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TRANSPARENCY AND THE IMPORTANCE OF MUTUAL ASSURANCE IN THE ANTARCTIC TREATY SYSTEM

Tony Press and Jeffrey McGee

Key Messages

1 At 47th Antarctic Treaty Consultative Meeting (ATCM) in Milan in 2025, the Netherlands, Australia and Republic of Korea jointly submitted Working Paper 16 entitled "Towards enhanced transparency and engagement in ATCM and CEP", which instigated a lively discussion. At the end of the discussion, both the Committee for Environmental Protection (CEP) and the ATCM included the issue of transparency in their respective future Work Plans.

2 Originally the Antarctic Treaty and its key provisions negotiated amid Cold War tensions, and were intended to manage security threats in the region. Article III on information exchange and Article VII on inspections under the Antarctic Treaty provided the key components of mutual assurance among Antarctic Treaty Parties that the core substantive rules of the Treaty – ensuring that Antarctica be used for peaceful purposes only and be free of militarisation and nuclear explosions – were being maintained.

3 The reporting and inspections provisions of the Treaty can enhance the transparency of state actions and mutual assurance among the Antarctic Treaty Parties that the key substantive rules of the system are being obeyed, and reflect this to outside observers.

4 To increase transparency in the Antarctic Treaty System, build mutual assurance among Antarctic Treaty Parties, and garner broad support among civil society, Antarctic Treaty Parties should consider:

- (a) More extensive, timely, and transparent reporting of Antarctic Treaty System activities;
- (b) Modernising the conduct of Antarctic Treaty inspections;
- (c) Looking at ways to further involve non-government organisations and civil society in Antarctic Treaty activities; and
- (d) Increasing the transparency of Antarctic meetings through more engagement with media.

1. Introduction

The holding of the 48th Antarctic Treaty Consultative Meeting (ATCM) in Hiroshima, Japan, provides an appropriate backdrop to consider core components of the Antarctic Treaty and the enduring legacy the Treaty has delivered to the ordering the region, and to the post-World War II international order.

The Antarctic Treaty established a landmark package for its time: non-militarisation of the region, a prohibition on nuclear explosions, and a verification mechanism allowing Consultative Parties to conduct on-site and aerial inspections. This was a significant breakthrough in post-war arms control, particularly given that on-site inspection of national facilities remained a persistent sticking point for the Soviet Union throughout this period. Nevertheless, the original signatories' acceptance of such a mechanism proved to be an important negotiation precedent. It paved the way for the ambitious inspection regimes later included in treaties including the 1967 Outer Space Treaty, the 1987 Intermediate Nuclear Forces Treaty, and the 1993 Chemical Weapons Convention.

Peaceful use, non-militarisation, and the prohibition on the testing of nuclear weapons were all underpinned by the Treaty's

provisions for open inspection of all Antarctic facilities and of vessels at points of discharging and loading cargo, and for reporting and exchange of information on Antarctic activities. Similar provisions were replicated, or evolved, in subsequent agreements made within the Antarctic Treaty System.

As the post-World War II international order comes under increasing challenge it is timely to look at these core components of the Antarctic Treaty and examine how they can be exercised in future years to keep Antarctica a region dedicated to peace and science.

This White Paper looks at the origins of the Antarctic Treaty, and those key provisions that were negotiated amid Cold War tensions in order to promote mutual assurance among Antarctic Treaty parties and for managing security threats in the region. It examines the operation of these provisions in the present era and discusses how these provisions may be enhanced through example, practice, and decision to further enliven mutual assurance among Antarctic Treaty Parties. It also examines how the Antarctic Treaty system can be further engaged with the interests of the broader global community in Antarctic discourse.

2. Antarctic Treaty origins

The Antarctic Treaty was negotiated in 1958-59 in a time of heightened international geopolitical tension, with the increasing early Cold War friction and the nuclear arms race between the United States of America and the Soviet Union, and unresolved political discord over existing sovereign claims in Antarctica. International scientific collaborations during the 1957-1958 International Geophysical Year (IGY) provided the backdrop to US President D.W. Eisenhower's initiative to try to resolve the 'problem of Antarctica'. The twelve countries that participated in Antarctic research during the IGY were invited to Washington in May 1958, and, over a very short negotiation period, agreed and signed the Antarctic Treaty on 1 December 1959 (Berkman, 2011).

Core peace and security provisions of the Antarctic Treaty

The Preamble to the Antarctic Treaty states that

...it is in the interest of all mankind that Antarctica shall continue for ever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord...

Building on this, the Treaty's Article I confirms that:

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 maneuvers, as well as the testing of any type of weapons.

The peace and non-militarisation provisions of the Treaty are then reinforced by Article V which prohibits 'nuclear explosions' and disposal of nuclear waste. Article VII of the Treaty is directed to ensuring compliance with these core substantive rules of the Treaty and provides for a free and open on-site inspection regime for 'all areas of Antarctica including all stations, installations and equipment... and all ships and aircraft at points of discharging or embarking cargoes or personnel...'. It also provides that inspections can be carried out by 'aerial observation'.

