

# SPECIAL REPORT

Meeting Antarctica's diplomatic challenges  
Joint approaches for Australia and the United States

A S P I



Evan T Bloom

February 2022

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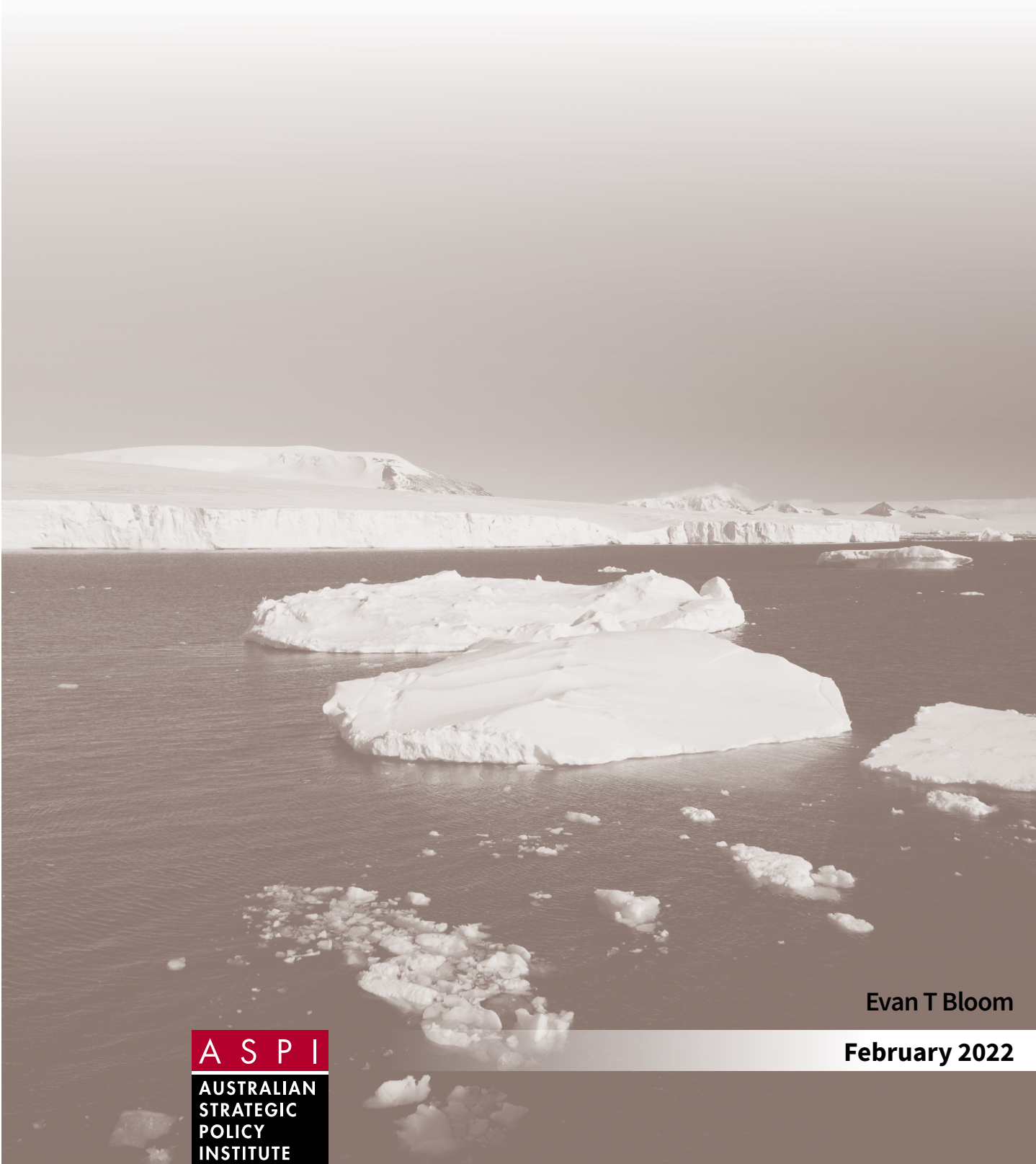
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# Meeting Antarctica's diplomatic challenges

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# Contents

<b>Executive summary</b>	<b>4</b>
What's the problem?	4
What should be done?	4
Key findings	4
<b>Introduction</b>	<b>5</b>
<b>Background</b>	<b>6</b>
<b>Geopolitical pressures in Antarctica</b>	<b>9</b>
Security concerns	9
Considerations related to presence	9
Dual use	11
Mineral resources	11
Fisheries	12
Marine protected areas	14
Strategic competitors	15
<b>Areas for enhanced Australia–US collaboration</b>	<b>18</b>
Continue to support and strengthen the Antarctic Treaty System	18
Lead science cooperation efforts among parties	18
Protect and strengthen CCAMLR's management of fisheries	19
Push for marine protected areas	19
Watch out for treaty violations	19
<b>Notes</b>	<b>20</b>
<b>Acronyms and abbreviations</b>	<b>22</b>

# Executive summary

## What's the problem?

Although the Antarctic Treaty has been effective in ensuring that Antarctica remains free of armaments and military activities, Antarctica is still a location for geopolitical competition among states. Further efforts are needed to protect against future potential military uses, the unravelling of the current ban on mining and the undermining of environmental protections. Resource competition over fisheries must be managed to ensure the long-term sustainability of the Southern Ocean, and obstacles to the creation of new marine protected areas need to be removed.

## What should be done?

Australia and US can use their leading roles in Antarctica to address these challenges through the existing mechanisms of the Antarctic Treaty System (ATS). They should work together even more closely to foster Antarctic science, focus on longer term geopolitical threats, especially those with military implications, and protect marine conservation objectives. In particular, they need to carefully manage relations with strategic competitors, addressing troublesome behaviours while, when it's feasible, pursuing cooperation with those competitors in a manner that raises confidence in the ATS.

## Key findings

- The ATS faces an array of security and environmental policy challenges that require active engagement. They include the need to ensure that Antarctica remains unmilitarised, that science continues to be prioritised, that fisheries management is handled sustainably, that new marine protected areas are established, and that pressures from strategic competitors are met appropriately.
- At a time when Australia and the United States are deepening their strategic and geopolitical cooperation, notably through the recent announcement of the AUKUS trilateral security partnership, these two leading and influential states in Antarctica are well-situated to work together to address these challenges, despite differences over the issue of territorial claims.
- The Antarctic Treaty has kept the peace and served the national interests of Australia and the US for more than six decades, and it still provides a capable framework for future peace and cooperation.

# Introduction

The relationship between the United States and Australia has been much in the news in both countries since the announcement of the AUKUS “enhanced trilateral security partnership” that also includes the UK.<sup>1</sup> The long-term partnership, which will facilitate the Royal Australian Navy acquiring nuclear-powered submarines for the first time, deepens to a significant degree the bilateral security relationship between Australia and the United States. Although the AUKUS effort is focused on the Indo-Pacific region, by building on existing Quad and Five Eyes partnerships it is evident that the desire and ability of both governments to cooperate on an array of international problems is steadily increasing. Consistent with that increase in mutual trust and a strengthening alliance, there is a golden opportunity for the two countries to address a range of issues they both face in Antarctica.

Australia and the US have been two of the leading countries in Antarctic governance for more than 60 years. Australia maintains the largest territorial claim to the continent and supports one of the strongest science programs there. The US has the largest presence of any country in Antarctica, as well as long-term interests in the region’s political stability, despite the region’s location far from American shores. Both countries pay considerable attention to Antarctic diplomacy and are deeply committed to the Antarctic Treaty System (ATS). Despite their differences over the issue of territorial claims (discussed below), they have maintained strong diplomatic and scientific contacts and tend to agree on fundamental policies. There’s more they can do together that can foster long-term peace and security in the region.

