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COMPETING CLAIMS AMONG ARGENTINA, CHILE,
AND GREAT BRITAIN IN THE ANTARCTIC:
ECONOMIC AND GEOPOLITICAL UNDERCURRENTS

by

Russell G. Lanker

June 1991

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**Competing Claims Among Argentina, Chile, and Great Britain
in the Antarctic: Economic and Geopolitical Undercurrents**

by

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B.S., San José State University, 1980

Submitted in partial fulfillment of the requirements
for the degree of

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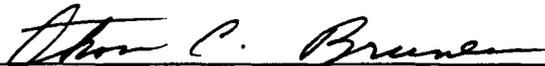
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ABSTRACT

The Antarctic continent holds a vast economic potential in both renewable and non-renewable resources. Therefore, the sovereignty of the continent, and in particular the Antarctic peninsula and Weddell Sea areas, has been a key issue between the two Southern Cone nations of Argentina and Chile for hundreds of years. Currently these two nations, along with Great Britain, have overlapping claims in the region. This thesis examines the geopolitical and historical claims of these and other nations, along with the current and potential mechanisms that are designed to regulate the region. It will also evaluate the potential for conflict in the future over the disputed region and examines current U.S. interests. It concludes that the United States should make every effort to maintain the current Antarctic Treaty System.



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I. INTRODUCTION

The Antarctic continent is unique not only because of its vast starkness and relative isolation, but also because of its special multinational governing regime and its potential economic significance. It is the only continent upon which no nation is sovereign. There are seven nations which have territorial claims to sectors of the continent and three of these overlap. Each nation has its own justification for occupation of the continent, however, these reasons can be categorized into two main groupings: fulfillment of geopolitical goals, or economic aspirations.

Since the early 19th century, for example, the insular regions of the South American continent have been an area of strong contention between Argentina and Chile. On more than one occasion Argentina and Chile nearly became involved in armed conflict over the disputed Beagle Channel. Numerous attempts at a diplomatic solution to the problem were tried, but all failed. It was not until 1984 that the two countries finally resolved their contention over the Channel through ratification of the Peace and Friendship Treaty, arbitrated by the Holy See. In 1982, unable to resolve their differences diplomatically, Argentina chose to engage Great Britain in a war over control of the Falkland Islands group, which resulted in a humiliating defeat for the Argentine forces and proved to be the undoing of the Galtieri regime. The annexation of the Malvinas had

always been a geopolitical goal of Argentina. But, with its failed attempt to acquire the island group and its resultant tenuous relationship with Great Britain, Argentina had no foreseeable opportunity to resolve the dispute through diplomatic means.

The Falklands/Malvinas Island group was not the only area of the South Atlantic where contention existed. In the early part of the twentieth century, Argentina, Chile and Great Britain all laid claim to essentially the same sector of Antarctica. The Antarctic Treaty of 1959, which initially involved twelve nations, did not resolve the sovereignty issue between Argentina, Chile, and Great Britain but rather placed the issue on hold until some future date. Meanwhile, all three nations, plus the other four countries with sovereignty claims in the region, have taken advantage of the lull by attempting to further legitimize their claims through the establishment of permanent bases on the continent.

Currently the potential for conflict in the area is low, but the potential will exist as long as the three nations with overlapping claims continue to position themselves for an eventual play for outright sovereignty of the disputed sector of the Antarctic continent. This thesis will discuss the historical background that has led to tensions in the region and will focus on the geopolitical and economic aspects of the issue as the two main reasons for a possible future confrontation between some combination of Argentina, Chile and Great Britain in the South Atlantic region.

II. THE ANTARCTIC TREATY

A. HISTORICAL PERSPECTIVE

As with any geographic region of the world, the Antarctic has an historical dimension that is relevant and important to the acquisition of a working knowledge of the problems and issues of the area. These issues have gained in importance and intensity since the Antarctic's tentative discovery during Captain Cook's voyage of 1772-1775. Prior to this voyage there had been some speculation of another, yet undiscovered, continent existing in the Southern Hemisphere. The Greeks were actually the first to speculate on this mythical continent which was later dubbed Terra Australis or southern lands. They believed that in order for the earth to be properly balanced there must be a land mass to the south to counter the weight of the Arctic, hence the Antarctic. In 1772, Alexander Dalrymple also speculated about the possibility of a vast southern continent larger than Asia with a population of 50 million.¹

Cook's voyage had not actually proven the existence of a southern continent, indeed it would be another fifty years before that would happen and even then there would be controversy. However, Captain Cook's voyage was not completely without accomplishment,

¹Peter J. Beck, The International Politics of Antarctica (New York: St. Martin's Press, 1986), 24.

because while circumnavigating the continent he proved that no such land mass existed north of 60-70 degrees south latitude.² Cook was so awed by his experience in these "unknown and icy seas" that he said "that no man will ever venture farther than I have done; and that the lands which may lie to the south will never be explored."³ Obviously, Cook was wrong, but at the time the idea of proceeding any further south was absolutely unfathomable given the technical expertise of the era. Further exploration of the region was delayed because of the ensuing political unrest in Europe during the next forty-five years. The French Revolution and the subsequent Napoleonic Wars proved to completely absorb the once abundant funds that had previously supported geographic exploration.

In 1821 a Russian serving under Alexander I, Gottlieb von Bellingshausen, claimed to have found land south of the Antarctic Circle. One year prior to Bellingshausen's claim, Edward Bransfield, representing Great Britain, and the following year Nathaniel Palmer, from the United States, made similar claims.⁴ As early as 1821 three nations had already begun to assert themselves in the Antarctic and by 1839 the Frenchman, Dumont D'Urville, had also joined in the exploration of the region. Although there were numerous

²F.M. Auburn, Antarctic Law and Politics (Bloomington, Ind.: Indiana University Press, 1982), 2.

³Beck, 24.

⁴Luis H. Mericq, Antarctica: Chile's Claim (Washington, D.C.: National Defense University, 1987),7.

expeditions to the Antarctic region during this period, there was no overwhelming interest in the quest for geographical, cartographical or general scientific knowledge, consequently, the area was still a blank spot on most charts of the era. This lackadaisical attitude prompted Commander Matthew Maury, superintendent of the U. S. Naval Observatory and Hydrographical Office, to attempt to organize a nine-nation cooperative effort in the exploration and compilation of scientific data in the Antarctic region in 1861.⁵ At the time, there was little interest in the proposition, nonetheless he is credited with the distinction of the "father of international cooperation in the Antarctic." Although no international explorative effort was established at the time, individual exploration continued.

In 1897 the Belgians sent Adrien de Gerlache to conduct a scientific expedition in the region and the following year a British expedition, commanded by C. E. Borgchgrevink, a Norwegian, was the first to establish a shore base on the southern land mass and to subsequently winter over.⁶ While actual exploration of Antarctica continued slowly, writers such as Spotswood and McIver stimulated the imagination of the populace. The writers carefully combined their vivid imaginations with what little information that had already been gleaned from the region and were quickly developing

⁵Kenneth J. Bertrand, Americans in Antarctica 1775-1948 (New York: American Geographical Society, 1971), 198-206.

⁶Auburn, 2.

fictional accounts of Antarctic adventures based on the ancient myth of a land of temperate climes with populations of 30 million.⁷

Exploration continued on into the twentieth century and was further stimulated by an 1895 International Geographical Congress proclamation that: "the Antarctic was in urgent need of research and exploration."⁸ The proclamation had the desired affect, as the period saw five more previously uninvolved nations become involved; England (Scotland), Norway, Sweden, Australia and Japan. However, the major emphasis was not necessarily to gather scientific data but rather to be the first to reach the South Pole. This news was doubly beneficial because it held the imagination of the populace and stimulated governmental funding for the expeditions. Public interest peaked when the race for the South Pole came down to just two explorers. In 1911 Captain Robert Scott, of the Royal Navy, and Roald Amundsen, of Norway, began their individual quests to be the first to achieve the distinction. Amundsen was a meticulous planner who employed time proven techniques learned from the Eskimos of Greenland in his journey to 90 degrees south latitude. Fair weather, combined with his use of dogs to pull the sleds, careful nutritional planning and skillfulness on skis gave him the advantage as his party reached the Pole on 14 December 1911. Scott, however, did not meet with the same good fortune. He was plagued with foul weather

⁷Beck, 25.

⁸Ibid.

delays, indecisiveness and chose to use a variety of transportation means including tractors, ponies, dogs and finally human power when the animals had all died.⁹ He eventually reached the Pole 33 days after Amundsen, but to no avail because he and his expedition perished on the return trip. Although the death of Robert Scott and his fellow explorers was a tragedy, it did serve to draw even more attention to the region.¹⁰

After the South Pole was reached in 1911, exploration of the interior began in earnest and continued with most notable enthusiasm, especially by the United States. Rear Admiral Richard E. Byrd, USN, headed several privately financed expeditions to the Antarctic (1928-1930 and 1933-1935). His most significant contribution was that of establishing the fact that Antarctica was indeed one Continent,¹¹ albeit covered by a layer of ice that ranges up to 4000 meters (13,120 feet) in thickness.¹² By way of comparison, Mount Whitney in the eastern Sierra Nevada range of California stands 14,495 feet. Such was the U.S. interest that in 1939 the Congress authorized the establishment of the United States Antarctic Service (USAS) and assigned Admiral Byrd as its

⁹Jack Child, Antarctica and South American Geopolitics (New York: Praeger Publishers, 1988), 12.

¹⁰Edward K. Mann, National Security Policy for the Antarctic (Maxwell AFB, Alabama: Air university, 1974), 13-14.

¹¹Beck, 27.

¹²Mericq, 15.

commander, whose purpose was to establish permanent bases in the region. President Franklin Roosevelt expressed the national policy when he told Admiral Byrd that:

The most important thing is to prove (a) that human beings can permanently occupy a portion of the continent, winter and summer; (b) that it is well worth a small annual appropriation to maintain such permanent bases because of their growing value for four purposes- national defense of the Western Hemisphere, radio, meteorology and minerals. Each of these four is of approximately equal importance as far as we now know.¹³

Two bases were established in 1940 but were subsequently abandoned the following year because of WWII. It is clear from the actions of the Congress in the establishment of the USAS and President Roosevelt's message to Admiral Byrd that the United States saw the value of the region and was willing to invest the resources necessary in order to reap the benefits of the Antarctic. However, following the war, the United States did not reactivate the USAS but did continue with the spirit of the initiative by sending a large naval expeditionary force to the region in 1946. It was designated Operation Highjump and was comprised of 13 ships, which included an aircraft carrier, a submarine and nearly 5,000 men.¹⁴ This was followed by Operation Windmill the next year but on a much reduced scale. This post war interest in the region, and especially the operations themselves, represented more than the traditional quest

¹³Beck, 27.

¹⁴Child, Antarctica, 1988, 14.

for scientific knowledge, indeed another dimension of the President's reasons for establishing a presence in Antarctica had been realized with the advent of the Cold War.

Because of increased interest in the Antarctic by extraregional countries, the Argentines and Chileans felt compelled to establish bases on the Antarctic Peninsula, however, the Argentine base was in close proximity to the British colony. Given the long established Anglo-Argentine rivalry, it was not unreasonable to expect that a conflict involving the two nations would eventually follow. The only hostile act between nations that has ever taken place in Antarctica occurred shortly after the British base had been destroyed by a fire in 1948. The Hope Bay incident occurred in February 1952 when the British attempted to rebuild their station. As the British ship began to off-load the construction materials and provisions, the Argentines gave verbal warning for them to stop. When this did not produce the desired results, the Argentines fired a machine gun burst over the heads of the landing party. Consequently, the British withdrew and proceeded to the Falklands where the British authorities were informed. Sir Miles Clifford, the governor, immediately dispatched himself and a contingent of Royal Marines to Hope Bay, whose presence persuaded the Argentines to retreat, allowing for the ultimate reconstruction of the base.¹⁵

¹⁵V. Fuchs, Of Ice and Men: The Story of the British Antarctic Survey (Oswestry: Anthony Nelson, 1982), 164-166.

B. THE INTERNATIONAL GEOPHYSICAL YEAR

Because of the growing international realization of the importance and potential of Antarctica, and given the many territorial claims that had been made and conflicts that had already taken place, something was needed to defuse the potentially volatile situation. The scientific community provided the solution with the concept of the International Geophysical Year (IGY), which actually lasted from 1 July 1957 to 21 December 1958. During this period of international cooperation over 5,000 scientists from 56 countries worked on Antarctic related projects.¹⁶ Scientists from 12 nations: Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, Soviet Union, United Kingdom and the United States, all conducted extensive research from 55 different base stations on the southern continent.¹⁷

The IGY was actually conceptualized in the early 1950's by an American scientist Dr. Lloyd Berkner of the Carnegie Institute. His original idea was to organize a third polar year as a dedicated and purely scientific effort. However, the idea eventually evolved into the IGY concept.¹⁸ A major hindrance to the scientific study of

¹⁶Jeffery F. White, "The Southern Cone and Antarctica: Strategies for the 1990's" (Master's Thesis, University of Florida, 1986), 14.

¹⁷Mann, 15.

¹⁸Albert Crary, "International Geophysical Year: Its Evolution and U.S. Participation," *Antarctic Journal*, vol.XVII, no.4, (1982), 1-4. The first and second polar years took place in 1882-3 and 1932-3 respectively and were primarily concerned with the gathering of scientific data from both the North and South Poles.

Antarctica prior to the inception of the IGY was the issue of sovereignty. Therefore the most important element of the IGY was its emphasis on cooperative efforts between countries. This concept of international cooperation was a watershed for Antarctic politics and the quest for scientific data of the region. At the July 1955 Paris Conference, the so called "Gentleman's Agreement" was touted as an "exclusively scientific and politically innocuous event which advanced the cause of knowledge in which it was agreed not to engage in legal or political argumentation during that period in order that scientific progress might proceed without argumentation."¹⁹

Although the IGY was praised as being non-political in nature and purely scientific, political overtones did manage to taint the program. One of the major political aspects of the IGY, for example, was the locating of bases within "their" respective claimed sectors.²⁰ In other words, nations were taking advantage of the situation by building bases which were hoped would later help legitimize their claims to the Antarctic. Overall however, the International Geophysical Year was a tremendous success. It greatly increased public awareness of the Antarctic and some of its related political issues and more importantly greatly increased the overall scientific data base. Additionally, it spawned a proving ground for new cold weather survival techniques and housing construction, as well as provided a

¹⁹Beck, 48.

²⁰Auburn, 89-93.

neutral environment where international cooperation could exist and be relatively free from political influences. But the single most important contribution of the International Geophysical Year was that it provided the foundation for the Antarctic Treaty.²¹

C. THE TREATY

Since the Antarctic Treaty had its roots in the International Geophysical Year, the two concepts are very similar. The Antarctic Treaty, for example, continues the spirit of international cooperation for the compilation of scientific data from joint research, but the Treaty goes well beyond the scope of the IGY.

The International Geophysical Year would probably have been extended indefinitely except that most of the participating nations perceived a military threat to the region. The Soviets had managed to construct five stations in the southern sector of Wilkes Land, thus giving them a more substantial claim to a sector of Antarctica if and when the opportunity ever presented itself and a military advantage not previously held. The substantial Soviet presence in the region must therefore be considered as a prime motivating factor in the decision to conduct the Washington Conference of October 1959.²² The real issue for the United States and other western nations was

²¹Mann, 15-16.

²²H. Larzilliere, "Territorial Claims in the Polar Regions," La Revue Maritime, no.196, February, 1963, 216-227. Translated from French to English by the Department of the Navy, Office of the Chief of Naval Operations, Office of Naval Intelligence Translation Section by LCDR Hendler, 5.

not so much the possible territorial claims to be gleaned by the USSR but rather the ominous strategic implications of Soviet bases in the Antarctic. Larzilliere points out that:

Military interest was evident, since during the last war German submarines and raiders based in these waters had damaged Allied convoys running the Atlantic and South Pacific. Australia felt threatened by future Soviet missile launching sites.²³

Consequently, the prime motivating factor which led to such cooperation was the threat of the Cold War spreading to Antarctica.²⁴ Additionally, there was a growing number of interested nations intrigued with the possibilities that were evoked by the Antarctic, which further illustrated the need for some sort of long term document that would address all the issues of concern.

Consequently, on 3 May 1958, the United States took the initiative and proposed a conference to discuss how best to deal with the current issues.²⁵ The other nations involved in the IGY accepted the idea of the special conference and the following year meetings began. By 1 December 1959 the treaty had been completely worked out and ratified by Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, the Soviet Union, the United Kingdom and the United States, the same twelve nations

²³Ibid.

²⁴Carlos J. Moneta, "Antarctica, Latin America and the International System in the 1980's Toward a New Order," Journal of Interamerican Studies and World Affairs, vol.23, no.1, (February 1981): 29.

²⁵Mann, 17.

which had been a part of the International Geophysical Year.²⁶ Since that time Poland (1977), Germany (the Federal Republic of Germany, 1981 and the German Democratic Republic, 1987), Brazil (1983), India (1983), the People's Republic of China (1985), Uruguay (1985), Italy (1987), Spain (1988), Sweden (1988), Finland (1989), the Republic of Korea (1989), and Peru (1989) have also become Contracting Parties.²⁷ In order to hold a Contracting Party (or Consultative) position, and therefore be entitled to vote, a nation must be actively engaged in significant scientific research. There are also eighteen non-Contracting Parties (or acceding nations): Austria, Bulgaria, Colombia, Czechoslovakia, Cuba, Canada, Denmark, Ecuador, Greece, Hungary, Netherlands, Papua New Guinea, Romania, and the People's Democratic Republic of Korea.²⁸ These nations are not eligible to vote on Antarctic issues.

The Antarctic Treaty, which was signed on 1 December 1959 and ratified on 23 June 1961, is a document composed of fourteen articles addressing the issues of concern and supplying guidance for

²⁶Myhre, 12-17.

²⁷Child, *Antarctica*, 1988, 19. FBIS Lat 89-024, Lima Television Peruana in Spanish, 3 February 1989, reported that the Peruvian Government has begun construction of a meteorological station at the same site where the Machu Picchu Station will be installed. According to FBIS Lat. 89-195, 11 October 1989, Lima Television Peruana in Spanish, 9 October 1989, Peru became a full Consultative member to the Antarctic Treaty. At a meeting in Paris on 9 October, Foreign Minister Guillermo Larco Cox announced that Peru would now "have a right to participate in the decisions regarding the South Pole."

