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The Antarctic exception. Sovereignty and the Antarctic Treaty governance

São Paulo
2017

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Tese apresentada ao Programa de Pós-Graduação em Relações Internacionais do Instituto de Relações Internacionais da Universidade de São Paulo, para a obtenção do título de Doutor em Ciências

Orientador: Prof. Dr. Rafael Antonio Duarte Villa

São Paulo

2017

Sampaio, Daniela Portella
The Antarctic exception. Sovereignty and the Antarctic Treaty governance / Daniela Portella Sampaio -- Orientador: Rafael Antonio Duarte Villa. São Paulo: 2017.
265 p., il.

Tese (Doutorado) - Instituto de Relações Internacionais Universidade de São Paulo.

1. Antártica. 2. Soberania Política. 3. Política Internacional. I. Villa, Rafael Antonio Duarte. II. Título.

CDD 341.40989

FOLHA DE APROVAÇÃO

Nome: PORTELLA SAMPAIO, Daniela

Título: The Antarctic exception. Sovereignty and the Antarctic Treaty governance

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Aprovado em 19 de abril de 2017

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ACKNOWLEDGMENTS

So many people contributed to the development of this work, that I hope I am able to mention each one who shared his/her time, resolving doubts and showing me the way to address this universe called Antarctica. First of all, I thank Prof. Rafael Villa. As my supervisor, he agreed with the project since the beginning, giving me freedom to get immersed and enough confidence to develop this work. For this, I also thank the Capes/Pro-Defesa 2013 Programme which provided me the opportunity to dedicate myself exclusively to my research. I am also thankful to Prof. Jorge Lasmar for illuminating a theoretical path that I was so excited to explore, and for advising me on my greatest experience: being a PhD visiting student in Britain. Hence, I am deeply thankful to Prof. Klaus Dodds. He gave me the opportunity of a lifetime, opening the doors of Royal Holloway, the place which has become my home. I am so thankful to the Department of Geography for hosting me and giving the courage to go ahead in my career. I thank the CNPq for providing me the grant and the opportunity to develop myself into a consummate academic. I was so lucky to encounter brilliant academics on this journey. I struggle for words to describe what it meant to me in the time spent with the Secretariat of the Antarctic Treaty. From my internship in Buenos Aires to the following ATCMs, this experience showed me what I want to do for the rest of my life. Muchísimas gracias a Tito, Manfred, Pepe, Diego, Pablo, Ana, Viviana, Violeta and Alan. Ustedes han sido una familia para mí. And I also shall include Paul and David. There was not a single moment that I did not learn from you. Thank you so much. In ATCMs, I am so thankful to the Brazilian Ministry of Foreign Relations, for giving me the opportunity to attend the meetings for the first time, and to the Brazilian Navy, for supporting me on every occasion we have met since. Thank you Bárbara, Luís, Maria Rita, Márcio Leite and Silva Rodrigues, I would have not gone so far without you opening the first door. In the meetings, I cannot forget the support from Michelle Rogan-Finnemore, Jerónimo Lopez, Jefferson Cardia Simões, José Retamales and Mariano Memoli. Likewise, it was an honour to assist and learn from Jane Francis, René Lefeber and Maximo Gowland. All of them have been so generous with their encouragement. And most of all, I thank my mother for her love and endless support, my father for his love and unconditional faith in me, and my sisters for their love and eternal friendship. I thank my friends Carol, Mari, Andi, Z, Daniel and Sylvio for always believing in me. And I especially thank my greatest love and best friend, Jonathan. Thank you for being by my side through all of this. This is our accomplishment. And thank you for giving me Sally, Anna, Flo, Stanley and Dan, my family as well! I love you all.

RESUMO

Esta tese propõe discutir as implicações de uma soberania indefinida para a governança antártica. A Antártica emergiu na sociedade internacional por meio da expansão de suas instituições primárias para a região. Atividades foqueiras e baleeiras configuraram as primeiras práticas e identidades, seguidas por expedições científicas e de exploração. Conhecer e controlar esta região garantiam não só liderança comercial às nações envolvidas, mas também o fortalecimento de seus imaginários nacionais no início do século XX. Assim, soberania territorial foram reivindicadas por Argentina, Austrália, Chile, França, Nova Zelândia, Noruega e Reino Unido, porém sem mútuo reconhecimento. Este impasse passou, então, a fundamentar a política antártica. Os reclamantes buscaram demonstrar sua autoridade por diversas formas, uma vez que eram antagonizados não só por reivindicações rivais, mas também pela União Soviética e pelos Estados Unidos, potenciais reclamantes que não reconhecem soberania sem ocupação efetiva; mas que resguardam seus próprios direitos para uma futura reivindicação. A impossibilidade de se chegar a um acordo foi resolvida por meio da suspensão das discussões sobre soberania, o que na prática manteve o controle de reclamantes e potenciais reclamantes sobre a tomada de decisões. A cultura diplomática do Tratado Antártico constituiu um sistema social que preservou a configuração original de poder através do consenso, da lenta transformação institucional e da participação limitada de outros atores. Por outro lado, por não demandarem uma definição de soberania, pesquisa científica e proteção ambiental foram alçadas como princípios antárticos, legitimando perante a sociedade internacional um Tratado que vem assegurando a paz na região. Pesquisa científica e proteção ambiental também preservaram o protagonismo dos reivindicadores e potenciais reivindicadores no processo decisório, uma vez que experiência e expertise são considerados essenciais em uma região definida como excepcional. Dado que soberania e territorialidade não poderiam ter sua localização normativa de forma similar à sociedade internacional, a Antártica foi definida como um lugar excepcional, demandando um arranjo governamental particular onde reclamantes e potenciais reclamantes pudessem atuar como autoridade final na região. Uma soberania formalmente indefinida pelo Tratado configura uma sociedade internacional regional estruturada excepcionalmente, de maneira a preservar seu arranjo original de autoridade.

Palavras-chave: Antártica. Soberania. Sociedade internacional regional. Governança.

ABSTRACT

This thesis discusses the undefined condition of sovereignty in Antarctica and its implications for the governance of the region. Antarctica emerged into international society with the expansion of its primary institutions in the nineteenth century. Sealing and whaling were the first practices and identities to develop, followed by exploration and scientific expeditions to the continent. Knowing and controlling the Antarctic region promised not only commercial supremacy at the beginning of the twentieth century, but also the reinforcement of national desires for imperial greatness. Sovereignty claims were stated by Argentina, Australia, Chile, France, New Zealand, Norway and the United Kingdom, but not mutually recognised. This conundrum established the foundation of Antarctic politics until the present day. Claimants have pursued to demonstrate authority in any way possible, and have been confronted not only by rivals' overlapping claims but also by the Soviet Union and the United Sates, potential claimants who did not recognise sovereignty without effective occupation, but who did save their own rights to make claims in the future. The impossibility to reach a common agreement was solved by instituting a permanent non-solution: the Antarctic Treaty established a governance where claimants and potential claimants maintained control over decision-making. Its diplomatic culture constituted a social system which preserved the original power-configuration through consensus, slow institutional transformation and limited participation from other actors. As fields of activity that did not define sovereignty, scientific research and environmental protection were raised as Antarctic principles. They have legitimised the Treaty to international society, as peace has been maintained in the region. However, as the main decision-makers, claimants and potential claimants have reassured their leading roles by their scientific and environmental performance, as experience and expertise are seen to be indispensable qualities for those engaging in a region as exceptional as Antarctica. Since sovereignty and territoriality were not subject to norm localisation in the same way as that found in international society, Antarctica was defined as an exceptional place, demanding an exceptional governance framework for claimants and potential claimants as the ultimate authority in the region. By explicitly making sovereignty an undefined article, the Treaty configures a regional international society made exceptional in order to preserve its original authority.

Keywords: Antarctica. Sovereignty. Regional international society. Governance.

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LIST OF ACRONYMS

AAT – Australian Antarctic Territory

ASMA – Antarctic Special Management Areas

ASOC – Antarctic and Southern Ocean Coalition

ASPA – Antarctic Special Protected Areas

ATCM – Antarctic Treaty Consultative Meeting

ATME – Antarctic Treaty Meeting of Experts

ATS – Antarctic Treaty System

BANZARE – British, Australian and New Zealand Antarctic Research Expedition

BAS – British Antarctic Survey

CCAS – Convention for the Conservation of Antarctic Seals

CCMLR – Convention on the Conservation of Antarctic Marine Living Resources

CEP – Committee for Environmental Protection

COMNAP – Council of Managers of National Antarctic Programs

CRAMRA – Convention on the Regulation of Antarctic Mineral Resource Activities

CSAGI – Comité Special de l'Année Geophysique Internationale

FIDS – Falkland Islands Dependencies Survey

IAA – International Association of Academies

IAATO – International Association of Antarctic Tour Operators

ICSU – International Council of Scientific Union

IGY – International Geophysical Year

IPY – International Polar Year

IRC – International Research Council

MCI – Mixed Commission of the Ionosphere

MEA – Indian Ministry of External Affairs

NATO – North Atlantic Treaty Organisation

SATCM – Special Antarctic Treaty Consultative Meeting

SCAR – Scientific Committee on Antarctic Research

SSSI – Sites of Specific Scientific Interest

UNCLOS – United Nations Convention on the Law of the Seas

UNGA – United Nations General Assembly

USAS – United States Antarctic Service

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1 INTRODUCTION

General awareness about Antarctica tends to build an image of distance, strangeness, inhospitable environment and, for those more familiar with Antarctic matters, a region environmentally protected and dedicated to scientific research. This image might not be wrong, but what is most intriguing about these impressions is how such a large region in our planet passes almost unnoticed not only to the general public but also to many experts and decision-makers. The amount of studies and analysis dedicated to Antarctica do not correspond to the size, impact and potentialities this region can offer. We do not talk only in terms of the natural sciences; surely, the impact of Antarctica on meteorological, geophysical, oceanography and biological global systems, for instance, has been one of the biggest motivations for scientific research and environmental protection in the region. However, an equally important impact which has, in fact, enabled the conduct of scientific activities and environmental protection in the region has scarcely been addressed. The Antarctic Treaty governance represents one of the most *sui generis* arrangement in international politics which has almost been ignored by political scientists and International Relations' academics.

Curiosity was the first motivation for the beginning of this research: Who resides there? What kind of activities are undertaken? And who regulates the activities? All these questions were raised by an attempt to understand what happens in Antarctica and what leads to this common unawareness of the place. In a reversed logic, the first approach to Antarctica came with a field work in the region. In 2012, through the Brazilian Antarctic Programme, interviews were conducted at the Chilean Station of Eduardo Frei Montalva and at the Russian Station of Bellingshausen, providing the first hints for the answers to the former questions. Scientific research and logistics proved to be the paramount activities in place, therefore those who live and work in Antarctica tend to be scientists and support personnel (despite of a folkloric vision that "nobody is there"). Subsequently, the second question was answered. Stations were installations from Antarctic Treaty Parties to host their national scientific researches. Observing their routine activities, it was clear that these were regulated in terms of places authorised to go, distance restrictions to fauna and flora, and reports addressed to national authorities regarding who was there, what was conducted and how impact was remediated. Therefore, the third question was also answered: the Antarctic Treaty regulates actors and practices undertaken in Antarctica.

This field work did not only offer these basic conclusions but it also fostered new questions. In the Chilean station, Antarctica was part of the territorial map of the state. In fact, Antarctica was considered as an extension of the Magallanes Province. Whilst in the Russian station, personnel were concerned with our visit because they had not been notified. Therefore, a deeper issue was actually immersed in all ordinary activities and conducts from personnel and scientists in the region: sovereignty. And this has become the core of this present work. How does sovereignty take place in Antarctica? Is a station the national territory of its flag-state? Can anyone, regardless of his/her nationality, visit any Antarctic station? These questions required more systematic research.

Antarctica is presented as a region of the planet located bellow the parallel 60°S, whose sovereignty is not defined and whose activities are decided and monitored by the Antarctic Treaty, an agreement established in 1959 and in operation since 1961. Undefined sovereignty was the foundation of the Antarctic Treaty, as preserving sovereignty claims whilst not recognising them was the way found to conduct activities in the region without conflict. Antarctica gathers seven sovereignty claims: Argentina, Australia, Chile, France, New Zealand, Norway and the United Kingdom claim territories since the beginning of the twentieth century and they have not agreed to waive their rights so far. On the other hand, the Russian Federation and the United States do not claim territories in Antarctica and do not recognise any either. However, they have saved their right to do so in the future. So how has a Treaty been able to manage the governance of a region of undefined sovereignty? This is our research question. We did not find comparable cases to Antarctica, which makes the region a unique case study. Attempts to define the region as global commons have failed because, different from the high seas or space, Antarctica presents current sovereignty claims which have found different ways to be demonstrated since they were established. Therefore, Antarctic governance presents a *sui generis* arrangement to manage a region where authority cannot be defined in order to keep regional and international society's security.

Our research question was approached by different avenues. Our main goal was to use theoretical and methodological perspectives to provide the information we needed to emphasise and analyse, advancing our argument. Therefore, an historical analysis was adopted, as the history of Antarctica and of the establishment of its sovereignty practices was fundamental in helping to grasp how a governance based on an undefined sovereignty was constituted in such

terms. Likewise, the operation of the Antarctic Treaty in terms of actors and practices were also very important to understand the social dynamics of a region of such exceptional conditions. In this case, we needed a sociological approach to understand the dynamics between Antarctic actors and the institutions they created to govern their behaviour in the region. Therefore, the English School of International Relations along with the theory of structuration and social constructivism have proven to be very helpful choices. We have mainly relied on Hedley Bull (1977) for the constitution of international society, and Adam Watson (1984) and Richard Little (2013) for addressing its expansion. Primary institutions, especially sovereignty, were based on Robert Jackson (1999), Alan James (1999) and Kalevi Jaako Holsti (2004). Barry Buzan's (2004) works supported us with the critical view of the English School, offering different options through which we could explore international society's expansion to Antarctica and how sovereignty and territoriality have their norms redefined in the region. Buzan's work also directed us towards regional studies in the English School. The works of Ales Karmazin (2014) and Costa-Buranelli (2014) supported an approach of Antarctica as a regional international society, which also helped us to identify limitations on current interpretations on the Antarctic Treaty as an international regime. Sociologically, Anthony Giddens (1984) and Alexander Wendt (1999) helped to provide a perspective in structuration theory. The Antarctic Treaty as a social system is understood as the place where Antarctic practices and identities are produced and reproduced in terms of norm localisation and decision-making. Wendt's identification of enmity, rivalry and friendship roles in actors' interactions provided us with not only a glimpse of how Antarctic actors have perceived each other, but also a perspective of norm internalisation, which is also present in Buzan's English School. Therefore, our historical and sociological theoretical choices are compatible to each other.

One of our biggest challenges in this work was the balance between an International Relations (IR) and an Antarctic audience. Concepts and terms which are currently tackled by an IR public, for Antarctic academics have been easily misunderstood. Likewise, facts considered common sense by those familiar with Antarctic literature, for an IR audience, are a novelty. Therefore, we have tried to do a detailed review of Antarctic history and a systematic analysis of the Antarctic Treaty's operation, whilst defining and using only the theoretical concepts which are helpful for our analyses. Therefore, IR audiences would be briefed enough about a considerable unknown subject and Antarctic audiences would not be lost in extensive theoretical debates which are not part of the analyses presented. Another challenge was how to demonstrate that sovereignty could still be a fundamental element to Antarctic governance, without allowing for

our suspicion to bias our analysis. In order to solve this question, our work pursued reliable sources where we could demonstrate that sovereignty as a component of Antarctic politics cannot be ignored. The Antarctic Treaty Secretariat organise the Antarctic Treaty Database, where all meetings, papers and agreements are available for consultation. And, so far, there has not been any longitudinal analysis for these data. Current analytical works present a limited timeframe and this has encouraged us to try to encompass as most years as possible in our own analyses. Therefore, the Antarctic Treaty statistics presented in this work are from our own labour on the database, and which, indeed, corroborated our impression that claimants and potential claimants have had a dominant role in Antarctic politics since the establishment of the Treaty.

However, data statistical analyses could also lead to misleading conclusions. Hence, observations of the 37th Antarctic Treaty Consultative Meeting, in 2014, have assisted us to develop an accurate perception about what we should shed light on in the Antarctic Database. With the support of the work of Dittmer and McConnell (2016), we explored the diplomatic culture established by the Treaty, interpreting it in terms of place and procedure, the rationale of its preservation. Therefore, we never wanted to restrain ourselves to a unique methodological approach. To the same extent that we provide descriptive statistics to illustrate the operation of the Antarctic Treaty, we have also explored the constructed character of sovereignty and territoriality. For instance, we have used the works of Biersteker and Weber (1996) and Murphy (1996) to understand how sovereignty and territoriality have been present in Antarctica, whilst maintaining awareness that its practices and identities have been shaped through different avenues. And once aware of how Antarctica presented particular features, forming an exception to what we observe in international society, we looked for works which addressed sovereignty and exceptionality as the phenomenon. Schmitt (1934) offered us a perception of how the exception can take place by a sovereign decision, as decisions are not necessarily supported by norms. Antarctica was defined as exceptional by claimants and potential claimants, inaugurating a political creation through the Treaty where sovereignty can be formally considered undefined, but practically deployed through other means. We are aware of how theoretical perspectives are much deeper and intricate than that which we are showing here. However, we are not focusing on the theory; we want to understand sovereignty in Antarctica. Therefore, in our analysis, we focused on the approaches which can aid our interpretation, answer our questions, create more avenues for exploration, but always advance the studies of Antarctic governance.

Our first chapter addresses the expansion of international society to Antarctica and the establishment of the Antarctic Treaty. The formation and consolidation of international society took place with the establishment of its primary institutions: sovereignty, territoriality, balance of power, diplomacy, trade, nationalism, (in)equality of people and (more recently) environmental stewardship defined practices and identities in international society, and delimited its membership. Antarctica emerged with the expansion of international society as trade, nationalism and balance of power primary institutions defined the first identities and practices in the region. Sealing, whaling and exploring expeditions during the nineteenth and the twentieth century marked the beginning of Antarctic history and fostered the claim of sovereignty territories by those who wanted to control the region for a prominent position not only in sealing and whaling industries, but also in nationalistic disputes among great powers. Sovereignty claims in Antarctica became the benchmark for an intensification of activities in the region. However, Antarctica's exceptional environment prevented the completion of sovereignty and territoriality expansion in the region. Sovereignty claims were not recognised, because permanent settlement and administration were not feasible, leading to a questioning of Antarctic effective occupation.

The non-recognition of sovereignty claims led claimants and potential claimants to search for alternative ways to demonstrate authority to competitors, which intensified a conflictive atmosphere. Forms of banal nationalism were performed by claimant states whilst other actors such as Japan, Belgium, South Africa and the Soviet Union started to demonstrate interest in the region, which increased animosities. The United States, at that point, had demonstrated a dubious policy for the region: they did not recognise any sovereignty claims based on the lack of effective occupation evidence; and, at the same time, they performed state acts to prepare for their potential one. The Soviet Union and the United States, due to their historic engagement in Antarctica and their interest to determine its future, reserved their rights to make sovereignty claims. The difficulties involved in conducting activities in such a disputed region was also due to it being a largely unknown region. Claimants and potential claimants realised that Antarctica demanded more scientific research to be known and controlled, whilst science configured a "non-political" activity, offering an important mean to demonstrate authority without generating conflicts where no one would be able to guarantee a favourable denouement. Hence, the Escudero Declaration in 1948 and the International Geophysical Year in 1957-58 proposed

the suspension of sovereignty discussions for the conduction of free scientific research, providing a trial for a non-conflictive engagement in the region.

The suspension of sovereignty claims meant that sovereignty and territoriality primary institutions, as they are defined in international society, could not take place in Antarctica. Their norm localisation needed to be adapted in the region, reconciling it with international society's principles, such as independence of states, peace maintenance, honouring of agreements and respect of property rights. Therefore, the temporary experience of the IGY was agreed to be continued and found an Antarctic governance. The Antarctic Treaty was established to maintain peace in Antarctica without solving its sovereignty question, which has been Antarctic reality for the last sixty years. Thus, our second chapter provides an overview about how the Antarctic Treaty has operated under this exceptional condition. For this chapter, the Antarctic Treaty database provided us with a diachronic perspective of politics in the region. Descriptive statistics helped us to demonstrate that the presence of the sovereignty question in Antarctic decision-making was not a reminiscence nor a "wishful-thinking", but actually a portrait of the governance of the region. The mechanics of the Antarctic Treaty present how a diplomatic culture has been constituted in order to translate the Antarctic exceptionality into procedures and codes of conduct.

The operation of the Antarctic Treaty has preserved claimant and potential claimants as the ultimate authority in this governance arrangement. Consultative Meetings provided the spatiality for decision-making, where its frequency and structure characterised a framework designed to preserve Antarctica's status quo. For many years the Treaty only took place biannually and a secretariat was only agreed in 2001. The concern among original signatories, especially claimant states, was that a bureaucratisation, in terms of an international organisation, would lead to their loss of control over decision-making. Keeping procedures informal and flexible has been a constant, so the Treaty would suffer less modifications. The pace of its institutional transformation is another indicative. The Treaty's decision-making is organised in propositions and agreements decided in Consultative Meetings which must be consensual to be adopted. Consensus assured parties that no alliance could exclude a singular member's will. However, consensus also helped to prevent controversies from occurring, which meant issues which demanded regulation by the Treaty and implied a sovereignty definition could be postponed or simply ignored. Therefore, Antarctic diplomatic culture translated into

its spatiality and procedures was based on the preservation of its status quo, resulting into a more informal, controlled and slower governance.

The Antarctic Treaty has been able to preserve its original power-configuration because its main decision-makers have always been claimant and potential claimant states. Through the Treaty, original signers have delimited their scope of action and established criteria for its membership. Although any member state of the United Nations could sign the Treaty, participation was restricted to those able to demonstrate "substantive scientific activity" in the region. Thus, claimants and potential claimants relied once more in science to preserve their authority: they were the most experienced actors who were already engaged in scientific terms in the region since the IGY; whereas newcomers needed to introduce themselves to the region, relying inevitably on the expertise and experience of original signers, and committing themselves to a non-controversial arrangement. Therefore, demonstration of substantive scientific research legitimised the Treaty. But membership increased. When the Treaty started to negotiate side-conventions for dealing with resource management (a controversial issue), interest increased in the Treaty as much as pressures for its opening. In 1977, Poland was granted participation, although its signature dates from 1961.

During the 1980s, the Treaty's membership escalated, so different roles were created so as to accommodate new participants. Criticism about the exclusivism of the Treaty denounced its "colonial legacy" and challenged to take the Antarctic question to the United Nations. The concern for an uncontrolled membership has always guided parties to keep the United Nations away. Therefore, adjustments were perceived as inevitable. Consultative Parties were granted the prerogative of decision-making, based on their "substantive scientific activity in the region". On the other hand, non-Consultative Parties were members allowed to participate in a restricted manner, but not to decide. Observers referred to specific Antarctic organisations which support the Treaty in its decision-making whilst experts from United Nations' agencies and non-governmental organisations needed to be invited to attend the meetings. Like non-Consultative Parties, experts have restricted participation and no prerogative for decisions. Therefore, the Consultative Parties role could be understood as an adaptation from the Treaty to keep its decision-making restricted, but no longer exclusive for claimants and potential claimants. However, the figures of agreements achieved in Consultative Meetings and the level of engagement in Antarctica tell us a different story.

Agreements and parties have composed a social system in Antarctica where practices are produced and reproduced through the operation of the Antarctic Treaty. However, not all parties can be considered agents of Antarctic governance: claimants and potential claimants overwhelm the proposition of agreements, the financial contribution to the Treaty, the physical presence and conduct of activities in the region, the productivity in scientific research and the environmental protection regulation in Antarctica. Their deployment of rules and resources detach them from the rest of Consultative Parties, configuring not a formal, but a real control in decision-making. Even the consensus procedure does not change this outline: for making a consensus, their real authority gathers support from friend and convinces rivals; whilst if a consensus is achieved for the sake of the Treaty, different interpretations of the mandatory character of agreements prolongs their commencement. Claimants and potential claimants' authority is only challenged by other claimants and potential claimants. In that case, avoiding the issue has been the safest choice adopted.

Once the Antarctic Treaty functioned operationally according to an exceptional condition of undefined sovereignty, international society had to assimilate this arrangement according to its own principles. Hence, the third chapter discusses how international society has comprehended the Antarctic Treaty governance, analysing how current interpretations have not been able to grasp the sovereignty issue. At its first moment, the Antarctic Treaty searched for its acceptance from international society through the adoption of the latter's principles into its main text. International society's preservation, independence of states, peace maintenance, limitation in the use of violence, honouring of agreements and respect of property rights are reflected in the Antarctic Treaty. And for achieving these principles, the Antarctic Treaty established its own. Scientific cooperation and environmental protection were raised as the main guidance for Antarctic practices, as their uncontroversial feature not only gathered internal agreement, but also legitimised the Treaty for external audiences. Instead of being perceived as only a sovereignty suspender, the Treaty defined scientific research and environmental protection as the main orientation for Antarctic practices, delivering possibilities of engagement in the region which did not threaten its security. Therefore, engagement with the Antarctic Treaty has dominated analyses. Literature has sought to explain why the Treaty was formed and how parties and outside actors have complied to it for so many years. Regime theory has been the favoured approach.

According to a regime theory interpretation, the Antarctic Treaty was formed because Antarctic governance was perceived as a common concern that interested actors wanted to be addressed. Still according to this rationale, the Treaty has been maintained due to its ability to continuously provide a satisfying solution for Antarctica according to the actors involved. As such, the Antarctic Treaty is composed of principles, norms, rules and procedures created and followed by those actors to address their common issue: Antarctic governance. Particularly, the regime analyses here presented have some variations among each other in terms of: the role ascribed to great powers for the formation and continuation of the Treaty; the relative stability of the Treaty, which offered an innovative legal arrangement when it suspended sovereignty; the strong institutionalisation of the Treaty, due to its expressive normative and structural modifications; and how Antarctica, as a global commons, has been managed by a complex of legal regimes internalised by actors and understood as the most appropriate way to achieve their interests in the region. Despite of these variations, these analyses share a common positive perspective about the Treaty in terms of its capacity of maintaining peace in the region and overcoming challenges to its legitimacy. This positive approach has led us to identify two main problems: none of these analyses offered a critical perspective about the Treaty; and none has addressed the implications of an undefined sovereignty for the governance of the region.

Critical perspectives about the Antarctic Treaty has focused only on a colonialism reminiscence in Antarctic practices; and on how sovereignty claims should be addressed in the future for the sake of peace in the region. Post-colonial analyses identified that claimant states still perform in similar terms to the times before the Treaty was signed. Science and environment protection would be used as power-control devices by claiming states to maintain their influence over their claimed territories. However, the implications of an undefined sovereignty for Antarctic governance itself is not addressed by this perspective. Likewise, debates have also taken place about the continuation or non-continuation of sovereignty claims. Whilst some see that Antarctica should be considered as part of a global commons and sovereignty rights should be waived, others identify a risk in changing a model that has so far been considered successful to maintain peace in the region. Once more, this debate takes for granted the implications of a region of undefined sovereignty, regardless of the future of sovereignty claims there. We believe that this silence about a regional governance of undefined sovereignty in Antarctic analyses is due to their lack of theoretical clarification.

Regime theory has different approaches in International Relations which are not related by Antarctic analyses. Neoliberalism focuses on regimes as facilitators of cooperation, providing information of and expectation for someone's behaviour. States, as rational actors, invest in regimes as the coordination of their actions prevents sub-optimal outcomes in a given issue-area. On the other hand, neorealism focuses on how power and the distribution of capabilities determine the formation of a regime. A hegemon can enforce a regime, reinforcing power configurations or changing them. Therefore, cooperation only occurs based on states' perceptions of their relative gains. And cognitivist approaches represent a different understanding of international regimes. Different from neoliberalism and neorealism, states are not considered as the only actor nor are they defined by rational and self-interested behaviour. Regimes are formed by states' capacities of learning, as they search for specific knowledge to deal with a common concern. Therefore, preferences are formed by states' experiences in learning to cooperate. In other variations of cognitivism, states do not search for knowledge based on a rational choice. They learn to cooperate based on the internalisation of rules and on a self-understanding of themselves. Institutionalisation dilutes the egoism of states, and legitimates the respect towards each other's interests.

Neoliberalism, neorealism and cognitivism are all present in Antarctic regime analyses, but not explicitly. Imprecisions regarding the primacy of actors, the definition of international context, and theoretical assumptions in general, together with the general avoidance in addressing sovereignty in Antarctica, establish the limits of this theoretical approach. Regime theory proves to be very useful to grasp the dynamics of legitimacy and compliance of the Antarctic Treaty; however, all analyses here share a perception of an "undefined" or "unsolved" sovereignty. A primary institution which is fundamental for the constitution of international society and which is central for Antarctic politics, is not properly grasped by Antarctic regime literature. As international regimes are considered secondary institutions – which means that they are created and operated upon primary institutions from international society – analyses about sovereignty and territoriality cannot, in fact, be tackled by this approach. Therefore, considering that international society has expanded to the region, the differences identified between their sovereignty and territoriality practices lead us to identify Antarctica as a regional international society. Different from trade, balance of power, nationalism, equality of people, diplomacy and environmental stewardship, sovereignty and territoriality could not constitute practices and identities in Antarctica in similar terms to international society. The sovereignty suspension established by the Treaty did not annul these primary institutions in Antarctica; in

fact, those who agreed the Treaty altered sovereignty and territoriality norm localisation so that they could continue to exert authority in the region without jeopardising international society's principles.

Hence, the fourth chapter discusses how Antarctica was constituted as a regional international society based on an agreement about its exceptionality. Considering different interpretations of sovereignty, external independence and internal ultimate authority within a territorial unit encompass the constituting character of this primary institution. Sovereignty cannot be detached from the idea of territoriality, as authority and independence must take place is some delimitation, which they constitute. Therefore, sovereignty emerged with the consolidation of international society, becoming its main principle. Authority sources gradually shifted from Christendom and the Holy Roman Empire to kings. The accomplishment of internal ultimate source of authority came with the settlement of territorial borders, as political control became easier to be exercised. On the other hand, external independence was a process with several comings and goings, as expansionist endeavours from political units challenged others' independence. The Peace of Westphalia, the Congress of Vienna, the League of Nations and the United Nations were progressive counteractions to sovereignty disruptions, as the foundation of international society was the sharing of external independence as a common value to be defended. Territoriality as a primary institution, on the other hand, emerged and consolidated the state as international society's territorial ideal in a much more gradual and constant process. Being a sovereign state was defined as the membership to international society and delimited those recognised as similar and those perceived as alien. Hence, as conquest also remained to be an approved practice to acquire territory within international society, colonialism served international society states to strengthen their internal authority and assure their external independence, especially with the emergence of nationalism as its main source of legitimacy.

Antarctica grew into international society as it expanded. Sealing and whaling first brought trade and balance of power to constitute Antarctic practices and identities. Exploration and scientific expeditions subsequently brought nationalism, as demonstrating expertise to explore the region reinforced the idea of strength and resilience of the nation states involved. In addition, knowing the region also meant controlling commercial strategic points, which supported competitive standing in the whaling industry. Controlling strategic points demanded recognised authority assurance over them. Therefore, sovereignty and territoriality were

brought with sovereignty claims through the beginning of the twentieth century. As effective occupation was not possible, sovereignty constituted practices of banal nationalism in the region with actions such as flag plantings, establishment of post offices, naming of geographic points, among others. The main goal was demonstrating authority to other claimants. Tensions grew as claims were gradually being extended in size, more nation states were becoming engaged, and claims were not being recognised. The overlapping between Argentina, Chile and the United Kingdom, and the involvement of the Soviet Union, corroborated the conundrum. If sovereignty and territoriality were about to be consummated, a conflict was inevitable.

Based on an activity which does not require a sovereignty definition, the Antarctic Treaty turned permanent a temporary suspension of sovereignty discussions in the region. Scientific research, and subsequently environmental protection, became the avenue for engagement in Antarctica, as they provided knowledge and control about an unknown region which needed to be preserved from any "misuse". Therefore, sovereignty and territoriality just had their norm localisations modified, as scientific research was used as the criterion for membership and granting of Consultative status; whilst environmental protection determined how activities should be conducted in the region. In fact, those who had their authority and prestige raised by such terms are exactly those who established the Treaty and overwhelmed its decision-making hitherto. Experience and expertise are still strong assets which guarantee that newcomers must abide by the governance arrangement already in place, legitimising those who control its decision-making. Territoriality has also taken place in similar terms. Facilities, such as stations and refuges, were established for the conduction of scientific research, delimiting a restricted national authority in Antarctica as they are inspected by the Antarctic Treaty. Their location follows the interests of claimant or potential claimant state, preserving the same power geography at the moment of the Treaty's creation: claimants' stations are located in their respective claimed territory; potential claimants' stations are located in all Antarctic sectors; and the other Consultative Parties' stations are located near the closest gateway and in the proximities of a potential collaborator already in place. Special protected and managed areas are also important territorial practices in Antarctica. Those who succeed in establishing a special area reinforce their authority, as they are able to determine places with restricted access, define codes of conduct to be followed by all, and coordinate activities. Hence, sovereignty and territoriality had their norm localisation modified by the Antarctic Treaty, as an ultimate authority in a delimited territory is hard to be identified. However, as the Antarctic Treaty is

independent of external rule, it acts as the ultimate authority for the practices and identities in Antarctica, and a territorial organisation of the region has taken place.

An undefined sovereignty in Antarctica justified by its exceptional features are just formal. If sovereignty is that which decides, those who controlled the decision-making of the Antarctic Treaty continued to exert their authority and territorialism. As a decision does not need to be preceded by a norm, claimant and potential claimants established a Treaty which has enabled the continuation of their authority exercised by other means. The operation of the Antarctic Treaty configures an arrangement in which a diplomatic culture of informality, controlled participation and slow institutional modification preserve its original power-configuration. The exceptionality of Antarctica was created by the original signers of the Antarctic Treaty, establishing a governance that supports not only the Antarctic's environmental preservation, but also its political one. As such, we concluded that Antarctica configures a regional international society defined by its exceptionality, as sovereignty and territoriality primary institutions had to find alternative ways for constituting identities and practices in the region. These alternative means have been provided by the Antarctic Treaty, establishing a governance which is externally independent and internally exerted by claimant and potential claimant states.

This conclusion is not safe from criticism, but it points to a promising and unexplored direction. Immersing into a perspective which has been ignored by Antarctic and International Relations literature felt challenging (and sometimes quite frightening). Making statements throughout the work felt almost daring. But the historical registers, the Antarctic Treaty database, the uncountable discussions with Antarctic stakeholders and the field observations from Consultative Meetings were very important in directing us on this sovereignty track. We hope that this work opens new possibilities for Antarctic governance research. Studies about new sovereignty practices; about regional international societies based on the idea of exceptionality; studies which explore the relationship between claimants and potential claimants and how each one addressed their rivals for maintaining the primacy of their authority; or how international regimes could be maintained on such an odd foundation, are just some examples of several stimulating paths that we hope to see explored and developed. Considering that Antarctica offers such a rich field for theory application, and that this particular case provides such a nuanced arena of study, we like to think that this work has just opened a door.

2 THE EXPANSION OF INTERNATIONAL SOCIETY TO ANTARCTICA AND THE ESTABLISHMENT OF THE ANTARCTIC TREATY

The Antarctic Treaty resulted in a temporary deviation from a long-standing problem. The enduring question of territorial sovereignty in the Antarctica has its origins in the moment of discovery of the region and, since then, has defined the practices undertaken. The emergence of Antarctica in international society occurred by the end of seventeenth and eighteenth centuries, when primary institutions such as trade and nationalism defined the practices undertaken by the first newcomers. Therefore, the first section of this chapter recalls how Antarctica emerged into the imagination of European international society, first as a name, then as an idea and lately as a concrete region. Sealing and whaling industries introduced the first forms of occupation in Antarctic islands, including the region in the international trade map. This economic exploitation was interspersed by exploring expeditions, when the different claims for discovery of the continent were made and disputed. The "heroic era" marked the expansion of nationalism to the region, where the ability to reach unknown and unhospitable areas was a demonstration of a national state's power and prestige.

Similar to several institutions which were expanded to include Antarctica, nationalism emerged from the transformation of the European society into an international society. The absolutist state, which characterised the European international society, became legitimised by self-determination and popular sovereignty, becoming national. Therefore, the consolidation and expansion of international society is the main subject of the second section of this chapter. First, we are going to see how the decline of Christendom enabled the formation of a European international society, where limitation of violence, honouring agreements and respect to property were shared among the recent constituted states, tying them to a social formation. The European international society set the base for important international institutions and was ordered by the common pursuit of society's preservation, of independent states and of peace maintenance. But this did not mean that the relationships between these actors were always harmonious. Enmity, rivalry and friendship depended on the perception of an actor towards the other, regardless of the level of internalisation of their common norms and values. An increasing internalisation of shared norms and values in Europe enabled the complete disappearance of the vestiges of Christendom and the consolidation of a proper international

society in the eighteenth and nineteenth century. Nevertheless, this common identification was also followed by an external differentiation.

The expansion of international society established its common rules, institutions and codes of conduct all around the world. Since Christendom, European institutions have expanded, first to south-west Europe then to eastern Europe and later, with European international society, overseas. The monopolisation of power by absolutist states in the sixteenth and seventeenth centuries fostered competition and expansion towards new markets, resources and places. Nevertheless, the consolidation of national states in the eighteenth and nineteenth century along with the advances brought by the industrial revolution enabled the technical and political means to expand primary institutions of international society throughout the world. Sovereignty, territoriality, diplomacy, balance of power, equality and inequality of people, trade and nationalism set the standard for the relationship with inhabited areas and the criteria of accession to international society. On the other hand, for those uninhabited areas, primary institutions were reproduced through the activities undertaken there, integrating the regions to international society. And this was the case of Antarctica.

The third section of the chapter covers how from trade and nationalism, the Antarctica also became the stage for a remarkable dispute over sovereignty and territoriality in international society. The whaling industry established the Antarctic as the new resource frontier and the need for controlling strategic points was intensified by the fierce competition among European nations at the beginning of the twentieth century, paving the way for territorial sovereignty claims in the region. The legal basis for a sovereignty claim of uninhabited areas was first established in the Final Act of the Conference of Berlin, in 1885. According to this conference, discovery is not considered enough to assure the entitlement of a territory if not followed by evidence of symbolic annexations, effective occupation, state acts and notification of interested actors. In Antarctica, from the seven territorial sovereignty claims, five are based on discovery supported by historical evidences of symbolic annexation (such as planting of flags and naming of geographic points), effective occupation (by the establishment of postmasters and exploring research expeditions), state acts (government claims and/or endorsement of private ones) and notification (communication to other states).

The United Kingdom was the first state to make a formal claim in 1908 and in 1917, when it included more territories and formally established the *Falkland Island Dependencies* (FID). In

1923, the United Kingdom claimed the territory of Ross Dependencies, delegating its management to New Zealand. France, which was concerned about British movements, subsequently claimed Adélie Land in East Antarctica and some islands in the Southern Ocean in 1923. And after Mawson's expedition to Antarctica in 1929-1931, the United Kingdom expanded once more its claims, delegating its management to the Australian government in 1933. In 1936, the Australian government endorsed the British claim and established the Australian Antarctic Territory. Meanwhile, the United States initiated its double-stranded policy towards Antarctica. They announced that no sovereignty claim would be recognised without an effective occupation – which immediately intimidated the British. At the same time, the Americans engaged with the "air age", transforming the ways through which Antarctic incursions were undertaken. The American expeditions in the 1930s intended not only to reach and map inaccessible areas of the continent, but also to provide enough terrain knowledge to establish their own sovereignty claims. The Germans also dispatched an expedition to Antarctica, but it was to the same region where Norwegians had been undertaken whaling activities; therefore, Norway made its sovereignty claim for Queen Maud Land in 1939.

The Second World War did not stop the conflict escalation in sovereignty and territoriality, which became the main Antarctic institutions at that time. Chile and Argentina established their formal territorial sovereignty claims, in 1940 and 1946 respectively, in areas which overlap the British Antarctic territory. Therefore, the fourth section of this chapter describes the failed attempt to find an "Antarctica solution", which prompted outside interest in the region as well as established the milestone for an Antarctic regime. The failed attempt to find an "Antarctica solution" marked the expansion of the last final primary institutions, as balance of power and diplomacy consummated the region's inclusion to international society.

Increasing frictions between the Americans and the British, and major frictions between Argentineans-Chileans and the British led to an American proposal for a special United Nations trusteeship or an international condominium in Antarctica in 1948. These proposals were generally refused by claimant states and led to statements from Belgium, Japan and South Africa regarding their interest to be included in any future negotiation about the region due to their historical involvement and (in the case of the later) geographical proximity. Nevertheless, a much more disturbing interested actor was awake, equally displeasing the United States and claimant states. In 1949, in response to the American attempt, the Soviet Union declared its

non-recognition of any arrangement in Antarctica which would not include it in the negotiations.

The American attempt also provoked other secondary effects. A race for Antarctica was initiated during the 1950s, with the establishment of permanent stations by all those interested actors who wanted to guarantee their participation in an Antarctic negotiation and/or provide evidence for their effective occupation of the region. At the same time, Chile's refusal of American proposals led to their counterproposal for a five-year suspension on sovereignty discussions in order to allow activities which would not have a political connotation in the region. Scientific research was the only point of convergence among involved actors. Therefore, the Escudero Declaration in 1948 was a milestone in Antarctic politics as it established a common ground for discussions about the region. And the last outcome from the American attempt came from another outside voice. In 1956, India tried to include the "question of Antarctica" on the agenda of the United Nations General Assembly, alleging the need to find a political solution to a special region, before Cold War disputes could jeopardise it. However, the involvement of the United Nations would automatically lead to an unrestricted participation from outside actors in the region. Diplomacy acted quickly with Argentina, Chile, France, United Kingdom and the United States demonstrating no interest that the Antarctic should be taken to other broader forums. Therefore, India withdrew its request in two months, though it saved its rights to reintroduce the question in the future.

The conflictive character of Antarctic politics and the importance of undertaking science on such an unknown region were two remarkable considerations tackled by India's position. Nevertheless, the point not clearly expressed was the relationship between Antarctic politics and Antarctic science. Section five of this chapter addresses the history of Antarctic science and its entanglement with the politics in the region. The control over a place assumes its knowledge, especially if it refers to an uninhabited and unhospitable land recently occupied. And in the case of the exploration of Antarctica, its knowledge was not the only one expanded; different disciplines as biology, meteorology, oceanography, botany and physics evolved with the discoveries made in the region. Antarctic scientific development was enabled by the expeditions to the region and by the institutionalisation of the own scientific practice in Europe. Therefore, the organisation of large-scale collaborated efforts led to the inclusion of the Antarctic region and the necessity of a more stable political situation. The organisation of the International Geophysical Year in 1957-58 adopted the principles introduced by the Escudero

Declaration and proposed the postponing of political discussions in Antarctica one more time, so science could run without interruptions.

The increasing interest in the region, the permanent settlement of claimant and non-claimant nations, the increasing conflictive configuration of its politics and the momentary disposition to interrupt sovereignty discussions were all favourably perceived. The sixth and final section of this chapter presents the backstory of the Antarctic Treaty negotiations. After another failed attempt to propose an international consortium for the Antarctic – which was led by the United Kingdom, Australia, New Zealand and South Africa in 1957-58 – the United States decided to invite all participants in the IGY who dispatched stations or bases to the Antarctic region to talk about some form of arrangement for the governance of the region. There were sixty preparatory meetings from 1958 to October 1959, when the Washington Conference took place, as there were several points of divergence. Therefore, an interesting outcome took place: instead of providing a solution for the sovereignty question, the agreement achieved decided to postpone it for the length of the Treaty. This chapter concludes with questioning how the Antarctic could have been part of international society and governed by an international regime provided by the Antarctic Treaty without having the sovereignty primary institution constituting its rules, institutions and codes of conduct.

2.1 The emergence of Antarctica

The expansion of international society can be easily traced through the history of the Antarctica and its emergence. Isolation from inhabited areas delayed the exploration of the region, making Antarctica the last continent to be discovered (Auburn 1982). Attention was first given only to the Southern Ocean as the Strait of Magellan in South America provided the shortest route from the Atlantic to the Pacific oceans. Islands close to these navigational routes were early discovered by Portuguese, English, Spanish and French during the seventeenth and eighteenth centuries (Peterson 1988). Nonetheless, myth and history are blurred in the polar regions (Howkins 2016). The most consolidated Antarctic myth is credited to the Greeks, who once named one of the brightest constellations that never set *Arctos* (the bear). If the Ancient Greeks were known for praising the idea of balance, then the Arctic's counterpart would be its antithesis, the Anti-Arctic. This combination of ancient ideas and geographical speculation was constantly repeated, creating a powerful mythological origin which placed Antarctica within traditional European history (Howkins 2016). Australian Aborigines, Maoris and indigenous

tribes from South America also presented speculations about what might be in the south (Howkins 2016), although they are not commonly referred to. This indicates that the power of Antarctic foundation myth relies mainly on its authorship.

In Antarctica's case the name came first then the idea, and the idea came before the object. Until the end of the eighteenth century, the polar regions were the only remaining places where the expansion of the European international society had not reached. In the context of the Enlightenment, expeditions were organised and scientists were instructed to gather information from the unknown (Howkins 2016). Between 1699-1700, the British scientist Edmund Halley sailed as far as the parallel 52°S for magnetic readings. In the late 1760s, Louis de Bougainville reinforced the speculation about the existence of the *Terra Australis Incognita* when he circumnavigated the world. In the early 1770s, Yves-Joseph Kerguelen wanted to prove the existence of a southern continent and made the discovery of the islands which were named after him (Howkins 2016). Captain James Cook's voyage in 1772-75 represented the first circumnavigation of Antarctica in 1773-4 and stated the possibility of lands south of the parallel 60°. However, Cook affirmed that even if a southern continent existed, its discovery might not be worthwhile as it was "*doomed by Nature to Frigidity the greatest part of the year*" (Howkins 2016, p. 42). The Kerguelen Islands, for instance, were claimed by the French, but Paris did not show any consistent interest until 1904, when sealing permits were issued in the region (Peterson 1988).

In fact, sealing and whaling were a turning point in the inclusion of Antarctica in international society. Captain Cook's report of his voyages caught the attention of sealers, who got alerted to the potentiality of stocks in the region. British sealers first arrived in South Georgia in 1786, followed by the Americans and the French. In 1810, South Georgia was considered the main centre for Southern Ocean sealing. Gradually, more islands were discovered and their shores used for sealing activities. In 1820, sealers arrived in the South Shetlands, expanding a resource frontier whilst making land discoveries. This blurred business issues and political endeavours in the region. The first sighting of the continent was reported by Edward Bransfield, in February of 1820, charting the coast of Trinity Peninsula. Nevertheless, Bellingshausen, a Russian admiral on the *Vostok* had probably sighted the continent by the Kronprinsesse Martha Kyst, two days before Bransfield. In November of 1820 as well, Nathaniel Palmer (an American) saw the continent by today's Palmer Coast. It is important to highlight that Palmer was himself a sealer (Auburn 1982, Beck 1986, Fuchs 1983). In 1840 and 1841, James Clark Ross from Great

Britain arrived at the ice shelf which was later named in his honour. Likewise, Dumont D'Urville, from France, reached the Adélie coast and Lieutenant Charles Wilkes, from the United States, found the coast which later also received his name.

At the end of nineteenth century, several expeditions were sent to Antarctica, consolidating a seasonal settlement in a region that was so far unknown to international society. This increasing human presence in Antarctica still did not mean a genuine interest in the region. In fact, the decrease of whaling stocks in the Arctic prompted a search for new whaling areas in the south. Whales captured by traditional technics were nearing extinction in the North Pole region, leading to the development of technics to capture those species which were thus far unattainable: blue whales, fin whales and other species of rorqual whales. Norwegian whalers were pioneers in the development of these new technics such as harpoons with grenades and motorised catcher vessels, surpassing the Americans and the British in the whaling industry. As a consequence of the increase in productivity the stocks of rorqual whales were reduced in the north, taking whalers to a new resource frontier in southern waters in the late nineteenth century. The Norwegian endeavour encouraged others to establish whaling stations in the region, turning the international society's attention to Antarctica and to the question of sovereignty in the region. Shore stations became strategic and profitable from taxation as whale processing depended on large quantities of fresh water, which was logistically difficult to provide in ships at the sea (Howkins 2016).

Meanwhile, from 1893 onwards, several expeditions were sent to Antarctica, initiating what is commonly known as the "heroic era" (Auburn 1982). In 1895, the International Geographical Congress considered an urgent need for Antarctica to be researched and explored and a race to the pole was initiated in media and popular culture, securing funds for several expeditions such as Scott and Shackleton (United Kingdom), Bruce (Scotland), de Gerlache (Belgium), Amundsen (Norway), Borchgrevink (Norwegian resident in Australia), von Drygalski and Filchner (Germany), Charcot (France), Nordesnkjöld (Sweden), Mawson (Australia) and Shirase (Japan) (Beck 1986). Amundsen reaching the South Pole in 1911 was highly covered by the press, especially because his expedition was in a famous race with Scott, who just made it in 1912 and did not survive the way back. Scott's intent was acknowledged in national heroic terms: "*To a nation uncertain of her values and threatened by enemies, the example of Oates' death* [Scott's companion] *dispelled the doubt – from the frozen regions of the South, there*

seems to be come, like a trumpet call, a message: the greatness of England still." (Beck 1986, p. 26)

The whaling activities and the exploring expeditions to Antarctica were outcomes of the expansion of international society to the region, when technological advances such as steam power, long-range firearms and medical techniques enabled the exploration of the furthest regions of the planet. Nevertheless, nationalism was becoming a defining institution in international society as the main legitimiser of the sovereign state (Little 2013). Antarctica emerged as an object of economic and national interest as states reaffirmed their national identity and searched for new resource frontiers at the same time. According to Bull (1977), the expansion of Westphalian international society in the eighteenth and nineteenth centuries throughout the globe relied on the full development of states as "*independent political communities each of which possesses a government and asserts sovereignty in relation to a particular portion of the earth's surface and a particular segment of the human population*" (Bull 1977, p. 8). State sovereignty, in this case, means supreme authority within a specific territory and population, and independence from outside authorities (Bull 1977).

International societies are built by states as well as other units, such as transnational actors (enterprises and non-governmental organisations, for instances) and individuals. However, the dominant units are those that determine their dynamics (Buzan 2004). And in the case of the expansion of Westphalian international society to Antarctica, the state became the dominant unit due to its centrality in making the law, in monopolising the use of violence and taxation, and in defining territoriality (Buzan 2004). We are aware that non-state actors (sealing and whaling companies) along with their respective national states were pioneers in the region, including Antarctica into international trade. Nevertheless, as nationalism also became one of the key drivers for the region's exploration, it is essential to understand how international society became constituted in these terms, expanding all its institutions throughout the planet.

2.2 The formation and expansion of international society

International society is one of the three analytical concepts developed by the English School Theory of International Relations to identify the material and social structures of global international relations. The analytical concept of an international system is part of the Hobbesian/Machiavellian tradition, where states' interactions are based on power. The

anarchical quality of the international and the distribution of material capabilities among its units (the state) structure their relationships. Therefore, according to this tradition, international relations are based on conflict and gain for one necessarily means loss for others. On the other hand, international society is related to the institutionalisation of shared interests and identities amongst states. The Grotian tradition states that international politics is based on a society of states acting upon common rules and institutions. International politics would comprehend conflict and identity at the same time, with rules and institutions which enable coexistence and cooperation amongst actors. The Kantian tradition hosts the analytical concept of world society. Individuals, non-state organisations and transnational actors compose this society based on global identities and on the transcendence of the state-system: transnational bonds are considered the basis of international relations. This universalistic view understands that conflicts of interest are just superficial, as all peoples share the same moral imperatives and a cosmopolitan society would be the final outcome (Bull 1977, Buzan 2004).

According to Bull's perspective (1977), the system of states – or an international system – is constituted when two or more states have a long-standing interaction and impact each other's decisions as if they were parts of a whole. But when this group of states identifies common interests and values, they bound themselves by common rules, shaping their relationships with each other and forming a society of states – or an international society. This sharing of common values and pursuits lead actors (in this case, states) to act similarly, preserving the order in which they found themselves. Therefore, order is generated in international society through the practices undertaken to assert society's primary goals. The first goal is the preservation of this society and of its members as the main actors in world politics. In the case of international society, states are those actors. The second goal is the maintenance of the independence of states, or of their external sovereignty due to the absence of a supranational authority above states. Nevertheless, partition and absorption of smaller states into greater ones have been practices in international society, demonstrating that state sovereignty is subordinated to the preservation of the society itself. The third goal is peace, which is achieved by instituting absence of war as the normal condition of this society. Nonetheless, peace is also subordinated to the preservation of the society and to the independence of states, accepting wars is considered necessary for guaranteeing the achievement of these prior goals.

The fourth goal of international society comprises aspects elementary in any other society: limitation in the use of violence, honouring of agreements and respect of property rights. In an

international society, the limitation of violence is translated by the monopoly in use of violence by the state and by the deployment of an aggression only in the face of a just cause (which must be based on the common rules). The limitation of violence is also identified by the establishment of rules on how a war should be fought, limiting how an opponent is acceptably harmed (*temperamenta belli*). The need to honour agreements is translated as *pacta sunt servanda*, which provides stability and expectation in interactions, enabling cooperation among states. And the respect of property rights is translated in international society as the recognition of sovereignty, where a state acknowledges the limits of its own jurisdiction upon others' territories and populations.

Bull states that the common pursue of these shared goals needs to be clarified in terms of rules and institutions, which will precisely guide the behaviour of actors in a patterned way. Rules are defined "*... as general imperative principles which require or authorise prescribed classes of persons or groups to behave in prescribed ways.*" (Bull 1977, p. 52) In international society, rules can vary from international law, to moral rules, customs or even just operational guidance. And, as the main actor of international society, states are responsible for making rules and giving them meaning; communicating them, by explicit statements and/or their performance; administering them when executing or monitoring other's behaviours accordingly to the rules' content; interpreting rules by their own domestic internalisation; enforcing them by pressuring their adoption by others; legitimising rules when they accept and reproduce them by their own patterned behaviour; changing them, when they modify their performance and their speech about some common expectation or prescription; and finally, states protect the rules when they act towards the preservation of the society in which they find themselves (Bull 1977).

In other words, the condition for the formation of a society is the existence of common principles and values among units. When these principles and values are commonly shared, they became primary goals for the existence of this society. The continually pursuit of these goals provides not only the preservation of the society, but also a patterned behaviour among its actors, generating an order. To be pursued, these goals must be clarified in terms of norms and rules, which are created, internalised and systematically performed by states. Therefore, "*the process by which a given set of units and a pattern of activities come to be normatively and cognitively held in place, and practically taken for granted as lawful*" constitutes an institution (Buzan 2004, p. 173). In Bull's (1974) definition of international institutions, he states:

> by an institution we do not necessarily imply an organisation or administrative machinery, but rather a set of habits and practices shaped towards the realisation of common goals. These institutions do not deprive states of their central role in carrying out the political functions of international society… They are rather an expression of the element of collaboration among states in discharging their political functions – and at the same time a means of sustaining this collaboration. These institutions serve to symbolise the existence of an international society that is more than the sum of its members, to give substance and permanence to their collaboration in carrying out the political function of international society, and to moderate their tendency to lose sight of common interests (Bull 1977, p. 71).

Buzan (2004) states that the "institution" has a conceptual advantage over norms, rules, principles and values, since it is encompassing, whereas these concepts overlap among themselves. He exemplifies this blurred characteristic with Krasner's definitions: "*Principles are beliefs of fact, causation, and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice*" (Buzan 2004, p. 163). If principles, norms, rules and procedures can be implicit and explicit, there is not much difference between a principle as a "belief of rectitude" and a norm as a "standard behaviour that defines rights and obligations". Is the principle the producer of a norm or a norm that is the producer of a principle? How can a belief not be a defining idea for a right or an obligation? A similar question could be addressed by the difference between norm and rule (prescription and proscription of actions), as both are authoritative and regulate behaviour, and both could be implicit and explicit as well. What defines a right or an obligation as not prescribing an action? And if procedures are "prevailing practices", how can these practices not be a principle, a norm or a rule?