Antarctica, despite the evident success of the Antarctic Treaty and related agreements, is no stranger to geopolitical tensions. The negotiation of the treaty was proposed by the US in 1958 to cordon off the continent from Cold War pressures—seven countries were already laying claim to parts of Antarctica, and the Soviet Union and the US were considering making claims and military deployments. The ingenious solution—to set aside the continent for peace and science and protect the interests of both claimants and non-claimants (as explained below)—allowed for the establishment of an effective system for markedly reducing political and military competition. But the tensions weren’t permanently removed. Indeed, as one would expect, not only have rivalries among nations continued in various contexts, but the underlying issues that separate the relevant nations have evolved. The success of the treaty is all the more remarkable because over succeeding decades, even as new issues and concerns (particularly related to fisheries and the environment) have arisen, the ATS regime has been able to evolve and address new challenges. It has done so with more success in some areas than in others.

In this report, I suggest ways in which the US and Australian governments can work more closely to protect and promote the ATS, advancing support for an approach to governance that the two nations have felt for decades is in their respective national interests. This requires both countries (as well as others) to make a clear-eyed assessment of current and future fault lines and move more quickly to address political and environmental challenges that have implications well beyond Antarctica. In particular, this involves determining when it’s necessary to counter the ambitions of strategic competitors, such as China and Russia, in the Antarctic context, and when cooperation may be the more appropriate objective.

# Background

In May 1958, the US Government invited the 11 other nations that had participated in the International Geophysical Year (IGY, 1957–58), including Australia and the other six countries that had advanced territorial claims (see Figure 1), to a conference on Antarctica in Washington. The goal was to draft a treaty that would address military and geopolitical tensions, accommodate the various positions on claims and promote cooperation through science, given the example of the IGY. The result was one of the most successful multilateral treaties in history. The Antarctic Treaty was signed in 1959 and entered into force in 1961. Its salient features include:

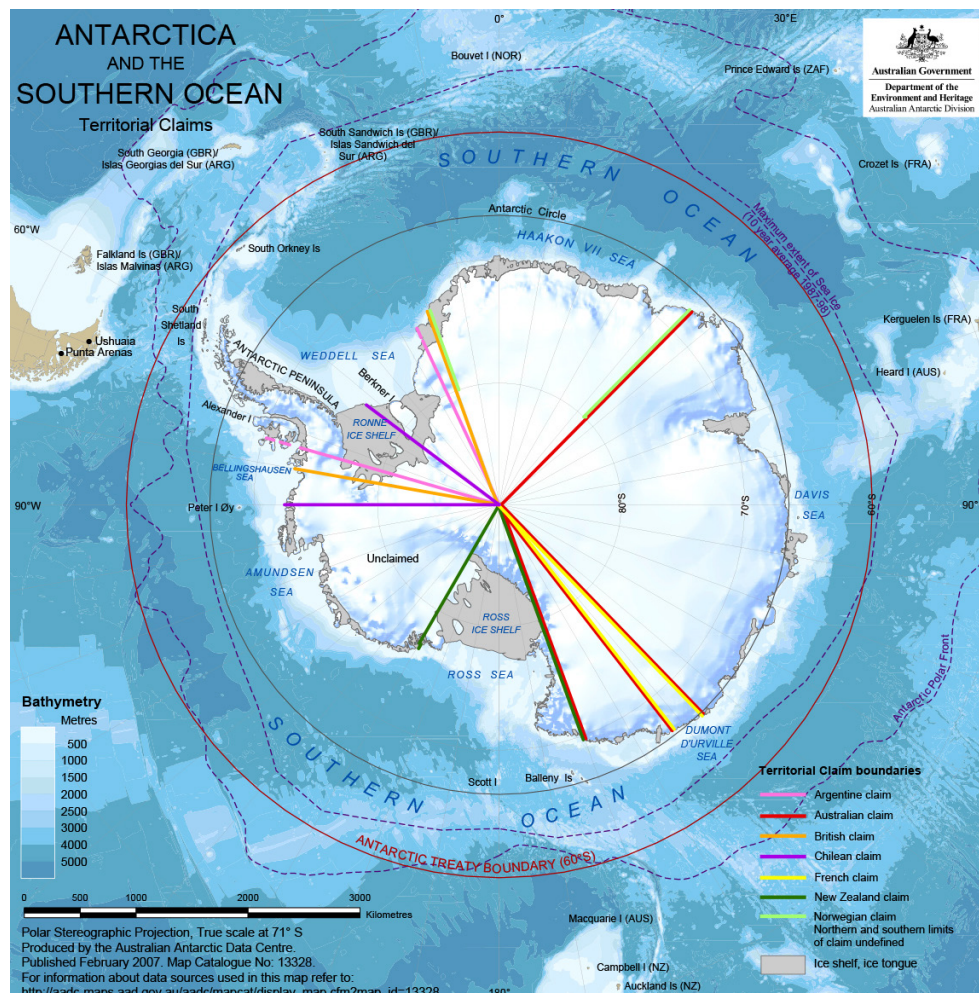
- *A focus on peace and science.* Antarctica is to be used solely for peaceful purposes, and freedom of scientific exploration is guaranteed.
- *Accommodation of territorial claims.* The treaty maintains the parties' differing positions on claims, including by providing that no acts taken while the treaty is in effect 'constitute a basis for asserting, supporting or denying a claim ... or create any rights of sovereignty in Antarctica', and ensuring that no claim can be asserted while the treaty is in force.<sup>2</sup> In addition, the position of two countries, the US and Russia, which consider that they have a 'basis of claim', is also protected. This is the fundamental legal and political bargain that was struck among the 12 original signatories and has been accepted by all subsequent parties.
- *Militarisation.* The Antarctic Treaty is considered the first modern arms control treaty. It prohibits any measures of a military nature, military manoeuvres and weapons testing. Nuclear explosions and the disposal of nuclear materials in Antarctica are also prohibited. Antarctica isn't fully demilitarised (or, since it was never truly militarised, unmilitarised) in all meanings of that term, as military personnel and equipment are explicitly allowed where they promote science or non-military purposes—hence a considerable military presence is permitted for the purpose of science logistics. The treaty also established an inspections regime, which is now a common feature of arms control agreements.
- *Participation in governance.* There are currently 54 parties to the treaty, including 29 with consultative status that allows for participation in decision-making. The treaty provides for regular meetings of the 'consultative parties' (Antarctic Treaty consultative meetings, or ATCMs), which in principle are held annually (Covid-19 prevented Finland from hosting in 2020, and the meeting in 2021 was hosted by France virtually). ATCMs have the authority to take decisions that can bind all the parties.
- *Geographical scope.* The treaty applies to the entire area south of latitude 60 degrees South—not only the continent and its ice shelves, but marine areas as well.

Australia's claim covers nearly 5.9 million square kilometres, which is about 42% of Antarctica. The US doesn't recognise Australia's claim or those of the six other countries that have made their own claims: Argentina, Chile, France, New Zealand, Norway and the UK. While the US maintains that it has a basis to claim territory in Antarctica, it hasn't made a claim.<sup>3</sup>

The Antarctic Treaty System refers to the Antarctic Treaty, the measures in effect under that treaty, its associated separate international instruments in force and the measures in effect under those instruments.<sup>4</sup> In addition to the Antarctic Treaty itself, the main elements of the ATS are the Convention for the Conservation of Antarctic Marine Living Resources (the CAMLR Convention) and the Protocol on Environmental Protection to the Antarctic Treaty.



Figure 1: Antarctic territorial claims



Source: Australian Antarctic Data Centre, online.

The parties to the Antarctic Treaty, reacting to concerns about the management of krill resources, established the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), via the CAMLR Convention (adopted in 1980 and entered into force in 1982). The commission currently has 25 states plus the EU as members, plus 10 additional acceding states. Australia is the host government, and the commission meets annually in October in Hobart, Tasmania, where it spends much of its energy ensuring proper management of Antarctic fisheries, even though its mandate is broader than fisheries. Indeed, in recent years, the commission has become known for its cutting-edge work on the establishment of marine protected areas (MPAs). The CAMLR Convention's geographical scope covers not only the same area as the Antarctic Treaty, but areas north of latitude 60 degrees South, to reflect the northern reach of the Antarctic convergence.

