ECO
Special Consultative Meeting on Antarctic Mineral Resources

THE BALANCE OF MINERAL POWER

The decision making processes in the draft Antarctic minerals convention are inadequate to ensure environmental protection.

NO BALANCE

The Regulatory Committees as they are presently constituted are heavily balanced in favour of certain categories of countries. The superpowers are included on all Committees. The claimants have a heavy representation, presumably in "recognition" of their claims. The claimants which are also developing countries - Argentina and Chile - have a particularly strong representation.

With the present 20 ATCPs assumed to be members of the Commission, Argentina and Chile can on average expect to be on 75% of all Regulatory Committees, and a developed claimant like Australia or Norway can expect to be on 50% of Committees.

However, a developed non-claimant like Italy or South Africa could expect to be on 41% of Committees, and their developing counterparts could expect a mere 30%.

However, there is a possibility of at least five new ATCPs within the next few years, of which perhaps two would be classed developed countries and three as developing. By the time the Convention comes into force, non-claimant developed states might expect to sit on 31% of Committees, while their developing colleagues could expect to sit on a mere 18% each.

This imbalance in power is not in itself detrimental to environmental interests. However, there has been an expectation from the very earliest days of the negotiations that the real business of the Regulatory Committees will be done behind closed doors, on a bilateral basis. To secure the votes of key claimant states, it is expected that "side deals" will give informal recognition to their claims.

Thus voting may be tied to a trade deal which may have no bearing on the Antarctic whatsoever.

Further, there is the possibility that a given Regulatory Committee might have a large number of applications to deal with. In some areas - for example, an offshore oil field - there may be dozens of applications for the right to explore or develop an area over a period of years. A very "cosy" relationship could develop between the member states - based on mutual economic benefit. This could produce a situation where environmental concerns are secondary to economic concerns. Short of instituting a disputes settlement procedure, for which there needs to be evidence of a violation of the Convention or an abuse of power, there is little that could be done to prevent such a situation.

In ECO's view, there are a number of ways in which this extensive power can be
checked. The most obvious is to give the Commission the right to review all decisions made by Regulatory Committees - a position that is favoured by a considerable number of the negotiating parties. Further, the Regulatory Committees could be restructured to lessen the possibility of "cosy" relationships developing between states. One way would be to expand to 12 the number of states on the Committees. The role of non-claimant developing states could be expanded. Since the vast majority of the world's states are in this category, a regime which actively discriminates against them is hardly likely to be seen as one to which all states should adhere.

In addition, ECO believes there should be a higher majority required in Regulatory Committees to approve management schemes. At present, the simple majority would require six votes for a successful application. A four-fifths majority would require eight votes on a ten-nation Committee, or ten votes on a 12-nation Committee. This would be a big improvement in the negotiating position of pro-conservation states, which could be overwhelmed by a small cabal of six states with an economic interest.

EFFETE COMMITTEE
There is a great deal of hypocrisy when it comes to the Scientific, Technical and Environmental Advisory Committee - STEAC. This is the one body which has environmental expertise, but it has no power whatsoever, nor independence to act as it deems appropriate. It is shackled to the Commission - even to the point of being unable to determine its own meeting schedule, or to whom and how to transmit information about minerals activities.

When the roles of the Regulatory Committees and STEAC are compared, it is clear that there has been a deliberate concentration of power in the body which is least likely to have concern for the environment, and a neutering of the body which would be expected to have most expertise and concern.

TRANSPARENCY
The Regulatory Committee, as the day-to-day manager of an area, will have a lot of discretion. Greater accountability and transparency is therefore extremely important as a counterbalance. The role of observers is critical to the accountability of the Committees. All notifications, reports, management schemes and other key documents should be sent to the Commission and STEAC. None of the information sent to the Commission should be censored, since it is bound to honour its confidentiality.

FEW CHECKS
In summary, the Convention has very few checks and balances to ensure that a Regulatory Committee complies with the Convention's principles. If there is a genuine concern to ensure the Convention will protect both the environment and the interests of the entire world community, there should be a fundamental reassessment. Until then, ECO remains highly sceptical about the true motives of the states which are pushing these negotiations forward.