

European Parliament Committee on Foreign Affairs, Hearing on "The EU and Antarctica: a foreign policy perspective," 14 June 2022 from 14.30 to 16.00 CET - online public hearing

Intervention by Evan T. Bloom, Senior Fellow, Wilson Center, Washington, DC - "the institutional framework of Antarctica and its possible future evolution."

Prepared remarks (check against delivery)

Good afternoon. Thank you for inviting me to participate in today's hearing.

My name is Evan T. Bloom. I am a senior fellow at the Polar Institute of the Woodrow Wilson International Center for Scholars in Washington, DC. I am a lawyer and former diplomat who led U.S. Antarctic diplomacy from 2006-2020 as head of delegation to the Antarctic Treaty Consultative Meeting and as U.S. Commissioner at the Commission for the Conservation of Antarctic Marine Living Resources.

I appreciate being given the opportunity to participate in today's hearing, and I have been asked to address the "institutional framework of Antarctica and its possible future evolution". It is a timely topic because Antarctica and its governance are relevant and important to policy concerns in the northern hemisphere and throughout the planet. That is especially the case given the importance of the climate change issue. Climate research being done in Antarctica is vital for understanding the impacts of climate change worldwide. Moreover, climate change is having important impacts in Antarctica itself, with implications for sea-level rise in particular. In addition, Antarctica has its geopolitical aspects, and cooperation there depends on how its institutional frameworks are maintained and evolve.

In the brief time given to me, I plan to cover the basics of Antarctic governance, focus on some of the key policy issues that are implicated, and finally refer to current strains on Antarctic cooperation related to the Ukraine crisis.

First, some background on Antarctic governance. We speak of the Antarctic Treaty System to refer in effect to three treaty instruments that are at the core of international rules related to Antarctica, as well as their implementation: The Antarctic Treaty of 1959, the Environmental Protocol to that Treaty, and the Convention for the Conservation of Antarctic Marine Living Resources.

The Antarctic Treaty is a Cold War-era agreement that set aside political rivalries and allowed the region to be devoted to peaceful purposes and freedom of scientific exploration. The treaty maintains the parties' differing positions on claims. Seven countries currently maintain claims, including EU Member State France.

The Antarctic Treaty is considered the first modern arms control treaty. It in effect demilitarizes the continent, although military personnel and equipment are explicitly allowed for use to promote science or for non-military purposes. The Treaty also established an inspections regime.

There are currently 54 parties to the Treaty, including 29 with consultative status that allows for participation in decision-making. The parties meet annually; the last Antarctic Treaty Consultative Meeting was held last month in Berlin.

The geographic scope of the Treaty is the entire area south of 60 degrees South Latitude, which includes not only the continent and its ice shelves, but marine areas as well.

The parties to the Antarctic Treaty, reacting to concerns about management of krill resources, established the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), via the CAMLR Convention in 1980. The Commission currently has 25 states plus the European Union as Members, plus ten additional acceding states. The Commission meets annually in October in Hobart, Tasmania, where it focuses in particular on management of Antarctic fisheries, even though its mandate is broader than fisheries. Indeed, in recent years, the Commission has become known for its cutting-edge work on establishment of marine protected areas.

The Protocol on Environmental Protection to the Antarctic Treaty was signed in 1991 and entered into force in 1998 and to a significant degree makes up for the fact that the Antarctic Treaty from three decades earlier did not focus on the environment. Its most well-known provision, in Article 7 and generally referred to as the “mining ban,” prohibits “any activity related to mineral resources, other than scientific research.”

A key feature of Antarctic diplomacy is that decisions at ATCMs and at the Commission of the CAMLR Convention are taken by consensus of all the Consultative Parties or Members of the Commission, respectively. This has a considerable impact on the operation of both bodies, making it impossible to move forward on items (such as marine protected areas) when agreement of all Consultative Parties or Members cannot be obtained.

The ATCM and CCAMLR are the twin pillars of Antarctic diplomacy and both forums need to be taken into consideration in any meaningful evaluation of trends in Antarctic policy. That is especially true as, in recent years, issues with the most political resonance internationally (fisheries management and marine protected areas) have tended to reside in CCAMLR rather than in the ATCM.

