



The Antarctic Treaty System and Law

During the first half of the 20th century a series of territorial claims were made to parts of Antarctica, including New Zealand's claim to the Ross Dependency in 1923. These claims created significant international political tension over Antarctica which was compounded by military activities in the region by several nations during the Second World War. These tensions were eased by the International Geophysical Year (IGY) of 1957-58, the first substantial multi-national programme of scientific research in Antarctica.

The IGY was pivotal not only in recognising the scientific value of Antarctica, but also in promoting co-operation among nations active in the region. The outstanding success of the IGY led to a series of negotiations to find a solution to the political disputes surrounding the continent. The outcome to these negotiations was the Antarctic Treaty.

The Antarctic Treaty

The Antarctic Treaty was signed in Washington on 1 December 1959 by the twelve nations that had been active during the IGY (Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, United Kingdom, United States and USSR). It entered into force on 23 June 1961.

The Treaty, which applies to all land and ice-shelves south of 60° South latitude, is remarkably short for an international agreement – just 14 articles long.

The twelve nations that adopted the Treaty in 1959 recognised that "it is in the interests of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord".

To this end the Antarctic Treaty:

- Prohibits military activities, such as the establishment of military bases or weapons testing, but recognises the use of military personnel and equipment to support scientific research
- Promotes freedom of scientific research, international scientific cooperation including the exchange of research plans and personnel, and requires that results of research be made freely available
- Sets aside disputes over territorial sovereignty by providing that no activities shall be undertaken to enhance or diminish previously asserted positions with respect to territorial claims, and provides that no new or enlarged claims can be made whilst the Treaty remains in force
- Prohibits nuclear explosions and the disposal of radioactive waste
- Provides for Parties to exercise their rights under international law with regard to the high seas south of 60° South
- Allows for Parties to designate observers with the right to conduct inspections of ships, stations and equipment in Antarctica to ensure the observance of, and compliance with, the Treaty
- Requires parties to share information of their expeditions to Antarctica in advance
- Obliges the Parties to meet periodically to discuss measures to further the objectives of the Treaty
- Puts in place a dispute settlement procedure and a mechanism by which the Treaty can be modified



Any member of the United Nations can join the Antarctic Treaty by accession. In 2015 the Antarctic Treaty had 52 signatories, 29 of whom are Consultative (voting) Parties on the basis of being original signatories or by conducting substantial research in Antarctica.

All decisions taken at the regular, currently annual, [Antarctic Treaty Consultative Meetings](#) are agreed by consensus - an important mechanism for recognising the rights of all Parties whether a claimant nation, an original signatory or an acceding state.

The Treaty was agreed in English, French, Russian and Spanish and the Antarctic Treaty Consultative Meetings operate in all four languages.

The Antarctic Treaty remains as one of the most effective international agreements. Disputes over territory in the region have been effectively set aside and as a disarmament regime it has been outstandingly successful. Scientific research remains as the firm priority of the Parties.

The Antarctic Treaty System

The Antarctic Treaty was agreed with the primary goals of resolving disputes over territorial sovereignty, establishing peace in the region, and promoting freedom of scientific investigation.

There were issues that the Antarctic Treaty did not address, such as resource use, for example fishing and mineral resource activities. The Treaty is also silent on environmental management. To deal with those issues that the Treaty did not address, the Parties have, since 1961, agreed a series of additional free-standing agreements (described below). These instruments together with the various decisions taken at meetings held under the auspices of those agreements are collectively known as the Antarctic Treaty System. The Antarctic Treaty System provides the governance regime for the continent and surrounding Southern Ocean.

More information is available on the website of the [Antarctic Treaty Secretariat](#).

Convention for the Conservation of Antarctic Seals

Commercial sealing was a major economic activity in the early 19th century and some Antarctic seal populations, notably southern elephant seals and Antarctic fur seals, were seriously depleted by the 1820s. Following concerns among some Antarctic Treaty Parties that sealing may re-emerge, the Parties negotiated the [Seals Convention](#) to provide a means to regulate commercial sealing, should such an industry ever be resumed. The Convention was agreed in 1972 and it entered into force in 1978. Although there is no indication of any interest in sealing in Antarctica, the Convention provides for such activities to be undertaken sustainably. The Convention aims to promote and achieve the objectives of protection, scientific study and rational use of Antarctic seals.

