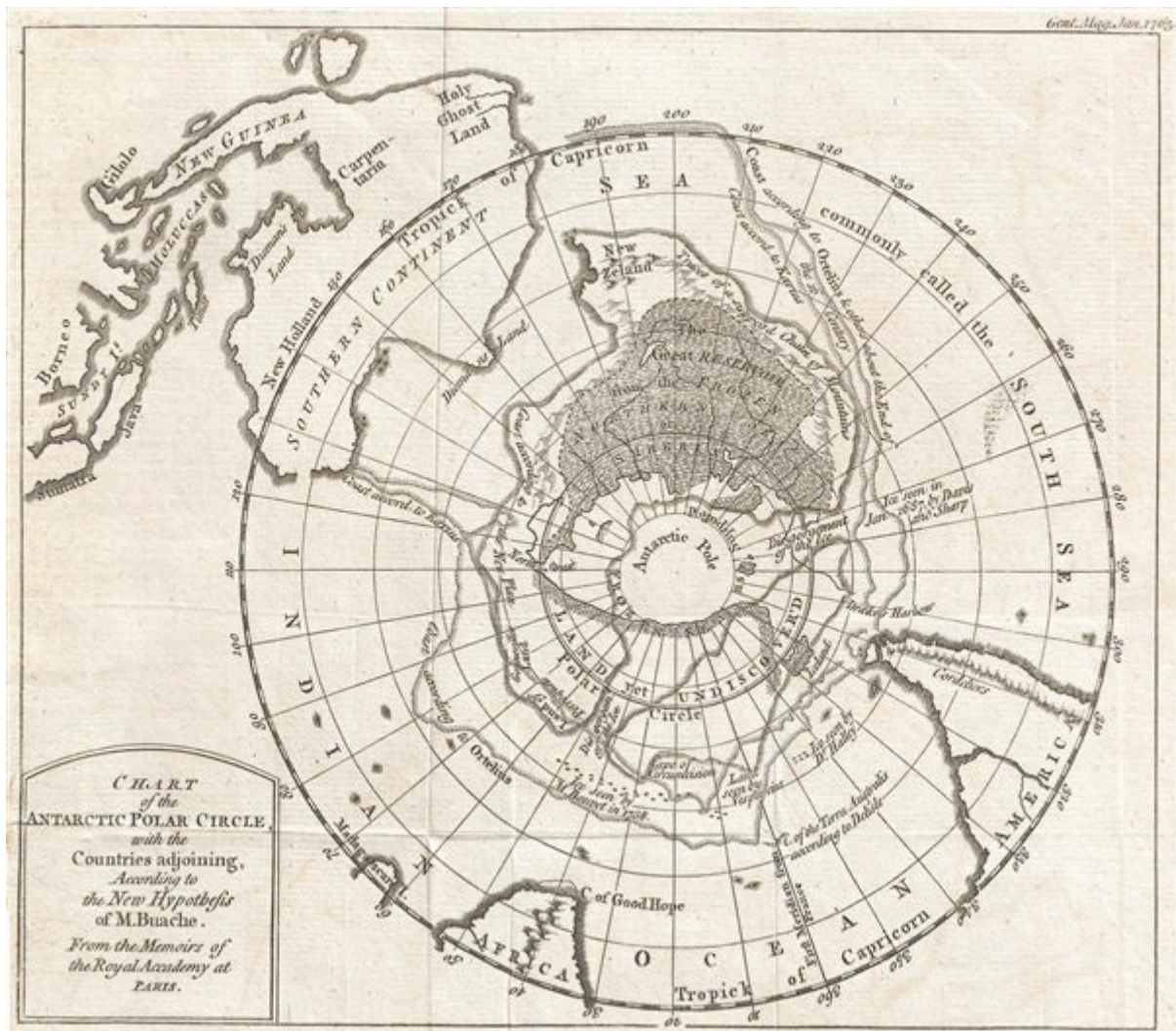


Critical Review for ANTA 602

Claiming territorial rights in the Antarctic. The different reasons and causes behind the seven claims.



University of Canterbury

Name: Christel Domaas

Student number: 31896623

Course code: PCAS 14

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Introduction:

Exploring the land and the earth has always been in man's nature. The story of the Antarctic goes back several centuries, with sightings of a Terra Australis Incognita,¹ however most of the discovery and exploration of the continent has been done in the last century.