The EU, due to its competence in fisheries matters, plays an active role in CCAMLR as a party, and eight EU Member States (Belgium, France, Germany, Italy, the Netherlands, Poland, Spain and Sweden) are also Commission Members. (Bulgaria, Finland and Greece are also acceding states there.)

The EU per se does not play a role at the ATCMs, as it is not a party nor does it send observers. But twenty EU Member States are parties, either consultative parties or non-consultative, and

maintain Antarctic science programs, send their scientists there and/or operate science stations on the continent.

Thus Europe, and the EU in particular, play a crucial role in Antarctic matters, in terms of its politics, the science that is done there, and the human impacts on the region. Of particular relevance are the major European science institutions that are involved in Antarctic work at considerable scale.

The institutions I've described have worked relatively well over the past five decades, in keeping the peace and creating conditions that foster science. There have been some notable limitations, however.

Let me focus on some of the key policy issues that present current challenges:

A central concern of treaty parties relates to environmental protection – how to protect the continent and surrounding waters from human impacts; and how to protect both the land and the animals that live there. In large measure this involves ensuring proper and sustained implementation of the environmental protocol's rules for area management, environmental impact assessments, response to environmental emergencies and limiting marine pollution. It means ratifying liability rules. It means participating meaningfully in the Committee for Environmental Protection that meets along with the ATCM. It also means thinking through issues related to impacts from tourism that are rising again now that the pandemic is subsiding.

These days this means in particular integrating worldwide efforts related to both studying and dealing with climate change with climate-related policies and actions that can and should be taken by the Treaty System.

Then there are issues related to resources. The Southern Ocean has a generally well-regulated fishery, in which the EU is a leading actor. CCAMLR Members are engaged in contributing to science within CCAMLR and applying best available science to fisheries management decisions. In recent times, there are major challenges related to management of the toothfish and krill fisheries, and difficulties related to ensuring high standards of compliance. This has been particularly difficult given differences of view between most states on the one hand, and China and Russia on the other.

A different sort of resource issue relates to the mining ban under the Environmental Protocol. It is common to hear concerns that some countries either wish to cheat on this prohibition or would walk away from this obligation at some point in the future, perhaps at the time when the Protocol, including this provision, could come under review in 2048. It is worth remembering that this is a provision to which all parties are bound, and indeed no country currently speaks against it. In my view, it is worth continually focusing on the importance of this prohibition, as it is a lynchpin for all the environmental rules.

Another issue has received attention at the highest level of many Member States, and that is the importance of making progress on establishing large-scale marine protected areas in the Southern Ocean. There have been some significant successes, including the agreement in 2016 to establish

the world's largest MPA, in Antarctica's Ross Sea. However, since that time, China and Russia have made it difficult to implement existing MPAs and have stood strongly against creating any new ones, thus bringing to a halt three major proposals – in East Antarctica, in the Weddell Sea and in the Antarctic Peninsula.

I could list many other policy issues that relate to Antarctica, but these are some of the major ones. Given the important role of international mechanisms and cooperation in Antarctica, it is quite understandable that the European states would play a major role.

In terms of evolution of the institutional framework, I would say it is hard to predict. On the one hand, the ATCM and CCAMLR have very broad capabilities to take action to establish new rules that meet current policy priorities and objectives. However, we find at the ATCM that adopting measures that require ratification to enter into force tends to be hard and work very slowly. An example is Annex VI on liability that was adopted in 2005, but still hasn't entered into force. This year, there was wide support to increase protections for Emperor Penguins, but China would not agree and there was no action. CCAMLR has similar authority to act via conservation measures, but the organization finds it hard to gain consensus on important rules to fight IUU fishing or promote compliance. The reason is usually that it is impossible to achieve consensus.

The conflict in Ukraine has made work in Antarctic bodies more difficult, as has been the case in the Arctic context. Indeed, at Berlin, we had a situation where two consultative parties at war with each other participated (Ukraine in person and Russia virtually). The tensions certainly had an impact on the meeting, which began with statements related to the conflict, and ended with Russian objections to adoption of the report of the meeting.

There is much concern that these tensions could create considerable difficulties in October at CCAMLR where agreement on fish quotas, much less MPAs, requires a spirit of compromise. That spirit is hard to achieve when communications break down.

I will stop there. Thank you for the opportunity to make this presentation.