



## **DFAT SUBMISSION**

# **JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES: INQUIRY INTO AUSTRALIA'S ANTARCTIC TERRITORY**

The Department of Foreign Affairs and Trade (DFAT) welcomes the opportunity to make a submission to the Joint Standing Committee on the National Capital and External Territories' inquiry into the adequacy of Australia's infrastructure assets and capability in the Australian Antarctic Territory (AAT).

2. The Antarctic Treaty system (ATS) provides a framework for international governance of the Antarctic region that is fundamental to Australia's strategic interests. The Treaty system ensures principles of non-militarisation, environmental protection and freedom of scientific investigation underpin international engagement on Antarctic issues. In addition, the cornerstone ATS agreement, the 1959 Antarctic Treaty, provides a carefully crafted compromise on differences over territorial sovereignty in Antarctica that protects Australia's sovereign interests and limits the potential for strategic tension in the region to our south.
3. Australia is one of 12 original signatories to the Antarctic Treaty and has been at the forefront of developments in Antarctic governance ever since. Investment in our infrastructure assets and capability, particularly in East Antarctica, is critical to the continued credibility of our efforts to protect and promote the ATS and its core principles.
4. DFAT leads Australia's Antarctic Treaty engagement. Our submission therefore focuses on the leading role Australia plays in international governance of the Antarctic region and how a strong presence on the continent and competitive science and logistics capabilities contribute to our standing as a leading Antarctic nation. It also offers an overview of the nature of the ATS and the core Treaty system principles that protect our sovereign and strategic interests.
5. DFAT's submission complements that of the Australian Antarctic Division (AAD) of the Department of the Environment and Energy, with which we work closely on Antarctic policy and strategy. AAD has drawn on its expertise as the agency responsible for managing Australia's significant Antarctic assets to provide a thorough overview of the nature of Australia's Antarctic infrastructure and of major actions the Government will take over the next 20 years to modernise and invest in this infrastructure. AAD also explains in detail how revitalising Australia's Antarctic infrastructure will help secure Australia's international reputation as a leader in Antarctica.

6. DFAT's submission also highlights how Australia's Antarctic infrastructure supports our contribution to international efforts to curb nuclear proliferation through an international monitoring system to detect nuclear explosions. In this respect, DFAT's submission complements those of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and Geoscience Australia.

## AUSTRALIA'S ANTARCTIC NATIONAL INTERESTS

7. It is in Australia's national interest to:

- maintain Antarctica's freedom from strategic and/or political confrontation
- preserve our sovereignty over the Australian Antarctic Territory, including our sovereign rights over adjacent offshore areas
- support a strong and effective Antarctic Treaty system
- conduct world-class scientific research consistent with national priorities
- protect the Antarctic environment, having regard to its special qualities and effects on our region
- be informed about and able to influence developments in a region geographically proximate to Australia
- foster economic opportunities arising from Antarctica and the Southern Ocean, consistent with our Antarctic Treaty system obligations, including the ban on mining and oil drilling.

DFAT welcomes the strong link between the terms of reference the Committee has set for its inquiry and the above national Antarctic interests, articulated publicly in the 2016 Australian Antarctic Strategy and 20 Year Action Plan (Strategy and Action Plan).

## THE ANTARCTIC TREATY SYSTEM

8. The Antarctic Treaty and its 1991 Protocol on Environmental Protection are the key ATS agreements. The Treaty applies to the area south of 60° South Latitude, which includes the AAT. Australia is now among 53 parties to the Treaty. Of these, 29 are Consultative Parties. These are the parties entitled to take part in decision-making at the annual Antarctic Treaty Consultative Meeting (ATCM). They include the 12 original signatories plus those other parties that have since demonstrated interest in Antarctica by conducting substantial scientific research there.

9. The 1980 Convention on the Conservation of Antarctic Marine Living Resources provides a framework for conservation of Antarctic marine life and ecosystems. It accommodates sustainable harvesting of marine life, provided it is based on the best available scientific evidence and takes into account potential impacts on the broader ecosystem. The Convention covers an area extending north of the Antarctic Treaty area in parts and following a line approximating an oceanographic boundary known as the Antarctic convergence.

## THE ATS AND AUSTRALIA'S NATIONAL INTERESTS

10. The ATS provides a comprehensive, durable and flexible framework for international governance of the Antarctic region. It ensures Antarctica's environmental protection and provides for the conservation and sustainable use of Antarctic marine life. It encourages freedom of scientific investigation and accommodates tourism. And its inspections regime provides an important means of monitoring Antarctic nations' compliance with core Antarctic Treaty principles.

### *Strategic issues*

11. Australia has a fundamental interest in making sure the region to our south is not a site of strategic or political confrontation. The Antarctic Treaty, an agreement that has weathered significant political and geo-strategic change in the decades since its entry into force in 1961, protects this interest.