²⁸"No Consensus on Antarctica," United Nations Chronicle, March 1988, vol. 25, no.1, 77.

all participants in the affairs of the Antarctic (see Appendix A for the treaty in its entirety). The more important points of the treaty are as follows:

Article I. Any military activities such as the establishment of bases and fortifications, conducting any military maneuvers and the testing of any type of weapons is prohibited. However, it does allow for the use of military personnel to conduct scientific research.

Article II. Antarctica is designated an area in which there shall be no restriction on scientific investigation.

Article III. Calls for the free exchange of all scientific data, future experimentation projects and scientific personnel.

Article IV. By subscribing to the treaty the signatories are not forfeiting their right to any claims of sovereignty. But by the same token no new claims or expansion of existing claims can be made as long as the treaty is in force.

Article V. All nuclear explosions and disposal of nuclear waste are specifically prohibited.

Article VI. The applicability of the treaty extends to 60 degrees south latitude and in no way is to interfere with any nation's rights with concern to passage of the region on the high seas in accordance with international law.

Article VII. Aerial observation and on site inspection of all participant's facilities, which includes all dwellings, aircraft and ships, is authorized in order to verify compliance with the treaty.

Article VIII. Basic law article which states that all personnel are subject to the jurisdiction of the Contracting Party of which they are nationals. With regards to any other person whose country is not a Contracting Party, the member nations are directed to consult with one another in order to resolve the issue.

Article IX. Representatives of the signatory nations are directed to meet at suitable intervals in order to exchange information and to better facilitate scientific research, international scientific cooperation, exercise of rights of inspection as per Article VII.

Article XI. If a dispute arises between two or more Contracting Parties they are obligated to resolve their differences by negotiation, mediation, arbitration, or other peaceful means. If these methods fail to resolve the conflict then the matter shall, with the consent of all parties, be referred to the International Court of Justice.

Article XII. The treaty may be amended at any time with the consent of the Contracting Parties whose representatives are eligible to participate in accordance with Article IX. A nation has two years in which to ratify the new amendment. If no action is taken within that period then that nation is considered to have withdrawn from the treaty. The entire treaty is eligible for review after thirty years at the request of any Contracting Party still eligible under the provisions of Article IX.²⁹

²⁹It is important to note that review of the Antarctic Treaty is in no way mandatory under the provisions of the treaty itself. As of this date no

Article XIII. In addition to the twelve signatory nations the treaty shall be open for any member nation of the United Nations for accession or by any other nation so invited and approved by the Contracting Parties. The United States is designated as the depository government.³⁰

As can be seen from the foregoing summary, the Antarctic Treaty covers a fairly wide range of issues while effectively pigeonholing the question of individual sovereignty claims. Although this was one of the treaty's goals, it more effectively accomplishes two others; the establishment of scientific cooperation, and the institution of a continent devoid of military activity including related items such as conventional and nuclear weapons testing.³¹ It would seem that at the time of the Washington Conference in October 1959, attempting to resolve the sovereignty issue would have effectively diminished all chances of accomplishing the scientific and demilitarization goals of the treaty. Therefore, it was more expeditious to postpone any negotiations relative to sovereignty. The treaty was valid for at least 30 years from the time of its ratification and would allow contending nations to delay these sovereignty issues at least until 1991.

signatory nation has called for a review. Thirty years will expire on 23 June 1991.

³⁰Derived from the Antarctic Treaty as reproduced in Myhre.

³¹Larzilliere, 7.

III. THE ECONOMIC SIGNIFICANCE OF ANTARCTICA

The vast Antarctic continent and littoral regions have both tremendous potential and proven renewable and non-renewable resources. The littoral regions of the Antarctic were first exploited when whaling and sealing ships began to harvest the abundant sea life in the late 1700's. This continued into the mid-twentieth century. For example, during the 1933-1934 season 80.1 percent of all whales harvested and 92.6 percent of whale oil production in the world came from the Antarctic region. The 1938-1939 season yielded even more with 84.1 percent and 94.2 percent respectively.³²

Mineral and hydrocarbon deposits on the other hand have not been found in large quantities, speculation mostly exists as to the possible estimates. The continental drift theory is the major supporter of the idea of large, minable deposits of ore and petroleum. According to the theory, an extremely large land mass, Gondwanaland, existed 150,000,000 years ago which eventually broke up into present day South America, Africa, India, Antarctica, Australia and New Zealand.³³ The substantiation for the theory is based on similar geological and paleontological features found on all six continents.

³²Beck, 26-27.

³³Henry C. Lane, LCDR. USN., Current Issues Concerning the Antarctic Treaty System (Newport: Naval War College, 1984), 11.

Recently researchers at the University of California at Davis and the University of Texas have introduced an amplifying hypothesis to the Gondwanaland theory. These researchers speculate that somewhere between 500 and 700 million years ago the Antarctic continent was part of North America before it began to drift south and become part of Gondwanaland. They base their theory on matching rock formations now found in Nevada, Idaho and into the Canadian Rockies and along the Transantarctic Mountains of the southern continent.³⁴

A. RENEWABLE RESOURCES

The icy waters surrounding Antarctica have an abundance of economically viable marine life such as krill, seals, finfish, squid and migrating whales, while the land/ice mass' organic resources have no commercial value. The only major life forms on the continent itself are four species of penguins and the various types of flying birds, of which there are nearly fifty species.³⁵

Krill is a small shrimp-like organism that is used as a food supplement in many countries and is the principal food source for whales and some species of seals. Because it consists of fifteen percent protein, krill has the potential to become a staple in the human diet as well and also could be used as animal fodder or

³⁴Deborah Blum, "Geologists see California ties to Antarctica," San Jose Mercury, 27 March 1991, D1.

³⁵Mercq, 26.

fertilizer. The nations most actively involved in the harvesting of krill are the USSR, Bulgaria, Poland and Japan, with Chile, Germany, South Korea and Taiwan which are experimenting with additional methods for its use. Currently, krill is sold in bulk, raw form and can be fried, used in pate or in various other forms.³⁶

Krill are found in the ocean traveling in extremely large schools covering several square miles. These large quantities are generally found drifting with the current within the first 55 fathoms of water, with the greatest concentration being within the top five fathoms. Since this is essentially the same depth of water that commercial grades of warm water shrimp are harvested, there was no need to develop any new form of technology for the taking of krill.³⁷ By some 1976 estimates, it can be scooped up at a rate of 50 tons per knot.³⁸ It is estimated that 100 million tons of krill can be extracted annually without having any impact on the Antarctic ecosystem. The major reason for such an abundance of the small crustaceans is attributed to the Antarctic Convergence Zone. This is the boundary between the Antarctic Ocean and the convergence of the Pacific, Atlantic and Indian Oceans. It forms an irregular boundary around the continent and is evidenced by a five degree temperature differential and an increase in salinity. This convergence, caused by

³⁶Ibid, 23.

³⁷Francisco Orrego Vincuna, ed., Antarctic Resources Policy: Scientific, Legal, and Political Issues. (Cambridge: Cambridge University Press, 1983), 30.

³⁸Meriq, 23.

the temperature differential, causes the warmer northern waters to rise above the colder Antarctic water dredging up rich nutrients from the ocean bottom as it rises. The krill and phytoplankton then congregate in large quantities around these areas.³⁹

Beginning in the late 1700's fur seals were harvested in such large quantities that they nearly became extinct. Consequently, commercial sealing was halted at the beginning of this century and is now regulated by the Convention for Conservation of Antarctic Marine Living Resources (CCAMLR).⁴⁰ According to this agreement, limited numbers of crabeater, leopard, and Weddell seals can be harvested while no Ross, elephant or southern fur seals can be taken.⁴¹ Since the hunting restrictions were applied, the populations have increased significantly and all species of seals could potentially be harvested again.

Finfish and squid are also commercially harvested predominantly in the northern Antarctic insular regions because the Antarctic Treaty prohibits fishing south of 60 degree south latitude.⁴² Of the

³⁹Lane, 13.

⁴⁰Ibid, 15.

⁴¹Jonathan I. Charney, ed., The New Nationalism and the Use of Common Spaces (Totowa, New Jersey: Allenheld, Osmun Publishers, 1982), 122.

⁴²According to EBIS Lat 88-041 Santiago La Tercera De La Hora in Spanish, 25 February 88, p8, Soviet fishing trawlers have been frequently violating the treaty by fishing beyond the limit set by the treaty, to which the Soviet Union was one of the original twelve nations to subscribe to the document. This is not an uncommon behavior for the Soviets.

fish that are found in this region most are large headed and demersal, whose habitat is the deep ocean. The species most available for human consumption are cod and herring, however the potential gain from the harvest is substantially offset by distance, climatic conditions and the lack of dense shoals.⁴³ Most of the commercial fishing that take does place is in the vicinity of South Georgia and the Kerguelen Islands .⁴⁴ These two areas were heavily fished in the period 1969-1974, during which time the annual catch dropped from 432,000 tons to 13,500 tons. This drop was thought to be indicative of a fish population that had a slow growth rate and significant longevity and showed that stocks had been reduced below the substantial yield figure.⁴⁵ Consequently, there is little known of the fish and squid population in the Antarctic littoral regions.

As previously mentioned, the whaling industry contributed significantly to the world supply of whale products, supplying nearly 95 percent of the demand for blubber. This tremendous economic resource was the original catalyst for political and scientific interest in the region and as Beck points out: "proved a major factor in serving not only to undermine the continent's isolation from the mainstream of international affairs but also to promote scientific

⁴³Beck, 216.

⁴⁴White, 33.

⁴⁵Knox, 38-9.

research on whales and related aspects."⁴⁶ Since the early days the demand for whale products has dropped significantly, but so have the numbers of whales. Some studies show as much as a 16 percent drop in the biomass level, which is most likely a combination of continued hunting by the Soviet Union and Japan, despite an international moratorium since 1986, and the large krill harvests.⁴⁷ Even though these two nations continue to conduct whaling activities, it is not currently considered nor likely to be a significant economic activity in the Antarctic region.

In November 1990, ignoring international appeals, the Japanese began their fourth season of what they term "research expeditions" to Antarctic waters. They plan to harvest 300 minke whales during the four month expedition. Many environmental groups have claimed the trip is simply a cover for continued commercial whaling.⁴⁸

Not often considered as a resource, are icebergs. The Antarctic ice mass contains nearly 90 percent of the earth's fresh water. It is estimated that 1200 cubic kilometers of ice break away from the ice shelf each year. If only ten percent of the water could be used there would be enough to service a geographical area with a population of

⁴⁶Beck, 217.

⁴⁷Ibid, 217. Since krill is the primary source of food for the whales, its harvest, and thus its availability, also affects the whale population.

⁴⁸"Whaling Ships Leave for Antarctica," San Jose Mercury, 25 November 1990, A21.

500 million.⁴⁹ Despite the obvious benefits of enormous quantities of fresh water for drought-stricken areas of the world, there are some obvious major obstacles which must be overcome in order to realize these benefits. The actual transportation of the iceberg is not necessarily a major problem, depending upon the draft of the berg, which can be as much as 650 feet. Herein, however, lies the major difficulty because the below water depth of the iceberg will dictate how close it can be towed to shore. By comparison the typical continental shelf has a depth of 650 feet at its outer edge. Therefore, depending upon the draft of the iceberg the water may have to be pumped a considerable distance.⁵⁰ At the present time, this sort of idea is not very practical, however, with certain technological advances it could become very feasible.

B. NON-RENEWABLE RESOURCES

There has been much speculation as to the exact amounts of minerals and hydrocarbons existing on the Antarctic continent. Besides the large coal deposits found along the Transantarctic Mountains and iron ore deposits in the eastern portion of the continent, there has yet to be definitive proof of significant mineral deposits. There is evidence, however, that indicates a high probability of ore grade mineral deposits along the Antarctic

⁴⁹J.F. Lovering and J.R.V. Prescott, Last of Lands...Antarctica (Melbourne: Melbourne University Press, 1975), 56.

⁵⁰White, 37.

Peninsula. The geological structure of the exposed rock formations of this curvilinear mountain chain are strikingly similar to the basic structure of the Andes, which tends to lend credibility to the speculation of similar ore deposits.⁵¹ The Andes have large deposits of porphyry type mineralization such as copper and molybdenum. There is no question that the two mountain ranges are very similar but there are also some important differences. The major dissimilarity is that the pophyry type mineral deposits are of low quality and spread through large amounts of rock.⁵²

Assuming that the theories and predictions of a Gondwanaland are correct, it will nonetheless be extremely difficult to locate these deposits given that only two percent of the land mass is exposed.⁵³ Despite this fact, scientists have conducted sufficient studies about the "geological and tectonic structure" of the continent to justify some general facts. Zumberge notes that:

⁵¹Maarten J. De Wit, Minerals and Mining in Antarctica (Oxford: Clarendon Press, 1985), 15.

⁵²Ibid, 16.

⁵³Mercq, 28.

while such "broad brush" approaches to the question of resources will not yield specific information as to where exploration should be concentrated, a general understanding of the overall geologic relationships is the first step in narrowing the areas of future interest. It must be kept in mind also that each new field of geologic activity in Antarctica adds new increments of information to the overall geologic understanding of the continent and surrounding sea bed.⁵⁴

Mining in polar regions is not a new concept as it has been done quite successfully in the Arctic areas (above 60 degrees north) of Canada, Greenland, Alaska, Norway and the Soviet Union. There are over 35 operating mines, with eleven operating above 70 degrees north, that extract copper, nickel, cobalt, gold, lead, zinc, iron, tin, diamonds and coal.⁵⁵ Two mines in Canada, the Polaris and Black Angel mines, served as the models for a feasibility study of proposed mines in the Antarctic. These two mines, having most of the exact same characteristics as would be encountered in the Antarctic, proved to be productive and profitable despite the low commodity prices at the time of the evaluation.⁵⁶

In 1972, extensive surface drilling was conducted in order to confirm the presence of suspected lead-zinc ore deposits, at what would later become the Polaris Mine. In 1973, after the deposit was

⁵⁴Charney, 124.

⁵⁵De Wit, 8. The majority of these mines are in the Soviet Union which makes it difficult to evaluate their relative efficiency as compared to other mines in Canada.

⁵⁶Ibid, 8-13. These mining operations would be similar in scope to the Antarctic conditions in that this region is also covered by a permanent ice cap, albeit only 3 km thick.

confirmed, a five year feasibility study began. In 1981, the study concluded that capital costs would run \$112.5 million with working capital costing \$32.4 million and reaching \$35.3 million by 1985.⁵⁷ If these costs are projected to 1991, using a nominal five percent inflation adjustment, estimated capital costs would be \$168.8 million with working capital running \$45.9 million needed to construct and begin a mining operation in the Antarctic.

The Polaris Mine is located at 77 degrees north latitude which is the northern-most hard-rock mine in the world.⁵⁸ This is an important fact because it lends credibility to the applicability of the study as it would apply to the installation of a similar mine in the Antarctic. The climatic conditions of both regions are also similar, having dry, cold conditions with winter time temperatures varying from -50 to -10 degrees centigrade. Both regions have thick layers of ice covering the land mass as well, with the Antarctic having the thickest.⁵⁹ Therefore, these studies would suggest that the possibilities for the successful establishment of a mine in the Antarctic would seem to be greatly increased.

In recent years the continental shelves of Argentina and Brazil have been explored for hydrocarbon deposits, which have yielded significant quantities of natural gas. Antarctica's continental shelf,

⁵⁷Ibid, 11-12.

⁵⁸Ibid, 11.

⁵⁹Charney, 119.

therefore, was also a prime candidate for exploration. After exploring Antarctica's excessively deep and narrow continental shelf, it was determined that the Ross Sea was the best area in which to drill for hydrocarbon deposits. After extensive marine geophysical studies had been conducted, the Glomar Challenger drilled four holes and discovered methane, ethane, and ethylene in three of the four holes.⁶⁰ Data drawn from the Glomar Challenger finding indicated that 45 billion barrels of oil and 115 trillion cubic feet of natural gas were present in the Ross Sea Basin.⁶¹

Other areas of potential hydrocarbon deposits are the Weddell and Bellingshausen seas.⁶² Since no actual oil has been tapped, these estimates are based upon the amount of associated gases that were discovered while drilling the holes. Recent estimates by the United States Geological Survey have estimated that these three areas have a potential yield ranging from 19 to 203 billion barrels.⁶³ In comparison, the Prudhoe Bay oil field of Alaska's northern slope is

⁶⁰Ibid, 127.

⁶¹Christopher C. Joyner and Sudhir K. Chopra, eds., The Antarctic Legal Regime (Boston: Martinus Nijhoff Publishers, 1988), 131.

⁶²Auburn, 245.

⁶³Betsey Carpenter, "Opening the Last Frontier," U.S. News & World Report, 24 October 1988, 66.

considered a supergiant field, which has little more than 9 billion barrels of oil and measures only about 20 kilometers across.⁶⁴

There is however, some dissent in the field of geology as to just how reliable these estimates are. According to David H. Elliot, a geologist at Ohio State University and director of the Byrd Polar Research Center, "far too few test holes have been drilled or scientific soundings conducted to locate any major deposits." He further points out that the construction of offshore drilling rigs would pose a greater risk and be much more expensive to operate than rigs in other similar conditions, presumably because of the extreme water depths.⁶⁵

In any case the potential for extremely large hydrocarbon deposits has been proven, whether or not it contains 19 billion or 203 billion barrels is not the issue. The exact amount of reserves, estimated costs of production and technical details can be worked out once the decision to actually begin production is made. But first the much broader issue of allowing for the establishment of a mineral and hydrocarbon regime must be addressed.

C. THE WELLINGTON CONVENTION

In 1982 talks began in Wellington, New Zealand to establish some international guidelines for the potential mining and drilling in the

⁶⁴Malcome W. Browne, "France and Australia Kill Pact on Limited Antarctic Mining and Oil Drilling," New York Times, 25 September 1989, A10L.

⁶⁵Ibid.

