed the view that the minerals of Antarctica should be considered the Common Heritage of Mankind.

The ATCPs were unwilling to negotiate on these controversial resolutions, so the Malaysians responded with a new draft, dropping the idea of an Ad Hoc Committee, replacing the words “Common Heritage of Mankind” with the phrase “equitable sharing of benefits,” and requesting an expansion of the Secretary General’s Study on Antarctica. The draft resolution called for the Study to address the availability of information from ATCPs, the involvement of relevant agencies and intergovernmental organizations in the ATS, and the significance of the UN Convention on the Law of the Sea (UNCLOS) in Antarctica.

The counter proposal offered by the ATCPs called for the Secretary General to supplement the study only with regard to providing more information about the Antarctic Treaty System and involvement of specialized agencies and

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intergovernmental organizations in the ATS. It
would have committed the ATCPs to "continue
informing" the Secretary General on their
meetings and activities in Antarctica. On that
basis, the ATCPs were willing for the Question
of Antarctica to again be put on the agenda in
1986. Neither side was willing to compromise
sufficiently to achieve consensus.

After the consensus approach broke down, the
two draft Malaysian resolutions were reformed
into three, with the resolution on the study
separated from the issue of the minerals
negotiations. It is interesting to note that the
resolution on South Africa, though widely
reported as calling for expulsion from the
Treaty, actually only urges the ATCPs to
exclude South Africa from Treaty meetings.
The ATCPs have stated that there is no
mechanism in the Treaty for expelling a
member.

RECENT DEVELOPMENTS

1. The declaration from the Non-Aligned
Movement meeting in Harare in September 1986
contains references to Antarctica. It continues
to request that any exploitation of Antarctic
resources be carried out in such a way as to
ensure protection of the environment,
international peace and security, and for
resources to be used for the benefit of all
mankind, with particular note that members of
the UN have a valid interest in such
exploitation. It also urges that a way be found
to return to consensus at the UN.

2. The ATCPs have attempted to step up the
pace of the minerals negotiations in order to
complete the new Convention prior to the 1987
UNGA, a fact that will not go without notice at
the General Assembly.

3. The Secretary General is nearing completion
of the expanded study, which will be published
prior to the debate in November. Submissions
to the study were received from six countries,
with additional submissions from ATCPs which
responded, officially, not to the 1985
resolution, but to the consensus resolution of
1984. Submissions also were received from
several NGOs, including ASOC, Greenpeace and
the International Institute for Environment &
Development.

4. With regard to the minerals Resolution, the
ATCPs have not, to ECO's knowledge, reported
back to the UN.

ECO doubts that a return to consensus is
possible this year. Judging from Dr. Mahathir's
statement to the UNGA, Malaysia is not
prepared to give up positions on key issues for
the sake of consensus, and the ATCPs are
unlikely to substantially alter their position of
last year unless several of their number
convince Australia, leader of the ATCPs in New
York, to try a different tack. ECO understands
that some NCPs are unhappy at not being
invited to participate in meetings where the
ATCP position was discussed and at not being
consulted.

Another important indicator of whether
consensus will be possible is how the question
of South Africa is treated. Unless this volatile
issue is separated from the others, no
consensus will be possible, even among the
ATCPs.

It is unlikely that the Secretary General's Study
will be updated or expanded again. This leaves
the minerals question and the question of South
Africa as the two key issues this year. It
remains to be seen what compromise the ATCPs
will put forward at this year's debate.

ROOTS?

ECO wonders if all delegations know about two
private sessions of a few delegations, in
Whangaroa, New Zealand? At the second
session, which immediately preceded the 1986
CCAMLR meeting, representatives of ten ATCPs
met for a week to lay out a framework for
concluding the minerals negotiation. Do the
Whangaroa files contain the roots of Beeby III?
Greenpeace believes that Antarctica should be declared a World Park, free of minerals exploitation, in which wilderness values and wildlife would be protected, and international scientific co-operation would continue in a demilitarised framework. This belief coupled with dissatisfaction with the Antarctic Treaty System’s inability to enforce current agreements regarding environmental and wildlife protection is the driving force behind Greenpeace’s Antarctic expedition.

