



ANTARCTICA NEW ZEALAND INFORMATION SHEET

HISTORY OF THE ANTARCTIC TREATY

The Antarctic Treaty is a special and effective international legal agreement designed to ensure that member countries work together in Antarctica for peaceful and scientific purposes.

Provenance of the Treaty

During the first half of the twentieth century, seven countries made territorial claims to parts of Antarctica. These claims, (shown in figure 1 below), were made as a result of scientific, commercial or exploratory expeditions to Antarctica. The countries making the claims did so for different reasons,

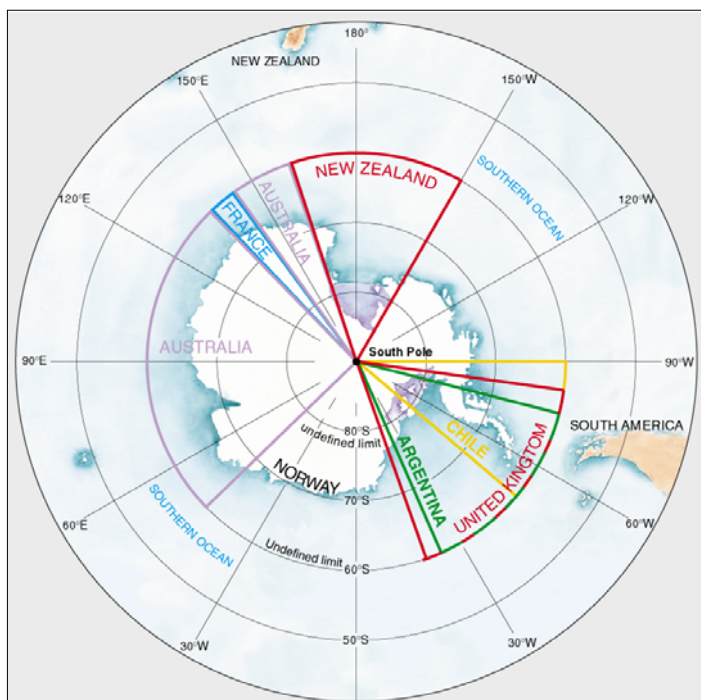


Figure 1. Claims to Territory in Antarctica

Source: Waterhouse, 2001. Claims were made as follows: United Kingdom (1908); New Zealand (1923); France (1924); Australia (1933); Norway (1939); Chile (1940); Argentina (1943)

including for potential financial gain, such as through the sale of licences for commercial sealing and whaling.

New Zealand's claim to the Ross Dependency was made by a British Order-in-Council in 1923.

Three of the claims, those of Argentina, Chile and the United Kingdom overlap. Further the two superpowers at the time, the Soviet Union (now Russia) and the US, reserved their respective rights to make a claim to Antarctica should they so wish. These overlapping claims and the stated positions of the two superpowers created significant international tension over Antarctica during the 1940's and 1950's.

This tension was heightened during the 'Cold War' when there was growing political unease over possible military uses of Antarctica.

International Geophysical Year (IGY)

Somewhat in spite of this international political tension, the international scientific community designated 1957-58 as the International Geophysical Year (IGY), a worldwide programme of upper atmospheric

and Polar research. As part of the IGY twelve countries co-operated in Antarctica on a range of globally important scientific research programmes. During the 1957-58 summer in Antarctica several new bases were built, including New Zealand's Scott Base. More importantly, at the end of the IGY it was suggested that this co-operative spirit and peaceful use of Antarctica as a giant scientific laboratory should be continued.

As a result, the twelve countries participating in the IGY (Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, the United Kingdom, the United States of America, and the USSR (now Russia)) negotiated the Antarctic Treaty which was signed in Washington DC in 1959, and entered into force two years later in 1961.

The Antarctic Treaty covers the area south of latitude 60°S, including the entire Antarctic continent, ice shelves and off-lying islands. Together this area constitutes about 10% of the world's land surface with the surrounding Southern Ocean forming a further 10% of the planet's oceans.

Treaty Principles

The Antarctic Treaty is remarkable short, just 14 Articles long. But it is testament to the political will and desire of the architects of the Treaty that they were able to reach agreement over such difficult issues and at such a sensitive time in world history. The key provisions of the Antarctic Treaty are:

Antarctica shall be used for peaceful purposes only. All military activities are banned, although military personnel can be used to support scientific programmes (the US and NZ military help with transporting scientists and equipment to Scott Base and McMurdo Station and around Antarctica). There is freedom of scientific investigation. Scientific plans, information and staff are to be regularly exchanged between signatory nations. Examples of such international scientific co-operation include the recently concluded, New Zealand-led Cape Roberts Geological Drilling Project. Participating countries in this project included the USA, the UK, Germany and Italy. The rock cores will provide valuable data on Antarctica's climatic and geological history.