Antarctic region. Although there has been a voluntary moratorium on mining, drilling and prospecting since 1977, it was generally felt that some formal guidelines needed to be established before some international crisis prompting extensive oil exploration occurred or minerals were discovered in commercially extractable quantities. The convention on the Regulation of Antarctic Mineral Resource Activities, more commonly known as the Wellington Convention, was chaired by Christopher Beeby, a diplomat from New Zealand's foreign office, who noted that such a scramble would jeopardize not only the environment but the Antarctic Treaty itself.⁶⁶ On 2 June 1988 the 33 nations involved in the negotiations reached an agreement on the framework by which to regulate the mining of the Antarctic.

Mr. Beeby also prepared the draft resolution which detailed guidelines for the regime and called for the establishment of a commission, an advisory committee, secretariat and regulatory committees. The convention states that decisions about mining activities "shall be based on information adequate to enable informed judgments to be made and no such activities shall take place unless this information is made available..." These activities will not be permitted if they will cause a significant change to the Antarctic environment.⁶⁷ The first step for a potential prospector would

⁶⁶David Clark Scott, "Treaty Opens Up World's Last Untouched Continent To Mining," Christian Science Monitor, 7 June 1988, 9.

⁶⁷Majorie Sun, "Antarctica Pact Could Open Way for Mining," Science, 17 June 1988, 1612.

involve the collection of samples to determine where the mine should be constructed.

The convention calls for this to be done in an environmentally safe manner. In order to ensure compliance with this requirement, the prospecting state is required to notify the Secretariat of the details of the search such as location, type of minerals sought and duration of the search three months prior to the commencement of prospecting. This information would then be disseminated to the various Commission members for their consideration. Prospecting may begin on the date submitted to the Secretariat providing that no other commission member objects. If an objection by any one member arises, a meeting must be scheduled within three months to discuss the issue.⁶⁸ Prospecting under the guidance of the Antarctic Treaty came under the rubric of scientific exploration. The information collected under the auspices of the treaty was required to be disseminated among the member nations. Under the Wellington Convention this same information would be the property of the prospecting nation and would require dissemination only after ten years.

If the prospecting reveals a potential lode, then the prospecting state petitions the Commission for an application to "explore" the area more thoroughly. If approved, this would involve drilling, dredging or blasting and the submission of an environmental impact

⁶⁸Myhre, 102.

report detailing the exact minerals to be mined and the method of exploration to be used etc. Once a positive determination has been made, a regulatory committee, composed of the requesting state, claimants in whose claim the the area lies, the United States, the Soviet Union, (plus the claimants may appoint up to three other parties), is established. After the claimant states have been established, the committee chairman appoints an equal number of non-claimant states to the committee.⁶⁹ The advisory committee then considers the environmental impact on the area, the financial solvency of the operator, and whether or not there is sufficient technical expertise to operate the project. The process continues in the same manner, passing through various other committees until a final determination is made.

The Convention requires that there be a unanimous vote by all 21 voting nations before permission is granted for an operator to begin exploration. Mr. Beeby states that he "knows of no other national law, certainly not in New Zealand, that says you can't mine in area X or chop down trees in area Y unless all interested groups say, 'yes'." Additionally the convention requires, for example, that if an oil spill occurs, then the mining operator would be held liable for the clean up and be required to restore the ecosystem to its pre-spill condition.

⁶⁹Ibid, 102-103. The United States and the Soviet Union are permanent members on this committee and will always be a part of the process.

If the operator fails to comply or falls short on the restoration process, then the sponsoring nation will be held responsible.⁷⁰

Ratification of the Wellington Convention with its oil spill provision would effectively prevent a repeat of the 31 January 1988, Bahia Paraiso aftermath in which the Argentine ship struck a pinnacle while exiting a channel and subsequently sank.⁷¹ Elaborate plans were made to clean up the spill but as of February 1990 no effort had been made by the Argentines to begin to clean up the 55,000 gallons of diesel fuel that continues to leak from the stricken ship.⁷²

Despite the checks and balances that are seemingly built into the convention, it has nonetheless drawn considerable criticism from such environmental groups as Greenpeace and the Cousteau Society. They contend that the effects of an oil spill could last for over 100 years and point out that in the proposed convention, operators are not liable if damages result from a "natural disaster of an exceptional character," or an act of terrorism, or war. Additionally, they liken the "unanimous consent requirement" to horse-trading, saying that

⁷⁰Sun, 1612.

⁷¹"Navy Denies Weapons on Sunken Ship," in EBIS, Lat 89-048, Madrid EFE in Spanish, 3 March 1989.

⁷²Robert Hennelly, "The End of Antarctica?," Christian Science Monitor, 7 February 1990, 19.

no one will vote against anyone else because turn-about is fair play.⁷³

The solution that environmentalists seek is a total and complete ban on all mining and drilling activities in the Antarctic in favor of the establishment of a "wilderness park."⁷⁴ In that vein, they lobbied long and hard for the 21 treaty nations to reject the proposed Wellington Convention. The lobbying effort has apparently been successful because Australia and France thus far refused to ratify the convention.⁷⁵ In order for the Convention to enter into effect, 16 of the countries that adopted the plan at the negotiations must ratify it. Additionally, of the 16, all seven of the claimant nations, plus the United States and the Soviet Union, and seven others of which three must be developing countries.⁷⁶

This refusal to ratify the Convention does not kill the ratification process but will require a concerted effort on the part of the other nations who have already ratified the convention, to persuade these two countries to adopt it. On 23 September 1989, Senator Albert Gore Jr. (D. Tennessee) announced his support for the "wilderness park" concept by introducing a resolution in the Senate calling for a

⁷³Scott, 10.

⁷⁴Talks in Paris on Protecting Antarctic Fail," New York Times, 22 October 1989, 16.

⁷⁵Browne, A10.

⁷⁶James E. Mielke, "Antarctic Mineral Resource Activities: Regulate or Prohibit?," Congressional Research Service 11 (November-December 1990): 23.

stronger Antarctic agreement that would establish a "global ecological commons there preserving the continent in its nearly pristine state." Tucker Scully, Director of Ocean and Polar Affairs for the State Department, stated that the official U.S. view "opposed an outright ban on mining because it could be easily overridden in the event of a large oil or mineral discovery," and adds that it is better to have a system in place than none at all.⁷⁷

Despite the seven years of negotiations and the Convention's adoption by the a consensus of the negotiation's delegates, including the United States, the U.S. Congress significantly undermined the chances for its ratification when Senator John Kerry (D-Mass.), and other environmentally minded politicians, recently introduced a bill into the Senate, S2575 (Appendix B.) that would make it a crime for any American to engage in mining operations in the Antarctic. The Senate passed their version of the bill on 14 September 1990 while the House passed their version on 27 September.⁷⁸ The President has yet to sign the bill into law.

This congressional action sent a strong message to a meeting in Chile in December 1990 considering the possibility of closing all mining activities for a period of 30 to 50 years. During the meeting there were only three nations, England, Japan and South Korea who

⁷⁷"U.S.-Backed Antarctic Pact Criticized," Washington Post, 30 September 1989, A17.

⁷⁸"House Panel OKs Bill to Protect Environment in Antarctica," Congressional Quarterly, Washington, D.C.: GPO, 29 Septembr 1990, 3116.

were opposed to such a permanent ban. Curtis Bohlen, head of the U.S. delegation, speculated that a final international decision will be reached in the Fall of 1991.⁷⁹

Such international action is likely to kill any final hope of ratification of the Wellington Convention. There are compelling arguments on both sides of the issue. But the enforcement of any international mining ban, as Tucker Scully has suggested, is only good as long no minerals or hydrocarbon deposits are discovered.

⁷⁹Betsy Carpenter, "Wilderness Park in Antarctica," U.S. News and World Report, 7 January 1991, 70.

IV. COMPETING CLAIMS

A. BACKGROUND

Between 1908 and 1946, seven nations laid territorial claims to the Antarctic continent: Argentina, Chile, Great Britain, (whose claims overlap), Norway, New Zealand, Australia and France. The first negotiations for Antarctic territory took place between Chile and Argentina from 1906 until 1908. The agreement was almost complete when the Argentine minister of foreign affairs resigned, and ultimately left the proposal a dead issue. Sensing an urgency and seeing an opportunity in the confusion, the United Kingdom made the first formal claim on 21 July 1908 and based it on its previous exploration and discoveries made in the region.⁸⁰ Thus began the Antarctic land appropriation era.

The period between 1908 and 1938 saw little interest by other nations in making territorial claims. The only claims that were staked during this period were a result of the joint Australian, New Zealand and British BANZARE expedition of 1929-31. Great Britain granted New Zealand the Ross Dependency and in 1933 Australia made its own two sector claim.⁸¹ However, as WWII approached world attention was refocused on the Antarctic. This renewed

⁸⁰Maria Luisa, "Chile's Antarctic Claims," Financial Times of London, 12 February 1990, in ISLA.

⁸¹Beck, 29.

interest was sparked by the presence of the German catapult ship, Schwabenland, carrying two seaplanes, off of the Antarctic coast in 1938. Its was dispatched by Hitler for the purpose of claiming a portion of Antarctica for the Third Reich. The seaplanes flew over the continent dropping markers to designate the German claim.⁸² By this time Germany had already reoccupied the Rhineland (March 1936) and had annexed Austria by 13 March 1938.⁸³ Based on these actions, the Europeans and others with Antarctic interests were not comfortable with Hitler possessing territory in the Antarctic, therefore, Norway and France laid their official claims to the continent in 1939 and Argentina and Chile made formal claims in 1940 and 1943 respectively (see Map 1).⁸⁴

B. ARGENTINE CLAIMS

In 1942 the *Primero de Mayo* left on a voyage designed to exactly delineate Argentina's 1940 paper claim to the continent and its insular regions. The claim was to be made from a point radiating from the South Pole and bounded by 60 degrees south latitude and between 25 and 74 degrees west longitude.⁸⁵ As the ship made its

⁸²White, 8.

⁸³William L. Langer, An Encyclopedia of World History (Boston: Houghton Mifflin Company, 1980), 1011-1012.

⁸⁴Jack Child, Geopolitics and Conflict in South America (New York: Praeger Publishers, 1985), 135.

⁸⁵Child, *Antarctica*, 1988, 65.

voyage, it stopped at various points along the way to deposit bronze plaques and plant the Argentine flag as a symbol of Argentine sovereignty. The following year the Primero de Mayo returned, carrying three Chilean observers, to the spots where the plaques had been deposited only to find the one left on Deception Island had been removed and replaced by the British. The British had left a message stating that the island and whaling station were the property of the Crown. Undaunted, the Argentines left yet another plaque with their own message, but nothing ever came of the incident.⁸⁶

As with the claim to the Falklands, Argentina points to the Treaty of Tordesillas of 1494 as justification of its claim to the Antarctic sector. The treaty drew the boundary between Spanish and Portuguese claims with the dividing line running from pole to pole along 53 degrees west longitude. Everything to the east belonged to Portugal and everything to the west was deemed Spanish territory. This treaty had replaced the Papal Bull of 1493 which gave Spain the rights to its New World possessions and the surrounding water in order to control trade.⁸⁷ When Latin America won its independence from Spain, all property rights supposedly transferred as well. Additionally, the *uti possidetis* of 1810 is cited as the principle by which each Latin American nation adheres to the former Spanish

⁸⁶White, 9. According to Child, *Antarctica*, 1988, the document was taken from the island and handed over to the British Ambassador, who returned it the Argentine government in Buenos Aires.

⁸⁷Falklands/Malvinas: Whose War? (London: Latin American Bureau, 1982), 30.

Provincial boundaries. This principle was originally designed to forestall any attempts by other European nations to claim land in the New World. According to the principle "all land in Spanish America, no matter how remote or inhospitable is deemed to have been part of one of the former administrative divisions of colonial rule." The main issue is not the validity of the principle itself but rather the reliability of the charts and maps in relationship to the actual boundaries. The major argument against *uti possidetis* is that it can only be applied to lands to which Spain had title in 1810. Great Britain, for example, claims *res nullius* and is quick to point out that there is little to no evidence to suggest otherwise with regards to the Antarctic.⁸⁸

The Argentines cite various other justifications for their claim such as propinquity, geological continuity, rescue activities, permanent occupation and administrative activities. The propinquity argument points out that Argentina, and for that matter Chile, is twice as close to the Antarctic land mass as any other claimant (New Zealand). Geological continuity is borne out by the Gondwanaland theory and the fact that the same minerals are found in the Antarctic peninsula as are present in the Andes. One classic example of a rescue operation took place in 1903 when the Argentine ship *Uruguay* rescued the Swedish *Nordenskjold* expedition. Permanent occupation of the region south of 60 degrees south is cited by the

⁸⁸Auburn, 49-50.

continuous occupation of the Laurie Island meteorological station in the South Orkneys since 1904, forty years before any other nation. The Laurie Island facility also fulfills their administrative requirement for enhancement of their sovereignty claim, by virtue of the establishment of the first post office in the region in 1904.⁸⁹

Because of a growing geopolitical awareness, the Argentines first established bases on the Antarctic continent in 1947 as a means of further strengthening their sovereignty claim. According to Jack Child, "there is a strongly developed "Antarctic consciousness" in Argentina, and a deeply held belief that the nation will never be complete until the various parts of Argentina (South American, Insular, Antarctic, and the Argentine Sea) are under full Argentine control."⁹⁰ A prime example of this perspective, is borne out by a close examination of the Bahia Paraiso incident. The Antarctic channel through which the ship transited was explicitly delineated on the U.S. and British charts showing "dangerous ledges and pinnacles." The Argentine captain chose to ignore warnings from the U.S. representatives and ultimately put a 30 foot gash in the stern of his ship, causing it to sink. His actions undoubtedly arise from the strong Argentine conviction of sovereignty of the territory.⁹¹ In

⁸⁹Child, *Antarctica*, 1988, 69.

⁹⁰Philip Kelly and Jack Child, eds., *Geopolitics of the Southern Cone and Antarctica* (Boulder: Lynne Rienner Publishers, 1988), 194.

⁹¹Bruce S. Manheim Jr., "Antarctica: The Fragile Last Frontier," *Christian Science Monitor*, 23 March 1989, 19.

February 1988, marking the 84th anniversary of Argentina's presence in the Antarctic, Minister Horacio Juanarena said that "this presence was a kind of destiny closely linked to the rest of Argentine life... that in government we feel that our legitimate sovereignty claims in the area shall be strengthened that day before the world by the testimony of the true, professional and effective scientific activity developed by our men in that portion of a hostile land."⁹²

If and when the time ever comes to defend an Antarctic claim, the key element that will be used in the determination of sovereignty will be the examination of the degree to which occupation of the disputed sector, by the claimant nation, has occurred. In view of this occupation requirement, Argentina began to settle families on the continent and was the first to produce a native Antarctic, born in 1978.⁹³ Argentina will continue to take every opportunity to establish any sort of activity that will enhance its chances for a favorable ruling on the sovereignty issue. In December 1987, President Alfonsín noted in a send-off speech to a group of Argentine scientists and military personnel, that their presence in the Antarctic: "will contribute to reaffirming the legal, geographical, political and historical record concerning our rights in the Antarctic... this task epitomizes the country's vast human and

⁹²"Juanarena Views Antarctic Sector, Treaty," in EBIS, Lat 88-036, Buenos Aires Herald in English, 23 February 1988, 11.

⁹³Mimi Whitefield, "New Colonies Are Changing Antarctica," Miami Herald, 6 December 1985, in ISLA.

material effort to support its rights which no doubt are marked by eight decades of generous dedication."⁹⁴

C. CHILEAN CLAIMS

With regards to Antarctica, the Chileans are just as adamant about their claim as the Argentines. The Chileans claim that possession of the Antarctic was first given to them in 1539 by Charles V in a decree giving them charge of all territory south of the Strait of Magellan. They also cite such other decrees as the Royal Edict of 29 May 1555, which appointed a governor to Chile and at the same time charged him with exploration of the lands "around" the Strait of Magellan. Three years latter the governor died and Francisco de Villagra was appointed. King Ferdinand I instructed the new governor to explore the territory south of the strait and that: "possession be taken in our name of the lands and providences which fall within the demarcation of the Crown of Castillo, putting the crosses and signs and making the necessary statement in witness thereof."⁹⁵ In 1556, the 16th century Spanish poet, Alonso de Ercilla noted in his poem, *La Araucana*, that Chile was "famous" in the Antarctic."⁹⁶

⁹⁴"Alfonsin Views National Presence in Antarctica," in *FBIS*, Lat 87-249, Noticias Argentinas in Spanish, 22 December 1987.

⁹⁵Mercq, 90-91.

⁹⁶Luisa, in *ISLA*.

In a report to the "Council of Indias," in 1761 the Chileans listed Patagonia, Tierra del Fuego and the known Antarctic islands as belonging to Chile. After this period Chile pursued the legitimation of its claims in much the same manner as Argentina, for example, pointing to the principle of *uti possidetis*, continuing to make various other decrees and establishing whaling stations.⁹⁷

In the twentieth century Chile too has realized the importance of propinquity, geological continuity, occupation, administrative activities and rescue operations in order to enhance its chances of successfully defending any future sovereignty claims. The Chilean sector stems from the South Pole to 60 degrees south latitude and is bounded on the east and west by 53 and 90 degrees west longitude respectively. The rationale for the dimensions of the sector came partly from the Treaty of Tordesillas and the Rio Pact of 1947. The eastern most boundary of the treaty put the Spanish possessions west of 53 degrees west. During the negotiations for the Rio Pact, Argentina and Chile wanted Antarctica to be subject to the pact as well. Publicly the reason given for inclusion of Antarctica was protection of their individual Antarctic territorial claims from extra-hemispheric belligerents, but at the individual government level, Argentina and Chile desired hemispheric protection against each other. This area was deemed to be bracketed by 24 and 90 degrees

⁹⁷Mercq, 92-94.

west longitude and is sometimes referred to as the South American sector.⁹⁸

Chile has also established many bases in the region, mostly on the Antarctic Peninsula and has taken steps to colonize it. For example, in 1984 the Chilean government solicited six families to move to King George Island. In only one year three babies had been born and six more families had moved to the area.⁹⁹ The Lieutenant Marsh Base is only two and one half hours by air from Punta Arenas and has a hotel with accommodations for 80, both air and sea transportation to the mainland, air traffic control (ATC) facility, mail and cargo service, radio station, hospital and rescue teams. There are six other nations with bases on the island and all take advantage of the opportunity to use the facilities.¹⁰⁰ In a 1984 statement to the United Nations, Chile's ambassador stated that "Chile attaches tremendous importance to the question of Antarctica, for that issue affects Chile's very existence and unless careful steps are taken to protect Antarctica...as has been the case so far...the consequences may be dangerous."¹⁰¹

⁹⁸Child, Antarctica, 1988, 110.