The Greenpeace Antarctic programme is expected to span several years. Directing public attention to present and future threats to the Antarctic is a main objective. There will also be a modest scientific programme which will include monitoring the impacts of our own presence on the environment and investigating human impacts on the environment in different locations in the area.

1986-87 season

The M.V. Greenpeace will leave Auckland, New Zealand, on 5 January for Ross Island where, subject to ice conditions, it will arrive around 19 January. A small base will be established at Cape Evans, Ross Island where four people will overwinter. The M.V. Greenpeace will leave the area at the end of February and is expected back in Auckland around mid March.

The overwinterers will be: a mechanic (base leader); a radio technician; a doctor, and a marine biologist. Communication with the outside world (media, the public, and our own offices) will include radio, telex and electronic mail. Beside radio communication, a sophisticated satellite communications system will ensure regular contact.

In the spirit of co-operation which Greenpeace believes should always prevail in the Antarctic, detailed information about the expedition has been sent to the Foreign Ministries of all ATCP and NCP governments.

In 1985-86, Greenpeace undertook its first expedition to the Antarctic. Based on the reconnaissance carried out in January 1986, an Environmental Assessment (EA) has been prepared. This EA has also been sent to all ATCPs and NCPs. Final drafts of these two documents have been made available to representatives at this meeting who expressed interest in the expedition.

The EA was prepared in accordance with Antarctic Treaty Recommendations VIII-11 and XII-3 on impact assessment but, as these Recommendations do not go far enough, the EA also attempts to combine environmental impact assessment procedures currently applied by the more environmentally progressive Treaty states and also the procedures proposed by SCAR in 1985.

We hope that, in the future, Treaty states and others planning activities in the Antarctic will do the same and that building bases, starting construction works and other potentially environmentally damaging activities without environmental impact assessments will be a thing of the past.

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of supply. There is no reason to assume that, theoretically demilitarized or not, a potential interruption to the supply of Antarctic resources would not provoke a similar intervention.

An example of a potential "strategic" hard rock mineral is platinum. Current supplies are almost entirely located in South Africa (85%) and the USSR. Scientists have speculated that exploitable platinum reserves may exist in the Dufek Massif region of the Antarctic continent. If, for political reasons, the South African supply were to become unavailable, platinum mining in the Antarctic might become attractive, and military protection of supplies might be invoked.

The World Park option also has implications for other activities in the Antarctic, including militarization, nuclear projects, marine resource exploitation, tourism and colonization.

*This concludes our three-part series. These articles on World Park Antarctica are based on excerpts from the Greenpeace Background for the Fourth UN Debate, in publication. ECO encourages delegates to contact Greenpeace for a copy of the full text.
such EIA procedures is spelt out in a new ASOC Information Paper. Public participation is crucial. Beeby III is remiss in not detailing requirements for notice and comment and a role for the public through the participation of knowledgeable and concerned Non-Governmental Organizations. There is no requirement that any comments or initiatives from NGOs be taken into account anywhere in the regime.

EIA procedures provide the key to ensuring that the provisions of Articles 2 & 4 (Objective and Principles) are met in the approval and conduct of mineral resources activities in Antarctica. Bitter experience has taught NGOs that unless decision-points and practical procedures, in addition to principles, are clearly defined within a convention, implementation is often inept, inadequate, variable or non-existent.

The Sufficiency of Information Test

One of the most important environmental protection principles in Article 4 is subsection 1: "Decisions about mineral resource activities shall be based upon information adequate to enable informed judgements to be made about their possible impacts." The rest of the draft Convention, however, is strangely silent on how this principle is to be put into effect.

Text is needed in the Convention to provide a duty whereby the institutions shall evaluate -- at each stage -- the information available, and shall determine whether or not sufficient information is available with respect to the substantive decision before it.