The Protocol on Environmental Protection to the Antarctic Treaty was signed in 1991, entered into force in 1998 and to some degree makes up for the fact that the Antarctic Treaty from three decades earlier didn't focus on the environment. The protocol designates Antarctica as a 'natural reserve, devoted to peace and science' and provides, *inter alia*, for carrying out environmental impact assessments related to human activities, establishes the Committee for Environmental Protection to advise the annual ATCM on relevant issues, requires responses to environmental emergencies and calls for the negotiation of a liability regime. Its most well-known provision, in Article 7 and generally referred to as the 'mining ban', prohibits 'any activity related to mineral resources, other than scientific research'.

A key feature of Antarctic diplomacy is that decisions at ATCMs and at CCAMLR are taken by consensus of all the consultative parties or members of the commission, respectively. This has a considerable impact on the operation of both bodies, making it impossible to move forward on items (such as MPAs) when the agreement of all consultative parties or members can't be obtained. One way of looking at this approach to governance is that it stabilises the regime and builds confidence in it by ensuring that the fundamental concerns of any party won't be ignored. Another way is that it forces lowest-common-denominator decision-making, preventing reasonable progress on issues of concern to the international community. In practice, both characterisations may be valid.

The ATCM and CCAMLR are the twin pillars of Antarctic diplomacy, and both forums need to be taken into consideration in any meaningful evaluation of trends in Antarctic policy. That's especially true as, in recent years, issues with the most political resonance internationally (fisheries management and MPAs) have tended to reside in CCAMLR rather than in the ATCM.

Australia and the US already have a long history of cooperation in Antarctica and have maintained close ties between their Antarctic programs and diplomats working in Antarctic forums. At CCAMLR, both countries have been leaders in supporting the establishment of a network of MPAs and have endorsed each other's MPA proposals. At CCAMLR, as well, the two delegations have been among the strongest supporters of conservation objectives under the convention.

Australia-US Antarctic efforts fit well within the larger context of their existing bilateral cooperation, which now includes the AUKUS partnership. Diplomatic ties are strong and buttressed by numerous current initiatives focused on common interests in the Indo-Pacific region, including shared concerns about Chinese actions in the South China Sea. Those initiatives include the Quadrilateral Security Dialogue among Australia, India, Japan and the US, which helps those major regional actors respond to Chinese influence, and the regular high-level Australia-United States Ministerial Consultations (AUSMIN) which cover myriad areas of cooperation on security matters.<sup>5</sup> Australia and the US also participate in the Five Eyes intelligence partnership.

# Geopolitical pressures in Antarctica

Many issues demand the attention of nations active in Antarctica. Some of them relate to the normal work of the ATCM and CCAMLR, some involve security and others the environment, and some are more pressing than others.

## Security concerns

Maintaining peace and security in Antarctica would be the foremost concern of the US,<sup>6</sup> and Australia would no doubt have similar interests. The Antarctic Treaty has been successful in essentially removing military competition from the region; no country brings military armament into the region; nor do any appear to conduct military activities there. Given the location and physical circumstances of Antarctica, the prospects for detection, and the apparent lack of interest in militarising the region, the likelihood of significant treaty violations in those respects is generally considered remote. (The possibility of the ‘dual use’ of scientific facilities for military purposes is a separate concern, discussed below.)

That isn’t to say that geopolitics, including great-power politics, are absent from the continent. Quite the opposite. The Antarctic Treaty was created in part to contain Cold War pressures, and more modern geopolitical pressures continue to this day, but in the background. The presence of many countries, including the US, reflects in part geopolitical interests. That presence is achieved through scientists and science-related facilities, rather than through military installations and embassies. That presence also creates a long-term stake in Antarctic affairs—even, and perhaps especially, for countries located far from the continent.

A difference in their approaches to Antarctic security by the US and Australia is that Australia seeks to secure an active territorial interest, and the US leaders don’t think in the same terms (US territorial interest is theoretical and not in the forefront of today’s policy considerations). Still, as both Australia and the US benefit from Antarctica remaining a region of limited military concern where rivalries with geopolitical competitors are unlikely to lead to conflict, they have abundant reasons to work together on strategic issues.

## Considerations related to presence

A nation’s political power in a region can be measured in a variety of ways, and, in Antarctica since the IGY, competition among states has been reflected in their investments in science, in which their presence (human and material) for that purpose has been considered a key factor in demonstrating commitment to the region, level of interest, and influence. Countries, regardless of their territorial claims, have indicated their political interest in Antarctica by establishing research stations there and choosing strategic locations for them. Thus, Russia has established a large number of stations in a widely diverse array of sectors; Argentina also has many stations, but all within its claim within the Antarctic Peninsula. The US chose to construct a station at the South Pole, the locus of the territorial claims, establishing a symbolic foothold in all the sectors at once.

As has been the case since the start of the Antarctic Treaty era, the US remains the country with the largest presence in Antarctica. It operates, at considerable expense, three all-year stations, including by far the largest station in Antarctica, McMurdo Research Station, in the Ross Sea region. As I’ve noted, it also operates the only station at

the geographical South Pole, Amundsen–Scott Station. In the Antarctic Peninsula, it manages Palmer Station. In addition, it supports a series of seasonal field camps. Looking at pre-pandemic numbers, the three all-year stations in total host roughly 1,400 personnel during the austral summer and 215 who winter over.<sup>7</sup> The US program leases year-round two icebreakers that engage in science and supply missions via Punta Arenas, Chile. In addition, the US program receives icebreaker support from the US Coast Guard's *Polar Star*.

Australia operates one of the largest Antarctic programs. Casey, Davis and Mawson stations are open year-round, and Edgeworth David Camp, Law Base and Wilkins Aerodrome open periodically. Per 2017 data, the all-year stations hosted 240 people per year during the summer season, and 50 wintered over.<sup>8</sup>

By contrast, although the Chinese presence has been increasing in recent years, it's still significantly smaller than that of the US by relevant measures. China operates two all-year stations, two are seasonal, and its new Inexpressible Island Station is under construction. The operational stations as of 2017 had a total of about 170 personnel during the summer and 32 during the winter, and when the station at Inexpressible Island is up and running China predicts that the station will host 80 personnel in the summer and 30 in winter.<sup>9</sup>

The Russian Federation operates five year-round stations and an additional five seasonal stations.<sup>10</sup> The total number of personnel in the austral summer, pre-pandemic, was 335 and in winter was 125.<sup>11</sup>

Spending on Antarctic programs can be difficult to measure. For certain countries, available budgetary and staffing information relates to all 'polar' operations, and thus statistics may include Arctic activities as well. Icebreakers are purchased or leased on varying schedules, and in many cases are used in both polar regions. Comparing administrative support in home countries can also be challenging, as China has a large bureaucracy and home port facilities serving both Arctic and Antarctic activities. The US Antarctic Program, within the National Science Foundation, has a limited bureaucratic footprint in terms of full-time government employees but operates large parts of the program through contractors.<sup>12</sup> Similarly, it's hard to measure the amount spent by countries just on Antarctic science, which would need to take into account budgets of government agencies other than those that operate Antarctic programs, as well as expenditures by and grants to universities.