Expeditions were sent down not just to conduct scientific work and explore, but also to claim land. The territorial claims were performed by sticking a flag in the ground and claiming it for your king and country, but were these continuances of the colonial hunt the only reason?

The naming of mountains and areas shows affiliation, but were personal acts the driving force? Many of the early sightings are not reliable because they were made by chance when drifting off course. So is a sighting or "first" discovery enough to make a claim?

Before the Antarctic Treaty was negotiated in 1959 there were 7 countries claiming a piece of the continent. Acknowledgements of the different claims were not set, bringing forward the reasons and causes behind the claims. Was there political influence and focus on international cooperation? Was it a strategic game of resources or a matter of honour and glory?

This paper looks at the lead up to the annexations and the reasons behind these claims.

England

England was the first country to claim a piece of Antarctica in 1908. England used the sector principle² for its claims and claimed the sector between 20° to 80° W and south of 50° S by Letters Patent, like Canada had done in the Arctic. The British Antarctic Territory included many islands, but also a big part of the Antarctic mainland. The British claims have been based upon discovery, the exercising of sovereignty, incorporation under British dominion and Letters Patent.

New Zealand

The Ross Dependency was established in 1923 (160 E and 150 W) and was given to the Governor-General of New Zealand. Although there is no agreement between Britain and New Zealand regarding the handing over of the Ross Dependency, by 1955 the claim was no longer seen upon as an English claim and in 1956 the New Zealand Administrator was sent down to the continent. The first official New Zealand expedition was sent down in 1957

¹ Unknown Southern Land

² To claim within lateral boundaries converging at the Pole

during the International Geophysical Year to build a station on the Dependency.³ Despite this, the claim was not in the Realm of New Zealand until 1983.⁴

Australia

The area up to 45° E, except Terre Adélie, was claimed by Sir Douglas Mawson on the British-Australian-New Zealand Antarctic Research Expedition (BANZARE) in 1929-31. A few years later in 1933-34 a new coast was added and in 1938 the land between 45° E and 160° E was named the Australian Antarctic Dependency.

Norway

Norway made its first claim in the Antarctic in 1927 when it claimed Bouvet Island, but no settlement was placed on the island. Norway was in some ways a bit reserved to make a claim on the continent, but nothing was done until 1938 when the Norwegian director of Norges Svalbard- og Ishavsundersøkelser (NSIU) was told about a secret German expedition to Antarctica. They wanted to claim the same area as Norway. The Norwegian government feared this occupation of “Norwegian land” and agreed to request a claim from the Falkland Island Dependencies in the west to the Australian Antarctic Dependency in the east.⁵ After negotiations with the British the west border was set to 20° W all the way to 45° E. The claim was presented and accepted by the other claiming countries in January 1939, just a few days before the Germans made their claim, but this new claim was not considered valid since Norway had already claimed it. Norway is the only country that does not agree with the sector principle claim,⁶ therefore the Norwegian claim has no inner or outer border.

³ Kirwan, Laurence Patrick, *A history of polar exploration*, p. 370

⁴ Lecture by J Jabour 14/11/11

⁵ The Royal Resolution of January 14th 1939: «den parten av fastlandsstranda i Antarktis som tøyer seg ifrå grensa for Falkland Islands Dependencies i vest (grensa for Coats Land) til grensa for Australian Antarctic Dependency i aust (45° austleg lengd) med det land som ligg innanfor denne stranda og det havet som ligg innåt, blir dregen inn under norsk statsvelde»

⁶ Due to an dispute with Canada in the claiming of the Arctic

France

In 1840 Dumont d'Urville claimed a piece from 136° E to 142° E for France and named it Terre Adélie. They followed England in the colonial hunt for territory.⁷ In 1924 the French had a programme of research and development closer to the continent, which ended with a decree of Terre Adélie together with the sub-Antarctic islands.⁸ Although they had not been active in this area since Dumont d'Urville in 1840, and were not again until after World War II, their claim was accepted by the British and Australian governments in 1933. The Australian Dependency to the east and west encloses Terre Adélie.

Argentina

Argentina appeared in the process of claiming when they wrote a letter to Britain in November 1925 claiming parts of the same area as Britain. They continued to expand their claims of Antártida Argentina until 1937, when the claim almost matched the British claim, from 25° W to 74° W. They had also laid claims on South Georgia.⁹

Chile

Chile was the last of the 7 claiming countries to make a claim in Antarctica. They made their claim on Territorio Antártico Chileno in a decree during 1940, claiming within the same area as Britain and Argentina, from 53° to 90° W. One can view this as a late attempt at nationalism.¹⁰ By connecting it to Chilean history they reinforce their claim.¹¹

Two other nations also claimed land in Antarctica, namely Germany and USA.