There are several interpretations in literature about distinctive types of institutions. Holsti (2004) divides international institutions into foundational and procedural. Foundational institutions define and give privileged status to actors as well as establish the fundamental principles, rules and norms upon which they base their relations; whilst procedural institutions refer to repetitive practices, ideas and norms that regulate interactions between different actors (Holsti 2004). This classification correlates with Ruggie's (1998) constitutive and regulative rules and Bull's (1977) rules of coexistence and rules of cooperation. However, Buzan (2004) does not follow the same rationale of constitution and regulation. In fact, he suggested institutions could be constitutive and regulative at the same time, while differentiating primary

institutions, where primary or master institutions generate and/or shape other institutions. Bull (1974) identifies that international society is constituted by five institutions: balance of power, international law, diplomacy, great power management and war. Buzan, on the other hand, identifies eight master primary institutions: sovereignty, territoriality, diplomacy, balance of power, (in)equality of people, trade, nationalism and contemporary environmental stewardship. They represent the habits and practices of states when pursuing their common goals which enable the existence of international society.

Bull states that an international society is always preceded by an international system, but the opposite is not true. In contrast to Bull's scheme, Buzan's interpretation (2004) suggests that the international system and international society should be merged as an 'interstate society'. Systems allude to a mechanical interaction between units whose differences in material capability (military and economic) would be the defining element of their relationship. Nevertheless, if all human interaction is founded in social bonds, a mechanical relationship provided by a systemic view of interstate interactions does not have a place. Asocial interactions can only be found in history when the other is not considered a counterpart and extermination is the only social action undertaken: "*indifference seems unlikely in the presence of sustained contact*" (Buzan 2004, p. 100). This does not mean the absence of a conflictual interaction or the dismissal of features such as distribution of power. Materiality and hostile interactions are one of the possible forms of interaction such as sharing of values or cooperation, generated by continuous social interactions in a social system.

After the international system and international society, the third analytical concept proposed by Bull is world society. World refers to the largest scale in comparison to other forms of international organisation and presents self-contained qualities. World society results in an order where practices are undertaken to assert primary goals of mankind as a whole. For this reason, world order is more fundamental and morally superior to international order, as its primordial unit is individual human beings who can create different forms of political and social organisations beyond the state. To what extent norms, rules and institutions of international society can be built away from the foundations of sovereignty and non-intervention is what creates the distinctions between those who defend the primacy of order (pluralism) and those who argue that order without justice is unsustainable (solidarism) (Buzan 2014). Pluralists understand that international society is based on minimal rules of coexistence whereas solidarists believe that international society could transcend statehood, developing a wide array

of norms, rules and institutions which enable not only coexistence, but also cooperation and collective enforcement. From Bull's perspective, solidarism is incompatible with the Westphalian state (Buzan 2004).

Then again, Buzan (2004) offers a different perspective to tackle the relations between international and world society, consequent to the pluralist/solidarist debate. Buzan maintains the division between state and non-state actors, as the state still retains the highest capability of agency in international politics. However, non-state actors cannot be considered as a homogeneous group, because individuals – the main unit for the Kantian tradition – generate different patterns of shared identities compared to collective units identifiable in agents such as states and transnational actors. Collective units are understood as "*substantially autonomous social collectivities sufficiently well-structured both to reproduce themselves and to have decision-making processes which enable them to behave in a self-conscious fashion*" (Buzan 2004, p. 119). Therefore, Buzan proposes a division between interstate societies, interhuman societies and transnational societies. These societies are classified in terms of which actors they refer to (states, individuals and transnational actors) and which values these actors share. In similar terms to Bull's classical approach where the three traditions (Hobbesian, Grotian and Kantian) occur simultaneously, Buzan identifies the same rationale in Wendt's (1999) types of international social structure: Hobbesian, Lockean and Kantian (Wendt 1999).

In his scheme, Wendt conceptualises structure in social terms (rather than material ones), where different structures represent different cultures according to how subjects constitute and are constituted by the "Self" and the "Other" shared ideas. This constitution process defines the roles played by the Self and the Other in their interactions which could be roles of enemies (in the Hobbesian culture), rivals (in the Lockean culture) or friends (in the Kantian culture). The defining element of these subject positions is the orientation of the Self towards the Other in terms of the use of violence. Enemies identify a threat to the Other and do not limit the use of violence against each other; whereas rivals see themselves and the Other as competitors, and the use of violence is employed for achieving their respective interests, but not resulting in someone's annihilation; and friends, who do not use violence against each other to solve disputes and tend to work together against common threats. The anarchical system will be defined according to the dominant role identified in actors who internalise their respective identities and interests. This observation of norms by actors can happen because they are forced, because it is in their self-interest or because they believe that those norms are legitimate. These

different levels of internalisation can be summarised by: force, price or legitimacy. From this perspective, conflictive anarchies can present high levels of intersubjectivity to the same extent as highly cooperative ones: "*Hobbesian logics can be generated by deeply shared ideas, and Kantian logics by only weakly shared ones*" (Wendt 1999, p. 254). Each logic of anarchy can be realised in multiple ways, forming a combination of different degrees of society (enemy, rival or friend) in relation to the different degrees of cultural internalisation (coercion, calculation and belief).

For Buzan, Wendt's main contribution is about how norms and values are internalised by actors, becoming a social practice. Nevertheless, instead of maintaining the three theoretical traditions in his scheme, Buzan focuses on the social formations brought about by each tradition and on the different levels of internalisation they can present. To some degree, interstate societies, interhuman societies and transnational societies have been always present in international politics, presenting different social formations (enmity, rivalry and friendship) and different levels of norm internalisation (coercion, calculation and belief). Buzan also dissolves the antagonistic perspective between pluralism and solidarism types of society. Pluralism and solidarism represent differences in the amount and in the intensity of values shared by an interstate society, conforming a spectrum from low (thin) to high (thick) density. Therefore, they define different types of interstate societies instead of being one of them.

Although we agree and adopt Buzan's interpretation of the English School, we prefer to retain Bull's nomenclature of "international society" to refer to what Buzan calls 'international system' several times in his book (2004). International society is here understood as encompassing interstate, interhuman and transnational societies simultaneously, where these distinct analytical levels do not exclude the other. In fact, we agree with Buzan in giving a greater importance to interstate society, as we concur that the state is still the main agent. And we also agree with Buzan that non-state actors must be analytically considered along with states, and for this reason, we need a nomenclature that does not exclude any kind of agent. On the other hand, it is necessary to keep this analysis in harmony with other works from the English School. The expansion of international society provides the historical perspective necessary to understand how Antarctica emerged as an object of political and economic interest in the nineteenth and twentieth centuries, incorporating institutions from international society in the region.

The evolution of international society and the European expansion were closely interlinked (Little 2013). The emergence and expansion of international society dates from the fifteenth, sixteenth and seventeenth centuries, when Western Christendom was disintegrating and modern states were starting to emerge. States were initially embedded in Christian morality, as Christendom provided states with a prior bond – natural law bounds and encompasses mankind. Nevertheless, Christendom's universal vision of world and authority was weakening. Princes who managed to overcome inside rivalry and assure their independence from outsider authorities were able to rely on new common interests and rules. Hence, the emerging international society was being built upon inherited Christian values – which were shared – but also upon natural law, considered more appropriate for this transitional time (Bull 1977, Watson 1984).

Natural law was grounded in diverse origins such as rules inherited from Romans, existing law from mercantile and maritime activities from the mediaeval period, and divine law. This diversity was backed up by an embedded perception that natural law was meant for a universal society, following the Roman *ius gentium* which envisaged a law common to all nations. As such, with states still in formation, several sorts of political organisations were considered as they coexisted during the emergence of international society. Their main goal became the limitation of violence amongst themselves and the need to assure the honour of their agreements – which must be inclusive and valid to all engaged. This universalistic approach – provided by natural law – supported the emergence of important institutions from international society, but not all. The transitional time from Western Christendom to European international society was the basis for the development of institutions such as international law and diplomacy via the principle of "inviolability" of envoys and the concept of "extraterritoriality" for official representatives. Nevertheless, balance of power, for instance, was not theorised until the Peace of Westphalia, in 1648, which terminated the Habsburg's pretension of a universal monarchy. Sovereignty also emerged later. Based on the differentiation of units by their rights to secure independence in relation to others, an inclusive approach such as the one offered by natural law could not manage forms of political organisation which were not defined by independence nor elaborate secondary institutions which demanded a coexistence from these different units (Bull 1977).

By the eighteenth and nineteenth centuries, Western Christendom's influence on the theory and practice of international politics had almost disappeared. The state became the main form of

political organisation, first in an absolutist format and later in a national format. International society evolved from the transitional time and natural law was replaced by positive international law. From a law which was universally encompassing, the positive international law considered international society only as a European association and admission was accepted only for those who accomplished the standards of European civilisation. European states witnessed the reinforcement of their common values in their interactions, but a consequence of this perception was a contrast in the code of conduct in relation to other societies (Watson 1984).

During Christendom, the first phase of the European expansion occurred in three directions: south and west, south and east, and east. The thrust to the south and west aimed for the re-conquest of Iberia and Sicily, regions which were previously Christian and Latin, displacing the Muslim presence. Another thrust took place towards the south and east with the Crusaders in Palestine, a region which was considered Christian, but not Latin. The Christian influence in Palestine lasted a few centuries as the Ottomans established themselves in the region, conquering the Byzantine Empire as well and extending their dominion to eastern Europe. The Christendom thrust also targeted the east, from Scandinavia and Germany to the south and east Baltic, finding its limits upon reaching Orthodox Christian Russia (Watson 1984). The reasons behind Christendom's expansion are complex. The crusades were an endeavour with religious, economic and military features. Established by the Pope and communicated by the Church, volunteers from all Christendom were expected to engage, motivated by the pursuit of interests of the whole, as the crusades were wars fought in God's honour and to redeem mankind (Watson 1984). Nevertheless, new lands were acquired and new populations Christianised. Therefore, the expansion of Western Christendom did not mean exchanging nor including other societies. These expansions resulted in the subjugation of alien domains, applying Christian values and institutions to these territories and populations.

Renaissance and Reformation in the sixteenth and seventeenth century reduced the religious authority and created space for independent statehood. With the disintegration of Christendom and the establishment of sovereign states, rulers were able to concentrate power and new forms of wealth generation were envisaged. The high competition within Europe saw expansion towards overseas as the new frontier, incorporating the "new world" into their system of government. This second phase of expansion lasted for three centuries and was based on competitive maritime exploration. The great maritime powers of that time (Portugal, Spain, France, the Netherlands and England) established colonies or commercial agreements in

America, Africa and Asia (Watson 1984). A consequence of the settlement of these colonies, especially in America and Australasia, was the transfer of European institutions to these regions and their later appropriation; the inclusion of non-Europeans in international society was conditional on their ability to absorb and reproduce European international society institutions.

Nevertheless, the consolidation of international society was made by states and this became the primary condition for recognising a new member. States would share the same rights and the same obligations. Rules and institutions which were agreed consensually would be applied reciprocally. However, these boundaries raised by European international society excluded oriental kingdoms, Islamic emirates and African chieftaincies, for instance (Bull 1977). Transformation of the legitimising principles restricted international society for those who could not present similar conditions of statehood. During the Christendom's disintegration, the first states were monarchies legitimised by the principle of dynasty. Sovereignty over a territory and population was designated to the ruler. With the consolidation of international society, the legitimising principle changed: sovereignty over a territory and a population was designated by the rights of their own nation. Acquisition of territories were no longer justified by dynastic marriage, but plebiscite. And the patrimonial principal gave way to the principle of national self-determination (Bull 1977).

The rules of coexistence substituted the universalist natural law for the law of nations. As such, there was not a law common to all anymore. There was a law between nations – which actually meant law between nations accepted into international society (Bull 1977). The principle of limited use of violence was also modified and came to be understood as the legitimised use of force only by a recognised state. If all states were legally able to wage war, the idea of a "just cause" vanished, as international society would be incapable of deciding which state would be just in this engagement. As a consequence, impartiality of states not involved in a war meant they could no longer support the just aggressor in a conflict. Impartiality meant neutrality regardless of other states natural positions on a particular side of the conflict. The rules which restrained how war should be conducted also became valid to all states. And the honouring agreements also changed. Instead of the allusion to private contracts, where treaties could not be extended to successors, late European international society recognised treaties to be binding to successive governments, unless circumstances changed.

Sovereignty was also modified by the consolidated European international society. It became an attribute of all states and the reciprocal recognition of sovereignty the fundamental bond of society. Non-intervention, juridical equality and rights of states over their domestic jurisdiction were developments resulting from the sovereignty institution, characterising it as a complexity of rights from positive international law rather than as a right from the universally binding natural law. The constitution of common organisations and agreements based on the cooperation amongst states is another important evolvement brought about by positive law to international society. Perceived differently to philosophy and theology as well as distinct from the customary private law, the emergence of public international law was configured as a body of rules which recognised equality among sovereign states and assured that the balance of power was a goal to be pursued for the maintenance of international society (Bull 1977).

All these changes brought by international law had two effects: they kept part of the world outside international society, but they also established the conditions for its inclusion. During the eighteenth and nineteenth century, for instance, American and French revolutions reached the colonies, where rules, institutions and codes of conduct from the European international society were incorporated. European colonies in America demanded independence based on the exported values of sovereignty and juridical equality (Watson 1984). Nevertheless, in 1815, European leading states at the Congress of Vienna – after defeating the Napoleonic pretensions – decided that balance of power should not be the only provider of order in international society. Balance of power should be directed by the hegemony of the five great powers, or the European Concert (Austria, Prussia, Russian Empire, United Kingdom and later, France), establishing the first use of "great power" as an institution of international society. As a consequence, the other European states were relegated to a secondary role and "non-European voices carried even less weight" (Watson 1984, p. 30).

The third phase of the European expansion was led by the industrial revolution, which contributed to the relative superiority of Europe in economic and military terms and to its institutional encompassing of most of the world's territory. European self-image was constituted by racial theories and the world was racialized according to European institutions (Little 2013). For instance, preliterate peoples have always been considered simple by Europeans and Asians. But with the industrial revolution, Europeans started to perceive Asians as outdated, and modernity, which included European civilizational values, was forecast to be spread all around the world. So far, European expansion was maintained by settlement, trade

and balance of power; but in the nineteenth century, civilizational imposition was also part of the European duty where colonies no longer meant settlement, but actually authoritarian management and rule by Europeans over natives. The expansion of this late European international society presented similar patterns to Christendom, when expansion did not mean only economic gains. Educators, doctors, priests and administrators were also engaged with the westernisation of colonies in Africa, Asia and Oceania and of their respective elites. These elites resigned themselves to a Western vision of superiority when they adopted its rules, institutions and codes of conduct as the model to be achieved for being accepted as members of international society. But the great difficulty faced by the elites was to reconcile these imported institutions, which maintained their own hierarchical position, with the particularities of the majority of their population (Watson 1984). Therefore, international society primary institutions were not able to have their rules, institutions and codes of conduct reproduced in similar terms to Europe, creating regional differences within international society.

Even those non-European states previously considered sovereign, and not colonised, needed to conform with the rules, institutions and codes of conduct of European international society (Watson 1984, Little 2013). Asia, Ottoman and Persian empires, for example, were obliged to adapt to European standards when dealing with them or with the areas they dominated. China and Japan were also able to keep their independence, but they needed to westernise, especially through trade agreements. In Africa, large areas were included under the jurisdiction of international society whilst the continent was divided according to the rivalries of the European great powers. At the end of the nineteenth century, the United States and Japan were conferred with a regional great power status, expanding the management of international society. However, the constitution of a global international society only arrived at the end of the Second World War, where decolonisation in Africa and Asia provided the inclusion of many new states and where international institutions established the standard for international politics.

2.3 International society in Antarctica: territorial sovereignty claims

The third phase of expansion of European international society corresponds to the moment when Antarctica emerged as a territory and rules, institutions and codes of conduct from international society were brought to the region. The first attempts to reach the continent were the result of the competition among industrial revolution powers, for the need to discover new lands and resources to supply their growing industrial activity. Sealing started in Antarctica

because there was a market for fur seal pelts. Likewise, whaling oil supplied manufacturers of soap, leather and textiles. Lubricants for machines and lightening were also other important uses (Howkins 2016). We should also not ignore the symbolism attached to expeditions to the furthest places on the planet. Having the financial and technical ability to reach the poles and settle in unhospitable environments was a demonstration of prestige and power among competitive nations of international society at that time, reinforcing national identity to the consolidated sovereign state.

Another important feature was the constant search for knowledge about the world, justifying scientific research in Antarctica from that time to the current day. These regions were barely known to international society, and an important characteristic of the third expansion was the will to control knowledge. Colonisation involved anthropological research as much as biological and geographical investigation, knowing and controlling the incorporated territories and populations. In Antarctica's case, safe navigation to the Southern Ocean or the ability to locate whale and seal stocks were crucial in keeping a nation ahead in a competitive market. And European and non-European great powers involved in the sealing and whaling activities were establishing, at the same time, their own prerogatives of presence which resulted in the definitive integration of Antarctica into international society.

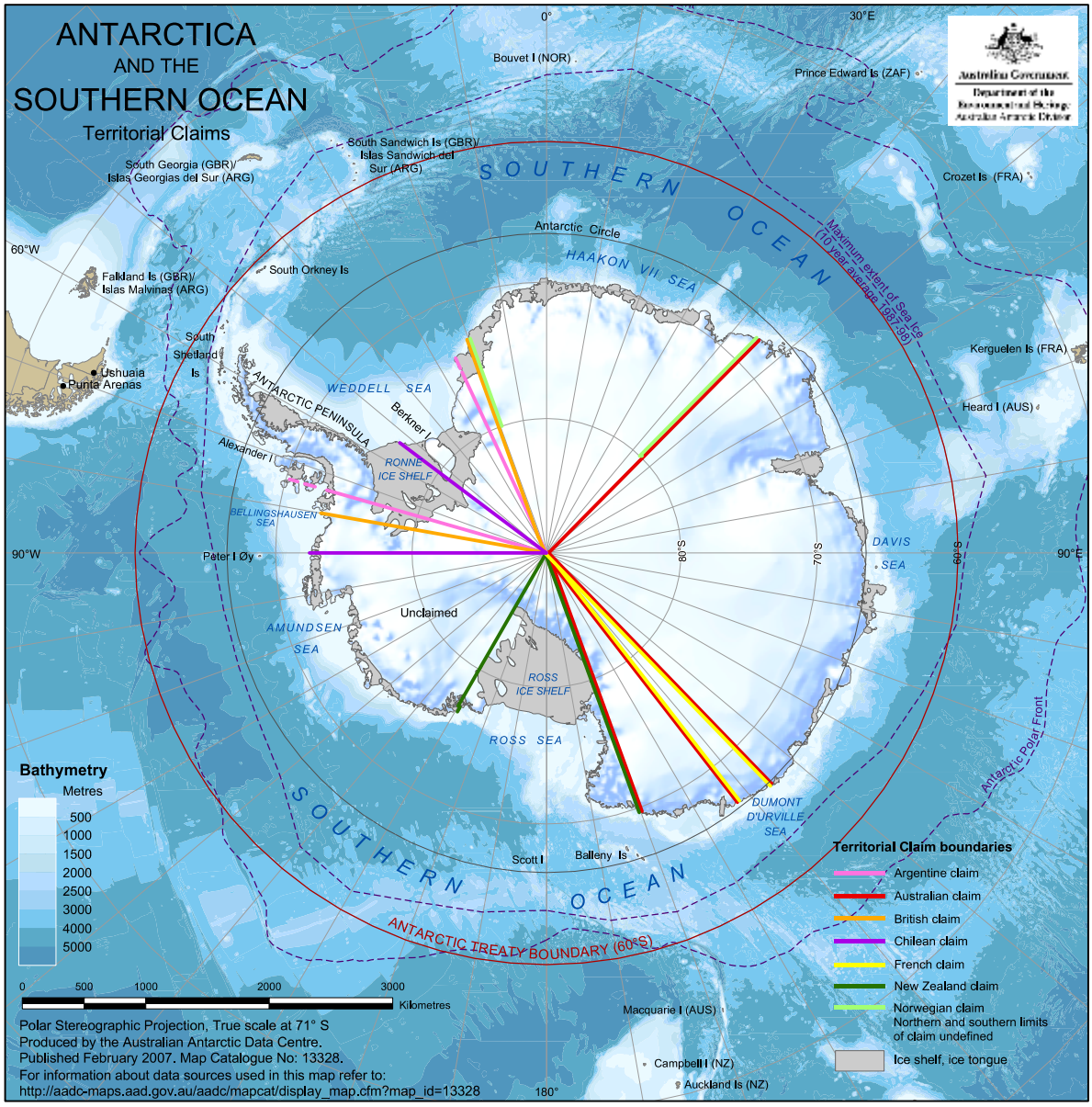
Sovereignty over Antarctic territories was the next step of this expansion towards the south. Most nations relied on discovery as a legitimate base for a territorial claim – as there were no native people in the Antarctic region. The exceptions to this legal argument were Argentina and Chile (based on territorial contiguity and inherited rights of possession) and the United States and the Soviet Union, who reserved their right to make a claim in the future (Auburn 1982). In international society, the sovereignty primary institution evolved along with international law to establish rights of acquisition for unclaimed territories. The Final Act of the Conference of Berlin, in 1885, covers in Article 35 the establishment of European authority on the coasts of Africa based on the control of population. Nevertheless, Antarctica did not present original populations to be controlled. Therefore, the nature of the territory must also be taken into consideration. A more populated and geographically close territory demands more evidence to achieve a general acknowledgement of its authority. But for an uninhabited land with difficult access, evidence of an actual effective control is easier to obtain with less competition, where "*much depends on the creation of facts*" (Auburn 1982, p. 5). In these cases, the creation of

facts does not necessarily need to be substantive, as a relative validity is considered enough for a claim.

Therefore, subsequent to discovery, Antarctic claiming nations used a variety of evidence to reinforce the legal substance of their claims. *Symbolic annexations* refer to ceremonies and use of objects, such as planting of national flags and coats of arms, in order to signal sovereignty and to be easily understood by any other actor once publicised. In Antarctica, expeditions in the beginning of the twentieth century carried and planted national flags, merging discovery with public manifestation of territorial claim. Symbolic annexations were especially important to nourish national identity with the new territory, creating a shared perception of extension and belonging of the new land to the nation. *Effective occupation* is the concrete demonstration of sovereignty as it means a permanent settlement of a group whose authority is sufficiently respected to guarantee the continuity of their acquired rights. In this case, the most active nation is the one whose claim will prevail. As Antarctica presented singular conditions at the beginning of its occupation which compromised a permanent settlement, symbolic administrative practices were undertaken as a potential demonstration of sovereignty. Postage stamps with claiming references were considered a feasible way to demonstrate national authority over the Antarctic region, especially if the posted stamp was accepted by the recipient (Auburn 1982).

Another sovereignty demonstration comes with the approval of legislation upon the claimed territory and the ability to enforce it. Issuing permits, customs, search and rescue support, health and navigation; all were ways found by claimant states to demonstrate their authoritative role in the rule of the claimed region. Nevertheless, these demonstrations only count as evidence if they are run by the state. Therefore, *state acts* mean all actions carried out or ratified by a state in reference to an area to be claimed. In Antarctica, private expeditions which claimed discovered areas do not have legal validity. It is the endorsement of a state that grants national content to a sovereignty claim. *Notification* is the public face of a sovereignty claim. It is harder to claim a territory and run ceremonies which are endorsed by states if they are not communicated to others, especially to those also interested in the same area "*sovereignty must be asserted openly and in some well-understood and unequivocal manner. The mode of assertion may vary. Publicity appears to be essential but not sufficient of itself. There must be proof that the other States affected know, or should have known, of the existence of the claim."* (Auburn 1982, p. 17).

Figure 1 – Map of territorial sovereignty claims in Antarctica



Source: https://data.aad.gov.au/database/mapcat/antarctica/territorial_claims_13328.pdf. Accessed on 02 December, 2016.

The United Kingdom was the first state to define pre-existing claims into a formal one via the King's Letters of Patent in 1908. All islands south of 50°S (between 20° and 80°W) and Graham Land in the Antarctic Peninsula were included, forming the Falkland Islands Dependencies. A revision was made in 1917, claiming all islands from 50°S to the South Pole between the meridians 20° and 80°W; and the territory from 58°S to the Pole, between the meridians 50° to 80°W (Peterson 1988). This first sovereignty claim prompted several reactions. In 1904, Argentina alleged that the British ceded the South Orkney Islands when the operation of the weather station on Laurie Islands began to be managed by Argentina (Peterson 1988). An

agreement was proposed by Argentina about the region in 1913, but this attempt was not successful. France also reacted, stating their interest over some sub-Antarctic islands and Adélie Land as well (136° to 142°E). French concern was related to its fishing rights in sub-Antarctic islands around its respective claimed territory (Joyner 1998). Nevertheless, as the main actors in the region were involved with the First World War, discussions did not advance during these years.

However, in 1920 the British stated their intent to include Antarctica in the British Empire. Additional sovereignty claims were then made in 1923, including land and islands located from 60°S to the Pole and between the meridians 160°E and 150°W, also known as Ross Dependency. The administration of the area was delegated to New Zealand's government, providing the basis for New Zealand's claim. In 1926, new additions were made, including the whole area from 60°S to the Pole and between the meridians 20° and 80°W. Once more, the continuous addition of new territories to the British claim provoked reactions from other parties. In 1923, France restated its rights over Adélie Land and after negotiations, they were recognised by the British. France then issued decrees defining its sovereignty claim which included the Crozet and Kerguelen Islands, to be administrated by the government of Madagascar.

The Norwegians were next to respond to the expansion of sovereignty in the Antarctic region. The expansion of British control over Antarctica during the 1920s and 1930s prompted Norwegian concern about the control of the whaling industry in the region. Norwegians first claimed Bovet Island in 1928 and Peter I Island in 1931. In the meantime, from 1929 to 1931, Mawson led the BANZARE expedition[1], enabling a British claim to the area whose management was delegated to Australia in 1933. In 1936, the Australian government ratified the claim of the Australian Antarctic Territory (AAT). At this time, almost two thirds of Antarctica was under the control of British Empire (Auburn 1982, Beck 1986, Joyner 1998).

Nevertheless, new elements made the Antarctic framework even more intricate and the United States' dubious policy on Antarctica was one of them. In 1924, Secretary of State Hugues stated that "*the discovery of lands unknown to civilisation, even when coupled with a formal taking of possession, does not support a valid claim of sovereignty unless the discovery was followed by*

[1] The BANZARE expedition was a British, New Zealander and Australian effort in Antarctica, configuring a collaborated incursion by the Commonwealth states in the region (Berkman 2002).

an actual settlement of the discovered country." (Auburn 1982, p. 64) This statement automatically created tensions with the United Kingdom and its expansionist policy in the region. However, the Americans could themselves assure sovereignty claims based on similar evidence of discovery and exploration as the French, the Australians and the Norwegians. The acknowledgement that Palmer could have been the first one to sight the Antarctic continent, in addition to explorations made by Wilkes in 1840 and Byrd and Ellsworth in the 1930s already provided enough evidence for an American sovereignty claim. However, the turning point in American Antarctic policy was Admiral Richard Byrd's expeditions during the 1930s which boosted public interest in the region, inaugurating the "air age". Byrd was the first person to fly over the South Pole and he was able to utilise different media, such as radio, cinema and popular magazines, to spread an Antarctic awareness in the United States and secure funds for his endeavours. His first private expedition took place in 1928-30, establishing a base named "Little America" on the Ross ice shelf and undertaking scientific research at Queen Maud Land. His second private expedition took place in 1933-35, expanding the area of exploration to Edward VII Land and Marie Byrd Land. Lincoln Ellsworth also organised private expeditions and flew over the continent from the Antarctic Peninsula (Dundee Island) to Little America in 1935. On that occasion, he claimed the area from 80° to 120°W for the United States (and named it *James W. Ellsworth Land*). In 1939, a second expedition by Ellsworth expanded the area claimed south of 70°S (already in the Australian Antarctic Territory) and, albeit this was a private expedition, the Department of State supported Ellsworth's claim (Auburn 1982).

The first government-sponsored expedition was Byrd's expedition in 1939-41. Little America offered the support for work in King Edward and Marie Byrd Lands, whereas a base in Stonington Island supported the exploration of the southern coasts of the Antarctica Peninsula (Auburn 1982). Byrd envisioned a strategic use for Antarctica and tried to establish continually occupied stations, aiming to prospect mineral resources and make sovereignty claims for the nation. For instance, in this expedition, claim sheets were left in several rock cairns along with the United States flag (Auburn 1982). In 1938, due to an increasing public interest in the region, the United States government reviewed their polar policy and, in 1939, the creation of the United States Antarctic Service (USAS) reinforced a more nationalistic approach to the region. However, with the advent of the Second World War, American interest in the region waned, as attention was directed to other parts of the globe.

Meanwhile, in 1939, the German expedition *Neu Schwabenland* established the precedent for a potential claim by the Germans to the area located around 35°S (where Norwegians had been the only explorers so far). Hence, the Norwegians made their claim over Queen Maud Land in 1939 (from the Antarctic coast to the hinterland between the meridians 20°W and 45°E), evidencing it through the discoveries made by their own explorers. The Norwegian claim is unique when compared to any other because it does not present north nor south limitations, even considering that Amundsen, when he reached the South Pole, claimed the polar plateau for King Haakon VII in 1911. Norway was being consistent with its Arctic policy, as a north and south border would configure a sector and a sector policy in the Arctic would place the Svalbard Archipelago in the Soviet sector of the region (Joyner 1998). In addition to the Norwegians, the German interest in the region was also feared by the United States, especially involving Latin America, an American zone of influence. In 1940, the United States stated that American republics should guarantee that no "extra-hemispheric power" would have territorial rights in the region (Peterson 1988).

Similarly, the Soviet Union also decided not to make sovereignty claims nor recognise those made in the Antarctic. The presence of Russians in the region is first registered with the discoveries of the Peter I, Alexander I and South Sandwiches Islands, and the first sighting of the Antarctic continent by Bellingshausen and Lazarev in 1820. Nevertheless, the Russians never claimed the discoveries nor established any settlement in the region for 125 years. In 1931, the Norwegians claimed sovereignty over Peter I Islands, resulting in a Soviet declaration, in 1939, of non-recognition of the legality of the Norwegian claim. Only after the end of the Second World War did the Soviets return their attention to the Antarctic region. In the second half of 1940s, the Soviet Union launched the Slava whaling fleet to the Southern Ocean, joined by oceanographers who conducted scientific research in these waters (Howkins 2016). In 1948, the United States sponsored a conference to discuss the legal status of Antarctica at the same time that US-USSR relations deteriorated as a result of the Soviet blockade of Berlin (Boczek 1984). As a response, in 1949, a declaration from the All-Soviet Geographical Society stated the undisputable and historic right of the Soviets to participate in Antarctic matters *"[n]o solution of the problem of a regime for the Antarctic without the participation of the Soviet Union can have legal force, and the U.S.S.R. has every reason not to recognize any such solution*" (Boczek 1984, p. 837).

Argentinian and Chilean cases complete the entangled configuration of sovereignty in the region. The Argentinian presence in the Antarctic was first registered when sealers and whalers navigated around South Shetland islands in 1819 (independence from Spain was concluded in 1816). Despite a continued presence in the region, there was no permanent settlement in the region. In 1904, the observatory established on Laurie Island was not followed by continued occupation, for instance. However, Argentina claims for the existence of a postmaster on the island, which would implicate a national administration service (Auburn 1982). On the other hand, the British expansionist policy towards the region prompted a formal Argentinean sovereignty claim in 1925, for the South Orkney islands. Two years later, the claim was extended to South Georgia. And, in 1937, Argentina claimed the whole area of the Falkland Islands Dependencies (Fuchs 1983). In 1946, the government established the precise limits of the Argentinean claim which comprises the area south 60°S from 25° to 74°W (Peterson 1988).

Similarly, the Chilean presence in Antarctica was first registered by whaling activities around the Deception Island from 1906 to 1910. The rescue of Shackleton's men from Elephant island by Lieutenant Pardo, in 1916, reinforced the symbolic importance of Chile's geographical proximity. Nevertheless, it was only in 1940 that Chile made its formal sovereignty claim, overlapping with previous claims from Argentina and the United Kingdom (Fuchs 1983). Chile declared that all "*lands, islands, islets, reefs, ice packs and other things known and unknown, as well as their territorial waters lying between Chile and the South Pole and enclosed by the meridians at 53° and 90°W*" were Chilean territory (Peterson 1988, p. 35). Chile highlights its territorial contiguity to the Antarctica Peninsula as an important reason to justify its sovereignty claim (Joyner 1998), but not the only one.

Instead of arguments based on discoveries and occupation (as with previous claimants) Chile and Argentina justified their claims on a doctrine specific to the South American region. The Bull Inter Caetera from 1493, established by Christendom, divided the world to be discovered in two domains: Spain and Portugal. And the Tordesilhas Treaty, in 1494, established the definitive line of division. Albeit Antarctica was not possible to reach (so non-existent for those at that time), the Tordesilhas Line defined the territories which would be Spanish colonies in the subsequent centuries as well as the legitimisation criteria for their territorial sovereignty. After independence, *uti possidetis juris* defined that former Spanish colonies would inherit any territorial rights from Spain (Auburn 1982). The application of *uti possidetis juris* in Antarctica received many critics, as sovereignty inheritance could only be applied to Spanish territories

until 1810 (when independence wars began in America). Nevertheless, this interpretation is part of the Spanish American customary international law and Argentina and Chile could consider it when they advocate for a claim.

Colonial heritage is also present in Argentinean-British conflict over the Falkland/Malvinas Islands and sub-Antarctic islands. Territorial disputes evolved from conflicts between Spain and the United Kingdom in the region which goes back to 1770. This inherited, unsolved dispute contributed to the conflictive backdrop to the Antarctic question in the twentieth century. On one side, Australia, New Zealand and the United Kingdom recognised each other's claims, as a consequence of the British Empire, and acknowledged French sovereignty (excluding its enclave in the Australian Antarctic Territory). On the other side, Argentina and Chile have tried to come to a similar agreement over their southern boundaries, in 1906 and in 1941, supporting the idea of an "American Antarctic" and turning themselves into potential allies against the British presence in the Antarctic region (Auburn 1982, Peterson 1988). Nevertheless, they were not able to come with a solution for their common borders in their respective claims. Therefore, the Falkland/Malvinas question is exemplary of how British presence has been perceived as intrusive for Argentina in the region as a whole. The limit of 60°S is just an arbitrary division which separates the Antarctic from the sub-Antarctic region, or a region where dispute has been suspended and a region where dispute still remains.

The United States' aspirations in Antarctica together with Argentinean and Chilean overlapping claims exacerbated British positioning. The United Kingdom advocated for a less demanding concept of "effective occupation" for the Antarctic region, as permanent settlement was not feasible at that time. Based on a string of administrative activities such as issuing whaling licenses and regulation of the activity, and organisation of expeditions, the United Kingdom asserted to provide enough evidence for a legal entitlement to the region. The cases of the Island of Palmas (1928), Clipperton Island (1931) and Eastern Greenland (1933) were used as a precedent for a sovereignty recognition based on "*the intention and will to act as a sovereign, and some actual exercise or display of such authority*" (Beck 1986, p. 31). In addition, during wartime, the United Kingdom alleged that Argentinean connections with Germany, especially after the battle of River Plate, in 1939, demanded a stronger reaction. From 1942 to 1944, the British War Cabinet launched Operation Tabarin, a secret naval operation to assure British presence in the region, especially along the Cape Horn and Drake Passage routes. Bases were established in Antarctica to secure a permanent presence and remove Argentinean and Chilean

sovereignty marks in the region. With the end of the war, Operation Tabarin was transformed into a civilian organisation named the Falkland Islands Dependencies Survey (FIDS), where the research stations installed introduced permanent occupation along with scientific activities in the region. The FIDS was later re-named British Antarctic Survey, which is its current denomination (Beck 1986).

Exasperation with the British position deteriorated relations with Argentina and Chile and fostered nationalistic endeavours between them. Pelagic whaling – which was intensively practiced on Antarctic islands' shores – was developed and transferred to large pelagic factory ships, where whalers were able to process whales at sea in the Southern Ocean, not having to rely on shore stations anymore. As a consequence, territorial sovereignty in Antarctica was no longer a priority in economic terms (Howkins 2016); but it was increasingly in national ones. Thus, most of the Antarctic efforts made by nations, especially by the United Kingdom, Argentina and Chile at that time were embedded in nationalistic and territorial connotations, in an attempt to reassert their respective claims to each another. In 1947-48, HMS *Nigeria*, a British cruiser, took the Falkland Islands governor to the FID area. In 1948, the Chilean president, Gabriel Videla, visited Chilean bases in the region. In the same year, two Argentinean cruisers (*Veinticinco de Mayo* and *Almirante Brown*), six destroyers and supporting vessels navigated around the South Shetlands. In 1949, the fear of a real confrontation in the region led to declarations among the three nations agreeing to not dispatch warships south of the parallel 60° (Beck 1986). These declarations were renewed annually until the signing of the Antarctic Treaty in 1959.

However, developments following from Operation Tabarin continuously provoked reactions from Argentina and Chile, increasing the tensions in the region. Argentina re-established its Antarctic Commission in 1946 and organised a big expedition to the South Orkneys, South Shetlands and the Antarctic Peninsula. New bases, stations and facilities were established or reactivated during the period (Brown and San Martín in 1951, Esperanza in 1952, Cámara in 1953 and Belgrano II in 1955). Chile had a similar reaction (albeit at a lower scale) with Arturo Prat in 1947, Bernardo O'Higgins Riquelme in 1948, President Gabriel Gonzales Videla in 1951, and Risopatrón in 1957. And if most expeditions to Antarctica were private at the beginning of the century, after the end of the Second World War they tended to be funded by governments, leading to more serious incidents. In 1952, Argentina was accused of preventing the construction of an English base at the Hope Bay, interrupting the landing of supplies from

the ship *John Biscoe* under the threat of use of force. The area in dispute previously hosted a British base which was destroyed by fire in 1948. Then, an Argentinean base was built in the same area, creating animosities with the probability the new British base would be too close to the Argentinean one. The incident was forwarded to the governor of the Falklands, Sir Miles Clifford, who dispatched marines on board of the HMS *Burghead Bay* and forced a retreat from the Argentinean local personnel, assuring the reconstruction of the British base. This episode was resolved by a mutual understanding of "non-interference with each other's base" and animosities were excused by the recognition that the Falkland governor acted without further consultation and that the Argentinean commander exceeded his instructions (Beck 1986).

At the meantime, in 1947-48, Argentina and Chile tried one more time to establish a common understanding about their claims to Antarctica. However, they were again not able to reach an agreement due to their fear that an Antarctic boundary would affect their dispute over the Beagle Channel (Peterson 1988). As a result of these joint attempts, in 1948 the Doloso-La Rosa Declaration stated that "*until a settlement is reached by amicable agreement regarding the boundary limits in the adjacent Antarctic territories ... both governments will act in mutual agreement in the protection and legal defence of their rights in the South American Antarctica*." (Beck 1986, p. 34) They also tried to get the United States' support on their dispute, via the Inter-American Treaty of Reciprocal Assistance (Rio Pact), signed in 1947, which envisioned to guarantee a joint American response to any outside threat to the continent. The treaty obviously targeted the Soviet bloc and its attempts to establish zones of influence in Latin America. However, Argentina and Chile tried to demonstrate that British claims to Antarctica represented an outside presence (and, in their case, a threat) to the American continent. As the Treaty's jurisdiction comprises the area from 24°E to 90°W, the Rio Pact included part of the Antarctic territory. The British government then suggested taking their Antarctic claim dispute to the International Court of Justice in 1947 and again in 1955, which was promptly refused by Argentina and Chile. These governments understood that there was no place for third party arbitration over such a sensitive question as their right to sovereignty (Beck 1986). Indeed, the Argentinean government stated that their sovereignty rights were unassailable (Peterson 1988).

The difficulties faced in achieving a peaceful solution to territorial sovereignty in Antarctica led to a greater involvement from the United States. The United Kingdom was a NATO ally and Argentina and Chile were part of the American zone of influence. Therefore, Washington avoided any commitment to one side, but gave significant attention to the danger of violence

escalation in the region. A solution to the Argentinean-Chilean-British conflict could also result into a solution to the Antarctic sovereignty question as a whole. In 1947, suggestions were raised for establishing a condominium for the governance of the region or for turning the Antarctic into a special United Nations trusteeship. In both cases, the dissolution of sovereignty claims in the region was the main goal. At the same time, the United States was dealing with their own sovereignty considerations. In 1946-47, Operation Highjump represented the largest Antarctic expedition that had ever taken place, resuming the attempts previously developed by Ellsworth and Byrd. This operation involved aerial photography of vast areas, covering Alexander Island to Marie Byrd Land and from the Ross Dependency to the Australian Antarctic Territory. Also, ice-breakers, aircraft-carriers, 4,700 men and eleven reporters joined the expedition. During Operation Windmill, subsequently undertaken in 1947, claim papers were dropped from aircraft. The reasons for Operation Windmill were strategic and political. First, Antarctica offered similar conditions to the Arctic for military training (a region considered much more sensitive to Cold War disputes). And secondly, an ostensive American presence reinforced their own sovereignty claim, as in the words of the Secretary of State in 1946: "*A definite policy of exploration and use of those Antarctic areas to which we already have a reasonable basis for claim… in order that we may be in a position to advance territorial claims to those areas.*" (Beck 1986, p. 47)

Negative reactions from the United Kingdom came straightaway. Complaints were made because the Americans did not request permission to explore areas of the Antarctic British Territory. The non-request of permissions was a default procedure adopted by the Americans in Antarctica, as a request could symbolise the recognition of authority from the issuer of a determined region. American-British Antarctic relations deteriorated to the point that Finn Ronne's private expedition to Marguerite Bay in Graham Land, in 1946-48, witnessed a diplomatic dispute. Auburn (1982) reports that Ronne's expedition used an abandoned American base in Stoning Island 200 yards (or 230 meters) from a British camp. Byrd's East Base was evacuated in 1941, leaving lots of equipment and supplies. Nevertheless, in 1946, Britain decided to expand its activities in the region, installing a camp at the same point which included East Base as well. However, in the same year, Ronne's expedition planned to use the East Base. In communications between the two governments, the United Kingdom reported that there was not enough space or supplies for two full expeditions and that the base needed repair. Ronne understood the British reply as an attempt to discourage his expedition and, upon his arrival, he believed that the British had damaged the base. Due to the tense environment in the

area, Ronne was appointed as a postmaster by the Department of State, to demonstrate American administration of the area. To the same case study, Beck (1986) adds an anecdotal episode where Ronne, resentful of the British position, issued a non-fraternisation decree to his personnel. However, the British toilets were located on the American side of the camp, creating new frictions between the two groups. In the end, the British built their own sanitary facilities on their side.

As Beck asserts, these trivial issues actually represented deep fractures in the understanding of sovereignty and territoriality in the Antarctic. Inland disputes among different national groups raised confusion for Antarctic base commanders as well as for Antarctic administrators due to their sovereignty implications. For this reason, national Antarctic expeditions from claimant states tend to emphasise the sovereignty elements of their endeavours. In another more contemporary example, during a visit to Eduardo Frei Montalva Station during the Antarctic summer of 2012, the station chief replied "*This does not feel like Chile, this is Chile*" when the author commented that the lunch served and the broadcasting of Chilean television gave the perception as if they were all in Chile (Personal Conversation, 2012). Therefore, sovereignty perception and demonstration has been a constant in Antarctica and the increasing level of tension during the late 1940s was perceived as a real threat to peace in the region, leading to proposals for a solution to the Antarctic dead-lock.

2.4 The Escudero Declaration and the race for inclusion

In 1948, the United States attempted to concretely solve the Antarctic question. They proposed to all claimants a United Nations trusteeship – which was rejected by all. The British argued that involving the United Nations would necessarily implicate a role for the Soviets whilst British sovereignty claims would no longer be valid. The Argentineans and Chileans felt that having the United Nations involved in their domestic affairs would violate Article 2, paragraph 7 of the United Nations Charter, which prevents interference from the UN on member states' issues. Besides, the idea of trusteeship is essentially temporary, being proposed for areas in the lead-up to self-government (Peterson 1988, Auburn 1982). The subsequent suggestion was a condominium which also did not receive much support. The United Kingdom and New Zealand agreed that this proposition offered a basis for discussion about the status of the region, however Australia disagreed. The Norwegians and the French did not support the proposition either, being prone to an agreed division of the continent (Peterson 1988).

There were several outcomes resulting from the American proposals. The most impacting to future Antarctic affairs was the Chilean announcement of the Escudero Declaration in 1948. The Escudero Declaration proposed a suspension of five years on discussions and disputes about sovereignty in Antarctica, in order to enable more scientific research and exchange of information in the region. No new bases or expeditions south of 60°S would interfere in sovereignty rights and six months before the end of this agreement, consultations for an Antarctic conference would take place (Beck 1986, Auburn 1982). The Escudero Declaration provided the basic rationale to be adopted by the future Antarctic Treaty: postponement. A second outcome was the added attention to the region, with non-claimant actors wanting to be involved in a future Antarctic solution. Belgium and South Africa notified the American government about their interest to be included in any future discussion about the region. Belgium justified its interest with their historical involvement in the region via the Gerlache Expedition in 1899. And South Africa highlighted its geographical proximity with the region and its sovereignty over Prince Edward Island in the sub-Antarctic region. The third unwanted outcome of the American attempt was ironically the only point of convergence between the United States and the claimant states: the Soviet Union's involvement. The Slava whaling fleet and the unofficial declaration in 1949 from the All-Union Geographical Society had already alerted the United States and claimant states to an increasing Soviet interest in the region. In 1950, a formal memorandum was issued by the Soviet government, repeating the previous statements and reiterating that international practice guarantees that interested countries should be entitled to participate in international discussions (Peterson 1988).

The resistance to Soviet involvement was remarkable. The acknowledgement that Bellingshausen and Lazarev were the first to sight the Antarctic continent was contested, especially among the British and Americans who asserted their own respective nationals. The absence of Soviet involvement from the beginning of the nineteenth century to the 1950s was also pointed out as an undermining factor to their endeavour. Nevertheless, the animosities in place together with the fear over Soviet involvement triggered a race for a permanent presence in Antarctica. The first year-round stations of the region were built by claimant states, Japan, the Soviet Union and the United States in less than five years. Australia built Mawson in 1954 and David in 1957; France built Dumont D'Urville in 1956; Japan built Svowa in 1957; New Zealand established the Scott Base in 1957; the Soviet Union built Mirv in 1956 and Vostok in 1957; the United Kingdom established Rothera in 1956; and the United States established

McMurdo in 1955 and Amundsen-Scott South Pole, in 1956. As previously referred to, Argentina and Chile multiplied their presence in the region over the same period.

An important detail to consider is the location of the stations. Claimant states established their stations in their respective claimant areas whereas the United States and the Soviet Union decided to spread all over the continent. Unlike the Soviet Union, the United States had strong defenders for an American claim although their policy on the Antarctic was dubious. In addition, the remaining area to be claimed had not been claimed before due to its difficulties of accessibility, not making it attractive to the Americans. And if the United States wished to make a claim in another region, an overlapping problem would be instituted again with an ally. The Soviet Union, on the other hand, saved its right to make a claim, but no episode is registered where Russian explorers claimed a particular territory, even unofficially. Some might argue that the Soviets reserved their rights as a strategy to enable their consideration among claimant states and the Unites States, to participate in Antarctica discussions. But one could argue as well that the scale and location of the Soviet thrust in the Antarctic signalled much more than a will to participate (Auburn 1982). Nevertheless, actors' intentions are beyond the scope of our analysis, as "*motivation refers to potential for action rather than to the mode in which action is chronically carried on by the agent.*" (Giddens 1984, p. 7)

The fourth outcome from the American attempt to solve the Antarctic question and the ascension of Antarctica in international society is India and its attempt to bring the Antarctic question to the General Assembly of the United Nations in 1956 (Chaturvedi 1990). Recently in post-colonial India, Prime-Minister Jawaharlal Nehru was concerned about the expansion of Cold War tensions to Antarctica, whilst its officials in the United Nations – including Ambassador Arthur S. Lall and Krishna Menon – were pursuing the strengthening of India's performance in international forums. In October 1956, Lall submitted a memorandum to the Secretary General for a peaceful utilisation of Antarctica, to be included on the agenda of discussions of the General Assembly.

> Antarctica, a region covering about 6 million square miles of territory, has considerable strategic, climatic and geophysical significance for the world as a whole. With the development of rapid communications, the area might shortly come to have further practical significance to the welfare and progress of nations. The mineral wealth of landmass is believed to be considerable and its coastal waters contain important food resources... the government of India considers that in order to strengthen universal peace it would be appropriate

> and timely for all nations to agree and affirm that the area will be utilized entirely for peaceful purposes and for the general welfare (Chaturvedi 2013, p. 305).

The sovereignty issue is not mentioned in Lall's memorandum albeit the probable text which informed his statement was majorly concerned with the geopolitical aspects of Antarctica. However, the Foreign Secretary of the Indian Ministry of External Affairs (MEA) sent an urgent note to embassies and high commissions in Paris, Washington, New York, London and Canberra about a sense of bewilderment from some nations including Argentina, Australia, Chile, New Zealand, the Soviet Union, the United Kingdom and the United States about the item listed in the provisional agenda of the United Nations as "The Question of Antarctica". They wanted it unlisted or, in other words, not to be discussed. This urgent note briefed Indian diplomatic representatives in case they needed to provide clarifications to their respective host countries and explaining the need to discuss Antarctica's situation.

> It will provide opportunities for clarification as well as for constructive work. It is not our purpose that debate should be made against any country or for the support of any rival claims, nor do we wish to censure anyone or take sides. We feel however that in the interests of peace and international development and cooperation such a debate would be helpful (Chaturvedi 2013, p. 306).

However, reactions got much stronger. The Chilean press stated that India had made a big mistake in ignoring the fact that there were already countries in Antarctica with solid and juridical dominion titles similar to those India had for its own territory. In Argentina, the Indian ambassador communicated a strong reaction from Sub-secretary Castineiros saying that Argentinean claims to the Malvinas Islands and in the Antarctic had a strong nationalist sentiment, not permitting any international discussion on the sovereignty subject. The French ambassador in India made several inquiries about the real purposes of India's memorandum. The United States stated that it was unnecessary and politically unwise for India to propose such discussion at the United Nations as references to claims would be very hard to avoid, exacerbating rivalries already in place. And the United Kingdom also expressed its non-enthusiastic position and affirmed that no claimants would be in favour of India's inscription. In November 1956, India withdrew its proposal and justified it by saying that other urgent matters should be addressed by the General Assembly. Nevertheless, India restated that this withdrawal did not mean abandoning the issue nor diminishing its importance (Chaturvedi 2013).

India's action was the embryo for what later came to be one of the biggest challenges to the Antarctic Treaty's governance: criticism about its exclusivity. India was a post-colonial developing nation, a non-claimant, and had no evidence of a polar history; this brought a much stronger meaning to its attempt to participate in Antarctic politics. Chaturvedi (2012) highlights the "*symbolic-territoriality of the imperial-colonial claims/rights*" in Antarctica, which is questioned almost thirty years later by Malaysia. In similar terms to India in 1956, Malaysia also attempts to bring the Antarctic to the United Nations in 1983, trying to break the exclusivity of its governance. This interpretation of a post-colonial heritage in Antarctic politics is challenged by other authors. Haward (2012) calls attention to the fact that the strongest opponents to India's attempt were post-colonial developing nations – Argentina and Chile (Haward 2012). However, this criticism misses the strengthen of nationalism in Argentinean and Chilean claims. The close geographic proximity and the territorial formation heritage actually boosts Argentinian and Chilean positions with an anti-colonial nationalism, which makes the Antarctic question into an oversensitive issue for both nations. In fact, Australia, Argentina and Chile are permeated by the flagging of territorial claims in daily discourse and practices, and in banal forms of nationalism (Dodds 2011, Benwell 2014) such as media coverage, maps, placenames, etc. Therefore, the post-colonial heritage pointed to by Chaturvedi is not contradicted by the strong engagement of postcolonial nations in keeping the status quo. In fact, the imperial-colonial legacy is even more fundamental in Antarctic politics than Haward was able to identify, because it motivates a much stronger attachment from post-colonial nations to their sovereignty claims.

Similar to India's attempt, the reactions to the American initiative originated from the same perception of exclusion from discussions, however they resulted in a will to be involved: Belgium, Japan, South Africa and the Soviet Union publicised their desire to participate in discussions on Antarctica. But in a moment of strong animosity, the idea of further involvement from new actors created a common ground among claimants. A perception of legitimacy for those already there, in opposition to outsiders, provided claimants with their first identity bond in Antarctica. This identity bond is quite similar to the one between Argentina and Chile where, despite their own rivalries, they agreed the British presence in the region was illegitimate. Therefore, considering that a legitimate participation was based on a historical engagement with the Antarctic, the justifications presented by Japan, Belgium, South Africa and the Soviet Union

focused on their former presence in the region. Belgium, Japan[2] and the Soviet Union presented a history of Antarctic explorations with Gerlache, Shirase and Bellingshausen whereas South Africa has restrained itself to claiming some sub-Antarctic territory, not expanding it to the continent (Taubenfeld 1961).

Besides historical involvement, another way these nations found to demonstrate a legitimate right to engage in Antarctic politics was evidence of long-standing activity in the region. As exploring expeditions were temporary, sealing was largely reduced due to overexploitation (Howkins 2016) and whaling took place at sea rather than on land; the establishment of permanent national stations during the 1950s was used to demonstrate physical presence in the region, reinforcing the "race for Antarctica". Wintering in the Antarctic was simultaneously an exhibition of technical capacity – as unhospitable conditions have always prevented settlement in the region – and a political act of commitment to the region.

> … the Antarctic is a continent that covers the southern apex and is almost completely covered in tum by massive, snow-encrusted glaciers. This bitterly cold, windy continent is surrounded by the Southern Ocean. Waters close to the continent are very cold, out to a distance at which there is a sudden patterned exchange with warmer waters, called the Antarctic Convergence. The huge expanses of ocean, the convergence of waters, and the bitter temperature at the southern apex contribute to the tempestuous ocean swells, cyclonic winds and wind-driven snow squalls along the hostile coastline (Scovazzi 2000, p. 246).

The challenges to human presence provided by the Antarctic environment and its subsequent late integration to international society can be seen as one of the strongest reasons that Antarctic politics is tied to science. Dian Olson Belanger (2006) quotes a comment from the biologist David Campbel that "*the primary purpose of every nation's Antarctic stations is political; the science (even good science) is just an excuse for a presence on the continent*" (Belanger 2006, p. 390). Elzinga (2012) shares the same perspective, especially when the author refers to Antarctic science as the "*continuation of politics by other means*" (Elzinga 2012, p. 212), in a provocative use of Clausewitz' famous quote.[3] Chaturvedi (2012) asserts the existence of a

[2] Japan waived its claiming rights with the Peace Treaty of 1951 along with the Federal Republic of Germany, who did not express any further claiming interest either (Taubenfeld 1961).