⁹⁹Whitefield, in ISLA.

¹⁰⁰Barbara Durr, "Well Placed Chile leads in the Logistical battle for Antarctica," Financial Times of London, 11 January 1990, in ISLA.

¹⁰¹Child, Antarctica, 1988, 112.

D. BRITISH CLAIMS

The British sector radiates from the South Pole north to 50°S 20°W, continuing west to 50°S 50°W, south to 58°S 50°W, thence to 58°S 80°W. Because of the asymmetrical shape of the wedge, Great Britain was not only able to include its Antarctic claim but also the South Atlantic islands to which it lays claim. Map 1 illustrates the confluence of the conflicting claims between Argentina, Chile and Great Britain.¹⁰² This British territory falls under the administrative jurisdiction of the governor of the Falkland Islands and is deemed the Falkland Island Dependencies (FID). The British base their claim on discovery and occupation of various whaling stations on the southern islands.¹⁰³

In December 1947, Great Britain, wishing to avert any future conflict, felt confident enough to submit its Antarctic claim to the International Court of Justice for arbitration. However, Argentina and Chile were unwilling to participate in the arbitration process. Instead, the two countries drafted the Donoso-La Rosa declaration in March 1948, whose goal, even though Argentina and Chile had conflicting claims, was to mutually agree that the British claim was unfounded. The document stated that: "Until a settlement is reached by amicable agreement regarding the boundary limits in adjacent

¹⁰²Virginia Gamba-Stonehouse, Strategy in the Southern Oceans (New York: St. Martin's Press, 1989), 87.

¹⁰³Lane, 21-22.

Antarctic territories of the Argentine Republic and Chile...both Governments [sic] will act in mutual agreement in the protection and legal defense of their rights in the South American Antarctic, lying between the meridians of 25° and 90° West, within the territories of which the Argentine Republic and Chile are recognized as having unquestionable sovereignty rights."¹⁰⁴ Great Britain attempted again in 1955 to have the situation arbitrated by the International Court, but once again the two South American nation refused to submit to the proceedings.

The intense competition between nations for control of a portion of the Antarctic was the driving force behind final ratification of the Antarctic Treaty in 1961. Each nation had its own justification for operations in the region, including geopolitical expansion of their own nation, harvesting of whales and other mammals, speculation on the continent's potential mineral wealth and purely scientific desires. These reasons provide ample cause for increased international tensions between the nations involved, especially those three with overlapping claims. These three countries have each insisted they are the only true benefactor of the disputed sector. Many of the justifications used by Argentina, Chile and Great Britain are valid. If they were not, the nation with the proper and legal documentation would certainly by now have been able to substantiate its claim in the international arena. The mere fact that Chile and Argentina

¹⁰⁴Beck, 34-35.

refused to participate in arbitration with Great Britain regarding the claims suggests they too realize the validity of each claim.

V. GEOPOLITICAL PERSPECTIVES

Although the Antarctic treaty has effectively stalled any major conflict over the Antarctic in terms of sovereignty claims and military usage, it has had no influence on issues occurring north of 60 degrees south latitude. There are a number of issues in this region, such as the Beagle Channel and Falklands/Malvinas conflicts, that geopolitical thinkers in both Argentina and Chile have managed to keep alive. Geopolitical writers of the Southern Cone tend to emphasize a "manifest destiny" attitude when conveying their concepts and rationale for expansion of their particular territorial boundaries.¹⁰⁵ Mainly because of Japanese and German expansive goals during World War II, geopolitical concepts were understandably unpopular immediately following the war. However, the concept never found the same disfavor in Argentina, Chile or Brazil, probably because of their relative isolation and disassociation with the war as compared to the United States, Europe, the Soviet Union and east and southeast Asia.

As a whole Latin America was relatively uninvolved in WWII. Of Argentina, Chile and Brazil, the latter contributed the most to the war effort. Relative to the geographical range of the war, Brazil was also the most strategically located nation in Latin America because of its proximity to the African coast and the air routes being used to

¹⁰⁵Jack Child, Geopolitics and Conflict in South America (New York: Praeger Publishers, 1985), 5-6.

resupply allied aircraft to the European theater. Consequently in 1941, Brazil agreed to let the U.S. use its airfields as way points. The Brazilian Navy also participated in escort operations in the South Atlantic and in 1942 formally declared war on both Germany and Italy.¹⁰⁶

As for Chile and Argentina, possibly because of their geographical positions and the ethnicity of the countries, both remained neutral for nearly the entire war. It wasn't until it looked for certain that the Axis powers had lost in early 1945 that both Chile and Argentina declared war on Germany and Japan. Because of this neutrality, from the international point of view, both countries were perceived to be pro-Axis, which tended to stigmatize their respective geopolitical concepts.

A. ARGENTINE GEOPOLITICAL VIEWS

Argentina has long sought to achieve great nation status and disassociate itself from the economic and social shortcomings often attributed to South American nations. It has often distanced itself from its neighbors with its overall national attitude but at the same time drawn them into intense international conflict because of its expansive goals in the South Atlantic. Argentine geopoliticians are not always in complete agreement as to the exact methods that should be pursued in order to achieve these goals. Some writers

¹⁰⁶Robert L. Scheina, Latin America: A Naval History 1810-1987 (Washington, D.C.: United States Naval Institute Press, 1987), 152.

accepted the basic tenets of the German school of geopolitical thinking and have never separated themselves from the association with Nazism, while other writers clearly made a break. The Argentine writers have also been labeled as "reactive" toward Brazil and Chile, Argentina's two most challenging geopolitical rivals in the region. Argentina has long felt that it has suffered geopolitical aggression at the hands of both of these countries, while Great Britain is its major extra-continental geopolitical adversary. Argentina has expressed geopolitical hostility toward the United States as well, because of U.S. association with Great Britain during the Falklands conflicts of 1832 and 1982.¹⁰⁷

The major reason for Argentine geopolitical conflict with Brazil lies in the fact that Argentina perceives itself as the natural hegemonic power in the Southern Cone. Consequently, it views Brazilian expansionism as a direct affront to the accomplishment of Argentine predominance in the southwest Atlantic, as well as a stumbling block to recuperation of the Falklands. Argentina's concern is mainly derived from earlier Brazilian expansionism into the Río de la Plata region and along the vast frontier of the interior known as "La Marcha al Oeste." It fears that Brazil's quest to become a two ocean nation will result in Uruguay, Paraguay and Bolivia being removed from the Argentine sphere of influence.¹⁰⁸

¹⁰⁷Child, *Geopolitics*, 1985, 42.

¹⁰⁸Cesar N. Caviedes, The Southern Cone: Realities of the Authoritarian State in South America, (Totowa N.J.: Rowan & Allenheld, 1984), 144-145.

Presently, however, Argentina is most interested in the South Atlantic islands, including the Falklands, South Georgia, South Sandwich, Antarctic and Beagle Channel. On 26 April 1989, the Argentine Chamber of Deputies approved a law creating the nation's twenty-third province, which included the Falklands, Georgias and South Sandwich islands, which are currently under British control.¹⁰⁹ The law, which President Menem vetoed, either erroneously or purposefully included two Chilean held islands in the Beagle Channel. Although Argentina officially recognized these islands as Chilean territory after the Peace and Friendship Treaty was ratified on 29 November 1984, it would not be unreasonable to assume that the islands were intentionally included, given Argentina's aggressive geopolitical thinking. As for the inclusion of the British-held islands, it would seem to be just another posturing effort to help substantiate its sovereignty claims when the issue resurfaces. Peronist Whip, Jorge Yoma, stated that: "inclusion of the Falklands as part of Argentina's twenty-third province would not affect British and Argentine relations."¹¹⁰ The reason that it would not have affected relations is probably because Great Britain would not have

¹⁰⁹"Menem To Veto Law Over Islands Sovereignty," Santiago Radio Chilena Network in Spanish 11 May 1990, in FBIS Lat 90-093, 14 May 1990, 50. The Falklands, South Georgia and South Sandwich islands are under the purview of the Antarctic Treaty and as such remain in British control because these islands fell within the British sector at the time of treaty. In addition to the Falklands issue, this could become another source of conflict because Argentina lays claim to these other islands as well.

¹¹⁰"Falklands Declared a Province," Miami Herald, 27 April 1990, in ISLA.

recognized this or any other maneuvering by Argentina to gain possession of the disputed islands.

Geopolitically, Argentina seems to be primarily concerned with its maritime and Antarctic goals. As such, it has developed a maritime geostrategy that is designed to yield sea control in the southwest Atlantic, as depicted in Map 2. Argentine geopoliticians contend that Antarctica figures prominently into this plan because it provides a geographically defensible position from which to operate, with the South Pole providing a convenient position from which to begin demarcation of the Mar Argentino¹¹¹.

The Drake Passage presently has little strategic significance other than for local shipping and fishing operations, but would take on a new dimension if the Panama Canal were to closed down. Currently about 100 ships per month pass through the Drake Passage. With the canal disabled this number would increase to over 1000.¹¹² Some Argentine geopoliticians would also argue that control of the disputed Beagle Channel area would give the Argentines complete access to the passage from two sides, thus providing effective control of the 600-mile waterway. The concept has some merit, but fails to consider that there are alternate shipping routes and that controlling

¹¹¹White, 56-59.

¹¹²José T. Merino, Admiral, CinC Chilean Navy, "Trouble in the Southern Pacific," U.S. Naval Institute Proceedings (December 1986): 81.

the choke point will have an added degree of difficulty due to the extreme weather conditions that can arise.¹¹³

The Mar Argentino or Argentine Sea concept was developed partly as a result of an agreed extension of the territorial waters to 200 nautical miles between Argentina and Uruguay, the Falklands/Malvinas War and the Beagle Channel conflict.¹¹⁴ This would suggest that the Argentines are still very much concerned with geopolitics even though relations between them and the Brazilians are improving. The Argentines seem not to be content with rehashing old concepts but are concerned as well with developing new ones to account for the changing geopolitical environment.

B. CHILEAN GEOPOLITICAL VIEWS

Chilean geopolitical thought has its roots in German geopolitical concepts, as do Argentina and Brazil, however, what distinguishes Chile from other Latin American nations is its relative isolation and unique geography.¹¹⁵ These two aspects, combined with Chile's expansion to the north during the War of the Pacific, the loss of Patagonia during the same period, the projection of sea power along its coast and southern insular regions and rule by Chile's foremost geopolitician from 1973-1990, former professor at the Academia de

¹¹³Kelly, 191-192.

¹¹⁴Ibid, 36.

¹¹⁵White, 60.

Guerra del Ejército and author, General Augusto Pinochet Ugarte, have given Chile its own unique brand of Southern Cone geopolitics.¹¹⁶

There are two significant schools of geopolitical thought in Chile. The first is the Terra Austalis school which espouses four concepts: (1) the coming of the "era of the Pacific," (2) the geographical importance of Chile's location, (3) the geostrategic responsibility of Chile for continental defense and its own destiny, (4) Chile as a Southern Pacific power. This group of geopolitical thinkers also postulated the Arc of the Southern Antilles in 1951 (see Map 3). Control of this region would allow Chile access to the Atlantic Ocean, thus making Chile a two ocean power. This school also proposed the idea of a Chilean Sea that would extend from the mainland to Easter Island and south to the South Pole, encompassing the Chilean Antarctic claim.¹¹⁷

The second school of thought comes from the Academia de Guerra del Ejército. The school has published two significant works on the subject; one by General Pinochet, *Geopolítica*, and *Leyes que se Deducen del Estudio de la Expansión de los Estados*, authored by Julio von Chrismar. These works by no means postulate any new or innovative ideas, but rather are critiques of current theory in Chile and other nations that tend to provide recommendations and

¹¹⁶Kelly, 177.

¹¹⁷Ibid, 177-178.

suggestions. They do, however, stress the importance of human involvement in the determination of the prosperity of the nation. Howard Pittman writes that: "Although there are frequent references to German theorists, the emphasis is on a strong, unified, well-educated, well-led population, able to overcome the obstacles of geography and make the best of the resources of the state-reflecting the influence of the ideas of the French geographers..."¹¹⁸

The Chileans have gone to great lengths to develop their geopolitical policies, because it is extremely useful in the achievement of their ultimate goal of "great nation" status, a common theme among all Southern Cone countries. In order to promulgate these geopolitical theories, the Army War College has begun training and certifying civilian professors to instruct in such areas. On the practical side, Pinochet completely reorganized the country under a plan dubbed the "Regionalization of Chile." This plan addressed the development and security of the northern and southern most portions of the country. It also revised regional boundaries and created new provinces in an effort to better integrate the country.¹¹⁹ It is difficult to speculate whether or not this emphasis on geopolitical concepts will continue under current President Aylwin,

¹¹⁸Ibid. Pinochet mainly analyzes the geopolitical writings of the United States, Germany, Great Britain, USSR, France, Argentina, Brazil, and the Vatican.

¹¹⁹Ibid, 180-183.

or future civilian/military governments, but if precedent is any indication then it most likely will.

C. BRAZILIAN GEOPOLITICAL VIEWS

Traditionally, Brazilian geopoliticians have concentrated their concerns on the vast interior of the country, oriented along two east-west axes. The first is through the Amazon Basin and the second demarcated by the Bolivian cities of Cochabamba, Sucre and Santa Cruz, commonly known as the "Magic Triangle." Brazil's most esteemed geopolitician, the late Golbery da Couto e Silva, also devised a grand strategy for the division of the entire continent into five regions: reserve area, Amazon area, Plata-Patagonia, continental welding area and Brazilian Northeast.¹²⁰ The late 1960's witnessed a rise in maritime geopolitical writing, but Brazil has never placed the same emphasis on this aspect as Argentina and Chile.¹²¹ However, this lack of maritime concern is not in the least indicative of a de-emphasized geopolitical school of thought. Quite the contrary. Jack Child notes:

¹²⁰Virginia Gamba-Stonehouse, Strategy in the Southern Oceans, (New York: St. Martin's Press, 1989), 48.

¹²¹White, 65-66.

the Brazilian geopolitical school is without a doubt the most significant in Latin America. This is true not only because of its impact on contemporary Brazil, but also because it has served as a model for others and has produced strongly reactive geopolitical thinking, especially in Argentina.¹²²

Despite the widely recognized grandioseness of Brazilian geopolitical thinking in the past, they have not made any formal claims to the Antarctic and showed little if any interest in the region until the mid 1950's, when Therezinha de Castro published her article on the "Frontage" theory in *Revista do Clube Militar*. This was a concept designed to more equitably divide Antarctica to include some Latin American nations previously uninvolved in the region. Brazil did participate in the IGY and in the early 1970's Euripides Cardoso de Menezes campaigned in the Brazilian National Congress for a Brazilian claim to the region. In 1982, Brazil established the *Comissao Nacional para Assuntos Antarticos (CONANTAR)* or National Commission for Antarctic Affairs, charged with developing Brazil's Antarctic program. In September 1983 Brazil was accepted as a Consultative member to the Antarctic Treaty and the 1985-86 season saw the first wintering over at the Brazilian, Comandante Ferraz Base.¹²³ Child suggests that, "The presence of the superpowers and their allies in the region, and especially on the nearby Antarctic peninsula, stimulates their interest and suggests to them that

¹²²Child, *Geopolitics*, 1985, 34.

¹²³Child, *Antarctica*, 1988, 138-139.

something important must be there, or these powers would not be troubling themselves."¹²⁴

Seeing that Brazil has no substantial historical precedent for a claim to the Antarctic, the frontage theory has been highly touted as the definitive answer to the Antarctic demarcation problem (see Map 4). The theory is based purely upon the geographical position of each South American country in relationship to the Antarctic. It allots a section of Antarctica to Ecuador, Peru, Chile, Argentina and Uruguay as well as Brazil. Of course, the obvious losers in this concept are Argentina and Chile. Argentina would have the most to lose under this concept, surrendering 38 degrees 40 minutes with Chile losing 23 degrees.¹²⁵ However, there is one advantage for Argentina, in that the Falkland Islands fall into the Argentine sector, but the British are no more likely to recognize this plan than any other the Argentines can suggest. Additionally, not all of the islands that would fall into the "Argentine Sea" concept are included in the frontage theory, therefore the Argentines are not likely to support this theory either.

Brazil is not the only nation to suggest alternatives when dealing with Antarctica. In 1987 Malaysia introduced a resolution that was adopted by the United Nations General Assembly, calling for the Consultative nations to the Antarctic Treaty to recognize the

¹²⁴Kelly, 193.

¹²⁵Ibid, 142.

universal interest in the continent by inviting a U.N. representative to be present at all meetings of the Antarctic Treaty regime. All of the Consultative nations plus 17 Non-Consultative nations boycotted the balloting and issued a joint proclamation stating their resolve not to change the status quo. The treaty members felt that any attempt to internationalize the current system would cause the claimant states to reaffirm their territorial sovereignty claims. The Third World nations, who favor this internationalization of the Antarctic, have demanded that the continent's potential mineral wealth be the "common heritage" of all nations. To further legitimize their assertions, these "have nots" maintain that their expertise is required to monitor and help direct activities in order to maintain the continent's ecological balance.¹²⁶

Other than seeking the fulfillment of their manifest destiny, Brazilian geopoliticians cite security, ecology and economic needs, for showing an interest in the Antarctic. The main economic opportunity Brazil foresees is an alternative energy source.¹²⁷ Brazil is currently one of the major importers of petroleum among third world industrializing nations. In addition to a daily production of 580,000 barrels/day, Brazil imports nearly 600,000 b/d from the Middle East to meet its commercial and domestic demands. Although domestic production has increased 300 percent since 1973, there is still an

¹²⁶Michael J. Berlin, "U.N. Members Seek Role in Antarctic Treaty," Washington Post, 19 November 1987, A51.

