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# Fourth General Assembly

The Question of Territorial  
Sovereignty in Antarctica



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## Introduction

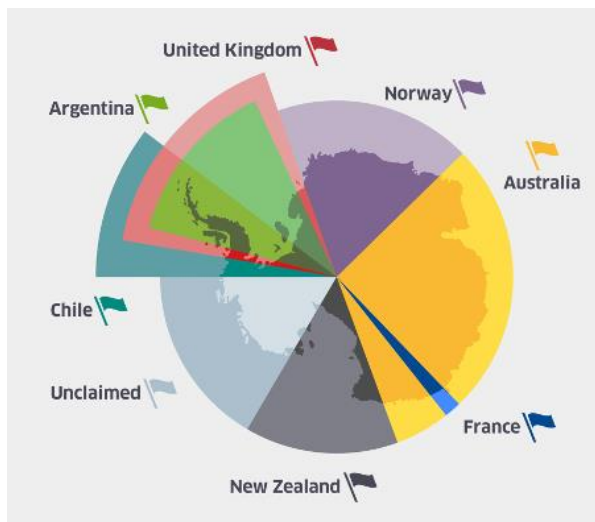
Antarctica, Earth's southernmost continent, has no native population. In terms of its area, this continent is near twice the size of Australia. 98% of the land in Antarctica is covered with up to 4.8km of ice. It is the "driest, coldest and windiest place in the world" (Teller).

Antarctica is the last untouched continent and also the world's largest storage of freshwater, oil, and gas. Partly because this desert is almost inhabitable for the majority of the astronomical year, Antarctica is not a country and therefore does not have its own government. Since it is distant from all nations, no one country can easily control Antarctica.

Numerous countries are becoming increasingly interested in having territory in Antarctica, due to several reasons. Antarctica is geographically located around the Earth's Magnetic South Pole, which makes it an attractive place for scientific research. The skies are unusually clear from aircraft compared to other locations on the globe, and free from radio-wave interference. Therefore, it is also the ideal location for tracking satellites.

At the moment sectors of Antarctica are claimed as territories by multiple nations, with some of these segments even overlapping between several nations. There are also growing strategic and economic interests, such as fishing and tourism.





**Fig. 1. The territorial claims in Antarctica**

(“Making Claims.” *Discovering Antarctica*, 2 July 2016, <https://discoveringantarctica.org.uk/how-is-antarctica-governed/the-antarctic-treaty/making-claims/>.)

## Definition of Key Terms

### Sovereignty

“The authority of a state to govern another state”, land or geographical area. This gives the governing state legitimate authority over the sovereign land. Before 1961, 7 nations each had sovereignty over a territory of land in Antarctica, which they claimed theirs. As of now, with the help of the Antarctic Treaty System, the territorial sovereignty of these nations in Antarctica is not internationally recognised.

### Territorial Sovereignty

“The exclusive right of a state to exercise its powers within the boundaries of its territory”. In Antarctica, it is the supreme authority of a country over a specific territory. For instance, The United Kingdom had territorial sovereignty over the British Antarctic Territory. The following six countries also held territorial sovereignty over their territory: Argentina, Chile, New Zealand, France, Australia, and Norway. This was before the Antarctic Treaty stopped recognising territorial claims in 1961.

### Territory

“A geographical area belonging to or under the jurisdiction of governmental authority”. The government with jurisdiction over the territory has the power to apply their laws and

make their own decisions in the territory. In the late 1940s and the 1950s, there was a growing conflict due to the rivalry between the aforementioned seven nations claiming territories on the continent.

## Treaty

“A written agreement between two or more countries, formally approved and signed by their leaders”. These can be protocols, pacts, or international agreements. The Antarctic Treaty is an international agreement regarding the affairs in Antarctica as well as the continent’s preservation.