Australia recently acquired the RSV *Nuyina* icebreaker for approximately A\$529 million (US\$389 million) to replace the three-decade-old *Aurora Australis*. The US is funding its Antarctic Infrastructure Modernization for Science (AIMS) project to provide necessary refurbishment to the ageing McMurdo Station. It's estimated to cost US\$410.4 million over 10 years (construction has been delayed due to Covid).<sup>13</sup> The US Coast Guard is planning to spend more than US\$2.7 billion on three new heavy icebreakers, and the first two have been fully funded at approximately US\$1.8 billion.<sup>14</sup> The first one is to be delivered in 2025. The US has also announced plans to construct a new light icebreaker to replace the RVIB *Nathaniel B Palmer* used by the US Antarctic Program.<sup>15</sup> Of particular importance in practical terms is that the US program maintains greater air resources, including support from the US military, and has greater logistical capabilities throughout the continent as a whole, than the programs of other countries.<sup>16</sup>

Tourism creates a type of presence, but the number of a country's nationals visiting Antarctica doesn't tell us too much about presence in a geopolitical sense. Nevertheless, it's useful to point out that the US has for many years had the most nationals visiting Antarctica as tourists, per industry records.<sup>17</sup> In addition, the US Government regulates more Antarctic tour expeditions and operators using larger SOLAS-class vessels than any other country. These facts help explain the particular interest of the US in Antarctica tourism policy and regulation. The number of Chinese nationals visiting Antarctica as tourists has risen over time in the period 2010 to 2020, but so have the US numbers, year over year, and the US totals have been more than double those of China (even in 2020).<sup>18</sup>

It's likely that larger science operations, like those of the US, cost more to operate than smaller ones. Thus, measuring presence in Antarctica has never been just about counting the number of stations (in which case, Argentina wins easily) but about the number of people, physical footprint and amount of activity at each one, as well as maritime presence and transportation and logistics capabilities. Although China has begun construction of a new station at Inexpressible Island in the Ross Sea region, when US and Australian inspection teams separately visited in February 2020, there was as yet very little to see. That will change over time but, at this point, in terms of size, there's no comparison to McMurdo.<sup>19</sup>

Thus, even though Chinese investment in Antarctica appears to be rising, which can and should be taken as a strong indication of the PRC's desire to have increasing influence in Antarctic affairs, that investment shouldn't be seen as overtaking those of the other leading Antarctic states. It's hard to imagine that China is spending more on its smaller footprint than programs that are considerably larger in terms of personnel and facilities, at least for now.

## Dual use

Certain technologies have both peaceful and military applications. Some observers in the academic community have paid considerable attention to whether states are using such 'dual-use' technologies in Antarctica for military purposes. There's been a particular focus on the use of equipment that receives data from satellites. There are differing views on the extent to which China's satellite-data-receiving capabilities in Antarctica pose a military threat to others; some raise this as a significant concern, while others have a different perspective.<sup>20</sup>

A key point is that use of technologies that have a dual-use capability in Antarctica is permitted under the Antarctic Treaty,<sup>21</sup> and the question then becomes whether in any particular case there's an intent to undertake a military use, either within Antarctica (which is probably what the treaty negotiators had in mind in the 1950s) or outside the continent (for example, data from polar orbiting satellites could be used well north of 60 degrees South). This isn't a new issue: for many years nations such as China, Germany, Norway, Turkey, the UK and the US have set up satellite downlink facilities at their Antarctic research stations, often operated by governments, but also in some cases by private companies. This includes various GPS or similar satellite-based ground navigation systems. Although there are concerns that some countries are using such technologies for military purposes, those raising such concerns haven't produced clear evidence of any breach of the Antarctic Treaty.

One concern similar to those expressed about dual-use technologies is the extent to which military personnel are present in Antarctica and for what purposes. As I've noted, the Antarctic Treaty specifically allows for military support for science, and, indeed, in the difficult and forbidding environment of Antarctica, it's often the military that has the best expertise and capability to operate there. Countries such as the US, Australia, New Zealand, the UK, Argentina, Chile and China have all used military personnel in Antarctica. The question always comes back to whether such personnel are truly supporting science or have some other, perhaps nefarious, role.

The US and Australia would both be concerned about any activities in Antarctica having an impact on their security interests in or outside Antarctica. As a result, they'll remain attentive to whether China, Russia or anyone else, could be undertaking actions in Antarctica that have a security dimension. That said, any changes in Australian or US approaches to these issues need to be based on evidence and sound analysis.

## Mineral resources

This year marks the 30th anniversary of the signing of the Environmental Protocol in Madrid. The mining ban in Article 7 was the centrepiece of this initiative, requiring Australia's Bob Hawke and France's Michel Rocard to veto a laboriously negotiated treaty<sup>22</sup> (supported by the US and many others at the time) that would have established a regime for regulated mining, and replacing it with a full prohibition. This proved to be an extraordinarily wise policy decision, providing a blanket protection that has not only prevented potentially destructive impacts from mining but also reduced opportunities for a range of human impacts that would have followed from companies setting up commercial mining operations. A prohibition that covers hydrocarbon extraction also turns out to be consistent with current objectives globally to limit greenhouse gas emissions that contribute to climate change.

The mining ban is quite secure as a legal matter. According to the protocol, after 2048 (50 years from the protocol's entry into force) any party can request a conference to review its operation. Nevertheless, the prohibition on mineral resource activities in Article 7 will continue after that point unless there's in force a binding legal regime on Antarctic mineral resource activities that includes an agreed means for determining whether, and, if so, under which conditions, any such activities would be acceptable. This amendment procedure, which is more complicated than the norm in treaty practice, has given rise to a false impression in the media that the protocol, or even the Antarctic

Treaty itself, expires in 2048. That isn't the case, and indeed the mining ban would, if it were undone, need to be replaced with a new regime, which would be extremely hard to achieve.

It's also quite secure politically. No country currently speaks of an intention to undo or undercut the mining ban; indeed, quite the contrary. On numerous occasions, all of the consultative parties have joined declarations indicating their commitment to this article,<sup>23</sup> and there's no sense in diplomatic circles that the rule or its underlying foundation are currently in jeopardy.

Could a party to the protocol begin mining operations by leaving the protocol? Yes, although that would be a very serious step and would probably provoke serious repercussions with other states. Could a non-party undertake mining in Antarctica? Doing so wouldn't violate international law, but would likely lead to Antarctic Treaty consultative parties taking steps to counter it, perhaps by gateway states (that is, Australia, New Zealand, South Africa, Argentina and Chile) limiting access to the continent. Moreover, as a practical matter, mining in Antarctica would be expensive and logistically difficult, and would be quite hard to execute without the support of major countries now active in Antarctica.

And could countries cheat on the ban? It would be rather difficult for anyone to remove commercially viable quantities of minerals from Antarctica without that becoming known. Gateway countries are likely to pick up on such activities, and the Antarctic community is small enough that such information is likely to spread.

Some have taken the view that countries such as China are following a long-term course that will lead them to undertake mining in Antarctica in the future, following a review in 2048 or otherwise.<sup>24</sup> Even though current activities or public pronouncements by states don't tend in that direction, these longer term questions can't be discounted. Indeed, if global conditions change and there's a perceived need for mineral resources that might be viably extracted from Antarctica, perhaps pressures will mount against the ban. But that isn't what we see now and shouldn't be considered inevitable.

## Fisheries

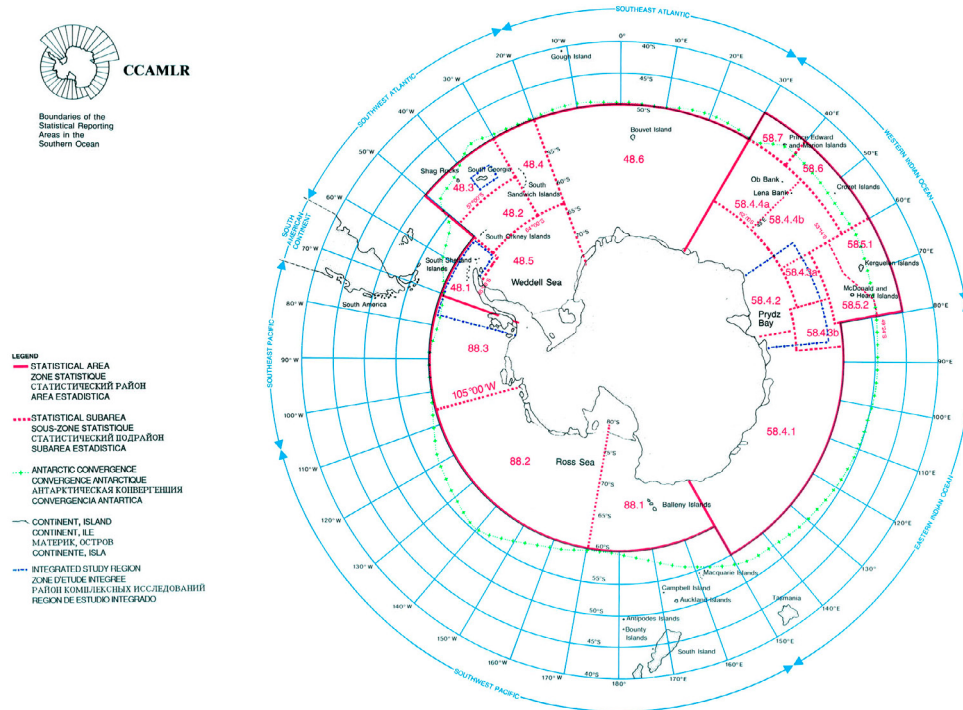
Fisheries are a sector where countries do currently compete for Antarctic resources. CCAMLR (see Figure 2) is the location for hard-fought annual fights over fishing rights, and there's a consistent battle over the balance between conservation and sustainable use.