In ECO’s view, the Advisory Committee should have a key role in such evaluations. For example, at the initial stage of opening an area, the Advisory Committee should first review the information provided for its sufficiency as spelled out in Article 4(1) before getting into the merits of the proposal. Furthermore, a report on sufficiency of information should be prepared, published and made publically available for comment and evaluation before further consideration of the matter in question. If the sufficiency of information test is not met, then consideration of the question should lapse until such time as it is decided that sufficient information is available.

This test should be applied at every decision-point. New subclauses would be needed for Articles 22, 26 and 31 defining the functions of the institutions of the regime. For instance, the Regulatory Committee should be given the additional function in Article 31 "to decide, on the basis of Article 4(1) whether or not sufficient information is available to make decisions pursuant to subparagraphs (a), (b), (c), (e), & (g) of this Article, prior to those decisions being made, and report thereon to all parties to this Convention."

Given the reality that will face decision-makers for many years to come -- that we know very little about the impact of increased human presence and minerals activity in the Antarctic -- it is imperative to require rigorous procedures for fulfillment of the sufficiency of information test before approval of minerals activities is contemplated.

Protected Areas

Several serious deficiencies in the draft test must be noted. Wilderness, referred to so nobly in the preamble, has been reduced to "other reasons" for wishing to protect areas in Antarctica pursuant to Article 14. The wording of Article 14(1), in referring to Specially Protected Areas and Sites of Special Scientific Interest established pursuant to Article IX(1) of the Antarctic Treaty, explicitly prevents any future categories of reserves established pursuant to Article IX(1) from being compulsorily protected from mining activities.

Australia proposed such a new category at the last ATCM in Brussels (Protected Natural Areas). Several other states and SCAR Committees are studying how larger areas of habitat, aesthetic or other significance can be given protected status. IUCN and SCAR have a joint task force considering how to develop a conservation strategy for managing the region. Certainly any advances in thinking by the parties to the Antarctic Treaty as to how to give better or wider effect to the Annexed Measures should be fully respected by a subsidiary institutional arrangement such as the proposed minerals Convention.

Beeby III provides little guidance as to what has to be done at each stage to give effect to Article 14. ECO submits that a detailed, comprehensive survey of protected area possibilities must be required prior to any decision being made to proceed with particular aspects of minerals activities. For example, before the decision could be taken on whether to open an area, a survey would have to be carried out and reviewed by the Advisory Committee, with the Commission given a duty to set aside appropriate areas and provide necessary buffer zones. These surveys would need to be more detailed at each step down the minerals track.

Liability and Responsibility

Delegates continue to debate whether liability should be strict (no fault) and unlimited. ECO submits that, given the operative realities in the Antarctic, the allowance of defenses merely encourages activities that ought not to be taking place.

At least one ATCP, Norway, presently allows no liability limits for domestic operations. This has not prevented companies from doing business there. Why shouldn't the Antarctic be treated to the highest
One could interpret the vanishing of the Soviet Antarctic Research Station Druzhnaya 1, on a huge chunk of ice broken off the Filchner ice shelf, as an "Act of God." But was it? Surely, the eventual move of the formation of the base, constructed on the edge of the ice shelf, could have been predicted, or at least speculated about. The incident suggests that to a large extent, unsatisfactory impact and risk assessment might be to blame. A similar conclusion would have to be drawn for almost all "unforeseen" incidents that representatives to the minerals meetings have described to argue against strict and unlimited liability. To ECO it seems clear, that if an operator or sponsoring state is unwilling to accept strict and unlimited liability for reasons of heavy financial burden, then the proposed activity carries too much risk for the Antarctic environment, and should not take place.

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standards in the world rather than being subject to the lowest common denominator approach?

The level of residual liability and responsibility to be imposed on sponsoring states is still being debated. Given the enormous trust that is being placed by the Convention on the sponsor -- to objectively evaluate the capabilities and bona fides of operators -- it is essential for a sponsor to be held responsible for any residual liabilities that an operator may not be able to meet. The burden should be on the sponsor to ensure fast clean up and rehabilitation. Any disputes should be between operators and their sponsors, not between operators and the minerals regime.