## General Overview

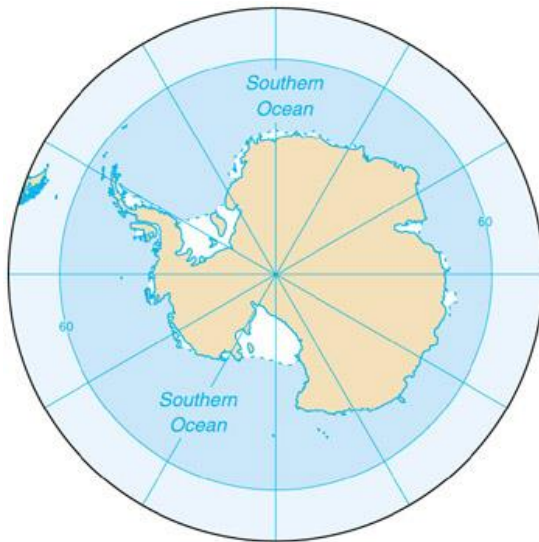
### The Antarctic Treaty

During the Cold War, the Antarctic Treaty was passed in 1961, primarily to ban weapons testing including the development nuclear explosions, and the disposal of radioactive waste. The Treaty was signed by 12 countries, which had territorial claims at the time in 1959, including Argentina, Chile, the United Kingdom, France, Australia, New Zealand, and Norway, which currently all have territorial claims in Antarctica. The remaining five original signatories were Belgium, Japan, South Africa, the USA and the USSR.

The Treaty also put a pause on the intensifying territorial claims at the time. The Treaty requires all actions in Antarctica to be carried out for peaceful, non-commercial purposes only. It further enables the freedom of scientific investigation, and orders observations and scientific research results to be made freely available and exchanged between researchers of different nations. Therefore, the Treaty also prevents military actions as well as the establishment of covert surveillance networks in order to combat intergovernmental ‘spying’ across different countries.

The Antarctic Treaty applies to areas below 60° South in latitude, also known as the Antarctic Treaty Area (ATA). The entire Antarctic Mainland is located in this area, which is larger than the Antarctic circle. The Antarctic circle is the area located below approximately 66.5° south. Several sub-Antarctic islands geographically belonging to Antarctica are excluded from the ATA and it is there that the Treaty has no control. Therefore, in those northernmost locations of Antarctica, no rules of the Antarctic Treaty apply. This is strongly reflected by the actions undertaken in these locations.





**Fig. 2. Antarctica below 60° latitude**

Exploring the Southern Ocean, [www.ecophotoexplorers.com/antarctica\\_southocean.asp](http://www.ecophotoexplorers.com/antarctica_southocean.asp).

(Explorers, Eco-Photo. "Ice Polar Scuba Diving in Arctic Antarctic Antarctica Peninsula Expeditions Cruises Travel Underwater Photography, Stock Images, Forums, Eco-Photo Explorers, Ecophoto Explorers, Echo Photo Explorers, Eco Photo Explorers." *Antarctica Voyage to the Frozen Continent RSS*, [www.ecophotoexplorers.com/antarctica\\_southocean.asp](http://www.ecophotoexplorers.com/antarctica_southocean.asp).)

The Treaty was the first major international agreement during the Cold War, inspiring countless models about governing areas outside national boundaries, such as outer space. However, the flaws of the treaty are becoming increasingly more apparent. The problem is that the Antarctic Treaty is starting to become outdated and unable to address most of the challenges facing Antarctica. On top of that, the Treaty is currently not known to be reformed soon and is unable to do so given its current stance. The Antarctic Treaty did put a pause on territorial claims, stating that no existing claims can be enlarged, and no new claims can be produced. However, it is less and less able to stop countries from bending the rules. Many countries are currently building bases in hope that in 2048 when the Antarctic Treaty will become open for review and change, the mining of natural resources might be made possible then. The closer 2048 approaches, the more intensifying the pressure seems to become, with the original sovereign countries standing their ground, as well as many new countries taking action.

## The sovereign pressures

The issue of resource exploitation poses the question of who owns Antarctica. This is the issue haunting the Treaty. Similarly, in case of a major scientific discovery, despite Article 3 of the Antarctic Treaty addressing this, the question of who owns the particular intellectual property is currently unanswered due to the numerous sovereign claims on the continent.

