

Joint Standing Committee on the National Capital and External Territories

Inquiry into the importance of Antarctica to Australia's national interests

Submission from
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Terms of Reference

The Committee will inquire into and report on the importance of Antarctica to Australia's national interest, including:

- ☐ upholding the principles of the Antarctic Treaty System.
- ☐ conserving and protecting the unique biodiversity and environment of Antarctica.
- ☐ developing a better understanding of global environmental and climate science; and
- ☐ contributing to Australia's economic and social development.

This submission

This submission addresses the Terms of Reference through an examination and elaboration of Australia's Antarctic policy interests. The submission suggests actions that will help reinforce the importance of Antarctica to Australia's national interest.

This submission is informed by work undertaken as part of an Australian Research Council Grant on Antarctic Geopolitics (2019 to present).⁵

Australia's Antarctic Interests

In 1959 Australia's then Ministers for External Affairs (Sir Richard Casey) stated that Antarctica "was of close and Immediate concern" to Australia (Casey 1959).

In the seven decades since this statement was made Antarctica and the Southern Ocean have increased in salience for Australia – through increased understanding of climate and weather interactions, through development of new industries (e.g. fishing and tourism), and development of scientific research.

Australia is a key state in Antarctica. Australia has sovereignty over the Australian Antarctic Territory (AAT) which covers 42 per cent of the Antarctic continent, is one of the twelve original signatories to the Antarctic Treaty 1959, is the depositary state for the 1980 Convention on the Conservation of Antarctic Marine Living Resources and was a prime influence in the development of the 1991 Protocol on Environmental Protection to the Antarctic Treaty, so has longstanding Antarctic policy interests. It also led much of the work on protection of vulnerable marine ecosystems and the development of large scale marine protected areas for the purpose of biodiversity protection in the

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⁵ Australian Research Council Discovery Project DP19010124 (2019-2024) Geopolitical Change and the Antarctic Treaty System: Chief Investigators - Prof Marcus Haward, Assoc Prof Jeffrey McGee, Prof Tim Stephens, Prof Shirley Scott, Assoc Prof Nengye Liu, Adjunct. Prof Tony Press.

Southern Ocean, and mechanisms to drive precautionary fisheries management, including the compliance system, efforts to address illegal, unregulated, and unreported fishing activity and the scientific observation system in CCAMLR.

These policy interests have guided Australia's Antarctic activities for many decades and are now more publicly visible through inclusion in policy documents such as the *Australian Antarctic Strategy and 20 Year Plan* (2016) and *Australian Antarctic Strategy Update* (2022).

Australia's Antarctic policy interests are to:

- ☐ *maintain Antarctica's freedom from strategic and/or political confrontation.*
- ☐ *preserve our sovereignty over the Australian Antarctic Territory, including our sovereign rights over adjacent offshore areas.*
- ☐ *support a strong and effective Antarctic Treaty system.*
- ☐ *conduct world-class scientific research consistent with national priorities.*
- ☐ *protect the Antarctic environment, having regard to its special qualities and effects on our region.*
- ☐ *be informed about and able to influence developments in a region geographically proximate to Australia; and*
- ☐ *foster economic opportunities arising from Antarctica and the Southern Ocean, consistent with our Antarctic Treaty system obligations, including the ban on mining and oil drilling (Australia's Antarctic Strategy Update 2022).*

Australia's Antarctic interests will be advanced through providing:

- ☐ *Leadership and influence in Antarctica.*
- ☐ *Leadership and excellence in Antarctic science.*
- ☐ *Leadership and influence in Antarctic diplomacy?*
- ☐ *Leadership in environmental stewardship in Antarctica; and*
- ☐ *Development of economic, educational, and collaborative opportunities (Australia's Antarctic Strategy Update 2022).*

Australia's Interests and the Antarctic and Southern Ocean

The Antarctic region faces several challenges. The fundamental rules and principles of the Antarctic Treaty System, being peaceful use, scientific investigation, international scientific cooperation, and environmental protection (as embodied in the Environmental Protocol's commitment to protect Antarctica as "a natural reserve devoted to peace and science") are not always interpreted in the same way.

