Banning Hydrocarbon Extraction in Antarctica Now: Reducing the Risks and Impacts of Global Climate Change

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**Reducing the risks and impacts of global climate change**

**Information Paper submitted by ASOC**

***Summary***

The Madrid Protocol prohibits mineral resource activities apart from scientific research under Article 7. As with the rest of the Protocol, this prohibition is open-ended, but can become open for review and possible amendment after 2048. While the rationale for the mineral resource prohibition was, and remains, the protection of the Antarctic environment and its dependent and associated ecosystems, a subset of mineral resources – hydrocarbons – are also of global significance as potential contributors to anthropogenic climate change. If 60% of known global reserves must remain in the ground if we are to meet the Paris Agreement targets of keeping the global temperature increase to 1.5°C above pre-industrial levels, Antarctic hydrocarbon reserves cannot be used at all. A compelling case exists for Parties agreeing to ban hydrocarbon extraction in Antarctica now, rather than leaving this to be resolved through decisions around the general mineral resources’ prohibition post-2048.

***Mineral Resources and the Article 7 Prohibition under the Madrid Protocol***

The 1991 Madrid Protocol’s Article 7, Prohibition of Mineral Resource Activities declares that “Any activity relating to mineral resources, other than scientific research, shall be prohibited.” What “Mineral Resources” are is not specified in the Protocol, although the Final Act of the Eleventh Antarctic Treaty Special Consultative Meeting says that it does not include ice. However, the Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA), adopted in 1988 but not subsequently brought into force, and essentially replaced by the Madrid Protocol, does. In Article 1, paragraph 6 it defines “Mineral Resources” to mean “all non-living natural non-renewable resources including fossil fuels, metallic and non-metallic minerals”. This may be taken as the sense in which Mineral Resources were understood by the Parties at the adoption of the Madrid Protocol. Fossil fuels are ordinarily understood as the three natural-occurring substances crude oil, natural gas and coal, which are commonly also referred to as “Hydrocarbons”.

While Article 7, like the entire Madrid Protocol, is open-ended in application, through Article 25 a mechanism is provided for a pathway to modification or amendment after 2048. While we hope that Parties will not seek to modify or amend the Protocol in ways that open up mineral resource activities after 2048, that time horizon is now just twenty-six years ahead.

***The Case for Banning Hydrocarbon Extraction in Antarctica Now[[1]](#footnote-1)***

The position that Parties arrived at in 1991 with the Madrid Protocol reflected a decade of discussion within the Antarctic Treaty system around the issue of mineral resource activities and the safeguarding of the Antarctic environment and its dependent and associated ecosystems. The concern was, properly, that activities conducted in Antarctica should not compromise the environmental values of the region. The judgement was reached that conducting mineral resource activities apart from scientific research (in which the Antarctic Treaty system had confidence and great expertise) would be likely to cause damage to the Antarctic environment, and that this was unacceptable. That judgement remains valid.

However, because the Antarctic Treaty system’s approach to Antarctic mineral resources ran in parallel to the emerging global concern about anthropogenic climate change, without the two being fully integrated, the Madrid Protocol did not (beyond the undefined “dependent and associated ecosystems”) explicitly consider the implications of any Antarctic minerals extraction for the ***global*** environment.[[2]](#footnote-2)

The international discussions around climate change proceeding at the global level, inter alia the 1992 United Nations Framework Convention on Climate Change, the 1997 Kyoto Protocol, 2015 Paris Agreement and the 27 Conferences of the Parties (COP) including that in Glasgow in 2021 and COP 28 in Sharm el-Sheikh 7-18 November of this year, have progressively revealed the imperative of capping CO2 emissions and limiting temperature increase. Article 2 of the Paris Agreement refers to “Holding the increases in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognising that this would significantly reduce the risks and impacts of climate change”. The 2021 Glasgow Climate Pact called the 2020s a “critical decade” for meeting the Paris Agreement targets.

Research conducted in Antarctica has been a major contributor to understanding the scale and trajectory of anthropogenic climate change in Antarctica and globally. The picture revealed is progressively worsening without the international system yet adequately responding. Current assessments are that some 60% of the planet’s hydrocarbon reserves need to remain in the ground if we are to keep the global temperature rise by 2050 below 1.5° C above pre-industrial levels.

Antarctica’s hydrocarbons are, as yet, not fully assessed, and thus are not included in the known hydrocarbon reserves. However, they (and especially oil and gas) are the focus of considerable international interest, strategic positioning and elite and public discourse around Antarctic futures and the geopolitical consequences of this. Hydrocarbon reserves in Antarctica may well be substantial in global terms. **If 60% of what we know about cannot be used, it is clear that no hydrocarbons from Antarctica should ever be extracted**.

***Banning Extraction Now***

The case for introducing a ban on the extraction of Antarctic hydrocarbons now, rather than chancing to the fate of the existing general mineral resources moratorium post-2048 is that, whereas any lifting of the present prohibition will pose significant risk to the Antarctic environment and dependent and associated ecosystems, the extraction of hydrocarbons poses a global and potentially existential threat at an altogether higher level. Agreeing to ban the extraction of Antarctic hydrocarbons now would be without prejudice to the more general mineral resources prohibition under the Madrid Protocol. Aside from the obvious benefit for the global environment, such a ban will relieve the Antarctic Treaty system of some significant pressures around resource rivalry which may be impediments to Antarctic governance in the common interest. It would also signal serious intent to tackle the global imperative to de-carbonise society in the common good more generally, and reinforce earlier hortatory statements by Parties.[[3]](#footnote-3)

***Mechanism for Enacting the ban on Hydrocarbon Extraction***

Consultative Parties can secure such a ban through a collectively agreed Measure at the ATCM. The ban should state that further to the provisions of Article 7 of the Protocol the extraction of all hydrocarbon (fossil fuels) shall be prohibited to reduce the risks and impacts of climate change. The Measure could state that it is without prejudice to the existing Madrid Protocol Article 7 prohibition of all other mineral resource activities apart from scientific research.

1. A fuller case, and sources, are provided in Patrick Flamm and Alan D. Hemmings, ‘Now and Never: Banning Hydrocarbon Extraction in Antarctica Forever’, German Institute for Global and Area Studies (GIGA) Focus Global, No. 1, February 2022. DOI: https:/doi.org/10.57671/gfgl-22012. <https://www.giga-hamburg.de/en/publications/giga-focus/now-and-never-banning-hydrocarbon-extraction-in-antarctica-forever>  [↑](#footnote-ref-1)
2. The Protocol’s Art. 3(2)(b)(i) states that activities in the Antarctic Treaty Area shall be planned and conducted so as to avoid adverse effects on climate and weather patterns. [↑](#footnote-ref-2)
3. Resolution 6 (2016) adopted by ATCM XXXIX in Santiago recalls inter alia that in accordance with its Article 25, the Protocol does not expire in 2048, and confirms ongoing commitment to the prohibition on Antarctic mineral resource activities, other than for scientific research as well as support for the Antarctic Mining Ban. The Washington Ministerial Declaration on the Fiftieth Anniversary of the Antarctic Treaty (2009) and ATCM declarations in Prague (ATCM XXXII, 2019) and Paris (ATCM XXXIII, 2021) also reaffirm the mining ban. [↑](#footnote-ref-3)