- All political claims to territory are "frozen", or set aside for the duration of the Treaty, which has an indefinite life, and no new claims or enlargements of existing claims can be made.
- Nuclear explosions and the dumping of radioactive waste in Antarctica are banned.
- All stations and facilities, including ships and aircraft, are open to inspection by observers appointed by Antarctic Treaty Parties.

The Treaty is a unique international agreement. No other part of the world is regulated by means of such an international instrument that, in particular, sets aside all claims to territorial sovereignty.

Membership

Any country belonging to the United Nations may join the Antarctic Treaty. Forty-five countries have currently signed the Treaty, representing more than 80% of the world's population.

The Antarctic Treaty classifies member States into three categories: the original signatory States; acceding States with a base or bases in Antarctica and / or an active scientific research programme

(known as Consultative Parties), and acceding States with no active Antarctic programme (known as Non-Consultative Parties or Observer States). All Consultative Parties have voting rights at the regular Antarctic Treaty meetings. There are currently 27 countries with Consultative status.

In recent years Antarctic Treaty meetings have become more publicly accessible. For example, non-governmental environmental organisations are now represented at most meetings through the Antarctic and Southern Ocean Coalition (ASOC).

How the Treaty Works

Antarctic Treaty Parties meet regularly (currently once a year) at Antarctic Treaty Consultative Meetings (ATCMs) for the purposes of exchanging information and taking decisions on a wide range of issues specifically related to Antarctica. The ATCM effectively provides the means for the international governance of Antarctica.

Issues that have been addressed at recent ATCMs include, management and regulation of Antarctic tourism, guidelines for shipping in Antarctic waters, development of a liability regime for environmental damage, protected areas, special protection for endangered Antarctic species and inspection reports of Antarctic bases and facilities.

Up until 1995 all decisions taken at an ATCM were known as "Recommendations". Since 1995, Recommendations have been replaced with three separate categories: Measures, which cover legally binding text and agreements; Decisions, which cover administrative matters such as Rules of Procedure, and Resolutions, which deal with non-binding agreements and understandings. All have to be agreed by consensus among the 27 Consultative Parties. Whilst consensus decision-making can be slow, it does mean that all Parties move forward at the same pace. Importantly, the consensus process also maintains a level playing field among all Parties whether claimant countries, original signatories to the Treaty or acceding states.

Twenty-six ATCMs have been held since the Treaty entered into force in 1961 and more than 200 Recommendations (up to 1995), and Measures, Decisions and Resolutions (after 1995) have been adopted.

Since 1961 the Treaty has operated without a permanent Secretariat. Instead Consultative Parties have taken it in turns to host the meeting and to provide temporary Secretariat support. But the growth in membership of the Treaty and the increasingly complex administrative requirements forced Parties to re-examine the need for a permanent Secretariat. In 2001 at the twenty-fourth ATCM (held in Russia), the Treaty Parties agreed to establish a permanent Secretariat and accepted Argentina's offer to host the Secretariat in Buenos Aires. At the twenty-sixth ATCM (held in Spain in 2003) the Consultative Parties were able to agree on the necessary legal texts required to bring the Secretariat into being. It is anticipated that the first Executive Secretary of the Antarctic Treaty Secretariat will be appointed at the twenty-seventh ATCM to be held in South Africa in 2004.

A permanent Secretariat will bring increased rigour and centralised support to the ATCM and is expected to greatly increase the effectiveness of the Antarctic Treaty and its Environmental Protocol.

Environmental Protection

The Antarctic Treaty is widely regarded as a successful and effective international agreement. But it is a geopolitical Treaty designed to address the tensions surrounding territorial claims to Antarctica in the 1950's. As such there are certain issues that the Treaty does not address, including environmental protection and resource issues such as marine harvesting and mineral resources. To deal with those issues that the Treaty does not cover, a suite of separate, freestanding international instruments have been agreed by the Treaty Parties.

