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THE ANTARCTIC TREATY

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## THE ANTARCTIC TREATY

### Abstract:

For over 5 decades, Antarctica has been a sanctuary devoted to peace, cooperation and research, and no nation has dominion over it. This document analyses the most salient points of the Antarctic Treaty, the role of Spain in the region, and the possibility of establishing a similar legal framework in the Arctic in the near future.

### Keywords:

Antarctica, Antarctic Treaty, Arctic

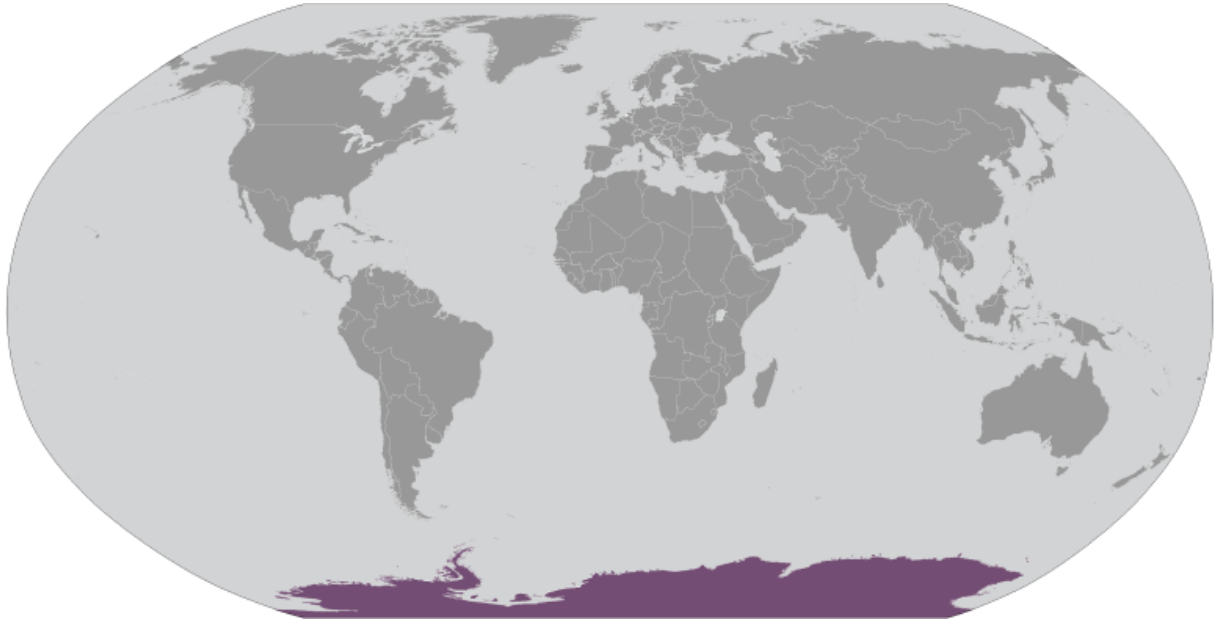
## INTRODUCTION

Antarctica is an area of land which has been surrounded by an aura of mystery ever since the days when its existence belonged in the realm of speculation, due to a lack of knowledge of its actual extent and confines. In Antiquity, there was a belief, very much in line with the notion of symmetry, that this unexplored territory –*Terra australis ignota* or *Terra australis incognita*—was a vast stretch of land countervailing that in the Northern Hemisphere, thereby ensuring equilibrium<sup>1</sup>. This belief persisted down the centuries until the first expeditions beyond the parallel of 60° South Latitude were organised during the second half of the 18th century.