### *The Antarctic Treaty System*

The current situation in Antarctica depends on the self-regulation of those member states whose actions are physical. Member states refer to those countries that have signed the Antarctic Treaty. The growing number of signatories makes the Antarctic Treaty System (ATS) increasingly less able to manage the situation. In 1980, there were 13 countries with consultative status. Now there are 29. There is a growing rivalry over the abundant natural resources and unforeseen knowledge, such as potential undiscovered species or information about the Earth's climate from the distant past, as it can be discovered from the composition of the air trapped in ancient ice. Numerous nations are gathering opportunities for future control over the continent by funding research. The Antarctic Treaty System doesn't have the power to prevent or punish such cases of rule-bending. There is a worry among several parties that other members either don't report their military stationing or that the ban on militarisation is vastly disregarded. Due to the lack of control the Treaty and any nations have over this matter, similar actions that violate the Treaty are possible to be undertaken secretly without major difficulty. To this day there has been no new form or effective replacement of the Antarctic Treaty.

There is currently a total of over 75 bases in Antarctica, all of which are supposedly purely for scientific research. However, Chile and Argentina's army presence are known to be permanent on the Antarctic mainland, for instance, according to BBC News. The nations themselves admit this.

The secretariat of the Antarctic Treaty System, the only body resembling a government and regulating actions in Antarctica, is a small, 10-person office in Buenos Aires, according to the Financial Times. The secretariat is funded by the 29 consultative parties of the Treaty. The role of the secretariat is to support the Antarctic Treaty Consultative Meeting (ATCM) each year, as well as the Committee for Environmental Protection (CEP) meetings. It works as an administrative information relay rather than a body with decision-making authority. Given that Argentina has broken rules of the Antarctic Treaty, several other countries disagree



that the secretariat should be located in Argentina as a certain amount of possible control from the Argentinian government over the secretariat is assumed to be taking place.

The most recent significant obligatory resolution within the Antarctic Treaty System was put into force over 20 years ago. Due to an inefficient policy, any new protocol must be approved by consensus. Therefore, if a single country votes against the resolution in the Antarctic Treaty System, it theoretically has veto power, and the resolution does not pass.

### *The Antarctic Treaty Consultative Meetings (ATCM)*

The Antarctic Treaty Consultative meetings (ATCM) are held annually since 1994. Before 1994, they were held every two years. The location of the meeting changes each time, taking place in a large city of one of the member states of the Antarctic Treaty. Last year, the meeting held in Prague hosted over 370 participants. 29 countries have consultative status, but all member states attend the meetings. The objective is to exchange information, consult issues about Antarctica, and attempt to pursue measures to be taken by governments on the continent to improve the objectives of the Treaty, as described in Article 9 of the Antarctic Treaty.

In the Antarctic Treaty Consultative meetings, issues such as punishments for countries violating the treaty rules are rather avoided and often not addressed. The 2018 meeting in Buenos Aires held between 13-18<sup>th</sup> May is an example of avoiding the 'difficult' topics. Both diplomats and scientists from numerous member nations are expressing increasing concerns about the current Treaty System being unable to respond to new pressures, especially those lying in the not-too-distant future.



## Major Parties Involved and Their Views

### The Antarctic Treaty System

The Antarctic Treaty System is a set of agreements among nations regarding the environmental and geopolitical issues in Antarctica. There are currently 54 nations in the Antarctic Treaty system. It is made up of four major international agreements, out of which two apply to the territorial sovereignty in Antarctica. These four agreements are the Antarctic Treaty itself, the Convention for the Conservation of Antarctic Seals, the Convention on the Conservation of Antarctic Marine Living Resources, and the Protocol on Environmental Protection to the Antarctic Treaty (also called the Madrid Protocol).

### United Kingdom

The UK has a high position in the Antarctic Treaty System with the British Antarctic Territory (BAT) being the oldest claim on any territory in the continent. The BAT promotes UK sovereignty, with UK territorial claims overlapping largely with claims of Argentina and Chile. The UK operates postal services and stamps national passports with British stamps on the Antarctic continent. This is seen as controversial among many states since international law does not recognise the existence of BAT in the first place.