Several claims in Antarctica were made by Richard E. Byrd and Lincoln Ellsworth for the USA in the 1930s, but a lack of funding from Congress in 1946 stopped all ideas of claiming any land on the continent. USA then changed their politics drastically to neither make claims, or recognise the claims of others.¹²

⁷ Kirwan, Laurence Patrick, *A history of polar exploration*, p. 161-162

⁸ Kirwan, Laurence Patrick, *A history of polar exploration*, p. 352

⁹ Kirwan, Laurence Patrick, *A history of polar exploration*, p. 351-352

¹⁰ Kirwan, Laurence Patrick, *A history of polar exploration*, p. 366

¹¹ Child, Jack, *Antarctica and South American geopolitics : frozen lebensraum*, p. 107-109

¹² Kirwan, Laurence Patrick, *A history of polar exploration*, p. 358

Germany, Third Reich, set out an expedition in 1938 and declared its claim of Neu Schwabenland 20° E to 10° W in January 1939, This was not accepted since the Norwegian government had already claimed the same area, only a few days before.

Another country that has had interests in the Antarctic was Russia.¹³ They used the sightings and circumnavigation of the Russian expedition in 1820 by Fabian Gottlieb von Bellingshausen and Mikhail P. Lazarev¹⁴ to not recognise any Antarctic claims, but also reserve all rights based on the prior discovery.¹⁵

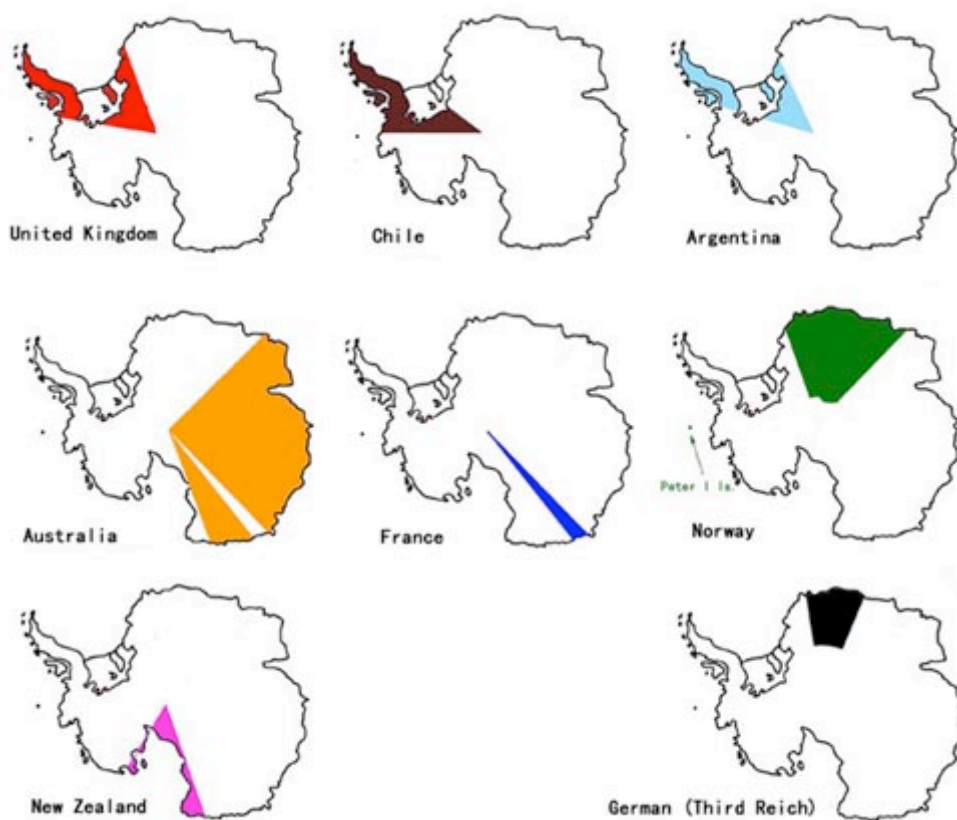


Figure 1: The 8 official claims made on Antarctica

¹³ Officially the Union of Soviet Socialist Republics (USSR) between 1922-1991

¹⁴ Auburn, F. M., *The Ross Dependency*, p. 18

¹⁵ Triggs, Gillian D., *International law and Australian sovereignty in Antarctica*, p. 271