12. The agreement rules out military activity in Antarctica, reserving the continent for peaceful purposes. Parties may use military personnel or equipment in Antarctica for scientific research or other peaceful purposes but must notify other parties of their plans to do so.

13. The Treaty also prohibits nuclear explosions in Antarctica and the disposal there of radioactive waste material.

14. The Antarctic Treaty's Environment Protocol deals with another potential source of strategic rivalry – the continent's mineral resources – by prohibiting any mineral resources activity other than scientific research.

15. The Treaty's inspections regime provides an important means of monitoring compliance with these critical non-militarisation and environmental protection principles. It allows any Treaty party to nominate observers to conduct inspections in Antarctica and gives these observers complete freedom of access to all infrastructure, equipment and personnel on the continent (including research stations, ships and aircraft).

### *Sovereignty*

16. Critically, the Treaty protects Australia's interest in preserving our sovereignty over the AAT and sovereign rights over adjacent offshore areas. It accommodates unresolved differences among its parties over territorial sovereignty by means of a carefully crafted compromise that accords Antarctica a unique legal and political status.

17. Australia asserts sovereignty over 42 per cent of the Antarctic continent – the AAT – and sovereign rights over adjacent offshore areas.

18. Argentina, Chile, France, New Zealand, Norway and the United Kingdom claim territory elsewhere in Antarctica. The claims of Argentina, Chile and the United Kingdom overlap in part. None of these claims is universally recognised.

19. The Treaty offers a compromise on these differences over sovereignty. Pursuant to its Article IV, nothing in the Treaty is to act as a renunciation or diminution of any claim or basis of claim to territorial sovereignty in Antarctica or to prejudice any Party's position of recognition or non-recognition of any other State's right or basis of claim. In this way, the Treaty effectively 'freezes' claims as they stood at time of its entry into force in 1961, ruling out new claims or the enlargement of existing ones. This compromise was key to securing broad acceptance of the Treaty at the time of its adoption and has been critical to the Treaty's durability in the decades since. Continuing recognition of the importance of Article IV is evident in Treaty parties' practice of enforcing their domestic laws in Antarctica and the maritime zones offshore the continent only against their own nationals.

### *Environmental protection and scientific investigation*

20. Antarctic science is a national priority for Australia. It addresses pressing science needs, including the need to understand the role Antarctica plays in global climate systems. Freedom of scientific investigation is a fundamental Antarctic Treaty principle. The Treaty encourages its parties to collaborate in their scientific endeavours. The ATS provides a framework within which Australia can work with other Antarctic nations on projects that serve our science needs and require international collaboration. A million year old Antarctic ice core, for example, could give us crucial information about past climate and climate processes and help predict future climate change. Australian scientists will work in partnership with counterparts from other nations' Antarctic science programs to locate such a core in the coming years.

21. Protecting the Antarctic environment, including the region's unique life forms, and promoting conservation and sustainable harvesting of the region's fisheries, are also priorities for Australia. The ATS, and in particular the Antarctic Treaty's Environment Protocol, provide a framework for responsible international environmental stewardship of the Antarctic region that we are committed to protecting. The Protocol, as well as banning mining and oil drilling in Antarctica, establishes environmental principles for the conduct of all activities in the Treaty area. It subjects all proposed activities to prior environmental impact assessment, with greater scrutiny applied to activities assessed as likely to have more than a minor or transitory impact.

## **AUSTRALIA'S TANGIBLE COMMITMENT TO NUCLEAR NON-PROLIFERATION**

22. Australia's presence in Antarctica and investment in Antarctic infrastructure also support our contribution to international efforts to curb nuclear proliferation through the Comprehensive Nuclear-Test-Ban Treaty (CTBT). The CTBT's International Monitoring System (IMS) is designed to verify compliance with the agreement's prohibition of nuclear explosions. Although the CTBT has yet to enter into force, its Preparatory Commission has already been mandated to coordinate the provisional operation of the IMS and 90 per cent of IMS stations are now functioning. Australia hosts 21 stations (the third largest number of any country), including facilities at Mawson and Davis Stations in the AAT and on Macquarie Island. The IMS provides significant assurance that, with the

sole exception of the Democratic People's Republic of Korea (DPRK), states are observing a moratorium on nuclear weapon testing. The detection and notification of DPRK testing activities through the IMS has proven the value of the IMS for important Australian interests. In addition, the IMS already provides civil and scientific benefits, such as accurate real-time data on earthquakes, tsunamis and nuclear accidents. Investment in our Antarctic infrastructure is critical to Australia's continued ability to operate its IMS stations. This is essential for our role in monitoring both current observance of the nuclear testing moratorium and future compliance with the CTBT after its entry into force.

