

INDO-PACIFIC STRATEGIC PAPERS

Australia's National Interests in the Antarctic Region: What is important?

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The author

Air Commodore Margot Forster joined the RAN in 1982. Her early postings included HMAS *Cerberus*, at sea as a Deputy Supply Officer, and Staff Officer to the Director of Naval Officers' Postings. In October 1988, she transferred to the RAAF and was posted to RAAF Base Williamstown. After accompanying her husband to a posting in the US, she returned in May 1995 to a staff position in Air Force Materiel Division. In 1997, she was posted to Aircraft Research and Development Unit as the Administrative Officer.

Air Commodore Forster returned to Canberra in 1999 to join the Air Force Personnel Transition Team, before working as Staff Officer to the Director General Personnel-Air Force. Later postings included Senior Administrative Officer No 92 Wing, Staff Officer Maritime Patrol Group, Staff Officer Establishments in Air Force Headquarters, and on the Chief of Air Force's Rebalance and Reshape Team.

In January 2007, she was appointed Base Commander RAAF Base Williams and Commanding Officer Combat Support Unit Williams. After a posting to Aerospace Operational Support Group as Staff Officer Personnel, she deployed in November 2010 to the Middle East Area of Operations as Commanding Officer Combat Support Unit, Al Minhad Air Base.

In May 2012, she was appointed Director Pathway to Change. In January 2013, she took up the position of Chief of Staff Air Force Personnel Branch. Air Commodore Forster attended the Defence and Strategic Studies Course at the Centre for Defence and Strategic Studies in 2015, completing a Master of Arts (Strategic Studies) from Deakin University. In December 2015, she was appointed Commandant Australian Command and Staff College.

Abstract

For much of the past 100 years, interest in the Antarctic has been limited mainly to environmental groups, explorers and scientists. More recently, however, it has received increased attention as nations seek solutions to the challenges of climate change, energy, water and food security. Accordingly, it seems inevitable that Australia's national security interests in the Antarctic region are likely to be increasingly challenged over the next 20 years.

The paper examines the geopolitical context and significant current and emerging pressures in Antarctica, and assesses the impact of these pressures on Australia's national security interests. It argues that it is in Australia's national interests to retain influence in the Antarctic and Southern Ocean region, given its close geographic proximity. It concludes by identifying three key policy initiatives that should be given priority consideration, arguing that their implementation would demonstrate Australia's commitment to remain an important, relevant and legitimate leader in the management of Antarctic issues.

Australia's National Interests in the Antarctic Region: What is important?

Antarctica is not only a region of elemental majesty; it is also a global archive, a window on outer space and a scientific laboratory. It is not only a wondrous world of ice; it is also a political frontier, a social microcosm and a humbling human experiment.¹

Introduction

Antarctica, the fifth largest and least explored continent, is the world's most inhospitable space. In January 1912, Captain Robert Scott declared of Antarctica: 'Great God! This is an awful place'.² This was an understandable description by a man enduring the dangers and discomforts of polar conditions. However, today the Antarctic is more frequently recognised for its pristine beauty, with over 37,000 tourists visiting the continent by air or sea each year.³

As the world's coldest continent, completely surrounded by sea and with no indigenous human population, interest in the Antarctic has been limited mainly to environmental groups, explorers and scientists for over 100 years.⁴ More recently, Antarctica has received increased attention as nations seek solutions to the challenges of climate change, energy, water and food security.⁵

Since the early exploration by Douglas Mawson, Australia has played a significant leadership role in Antarctica.⁶ In 1933, following transfer of territory originally claimed for the UK by Mawson, Australia laid claim to 5.8 million square kilometres of the southern polar continent as the Australian Antarctic Territory.⁷ Australia, like other claimant states, was able to maintain its territorial claim through the construction of Article IV of the Antarctic Treaty. This treaty established a framework for shared governance of the continent through the evolving Antarctic Treaty System.⁸ The Treaty recognises the Antarctic as being dedicated to peaceful purposes and scientific research, and is cited as arguably the best example of successful regional governance.⁹

Geopolitical developments in the 21st century have led to increased interest in the potential opportunities afforded by Antarctica.¹⁰ These developments include nations seeking new sources of protein by harvesting Patagonian toothfish, whales and krill in the Southern Ocean, as well as scientists examining the global weather system and ozone depletion, and drilling ice cores to seek clues to global climate change. Energy dependent nations are increasingly interested in the potential mineral resources within the continent, including coal, manganese ores, iron, uranium and copper, and an estimate of over 200 billion barrels of oil to enhance energy security.¹¹

Increasingly, the discovery of Antarctica's potential to provide food, economic and energy security has created new interests that influence development of national Antarctic policies around the world. As a result, there is increasing strain on the fragile and imperfect 'gentlemen's agreement' that evolved into the current Antarctic Treaty System.¹²

It is in Australia's national interests to retain influence in the Antarctic and Southern Ocean region, given its close geographic proximity.¹³ Australia's Antarctic strategy declares the strategic importance of the Antarctic Treaty System to Australia's national interests. It supports the multinational scientific treaty but also simultaneously pursues traditional sovereignty claims. However, Australia's ability to shape future Antarctic Treaty System development is constrained by funding levels that have been frozen for a decade.¹⁴

As such, it is timely to revisit Australia's national interests in the Antarctic region, and the policy commitments that arise from these interests. The Australian Government is currently considering its response to recommendations made by an independent inquiry led by Dr Tony Press that focused on a *20 Year Australian Antarctic Strategic Plan*.¹⁵ Concurrently, the Senate Standing Committee on Foreign Affairs, Defence and Trade released a report in October 2014, titled *Australia's future activities and responsibilities in the Southern Ocean and Antarctic waters*,

which also made a number of recommendations (including some that linked to the strategic plan).¹⁶

The recommendations from both bodies of work will likely influence the Australian Government's 2016 Defence White Paper. The Government's response to the *Australian Antarctic Strategic Plan* and the Senate Standing Committee report was expected in late 2015. While it is not possible to anticipate the Government's response, it will provide a focus for future opportunities, as well as for key priorities and their implementation.

Recognising the changing geopolitical circumstances, this paper will argue that Australia's national security interests in the Antarctic region are likely to be challenged over the next 20 years. This argument is centred on two key assumptions. First, the continuity of Australia's 'sovereignty' claim to the Australian Antarctic Territory is key to its national interests. This interest is buttressed by the longest continuous presence on the continent and being one of the original Antarctic Treaty parties.¹⁷ Second, the paper assumes that current and future Australian governments will remain committed to the primacy of the Antarctic Treaty System to Australia's sovereignty and national interests over the next 20 years.

The paper will briefly examine the geopolitical context and significant current and emerging pressures in Antarctica, and consider the impact of these pressures on Australia's national security interests in Antarctica over the next 20 years. The paper will then identify three key policy initiatives aligned with the *Australian Antarctic Strategic Plan* and the findings of the Senate Standing Committee and argue that they should be given consideration for priority implementation. Acting on these recommendations would demonstrate Australia's commitment to remain an important, relevant and legitimate leader in the management of Antarctic issues.

Section 1: Evolution of the Antarctic governance environment and pressures on its continued relevance

This section will provide a brief history of how the Antarctic Treaty came into being. It will analyse the geostrategic circumstances at the time the Treaty was established and discuss how the Treaty and its key subordinate and complementary instruments evolved over time to remain relevant. The section will go on to discuss the emerging pressures on the Treaty as a result of the changing geopolitical circumstances and increasing interest in Antarctica's resource potential.

Finally, within this section there will be a brief examination of the ever-increasing array of stakeholders with interests in the Antarctic. In particular, this section will seek to explain how the potential future policies and actions of these stakeholders might undermine the current cooperative approach achieved through the Antarctic Treaty System. The purpose of this examination will be to provide context for subsequent analysis of the potential impact on Australia's national interests and provide arguments supporting this paper's policy recommendations.

