

Establishment of the Antarctic Treaty Secretariat

Introduction

- 10.1 *Measure 1¹ (2003) Secretariat of the Antarctic Treaty, adopted at Madrid, Spain on 20 June 2003 under the Antarctic Treaty, done at Washington on 1 December 1959 will establish a permanent and independent Secretariat to administer the Antarctic Treaty Consultative Meeting (ATCM) and its Committee for Environmental Protection (CEP). Measure 1 outlines the functions, legal capacity and budget of the Secretariat and the role of the Executive Secretary. The Secretariat will be based in Buenos Aires, Argentina.²*
- 10.2 *Measure 1 is the result of several years of formal and informal negotiations and is expected to improve the efficiency of the Antarctic Treaty System (ATS).³*

1 Under the Antarctic Treaty, a measure is a recommendation made to Governments by Parties participating in an Antarctic Treaty Consultative Meeting (ATCM). A measure, once approved by a Government is legally binding.

2 National Interest Analysis (NIA), paras 4-5.

3 The ATS is the whole complex of arrangements made for the purpose of coordinating relations among states with respect to Antarctica. This includes: the Antarctic Treaty, recommendations adopted by the Antarctic Treaty Parties, the protocol on Environmental Protection to the Antarctic Treaty, and two separate conventions for the Conservation of Antarctic Seals and the Conservation of Antarctic Marine Living Resources. The Convention for the Regulation of Antarctic Mineral Resource Activities has not been ratified by any state, but is part of the body of documents produced by Antarctic Treaty Parties. U.S. Department of State, *Handbook of the Antarctic Treaty System*, Chapter II - The Antarctic Treaty System: Introduction, <<http://www.state.gov/g/oes/rls/rpts/ant/>>.

- 10.3 Australia has been committed to the ATS⁴ since its inception, and to the establishment of a secretariat to support the activities of the ATCM.⁵
- 10.4 Prior to Measure 1, each ATCM hosting country would provide a secretariat function. This meant that there was no central organisation recording proceedings or maintaining records of annual meetings.
- 10.5 A provisional Secretariat has been established in anticipation of adoption of Measure 1. The Department of Foreign Affairs and Trade (DFAT) has stated of the provisional secretariat that:
- Although only functional for the past five months, [the provisional secretariat] has already significantly improved the flow of information between parties and improved the efficiency of the last treaty meeting.⁶

Overview

- 10.6 Australia has a large territorial claim and extensive research program in Antarctica. Australia undertook a leading role in developing the ATS, and successive Australian governments have viewed maintenance of the ATS as a high priority. The Antarctic Treaty ensures that Antarctica is used for peaceful, scientific research and associated purposes through promoting international scientific cooperation and regular meetings between Treaty Parties. The ATS does not recognise, dispute, or establish territorial claims. Further, no new claims may be asserted while the Treaty is in force.⁷

Role of the Secretariat

- 10.7 Measure 1 provides that the Secretariat's role is to:
- administer annual and inter-sessional meetings of the ATCM and the CEP

4 Original signatories to the Antarctic Treaty have automatic consultative party status. These Parties are: Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, Russia, South Africa, United Kingdom and the United States of America. Other Consultative Parties include: Brazil, Bulgaria, China, Ecuador, Finland, Germany, India, Italy, Korea, the Netherlands, Papua New Guinea, Peru, Poland, Sweden and Ukraine. NIA, Signatories of the Antarctic Treaty.

5 NIA, para. 5.

6 Ms Marina Tsirbas, *Transcript of Evidence*, 20 June 2005, p. 36.

7 NIA, para. 7.

- facilitate contact between Treaty Parties and with international organisations
 - develop and maintain databases relevant to the operation of the Antarctic Treaty.⁸
- 10.8 The ATCM appoints the Executive Secretary⁹ and determines and approves the Secretariat's budget. Half the budget is contributed equally by all Consultative Parties. The remaining half of the budget is contributed by Consultative Parties' national Antarctic activities, with respect to their capacity to pay.¹⁰
- 10.9 Secretariat staff members' privileges and immunities are defined by a Headquarters Agreement between the ATCM and the Government of the Argentine Republic.¹¹

Implementation and costs

- 10.10 Adoption of Measure 1 will not require amendment to legislation.
- 10.11 Australia will be obliged to pay a contribution to the Secretariat's budget. Under the formula agreed at ATCM XXVII, Australia's contribution to the Secretariat's budget will be US\$48 122.¹² Until ratification of Measure 1, Parties will pay voluntary contributions.¹³
- 10.12 The budget of the Australian Antarctic Division will provide for Australia's contribution. Australia's annual payment to the Antarctic Treaty Secretariat will be organised through DFAT. DFAT will seek an appropriation as an administered item when Measure 1 comes into force.¹⁴

Consultation

- 10.13 Consultative forums were held before each annual ATCM. Consultative forums have occurred with the Australian Antarctic

8 NIA, para. 9.

9 The appointed Executive Secretary is Mr Johannes (Jan) Huber of the Netherlands. In September 2004, the Secretariat located to an office in Buenos Aires provided by the Government of the Argentine Republic. NIA, para. 11.

10 NIA, para. 9.

11 NIA, para. 10.

12 Where AUD 1 = USD 1.34953, Australia's contribution would be approximately A\$64 942, www.x-rates.com as at 11 July 2005.

13 NIA, para. 13.

14 NIA, para. 15.

Division of the Department of the Environment and Heritage, the Attorney-General's Department, the Department of Industry, Tourism and Resources and non government organisations.

- 10.14 Before ATCM XXVI in May 2003, the consultative forum was attended by the Antarctic and Southern Ocean Coalition, the University of Tasmania, Greenpeace, and the Whale and Dolphin Conservation Society.¹⁵ Views expressed at forums were taken into account in developing Australia's position on the proposals for consideration at the ATCM.¹⁶
- 10.15 The financial contribution required under the proposed treaty action will be borne by the Australian Government. The Australian Government has informed States and Territories of the proposed treaty action through the Commonwealth-State Standing Committee on Treaties.¹⁷

Withdrawal

- 10.16 Measure 1 does not provide for withdrawal except where a proposed modification or amendment is not yet approved by Contracting Parties.¹⁸ In order to withdraw from Measure 1 Australia would have to withdraw from the Antarctic Treaty.¹⁹

Conclusion and recommendation

- 10.17 The Committee supports the establishment of a permanent secretariat dedicated to administering the ATCM and the CEP. The Committee believes that the Secretariat will improve the administrative efficiency of meetings and the flow of information between consultative parties.

15 A representative of the Antarctic and Southern Ocean Coalition was elected to participate as a member of the Australian delegation at the 2003 ATCM. The Director of the Office of Antarctic Affairs of the Government of Victoria also attended as a state representative to the ATCM. NIA, Consultation Annex, paras 1-2.

16 NIA, Consultation Annex, para. 1.

17 NIA, Consultation Annex, para. 3.

18 Australia could withdraw from the Treaty under Article XII(2)(c) by giving notice to the depository Government. The withdrawal would take effect two years after receipt of notification. NIA, para. 22.

19 NIA, paras 21-22.

Recommendation 10

The Committee supports *Measure 1 (2003) Secretariat of the Antarctic Treaty, adopted at Madrid, Spain on 20 June 2003 under the Antarctic Treaty, done at Washington on 1 December 1959* and recommends that binding treaty action be taken.

**Dr Andrew Southcott MP
Committee Chair**