[3] Elzinga does not make reference to Clausewitz in the text, despite using such a common quote. In Clausewitz: "24—*War is a mere continuation of policy by other means.* We see, therefore, that war is not merely a political act, but also a real political instrument, a continuation of political commerce, a carrying out of the same by other means. All beyond this which is strictly peculiar to war relates merely to the peculiar nature of the means which it uses. That the tendencies and views of policy shall not be

"knowledge-power nexus" in Antarctic politics, in which exploring the region also meant getting acquainted with it. Therefore, scientific research became the enabler of both political and economic endeavours. Being capable of arriving and permanently staying demonstrated a high level of technological development, a substantive knowledge of the region and a provided evidence for a territorial claim. Therefore, it is paramount to explore the relationship established between Antarctic politics and science not only during the 1950s, which created the conditions for the signature of the Antarctic Treaty, but prior to that also. Antarctic science and Antarctic politics have been entangled since the inclusion of the region in international society, where knowledge strengthened power, while power was the enabler of knowledge of the region. These circumstances have never changed and in fact, they perpetuated the lack of a solution for the sovereignty issue in the region.

2.5 Science as an avenue for Antarctic politics

Antarctic science shares its history with the exploration of the continent, defined by outstanding personalities and by the ability to communicate their experiences and impressions (Berguño 2007). The first explorers used to record mostly what they were able to see: icebergs, winds, sea and fauna. For instance, James Weddell was an educated sealer. He measured the magnetic declination of South Georgia and took notes about seals and penguins during his voyages, giving his name to the Weddell sea in the summer of 1823 (where '*not a particle of ice of any description was to be seen*'), and to the Weddell seal in 1826 (Berkman 2002, p. 47). Following this pattern, James Eights, sealing along with James Palmer, collected details of rocks, terrestrial flora and marine animals from 1833 to 1852, providing the first research papers about Antarctica. Dumont D'Urville, in 1838, produced geological reports and biological atlases which included the first descriptions of the crabeater seal (in 1842). Over three years, Charles Wilkes produced twenty volumes of scientific observations, cataloguing specimens of krill (in 1852) and identifying it as the main food for penguins and seals.

In 1874, the Antarctic reached a scientific turning point with the voyages undertaken by the steamship HMS *Challenger*, which crossed the Antarctic circle and investigated the deep-sea

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incompatible with these means, the art of war in general and the commander in each particular case may demand, and this claim is truly not a trifling one. But however powerfully this may react on political views in particular cases, still it must always be regarded as only a modification of them; for the political view is the object, war is the means, and the means must always include the object in our conception" (Clausewitz 1873).

basins. This endeavour produced 50 volumes containing the contribution of 100 scholars, being published from 1880 to 1895. The findings from the *Challenger* also allowed Sir John Murray to conclude that Antarctica was actually a continent (Berkman 2002). James Ross's voyages also contributed widely to Antarctic science, advancing oceanography, glaciology, meteorology and biology during the nineteenth century. These expeditions conducted the first deep-sea soundings and discovered a vast ice shelf which was named after Ross. Ross's voyages also demonstrated that the barometric pressure mean in the Antarctic was the lowest on the planet, explaining why the atmosphere and the ocean circulate arround the continent, which defines the isolation and uniqueness of the Antarctic's environmental conditions. The common impression from the nineteenth-century scientific community about Antarctica was that the region represented the '… *missing piece of the puzzle in understanding the Earth system*.' (Berkman 2002, p. 49)

The scientific knowledge provided by these expeditions boosted an "Antarctic consciousness" during the late nineteenth and early of twentieth centuries, which was also simultaneously reinforced by the general growth of scientific activity in Europe at that time. Antarctic science development benefited from the creation of academies of science and specialist scientific societies such as the Linnean, the Geological, the Astronomical and the Royal Geographical Society. Likewise, scientific associations were also created such as the Gesellschaft Deutscher Naturforscher und Ärzte, the British Association for the Advancement of Science and the American Association for the Advancement of Science. These associations had a stronger emphasis on practical and social impacts, having a direct role on the organisation of scientific programmes for expeditions. For instance, it was the British Association for the Advancement of Science that organised the scientific programme for James Ross's expedition (Berguño 2007). Likewise, in every International Geographic Congress, from 1871 to 1913, polar issues were addressed along with proposals for the organisation of scientific expeditions in fields such as astronomy, meteorology and oceanography. In fact, Georg Von Neumayer advocated for an international Antarctic expedition at the first gathering of 1871 (Berguño 2007).

The development of Antarctic science entered into another phase with the First International Polar Year of 1882-1883. The First IPY was mainly organised by the International Meteorological Congress of 1879, where the idea of synchronised efforts was considered in order to obtain more decisive scientific results in the Arctic and the Antarctic (Berkman 2002). International collaboration was deemed to amplify the scope of the scientific research

undertaken by individual nations at that time, and to provide continuity of investigations through the exchange of data. Meteorology, magnetism and the aurora were the main subjects addressed, with French and German expeditions dispatched to Antarctic. The most significant scientific advance brought about by the IPY was the conclusion that the Arctic and the Antarctic were connected by the Earth's magnetic field, which meant that the planet was interconnected not only by the oceans, but also by the atmosphere (Berkman 2002). And another important outcome from the First IPY was the establishment of the International Association of Academies (IAA) in 1899. This body was active until the First World War in 1914.

Tensions were also apparent between geographical exploration and scientific research. From 1901 to 1916, thirteen national expeditions were dispatched to Antarctica, funded by national governments, scientific societies and/or private sponsors. The volume of resources usually defined the viability and success of an expedition as well as the quality of the science produced. Therefore, many expeditions were also of economic interest, especially from the whaling industry. For instance, in 1901, the Swedish government contacted the governments of Argentina, Chile and the Falkland Islands, expressing the Nordenskjöld Expedition's interest in cooperating with the respective authorities since "…*investigation on such prominent places may be accompanied by many practical results, for instance that of facilitating the fishery of whales and seals.*" (Berguño 2007, p. 12) Societies, congresses and publications tried to mobilise exploring and scientific interests simultaneously. However, they were still dominated by explorers, surveyors and cartographers, which created difficulties for those with specific scientific agendas for the region. Only after the end of the First World War did science seem to prevail, with societies being run strictly by specialised scientists.

The end of the First World War also transformed the way Antarctic science was conducted. Airplanes, aerial cameras, motorized transport and radio expanded the area able to be researched and improved the instruments and the precision of results. The victorious nations also wanted to continue the efforts on international collaboration inaugurated by the First IPY, establishing the International Research Council (IRC) in 1919. The IRC was proposed as a continuation of the IAA, encompassing national science academies and sponsoring international scientific unions in a range of diverse fields: geodesy and geophysics, radio science, terrestrial magnetism and electricity, physical oceanography, volcanology, hydrology, biology, pure and applied physics and chemistry (Berkman 2002). Nonetheless, the exclusionary character of the IRC led it to its closure and subsequent reestablishment as the

International Council of Scientific Union (ICSU) in 1931. The ICSU, as a non-governmental organisation, had an unrestricted framework which fostered the organisation of the Second International Polar Year in 1932-33. Only eleven nations participated in the First IPY, whereas the Second IPY involved 40 participants, working exclusively on the Arctic meteorology (Berkman 2002).

In Antarctica, national animosities during the 1930s, 1940s and 1950s prevented international collaboration, even those involving science. The first international Antarctic expedition involved Norway, Sweden and the United Kingdom going to Dronning Maud Land and took place only in 1949-52. This expedition provided the first ice drilling at the Maudheim Ice Shelf and also studies on explosive seismology (Berkman 2002). The remarkable achievement of this expedition was the first international collaborated work in Antarctica, demonstrating that a "friend role" (Wendt 1999) could be performed when there is a background of good relations (Dodds, Gan, and Howkins 2010). Therefore, even if general polar science was developing in an increasing collaborative mode, Antarctic science was still performed in national terms, co-opting scientific expeditions as a way to demonstrate national presence in the region (Beck 1986). Only when the demands from general polar science met a favourable Antarctic political environmental could Antarctic science be thought of and developed in cooperative terms.

The rejection of the American proposal for a Special United Nations trusteeship or a condominium in Antarctica led the United States to look for other solutions with claimant states. The Department of State, in an official visit to Santiago de Chile in 1948, received the Escudero Declaration, from which scientific research in Antarctica came to be the sole point of convergence among the other claimants. Therefore, a "*science-focussed political standstill*" became positively considered. On the other hand, the Second World War advanced areas such as rocketry, radar and radio, prompting an awareness about the importance of large-scale studies to observe Earth's magnetic fields (Jabour and Haward 2009). In addition, the observation of sunspot activity (at its peak by the end of 1950s) demanded coordination in the polar region (Berkman 2002). Therefore, the necessity to have simultaneous observations from broad areas resulted in it being unavoidable to include Antarctica when carrying out global observations (Belanger 2006). Hence, the favourable political climate fostered by the Escudero Declaration, along with a scientific demand to foster Antarctic research in a collaborative manner, resulted into the proposal of the Third International Polar Year.

The Third IPY was introduced for the first time at a dinner party involving the physicist James Van Allen, in 1950, in the United States. And the literature points to several reasons why the Third IPY was proposed at that particular moment. Some invitees were working for the Department of State and were acquainted with the American attempts to solve the Antarctic question. Others, working for the National Academy of Science, were involved in a study commissioned by the Department of State in 1948, about the feasibility of scientific operations in Antarctica. At the same time, geophysical research was being sponsored by the military in the United States, and the scientists who were present at the dinner were informed about the Department of Defence's position in supporting further geophysical research in military operations. Finally, in terms of discipline organisation, geophysics developed from meteorology, focusing on the upper atmosphere and solar-terrestrial interactions. Therefore, if previous IPYs took place in Europe and dealt essentially with meteorological studies, the power axis of the discipline changed to the United States in the late 1940s and 1950s, focusing on solar-terrestrial events – a power change that scientists were attentive and willing to be involved (Bulkeley 2010).

The proposal for a Third IPY developed via four different scientific gatherings held in 1950. Van Hallen's dinner guests aired the opportunity and necessity to organise coordinated research at: the US Navy's Inyokern test facility in California; the Upper Atmosphere Rocket Research Panel in Boulder, Colorado; the International Conference on Ionospheric Physics at Pennsylvania State College; and the Mixed Commission on the Ionosphere (MCI). At this last event, the international scientific unions for astronomy, geophysics and radio science were present and endorsed the proposal (Bulkeley 2010). In 1951, the ICSU executive board adopted the Third IPY proposal and the ICSU bureau (its operative body) invited the members of thirteen international scientific societies, from forty-five countries – this invitation also included the Soviet Academy of Science. In 1952, the ICSU General Assembly approved a broader global scope to the IPY, establishing the *Comité Special de l'Année Geophysique Internationale* (CSAGI) to organise the International Geophysical Year (IGY) from 1 July 1957 to 31 December,1958 (Berkman 2002, Belanger 2006). The IGY involved of almost 12,000 scientists from 67 nations, in more than 4,000 stations around the planet with the sole goal of expanding knowledge about the Earth and outer space – which included the Antarctic (Berkman 2002, Jabour and Haward 2009, Dodds, Gan, and Howkins 2010).

The preparation for the IGY occurred in several meetings from 1953 to 1957, trying to limit an explicit politicisation of the intent. In the first CSAGI meeting in Brussels (in 1953), twenty-two nations were working with earth-planetary problems. In the second CSAGI meeting in Rome (in 1954), thirty-six nations were involved, where they detailed their scientific plans for the IGY. This increasing number of participants had to overcome some changes in the favourable political circumstances brought about by the Escudero Declaration in 1948. The Korean War, which had been an American priority since 1950, was finally finished in the same year that the Escudero Declaration expired after its fifth year in 1953 and it was not renewed due to the increasing animosity in the region (Bulkeley 2010). Nonetheless, diplomats and government officials, who were attending IGY preparatory meetings, were already imbued with the Escudero Declation's sentiment and continued to set political disputes aside, in order to achieve further cooperation in Antarctic scientific research. Bulkeley (2010) states that the IGY did not superseded the Escudero Declaration; in fact, it helped to implement it, as the IGY planning efforts did not stop due to the recrudescence in Antarctic political disputes.

But this does not mean that the IGY was apolitical (Dodds, Gan, and Howkins 2010). National security institutions were keen to provide resources, influence research programmes and convince political leaders to perceive that a substantive effort in scientific research could mean not only national prestige, but fundamentally geopolitical leadership (Dodds, Gan, and Howkins 2010). The scientific importance of Antarctica was considered beneficial for governments. In 1954, the CSAGI meeting stated that Antarctica was

> ... a region of almost unparalleled interest in the fields of geophysics and geography alike. In geophysics, Antarctica has many significant, unexplored aspects: for example, the influence of this huge ice mass on global weather; the influence of the ice mass on atmospheric and oceanographic dynamics; the nature and extent of Aurora Australis... These and similar scientific considerations lead the CSAGI to recognize that Antarctica represents a most significant portion of the earth for intensive study during the International Geophysical Year (Berkman 2002, p. 54).

The increasing development of national polar programmes and the acknowledgement of the need to run investigations in Antarctica demanded the organisation of a diplomatic consultation on Antarctic planning (Belanger 2006), as the sovereignty disputes were still an issue which could undermine scientific intents. In 1955, the first CSAGI Antarctic Conference took place in Paris (chosen as it was considered a neutral location), representing a landmark for the institutionalisation of science in the region. The race for a permanent presence in the Antarctic

found that the building of scientific stations was the most viable way to strengthen an engagement and avoid igniting conflicts. Eleven nations were involved directly with Antarctic research in the preparations for the IGY: Argentina, Australia, Belgium, Chile, the Federal Republic of Germany, France, New Zealand, Norway, the Soviet Union, the United Kingdom and the United States. Japan received international support for its South Polar expedition, but did not send any delegates to the conference. South Africa – another interested actor – did not send any delegates either. At the opening of the conference, French Colonel Laclavère (who was the convener) stated that discussions would be restricted to technical issues, financial and political issues would not be allowed (Belanger 2006).

Even so, the Paris conference was successful in achieving common agreements which instated science as a viable ground for discussions about Antarctica. National delegations arrived in Paris ready with a complete description of their planning: locations of proposed stations, facilities, equipment, personnel and operational timetables (Belanger 2006). They also shared the expectation that stations would be equally spread around the region, providing the broadest return of data and filling gaps in areas still unknown to humans (and science). Nevertheless, distant locations meant risky and expensive operations, which could jeopardise plans for establishing stations in more accessible and strategic places (Belanger 2006). Therefore the first common agreement was a location map for new stations, with the Soviets establishing themselves at the pole of inaccessibility[4] and at the south geomagnetic pole, whilst the Americans built their station at the South Pole. Claimant states, on the other hand, decided to locate their new stations in their respective claimed territory. The second agreement was freedom in scientific research. This was accepted more due to the incapacity to prevent free movement in the continent rather than an effective will from actors. The United States and the Soviet Union were able to place a research station in any location of the region and they reiterated their non-recognition of any sovereignty claim, saving their rights for after the IGY. Nevertheless, the second agreement was only possible in face of the third agreement, for which actors committed that territorial claims would not be affected by the IGY (Dodds, Gan, and Howkins 2010).

[4] The pole of inaccessibility is the point on the Antarctic continent furthest from the Southern Ocean to the Antarctic continent. The magnetic pole represents the region where needles point and magnetic meridians converge, whereas the geomagnetic pole is the theoretical point if Earth's magnetism were uniform (Chaturvedi 1990).

In general, claimant states were willing to cooperate in scientific activities, even with rivals, during the special time of the IGY (Dodds, Gan, and Howkins 2010). The IGY's inclusive character put the United States and the Soviet Union side by side with the same intent. The Soviet Union had an important window of opportunity to effectively establish itself in Antarctica through a science venue, quashing potential resistance from claimant states to its presence and involvement (Peterson 1988). Likewise, the United States also benefitted with the opportunity to expand their Antarctic activities through a scientific venue as well, although the Highjump and the Windmill Operations created significant tension with its ally, the United Kingdom. However, doubts remained about what would happen in Antarctica after 1958 (Dodds, Gan, and Howkins 2010).

Australia was deeply concerned with the fact that Soviet stations were all located in the Australian Antarctic Territory, wondering about the establishment of secret missile stations and submarine bases. They tried to convince the United States to submit formal concerns about what the Soviet intended with their bases and if they would be continually occupied after the IGY's activities (Dodds, Gan, and Howkins 2010). In response, the United States decided to establish a station in East Antarctica (Charles Wilkes), in an attempt to monitor Russian activities. But this did not reduce Australia's concern, as the American presence was also threatening to the Australian claim. After the American decision, Australia's government offered support to the United States as they were conducting research in the Australian sector of Antarctica. The American reply was that they were grateful for the offer, but reiterated that the United States government did not recognise any claim and reserved their rights to conduct activities in any location in the region (Belanger 2006). In fact, Operation Deep Freeze in 1955-56 (which set American bases in Antarctica) also concerned Argentina and Chile, as there was ostensive American activity in their claimed territory as well.

Regardless of rivalries and insecurities, the IGY ran without significant backlash[5]. The "Gentlemen's Agreement" established in 1955 allowed the activities to carry on. In 1956, the IGY established the Special Committee on Antarctic Research (SCAR) to coordinate the

[5] It is important to highlight the absence of China from the IGY in 1957-58. Concerned by the invitation sent to Taiwanese scientists, a protest from China led to the CSAGI emphasising the non-political character of the IGY. The CSAGI stated that all countries were welcome and that no activity would imply a political recognition. The CSAGI tried to remove the "national" reference to the committees, but neither party was satisfied. In the end, China withdrew from the CSAGI, carrying out some of its planned activities alone, but not joining the efforts of the remaining sixty-six nations (Belanger 2006).

international scientific activities. And after two more meetings, in Barcelona (1956) and in Moscow (1957), the IGY officially began. There were fifty stations in Antarctica run by twelve countries: Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, the Soviet Union, the United Kingdom and the United States. The scientific progress made in Antarctic knowledge was remarkable. In 1957, Charles Bentley traversed the Marie Byrd Land from Little America Station to Byrd Station, working in collaboration with France, the United Kingdom and the Soviet Union, where he developed a whole new series of maps and identified the differences in masses of ice from West to East Antarctica (Chaturvedi 1990, Berkman 2002). Advances were also made in seismology, magnetic and gravitational studies.

Important outcomes were brought by the advent of the IGY. In 1958, after agreement that scientific activity must be continued in Antarctica in order to obtain more consistent results, SCAR was transformed into the Scientific Committee on Antarctic Research. SCAR's permanent features would enable scientists to advance collaborative research and exchange of information, thereafter the committee became the main scientific advisory body to the Antarctic Treaty (Berkman 2002). In addition, the IGY demonstrated through a large-scale event that specific discussions on Antarctic sovereignty could be set aside in order to allow a free undertaking of scientific activities in the region, albeit these activities without political connotations. Therefore, the sovereignty question was still setting the context in which science was developed and it was still an issue which would need to be addressed at the end of the IGY.

2.6 The Antarctic Treaty: the achievement of an agreement

With the approaching end of the IGY in 1958 and a substantive presence in Antarctica that was not planning to leave, political disruption and the potential jeopardising of scientific activity were inevitable. Auburn (1982) highlights the private nature of the ICSU and the CSAGI, which meant a small budget and a dependence on national funding for larger intentions. The exceptional budget available for the IGY was due to its exceptional character; therefore, most of the IGY research bases were built in a temporary form. Nevertheless, efforts made towards permanent projections (such as year-round stations) still took place and had a clear political goal – reinforcing a political presence in the region. The positive framework under which the IGY was formatted enabled side activities to be pursued which were not purely science focused. For instance, biology, geology and cartography were excluded from the IGY's disciplines, nevertheless extensive photographic surveying and mapping was conducted by the Soviets.

Another example is the Commonwealth Trans-Antarctic Expedition (TAE) undertaken by the United Kingdom and New Zealand. This operation was of a more exploratory character and was also separated from the IGY's activities. Auburn (1982) states how the Soviet Union's decision to remain influenced other actors to change their plans and also remain. In fact, with the exception of Belgium, Norway and South Africa (who restricted themselves to temporary bases) all the others established permanent infrastructure during the IGY.

> The IGY can be seen as a practical exercise largely codified by the Treaty. It established scientific research as the currency of Antarctic politics, and large-scale national funding initiated for this purpose was maintained. Permanent bases, previously confined to the northern Antarctic Peninsula, were now established around the continent and inland. Emphasis on national activities and international cooperation continued. Numerous specific features of the Treaty framework made their appearance… But the IGY was only planned as a temporary programme. Frozen into the Antarctic Treaty, the defects of the IGY as a permanent fixture became apparent. CSAGI was perhaps effective in coordinating a national effort at minimal cost, but its successor, SCAR, was inherently unsuited to the wider problems raised by a continuing research effort. Sovereignty issues could be avoided for a short period, but became inevitable in the long term. The basis defects of the Antarctic Treaty can to a large degree be traced to the IGY (Auburn 1982, p. 93).

Auburn (1982) points to two reasons for the beginning of negotiations for the Antarctic Treaty: the short timescale of the IGY and its "gentlemen's agreement"; and the decision from the Soviet Union to remain in the Antarctic. We agree with both reasons, but we would add a third one: the will of the other eight nations (including claimants and non-claimants) to remain in the Antarctic and its disruptive implications for an already complicated region. In the summer of 1957, the United Kingdom along with Australia, New Zealand and South Africa tried to elaborate on the proposal for an international consortium. But when these secret negotiations became public in February 1958 (during a visit from the British prime minister to Australia), the proposal was immediately rejected by Argentina and Chile, who would not accept any solution which did not integrate their sovereignty claims (Roberts 1959, Auburn 1982, Peterson 1988).

The refusal to accept an internationalist approach is based on the conception of Antarctica as *terras nullius*, or "the property of nobody", which is open for appropriation. Legal control and entitlement are based on the demonstration of sovereignty, or of permanent settlement, which means the ability to manage, regulate and control activities in a certain land. The legal idea of *res nullius* only applies when the object (*res*) is capable of being bordered and territorially

integrated into a state's jurisdiction (Joyner 1998). And in contrast to common goods such as the atmosphere, outer space and the high seas, Antarctica is a continent, a land, capable of being bordered and territorially integrated into a state's jurisdiction. Antarctica is understood as *terras nullius* by claimant states who refused to waive their territorial rights. In fact, with the advances in technology allowing easier displacement and safer permanence, the demonstration of sovereignty by managing lands and regulating their activities in Antarctica become a very viable task. Therefore, the Antarctic sovereignty issue has been a continuously intensifying problem.

Non-claimant states, on the other hand, interpret the Antarctic differently. Belgium, Japan, the United States and the Soviet Union stated their refusal to recognise any sovereignty claims. In fact, the Americans and the Soviets reserved their rights to move and conduct activities in any area of the region. The Americans did not concur with the legality of the claims – once all claimant nations did not settle in the region – and the Soviets went even further, arguing that discussions about a governance arrangement in the region should have general involvement and not be restricted to a few nations. The general understanding of Antarctica shared among these non-claimants is based on the idea of *res communis*, or that a property should be owned by everyone. *Res communis* implies the impossibility of sovereignty claims or private property in favour of an open access regime (Joyner 1998). In this particular case, the Antarctic is open to all who wish to conduct activities in this place. The British, Australians, New Zealanders and South Africans attempt at forming an international consortium would define the Antarctic in the more defined terms of *res communis* rather than *res nullius*, as sovereignty would not be an option – removing the object of discord. Nevertheless, claimant states such as Argentina, Chile and France were not keen to open access to parts of Antarctica which they believed were part of their national territory.

After the British attempt became public, the United States took the lead on negotiations, fearing that otherwise other arrangements could be made for the region (Roberts 1959). In February 1958, informal consultations began with the British, Australians and New Zealanders, in Washington, where a virtual agreement was reached. The British were aware that the leadership of a non-claimant would make it easier to prompt negotiations, especially with the Latin Americans (Roberts 1959). The United States based their proposal on the Escudero Declaration, as the temporary interruption of sovereignty discussions in order to continue an activity commonly accepted by all, had already shown to be effective. The Escudero Declaration, along

with themes such as disarmament and inspections, would guarantee Argentinean and Chilean participation, as they had refused all the previous proposals. In May 1958, an invitation was sent by the Unites States to the eleven nations who had participated in the IGY, claimant states and sponsors of Antarctic bases and expedition as well. The invitation proposed discussions about an agreement on Antarctica and was positively accepted by the eleven. Thus, secret preparatory meetings took place from June 1958 to October 1959 (Roberts 1959, Beck 1986, Peterson 1988).

There were sixty preparatory meetings before the beginning of the Washington Conference in 15 October 1959. The reason for more than a year of informal negotiations was the acknowledgement that opposing views would need to be reconciled. Nevertheless, the Soviet Union's initial position is viewed as one of the biggest reasons for the slow pace of the negotiations. The Soviet Union was not willing to discuss any substantive matter, restricting discussions only to scientific cooperation and peaceful purposes, whilst arguing that spinous themes (such as sovereignty) should be addressed during the "*time, place and procedure of a conference*" (Beck 1986, p. 63). Only when it was clear that the Antarctic Treaty was not going to be replaced by a regime based on full international control (or in other words, by the United Nations) nor was the region about to be used as a place for propaganda, did the Soviets collaborate to reduce tensions in the negotiations (Roberts 1959). A more conciliatory and flexible Soviet delegation started to be noticed by March-April 1959 (Beck 1986). This more collaborative engagement could also be explained by the momentarily favourable relations between the Soviet Union and the United States, as their rivalry developed into an almost friendship with Khrushchev meeting with Eisenhower in September 1959.

Nevertheless, as predicted, there were several points of divergence, especially in different interpretations of sovereignty. Argentina, Chile, France (and in a more discrete manner, Australia) wanted the maintenance of their claimed sovereignty rights and were against enlarging the number of Antarctic actors. Argentina, Chile and France were also against a foreign jurisdiction in the region and Chile did not agree with the establishment of a full-intergovernmental organisation in Antarctica and advocated for a limited timeframe for the Treaty, as "future circumstances might be different" (Roberts 1959). Therefore, there was a convergence among these specific claimants to protect their claims even at the expense of an agreement. In contrast, New Zealand, the United Kingdom, the United States and the Soviet Union were supporters for Antarctica's internationalisation. The Soviet Union wanted

unrestricted access because the Commonwealth, on one side, and Latin Americans, on the other, could form alliances with the United States against Soviet interests. Therefore, the presence of Soviet allies would be enabled by an open accession. New Zealand, also in favour of an open membership, suggested the criteria of "United Nations member" so that states in conflict with any of the parties would be automatically prevented from participating (Roberts 1959). This criterion was resisted by the Soviets as it would automatically exclude the German Democratic Republic[6] and the People's Republic of China[7]. Nevertheless, it prevailed in the end.

Beyond sovereignty, other divergences were also present. Nations located in the Southern Hemisphere (Argentina and Australia, mainly) wanted the complete banning of nuclear activities in Antarctica whereas the Soviet Union favoured a restriction to "peaceful purposes", banning only nuclear tests. Argentina and the Soviet Union wanted a large, encompassing Treaty which would cover the high seas, whilst Australia, the United Kingdom and the United States wanted them excluded. Argentina, Chile and France wanted to determine delimitations for the run of inspections in terms of numbers, nationality, anticipated notification and the necessity of confirmation. In contrast, Australia, South Africa and the Soviet Union favoured that each Contracting Party should decide about their own respective inspection (Roberts 1959). Despite so many mismatches, the Antarctic Treaty was finally signed in 1 December 1959, in Washington, with fourteen articles and a provision of thirty years for any requests for revision.

The Antarctic Treaty represented a turning point for international society expansion to Antarctica. Primary institutions of sovereignty, territoriality, diplomacy, balance of power, (in) equality of peoples, trade and nationalism were incorporated into Antarctic practices. Trade was the first to integrate Antarctica into international society practices. Sealing and whaling brought institutions, rules and codes of conduct to the region, where commercial disputes boosted the exploration of the Antarctic. Balance of power and nationalism immediately followed, as exploring and scientific expeditions aimed to know the region, guarantee strategic control over resource stocks and foster national prestige among the main powers of international society. However, the incorporation of sovereignty and territoriality, constituting practices and identities in the region, was transforming friendship and rivalry relationships into ones of

[6] The Federal Republic of Germany and the German Democratic Republic became members of the United Nations in 1973.
[7] Due to the civil war in 1949, the Republic of China's leaders became refugees in Taiwan, excluding the People's Republic of China from the body. But in 1971, the People's Republic of China took its place, replacing the Republic of China in all instances.

potential enmity. On the other hand, internalisation of these primary institutions in terms of institutions, rules and codes of conduct was a simultaneous process. Practices in Antarctica have never been coerced, even when the United States proposed a United Nations trusteeship and a condominium for the region. Whereas belief in a sovereignty right and belief in its invalidity were much more evident among actors. The Treaty signing became viable once scientific cooperation was commonly believed to be the most unthreatening activity to be undertaken without resolving the sovereignty question. Therefore, internalisation of primary institutions has been deep in the Antarctic, interspersed by calculations of how to achieve a particular goal without getting into a dispute in the region.

Buzan (2004) states that the interplay between interstate, transnational and interhuman societies can be approached by a historical and an ideological perspective. Historically, interhuman and interstate societies have mutually constituted each other. States emerged as the main form of human organisation when polities that shared common goals and values organised themselves and defined their relationships in similar terms. Likewise, national sovereign states established their identities and practices as the standard for common recognition. This fostered their sharing of common values and their pursuit of common goals, at the same time that they differentiate themselves from those who were not constituted in the same terms. Therefore, questions can be made when social structures do not correspond to the fluidity observed in interstate society, as the later can expand and contract much easily when compared to identities, common goals and shared values. Therefore, coercion, instead of calculation and belief, configures the relationship between discrepant interstate and interhuman societies. On the other hand, an ideological approach focuses on the primacy of interstate society, as the state is considered the main actor in terms of identities and practices. However, as we have previously stated, the three domains (interstate, interhuman and transnational societies) configure any sort of societal formation. Differences are observed in the relationship between states, individuals and transnational actors, as it relies on the type of ideology observed in the interstate society. Whilst a liberal society gives much more political and legal space to individuals and transnational actors, totalitarian ones will provide much less. Therefore, the choice for international society denomination in this work is due to its encompassing feature, which involves the different domains (interstate, interhuman and transnational), in historical as well as ideological approaches.

The emergence of Antarctica must be analysed in historical and ideological terms. Sealing and whaling established transnational society practices in the region. Likewise, exploring and scientific expeditions were organised by scientific academies and societies, which also integrated the interhuman domain into the Antarctic. As previously discussed, commercial disputes over the control of strategic stocks and shores and the strengthening of nationalism in international society expanded balance of power and nationalism primary institutions into Antarctic practices, leading to the involvement of nation states in the region. Therefore, territorial sovereignty claims consolidated interstate society in Antarctica and it has become its prevalent domain. The escalation of tension was founded in sovereignty and territoriality primary institutions and the states, as the main actors, signed the Antarctic Treaty in 1959, establishing a governance framework for the region. Certainly, interhuman and transnational actors have been very engaged as well. The Antarctic Treaty postponed a definition for sovereignty status in the region due to the International Geophysical Year experience, as scientific research was considered the only activity which could be undertaken to expand the knowledge about the region without deteriorating its fragile relationships. The ICSU, a transnational actor, gathered different nation states for the conduction of scientific observations. However, the IGY just occurred, because claimant, potential claimant and interested states decided so. Therefore, interhuman and transnational societies were expanded to Antarctica, but still restricted to the primacy of interstate society.

The Antarctic Treaty has not defined a sovereignty status for Antarctica, constituting a governance framework for the region founded on an unsolved issue. Thereafter, not only states, but also transnational actors and individuals have their Antarctic practices determined by the shadow of an undefined sovereignty. Therefore, international society, encompassing all the three domains, offers the most appropriate definition for understanding the Antarctic emergence and the establishment of its governance framework by the Antarctic Treaty; whilst the sovereignty question has become the institution underlying all the practices in the region. And this over-determination is going to be explored in the next chapter.

Conclusions

This chapter aimed to provide a detailed and extensive overview of how the Antarctic emerged into international society. Composed of interstate, interhuman and transnational societies, international society has historically developed from the decline of Christendom when the state

became the main political unit; sharing common goals of preservation, independence, peace, limits in the use of violence, honouring of agreements and respect of property. The pursuit of these goals created a common identification among states and shaped institutions, rules and codes of conduct with which they defined themselves and acted towards each other. Being in a society comprised relationships of enmity, rivalry and friendship among these actors; and different levels of internalisation of their common institutions, rules and codes of conduct. Therefore, sovereignty, territoriality, diplomacy, balance of power, (in)equality of people, trade and nationalism became the primary institutions of international society and the central point of identification among states. However, identification also meant differentiation, leading to the expansion of international society to the most distant places and peoples in the world, as well as to the standardisation of international politics on international society's terms.

The discovery of Antarctica was an outcome of the expansion of international society in the eighteenth and nineteenth centuries, when the primary institutions of trade, balance of power and nationalism paved the way for sealing, whaling and exploring expeditions in the region. The increasing political and economic competition among states also brought the institutions of sovereignty and territoriality, resulting into different and overlapping territorial sovereignty claims for the region. The sovereignty question has become the pivotal point in the Antarctic as the claims were not recognised among different states who also did not want to waive their rights. Due to escalating tensions in the region and the need to know and control such an unknown place; states engaged in the region tried to negotiate forms of agreement as common goals of international society were still its preservation, the independence of states, the maintenance of peace, the limits in the use of violence, the honouring agreements and the respect of property rights. International society's common goals were also valid for the Antarctic.

Failed attempts to reach a governance arrangement for the Antarctic brought diplomacy to the region, establishing the final primary institution from international society to determine the practices in the region at that time. In the imminence of conflict, the temporary suspension of discussions on sovereignty to allow scientific research provided the only convergence point among the Antarctic states. However, the failed attempts also led to the interest and engagement of outside states, such as the Soviet Union. Hence, negotiations and the subsequent signing of the Antarctic Treaty has founded a governance arrangement for the region which consummated international society, but did not solve the question of sovereignty; it has just postponed it.

Therefore, how the sovereignty institution has determined practices, institutions, rules and codes of conduct in a region which has constantly avoided its definition and practice is our central question. The following chapter explores how the Antarctic Treaty has been able to govern a region while avoiding a formal definition for its sovereignty.

3 THE MECHANICS OF THE ANTARCTIC TREATY AND ITS DIPLOMATIC CULTURE

The Antarctic Treaty inaugurated a new era in Antarctic politics. In fourteen articles, the Treaty tried to converge different and conflictive expectations about the region into a common understanding, which would allow the undertaking of activities without escalating conflicts. After the Escudero Declaration from 1948 to 1953, the Paris Conference of 1955 and the IGY in 1957-58, scientific research was commonly seen as a convergence point among actors and this was appropriated by the Treaty as the only avenue where the sovereignty question could be effectively avoided. However, divergences have emerged due to this unsolved sovereignty, as activities conducted in Antarctica grow in terms of scale and variety, demanding regulations which implied authority rights. Hence, the operative system that has been in place since the Washington Conference, in 1959, was configured not to solve such divergences, but to avoid them. The Treaty established a management system where governance could be exerted whilst maintaining the delicate balance between claimant, potential claimant and interested states, postponing issues or establishing side arrangements to deal with those questions which could undermine the agreement based on an undefined sovereignty. As Auburn (1982) identifies, the Treaty was only able to emerge because controversial issues were avoided, and this avoidance practice has become a diplomatic culture in Antarctic decision-making.

From an agreement on a common understanding for peace maintenance in Antarctica, the Antarctic Treaty has evolved and been institutionalised through the production and reproduction of parties' practices. The first meetings, during the 1960s and 1970s, established the main functioning procedures for decision-making, configuring mechanisms through which the original parties were able to keep control over Antarctic outcomes and respond to outside challenges through institutional amendments to the system. Therefore, the Antarctic Treaty presents an essential conservativeness, preserving the power-framework of its creation. Decisions have been configured to be taken on a consensual basis and in a diplomatic culture of gradual negotiation, as a slow pace supported an institutional preservation. An inevitable consequence of this sort of arrangement is the preservation of interior harmony at the expense of institutional responsiveness and external legitimacy. Issues which affect non-parties and demand comprehensive responses prompted criticism towards the exclusivism in Antarctic decision-making. During the 1980s, Malaysia led the group of states which pledged the

inclusion of the Antarctic question on the United Nations' agenda. Hence, the Antarctic Treaty responded to those pressures by opening up its meetings, introducing new roles with a limited participation, as the preservation of the Antarctic Treaty arrangement has always been the main concern. The controlled decision-making has reinforced a protagonist role for claimant states and potential ones whilst addressing the legitimacy challenge posed by outside actors through their co-optation.

Compliance to the Antarctic Treaty governance is founded on the calculation and belief that experience and expertise matters in such an exceptional region. Albeit the operation of the Treaty is defined by an exclusive decision-making procedure, reliance on those more experienced, who have been engaged in the region since its emergence to international society, has proved to be the most feasible way for an actor to be integrated into Antarctic Treaty governance. Acknowledged as an unhospitable place from which knowledge was still demanded, cooperation and exchange of information became essential for reducing risks and costs for those engaging in the region. Therefore, expertise and experience have provided legitimacy for the arrangement, reinforced the role of claimant and potential claimants, and created a particular diplomatic culture where newcomers must adjust to the *modus operandi* already in place. An inactive posture from interested actors would not have prevented the Treaty's establishment nor its subsequent institutionalisation, resulting in their exclusion from a larger involvement in any sort of role in Antarctic politics. Therefore, once actors decided to take part in negotiations regarding Antarctic matters, they acknowledged the proposed scheme and legitimised its outcomes (Hanevold 1971). And if scientific research was the only activity commonly accepted which did not require a solution for sovereignty, substantive scientific activity in Antarctica became the criteria for acceding to a Consultative status and formally participating in decision-making.

The first section of this chapter provides an overview of the spatiality in the Antarctic diplomatic culture. Consultative Meetings represent the stage for social encounters where decisions are formally presented and taken by actors. Therefore, agreements on meetings' frequency, how they should be organised and changes adopted throughout the years are very elucidative about how claimant and potential claimants have structured a particular diplomatic culture for Antarctic matters. More frequent meetings represent not only more issues to be discussed or more actors involved, but also an underlining certainty that decision-making procedures are consolidated enough to keep the status quo preserved. The structure of Antarctic

Treaty decision-making is equally illustrative. An informal organisation was considered the guarantee for the non-bureaucratisation of Antarctic governance, preserving decision-making under the control of the original parties. The extended negotiations for the establishment of the Antarctic Treaty Secretariat, which indeed represented a significant change in the management of Antarctic governance, exemplifies this structure. Bureaucratising Antarctic governance was feared by actors who wanted to preserve their decision-making power, to the extent that the localisation of the secretariat headquarters was considered to unbalance claimants and potential claimants' positions in terms of prestige and control over Antarctic governance. Therefore, institutional change under the Antarctic Treaty has been characterised by a slow pace. As mentioned before, preservation of the status quo by the original parties has always been the main concern. Thus, issues which are considered controversial have not generated decisions, because they are not addressed by the Treaty – regardless of how many times they have been introduced in meetings. This is the case of Marine Protected Areas and biological prospection, for instance. As a comparison, scientific cooperation presents the case where non-controversial issues have produced many more decisions. Tourism, on the other hand, has been addressed with a parallel organisation (IAATO), so control could be made indirectly, avoiding conflicts.

The second section provides the translation of the Antarctic diplomatic culture in actors and prescribed roles. Original signers have prescribed their rights and duties, establishing the conditions under which interested actors must qualify to be admitted to the Antarctic Treaty and how they would be allowed to participate formally in decision-making. Nevertheless, parties remained the same until 1977, as claimants and potential claimants preserved the Treaty open for signing, but closed for participation in decision-making. Once new agreements on the management of marine living resources (fishing) and mineral resources were negotiated, outside actors demanded participation, challenging the Treaty. The number of parties increased exponentially by the end of the 1970s and throughout the 1980s, pressuring the Treaty to open up. New roles were created as original signers needed to accommodate new participants for the sake of Treaty's external legitimacy whilst preserving their control over decision-making. Non-Consultative Parties, experts and observers integrated states, governmental and non-governmental organisations that wished to be involved in Antarctic governance. However, these new categories had a limited participation in the proposition of issues to be discussed and voted for a decision. Substantive scientific activity was once again adopted as the criteria for enabling a non-Consultative Member to accede to a Consultative status, and be granted a formal decision-making prerogative.

Hence, the third and final section of this chapter presents the translation of the Antarctic diplomatic culture in the Antarctic Treaty operation. Through practices, the Antarctic Treaty governance configures a social system which structures and is structured by Antarctic agents. Parties deploy rules and resources in Consultative Meetings and in Antarctica, defining and undertaking normed practices. At the same time, the governance created by agents' practices provides the rules and resources to be deployed, reinforcing parties' agency in the Antarctic Treaty social system. Practices are defined by meetings' outcomes, which could be recommendations (until 1994), resolutions, measures and decisions. They are agreed upon discussions introduced by meeting documents, whose prerogative is limited to certain actors. Only Consultative Parties can propose working papers which are necessarily presented and assessed by the meeting. Nevertheless, not necessarily all Consultative Parties present a significant engagement in propositions, affecting meetings' outcomes. In fact, engagement in Antarctica has not been balanced or proportionate, being dominated by claimant and potential claimant states since 1961. Meeting documents are largely proposed by the original signers (especially working papers). Hence, if meetings' outcomes result from agreements upon discussions proposed to the Treaty, then the original signers are those who control the decision-making, as they decide what is going to be addressed.

The achievement of an agreement in a consensual system could be considered an Achilles' heel in the original signers control; however, they are also overrepresented in the undertaking of practices as well. Claimants and potential claimants are those who financially contribute more to the Treaty; inspect facilities; are physically present in Antarctica, publish Antarctic scientific research results; and who more propose and achieve agreements on protected areas and environmental matters. Therefore, if parties' compliance relies on the belief that experience and expertise are essential for being engaged in Antarctica, the only considerable antagonists that claimants and potential claimants can face are themselves. In this case, the strategies identified earlier are adopted, as avoiding controversy preserves the agreement achieved at the signing of the Treaty, as a non-defined sovereignty enables claimants and potential claimants to manage Antarctica without waiving their individual self-conceived rights. The systematic avoidance of controversies and the slow pace in institutional change are observed in meetings' decisions. Recommendations were so slow to enter into force – as they needed to be ratified by all Consultative Parties before doing so – that the Treaty substituted them for resolutions, measures and decisions. Negotiations were intensive and long, as parties interpreted differently the

mandatory character of recommendations, using the void between agreement and ratification for not adopting those decisions which they in fact did not favour (but for the sake of consensus, they did not oppose agreement). This institutional change was the way found to accelerate the adoption of non-controversial agreements, whilst keeping an option for a slow adoption of more controversial ones. The chapter concludes with how the Antarctic Treaty was able to translate its exceptional features into procedures, creating a social system which produces and reproduces an undefined sovereignty through its practices.

3.1 Meetings

The Antarctic Treaty Consultative Meetings represented the consummation of the diplomacy primary institution in Antarctica. Beyond the understanding of diplomatic practices as the conduction of "*negotiations between representatives of distinct communities or causes*" (Dittmer and McConnell 2016), Consultative Meetings transformed spaces into places, informing and shaping a particular diplomatic culture for the region. Diplomatic culture is defined by Bull (1977) as the common stock of ideas, values, rhetoric and manners held by official representatives (Dittmer and McConnell 2016) which mediates difference and overcomes alienation among actors in international negotiations. Therefore, a diplomatic culture embeds much more than statehood interactions; there is a vast culture and political infrastructure upon which diplomatic practices are undertaken, informing more about the power-relations in place rather than results themselves. In Consultative Meetings, from the way issues were introduced, to the way decisions were communicated, the principle of controversy-avoidance has always been praised by Antarctic actors, being translated through the different procedures adopted in decision-making and in the conduction of meetings itself.

3.1.1 Frequency and structure

According to the Article IX of the Antarctic Treaty, agreed at the Washington Conference (1959), representatives from the Contracting Parties shall meet in suitable intervals for the exchange of information; for consulting together on matters regarding Antarctic principles and interests; and for formulating, considering and recommending to their governments, measures related to the use of Antarctica. These measures are aimed at: Antarctica's use for peaceful purposes only, scientific research facilitation, scientific international cooperation, right of inspections, exercise of jurisdiction, and preservation and conservation of Antarctic living

resources (The Antarctic Treaty, 1959). Therefore, from 1961 to present day, Consultative Meetings have gathered the main Antarctic actors (governmental and non-governmental) who propose, inform and decide how should be Antarctic practices. Albeit governments' domestic agencies are those who actually implement Antarctic resolutions and measures – acting directly upon Antarctic matters – their meetings' representatives negotiate and set general guidance for Antarctic activities, responding to the Treaty's external questionings and bringing into discussion those matters which need addressing. As consensus was the foundation of the Treaty's signing, this procedure has been adopted by meetings since then, enabling an "agreement to disagree" among actors (Stokke and Vidas 1996, Chaturvedi 1996, Wolfrum 1991), which has preserved the Antarctic legal status quo and its undefined sovereignty.

Meetings were organized biannually until 1991, since then they have been held annually. This change occurred due to the significant increase of parties, participants and subjects brought about by the approval of the Environment Protocol, also in 1991, and the subsequent creation of the *Committee for Environmental Protection* (CEP), which has met yearly, since 1998. The countries which host the meetings are decided according to the alphabetical order, a convenient tradition that prevents the influence of prestige or political interests over hosting choices (Hanevold 1971). Nonetheless, both outcomes regarding meetings' frequency (biannual and annual) did not receive a formal decision. Official references can be found in Article IX of the Antarctic Treaty (1959), which states "suitable intervals", and in the Final Report of the Second Antarctic Treaty Consultative Meeting, in Buenos Aires (1962) and in the Final Report of the Sixteenth Antarctic Consultative Meeting, in Bonn (1991). According to Roberts (1962), the main concerns among the parties were the meetings' expenses, working agendas and time pressure for domestic approval of recommendations agreed in previous meetings.

> We also agreed - in an atmosphere of hazy goodwill - that the next Consultative Meeting should take place in Buenos Aires [1962]. The Treaty does not lay down any frequency for these meetings. Although no formal resolution was recorded, it seems to be generally agreed that they should be annual and take place in rotation round the twelve capitals. The date was left for Argentina to fix in consultation with the other governments. The best time for these meetings is between the beginning of July (after the major part of the plans for the following Antarctic summer season have been drawn up), and the end of September (when people needed at the meeting might be getting involved in or with summer expeditions). The date should also be co-ordinated with SCAR to avoid clashing with their annual meeting, and there would be some advantage in having the government meetings before SCAR meetings (Roberts 1961, p. 60).

> Although we want an annual Consultative Meeting, we think that the earliest date on which all governments will agree to hold the next meeting will be May or June 1964. There are, of course, good arguments for pressing for a meeting in 1963. In particular, there is the risk that if governments know that there is to be no meeting until the summer of 1964, they may well delay approving the Buenos Aires Recommendations until the beginning of 1964. In the meantime, we shall have made no progress (Roberts 1962, p. 54).

> The Buenos Aires Meeting therefore had the result of talking heat out of a lot of Antarctic problems and of slowing down the tempo of consultations under the Treaty. One consequence of this was that, as it was generally agreed that there would not be enough to discuss at a Consultative Meeting in 1963, the Third Consultative Meeting should take place in 1964 (Roberts 1964, p. 2)

Thirty years later, the decision to make the meetings yearly instead of biannually was based on a shared perception of "*the increasing range and complexity of the issues coming before Consultative Meetings and in view of the need to adopt procedures to give effect to the Protocol on Environmental Protection*" (Final Report of the Sixteenth ATCM 1991, p. 36).[8] Albeit the decision was only taken in 1991, discussions about this change were being held since the Twelfth Antarctic Consultative meeting, in 1983, due to the increasing number of parties. When meetings began to take place annually, preparatory meetings, where most of the negotiations used to take place (Auburn 1982) were discontinued. In both instances, parties' acknowledgement of how Antarctic matters needed to be addressed defined the Consultative Meetings' frequency. The absence of a precise definition in terms of a formal decision guaranteed flexibility for parties to decide when they should meet.

This "informal atmosphere" for decisions regarding the Antarctic Treaty's procedures was not unique. Discussions regarding the structure of the Treaty were highly scrutinised during these first years, as they could reinforce particular national positions at the expense of others. This was the case for the proposition of a secretariat – made by the British delegation with support from Australians, Norwegians and South Africans, but promptly refused by Chile, Argentina, France and the Soviet Union[9]. At the First Antarctic Treaty Consultative Meeting, in Canberra,

[8] However, after the 17th Antarctic Treaty Consultative Meeting in Venice (1992), it took two years for the 18th Antarctic Treaty Consultative Meeting, held in Tokyo (1994). The reasons why there was no meeting in 1993 are not addressed in any of the related Final Reports (17th or 18th ATCM).

[9] According to Roberts, there was an abrupt change of positioning from the Soviet Union Delegation: "*At the last preliminary meeting in Buenos Aires the Soviet representative came out strongly against the idea of any permanent secretariat. A year ago the Soviet Government was apparently open minded on this question, and the reasons for this change of view are not yet known*" (Roberts 1962, p. 4).

the Chilean Delegation expressed their rejection of any kind of executive authority; the French Delegation also wanted to avoid the Treaty's "bureaucratisation", favouring bilateral arrangements for discussing Antarctic matters. The Argentine Delegation agreed with the Chileans and suggested a "provisional rotational arrangement" (Roberts 1961). Therefore, the structure agreed was "*a troika arrangement between past, present and future hosts of the ATCM*" (Scott 2008, p. 478).

The idea of a supranational body and the implications of a location which could reinforce any sovereign claim resulted in an institutional arrangement that equally considered all the original signatories, whilst it was not definitive enough to strengthen any one party's position. The bureaucratisation brought by a secretariat was perceived as a potential decrease in the control exerted by the parties over Antarctic outcomes. Since the negotiations for the Treaty's signing, at the Washington Conference, parties wanted to avoid the establishment of any kind of intergovernmental organisation in Antarctica (Roberts 1959, 1964, Auburn 1982). However, the idea of a permanent secretariat did not disappear from the meetings. The Final Report of the Twelfth Antarctic Treaty Consultative Meeting (1983) stated the importance of beginning discussions about a permanent infrastructure for the Treaty and the frequency of its meetings, acknowledging the burden to hosting countries of organising and affording the cost of such events. However, even taking into consideration the increasing number of new members of the Treaty, the parties considered these discussions to be "premature" at the time. Only in 1985 was there a common acknowledgement of the importance of adjusting the operative system to the new reality of Antarctic activities. Since then, formal statements for the creation of a permanent infrastructure have been reiterated (Scott 2008). At the Fourteenth Antarctic Treaty Consultative Meeting (1987), the discussions regarding a secretariat were proposed in Working Papers presented individually by Argentina, the United States, Australia, China, and the United Kingdom. In general, they reinforced the importance of establishing a permanent infrastructure which would be responsible for: meetings' organisation (setting the provisional agenda and circulation of documents); communication among parties; administrative support during the meetings (secretariat, translation and interpretation); preparation and publication of final reports; archives' maintenance; information provision to members and the general public; and coordination with other bodies of the Antarctic Treaty System and international organisations (Scott 2008).

Consensus was not achieved. Some delegations stated that the above functions were already been carried out successfully by the existing institutional arrangement, which rendered unnecessary the establishment of any permanent framework. They expressed concern about the inevitable growth of the role of such bodies leading to future Antarctic decisions "*some delegations stressed the need to carefully avoid any solution which could lead to the centralisation of the Antarctic Treaty*" (Final Report of the Fourteenth ATCM 1987, p. 17). At the following meeting in 1989 (the Fifteenth Antarctic Treaty Consultative Meeting in Paris) additional arguments against its creation were raised: the existence of many institutions and the possibility of using the structures already in place, such as the Scientific Committee on Antarctic Research (SCAR) and the Depositary Government; and the fact that the existing flexibility along with the absence of an international-type organisation were key factors in the success of the Treaty, which avoided its politicisation and groups' division. On the other hand, other delegations emphasised how the increasing number of members coupled with the complexity of the agenda issues demanded a more effective arrangement, strengthening the opened character of the Treaty to the general public. In addition, the costs of hosting a Consultative Meeting were perceived as creating an economic division among the parties between those who can afford and those who could not. A secretariat would diffuse this burden (Francioni 2000).

With the establishment of the Environment Protocol, in 1991, the need for a centralised and permanent secretariat to support the new environment management demands and the protocol implementation was very clear (Scott 2008). Therefore, the consensus for establishing a secretariat was finally achieved in 1992 (the Sixteenth Antarctic Treaty Consultative Meeting in Bonn), at the same time as the frequency of the meetings changed. However, it took almost a decade from the consensus to establish a secretariat (1992), to its actual implementation in terms of a formal decision (2001, at the 24th Antarctic Treaty Consultative Meeting in St. Petersburg). During this time, Working Papers were presented regarding modalities, structure, functions, legal standing and location. But, it was this last issue which was considered one of the main reasons for the slow progress in establishing a permanent headquarters. Though some parties were still concerned about a potential internationalisation of the Treaty and about the financial burden of maintaining such a structure (Scott 2008), the political implications of choosing a location slowed down the process. The United States and Argentina both offered to host the secretariat in 1992. Whilst the United States argued the advantages of having a secretariat headquarters within the Depositary party, many delegations decided to support

Argentina, in order to have a Latin American representation in the Antarctic Treaty institutional framework (Final Report of the Seventeenth ATCM 1992).

Nevertheless, Buenos Aires as the headquarters of the Antarctic Treaty Secretariat did not reach consensus until 2001, when the United Kingdom withdrew its opposition to Argentina. The turbulent relations between the two countries was as a result of the Falkland/Malvinas War in which there was a British concern regarding the symbolic utilisation of this location by Argentinean foreign policy in the South Atlantic (Francioni 2000). The reasons behind this British change of perspective are not precise, however it seems credited as a "*good will gesture in the light of the decade long process of rapprochement*" (Dodds and Manóvil 2002, p. 156). Secretariat functions were agreed in 2003 (26th ATCM, Madrid) and it finally became operative in 2004 (27th ATCM, Cape Town). The secretariat was an outcome of many years of negotiations in Consultative Meetings, which exemplifies how spatiality in Antarctic diplomatic culture was representative of an underlining undefined situation.

Besides Consultative Meetings, the Antarctic Treaty governance also took place in different arenas to discuss Antarctic matters. The following table summarises all Antarctic Treaty meetings since its entry into force, in 1961, to 2015.

Table 1 – List of meetings with their respective dates and locations[10] [11]

Meetings	Dates	Location
ATCM XXXVIII - CEP XVIII	01 Jun 2015 - 10 Jun 2015	Sofia, Bulgaria
ATCM XXXVII - CEP XVII	28 Apr 2014 - 07 May 2014	Brasilia, Brazil
ATCM XXXVI - CEP XVI	20 May 2013 - 29 May 2013	Brussels, Belgium
ATCM XXXV - CEP XV	11 Jun 2012 - 20 Jun 2012	Hobart, Australia
ATCM XXXIV - CEP XIV	20 Jun 2011 - 01 Jul 2011	Buenos Aires, Argentina
ATCM XXXIII - CEP XIII	03 May 2010 - 14 May 2010	Punta del Este, Uruguay
ME on Climate Change	06 Apr 2010 - 09 Apr 2010	Svolvær, Norway
ME on Ship-borne Tourism	09 Dec 2009 - 11 Dec 2009	Wellington, New Zealand
ATCM XXXII - CEP XII	06 Apr 2009 - 17 Apr 2009	Baltimore, United States
ATCM XXXI - CEP XI	02 Jun 2008 - 13 Jun 2008	Kyiv, Ukraine
ATCM XXX - CEP X	30 Apr 2007 - 11 May 2007	New Delhi, India
ATCM XXIX - CEP IX	12 Jun 2006 - 23 Jun 2006	Edinburgh, United Kingdom
ATCM XXVIII - CEP VIII	06 Jun 2005 - 17 Jun 2005	Stockholm, Sweden
ATCM XXVII - CEP VII	24 May 2004 - 04 Jun 2004	Cape town, South Africa

[10] The Washington Conference (1959), the Conference on the Conservation of Antarctic Seals (1972), the Conference on the Conservation of Antarctic Marine Living Resources (1980), and the meeting to review the operation of the Convention for the Conservation of Antarctic Seals (1988) are not listed, as they were single events that resulted in conventions (and the Treaty itself).