¹²⁷Child, Geopolitics, 1988, 199.

ever-increasing need to boost domestic production to meet a 1.1 million b/d daily requirement. It is estimated that 77 percent of Brazil's oil has already been discovered. Petrobras' goal is to increase domestic oil production to 1 million b/d by 1993-94 and to 1.5 million by 1997 or 85 percent to 95 percent of estimated consumption.¹²⁸ Although Brazil has reserves in excess of 2.8 billion barrels, this pales in comparison to the 51.9 billion barrels in Mexico or the 59 billion in Venezuela.¹²⁹ It is readily apparent why Brazil has shown an increased interest in the Antarctic in recent years. If Brazil is to continue the industrialization process and meet growing domestic needs into the next century, it has no choice but to pursue all possible options and potential alternatives.

If oil is discovered in an accessible area of Antarctica and its extraction is technologically and economically feasible, then Brazil would be able to meet these needs without having to import such an essential commodity from Venezuela or Mexico. As of now, however, oil has not been discovered in significant quantities, nor has the current technology made its extraction in the deeper regions of the Ross and Weddell Seas practicable. Additionally, the pending ratification of new international mining bans, such as the type proposed in a meeting in Chile concluded in December 1990 and coinciding with the similarly pending U.S. legislation, instead of the

¹²⁸Joseph P. Riva Jr., "Technology Boosting Success in Campos Basin," Oil & Gas Journal, 27 November 1989, 87.

¹²⁹Derived from the Oil & Gas Journal, 31 December 1990, 45.

Wellington Convention, may preclude the Antarctic option for Brazil as well as every other nation.

Since the nineteenth century, geopolitical concepts and ambitions have been responsible for much of the conflict between the Southern Cone nations. The prime motivating factors in the development of post independence geopolitical theories were Brazil's westward expansion into the interior, Argentina's struggle to maintain its borders and its continuous contentions with Chile for control of the insular regions of the southern tip of the continent, and Chile's acquisition of the copper rich regions of southern Peru and western Bolivia during the War of the Pacific from 1879-1884. These theories have also served to sustain the general population's collective consciousness of geopolitical goals, thereby justifying the expansionist objectives of each country.

VI. STRATEGIC ASPECTS OF THE INSULAR REGIONS

A. THE BEAGLE CHANNEL CONFLICT

The insular regions of the southern tip of South America have always been an area of intense competition between Argentina and Chile for influence and control. The rivalry began soon after each country received its independence from Spain in the early 1800's and continues to the present time, albeit with less intensity. There have been two major treaties or compromises since this time that have resolved, to some degree, the conflict between these two nations. The first is known as the boundary treaty of 1881. This treaty deemed the north-south boundary between Chile and Argentina, as far south as 52 degrees south latitude, to be the Andes. It also delineates the east-west boundary as proceeding from that point in the Andes to Point Dungeness on the north shore of the Strait of Magellan. The boundary extends south from Cape Espiritu Santo on the south shore of the eastern portion of the Strait of Magellan to the Beagle Channel, dividing Tierra del Fuego Island.¹³⁰

Article III of the boundary treaty attempts to further define the distribution of the region as follows: "As for the islands, to the Argentine Republic shall belong Staten Islands, the small islands next

¹³⁰Michael A. Morris, The Strait of Magellan, (Boston: Martinus Nijhoff Publishers, 1989), 57-58.

to it, and the other islands there may be on the Atlantic to the east of Tierra del Fuego and of the eastern coast of Patagonia: and to Chile shall belong all the islands to the south of the Beagle Channel up to Cape Horn, and those there may be to the west of Tierra del Fuego."¹³¹

As can be seen from the foregoing Article, the 1881 Boundary Treaty did not specifically delineate the islands by name, nor did it provide specific latitudes and longitudes by which to demarcate key areas such as the mouth of the Strait of Magellan or the eastern termination of the Beagle Channel. Consequently, this lack of specificity has left room for contention to fester between the countries. When the area was actually surveyed, it was discovered that the north-south boundary dividing Tierra del Fuego, which extended south from Cape Esprit Santo, cut through San Sebastian Bay, thus giving Chile unintentional access to the Atlantic. This oversight eventually led to the Protocol of 1893, which shifted the north-south boundary slightly to the west thus ensuring Chile did not have access to the Atlantic.¹³²

Since the exact eastern terminus of the boundary was unclear, Argentina contended that the channel turns somewhat south before

¹³¹Taken from The 1881 Boundary Treaty as reproduced in appendix 1 of Morris.

¹³²Peter Calvert, "Argentina: The Primacy of Geopolitics," The World Today vol 45 #2 (February 1989): 34. An interim measure known as the Zeballos-Matta Declaration stated that neither nation could usurp legal authority over the disputed area until the exact boundaries could be sorted out, in keeping with the spirit of the original Boundary Treaty of 1881.

reaching the Atlantic, while Chile argued that the channel continued east. This would not have been a major issue except for the existence of three islands: Picton, Nueva and Lennox. The three islands in and of themselves are of little economic significance, but their value lies in their relative strategic positions at the mouth of the Beagle Channel. Again, Article III of the 1881 Boundary Treaty is extremely vague and inconclusive, especially with the portion that states "...Chile shall belong all the islands to the south of the Beagle Channel up to Cape Horn..." The Chileans also interpreted "... until it touches the Beagle Channel..." to mean that since Argentine control terminates upon touching the Beagle Channel, Chile has complete sovereignty over this waterway.¹³³

The Argentine city of Ushuaia, located on the southwest corner of the Argentine portion of Tierra del Fuego, is the world's southern most city and whose Atlantic, and thus only purely Argentine, access is through the eastern entrance of the Beagle Channel. The Argentines feared that General Pinochet had plans to use the disputed islands as a power projection point to reach far into the Atlantic past Isla de los Estados to make a seaward claim, based on the Arc of the Southern Antilles concept, and thus control access to the Beagle Channel and Antarctica, thereby intruding on Argentina's

¹³³Morris, 76.

sphere of influence.¹³⁴ Now retired Argentine General Osiris Villegas best expressed the Argentine sentiment when he stated:

If they take the sovereignty of the southern islands (the Beagle Channel Islands) away from us, we will have lost sooner or later, our rights in the South Atlantic and will have compromised our revindication of the Antarctic Sector, and the corresponding rights to ocean bottom riches and their exploitation, and even our claim on the Malvinas Islands. Then we will have ceased to be what we should be and we will be nothing."¹³⁵

B. THE PEACE AND FRIENDSHIP TREATY OF 1982

In 1977, the two countries had reached a point where both were willing to submit to arbitration over the disputed region. The task fell on the International Court of Justice with the final arbiter being the British Crown. The decision that was handed down awarded the northern half of the eastern portion of the channel to the Argentines, while sovereignty over the disputed islands was granted to Chile. Chile was also recognized to have complete control over the Strait of Magellan and that Point Dungeness was declared to be on the Atlantic coast.¹³⁶

However, the military government of Argentina felt the arbiters had acquiesced too much in favor of the Chilean arguments. Consequently, the decision of 2 May 1977 only served to exacerbate

¹³⁴Ibid.

¹³⁵Child, *Geopolitics*, 1985, 78.

¹³⁶Morris, 77-78.

the tensions between the two nations and was ultimately rejected on 23 January 1978 by the Argentines. By the end of 1978, Chile and Argentina were unable to reach a mutually acceptable agreement. Tensions had increased to the point where armed conflict between them loomed heavily on the horizon. Hostilities were averted, however, when both sides agreed to accept mediation by the Holy See in the Agreement of Montevideo of 8 January 1979.¹³⁷

After five years of negotiations, the decision was finally handed down and signed by Argentina and Chile on 23 January 1984. The Argentines ratified the agreement on 14 March 1985, with Chilean ratification coming on 11 April 1985. Although the Argentines did not completely agree with this arbitration either, there was wide speculation that it was accepted in order to break with the stigma of the past military regime and allow the Alfonsín government to begin anew. One of the major points that arose from the arbitration, upheld the Argentine contention that Chile should not become a two ocean nation, either through the mouth of the Strait of Magellan or the area east of Cape Horn. This effectively ensures Argentine access to Antarctica and more importantly the agreement explicitly states in Article 15 of the Final Provisions that the treaty does not affect either parties' claim to sovereignty in the Antarctic.¹³⁸

¹³⁷Ibid, 82-87.

¹³⁸White, 73.

VII. THE FALKLANDS/MALVINAS CONFLICT

The Antarctic region, including the disputed Tierra Del Fuego territory, has long been a source of potential conflict between the two Southern Cone nations. Although both Argentina and Chile have displayed a propensity for sabre rattling, Argentina has been the one to actually cross the line between potentiality and reality. Surprisingly though, it has not done battle with its Latin neighbor, but rather with its extra-hemispheric nemesis, Great Britain, on two separate occasions. The Hope Bay incident in February 1952 fortunately resulted in no loss of life, however, the outcome of the Falklands/Malvinas conflict was not so fortunate. During this 74-day war between Argentina and Great Britain no less than 712 Argentine and 225 British soldiers and sailors lost their lives in a conflict that has yet to be satisfactorily resolved.¹³⁹ With respect to the Falklands/Malvinas conflict then, the Hope Bay incident pails in comparison. Although the incident resulted in no further military action, it was nonetheless significant because it served to illustrate the potential for an explosive situation in the region.

In reviewing the issues of the Falklands/Malvinas conflict, one might speculate as to the actual circumstances that prompted the use of force by Argentina. Such an examination would be potentially

¹³⁹Gary W. Wynia, Argentina. Illusions and Realities (New York: Holmes and Meirer Publishers, 1986), 3.

useful in predicting when a similar outbreak of hostilities may occur in the Antarctic region. The most important factor in any study of this issue would seem to be the type of government that was in power at the time and how the interaction of the Argentine economy, geopolitical challenges and the human rights issue influenced the decision to invade the Falklands.

A. THE ARGENTINE GOVERNMENT IN 1981

Argentina has seesawed between civilian and military governments through its entire history, with all military dictatorships coming to power through a coup d'état. Most recently a coup was attempted in December 1990 by Colonel Mohamed Ali Seinaldin against President Carlos Menem.¹⁴⁰ The latest successful coup occurred in 1976 when María Estela Martínez de Perón was deposed by General Jorge Videla whose military regime continued until December 1983.

The military, and in particular the army, in Latin America has been observed as both a blessing and a curse. When it has not been in power it has both taken the initiative and been cajoled into staging coup d'états in order to expel a perceived misguided civilian government. The Argentine Military is no exception to this rule. The Argentine officer pledges to uphold the country and not the constitution and quickly points out to foreigners that the first

¹⁴⁰"Army Rebels' Trial Begins In Argentina," San Jose Mercury, 16 April 1991, 8A.

Argentine constitution was not enacted until 1853, whereas the army was created in 1816 prior to independence. One Argentine colonel was quoted as saying:

I know many American soldiers, and we talk about how they are pledged to uphold the constitution. I am pledged to uphold the country. On flag day every June, each officer reaffirms his oath to the country when he is asked, "Do you swear to the nation to constantly follow its flag and defend it until death?"¹⁴¹

This oath has definitely given the Argentine military a sense of purpose, since they have not participated to any great degree in any modern armed conflicts, other than the Falklands/Malvinas War in 1982. Even during WWII the country was too divided over the issues of the war to actively participate in it. This was due in large part to the vast numbers of German and Italian immigrants who lived in the country, but who still felt strong ties to their countries of origin.

The Argentine military has its roots in Latin American *Caudilloism*, an extremely strong sense of manliness, honor and nationalism which still permeates the culture today. This intense notion of nationalism above all else has been the prime motivating factor in the continual inability or unwillingness of the military governments of Argentina from 1976 to 1983 to resolve such international challenges as the Beagle Channel and Falklands/Malvinas conflicts. In a speech given by Admiral Isaac

¹⁴¹Edward Schumacher, "Though unpopular, Argentina Armed Forces Cling to Power," New York Times, 13 December 1981, sec IV, 1.

Rojas concerning the Papal mediation of the Beagle Channel conflict he stated that: "The Pope is fallible in worldly matters" and called the civilian negotiators "incompetent."¹⁴² By contrast the civilian government of Raúl Alfonsín moved quickly, after taking office in December 1983, to accept the Papal resolution through referendum. Additionally, it must be noted that the military government during this period, under the leadership of General Leopoldo Galtieri, also invaded the Falklands. Although Alfonsín was unable to normalize relations with Great Britain after the end of the war in 1982, President Menem seems to have nearly accomplished this goal.¹⁴³ By examining these relatively recent incidents, it becomes evident that the military governments in Argentina from 1976 to 1983 projected a propensity for inflexibility and aggressiveness that does not seem to be present in the past two elected civilian regimes.

B. ECONOMIC INDICATORS OF 1981

Because the Hope Bay incident was just that, an incident, any detailed examination of the Argentine economic situation in 1982 would produce no meaningful data. On the other hand, a review of

¹⁴²Edward Schumacher, "Papal Solution to Boundary Quarrel Vexes Argentina," New York Times, 21 January 1981, A10.

¹⁴³"Argentines Make First Visit to Falklands War Graves," San Jose Mercury, 19 March 1991, 5A. President Alfonsín was unable to normalize relations with Great Britain mainly because he would not consent to talks unless the sovereignty issue of the islands was addressed, a point which Margaret Thatcher would not concede. President Menem agreed to the British terms for the talks in 1989. Subsequently diplomatic ties were restored in February 1990, and economic issue are currently being dealt with.

the economic situation in the years prior to the Falklands/Malvinas War may serve a more useful purpose.

Argentina's major economic sectors include manufacturing, agricultural products, petroleum, natural gas and an ever increasing service sector. As a result of its intensive import substitution industrialization (ISI) program and Peronist ideals instituted in the 1940's and 1950's, the manufacturing sector became the most highly developed in South America and surpassed the agricultural sector as the chief export revenue generator. By 1971, over 91 percent of all manufactured goods were produced at home, seemingly indicating the import substitution program was working well.¹⁴⁴

ISI was originally instituted to boost the failing economy in the 1930's by the imposition of higher tariffs and trade barriers. This provided the indigenous manufacturing companies with an obvious advantage. By the mid-1970's the Argentine government wanted to rejoin the world market economy. The desire stemmed from a perceived need to improve relations with major economic powers, namely the United States and the European Economic Community (EEC), in order to receive the desired loans and stimulate foreign investment. Consequently, tariffs and import restrictions were eased in order to stimulate the desired economic results. However, beginning in 1980 the country entered a recession in which the industrial sector suffered the most, and in particular the steel

¹⁴⁴David R. Decker, The Political, Economic and Labor Climate in Argentina (Philadelphia: University Press, 1983), 22-23.

industry, which dropped from twelve to three manufacturers. Prior to the mid-1970's, the agricultural sector was a significant factor in helping Argentina maintain a positive trade balance. But the continued emphasis on import substitution had left the agricultural sector in severe disarray. Because this valuable asset was so neglected it was not able to help sustain the Argentine economy during this transition period to a free market economy.

Before the recession of 1980, the economy had already begun to falter. When the junta came to power in 1976, it appointed José Alfredo Martínez de Hoz to address the problem. When he began his tenure as the economics minister, the annual rate of inflation had climbed to over 450 percent under the ousted civilian government of María Perón. By 1981 he had managed the economy well enough to bring inflation down to 50 percent.¹⁴⁵ This was something of a minor miracle but still short of his own goals for an economic recovery. The problems began when Mr. Martínez de Hoz allowed the economy to slow down too much in order to control inflation. His main tactic was to continually devalue the peso on a fixed schedule, a policy which had once met with favor, but was no longer supported by unions and the state-owned corporations. This lack of confidence by the business and labor sectors also coincided with the replacement of General Jorge Videla with General Roberto Viola. Mr. Martínez de Hoz had been given virtually free reign of the country's

¹⁴⁵Edward Schumacher, "Argentine Devaluation Fails to Still Critics," New York Times, 4 June 1981, D15.

economy by General Videla, but the new junta leader had his own personal agenda. Consequently, Mr. Martínez de Hoz resigned his position and Mr. Lorenzo Sigaut assumed his duties as Economics Minister. By June of 1981, after only two months in office, the rate of inflation had once again begun to spiral upwards and the economic situation was worsening.

There seemed no other alternative to slowing the unrelenting climb of inflation than to continue with the planned devaluation of the peso. By July 1981 the peso had dropped from 2000:1 U.S. dollar in January to 6700:1 U.S. dollar. By October the inflation rate had reached 100 percent with no relief in sight. There was an ever-growing number of strikes, as well as demands for the release of María Perón and a growing disdain and lack of confidence in the military junta. Typical of the sentiment expressed was one truck driver's response to the country's predicament: "The military school is the cancer of this country."¹⁴⁶ In short the country was quickly losing trust and confidence in the military's ability to govern the nation.

One major contributor to the Argentine economy was an abundance of foreign investments into the country's natural resources. From the time the junta came to power in 1976 these

¹⁴⁶Edward Schumacher, "Argentine Regime Severely Strained By Economic Woes," New York Times, 5 July 1981, A1.

investments amounted to over \$3.5 billion with 42 percent coming from U.S. companies alone.¹⁴⁷

The junta's desire to move away from an economy based on import substitution was met with stiff resistance from the labor unions and the manufacturers. The labor unions foresaw a loss of jobs and the manufacturers knew that competing on the open market would require large outlays of money. They also realized that there would be a significant time lag caused by the required modernization of their plants and resultant retraining of workers, before peak production could be accomplished and thus the generation of sufficient revenue. Neither the labor unions nor the manufacturers were willing to freely make the transition. This factor, in combination with the rampant inflation and a drop in the foreign investments, predictably proved to be a very destabilizing situation and caused the military government's competency to come into question.

C. HUMAN RIGHTS PROBLEMS

If major economic and political problems were not enough, the military junta had yet another complicating factor added to their struggle to maintain control. Known as the *guerra sucia* or dirty war, this debacle proved to be more of a stigma to the junta than the failure of the Falklands/Malvinas campaign. In reality this was not

¹⁴⁷Edward Schumacher, "Argentina's Instability Slows Inflow of Foreign Investment," New York Times, 26 October 1981, D10.

