Received: 2 March 2022 | Revised: 7 March 2022 | Accepted: 22 March 2022

DOI: 10.1111/geoj.12501

SPECIAL SECTION

THE GJ Royal Geographical Society with IBG

WILEY

Turned 60, is the Antarctic treaty system in good health?

Alejandra Mancilla[1] | **Julia Ann Jabour**[2]

[1]Department of Philosophy, Classics, History of Art and Ideas, Faculty of Humanities, University of Oslo, Oslo, Norway

[2]Institute for Marine and Antarctic Studies, University of Tasmania, Hobart, Tasmania, Australia

Correspondence
Alejandra Mancilla, Faculty of Social Sciences, University of Oslo, Oslo, Norway.
Email: alejandra.mancilla@ifikk.uio.no

Funding information
Norges Forskningsråd, Grant/Award Number: 267692; European Union's Horizon 2020 research and innovation programme, Grant/Award Number: 948964

Abstract

Signed in 1959, the Antarctic Treaty is usually hailed as an example of what states can achieve when they leave aside their interests and truly collaborate. It was over 30 years ago, however, that the last significant legal instrument of the Antarctic Treaty System (namely, the Protocol on Environmental Protection) was signed. Since then, no new legal instruments have been drafted, despite a number of growing internal and external challenges. In this special issue, an interdisciplinary group of scholars examine some of these challenges and evaluate whether the system is well prepared to tackle them. Their point of agreement is that, if not severely ill, the system's chronic ailments—particularly laggardness—must be addressed if it is to respond satisfactorily to rapid social, political, environmental and economic changes on a global scale.

KEYWORDS
Antarctic treaty system, Antarctica, protocol on environmental protection

'If it ain't broke, don't fix it', is a common response of Antarctic policy-makers when one starts inquiring into specific aspects of the Antarctic Treaty System (ATS) and suggesting whether some of them might be rethought.[1] The qualified answer that follows is something like this: 'This is an international treaty that started with only 12 signatories in 1959 and has now 54 in total, including all the major global powers, economic and political, and representing the majority of humanity. Since its inception, the Antarctic Treaty (AT) has preserved a whole continent demilitarised and denuclearised, exclusively for peaceful scientific cooperation and environmental protection. It cannot get better than this in international politics. In fact, the treaty is a brilliant piece of diplomacy and an enduring example of what countries can achieve when they decide to cooperate with each other, rather than fight against each other. So, what is the point of questioning it?' (Examples of celebratory statements regarding the ATS are found in Orrego Vicuña, 1986; Watts, 1986; and Triggs, 2011).

This answer is understandable. The role of national delegates during the annual AT Consultative Meetings (ATCMs) and other fora—like the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)—is to tread carefully and seek compromise, which more often than not means leaving things as they are. This does not mean that there has been no evolution in the system throughout the years, but this evolution has tended to happen because of external pressure rather than internal initiative. The clearest example of this was the 'Question of Antarctica', placed among the topics for discussion in the United Nations General Assembly from 1983 to 2005. By challenging the exclusion of the developing world in Antarctic governance, this movement—kickstarted by Malaysia—effectively resulted in a growing membership within the Antarctic Treaty and a more open and transparent system (Beck, 2006).

Scholars in the Antarctic social sciences and humanities, to the contrary, take it as our duty to examine the exemplar carefully and point to any cracks we might find. The purpose is constructive: celebrating its strengths only and ignoring its weaknesses might lead to short-term survival but long-term failure. The question that drives this special issue is, accordingly, whether after six decades of existence the AT and its related instruments are in good enough health. A fully healthy international governance arrangement, in our view, should be *efficient* in fulfilling the goals it sets for itself and the goals that the international community expects it to fulfil; *legitimate*, in the sense of providing authoritative reasons for members to abide by its rules and for non-members to respect them (for a detailed account, see Yermakova, 2021); and *fair* both in terms of procedure and outcome, by incorporating into the decision-making process the opinions of all those who have a stake in the system, and by achieving results that are deemed equitable by them.