[11] The red line represents the change from biannual to annual Consultative Meetings (1991); and the green line represents the division of recommendations into measures, decisions and resolutions, which will be covered in detail in the following sections.

ME on Tourism	22 Mar 2004 - 25 Mar 2004	Tromsø, Norway
ATCM XXVI - CEP VI	09 Jun 2003 - 20 Jun 2003	Madrid, Spain
ATCM XXV - CEP V	10 Sep 2002 - 20 Sep 2002	Warsaw, Poland
ATCM XXIV - CEP IV	09 Jul 2001 - 20 Jul 2001	St. Petersburg, Russian Federation
SATCM XII - CEP III	11 Sep 2000 - 15 Sep 2000	The Hague, Netherlands
ME on Shipping	17 Apr 2000 - 19 Apr 2000	London, United Kingdom
ATCM XXIII - CEP II	24 May 1999 - 04 Jun 1999	Lima, Peru
ATCM XXII - CEP I	25 May 1998 - 05 Jun 1998	Tromsø, Norway
ATCM XXI	19 May 1997 - 30 May 1997	Christchurch, New Zealand
ATCM XX	29 Apr 1996 - 10 May 1996	Utrecht, Netherlands
ATCM XIX	08 May 1995 - 19 May 1995	Seoul, Korea (ROK)
ATCM XVIII	11 Apr 1994 - 22 Apr 1994	Kyoto, Japan
ATCM XVII	11 Nov 1992 - 20 Nov 1992	Venice, Italy
ME on Environmental Monitoring	01 Jun 1992 - 04 Jun 1992	Buenos Aires, Argentina
ATCM XVI	07 Oct 1991 - 18 Oct 1991	Bonn, Germany
SATCM XI-4	03 Oct 1991 - 04 Oct 1991	Madrid, Spain
SATCM XI-3	17 Jun 1991 - 22 Jun 1991	Madrid, Spain
SATCM XI-2	22 Apr 1991 - 30 Apr 1991	Madrid, Spain
SATCM XI-1	19 Nov 1990 - 06 Dec 1990	Viña del Mar, Chile
SATCM X	19 Nov 1990 - 19 Nov 1990	Viña del Mar, Chile
ATCM XV	09 Oct 1989 - 20 Oct 1989	Paris, France
SATCM IX	09 Oct 1989 - 09 Oct 1989	Paris, France
ME on Air Safety	02 May 1989 - 05 May 1989	Paris, France
SATCM VIII	20 Sep 1988 - 21 Sep 1988	Paris, France
SATCM IV-12	02 May 1988 - 02 Jun 1988	Wellington, New Zealand
SATCM IV-11	18 Jan 1988 - 29 Jan 1988	Wellington, New Zealand
ATCM XIV	05 Oct 1987 - 16 Oct 1987	Rio de Janeiro, Brazil
SATCM VII	05 Oct 1987 - 05 Oct 1987	Rio de Janeiro, Brazil
SATCM IV-10	11 May 1987 - 20 May 1987	Montevideo, Uruguay
SATCM IV-9	27 Oct 1986 - 12 Nov 1986	Tokyo, Japan
SATCM IV-8	14 Apr 1986 - 25 Apr 1986	Hobart, Australia
ATCM XIII	08 Oct 1985 - 18 Oct 1985	Brussels, Belgium
SATCM VI	07 Oct 1985 - 07 Oct 1985	Brussels, Belgium
SATCM IV-7	23 Sep 1985 - 04 Oct 1985	Paris, France
SATCM IV-6	26 Feb 1985 - 08 Mar 1985	Rio de Janeiro, Brazil
SATCM IV-5	23 May 1984 - 31 May 1984	Tokyo, Japan
SATCM IV-4	18 Jan 1984 - 27 Jan 1984	Washington, United States
ATCM XII	13 Sep 1983 - 27 Sep 1983	Canberra, Australia
SATCM V	12 Sep 1983 - 12 Sep 1983	Canberra, Australia
SATCM IV-3	11 Jul 1983 - 22 Jul 1983	Bonn, Germany
SATCM IV-2	17 Jan 1983 - 28 Jan 1983	Wellington, New Zealand
SATCM IV-1	14 Jun 1982 - 25 Jun 1982	Wellington, New Zealand
ATCM XI	23 Jun 1981 - 07 Jul 1981	Buenos Aires, Argentina
SATCM III	03 Mar 1981 - 03 Mar 1981	Buenos Aires, Argentina
SATCM II-3	05 May 1980 - 06 May 1980	Canberra, Australia
ATCM X	17 Sep 1979 - 05 Oct 1979	Washington, United States
ME on Telecom 3	11 Sep 1978 - 15 Sep 1978	Washington, United States
SATCM II-2	17 Jul 1978 - 28 Jul 1978	Buenos Aires, Argentina
SATCM II-1	27 Feb 1978 - 10 Mar 1978	Canberra, Australia
ATCM IX	19 Sep 1977 - 07 Oct 1977	London, United Kingdom
SATCM I	25 Jul 1977 - 29 Jul 1977	London, United Kingdom
ATCM VIII	09 Jun 1975 - 20 Jun 1975	Oslo, Norway
ATCM VII	30 Oct 1972 - 10 Nov 1972	Wellington, New Zealand
ATCM VI	19 Oct 1970 - 31 Oct 1970	Tokyo, Japan
ME on Telecom 2	01 Sep 1969 - 12 Sep 1969	Buenos Aires, Argentina
ATCM V	18 Nov 1968 - 29 Nov 1968	Paris, France
ME on Logistics	03 Jun 1968 - 08 Jun 1968	Tokyo, Japan
ATCM IV	03 Nov 1966 - 18 Nov 1966	Santiago, Chile
ATCM III	02 Jun 1964 - 13 Jun 1964	Brussels, Belgium
ME on Telecom 1	24 Jun 1963 - 28 Jun 1963	Washington, United States

ATCM II	18 Jul 1962 - 28 Jul 1962	Buenos Aires, Argentina
ATCM I	10 Jul 1961 - 24 Jul 1961	Canberra, Australia

Source: Antarctic Treaty Database. (Access on 14 of March, 2016).

Along with 38 Antarctic Treaty Consultative Meetings, there were 28 meetings of the Committee for Environmental Protection, 28 *Special Antarctic Treaty Consultative Meetings* (SATCM, highlighted in grey) and 10 *Antarctic Treaty Meeting of Experts* (ATME, highlighted in green). These different arenas alongside the ATCM are meant to provide a way to discuss complex themes and prepare recommendations to be formally decided by Consultative Parties. They demanded expert advice or simply more time dedication, which were not available during regular Consultative Meetings. This first type of meeting was named the *Antarctic Treaty Meeting of Experts* (ATME), taking place when specific issues needed to be regulated, and reflecting directly on scientific activities in the field. The *Expert Meetings* addressed issues which facilitated scientific activity such as telecommunication, logistics, air and shipping safety, environmental monitoring, tourism (on land and on board), and most recently, climate change. During the first decade of the Treaty (1960s), three ATME took place, which did not happen again until forty years later (in the 2000s). The need for coordinating logistical efforts for more efficient scientific activities encouraged agreement among parties at the beginning of the Treaty. During the 1970s and 1980s, there were only two Meetings of Experts, which implies that most of the scientific activity in place progressed without significant problems. Whereas, in the 2000s, the Committee for Environmental Protection established new requirements for Antarctic scientific research and other correlated field activities. Reducing human footprint was an aim and tourism growth presented a great challenge in terms of regulation.

The *Special Antarctic Treaty Consultative Meetings* (SATCM) were established to address two main issues: (i) granting consultative status to signatories; and (ii) for negotiating new conventions and protocols. The nature of these discussions demanded an amount of time that Consultative Meetings were unable to offer. The Special Antarctic Consultative Meetings were first held at the end of 1970s, when the Treaty began conferring consultative status to the current Treaty signatories. For instance: the SATCM I was in 1977, and granted a consultative status to Poland (a signatory since 1959). The SATCM II 1-3 held discussions regarding the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR, signed in 1980 and in force since 1982); the SATCM IV 1-12 held discussions on the Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA, signed in 1988 but never

entered into force)[12]; and the SATCM XI 1-4 held discussions on the Environment Protocol (signed in 1991 and in force since 1998)[13].

Treaty decision-making has been structured through meetings whose configuration aimed to preserve the status quo from the moment of signing. Changes in frequency were observed due to the increase of parties and issues needing to be addressed. Likewise, changes were also agreed due to a system which has proved to be stable enough to deal with challenges whilst avoiding controversies that could disclose an undefined sovereignty in the region's governance. The evolution of the Treaty's structure demonstrates the same pattern. From a very informal and temporary configuration in rotational hosting countries, the establishment of a secretariat only came after years of negotiation and with a concrete demand to manage Antarctic governance on a full-time basis. Concerns regarding a supra-national bureaucratic body which could displace the source of authority in the region were solved through a secretariat structure which is completely subordinated to Consultative Parties' decisions. Therefore, the status quo was not challenged, but in fact reinforced by the advances in Antarctic governance.

3.1.2 Pace transformation

The historical circumstances of Antarctic Treaty signing meant consensus was the best way to guarantee original signers' commitment to the agreement. Different and overlapping sovereignty claims which were not recognised, in addition to a Cold War context, demanded a decision-making procedure which would assure parties the power of veto in decisions (Jakobsson 2011). The Article IV of the Antarctic Treaty is the milestone for Antarctic governance as it preserves to this day the status quo established at the signing moment, in 1959. The article states that

> 1. Nothing contained in the present Treaty shall be interpreted as:

[12] The CRAMRA negotiation occurred alongside the Special Antarctic Consultative Meeting IV – from SATCM IV-I in 1982, to SATCM IV-12, in 1988, when the Convention was signed. Nevertheless, no report was produced, as parties involved tried to preserve negotiations from outside scrutiny and influence (Beck, 1986).

[13] The result of CRAMRA's failure was the Environment Protocol's negotiation, which took place alongside the Special Antarctic Consultative Meeting XI (from SATCM XI-1 in 1990 to SATCM XI-4 in 1991). This change on mineral activities in Antarctica (from an exploitation plan to its complete banning) is related to different motivations: domestic politics disputes (in France and Australia), the *Exxon Valdéz* environment disaster in the Arctic (Howkins 2016) and a rising environmental concern of the international society at the time. The CRAMRA case is discussed in detail at Wolfrum (1991).

(a) a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;
(b) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a results of its activities or those of its national in Antarctica, or otherwise;
(c) prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's right of or claim or basis of claim to territorial sovereignty in Antarctica.

2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force. (The Antarctic Treaty 1959)

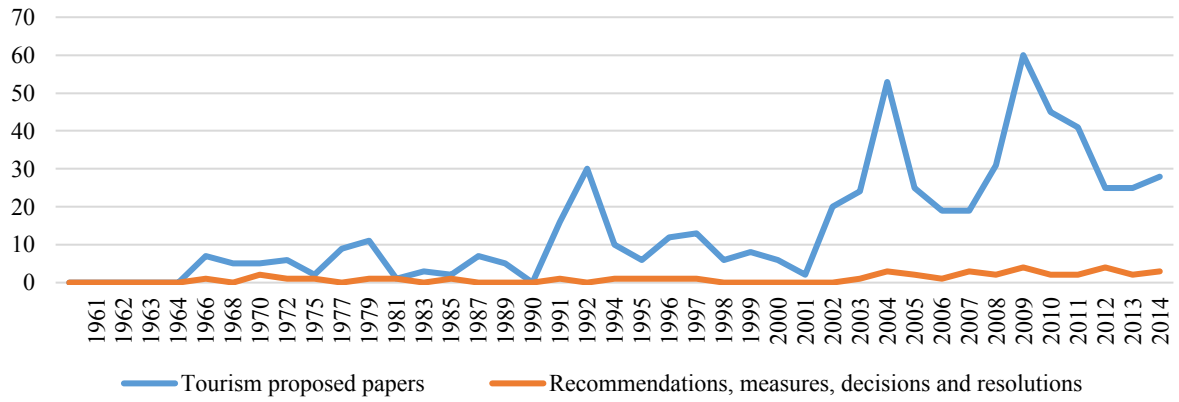
Without solving the sovereignty issue, the Article IV created a security agreement among parties which enabled their collaboration in the establishment of the Antarctic Treaty, regardless of their differences. The relational status quo of those interested in the Antarctic was maintained, whilst they could commit to discussing and acting upon other less controversial issues in the region. Since then, the Treaty's operation avoids any controversial point which would harm this delicate balance guaranteed by the adoption of consensus as the procedure for decision-making. Hence, to avoid deadlocks, the Treaty adopted the principle "if you don't ask me yes, I won't say no", which means bringing into discussion only things that can actually reach an agreement, whilst avoiding frictions that could disturb the Antarctic Treaty governance. "'*If you don't ask me to say yes, I won't say no' facilitates agreement that might not be possible to reach by recorded vote*" (Belanger 2006, p. 383). This framework defined the Treaty's diplomatic culture throughout the years, resulting in a slow pace for Treaty institutional change.

Non-controversial matters find an easier way to be addressed, as general agreement can be quickly reached. However, consensus demands a gradual process for the inclusion of new topics, as well as for proposing new forms of addressment for identified problems, when these are not perceived in the same way. For instance, six years was the time considered necessary for achieving an agreement, according to Roberts (1978). Initially one item is 'aired' at a meeting, where its adoption for the next meeting agenda is expected. If successful, the item is discussed in detail at the following meeting, but it might be 'shelved' if it is not of common interest, regardless of its urgency. If the item reaches the agenda on a third subsequent meeting, then it might produce a recommendation (or measure, decision, or resolution from 1995 onwards). Several examples can be found linking the slow pace and the discrepancy between

the number of propositions for a specific issue to be discussed and the concrete results from its approach in Consultative Meetings. We are going to observe the cases of tourism, biological prospecting, Marine Protected Areas and scientific cooperation which illustrate quite well how different the duration of negotiations and the achievement of agreement between controversial and non-controversial issues are.

Tourism discussions started in 1966 and a total of 587 papers were proposed to inform or to be discussed at Consultative Meetings.[14] On the other hand, results were comparatively less visible, only being significantly addressed in recent times: there were only 10 recommendations for an almost thirty-year period (one in 1966, five in the 1970s, two in the 1980s and two in the 1990s). Whereas from 1995 onwards, there were 27 resolutions; three decisions, and two measures (see Figure 2).

Figure 2 - Papers and outputs for Tourism in ATCMs from 1961 to 2014



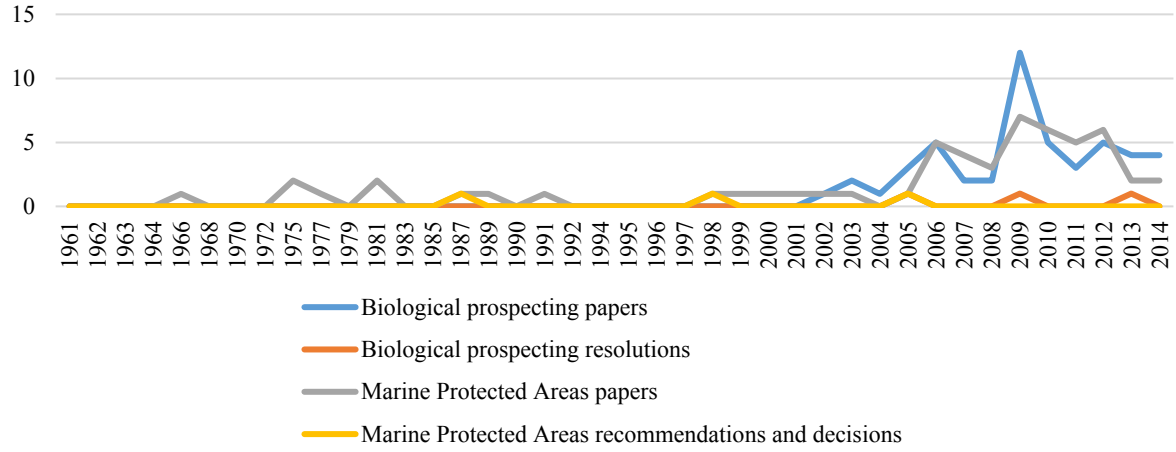
Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Biological prospecting has been discussed since 2002 with a total amount of 49 proposed papers (a peak of 12, in 2009). However, there were only three resolutions: in 2005, 2009 and 2013. Both recommended that governments share information among those currently involved in this sort of activity. And Marine Protected Areas have been discussed since 1966, with a total amount of 56 proposed papers (with a significant increase from 2009 to 2012). Nevertheless, there is only one recommendation, no longer current, from 1987 (constituting Marine Sites of Special Scientific Interest); a decision no longer current from 1998 (designating areas already

[14] These papers were selected on the Antarctic Treaty Database by the categories of *Tourism and Non-Governmental Activities* and *Site Guidelines for Visitors*. The recommendations, decisions, measures and resolutions were selected by the term *Tourism*.

defined by CCAMLR); and a current decision from 2005, acknowledging CCAMLR primary competence on defining Marine Protected Areas (see Figure 3).

Figure 3 - Papers and outputs for Biological prospecting and Marine Protected Areas in ATCMs from 1961 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

These examples represent the dynamic of the Treaty's decision-making process in three different cases generally considered controversial and they reinforce the features detailed above: long-standing and numerous discussions, with comparatively few results; long-standing but infrequent discussions, with almost no results; and recent and scarce discussions, with almost no results. Tourism has been proposed for discussion since the early years of the Treaty, with a large number of papers. However, outputs became significantly identifiable only from the 1990s onwards. This change coincides with the signing of the Environment Protocol, the founding of the International Association of Antarctic Tours Operators (IAATO) – both in 1991 – and the acknowledgement of this body as an expert by Consultative Parties, allowing its participation at meetings since 1992. Tourism has always been considered an issue, but it was only addressed due to a stricter focus on environmental protection and the empowering of an outside body that could coordinate Antarctic tourism more effectively under the Treaty's guidance and without compromising the Treaty's status quo.

Marine Protected Areas have also been discussed since 1966. However, in contrast to tourism, their number of propositions and outcomes was much less extensive. In the Treaty's early years, Antarctic waters were subject to controversy due to the inclusion or not of the high seas under the Treaty's area of coverage (which means waters being under inspection jurisdiction).

Moreover, protecting fauna in Antarctica was intertwined with protecting marine life. At the Canberra Meeting, Roberts (1961) raised the issue:

> Robert Carrick is biological advisor to the Australian Delegation [and] also convener of the SCAR Working Group on Biology which drafted the recommendations on this subject. Unfortunately, Robert introduced a red herring in the form of a proposal that it is no good for protecting Antarctic birds and mammals unless protection is also extended to their food in the sea. Biologically speaking, of course, there is much in this, but he did not seem able to realise that at the present this is not a practical issue, and that complications of attempting any agreement involving territorial waters or high seas would certainly wreck our intention (Roberts, 1961, p. 23).

Protecting marine areas also meant controlling sealing and fishing practices in the Southern Ocean. To regulate these activities, the Antarctic Treaty signed the Convention on the Conservation of Antarctic Seals (London, 1972) and the Convention on the Conservation of Antarctic Marine Living Resources (Canberra, 1980). From the initial identification of the need to regulate to its solution in terms of a formal agreement, there were almost 20 years of negotiation. Since CCAMLR became an Antarctic Treaty body, the Consultative Parties have acknowledged its competence in establishing Marine Protected Areas. In this particular case, the dynamics were avoiding a discussion (low number of propositions and recommendations) and, when possible, addressing it in another competent body. Deviating from controversy and transferring the political onus of a decision might be the case with biological prospecting in the future. The most recent of these three examples seems to follow the same pattern with few propositions and almost no results. The avoidance in discussing biological prospecting regulation is due to its non-consensual character among parties.

In sum, the foundation of the Antarctic Treaty agreement consisted in the maintenance of the status quo at that time, which enabled the building of agreements among parties with opposing interests in the region. The adoption of consensus as the decision procedure was a means to guarantee this status quo's maintenance, determining the Antarctic Treaty's institutionalisation as well. Therefore, in addition to this intentional delay on discussions and outcomes verified when controversial matters were addressed, a "constructive ambiguity" was also another strategy adopted in most of the Antarctic Treaty's registers.

> In international cooperation, consensus is often sought and found using so-called 'constructive ambiguity' in the drafting of its documents. Disagreements that prove difficult to bridge may be set aside for later

> considerations. Ambiguities provide room for different interpretations (Skåre 2000, p. 170).

The "watered down characteristic" of some recommendations (still not referring here to issues factually not solved, such as sovereignty) guaranteed more possibilities of interpretation about what was being discussed and decided by Consultative Parties. Constructive ambiguity facilitated the achievement of agreement, because such decisions would never contradict parties' interests. The lowest common denominator turned out to be the main practice, guaranteeing feasible compliance as adaptable interpretations facilitated recommendations' implementation according to parties' domestic particularities. Likewise, difficulties in anticipating problems in an exceptional region with exceptional governance arrangements demanded a flexible framework, with broad statements, which would assure parties the capacity to respond to each new challenge as they appeared. The tension between an anticipative and a case-by-case model is a constant throughout the Treaty's decision-making history.

> It was inevitable that those who negotiated the Antarctic Treaty should have hesitated to imperil such a frail alliance by raising prematurely some of the ultimate issues of a highly controversial nature. It was not that the negotiators failed to foresee these difficulties; it was rather that, while the whole situation remained so extremely delicate, it was essential to keep disputes between themselves to a minimum. The governments concerned were obliged to consider their own rights and interests, yet they were fully aware that more important than any national desires were their common interest in peaceful co-operation. It was for this reason that the Treaty contains no mention of several subjects which have now become of paramount importance to the survival of the Treaty. Consideration of some of these can no longer be postponed (Roberts 1978, p. 115).

In contrast, scientific cooperation was considered to be of common interest among parties. As a legacy of the IGY, the focus on providing institutional conditions for scientific research in Antarctica became a convenient agenda which could be undertaken without necessarily solving political disputes. Therefore, international scientific cooperation is present at several points in the Antarctic Treaty and direct references are found at the fourth paragraph of the preamble:

> Convinced that the establishment of a firm foundation for the continuation and development of such cooperation on the basis of freedom of scientific investigation in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;

In Article II:

> Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

In Article III:

> 1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the Contracting Parties agree that, to the greatest extent feasible and practicable:
> (a) information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy and efficiency of operations;
> (b) scientific personnel shall be exchanged in Antarctica between expeditions and stations;
> (c) scientific observations and results from Antarctica shall be exchanged and made freely available.
> 2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other international organizations having a scientific or technical interest in Antarctica.

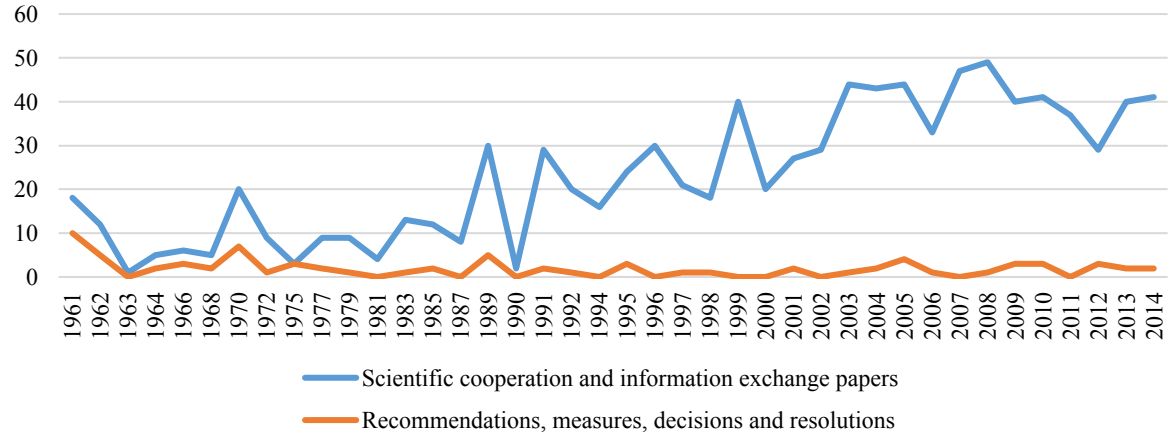
And in Article IX, where "*(b) facilitation of scientific research in Antarctica*" and "*(c) facilitation of international scientific cooperation in Antarctica*" are some of the tasks assigned to upcoming Consultative Meetings. Undeniably, addressing scientific cooperation in Antarctica presents a very distinct picture when compared to those considered controversial (see Figure 4). There have been 928 papers proposed throughout the history of Consultative Meetings, resulting into 76 recommendations, decisions, measures and resolutions. It is also important to take into account as well the role of the Scientific Committee on Antarctic Research (SCAR) as a separate body dedicated exclusively to Antarctic science. SCAR assumed an advisory role at Consultative Meetings, setting the scientific agenda for Antarctica first, and then recommending it for parties' decision. Therefore, a robust volume of decisions for this particular thematic are made outside meetings and are not represented in these numbers. On the other hand, parties could ask for SCAR's advice regarding a particular subject, assigning studies or research necessary to inform a decision being taken. As such, cooperation with other organisations became vital for addressing scientific matters in Consultative Meetings.

The salient difference between the intensity of discussions and concrete outputs is due to the adopted consensual procedure, which provokes slow addressing of problems and broad text approaches. This can also be verified in a general overview of papers proposed in meetings and recommendations, measures, decisions and resolutions agreed (see Figure 5). If we measure the

correlation between papers proposed and agreements for the whole period of operation of Consultative Meetings, we have a coefficient of 0.605, which is not a significant correlation or, in other words, discussions do not generate related agreements.

However, when Antarctic Treaty decision-making is analysed in detail, there is an observable increase in outputs from 2005 to 2014, when the number of agreements doubles for each meeting and the last nine years correspond to 40% of all agreements produced so far in the Treaty. Likewise, presented papers increased drastically since 2002, only stabilising in 2005. The institutional change which best explains these results is the agreement on establishing a secretariat in 2001, and its operation in 2004, organising the subsequent Consultative Meeting of 2005 (27th Antarctic Treaty Consultative Meeting, Stockholm). Separating this time-frame into two separated periods of 1961 to 2001, and 2002 to 2014, the coefficients change to 0.151 and 0.828, respectively. This is indicative that the institutional change provided by the agreement on establishing a secretariat changed the dynamic of discussions and agreements of the Antarctic Treaty. The achievement of a consensus regarding the establishment of a secretariat encouraged parties to engage more significantly in terms of more robust agenda setting and proposition of papers. In fact, all the figures in this section show a growth in discussions for the same period.

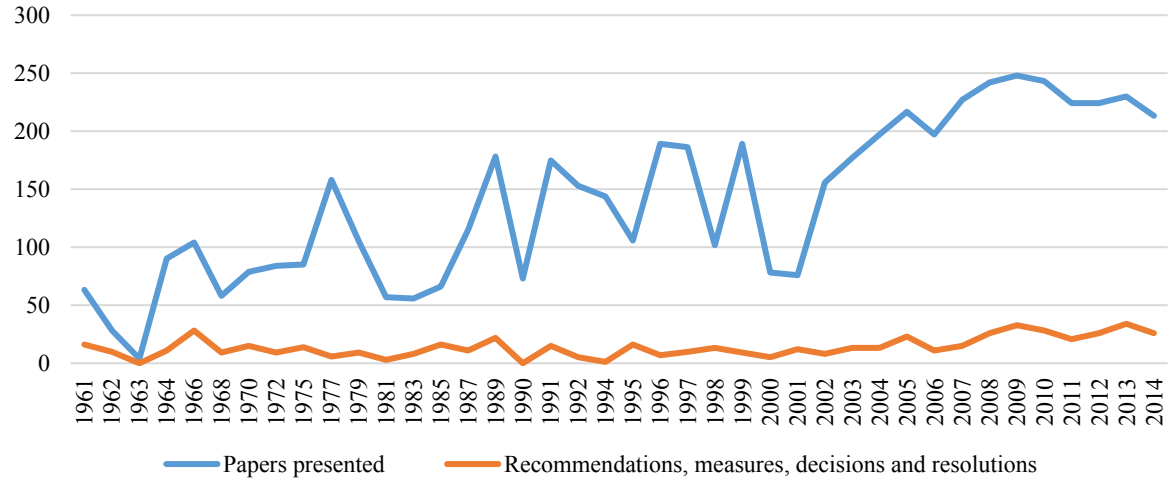
Figure 4 - Scientific cooperation and information exchange papers and outputs in ATCMs from 1961 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).[15]

[15] Recommendations, measures, decisions and resolutions were selected by the terms *Scientific cooperation* and *Information exchange*. Papers were selected by the terms *Science issues*, *Exchange of Information* and *Cooperation with other organisations*.

Figure 5 - Total of papers and outputs in ATCMs from 1961 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

This pace transformation observed in the Antarctic Treaty in terms of discussions taken and agreements achieved is a result of the need to maintain the structure that the Treaty has developed. Due to its inner situation of conflict, consensus was considered the key for an institutional evolvement. Parties were encouraged to engage into the arrangement as their veto right guaranteed that their interests would not be undermined. However, the reasons why parties have continued to engage with the Antarctic Treaty can be understood by two different perspectives. The first one refers to prior national interests which were in conflict with a cooperative engagement in Antarctica. The risks to jeopardise sovereign recognition could have stopped the institutional development of the Treaty (Roberts 1978). However, sovereign interests could have faded away alongside with the consolidation of this collective arrangement. Another perspective refers to the maintenance of these prior national interests which could have found their way to concretisation by means of the Treaty's consolidation (Hanevold 1971). We tend to agree with this later view, since the increasing pace of the Antarctic Treaty's institutionalisation shows a legitimisation and diversification in terms of actors, subjects and regulations whilst all agreements still maintain the original status quo and an operative dynamic which avoids controversial issues.

The consolidation of the Antarctic Treaty governance seems to be based on a system converging original and current national interests which finds their most attainable way through it. It would be quite utopian to state that this arrangement has transformed particular and, quite often, conflicting perspectives into something different and commonly shared. We are aware we

cannot precisely know the goals of each actor involved; however, we can track their actions and positions regarding Treaty's agreements, as an outcome of these goals. Consequently, we can assess how actors have engaged with certain topics, foreseeing a Treaty that dodges conflicting interests and, at the same time, keep them alive.

3.2 Parties

The Antarctic Treaty represents the current and legitimised framework which negotiates and decides on the governance of Antarctica. As discussed in the last section, Consultative Meetings represent the spatiality of Antarctic diplomatic culture, and this operative system defines who and how activities should be undertaken in Antarctica. Therefore, those who discuss and act in the decision-making arena must be analysed as well. The Contracting Parties who are recognised as the 'Article IX group' (Roberts 1961, p. 8) and who are entitled to participate, are referred to as *Consultative Parties*. They translate Antarctic diplomatic culture in terms of agreements they negotiate, agree and follow, being those who reinforce the status quo in the region's governance.

Reasonably, objections could be made regarding the extent of agency allowed Consultative Parties in Antarctic activities. How can we assert that Consultative Meetings and Parties are determinants for Antarctic practices? The answer relies on the environmental particularities of Antarctica. Antarctica is a remote area with a very extreme and unpredictable weather, generating high costs for any kind of activity to be undertaken in the region

> When the Antarctic Treaty was adopted 50 years ago, Antarctica was a remote, dangerous place, where survival was only ensured by heroic efforts and mutual cooperation against the continuous threat of a hostile environment. No wonder that a lot of the early measures of the ATCM concerned mutual cooperation between stations (Huber 2011, p. 90).

> … the special circumstances of Antarctica and the provisions of the Treaty that has made that continent an international laboratory are not directly applicable to other areas of international tensions. But they arose from a recognition by governments with opposing ideologies and rival territorial claims that the laying aside of such considerations in favour of cooperation were essential in attacking the scientific and environmental problems of that vast and hostile region (Lewis 1973, p. 5).

Extreme conditions have boosted not only the agreement on establishing a Treaty for the region, but also the absence of defection of parties (and of interested actors in general) from the Treaty's framework. Expeditions are very risky and expensive, obliging actors to count on each other and count on those who are already there when they decide to engage in Antarctica. Peterson (1988) identifies four most-likely attributes which empower actors in the Antarctic context: geographical proximity to the continent; historical level of activity; current level of activity; and potential to continue that activity at an equal or greater level in the future. The ability to successfully engage in activities in the region have empowered states in Antarctic politics and legitimised their position in the Treaty's decision-making. Newcomers collaborate and rely on the support from the most experienced actors as a way to be introduced into the particularities of the Antarctic environment. This reliance has guaranteed compliance to the Antarctic Treaty as these attributes are mostly found in the original signers. These actors are perceived as those with enough experience, expertise, and capacity to provide search and rescue assistance for Antarctic activities. And, as a consequence, they guarantee that newcomers abide for the institutional arrangement created by themselves.

If Consultative Parties (and, in special, the original signers) are perceived as the most determinative Antarctic actors, Consultative Meetings have become the proper gathering for Antarctic actors, therefore the most illustrative space for Antarctic decision-making. The meetings represent the main arena for Antarctic decision-making as they are recognised and used, by Consultative Parties, as the legitimate place for discussion and agreement on Antarctic practices. This also consolidates a dependence on the original signers, who are also the most experienced actors in the Antarctic Treaty politics. On the other hand, newcomers who accept and engage with Consultative Meetings are offered back up from a legitimised institution recognised among those already engaged in the region.

When Greenpeace decided to establish a research station at Ross Island, in 1985, reliance on other parties for support in logistical shortcomings was hard to avoid. Despite criticism from Australia regarding the security of its vessel, Greenpeace insisted on its journey, but found itself trapped on ice and had to return to New Zealand. The expedition was only successful in 1987 (Mulvaney 2001). Therefore, even when there was an outside attempt for a temporary settlement in Antarctica, Australia and New Zealand, as experienced actors and located in Antarctic vicinities, were essential in offering a point of departure and support on the occasion of the unanticipated return. Moreover, Australia and New Zealand are original parties who

negotiated the establishment of the Antarctic Treaty in 1959, so Greenpeace's attempt involved Antarctic Treaty key actors, even if in an unplanned manner. *World Park Base* was occupied from 1987 to 1991, being dismantled in 1992. Greenpeace reported on the environmental impact of this removal in an information paper presented at the Sixteenth Antarctic Consultative Meeting in 1991, by the Antarctic and Southern Ocean Coalition (ASOC) of which it is a member. Greenpeace could have not asked authorisation from Treaty parties to set up *World Park Base*, but has given them an account of the impact, once more reinforcing Consultative Meetings' legitimacy indirectly.

Another recent case is the seasonal station Union Glacier, which is a non-governmental facility in Antarctica. Union Glacier was established in 2010, in West Antarctica, and it is run by Antarctic Logistics and Expeditions (ALE), which provides tourism services in the region. However, in the summer 2009-10, a medical evacuation was undertaken by the United States Antarctic Program (USAP) in the South Pole, as a client became severely ill. According to the United States report, albeit ALE had the ability to take the client from South Pole to Union Glacier and then out of Antarctica, an ALE physician concluded that the client needed more care, requiring a pressurised aircraft from National Science Foundation (NSF) with an expert medical team. The NSF agreed and evacuated the patient from McMurdo Station to Christchurch, New Zealand. In their paper, the United States recall the problem of non-planned expenses when non-governmental organisations are not able to address their own activities in Antarctica, surcharging national programmes. Therefore, ALE's episode also exemplifies how reliance on consolidated actors is crucial for any activity undertaken in Antarctica.

The particular environmental conditions in Antarctica explains the reliance on more experienced actors by newcomers, and the determinant role played by Consultative Parties and Meetings in Antarctic activities. Nevertheless, collaboration does not stop after an actor is integrated into the Treaty's dynamics. Aant Elzinga (2012) points to five reasons why parties would share facilities. This argument could be easily expanded to reasons which bring Antarctic actors together to collaborate: (i) economic, which facilitates the sharing of costs; (ii) political, which increases legitimacy of those using the existent institutional framework; (iii) logistical, which guarantees more security and efficiency to Antarctic activities; (iv) scientific, which provides more expertise and its acknowledgement by other actors inside and outside the Treaty; and (v) environmental, which helps to decrease anthropic impact on the region (Elzinga 2012). The author concludes that despite rhetoric, which defines Antarctica as a "continent dedicated

to peace and science", economic, political and logistical reasons are the main motivation for collaboration and compliance with the Treaty. Together, they create "a formula of mutual benefit and pragmatism" which is adopted by those engaged (or willing to engage) in Antarctica.

Regardless of its main nature (political, economic or scientific), collaboration has been a long-standing practice in the region's governance. As analysed in the previous chapter, during negotiations to establish the Treaty, the institutional framework agreed was aimed at facilitating activities already undertaken in the region whilst postponing sovereign disputes which could cause disruptions in the region's security. Due to IGY's legacy, scientific activities seemed the most appropriate to guarantee engagement in Antarctica without increasing political animosities among those involved. Therefore, the Antarctica Treaty was born from a collaborative effort which favoured the progress of scientific research as the main activity in the region. Since then, parties legitimise and invest in an institutional framework which facilitates their activities and responds to their own interests in the region, bringing to the Consultative Meetings' umbrella any Antarctic matter that needs to be addressed. Due to the necessity of collaboration, current Antarctic activities are operated by parties to the Treaty and governed by agreements achieved in Consultative Meetings. Therefore, how actors were constituted and how they have established their respective roles in decision-making, translate their constant concern in preserving the Antarctic Treaty status quo, especially their agency in the governance of the region. Antarctic exceptional environmental conditions fostered collaboration, but one that maintains a protagonist role for those most experienced and engaged in the region.

3.2.1 Prescribed role and scope of action

If Consultative Meetings and Parties constitute Antarctic practices, we must understand the relationship between Consultative Meetings and the Treaty's parties and how they determine those activities. The first question to bear in mind is to what extent parties control outcomes in Consultative Meetings. The answer to this question relies on the roles assigned by parties for themselves when they act in Consultative Meetings and in intersessional periods as well. Article IX determines the role of parties:

> 1. Representatives of the Contracting Parties named in the preamble to the present Treaty [*The Governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America*] shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty, including measures regarding: (a) use of Antarctica for peaceful purposes only; (b) facilitation of scientific research in Antarctica; (c) facilitation of international scientific cooperation in Antarctica; (d) facilitation of the exercise of the rights of inspection provided for in Article VII of the Treaty; (e) questions relating to the exercise of jurisdiction in Antarctica; (f) preservation and conservation of living resources in Antarctica.
>
> 2. Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such time as that Contracting Party demonstrates its interest in Antarctica by conducting substantial scientific research activity there, such as the establishment of a scientific station or the despatch of a scientific expedition.
>
> 3. Reports from the observers referred to in Article VII of the present Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.
>
> 4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all the Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.
>
> 5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article (The Antarctic Treaty 1959).

Besides references to meetings' frequency, Article IX assigns tasks for parties to exert governance over the region and limits their scope of action. Paragraph one sets out the guiding framework from which parties should formulate measures to be considered at the meeting, make recommendations to their governments and subsequently approve measures to become effective. The Antarctic principles set are peace maintenance (a, d and e), scientific research facilitation and cooperation (b and c), and environmental protection (f), which, in fact, refers to practices which are non-controversial and non-threatening to the status quo in the region. These principles have enabled activities in the region which do not demand a definition for Antarctic

sovereignty status. Discussions proposed and decisions agreed are founded by the pursuit of these principles.

Paragraph 2 establishes the conditions when a Contracting Party, which has previously signed the Treaty, is authorised to participate into a Consultative Meeting. This is a very important point, because Poland became a Treaty party at the same time as those named at the Preamble, in 1961. However, the country was not authorised to participate in the negotiations for the Treaty establishment nor in subsequent meetings, in fact not until 1977, at the Ninth Antarctic Treaty Consultative Meeting (in London). At this time, there was not a formal distinction in status between parties, which could lead to the misinterpretation that being a party meant being able to participate in decision-making. This was also the case of Czech Republic, becoming a party in 1962 (as Czechoslovakia), but only achieving a consultative status in 2014. The denial of Polish and Czechoslovak participation was enabled by the conditions in Paragraph 2: "*interest in Antarctica by conducting substantial scientific research activity there*". The Treaty reinforced scientific research as the main practice to be undertaken in Antarctica, using it as a condition of allowing full participation in its governance. Substantial research activity was exemplified by the establishment of a scientific station or the despatch of a scientific expedition.

The appropriation of Antarctic scientific activity as criteria for authorising participation in Antarctic decision-making was due to its uncontroversial character and to the amount of investment and commitment an actor would have to deploy to comply to such terms. Geographical distance and hostile environment result in scientific research being wholly dependent on governmental funding due it its excessive costs. Therefore, the achievement of substantive scientific research indicates that a party has already made major investments in activities defined by the terms of the Treaty; and that this party will be keened to preserve an arrangement which favours its investments. This particular procedure guarantees that the governance framework in the region is maintained as parties would reproduce practices which are not disruptive to the structure in place. Science, then, becomes an instrument of politics in the region.

When Antarctica was designated as "*a natural reserve devoted to peace and science*" (The Protocol on Environmental Protection 1991), the Antarctic Treaty as well as the Protocol on Environmental Protection reaffirm the parties' commitment to using Antarctica for peaceful purposes only and not allowing it to become a place or object of international discord. At the

same time, they reiterate that scientific research is the main practice to be facilitated in the region. This implies that science is not perceived by the Treaty as something which could prompt international discord, being essentially practiced for peaceful purposes. This rhetoric perception is a reflection of a common view in which science is distinguished from political matters. Bruno Latour explores the fallacy of science as an apolitical entity, which supports the view that Antarctic science is instrumental to Antarctic politics:

> Science can survive as long as it distinguishes absolutely and not relatively between things "as they are" and the "representation that human beings make of them." Without this division between "ontological questions" and "epistemological questions," all moral and social life would be threatened. Why? Because without it, there would be no more reservoir of incontrovertible certainties that could be brought in to put an end to the incessant chatter of obscurantism and ignorance. There would no longer be a sure way to distinguish what is true from what is false (Latour 2004, p. 12).

> … the representation of nonhumans belongs to science, but science is not allowed to appeal to politics; the representation of citizens belongs to politics, but politics is not allowed to have any relation to the nonhumans produced and mobilised by science and technology (Latour 1993, p. 28).

The rhetoric of a non-political science was fitting for political purposes at that time. Previous scientific research endeavours were used as criteria to select those states already engaged in Antarctica to negotiate the Antarctic Treaty. The IGY then became quite convenient, because it gathered those conducting activities in Antarctica to discuss Antarctic science. Inviting the states who participated in the IGY 1957-58 to the Washington Conference in 1959 was a way to guarantee legitimacy for any agreement to be achieved, as no one already involved in the region would be excluded. A more favourable environment was created for negotiations, because 'Antarctica was not to be about politics'. Inclusion was presented as a non-political matter, because Antarctic purposes should always be scientific purposes, albeit Antarctica has emerged in international society embedded in political perceptions and decisions. Politics have been part of the Antarctic constitution and the fear of controversy – which has constituted the Treaty's governance – is also observable in the new Antarctic actors and their respective identities.

3.2.2 Membership development

Membership development did not come easily. Acceptance criteria was a much disputed point during the Treaty's negotiation; especially between the Soviet Delegation, who wanted free membership, and the South American delegations (Chile and Argentina), who advocated for a closed arrangement (Roberts 1959). The Chilean delegation stated that other countries would not be as involved in Antarctica as the present ones and suggested that new members should abide to the current Treaty, but sign a different agreement. Roberts (1959) affirmed that it would be undesirable to exclude any country undertaking a demonstrably scientific role in the Antarctic, therefore the arrangement should include membership procedures for the future. On the other hand, it would also be inadvisable to include permanently a country which only sent one expedition to the Antarctic and maintained no subsequent interest.

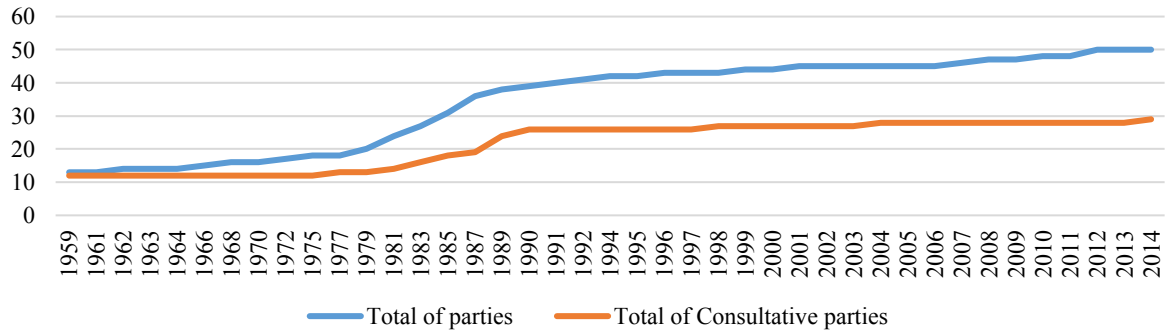
The solution was opening the Treaty's accession to any state who was already a member of the United Nations and to non-members only if they were invited by a party with the consent of all. This meant that any state could become a signatory, with an automatic accession to the Treaty, thus avoiding discussions for new accessions and the use of veto for specific cases. This is why Article XIII (1) was mostly based on the New Zealand delegation's draft proposal, which acknowledged membership based on previous enrolment in the United Nations. They envisioned keeping controversial matters out of the Antarctic and preserving the spirit of the IGY of Antarctic science collaboration as a priority. The South African and Belgian delegations supported New Zealand's proposal (Roberts 1959). Therefore, the Treaty has opened up accession while at the same time it has restricted participation in decision-making. This ambiguous arrangement (which is typical of the Antarctic Treaty's institutionally) was accepted by all parties and supported the future decision of distinguishing members by different statuses when the Treaty was further consolidated and populated.

According to the Article IX, Consultative Parties have rights and obligations under the Treaty, which entitled them to carry out provisions to assure the Treaty's purposes and principles, maintaining and strengthening it. Nevertheless, a challenge emerged during Consultative Meetings around the activities of non-contracting parties in Antarctica. At the Seventh Antarctic Treaty Consultative Meeting (Wellington, 1972), the final report advised governments to encourage or invite non-parties to join the Treaty, highlighting the rights and benefits as well as the responsibilities of being a contracting party (Final Report of the Seventh ATCM 1972). At the subsequent Consultative Meeting (the Eighth ATCM, in Oslo, 1975), the report's language became a proper recommendation (ATCM VIII-8). The parties agreed that they

needed to exert appropriate efforts to guarantee that no activity contrary to the Antarctic Treaty could take place in the region. This meant inviting those who held any interest in Antarctica, to sign the Treaty. At that moment, being a signatory did not mean participation in decision-making, as the permission to send representatives to Consultative Meetings still needed to be agreed by parties. As a result, the First Special Antarctic Treaty Consultative Meeting (I SATCM) was organised in London in 1977, and Poland was the first to be granted the status of Consultative Party. The final report of the I SATCM details how acceding parties should proceed to acquire this status and how the others should assess their "substantive scientific research activities there". The acquiring party should have approved all recommendations already in effect and be prepared to answer queries and have its installations inspected. Poland's case opened an institutional precedent at a time when Denmark (1965), the Netherlands (1967), Romania (1971) and Brazil (1975) were already signatories, but not participants of Consultative Meetings.

During the 1980s, the Antarctic Treaty saw an escalation in the number of participants (see Figure 6). From 1977, when Poland acquired consultative status, to 1987, the number of parties doubled from 18 to 36. This growth only started to tail off from 1990 onwards, with a slower increase in the numbers of members until 2014. Interestingly, this same pattern is observed for Consultative Parties' growth. From 1977 to 1990, Consultative Party numbers jumped from 13 to 26, then growth slowed adding just three more members in the last 25 years bringing the current total to 29.

Figure 6 - Growth in the number of parties and Consultative Parties from 1959 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

With a correlation of 0.986, the growth of parties and Consultative Parties can be analysed together as resulting from the same causes. The main external cause was the Conference on the

Law of the Sea, in 1975. The agreement on a regime for seabed governance prompted several questions about the Antarctic regime and its internationalisation. Interested governments and non-governmental organisations wanted to include the "Question of Antarctica" in the seabed negotiations; however informal objections were made by Consultative Parties who were also part of the Law of the Sea's negotiations (Vicuña 1988). In 1983 the United Nations Convention on the Law of the Sea negotiations were concluded leading to criticism of the closed arrangement of the Antarctic Treaty. The Seventh Conference of the Heads of State or Government of Non-Aligned Movement was held in the same year of 1983 and stressed how the exploration of the Antarctic and the exploitation of its resources should be made to benefit all mankind. The Non-Aligned movement, led by Malaysia and Antigua Barbuda, requested that the United Nations General Assembly (UNGA) deliver a comprehensive report on this matter, and that the 'Question of Antarctica' be broadly considered at the United Nations (Vicuña 1988).

This was not the first attempt to move the discussion of the Antarctic regime to a broader arena. As previously seen, in 1956, India proposed a peaceful utilisation of Antarctica instead of a 'colonial legacy of territorial claims' set up as an internationalist rhetoric of science and co-operation. India tried to include the 'Antarctic Question' on the agenda of the UNGA, however, due to diplomatic pressure from those states already engaged in the region, this attempt was quickly withdrawn (Chaturvedi 2013, 2012). Almost 20 years later, the inclusion of Antarctica on the agenda of UNGA was again raised by the Non-Aligned Movement, whose prominent leadership was Indian. As a response to these outside pressures, at the Fifth Special Antarctic Treaty Consultative Meeting (1983), India and Brazil were granted consultative status at a time when only Poland and the Federal Republic of Germany had been granted it.

The growth of membership in the Antarctic Treaty was unavoidable, albeit feared by members who saw this opening up as an overexpansion (Chaturvedi 2012) which could lead to a loss of control. Likewise, this change of attitude from Consultative Parties was perceived as a co-optation of those who might antagonise with and threaten the existing framework. This is why the negotiations of the Law of the Sea in 1975 led to the first accession of a signatory to a Consultative Party in 1977 (Poland). It is for this same reason that 1983 developing countries acquired the consultative status for the first time, weakening the anti-Treaty movement championed by Malaysia at the United Nations and changing the geographical balance inside

the Antarctic Treaty. China acceded to the Treaty in the same year of 1983 and became a Consultative Party in 1985 (along with Uruguay by the Sixth SATCM).

The external issues raised during the negotiations of the Law of the Sea generated criticism towards the 'exclusive' character of the framework. Also, demands for a broader participation impacted how Consultative Parties managed the Treaty during the late 1970s and the 1980s. But these external issues were fed by changes inside the Treaty which attracted not only criticism towards the arrangement, but also the willingness to be a signatory. Many agreements were being discussed and achieved among participants, which created an outside pressure to participate. Poland's precedent in being promoted to the decision-making arenas just confirmed the opening up of possibilities of participation rather than being limited to just a signatory role. In 1964, parties established the Agreed Measures for the Conservation of Fauna and Flora (Third Antarctic Treaty Consultative Meeting, Brussels), which represented an important step for consolidating environment protection as a principle of the Treaty.

In 1972, the Convention for the Conservation of Antarctic Seals (CCAS) was signed after informal discussions for a specific regime on seals began in 1964 (during the Third ATCM), and it was formally addressed in meetings that took place in 1970 (the Sixth ATCM). Nevertheless, during eight years of negotiations, there were some disputes regarding the form of agreement and its area of applicability. Agreed Measures would be constrained to members of the Treaty only, whereas a Convention meant an openness to other participants. On the other hand, parties were concerned about Article VI and the possibility of the Treaty to regulate activities in the high seas south of 60°S parallel. Parties agreed that a convention format was more appropriate and that Article VI was not being undermined by the regulation of pelagic sealing activities since Article IX "*which authorises the adoption or preservation and conservation measures, supersedes and it is stronger than Article VI which is simply a general statement in the nature of a saving clause to protect signatories from any unforeseen effects of the Treaty*" (Roberts 1966, p. 11). A conference was held in London in 1972 for the signing of the Convention.

Along with the CCAS, negotiations were also undertaken on the Convention on Conservation of Marine Living Resources (CCAMLR), which was signed in Canberra in 1980. Formal negotiations started in 1975 (the Eight ATCM), but special discussions were necessary, leading to the organisation of the Second Special Antarctic Treaty Consultative Meetings which were

divided into three sessions (SATCM II-1, 2 and 3) in 1978 and 1980. Nowadays, the CCAMLR represents a high level of institutional development and autonomy, working in parallel to the Antarctic Treaty, but being part of the Antarctic Treaty System. This decision of creating a separate instrument was an attempt to protect the Treaty from new ventures (Herr 2000). The organisational differences revolved around the area where CCAMLR regulates research and harvesting of fisheries (called area of convergence[16]), the existence of a permanent scientific committee which inputs CCAMLR decisions and membership criteria for acceding states. In this particular case, CCAMLR signatories are not necessarily signatories of the Antarctic Treaty[17], since the Convention also accepts organisations such as the European Union as full members.

The Agreed Measures of 1964, the CCAS and the CCAMLR represented a significant push from Consultative Parties to consolidate environmental protection and address the governance of Antarctic fauna and flora. However, a more controversial agreement was also developing since 1982. The Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA) was signed in 1989 but it has never entered into force. Discussions started officially with working papers propositions in 1972 (the Seventh Antarctic Treaty Consultative Meeting, in Wellington). Since then, the issue returned to meetings in 1977, 1979 and 1981 (the Ninth, Tenth and Eleventh Antarctic Treaty Consultative Meetings). Therefore, the IV Special Antarctic Consultative Meetings were organised from 1982 to 1988, in twelve sessions (IV SATCM 1-12) in which the convention was discretely negotiated. The idea of an agreement which addresses mineral exploration in Antarctica attracted the attention of many outside states and organisations wanting to benefit from the activities or to stop their initiation (Beck 1986)

Criticism of the Antarctic Treaty and negotiations for agreed Conventions created an atmosphere where the openness of Consultative Meetings became vital. Non-Consultative Parties were finally invited to attend the Twelfth and Thirteenth Antarctic Treaty Consultative Meetings (in 1983 and 1985, respectively). Thereafter, the Treaty acknowledged the importance

[16] The area of convergence comprises: 50°S 50°W, thence due east to 30°E longitude; thence due north 45°S latitude; thence due east to 80°E longitude, thence due south to 55°S latitude, thence due east to 150°E longitude, thence due south to 60°S latitude, thence due east to 50°W longitude, thence due north to the starting point (Convention Area technical description, CCAMLR website). Accessed on the 16th March 2015.

[17] Acceding states to CCAMLR which are not signatories of the Antarctic Treaty: Cook Islands, Mauritius, Namibia (which is a full member now), Republic of Panama and Vanuatu (CCAMLR 2015).

of their contributions and the Recommendation ATCM-XIII-15 (Brussels, 1985) invited for non-Consultative Parties to appoint their corresponding representatives for the following meetings. The non-Consultative Parties representatives have been allowed to attend all plenary sessions and all the formal Committees and Working Groups, unless a representative of a Consultative Party requests otherwise. Non-Consultative Parties are only not expected to attend the Heads of Delegation meetings. Since 1985, the Heads of Delegation meetings have been designated as the occasion where meeting's progress is assessed by Consultative Parties. The discussions are not registered nor are translation services provided.[18] Due to this "informal" configuration, sensitive discussions can take place without formal constraints of registers. In such cases, final agreements are later formally presented to the remaining participants in plenary sessions.

The most significant difference between Consultative and non-Consultative Parties lies in the scope of their decision-making role. Whereas Consultative Parties can submit all kinds of meeting documents which have to be discussed, and could produce biding decisions; non-Consultative Parties can only submit *Information Papers*, which must be considered relevant to be presented. The different procedures adopted as part of the decision-making process during the meetings are analysed in detail at the next section. But now, it is important to recall that the opening up of the Treaty in terms of increasing membership and participation happened *pari passu* with limitations on the scope of newcomers' actions, this process can be defined as a "controlled opening".