### Argentina

The first Argentine research station was built on 22 February 1904. Ever since, Argentina has been present in Antarctica. Having six permanent and seven temporary bases makes Argentina one of the countries with the most bases. Argentina aims at increasing its decision-making power in forums regarding Antarctica, as well as ensuring its sovereignty over the Argentine Territory in Antarctica. The Argentine territorial claim overlaps with that of the UK and Chile. Argentina considers its Antarctic Territory, called Argentine Antarctica, to be part of the Argentine Republic.

### Australia

Australia built its first base in 1947 and its territory is now the geographically largest claim, approximately 42% of the entire continent. The Australian government has expressed concerns about the likely possibility of Antarctic bases of other countries being used for not only scientific but also military purposes. Apart from that in 2014, Australia identified China's fifth base as a threat, suspecting its surveillance potential. The process of building this Chinese base, which is to be completed by 2022, began before the environmental impact assessment was complete, which violates the protocol.



## Chile

Chile built its first base in 1947. With multiple research projects in process, Chile remains among the most active countries in Antarctica. According to BBC News, both Argentina and Chile have armed forces permanently stationed in Antarctica. This violates the Antarctic Treaty despite the forces aiding scientists at carrying out their research. This includes field trips for collecting data, discovering forms of life as well as taking samples of the ice and snow, for instance. The Chilean territorial claim overlaps with that of the UK and Argentina.

## New Zealand

New Zealand built its first and only research base, the Scott Base, in 1957. This was established as part of the International Geophysical Year (IGY), an eventually 18-month long programme focused on collecting geophysical data around the entire world between the years 1957-1958. In 1962, Scott Base became a permanent research station. New Zealand has good relations with all other claimant states apart from Chile and Argentina, similarly to the four states it has good relations with. This is because the territories between New Zealand, Australia, Norway, France, and the UK do not overlap. Although the only territory overlap happens between the UK, Chile, and Argentina and no one else, it was the UK who transferred the territory to Australia and New Zealand. This resulted in good relations. France and Norway have an advantage in being friendly with three other countries with claims on the continent rather than only with Argentina and/or Chile.

## France

France has first established a territorial claim in 1924. This is the smallest claimed territory on the continent. France, the UK, Australia, Norway, and New Zealand recognise each other's claims on the continent since these territories are not overlapping. This is not the case with Chile and Argentina.

## Norway

In 1911 the first expedition to ever reach the South Pole was led by the Norwegians. Ever since Norway maintained its dominant position in Antarctica. Norway also played a key role in the development of the Madrid Protocol. Just like many other countries involved in Antarctica, Norway focuses on scientific research, mapping of the continent, and environmental monitoring.



## Timeline of Events

<b>Date</b>	<b>Description of event</b>
1819	First UK claim on the discovered South Shetland Islands was made
1840	First French claim on the discovered Adélie land was made
1898	First UK base built
22 February 1904	First Argentine base built
1908	Sovereignty over the UK territorial claim established
1911	Norwegian expedition is the first to reach the South Pole
1923	Part of the original UK territory transferred to New Zealand, now referred to as the Ross Dependency
1924	Sovereignty over the French territorial claim established
1933	Part of the original UK territory transferred to Australia, now referred to as the Australian Antarctic Territory
1939	Norwegian claim established on the Queen Maud Land
1940	Chilean claim on the Chilean Antarctic Territory established
1947	First Australian and Chilean research base built
1948	Argentina and Chile mutually agreeing to recognise their claims
1950	First French research base built
1957	First New Zealand research base built
July 1957	The IGO begins
December 1958	The IGO ends
1st December 1959	Antarctic Treaty was signed
23rd June 1961	Antarctic Treaty came into force



10-24 <sup>th</sup> July 1961	First Antarctic Treaty Consultative Meeting takes place in Canberra, Australia
1983	China begins its first Antarctic research expedition
4th October 1991	Protocol on Environmental Protection to the Antarctic Treaty was signed
19th January 1998	Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol) came into force

## UN involvement, Relevant Resolutions, Treaties and Events

The United Nations have so far not been focusing on getting involved in the situation of Antarctica or taken any action. The territorial sovereignty issue in Antarctica has been addressed by the UN but the discussion never got far enough for the UN to take action in Antarctica. In the years 1982, 1983, and 1984, the General Assembly discussed this issue. However, the debates very often resulted in excessive arguments and disagreements between member states. No resolutions were passed in these years despite numerous meetings and extensive debate time due to the disagreement in the house. This was not due to the consensus power within the Antarctic Treaty System as that body is not associated with the UN. The consensus power doesn't apply to the UN. There has been further UN involvement around 1999 but still, no actions were taken. No significant resolutions have been passed.