It is not otiose to ask this question, particularly considering that it was over 30 years ago that the last significant legal instrument of the ATS (the Protocol on Environmental Protection) was signed. Since then, no new legal instruments have been drafted despite a number of growing internal and external challenges.

In terms of the internal challenges, a prominent one is the increasingly criticised 'consensus rule', which makes it enough for one of the 29 consultative parties to block new decisions, measures and resolutions at ATCMs. This slows the system's response to issues that need urgent attention and risks making it stagnant ('Reform the Antarctic Treaty', 2018). One example is the case of tourism where, as Kees Bastmeijer has noted, the lack of consensus to ban an activity results in it being allowed in practice—what he calls 'decision-making by non-decision-making' (Bastmeijer, 2019). Another example is the difficulty to create new spatial protection instruments both on the continent and in the Southern Ocean. As has been widely documented by the media and especially by some environmental NGOs, blocking the approval of new Marine Protected Areas has too often been the policy of countries like Russia and China during recent CCAMLR meetings (Syal, 2021).

A second internal challenge is the status of science within the AT and its justifiability, vis-à-vis environmental protection. In 2017 the ATCM adopted, by decision, new rules for a contracting party to be granted consultative party status, that is, decision-making power. These rules now include evidence of scientific quality measured by 'details of citations of relevant papers that scored well in a science citation index'; 'data cited in publications that score well in a science citation index and … data contributed to Antarctic scientific programmes and databases'; and 'examples of research prizes or formal recognition of accomplishments' (Antarctic Treaty Consultative Meeting, 2017). Clearly, the consultative parties recognised a need for greater scrutiny of scientific research as the raison d'être for being in Antarctica.

At the same time, the recent decision by Australia to abort its plan to build a concrete runway 2.7 km long in the hills behind Davis Station to provide year-round logistical support in East Antarctica indicates the moral conflict between doing legitimate scientific research and the impact on the environment that scientific support could have. Before the decision to abort the plan was made, some Australian scholars extolled its virtues and warned: 'If Australia doesn't proceed, another country may. Although the site is adjacent to Australia's Davis Station, there's nothing to stop any other party to the AT using the site to develop its own station or construct its own runway'. They cited China as a likely runway successor (McGee et al., 2021). Other scholars highlighted the potential environmental consequences, including the extraordinary environmental costs of shipping and construction, at the expense of funding for scientific research (Brooks & Jabour, 2020). The Ministerial media release announcing the change of plan was titled: 'Future investment planned as Antarctic environment protected', and stated that 'the Morrison Government will protect Antarctica's pristine wilderness by not proceeding with a decision to build a 2700 m concrete runway at Australia's Davis research station, following a detailed environmental and economic assessment' (Australian Government, 2021).

Changing power balances that affect the internal politics of the ATS is a third challenge worth mentioning. On the one hand, there is a growing presence and interest of countries like China, India, Turkey and Ukraine (see, for example, Brady, 2017; Hemmings, 2017; Liu, 2018; Yanık & Karaoğuz, 2021). On the other hand, there is the sempiternal issue of the seven currently 'frozen' sovereignty claims. While some consider them as the glue of the system since its very inception, they are also a source of tension between the original claimants, and between the original claimants and 'newcomers'. They are also increasingly seen as relics of the past that hinder rather than help the functioning of the ATS (Dodds, 2011; Mancilla, 2018). Furthermore, since 2022 the effects that war between member countries may have for the AT adds a further challenge, making it an open question whether cooperation will prevail over conflict in the Antarctic arena.

Among the external challenges, most prominently, is the threat of climate change and its effects not only over Antarctic ecosystems, but also over Antarctic governance. Antarctica will not only be one of the most affected areas on earth, but it will become a threat to the world if the West Antarctic Ice Sheet melts and makes a considerable contribution to rising sea levels. Other external challenges are overlapping international law regimes, especially the UN Convention on the Law

of the Sea and the current UN negotiations on Biodiversity Beyond National Jurisdiction; the renewed interest in mineral resources; and the growing pressure from non-state actors, like environmental NGOs and activists.