Along with Consultative and non-Consultative Parties, *Observers* were also invited to attend the Antarctic Treaty Meeting at this new stage. The observer category is a reflection of the institutional change through that the Antarctic Treaty was undergoing. Parties allowed important advisory bodies (SCAR, CCAMLR and COMNAP) the same extent of participation as a Consultative Party, albeit the former do not directly make decisions in Consultative Meetings. They host other Antarctic multinational forums with a decision-making process of their own. Therefore, the role of observers is limited to an advisory one. According to Recommendation ATCM I-IV, effective since 1962, the Scientific Committee on Antarctic Research (SCAR)[19] had its advisory role acknowledged by Treaty Parties and it was awarded

[18] English is the only language spoken among delegates.
[19] The SCAR was created in 1958 in response to a request from the International Council of Scientific Unions (ICSU) to examine 'the merit of further investigation in Antarctica' (Elzinga 2012). Invitations

observer status by the Recommendation ATCM-XIII-2 in 1985. Along with SCAR, the Commission on the Conservation of Antarctic Marine Living Resources (CCAMLR) has entered into force (by Recommendation ATCM XI-2 1981, effective since 1989) and it has acquired observer status as well via Recommendation ATCM-XIII-2 in 1985. And the Council of Managers of National Antarctic Programs (COMNAP), which evolved from a permanent SCAR working group on Antarctic logistics[20], was granted observer status in 1989.

Observers are allowed to attend the meetings with the specific purpose of reporting the developments in their area of competence. CCAMLR should report issues and developments regarding marine living resources conservation in all the waters south of the Antarctic Convergence. SCAR should report its general proceedings, the scientific agenda for Antarctica and its publications and reports. And COMNAP should report its activities and assist in questions regarding the operation and logistics of national Antarctic programs' activities. Observers can attend plenary sessions, committees and working groups, unless a Representative of a Consultative Party requests otherwise. On these occasions, they can also submit any format of documents (*Working Papers*, *Information Papers and Background Papers*). This provision equalises observers with Consultative Parties in terms of agenda-setting power, as working papers must be discussed, creating the possibility for decision-making.

It is important to highlight that the reference to observers of the Antarctic Treaty relates to those designated by Contracting Parties to undertake inspections in the Antarctic region. The possibility of creating a different category for participants (besides parties) only emerged with

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were sent to those countries already involved in scientific activities in the Antarctic and that were present at the IGY 1957-58. SCAR's designated role was controversial during the Treaty's first years. At the Third Antarctic Treaty Consultative Meeting, the relationships being established with United Nations scientific bodies (whose advice might be requested) created doubts regarding SCAR's role. Questions regarding the headquarters location, executive responsibilities, logistical duties and politicised language prompted suspicion among parties (Roberts 1961, Elzinga 2012). The main concern has been to guarantee an a-political role to SCAR at Consultative Meetings and this was only achieved by maintaining its advisory participation. This is why SCAR has been present at meetings since 1962, but its formal acknowledgment with a proper status (as an observer) came only in 1985.

[20] From 1972 to 1987, the SCAR Working Group on Logistics (WGL) met regularly to discuss and decide on operational matters of Antarctic activities. In 1986, national Antarctic programme managers demanded a separate forum which was agreed in 1987. In 1988, the Council of Managers of National Antarctic Programs (COMNAP) was created. With the initial goals of discussing telecommunication and air transport, COMNAP became the expert forum to advise governments on: effectiveness in environmentally responsible Antarctic operations, facilitation and promotion of partnerships, and information exchange. Along with COMNAP, the Standing Committee on Antarctic Logistics and Operations (SCALOP) was also created as an immediate replacement for the WGL. The SCALOP was then incorporated by COMNAP in 2008 (Retamales and Rogan-Finnemore 2011).

the opening up of the Treaty. This process is similar with the other created category for allowed participants, the *Experts*. Article III (2) of the Antarctic Treaty points to the need to establish cooperative relations with United Nations specialised agencies and other international organisations with technical or scientific interest in Antarctica. The ATMEs had already been created, resulting from the need for a forum where technical issues could be addressed. Furthermore, opening up Consultative Meetings to the attendance of experts represented another significant institutional change in response to outside questioning, demanding more technical involvement with the Treaty.

According to Recommendation ATCM XII-6 (1983), governments should pay attention to any specialised agency from United Nations, or any other international organisation who presents a scientific or technical interest in Antarctica. These non-members would provide information to assist the decision-making in specific issues and/or they would get information which would support their own activities. In contrast to observers, experts do not have a permanent presence at the meetings. At the Thirteenth Antarctic Treaty Consultative meeting (1985), the report stated parties' concerns about 'prematurely' inviting international organisations without careful study. The fear was opening up the Treaty to external scrutiny, and potentially losing the autonomy and exclusivity in Antarctic decision-making. Hence, invitations are agreed when there is a concrete need for assistance, in a case-by-case approach. The invitation should be made within 180 days in advance of each meeting, and any Consultative Party could object to certain attendance within 90 days of the same occasion. The experts are allowed to submit documents only in the information paper format, to be distributed during the meeting. Following the same provision given to non-Consultative Parties and observers, experts are not entitled to participate at Heads of Delegation meetings. Thus experts, along with observers and non-Consultative Parties, represent the partial opening up of the Antarctic Treaty as they have been allowed in what was once an exclusive and closed forum. However, Consultative Parties have been successful in maintaining their protagonist role in Antarctic decision-making.

We started this section questioning how Consultative Parties and Meetings could be determinants for Antarctic practices. In answering this question, we focused on the role played by parties at Consultative Meetings and how fundamental this interaction has been to the Antarctic Treaty's consolidation. Parties have assigned roles to themselves within the Antarctic Treaty, authorising and delimiting their scope of action in decision-making by means of Article IX. But due to Antarctic environmental particularities and the impossibility of engagement

without relying on the support from the most experienced actors, collaborations for a feasible and effective endeavour turned parties' performances in Consultative Meetings into an empirical source for observing Antarctic practices since the establishment of the Antarctic Treaty. Collaboration resulted into safe, legitimised and shared cost incursions into the region, which reinforced compliance to the Treaty from its actors. Nevertheless, the rhetoric of science has been used in Antarctic discourse for justifying practices undertaken in the region and the basis for parties' decisions. Commonly perceived as an apolitical social practice, scientific research was considered the most feasible and unthreatening way to achieve an agreement on a governance framework whilst not addressing core problems such as sovereignty. In fact, as we saw in the previous section, not-solving problems is a key feature in the Antarctic Treaty's operation and evolution.

Even if the consolidation of the Antarctic Treaty governance was guided by the pursuit of maintaining peace, scientific research (and later) environmental protection practices, a constant effort to control decision-making has founded this governance. As more issues were addressed and more rules were set by parties, more pressure for outside participation was produced. An emerging external interest identified in different international agreements at that time (such as the Law of the Sea) more inclusive alternatives than the Antarctic Treaty. Therefore, the search for international legitimacy through a controlled opening up of the Treaty was the way to protect the arrangement and keep the founding status quo. In an anticipatory movement, parties initiated an incorporation process, aggregating different actors into the arrangement whilst creating hierarchical statuses among them. Non-Consultative Parties, observers and experts are allowed to attend, but not allowed to decide. And scientific rhetoric, once again, offered the apolitical and non-conflictive criteria for differentiation. The advisory role designated to observers and experts was based on '*scientific and technical interest in Antarctica*' whereas an upgrade from a non-Consultative Party was decided by '*substantial scientific research activities there*'. Antarctic science was instrumental in framing Antarctic governance, delimiting those inside and outside the arrangement.

Nevertheless, the number of actors (non-consultative, consultative and experts) grew during the opening up, which means that interest to be part of the Treaty outweighed the will to challenge it. The Treaty's ability to co-opt challengers in addition to the reliance on experienced actors for any Antarctic incursion reinforce the central position played by the Antarctic Treaty. The hostile environment makes activities highly expensive and risky, so logistical support and

recognition from experienced actors became a necessary condition. Therefore, Antarctic activities are undertaken according to the Treaty's terms, justifying its increasing institutionalisation. The mechanics of the Treaty comprise its decision-making forum and those who decide upon it, i.e. Consultative Meetings have configured the spatiality where the Antarctic decision-making takes place and where its practices are translated into an Antarctic diplomatic culture. Decisions on frequency, structure and pace transformation, along with the segmentation of actors between decision-makers and non-decision-makers, enabled the Treaty to evolve, whilst preserving its original source of authority.

3.3 Operation

The Antarctic Treaty has been performing as an institution – a collection of rights, rules, and decision-making procedures that gives rise to social practices, assigns roles to participants and guides their interactions in the region (Young 2012). Consultative Meetings translate Antarctic practices into a specific diplomatic culture, transmitting, sharing and transforming values and beliefs into diplomatic practices which define Antarctic Treaty decision-making. In its operation, meetings became the forum to propose, discuss and establish Antarctic norms among parties and interested actors. At the same time, activities and interactions already undertaken in the region demanded their management by the Treaty's decision-making forum when it was established. This duality in making/following guidance can be identified as a structuration process.

Bearing in mind the danger of a circular reasoning – observing structuration features through structuring features (Wendt 1987), the identification of a social system in Antarctica through the operation of the Antarctic Treaty is possible by: the strong compliance to this arrangement, its operation outside of the main forums of international society and by its continuous growth in terms of participants and rules. A feasible engagement in Antarctica is dependent on experienced actors who established this machinery and work for its reinforcement, successfully co-opting its critics and legitimising this arrangement for international society as a whole. Evidently, as a social system, Antarctica presents openness, evidenced by activities which take place without the Treaty's consideration, such as tourism and fishery by third-parties. Nevertheless, ways of solving these issues and bringing them under the Treaty's umbrella is a permanent effort; evidence of a social system aware of its limitations and malleable enough for transformations instantiated by the practices of its agents.

The theory of structuration states the duality between agent and structure in a social system where the structure defines the agents and their social practices whilst it is constituted by these same agents and social practices, existing in time and space (Archer 1982). An agent is the one who is able to deploy a range of causal powers, making a difference to a pre-existing state of affairs or course of events (Giddens 1984, p. 15). Agency, therefore, does not refers to the intentions of an agent, but to their capability of acting upon a determined structure. On the other hand, structure refers to "structuring properties which bide time-space in social systems and enables discernibly similar social practices to exist across varying spans of time and space" (Giddens 1984, p. 18). As such, Giddens does not state that a structure is something external to agents, with a concrete existence. Structure is ontologically a process and should be understood as structuring properties of a social system by means of rules and resources, recursively organising practices. These rules and resources are *drawn upon in the production and reproduction of social action and are at the same time the means of system reproduction (the duality of structure)* (Giddens 1984, p. 19). Giddens identifies rules as interpretations and procedures of actions, offering simultaneously a meaning constitution and a normative sanctioning to practices. Resources, on the other hand, represent the materiality and organisational capacity of agents, constituting a way through which power is exercised as a routine element of the instantiation of conduct in social reproduction (Giddens 1984, p. 16). Hence power is not a resource. In the theory of structuration, power is the result of the deployment of resources, constituting/being constituted by relations of dependency and autonomy among agents.

But how does this structuration operate within Antarctica? Antarctic governance has been exerted by the Antarctic Treaty since its establishment, becoming the first form of political organisation for the practices undertaken in the region. The peculiar conditions offered by the Antarctic region have always restricted the array of actors engaged, leading to the primacy of the governing arrangement first established by those already involved. We do not suggest that there was an absence of activities and social interaction in Antarctica before the Treaty. As previously seen, exploration and exploitation of the region dates from two centuries before the establishment of the Treaty (Howkins 2016). However, the Treaty institutionalised the region and the practices to be undertaken in and around this new defined region. As a consequence, the governance exerted by the Antarctic Treaty has become both '*medium and outcome of the reproduction of practices*' (Archer 1982, p. 457), constituting a social system or, in other words,

'a set of internally related elements – such as agents, practices, technologies, territories – occupying a position within a social organisation' (Wendt 1987 p, 357). By the same token, practices produced and reproduced by the Antarctic Treaty, due to its long time-space extension (Giddens 1984), conferred institutional aspects to this governance framework.

Consultative Meetings, as analysed in the first section of this chapter, represent the arena where rules are created and reproduced, offering interpretative schemes, rights and obligations and stocks of knowledge. The first Consultative Meetings defined the Antarctic Treaty's signification structure with its jurisdictional area, members and forms of membership, outside actors to be considered and matters to be addressed and pursued by the arrangement. Issues which could not be solved were simply not defined (sovereignty, for instances). In structural terms, rules in Antarctica were defined through a normative sanctioning which set up what kind of practices in place were expected and how they should proceed. The multitude of recommendations, measures, decisions, resolutions and reports encompasses the whole array of Antarctic practices produced and reproduced by the operation of the Treaty. They have been defined by: area protection and management, environment impact assessment, environmental protection, fauna and flora, information exchange, marine living resources, marine pollution, mineral resources, monuments, scientific cooperation, tourism, waste disposal and management, operational matters and institutional and legal matters.

Besides rules, structures in social systems also refer to resources, which can be distinguished between authoritative and allocative. Authoritative resources refer to the ways in which agents in the Antarctic Treaty coordinate their practices among themselves, or their organisational capacity. Allocative resources, on the other hand, refer to the control over the materiality in Antarctic practices by these agents. Through these authoritative and allocative resources, power relations are established. The coordination and materiality of practices create asymmetries in terms of autonomy and dependency among actors, or those with more or less capacity to deploy resources in a social system. In Antarctica's case, authoritative and allocative resources can be identified using Elzinga's (2012) indicators of engagement: economic, political, logistic, scientific and environmental.

Economically, the different scales for national contributions to the Antarctic Treaty Secretariat, agreed by Decision 1 (2003), indicate asymmetries of engagement in the Treaty's operation. Consultative Parties are expected to fund the Antarctic Treaty Secretariat with a budget

composed of a fixed and a variable contribution. The fixed contribution for all Consultative Parties is US$ 23,760 for the last financial year (2016/2017). The variable contribution is based on a multiplier which varies according to five categories of Consultative Parties (see Tables 2 and 3). As expected, claimant and potential claimants are Category A (with the exception of Chile and Russian Federation, both C). Of course, contributions to the Treaty do not represent the total expenditure of a nation on Antarctic issues (which encompasses funding on scientific research and maintenance of Antarctic facilities). However, they are significant in showing how much a party is willing to invest in this institutional framework. Cases such as Argentina, New Zealand and Norway show how less voluminous economies (in terms of GDP) are on the same level of investment as other parties in Category A.

Table 2: Scale of contributions from Consultative Parties[21]

Category	***Multiplier***
Category A	3,6
Category B	2,8
Category C	2,2
Category D	1,6
Category E	1

Source: elaborated by the author.

Table 3: Consultative Parties according to categories[22] [23]

Consultative party	Category	Multiplier	GDP (US$)[24]
Argentina	A	3,6	583,169 (21st)
Australia	A	3,6	1,339,539 (12th)
France	A	3,6	2,421,682 (6th)
Japan	A	3,6	4,123,258 (3rd)
New Zealand	A	3,6	173,754 (52nd)
Norway	A	3,6	388,315 (28th)
United Kingdom	A	3,6	2,848,755 (5th)
United States	A	3,6	17,946,996 (1st)
Germany	B	2,8	3,355,772 (4th)
Italy	B	2,8	1,814,763 (8th)
Chile	C	2,2	240,216 (41st)
China	C	2,2	10,866,444 (2nd)

[21] Information retrieved from Decision 1 (2003), 26th Antarctic Treaty Consultative Meeting and 4th Committee for Environmental Protection (Madrid). Attachment "Schedule: Method for Calculating the Scale of Contributions". Available at www.ats.aq and accessed on the 18th October, 2016.

[22] Information retrieved from Decision 3 (2016), 39th Antarctic Treaty Consultative Meeting and 29th Committee for Environmental Protection (Santiago de Chile). Annex 3 "Secretariat Programme 2016/17". Available at www.at.aq and accessed on the 18th October, 2016.

[23] Compared to 2003, when the categorisation of Consultative Parties began, only Argentina, Brazil and Russian Federation changed positions, upgrading their respective categories (Argentina B to A, Brazil E to D, and Russian Federation D to C).

[24] Available at: http://data.worldbank.org/data-catalog/GDP-ranking-table. Accessed on the 18th October, 2016.

India	C	2,2	2,073,543 (7th)
Netherlands	C	2,2	752,547 (17th)
Russian Federation	C	2,2	1,326,015 (13th)
South Africa	C	2,2	312,798 (32nd)
Spain	C	2,2	1,199,057 (14th)
Sweden	C	2,2	492,618 (22nd)
Belgium	D	1,6	454,039 (25th)
Brazil	D	1,6	1,774,725 (9th)
Czech Republic	D	1,6	181,811 (50th)
Finland	D	1,6	229,810 (43rd)
Republic of Korea	D	1,6	1,377,873 (10th)
Poland	D	1,6	474,783 (24th)
Ukraine	D	1,6	90,615 (62nd)
Uruguay	D	1,6	53,443 (76th)
Bulgaria	E	1	48,953 (80th)
Ecuador	E	1	100,872 (60th)
Peru	E	1	192,084 (48th)

Source: elaborated by the author.

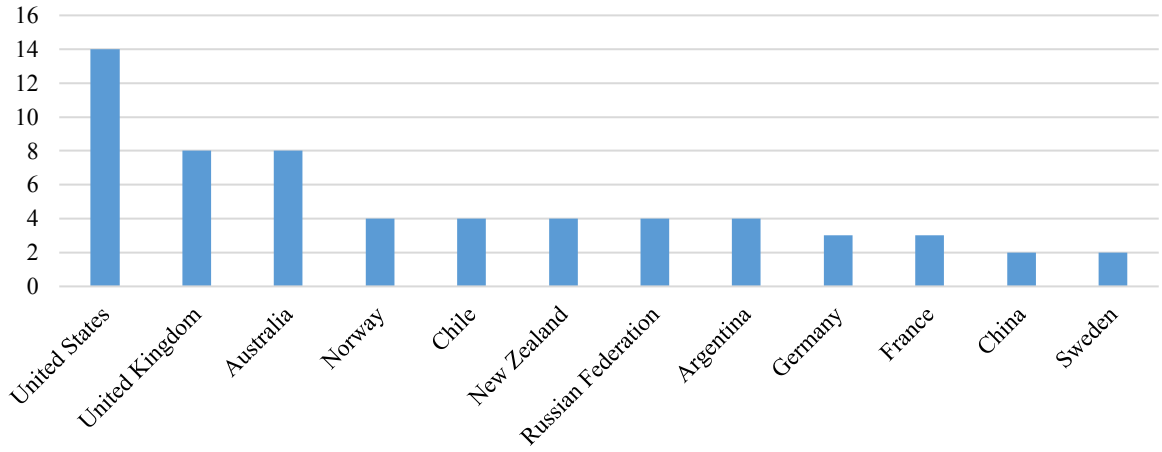
Inspections are another economic indicator of authoritative and allocative resources produced and reproduced by agents. Agreed for the first time in the Antarctic Treaty, inspections were envisioned to promote the Treaty's objectives of peace maintenance and scientific cooperation (Jabour 2011), prohibiting: military activities (Article I), nuclear explosions and disposal of radioactive waste material in the region (Article V). The Article VII of the Antarctic Treaty guarantees that each party can designate national observers to be granted free access to all stations, installations and equipment, including ships and aircrafts involved in discharging or embarking procedures. In addition to criticism of the effectiveness of inspections, as the inspected must be notified in advance and sometimes provide logistical support to inspectors; an inspection initiative is considered expensive and undertaken by a restricted number of actors because '*each trip requires transport, and logistic and material support; 'one can't just hop a cab or fly from one base to another.' Only fairly powerful States have the resources to carry out more than purely nominal or sporadic inspections*" (Auburn 1982, p. 111).

Therefore, the number of engagements in inspections (Figure 7)[25] and the number of facilities inspected by a party (Figure 8) are good indicators of the economic effort a party expends in the region in order to assert the Treaty's objectives. Inspections create an enforcement atmosphere for parties, reinforcing agreements taken even if only symbolically. With the strengthening of the environmental agenda in the Treaty, inspections became the main device

[25] The selection of inspectors was based on those who engaged more than once in an inspection from 1961 to 2016. The data is available at the Antarctic Treaty Secretariat website www.ats.aq, accessed on the 22nd October, 2016.

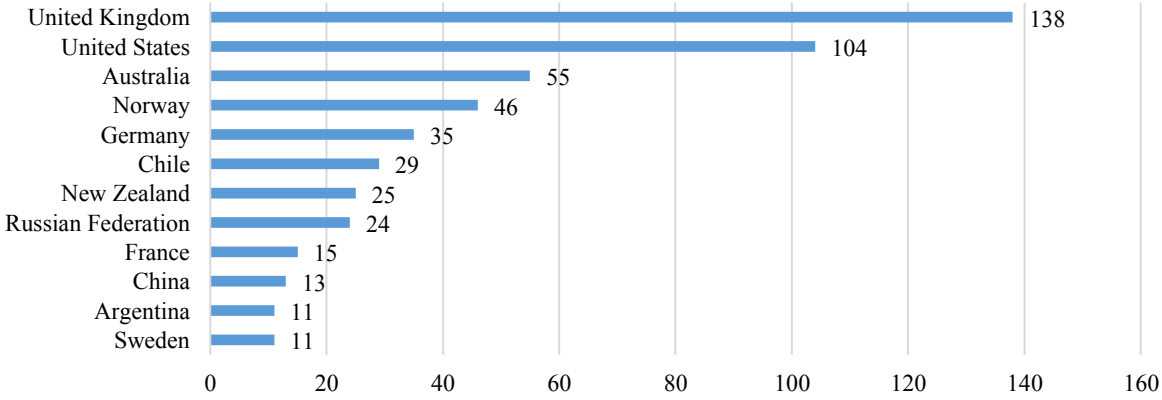
to expose parties who do not follow environmental protection prescriptions as recommended. Therefore, authoritative and allocative resources are evident in inspection activities, reinforcing the power configuration present since the Treaty's creation. The seven claimants and the two potential claimants are among the most engaged inspectors in the region. The United States has been the most consistent inspector, with the highest number of engagements distributed throughout the years of Antarctic Treaty operation. Nevertheless, the United Kingdom has inspected more facilities than anyone else.

Figure 7 - Engagement in inspections throughout the Antarctic Treaty



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

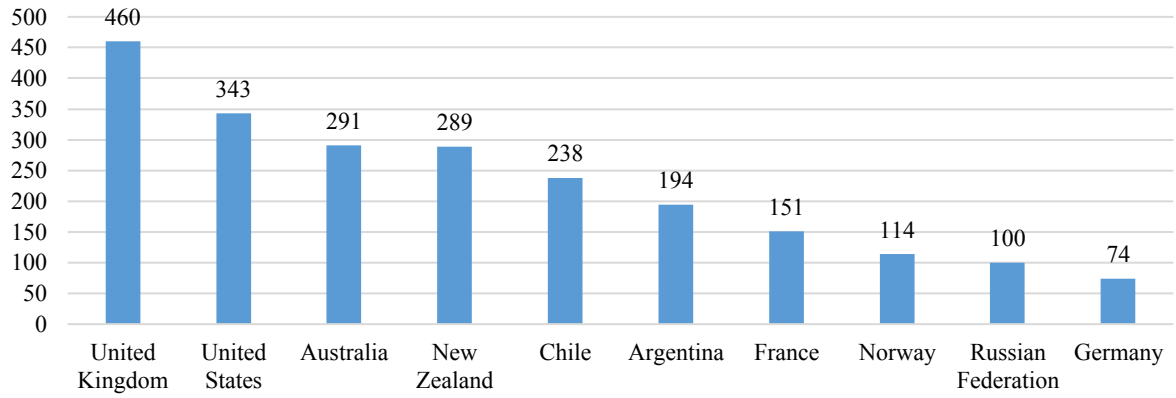
Figure 8 - Number of facilities inspected by party throughout the Antarctic Treaty



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Politically, levels of participation in Consultative Meetings in terms of proposing papers for discussion, leading intersessional contact groups (ICG) and hosting headquarters of Antarctic Treaty System bodies are indicators of how agents deploy and are constrained by authoritative resources in terms of the capability to coordinate their own practices. Participation in Consultative Meetings is demonstrated through the proposition of working papers for discussion (which means proposing discussion about a specific subject to be addressed). We are aware of the limitations regarding this indicator: is the subject considered relevant to all agents? Did the discussion produce any output in terms of agreements? (Sánchez 2016). This indicator is useful as long as we restrain ourselves to the information it brings to the fore: engagement. Besides, no change on Antarctic rules would be feasible without a proposition being first made at its decision-making forum (see Figure 9).

Figure 9 - Proposition of working papers to Consultative Meetings from 1961 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Intersessional Contact Groups (ICG) were first agreed in 1998 by the CEP as an informal and cost-effective way to continue discussions about matters which demanded a longer timeframe for parties to address them. Until 2004, ICGs were operated mainly by email exchanges. With the establishment of the Secretariat, an online forum was opened with exclusive access for Antarctic Treaty members where discussions take place and drafts for collaborated papers are proposed and edited. For this reason, issues are addressed in a more predictable manner in meetings, as outcomes could be foreseen through this forum. The proposition of an ICG should be made during Consultative Meetings or CEP and its terms of reference agreed. Generally, proposers are inclined to be moderators and those who wish to take part in discussions should contact the proponent party for inclusion. The final report should be presented in the following

meeting with the concluding remarks (and, perhaps, with a proposition for a measure or resolution as well).

Proposing an ICG and moderating it over a year means demonstrating a leading role in a certain subject. On the other hand, when an ICG is not significantly used, two alternatives can be raised: the specific issue is not considered relevant, or the specific issue is too controversial to have its discussion instigated. Regardless of these alternatives, an ICG initiative means that personnel will be allocated for moderating and/or following discussions throughout the year. In contrast to actors who participate only in meetings, ICGs demand deeper involvement, signalising the will from parties to be part not only of Antarctic decision-taking, but also of Antarctic decision-making.

Table 4 – Intersessional Contact Groups moderations from 1998 to 2014[26]

Intersessional Contact Groups Moderators	Moderations
Australia	19
Argentina	17.5
New Zealand	12
France	11
Chile	10
Norway	9.5
United States	8.5
Germany	8
United Kingdom	8
Netherlands	4.5
Brazil	4
Belgium	2.5
China	2
India	2
Russian Federation	2
Bulgaria	1.5
Italy	1
Sweden	1
Spain	1
Portugal	0.5

Source: elaborated by the author.

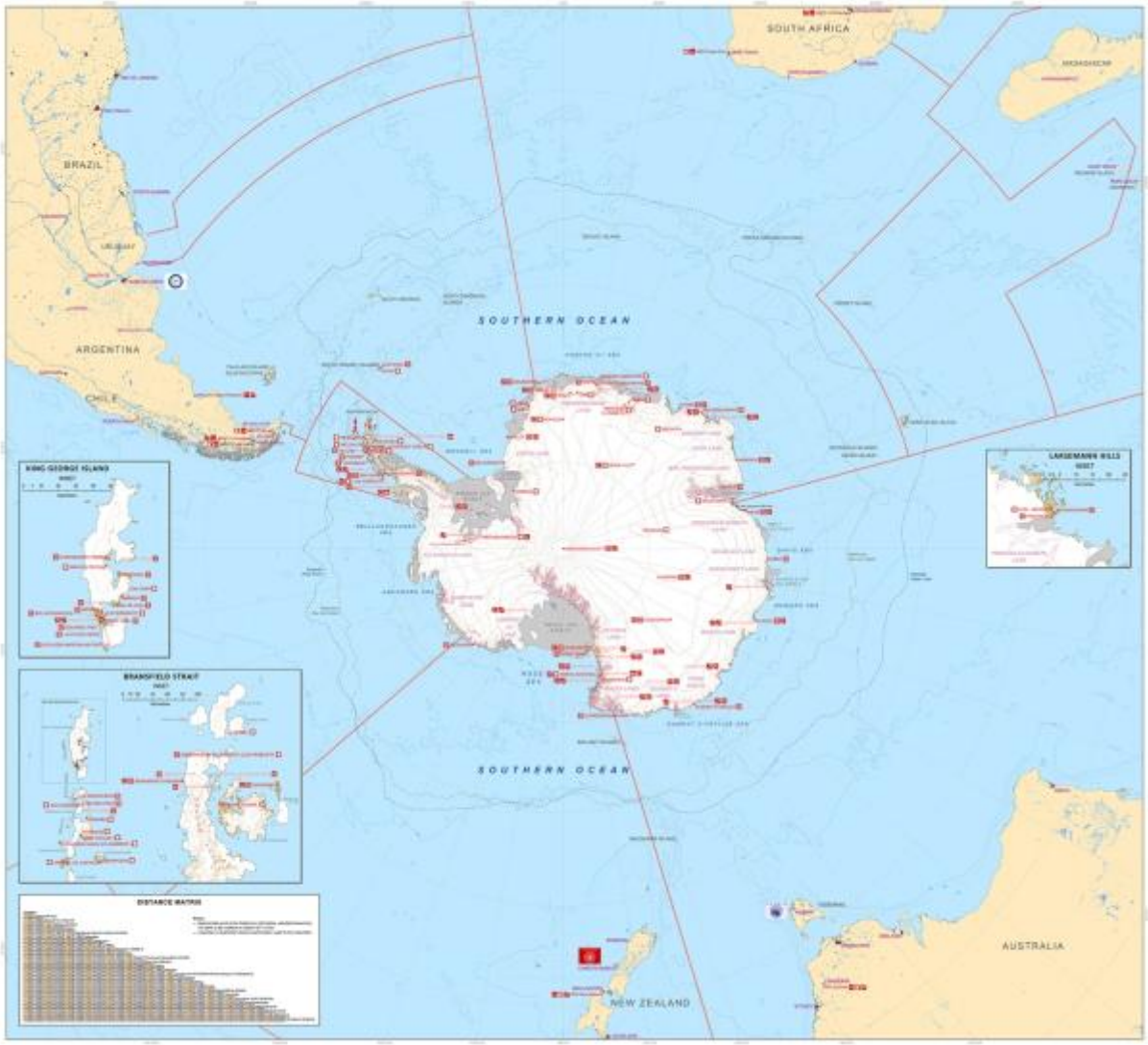
The frequency in moderation from parties that are claimants or potential claimants are, once more, the highest when compared to others (see Table 4). This indicator demonstrates how few states have successfully maintained their capability in coordinating practices, reinforcing their control on authoritative resources. The host of headquarters for Antarctic Treaty System bodies

[26] Data from 1998 to 2012 was obtained from Rodolfo Sánchez's publication for Polar Record (Sánchez 2016). Information from 2012 to 2014 were obtained directly from the Antarctic Treaty Secretariat website, accessed on 19 October, 2016.

such as CCAMLR in Hobart, COMNAP in Christchurch, SCAR in Cambridge and the Secretariat in Buenos Aires demonstrate how certain actors are dedicated to keeping their central role in Antarctic practices. Headquarters demand specific domestic arrangements which strengthen the presence of Antarctica in national political agendas.

Logistically, the number and location of Antarctic facilities are another strong indicative of the effort and expenditure to keep a physical presence in Antarctica (see Figure 10). As previously discussed, the environmental particularities of Antarctica represent significant high costs for those willing to be physically engaged. Therefore, analysing the presence, the geographical distribution and the logistical organisation of parties in Antarctica is a significant indicator of agents' capability to mobilise authoritative as well as allocative resources for the region (see Table 5). Likewise, the demonstration of physical presence reinforces the power relations already in place.

Figure 10 – Map of human presence in Antarctica



Source: https://www.comnap.aq/Publications/SitePages/Home.aspx. Adapted by the author. Accessed on the 18th October, 2016.

Table 5 – List of facilities in Antarctica for 2016[27]

Party	Number of facilities	Year-around	First facility informed
Argentina	13	6	1904
Chile	12	5	1947
Russian Federation	12	5	1956
United States	6	3	1955
Australia	4	3	1954
United Kingdom	6	2	1947
China	4	2	1985
France	3	2	1956
India	3	2	1983
Republic of Korea	2	2	1988
Germany	5	1	1981
Italy	5	1	1986

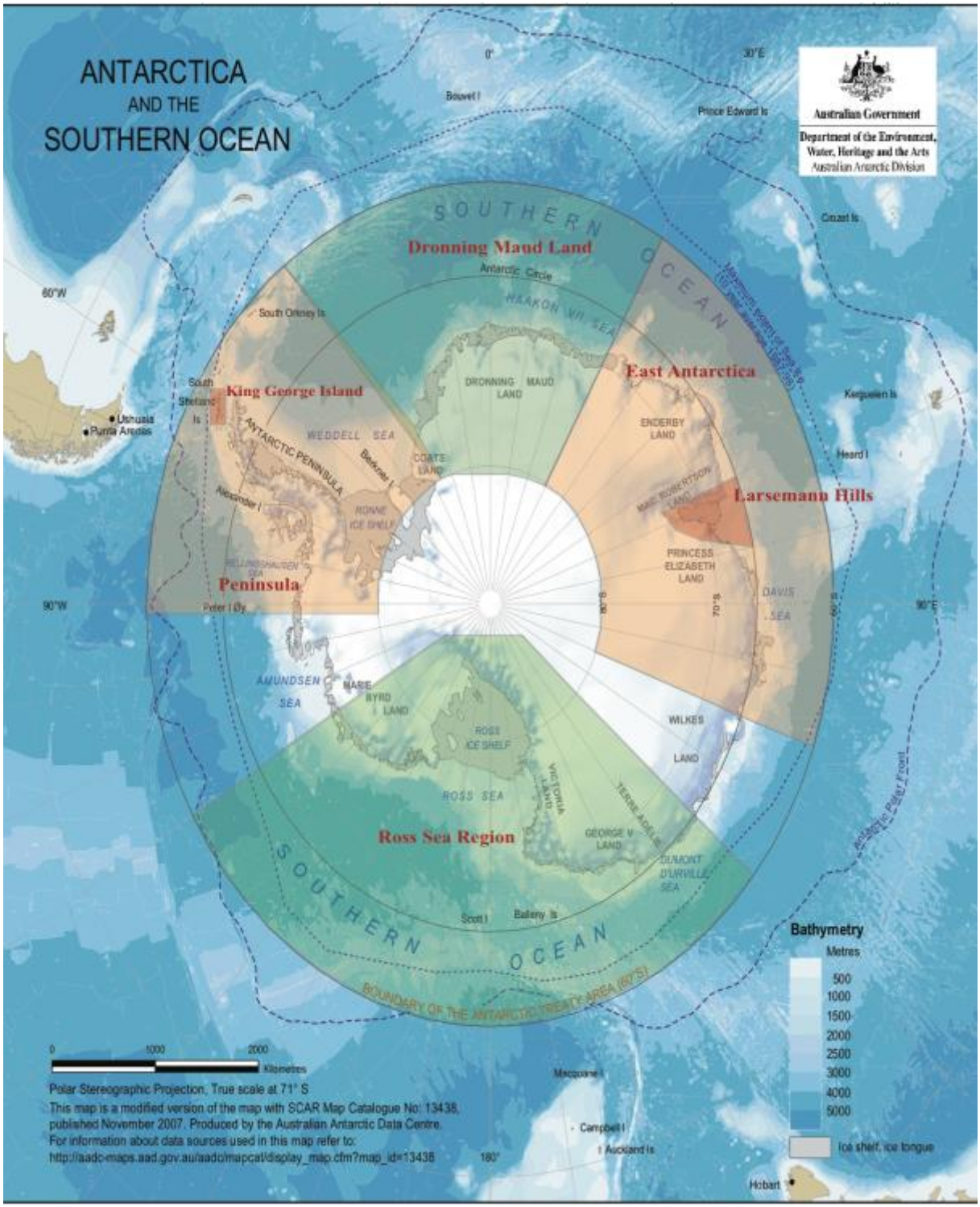
[27] The information is available at the COMNAP website www.comnap.aq and is provided by each National Antarctic Programme. Accessed on the 19th October, 2016.

Japan	4	1	1957
Norway	2	1	1985
Uruguay	2	1	1984
Brazil	1	1	1984
New Zealand	1	1	1957
Poland	1	1	1977
South Africa	1	1	1962
Ukraine	1	1	1996
Spain	3	0	1989
Ecuador	2	0	1990
Belgium	1	0	2009
Bulgaria	1	0	1988
Czech Republic	1	0	2006
Finland	1	0	1988
Netherlands	1	0	2012
Peru	1	0	1989
Sweden	1	0	1989

Source: elaborated by the author.

Claimant and potential claimant states are present year-round in Antarctica which is a considerable demonstration of resource deployment. Maintenance of personnel during the Antarctic winter is expensive and laborious. The amount of facilities as well as their geographical distribution can signal a political use of presence in the region. Claimants are concentrated in their respective claimed sector, reinforcing their individual deployment of resources in their area of interest; on the other hand, potential claimants has an overall presence on the continent, indicating their rejection towards sovereignty claims in Antarctica. The choice for the location of a facility also indicates territorial proximity to Antarctica or collaborative agreements with Antarctic gateways. Punta Arenas in Chile, Ushuaia in Argentina, Cape Town in South Africa, Hobart in Australia and Christchurch in New Zealand (Jabour 2011) are considered Antarctic gateways, because their positional asset turns these agents into the main providers of logistical assistance for national programmes to launch their expeditions and for support in search and rescue emergencies. These agents become enablers of some Antarctic programmes and their leading coordination is produced and reproduced through the spatial organisation used by COMNAP (see Figure 11).

Figure 11 – Map of National Antarctic Programmes Groups



Source: Modified by the author based on COMNAP grouping information (2017).

By the same token of logistics, authoritative and allocative resources reproduce and are produced by those who present substantive scientific production. Antarctic scientific research has always been presented as the main rationale of the Antarctic Treaty, enabling its agreement

in 1959 after the IGY and being used as criteria for membership as well as ascension to a consultative status. The organisation of Antarctic science has been in charge of SCAR since the early years of the Treaty, keeping SCAR as a non-governmental body with an exclusive advisory role: "*these Representatives should be free to express their views as individual experts and not to be tied by government policy*" (Roberts 1962, p. 56). This was the way found to try to secure Antarctic science from a complete political appropriation, especially if decisions were to be taken by the Treaty as well.

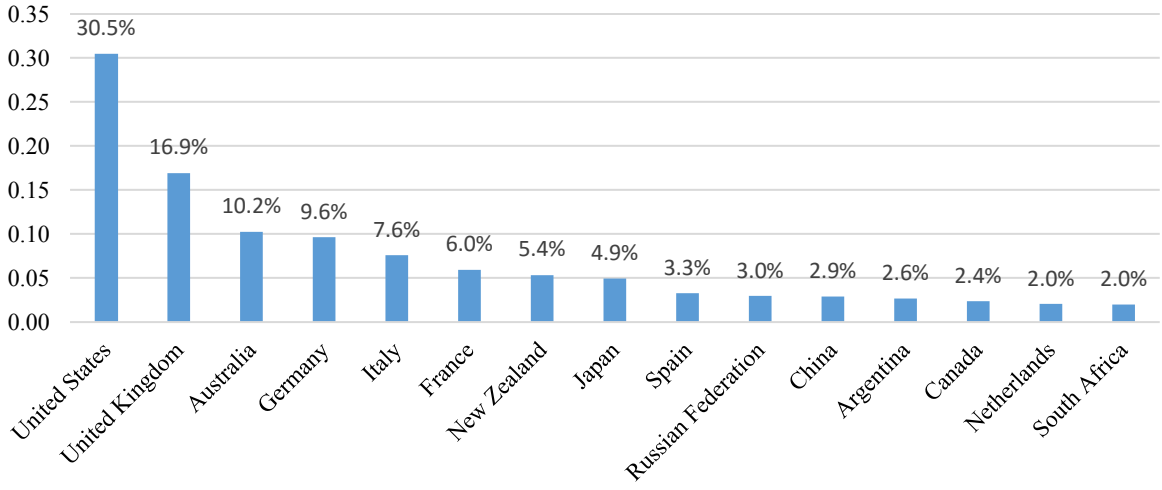
Expertise on the functioning of the Antarctic environment comes from the technical study of the region and the development of means to undertake research in unhospitable conditions. Therefore, authoritative and allocative resources are deployed by those who know the region and have the ability to operate on it, reinforcing their leadership among other agents. Recent research has attempted to demonstrate scientific leadership and collaboration patterns in Antarctic actors by looking at levels of scientific publications in indexed journals (Dastidar 2007). The methodology of this research can be questioned as different kind of publications (such as books) will be automatically excluded from these analyses and other sources of information might also be relevant such as the number of national participants in SCAR groups and budgets ascribed to Antarctic science by each nation. Nonetheless, Dastidar's methodology (2007) offers a proxy of the scientific relations produced and reproduced in the region as scientific publications represent the last stage of a complete scientific research. Dastidar searched the Web of Science citation index for the period of 1980-2004 using the keyword 'Antarc*' for titles occurrences.

If we reproduce Dastidar's research and expand his timeframe to 1970-2014 (the oldest year in which we could retrieve data), the records increase from 10,942 to 27,550 publications. From a small number of parties (50) and Consultative Parties (29), the records retrieve 92 countries/territories as the origins of these publications, revealing a more diverse and inclusive participation compared to the Treaty's framework. Nevertheless, the most productive nations are similar to those already observed in economy, politics and logistics (see Figure 12).[28] [29]

[28] The information was retrieved from Web of Science database, which is available at the link: <wcs.webofknowledge.com/RA/analyze.do>. Accessed on the 21st October, 2016.

[29] In order to keep consistency along the analysis, we grouped the following data: England, North Ireland, Scotland and Wales as the United Kingdom; France, French Polynesia, Nova Caledonia and Reunion as France; Federal Republic of Germany, Germany and German Democratic Republic as

Figure 12 - Percentage of national Antarctic scientific publications from 1970 to 2014



Source: elaborated by the author.

Albeit we do not have access to the first years of operation of the Antarctic Treaty along with SCAR, the methodology proposed by Dastidar is very enlightening for observing Antarctic Treaty authoritative and allocative resources. Our results are very similar to those founded in 2008, which shows consistency in Antarctic scientific development over the years in terms of producers. There is a preponderant engagement from the United States with almost one third of all publications, positioning themselves as a powerful agent in terms of Antarctic science. The United Kingdom comes in second with 17%, and Australia in third, with 10%.

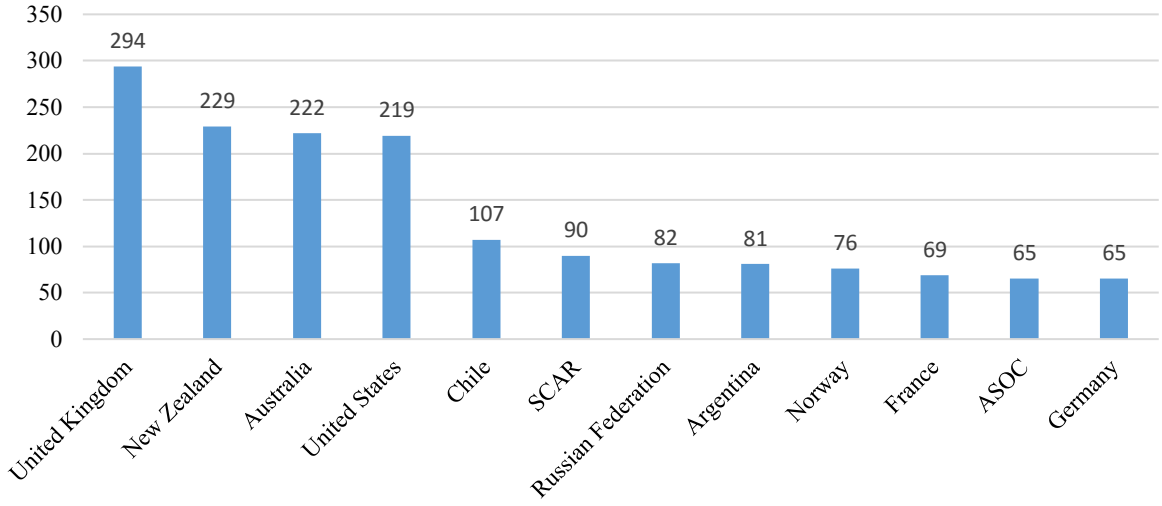
Concluding the analytical categories proposed by Elzinga, authoritative and allocative resources are produced and reproduced in environmental terms as well. Engagement in environment protection practices offers evidence of involvement from agents in this specific agenda, indicating those who developed stronger experience and expertise in environmental issues. The annexes in force of the Environment Protocol[30] provided us guidance in selecting

Germany; South Africa and Ciskei as South Africa; and Union of Soviet Socialist Republic and Russia as Russian Federation.

[30] Annex 1 "Environmental Impact Assessment", Annex 2 "Conservation of Antarctic Fauna and Flora", Annex 3 "Waste Disposal and Waste Management" and Annex 4 "Prevention of Marine Pollution" were adopted in 1991 and entered into force in 1998. Annex 5 "Area Protection and Management" was adopted separately in 1991 and entered into force in 2002. All of them were considered in our statistical analysis. Annex 6 "Liability Arising from Environmental Emergencies" was adopted in 2005, but it was not considered here as it has still not entered into force.

the categories[31] from the Antarctic Treaty Database to analyse agents' participation on this thematic (see Figure 13)[32].

Figure 13 - Engagement of members of the Antarctic Treaty in environmental issues from 1961 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Once more, the main participants on environmental issues in the Antarctic Treaty are the same ones identified in previous indicators (claimant and potential claimant states). The United Kingdom is the main participant followed by New Zealand, Australia and the United States quite close together. What it is interesting to observe is the presence of observers and experts as the main proposers. SCAR demonstrates a significant involvement in environmental issues within the Antarctic Treaty as well as ASOC, an expert that indeed is not allowed to submit working papers.

If agents are those able to make a difference to a pre-existing state of affairs or course of events, Antarctic agents would be restricted to a few Consultative Parties. Claimants and potential claimants are those who ostensibly deploy the rules and authoritative and allocative resources

[31] The categories are: CEP Strategy Discussions, Comprehensive Environmental Evaluations, Environmental Domains Analysis, Environmental Protection General, Fauna and Flora General, Management Plans, Monitoring and Reporting, Non-native Species and Quarantine, Operation of the CEP, Other EIA Matters, Prevention of Marine Pollution, Protected Areas General, Specially Protected Species, State of the Antarctic Environment Report (SAER) and Waste management and disposal.

[32] We decided to include working papers, information papers and background papers because non-consultative actors and experts would also be considered in the analysis. Source: the Antarctic Treaty Database.

in the Antarctic social system. Undeniably, the pressures to open up of the Antarctic Treaty and the consequent inclusion of non-Consultative Parties, observers and experts to Consultative Meetings altered the course of events of the Treaty in terms of its institutionalisation as well as its legitimisation by international society. However, the production and reproduction of the Treaty machinery by few agents is even clearer when analysed in relation to the others.

The reasoning behind agents' behaviour cannot be addressed here, because what impels an agent to act does not necessarily corresponds to the action concretely undertaken. Only a proper action is available for observation, impacting on others impressions and subsequent conducts (Giddens 1984). Therefore, inferences about the motivation behind the discrepant levels of involvement of Antarctic agents in Antarctica is beyond the scope of this work. Nonetheless, agents' reflexive monitoring and rationalisation is observable evidence in terms of actions concretely taken and reproduced through time and space. Therefore, Antarctic agents can be observed in this work by examining their practices in the Antarctic social system. Practices provide agent's understanding beyond the levels of rational choice or conscious belief. They represent a pattern of action based on common and implicit understanding of actors which are socialised in these terms (Buzan 2014). They are, at the same time, "*material and meaningful, structural and individual (agential), reflexive and based on background knowledge, and partake in both stability and change, acquire concrete and workable theoretical and empirical meaning in the concept of 'communities of practice'. Practices develop, diffuse and become institutionalised in such collectives*" (Adler 2012, p. 126). The Antarctic represents a community of practices made up of propositions and agreements, outputs of agents' actions which structure and are structured by the operation of the Treaty.

Bearing in mind the debates about agent-structure in International Relations (Wendt 1987, Wight 2004, Wendt 2004), the theory of structuration leads us to a two-way-route of determination where collectivities, such as states and organisations, behave as agents like any individual in a social system. Once the Antarctic Treaty is understood as a social system with agents, rules, resources and practices, the main focus of this section turns to the practices of these agents – which are observable – and how these practices structure and are structured by the rules and resources in place in Antarctica, institutionalising the Antarctic Treaty's governance.

3.3.1 Operation through procedures: Meeting documents

At the Canberra Antarctic Treaty Consultative Meeting, in 1961, rules of procedure were established to guide how the Treaty's decision-making and decision-taking processes would work. Recommendation ATCM I-14 stated an interim measure in which the government of the host country would send to all participating governments a certified copy of the Meeting Final Report, containing authentic texts of all documents agreed and adopted by the meeting. This government would also send any other related documents and comply with any other request, answering questions or supplying with any other related information which may be subsequently requested by the parties.

The government of the next host country would consult the other participating governments in setting the provisional agenda and the opening date of the meeting. The notifications of the recommendations' approval by the governments involved should also be communicated through diplomatic channels to all the others participating governments. The Recommendation ATCM I-16 stated that reports, studies and all other documentation (which includes specific proposals or draft recommendations), from participating governments who want to have it discussed, should be communicated through diplomatic channels to all participating governments in advance of the meeting in question. Nonetheless, with the establishment of the Antarctic Treaty Secretariat – agreed by the Decision 1 (2001) at the 24th ATCM, and Measure 1 (2003) at the 26th ATCM – the work of compilation, translation, communication and distribution of meeting documents have been assumed by the Secretariat headquarters. Since then, the meetings have been organised by the host country, but with the full support from the Secretariat.

Meeting documents to be presented by parties are called *Working Papers*. They can be submitted by Consultative Parties and observers who wish a discussion and/or an action from the meeting in question. *Information Papers* refer to those submitted by Consultative Parties and observers aiming to provide supporting information for a submitted working paper, or to present relevant discussions to the meeting. Information Papers can also be submitted by non-Consultative Parties and experts who wish to present relevant materials to discuss at the meeting. *Background Papers* refer to papers submitted by any participant, but which are not going to be discussed during the meeting. Their purpose is a formal provision of information. *Secretariat Papers* are prepared by the Secretariat to help to inform the meeting or to assist its

operation. And *Additional Documents* are the category of documents exclusively created to support any information addressed by papers already submitted; they are not intended to be presented (see Table 6).

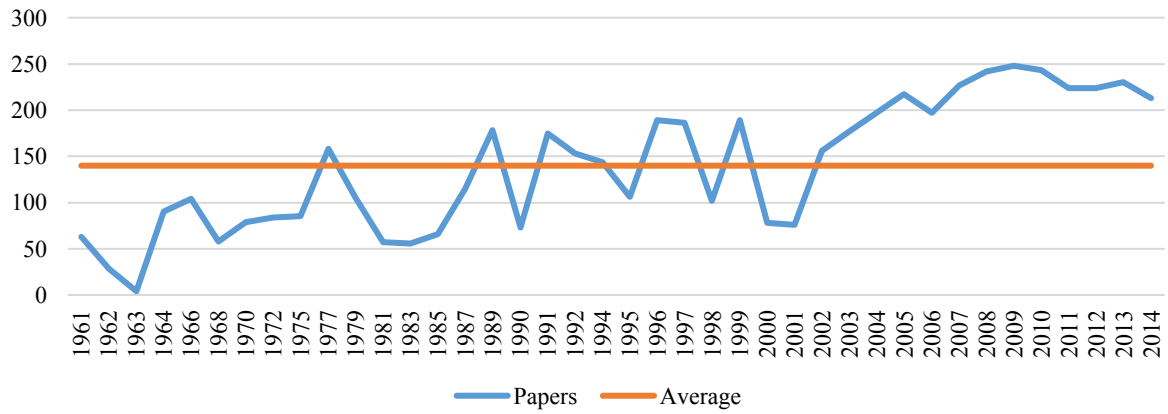
Table 6 – Distribution of meeting papers according to classification from 1961 to 2014

PaperType	Frequency	Percent
AD	151	2.69
BP	149	2.66
IP	2,881	51.38
SP	232	4.14
WP	2,194	39.13
Total	5,607	100

Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Meeting documents have been presented throughout Consultative Meetings and, in some occasions, in Special Consultative Meetings and Meetings of Experts as well (1963, 1989, 1990, 2000, 2004, 2009 and 2010). There is not an identifiable reason why some meetings present higher rates of proposals than others (see Figure 14). With an average of 139.9 and a standard deviation of 68.99 papers, relative stability of proposals is observable only from 2004 onwards, a result of the work of the Secretariat on the organisation of meetings. The operation of the CEP along with the ATCM was also responsible for an increase on the number of papers presented to meetings, as more issues are due to be discussed and addressed.

Figure 14 - Meeting documents proposed to Consultative Meetings from 1961 to 2014

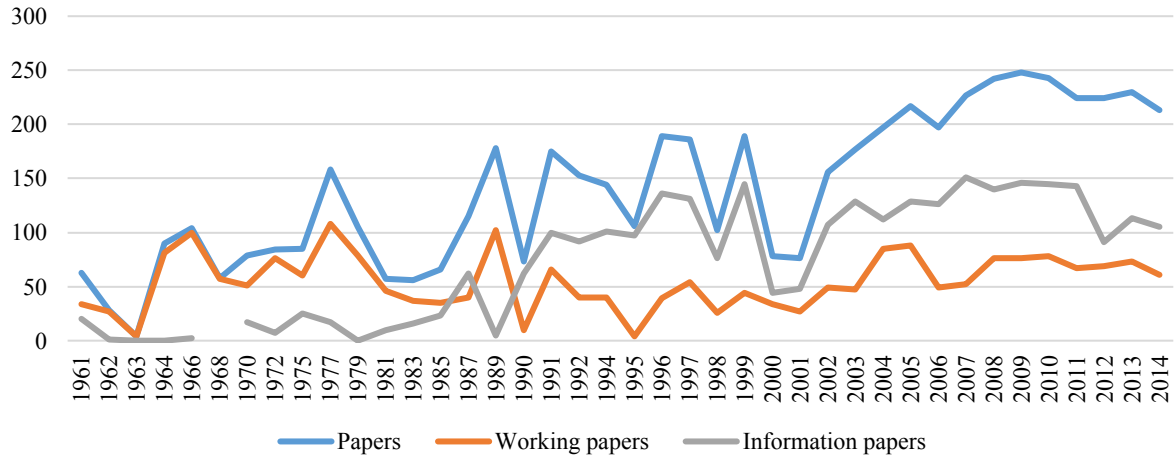


Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

All the working papers are translated into the four official languages (English, French, Russian and Spanish) by the Secretariat staff. But information papers and background papers are not translated, unless if the party, observer or expert requires it. All papers are classified by *agenda item* (which corresponds to the themes under discussion at the previous meetings), and directed to the committees or workings groups where they would be specifically considered. These committees and working groups are also agreed in previous meetings and this classification process is also run by the Secretariat staff.