Australian-flagged vessels currently fish in Antarctic waters, and, although Australia acts to protect its commercial fishing interests, it's also one of the foremost members concerned with promoting sustainability, conservation and science-based decision-making. The US doesn't currently fish in Antarctic waters and has maintained an active profile to promote conservation, but it also has influence as one of the largest markets for fish taken from the CAMLR Convention Area.

Australia and the US have worked closely together at the commission to counter attempts to weaken conservation values. The conflict among states has been seen in particular in relation to disagreements over the meaning and interpretation of Article II of the CAMLR Convention, which provides that the objective of the convention is the conservation of Antarctic marine living resources, and that the term 'conservation' includes rational use.<sup>25</sup> Countries such as China, Russia and Japan tend to read those provisions in a way that conflates conservation and rational use and makes them largely of equal significance. Other members, such as Australia, the US and the EU, have taken the view that 'conservation' under Article II is the convention's singular objective, and that any rational use must be consistent with that objective.<sup>26</sup>

Although CCAMLR has enjoyed a reputation as one of the most successful organisations governing regional fisheries, over time its effectiveness has been put to the test. While most members have wanted to strengthen rules designed to combat illegal, unregulated and unreported (IUU) fishing, for example by enacting more stringent standards for

Figure 2: CCAMLR convention area



Source: Commission for the Conservation of Antarctic Marine Living Resources, [online](#).

transhipments or for the finning of sharks, some (often Russia and China) block consensus and progress grinds to a halt. There's also been considerable difficulty in ensuring that there are consequences for failure to follow CCAMLR's rules. Thus, in 2017, China held up agreement on the entire compliance committee report because it couldn't accept reference to a minor failure to follow a technical reporting requirement by one of its agencies as anything but 'fully compliant'.<sup>27</sup> More significantly, Russia has shown a willingness to protect its flagged vessels from scrutiny and consequences even in the face of evidence of serious violations.<sup>28</sup>

CCAMLR is finding it particularly difficult to address issues related to the krill fishery. There's considerable concern about the level of catch, its concentration in particular areas, and its impact on dependent predators higher up the food chain. At the same time, China, Norway and others have made long-term investments in krill vessels and technology, deepening their economic interest in the fishery. Catch limits for krill, as well as spatial management requirements, need to be re-evaluated and updated, taking into account climate-change concerns and the latest science. This is particularly challenging to do where consensus is needed, and the pandemic has limited the meetings of CCAMLR's scientific bodies. In 2021, CCAMLR was able to extend the existing catch limits for krill for one year,<sup>29</sup> but this only puts off the complicated task of ensuring sustainability in the longer term.

In 2021, the Commission couldn't reach agreement on its compliance or scientific committee reports, due in large measure to a combination of manoeuvres by China and Russia.<sup>30</sup> The meeting was also particularly rancorous given Russia's decision to block fishing for Patagonian toothfish in statistical subarea 48.3, in the waters near South Georgia.<sup>31</sup> It is unusual, and perhaps unprecedented, for the Commission to fail to reach agreement on catch limits for an existing fishery on the basis of the stance of a single member. Although Russia claims that the closure of the fishery was needed to protect toothfish stocks, that rationale wasn't accepted by others and its position seemed politically-based, possibly reflecting an intention to rebuke the UK which both claims sovereignty and has commercial interests there. As Argentina also claims South Georgia and its surrounding marine areas, Russia understood that it was pushing into sensitive regional politics that have a relationship to the longstanding UK-Argentine Falklands/Malvinas dispute.

Although failure to reach consensus is common enough at CCAMLR (or at the ATCM), by avoiding traditional efforts within the ATS to seek compromise and attacking the commercial interests of a member without a satisfactory scientific or other rationale, Russia raises the possibility of similar actions by it or other members in the future. CCAMLR could become dysfunctional if this approach to negotiations becomes the norm.

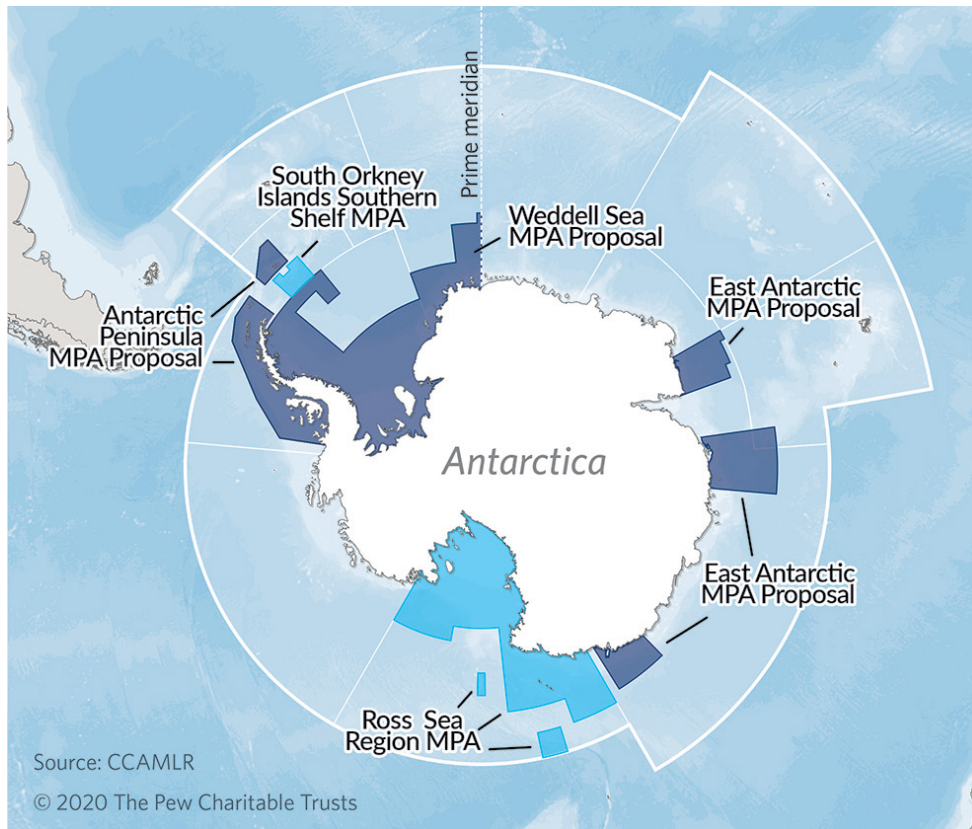
The controversies from the 2021 meeting aside, governments generally seem content that CCAMLR fisheries are sustainably managed. Whether one agrees with that conclusion or not, ensuring that the commission makes wise, ecosystem-based decisions is a hard task. Countries such as Australia and the US promote proper fisheries management through their extensive contributions to CCAMLR science, but more needs to be done to ensure that the commission can do its job, including taking a forceful approach to upholding compliance, insisting on science-based decision-making and strengthening rules against IUU fishing.

### Marine protected areas

CCAMLR’s work on establishing MPAs began in the 1990s and in recent years has become the most important issue politically for the commission, save for general fisheries management. Indeed, to the extent that the public focuses on CCAMLR, it’s the cutting-edge work to establish a network of MPAs that gains attention. That’s particularly the case in recent years, given the global conservation campaign to conserve 30% of the world’s ocean by 2030 (the ‘30x30 campaign’) and efforts at the UN to negotiate a treaty on high seas conservation.<sup>32</sup>

As a result, a large majority of CCAMLR’s members give priority to the MPA issue. The first CCAMLR MPA was established in 2009 near the South Orkney Islands, based on a UK proposal (Figure 3).<sup>33</sup>

Figure 3: Existing and proposed CCAMLR marine protected areas



Source: The Pew Charitable Trusts, [online](#).