## AUSTRALIA'S LEADERSHIP IN ANTARCTICA

23. Preserving Australia's international reputation as a leader in Antarctica is critical to our efforts to strengthen and protect the contemporary relevance of the ATS, and to promote its core principles. To maintain our standing as a leading Antarctic nation we must continue to participate actively in Antarctic governance and demonstrate leadership in Antarctic science and logistics.

24. Australia has been a leader in Antarctic governance from the outset. We are an original signatory to the Antarctic Treaty. We played a leading role in adoption of the Treaty's Environment Protocol and its strategically critical mining ban. We were also instrumental in the adoption of an annex to the Protocol that establishes a regime (yet to enter into effect) imposing liability for damage caused by environmental emergencies in the Treaty area. We have a strong presence on the continent. Hobart is a gateway for shipping and aviation access to East Antarctica, an Antarctic research hub and home to the headquarters of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).

25. Australia consistently sends high-level, expert delegations to annual ATCMs. At the most recent 40<sup>th</sup> ATCM, held in Beijing from 22 May to 1 June 2017, we contributed to progress on Antarctic governance, environmental protection and science priorities.

26. Australia is an active advocate for effective and transparent governance of Antarctic Treaty bodies. The Committee for Environmental Protection (CEP) – the body established under the Environment Protocol to advise the ATCM on Antarctica's environmental protection – elected an Australian Chair in 2014. His effective and strategic leadership, including most recently in Beijing, has contributed to the CEP's work on measures to strengthen Antarctica's environmental protection.

27. The 40<sup>th</sup> ATCM also adopted a new procedure to appoint ATCM working group chairs. An Australian initiative, this new process should promote an efficient and transparent approach to the broad range of issues on the ATCM agenda.

28. Given science is the 'currency of influence' in Antarctica and freedom of scientific investigation one of the Treaty's core principles, Australia also works to foster a strategic approach to Antarctic science in the ATCM. We played a significant role in discussion in Beijing, encouraging parties to identify shared science priorities, particularly 'big' science projects that require international collaboration and serve goals such as Antarctica's environmental protection.

## MAINTAINING OUR STANDING

29. It is in Australia's interest to continue playing a leading role in Antarctic governance. We want to make sure we are influential enough to deal with emerging international issues that affect Antarctica in a way that strengthens the Treaty system.

30. In particular, Antarctic Treaty parties must find ways to manage and mediate the Treaty system's relationship with other significant international regimes. For example, the United Nations General Assembly could begin negotiations on a new international agreement on the conservation of marine biodiversity in areas beyond national jurisdiction (BBNJ) as soon as 2018. Australia is committed to this process. But as a leading Antarctic nation, we need to make sure the international community understands that in the ATS, we already have a framework in place that has the flexibility to deal with management of biodiversity in the Antarctic region.

31. We must also make sure we have the resources to promote and protect the Treaty's inspections regime. Australia inspected the United States' Amundsen-Scott South Pole Station in 2016. Ours was the first entirely 'self-sufficient' South Pole inspection, conducted without relying on US logistics support. The ability to conduct inspections independently is critical to our interest in promoting compliance with key Treaty system obligations.

32. Preserving Australia's credibility as a leading advocate for the ATS and its core principles will depend on our standing in the system. Antarctic Treaty membership has grown significantly since 1961. We are now one of many nations investing significantly in Antarctica. Modern infrastructure and competitive logistics capabilities will help us maintain the strong physical presence on the continent that other ATS participants expect of a leading Antarctic nation.

33. The Strategy and Action Plan recognises the critical role infrastructure plays in supporting Australia's status as a leader in Antarctica. It makes public the Government's future investment in and intentions for the Australian Antarctic program. It announces plans to revitalise Australia's Antarctic infrastructure that will help secure our place as a leader on the continent and in international governance of the region into the future. Australia should have a new, state-of-the-art Antarctic icebreaker operational by 2020. The Government has also committed to restoring Australia's ability to travel overland to Antarctica's interior, assessing the feasibility of establishing year-round aviation access to East Antarctica and working towards building research infrastructure in Hobart that will establish Australia as the world's leader in krill research.

34. DFAT will support the AAD as it works to implement the commitments on Antarctic science and infrastructure contained in the Strategy and Action Plan. We will prioritise work to strengthen and promote the contemporary relevance of the ATS as the framework best suited to protecting Australia's national Antarctic interests. We will continue to recommend senior Australian participation in ATS forums and advocate Australian representation in ATS leadership positions. We will promote understanding of the importance of the ATS globally, including by promoting the Treaty's non-militarisation obligations and working to uphold the Environment Protocol's ban on mining and oil drilling indefinitely. We will work to preserve the Treaty system's leading role in addressing emerging issues relevant to the Antarctic region. And we will draw on our international

networks to support efforts to promote Australia as a leader in Antarctic science and a leading provider of logistics support (including air and shipping access) in East Antarctica.