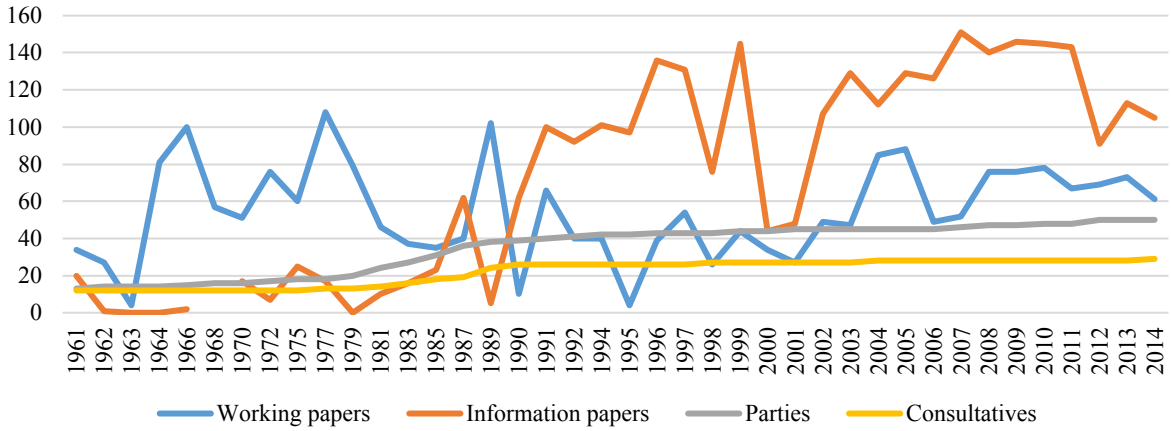
As referred to previously, working papers are for discussion in meetings and, for this reason, their authorship is restricted. Nevertheless, non-Consultative Parties and experts can be co-authors of these papers or have their information papers presented if requested and agreed by the meeting. Working papers used to be predominant in meetings until 1990, when information papers became the majority as the most accessible form of communication from parties, observers and experts (see Figure 15). The correlation between working papers proposed and membership in the Antarctic Treaty is very low (see Figure 16) with -0.0187 for parties in general and -0.0388 for Consultative Parties. This figure changes when correlation is measured between information papers and membership. With values of 0.8579 for parties and 0.8643 for Consultative Parties, information papers reflects a more participative device and, for this same reason, have less impacting in terms of decision-making.

Figure 15 - Working papers and information papers presented to Antarctic Treaty meetings from 1961 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Figure 16 - Papers and membership in the Antarctic Treaty from 1961 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

There is a high diversity of issues on which working papers are proposed, varying from the operation of the Antarctic Treaty system itself (self-regulation), environmental issues (with management plans, protected areas and fauna and flora) and operational matters, which includes safety and exchange of information (see Table 7). It is important to highlight that although 'management plans' present a repeated protocol for renewal as a working paper (which results in its high frequency as a paper), the continuity of management plans procedures in Antarctica is very representative of the operation and organisation of the region's governance among its agents and territory.

In comparison, information papers present a similar distribution of main topics, but with few differences (see Table 8): scientific issues have a much stronger participation as an informative rather than a decisional issue. The same pattern is observed with environmental assessments and monitoring reports, which are much more frequent as information papers. These results show that enforcement procedures in Antarctic governance have mainly a recommendatory character (not involving decision-making arenas), whilst proper decisions are limited to operational issues. Another category which is significant to information papers is cooperation with other organisations, confirming the only arena where experts can participate and reinforce the Treaty's openness in a more informative way.

Table 7: Main categories of working papers from 1961 to 2014

Main categories	**Working Papers**

Operation of the Antarctic Treaty system	372	14.00%
Management Plans	291	10.95%
Tourism and NG Activities	241	9.07%
Operational issues	198	7.45%
Environmental Protection General	181	6.81%
Protected Areas General	125	4.70%
Exchange of Information	100	3.76%
Fauna and Flora General	99	3.73%
Historic Sites and Monuments	98	3.69%
Science issues	76	2.86%
Opening statements	64	2.41%
Safety and Operations in Antarctica	63	2.37%

Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Table 8: Main categories of information papers from 1961 to 2014

Main categories	Information Papers	
Operation of the Antarctic Treaty system	444	12.59%
Science issues	316	8.96%
Tourism and NG Activities	309	8.76%
Opening statements	275	7.80%
Exchange of Information	234	6.64%
Environmental Protection General	219	6.21%
Monitoring and Reporting	122	3.46%
Other EIA Matters	120	3.40%
Cooperation with Other Organisations	118	3.35%
Operational issues	113	3.20%
Safety and Operations in Antarctica	113	3.20%
Management Plans	92	2.61%

Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

The final point which is worth reiterating about the differences between working and information papers is authorship (see Table 9). Restrictions applied to the submission of working papers result into a concentration of claimant and potential claimants as the main agents, accounting for 76.4% of all working papers proposed. On the other hand, information papers present experts and observers as the main agents (ASOC, IAATO and SCAR) along with the traditionally most participative parties (United Kingdom, Australia, Chile, United States, New Zealand, Russian Federation and Argentina). In addition, the distribution of papers is much more even among authors when compared to working papers, defining a different logic of appropriation of information papers in meetings. As they do not prompt discussions and agreements, they are much more widespread among other agents, configuring a slightly different portrait of the Antarctic Treaty operation.

Table 9: Working papers and information papers main authors from 1961 to 2014

Parties	Working Papers		Parties	Information Papers	
United Kingdom	460	16.12%	United Kingdom	215	6.78%

United States	343	12.02%	Australia	196	6.18%
Australia	291	10.20%	ASOC	189	5.96%
New Zealand	289	10.13%	Chile	174	5.49%
Chile	238	8.34%	United States	161	5.08%
Argentina	194	6.80%	New Zealand	149	4.70%
France	151	5.29%	Russian Federation	135	4.26%
Norway	114	4.00%	IAATO	131	4.13%
Russian Federation	100	3.51%	Argentina	129	4.07%
Germany	74	2.59%	SCAR	129	4.07%

Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

The operation of the Antarctic Treaty in terms of meeting documents portrays a concentrated engagement. In general, working papers and information papers have claimants and potential claimants as their main actors. However, information papers present a much more diversified composition, with a strong participation of observers, such as SCAR, and experts, such as ASOC. Another important difference is the nature of issues addressed. Working papers deal with issues such as management areas, tourism and operation of the Antarctic Treaty, which require decisions and have a direct impact on the practices undertaken. On the other hand, information papers deal with less controversial subjects such as science issues and environmental matters, which is coincident with its openness to experts and non-Consultative Parties' propositions. Therefore, meeting documents reinforce our main argument on agency in Antarctica, as claimant and potential claimants are those able to deploy rules and resources, reinforcing their protagonist role in the governance of the region. Working papers are the main way to modify the Treaty's practices, which explains their restricted character. Hence, analysis on decisions, which are originated from working papers, concludes this overview on the Antarctic Treaty governance.

3.3.2 Operation through procedures: decisions

As previously seen (Roberts 1978), an Antarctic issue would be initially 'aired' at the meeting, mostly by informal consultations among parties (which could be during the meeting or intersessionally). If there is a welcoming atmosphere for this issue, an information paper is presented at the following meeting to check the parties' opinion on the issue. If parties are not willing to discuss the subject, the paper is ignored and the issue is 'shelved'. On the other hand, if there is a willingness to address the subject, the item comes back as a working paper to be discussed in detail. In this case, if the paper is co-authored by main actors (claimant and potential claimants, for instance), it has more chance of being considered, as the main supporters are already guaranteed and discussions will definitely follow. If there is an

agreement about addressing the issue, the meeting will agree on a certain kind of decision. If there is no consensus yet, the proposition would be reviewed and re-presented at the next meeting.

This gradual process of decision-making configures the slow pace of transformation of the Treaty, as the formulation and adoption of a practice can take years. And if papers represent the initial stage of the formalisation of a practice, meeting agreements represent its denouement. As previously presented in Article IX, governments shall meet in suitable intervals for exchanging information, consulting together on Antarctic matters and *formulating and considering, and recommending to their governments, measures in furtherance of the principles and objectives of the Treaty* (The Antarctic Treaty 1959). From the wording "recommending", referred to in the Treaty's text, agreements were called *recommendations*, the only exception being the *Agreed Measures for the conservation of Antarctic Fauna and Flora*, from 1964, which was considered to be drafted in the form and language of a Treaty (Gautier 1996). Adopted recommendations only became effective when approved by all Contracting Parties.

This institutional framework created two problems for the operation of the Antarctic Treaty: the first one was the dual character of a recommendation, covering an extensive number of measures which could be interpreted as mandatory or hortatory (if the focus was on the legal instrument or on the language of this instrument). This dubiety allowed parties to interpret that effective recommendations were not expected to be 'legally binding' even when they have become effective by being ratified by all Contracting Parties (Gautier 1996). The second problem was the several years which a recommendation used to take to be adopted and become effective by the Treaty, as the adoption by all domestic governments from Contracting Parties was a condition for recommendations and measures to become effective.

Considering the four official languages of the Treaty, the first problem was created by the dubious wording of the text which is mandatory as an instrument, but hortatory in semantic and legal terms. In the Antarctic case, the instrument had mandatory effects, but was based on a hortatory condition (a recommendation to recommend governments). The final solution would therefore be based on the language used. However, this solution could create more problems depending on how the language was interpreted. For instance, Gautier (1996) shows how expressions such as "urge" in English could be translated to French as "prier" or "inviter", which presents a much more suggestive connotation. This places a paradox on a document

which should be legally binding. Due to the 'dubious' mandatory character of recommendations, in 1995 (19th ATCM), Belgium, Chile, France, Germany and the United Kingdom proposed a working paper amending the process of adoption of measures by Article IX, aiming to increase the efficiency and clarity in Antarctic Treaty decision-making.

The adopted Decision 1 (1995) agreed that recommendations would be divided into three different instruments: *measures*, *decisions* and *resolutions*. Measures refer to "*a text which contains provisions intended to be legally binding once it has been approved by all the Antarctic Treaty Consultative Parties*". Decisions refer to "*a decision taken at an Antarctic Treaty Consultative Meeting on an internal organisational matter to be operative at adoption or at such other time as may be specified*". And resolutions refer to "*a hortatory text adopted at an Antarctic Treaty Consultative Meeting*". According to this categorisation, resolutions were defined as the instruments of a recommendatory nature, so were not legally binding. Decisions would be elaborated exclusively for internal organisation and procedural matters and, for this reason, become operative right after their adoption. And measures would be the instruments in keeping with the procedures already stated in Article IX, becoming legally binding once approved by all parties. Operationally, Consultative Parties proceed with approving the measure at national government level and then notify the Depositary Government of the approval completion.

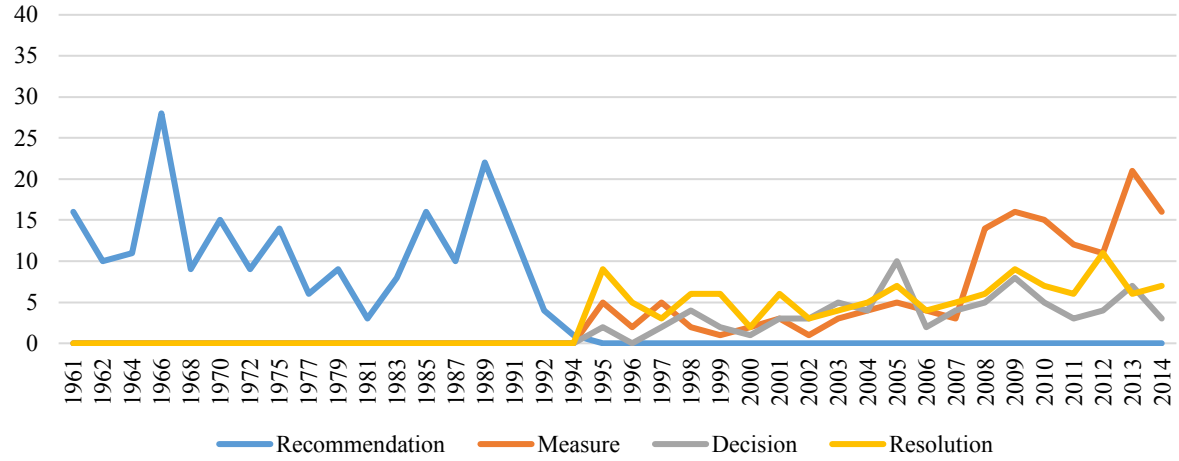
Decision 1 (1995) was able to address the problem of mandatory and hortatory instruments. If a text is hortatory, it does not create expectations for its effectiveness as it is just recommendatory. However, if the text is mandatory, as all measures were defined to be, delayed approval brings complications for the operation of the Treaty. Looking at measures approved from 1995 and recommendations from 1961 to 1994 we can see that a slow approval rate is still a problem. In 2002 (at 25th ATCM, Warsaw), the United Kingdom identified that only 58% of measures adopted had become effective since 1995. Therefore, a fast-track procedure was proposed for turning measures approved according to Article IX (1) effective henceforth.

Some parties supported the British proposal whilst others demonstrated concern about domestic law systems and the practice of the Treaty itself. Tacit approval was agreed for some circumstances, but not as a routine procedure. An intersessional group was agreed for further discussion on the subject at the next Consultative Meeting (Final Report of the 25th ATCM 2002). At the 26th Antarctic Treaty Consultative Meeting, in Madrid, another working paper

was submitted by Argentina, Italy, the Netherlands, Norway, South Africa, Sweden, and the United Kingdom, proposing three options to be considered by parties: (i) all measures entering into force tacitly, (ii) a tacit approval of all measures unless a Consultative Party requires an explicit approval, or (iii) the meeting tacitly approves measures at their time of adoption. The meeting did not achieve an agreement on how a tacit approval procedure could be adopted. On the other hand, the Netherlands and Australia's working paper proposed to review measures, classifying them according to the categories of: spent, superseded, obsolete and ongoing. The meeting agreed that this revision work should first focus on Protected Areas and that interested parties should contact each other intersessionally on the matter, returning with a new paper at the next meeting (Final Report of the 26th ATCM 2003).

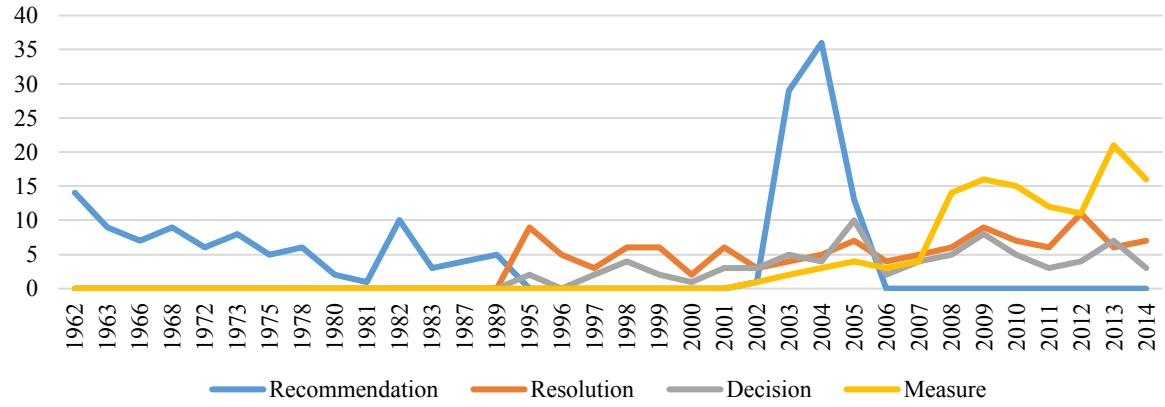
In 2014, the updated portrait of recommendations, resolutions, decisions and measures approved is not very different from the one identified in 2002. In terms of adoption, no recommendation has been agreed since 1994, which corresponds to the change of format in agreements taken by the Treaty (see Figure 17). From 1994 onwards, measures seem to outnumber decisions and resolutions, corresponding to the routine procedure of approvals and renewals of protected areas such as Antarctic Specially Protected Areas (ASPAs), Antarctic Specially Managed Areas (ASMAs) and Historic Sites and Monuments (HSMs). The peaks in recommendations becoming effective in 2003 and 2004 (see Figure 18) are due to the concerns raised by the United Kingdom in 2002. The meeting's response to the issue was that only recommendations and subsequent measures related to the annexes of the Environmental Protocol could become effective in 90 days or one year after being adopted by the meeting (unless any party asks for its postponement). Nevertheless, the last recommendations to become effective were in 2005 and, so far, there are still 28 recommendations and measures adopted but not yet effective (13 and 15 respectively).

Figure 17: Recommendations, resolutions, decisions and measures adopted from 1961 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Figure 18: Year Recommendations, resolutions, decisions and measures become effective from 1961 to 2014



Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Only recommendations and measures present differences between their adoption and becoming effective numbers (see Table 10) which is clearly explained by the implications of different domestic systems' approval. In terms of categories (see Table 11), special areas correspond to 35% of all agreements adopted by Consultative Meetings. The high percentage is because of the referred routine procedures of approval and renewal of protected areas (such as ASPAs, ASMAs and HSMs). Institutional and legal matters and operational matters are the second and third main categories, with the combined percentage of 22.52%. This represents the efforts of the Treaty to manage itself, establishing the normative environment on which it operates.

Information exchange, scientific cooperation and environment protection, milestones of the Treaty, are also present as main categories, demonstrating the normalisation of the expected practices to be taken in the region by the Treaty.

Table 10: Percentage of effective agreements in comparison to adopted ones from 1961 to 2014

	Adopted	**Effective**
Recommendations	204	168 (82.3%)
Resolutions	117	117 (100%)
Decisions	77	77 (100%)
Measures	145	122 (84.1%)

Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

Table 11: Main recommendations, resolutions, decisions and measures from 1961 to 2014

Main categories	**Percentages**
Area protection and management	35.46%
Institutional & legal matters	14.00%
Operational matters	8.52%
Information exchange	6.85%
Tourism	6.39%
Monuments	5.78%
Environmental protection	5.33%
Scientific cooperation	5.02%
Flora and fauna	4.87%
Marine pollution	1.67%

Source: elaborated by the author, based on the Antarctic Treaty Database (Secretariat 2015).

This overview on the operation of the Antarctic Treaty in terms of agreements demonstrates how any device can be used to postpone the entry into force of a decision. Different perceptions between a hortatory and a mandatory character, both in the language or in the legality of an instrument, provide space to manoeuvre for parties. Some could have agreed with a decision for the sake of consensus, but in fact, efforts can be in progress for not allowing an undesirable issue to become effective. Hence, the slow pace in the Antarctic Treaty operation is not limited to propositions; agreements are also managed in a preservationist way where modifications can be avoided in case they are non-consensual, even when consensus is applied. Agreements suffered a change (from recommendations to resolutions, decisions and measures) when the volume of issues to be addressed surpassed the capacity of response of the Treaty, demanding new avenues which were less disturbing for the decision-making framework.

The Antarctic Treaty operational system has been configured to preserve claimants and potential claimants' agency, reinforcing their position whilst a legitimised governance is undertaken. Meeting documents and agreements represent diplomatic translations of the Antarctic Treaty's main concern: a non-defined sovereignty. They configured a diplomatic culture based on a cautious approach to the structuring of the region, controlling decision-making and the capacity of actors to make changes in the operation of the Treaty and, as a consequence, on the governance of the region. Even with the incorporation of new parties and non-state actors, the decision-making prerogative has been preserved to those considered apt to exert this prerogative. Thus, consensus has not been challenged as the main device for decision-taking, as alternatives have been available for those who did not properly agree with a decision, but did not wish to paralyse the operation nor undermine the legitimacy of the Treaty's framework.

Conclusions

In this chapter, we wanted to explore the mechanics of the Antarctic Treaty. Organising this in meetings, parties and operation axis, we aimed to compose the governance of the Antarctic Treaty for the region whilst analysing the implications of its particular settings for the governance itself. Consultative Meetings, as the Antarctic diplomatic culture spatiality, represent the arena of decision-making, where practices are produced and reproduced by agents in terms of rules and resources. We analysed that the frequency, structure and pace transformation of Consultative Meetings were the result of the process of institutional maturity of the regime. The change in meetings' frequency, the establishment of the secretariat and the ability to detour challenging issues conform the process through which Consultative Meetings have been institutionalised as the Antarctic Treaty's governance making tool. These events reflect a machinery which have expanded qualitatively as well as quantitatively, while maintaining the same pattern of relational power among its agents.

Likewise, parties, meeting documents and agreements are translations of Antarctic exceptional values and beliefs into its particular diplomatic culture. Parties are the agents of the Antarctic Treaty's governance. They established the Treaty as the legitimate framework for the governance of the Antarctic region, and they created and limited their scope of action on it, basing the criteria for membership and ascension to a consultative status on the presumed apolitical character of scientific activities. Parties managed to keep control over the practices

undertaken in the Antarctic region by making it impossible for outsiders to dodge those more experienced who were the Treaty's first signers and long-standing main agents. As a consequence, control was justified by parties' success in the requisites they defined as the most appropriate for complying with the principles of the region. Peace maintenance, scientific cooperation and environmental protection have been used as the guiding principles for the production and reproduction of practices in Antarctica, as their non-controversial nature supported the preservation of the Antarctic Treaty's original source of authority.

The governance of the Antarctic Treaty conforms a proper social system, with practices, agents, rules and resources. In this social system, the operation of the Treaty constitutes the process of production and reproduction of agents' practices; deploying rules and resources by means of Consultative Meetings. Working papers bestow the way in which Consultative Parties propose the addressment of an issue. In contrast to information papers, working papers represent the control over the Antarctic Treaty' governance, as they are the only way to produce agreements which determine practices in the region. The synergy between working papers and agreements is the main engine of the operation of the Treaty, as they define which issues should be addressed, how they will be addressed and whom are allowed to address them. The system of propositions and decision-making deploys the Antarctic Treaty's rules and resources, producing and reproducing the practices of its agents, especially their domination-dependence interactions. Nevertheless, delays in making an agreement effective can provide a backlash to the operation of the system. A consensus achieved for the sake of the regime could mean an incomplete agreement with a certain outcome, offering spots of resistance for those who cannot deploy power through the rules and resources of the Antarctic Treaty, but do not want to be excluded from it.

The Antarctic Treaty has been successful in overcoming the difficulties inside and outside its governance, albeit its foundational questions still have not found definitive answers. Claimant and potential claimants are overwhelmingly the main agents in a myriad of perspectives: political, economic, logistic, scientific and environmental. And if being a sovereignty claimant or potential claimant is the common feature among the main agents, this means that the sovereignty question in Antarctica is still a meaningful issue which should be necessarily considered. The Treaty has opened itself up to wider membership and created mechanisms for further participation, but the control over decision-making is still restricted to a few agents. Therefore, the Antarctic Treaty's governance represents a self-supporting social system, with

domination-dependence relations, which has been gradually structured in parallel to international society. If human societies must be founded in security against violence, observance of agreements and rules about property rights (Bull 1977), the governance of the Antarctic Treaty has established a version of these founding principles, as the practices observed do not reproduce directly the primary institutions from international society.

Nationalism, balance of power, diplomacy, trade and equality of peoples do not differ significantly from ordinary practices, as they were also observable before of the operation of the Antarctic Treaty. Nationalism persisted through the activities of national Antarctic programmes whilst balance of power and diplomacy constituted Consultative Meetings as their prior forum for their practices. Albeit trade was the first primary institution to be expanded to Antarctica, after the Antarctic Treaty, the risk trade practices could present to a region of an undefined sovereignty led to the creation of parallel arrangements (CCAS, CCAMLR and IAATO) to address resource management in sealing, fishing and tourism. And equality of people was properly expanded only with the opening up of the Treaty's participation. The roles of Consultative, non-Consultative, observers and experts enabled a broader engagement whilst membership and status accession criteria were properly defined. Demonstration of substantive scientific research was adopted because of its non-discretionary nature, enabling exclusion in technical and not in ethnical terms.

On the other hand, territoriality and sovereignty represent primary institutions whose expansion did not result in an appropriation similar to international society by the governance of the Antarctic region. Albeit present previously to the Antarctic Treaty, sovereignty and territorial practices had their expansion formally interrupted, as the postponement of their definition has been the main guidance in Antarctic governance. The Antarctic Treaty provided a governance framework to Antarctica through a structuring social system, where identities and practices were defined by the Treaty's decision-making whilst the Treaty had its provisions reinforced by the practices undertaken in Consultative Meetings and in Antarctica as well. Therefore, Antarctic agents were able to secure their control over decision-making, configuring the Treaty in a preservationist mode where sovereignty has been prevented from being defined. The slow pace in institutional change is just a result of this configuration.

If sovereignty and territoriality Antarctic practices differ from those in international society, how has the Antarctic Treaty governance been assimilated in an overall context? Literature has

searched for explanations in regime theory, analysing the Treaty in terms of its ability to address an imminent conflict through an issue-specific agreement. Therefore, the next chapter discusses how the Antarctic Treaty has been incorporated in international society context and how current explanations are still not able to understand the sovereignty issue in Antarctic governance.

4 ANTARCTIC TREATY GOVERNANCE: A REGIME OR A REGIONAL INTERNATIONAL SOCIETY?

The establishment of the Antarctic Treaty in 1959 faced two challenges: to propose an institutional solution for divergent interests; and to be accepted as a legitimate agreement by international society. As previously seen in the last chapter, for internal divergences, the Treaty adopted an ambiguous language, in which different interpretations assured space to manoeuvre for parties. In that case, they could agree with a certain issue even when concretely holding different approaches for it. At the same time, international society primary and secondary institutions needed to be considered by the Treaty as well, enabling outside observers to understand and accept the governance framework proposed. Conciliation with international society's institutions, rules and codes of conduct was aimed by the original signers as a format to guarantee its legitimacy, guaranteeing that those who negotiated and signed the Treaty would be considered those authorised to manage it. Therefore, principles shared in international society were appropriated as Antarctic principles as well.

This chapter focuses on how the Treaty has been comprehended by international society. Values and goals, which are shared by international society, are asserted in the Treaty's passages, reinforcing its alignment to already established institutions, rules and codes of conduct. The fulfilment of international society's goals demanded the definition of Antarctica's own principles, as a conflictive background underlies the Treaty. Therefore, scientific research and environmental protection became the authorising principles for Antarctic practices, as they are considered non-controversial and enabler of peace maintenance. But the inner controversy has remained. How the Treaty has been able to institutionalise the governance in Antarctica without providing a definition to its sovereignty status? How can a region be governed based on a primary non-definition? Although geopolitical perspectives have founded Antarctic studies, regime theory has been the favoured approach in literature to understand the governance of the Antarctic Treaty.

Antarctic Geopolitical studies emerged along with the growing of activities in the region, during the 1940s and 1950s. Focusing on the political implications of its resources and its strategic

territory, this approach gained many followers, particularly in Latin America (Dodds 2017).[33] Geopolitical interpretations quickly impacted Security studies, which developed their own approaches to the Antarctic question. From controlling strategic territories and resources, Antarctica has also been continuously securitised in terms of its environment protection (Hemmings, Rothwell, and Scott 2012). Climate change, for instance, has played an important role in strengthening a preservationist agenda for Antarctic politics in the last three decades. Therefore, Geopolitical and Security studies offer important analysis for the Antarctic governance, especially when clarifying the formation of the interests involved and how actors have perceived and approached the region. However, the operation of the Antarctic Treaty has only been fully addressed by regime theory. We develop our own critical interpretation of the Antarctic regime theory, pointing to the limitations of this perspective. Nevertheless, considering how determinant is the Antarctic Treaty for the governance of the region (as analysed in the previous chapter), regime theory must be explored here, especially its contributions and limitations to the Antarctic governance.

Based on different interpretations of the dynamics between Antarctic actors and specific rules, principles, norms and rules of procedures, Antarctic regime theory has attempted to answer these questions through compliance to the Antarctic Treaty. Focusing on how the Antarctic Treaty parties have been able to generate legitimacy internally as well as externally, the different authors examined in this chapter provide an overview of the Treaty's institutionalisation, but, like the Treaty, dodging the sovereignty question. The idiosyncrasies of regime theory are not considered in these Antarctic analyses, but even if were they, international regimes are secondary institutions, so their theoretical scope does not reach questions related to international society primary institutions, such as sovereignty and territoriality. Therefore, regional international society's approach offers an interpretation for the Antarctic Treaty's institutionalisation regardless of a non-defined sovereignty. Regional international societies present a different norm localisation of primary institutions when compared to those in international society; consequently, practices and identities are constituted differently in these regions. Following regional international society's rationale, sovereignty and territoriality are defined in Antarctica; but in different terms to international society.

[33] The frontage theory was a popular geopolitical thought in Brazilian military realms during the 1960s and 1970s, with Therezinha de Castro and Carlos Delgado de Carvalho as its main contributors. The theory replicates a territorial sector division proposed to the North Pole by the Canadian Senator Pascal Poirier in 1907, where territorial claims would be based on the projection of South American meridians on the Antarctic region (Child 1988).

4.1 International society principles in the Antarctic Treaty

The Treaty's preamble contains several elements about how the Antarctic was placed within international society. Peace maintenance in Antarctica was identified as in the "*interest of all mankind*" and the continuance of international harmony would advance the purposes and principles present in the Charter of United Nations (1945). The United Nations' principles are introduced in the first chapter of the Charter, by two articles. The first one states that the United Nations aims to maintain international peace and security; develop friendly relations among nations; achieve international cooperation in solving international problems; and be the centre for harmonising actions of nations when pursuing these ends. Therefore, if we recall the founding goals of international society, they are clearly identified in the United Nations' principles: preservation of international society and peace maintenance.

Article II, on the other hand, states how the United Nations should act when pursuing its principles. The United Nations will act according to the principle of sovereign equality among its members; will endorse members' benefits and rights if they act in good faith with the obligations assumed with their membership; will expect members to settle their disputes in a peaceful manner that does not harm international peace, security and justice; will expect members to refrain from the threat and use of force against territorial integrity and political independence of any state; will expect members to assist in any action taken according to the Charter and to refrain from assisting in any actions contrary to the Charter; ensure that even non-members act according to the principles of the Charter; and reinforces that nothing in the Charter authorises the United Nations to intervene in domestic jurisdiction matters (save the case of threats to international peace and security). Therefore, the second article reflects the remaining goals of international society which are independence of states, limitation in the use of violence, honour of agreements and respect of property rights.

The Antarctic Treaty formally tied its regime to the institutional framework of international society, which explains the references to the United Nations and to the International Court of Justice in its articles. If so many practices which are determined by international society's institutions were already in place in the region, developing its governance in the same terms of the whole international society seemed reasonable. Despite the Soviet Union's resistance, references to the United Nations appear another three times in the Treaty's text: in Article III,

encouraging cooperative working relations with Specialised Agencies of the United Nations; in Article X, stating that Contracting Parties should always engage in activities consistent with the Charter of the United Nations; and in Article XIII, with its membership being adopted as a condition for accession to the Treaty. This article also prescribes the Treaty's register at the secretariat of the United Nations (which allows the Treaty to be invoked before any organ of the organisation). The International Court of Justice is also referred to by the Treaty in Article XI – despite Chilean and French resistance to foreign jurisdiction in Antarctica. The International Court is referred to in order to provide a peaceful avenue for settling disputes between parties when they are not able to resolve among themselves.

The reference to international organisations in the Treaty's text can also be interpreted in another perspective. Placing the Antarctic within international society's framework, the Treaty helps to attain its external legitimation, creating an instrument which fits in with more internalised institutions, rules and codes of conduct already established by international society's practices. The Treaty also defines the boundaries to where international bodies could interfere in the region – and this is a very important point. The Treaty defines the area that it has jurisdiction over, enabling the prevalence of its particular governance. Article VI states that the Treaty's provisions are applied to the area south of parallel 60°S (including ice shelves) representing a coherent institutional continuation from the Argentinean-British-Chilean Naval Declaration which restricted the circulation of warships in waters south of 60°S. Having as a reference the four 1958 Geneva Conventions on the Law of the Sea[34], the Treaty reiterates that nothing in its content can prejudice the rights of any state regarding the high seas within the area. However, the Treaty does not specify which area south of 60°S refers to high seas, creating an ambiguous juridical interpretation. Does the governance of the Southern Ocean belong to the Antarctic Treaty or to the United Nations Conferences on the Law of the Seas? This question can be even deeper. In the case of the Law of the Seas, four basic concepts must be considered: territorial sea, exclusive economic zone, continental shelf and the regime of the high seas (Stokke and Vidas 1996). Therefore, if the sovereignty claims are still valid, would the Southern Ocean be considered the territorial sea and exclusive economic zones of certain states? The Antarctic Treaty does not reply.

[34] Convention on the Territorial Sea and the Contiguous Zone; Convention on the High Seas; Convention on the Continental Shelf; and Convention on Fishing and Conservation of the Living Resources of the High Seas.

Peace maintenance and scientific research became the main focus of the arrangement. The Treaty not only dedicated its preamble to peace maintenance, but also several articles. Article I states that any action of a military nature is forbidden in the region with the exception for peaceful purposeful ones, such as supporting scientific research. And Article V forbids nuclear explosions and the disposal of radioactive waste in Antarctica (which was the preference of the Soviet Union, as they did not want a full prohibition on nuclear activities in the region). On the other hand, Article VII is considered to be the enabler of peace maintenance in the region. The article assures the right of inspection to parties, who should designate their nationals and have free access at any time to all stations, installations and equipment in Antarctica, in addition to all ships and aircrafts at their points of embarking and discharging cargoes and personnel. Contracting Parties are also expected to provide information about all their expeditions to Antarctica, organised in or started from their national territory; about all stations occupied by their nationals; and any military personnel or equipment introduced into Antarctica. And Article XI, as seen previously, urges for a peaceful settlement of disputes among parties, directing them to negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement (by International Court of Justice) or any other peaceful form of settlement.

Scientific research has become another principle of the Antarctic Treaty. The only practice able to be commonly accepted by parties and, for this reason, the one that enabled the suspension of sovereignty discussions, scientific research is addressed directly in two articles of the Treaty. Article II states that freedom of scientific investigation in Antarctica should continue along with the cooperation undertaken in the IGY, but still be subjected to the provisions of the Treaty. The means for achieving Article II is addressed in Article III, which states that international cooperation in scientific research is enabled when Contracting Parties exchange plans for scientific programmes, guaranteeing efficiency and economy in operations; exchange scientific personnel between expeditions and stations; make observations and results available; and are encouraged to cooperate with specialised agencies with a scientific or technical interest in Antarctica. The Scientific Committee on Antarctic Research (SCAR) became the main body for coordinating scientific cooperation and for exchanging research results since the signing of the Treaty (Rothwell 1996). Although its role is not made explicit by the Treaty's text, SCAR represents the institutional body in charge of Antarctic science to this day.

Environmental protection also became another principle of the Antarctic Treaty. Although the Treaty makes just a brief reference to environmental issues in Article IX, stating that parties'

duties also included the "*preservation and conservation of living resources in Antarctica*" (The Antarctic Treaty 1959), environmental protection has been considered by the Treaty's operation throughout the years. The following Consultative Meetings hosted negotiations for the 1964 Agreed Measures on Conservation of Antarctic Fauna and Flora, which were considered a non-controversial issue along with scientific research. Antarctic practices regulation in different fields was considered a demonstration from parties of how the Treaty was not only an excuse for claimants and potential claimants to solve their sovereignty issue. Therefore, environmental protection was expected to foster external legitimacy, proving that the Treaty was a capable instrument to exert a general governance in the region.

With the establishment of the Antarctic Treaty, peace maintenance, scientific research and environmental protection became Antarctic fundamental goals which were commonly shared and pursued by involved actors. By the same token, the expansion of international society to the region enabled these actors to reproduce practices based on shared norms, rules and values previously established in international society. Nevertheless, in this specific region, peace maintenance was elevated to its main goal whereas scientific research and environmental protection were agreed as its main enablers. The question which remains is: if international society's goals were expanded to the Antarctic by its accordance with the Charter of United Nations (preservation of international society, independence of states, maintenance of peace, limit in the use of violence, honour of agreements and respect of property rights), how were the primary institutions of sovereignty and territoriality translated in terms of rules, institutions and codes of conduct in the region? And if sovereignty is considered the constitutive or bedrock institution of international society (Buzan 2004, p. 178, Holsti 2004, James 1999, Jackson 1999), how has the Antarctic Treaty been able to operate in different terms from those which constitute international society?

4.2 The Antarctic Treaty in regime theory

Literature has based analysis of Antarctic governance on international regime theory (Peterson 1988, Rothwell 1996, Stokke and Vidas 1996, Joyner 1998, French 2012). The different regime theory interpretations analysed in this section have in common a search for the explanation to the Antarctic Treaty's institutionalisation and long-standing governance in the region. How could a Treaty have evolved into a robust complex of recommendations, resolutions, decisions and measures without solving its main question? In the last chapter we saw how informality,

consensus, and a diplomatic culture of controlled participation and ambiguous interpretation of the mandatory character of agreements have enabled the Treaty to operate while dodging controversial issues. However, the implications of this systematic avoidance are not grasped by any regime theory interpretation on Antarctic governance. When focusing only on the reasons which led to Treaty's compliance, these interpretations missed a critical perspective of this process. Has the Treaty been complied with because it has been able to avoid sovereignty issues, its founding purpose? Or is it the relative lack of interest about Antarctica along with its challenging environment which have enabled compliance by those with experience and expertise, advocating for their exclusive participation? A circular-reasoning in Antarctic regime theory does not allow further exploration of the implications of sovereignty for the Treaty's compliance. Compliance has taken place as long as the Treaty addresses the specific concerns upon which it was created. What varies between the four interpretations to be seen below is how actors, principles, norms, rules and procedures interact with each other, creating and setting up the continuation and growth of the Treaty.

Critical perspectives about the Antarctic Treaty have questioned its legitimacy in the present and future times, but not its compliance. Post-colonial interpretations (Chaturvedi 2012, Dodds 2011) identify how the Antarctic Treaty represents a colonial legacy, as the acknowledgement of its exceptionality by its creators have justified their control on decision-making and the co-optation of Treaty's opponents. The persistency of sovereignty claims in Antarctica would configure its governance in colonial terms, representing a reminiscence of colonialism primary institution in current international society. Sovereignty claimants would play a decisive role in Antarctic politics through acts of repetition, material investment and symbolic entrenchment (Dodds 2011), reinforcing the connection between their claimed polar territory to their homeland. In the long term, the disruptive character of sovereignty claims to the future of the Antarctic Treaty is another issue of critical debate in Antarctic regime literature. On one hand, there would be risks in maintaining a system rested on an undefined issue, which is constantly challenged to activities which to some extent demand sovereignty definition for its conduction. Antarctica as a common heritage of mankind would present a non-territorial regime alternative which supports practices already undertaken in the region (Scott 2010).

> It undeniably possesses the potential of pleasing neither claimant states, non-claimant treaty parties, nor the international community more generally. However, faith that the current regime is capable of withstanding the various challenges such as, but by no means limited to, those identified earlier and

> that it will continue to operate to 2059 and beyond, might be similarly critiqued as an indulgence in utopian imagining. Moreover, it is suggested that the best time to begin the process of developing a long-term, non-territorial solution to Antarctic management is before any one challenge becomes so great that it leads to crisis (Scott 2010, p. 40).

On the other hand, risks would also lie in attempts to modify the current regime in terms of its solution to the sovereignty question. Different sovereignty practices are identified in Antarctic Treaty governance in terms of its confirmation, contestation, tolerance and inchoation, so that a definitive denial would damage the current system irremediably (Jabour and Weber 2008). Denying sovereignty rights and the dismantling of the Antarctic Treaty is perceived as leading to a full expansion of trade primary institution to the region, causing definitive harm to the Antarctic environment.

> Abrogating sovereignty (or claims thereto) in the polar regions is unlikely to facilitate improved management. Rather, the current structures enable significant flexibility in management and account for the political and economic diversity among interested States. Any suggestion of abandoning sovereignty in the interests of facilitated global resource management must take into consideration the interdependence of States, their political, cultural and economic pressures, as well as the role national interest plays on multiple levels of governance and the international order. Now is not the time, if ever (Jabour and Weber 2008, p. 40).

If there is no consensus about what should be the future of sovereignty claims, there is a tacit agreement about the Antarctic Treaty as the governance regime to Antarctica hitherto. The number of parties, the volume of agreements and the ability to co-opt critics corroborate a vision that the Treaty has succeeded to evolve from a single agreement, in 1959, to a complex governance system today. This does not invalidate post-colonial criticism of a development through the exclusion of most actors from international society; however, post-colonial criticism does not question that the Treaty has indeed developed and remained the main authority on Antarctic governance. Therefore, compliance to the Antarctic Treaty has not been questioned in literature, only its legitimacy. And how the Treaty has been able to be complied to by different actors configures the main concern of regime theory. Petterson (1988), Rothwell (1996), Stokke and Vidas (1996) and Joyner (1998) provide different interpretations about how the Antarctic Treaty has been created and maintained. However, all of them deviate from the implications of an undefined sovereignty for this same creation and maintenance.

Peterson (1988) states that the Antarctic Treaty set up an international regime, defined as "*an interrelated set of principles, norms, rules, and procedures resting on mutual expectations and commitments that govern relations among states (and, where relevant, other actors) on some matter of common concern*" (Peterson 1988, p. 3). Hence, Peterson affirms that to be a regime, there must be a common concern, mutual expectations and a set of common rules which, in the case of Antarctica, were created by the Treaty when participating states structured their conduct in Antarctica and the Southern Ocean. Interested in investigating how the Treaty was able to be created and how it has evolved throughout the years, Peterson identifies six phases of an international regime: creation, establishment, maintenance, amendment, replacement and termination. Once created, a regime would need great effort to be established, where national bureaucracies learn how to operate the rules and procedures and how to interact with each other on the specific issue. Governments also assess if what was agreed is effectively addressing the common concern and mutual expectations upon which the regime was created. This regime would be maintained if the continuous application of its respective rules and procedures, in situations similar to those predicted by the arrangement, takes place (Peterson 1988).

Nevertheless, a regime does not stay stable over time. Changes in distribution of power outside the arrangement, and in governments' interests and ideas could lead to demands for a change. There are two alternatives in this case: a regime can be amended, which is the modification of norms, rules and procedures so it would be able to again gather mutual expectations over a mutual concern among participants. Or, the regime can be replaced, where new principles, norms, rules and procedures will be created to address the original common concern. The termination of a regime happens when governments withdraw from the arrangement, discontinuing the adoption of the norms, rules and procedures agreed.

Multiple explanations can be linked for the transition from one phase to another. Peterson states three factors to take into account: the relative salience of the issue involved, the interests of individual states and the distribution of power among them. Salience refers to the sense of urgency about doing something on a specific issue, which could be restricted or widespread. Interests of a government refer to what is considered valuable to it and the distribution of power among states refer to their capacity to act individually to attain their interests or the necessity to form a coalition with like-minded others. Therefore, a regime is created when an issue is salient enough to demand it being addressed by cooperative management of a group of states (Peterson 1988).

According to this analytical framework, the success of a regime can be recognised in each different phase. A successful creation takes place when shared or parallel interests are perceived by a coalition of states powerful enough to protect the regime from outside challengers. A successful establishment occurs if principles, norms, rules and procedures of the regime reflect the interests of the coalition and they are coherent with international principles and goals at the moment of its creation. In this case, the salience of the issue will gradually decrease, as it would be perceived to be resolved. A successful maintenance is achieved with the permanence of a coherent relationship between the regime's outcomes, shared interests and power constellation underlying the regime. Similar to the establishment phase, salience is not necessary at this time, as the issue would be perceived to be continually addressed by the regime.

Amendments, replacements and terminations come with dissatisfaction with the current regime's addressment and/or with the formation of opposing coalitions by the dissatisfied. Amendments occur when levels of dissatisfaction are low, so supporters prefer to rescue the regime so that their coalition is still predominant. Replacements and termination, on the other hand, occur when levels of dissatisfaction are so high and/or non-participant coalitions become predominant, attempting to establish a regime which will reflect their particular interests. Nonetheless, successful amendments and replacements reproduce the same conditions of creation of a regime: shared or parallel interests should be perceived by a coalition of states which is powerful enough to protect their agreement from outside challenges. Amendments should also be consistent with the existing regime (not creating a new source of challenge) whereas replacements must address the original common concern (Peterson 1988).

Peterson (1988) uses this analytical framework to analyse the conditions which allowed the creation of the Antarctic Treaty and its maintenance with minor amendments since 1961. Salience is considered an important trigger for regime formation or modification. In the Antarctic, salience was significantly high in three moments: in 1945, as governments resumed their activities in Antarctica after the Second World War and increased their level of exploration and research in the region; in the mid-1950s with the preparation of the IGY, the engagement of the Soviet Union and the establishment of permanent stations in the region; and in the 1970s, when commercial large-scale fishing of krill and finned fish in the Southern Ocean was undertaken and mineral and hydrocarbon exploration in Antarctica were speculated. For Peterson, changes in technology increased the Antarctic issues' salience, as the exploration of

the region has gradually become more feasible. Nonetheless, peace maintenance continued to be a common concern while sovereignty remained an un-solved issue.

Albeit salience is a very important element of the theoretical framework to understand regime creation or modification, Peterson (1988) caveats that it may not be enough to explain the success or failure of an international regime. When an issue is addressed, governments must have the ability to gather expectations about its addressment in accordance with material and political interests of the coalition of states, which should still be powerful enough to protect the international regime. In Antarctica, the engagement of the United States and the Soviet Union in the 1950s was essential in avoiding the formation of a counter coalition for the Treaty. In addition, a successful regime can have different issue-specific powers in play, thus its content, in terms of principles, norms, rules and procedures, would not necessarily reflect common interests from the coalition. For instance, great powers could transfer their power to a specific-issue quite quickly, reflecting their particular interests on to the regime. They could also not apply their power in full, being engaged with something which does not exactly correspond to their own expectations for the issue. In Antarctica, the intense American insertion into the region in the 1930s and the Soviet Union's engagement in the 1950s changed the dynamics of the region and fostered the formation of an arrangement which reflected their particular interests. Likewise, the failed American attempt to create a regime for the Antarctic in 1948 represented a partial engagement from the United States, as the nation was facing domestic divisions about their policy in the region. On the other hand, weaker states could limit the scope of action of stronger states, threatening the formation of alliances with opposing strong powers, in order to secure their particular interests. For example, Argentina and Chile (relatively weaker states when compared to the great powers) would be able to resist to an American proposal for the management of Antarctica if an alliance was established with the Soviet Union (Peterson 1988).

A successful regime must also present a coalition formation which is not challenged by the forum where discussions and decisions are made. A successful coalition relies on the assembly of enough members who follow rules and adopt decisions, as well as on the assembly of members powerful enough to secure the regime from outside challenges. In the case of the Antarctic, the regime was created and has evolved from a restricted forum of twelve members who had participated in the IGY. Thus, this configuration was composed of actors already involved with Antarctic affairs, avoiding the formation of an opposing coalition. By the same

token, the Washington Conference counted on the participation of the United States and the Soviet Union, guaranteeing members powerful enough to secure the regime against outside challenges. Avoiding taking discussions to the United Nations, the Antarctic Treaty was able to keep a small number of members and establish consensus as the main rule for the taking of decisions. Through consensus, no superpower was able to form an alliance against another, inasmuch as smaller states were protected from a superpower alliance, guaranteeing, at the same time, that every decision would be legitimised by the most powerful states in international society.

> The Antarctic Treaty system has been and remain a limited-participation international regime in which a group of states with very different domestic structures and individual interests has cooperatively managed a continent and a large area of surrounding ocean for a quarter of a century... The Antarctic Treaty derives much of its stability from the fact that it permits states to avoid strong common aversions while serving lower-value but still common interest… Nonmilitarisation provides all participants (as well as nonparticipants) a larger measure of security than they would otherwise enjoy… All participants in the Antarctic Treaty system regard the "freeze" on claims as preferable to at least one of the alternate possibilities. Nonclaimants prefer it to endorsement of claims; claimants and probably many of the others prefer it to acceptance of the common-heritage notion. All can avoid their worst choice, though cannot attain their best, by staying within the treaty (Peterson 1988, p. 220).

Peterson's analysis is very elucidative about a common understanding of Antarctic governance. In his scheme, the Antarctic Treaty represents the creation of an international regime for the Antarctic region. The conditions which allowed the signing of the Treaty were: the relative high salience of the Antarctic question understood by conflicting sovereignty claims and the ability of permanent settlement and engagement of non-claimant nations. Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, the Soviet Union, the United Kingdom and the United States formed an Antarctic coalition, because peace maintenance and cooperation in scientific research in the region were commonly expected by them. This coalition was powerful enough to overcome challenges to the arrangement, such as the Indian attempt to bring the Antarctic question to the United Nations, which would necessarily involve more actors or possibly foster the formation of an opposing coalition. Peterson also tries to bring together contending theories on how states perceive and act on their interests, but these particular states were very distinct in terms of political mind-set, bureaucratic organisation and domestic influence over the years. Albeit Peterson attempts to consider the organisational-process model and ideas held by policymakers as options for a

domestic perspective, she recognises the diversity in domestic contexts – which jeopardises reaching a common conclusion – and the low and restricted salience of Antarctic issues in domestic politics in general.

Nevertheless, the diversity of domestic contexts did not prevent the creation or the maintenance of the Antarctic Treaty. In fact, Peterson states that the reasons for the Treaty's maintenance were the low salience of the Antarctic to international politics in general, and the permanence of the coalition with its relative power distribution. When salience increased with the question of Antarctic resources management, in the 1970s and 1980s, amendments were produced to accommodate criticism and new interested actors. Therefore, new members acceded to the Treaty through the years, but they have all embraced the Treaty's principles, norms, rules and procedures. Therefore, Peterson's analysis is indeed a valid interpretation for the development of the Antarctic Treaty's governance, since the Treaty continues with minimal amendments to its procedures. Albeit Peterson tries to bring to light an all-encompassing theoretical analysis of Antarctic governance – using structural, international and domestic perspectives – Peterson's analysis is still restricted on power distribution and on the convergence of states' interests. Despite Peterson acknowledging this, the implications of not addressing a bedrock institution such as sovereignty were still not tackled.

Rothwell (1996) adopts a similar interpretation to Peterson. The Antarctic Treaty represented an international regime defined as "*... principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area*" (Rothwell 1996, p. 14). He states that international regime theory is very appropriate for understanding states' behaviour for two reasons: first, a regime changes the setting upon which states interact, making cooperation more feasible; and second, a regime changes states' interests or preferences, leading them to change their domestic as well as their international policies. Therefore, a regime conforms standardised behaviour from actors, enabling the formation of common expectations and, as a consequence, of a favourable security setting for cooperation. International law offers the background to which a regime is established, configuring the dynamics of its members' interactions through its principles, norms, rules and procedures.

Rothwell states that for a regime to be formed, it is necessary that an issue-area is understood and sufficiently politicised. In this circumstance, states and other international actors recognise that their interests would only be achieved if they reach any form of agreement about how this

particular issue should be regulated, organised, perceived or understood by them. This agreement formation can present a contractarian, an evolutionary and/or a piecemeal approach. A contractarian formation refers to the gathering of interested actors in order to negotiate a framework to regulate this issue-area. An evolutionary formation refers to temporary rules which last over time and acquire a customary feature, or when different unilateral actions result in a common recognition of rules and standard behaviours for this issue-area. And a piecemeal formation refers to the achievement of an agreement on certain points as a comprehensive one is unattainable. In this case, actors expect that a general consensus can be obtained later through the success and expansion of the agreement from the specific points of the issue-area. Once a regime is established, Rothwell points to factors which might impact on its maintenance. The structure of a regime, the importance of certain actors, the strength of the issue-area and the willingness of actors to continue to be engaged are variables which determine its continuation or disintegration. (Rothwell 1996).

The creation of the Antarctic regime follows Rothwell's proposed scheme. Overlapping and mutually non-recognised sovereignty claims politicised the Antarctic issue. The risk of conflict between claimant states was increased with the involvement of the United States and the Soviet Union – two nuclear superpowers in competition during the Cold War who were able to spread bases throughout the region. Not only would a conflict between them be disastrous, but their presence could also have brought outside Cold War disputes to the region. A military and nuclear use of Antarctica was also perceived as a threat to the national security of Southern states and to the stability of the region as a whole. On the other hand, the desire to continue scientific cooperation, expanding knowledge about the Antarctic and its interactions with global environment dynamics, enabled science to be the only point of convergence among Antarctic states. And if the region should be kept safe from disputes, science was the most promising way to guarantee its relative peace (Rothwell 1996).

States already involved in Antarctica were able to gather together in order to establish a common agreement based on a peaceful use of the region. With a Treaty, claimant states benefited from the stability in their claims and the assurance that conflict will not be escalated, as nuclear weapons and military placements became forbidden in the region. On the other hand, non-claimants also benefitted from the possibility to freely displace in the region and conduct scientific research without restrictions. Nevertheless, once the regime was established, Rothwell points to some modifications that occurred in its issue-area. Sovereignty and national

security continued to be significant issues for the regime, as the Falkland/Malvinas war in the 1980s exemplifies the extreme result of a sovereignty dispute in the sub-Antarctic region. He states that territorial claims have continued to be actively asserted (with the exception of Norway) but the maintenance of the Treaty changed national security concerns about Antarctic Treaty security. The Antarctic has successfully been kept demilitarised and denuclearised and, with the end of the Cold War followed by the signing of several disarmament treaties, the threat of nuclear weapons and military placement in the region was considered very low. On the other hand, scientific cooperation remained a high priority. Most of the original signatories kept a robust scientific programme whilst demonstration of significant scientific activity became a necessary condition for acceding to a Consultative status (or being granted decision-making power).

Rothwell (1996) recognised a successful maintenance of the Antarctic regime as it did not have significant changes since its creation. Nevertheless, he acknowledged that sovereignty and territorial issues were still an important element for the Antarctic regime. Rothwell does not deeply look into the implications of the sovereignty reminiscence to the maintenance of the regime, but some traces are identifiable when he discusses the new issue-areas faced by the Antarctic Treaty. Resource management and environmental protection are pointed out as not being addressed by the Treaty when it was created, but being discussed and regulated thereafter. It is important to bear in mind that they do not represent something completely alien to the sovereignty question. Their addressment became necessary because sovereignty was not defined in the region, which generates a challenge for any activity to be undertaken, including science. Nevertheless, whilst scientific research and environmental protection are considered less controversial, resource management presents a much more controversial feature, because its normalisation implies clearer definitions of property and authority, consequently, of sovereignty. Likewise, the difference between resource management and environmental protection on one hand, and science on the other, is that the latter was clearly integrated into the foundation of the Treaty, with its practice sustaining Antarctic politics, especially the original signatories' control over the governance of the region. Therefore, what is expected from the new issues is the same standard: being an avenue for the politics of the region without demanding the definition of its sovereignty status.

In changing circumstances, Rothwell states that a regime will be maintained if its central elements can be displaced before its disintegration. When dealing with resource management

and environmental protection, the Treaty faced division among its parties and criticism from outside actors such as third parties and non-governmental organisations, resulting in a significant challenge to its maintenance. Nevertheless, he states that the creation of the 1964 Agreed Measures on Conservation of Antarctic Fauna and Flora, the 1972 Convention for the Conservation of Antarctic Seals, the 1980 Convention on the Conservation of Antarctic Marine Living Resources and the 1991 Protocol on Environmental Protection demonstrated the successful outcome of the Treaty in addressing those challenges without compromising its foundations. Therefore, resource management and environmental protection were regulated and incorporated without solving the sovereignty question.

> By adopting innovative approaches to solving sovereignty disputes, rejecting traditional notions of territorial jurisdiction, creating a regime in which emphasis is given to freedom of scientific research, establishing protective measures for the flora and fauna of a whole continent and region, implementing an ecosystem approach to marine living resource management, prohibiting all mining activities in order to protect the environment and implementing a legal system that seeks to protect the dependent and associated environment of the region from the impact of all human activities, the ATS has made substantial contributions to international law. It has been these and other factors that have caused many commentators to praise the ATS for what it has achieved and the model it represents for international cooperation (Rothwell 1996, p. 154).

Rothwell does not precisely articulate what kind of formation the Antarctic Treaty would present – probably contractarian and piecemeal, as it was created from a timely agreement, and the Treaty addressed very specific points, such as peace maintenance and scientific cooperation. He does not explore either how politicisation would lead to the gathering of interested actors. And in contrast to Peterson (1988), Rothwell does not emphasise on the distribution of power among actors as a crucial element for the creation or the maintenance of a regime. Instead, a highly politicised issue-area and a common perception about its addressment are considered those necessary elements that enable the Antarctic regime. Rothwell also calls attention to the originality brought by the Antarctic legal arrangement to international law, whose general principals, such as the acquisition of territorial sovereignty, could not be applied. According to him, Polar regions developed their own specific responses, in a regional-cooperation base, that were demonstrated to be much more effective in addressing challenges, such as resource management and environmental protection, than the application of outside agreements on the region.