Further, Articles III and VII of the Treaty also contain the obligation to report activities in Antarctica including '... any military personnel or equipment intended to be introduced ... into Antarctica...'. These reporting provisions have been practically implemented through the Electronic Information Exchange System (EIES) which is maintained by the Antarctic Treaty Secretariat.

Articles III and VII of the Antarctic Treaty provide the key components of mutual assurance among Antarctic Treaty Parties that the core substantive rules of the Treaty – ensuring that Antarctica be used for peaceful purposes only and free of militarisation and nuclear explosions – are being maintained.

Antarctic Treaty inspections, and inspections under the 1991 Protocol on Environmental Protection to the Antarctic Treaty are guided by inspection checklists agreed at Antarctic Treaty Consultative Meetings. While these Checklists are hortatory, they nonetheless generally frame the conduct of inspection practice.

On-site inspections are also constrained by safety considerations for personnel conducting these inspections. This usually means that most inspected facilities are provided prior notice of inspections.

3. Mutual assurance in the current time

There has been in recent years much discussion among, and assertion from, some academics and think tanks, that the above provisions of the Antarctic Treaty are inadequate given the rapid development of new technologies, and the inability of the Antarctic inspection regime, for example, to detect ‘dual use’ technologies

(i.e. those which have both civilian and military application) or ‘covert militarisation’ of Antarctic facilities or activities (McGee, Edmiston & Howard, 2022).

This White Paper is not intended to debate these assertions. Instead, its intention is to outline how the reporting and inspections provisions of the Treaty can enhance the transparency of state actions and mutual assurance to the Antarctic Treaty Parties that the key substantive rules of the system are being obeyed, and reflect this to outside observers.

Antarctic Treaty Inspections

Antarctic Treaty inspections, particularly in areas away from the Antarctic Peninsula, are often logistically difficult and expensive to conduct, requiring significant and costly shipping and air logistics. Weather is often a big factor in the successful conduct of inspections. By far, most inspections are carried out through the on-site physical presence of inspectors at the places of inspection, rather than through “aerial observation”. As a consequence, many Antarctic facilities are rarely inspected, and some facilities have not ever been inspected, largely due to these logistic constraints.

The facilitation and conduct of aerial inspection, and the use of new airborne technologies is one means of broadening the

frequency and geographic spread of Antarctic inspections. Aerial inspection is also a means of facilitating inspections by Antarctic Treaty Parties that do not have extensive ship and air logistic capabilities.

Antarctic Treaty Consultative Meetings

Aside from the Antarctic Treaty Consultative Parties, Antarctic Treaty Meetings are attended by the Non-Consultative Antarctic Treaty Parties; Observers, currently the Scientific Committee on Antarctic Research (SCAR), the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), and the Council of Managers of National Antarctic Programs (COMNAP); and Invited Experts such as the Antarctic and Southern Ocean Coalition (ASOC) and the International Association of Antarctica Tour Operators (IAATO). These attending organisations are permitted to submit Information Papers to Antarctic Treaty meetings.

The inclusion of experts and non-government organisations increases the breadth of participation in Antarctic Treaty meetings, and broadens support for the Antarctic Treaty. Historically, non-government organisations have played significant roles in major decisions of the Antarctic Treaty System, such as the adoption of the indefinite ban on Antarctic mining (Jackson, 2021), and the

successful fight against illegal, unregulated and unreported fishing in the Southern Ocean (CCAMLR, 2021).

The participation of invited experts and non-government organisations plays a key role in signifying the importance of the Antarctic Treaty, in gathering information on compliance, and the building of support through civil society.

It is past and current practice that Antarctic Treaty meetings are closed to media and other non-invited observers. Much of the argument against opening these meetings up to a wider audience is that it would inhibit Consultative Parties from open and detailed discussion and negotiation. But it is a fact that the Antarctic Treaty System as a whole is sometimes criticised as being a ‘closed club’ and wary of scrutiny.

It is well worthwhile that Antarctic Treaty Parties seriously consider broadening participation in Antarctic Treaty meetings and in increasing the transparency of its meetings through external scrutiny, including through greater media access.



Aerial inspection of Leningradsкая Station (Russian Federation) in East Antarctica, conducted by Australia in January 2011. Leningradsaya was open in 1971 and closed as a permanent year-round station in 1991. The station is currently referred to as “mothballed”. Copyright Australian Antarctic Division

4. Discussion and Conclusion

Transparency is a fundamental component of mutual assurance which is the key mechanism to encourage states compliance with ATS rules.

In this period of increased global geopolitical contestation, it is appropriate that the Antarctic Treaty System reassert its well-deserved reputation and demonstrate and re-invigorate what has historically been called “Antarctic exceptionalism” – the idea that the Antarctic Treaty System is an exemplar for exceptional governance in which the wider tensions of the international system

are kept at bay for the sake of best practice governance of the region.

To do this the Antarctic Treaty Consultative Parties should consider the issues raised above:

- More extensive, timely and transparent reporting of Antarctic Treaty System activities
- Modernising the conduct of Antarctic Treaty inspections
- Looking at ways to further involve non-government organisations and civil society in Antarctic Treaty activities; and
- Increasing the transparency of Antarctic meetings through more engagement with media.

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Profile

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