Development of the Antarctic Treaty System

In 1957, the world was in the midst of the Cold War, and Antarctica, remote as it is, was not exempt from discord. Several of the original claimant states were in the middle of territorial disputes, while other members of the international community believed Antarctica should be considered 'common property'.¹⁸ Significantly, the UK, Argentina and Chile had (and still have) overlapping sovereignty claims.

United by a common desire to demilitarise the Antarctic and ensure that it was not used as a nuclear testing site and/or dumping ground, the Antarctic Treaty was negotiated between the seven territorial claimant states of Argentina, Australia, Chile, France, New Zealand, Norway and the UK, along with non-claimants Belgium, Japan, South Africa, the USSR and the US.¹⁹ Ratified on 23 June 1961, the Treaty suspended existing territorial claims, prohibited new claims and any activity asserting, supporting or denying a territorial claim for the life of the Treaty.

Despite this development, no state formally disputes Australia's territorial claim.²⁰ During early negotiations to find a suitable solution to what became known as the 'Antarctic problem', Australia initially rejected the idea of forgoing sovereignty and potentially losing control over Antarctic resources.²¹ However, Australia remained committed to a solution and, following the celebrated success of the International Geophysical Year of 1957-58, perspectives changed and agreement was reached. Consequently, the Antarctic Treaty was drafted explicitly stating that 'Antarctica shall continue forever to be used exclusively for peaceful purposes, and shall not become the scene or object of international discord'.²²

Marcus Howard observes that Australia played a major role in negotiating 'capstone features of the Antarctic Treaty' that ban military bases, weapons testing, establishes freedom of scientific investigation and information exchange, and mandates open inspections and a governance structure for managing disputes.²³ This benign interpretation that sees Antarctica saved from the politics of the day by using a vision of peace and science to gain consensus on how to govern the continent is in contrast to the argument offered by Klaus Dodds. Dodds asserts that the US-led 'science and peace' diplomacy that constructed the Antarctic Treaty was actually orchestrated to 'secure US dominance and Soviet interests' without the need for complicated territorial disputes.²⁴

Regardless of motivation, the Treaty's primary objective was to ensure Antarctica was used for peaceful purposes and the pursuit of cooperative science. The original Treaty consisted of 14 Articles that constructed a framework to achieve objectives through consultation, cooperation and transparency.²⁵ The Scientific Committee on Antarctic Research, first established as the Special Committee on Antarctic Research in 1957, provides scientific advice to Antarctic Treaty System members and governments.²⁶

Since 1961, the Antarctic Treaty Consultative Parties have worked to strengthen the original Treaty and its institutional architecture. Membership has diversified, with 40 more countries acceding to the Treaty, increasing the membership to 52 nations. To achieve 'Consultative Party' status and voting rights on Antarctic administration, a nation must demonstrate their interest in Antarctica by 'conducting substantial research activity there'.²⁷ Seventeen of the acceding countries have had their activities in Antarctica recognised according to this provision, and consequently there are now 29 nations with voting rights.

A crucial factor to Australian influence is that any changes or additions to the Treaty must require ratification by all 12 original signatories. The other 24 'non-consultative parties' are invited to attend consultative meetings but do not participate in the decision-making.²⁸ The Antarctic Treaty Consultative Parties are now significantly more representative of the wider international community and its membership covers approximately 80 per cent of the global population.²⁹

Arguably the continued legitimacy of the Antarctic Treaty System can be attributed to its ability to adapt to changing global circumstances. The Antarctic Treaty Consultative Parties have the ability to discuss any matters that arise in the Antarctic context and 'adopt binding obligations with respect to it' through the Antarctic Treaty Consultative Meeting process.³⁰ This has been achieved through adaptations to its governance structure negotiated under Article IX of the Antarctic Treaty.³¹

Using this 'rather open-ended power', the original Antarctic Treaty has expanded into a system that includes three other international treaties, the Convention for the Conservation of Antarctic Seals (1972); the Convention on the Conservation of Antarctic Marine Living Resources (1980); and the Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol) (1991) and their subsidiary arrangements.³²

The Antarctic Treaty System also includes organisations such as the Council of Managers of National Antarctic Programmes, the Antarctic Treaty Secretariat, the Convention on the Conservation of Antarctic Marine Living Resources secretariat, and institutions such as the Antarctic Treaty Consultative Meeting. Together, their purpose is to conserve, preserve and protect the Antarctic marine and terrestrial environments.³³

Lastly, legal and political developments outside Antarctica have not stopped since the Antarctic Treaty came into force. Member states have had to embrace change, including the accommodation of non-state actors such as environmental groups, and tourism and fisheries organisations, within the Antarctic Treaty System. These adaptations demonstrate evolution to maintain relevance and embrace legal and political developments outside the Antarctic, including biological diversity, climate change, resource regulation, law of the sea, and commercial activities.³⁴

Madrid Protocol

Of the three complementary instruments to the Antarctic Treaty System, the Protocol on Environment Protection to the Antarctic Treaty or the 'Madrid Protocol' is the most relevant to the discussion in this paper. The following provides a brief overview of its history.

The mineral and oil resource potential afforded by Antarctica has always been on the minds of nations with Antarctic interests. However, the potential for dispute over access and ownership of these resources encouraged original Treaty negotiators to wisely choose to leave the topic for later consideration. Antarctic resources have been discussed several times over the ensuing years and, at the Antarctic Treaty Consultative Meeting of 1977, a voluntary moratorium on exploration was adopted, with the parties agreeing to refrain from exploration and exploitation while seeking a solution.³⁵

After six years of challenging negotiations, the Convention on the Regulation of Antarctic Mineral Resource Activities was adopted. This Convention permitted mining while directing that the Antarctic environment be preserved. At the time, neither the Australian Prime Minister, Bob Hawke, nor Treasurer, Paul Keating, were satisfied with the Convention. They expressed concern over the impact of mining on the environment and the impact on Australian sovereignty and revenue share. On 22 May 1989, the Prime Minister announced that Australia would not sign.³⁶ France supported Australia's position and the two countries collaborated to advocate for an alternative approach that prohibited mining.

Nearly ten years later, the Madrid Protocol (adopted in 1991) entered into force on 14 January 1998.³⁷ The most significant aspect of the Protocol's 27 Articles and six Annexes is Article 7, which states that 'any activity relating to mineral resources, other than scientific research, shall be prohibited'. Also of note is that until 2048, the Protocol can only be modified by unanimous agreement of all Consultative Parties.

Thereafter, modifications can be made by the agreement of the majority of the Parties, including three-quarters of the States, which were Antarctic Treaty Consultative Parties at the time of adoption of this Protocol. It also allows for Parties to withdraw from the Protocol in certain circumstances.³⁸ Of significance, adoption of this protocol demonstrated the ability of Australia as a middle world power to shape Antarctic policy by working bilaterally with France and gaining support of the increasingly influential transnational environmental organisations.

UN Convention on Law of the Sea

The UN Convention on Law of the Sea (UNCLOS) established the legal framework for the use of the world's oceans. It was developed over the period 1956 to 1982 in response to numerous disputes over ocean resources. The convention addresses the rights and duties of sovereign nations with respect to territorial seas, contiguous zones, exclusive economic zones (EEZ), continental shelves and extended continental shelves, and the exploration and exploitation of natural resources in, on and above the seabed.³⁹ The challenge is created where the Antarctic Treaty's Article IV 'intersects' with Article 76 of UNCLOS. Noting that the Treaty suspends all territorial claims, Article IV states that:

No acts or activities taking place ... shall constitute a basis for asserting, supporting ... 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 Treaty is in force.⁴⁰

Article 76 recognises the entitlement of coastal states to an EEZ of 200 nautical miles. It also allows an extended continental shelf beyond the limits of the EEZ, to a maximum distance of 350 nautical miles, where a continental shelf exists.⁴¹ The problem arises because the basis of any such claim is ownership of sovereign territory, and the Convention required nations to submit data to the Commission on the Limits of the Continental Shelf within 10 years of UNCLOS entering into force for that nation. Australia was required to submit its claim by 16 November 2004.

