



XXXIX ANTARCTIC TREATY
CONSULTATIVE MEETING
SANTIAGO - CHILE 2016
25 YEARS PROTOCOL ON ENVIRONMENTAL PROTECTION

Agenda Item: ATCM 6

Presented by: United States, Argentina, Australia,
Belgium, Chile, Czech Republic,
Finland, France, Germany, Italy, Japan,
Korea (ROK), Netherlands,
New Zealand, Norway, Poland,
South Africa, Spain, Sweden,
United Kingdom, Uruguay

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Confirming Ongoing Commitment to the Prohibition of Mining Activity in Antarctica, other than for Scientific Research.

Antarctic Mining Ban

Confirming Ongoing Commitment to the Prohibition of Mining Activity in Antarctica, other than for Scientific Research

Working Paper submitted by the United States, Argentina, Australia, Belgium, Chile, Czech Republic, Finland, France, Germany, Italy, Japan, Korea (ROK), Netherlands, New Zealand, Norway, Poland, South Africa, Spain, Sweden, United Kingdom and Uruguay.

Summary

The Environmental Protocol to the Antarctic Treaty has been a tremendous success, and proved to be an efficient tool and an important example of international cooperation related to environmental protection. Although the Protocol has many important provisions, the prohibition on activities relating to mineral resource (other than scientific research) in Article 7, is perhaps for the public the most well-known part of the instrument. This article, colloquially known as the “mining ban,” is a central part of the Parties’ approach to Antarctic environmental protection. In view of the Article’s benefits and importance to the protection of the Antarctic environment, it seems important for the Parties, while we celebrate the 25th anniversary of the Protocol, to recall their long-term commitment to the mining ban.

Unfortunately, outside the Antarctic Treaty system there are many in the public and media who believe incorrectly that the Protocol expires in 2048, at least in part because Article 25 provides that after 50 years from entry into force a Party can request a diplomatic conference to review the operation of the Protocol. Often this view takes the form of a misunderstanding that mining and other economic activities will be allowed and begin in Antarctica at that time. The governments of the Madrid Protocol parties, however, know that there is no automatic end to the Protocol in general, or the mining ban in particular. Indeed, as provided in Article 25 (5), the mining ban under Article 7 continues despite a modification or amendment adopted pursuant to the prior paragraphs of that article, “unless there is in force a binding legal regime on Antarctic mineral resource activities that includes an agreed means for determining whether, and, if so, under which conditions, any such activities would be acceptable.” Hence, there is a very significant barrier to ending or modifying the mining ban, or indeed the Protocol as a whole. Given that the Antarctic Treaty operates on the basis of consensus, the possibility of these important protections unravelling is (and should be) quite remote and very unlikely. It is important that the ATCM at the time of this celebration of the 25th anniversary of the Protocol take strong action to dispel these misconceptions.

Although the Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA) was negotiated in good faith by the Antarctic Treaty Consultative Parties and concluded in Wellington in 1988, a better way forward was found: instead of allowing mining under strict regulation, it would be banned all together. We have all experienced the benefits of this approach, which has served the purpose of underscoring the core principles of Antarctica being devoted to peace and science. The mining ban has not only benefited science by excluding from Antarctica industrial activities that are responsible for pollution and damage to ecosystems, but was also critical to keep the pristine Antarctic environment as preserved as possible for future generations.

At this twenty-five anniversary of the signing of the Madrid Protocol, it is particularly auspicious moment for the Parties to express their continuing strong support as a matter of policy for the mining ban. As a result, in addition to whatever declaration or other document might be adopted by the Meeting related to the 25th Anniversary of the Protocol, our delegations propose that a resolution be adopted along the lines of the draft provided in the attachment to this paper.

Draft Resolution:

Confirming ongoing commitment to the prohibition on Antarctic mineral resource activities, other than for scientific research

Support for the Antarctic Mining Ban

The Representatives,

Recognizing that the Protocol on Environmental Protection to the Antarctic Treaty, which was signed twenty-five years ago, is an essential element of current efforts to protect the Antarctic environment;

Noting that Article 7 of the Protocol provides that, in the Antarctic Treaty area any activity relating to mineral resources, other than scientific research, shall be prohibited;

Recalling that in paragraph 5 of the Washington Ministerial Declaration on the Fiftieth Anniversary of the Antarctic Treaty the Consultative Parties reaffirmed their commitment to Article 7 of the Protocol;

Recommend that their Governments:

1. Acknowledge the benefits to the Antarctic environment and dependent and associated ecosystems that have resulted from the prohibition on activities relating to mineral resources, other than scientific research, under Article 7 of the Protocol;
2. Reaffirm their commitment to Article 7 of the Protocol; and
3. Declare their firm intention to retain and continue to implement this provision as a matter of highest priority to achieve the comprehensive protection of the Antarctic environment and dependent and associated ecosystems.