These are:

- The Convention for the Conservation of Antarctic Seals (CCAS). This convention was adopted in 1972 and entered into force in 1978. The Convention protects the fur, elephant and Ross seals and set quotas on the taking of the more numerous crabeater, leopard and Weddell seals for scientific research.
- The Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) was adopted in 1980 and entered into force in 1982. This convention covers an area larger than the Antarctic Treaty. In broad terms the boundary of the Convention follows the Antarctic Convergence – a natural oceanographic feature where the cold water of the Antarctic meets the warmer waters of the Atlantic, Pacific and Indian Oceans. The Convention takes an ecosystem wide approach to fisheries management and is therefore interested in the effects of fishing not only on target species, but also on the predators and prey of that species. The Convention was negotiated as a result of international concern over the possible consequences of uncontrolled harvesting of krill – a shrimp-like species that is a crucial part of the Southern Ocean food web. The Convention also aims to protect the Antarctic marine ecosystem from over-fishing and to help recovery of the great whales and some species of fish. The Convention does not however regulate whaling activity, which is the subject of the International whaling Convention (IWC).
- The Convention for the Regulation of Antarctic Mineral Resource Activities (CRAMRA), was negotiated over a six-year period in the 1980s and was finally agreed and opened for signature in 1988. The aim of the Convention was to provide regulatory processes for the exploration and exploitation of Antarctic minerals should such an industry emerge. It is worth noting that during the period of the discussions on the Convention, some countries began Antarctic research and established bases. This enabled them to become Consultative Parties to the Antarctic Treaty and thus allowed them to have a say on the issue of the regulation of mineral resource activities on and around the continent. However, the issue of minerals exploitation in Antarctica remained a sensitive issue throughout the six years of negotiation of the Convention. On conclusion of the discussions a number of Antarctic Treaty Parties said that they would either not sign or would not ratify the Convention. This threw the Treaty System into disarray. In a flurry of negotiations over a two-year period the Parties attempted to fill the lacuna by beginning discussions on ways to protect the Antarctic environment from mining and pollution.

As a result of these hurried negotiations, the Protocol on Environmental Protection to the Antarctic Treaty (or the Madrid Protocol) was signed in 1991, and entered into force in 1998. The Protocol is a comprehensive environmental agreement for Antarctica. The Protocol designates Antarctica as a "natural reserve devoted to peace and science". It also prohibits any mining activity indefinitely (unless Treaty Parties decide otherwise and until a regulatory regime for mining is in place) and requires all human activities to be planned and carried out on the basis of sufficient information on possible environmental impacts. The Protocol also introduces new rules on waste management, conservation of fauna and flora, and the prevention of marine pollution as well as establishing a new system for area protection and management. The Protocol also established the Committee for Environmental Protection (CEP), which is charged with advising the ATCM on the implementation of the Protocol as well as on other important environmental issues.

New Zealand and the Treaty

As a claimant State and original signatory to the Treaty, New Zealand has always been a strong supporter of Antarctic Treaty principles and New Zealand delegates have participated in all Antarctic Treaty Consultative Meetings since 1961.

The Antarctica (Environmental Protection) Act 1994 gives effect to the Environmental Protocol in New Zealand law. The Act is binding on all New Zealanders in Antarctica, all tourists visiting the Ross Dependency and passengers on tour ships leaving for Antarctica from New Zealand ports.

The "Environmental Issues and Management" sheet explains the ways that Antarctica New Zealand has gone about implementing the requirements of the Protocol.

SCAR

The Scientific Committee on Antarctic Research (SCAR) is a non-governmental organisation that coordinates and exchanges information on science in Antarctica. SCAR also plays an important role as an Observer and advisor to the Antarctic Treaty Consultative Meetings.

The members of SCAR come from countries conducting scientific research in Antarctica. They meet every two years to formulate priorities for research. These guide each country's national scientific programme and provide the framework for international collaboration.

SCAR working groups and groups of specialists concentrate on particular scientific disciplines or topical issues. These include biology, glaciology and geology, as well as global change, environmental affairs and conservation and southern ocean ecology.

The Royal Society of New Zealand coordinates New Zealand's contribution.

COMNAP

The Council of Managers of National Antarctic Programs (COMNAP) was established in 1988 to facilitate liaison between the managers of national agencies responsible for the conduct of logistics operations in support of Antarctic science. The membership now includes twenty-nine countries from the Americas, Africa, Asia, Europe and Oceania. Representatives meet annually to discuss cooperative logistics and scientific programs, develop standard operational procedures, and formulate technical advice, on request, to Antarctic Treaty Consultative Meetings (ATCMs) and its [Committee on Environmental Protection](#) (CEP).

Both SCAR and COMNAP have Observer status to the ATCM.

FURTHER READING

Berkman, P.A. 2002. *Science into Policy: Global Lessons from Antarctica*. Academic Press, San Diego, USA.

Hansom, J.D. and Gordon J.E. 1998. *Antarctic Environments and Resources: A Geographical Perspective*. Addison Wesley Longman Ltd, United Kingdom.

Waterhouse, E.J. (ed). 2001. *Ross Sea Region 2001: A State of the Environment Report for the Ross Sea Region of Antarctica*. Antarctica New Zealand, Christchurch.

Council of Managers of National Antarctic Programs website, www.COMNAP.aq

Scientific Committee on Antarctic Research website, www.SCAR.org