Cognisant that any claim under UNCLOS for an extended continental shelf could be perceived by some Antarctic Treaty Consultative Parties as acting in violation of Article IV, Australia worked with other claimants in an attempt to find a solution. Eventually, Australia did submit its claim on time but caveated it with a *Note Verbale* acknowledging the 'special legal and political status of Antarctica' and requesting the Commission on the Limits of the Continental Shelf 'not take any action for the time being with regard to the information in this Submission that relates to the continental shelf appurtenant to Antarctica'.⁴²

Eight states made representations to the UN about Australia's submission. Six rejected outright Australia's right to claim territorial sovereignty in Antarctica over the seabed or adjacent offshore surrounding Antarctica. Australia's submission generated a response that demonstrates the tenuous nature Australia's claim to sovereignty.⁴³ This situation is significant for Australia given the emerging challenge for resource potential and the developing extraction technologies that make these resources increasingly accessible.⁴⁴

Emerging geopolitical influences

The notion of security and global order has changed significantly since the Antarctic Treaty was originally negotiated at the height of the Cold War.⁴⁵ Today, the Treaty has to address new challenges. The 'rise of Asia', the impact of globalisation, the tensions associated with climate change, anthropogenic impact, and resource scarcity pose a level of complexity not considered previously.⁴⁶ With the growing appreciation of Antarctica's potential to provide food, economic and energy security, the question is whether the Antarctic Treaty System will be able to adapt and respond to the challenges going forward.⁴⁷

Climate change

The Antarctic region has an important link to climate change for two reasons. First, Antarctica is critical to climate research. The Antarctic ice sheet contains within its layers a rich archive of information on past climatic and environmental changes. The information suspended in the ice is of immense importance to the accurate reconstruction of past climates.⁴⁸ Second, Antarctica—as suggested by Alan Hemmings and colleagues—is 'in a sense, the world's largest canary'.⁴⁹

Antarctica and the Southern Ocean's vulnerability to the effects of climate change and influence on regional and global weather and climate is being increasingly recognised. The 2007 Intergovernmental Panel on Climate Change identified that Antarctica was one of two regions with the 'greatest potential to affect global climate and thus human populations and biodiversity'.⁵⁰ The emerging pressures of resource security and tourism makes Antarctica a place with competing tensions between those who want to protect and preserve it for its value to science and humanity, and those who want to exploit it.⁵¹

Human activity

Environmental degradation is of significant concern due to increased human presence on the continent from scientific research and tourism. Tourism increases public awareness of Antarctica and engenders support for conservation but there are negative effects. Antarctica is well established within the global tourism market. However, the capacity of the Antarctic Treaty System to regulate tour operators is limited and there are no regulations in the Treaty to manage tourism effectively.⁵²

There are fears of an increasing risk of environmental damage caused by the ever-increasing number of tourists. These include the risk of introduction of non-indigenous animals, plants and micro-organisms; disruption to animal breeding cycles; concerns over environmental damage from vessels operating in the Ross Sea and Peninsula regions; and pressure to establish permanent land-based tourist facilities.⁵³

Not surprisingly, the original Treaty did not anticipate tourism as a core industry in the Antarctic continent. However, it does recognise the right of Contracting Parties to designate observers to 'have complete freedom of access at any time to any or all areas of Antarctica'.⁵⁴ This provides some mitigation for operators, tour guides and tourists who are nationals of a Treaty state. Fortunately, the tourism industry has established a self-regulating body, the International Association of Antarctica Tour Operators, 'dedicated to facilitating appropriate, safe and environmentally sound private-sector travel to the Antarctic'.⁵⁵ The Association has established by-laws to guide best practice operations aligned with Antarctic Treaty Consultative Meeting standards. However, membership is not compulsory and there is no mechanism to regulate compliance.⁵⁶

Statistics collected by the Association indicate that over 37,000 tourists visited Antarctica in 2014-15. This potentially does not reflect the actual number of visitors, noting that these figures do not capture non-Association tourists. Significantly, a study of the 2005-06 season indicated that 'non-International Association of Antarctica Tour Operators member large vessels accounted for 64 per cent of all large vessel voyages to the Antarctic' and that 'an estimated 47 per cent of all large vessel tourists travelled with non-Association member operators'.⁵⁷

Antarctic tourism operates in a potentially-hazardous environment. Increased activity without effective regulation increases the chance of incidents and accidents in this remote location and puts tourists at risk. Search-and-rescue operations in the Antarctic region are challenging. The rescue of tourists off the MV *Akademik Shokalskiy* in January 2014 provides an example of the potential problem.⁵⁸ Very few vessels have the capacity to operate in the Southern Ocean Antarctic environment and, in this particular rescue situation, Australian, French and Chinese research vessels were redirected from their scientific work to support the rescue.⁵⁹

An increase in events such as the MV *Akademik Shokalskiy* incident will further challenge the maritime security services of the five countries with search-and-rescue areas that extend to Antarctica.⁶⁰ There is potential for Antarctic relations to be challenged if science and research assets continue to be redirected to tourist rescue missions.⁶¹

Competing foreign policy objectives: scientific research versus exploitation of natural resources

Antarctica's substantial mineral resources tempt countries to exploit them.⁶² The drivers of energy security and competition for finite resources are creating growing geopolitical tensions as states are forced to look further afield for reliable and available sources.⁶³ The resource potential of Antarctica is a risk to the Antarctic Treaty System because it raises the unresolved issue of claimant and non-claimant states. Major powers such as China and Russia have voiced their interest in the continent's resource potential, strongly suggesting the current prohibition on resource exploitation will be revisited after 2048.⁶⁴

In 2001, Russia illegally collected data on oil and gas reserves and, in 2010, announced a strategy that dealt extensively with the potential for Antarctic resources to be exploited; it has also released an investment strategy that allocates US\$20 billion to Antarctic activities out to 2020.⁶⁵ Since 2005, the Chinese Government has dramatically increased expenditure on Antarctic affairs in the quest to secure greater leadership in Antarctic administration as a result of its increasing dissatisfaction with the current order.⁶⁶ Speaking at its governing meeting in July 2013, China's leader Xi Jinping stressed the need to 'take advantage of ocean and polar resources'.⁶⁷

Commensurate with its rise as an economic and military power, China is integrating itself into the international world order and playing an increasing leadership role in Antarctica. Australia was instrumental in including China in Antarctic research by integrating Chinese scientists in the

Australian research team. China has since established its own research stations. However, cooperation between Antarctic research partners, away from the glare of issues over the South China Sea and North Korea, remains strong. Chinese scientific cooperation under the Antarctic Treaty System provides useful track-two diplomacy opportunities with many nations, and has included China hosting Taiwanese scientists at its Antarctic research stations.⁶⁸ While China's interests clearly include access to natural resources, the opportunity to include this rising world power in future negotiations could significantly strengthen any new collaborative approach.