Defining a claim

What makes a claim valid? This has been disputed in Antarctica as in the rest of the world. Antarctica is the only continent without indigenous people, which puts it in a different situation. There have been different interpretations of laws, one going back to the interpretation of old Roman law where one could claim a territory for his king and kingdom, but not for a private person. This is the same in international law. This old Roman law was devised for private property however, and is therefore insufficient to solve all the disputes around Antarctic issues.¹⁶ There is also the issue of state activity and effective occupation. One can argue whether settlement is a necessary element of effective occupation, and herein lies the dispute between Britain, Argentina and Chile. Argentina argued against the British claim based on their lack of effective occupation and Argentina's geological proximity. Further, they claim that the sector is a natural geographical extension of the Argentinean continent.¹⁷

Chile joined the dispute in 1940 saying they denied the British discovery rights on the grounds that they had more recent polar activity and also a natural geological proximity. By the end of World War II all three countries had established bases in the claiming area, in order to ensure effective occupation. They had also started a visual play in stating their sovereignty by using flags, placing plaques, and producing maps and memoranda.¹⁸

There is also the discussion of sovereignty, and whether it applies to an uninhabited landmass or if it is just applicable on human beings in an inhabited area.¹⁹ This implies that no country has sovereignty in Antarctica, but one can argue that this has changed in the recent years because of scientists wintering over on the continent, not really affecting any of the claims due to the agreements in the Antarctic Treaty.

The acknowledgment of the other claims defines how valid they are, and also here there was a dispute between the claiming countries in Antarctica.

The British claim was recognised by Norway as they applied to England for whaling licenses in the claimed areas, and actually also outside it believing England had claimed a bigger part.

¹⁶ Auburn, F. M., *The Ross Dependency*, p. 24-30 and Kirwan, Laurence Patrick, *A history of polar exploration*, p. 350-355

¹⁷ Dodds, Klaus, *Pink ice : Britain and the South Atlantic Empire*, p. 1-18

¹⁸ Dodds, Klaus, *Pink ice : Britain and the South Atlantic Empire*, p. 20

¹⁹ Triggs, Gillian D., *International law and Australian sovereignty in Antarctica*, p. 83

The British recognition of the Australian and New Zealand claims was assumed because of their common British origin.²⁰ The claims of Britain, Australia, Norway, New Zealand and France are mutually recognised by each other. Chile disputes the British claim and also the overlapping Argentinean claim, saying their claim is as old as their country. Argentina on the other hand recognises no claim other than its own. The USA and Russia, although not claimant countries, do not recognise any claims but reserve a right to claims in the future. Claims are often indicated on maps, but this does not signify de jure recognition.

After the signing of the Antarctic Treaty all claims were frozen. The Treaty does not recognize, dispute, nor establish territorial sovereignty claims and no new claims shall be asserted while the treaty is in force.²¹

