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Treaty on the Protection of the Arctic Environment*

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* This document is a summarised presentation of the Treaty on the Protection of the Arctic Environment, the full version of which is available from the Secretariat of the *Cercle Polaire*.

Treaty on the Protection of the Arctic Environment

Explanatory report

It is now undeniable that the Arctic environment is deteriorating due to disturbances in the planet's climate, characterised by global warming. This fragile environment is also seriously affected by polluting human activities.

It has been established beyond doubt that the deterioration of the Arctic environment will have consequences for the planet as a whole, some of which are already perceptible.

The Arctic is an environment inhabited by indigenous peoples whose cultures and ways of life are likely to be affected by the deterioration of their environment.

The threat to this unique environment calls for responses in International Law which are equal to the issues at stake. Only an international supervisory regime is in a position to guarantee the protection of an environment which plays a crucial role in global climate dynamics. Such is the purpose of the Treaty on the Protection of the Arctic Environment.

Preamble

« Considering the importance of the Arctic region in maintaining global climatic equilibrium;

Determined to protect a unique environment which plays a decisive role in the equilibrium of our climate;

Considering that the development of a comprehensive regime for the protection of the Arctic environment is in the interest of mankind as a whole;

Considering the fundamental importance of the Arctic environment for indigenous peoples;

Recognising that it is in the interest of mankind as a whole that the Arctic should be permanently reserved for peaceful activities and that it shall not become the scene or object of international discord;



Considering the evolution of environmental and legal technology subsequent to the adoption of the United Nations Convention on the Law of the Sea (Montego Bay, 1982); (...) ».

I – The general obligations relating to the activities of the Treaty Parties which have consequences for the Arctic environment

The following activities shall be subject to compulsory notification and shall be conducted in such a way as to limit their negative impact on the Arctic environment :

- activities where there is a proven risk of deleterious consequences for the Arctic environment due to geographical contiguity or to their direct effects on the Arctic environment.
- activities where there is a risk, even where unproven, which could lead to extremely serious consequences for the Arctic environment due to geographical contiguity or to their direct effects on the Arctic environment.

II-The Special Treaty Regime for International Supervision of the Arctic

II-1. Identification of the area subject to the Treaty's Regime

The waters, ocean floor and sub-soil thereof beyond the limits of the territorial sea of the Arctic Ocean Riparian States.

II-2. Regulation of prospecting, exploration and development within the area governed by the Treaty's Special Regime

Establishment of a joint regime in which there shall be defined:

- matters falling within the remit of the Arctic Commission provided for by the Treaty, in particular prior environmental impact assessments which shall be submitted to the appraisal of the Commission ;
- matters falling within the remit of the Parties to the Treaty and of enterprises.
- matters which may fall within either remit, according to choice.



II-3. *Treaty Institutions for supervision and management of the Arctic*

Inception of permanent institutions :

- an Arctic Commission with decision-making powers
- a Scientific Committee whose function is to provide opinions and to draw up recommendations for the Arctic Commission
- an Indigenous Arctic Peoples' Committee, designed to offer the representatives of these peoples full consultation in respect of the decisions taken by the Arctic Commission
- a permanent Secretariat whose methods of operation and finance shall be determined by the Commission
- a Tribunal responsible for supervising the proper implementation of the Treaty by settling disputes between the States Parties, as well as disputes with enterprises

II-4. *Peaceful activities guaranteed by the Treaty*

Only peaceful activities shall be authorised in the Arctic. Military measures in particular shall be prohibited. The Treaty is not opposed to the use of military personnel or equipment for surveillance and security purposes, for scientific research or for any other peaceful purpose.

II-5. *General Treaty principles relating to the protection of the Arctic environment*

- Activities undertaken in the area governed by the Special Regime shall be subject to prior evaluation of their impact on the environment. A Protocol to the Treaty shall be devoted to the environmental impact assessment mechanism.
- With respect to the prevention of marine pollution, and concerning those Parties which are also Parties to the International Convention for the Prevention of Pollution from Ships (1973), as amended by the Protocol of 1978 relating thereto, and by any other amendment in force thereafter, nothing in the Treaty shall constitute an exception to the specific rights and obligations flowing therefrom.



- With regard to waste disposal and waste management, the medium- and long-term re-processing and storage of radioactive waste in the Arctic region shall be prohibited. In addition, the management of waste shall be organised.
- There shall be established a Protocol on the pollution of the Arctic environment resulting from prospecting, exploitation and development of the ocean floor and sub-soil thereof. Such activities shall be envisaged in conditions conducive to preventing, reducing, combating and controlling the resultant pollution. The best available technology which is ecologically appropriate and economically effective shall be deployed to this end.
- Matters which of necessity fall within the remit of the Arctic Commission shall include the establishment of marine areas benefiting from special protection by virtue of their fragility or their scientific value. This shall be the subject of a Protocol.
- There shall be established a Protocol on the conservation of living marine resources in the treaty's area of application. It shall include the principles governing captures and related activities; these principles shall be reinforced by the conservation measures to be adopted by the Arctic Commission.
- There shall be established a Protocol on tourist and non-Governmental activities. It shall include *inter alia* security obligations, the procedure to be followed before the beginning of visits, conditions to be complied with during the visits and obligations to be fulfilled after the visits.
- So as to be able to respond to situations which are critical for the environment, States shall provide for prompt and effective action on emergencies which might arise in the performance of human activities governed by the Special Regime.

II-6. *General application of the "International Area" Regime*

- In cases where they might not be subject to special rules provided for under the Treaty, and in accordance with the provisions of article 197 of the United Nations Convention on the Law of the Sea (1982), the Arctic ocean floor and sub-soil thereof beyond the limits of national jurisdiction shall fall within the regime of the "International Area" as defined by the above-mentioned Convention.



II-7. *Guarantee of freedom of scientific research and co-operation*

- There shall be established, in the area governed by the Special Regime of the Treaty, a regime of freedom of scientific research and co-operation consistent with practices during the 2007-2009 International Polar Year.

III. Compliance with the Treaty

- There shall be established a mechanism for publication, exchange of information and discussion between the Parties relating to the activities carried out under their jurisdiction in the area governed by the Special Regime.
- Treaty Parties and the Arctic Commission shall have powers to organise inspections in order to ensure the compliance with the Treaty.
- The Treaty Parties shall provide for the exchange of an annual report.
- A mechanism for the peaceful settlement of disputes shall be provided for; appeals to the Tribunal shall be organised.

IV- The Treaty

- The Treaty shall be open to all States and to any Regional Economic Integration Organisation which has competence in respect of matters governed by the Treaty.
- The Treaty shall be organised as a Framework Treaty with Protocols which are an integral part of the Treaty. Further Protocols may be added.

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