Of the original Antarctic Treaty System partners, the US remains the largest financial investor in Antarctica, with the largest presence also.⁶⁹ Thirty other nations, including Australia, New Zealand, Norway and the UK, also maintain a year-round scientific presence. While the Treaty stipulates data sharing, annual reporting and bans mineral exploration, there are increasing concerns that nations are using 'scientific research' to cover national interest activities.⁷⁰

Argentina, Chile and South Korea have also registered their interest in Antarctic resources, indicating their presence on Antarctica will support future sovereignty claims if the Treaty is revoked or expires.⁷¹ India, Malaysia and China have all expressed dissatisfaction with the original Treaty's 'colonials' club' and actively campaigned for new administrative arrangements.⁷² However, now that Malaysia has been the first ASEAN state to accede to the Treaty, it can play a constructive role as a conduit between the Antarctic Treaty System and non-member countries, and possibly encourage more Asian states to become members of the Treaty.⁷³

Many of these nations are commissioning new stations and expanding their national research efforts, while established treaty members are upgrading their existing stations. Germany has replaced an existing station and the UK has replaced its Halley Station. Russia is expanding its icebreaker fleet, while China is proceeding with upgrades of its existing sites.⁷⁴ In 2012, China also commissioned the first of three telescopes under construction at Dome A, the highest site on the Antarctic Plateau.⁷⁵

The Antarctic and Southern Ocean Coalition and Greenpeace International represent the new transnational environmental organisations committed to protecting the Antarctic environment, and providing independent advice.⁷⁶ The Antarctic and Southern Ocean Coalition, with 150 members in 40 countries, has successfully lobbied governments to introduce and police new fishing regulations, protect krill stocks, and support the establishment of large marine protected areas. More activist groups, such as Greenpeace and Sea Shepherd, have actively pursued the Japanese whaling fleet during its annual hunt. Determining common interests and tensions will be important in implementing any new Antarctic strategy.

Summary

The Antarctic Treaty stabilised the deeply-divisive problem of territorial sovereignty. It suspended sovereignty positions and allowed for the emergence of scientific pursuit as the determining factor in affording access to the region. Cognisant of the evolving world context, the Antarctic Treaty Consultative Parties have worked to create a relevant international institutional and regime-based structure with the aim of strengthening the original Treaty. Over the 50 years of its existence, the Antarctic Treaty was buttressed and extended by additional legal instruments addressing conservation, resource management and environmental protection. It has broadened its reach and maintained relevance by expanding its membership.

However, there are also potential disadvantages to some of these developments. Size of membership could dilute the original spirit and aims of the Treaty. This could give rise to tensions between claimant and non-claimant states, and between states and non-government organisations. Notwithstanding, the Antarctic Treaty has endured because there are still tangible benefits for the original parties. It has become flexible to accommodate new members and deal with emerging geopolitical issues as they have arisen, enabling competing positions to coexist.⁷⁷ The additional instruments have also widened and deepened the institutional architecture of the Antarctic Treaty System. The Treaty's ongoing success has enabled a positive story to be told about the unsolvable problem of competing sovereign claims.

This section of the paper has traced the development of the Antarctic Treaty System, highlighting the influence of contemporary geopolitics. It has discussed how Antarctica is critical to global and regional climate and weather and understanding of the progress and impact of climate change. Antarctica is rich in resources, which are coming under greater pressure for exploitation. It is becoming a growing destination for tourists. All these factors have resulted in an increased risk of geopolitical competition in the region, 'not only with those that crave access to resources but also those who demand their exemption from exploitation'.⁷⁸

Notwithstanding the success of the Treaty, it is important to note the extensive time taken to negotiate each of its elements and that there have been no new instruments developed over the past two decades. This is despite resource and commercial issues that have risen in that time. These two aspects may present risk to the continued adaptation of the Treaty and its continued relevance over the next 20 years.

Section 2: Australia's strategy: what matters and when – the next 20 years

Section 1 outlined the genesis of the Antarctic Treaty and its subsequent development. This section shifts focus to consider a specifically Australian perspective. It will discuss Australia's national interests, confirming the critical need to ensure the Treaty remains robust and responsive. This discussion will inform the subsequent section and be used to build the argument for three high priority policy initiatives that will make a positive contribution to the stability of the Antarctic Treaty System and ensure Australia remains an Antarctic leader over the next 20 years.

Australia's strategic priorities

Australia has been clear about its strategic interests in Antarctica since the early stages of negotiating the Antarctic Treaty. In 1955, the Australian Minister for Foreign Affairs, Richard Casey, advised US Department of State officials that Antarctica was critical to Australia's climate. He further stated that there were certain 'mineral resources in the area which they had investigated', and that Australia could not afford to have the territory in 'hostile hands', as it was within aircraft range of Australia.⁷⁹

Thirty years later, the Hawke Government first officially articulated Australia's Antarctic interests as:

- Preserve our sovereignty over the Australian Antarctic Territory, including our sovereign rights of the adjacent offshore areas;
- Take advantage of the special opportunities Antarctica offers for scientific research;
- Protect the Antarctic environment, having regard to its special qualities and effects on our region;
- Maintain Antarctica's freedom from strategic and/or political confrontation;
- Be informed about and able to influence developments in a region geographically proximate to Australia; and
- Derive any reasonable economic benefits from living and non-living resources of the Antarctic (excluding deriving such benefits from mining and oil drilling).⁸⁰

Australia's strategic interests are still relevant today and successive Australian governments have re-endorsed these six key interests.⁸¹

In 2008, then Prime Minister Kevin Rudd presented Australia's first national security statement to Parliament. This statement defined national security as freedom from attack or threat of attack, the maintenance of territorial integrity, sovereignty, freedoms and capacity to advance economic prosperity for all Australians.⁸² Importantly, the statement included a reference to climate change representing 'a most fundamental national security challenge with potential to

bring about unregulated population movements, declining food production and creating violent weather patterns'.⁸³

Prime Minister Rudd also defined Australia's national interests as maintaining territorial and border integrity, political sovereignty and promoting an international environment that is stable, peaceful and prosperous within a global rules-based order.⁸⁴ He also stated that 'national security policy must be advanced through the agency of creative middle power diplomacy' and an active, persuasive, influential and resourced foreign policy. While the statement placed no explicit priority on Antarctica, as argued, it is key to predicting climate change and has a profound impact on global weather patterns.

Australia's 2009 Defence White Paper, *Defending Australia in the Asia Pacific Century: Force 2030*, was similarly deficient in prioritising the protection of Australia's interests in Antarctica, instead focusing on traditional military threats.⁸⁵ It defined the ADF's primary operating environment as including the Southern Ocean and all Australia's sovereign offshore territories, including Heard Island and McDonald Islands and waters adjacent to the Australian Antarctic Territory.⁸⁶ However, the paper further stated that 'we do not judge there is a credible risk of our national interests in the Southern Ocean and Australian Antarctic Territory'.⁸⁷

The latest tranche of national security policy documents, which include the 2012 *Australia in the Asian Century White Paper*, the 2013 *National Security Strategy* and the *Defence White Paper 2013*, all make similar references to Antarctica, with the addition of new guidance asserting that 'the development of the close relations with Asian regional partners involved in Antarctica will be increasingly important in protecting the Antarctic region'.⁸⁸

Given the increasing interests in Antarctic resources, the Australian Government has recognised the need to review its aspirations and consider options to unambiguously demonstrate its presence and leadership within both the Antarctic Treaty System and the Australian Antarctic Territory.⁸⁹ The Senate Standing Committee on Foreign Affairs, Defence and Trade, for example, has noted that:

[T]he importance for Australia of robust engagement in the Antarctic Treaty System cannot be underestimated. The [Treaty] is the foundation for continued peace and constructive activity in the region to our south. As such, it must also be regarded as a keystone in Australian foreign and strategic policy.⁹⁰

The challenge for Australian strategists is how to remain influential in international discussions as a middle power amongst a range of interests all jostling for position in Antarctica.

Australia's balancing act

Australia has claimed a range of maritime zones, which include the waters of external territories and offshore of Antarctica. This action created tensions, and the claim was later revised to exclude the Australian Antarctic Territory, following protests from other parties. In 2004, Australia submitted a claim of its extended continental shelf that encompassed all its offshore territories. However, it asked the UN Commission on the Limits of the Continental Shelf not to consider the evidence relating to the Antarctic Treaty System for the moment.⁹¹

In no other part of Australian territory is there the same level of strategic competition as experienced in the Australian Antarctic Territory. The US, China and Russia have all established stations in the Territory, some in locations that Australia currently lacks capability to access. A potential scenario that should be considered is that some nations are likely positioning for mineral and/or hydrocarbon resource exploration and exploitation, facilitated by the advent of technology improvement, and Australia needs better situational awareness. This could be achieved by being a 'collaborator of choice' for science and logistics support. As highlighted earlier in the paper, this situation presents the need to maintain a delicate balance between sovereign interests and support to the main tenet of the Antarctic Treaty System.