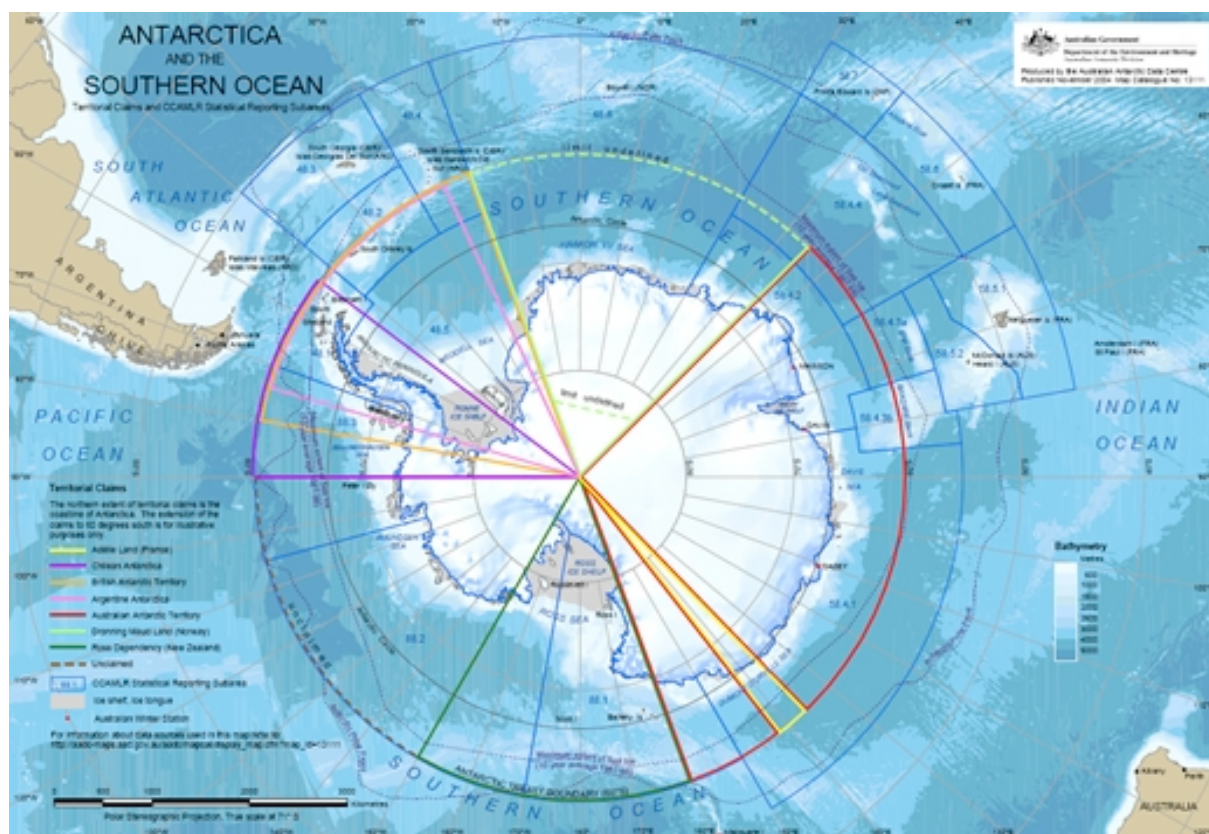


Figure 2: Map of Antarctica and the Southern Oceans showing territorial claims and CCAMLR²² zones.

²⁰ Triggs, Gillian D., *International law and Australian sovereignty in Antarctica*, p. 270

²¹ Antarctic Treaty System, Article IV

²² CCAMLR – Commission for the Conservation of Antarctic Marine Living Resources

Politics, science and resources

Different countries had been sealing since the late 1800s and whaling from around 1860, but what made the countries start claiming the continent? In many ways it was England's claim in 1908 with the politics of colonization that hit the continent. The whole idea of claiming the land and its resources for a country in order to exploit these was the starting point for the other claims.

England's justification for their claim to the Falkland Island Dependency was the legal validity of discovery rights. The French claim on Terre Adélie was recognised as a claim based solely on discovery and symbolic annexation.²³ Are sightings enough to claim? Which sightings should be chosen? And which claims are valid?

England, with its colonial history, wanted to preserve their whaling rights in the area. A shortage of fat made this industry a lucrative one. This period is often referred to as "the first oil age" in Norway²⁴ and the resources were a reason to claim land.

Due to the recent settlement between Norway and Britain on the 200 NM economical zone in 1934, Norway did not want to get into a dispute with England over territories in Antarctica. The Norwegian diplomat was, however, asked by the government to investigate how the British would react to a Norwegian occupation of the land south of Bouvet Island. The British responded that Norway should get their own "piece of the cake" because of their expeditions and work laid down on the continent.²⁵ As Gillian Triggs put it: Norway reminded them [Britain] of their efforts on the continent, by whaling and exploring large areas of land.²⁶

The German expedition provoked the Norwegians to take action on making their claim. The claim was primarily done to secure Norwegian whaling activities, but can also be seen as an act to keep Germany out of the continent.

It wasn't only the claims that were disputed as the sector principle was also argued against. This was because it claimed land and islands that were not yet discovered and covered areas still unknown to man.²⁷ The reason for using it was originally the Canadian claim in the Arctic, but it was easier to maintain on the Antarctic continent. Soon the disputes shifted and after World War II there was a lot of focus on the strategies of claiming land in Antarctica. Coming into the Cold War period this was shown in an increased interest in

²³ Auburn, F. M., *The Ross Dependency*, p. 18

²⁴ Zachariassen, Ketil, et al. (2004), *Norsk polarhistorie*

²⁵ Widerøe, Turi, *IS, FLY og SKIP*, p. 14-15

²⁶ Triggs, Gillian D., *International law and Australian sovereignty in Antarctica*, p. 269-264

²⁷ Heron, David Winston, *Antarctic Claims*, p. 663

activities on the continent.²⁸ Science benefited from this focus on activity and the overlapping claims, as the three countries used a lot of resources and money to send expeditions and increase their activity²⁹ but the science was also used as a justification of the stated claims.