Map 1: Map by Flemish cartographer Ortelius, 1570

<sup>1</sup> ARCEIZ, J.L., “La protección del medio ambiente antártico”. Opinion document 12/2011. IEEE, 2011. Available at: [http://www.ieee.es/Galerias/fichero/docs\\_opinion/2011/DIEEE012\\_2011ProteccionAntartico.pdf](http://www.ieee.es/Galerias/fichero/docs_opinion/2011/DIEEE012_2011ProteccionAntartico.pdf)



**Map2: Map showing the Antarctic region. Source: CIA Factbook**

The Antarctica, with its two adjacent ice shelves, covers an area of 14 million square kilometres. It is the coldest continent on Earth –the mean annual temperature being  $-57^{\circ}\text{C}$ –, as well as the windiest and driest one. Weather conditions are so extreme that Antarctica has no indigenous population. The region only hosts scientific bases, the North American research station McMurdo being the largest settlement, taking in over 1000 scientists during the austral summer.

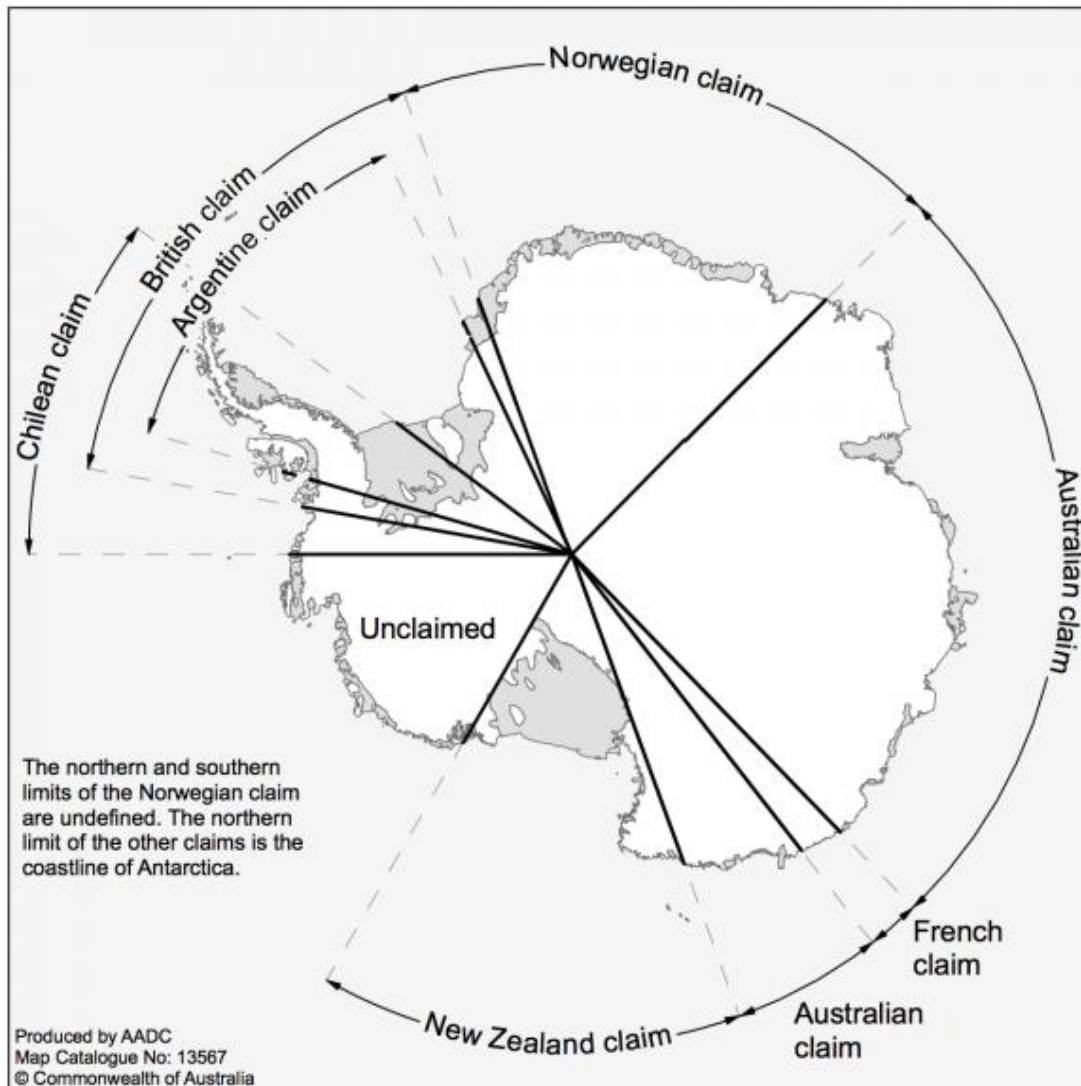
### **CLAIMS TO TERRITORIAL SOVEREIGNTY**