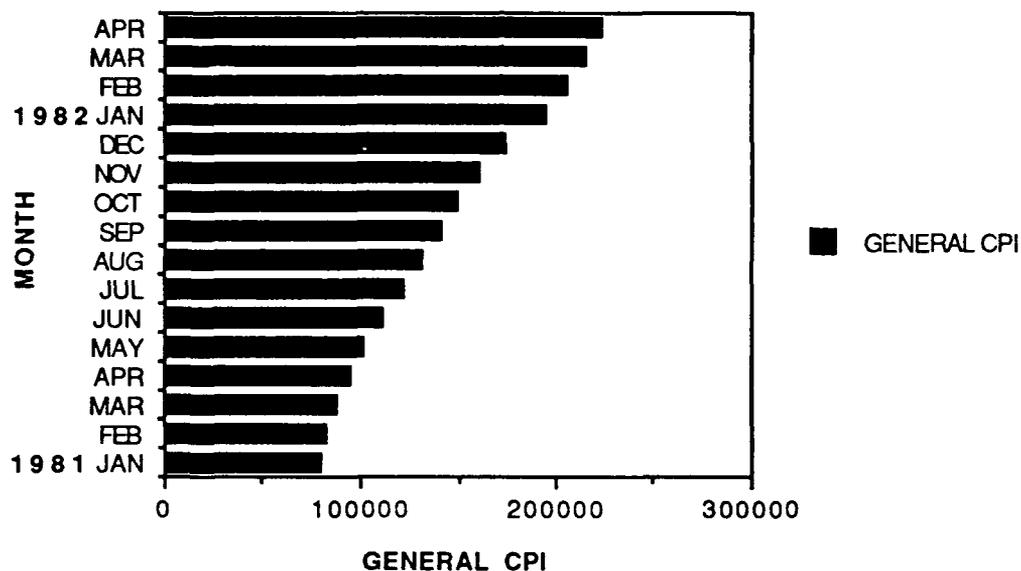
in and of itself a separate incident with its own set of causal factors, but was rather a symptom of the economic and political predicament.

The military junta was constantly at odds with the Peronists and left-wing organizations, particularly any of the established labor unions. During the last six months of 1981 the economy began a devastating slide. In June the nation's foreign reserves fell by \$308 million in just one day and was deemed to be "an explosive situation"¹⁴⁸ The slide continued and by the end of the year the ailing steel companies' production had dropped from 3203 metric tons (in December 1979) to 2517 metric tons, a 27.25 percent reduction in output. Inflation had continued its undaunted upward spiral (see Table 1), while the gross domestic product declined by 8.9

¹⁴⁸"Financial Panic and Political Rumours Shake Buenos Aires," Latin America Weekly Report, 5 June 1981, 1.

percent.¹⁴⁹ Finally, by December the ruling junta felt compelled to replace General Viola with General Leopoldo Galtieri.

TABLE 1
CONSUMER PRICE INDEX 1981-1982



General Galtieri was well known for his hard-line methodological approach to dealing with the country's economic and political problems. But the suppression of dissenting political opinions began in 1976 when the junta first came to power and only continued under Galtieri's leadership. As John Sheahan notes:

¹⁴⁹Derived from tables in *Argentina: Economic Recovery and Growth* (Washington, D.C.: The World Bank, 1988)

...regimes that suppressed political freedom and human rights and implemented terrorist programs to eliminate suspected supporters of all kinds of left-wing causes explained their purposes in terms of restoring social discipline, returning to free markets, and ending the General Galtieri was, however, even more unwilling to deal with the opposition than his predecessors. The new leader's greatest concern was to avoid at all costs a repeat of the *cordobazo* labor riots that completely overwhelmed the city of Córdoba in 1969. Students and laborers joined together under a Marxist banner and controlled the city for two days until they were put down by the military forces.¹⁵⁰

Since coming to power, the regime had learned that terror, and more importantly the threat of its use, was extremely effective in keeping the unions and other opposition at bay, but as they learned there were international ramifications. During the years of the junta, an estimated 15,000 persons had disappeared. This large number of *desaparecidos* had unfortunately, gotten the attention of the United States and the EEC, the very entities that could have lent assistance through monetary investments and loans.

As a result of the human rights violations, a bill sponsored by Senator Edward Kennedy (D-Mass.), was passed by the Congress, barring Argentina from receiving any more military aid from the United States. This restriction was put into effect by Public Law 95-92 on 4 August 1977. The law detailed that Argentina, among other countries, could not receive any loans, credits, sales of defense articles or services, and that no export licenses could be issued under

¹⁵⁰Charles Bergquist, Labor in Latin America, (Stanford: Stanford University Press, 1986), 188.

the Arms Control Act.¹⁵¹ Although this law was passed in August 1977, it would not take affect until after 30 September 1978. The Carter administration had persuaded the Congress to attach the one-year waiting period amendment to the bill in order to provide an incentive to the Argentine government to significantly improve their human rights record. The Department of State was charged with evaluating Argentina's progress in human rights and thus would have the final decision.¹⁵²

In reality the law did not stop all military transactions from taking place. In an effort to avoid complete alienation of the Argentine junta, the Department of State allowed some business to be transacted after the 30 September deadline. On 29 September the Department of State prepared to deny over 200 licenses for munitions sales and other equipment worth approximately \$100 million because the junta had shown little to no progress. But at the same time the department had approved the training of 30 Argentine officers at selected U. S. bases and the sale of five Chinook helicopters, two C130 transports and 15 Beechcraft trainers worth \$120 million.¹⁵³ Although this may have been somewhat beneficial to the junta and most certainly lessened the impact of the PL 95-48,

¹⁵¹International Security and Assistance Act, United States Statutes at Large, 91, sec. 11, 619 (1980).

¹⁵²Karen De Young and Charles A. Krause, "Our Mixed Signals on Human Rights in Argentina," New York Times, 29 October 1978, C1.

¹⁵³Ibid.

it did not provide the Argentines with any major equipment that would be useful in the impending invasion of the Falklands.

The junta was most severely affected by the mandates of PL 95-48 in the area of ammunition supplies, communications equipment and spare parts for previously purchased U.S. equipment.¹⁵⁴ To compensate for the loss of equipment from the U.S., Argentina purchased 57 tanks from Austria and one frigate from France in June 1981.¹⁵⁵

The junta tried to compensate for its diminished international stature as well, especially in the United States and Europe, by hiring a New York public relations firm to improve its image. The firm placed advertisements in newspapers and magazines to reach its target audience of the press, government officials and congressmen, educators, investment organizations and travel agencies. There was also pressure placed on the Department of State by businesses which had had pending contracts adversely affected by PL 95-48. They contended that absolute imposition of the law would mean economic ruin for the company and that it would cost the United States \$813.5 million.¹⁵⁶

¹⁵⁴Peter J. Ognibene, "The Arms Embargo Myth," Washington Post, 2 July 1978, B3.

¹⁵⁵Edward Schmacher, "Argentina Said to Buy 57 Tanks From an Austrian Arms Concern," New York Times, 21 July 1981, A14.

¹⁵⁶Ognibene.

Although Argentina mounted a serious public relations campaign on one front, American businessmen, motivated by profits, attempted to influence the administration's decision on another. Both efforts proved to be fairly ineffective except for the previously noted equipment sales. With economic recovery measures failing miserably and mounting political and human rights pressures, the junta was slowly running out of options.

By mid-March 1982, all of the external factors that would enter into the Argentine decision to invade the Malvinas were in place. Argentina was renewing its drive to resolve the Beagle Channel issue with Chile, assisting the U.S.-led effort to combat the Sandinistas,¹⁵⁷ and was engaged in a diplomatic confrontation with Great Britain over sovereignty of the Falklands. At this point the Argentines began considering their options. The Argentine leadership estimated that if it went to war with Chile over the Beagle Channel it risked an escalation that could involve other Latin American nations such as Brazil, Peru and Bolivia. They also felt that if they became more involved in Central America this could coalesce the leftist elements more strongly against the junta. The military government was in desperate need of a national rallying point that could draw attention away from the failing economy and human rights issues, one

¹⁵⁷Alan Riding, "Surrender Expected to Bring Better U.S.-Latin Ties," New York Times, 18 June 1982, A11. Argentina had begun supporting the effort to train the contras in Honduras by sending 40 advisors.

involving the least risk with the most benefit. An outright invasion of the Falklands seemed to meet these requirements.¹⁵⁸

Finally, General Galtieri approved invasion plans which had been drawn up by Admiral Jorge Anaya in late 1981. The invasion had originally been planned for mid-1982, but because of a worsening political situation, fostered by the sliding economy, it was moved up to April. Initially the invasion brought about the desired result. The general population believed it to be a just cause and the military government attained its desired domestic control over the unions and the economy. However, their euphoria was short lived because of the junta's serious miscalculations of British resolve and American reaction. General Galtieri later said: "I judged any response from the English scarcely possible, indeed absolutely improbable."¹⁵⁹

¹⁵⁸David Rock, Argentina 1516-1987 (Berkeley: University of California Press, 1987), 374-383.

¹⁵⁹Ibid, 377-378.

VIII. UNITED STATES INTERESTS IN THE ANTARCTIC

Why should the U.S. be concerned with affairs in the Antarctic since no mineral deposits, including oil, have yet been discovered in minable quantities? Is the Antarctic region of any real economic importance to the United States? Or is the benefit found in the fact that the U.S. is a Consultative member of the Antarctic Treaty System with the ability to be involved in the decision making process, established in 1959, and therefore able to influence regional decisions? The U.S. position on Antarctica has changed very little since the years just prior to the establishment of the ATS. Then, as now, these interests can be categorized into four specific areas: regional security, environmental, scientific, and resource.¹⁶⁰

These interests, however, are really part of a larger agenda. The primary U.S. interest in the Antarctic is that of maintaining the neutrality of the continent,¹⁶¹ thus assuring access for the United States for environmental, resource and scientific reasons but more importantly ensuring the continued security of the continent. Over the years, however, these individual areas of interests have acquired varying degrees of importance, depending upon the international and

¹⁶⁰Frank G. Klotz, America on the Ice (Washington, D.C.: National Defense University Press, 1990), 132.

¹⁶¹Deborah Shapley, The Seventh Continent: Antarctica in a Resource Age (Washington, D.C.: Resources for the Future, 1985), 204.

domestic events of the given time. For example, the launching of the Soviet space program in the late 1950's and its associated military implications were prime motivating factors in the establishment of the Antarctic Treaty Organization.

As discussed in Chapter III, environmental concerns, prompted by the potential for mining in the region, have caused this particular sub-area to come into sharp focus. This recent increased emphasis on the environmental aspects of the Antarctic may lead one to assume that the U.S. is longer interested in its primary goal or even the other sub-area interests. Indeed, one could easily infer such a notion from the recent actions by the U.S. Congress with its proposed comprehensive mining and minerals exploration ban applicable to all U.S. companies and citizens. When these sub-area interests come into sharp focus they tend to blur the primary objective of security in the region. But no matter which sub-area is being emphasized at the time, they all work together to accomplish the primary objective. The principal mechanism for accomplishment of this objective is the Antarctic Treaty System.

A. MAINTENANCE OF THE ATS

The commitment of the ATS members to neutrality is of such importance that the subject is addressed in the preamble and is the subject of the very first article of the treaty. The preamble states: "Recognizing that it is in the interest of all mankind that Antarctica shall continue for ever [sic] to be used exclusively for peaceful

purposes and shall not become the scene or object of international discord." Maintenance of the current ATS is essential for the U.S. to continue to meet its primary objective. This is true because the ATS is very explicit about delineating the conditions that will provide the best opportunity for accomplishment of this goal. Presently the emphasis on environmental issues and the maintenance of scientific research facilities by all Consultative nations throughout the continent, regardless of who claims the particular sector, helps maintain the sense of internationalism which in turn contributes to Antarctica's neutral image, despite the seven territorial claims.

The treaty's importance can best be appreciated by examining the conditions that would exist if the treaty was not maintained and the U.S. was forced to assert its claim in the region. The U.S. would find itself in the same position as prior to the treaty. It would have a very strong case for a claim to a sector of the continent but would also find it an extremely difficult diplomatic dilemma.¹⁶² The decision to claim sovereignty over a given sector would have to be balanced against the cost in international relations and the risk of defending such a claim. The U.S., however, may have no choice in the matter if the ATS breaks down and the other claimant nations begin

¹⁶² Article IV. of the Antarctic Treaty address the issue of claims. See Appendix 1. The U.S. has always reserved the right to make a claim but has felt that that action would only serve to antagonize the other claimant nations. The U.S. feels strongly that it has as legitimate a claim as any other nation. See Klotz, 14-48

to assert their claims.¹⁶³ The chances of such a scenario developing becomes much more likely if minerals are discovered in minable quantities, their extraction becomes economically feasible, and if the Wellington Convention is not adopted.

The treaty is, however, fairly responsive and flexible, an attribute that will surely contribute to its survivability in the near future. For example, in 1983, at the request of many of the acceding nations, the rules were amended to allow acceding nations to attend all consultative meetings and any negotiations involving minerals negotiations. This move gave these nations more of a say in the affairs of the continent and helped diffuse any potential dissatisfaction with the current treaty system, thus contributing to its longevity.¹⁶⁴

Although the treaty is seemingly flexible, it is nonetheless vulnerable because it is eligible for review after 30 June 1991. If such a move is undertaken by any Consultative member, the powers of the current ATS could conceivably be sufficiently diluted so as to render the document completely ineffective. Therefore, it is in the best interest of the United States to ensure the treaty's continuance indefinitely, which is in fact the goal. The official position as stated

¹⁶³Ibid.

¹⁶⁴Richard A. Woolcott, "The Interaction Between the Antarctic Treaty System and the United Nations System," in Antarctic Treaty System: An Assessment: Proceedings of a Workshop Held at Beardmore South Field Camp, Antarctica, January 7-13, 1985, by the Polar Research Board Commission on Physical Sciences, Mathematics, and Resources National Research Council (Washington, D.C.: National Academy Press, 1986), 382-383.

by the Department of State is very clear: "It (the Antarctic Treaty) is a strong, responsive framework for conducting activities in Antarctica in a peaceful, cooperative, and environmentally sound fashion."¹⁶⁵ But what if the current ATS does break down? What other security arrangements exist in the region to assist in maintaining the Antarctic region as a neutral entity and thus safeguarding U.S. interests?

B. THE RIO TREATY

The South Pacific is now dotted with burgeoning island nations which have recently gained their independence, possibly providing the potential for new Soviet naval bases in the future. Granted, the Soviets would have to become economically stable again before they could begin to rebuild their sphere of influence. But whether they completely cast off the specter of communist ideals, they in all probability will not become a completely market society, embracing capitalism and adopting the U.S. style of democracy.

The United States and the Soviet Union will continue to be competitors in the world for the ever-increasingly scarce natural resources and spheres of influence. This is precisely why the southern sea lines of communication (SLOC's) and in particular those around the Antarctic Peninsula and the Drake Passage, must be protected. Any future mining operations in the Antarctic would

¹⁶⁵"Antarctic Treaty," U.S. Department of State, Bureau of Public Affairs, October 1987.

require the transportation of these goods to the U.S. for final processing. If a strong mutual security treaty is not in place it may be extremely difficult to enlist the services of the southern cone nations in the protection of these vital sea lanes in the event of the demise of the current ATS.

The Inter-American Treaty of Reciprocal Assistance of 1947 was the first mutual security arrangement that the United States entered into following WWII. The treaty created a defensive zone around the Western Hemisphere to also include Greenland and Antarctica. Article 3 of the treaty contains the essence of the treaty: "the high contracting parties agree that an armed attack by any state against an American state shall be considered as an attack against all of the American states and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack."¹⁶⁶ At first glance this appears to be a reasonably clear commitment on the part of all Western Hemisphere nations to come to the aid of each other in the event of an attack by any other nation. But a closer examination of the exact wording of this article reveals that it is in fact a vague commitment to come to the aid of a member nation. Unfortunately, this treaty does not specify what type of aid shall be rendered. Additionally, before any assistance is given it must first be approved

¹⁶⁶Lars Schoultz, National Security and United States Policy Toward Latin America (Princeton University Press, 1987), 181.

by a two-thirds majority of the foreign ministers in the Organization of American States (OAS).¹⁶⁷

There have been only three occasions where the treaty has been invoked. In 1955 Ecuador convinced the OAS that Peru was about to invade and a peace-observing team, consisting of military attachés stationed in Lima, was used.¹⁶⁸ It was also invoked in 1962 during the Cuban Missile Crisis and during the 1965 invasion of the Dominican Republic, the latter two at the insistence of the United States. The most recent attempt to invoke the provisions of the treaty was in April 1982 at the beginning of the Falklands/Malvinas war. In reaction to the Argentine invasion, the British immediately imposed an all-encompassing embargo upon the Argentines and called for others, such as the United States, to follow suit. At this time the U.S. had in place certain laws prohibiting the sale of military equipment to Argentina, because of alleged human rights violations, but was reluctant to progress beyond those particular restrictions.

Based upon these instances, the Latin Americans view the treaty as a dismal failure. The fundamental difference between the two perspectives is found in the assumed application of the treaty. Although designed as a mutual defense treaty, the Latin American nations tend to see it as a means to resolve territorial disputes such as in the Ecuadorian and Falklands/Malvinas cases. The United

¹⁶⁷Harold Molineu, U.S. Policy Toward Latin America: From Regionalism to Globalism (Boulder: Westview Press, 1986), 26.

¹⁶⁸Child, *Geopolitics*, 1985, 95.