That wasn't particularly controversial at the time because the area was relatively small and fishing had not, and as far as anyone knew would not, be undertaken there. Australia helped the MPA cause considerably by proposing a general framework for the establishment of CCAMLR MPAs that was ultimately negotiated and adopted by the commission in 2011.<sup>34</sup>

In 2016, after five years of active negotiations, but based on more than a decade of scientific work, the commission agreed to a joint US – New Zealand proposal to establish what was and still is the world's largest MPA, in Antarctica's Ross Sea.<sup>35</sup> The negotiations were difficult, in no small measure because there were impacts on fishing. As of 2014, China and Russia had been unwilling to agree to the Ross Sea MPA. In 2015, after much diplomatic activity, including high-level outreach to Chinese leaders, China indicated that it was willing to proceed. Russia came on board in 2016 while it held the chairmanship of the commission, thus allowing the consensus needed for adoption in Hobart.

There are three major MPA proposals currently before CCAMLR. In 2012, Australia and the EU (with particular leadership from France) proposed an MPA in several separate areas of East Antarctica. In 2016, the EU, with Germany playing a leading role, proposed an MPA in the Weddell Sea. In 2018, Argentina and Chile put forward a proposal for an MPA in the Antarctic Peninsula. All of those proposals have considerable merit, and all have been supported by the US and Australia from the start.<sup>36</sup>

Since the major achievement in 2016 with the Ross Sea Region MPA, efforts have faltered. In 2017, China refused to allow the commission to adopt the Research and Monitoring Plan for the Ross Sea Region MPA, despite the plan's having been endorsed by the CCAMLR Scientific Committee. Although the research and monitoring plan is a technical document and isn't required in order to implement the MPA, China's action was taken as a signal that it intended to slow that implementation. More significantly, Russia and China have banded together to prevent forward progress in the commission and in the CCAMLR Scientific Committee on the three new MPA proposals despite repeated attempts by MPA proponents to find a way forward. The latest commission meeting in 2021 didn't move the ball forward. The pandemic, which has disrupted CCAMLR's normal scientific work and ensured that the 2020 and 2021 commission sessions were held virtually, has also played a role in slowing attempts to negotiate the MPAs, which after all are complex legal documents for which in-person negotiations are likely necessary.

MPAs are widely considered as an essential tool for ocean conservation and for conducting marine science, and they're increasingly seen as making an important contribution to reducing greenhouse gas emissions.<sup>37</sup> The Southern Ocean is one of the best locations for MPAs, given the relative lack of human activity there. As a result, MPAs will continue to be a major objective within Antarctic diplomacy for years to come, and pressure will grow at CCAMLR for meaningful progress.

## Strategic competitors

As I've noted, Australia and the US have a number of policy differences with China and Russia in the Antarctic context. Both China and Russia have demonstrated a long-term commitment to Antarctica, covering both science and resources (the interest in resources reflecting at least a significant interest in fisheries, and perhaps more). Moreover, Russia and China are forceful in pressing their positions at ATCMs and at CCAMLR, heedless at times of calls to compromise; under a governance regime that requires consensus for decisions to be taken, this means that China and Russia are a continual focus of diplomatic attention.

Russia has long, historic ties to Antarctica and sees itself as a major player in Antarctic matters. It's never been shy about protecting its interests at diplomatic conferences, and if anything remains more fully attached (at least in the mindset of its officials) to its status as a country with a 'basis of claim' than does the US. Russia's position as the largest Arctic state, and its deep knowledge of operating in polar environments, makes its focus on Antarctica all the more understandable.

Figure 4: Location of Australian, US, Chinese and Russian research stations in Antarctica



Source: ASPI.

China is a more recent participant in Antarctic matters. It ratified the Antarctic Treaty in 1983 and became a consultative party in 1985. It acceded to the Madrid Protocol in 1998 and joined CCAMLR in 2007. Although in its early years of membership China wasn’t particularly voluble at the ATCM and in CCAMLR, in recent years, in parallel with its increase in activity and investment in Antarctica as well as its global rise, China has found its voice in both forums.<sup>38</sup>

The PRC went to considerable lengths to be a good host and to demonstrate to other consultative parties its interest in Antarctica when it hosted the ATCM in 2017, which included the involvement of its senior officials. It has built and begun operating a new polar icebreaker, which has already had missions to both polar regions. It conducts science in multiple Antarctic locations. In all these ways, China puts itself forward as a country intending to be active in Antarctica for the long term.

At the same time, China's actions in the South China Sea, including its positions on the law of the sea at odds with the South China Sea arbitration ruling in 2016<sup>39</sup> and excessive maritime claims disputed by numerous countries,<sup>40</sup> raise concerns that it will eventually take positions in Antarctica inconsistent with international norms or standards. The PRC's failure to monitor and control its distant-water fishing fleets<sup>41</sup> raises the question of whether the hard-nosed positions it takes in CCAMLR to protect its fishing interests indicate a longer term willingness to contribute to overfishing in the Southern Ocean. And, of course, by refusing to engage in attempts to negotiate new MPAs, China sets itself apart from the vast majority of CCAMLR members and makes moving forward on ocean conservation issues difficult.

One practical problem involves lack of attention by both China and Russia to the processes that support ATS decision-making, such as intersessional working groups of the ATCM and CCAMLR, ongoing work of the Committee for Environmental Protection prior to its annual session at the time of the ATCM, and the work of the subsidiary bodies that lead up to the session of the CCAMLR Scientific Committee. Not all states participate as fully as they should in those processes, but Russia and China don't hesitate to block consensus on decisions in the Committee for Environmental Protection or the Scientific Committee even though their representatives didn't make their objections known earlier. This can lead to considerable frustration. In a similar vein, China will at times fail to send sufficiently senior officials to meetings, with the result that its delegations appear to lack flexibility and instead hold the line on even minor points. At CCAMLR, it's often the case that Russian Fisheries Agency officials appear to be setting policy directions that favour Russian vessels and operators without taking into account broader national interests.

It bears mentioning that, although Russia and China demonstrate little fear of standing in the way of consensus at CCAMLR, they don't always do so. Whatever their internal reasons were, both agreed to the Ross Sea Region MPA in the end—an initiative that both delegations had fought against with great energy for years. Although both returned to a kind of obdurate opposition to MPAs thereafter, the Ross Sea example gives some hope that it remains possible to strike deals with these countries on important issues. It's also worth noting that Russia and the US jointly conducted a double set of fruitful and amicable inspections in the Ross Sea region and East Antarctica, respectively, as recently as 2012.

# Areas for enhanced Australia–US collaboration

As leading countries in Antarctica, Australia and the US have an opportunity to build on their existing bilateral cooperation to influence the future of Antarctica. They have two of the largest Antarctic science programs, a significant presence on the continent, an active diplomatic profile at ATCMs and the CCAMLR, and a history of strong support for the ATS. Their different positions on territorial claims don't prevent cooperation on a host of issues that can advance their national interests and promote peace and security, as well as environmental protection.

Both countries should pursue the following initiatives.

These aren't steps that Australia and the US can or should take alone. Indeed, a number of other countries (claimants and non-claimants) could participate in these efforts. But Australia and the US are particularly well placed as major economies with strong Antarctic interests to undertake this sort of cooperation.

## **Continue to support and strengthen the Antarctic Treaty System**

The current Antarctic governance regime, while far from perfect and a difficult diplomatic environment in which to operate because of the need for consensus, achieves a great deal that's in the long-term national interests of Australia and the US. The ATS shouldn't be dismissed as out of date; it can still be effective in addressing core regional concerns of both countries. Both countries can use their influence to insist on the implementation by all countries of ATS rules and can invoke those rules to fight for environmental protection and policies that support scientists. It's unlikely that a more effective set of treaties could be negotiated today. Australia and the US should spend more time at both senior and working levels to coordinate positions and on outreach to other governments on Antarctic issues. In addition, the two countries should continue to cooperate at the UN and other multilateral forums to ensure that the ATS (most signatories to which are countries that have a long connection with and knowledge about Antarctica) is the exclusive venue for international policymaking related to Antarctica.