The lack of urban development in the continent due to adverse weather conditions has but contributed to its recognition as an area ideally suited for other purposes. For over 5 decades, Antarctica has been devoted to peace, international cooperation and scientific research within the framework of the Antarctic Treaty.

Under the terms of this international agreement, the various claims to territorial sovereignty asserted by the United Kingdom, New Zealand, France, Australia, Norway, Chile and Argentina remain frozen, thereby preventing further territorial disputes.

The chief obstacle posed by the assertion of these claims is their overlapping nature. The region southeast of Cape Horn is a readily accessible place and a touristic area; consequently, most serious disputes arise where Chilean, Argentine and British claims overlap.

Nevertheless, some regions lying between the parts of the continent claimed by Chile and New Zealand have not yet been claimed by any nation.



Map 3: National Claims to Antarctic territory. Source: Australian Antarctic Data Centre.

## THE ANTARCTIC TREATY

The overlap of claims compelled Chile, Argentina, the United Kingdom and the United States to work –against a backdrop of post-World War II exhaustion—towards a temporary solution in order to defuse tension and strive to pursue research in the region. The adopted measures crystallised into the Antarctic Treaty, signed in Washington on 1 December 1959, followed by the adoption of additional measures seeking to protect the environment, such as The Convention for the Conservation of Antarctic Seals (CCAS) (1972), The Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) (1982) and The Protocol on Environmental Protection to the Antarctic Treaty (1991)

Initial discussions conducted to draw up the Treaty gathered 12 nations which had been active in Antarctica during the International Geophysical Year (IGY) of 1957-1958: Chile, Argentina, the United Kingdom, Australia, New Zealand, France and Norway (all of which had staked claims to territorial sovereignty), as well as the United States, the Union of Soviet Socialist Republics, Belgium, Japan and South Africa<sup>2</sup>. The Treaty came into force in 1961 and many other nations have acceded to it ever since. The number of parties currently amounts to 50<sup>3</sup>.

### Key provisions

- A. Claims to territorial sovereignty remain frozen.

The Treaty covers the area south of 60°South Latitude, including all ice shelves, without prejudice to the high sea rights of any country under International Law.

*“The provisions of the present Treaty shall apply to the area of 60° South Latitude, including all ice shelves, but nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas beneath that area.” (Art. VI)*

South of 60°South Latitude all claims remain frozen. The Treaty, however, specifies (Article IV) that no activities will enhance or diminish previously asserted positions with respect to territorial claims and provides that no new or enlarged claims can be made.

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<sup>2</sup> The first South African expedition departed in 1959. The country has maintained its presence in the region ever since.

<sup>3</sup> A list of all Parties can be found at the Secretariat of the Antarctic Treaty website: [http://www.ats.aq/devAS/ats\\_parties.aspx?lang=s](http://www.ats.aq/devAS/ats_parties.aspx?lang=s)

Peru, Russia, South Africa and the United States have expressed their intention of asserting claims to certain Antarctic regions in the future.