Geopolitical thinking and Antarctica is maybe the most important area of new ideas on how to view the continent and its neighbours because the geography of a country and its politics have been very closely linked. It can describe the underlying factors causing the heated politics in Antarctic matters by capturing the drive behind the claims and looking at the cultural, social, nationalistic and economic activities.³⁰ One can also link the rise in base establishments with the political motivation to have a say in things.

Disputes put on “ice”

There have been many disputes in Antarctica, and still are in some ways, but the territorial disputes came to an “end” in 1959 with the Antarctic Treaty, which froze the claims already done and also made restrictions on making new claims. This was done to avoid any type of confrontation between the countries. The fact that the claims of England, Argentina and Chile are overlapping has been a hot dispute, but still through war the Antarctic was in most areas left out, and there was a continued cooperation between the bases.³¹

The period after World War II was also filled with political strategy between USA and Russia over Antarctica. The US thought that by not claiming or recognising any claims they could help keep Russia away from the continent. Keeping Russia out was more important than claiming a piece for themselves and possibly causing a new area of dispute.

In many ways the USA got the prime spot anyway by building a base on the Pole in 1957.³²

Even though the claims are no longer “valid”, the perceptions of heritage on and of the continent is very much the same now as before the Treaty. It is in some countries, like Chile, it is still a fundamental part of their domestic politics and very much a part of their history as a country and people. The same can also be applied to Argentina. In the Commonwealth countries one is still told the stories and shown the importance of both the old connections to the continent, but also the new, like at the Gateway cities. The heritage to the claims and continent is very much alive, even for countries far away like Norway.

²⁸ Child, Jack, *Antarctica and South American geopolitics : frozen lebensraum*, p. 14-15

²⁹ Kirwan, Laurence Patrick, *A history of polar exploration*, p. 367

³⁰ Child, Jack, *Antarctica and South American geopolitics : frozen lebensraum*, p. 22

³¹ Child, Jack, *Antarctica and South American geopolitics : frozen lebensraum*, p. 15-19

³² <http://www.nsf.gov/od/opp/support/southp.jsp>

The Treaty has in many ways made it possible to agree upon a continent filled with disagreement, to put claims on hold so that cooperation and science could be the driving factor.

Summary

Beginning with England's claim, the colonial hunt reached all continents. It wasn't just about claiming the landmass; it was the resources on and around it, which made it so important to keep control of. Antarctica has, and probably always will be, a "hot" area of interest. It will therefore always see disputes between the claiming countries and the signatory countries of the Treaty.

The justification of the claims and the disputes between claimant nations like Britain, Chile and Argentina challenge the legal validity of discovery rights.³³ These discovery rights can be disputed by anyone, as the exploration of the continent from way back vary in both information and accuracy.

The reasons behind the different claims are not that different, from the original claim of land for resources to current scientific or political reasons. The one common factor, still visible in the Antarctic Treaty, is that they all want to be involved and get their say in how the continent is run.

The advancing of exploration led to the partition of the Antarctic. Science benefited from the exploration but needed funding, so things became political.³⁴

The political interests in the continent have been based on resources, but one can also say that now the science makes up for the lack of exploitation resources. Now Antarctica is the "hot" area to be involved in.

Activity was used to enforce sovereignty, and still is today, but the reasons are more complicated, as the Treaty laid all claims on ice. Despite this, the claiming countries still say that they have sovereignty.

By looking at the geopolitics in the different countries one finds strong links to Antarctica, not only in the politics but in all aspects of everyday life like cultural, social, nationalistic and economic activities.

³³ Heron, David Winston, *Antarctic Claims*, p. 664

³⁴ Kirwan, Laurence Patrick, *A history of polar exploration*, p. 351

The claiming of Antarctica was in many ways a game, in politics, resources, strategy and science. With individual motives each of these elements played a coherent role in the different countries' reasons for claiming the Antarctic.

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Figure 1: http://mooreturf.com/mo_southpole.php

Figure 2: <http://www.afma.gov.au/managing-our-fisheries/fisheries-a-to-z-index/antarctic-fisheries/maps/commission-for-the-conservation-of-antarctic/>