By the same token, Stokke and Vidas (1996) also consider the Antarctic Treaty a "breather" in East-West rivalry during the Cold War, as scientific and political cooperation in the region continued despite outside frictions – even Argentina and the United Kingdom maintained cooperative Antarctic relations during the Falkland/Malvinas war. According to them, the Antarctic Treaty represents an international regime, or "*sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations*" (Stokke and Vidas 1996, p. 13). But in contrast to a general apprehension in literature, which defines regimes as epiphenomena that only reflect patterns of power and interest, Stokke and Vidas advocate that a proper understanding of an international regime must rely on the relationship between the regime and the adaptive behaviour it targets. Therefore, the high legitimacy and effectiveness identified in the Antarctic Treaty is related to the international cooperation it fosters.

Legitimacy and effectiveness of a regime are a result of the extent to which actors' behaviour are conditioned by the regime's normative and structural components. A regime "*comprises a normative component of principles and rules, and a structural component assigning states and other subjects roles within the regime; sometimes also instituting procedures for collective decision-making*" (Stokke and Vidas 1996, p. 14). Effectiveness, in general, is associated with the benefits of an outcome and the costs of its achievement. For Stokke and Vidas, in an international regime, effectiveness refers to the impact that a regime produces on a common problem it attempts to address. An assessment of ideal effectiveness would entail the evaluation of the regime's main goal attainment, which is represented by changes in the behaviour of actors in relation to this goal. Nevertheless, changes in the behaviour of an actor could have many other causes beyond the regime. Therefore, instead of focusing on the outcome, Stokke and Vidas suggest analysing the process through which a regime produces changes in behaviour. In this case, the effectiveness of a regime would rely on its assurance of a costly non-compliance and a beneficial compliance. An effective regime must also foster cooperation by making negotiations regular rather than ad hoc, allowing the flow of information and trust through which states feel confident enough to cooperate.

Stokke and Vidas state that the legitimacy of a regime is what enables actors to comply. They define legitimacy as "*a property of a rule or rule-making institution which itself exerts a pull towards compliance on those addressed normatively… [and] perception of those addressed by a rule or a rule-making institution that the rule or institution has come into being and operates*

in accordance with generally accepted principles of right process." (Stokke and Vidas 1996, p. 22) They also state that the legitimacy of a regime is a question of degree, varying from complete acclaim to complete rejection. This variation corresponds to the quality of the regime's rules and its perception by its actors. Similar to the legal validity of a rule in a domestic context, rules in a regime also ensure that actors act in conformity to their assigned roles. But in contrast to the legal binding force of a rule in domestic law, rules from a regime must rely on their persuasive force, as international society presents an anarchical configuration where no supra-authority holds the monopoly in the use of force. Therefore, a regime is legitimate when its rules are accepted by actors, which means that these actors recognise the rules' normative base, the procedure through which they were elaborated, agreed and implemented, and they accept their assigned positioning and respective obligations generated from this framework.

A regime's legitimacy must rely on the applicability of its rules and on their acceptance by actors. By applicability, Stokke and Vidas understand that rules must provide solutions to problems in a way consistent with other principals and rules inside the regime as well as with international society principles. Inconsistencies jeopardise the legitimacy of regimes. Likewise, the regime must be accepted by its internal members. They are responsible for acknowledging, implementing and adhering to a regime's provisions. This acceptance must also be undertaken by external actors, as they could start criticism of the regime, identifying inconsistencies and stimulating its non-compliance. Outside acceptance is identifiable by the persistency and strength of external actors' attitudes in terms of criticism, opposition, indifference, acquiescence, acknowledgement and accession to the regime. Therefore, significant levels of applicability and acceptance of a regime are enablers of its legitimacy. But this does not mean that legitimacy is something static.

Stokke and Vidas (1996) state that a change process in a regime can be triggered by challenges to its arrangement. If the problem, members or outside actors change; the regime needs to adapt to the new situation and this adaptability would compose a significant element of its legitimacy. Different actors legitimise a regime at different levels, inasmuch as different contexts change how applicable and how acceptable a certain regime is at that particular moment. Hence, the observation of the quality of the provisions of a regime in a changing circumstances presents the best way to assess its legitimacy. Adaptation could ensure legitimacy, but it should not be taken too far as it could jeopardise acceptance by internal members and/or consistency with the

regime's founding principles. This interferes not only in a regime's legitimacy, but also in its effectiveness as how a regime produces changes in actors' behaviour is also modified. Therefore, legitimacy and effectiveness are related empirically, but they take place in different moments. Legitimacy increases the effectiveness of a regime, whilst the more effective a regime is, the more legitimised it becomes. On the other hand, legitimacy ensures an intrinsic optimism about a regime, therefore a regime can have low effectiveness in the short-term, but still be legitimised by inside and outside actors. And vice-versa. A regime could be in a process of de-legitimisation, but still determining and impacting actors' behaviour.

Stokke and Vidas (1996) analyse two different interpretations for the outcomes in the interaction between effectiveness and legitimacy. From a trade-off perspective, the accommodation of challenges to a regime's legitimacy might result in the loss of its effectiveness. Original members reinforce the legitimacy of a regime because they have been successful in making it effective: they were responsible for achieving the agreement, for consolidating the regime and for generating provisions to address their common concern. Therefore, including outside actors might result in the loss of effectiveness, as there is no guarantee that the new and unexperienced members can keep addressing the regime's issues in the same manner, jeopardising the work performed by the original membership configuration. The cumulating perspective, on the other hand, advocates for the benefits to the effectiveness of a regime if it is able to accommodate challenges to its legitimacy. In this case, former critics to the arrangement become part of it, reproducing the activities previously run. This accommodation reinforces the legitimacy of the regime's performance, because it demonstrates that previous criticism should have never taken place. Therefore, effectiveness and legitimacy can reinforce each other, but not necessarily will this always take place.

After proposing this analytical framework, Stokke and Vidas (1996) apply their regime interpretation to the Antarctic Treaty system. First, they acknowledge a false dichotomy between the Treaty and the "international community".[35] The authors state that the system has a special separate feature, but it is still anchored in the institutions and mechanisms of international community. The Treaty, via Article IV, safeguarded the status quo for the legal positions of claimant and non-claimant states, which enabled the achievement of the agreement

[35] Stokke and Vidas use the concept of "international community", but they do not specify what they mean by it. Following the discussion on the English School, using terms such as system, society or community has significant implications in terms of the actors and institutions concerned.

and their continuous cooperation thereafter. In Article IX, the Treaty granted parties with the competence to formulate Antarctic law and politics through the Antarctic Treaty Consultative Meetings. Hence, the Antarctic regime enabled a continuous cooperation by maintaining the status-quo of its creation, which affords it a special character within international community. Nonetheless, the increasing complexity of rules, procedures and practices, led to the common deployment of the term "system" by policymakers, being adopted officially in 1979, by Recommendation X-1 (Stokke and Vidas 1996). The Antarctic Treaty System, as any regime, would also present a normative component and a structural component. By normativity, Stokke and Vidas enumerate: the Antarctic Treaty, the recommendations produced by the Consultative Meetings and the treaties in force agreed through the Consultative Meetings, such as the Convention for the Conservation of Antarctic Seals (1972), the Convention on the Conservation of Antarctic Marine Living Resources (1980) and the Protocol on Environmental Protection and its annexes (1991).

Stokke and Vidas (1996) recognised that this definition of normativity for the Antarctic Treaty System could be considered very restrictive. This interpretation only acknowledges norms and rules legally in force and misses an evolutionary perspective of the system, where other instruments were intensively negotiated but just failed to enter into force. This is the case, for instance, of the Convention on the Regulation of Antarctic Mineral Resources Activities, signed in 1989, but subsequently dropped by some states. The many years of effort to come to a common perspective on the exploration of mineral resources in the region had an important impact on the Treaty's membership, on the commitment to protect the regime's legitimacy from external criticism and on paving the way for a consensual approach for resource management regulation. Stokke and Vidas also consider other possible criticisms to the selection of normative instruments of the Antarctic Treaty System. These different conventions do not share the same membership, they were not negotiated and agreed in the same forum[36], neither are their areas of application coincidental. Nevertheless, these instruments represent the regulation of Antarctic practices according to the main Antarctic principles which are peace maintenance, cooperation in scientific research and environment protection. Likewise, they also share the Antarctic Treaty as their "constitutive element", reproducing the non-solving of the sovereignty issue as their underlying principle.

[36] As explained in the previous chapter, conventions are negotiated and agreed in Special Antarctic Treaty Consultative Meetings (SATCM).

The Antarctic Treaty System, as an international regime, presents a structural component as well. In terms of defining actors, the Treaty primarily establishes the difference between parties and non-parties (which includes states and other actors as well). Once inside the Treaty, the second differentiation comes with Article IX which defines a primary qualification of those who demonstrate the conduction of substantive scientific research in the region. This assessment gave place, later, to the difference between non-Consultative Parties – those that have just signed the Treaty – and Consultative Parties, who demonstrate enough involvement with the region in terms of scientific research and are therefore granted with decision-making and decision-taking power. With the evolution of the Treaty, non-state actors have also become acknowledged as actors, but in different categories and with no decision-taking prerogative. In terms of procedures, Consultative Meetings were defined as the first procedural device, being followed by the creation of the Meetings of Experts, Special Consultative Meetings and informal meetings. Through Consultative Meetings, new agreements were signed, such as CCAS and CCAMLR, and the Environment Protocol and specific procedures were developed for these different arrangements, which represent new forums where procedures are also undertaken in the encompassing Antarctic Treaty System. With the continuous institutionalisation of the Antarctic regime, the Antarctic Treaty Secretariat represents the ultimate advance in the procedures of the system (Stokke and Vidas 1996).

Stokke and Vidas affirm that the Antarctic Treaty represented an innovative regime at the time of its creation. This regime represented the first agreement at the Cold War with a system of mutual inspections, a ban on nuclear testing and with decisions subject to a cooperated form of governance. These innovative aspects of the arrangement were also reinforced by the absence of full involvement from the international community, reflecting a common perception that Antarctic issues, with all their peculiarities, should be left to the Antarctic Treaty framework. However, this does not mean that the arrangement has been institutionalised in normative and structural terms without challenges. The Malaysian attempt to bring the "Antarctic Question" to the United Nations in 1983 showed dissatisfaction from outside actors to the exclusive character of the regime, especially when the exploration of mineral resources in the region was being secretly negotiated. The "Antarctic Question" had a deep impact on the Antarctic Treaty System, leading to normative and structural changes in its relationship with the international community. The demands for normative change involved the application of the common

heritage of mankind principle[37] whilst the demand for structural change envisaged modifications of the role of actors – in terms of wider participation – and of the procedures taken by the regime so far, in terms of a more transparent decision-making process.

The "Antarctic Question" challenge to the Antarctic Treaty System had a political background and an economic one. The demand for the application of the principle of common heritage of mankind to the Antarctic was a reflection of the negotiations of the United Nations Convention on the Law of the Sea (UNCLOS). The convention promoted the application of this specific principle to the area and resources located on the seabed, and on the ocean floor and its subsoil – all beyond the limits of national jurisdiction.[38] If the Antarctic Treaty was negotiating the regulation of the exploration of its mineral resources, the redistribution of the economic benefits obtained from a region without a sovereignty definition should have also envisaged all the peoples in the world. Therefore, until the establishment of a wider participation in the regime, critics demanded a moratorium on the negotiations for a mineral regime. Nevertheless, when the Convention on the Regulation of Antarctic Mineral Resources Activities was adopted in 1988, critics of the ATS adapted their argument, basing it now on the risks that related activities would bring to the vulnerable and relatively unknown environment of the region. In discussions that took place at the United Nations in 1989 and 1990, the environmental connections of Antarctica to climatic, atmospheric, oceanic and geological global processes were highlighted. Therefore, from a "resourcism", critics to the Antarctic Treaty adopted an "Earth-patriotism" and, along with non-governmental environmental organisations, fully supported the ban of mining activities in the Antarctic region (Stokke and Vidas 1996).

The response of the Antarctic Treaty System was the normative modification of the regime for

[37] The principle of common heritage of mankind is considered far more reaching than the principle of *res communis*. The commons do not belong to anyone (person, group or state), as they are beyond state jurisdiction and not subject to national appropriation. Therefore, they present an unrestricted access. Common heritage areas should be used only in peaceful purposes. Scientific research on these places must be free, open and environmentally responsible, with benefits shared with all mankind. In fact, exploitation, exploration and use of common heritage areas should have their economic benefits shared with all peoples as well as envisage future generations. As a consequence, the governance of common heritage areas must rely on international cooperation, representing all peoples and being performed by a supranational management and monitoring agency (Joyner 1998).

[38] In the Preamble of the Convention of the United Nations on the Law of the Sea, it states that "… *the area of the seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States,*" (Convention on the Law of the Sea 1982).

the protection of its legitimacy. The negotiation and establishment of the Protocol on Environment Protection, in 1991, banned mining activities (except for scientific research purposes), co-opting the main argument of the Treaty's detractors. Thereafter, the ratification of the Protocol was also adopted (along with substantive scientific research) as a condition for being granted Consultative status. Nevertheless, the Protocol created an inconsistency with a previous legal framework: UNCLOS. If the common heritage principle is applied to the seabed and ocean floor, where exploration, exploitation and use of resources are foreseen to benefit all peoples, the Protocol would surpass UNCLOS' jurisdiction, prohibiting practices which are not interdicted by the latter, for the same area (Stokke and Vidas 1996). So far, this contradiction has not demanded addressing by the regime.

On the other hand, the structural modification of the Antarctic Treaty system was a selective co-optation of potential critics to the regime, maintaining its legitimacy in the face of possible disintegration. Non-Consultative Parties became eligible to attend Consultative Meetings (albeit without any formal decision-making power) whilst specific nations were granted a Consultative status. India and Brazil became Consultative Parties in 1983, and China and Uruguay were granted the status two years later (in 1985). These modifications to the regime split opposition raised by developing states and stimulated accessions from different actors, reinforcing its external legitimacy. "*Several potential and indeed actual critics of the ATS have, over the past decade, become partners, in various roles. (...) Even without formally being granted equal status with the Consultative Parties, these actors regularly demonstrate loyalty to the System*" (Stokke and Vidas 1996, p. 56). In terms of structural modification to procedures, the Antarctic Treaty System decreased the secrecy of its dynamics, publicising national contact points and sharing reports of its activities.

Modifications in the regime provoked a strong institutionalisation of the system. Normatively, the expansion of rules and norms in force in the region were outstanding when the Protocol came into force. But this increasing regulation followed the common demand for stricter environmental protection, therefore it was accepted by actors as valid. The limits in the applicability of the Protocol, in terms of its jurisdictional conflict with UNCLOS, do not present a threat to the regime, because so far its addressment has not been demanded. Whereas structurally, more actors have become involved with the regime, including former critics and non-state organisations as well. At the same time, procedures were made transparent and available to be followed. Therefore, the structural modification of the system allowed the co-

optation of its challengers and also the monitoring of its procedures by outside actors and epistemic actors, who could potentially initiate new challenges to the arrangement. These structural changes were accepted and applied in the context of the Antarctic Treaty System as well as in the international community, reinforcing the regime's legitimacy.

Therefore, instead of looking for answers outside the regime, Stokke and Vidas proposed assessing the Antarctic Treaty System and its ability to cope with challenges and changes through the system itself. The coherent interrelationship among components of the system enabled its constant evolution via its own procedures, always directed towards a comprehensive regulation of the region. The system has also been successful in adapting to internal and external challenges, without compromising its main principles. The normative and structural modifications kept the treaty consistent with the pursuit of peace maintenance, cooperation in scientific research and environmental preservation in the region, whilst preserving the balance between the various positions on the sovereignty issue, in a combination of adaptation and persistence.

Therefore, the Antarctic Treaty System has been extensively effective and legitimate throughout the years. If effectiveness refers to the extent that a regime solves the problems which it proposes to address by impacting on its actors' behaviour, the Antarctic Treaty System has addressed the problem of sovereignty, by preventing its emergence inside and outside the region through the compliance of actors to the regime. Every criticism of the Antarctic Treaty System related with its principles was worked on and adapted by members while not affecting the different positions on sovereignty claims in the region. Nevertheless, when economic activities emerge in the region and demand an authoritative regulation, sovereignty issues resurface in Antarctic governance. Therefore, the different regimes created (such as CCAS, CCAMLR and the Protocol on Environment Protection) was a response to these economic issues (Stokke and Vidas 1996).

On the other hand, a legitimate regime works by its persuasive force, translated by the applicability of its provisions and their acceptance by its members. In the case of the ATS, its regimes were able to embody new priorities, such as resource management and environment protection, no longer being restricted to only peace maintenance and scientific cooperation. These regimes responded to external demands whilst preserving internal consistency, as the position and role of Consultative Parties were reproduced along with the linkages to

Consultative Meetings, which were continuously perceived as the source of rule-making for the region. The role of Consultative Parties and Meetings were not only consolidated, but also strengthened with Antarctic regimes, despite the concessions introduced by limited participation and access of other actors in the decision-making process. Likewise, these regimes were able to keep consistency with the Article IV and its non-solving of the sovereignty issue. However, problems have always arisen when human activity and resource management require a non-ambiguous solution to sovereignty – which is something that the Treaty still cannot provide. The Antarctic Treaty System regimes addressed this ambiguity by maintaining the balance in the different sovereignty positions among actors. Nevertheless, this strategy is perceived as threatening to the legitimacy of these regimes if new challenges are not addressed and persist unsolved (Stokke and Vidas 1996).

Joyner (1998) similarly to Peterson (1988), Rothwell (1996) and Stokke and Vidas (1996) also defines the Antarctic Treaty as an international regime, consisting of "*norms, rules, principles and procedures designed to help states coordinate their action toward the achievement of particular values*" (Joyner 1998, p. 85). Nonetheless, the originality in Joyner's analysis is the perception of Antarctica as global commons and how this particular characteristic defined the Antarctic regime dynamics. Global commons are described as those areas physically and legally situated beyond national jurisdiction and without any valid national sovereignty claim. For this reason, global commons are indivisible and not politically enclosable, demanding management by a group of concerned states. Global commons are accessible universally, which implies that the outcomes from their use have a universal impact as well. They are also subject to environmental abuse, as the lack of national authority predisposes states to conduct activities selfishly and uncontrollably, demanding international cooperation and/or multilateral management institutions for the global commons' preservation.

> Global commons areas have certain geographical, economic, legal, and administrative attributes. Their use by one person or state will present costs for all. International institutions can be established to redress those costs, and they can also seek to optimize use of that commons area. But each global commons remains unique. Each commons area has its own particular set of geophysical characteristics and political problems, and each will be affected by its own economic conditions and perceived situations (Joyner 1998, p. 27).

Antarctica is described, according to Joyner, as a "special kind of common" or a "disputed common" due to the sovereignty claims neither recognised nor denied by Article IV. He states

"*the status of sovereignty on the continent remains a legal conundrum for both the Antarctic Treaty parties and the international community*" (Joyner 1998, p. 52), which feeds criticism of the interpretations of the Antarctic as global commons. Nevertheless, Joyner asserts that sovereignty claims have not had the chance to be perfected since the Treaty has been in force and that the only sovereignty right performed has been to participate in the scheme. Therefore, the Antarctic Treaty creates the condition by which the Antarctic remains beyond the limits of national sovereign jurisdiction, indivisible and free to be accessed by any party. Uncontrolled activities conducted in the region could have a global impact, as much as its benefits (such as scientific research and environment protection) are universally perceived. Multilateral and supranational arrangements are seen by Joyner as future pathways for governance in the region. If the Antarctic is transformed into a condominium, several states would be able to exercise sovereignty rights through an international scheme of shared duties and rights. The management of this condominium would demand the creation of some sort of institution, such as an Antarctic Public Heritage Agency, an Antarctic Environmental Protection Agency or an organisation similar to the International Seabed Authority. A United Nations trusteeship and the establishment of an internationally protected environmental sanctuary are other alternatives which could avoid controversies between developed and developing countries as the exploitation of Antarctic resources is interdicted by these approaches. Joyner affirms that the implementation of these alternatives "would not be difficult" for Consultative Parties, which would qualify the region as a global commons regime (Joyner 1998).

Joyner states that as long as the Antarctic remains unhospitable for permanent human settlement, sovereignty is not able to be demonstrated. Effective occupation demands people living and working in a region, within a civil society with recognised borders and a local operating government. Scientists (mostly nationals from non-claimant countries, according to Joyner) visit the Antarctic on a temporary basis, not settling themselves in the region. In fact, national jurisdiction only takes place inside scientific stations, which are ruled by their respective national flags. But, for the rest of the continent, the existence or exercise of national sovereignty remains "more a legal fiction rather than an actual fact" (Joyner 1998). Joyner concludes that "the Antarctic region is part of the global commons" but, at the same time, that "Antarctica remains legally unfulfilled for international community". So, we question: how can a region be simultaneously global commons and not be legally defined? How can universal access, which is a criterion of global commons, actually mean free access to Antarctic Treaty *parties* (which are far from encompassing all sovereign states in international society and even

less than other non-governmental actors)? How can internationalised management models be considered "not difficult" to be agreed by Consultative Parties, when consensus is the base of the Antarctic Treaty and claimant states are still very clear about not waiving their rights? We can say that Joyner presents an interesting perspective on the Antarctic Treaty, but still a premature one. Nonetheless, it is important to consider the regime approach proposed by Joyner and the implications that a definition of the Antarctic as global commons has to the analysis.

Joyner states that the Antarctic Treaty System has emerged as a complex system of legal regimes which aims to regulate governments and the activities of their nationals in the Antarctic commons. The Antarctic Treaty represents the original agreement, therefore the one that establishes the normative framework for the regime operation. This means that governments and their national activities in the region must comply with the norms of peaceful use of the continent, scientific cooperation and international harmony in the region. Environmental protection became a progressive norm since the Treaty has been institutionalised. The application of these norms demanded major legal instruments which are normative and institutionally linked to the Antarctic Treaty, the source of the Antarctic regime's normalisation. The 1964 Agreed Measures for the Conservation of Fauna and Flora, the 1972 Convention for the Conservation of Antarctic Seals, the 1980 Convention on the Conservation of Antarctic Marine Living Resources, the 1988 Convention on the Regulation of Antarctic Mineral Resources Activities, and the 1991 Protocol on Environmental Protection represent the legal instruments of compliance to the regime's norms which, together, compose the Antarctic Treaty System. The operation of the system has consisted of the interaction of what Joyner calls ingredients, procedures and products within the different legal instruments. Governmental resources, technology and common expectations of social and political gains are *ingredients* deployed by governments in order to create decision-making *procedures* through which they interact, *producing* predictability, order and stability for the region. Therefore, the operation of the Antarctic Treaty System has conducted the governance of the region, as an international regime.

The Antarctic regime was established when governments agreed on principles, norms, rules and procedures to regulate their activities in the region, progressively internalising them into an international legal framework. As a commons area, the Antarctic is considered easier to manage if its governance is based on cooperation among states. Likewise, Antarctic activities are considered better coordinated if norm-creating institutions are established by the regime.

Therefore, from a sole agreement in 1959, the Antarctic regime has evolved into a cluster of different sub-regimes each with their specific principles, norms, rules and procedures (Joyner 1998). These different agreements originated from the acknowledgement that the Antarctic Treaty alone was not adequate in controlling national activities in this non-sovereign space.

> The grand regime for the Antarctic commons is produced by the cumulative sense of interests, rights, obligations, and legal suasion generated by the aggregate of norms, procedures, principles, and rules that flow from the Antarctic Treaty to the subregimes created by the ATS instruments. The Antarctic Treaty System regime is the integrated composite of all the separate regimes created by the legal instruments of the Antarctic Treaty System. The grand regime for managing the Antarctic commons contains a number of concentric regime layers. The foundation layer (or core) is the Antarctic Treaty's regime, i.e., the special regime produced by the 1959 instrument alone. A second layer consists of the integrated composite of subregimes created by those international agreements especially negotiated and adopted by the ATCPs as parts of the Antarctic Treaty System. This outer layer is the Antarctic Treaty System regime. A third layer of regimes includes the composite ATS regime plus those external subregimes generated by various non-Antarctic legal agreements on issues of special relevance for governments operating in the Antarctic. The combined layers of the Antarctic Treaty, its family of agreements, and the other external instruments affecting international activities in the Antarctic commons may simply be called the Antarctic Regime (Joyner 1998, p. 98).

In terms of its creation, the Antarctic regime has gathered different states working close together over a long-standing period. A long and substantive interaction among states on a specific issue generates a store of shared experience and cognitive expectations of mutual rights and obligations, stabilising governmental interrelationships and enabling regime cohesion. The cohesion of a regime takes place when states associate with each other via the regime's common norms, rules, principles and values, creating a connection among themselves. When governments start to seek shared interests and values together, they are able to integrate the regime's norms and principles into their own decision-making structures, socialising themselves to the regime that reinforces their connection to each other and the regime itself. This regime cohesion must be normative and functional. Normative cohesion relates to the degree of consensus on the main values of a regime. This means that a regime must present internal consistency with its norms, integrating them into rules and procedures, in order to guide states' behaviour. States, on the other hand, must be socialised according to the modus operandi of the regime, generating their consensus on the regime's main values. A functional cohesion takes place when members specialise themselves in different functions in order to achieve the regime's shared goals. These interdependent relationships on a specific issue reduce

transactional costs and bind governments together into the regime's networks. This functional configuration is maintained by the creation of consistent rules and procedures which coordinate and regulate members' exchange activities, and the flow of reciprocal information, allowing proper guidance on states' behaviours. Therefore, normative and functional regime cohesion are fundamental for the operation and consolidation of a regime, but they are not sufficient (Joyner 1998).

In terms of its maintenance, Joyner states that global commons regime can only last if there are means for intergovernmental cooperation, and if members are willing to cooperate to accomplish the regime's shared values, complying to it by abiding to its endorsed norms. In the case of an absence of political will to cooperate and comply with the regime's provisions, legitimacy and effectiveness are jeopardised. In the Antarctic, the common concern has always been not the region itself, but the effects of the activities conducted there. Therefore, the common will to regulate and circumscribe national activities in the region enabled the creation of operative norms, rules and procedures, fostering cooperation among governments and their continuous compliance to the system. If more governments cooperate within a regime, their compliance is more effective, whereas the more compliance there is to a regime, the more willing governments are to cooperate with it – it is just a virtuous circle. In the Antarctic, what has led governments to continuously cooperate and comply with the system has been the benefits the regime brought to their national interests. Claimant states benefited from the maintenance of their national sovereignty claims. The costs in executing these claims would have been politically as well as economically impractical, in addition to the large investment required to assert jurisdiction over a specific area in that region. Non-claimant states, on the other hand, benefited from free access to multinational scientific research without the costs related to conducting activities in someone else's territory. Besides, compliance to the system provided better relations with non-governmental organisations, access to expert knowledge and skills, and exchange of information.

Therefore, Joyner states that cooperation and compliance are identified throughout the operation of the Antarctic Treaty System. As part of global commons, the necessity to regulate national activities in a region without a defined sovereignty configured a common concern among interested actors. But they were not able to manage the Antarctic region and assure their particular interests individually. Therefore, an interdependent pursuit of shared values and principles through the creation of common norms, rules and procedures guided governments'

behaviour, generating a consensus that the Treaty was the most suitable avenue for managing the region. Interdependency and consensus provided cohesion to this regime. Their substantive and long-standing interaction allowed the internalisation of Antarctic norms and principles into their own decision-making structures, becoming socialised to the regime and bonding themselves to each other. The impact on governments' behaviour (effectiveness) along with the applicability and acceptance of the Antarctic Treaty system (legitimacy) persuaded governments to continue operating through the system. Joyner states that no better alternative has been presented so far. The system has been able to cope with the different interests involved – maintaining claims and enabling free access and information about the region – and it has been providing the means and the will for cooperation and compliance to it.

4.3 What about sovereignty? Limitations in regime theory analyses

The different analyses presented by Peterson (1988), Rothwell (1996), Stokke and Vidas (1996) and Joyner (1998) provide a common perspective on the reasons of creation and institutionalisation of the Antarctic Treaty. The regime theory approach is the most noticeable common element, emphasising (each author in different nuances) how compliance can be generated among actors, sustaining the Treaty's management of the region. All the authors used the same definition of an international regime as "sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations", whose origin can be traced to Krasner (1982). However, none explored the multitude of approaches within regime theory, nor potential implications and limitations for this specific interpretation.

Peterson (1988) proposes a comprehensive analysis, focusing on the conditionality for regime change. She defines an international regime by the idea of a "common concern" and acknowledges states and non-states as valid actors. The creation of a regime is related to the salience of an issue, the political and material interests of actors and the formation of a coalition of states which is powerful enough to overcome alternatives. Therefore, the distribution of power and, especially, the presence of great powers in a coalition, are the particular features in Peterson's analysis which, in fact, differentiate it from the other interpretations. The formation and sustenance of a regime are much more dependent on outside elements than its internal dynamics. Peterson also identifies different phases of a regime: formation, establishment, maintenance, amendment/replacement and termination. Hence, if the salience of an issue, the

interests of actors, and the presence of a powerful coalition of states are the elements responsible for a regime's formation, changes in these factors also provoke changes in a regime and its transition from one phase to the next. Peterson assesses positively the Antarctic Treaty as a regime which has presented few amendments, being able to stand throughout the years on very similar terms to its original ones. Nevertheless, Peterson's analysis recognises that sovereignty in Antarctica is still an unsolved issue and does not provide conjecture for this framework in the short or in long-term.

Rothwell's analysis (1996) is focused mainly on the conditions for the creation of the Antarctic regime and how the regime has been able to cope with challenges such as resource management and environmental protection, without solving its main question of sovereignty. He bases the definition of regime on a "given issue-area" which must be politicised enough to enable a convergence of interests towards its common addressment. In contrast to Peterson, Rothwell identifies three different kinds of formation process of a regime: contractarian (an agreement is made about a certain issue), evolutionary (the habits of addressing an issue in a certain way are formalised in a legal agreement) and piecemeal (ad hoc agreements on points that are possible to be achieved with the expectation that they will spread to different areas). Rothwell does not state precisely in which category of formation process the Antarctic Treaty is classified, but it seems possible to grasp that the Antarctic regime presented both contractarian and piecemeal features, as the Treaty reached an agreement which did not solve the question of sovereignty. Rothwell states that the permanence of the sovereignty issue prevented the application of classic concepts of international law in the region. Therefore, the Antarctic Treaty framework presents an original solution by balancing the different positions in the sovereignty question without solving it. In similar terms to Peterson, Rothwell also presents a positive perspective on the Antarctic regime, as the Antarctic Treaty has maintained itself over the years without significant changes.

Stokke and Vidas' analysis (1996) has a much stronger orientation towards the dynamics of the regime itself. Neither distribution of power nor politicisation of an issue are considered necessary conditions for a regime's formation or modification, as Stokke and Vidas are much more concerned with the operation of the Antarctic Treaty rather than its creation. They define an international regime as a convergence of expectation on a given issue-area of international relations, focusing on the capability of a regime to modify the behaviour of those actors involved. The Antarctic Treaty has evolved in normative and structural terms, as new norms

and rules have been included by recommendations, conventions and protocols, whilst new roles have been assigned for members. This evolution did not result in the Antarctic regime's disintegration, because it has remained effective and legitimate for both inside and outside actors. The Antarctic Treaty System has continuously impacted on actors' behaviour, as significant compliance to the regime can be identified over the years. Likewise, the institutionalisation of the normative and structural components of the system have been consistent with Antarctic principles, preventing the emergence of the sovereignty question when new issues demanded addressing (applicability); whilst they have been embraced by actors, who identify in the system the guidance for appropriate conduct in the region (acceptance).

Effectiveness and legitimacy are one of the main contributions of Stokke and Vidas' analysis (1996), which are also adopted in Joyner's interpretation (1998) when explaining the maintenance of the Antarctic Treaty System. The Antarctic is defined by Joyner as a global commons, demanding a regime to coordinate actions among actors in order to achieve their common values for the region. Global commons are defined as areas located beyond national jurisdiction which demand cooperation and coordination among states to guarantee their preservation. This lack of sovereign authority in global commons generally leads to unilateral and unrestricted actions from states, whose consequences are also felt universally. Hence, the Antarctic Treaty represented the first effort to formally address cooperation and coordination of activities in Antarctica, whilst not defining the sovereignty status of the region. The evolution of the Treaty into a complex of legal regimes came with the continuous process of internalisation of its principles and norms into the decision-making procedures of actors, who then became progressively socialised according to the system's terms. Consequently, this normative and functional cohesion of the Antarctic regime, in terms of consensus and interdependence of actors, were essential to the formation and institutionalisation of the Antarctic Treaty System. Its maintenance comes with the provision of means and the political will to cooperate and comply with it, enabling the Antarctic Treaty System to be acknowledged as effective and legitimate to manage the governance of the region. The regime is perceived by Joyner as very dynamic (in contrast to all the other approaches), developing new legal arrangements that were consistent and interconnected with the Antarctic Treaty.

In addition to a common definition of international regimes, these analyses are very different in terms of emphasis. Some are more concerned with the conditionality that allowed the

formation of the regime (Rothwell), whilst others are more concerned with a regime's capability to change and adapt to new demands (Stokke and Vidas). Some are more focused on external factors as the main conditionality for the transformations of the Antarctic Treaty (Peterson) whereas others are more concerned with the mechanisms of internalisation and socialisation of a regime for its cohesion and cooperation (Joyner). Some understood that the Antarctic regime has suffered minimal changes since its formation (Peterson, Rothwell, Stokke and Vidas), whilst others saw the regime as very dynamic and adaptive to changes (Joyner). However, while none of these analyses should be dismissed, they do not encompass the totality of possibilities to interpret the Antarctic Treaty as an international regime. They are just remarkable examples of substantive and systematic analyses which searched for answers to the formation and consolidation of the Antarctic Treaty (as the Antarctic Treaty System) without providing a definition for the sovereignty status of the region. Interestingly, regime theory seemed to be perceived as the simplest way to understand the Antarctic Treaty in the context of international society, but the different perspectives which are present within regime theory are not addressed by the referred authors.

Rothwell (1996) is the only one who alludes to different possibilities of regime definitions. He first discusses regimes as "*sets of mutual expectations, generally agreed-to rules, regulations and plans, in accordance with which organizational energies and financial commitments are allocated*" (Ruggie 1975, p. 569). In this definition, Ruggie focus on some form of outcome, as organisational and financial commitments are expected to be produced. Another definition raised by Rothwell defines international regimes as "*a set of principles, explicit or implicit, norms, rules and decision-making procedures around which the expectations of actors converge in order to coordinate actors' behaviour with respect to an issue of concern to them all*" (Haas 1980, p. 358). Haas also presents a narrow view of regimes by connecting it to issue-linkage and collaborative behaviour from actors. The broadest concept raised by Rothwell is "*regimes are social institutions governing the actions of those interested in specifiable activities. As such, they are recognized patterns of practice around which expectations converge*" (Young 1980, p. 332). Young's view does not refer to principles, norms or rules. He focuses on an institutional perspective which still governs actions, but for specific activities. Albeit Rothwell points to different alternatives, he adopts Krasner's perspective because he sees it as the ablest in conciliating the different points raised by the other conceptions.

> Sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actor's expectations converge in a given area of international relations. Principles are beliefs of facts, causation, and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice (Krasner 1983, p. 2).[39]

It is important to bear in mind that the analyses reviewed here were a reaction to important moments in Antarctic Treaty governance. The 1980s and the 1990s witnessed normative and structural changes in the arrangement with the opening up of the Treaty, with the negotiation and then abandonment of CRAMRA, and with the establishment of the Environment Protocol. The opening of Consultative Meetings to non-Consultative Parties, observers and experts in 1983 and 1985 demanded a restructuration of the roles of both the original parties and the newcomers in decision-making. The negotiation and agreement on a convention to regulate mineral resource exploration in Antarctica lasted one decade (until its agreement in 1988) and attracted enormous attention to the region and its governing arrangement, in terms of interested actors willing to participate as well as strong opponents who criticised a framework which excluded them. From 1988 to 1991, the CRAMRA was abandoned with a split between governments in favour of mineral exploration and those in favour of banning. The conflict was resolved with the negotiation of a different agreement which focused on the protection of Antarctic environment. The Protocol on Environmental Protection consolidated environmentalism as an Antarctic principle on the same terms as peace maintenance and scientific cooperation.

Challenges to the Treaty raised questions not only about how it had been able to be established, but also how it was able to continue with demands beyond scientific cooperation. Regime theory at that time offered theoretical support in understanding how common problems could foster a cooperative addressment from states. Nevertheless, some points were missed by these analyses which came with the development of regime studies in international relations. Regime theories gather different visions for the nature of international politics, assigning different levels of difficulty to achieving cooperation when faced with an anarchical system. Likewise, there are also variations on the role designated for non-state actors in bringing, implementing and developing international regimes (Hasenclever, Mayer, and Rittberger 2000). For instance,

[39] The problems related to Krasner's lack of precision in the concepts of principles, norms, rules and procedures were addressed in the second section of the first chapter of this work.

epistemic communities and transnational networks of experts on a particular issue could trigger the convergence of expectations as they hold most of the expert knowledge on how a particular issue should be addressed. In the Antarctic case, with the exception of Peterson (1988), no particular mention was made of the participation of non-state actors in the formation and continuance of the regime. But, if we consider the role played by scientists in the IGY, pushing the scientific research in Antarctic as a priority for national states' agendas, the discussion about state and non-state actors cannot be dismissed.

Regime theory has different approaches in international relations. Neoliberalism focuses on how international regimes facilitate states to reach their common expectations on a particular area. States are assumed to be the main actors of international society, behaving rationally and on a self-interested basis, seeking to maximise their individual utility. Therefore, cooperation is perceived as a difficult goal to achieve, despite the absolute gains it might provide. The anarchical environment in international society generates uncertainties about the level of commitment of others, preventing cooperated efforts as there is always the risk of the tragedy of the commons.[40] Hence, regimes reduce uncertainties by providing mutually transparent behaviour over a long-standing period. Cooperation, then, becomes facilitated once common norms and rules enable the formation of expectations about the conduct of others and the possibility of reprisals in a next interaction (Hasenclever, Mayer, and Rittberger 2000).

Most neoliberal studies rely on economic and institutional theories, understanding regimes as political investments used to converge states' different interests into a common conduction of a particular issue. The reduction of informational and transactional costs among states, especially in high-density interactions in a given issue-area, interacts with the constellation of interests from actors as well as with the nature of the game (enmity, rivalry and/or friendship) on which international regimes are built.[41] Albeit regimes are difficult to form (demanding investment and presenting risks to states), they support the coordination of states' behaviour, preventing collective sub-optimal outcomes. This is the reason why once created, states would

[40] See Mancur Olson, *The logic of collective action.* Public goods and the theory of groups. (Cambridge: Harvard University Press, 1965); and Elinor Ostrom, *Governing the commons.* The evolution of institutions for collective action (Cambridge: Cambridge University Press, 1990).
[41] For more information, see Robert O. Keohane, 'The Demand for International Regimes', in Krasner (ed.), *International Regimes*; Arthur A. Stein, 'Coordination and Collaboration: Regimes in an Anarchic World', in Krasner (ed*.), International Regimes* (Ithaca, NY: Cornell University Press, 1983); and Duncan Snidal, 'Coordination Versus Prisoners' Dilemma: Implications for International Cooperation and Regimes', *American Political Science Review*, 79 (1985).

make the effort to maintain regimes, even if the original conditions that allowed their emergence might have changed (Hasenclever, Mayer, and Rittberger 2000). A neoliberal perspective which mainly focuses on the interest of actors can be identified in Peterson (1988), Rothwell (1996) and Joyner (1998). Respectively, the authors identify in the formation of states' interests, in their perception of the politicisation of an issue and in their political will to cooperate, the essential factors for the formation of a regime and for the effectiveness and legitimacy of its operation.

Realism approaches regime theory with an emphasis on the power relations among states. Albeit classic realism assigns a marginal role to institutions in international politics[42], neorealist authors such as Robert Gilpin, Joseph Grieco and Stephen Krasner (articulating the preferred approach adopted by regime analysis on the Antarctic Treaty) considered not only the importance of regimes, but especially the centrality of power to its formation and maintenance. Distribution of capability among actors is a crucial factor for the allocation of benefits that a regime might produce, which directly affects the decision for its creation. The continuous relevance of an issue area and the nature of relations prescribed by the regime are also impacted by the distribution of power. The theory of hegemonic stability, for instance, defines a regime as an international public good that depends on the hegemon to be provided and enforced. In this case, the engagement of a dominant actor is a necessary condition for the existence of a regime (Hasenclever, Mayer, and Rittberger 2000). This perspective is clearly identifiable in Peterson's analysis. The formation of a coalition of states where great powers are present is a clear reference to the importance of distribution of power as a conditional element for the formation and maintenance of a regime. The Antarctic Treaty was only achievable because the United States and the Soviet Union agreed on its creation. They formed a coalition of states with other claimant states and the IGY's participants in order to establish the terms for the Antarctic's governance. In addition, a regime's coalition of states must be powerful enough to avoid opposition, which was clearly confirmed with the engagement of the two rival superpowers, not allowing antagonising coalitions to derail the agreement.

Neoliberals incorporated some realist assumptions into their interpretation. An anarchical international system and the primacy of a rational and self-interested nation-state underlie

[42] See John J. Mearsheimer, 'The False Promise of International Institutions', *International Security*, 19 (1995).

states' engagement with a regime, once a regime reduces uncertainties and provides gains only obtainable in a cooperated endeavour. Nevertheless, neorealism points to a limitation of a neoliberal approach as it only considers absolute gains, while not addressing the relative ones. The anarchical environment of the international system leads states to consider the distribution of gains of other actors as well, as a cooperation which strengthens rivals and enemies could threaten their own security, especially if gains are not similar. Therefore, as cooperation can modify the distribution of power, states might restrain themselves from forming a regime, even at the expense of absolute gains. Thus, in a realist conception, regimes are much harder to achieve when compared to a neoliberal perspective (Hasenclever, Mayer, and Rittberger 2000).

A cognitivist approach stands at the other extreme in the scope of regime theories. In contrast to realism, the cognitivist criticism of the neoliberal perspective targets the appropriation of realist assumptions. The adoption of the state as the only actor to be considered in international politics with an alleged rational and self-interested behaviour are questioned by cognitivists. Initially preferences should not be something external to states, provided by the international system. Minimalist cognitivists focus on the capacity of states to achieve complex learning, which includes means and ends for actions. Therefore, uncertainty about a specific issue-area leads states to search and rely on specific knowledge, which means that preferences are built and adjusted according to their own experience as states. In addition, those who can provide specific knowledge on an issue-area have their political influence increased. Therefore, epistemic communities, that are composed of states and non-state actors, have a significant influence on the formation of regimes and on the coordination of international policy, as they provide the conditions and means for learning and, consequently, for cooperation. Thus, realist assumptions are perceived as a limited approach to analysing a regime (Hasenclever, Mayer, and Rittberger 2000).

On the other hand, maximalist cognitivists follow a constructivist approach which means understanding international politics via its sociological component. In similar terms to minimalist cognitivists, constructivists focus their analysis on the learning process of actors in a regime. However, in contrast to minimalists, knowledge is not understood in casual terms, but in perceptive ones. Actors do not engage with regimes because they rationally seek guidance for their behaviour in an unknown issue-area. In fact, a regime would reflect actors' internalisation of rules and their awareness of themselves. In this case, states are not perceived as rational atomic units and their identities, power and interests are considered prior to

international society and its institutions (Hasenclever, Mayer, and Rittberger 2000). For maximalist cognitivism, once a long-standing interaction impacts on the self-understanding of actors and on their image about others, cooperative norms become internalised even when they had been initially perceived as only instrumental. Institutionalised cooperation dilutes actors' egoism and legitimates their respect for others' interests. Therefore, in a regime, states determine and become determined by common principles, rules, norms and procedures, configuring much more significant robustness and effectiveness to a regime in comparison to realist and neoliberal interpretations (Hasenclever, Mayer, and Rittberger 2000). Oran Young's perspective (1980) is exemplary of maximalist cognitivism. He interprets regime as a social institution which determines and is determined by the perception and the practice of actors. Actors are not an absolute nor a relative gain seeker. They are role players inserted in a particular institutional framework whose norms and standard behaviours guide their particular conduct. Instead of exclusively searching for gains, governments also consider what is appropriated and expected from them on a particular issue (Hasenclever, Mayer, and Rittberger 2000).

Stokke and Vidas (1996) and Joyner's (1998) analyses of the Antarctic Treaty through a regime perspective are much closer to a cognitivist approach. Stokke and Vidas acknowledge how the Antarctic Treaty has been institutionalised in structural terms – with the inclusion of new actors and new roles – as well as in normative terms, with conventions, recommendations and protocols addressing the issues of resource management and environmental protection. The importance given to knowledge is considerable, especially with the need of actors to accept norms and rules and identify their consistency with principles in order to grant legitimacy to the regime. Joyner (1998) presents even more traits of cognitivism. Internalisation of norms and principles into governments' decision-making procedures is considered a necessary step for the cohesion of a regime. By the same token, the socialisation of governments occurs by their learning about the regime and their role in it, adjusting their conduct accordingly to what is perceived as appropriate and legitimate. Therefore, legitimacy and effectiveness of a regime are generated by the comprehension and internalisation of regime's provisions, fostering a trusted atmosphere where cooperation and compliance take place.

Nonetheless, there is not clarity on which regime perspective was adopted in these Antarctic Treaty interpretations. With the exception of Rothwell (1996), who presents an incipient discussion, the authors just reproduced a definition closer to the one offered by Krasner and

assumed theoretical assumptions without exploring the implications. For instance, only Peterson suggests considering other actors beyond the state (albeit it remains the main one) and she is the only one who properly explores the influence of domestic politics and constituencies on the formation of national interest. Therefore, it is not difficult to imply that discussions on international primary institutions in Antarctica went unnoticed. Stokke and Vidas offer some evidence when they state that there is a "false dichotomy" between the Antarctic Treaty and the international community. However, they do not further explore the implications of this relationship. Rothwell states how innovative the framework of the Antarctic Treaty was in terms of international law, but what it means as a regime in a place of undefined sovereignty it is not explored. Joyner goes ahead and defines the Antarctica as a global commons. However, he fails when providing a dubious (and in certain moments, naïve) interpretation of the sovereignty situation: a current unsolved question but, at the same time, not a problem to be considered if the Antarctic is part of a commons area. In all the cases, the question of the undefined sovereignty is not addressed.

We do not mean that regime theory is a faulty interpretation for the Antarctic Treaty. From any perspective (neoliberal, realist or cognitivist), regime theory has been very competent in providing different avenues for understanding the formation and consolidation of the Antarctic Treaty and the governance exerted by the arrangement in the region. The moment of establishment of the Antarctic Treaty demanded the creation of an instrument which would make peace and scientific cooperation feasible. This was the common expectation at that time whose achievement demanded a formalisation in terms of rules, institutions and codes of conduct, guiding the practices of actors and establishing an accepted governance framework for the region thereafter. Hence, the Antarctic regime constituted the governance of the Antarctic region through the norm-creating institution of the Antarctic Treaty. As new demands emerged, the Treaty expanded its scope of action and transformed its normative and structural provisions in order to regulate and address different actors and practices in the region. But could governance be exerted by a regime without a sovereignty definition?

Rosenau (1992) identifies the presence of governance without government when human systems (regardless of the level of institutional and organisational evolvement) cope with external challenge, prevent conflicts among their members and procure resources for their preservation, framing goals and policies for their achievement. The differences and similarities between government and governance are identifiable as:

> … both refer to purposive behaviour, to goal-oriented activities, to systems of rule; but government suggests activities that are backed by formal authority, by police powers to insure the implementation of duly constituted policies, whereas governance refers to activities backed by shared goals that may or may not derive from legal and formally prescribed responsibilities and that do not necessarily rely on police powers to overcome defiance and attain compliance. Governance, in other words, is a more encompassing phenomenon than government. It embraces governmental institutions, but it also subsumes informal, non-governmental mechanisms whereby those persons and organizations within its purview move ahead, satisfy their needs, and fulfil their wants (Rosenau 1992, p. 4).

The interpretation of the Antarctic regime should include the idea of a governance without government. Therefore, we could initially assume that all interpretations of the establishment and consolidation of the Antarctic Treaty here analysed are consummated, because governance can be exerted without any formal authority or policy power that comes with territorial sovereignty and its need to assure effective occupation. However, Peterson, Rothwell, Stokke and Vidas and Joyner did not assert the absence of sovereignty in the region. In unison, they affirmed a "non-definition" (Joyner), a "non-solved" (Peterson, and Stokke and Vidas) or a "still very important matter" (Rothwell). Therefore, sovereignty is present in Antarctica far beyond simply participation in a diplomatic agreement, as asserted by Joyner. Indeed, the institutionalisation of the Treaty through an expansive normative and legal instrumentality – and without losing legitimacy or effectiveness even when challenged – is well addressed by regime theories. But the implications of a non-defined international society bedrock institution demand more.

4.4 The Antarctic as a regional international society

Sovereignty, as a primary institution, implies long-standing practices perceived as a legitimated behaviour constitutive of social forms and shared identities. Since the seventeenth century, international society has been progressively founded in sovereignty practices, constituting the national state as the main actor and its practices as the core of international politics (James 1999, Jackson 1999, Holsti 2004). Other contemporary primary institutions such as territoriality, diplomacy, balance of power, equality of peoples, trade, nationalism and environmental stewardship[43] have had sovereignty as a reference, even when challenging it –

[43] Master primary institutions nest derivative ones which also constitute identities and social forms in international society. The list of contemporary master and derivative primary institutions are:

in fact, Buzan (2004) states how tensions among primary institutions have been the key driving force for changes in international society. Primary institutions have operated within an international society defined in sovereignty terms and, as primary institutions, they have also established practices and identities among actors. On the other hand, secondary institutions do not present constitutive elements. They configure deployments of primary institutions, reflecting, supporting and being constrained by them. Secondary institutions are consciously designed by states in the form of agreements or organisations, being constituted with a specific purpose which is contained in a broader context of identities and practices. Therefore, secondary institutions represent the main object of investigation for regime theories (Buzan 2004, p. 166).

> English School has placed a lot of emphasis on the way in which the institutions of international society and its members are mutually constitutive. To pick up Manning's metaphor of the game of states, for the English School the primary institutions define both the rules of the game and what the pieces are. Both of these can change over time as primary institutions evolve and sometimes become obsolete (e.g., colonialism) as new institutions arise (e.g., nationalism). Regime theory tends to take both actors and their preferences as given and to define the game as cooperation under anarchy. This difference is complemented and reinforced by one of method, with regime theory largely wedded to rational choice… and the English School resting on history, normative political theory and international legal theory… (Buzan 2014, p. 31).

The difference between primary and secondary institutions is very elucidative in the Antarctic case. The analyses here reviewed about the Antarctic Treaty adopted different perspectives within regime theory, but they did not address the implications of not defining sovereignty for the region's governance. Regime theories, focusing on secondary institutions, take for granted the primary institutions of international society. In these particular analyses, what is at stake is a convergence of interests, expectations and behaviours, and not the founding constitution of social forms and identities. From realist to cognitivist approaches, interpretations assume sovereignty to be a constitutional element. And even in cases where specific issue-areas do not

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sovereignty and its derivatives non-intervention and international law; *territoriality* and its derivative boundaries; *diplomacy* and its derivatives messenger/diplomats, conferences/congresses, multilateralism, diplomatic language and arbitration; *balance of power* and its derivative anti-hegemonism, alliances, guarantees, neutrality, war and great power management; (in)*equality of peoples* and its derivatives human rights, humanitarian intervention, colonialism and dynasticism; *trade* and its derivatives market, protectionism and hegemonic stability; *nationalism* and its derivatives self-determination, popular sovereignty and democracy; and *environmental stewardship* and its derivative species survival and climate stability (Buzan 2004).

involve states or national territories, international law (which is indeed a derivative primary institution from the master institution sovereignty) provides alternative definitions such as *res communis*, *res nullius* or common heritage of mankind, filling up the void in sovereignty terms. Regime analyses were able to focus on how the Treaty has impacted actors' behaviour towards the region and how it has been adjusted to cope with new challenges. But they do not answer why such an arrangement was able to govern a region without a fundamental definition. Rothwell (1996) gives some clues when asserting the originality of the arrangement in international law and Stokke and Vidas (1998) point to unsolved sovereignty as the cause for resource management and environmental protection challenges. Within a regime theory framework, this is the furthest where the analysis can go.

The expansion of international society brought to the Antarctic primary institutions. But this does not mean that they have been internalised in the same terms. A regional society is formed when constitutive institutions for a determined region are absent at the global level or when this region presents different interpretations for global level institutions (Karmazin 2014). Thus, understanding the Antarctic as a regional society seems to provide the remaining elements for its comprehension. As we have previously seen, primary institutions of international society have been expanded to the region since the end of seventeenth century. But as the bedrock one was suspended in 1959, the dynamics of Antarctic governance has differed from the rest of international society. The challenges to the regime pointed out by Peterson, Rothwell, Stokke and Vidas and Joyner are a result of primary institutions which have not been able to be constituted in the same terms as in general international society due to the lack of a sovereignty definition. Demands to address resource management (which generated the 1964 Agreed Measures for the Conservation of Antarctic Fauna and Flora, the CCAS and the CCAMLR) came from master institutions such as territoriality, nationalism and trade which could no longer constitute a region of undefined sovereignty such as the Antarctic. Likewise, the opening up of the Treaty to non-Consultative Parties, experts and observers came with the addition of the master institution "equality of people", as developing nations were denouncing the exclusivism of the governance of the region, especially at a moment when negotiations on mineral resources were taking place. The failed CRAMRA followed by the establishment of the Environment Protocol came with the addition of the environmental stewardship master primary institution, consolidating environmental preservation (along with peace maintenance and scientific cooperation) as the main principles in the region.

Regional international society is an international society manifested at a sub-global level (Karmazin 2014). As such, it presents features of second-order societies once its members are not only individuals, but also long-standing human collectivities: "… *second-order society exceeds domestic society and, like its domestic counterpart, has own norms, both formal and informal institutions, culture and power relations.*" (Karmazin 2014, p. 2) Questions might be raised about the extent to which international and regional international societies can be actually be defined as a "society". Buzan (2004) addresses this point by highlighting the difference between society and community. Society (or *gesellschaft*) refers to patterned interactions based on shared norms. Individuals would organise themselves by agreed arrangements on expected behaviour, producing norms, rules and institutions to be abided by. Whereas community (or *gemeinschaft*)[44] refers to groupings defined by an identification of belonging. In contrast to societies, communities present a deep internalisation of shared beliefs of identity, which means a much stronger bond among its individuals. Therefore, second-order societies are defined by the concept of society, conforming to international societies as well as regional ones.

The regional level is defined as a sub-global ontology which is, at the same time, contained and distinct from the global one (Karmazin 2014). Regions are understood as spaces proximate to each other and distinguishably interconnected in spatial, cultural and ideational terms (Karmazin 2014, p. 12). When their distinctiveness is provided by particular social relations and manifestations in terms of institutions, rules and codes of conduct, a regional international society is configured (Costa-Buranelli 2014). The formation of regional international societies does not necessarily precede a region, nor does a regional international society generate one. In fact, a regional international society just requires a minimal regional consolidation (Karmazin 2014), which does not necessarily imply high integration or a shared security perception within.

Regional international society integrates international society, subsidising its primary institutions on a regional, sub-global scale. Nevertheless, it is the institutional incongruences between the global and the regional level that lead to regional social differentiations. Regional international societies were formed by a non-homogeneous expansion of international society, leading to failures in the localisation of norms in different regions. By the end of the nineteenth century, the European international society had established itself as fully international and its primary institutions as the foundation of international society. The consequent proselytism of

[44] See Tönnies, F. *Gemeinschaft und Gesellschaft* (Leipzig: Fues's Verlag, 1887).

international society primary institutions came with their recognition as the standard for international politics. Defined as "*... the active construction (through discourse, framing, grafting, and cultural selection) of foreign ideas by local actors, which results in the former developing significant congruence with local beliefs and practices*" (Acharya 2004, p. 245), norm localisation configured the boundaries of international society. Congruence between institutions deemed as international and those as domestic became a necessary condition for the inclusion of non-European regions into international society (Acharya 2004). Nevertheless, even when expanded globally, international society primary institutions still faced different political, organisational and cultural contexts which did not necessarily result in a complete norm localisation.