This special issue presents a selection of short articles dealing with some of these questions and challenges, originally presented in a workshop on the same topic held in 2019 at the University of Oslo. As in any truly interdisciplinary collaboration, the topics are as diverse as their treatment. And yet, there is a common thread uniting them. As Antarctic scholars in international law, environmental history, conservation studies, anthropology and political science, the authors see the ATS at a crossroads in some relevant respect and evaluate ways forward. A short summary of each of them follows.

Out of the 29 consultative parties to the AT, a majority have introduced their domestic Antarctic legislations. Despite its growing engagement with the system since 1983, China is not yet one of them. With four Antarctic research stations and one more under construction, a rocketing growth in Antarctic tourism (it increased 100-fold in 12 years), and a sustained interest in Antarctic fishing, it is high time for the country to align its domestic law with the different legal instruments of the ATS, especially the Environmental Protocol. International legal scholar Xueping Li reviews the history of engagement of China with Antarctica and examines the forthcoming Chinese Antarctic Law, especially urgent, argues Li, when it comes to the regulation of tourist behaviour. Rather than a rights-based approach, Li suggests that this new law will be obligation-based and aimed at observing the universal public interest. This, for Li, follows naturally from the main AT documents, filled with regulations constraining human activities. It cannot go unnoticed, however, that China's goals—as expressed by President Xi Jinping in 2014—are 'to better understand, protect and utilize Antarctica' ('China, Australia agree to Strengthen Antarctic Cooperation', 2014). Especially how the last two goals are to be harmonised, or which one will be given priority over the other, remains an open question.

A cornerstone of the ATS is the 'science criterion', whereby only countries that conduct 'substantial research activity' in the continent are allowed to become Consultative Parties, that is, part of the group with decision-making powers (The Antarctic Treaty, Article IX). Peder Roberts gives a new twist to existing critiques of science being the political currency of Antarctica (see, for example, Elzinga, 1993). Anthropogenic climate change, in Roberts' view, poses an overlooked challenge to the metaphor of Antarctica as a closed *laboratory* for scientific research (Grevsmühl, 2019). Looking at Antarctica as a *conduit* through which the consequences of high CO_2 emissions are felt might be more appropriate. Should this lead one to look for alternative criteria to select the Consultative Parties—for example, based upon the impact of sea-level rise caused by the melting of Antarctic ice sheets? Roberts acknowledges the problems of such a proposal. However, he insists that, while science remains the politically decisive criterion, the AT's moral legitimacy may be questioned in the future, especially if those states conducting the science turn out to be the most responsible for the melting of the West Antarctica Ice Sheet and the subsequent rise of global sea levels.

An important feature of the ATS has been the discussion over the protection of values in terrestrial and maritime areas, and the development of special tools to ensure that protection. But, what does this development of Antarctic spatial protection regimes tell us about the health of the overall system? While most Consultative Parties of the AT as well as CCAMLR members agree in theory that expanding spatial protection is required, Ricardo Roura shows how establishing new spatial protection tools has become difficult in practice, especially because of the growing ambition (both in size and complexity) of the proposals. While Consultative Parties continue to reaffirm their commitment to protect the Antarctic environment in the official fora, their inability to reach actual agreement on this issue signals for Roura not only an internal crisis in the functioning of the ATS, but also an external crisis of relevance.

What is considered as Antarctic heritage is a profoundly political question. Traditionally, the answer has been that Antarctic heritage is about cementing the national narratives in the continent, as well as the feats of the so-called 'Heroic Era'. However, a growing number of non-state actors are challenging what counts as heritage and what it is for, thereby complicating the ATS's rules of engagement. Rebecca Hingley examines the role of three such actors: the tourism industry, which sees Antarctic heritage as a commodity and—as it grows—challenges the maintenance of the very sites it seeks to profit from; environmental activists, like Greenpeace, who have tried to redefine Antarctic heritage as natural rather than cultural, and have advocated for a deep 'clean-up' of the continent, removing most human traces, historical or not; and individuals who, in the case of damaging a historic site, bring to the fore the thorny issue of who is the sovereign to decide on the sanction to be imposed. Hingley concludes that, despite these challenges, the AT Consultative Parties remain as the authoritative custodians of Antarctic heritage.