States on the other hand, views it as a means of defending against any Soviet, and thus communist, intrusion into the Western Hemisphere, as evidenced by the Cuban and Dominican cases.¹⁶⁹ This fundamental disagreement as to the exact purpose of the treaty has thus led the Latins to their conclusion.¹⁷⁰

During the Falklands/Malvinas conflict, the United States found itself torn between its historic and cultural ties with Great Britain and its perceived obligation to act in accordance with the provisions of the treaty. In a vote taken at a meeting of the OAS, Argentina was able to convince the Permanent Council, by a vote of 17-0, with four abstentions (Chile, Colombia, Trinidad-Tobago and the United States), that the Rio Treaty should be invoked.¹⁷¹ The U.S. had argued, unsuccessfully, that since Argentina was the aggressor it was extremely difficult for it to side with Argentina. Although the U.S. did provide the British with intelligence, logistical and some material support, the main U.S. effort was in the area of diplomacy, with

¹⁶⁹Abraham F. Lowenthal, Partners in Conflict: The United States and Latin America (Baltimore: John Hopkins University Press, 1987), 31.

¹⁷⁰Child, *Geopolitics*, 1988, 91-93.

¹⁷¹Molineu, 31

Secretary of State Alexander Haig attempting to negotiate a mutually agreeable solution to the situation between the two belligerents.¹⁷²

¹⁷²Under a 1962 agreement the United States is required to provide Great Britain with fuel at Ascension Island whenever it is required. The British had a very fragile logistics trail to the South Atlantic and were not capable of supplying the fuel needed to conduct its operations. The United States provided 12.5 million gallons of aviation fuel alone, which was used in Nimrods, Vulcans, and C-130's which dropped supplies ashore on the Falklands. Wideawake Airfield on Ascension was also used as a logistics center for further distribution to the forces in the South Atlantic. "Britain Asks U.S. for Supplies," New York Times, 18 May 1982, A6.

IX. CONCLUSION

The Antarctic region has long been characterized as an area of conflict because of competing claims on the Antarctic continent and its insular areas. The motivation for such competition stems from the potential wealth of renewable and non-renewable resources as well as from the international prestige to be gained from fulfillment of geopolitical goals. The Antarctic Treaty of 1959 has effectively "frozen" the various sovereignty claims for the time being. However, after 23 June 1991 the treaty can, as stipulated in the treaty itself, be renegotiated. This situation presents three possible outcomes.

The first and most probable outcome is for the status quo to remain. It is likely that the Consultative nations to the treaty will choose not to renegotiate the treaty in the near future, mainly because any renegotiating process would undoubtedly have to include the entire membership of the United Nations. It is apparent from the action initiated by the Malaysian delegation to the U.N., that the second and third world nations, not currently involved in the Antarctic, see the potential for economic gain from the non-renewable resources and would take some action to procure a portion of the potential economic benefits of the region.

The second possibility would be contingent upon the discovery of these minerals in minable quantities. If these minerals could be mined in an economically efficient manner, then it is possible that

the region could experience a flood of mining operations despite whatever mining prohibitions may be in place at the time. In this eventuality the Consultative members may be forced to renegotiate in order to obtain an agreement that is acceptable to all parties involved.

The third possibility would be an escalation of hostilities over the sovereignty issues, based upon economic or geopolitical conflict among the three nations with overlapping claims, with Argentina being the most likely initiator. In 1982 Great Britain and Argentina went to war over the sovereignty of the Falkland Islands. At the time of the invasion, Argentina, under military rule, displayed little hesitation toward the use of force in the accomplishment of this geopolitical objective. Bellicosity of this nature has obvious disruptive repercussions in the Southern Cone and threatens the very continuance of the Antarctic Treaty regime.

There is much speculation that this sort of action would not have taken place under a civilian government. Indeed there is strong evidence to suggest this is true. In 1984, after the military government of General Leopoldo Galtieri had been replaced, the new civilian leaders were quick to ratify the Peace and Friendship Treaty between Argentina and Chile, supposedly settling once and for all the long disputed Beagle Channel conflict. However, there was still a large cadre of Argentine geopoliticians who were dissatisfied with the settlement and felt it was rushed through with unwarranted haste, allowing for unneeded compromises. It is possible in years to

come, a government of Argentina, prompted by a geopolitically dissatisfied public, could turn the national attention away from, for example, a failing domestic economy, by refocusing on geopolitical or economic objectives in the South Atlantic or Antarctic region.

In order for the threat of military action by Argentina to become a viable possibility, a number of circumstances would have to exist. First, another military junta would have to come to power with overwhelming popular support. Secondly, the economic situation would have to maintain a profile similar to or worse than its current pattern. Thirdly, the nation's abundant natural resources, such as oil and natural gas would have to be considerably depleted. Since the development of this particular resource has the greatest potential for supplementing the Argentine economy, it also will be the prime economic motivating factor in any future Argentine exploration for this commodity south of 60 degrees south. The discovery of a vast oil reserve within the disputed sector, could, in combination with the first two conditions, provide the needed impetus to assert Argentine sovereignty on the disputed Antarctic claim.

After analyzing the conditions that prompted the invasion of the Falklands in 1982 and the conflict's results, it seems extremely unlikely that the current civilian government in Argentina would take any military action to expel Chile and Great Britain from Antarctica. Although the current economic conditions in Argentina are as deplorable as in 1982, the Menem government is too

interested in achieving "first world" political status to attempt any military solution to the sovereignty question.

The potential for conflict in the Antarctic region is currently very low, but nonetheless a possibility given the propensity for nationalism and weak economies in the two Southern Cone nations and the fact that the sovereignty issues in the South Atlantic and on the Antarctic continent remain unresolved.

With end of the Cold War, the major extrahemispheric threat to regional security, and thus the neutrality of the Antarctic, has essentially been removed for the time being. The U.S. Department of Defense is being cut by 25 percent and the Soviets are concentrating on their own domestic problems. In light of these changes the importance of a truly, mutually workable security arrangement between especially the U.S. and the Southern Cone countries has no current incentive for success. This does not suggest that there should not be one in place. Indeed, the Rio Treaty should be modified and given the same detail as the North Atlantic Treaty Organization, in order to preclude any lag in time caused by the negotiation of some new arrangement in the event of the demise of the current Antarctic

Treaty System and any Soviet reposturing in the future.¹⁷³ In this eventuality, the South Atlantic and South Pacific regions, now covered by the Rio treaty, could take on a new strategic importance.

Finally, the United States should make every effort to maintain the current Antarctic Treaty System. Any move within the United Nations to coopt the region under U.N. control should be vigorously opposed. Allowing U.S. influence to be diffused through the United Nations, would not only be disadvantageous for the United States, and the other Consultative nations, but would be disastrous for the Antarctic continent.

¹⁷³There are those who scoff at the possibility of a reposturing by the Soviets and hopefully they are right. Consider what the former Foreign Minister, Eduard Shevardnadze, once Gorbachev's closest ally, had to say. In a interview with the Polish newspaper, *Gazeta Wyborcza*, responding to the December 1990 'no-confidence' vote, he stated: "... the situation is proof that my warnings about a dictatorship are justified. The situation of confrontation can lead to chaos and anarchy, and dictatorship will come. It will not be important whether [he] comes from the right or left, and I do not know the name of the dictator. He will be born out of chaos and anarchy." Therefore, any new dictatorship, in combination with the quest for new spheres of influence and the need for new sources of natural resources, could provide the impetus for Soviet reposturing. "Jeff Trimble, Can Gorbachev Last," U.S. News and World Report, 22 April 1991, 31.

Appendix A

THE ANTARCTIC TREATY

The governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Recognizing that it is in the interest of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Acknowledging the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica;

Convinced that the establishment of a firm foundation for the continuation and development of such cooperation on the basis of freedom of scientific investigation in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;

Convinced also that a treaty ensuring the use of Antarctica for peaceful purposes only and the continuance of international harmony in Antarctica will further the purposes and principles embodied in the Charter of the United Nations;

Have agreed as follows:

ARTICLE I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, *inter alia*, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons.
2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

ARTICLE II

Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

ARTICLE III

1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty,

the Contracting Parties agree that, to the greatest extent feasible and practicable:

- (a) Information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy and efficiency of operations;
 - (b) scientific personnel shall be exchanged in Antarctica between expeditions and stations;
 - (c) scientific observations and results from Antarctica shall be exchanged and made freely available.
2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other international organizations having a scientific or technical interest in Antarctica.

ARTICLE IV

1. Nothing contained in the present Treaty shall be interpreted as:
 - (a) a renunciation by any Contracting Party of previously asserted rights of or existing claims to territorial sovereignty in Antarctica;
 - (b) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;
 - (c) Prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's right of or claim or basis of claim to territorial sovereignty in Antarctica.
2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

ARTICLE V

1. Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.
2. In the event of the conclusion of international agreements concerning the use of nuclear energy, including nuclear explosions and the disposal of radioactive waste material, to which all of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX are parties, the rules established under such agreements shall apply in Antarctica.

ARTICLE VI

The provisions of the present Treaty shall apply to the area south of 60° South Latitude, including all ice shelves, but nothing in the present Treaty

shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

ARTICLE VII

1. In order to promote the objectives and ensure the observance of the provisions of the present Treaty, each Contracting Party whose representatives are entitled to participate in the meetings referred to in Article IX of the Treaty shall have the right to designate observers to carry out any inspection provided for by the present Article. Observers shall be nationals of the Contracting Parties which designate them. The names of observers shall be communicated to every other Contracting Party having the right to designate observers, and like notice shall be given of the termination of their appointment.
2. Each observer designated in accordance with the provisions of paragraph 1 of this Article shall have complete freedom of access at any time to any or all areas of Antarctica.
3. All areas of Antarctica, including all stations, installations and equipment within those areas, and all ships and aircraft at points of discharging or embarking cargoes or personnel in Antarctica, shall be open at all times to inspection by any observers designated in accordance with paragraph 1 of this Article.
4. Aerial observation may be carried out at any time over any or all areas of Antarctica by any of the Contracting Parties having the right to designate observers.
5. Each Contracting Party shall, at the time when the present Treaty enters into force for it, inform the other Contracting Parties, and thereafter shall give them notice in advance, of
 - (a) all expeditions to and within Antarctica, on the part of its ships or nationals, and all expeditions to Antarctica organized in or proceeding from its territory;
 - (b) all stations in Antarctica occupied by its nationals and
 - (c) any military personnel or equipment intended to be introduced by it into Antarctica subject to the conditions prescribed in paragraph 2 of Article I of the Treaty.

ARTICLE VIII

1. In order to facilitate the exercise of their functions under the present Treaty, and without prejudice to the respective positions of the Contracting Parties relating to jurisdiction over all other persons in Antarctica, observers designated under paragraph 1 of Article VII and scientific personnel exchanged under sub-paragraph 1(b) of Article III of the Treaty, and members of the staffs accompanying such persons, shall be subject only to the jurisdiction of the Contracting Party of which they are nationals in respect of all acts or omissions occurring

- while they are in Antarctica for the purpose of exercising their functions.
2. Without prejudice to the provisions of paragraph 1 of this Article, and pending the adoption of measures in pursuance of sub-paragraph 1(e) of Article XI, the Contracting Parties concerned in any case of dispute with regard to the exercise of jurisdiction in Antarctica shall immediately consult together with a view to reaching a mutually acceptable solution.

ARTICLE IX

1. Representatives of the Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty, including measures regarding:
 - (a) use of Antarctica for peaceful purposes only;
 - (b) facilitation of scientific research in Antarctica;
 - (c) facilitation of international scientific cooperation in Antarctica;
 - (d) facilitation of the exercise of the rights of inspection provided for in Article VII of the Treaty;
 - (e) questions relating to the exercise of jurisdiction in Antarctica;
 - (f) preservation and conservation of living resources in Antarctica.
2. Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such time as that Contracting Party demonstrates its interest in Antarctica by conducting substantial scientific activity there, such as the establishment of a scientific station or the dispatch of a scientific expedition.
3. Reports from the observers referred to in Article VII of the Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.
4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.
5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article.

ARTICLE X

Each of the Contracting Parties undertakes to exert appropriate efforts,

consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.

ARTICLE XI

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of the present Treaty, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.
2. Any dispute of this character not so resolved shall, with the consent, in each case, of all parties to the dispute, be referred to the International Court of Justice for settlement; but failure to reach agreement on reference to the International Court shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.

ARTICLE XII

1. (a) The present Treaty may be modified or amended at any time by unanimous agreement of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX. Any such modification or amendment shall enter into force when the depositary government has received notice from all such Contracting Parties that they have ratified it.
(b) Such modification or amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the depositary Government. Any such Contracting Party from which no notice of ratification is received within a period of two years from the date of entry into force of the modification or amendment in accordance with the provisions of sub-paragraph 1(a) of this Article shall be deemed to have withdrawn from the present Treaty on the date of the expiration of such period.
2. (a) If after the expiration of thirty years from the date of entry into force of the present Treaty, any of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX so requests by a communication addressed to the depositary Government, a Conference of all the Contracting Parties shall be held as soon as practicable to review the Treaty.
(b) Any modification or amendment to the present Treaty which is approved at such a Conference by a majority of the Contracting Parties there represented, including a majority of those whose representatives are entitled to participate in the meetings provided for under Article IX, shall be communicated by the depositary

Government to all Contracting Parties immediately after the termination of the Conference and shall enter into force in accordance with the provision of paragraph 1 of the present Article.

- (c) If any such modification or amendment has not entered into force in accordance with the provisions of sub-paragraph 1(a) of this Article within a period of two years after the date of its communication to all the Contracting Parties, any Contracting Party may at any time after the expiration of that period give notice to the depositary Government of its withdrawal from the present Treaty; and such withdrawal shall take effect two years after the receipt of the notice by the depositary Government.

ARTICLE XIII

1. The present Treaty shall be subject to ratification by the signatory States. It shall be open for accession by any State which is a member of the United Nations, or by any other State which may be invited to accede to the Treaty with the consent of all the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX of the Treaty.
2. Ratification of or accession to the present Treaty shall be effected by each State in accordance with its constitutional processes.
3. Instruments of ratification and instruments of accession shall be deposited with the Government of the United States of America, hereby designated as the depositary Government.
4. The depositary Government shall inform all signatory and acceding States of the date of each deposit of an instrument of ratification or accession, and the date of entry into force of the Treaty and of any modification or amendment thereto.
5. Upon the deposit of instruments of ratification by all signatory States, the present Treaty shall enter into force for those States and for States which have deposited instruments of accession. Thereafter the Treaty shall enter into force for any acceding State upon the deposit of its instrument of accession.
6. The present Treaty shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XIV

The present Treaty, done in the English, French, Russian and Spanish languages, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the signatory and acceding states.

Appendix B

101ST CONGRESS
2D SESSION

S. 2575

To urge the Secretary of State to negotiate a ban on mineral resource activities in Antarctica, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3 (legislative day, APRIL 18), 1990

Mr. KERRY (for himself, Mr. GORE, and Mr. PELL) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To urge the Secretary of State to negotiate a ban on mineral resource activities in Antarctica, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Antarctica Protection
5 Act of 1990".

6 **SEC. 2. DEFINITIONS.**

7 For the purposes of this Act—

8 (1) the term "Antarctica" means the area of the
9 Antarctic convergence as defined in section 303(1) of

1 the Antarctic Marine Living Resources Act of 1984
2 (16 U.S.C. 2432);

3 (2) the term "mineral resources" means all non-
4 living natural nonrenewable resources;

5 (3) the term "person" means any individual, cor-
6 poration, partnership, trust, association, or any other
7 private entity existing or organized under the laws of
8 the United States, or any officer, employee, agent, de-
9 partment, or other instrumentality of the Federal Gov-
10 ernment or of any State or political subdivision thereof,
11 or of any foreign government or political subdivision
12 subject to the jurisdiction of the United States; and

13 (4) the term "Secretary" means the Secretary of
14 State.

15 **SEC. 3. FINDINGS AND PURPOSES.**

16 (a) **FINDINGS.**—The Congress finds that—

17 (1) the Antarctic continent and its associated and
18 dependent ecosystems is a distinctive environment pro-
19 viding a habitat for many unique species and offering a
20 natural laboratory from which to monitor critical as-
21 pects of stratospheric ozone depletion and global cli-
22 mate change;

23 (2) Antarctica is protected by a series of interna-
24 tional agreements, including the Antarctic Treaty and
25 associated recommendations, the Convention on the

1 **Conservation of Antarctic Seals, and the Antarctic**
2 **Marine Living Resources Convention which are intend-**
3 **ed to conserve the renewable natural resources of Ant-**
4 **arctica and to recognize the importance of Antarctica**
5 **for the conduct of scientific research;**

6 **(3) recurring and recent developments in Antarcti-**
7 **ca, including increased siting of scientific stations, poor**
8 **waste disposal practices, oil spills, increased tourism,**
9 **and the over-exploitation of marine living resources**
10 **have resulted in serious questions about the adequacy**
11 **of existing agreements to protect the Antarctic envi-**
12 **ronment and its living marine resources;**

13 **(4) the parties to the Antarctic Treaty have re-**
14 **cently negotiated a Convention on the Regulation of**
15 **Antarctic Mineral Resource Activities which the**
16 **United States has signed but not yet ratified;**

17 **(5) the Convention on the Regulation of Antarctic**
18 **Mineral Resource Activities is not adequate to provide**
19 **the necessary level of protection for the fragile envi-**
20 **ronment of Antarctica and could actually stimulate**
21 **movement toward commercial exploitation;**

22 **(6) the level of scientific study, including neces-**
23 **sary support facilities has increased, in part to justify**
24 **achieving the status of a consultative party under the**
25 **Antarctic Treaty, to the point that some scientific pro-**

1 **SEC. 5. INTERNATIONAL AGREEMENT.**

2 (a) It is the sense of the Congress that the Secretary of
3 State should enter into negotiations with the consultative
4 parties described in paragraphs (1) and (2) of Article IX of
5 the Antarctica Treaty, done at Washington on December 1,
6 1959, for the purpose of concluding an international agree-
7 ment—

8 (1) to prohibit Antarctic mineral resource activi-
9 ties by all nations;

10 (2) to grant Antarctica special protective status as
11 an International Reserve-Land of Science dedicated to
12 wilderness protection, international cooperation and
13 scientific research;

14 (3) to conserve and protect permanently the natu-
15 ral environment of Antarctica and its associated and
16 dependent ecosystems; and

17 (4) to ensure that the results of all scientific inves-
18 tigation relating to geological processes and structures
19 be made openly available to the international scientific
20 community, as required by the Antarctica Treaty.