The US takes the position that there are no coastal states in the Antarctic region and that the waters adjacent to the polar continent are part of the common heritage of the international community.⁹² India's and China's presence in the Antarctica, and active involvement in the Antarctic Treaty System, is another reminder that there is a group of global states that have not only rejected the rights of the seven claimant states but also articulate a view that is fundamentally different.

Such states believe that Antarctica belongs to the common heritage of mankind, and that it should not be subject to exploitation by individual states but held in trust for future generations. In May 2007, India hosted an annual consultative party meeting, wherein India's then External Affairs Minister, Pranab Mukherjee, reaffirmed that 'Antarctica, being a common heritage of mankind, and the foremost symbol of peaceful use and cooperation, needs to be protected for prosperity'.⁹³ The struggle to secure agreement over a mineral's regime represents the most significant challenge to the Antarctic Treaty System and its ability to maintain consensus, noting that the seven claimant states are a minority group, albeit an important one.

What might undermine Australia's interests?

During its first 30 years, the Antarctic Treaty System proved to be adaptable, adopting new instruments in response to new challenges. However, no new instruments have been added to deal with the resource and commercial issues that have arisen over the last two decades.⁹⁴ Thus, with the changing nature of the geopolitical landscape and the rising importance of energy and food security, it is possible that 'states may feel that their best interest will be served by withdrawing from the Antarctic Treaty System'.⁹⁵

This raises questions about the future stability and effectiveness of the existing regime. It presents the potential for increased competition among stakeholder nations and questioning of the relevance of the Treaty or, even more disastrous, failure of the Antarctic Treaty System and subsequent contesting of sovereignty claims. Australia, as an influential and credible middle power with a lot at stake, should focus efforts on keeping the existing governance model relevant, equitable, responsive and transparent. Importantly, Australia needs to ensure it has a robust position regardless of the status of the Antarctic Treaty System.

Strengthening the Antarctic Treaty System through collaboration

Over the next 20 years, the pressure to exploit resources in Antarctica will be significant. Sovereignty and national interests, an increasing world population, a global economy driven by consumption and an energy market focused on hydrocarbons will drive this mounting pressure. Environmental issues will also play an ever-increasing role in national and international politics. Balancing these competing interests in Antarctica will require collaboration and compromise. Achieving consensus within the Antarctic Treaty System will require strong national and international leadership and, potentially, a new approach to negotiations. It will be critical that all competing interest groups be afforded the opportunity to be part of the solution.⁹⁶

Fortunately, Antarctica is likely to remain a low priority strategic interest for some time. Other pressing strategic circumstances attract attention elsewhere in the world, with the international economy stalled, unrest across the Middle East, Iran developing nuclear weapons, the US strategically pivoting into Asia to contain an emerging China, and unpredictable leadership in North Korea. Antarctica provides a low-threat environment for confidence building. With the success of the current Antarctic Treaty System arrangements and a number of countries positioning to challenge the Madrid Protocol in or possibly before 2048, Australia has some strategic breathing space to develop and champion a robust Antarctic strategy.⁹⁷

Australia's goals and objectives for Antarctica need to be realistic, transparent and integrated into Australian foreign policy. A strategy of slowly developing an alliance of countries with similar interests and strategic vision would maximise the chances of achieving consensus—and reflect the reality of Australia's ability to influence as a middle power.

Australian diplomats and politicians must aim to get Antarctica on the agenda during international discussions and work towards increasing international collaboration. Bilateral negotiations with other Treaty partners offer the most realistic approach, starting with like-minded nations such as New Zealand. Diplomatic efforts should focus on identifying what stakeholders have in common. Ultimately, compromises between the idealistic, utilitarian positions of the environmentalists and those of the national power realists will be necessary.⁹⁸

The Antarctic Treaty System framework provides Australia significant leverage and influence in Antarctic negotiations. As a consequence, Australia must invest to ensure ongoing relevance and effectiveness of the Treaty. Looking beyond traditional security partners may present opportunities, in particular with emerging powers. For example, Australia has strong bilateral relationships with India, Indonesia, Malaysia and China, all of whom have voiced dissatisfaction with aspects of the current governance model of the Antarctic Treaty System.⁹⁹ These countries purportedly support retaining Antarctica for all humanity, minimising the extraction of minerals, and developing a new model for equitably dividing Antarctic resources.

Achieving these goals within the Antarctic Treaty System framework would increase its validity, and the chances of a consensus position. Australia's record in supporting the involvement of non-governmental organisations within Antarctic Treaty System forums provides a strong base for such initiatives.

The Scientific Committee on Antarctic Research, for example, has had a longstanding role within the Antarctic Treaty System, providing independent scientific advice to Treaty members and governments.¹⁰⁰ The Antarctic and Southern Ocean Coalition and the International Association of Antarctica Tour Operators also represent transnational groups committed to protecting the Antarctic environment.

At the same time, activist environmental organisations such as Sea Shepherd actively pursue the Japanese whaling fleet during its annual hunt, while Greenpeace International, with membership across 40 countries, has lobbied governments to introduce and police new fishing regulations, protect krill stocks, and support the establishment of large marine protected areas.¹⁰¹ A future Antarctic governance structure might see a shift to non-government organisations having a more significant role within the Antarctic Treaty System.¹⁰²

Building confidence and trust in any 'Antarctic coalition' will be critical to reaching a successful international outcome and would require leveraging extant international groupings and new, innovative confidence-building measures. As an example, instead of all nations independently conducting bioprospecting surveys, Australia could sponsor or coordinate a comprehensive international survey of Antarctica's flora and fauna, openly publishing all findings under existing Antarctic Treaty System provisions.

Regional military cooperation to provide support to all national research stations through sharing military logistics capabilities could also increase international transparency, building on existing collaborative relationships in a genuine partnering arrangement. ASEAN, APEC and similar regional groupings provide excellent forums for advancing Antarctic interests and an opportunity to enhance the role of these organisations in a non-threatening partnership, and providing opportunities for so-called 'track two' diplomacy initiatives.¹⁰³

Economically, Australia will have to invest more in Antarctic research, enforcement operations, logistics, diplomatic and bureaucratic support. Australia will also need to build on existing collaborative efforts and develop new ones to build trust and put everyone in a better place to approach resource discussions that are likely to intensify as parties consider any review of the Madrid Protocol in 2048.¹⁰⁴

Australia will also need to determine what it is prepared to offer in future negotiations. With significant claims over Antarctica, the surrounding continental shelf and oceans, compromise should arguable include Australia being prepared to offer up some control and resource claims as part of a genuine international agreement on the future of Antarctica. The recommendations delivered by the Press Inquiry and reports by the Senate Standing Committee on Foreign Affairs,

Defence and Trade have proposed a series of initiatives that are achievable through a long term and orchestrated strategy, if Australia's leadership is willing and commitment is genuine.

Summary

This section has considered Australia's national interests relating to the Antarctic region and noted the Government's intent that the Antarctic Treaty System remains relevant, robust and responsive. It has also argued that effective management of the Antarctic region, using the Antarctic Treaty System as the governance model, will require collaboration with wider interest groups, many of whom will have conflicting objectives. Reaching agreement will be challenging but success is critical, as the alternative—failure of the Antarctic Treaty System—is an unacceptable risk.

The Australian Government is currently considering its options for an Antarctic strategic plan for the next 20 years that will have the objective of ensuring Australia remains an Antarctic leader. Sections 1 and 2 of this paper have established 'why' Australia needs to support a robust and relevant Antarctic Treaty System, and established that priority should be placed on taking action that strengthens the Treaty and Australia's leadership role. The next section will consider three priority policy initiatives to support this aim.