Both wilderness principles (for the conservation of the environment), and heritage principles (for the preservation of certain human material remains) are put under scrutiny by archaeologist Ximena Senatore. Apart from reinforcing the official narratives of nationalisms and heroisms, these have led to the erasure of other Antarctic histories—for example, those of sealers. In the narrow way in which they have been interpreted, the wilderness and heritage principles lead to non-inclusive outcomes, where what counts as 'waste' is what breaks the retelling of a homogeneous and idealised past.

Instead, Senatore proposes, the ATS should embrace the diversity of human and nonhuman stories in Antarctica and give up on preserving a static image of its past (through, for example, the conservation of explorers' huts) and present (through the insistence that the continent is a wilderness devoid of human intervention).

Summing up, it would seem that, after six decades of existence, the ATS's chronic ailments (slowness to respond, imperviousness to environmental and political global changes, consensus providing any one Party with a veto, and changing beliefs about the value of the Treaty) have become more serious and require being addressed head-on. In a context where urgent climate action is needed to protect Antarctica, and to protect the rest of the world from Antarctica's melting ice; where new balances of power globally affect Antarctica locally; and where the pressure over marine (and probably also mineral) resources will continue to grow, a stronger, livelier and more daring ATS would seem to be needed—one that not merely decides by not deciding, but proactively engages with the challenges mentioned above and others to come.

ACKNOWLEDGEMENTS

We thank Fabian Stenhaug for his excellent research assistance, and the reviewers and editor of the Geographical Journal for their helpful feedback.

DATA AVAILABILITY STATEMENT

There are no new data in this paper.

ORCID

Alejandra Mancilla https://orcid.org/0000-0003-0214-0798
Julia Ann Jabour https://orcid.org/0000-0003-0185-8415

ENDNOTE

[1] The Antarctic Treaty System refers to the legal regime that has evolved from the existence and mandate of the Antarctic Treaty. It includes The Antarctic Treaty (1959) plus its related legal corpus and associated bodies: the Convention for the Conservation of Antarctic Seals, signed in 1972; the Convention on the Conservation of Antarctic Marine Living Resources, signed in 1980; and the Protocol on Environmental Protection to the Antarctic Treaty, signed in 1991.

REFERENCES

Antarctic Treaty Consultative Meeting. (2017) Decision 2: Guidelines on the procedure to be followed with respect to consultative party status. In: *Final report of the fortieth Antarctic treaty consultative meeting*. Beijing, China: Secretariat of the Antarctic Treaty, pp. 229–237.

Australian Government. (2021) *Future Investment Planned as Antarctic Environment Protected [Media release]*. Available from: https://www.antarctica.gov.au/news/2021/decision-on-australian-antarctic-runway-proposal/ [Accessed 12 January 2022].

Bastmeijer, K. (2019) *The Antarctic treaty turning sixty: Does aging affect decision-making? The case of Antarctic tourism*. Proceedings of the workshop on its 60th birthday, is the Antarctic treaty in good health? held at the University of Oslo, Norway.

Beck, P.J. (2006) The United Nations and Antarctica, 2005: The end of the 'question of Antarctica'? *Polar Record*, 42(3), 217–227. Available from: https://doi.org/10.1017/S003224740600533X

Brady, A.M. (2017) *China as a great polar power*. Cambridge, UK: Cambridge University Press.

Brooks, S. & Jabour, J. (2020). *Australia wants to build a huge concrete runway in Antarctica. Here's Why That's a Bad Idea. The Conversation*. Available from: https://theconversation.com/australia-wants-to-build-a-huge-concrete-runway-in-antarctica-heres-why-thats-a-bad-idea-139596 [Accessed 12th January 2022].

China, Australia agree to Strengthen Antarctic Cooperation. (2014) *People's daily online*. Available from: http://en.people.cn/n/2014/1119/c90883-8810767.html [Accessed 25th March 2022].