- B. The activity and the establishment of a firm foundation in the region have peaceful purposes and seek to encourage cooperation

*“Antarctica shall be used for peaceful purposes only.” (Art. I)*

*“Freedom of scientific investigation in Antarctica and cooperation toward that end[...] shall continue.” (Art. II)*

*“The Contracting Parties agree that[...] scientific observations and results from Antarctica shall be exchanged and made freely available. ” (Art. III)*

- C. Total denuclearisation of the Antarctic region

*“Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.” (Art. V)*

## SPAIN IN THE ANTARCTIC REGION

Spain has two summer-only stations operating in the South Shetland Islands, namely: Gabriel de Castilla and Juan Carlos I. The latter, located in Livingston Island, was founded in 1988 and is administered by the Marine Technology Unit of the Spanish National Research Council (CSIC). Towards the end of 1988, and having demonstrated its interest in Antarctica by conducting substantial research activity there –such as the establishment of a scientific station or the despatch of a scientific expedition (Art. IX.2)—, Spain became a consultative party to the Treaty by accession and part of the deciding body of the Antarctic Treaty system.

In 1991, an Antarctic Treaty Consultative Meeting was held in Madrid, where The Protocol on Environmental Protection to the Antarctic Treaty was signed. It designated Antarctica as “a natural reserve, devoted to peace and science”.

The Gabriel de Castilla Station –named after the Spanish navigator and explorer credited for having discovered the Antarctic continent back in the 17th century—is administered by the

Ejército de Tierra<sup>4</sup>, the terrestrial branch of the Spanish Armed Forces. It was established in 1989 in Deception Island, an active volcano.

Scientific studies on a variety of fields are carried out in both stations. The Gabriel de Castilla Spanish Station also conducts military research. Despite the fact that all measures of a military nature are prohibited in Antarctica, the Treaty does not prevent the use of military personnel and equipment for peaceful purposes.

- 1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, inter alia, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military manoeuvres, as well as the testing of any kind of weapons.*
- 2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.” (Art. I)*

Logistics support is provided by the Spanish Army by means of the B.I.O. (Oceanographic Research Ship) Hesperides and the B.I.O. Las Palmas.



<sup>4</sup> For further information, please visit the Ejército de Tierra website <http://www.ejercito.mde.es/unidades/Antartica/antartica/>

## AN ANTARCTIC TREATY FOR THE ARCTIC

The ratification of an agreement similar to the Antarctic Treaty does not constitute a realistic solution to the current situation in the Arctic, given the considerable differences existing between the two poles. These differences are especially dramatic when it comes to sovereignty issues, for it may well be that no nation has dominion over Antarctica, but that is certainly not the case in the Arctic region. Arctic land mass boundaries are clearly delineated and the minor disputes over nautical areas are motivated by the region's marine riches. Herein lies the second radical difference: whilst in Antarctica no sovereignty claims can be lodged upon the continent for commercial or military purposes under the terms of the 1959 Treaty, the Arctic is exposed to the exploitation of its natural resources.

Each of the poles is characterised by its own particular geographical features: while the Arctic region is a semi-enclosed expanse of frozen waters surrounded by land, Antarctica is a continent surrounded by an ocean. Furthermore, the socio-demographic situation in the Arctic—with a population of over 4 million people—differs from that in Antarctica, which has no indigenous population due to the inhospitable climate. The northernmost region in the planet is a gargantuan reserve of untapped resources and, although the same could be true of the Antarctic region, the Treaty in force since 1960 bans the exploitation of those coveted riches.

The delimitation of the sovereignty rights over the Arctic and the wealth of resources therein, as well as the claims of control over trade and touristic sea routes, relegate the idea of an Arctic region exclusively devoted to scientific research and environmental protection to the realm of utopia. The nations involved do not appear particularly inclined to abdicate their sovereignty over resources of an ever increasing strategic value for the sake of international peace and science. The signing of agreements on environmental policy and cooperation and security matters—casting aside sovereignty waivers and national interests and priorities for the time being—would, therefore, be a much more sensible approach.

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