21 (b) It is the sense of the Congress that any treaty or
22 other international agreement submitted by the President to
23 the Senate for its advice and consent to ratification relating
24 to mineral resources or activities in Antarctica should be con-
25 sistent with the purpose and provisions of this Act.

1 SEC. 6. ENVIRONMENTAL IMPACT ASSESSMENT OF UNITED
2 STATES ACTIVITIES IN ANTARCTICA.

3 All activities conducted or sponsored in Antarctica by
4 any agency of the United States Government or by any pri-
5 vate or governmental entity receiving financial assistance
6 from the United States Government shall comply with the
7 provisions of section 102 of the National Environmental
8 Policy Act of 1969 (42 U.S.C. 4332).

9 SEC. 7. PENALTIES.

10 (a) CIVIL.—(1) Any person who violates a provision of
11 section 4 shall be liable to the United States for a civil
12 penalty in an amount not to exceed \$10,000 for each such
13 violation.

14 (2)(A) A civil penalty for a violation of section 4 shall be
15 assessed by the Secretary of State by an order made on the
16 record after opportunity (provided in accordance with this
17 subparagraph) for a hearing in accordance with section 554
18 of title 5, United States Code. Before issuing such an order,
19 the Secretary shall give written notice to the person to be
20 assessed a civil penalty under such order of the Secretary's
21 proposal to issue such order and provide such person an op-
22 portunity to request, within 15 days of the date the notice is
23 received by such person, such a hearing on the order.

24 (B) The Secretary may compromise, modify, or remit,
25 with or without conditions, any civil penalty which may be
26 imposed under this subsection.

1 (3) Any person who requested in accordance with para-
2 graph (2)(A) a hearing respecting the assessment of a civil
3 penalty and who is aggrieved by an order assessing a civil
4 penalty may file a petition for judicial review of such order
5 with the United States Court of Appeals for the District of
6 Columbia Circuit or for any other circuit in which such
7 person resides or transacts business.

8 (4) If any person fails to pay an assessment of a civil
9 penalty—

10 (A) after the order making the assessment has
11 become a final order and if such person does not file a
12 petition for judicial review of the order in accordance
13 with paragraph (3), or

14 (B) after a court in an action brought under para-
15 graph (3) has entered a final judgment in favor of the
16 Secretary,

17 the Secretary shall recover the amount assessed plus interest
18 in an action brought in any appropriate district court of the
19 United States. In such an action, the penalty shall not be
20 subject to review.

21 (b) CRIMINAL.—Any person who knowingly or willfully
22 violates any provision of section 4 shall, in addition to or in
23 lieu of any civil penalty which may be imposed under subsec-
24 tion (a) of this section for such violation, be subject, upon
25 conviction, to a fine in accordance with section 18, United

1 States Code, or to imprisonment for not more than 5 years,
2 or both.

3 **SEC. 8. CITIZENS' CIVIL ACTIONS.**

4 (a) **IN GENERAL.**—Except as provided in subsection (b),
5 any person may commence a civil action—

6 (1) against any person (including (A) the United
7 States, and (B) any other governmental agency) that is
8 alleged to be in violation of this Act, or

9 (2) against the Secretary to compel the Secretary
10 to perform any act or duty under this Act which is not
11 discretionary.

12 Any civil action under paragraph (1) shall be brought in any
13 United States district court. Any action brought under para-
14 graph (2) shall be brought in the United States District Court
15 for the District of Columbia, or the United States district
16 court for the judicial district in which the plaintiff is domi-
17 ciled. The district courts of the United States shall have ju-
18 risdiction over suits brought under this section, without
19 regard to the amount in controversy or the citizenship of the
20 parties. In any civil action under this subsection process may
21 be served on a defendant in any judicial district in which the
22 defendant resides or may be found and subpoenas for wit-
23 nesses may be served in any judicial district.

24 (b) **LIMITATION.**—No civil action may be commenced—

1 (1) under subsection (a)(1) to restrain a violation
2 of this Act—

3 (A) before the expiration of 60 days after the
4 plaintiff has given notice of such violation (i) to
5 the Secretary and (ii) to the person who is alleged
6 to have committed such violation, or

7 (B) if the Secretary has commenced and is
8 diligently prosecuting a proceeding for the issu-
9 ance of an order under section 7(a)(2) to require
10 compliance with this Act or if the Attorney Gen-
11 eral has commenced and is diligently prosecuting
12 a civil action in a court of the United States to
13 require compliance with this Act, but if such pro-
14 ceeding or civil action is commenced after the
15 giving of notice, any person giving such notice
16 may intervene as a matter of right in such pro-
17 ceeding or action; or

18 (2) under subsection (a)(2) before the expiration of
19 60 days after the plaintiff has given notice to the Sec-
20 retary of the alleged failure of the Secretary to perform
21 an act or duty which is the basis of such action.

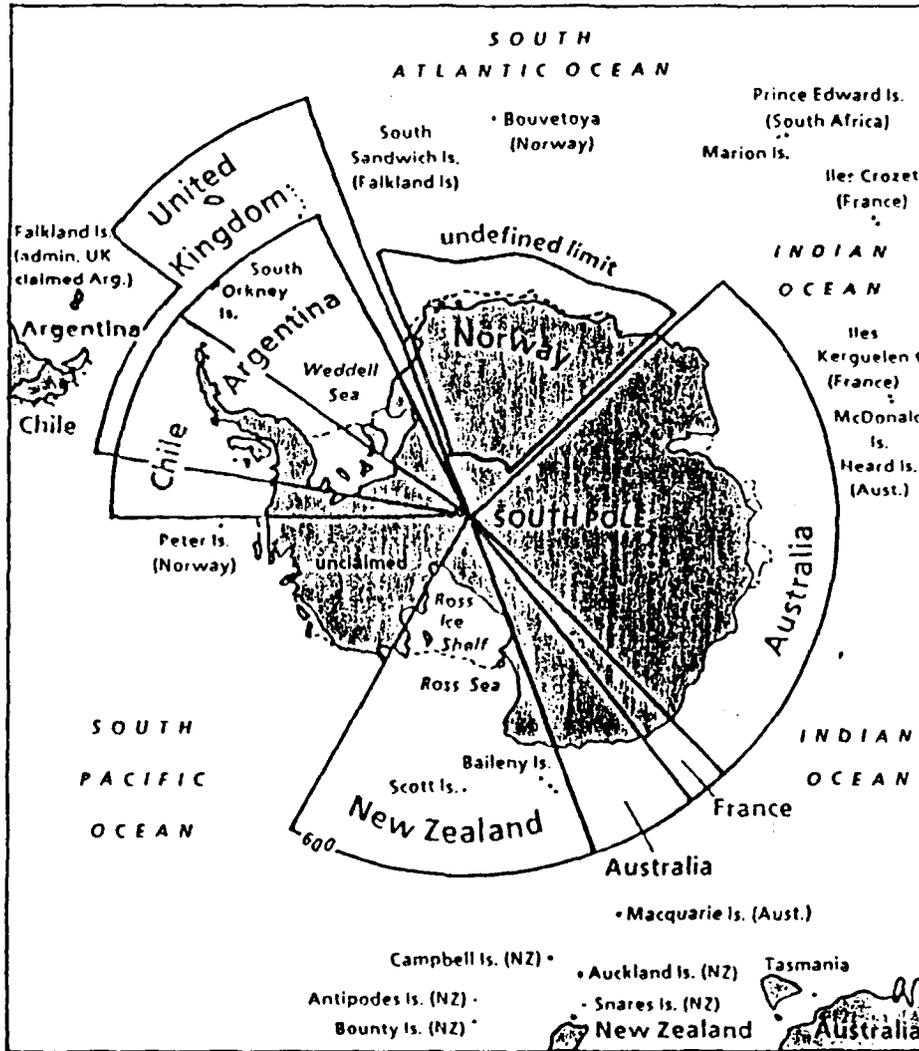
22 Notice under this subsection shall be given in such manner as
23 the Secretary shall prescribe by rule.

24 (c) GENERAL.—Nothing in this section shall restrict any
25 right which any person (or class of persons) may have under

- 1 any statute or common law to seek enforcement of this Act
- 2 or to seek any other relief.

○

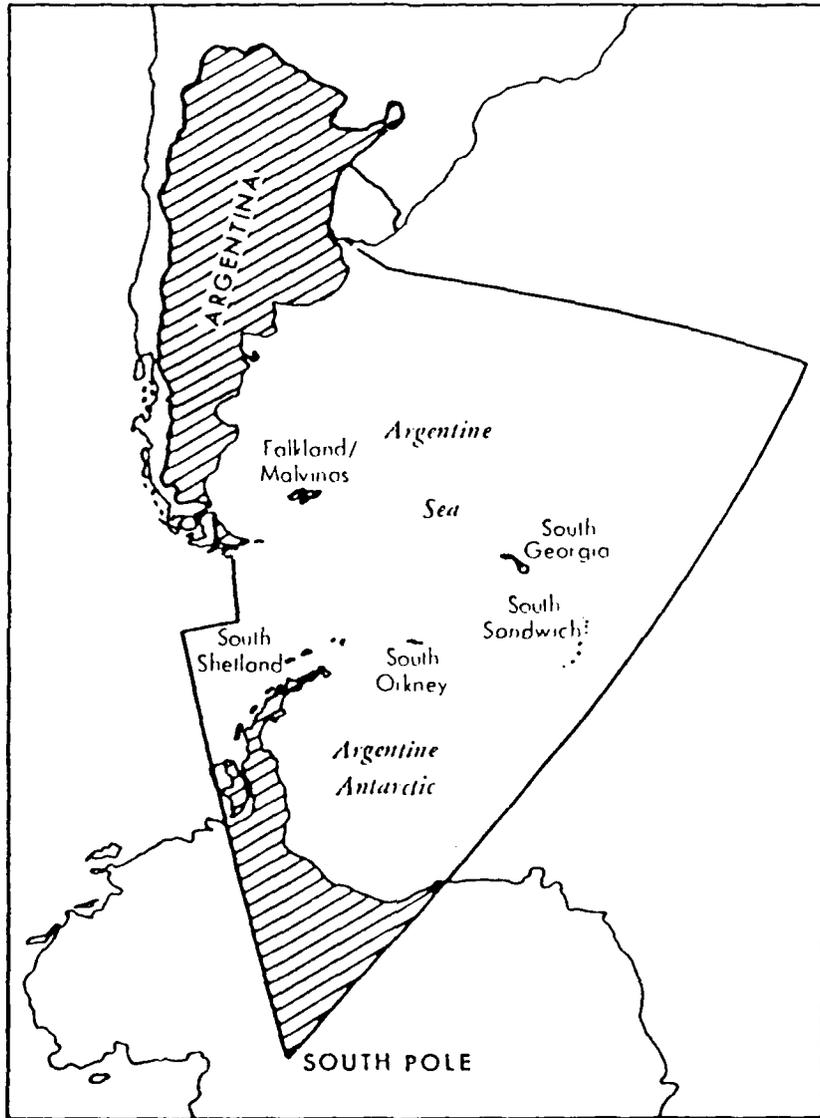
Map 1 OVERLAPPING CLAIMS



Reproduced from Klotz

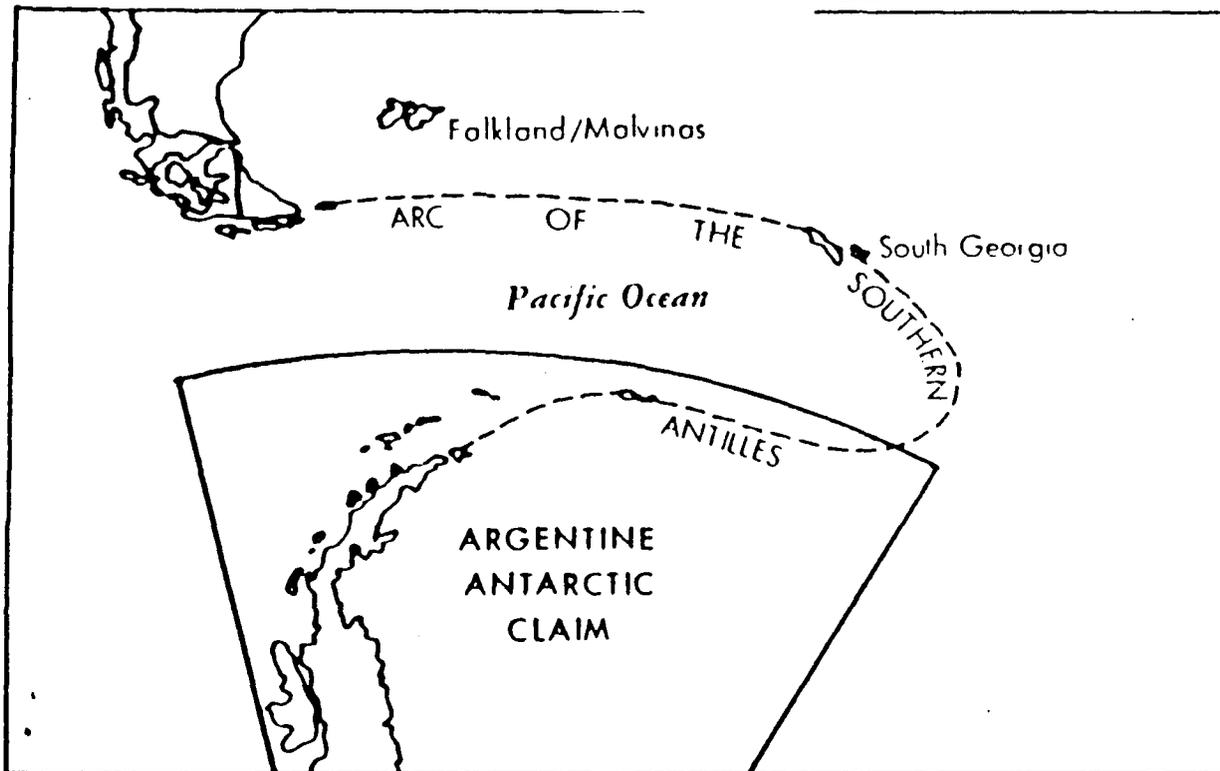
Source: CIA, Polar Regions Atlas, 1978

Map 2 THE ARGENTINE SEA CONCEPT



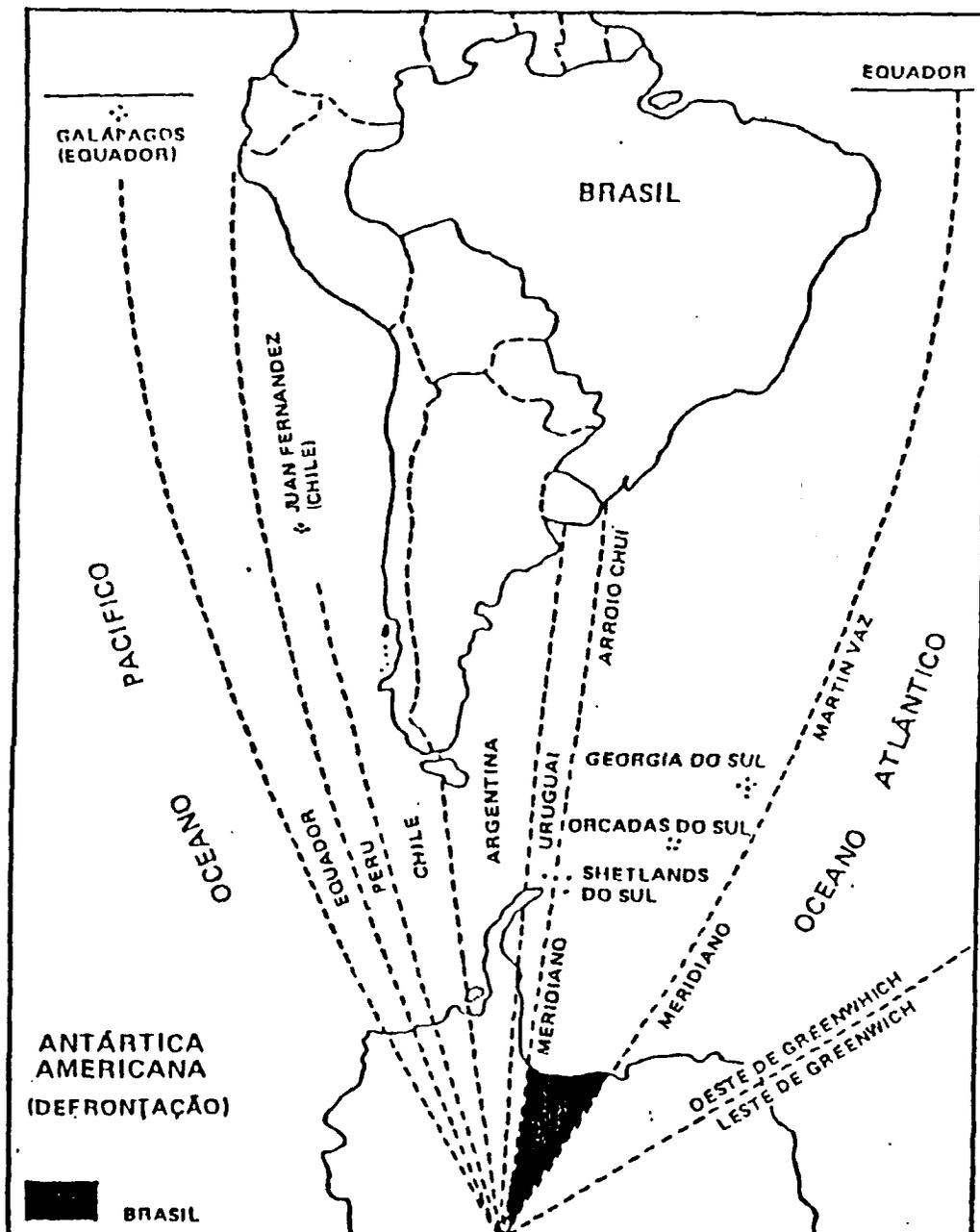
Reproduced from Child, Geopolitics and Conflict in South America

Map 3 THE ARC OF THE SOUTHERN ANTILLES



Reproduced from Child, Geopolitics and Conflict in South America

Map 4 THE FRONTAGE THEORY



Reproduced from Child, Geopolitics of the Southern Cone.

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