New Zealand is not a signatory to the Seals Convention.

Convention on the Conservation of Antarctic Marine Living Resources

CCAMLR was adopted in 1980 in response to fears that unregulated fishing for krill, one of the key species in the Antarctic marine food web, might adversely affect whales, seals, penguins and other species that directly or indirectly depend on krill for food. The Convention adopts an



'ecosystem approach' - it provides that krill and all the other living resources of the Southern Ocean are treated as an integrated system where effects on predator, prey and related species are considered and decisions on sustainable harvesting levels are made on the basis of sound scientific advice.

CCAMLR Parties meet annually in Hobart, Tasmania where the permanent secretariat is based. The CCAMLR Commission, the decision-making body, takes its decisions in the form of Conservation Measures in order to establish protected species, set catch limits, identify fishing regions, regulate when fishing may occur and what fishing methods can be used, and establish fisheries inspection procedures. The Commission is advised by a Scientific Committee which also meets annually in Hobart.

Protocol on Environmental Protection to the Antarctic Treaty

The Protocol was adopted in 1991 with the aim of harmonising and consolidating a wide range of provisions relating to protection of the Antarctic environment into a comprehensive and legally binding form.

The Protocol:

- Designates Antarctica as a 'natural reserve, devoted to peace and science'
- Establishes environmental principles to govern the conduct of all activities
- Prohibits mining indefinitely
- Subjects all activities to prior assessment of their environmental impacts
- Establishes a new body, the Committee for Environmental Protection, to advise the Antarctic Treaty Parties on the effectiveness of implementation of the Protocol
- Requires the development of contingency plans to respond to environmental emergencies

The Protocol includes six Annexes that detail obligations relating to:

Annex I – Environmental Impact Assessment

All activities must be assessed in the planning stage to identify their possible impact on the environment. If the impacts are likely to be more than minor or transitory a Comprehensive Environment Evaluation must be prepared and opportunity provided for the Committee for Environmental Protection and the Antarctic Treaty Parties to comment on it.

Annex II - Conservation of Antarctic fauna and flora

This Annex requires a permit to be issued for taking or interfering with wildlife; provides for the designation of specially protected species, and prohibits the introduction of non-indigenous organisms.

Annex III - Waste disposal and waste management

This Annex specifies wastes that may be disposed of within the Antarctic Treaty area and wastes that must be removed. It also establishes rules relating to the disposal of human waste and the use of incinerators. The Annex requires the clean-up of sites of past activity and the development of waste management plans. Particularly harmful products such as PCBs, polystyrene packaging beads and pesticides are prohibited in the Antarctic.

Annex IV - Prevention of marine pollution



The discharge of potentially harmful substances from ships (including oily mixtures and garbage) is regulated, as is the disposal of ship-generated sewage. The Annex adopts provisions that are broadly consistent with those applying in the relevant annexes of the International Maritime Organisation's Convention for the Prevention of Pollution from Ships. Disposal at sea of any plastics, garbage and noxious liquid substances is prohibited.

Annex V - Management of protected areas

This Annex establishes an improved protected area system that integrates earlier categories of protected areas into Antarctic Specially Protected Areas (entry into which requires a permit) and Antarctic Specially Managed Areas. Management plans are required for both categories. The protected area system also provides for the designation of historic sites and monuments, which must not be damaged or removed.

Annex VI - Liability Arising From Environmental Emergencies

Article 16 of the Environment Protocol requires the Parties to “elaborate rules and procedures relating to liability for damage arising from activities taking place in the Antarctic Treaty area and covered by this Protocol”. At the 28th Antarctic Treaty Consultative Meeting (Stockholm, 2005) an Annex was adopted on “Liability Arising from Environmental Emergencies”.

The Annex, which is not yet in force, requires operators to implement reasonable preventative measures and to establish contingency plans for responses to incidents with potential adverse impacts on the Antarctic environment. In case of environmental emergencies, operators will be required to take prompt and effective response action. An operator (whether governmental or non-governmental) that fails to take prompt and effective response actions to environmental emergencies arising from its activities, shall be liable to pay the costs of any response actions it should have taken or the costs of response actions taken by other Parties.