Section 3: Policy initiatives to meet Australian priorities

Australia has 'direct strategic interests in Antarctica and the Southern Ocean', along with 'sovereign territory' to protect, and 'a cooperative surveillance and enforcement treaty with France' to honour.¹⁰⁵ The Australian Government has expressed its commitment to ensuring Australia's future engagement in Antarctica and the Southern Ocean. However, Australia's standing as a leader in Antarctic affairs has arguably been undermined by a combination of under-investment and complacency.¹⁰⁶

Encouragingly, the Australian Government has commissioned two reports to inform development of an Australian Antarctic strategy to protect and advance Australia's interests over the next 20 years.¹⁰⁷ Many of the issues identified in the Senate Standing Committee on Foreign Affairs, Defence and Trade's report have concurrent recommendations within the strategic plan proposed by the Press Inquiry.

A strong, relevant and agile Antarctic Treaty System directly affects Australia's national interests. The first two sections of this paper identified the evolving geopolitical environment and potential risks that might destabilise the Treaty System. Operating in Antarctica is expensive and the recommendations from the Press Inquiry and the Senate Committee, should they be accepted and agreed, will need to be phased as capacity permits. Policy implementation should be prioritised to achieve the best effect with available resources. Australia must maintain and build on its position of strength and credibility within the 'politics' of Antarctic to continue to support the effectiveness and relevance of the Antarctic Treaty System, and to be in a position to protect its national interests in the event that the Treaty is challenged.¹⁰⁸

In the first instance, Australia needs to be visibly committed to a strong presence in the Antarctic. Second, Australia needs to strengthen important relationships with emerging influential states. Third, Australia needs to reinforce its leadership role in science and governance by driving continued evolution of the Treaty so that it remains strong, credible and relevant into the future.¹⁰⁹

This section of the paper will identify three priority policy initiatives that are actionable, symbolic and important to enable Australia to remain a credible and influential Antarctic leader. Each policy proposal will also provide details to be considered for implementation, along with resource considerations for the proposals, where available and appropriate.

Recommendation 1: Utilise ADF 'heavy lift' capability to support Antarctic logistics

Climate change and improved extraction technology will introduce tensions within the Antarctic Treaty System. Australia's 2013 Defence White Paper articulated the position that there is 'no credible risk to Australia's national interests in the Southern Ocean and the AAT [Australian Antarctic Territory] being challenged in ways that might require substantial military responses over the next few decades'.¹¹⁰ This assessment overlooks the long-range perspective of emerging challenges and the role that the ADF's presence plays in asserting sovereignty.¹¹¹ It also fails to acknowledge that climate change and improved extraction technology will make the potential exploitation of Antarctic resources more feasible in the near future. These developments will likely introduce tensions within the Antarctic Treaty System.

Increasing civilian and commercial activity in the region are contemporary challenges. This may prompt the need for ADF involvement in search-and-rescue operations, humanitarian relief or disaster response. There may also be a requirement to support Australian Border Force-led operations in the Southern Ocean. Acknowledging Australia's unequivocal commitment to the values and principles of the Antarctic Treaty, in particular demilitarisation of the region as stated in Article I (i) of the Antarctic Treaty, these non-warfighting roles provide valuable support to national security.¹¹²

Australia has responsibilities for the coordination of search-and-rescue in a significant portion of the Southern Ocean under the International Convention on Maritime Search and Rescue and other treaties.¹¹³ While responding to a search-and-rescue request is not primarily the role of the ADF, its aviation capability is currently the only asset that Australia has that is capable of operating in the more remote, extreme areas of the Southern Ocean and Antarctic region. Having military crews experienced in working in these extreme conditions provides Australia with additional capacity to respond safely to disasters and requests for assistance.

ADF operations in the Australian Antarctic Territory are not a force determinant for capability acquisition. However, opportunities to exploit dual-use capability and capacity of ADF assets in support of Australian Antarctic Territory activities should be undertaken for several reasons. First, using ADF assets such as the C-17A heavy lift capability in support of the Australian Antarctic Division's logistics program would demonstrate an active and visible Australian presence in the region. Second, Australia should continue to support and utilise the provision of Article I (ii) of the Antarctic Treaty, which states that 'the present treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose', and exercise this option.¹¹⁴

As previously identified, one of Australia's national interests in Antarctica is to maintain Antarctica's freedom from strategic and/or political confrontations. The Press Inquiry recommended that to support this outcome, the Australian Government should ask the Department of Foreign Affairs and Trade, as the lead agency, to coordinate action; the inquiry also identified that the Department of Defence would have a significant supporting role.¹¹⁵

Antarctica presents very demanding and potentially dangerous operating conditions. If the ADF is going to support this recommendation, it will need to be able to operate safely and effectively under these conditions by having the right skills and experience. The ADF currently has very limited training and experience in Antarctic conditions but definitely the capability to develop these skills in a reasonably short period. Having the capacity to operate safely in the region would also support the recommendations to increase collaborative efforts by extending support to other nations on an opportunity basis in pursuit of scientific endeavours in the Australian Antarctic Territory.

The Australian Antarctic Division currently leases an Airbus A319 to move people and lightweight materials from Australia (Tasmania) to the Antarctic continent.¹¹⁶ This aircraft is optimised for passenger transport. The ADF should be tasked to provide heavy lift support using the C-17A, which could be used to deliver bulky cargo and respond to search-and-rescue or mass casualty events. It could also be used as an airdrop capability to support contingency options.¹¹⁷

The C-17A does not require unique servicing, modifications or special fuels for summer operations to Antarctica. However, any expansion of scope to winter operations would require additional preparation.¹¹⁸ The ADF could start summer operations immediately and follow up with developing the capability for winter operations in slower time as experience is accumulated. In this scenario, the ADF support would supplement, not replace, the existing commercial contract aviation services provided to the Australian Antarctic Division. There would also be the potential to offer spare capacity to other collaborating partners.

This approach would enable critical bulky scientific equipment and sustainment stores to be moved to the Australian stations. It would also free up funds that would otherwise be used to pay for transporting these stores, to be reinvested to support scientific activity. Routine ADF flights in support of the Australian Antarctic Division would be mutually beneficial to both organisations. The benefits in providing logistics support to the Australian Antarctic Division, and the associated ongoing training to ADF personnel, would be an enhanced Defence capability and provide additional options for the Australian Government in responding to civil emergencies.

As a priority, therefore, it is recommended that the ADF should commence regular routine C-17A inter-continental flights to Antarctica to support the Australian Antarctic Division. The flights should initially operate from Hobart to Wilkins aerodrome during the summer season. The crew should also prepare and train for airdrop capability. This action could be undertaken with very short lead-time and would provide a visible presence and commitment to strengthen Australia's practical ability to participate in Antarctic science. This policy initiative supports the Press Inquiry's recommendation 3, to provide 'heavy lift from ... Hobart ... to Wilkins aerodrome or elsewhere in Antarctica'.¹¹⁹

Challenges

Concurrency and capacity have been raised in the past as limiting factors for ADF support to the Australian Antarctic Division. With the recent increase of the C-17A fleet to eight aircraft, the ADF should have the capacity to include routine operation to Antarctica into its program. There is also the question of whether or not providing heavy lift support to the Australian Antarctic Division is an appropriate use of military assets.

However, the Australian Government has recently shown a level of comfort in using ADF assets as civil aid tools, as demonstrated by the ADF response to MH17 and MH370.¹²⁰ There is a high likelihood that the ADF would be called on to respond to an issue in the Australian Antarctic Territory and Southern Ocean region and, as such, it needs to be prepared. The Australian Antarctic Territory is Australian sovereign territory and the ADF must be capable of operating in this environment to support an emergency evacuation of Australian personnel or tourists.