Maintenance of these rules and principles requires ongoing reinforcement and restatement by key Antarctic states through coordinated diplomatic efforts and practical demonstration in national policies and activities, such as the Australian Antarctic Strategy and 20 Year Plan and Update. Australia's Antarctic interests are well-served by coordinated international diplomatic efforts and coherent national policies and activities.

Some of the key challenges to the rules and principles of the Antarctic Treaty System are as follows:

- ☐ The use of an effective veto power within the Antarctic Treaty System meetings (i.e. Antarctic Treaty Consultative Meetings and Meetings of the Commission for the Conservation of Antarctic Marine Living Resources) by a small number of countries (i.e. largely Russia and China), rather than the generally agreed and accepted consensus-building approach. This potentially undermines Australia's objectives in the region.

- Conflicting views on the interpretation and implementation of the objective of the 1980 Convention on the Conservation of Antarctic Marine Living Resources. The majority view, supported by Australia, is that the conservation obligation extends beyond species of commercial fishing interest and requires consideration of the Antarctic marine ecosystem as a whole and the adoption of management measures for protecting species and areas for scientific study or non-fishing values. However, this majority view has been increasingly challenged by a few important states (i.e. largely China and Russia), who insist that a more extractive approach of sustainable rational use is the objective.
- Conflicting views on the interpretation and application of the Chairman's Statement under the CCAMLR Convention regarding the unilateral adoption of British law to regulate fishing activities in waters surrounding islands within the CCAMLR Area over which state sovereignty is not recognised by all Contracting Parties (i.e. such as the waters surrounding the South Georgia islands - CCAMLR Subarea 48.3)
- The inability of CCAMLR Members to adopt effective climate response plans.
- Antarctic 'exceptionalism' is being challenged by issues relevant to and impacting upon the Antarctic region including, but not limited to, microplastic pollution, climate impact science and modelling, and the International Maritime Organisation International code of safety for ships operating in polar waters, the Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Treaty)⁶ and the Kunming-Montreal Biodiversity Framework, where competence over these issues can be claimed by instruments and institutions outside the Antarctic Treaty System.
- The growing NGOs and academic movement calling for the implementation of 'rights of nature' in the Antarctic region. This movement questions the appropriateness of the Antarctic Treaty System, proposes legal personality for the region and a decision-making role for all Antarctic beings and dismisses the existing seven territorial claims and the Antarctic Treaty's management of that issue. While the 'rights of nature movement' is unlikely to be effective in the short-term its critique of the Antarctic Treaty System potentially undermines the fundamental basis of peace and scientific cooperation in the region.
- Potential challenges to the Antarctic Treaty. An extreme example is statements from elements of the Iranian government that made claims that Iran had 'ownership in Antarctica' (Mehr News Agency 2023a) and had plans to establish a permanent naval base in the region which would partly be for 'controlling ballistic missiles and enemy uses in the area' (Mehr News Agency 2023b).

Recommended Actions

1. Use regular reviews of *Australia's Antarctic Strategy* tabled in the Commonwealth Parliament, to affirm the ongoing commitment to the Australian Antarctic Territory and to the Antarctic Treaty System.
2. Work with like-minded Antarctic states to reset the collaborative consensus-building approach that has served both the ATS and Australia very well form many years and problems of blocking and vetoes in the Antarctic Treaty and CCAMLR meetings.
3. Prioritise diplomatic and other actions to ensure the conservation objective of CCAMLR is recognised and implemented and not 'watered down'.

⁶ Agreement on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction. Open for signature on 20 September 2023.

4. Australia needs to be prepared to lead diplomatically and in domestic policy discussion in defending the Antarctic Treaty System against external and challenges. This will require adequate resourcing of Department of Foreign Affairs and Trade and Australia Antarctic Division, that will in turn deliver on the *Australia's Antarctic* strategy.

We will be pleased to discuss our submission with the Committee.

References

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