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Third States' Presence in the 7th Continent: Implications for International Law of the Antarctic

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ABSTRACT:

The international regime of the Antarctic since its coming into existence to present has experienced significant changes. When the first attempts of creating an international Antarctic regime were made among the 12 original signatory states 60 years ago, interactions with the broader international community, as observed today, barely existed. The position of the Antarctic in international law evolved ever since namely by a broader international participation.

In recent years, it is observed that a significant rise in the number of third states, i.e. states that were neither an original signatory nor acceded thereto until recently, willing to explore the so called “7th Continent” and participate in activities therein is occurring. This includes a tangible number of Asian states which in recent decades expressed their willingness and intention to involve in Antarctic science and research through namely affiliation in the ATS or Antarctic related scientific entities.

This evolution calls for a re-examination and comprehensive investigation into the possible legal implications of such globally rising participation in various activities in Antarctica as to what extent the presence of third states in the Antarctic could affect the existing legal regime. This issue is the key question which is raised in this project that has not investigated by the existing literature on the Antarctic. This paper is seeking to reach objectives including, but not limited to, an investigation into the Antarctic law to highlight the evolutions occurred therein from a historical perspective, an investigation into the evolutions occurred in the Antarctic law caused by the increase in number of the present states in that continent and the reasons thereto, an analysis of these findings taking into account the case study of previous and recent State practices, as well as providing a

conclusion based on the afore-said analysis as well as the possible implications and effects on the Antarctic law causing by current and future presence of third states and eventually, preparation of a report outlining the findings as well as the final conclusions reached.

In so doing, relevant Antarctic instruments, documents, reports, information and any other materials from relevant institutions and entities will be obtained. Relevant literature of the Antarctic law and policy will be examined. State practice as well as relevant domestic laws, regulations and any other documents and materials regarding the Antarctic will be examined. The expected outcomes of this research project will answer the questions pertaining to the implications derived from the effects on the Antarctic law through presence of the third States and that whether or not such effects call for a re-visit of the existing legal regime of the Antarctic. Such outcomes could increase understanding of Antarctic legal system resilience and that how and why signified effects may occur and how may be responded. These are deemed to be a key outcome of this project.

To reach the implications mentioned above in first stage a history of the norms and rules ever emerged in the Antarctic forming the international law therein and evolution and changes thereto ever after, particularly caused by and based upon emergence of a new State in the Continent will be outlined and constructed. In second stage, the information collected above will be analyzed for interpretation taking into account evolutions occurred in the international law of Antarctic caused by the increase in number of the present states in the Antarctic and the reasons thereto. Eventually, a conclusion based on the above analysis will be provided to identify the possible effects on the Antarctic law causing by current and future presence of third states therein.

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