## Evaluation of Previous Attempts to Resolve the Issue

### International Geophysical Year (IGY)

The IGY eventually lasted for 18 months instead of a year. This period of collecting geophysical data around the entire world took place between the years 1957-1958. The IGY occurred all over the world, not just in Antarctica. In Antarctica, this applied to countries competing in their territorial claims at the time. Before signing the Antarctic Treaty in 1959, the 12 countries all focused on studying the Earth and outer space, putting an 18-month pause on any other actions at the time, such as rivalry over territorial claims or military actions. The International Geographical Year has worked as a major milestone in enabling the treaty to be signed after extensive scientific research and other actions on Antarctica



were carried out. At the end of 1958, it was clear from the 18 months of research in Antarctica, that this work needs proceeding since many unresolved queries have been raised. This served as a pathway for the establishment of the Antarctic Treaty, which temporarily solved the issue of territorial sovereignty in Antarctica by effectively pausing the claims existing before the Treaty was signed.

### **The Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol)**

The Madrid Protocol came into force in 1998. It introduces the indefinite ban on the mining of minerals and fossil fuels. Similar to the other agreements within the Antarctic Treaty System, the Madrid Protocol requires consensus to be modified. Until 2048, however, no changes can be made to the Protocol. Apart from banning mining, the Protocol also created a Committee for Environmental Protection. This is a body accountable for reporting and inspection of places including stations and bases, aircraft, and ships; as well as conserving flora and fauna and monitoring waste. No significant attempts to solve the issue of territorial sovereignty came into force after the Madrid Protocol.

## **Possible Solutions**

The very small size of the ATS secretariat seems to be reflecting the Treaty System's inability to take action as well as the fragile character of the system. Having only one office is likely to be ineffective as well. A possibility might be proposed of having secretariat headquarters in several other locations similarly distant from Antarctica. This could improve the communication of the whole system. Even though it would seem more appropriate to only locate the secretariat in some of the seven countries with territorial claims, this might not necessarily be the case. The Antarctic Treaty System now has 54 member states. The role and position within the Treaty vary between different member states and it might be concluded that certain member states have a greater 'right' for the secretariat to be located on their ground due to their established position.

The issue of rarely addressing punishments for violations of the treaty needs to be addressed. Firstly, an appropriate and clear policy needs to be passed in the Antarctic Treaty System, which would address the punishments for parties breaking specific prescribed laws. Currently, only the ATCM could possibly oversee and judge punishments if they are proposed and passed through election by the member states. Since the UN is not involved in Antarctica, the UN is less likely to start overseeing and judging on these punishments. These punishments could range from losing an important status in the Antarctic Treaty to

being dismissed from the Treaty. Passing such a resolution might be difficult even though only 7 out of 54 members have reason to disagree for their benefit. Since any new binding protocol has to be approved by consensus, as mentioned before, each of the hypothetical 7 countries who vote against this effectively has veto power. This seems to be a very difficult obstacle.

The issue of who owns the intellectual property upon scientific discoveries on the Antarctic should be clearer. Currently, it isn't clear if it is the scientists' country or the country whose territorial claim the discovery was made on. Information is to be shared between nations, but ground-breaking discoveries often result in a recognition of a group or individual, not whomever the research is shared with. Currently, the Antarctic Treaty seems to disregard this.

The Madrid Protocol was the last obligatory resolution within the ATS, passed 22 years ago. The ATS, however, is not limited to its current four major agreements. An effort has been made in those 22 years to pass a new protocol, nevertheless, the existing inefficient policy of consensus being a requirement to pass a resolution has prevented any such attempts from being successful.

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