## **Lead science cooperation efforts among parties**

Both the US and Australia, individually and jointly, can use their leading position in Antarctic science to promote scientific cooperation with other countries as the foundation for Antarctic collaboration. That should, where appropriate, include cooperation with countries such as China and Russia. In part that's because this is consistent with the ideals of the Antarctic Treaty, but also because the US and Australia originally joined in the establishment of the treaty with the idea of having scientific cooperation be at its core. Science in the context of Antarctica aids the promotion of the 'rules-based order' that the Biden administration speaks in favour of, and has the advantage of increasing the confidence of all countries (including China) in the merits of the ATS. Excluding China from science cooperation has the danger of giving credence to those within the Chinese Government who wish to argue that the ATS doesn't benefit it and doesn't deserve a long-term commitment. The international focus on climate change, which the US once again participates in, will continue to make Antarctic science a central concern for international environmental policy.

## Protect and strengthen CCAMLR’s management of fisheries

Australia and the US should increase their efforts to ensure that conservation and ecosystem-based fisheries-management principles remain at the forefront of CCAMLR’s policies; they can do this by building coalitions to push against attempts to weaken the commission. Essential to this objective is supporting CCAMLR’s scientists and their deliberations so that science-based decision-making remains paramount. Both countries must also continue to push all members to support compliance with the commission’s rules, and to pursue anti-IUU fishing efforts.

## Push for marine protected areas

Both countries are fully in line with the need to establish an effective network of Antarctic MPAs, including on the basis of the three major proposals now before the commission. They can work even more actively together, and with the EU and countries such as Argentina, Chile and the UK, to remove obstacles to new MPAs and to implement existing ones.

## Watch out for treaty violations

Australia and the US need to remain vigilant to guard against violations of the Antarctic Treaty, the Environmental Protocol and the CAMLR Convention, and to watch for indications that major players might at some point be looking for an exit or a fundamental reorganisation. As a general matter, they need to use their resources to monitor any possible military measures in Antarctica that might affect their interests either within or outside Antarctica, including the possible dual use of research equipment. The two countries have the capacity to undertake an even more vigorous program of official inspections, and to share information regularly in appropriate diplomatic and other channels.

# Notes

- 1 Joint Leaders Statement on AUKUS, 15 September 15, 2021, [online](#).
- 2 Antarctic Treaty, Article IV, [online](#).
- 3 The US position is stated on the US Department of State website. Office of Ocean and Polar Affairs, 'Antarctic region', Department of State, US Government, 2022, [online](#).
- 4 Environmental Protocol to the Antarctic Treaty, Article 1(e).
- 5 The Australia–US Ministerial Consultations (AUSMIN) is the principal forum for bilateral consultations between Australia and the US. AUSMIN brings together the Australian ministers for Foreign Affairs and Defence with the US secretaries of State and Defense, along with senior officials from both portfolios. Department of Foreign Affairs and Trade, 'AUSMIN — Australia – United States Ministerial Consultations', Australian Government, 2022, [online](#).
- 6 There are few recent public US Government statements that set forth Antarctic policy objectives. A White House directive from the Clinton administration lists 'maintaining Antarctica as an area of international cooperation reserved exclusively for peaceful purposes' as the third of four 'fundamental objectives' of US policy. Presidential Decision Directive/NSC-26, 9 June 1994, 5. However, as a practical matter, security issues would be of central importance to decision-makers at key agencies in Washington today, along with the environment, sustainable fisheries, marine safety, promoting science and so on.
- 7 Council of Managers of National Antarctic Programs (COMNAP), *Antarctic station catalogue*, August 2017, 144–149, [online](#). These figures reflect pre-pandemic staffing. Science programs have generally maintained that, while they have reduced science and logistics populations during the pandemic, once Covid-19 restrictions ease the numbers of personnel should return to prior levels.
- 8 COMNAP, *Antarctic station catalogue*, 28–33.
- 9 COMNAP, *Antarctic station catalogue*, 58–65. Great Wall Station and Zhongshan Station are open year-round. Kunlun Station and Taishan (camp) are seasonal. With respect to the new seasonal station at Inexpressible Island, see *United States Antarctic Inspection, February 2020: report of inspections under Article VII of the Antarctic Treaty and Article 14 of the Protocol on Environmental Protection*, US Government, February 2020, 17–18, [online](#), citing expectations for future personnel provided in China's Comprehensive Environmental Evaluation.
- 10 Russia operates Mirny, Vostok, Progress, Novolazarevskaya and Bellingshausen stations year-round, and Molodezhnaya, Druzhnaya IV, Oasis Bunger, Leningradskaya and Russkaya as seasonal bases. In 2022, Russia plans to transfer Russkaya base to year-round status.
- 11 COMNAP, *Antarctic Station Catalogue*, 106-125.
- 12 The National Science Foundation's most recent funding request included US\$216 million for US Antarctic Program facilities and operations and US\$77 million for Antarctic logistical support. National Science Foundation (NSF), *FY 2022 Budget request to Congress*, 28 May 2021, [online](#).
- 13 NSF, 'Antarctic infrastructure recapitalization', FY 2022 Budget request to Congress, [online](#).
- 14 The operational U.S. Coast Guard polar icebreaking fleet currently consists of one heavy polar icebreaker, *Polar Star*, and one medium polar icebreaker, *Healy*. The US Navy and Coast Guard in 2020 estimated the total procurement costs of the three new Polar Security Cutters as \$1,038 million for the first ship, \$794 million for the second ship, and \$841 million for the third ship, for a combined estimated cost of \$2,673 million. This doesn't include possible spending for options under the contracts or additional government-funded equipment. With the funding the program has received through FY 2021, the first two icebreakers are now fully funded. Congressional Research Service, *Coast Guard Polar Security Cutter (Polar Icebreaker) Program: background and issues for Congress*, updated 6 January 2022, [online](#).
- 15 'New Antarctic research vessel: advanced icebreaking research vessel development beginning', *Future USAP*, 22 July 2021, [online](#).
- 16 For example, the US Program moves some 2500 people to and from the continent each year (pre-pandemic). Moreover, in addition to using multiple Twin Otter and Basler "light" aircraft, like other programs, it is the only one operating LC-130s, a heavy skied aircraft that allows inland operations on a scale that is unmatched by other programs. The airfields at McMurdo support the southernmost year-round air access. U.S. program tractor traverses move some 2.5 million lbs of cargo and fuel each year.
- 17 International Association of Antarctica Tour Operators (IAATO), *IAATO overview of Antarctic tourism: a historical review of growth, the 2020–21 season, and preliminary estimates for 2021–22* IAATO overview of Antarctic tourism, IP 110, submission to ATCM XLIII, 14 May 2021, 6, [online](#).
- 18 IAATO, *IAATO overview of Antarctic tourism*, IP 110, submission to ATCM XLIII, 14 May 2021, 6, [online](#).