Dodds, K.J. (2011) Sovereignty watch: Claimant states, resources, and territory in contemporary Antarctica. *Polar Record*, 47(3), 231–243. Available from: https://doi.org/10.1017/S0032247410000458

Elzinga, A. (1993) Antarctica: The construction of a continent by and for science. In: Crawford, E., Shinn, T. & Sörlin, S. (Eds.) *Denationalizing science*. Dordrecht, The Netherlands: Springer, pp. 73–106. Available from: https://doi.org/10.1007/978-94-017-1221-7_3

Grevsmühl, S. (2019) Laboratory metaphors in Antarctic history: From nature to space. In: Herzberg, J., Kehrt, C. & Torma, F. (Eds.) *Ice and snow in the cold war*. New York, NY: Berghahn Books, pp. 211–235.

Hemmings, A.D. (2017) Antarctic politics in a transforming global geopolitics. In: Dodds, K., Hemmings, A.D. & Roberts, P. (Eds.) *Handbook on the politics of Antarctica*. Cheltenham, UK: Edward Elgar Publishing, pp. 507–522.

Liu, N. (2018) What does China's fifth Research Station mean for Antarctic governance? *The Diplomat*. Available from: https://thediplomat.com/2018/06/what-does-chinas-fifth-research-station-mean-for-antarctic-governance/ (Accessed 12th January 2022].

Mancilla, A. (2018) The moral limits of territorial claims in Antarctica. *Ethics & International Affairs*, 32(3), 339–360. Available from: https://doi.org/10.1017/S0892679418000527

McGee, J., Haward, M. & Bergin, A. (2021) *All-weather runway in Antarctica a 'strategic imperative'*. Australian Strategic Policy Institute. Available from: https://www.aspi.org.au/opinion/all-weather-runway-antarctica-strategic-imperative [Accessed 12th January 2022].

Orrego Vicuña, F. (1986) Antarctic conflict and international cooperation. In: *Antarctic treaty system: An assessment. Proceedings of a workshop held at Beardmore south field camp, Antarctica, January 7-13, 1985*. Washington, D.C.: National Academy Press, pp. 55–64.

Reform the Antarctic Treaty. (2018) Editorial. *Nature*, 558, 161. Available from: https://doi.org/10.1038/d41586-018-05368-7

Syal, R. (2021) Countries fail to agree on antarctic conservation measures for fifth straight year. *Mongabay*. Available from: https://news.mongabay.com/2021/11/countries-fail-to-agree-on-antarctic-conservation-measures-for-fifth-straight-year/ [Accessed 1st March 2022].

The Antarctic Treaty. (1959) Washington D.C. Available from: http://www.ats.aq/documents/ats/treaty_original.pdf [Accessed 1st March 2022].

Triggs, G. (2011) The Antarctic treaty system: A model of legal creativity and cooperation. In: Berkman, P.A. et al. (Eds.) *Science diplomacy: Antarctica, science, and the governance of international spaces*. Washington, DC: Smithsonian Institution Scholarly Press, pp. 39–49.

Watts, A.D. (1986) The Antarctic treaty as a conflict resolution mechanism. In: *Antarctic treaty system: An assessment. Proceedings of a workshop held at Beardmore south field camp Antarctica, January 7-13, 1985*. Washington, DC: National Academy Press, pp. 65–75.

Yanık, L.K. & Karaoğuz, H.E. (2021) Science and flags: Deconstructing Turkey's Antarctic strategy. *Third World Quarterly*, 42(8), 1661–1678. Available from: https://doi.org/10.1080/01436597.2021.1941847

Yermakova, Y. (2021) Legitimacy of the Antarctic treaty system: Is it time for a reform? *The Polar Journal*, 11(2), 342–359. Available from: https://doi.org/10.1080/2154896X.2021.1977048

How to cite this article: Mancilla, A. & Jabour, J. A. (2023) Turned 60, is the Antarctic treaty system in good health?. *The Geographical Journal*, 00, 1–5. Available from: https://doi.org/10.1111/geoj.12501