Resources

The ADF's recent expansion of its C-17A fleet minimises the risk of concurrency issues created by supporting the Australian Antarctic Division with routine flights. To deliver routine training/logistics support flights between Tasmania and Wilkins airfield each summer season would require allocation of the airframe and fuel, training of crew and support personnel in operating and surviving in Antarctic conditions and ensuring that the airfield remains capable of supporting C-17A heavy lift aircraft.

Normally, under the provisions of aid to the civil community, cost recovery would be considered appropriate. However, as the primary purpose of this activity would be to enable ADF personnel to gain training and experience to operate safely in the Antarctic environment, making the aircraft available to carry cargo would be a secondary dual use. Hence, it is proposed that this service would be provided at no cost to the Department of the Environment, with the annual cost of routine flights to Antarctica being absorbed by the Department of Defence's global operating budget.

Recommendation 2: Expand collaboration with China

Within one generation, China has transformed itself from being one of the world's least developed nations to the world's largest economic power.¹²¹ Initially satisfied to observe, learn and adapt to the requirements of established international institutions, China now seeks more influence over its environment to better support its ambitions.¹²² China seeks a position of status and influence in the global order and is looking for leadership opportunities. China's actions in the Antarctic reflect this desire, as it strives to achieve the status of a significant scientific contributor and leader.

During the negotiations to establish the Antarctic Treaty, China was initially excluded for political reasons.¹²³ Many within the People's Republic of China still carry 'a strong sense of injustice' at not being afforded the opportunity to be one of the original signatories to the Antarctic Treaty.¹²⁴ Domestic turmoil then delayed the opportunity for China to participate in Antarctic activities until the austral summer of 1979-80, when Australia invited two Chinese scientists to join the Australian Antarctic Research Expedition. This was the start of China's journey to establish a scientific program, build Antarctic bases, commission icebreakers and develop the skills and expertise to operate and conduct science in the Antarctic.¹²⁵

China became a party to the Antarctic Treaty in 1983 and achieved consultative party status in 1985.¹²⁶ Initially, its Antarctic science program was restricted by a lack of funding but, as China's national wealth increased, so did its spending on Antarctic activities. During the late 1980s, China assumed the role of learning, establishing, consolidating and developing a foundation of capability and capacity. By 1990, China was in a position to focus its efforts on high-quality scientific research.¹²⁷ One lesson that China learnt well is that countries that lead in Antarctic science, lead in its governance.¹²⁸ China is now well established in the Australian Antarctic Territory.

Australia enjoys a high level of engagement and practical cooperation with China, and actively seeks to work with China on issues of shared concern.¹²⁹ Within the Antarctic context, Australia enjoys a very good relationship with China. Since the late 1970s, the relationship has been characterised by strong and continuous logistics and scientific collaboration.¹³⁰ Most recently, China and Australia reaffirmed and strengthened this long tradition of collaboration in Antarctic diplomacy, science, logistics and operations when President Xi Jinping visited Tasmania with then Prime Minister Abbott in November 2014 and witnessed the signing of a bilateral Memorandum of Understanding.¹³¹ Significantly, the Memorandum declared a continued commitment to the Antarctic Treaty System.

There are advantages for Australia to collaborate closely and deeply with China. From a practical perspective, China and Australia have a long history of supporting each other with general operations, including engineering and medical advice, and sharing of mutually-beneficial data on meteorological and other research projects.¹³² This approach enables both parties to collectively achieve more in difficult Antarctic conditions and builds trust in Australia as a collaborator of choice.

This collaboration has borne fruit at the October 2015 Convention on the Conservation of Antarctic Marine Living Resources meeting in Hobart, where China changed its original position and supported the proposal for marine protected areas in the Ross Sea and East Antarctica.¹³³ This outcome demonstrated the position asserted by the Press Inquiry that it is essential for Australia to become the 'partner of choice in East Antarctica logistics and science'.¹³⁴ China has a very significant presence in Eastern Antarctica, making it a logical target for expanded collaboration.

Scientific cooperation under the Antarctic Treaty System provides useful track-two diplomacy opportunities. It provides Australia the opportunity to demonstrate to China the norms and principles that underpin the Treaty, and affords China the opportunity to appreciate the Treaty's environmental protection objectives from Australia's perspective. Working closely also encourages alignment of activity and behaviour within the established Treaty protocols.

Collaboration also encourages sharing and greater transparency of activities being undertaken in Eastern Antarctica.

Finally, working closely with China in Antarctica provides the opportunity to build deeper trust and a strengthened relationship with Australia's most significant trading partner and significant emerging power in the Asia-Pacific region. A strengthened relationship with China in diverse situations provides the opportunity to balance the risks associated with Australia's strategic alliance with the US.¹³⁵

Australia should expand its collaboration with China in the Antarctic. Building on the recently-signed Memorandum of Understanding between the two countries, Australia should promote even deeper cooperation on Antarctic policy issues and scientific research, and support to operational activities through the joint movement of personnel and sharing of resources in the region.

Such increased collaboration will provide Australia with greater situational awareness of China's activities in Eastern Antarctica. This would be a natural extension of the already-established relationship, and afford potential future opportunities such as a joint venture to build an airfield in the interior of Eastern Antarctica, which would benefit the activities of both nations. Australia should actively encourage the expansion of the Australia-China Antarctic Memorandum of Understanding to strengthen its credentials as an active and credible collaborator.

Challenges

There are some challenges for Australia in managing this relationship with China, particularly in determining China's motives for involvement in Eastern Antarctica. Is China prepositioning, driven by a desire to stake a claim to Antarctic resources? Alternatively, is China seeking prestige for legitimate scientific work?¹³⁶ As asserted in a recent speech by Australia's Foreign Minister, Julie Bishop, it is certain that 'China is seeking a greater role in many existing forums and, where it finds them unaccommodating, it now has the influence and economic heft to create new arrangements'.¹³⁷ Regardless of perspective, a strong relationship and close collaboration is considered a sound strategy to improve Australia's awareness and understanding of China's activities in the Eastern Antarctic region.

Resources

Australia already collaborates with China. This recommendation is about actively seeking ways to expand that collaboration with the deliberate decision to invite China to be a partner in as many activities as practicable. As such, there should be minimal requirement for additional resources initially, as the maintenance of the Australia-China collaborative relationship should be a part of 'business as usual' for all departments and organisations involved in Antarctic operations. There may be a small increase in travel and subsistence funding required to enable more visits by Australian representatives to China's Polar Research Institute in Shanghai as engagement increases but this could be achieved through the reprioritisation of existing funding.

Recommendation 3: Australia to lead in establishing a working group to address the requirement for bioprospecting in the Antarctic

Bioprospectors are increasingly being drawn to the Antarctic because its extreme environment has led to the evolution of a range of physiological adaptations of flora and fauna.¹³⁸ Antarctic biological resources are seen as potentially rich sources of raw materials for pharmaceutical and other industries, and the influence of commercialisation on scientific research cannot be ignored. The interplay between public science and private commercial interest is a matter of ongoing debate in many areas of biological research.

The dilemma in the Antarctic context is that science is subject to management by the Antarctic Treaty System, while bioprospecting is not.¹³⁹ As bioprospecting is an activity with potentially both environmental and resource implications, the Antarctic Treaty parties need to determine a

more comprehensive policy position, if not a regulatory framework, to deal with this development.

The Antarctic Treaty and associated agreements have little to say specifically on bioprospecting activities within the Antarctic region. Consequently, Antarctic bioprospecting has elicited much debate within the Antarctic community. Key issues include benefit sharing between Antarctic Treaty parties, the free availability of scientific data originating in Antarctica, the potential environmental impacts, and how governments should develop equitable benefit sharing arrangements and keep up with relevant policy developments.