- 19 It is worth noting that in the Terra Nova Bay area, in addition to McMurdo Station, Italy's Mario Zuchelli station (open during the summer) has more personnel during non-pandemic years (maximum of 120) than what is planned for China's Inexpressible Island station, and S. Korea's Jang Bogo station is of comparable size to the eventual Chinese footprint.
- 20 See, for example, Anne-Marie Brady, *China's expanding Antarctic interests: implications for New Zealand*, policy brief no. 2, Small States and the New Security Environment Research Project, Canterbury University, 3 June 2017, [online](#), maintaining that China's polar research stations play a core role in helping the PLA enhance its missile systems via the BeiDou satellite system. See also Claire Young, *Eyes on the prize: Australia, China, and the Antarctic Treaty System*, Lowy Institute, Sydney, 16 February 2021, [online](#) ('On the whole, Chinese radars in Antarctica would have little military value'), as well as Claire Young, *Cold front: Antarctica and its military future*, Lowy Institute, 20 January 2022, [online](#), arguing that satellite-to-satellite links and lack of undersea cable connections to Antarctica need to be considered when evaluating the military potential of Antarctic ground stations.
- 21 Tony Press, 'Australia wants to install military technology in Antarctica—Here's why that's allowed', *The Conversation*, 23 August 2019, [online](#).
- 22 Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA) of 1988.
- 23 In 2016, the ATCM adopted a US proposal, Resolution 6 (2016) 'Confirming ongoing commitment to the prohibition on Antarctic mineral resource activities, other than for scientific research; support for the Antarctic Mining Ban'. In that resolution, the parties explicitly reaffirmed their commitment to Article 7, while 'taking into account that outside the Antarctic Treaty system there are many in the public and media who incorrectly believe that the Protocol expires in 2048'. Moreover, the consultative parties have joined in a number of declarations in which they indicated their support for Article 7 by consensus; for example, in their Paris Declaration (2021) and Baltimore Declaration (2009).
- 24 See, for example, Anne-Marie Brady, *China's expanding Antarctic interests: implications for Australia*, ASPI, Canberra, August 2017, [online](#).
- 25 CAMLR Convention, Articles II (1) and (2).
- 26 See Australia–US background paper CCAMLR-XXXV-BG/28 (2016), reproduced on the Australian Antarctic Program website, [online](#).
- 27 Commission for the Conservation of Antarctic Marine Living Resources, *Report of the thirty-sixth meeting of the commission, Hobart, 16–27 October 2017*, [online](#), paragraph 3.30 et seq.
- 28 In 2020, the Royal New Zealand Air Force encountered the Russian-flagged *F/V Palmer* operating in an area closed to fishing. Russia claimed the vessel was innocent of any violation, but didn't follow through on promises to investigate and refused to provide any exculpatory data. The US Government determined that *F/V Palmer's* 'illegal activities' during the 2019–2020 season were 'egregious', and as a result officially identified Russia as among those nations whose vessels have engaged in IUU fishing. NOAA Fisheries, *Improving international fisheries management: report to Congress*, August 2021, 27, [online](#).
- 29 Commission for the Conservation of Antarctic Marine Living Resources, *Preliminary report of the fortieth meeting of the commission, Hobart, 18–29 October 2021*, [online](#), paragraph 6.10 et seq.
- 30 Commission for the Conservation of Antarctic Marine Living Resources, *Preliminary report of the fortieth meeting of the commission, Hobart, 18–29 October 2021*, [online](#).
- 31 Commission for the Conservation of Antarctic Marine Living Resources, *Preliminary report of the fortieth meeting of the commission, Hobart, 18–29 October 2021*, [online](#), paragraph 6.18 et seq.
- 32 Intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, UN General Assembly Resolution 72/249, 24 December 2017.
- 33 CCAMLR adopts MPAs in the form of conservation measures, which, as with all matters of substance at the commission, require consensus for approval.
- 34 Conservation Measure 91-04 (2011).
- 35 Under Conservation Measure 91-05, the Ross Sea MPA covers 1.5 million square kilometres (twice the size of Texas) and has a duration of 35 years, although the Special Research Zone within the MPA lasts for 30 years. In either case, the commission can decide to extend the period of designation.
- 36 The US formally co-sponsored the East Antarctica and Weddell Sea proposals in 2021 at the invitation of the EU.
- 37 E Sala, J Mayorga, D Bradley et al., 'Protecting the global ocean for biodiversity, food and climate', *Nature*, 2021, 592:397–402, [online](#).
- 38 For background on China's increasing involvement in Antarctic affairs, see Nengye Liu, 'The rise of China and the Antarctic Treaty System?', *Australian Journal of Maritime and Ocean Affairs*, 2019, 11(2):120–131, [online](#).
- 39 In re Arbitration Between the Republic of the Philippines and the People's Republic of China, PCA case no. 2013–19, award, Permanent Court of Arbitration, The Hague, 12 July 2016, [online](#).
- 40 As of August 2021, 11 countries, including Australia and the US, and most recently New Zealand, have officially pushed back on positions taken by China with regard to its continental shelf claims in the South China Sea. Division for Ocean Affairs and the Law of the Sea, 'Commission on the Limits of the Continental Shelf (CLCS): Outer limits of the continental shelf beyond 200 nautical miles from the baselines: submissions to the commission: partial submission by Malaysia in the South China Sea', UN, New York, 18 August 2021, [online](#). For an analysis of China's South China Sea claims, see 'People's Republic of China: Maritime Claims in the South China Sea', *Limits in the Seas No. 150*, US Department of State, January 2022, [online](#).
- 41 NOAA Fisheries, *Improving international fisheries management: report to Congress*, 22, [online](#).

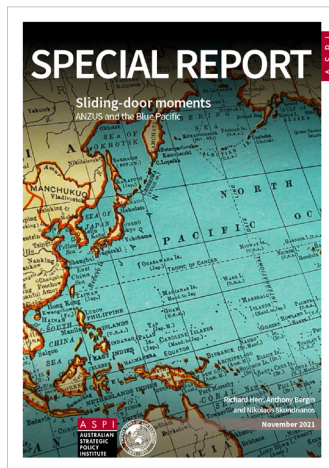
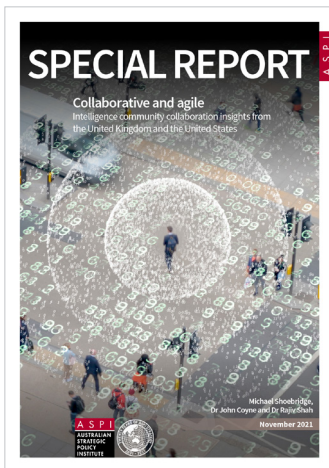
# Acronyms and abbreviations

ATCMs	Antarctic Treaty consultative meetings
ATS	Antarctic Treaty System
CAMLR Convention	Convention for the Conservation of Antarctic Marine Living Resources
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
EU	European Union
GPS	Global Positioning System
IGY	International Geophysical Year
IUU fishing	illegal, unregulated and unreported fishing
MPA	marine protected area
PRC	People's Republic of China
UN	United Nations





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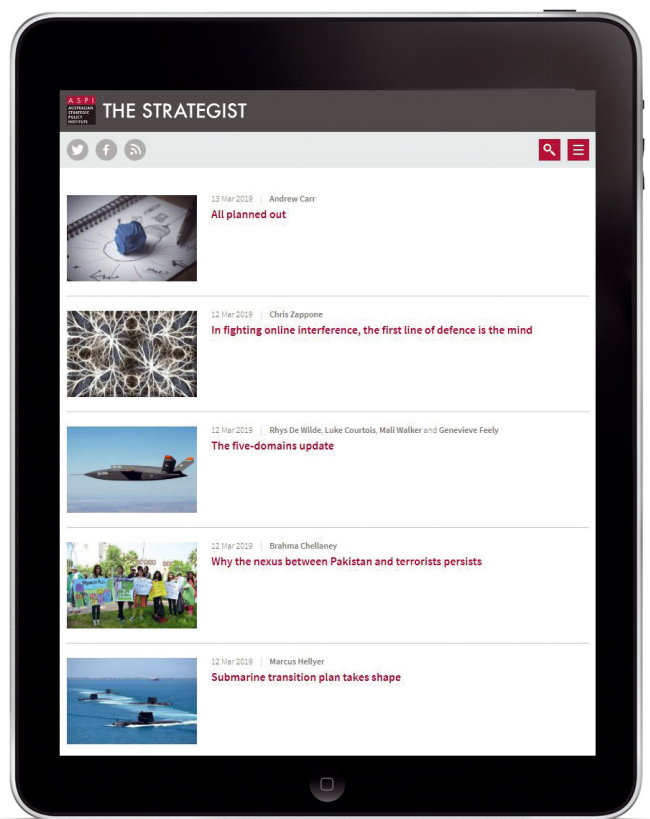


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