It is also attracting attention in international law because there is a lack of clarity between sovereign rights over biological resources and intellectual property rights related to inventions developed from those resources. Since activities are already being undertaken, patents have been filed and products developed, and there is increasing tension between the parties in reaching a consensus on this issue.¹⁴⁰

The situation is even more complex where sovereign rights are disputed or absent such as in Antarctica.¹⁴¹ Access, ownership and sharing of the benefits of resource exploitation are regulated by UNCLOS. However, neither the Antarctic Treaty nor UNCLOS provides specific guidance for regulating bioprospecting, other than by linking together some of the fundamental principles contained within these instruments, such as conservation and rational management. The Antarctic region is under administrative control of the Antarctic Treaty System but the status of Antarctic resources is legally unclear.¹⁴² Other international regimes also have application, including the Agreement on Trade-Related Aspects of Intellectual Property, the Convention on Biological Diversity and UNCLOS.

The subject of bioprospecting has been on Antarctic Treaty Consultative Meeting agendas for over 13 years. In 2009, the Parties agreed that bioprospecting was adequately covered by the Antarctic Treaty System. This assessment was reaffirmed again in 2011.¹⁴³ Of significant concern is that there is no consistency of approach to the management of Antarctic biological resources and, while the Antarctic Treaty Consultative Parties have consistently acknowledged a desire to protect Antarctica's biological resources, they have been unable to even take the first step to achieving this ambition.¹⁴⁴ Absence of a collaborative approach and an instrument to guide behaviour is no longer ideal or even acceptable.

Further research is required to provide a solid basis for considering this complex and pressing issue. It encompasses scientific and commercial interests, environmental concerns, ethics and equity, and considerations relating to international law and policy. It also raises the question of the adequacy of the Antarctic Treaty System to manage bioprospecting. The growth of the Treaty, and reacting to the emerging needs of the past 50 years, means effective interfaces are required between the Antarctic Treaty Consultative Meeting and international bodies. The current lack of alignment poses a high risk to the effective operation of the governance regime in Antarctica and the Southern Ocean, and potentially to Australia's national interests.

Australia should undertake to lead a working group within the Antarctic Treaty Consultative Meeting to propose an instrument to manage bioprospecting within the Antarctic and Southern Ocean region. Taking this action would strengthen Australia's position as a leader within the Treaty governance framework and address the intent of a number of the Press Inquiry recommendations.

Specifically, should Australia be successful in leading an effort to establish an instrument for the management of bioprospecting in the Antarctic and Southern Ocean region, this would strengthen the Antarctic Treaty System and reinforce its relevance. This activity would also provide the opportunity to collaborate with emerging significant players in Antarctica when developing options for an instrument to manage bioprospecting in the Antarctic and Southern Ocean region.

Challenges

The Antarctic Treaty System was last substantively updated 17 years ago with the adoption of the Madrid Protocol in 1991. Hemmings notes that there now appears to be reluctance to develop new instruments.¹⁴⁵ The complex political reality that now exists with 29 states having voting rights as part of the Antarctic Treaty Consultative Meeting means that the Treaty's consensual decision-making model arguably achieves 'low level *status quo* management and not much else'.¹⁴⁶ Attempting to introduce new instruments that are without prejudice to all other instruments, within a consensus environment, will be difficult to achieve.

Resources

Diplomatic resources would be essential to support this politically-challenging undertaking. However, implementation of this initiative could be undertaken using existing staff and resources within the Department of Foreign Affairs and Trade, the Attorney-General's Department, and the Australian Antarctic Division, in collaboration with other Antarctic Treaty Consultative Parties and stakeholders.

The establishment of a working party may require additional funding, depending on how quickly Australia chose to progress this initiative, how many Australian representatives agreed to be a part of the working group, and the location for meetings. However, as this activity is considered core business of the Antarctic Treaty Consultative Parties, it would seem reasonable that funding could be allocated from within the existing operating budget, prioritised at the cost trade-off to another initiative.

These initiatives would provide a short-, medium- and longer-term option to enhance Australia's standing in Antarctic politics, strengthen the Antarctic Treaty System and strengthen vital relationships through close collaboration. As each of these initiatives could be achieved through a decision to prioritise 'business as usual' effort, personnel and funding, they would present good value for money should they be successful.

Conclusion

Australia is recognised as an important, relevant and legitimate leader in Antarctic policy development through its long-term involvement as an original treaty partner, and as a claimant to 42 per cent of the continent. For Australia to retain its influence and leadership role in the Antarctic Treaty System, there needs to be a coherent and well-resourced national strategy. Without clear strategic objectives, and the resources to achieve them, Australia will struggle to continue to influence the wider international community active within the Antarctic Treaty System.¹⁴⁷

This paper has discussed a brief history of Antarctic governance and analysed what the future pressures on the Antarctic and the Antarctic Treaty System are likely to be over the next 20 years. The Press Inquiry and the aforementioned Senate Standing Committee have suggested the need for a comprehensive strategy for Australia, however working in Antarctica is costly and not all their recommendations can be implemented at once. Prioritising policy initiatives that enable military logistics support, strengthen relationships and support collaborative scientific research projects would be critical to better positioning Australia to continue exerting influence within the Antarctic Treaty System over the next 20 years.

When the original Antarctic Treaty was signed, US lawmakers declared that 'the Antarctic Treaty will be seen one day as the Magna Carta of peaceful, cooperative international diplomacy'.¹⁴⁸ With Treaty membership now standing at 50 nations, the cooperation and ongoing diplomacy over the past 50 years has been remarkable. This paper recognises that while Antarctica is experiencing increased international focus, it currently remains a relatively low priority for most nations and that there has been little meaningful development of contemporary policy over the past 20 years.

Noting 2048 as a critical decision point, there is an opportunity for Australia, as a significant stakeholder, to influence the strengthening of the Antarctic Treaty System. The essential step

would be to identify nations and international organisations that share Australia's interests and vision for Antarctica, and then leverage existing bilateral and regional organisations to work towards a consensus position. This would require innovative leadership to align the agendas of numerous stakeholders with sometimes significantly different interests.

Continued evolution and strengthening of the Antarctic Treaty System affords the international community the opportunity to collaborate for the benefit of all, rather than the historically common position of a zero-sum game. Success will require a long-term commitment, patience and compromise. The challenge will be to manage competing interests in a pragmatic manner. Traditional power politics is unlikely to achieve an acceptable outcome for Australia or the world, and has the potential to create security challenges in Australia's backyard.¹⁴⁹

There is time for Australia to position itself to increase its influence and broker a solution for the future Antarctic political landscape. Without the will to collaborate on the potentially divisive issues of resource management and environmental protection, the next 20 years may not be as harmonious as the previous fifty.

Notes

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- 2 Peter J. Beck, *The International Politics of Antarctica*, Croom Helm: Lincoln, 1986, p. 14.
- 3 Antarctic is defined as the continent of Antarctica and the Southern Ocean surrounding it. In 2014-15, 36,702 registered tourists either landed or cruised to Antarctica: see International Association of Antarctica Tour Operators website available at <<http://iaato.org/documents/10157/1017626/Tourists+by+Nationality+-+Total.pdf/9a175577-5e15-4ee8-97d4-5a4327c4ea25>> accessed 6 October 2015.
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- 6 Along with Roald Amundsen, Robert Falcon Scott and Ernest Shackleton, Mawson was a key expedition leader during the 'heroic age' of Antarctic exploration: see <<http://www.antarctica.gov.au/about-antarctica/history/people/douglas-mawson>> accessed 30 October 2015.
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- 8 Rob Hall and Marie Kawaja, 'Australia and the negotiation of the Antarctic Treaty, in Marcus Haward and Tom Griffiths (eds.), *Australia and the Antarctic Treaty System: 50 years of influence*, University of New South Wales Press: Sydney, 2011, pp. 90-1.
- 9 Haward and Griffiths, *Australia and the Antarctic Treaty System*, pp. 1-2.
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- 11 Ellie Fogarty, 'Antarctica: assessing and protecting Australia's national interests', Lowy Institute for International Policy: Sydney, August 2011, p. 4, available at <http://www.lowyinstitute.org/files/pubfiles/Fogarty_Antarctica_web.pdf> accessed 17 October 2015.
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