When a regional international society is formed, distinct primary institutions are found between the regional and global levels, or different interpretations of the same institutions between the two levels are identified. These incongruences reflect coexistence and contradictions between different primary institutions or between different forms of the same primary institutions, setting up the relationship between different regional international societies. Three ideal types can be identified for these relationships: expansion, coexistence and confrontation (Linsenmaier 2015). Once international society was able to expand all around the globe, different relationships took place between international society and the several regional ones. In Antarctica, international society expanded its primary institutions. However, the Antarctic Treaty in 1959 stopped the norm localisation of certain primary institutions, which was case of the bedrock one: sovereignty. The institutionalisation of an undefined sovereignty transformed the norm localisation of some of international society's primary institutions in the region and established a regional international society in the region. Therefore, we could conclude that the challenges to the governance of the Antarctic Treaty identified by regime theory actually refer to moments when primary institutions from international society attempted to be expanded to the region in their global format, resulting in contradictions with the norm localisation of those already in place.

Understanding the Antarctic Treaty governance requires the analysis of its primary institutions. Unequivocally, peace maintenance, scientific cooperation and environmental preservation have become guidelines for the institutionalisation of the Treaty in normative and structural terms. But do they embody shared norms, rules, principles and values which constitute particular identities and practices in Antarctica? Not yet, perhaps. Identities of Antarctic actors are still

established by international society in terms of nation-states, governmental and non-governmental organisations. Likewise, social practices in Consultative Meetings, in nation-state parties and in Antarctica are also defined in international society terms. Therefore, instead of different primary institutions, the Antarctic regional international society presents different interpretations for the same international society primary institutions. Considering the contemporary master primary institutions such as sovereignty, territoriality, diplomacy, balance of power, equality of people, trade, nationalism and environmental stewardship; only diplomacy, balance of power, nationalism, equality of people and environmental stewardship seem to present similar norm localisation.

Diplomacy is strongly present in Consultative Meetings, as multilateralism (one of its derivative institutions) constitutes the identities and practices performed by actors. Balance of power is also present in similar terms, especially with the strong engagement of the greatest powers in the region, conforming alliances and balancing divergences between actors. Nationalism is present through the practices performed by national Antarctic programmes. Being in Antarctica is presented as a national achievement and duty to domestic audiences, legitimising investments made by parties in the region. Equality of people was expanded later to the region, as only with the threat of concrete involvement from the United Nations in the region at the end of 1970s did the Antarctic Treaty allow a controlled opening up of its decision-making forum to different actors and roles. Still, it is possible to question if this primary institution had an accurate norm localisation, as the Treaty maintained a controlled decision-making process and its membership is far from being representative of international society as a whole. Nevertheless, the normative and structural modifications (or rules and resources changes in this social system) revealed an approximation to international society's terms. Trade represented a challenge for norm localisation. Separate agreements needed to be established (Agreed Measures, CCAS and CCAMLR) as well as different organisations needed to be created (IAATO) to address resource management in the region without bringing the sovereignty question to the agenda. And finally, environmental stewardship might represent the primary institution most similar to international society's patterns. Progressively, the governance of the Antarctica defined roles and practices in terms of species survival and climate stability (derivative institutions), reinforcing the norms, rules, principles and values already shared by international society.

What about the other primary institutions? How do territoriality and sovereignty, the bedrock one, have their norm localised in the Antarctic? How are they differently interpreted to configure this region as a regional international society? In the next chapter we are going to explore how sovereignty, as a social construction, is manifested differently in Antarctica, influencing other primary institutions and configuring the region as an exception in international society.

Conclusions

This chapter focused on how the Antarctic Treaty has been comprehended by international society. The harmonisation between Antarctic governance and international society is first established in the text of the Antarctic Treaty itself. Preservation of international society, peace maintenance, independence of states, limitation in the use of violence, honouring of agreements and respect of property rights are principles asserted by the Charter of the United Nations and proposed to be advanced with the achievement of the Antarctic Treaty. The Treaty also incorporates the International Court of Justice as a legitimate arbiter in case of disputes, and restates the importance of scientific collaboration with United Nations specialised agencies and international organisations, aiming for an external legitimation for its recently agreed arrangement. By the same token, the Antarctic Treaty also establishes its own principles, defining its own guidance for the structuration of its governance.

Peace maintenance is definitely the bridge between the Antarctic regional international society and international society. Concerns regarding peace in the region founded the agreement of the Antarctic Treaty and it has been the corollary for its governance. The fear of conflict and disputes in the region – which were in the process of realisation with the sovereignty question in the mid-twentieth century – fostered the negotiations for the Treaty and has been the main driver for the norming of the practices in the region. Scientific research has been considered the main practice to be undertaken in Antarctica. Its uncontroversial nature provided the best avenue for different actors compromising with the governance of the region whilst keeping the sovereignty question non-defined. Therefore, scientific research has proven to be an efficient provider of peace maintenance in the region. In addition, scientific research allowed a robust investment from interested actors in the region, reinforcing their commitment to the Antarctic Treaty prerogatives. The power framework has been preserved in exchange of more knowledge (consequently control) of the region, as well as more legitimacy for the Treaty. And

environmental protection completes the specific principles of the Antarctic. Following the same track as scientific research, environmental protection has been tackled since the first year of operation of the Treaty, being perceived as the avenue for the consolidation of its external legitimacy. With a similar uncontroversial nature, environmental protection has provided a "preservationist atmosphere" which supported a Treaty that aimed to preserve its power configuration. Environmental protection has kept resource management aside, a much more controversial issue which potentially demands a defined sovereignty. Preserving the Antarctic environment requires controlled access of actors and a high degree of investment, as undertaking activities with an environmental concern demands more expertise. Therefore, environmental protection reinforces the preservation of the Antarctic Treaty status quo.

If the Antarctic Treaty attempted to be inserted into international society practices and identities, sovereignty was a reminder that this adjustment was not consummated. Nevertheless, a non-defined sovereignty did not stop the Antarctic Treaty from searching for external legitimation. Instead, the Antarctic Treaty has developed and consolidated itself as the acknowledged governance framework for Antarctica within its membership and within international society as well. Without a doubt, this development did not proceed without challenges and criticism. Resource management activities pressed the Antarctic Treaty for addressment, risking the ignition of sovereignty questions and the demand for its definition. Therefore, as the foundation of the Antarctic Treaty was the preservation of its original power-configuration, parallel conventions were agreed as a way to protect the Treaty from its modification in order to address controversial matters. Therefore, literature has so far been dedicated to explaining how the Treaty has been able to develop and consolidate itself as the recognised governance for the region. Regime literature seems to be the most preferable approach adopted.

Peterson (1988), Rothwell (1996), Stokke and Vidas (1996) and Joyner (1998) present comprehensive analyses on Antarctic Treaty consolidation based on regime theory. Identifying the Antarctic Treaty as an international regime, these authors focus mostly on how the Treaty was able to be established, how it has been able to be maintained and how actors' behaviour towards Antarctica has been modified. Peterson (1988) focuses on the creation and maintenance of the Treaty, identifying common concerns, salience of an issue and a powerful coalition as the main factors which have enabled the Treaty's formation and continuity. Rothwell (1996) presents a similar approach to Peterson, being concerned with the formation and maintenance

of the Treaty as well. A regime is formed when a given issue is politicised enough for actors to be involved and come up with an agreement. In contrast to Peterson, Rothwell focuses on how a regime is maintained by common interests, not distinguishing phases in its trajectory, but he identifies different process in which a regime can be formed. The Antarctic Treaty is perceived as a regime which has suffered minimal modifications, but that offers an innovative legal arrangement, as sovereignty is considered a very important issue which is not solved.

Stokke and Vidas (1996) and Joyner (1998) tackle the interpretation of the Antarctic Treaty from a slightly different perspective in comparison to Peterson and Rothwell. Their focus is mainly on actors' changed behaviour and learning dynamics, emphasising how a regime requires legitimacy for its compliance. Stokke and Vidas analyse the Antarctic Treaty through the adaptive behaviour of actors in order to be effective and legitimised. Normative and structural modifications throughout the operation of the Antarctic Treaty have corroborated the Treaty's strong institutionalisation. Changes have reinforced the Treaty's legitimacy and effectiveness perception, increasing actors' compliance and co-opting critics to this governance arrangement. Joyner (1998) follows a similar interpretation to Stokke and Vidas, but starting with a different assumption. Joyner defines Antarctica as a global commons, therefore sovereignty claims are perceived as an issue which might not last long. The Antarctic Treaty would present a complex of legal regimes, where common interests formed the regime, whilst cooperation and cohesion have enabled its compliance (consequently, its maintenance). Through processes of internalisation and socialisation of its principles, norms, rules and procedures, actors would perceive the Treaty as the best avenue for addressing their goals – which they cannot enhance alone – and their cooperation has been granting the Antarctic Treaty its legitimacy.

However, two problems can be identified in these regime analyses of the Antarctic Treaty. The first one is the lack of critical approach. There is a common assumption that the Treaty was able to be established by dodging Antarctic sovereignty disputes; and that its consolidation as the main governance arrangement in the region was due to its robust membership and normative framework development. However, regime theory analyses do not focus on what was not solved with the Treaty's formation, nor on the implications of a long-standing unsolved configuration. In Antarctic literature in general, a critical perspective is offered by a post-colonialist reading of the Antarctic Treaty. The permanence of sovereignty claims in the region would represent reminiscences of colonial practices, evidenced by the Treaty's controlled decision-making and

by the preservation of its original power configuration. None of the analyses presented in the chapter explore the implications of a non-defined sovereignty for the region. And this seems to be a constant in Antarctic literature. Those works which critically discuss sovereignty explore the impact the validity or not of sovereignty claims has on the operation of the Antarctic Treaty; but not what a non-defined sovereignty represents to the overall governance of the region.

The second problem identified in Antarctic regime analysis lies in the absence of a regime theory discussion. Regime theory presents different schools – with different assumptions – which directly impact on how a regime is understood. Neoliberal regime theory believes that institutions facilitate cooperation in an anarchical environment, reducing their risks. They provide expectations on others' behaviour and reiterated interactions, that reduce uncertainty for those willing to engage in collaborated addressment of a common issue. For neoliberals, the state is the main actor whose rationality forges its cooperation based on absolute gains. On the other hand, neorealist regime theory emphasises the role of power and capability distribution in the formation and maintenance of a regime in an anarchical environment. In contrast to neoliberals, neorealists affirm that states, as rational actors, cooperate based on relative gains and the role of great powers is essential for the compliance of a regime. At the end of the spectrum, cognitivist regime theory relativizes the primacy of the state as rational and as the main actor of international politics. Minimalist cognitivists emphasise complex learning for the formation of a regime, as actors would search for guidance from epistemic communities for their behaviour when addressing a particular issue. Whereas maximalist cognitivists focus on the sociological element of regimes. Actors would internalise rules and adjust their behaviour when interacting with other states on a specific issue. A long-standing interaction would dilute egoism and enable cooperation among actors, not by a rational choice, but actually by introjecting and reproducing particular principles and norms.

We can identify the different approaches of regime theory in the Antarctic analyses. Peterson acknowledges the importance of great powers to a regime's formation whilst Joyner stresses how internalisation of principles, norms and rules and interdependence are conditional for a will to cooperate, maintaining the regime. However, a substantive addressing of regime theory is not identified in any of them. Perhaps, if these Antarctic analyses had explored regime theory further, the definition of sovereignty in Antarctica would have been an issue more difficult to dodge, particularly when analysing Antarctic governance. How has the Antarctic Treaty been able to determine the governance in the region without a defined sovereignty? None of the

analyses presented in regime theory addressed this question. This does not mean the dismissal of Peterson, Rothwell, Stokke and Vidas, and Joyner's analyses; they just cannot answer an underlying question such as sovereignty. A regime, as a secondary institution, relies on international society primary institutions for its constitution in terms of identities and practices. And sovereignty, as a bedrock institution, cannot be properly tackled by this approach.

Regional international societies present a more promising way to understanding sovereignty in Antarctica, and how the Antarctic Treaty is comprehended by international society. Identified by different primary institutions or different interpretations of international society primary institutions; regional international societies are formed by the expansion of international society and its primary institutions. The incorporation of institutions into different contexts requires a process of norm localisation, which does not necessarily correspond to the original one: the European international society. Trade, balance of power, nationalism, diplomacy, equality of people and environmental stewardship were expanded to Antarctica, constituting its identities and practices in similar terms to those on a global level. However, this has not been the case for sovereignty and territoriality. Different identities and practices were established by the Antarctic Treaty in face of the impossibility to emulate sovereignty and territoriality in international society's terms without conflict. Therefore, the next chapter explores how sovereignty and territoriality have been adapted to constitute Antarctic identities and practices, but without changing its original power configuration.

5 SOVEREIGNTY IN ANTARCTIC REGIONAL INTERNATIONAL SOCIETY: AN EXCEPTIONALITY?

Sovereignty is one of the most important and debated concepts in international politics, which adds an extra challenge to understanding it in the Antarctic Treaty context. As an institution, sovereignty "*... is a basic element of the grammar of politics… It may not always be explicitly acknowledged as such and may, like an iceberg, be mostly hidden from view. But it silently frames the conduct of much of modern politics*" (Jackson 1999, p. 431). Jackson (1999) states that sovereignty's concept is very simple, serving different purposes as long as its ontology is maintained: political independence. However, the polyphony of definitions prevents the adoption of a single perspective without considering the different aspects raised in literature. Jackson highlights the artificial and historical features of sovereignty, limiting his definition to a simultaneous juridical and institutional perspective: "*sovereignty, strictly speaking, is a legal institution that authenticates a political order based on independent states whose governments are the principal authorities both domestically and internationally*" (Jackson 1999, p. 432). This inside/outside perspective refers to the constitution of boundaries through the political unit of the state as the building block for social and political life. States are, then, granted positive and negative sovereignty (Biersteker and Weber 1996). Based on the capabilities of states and of their respective societies, positive sovereignty means freedom to act in the international arena without a superior derivative of authority. Likewise, negative sovereignty refers to freedom from outside actions on a state's own realm which is enabled by the external recognition of a state. Therefore, the historical emergence of state and sovereignty are deeply entangled.

On the other hand, Hinsley (1986) and James (1999) focused their respective analysis of sovereignty on one side of the spectrum. Hinsley defines sovereignty as "… *a final and absolute political authority in the political community* [where] *no final and absolute authority exists elsewhere.*" (Biersteker and Weber 1996, p. 8) Therefore, from this perspective, sovereignty is intrinsic to the state as a political community, emphasising its domestic origin. Diagnosing a progressive gap between authority and effectiveness of rule, Hinsley states that sovereignty in its external perspective becomes a fiction, serving only as a justification for states' independence (Biersteker and Weber 1996). On the opposite side of the spectrum, James calls attention to the impossibility of separated internal and external sovereignties, departing from the external assertion of the term. In general terms, sovereignty refers to the freedom of a state

to behave as it wishes. In specific ones, a territory, a population and a government constitutionally apart within a wider constitutional scheme configures a sovereign state (James 1999). Hence, it is not possible to understand sovereignty through separated facets. Sovereignty means a constitutional independence derived from a state's constitution, defined in legal, absolute and unitary terms. Therefore, in addition to being grounded in constitutive law, sovereignty cannot be divided, as the ultimate source of authority is the same in domestic and international terms. In addition, regardless of power or scope of action, sovereignty is always absolute, being present or absent in a state. Sovereignty conditions the existence of states, expressing a legal order (James 1999).

The different perspectives found in Jackson, Hinsley and James do not lead us to the adoption of one at the expense of others. We take the view that the perspectives represent visions of sovereignty that emphasise distinct features of the same phenomenon. For this reason, understanding sovereignty as a social construction enables us to consider its historical and arbitrary dimensions (in Jackson's words), which have conceptually developed through various political power struggles (Schmitt 2005). As such, "*ignoring the significance of sovereignty assumes that ideas and beliefs are simply the outcome of circumstance, not also shapers of circumstance.*" (Murphy 1996, p. 87) Sovereignty and state present a constitutive relationship which has been produced and reproduced by practices socially constructed in terms of territory, population and authority. As such, an analysis of this historical constitutive relationship is required in order to compare it with Antarctic specific sovereignty practices.

As an international primary institution, or a set of practices, ideas, beliefs and norms (Holsti 2004), sovereignty founds international society, establishing the state as the standard organisation of political communities and defining the bonds between its territory, population and authority. By creating the state, sovereignty configures it as the legitimate actor and provides the criteria for its recognition through rules of succession or dissolution whilst it maintains its integrity from threats inside and outside its legal realm. Internally in a state, sovereignty configures its ultimate authority or source of law, establishing the limits of that state's legal realm (or jurisdiction). Whereas externally, sovereignty constitutes the independence of a state, determining the legal absence of any external authority over its practices (Holsti 2004). Albeit any polity could claim sovereignty internally, defining it as the ultimate source of authority for domestic matters and external conduct, this does not confer a

sovereign state. External recognition by other states completes the sovereignty equation, defining the form of interaction among the actors by the constitution of their identity.

Sovereignty constitutes international society by defining the requirements for its membership and, consequently, the nature of its interactions. Once acknowledged as a sovereign state through external recognition, states defined and were defined by a delimited and independent jurisdiction over a certain territory and population. Hence, the emergence of international society – enabled by a progressive sharing of values and pursuit of common goals among actors – was fostered by sovereignty as the constitutive element of actors and the organising element for their relations. Limitation in the use of violence, honouring of agreements and respect of property rights became feasible with the protection of political communities from outside conquerors and with the assurance of their continuous existence regardless of changes in their internal command. By constraining actors' behaviour outside their jurisdiction, sovereignty guaranteed the rights of existence to all. Therefore, order in international society became possible through the progressive constitutional independence of states.

This chapter aims to address how sovereignty has constituted and been constituted in Antarctica. Along with territoriality, sovereignty could have not been expanded to the region on the same terms as those from international society. Allocating internal ultimate authority and external independence for territorial units in Antarctica would have resulted in conflict, as recognition is a condition *sine qua non*. The overlapping claims and their nationalistic apprehensions made a conundrum of sovereignty in this region. Which identities are in play in Antarctica if sovereign states cannot act in sovereign terms? Which practices are conducted if they cannot be the ultimate authority and independent in their own conduct? Claimants and potential claimants have not agreed to waive their rights. Likewise, they do not recognise nor are they recognised as sovereigns in this particular region. But they have been its prominent agents, controlling Antarctic governance through the operation of the Antarctic Treaty. Therefore, sovereignty and territoriality are present in this regional international society, but in displaced terms.

The first section of this chapter addresses the emergence of sovereignty as a primary institution in international society. From the emergence of international society to its expansion all around the world, sovereignty has become the main organising element for social forms. However, as socially constructed, sovereignty has presented varied forms of authority and territoriality,

which has arbitrarily changed at different historical moments. The decay of Christendom and Holy Roman Empire, the Peace of Westphalia, the Congress of Vienna, the Great World Wars and the establishment of the United Nations, all represent moments of change in how authority and territoriality were constituted. Whilst the sovereignty principle suffered more reverses throughout its constitution, the consolidation of the nation state as the territorial ideal for international society has presented a much more progressive trajectory. Therefore, after the Second World War and the widest expansion of international society, sovereignty and territoriality faced a challenge to their expansion in the Antarctic region.

The second section explores how the sovereignty principle and the territorial ideal have been gradually incorporated into Antarctic practices. International society expansion came with trade and exploring expeditions, which denoted incipient sovereignty practices in the region. Sovereignty claims were just ignited with the acknowledgement that strategic commercial points would be secured by the knowledge and control of the region. In addition, the recrudescence of nationalism among great powers led to the use of Antarctic exceptionality for demonstrating supremacy. Therefore, claimed territories in Antarctica were considered extensions of claimants' homelands. However, as the sovereignty principle requires recognition, Antarctic sovereignty claims were not tacitly recognised. The assumption was that, similar to the seas, if possession was not possible in a determined territory, sovereignty rights should not be valid. The Law of the Seas, established decades later in order to define sovereignty prerogatives in the seas, distinguished rights of use between territorial waters and the high seas, where no sovereignty right could be claimed. Therefore, discussions about the quality of Antarctic ice (if from maritime or frozen fresh water origin) were brought up until recent years, questioning the juridical validity of territorial claims. Nonetheless, a demand for a relative concept of "effective occupation" has remained. As permanent settlement and administration of the territory were not feasible due to the Antarctic's exceptional environmental conditions, "banal nationalism" has been performed in order to demonstrate authority over activities to other potential claimants.

Demonstration of authority has become the main practice of sovereignty in the region, determining the territory's organisation as well. Even when direct discussions on sovereignty were suspended on the occasion of the Escudero Declaration from 1948 to 1953, the 1955 CSAGI Antarctic Conference in Paris and the IGY 1957-58, demonstrations of authority have never stopped; they have actually increased. In the 1950s, the "race for Antarctica" witnessed

the establishment of year-round stations, symbolising an effective administration of activities in the region. With the Antarctic Treaty and its definitive suspension of sovereignty claims, not only did claimants and potential claimants manage to preserve their authority, but different strategies were used to organise the region's territory, as territoriality has been defined in terms of scientific research (stations) and environmental protection (ASPAs and ASMAs). Claimant states located their stations in their claimed territory whilst potential claimants have established stations in the different sectors which are claimed. On the other hand, non-claimant states have located themselves based on different criteria: proximity to gateways and proximity with already established states with whom collaboration seemed more feasible. Therefore, the sovereignty principle is manifested by the location, management and partnerships among research stations, exerting authority through the aegis of scientific research. In similar terms, Antarctic special protected or managed areas (ASPAs and ASMAs) have also represented different ways for authority deployment and organisation of the territory. The power-dynamics which underlie the establishment of an area, reveal how environmental protection can also offer different avenues for sovereignty and territoriality practices.

The third and last section of this chapter discusses the Antarctic exceptionality. Article IV enabled the original signers to interpret sovereignty according to their own particular preferences: a way of guaranteeing sovereignty rights or a way to guarantee participation in Antarctica without acknowledging sovereignty rights. This solution provided by the Treaty represented a decision which created an exceptional condition in international society. Antarctica is a region governed by nation states without a definition for its sovereignty condition. According to a Schmittean interpretation, an order does not derivate from norms, but from a decision. Therefore, the sovereign would be the one who decides, defining the condition of normality as well as of exception, where established norms are no longer valid. In Antarctica, its exceptionality was defined not by the lack of normative background as international society was in its frank expansion. But international society sovereignty and territoriality norms, the way they stood at the time of Treaty's creation, would have led to a conflict. Therefore, granting an exceptional status to Antarctica was a moment of political creation; setting up, through the Treaty, its external independence from any other form of ruling. On the other hand, sovereignty and territoriality found different ways of being deployed internally. Antarctic ultimate authority is not easily tackled, although the Treaty's decision-making has shown to be the ultimate norm-creator for the region, therefore its strongest source of authority. The several agreements established throughout the operation of the Treaty have maintained the idea of the region's

exceptionality, making its political creation the regional order. Therefore, claimant and potential claimants, who have controlled the Treaty's decision-making over the years, are those who not only defined its exceptionality, but who have deployed authority and constituted Antarctic territoriality hitherto. This chapter concludes with how the acknowledgement of Antarctica's exceptionality enabled its constitution as a regional international society, reconciling the region with international society.

5.1 The emergence of sovereignty as a primary institution in international society

The landmark for the constitution of international society organised in sovereignty terms came with the treaties agreed at the Peace of Westphalia, in 1648. However, these treaties just formalised a political-territorial order whose origins are identifiable in medieval free cities, in the absolutist state and in the principle of *cuius region, eius religio* (who rules defines the religion to be followed) from the Holy Roman Empire (Murphy 1996). Therefore, sovereignty was the culmination of transformations in authority and territorial structures since Christendom. In medieval times, the diversity and overlap in territorial structures were represented by non-contiguous royal and ecclesiastical territories of flexible boundaries. Inheritance, partition and war were events which routinely changed the limits and immediate authorities exerted, at that time, by earls, barons and dukes in city-states, and by kings and queens in proto-absolutist states. Meanwhile, Christendom provided an encompassing sense of unity, whose source of authority emanated from the church (*sacerdotium*) and from the Holy Roman Emperor (*regnum*), merging religious and political authorities (Murphy 1996, Holsti 2004).

Such a diverse framework of territories and authorities did not remain harmonious for long. Autonomous cities in Italy fostered the idea that some places could be out of reach to external dominant authorities at the same time that consolidation of power in a determined territory by a sole ruler gave rise to the idea of limitation to outside and competitive domination in Western Europe. In both situations, a particular authority was associated with a delimited territory, controlling its distinct political, economic and social matters. The concentration of power enabled by the association of authority with territory made the accumulation of wealth more effective, strengthening local loyalties at the expense of distant ones. Therefore, jurisdictional conflicts were raised between local rulers and the church/emperor on one hand, and between the church and the emperor on the other. Increasing challenges to the Pope made by secular rulers, led Clement IV to declare the bull *Pastoralis Cura*, which denied imperial authority to

the emperor and reinforced the superiority of the church's authority in both religious and secular matters. This declaration defined one of the main elements of sovereignty as it also delimited secular authority to a specific territory (Murphy 1996, Holsti 2004).

The conflict between particularism and universalism lasted until the seventeenth century, placing kings and legal scholars against the church's intervention in secular matters inside their territories. Vitoria and Suarez, in the sixteenth century, stated that the Pope had clear authority on spiritual matters, but temporal ones should be limited to his own realm. Likewise, the Holy Roman Emperor should also have his authority contained to his own realm, having only moral, not legal, authority to protect the church outside his jurisdiction. The Pope was just an intermediate whereas the Prince's authority was conferred directly from God (Holsti 2004). Jean Bodin, in the second half of the sixteenth century, is considered the pioneer in conceptualising sovereignty (Schmitt 2005). Bodin stated that a ruler must have absolute authority in his own realm, being solely subject to divine laws (Murphy 1996) whereas sovereignty would be attached to the polity and no longer to individuals (Holsti 2004). The reinforcement provided by legal scholars to the rulers' cause was not the only element challenging the church's authority at that time. The Protestant Reformation concluded the dissolution of papal and imperial authorities as well. Martin Luther's theology advocated for a religious and political independence of secular rulers from the church, which led to religious divisions throughout Europe. The Peace of Augsburg in 1555, based on the *cuius region, eius religio* principle, transferred the religious authority from popes to princes when determining the religion to be followed in their own realms. This did not provide absolute authority to rulers, but consolidated a remarkable differentiation of political authority in a particular territory.

In the seventeenth century, the sovereignty concept was further developed. Influenced by Vitoria, Suarez and Jean Bodin, Hugo Grotius linked sovereignty to a legal status and not only as a concentration of power. A state is sovereign when it is not subject to any further legal constraints, which not only guarantees its independence, but also its equal status in relation to others. Thomas Hobbes went further, not even considering constraints imposed by divine laws, and asserting an unrestricted authority of the sovereign (Holsti 2004). Therefore, sovereignty conferred protection, security and continuity to polities as never before, especially considering the fluidity of borders and the multiplicity of source of authorities in previous times. And if a state could rely on its sovereign condition for assuring its own protection, security and continuity from others, sovereignty must also be acknowledged to other states. This reciprocity

created a common ground where states began to identify their shared condition and their shared expectations towards each other: this is the beginning of a society of states.

In addition, the Protestant Reformation had other consequences. The Thirty Years War (1618-1648) marked a generalised violence in Europe, involving several different players and unfolding deep divisions in the region which were beyond the cleavage between Catholics and Protestants. The source of authority was a question deeply embedded in the disputes, where different forms of political communities also engaged in war in search of reaffirmation, independence or simply conquest. Peace negotiations were initiated in 1644, but only in 1648 was peace achieved through the acknowledgement of both sides that a definitive victory was impossible (Murphy 1996). The treaties of Osnabrück (for protestant combatants) and of Münsk (for catholic ones) composed the first general European peace agreement named the Peace of Westphalia (Holsti 2004). The treaties regulated territorial exchanges and partitions, war indemnities and requisitions, secularisation of cities and towns and the outcomes for castles and enclaves (Holsti 2004). The Peace of Westphalia did not represent an innovation in European order, as the main concern of negotiators was the restoration of conditions prior to the war. In fact, the word "sovereignty" is not referred to in the treaties' documents (Holsti 2004). Nevertheless, restoring previous conditions in a new context had a remarkable impact.

The Peace of Westphalia denied the church the right of interference in secular matters while, at the same time, interdicted rulers to convert others' subjects or to use subjects' causes against another ruler. These interdictions founded the principle of non-intervention upon which sovereignty practices have developed in international society. The treaties also authorised members of the Holy Roman Empire to establish alliances with other states as long as these agreements did not harm the emperor. This guarantee provided the basis for the exclusivity of sovereign states to undertake treaty alliances with other sovereign states, delimiting the boundaries of inclusion in international society. Finally, the Peace of Westphalia established the principle of equality in the application of rights and duties to sovereign states, regardless of their size, religion or military capability. Hence, the basis for the development of sovereignty practices were set up in Europe.

> The Peace of Westphalia helped establish the foundational principles of a society of states by defining more clearly the agents that had a right to international representation (including the estates of the Holy Roman Empire), by prohibiting interference in their internal affairs by the church or the

> emperor, by providing states with a monopoly of the right to make treaties, by confirming the principle of legal equality, and by establishing the principle of consent as a necessary basis for all agreements and treaties. All of these constituted the norms of the system and they are to be found today in the constitutions of numerous international organizations, in common practice, and in the corpus of international law (Holsti 2004, p. 123).

After the Peace of Westphalia, practices undertaken in international society did not present a great shift from earlier ones. In terms of authority, the church kept itself considerably influential and the Holy Roman Empire lasted until the beginning of the nineteenth century. At the same time, more integrated and self-sufficient territories enabled political units to craft an identity bond between rulers and subjects. From concerns about their placement in imperial hierarchies, political units began to focus on the control of territory, developing resources and protecting structures within states' boundaries. The kaleidoscope of authority sources configured a diverse territorial organisation, where empire and quasi-states coexisted with confederations, republics, principalities, imperial cities and free cities.[45] As such, the Peace of Westphalia just helped to create a more tolerant interactive environment among the different political forms whilst it seeded an early formalisation of sovereignty as the principle for their interactions (Murphy 1996, Holsti 2004). Progressively, the differences among units became spatial rather than functional.

The period after the Peace of Westphalia witnessed a decrease in religious conflicts where sovereigns began to respect others' domestic affairs. There were attempts to influence others' realms, wars and several exchange of territory, but moderation was perceptible in sovereigns' interactions. The establishment of diplomatic relations were envisioned as the proper standard for relationships, being governed by formal international legal principles. International conferences began to be considered as the proper forum to solve disputes and diplomacy was progressively monopolised by sovereigns, drawing the first line between recognised actors who were part of European international society and those political units not regarded as such. States also began to increasingly behave as sovereigns, acknowledging no superior authority above them whilst reciprocally recognising others' political independence. The Utrecht Treaty, signed in 1713, agreed peace for the Spanish succession war and consolidated equality among European society members, dismissing questions of hierarchy and adopting the principle of

[45] French royal absolutist state of Louis XIV; Venice and Genoa republics; Denmark, Poland, Hungary and Sweden elected monarchs; semi-republics in Holland and England; and ecclesiastic city-states from the Holy Roman Empire (Holsti 2004).

autonomy "*throughout Europe an international society was coming into being, and a commitment to the right of individual rulers to control matters within their own territories lay at its core.*" (Murphy 1996, p. 92) References to "repose", "equilibrium" and the "public good of peace" also established the importance of balance of power among states, introducing another primary institution to international society practices (Holsti 2004).

Sovereignty evolved as a principle defining political units' relations and as a territorial ideal. International rights and obligations came with the recognition of states' independence, determining what practices states were allowed in international realms. At the same time, sovereignty also defined the relationship between state and territory (Murphy 1996). The recognition of an ultimate authority source demanded the designation of a correspondent subjected territory and population, delimiting a state's jurisdiction in relation to other one. As such, international society also emerged from the drawing of independent authorities' maps based on a territorial ideal of a consistent integration of authority into a particular territory and population. Literature states the impossibility of thinking about sovereignty through different perspectives due to the unitary feature of the concept (James 1999). Therefore, the territorial ideal related to sovereignty corresponds to the master primary institution of territoriality (whose derivative is boundaries) which is manifested as state borders in international society. If sovereignty is the bedrock institution, territoriality also transforms according to sovereignty's defining principles.

The evolution of the sovereignty principle and the territorial ideal present some differences. Whilst the sovereignty territorial ideal has progressively evolved, sovereignty as constitutional independent states has suffered some backlash (Murphy 1996). The establishment of international society was founded on the common goals of its preservation and the assurance of independent states as its legitimate actors (Bull 1977). Therefore, peace maintenance consequently meant the continuation of the status quo, as wars and conflict could lead to the disappearance of some independent authorities and the redrawing of their respective boundaries. Preserving international society meant a commitment to the maintenance of its respective territorial order. And due to its immanent preservation orientation, the sovereignty territorial ideal – which has organised the world since the emergence of international society – has not been questioned even when territories were annexed by conquest.

The history of human territoriality has involved a progressive conference of territorial units for power deployment. Within a delimited territory, communication of authority is facilitated, resulting in a more efficient control over people and things, which reinforces power (Murphy 1996). The consolidation of power in discrete and autonomous territories provides greater integration in these territorial units. Networks of patterned interaction and communication confer social significance to these units, generating identification within the territory, as issues and concerns are shared by those subjected to the same authority power. At the same time, the way power is deployed, authority is communicated and social interaction is undertaken, varies from one territory to another, creating boundaries which are increasingly meaningful dividers between different social, economic and cultural systems (Murphy 1996). This increasing internal integration along with an increasing external differentiation lead to a stronger commitment to a sovereign territorial ideal, preserving the spatial ontology of international society.

External recognition of an independent authority over a delimited territory created states which were integrated into international society and shaped by the sovereign territorial ideal. The success of this territoriality made the organising of the world into sovereign territorial states the "only imaginable spatial framework for political life." (Murphy 1996, p. 91) Even categories such as *res communis*, *res nullius* and common heritage of mankind have been established having sovereignty as the spatial ontology in international society.

> First, territory. This is, as it were, where a state starts, territory being the element on which its other elements exist. Each of the world's states represents a demarcated physical sector of the land mass of the globe, and at the international level nowadays represents it exclusively... Thus, apart from Antarctica (where various competing claims have in effect been put on one side), the world's land mass may be imagined as wholly divided into states by frontiers rather as a farm is divided into fields by hedges, fences, and walls (James 1999, p. 459).

Nevertheless, sovereignty as a principle, even being supported by the territorial ideal, has not had a smooth development. The Napoleonic period, and the First and the Second World Wars configured attempts from sovereignty states to establish hegemonic domains upon other sovereignty states in international society, not taking into consideration the independence of these actors. The seventeenth and eighteenth centuries witnessed the formalisation of international society membership criteria through demands for a defined territory with administrative capacity and effective rule. However, the strong identification between

European international society states led to cultural differentiations with those who did not share their cultural history. Therefore, the adoption of a "standard of civilisation" divided those able to be acknowledged as sovereign and those that, regardless of any level of authority over their ruled territory, would never be considered apt to be part of international society. They were not Europeans. To these alien authorities and territories, sovereignty states had the right of conquest. Colonies, protectorates, spheres of influence and buffer zones represented the extension of sovereignty over populations, territories and their resources (Holsti 2004).

> Thus, in the relations of European states to each other Westphalia inverted the practices of medieval Europe. But in the relations of European states to political authorities outside the European heartland and in the rest of the world Westphalia reiterated Medieval practices which asserted the superiority of Latin Christendom or Western civilization, the moral inequality of peoples, the right of intervention, the right of conquest, and ultimately the right of colonization (Jackson 1999, p. 443).

The right of conquest has only brought a challenge to Westphalian order when the territories' annexation took place within international society. Conquest as a right presumed a general right to annex territory, establish governmental structures and attach legal titles of attainment to the respective territories. Nevertheless, conquest needed to be considered legitimate for its acknowledgement as a sovereign territory of the conqueror. In uninhabited lands or *terra nullius*, the demand was the establishment of institutions of control, demonstrating an effective rule over it. But in international society domains, annexation of territories needed to be justified by a legal claim, such as rights of inheritance or succession. Therefore, oscillations were observed between the preservation of existing territorial order and a sovereign state's exemption from such kind of commitment (Holsti 2004). In 1740, Prussia invaded Silesia, igniting several territorial wars which transformed not only the spatial organisation – erasing political units which did not conform with emerging sovereign states – but also the balance of power, further decreasing imperial authority which had also been threatened by the Ottoman Empire. The increasing consolidation of control over territories led to sovereignty and territory becoming more intertwined, unbalancing existing powers and, consequently, the Westphalian order.

Whilst the Westphalian order provided great advantages for political units by guaranteeing their rights to autonomy, invasions and acquisitions challenged this principle in the eighteenth century. The increasing power of some polities, substantiated by stronger armies and more

effective civil administration, encouraged the conquest of smaller ones. Sovereignty began to be perceived as a doctrine to provide leaders total freedom of action in assuring the viability of their territorial domains (Murphy 1996). Enlightenment philosophers, such as Jean Jacques Rousseau and Immanuel Kant, advocated against despotic governments which dedicated their efforts to illegitimate conquests at the expense of their own populations. For them, territorial integrity should be seen as a founding social principle (Murphy 1996, Holsti 2004). Likewise, absolutism was also challenged by the emerging idea of nationalism. The increasing integration inside territorial units, especially with the adoption of vernacular languages, reduced internal differences while expanding external distinctions. Therefore, when a group of people shared the same history and identified common interests, their perception of a cultural-historic unit was concretised with their demand for control of their own territory. Consequently, the sovereign territorial ideal found in nationalism an avenue to strengthen and legitimise it (Murphy 1996).

Oscillations in the understanding of sovereignty principle as autonomous political units had direct outcomes for international society. The French Revolution in 1789 was deeply influenced by Enlightenment philosophy and by the growing ideal of nationalism, with France renouncing its foreign territories. However, with the advent of the Napoleonic period, these renounced territories were not only reincorporated but also territorial conquests spread around Europe, abolishing the Holy Roman Empire and establishing states which would resist Austrian domain.[46] Therefore, even if autonomy was subverted for the benefit of Napoleonic conquests, the sovereign territorial ideal was the spatial ontology adopted by France, which perceived itself as a sovereign state and its territories as discrete units. The end of the Napoleonic period was marked by the Congress of Vienna in 1815, interrupting an expansion which subverted the sovereignty principle. Participants decided not to restore the Holy Roman Empire and adopted the sovereignty principle as the legal mechanism to balance power between states. Sovereignty would not mean total freedom of states' actions anymore, and acknowledgement of sovereignty in conquered territories became conditional on the conquered people's consent (Holsti 2004, Murphy 1996).

[46] Fictitious states of Rauracian, Batavian, Anconitan, Ligurian, and Cisalpine were created as allies of France during the Napoleonic period (Holsti 2004).

However, the stability provided by the Congress of Vienna to international society did not last long. Nationalism linked territory to people from whom authority began to emanate. The state was reconceptualised from the representation of rulers' achievements to the provider of identity, autonomy and security to a group within a particular territory. Consequently, sovereignty as a principle began to rest on the nation, which became the legitimiser for state authority, now referred to as the *nation state*. Furthermore, the sovereign territorial ideal was once again reinforced as territories were perceived to be reflections of those nations. Nationalism and liberal political ideas became widespread in Europe during the second half of the nineteenth century. In some places, nationalism and liberalism reinforced existing sovereign states and their respective national territories. Whereas in others, the order established by the Congress of Vienna was not able to address challenges to the legitimacy of the territorial framework. Unification movements arose in German and Italy whilst European empires at the time suffered increasing nationalist pressures internally (Murphy 1996).

Whilst nationalism established itself as one of the main primary institutions in international society, having a strong influence on sovereignty, other ideologies at the time not only influenced the practice of sovereignty, but also fostered other primary institutions. By the end of the nineteenth century, positivism permeated several fields of knowledge, including law and social theory. Positive law came to replace natural law, stating how human-created institutions were the actual foundation of societies. Therefore, according to this rationale, society was able to intervene itself to realise its own progress, achievable due to the systematic knowledge of the world and its transformations. The idea of progress was largely based on Charles Darwin's theory of evolution, in which only the most apt species survive in a changing environment. Hence, if nature had evolved on those terms, man and society would have developed in similar ways. Individualism was another current of thought with substantive impact on European world vision at that time, where the unit (being the individual in a society, or a state in the world) was considered the point of departure of an analysis. Therefore, the convergence of nationalism, positivism, Darwinism and individualism strongly influenced the sovereignty practices at the time, and consolidated the primary institution of (in)equality of people.

International society represented the ultimate level of civilizational evolution and the nation state was an autonomous unit which needed to guarantee its survival. And if conquests within Europe were no longer an available option, outside territories and populations were deemed able to be conquered, strengthening the most apt sovereign states. Imperialist practices were

conducted by those actors acknowledged as sovereigns and integrated into international society. They targeted other territories based on the equal conditions among themselves and on the inequality of other non-developed peoples which needed to be known, controlled and civilised. Nationalist empires annexed territories, but did not acknowledge their constitutional independence. The ultimate authority remained with the conqueror whereas outside territories and populations were just valued in terms of their respective economic and military-strategic advantages, accommodating growing nationalist ambitions. By the end of the nineteenth century, the sovereignty principle and the territorial ideal were fully consolidated in international society as its constitutive elements. However, this did not mean an agreement on how these terms were concretely placed. Nationalist ambitions were too strong and expansionist to be accommodated solely by imperial annexation endeavours, bringing conflict again to the core of international society.

The First World War at the beginning of the twentieth century brought once again rupture with the principle of constitutional independence, hosting generalised violence. The order in international society was convulsed by territorial units whose national ambitions could not be addressed by the available framework, involving most of great powers at the time. The Treaty of Versailles brought an end to the conflict and internalised even more the sovereignty principle and the territorial ideal. States were created from former empires (Austrian-Hungarian and Ottoman) and the principle of national self-determination was established as the core for sovereignty acknowledgement. Participants in the League of Nations, in 1919, envisioned international society based on territorial inviolability and preservation of political independence of all members. In addition, the criteria for membership was incremented with demands of democratic constitutions and minority rights, representing one of the first limitations to the principle of sovereignty, as what happens inside a state also counted towards its recognition as sovereign (Holsti 2004). Nevertheless, nationalism and social Darwinism were not forgotten ideals. In fact, these ideals recrudesced with the awareness of the human and material costs to territorial adjustments and the disjunction between the sovereign territorial configuration and the diversity of social orders underlining it (Murphy 1996). The lack of correspondence between ethnonational identities and “national” sovereign states created pressure for territorial order changes, taking ideologies to the extreme at a moment where international society’s preservation by territorial reassertion was defended more than ever.

The Second World War was the outcome of this unsolved growing tension. Germans established many occupations in Europe disrupting the sovereignty principle. At this time, the expansion of international society and the challenge placed by the axis dragged in many more actors and extended the conflict in terms of duration and scale. Nevertheless, despite of the devastation caused by the war, sovereignty, again, was maintained as the core primary institution of international society. The order established after 1945 realised that states could not be founded on an "unrestrained ethnonationalist territorial ambition" or any sort of total anarchy (Murphy 1996). The territorial sovereign state was reasserted as the foundation of the order after war, preserving the terms on which international society had been constituted prior to the conflict. Challenges to this territorial status quo were deemed illegitimate. Therefore, based on the League of Nations' statement in which territorial changes obtained by force would not be recognised, the United Nations Charter definitively terminated references to any right of conquest. Thereafter, no legitimate provisions to extinguish states are found, unless by their own self-determination. New states could be created only by their own division or by their will to integrate another one, in both cases being founded on democratic popular will. Sovereignty as principle and territorial ideal was put forward as the way "human society should be understood and organised" (Murphy 1996).

The need to organise the whole world in sovereignty terms led to a temporary drastic change of the criteria for membership to international society. Territories defined as colonial were granted sovereignty status without the requirement of effective administration over a defined territory and population, nor of domestic political institutions such as a democratic constitution and minority rights (Holsti 2004). This widespread sovereignty recognition represented the largest expansion of international society to date, as the world began to be organised in sovereignty terms. In 1960, the United Nations Declaration on Granting Independence to Colonial Territories and Countries sacralised the territorial border and stated that disruptions to the integrity of a sovereign territory would be against the purposes and principles of the Charter of the United Nations (Jackson 1999). But this does not mean that these new sovereign territories were not part of international society's dynamics previously. They hosted and conducted practices of all sort of primary institutions, but did not share the same legal status as their colonisers. They were not considered equal. Therefore, the primary institution of inequality of peoples began to be obsolete and challenge the expansion of sovereignty practice, demanding its transformation into an unrestricted inclusion.

The expansion of international society was completed with the granting of sovereign status to colonies post-1945. Even when other states demanded their constitutional independence acknowledgement based on the principle of self-determination, the maintenance of international society order prevailed. The definition of borders remained similar to the pre-war period, even in the cases of Germany's reunification or of the former Yugoslavia[47] after the end of the Cold War; the new sovereign states followed the guidelines of previous territorial divisions. The principle of *uti possidetis juris* began to be commonly adopted, deciding that in cases of disagreement between parties, existing borders should determine new territorial jurisdictions (Jackson 1999). Hence, if the existence of a political unit has been founded on sovereignty for, at least, the last four centuries, it is hard to consider an alternative form of organisation of human society or of a sovereign state waiving their sovereignty "*given that universal appetite for sovereign statehood and the premium conservative value placed on the existing distribution of territorial sovereignty it would seem rather surprising if any states were prepared to surrender their sovereignty either in whole or in part.*" (Jackson 1999, p. 449) And then we return to the Antarctic issue. As states are not prepared to surrender sovereignty claims, the non-definition of Antarctica's status seems a much more reasonable outcome for the governance of the region. But what does represent a non-defined sovereignty in international society? How have the exceptional conditions of sovereignty in Antarctica affected the governance of the region?

5.2 Sovereignty practices in Antarctica

As previously seen, sovereignty practices have been in place in Antarctica since nationalist ambitions from imperial powers targeted the region. The post-Westphalia period marked the beginning of moderated sovereign state practices within international society, as the right of conquest demanded legal justification. The sovereignty principal and the territorial ideal resulted in the acknowledgement of political units' autonomy which did not apply to territories outside international society. Therefore, sovereignty over these territories was available to those who were able to occupy or conquer, or by prescription, cession and accretion of territories[48].

[47] From the former Yugoslavia, the new established sovereign states were Croatia (1991), Slovenia (1991), Macedonia (1991), Bosnia and Herzegovina (1995), Montenegro (2006), Serbia (2006) and Kosovo (1996).

[48] In international law, acquisition of a territory which can be acknowledged as sovereign can proceed in different ways. *Prescription* is the transfer of a territory sovereignty where a power has acted as a sovereign without protest from the former one. This doctrine formalises *de jure* a *de facto* ruling.

In Antarctica, the exceptional conditions of the region (in terms of accessibility and environment) prevent the availability of all these procedures for sovereignty assertion. The absence of any original population and the lack of conditions for a permanent settlement until the mid-twentieth century could not enable conquest when this practice was still considered valid. Prescription and cession did not take place either, as there had never been a previous sovereign to transfer passively or actively its respective sovereignty to another power in the region. And accretion was also prevented from be applied as not only have ice boundaries recently been able to be assessed, but also its oscillation (between calves of icebergs and increment by freezing) does not enable the expansion of territory on physical terms. Therefore, occupation based on discoveries registers has been the main enabler for a sovereignty claim in Antarctica.

Occupation in such a peculiar region as the Antarctic has always been considered a complex matter. Natural law from the emerging international society defined that appropriation of a territory should always be followed by an effective occupation in terms of population and cultivation. An appropriation without occupation would refrain others from appropriately using the territory and would be considered an "infringement of natural laws as the nature destined the whole earth to supply the needs of mankind" (Bernhardt 1974, p. 318). "*No State has the right to incorporate with itself more territory uninhabited or inhabited by barbarous tribes, than it can civilize, or that it can organize politically. The sovereignty of the State exists only if it is exercised as a fact*." (Vattel apud Bernhardt 1974, p. 319) According to international law, effective occupation means possession and administration of a territory for a determined state. Therefore, albeit Antarctica hosted many sealing and whaling companies which explored sub-Antarctic islands shores during the end of the eighteenth and throughout the nineteenth century, if they did not conduct activities in the name of a state, they could not be formally considered as an effective occupation by a sovereign power.

Cession refers to the transfer of territory sovereignty to another political unit by agreement (generally a treaty). According to the self-determination principle, any cessions must be agreed by the population involved. And *accretion* refers to expansion of a sovereign territory by geophysical phenomenon. In Antarctica's case, accretion comes by ice, expanding a former territory. On the other hand, when ice calves, territory would be lost. *Conquest* was considered a valid form of acquisition of territory until the Napoleonic period, which means acquisition by military force. However, this practice is now considered obsolete (Bernhardt 1974).

Antarctica was quickly dragged by national ambition into international society. When states in international society reinforced sovereignty as a principle and as a territorial ideal, their national ambitions were directed to outside domains. Antarctica, then, became an immediate choice for exploitation of resources and demonstration of national power and expertise by the "conqueror" of such a hostile domain. Nationalism, social Darwinism and individualism configured the "heroic age" as the stage for sovereign powers to demonstrate their economic, technical and military capabilities, conducting activities in a region which was in fact considered a no man's land. In similar terms to colonial territories, Antarctica was perceived by its economic and strategic-military advantages, but with the additional motivation from the romantic nationalism which pervaded Europe at the end of nineteenth century and the beginning of the twentieth, bringing the ideal of "national pride" for those heroic endeavours that adventured through the region. Therefore, along with heroic exploring expeditions, scientific research in the region and control over whaling strategic spots nurtured a national territorial approach to the region. International society incorporated Antarctica through practices and identities defined by primary institutions. And if the sovereignty principle and the territorial ideal were its constitutive elements, they would also determine Antarctic practices.

Sovereignty claims in Antarctica have been asserted by international society sovereign states since the beginning of the twentieth century. The United Kingdom was the first state to make a claim (in 1908) and, as one of the main imperial powers at that time, annexation of territories around the world was coherent with sovereignty practices of conquest and occupation of non-sovereign lands. The Antarctic had the additional feature of not having former settlements, facilitating the assertion of sovereignty claims by those who aimed to use its lands. Imperial ambitions led the United Kingdom to expand its territories of interest in 1917, in 1923, in 1926 and in 1933. However, part of these new claims were on behalf on the administration of Australia and New Zealand states, which were part of British Commonwealth. Australia and New Zealand were former colonial territories of the British Empire, achieving their independence in 1901 and 1907 respectively. As such, the sovereignty entitlement of claimed Antarctic territories would belong to the United Kingdom, but its governance was delegated to the other new states, the basis of the New Zealander (1923) and the Australian (1936) sovereignty claims to the region.

A noteworthy point is the inclusion of Australia and New Zealand into international society. They were recently acknowledged constitutive independent territories whose ultimate authority

relied within their respective governments. Regardless of Commonwealth idiosyncrasies[49], Australia and New Zealand became constitutionally independent and their acknowledged sovereignty status enabled the respective states to govern British Antarctic territories and, subsequently, claim those territories for themselves. Therefore, the expansion of international society was reinforced when former colonies adopted the identity and practices of their colonisers.

The First and Second World Wars did not reduce interest in the Antarctic. Sovereignty claims continued to be made by European powers as well as by new sovereignty states. France and Norway claimed their respective sovereign territory in 1923 and 1939, fearing territorial initiatives from the United Kingdom (1923) and Germany (1939) over their respective territories of interest. Whereas Chile and Argentina formalised the territorial limits of their claims in 1940 and 1946. The United States had a dubious position regarding Antarctica, at times performing state acts for a territorial claim and, at others, not recognising any sovereignty claim which did not present an effective occupation. Hence, in similar conditions to Australia and New Zealand, Argentina and Chile were former colonies which were integrated later into international society, reproducing the territorial practices of its former coloniser to establish their own sovereignty limits (*uti possidetis*). With the exception of France, Norway and the United Kingdom, the other claimants were all later integrands to international society. This demonstrates how sovereignty identities and practices were quickly appropriated by new nation states. Another important remark refers to the completion of those sovereignty claims: none were fully recognised. Commonwealth claims received external recognition among themselves, therefore Australia, New Zealand and the United Kingdom acknowledged each other's claim. In addition, as the French claim represented an enclave in Australia's one, mutual recognition also took place between France and the Commonwealth's members. Therefore, sovereignty practices were present in Antarctica and mobilised conduct in the region. But sovereignty as a principle and as a territorial ideal did not achieve its full completion.

After the Second World War, attempts to organise Antarctica in sovereignty terms intensified. The consolidation of the territorial sovereign state as the organising principle of human society, and the inviolability of its territory in international society, automatically pressurised the

[49] For more details, see Zines, Lesli. 1991. *Constitutional change in the commonwealth*. Cambridge: Cambridge University Press.

national practices in the region where no sovereignty ballast existed. The temporary unrestricted integration of former colonies was not possible to apply in Antarctica, because the region had not been colonised in conventional terms. Hitherto, the activities conducted in the region did not classify as an effective occupation, problematizing present claims. A continuous development of national Antarctic activities since the region has been visited and used would be expected to result in the entitlement of its territory, permanent settlement and administration (Bernhardt 1974). Nonetheless, inhabitable conditions created the possibility to reassess effective occupation criteria. In a contemporary understanding of the concept for this kind of territory, a certain level of control correspondent to the prevailing conditions in the region would be enough to demonstrate authority. The main goal is to make one's authority felt by others (Bernhardt 1974). And this is what exactly claimant states have been doing since they stated their claims: demonstrating authority.

The relative criteria of effective occupation focuses not on the unhospitable conditions of Antarctica, but on its lack of population (Bernhardt 1974). If sovereignty refers to an ultimate authority which exerts political control, a political relationship can only be established with the advent of individuals to control and be controlled. So what can be controlled in Antarctica? Practices. Albeit Antarctica did not have an indigenous population, individuals have performed activities in the region in the name of companies (sealing, whaling and tourism), of organisations and nations (exploring expeditions, scientific research and logistics). And considering a world organised by a sovereignty principle and territorial ideal, these practices were easily dominated by sovereign states which did not target populations, but actually their freedom to conduct activities over a territory without a superior authority. And this is sovereignty. Therefore, Antarctica has not been immune from colonial competition and possession, and sovereignty performances are identifiable throughout its history (Dodds 2011). Several ceremonies of possession and sovereignty practices were undertaken by claimant states in other to demonstrate their authority over their respective claimed lands.

> Colonial rule over the New World was initiated largely through ceremonial practices planting crosses, standards, banners and coats of arms marching in processions, picking up dirt, measuring the stars, drawing maps, speaking certain words, or remaining silent… claimant countries such as Argentina, Australia and Chile continued to champion their claims to domestic and international audiences. And to do so in different ways; whether it be via maps, postage stamps, public education, flag waving, place naming, scientific activity, the regulation of fishing, flying pregnant women to the region and public ceremonies such as commemoration (Dodds 2011, p. 233).

Antarctica, in contrast to the high seas, has not been considered exempt from possession. The origins of *mare liberum* came from Grotius, who stated that as the sea cannot be taken into possession by occupation, it was free from sovereignty claims by any state (Bernhardt 1974). Likewise, as the resources of the sea were considered infinite, no reason was found to prevent any state from exploiting them (Bernhardt 1974). These two principles are today obsolete, as the ability of states to control the sea has indisputably increased as has the awareness of the limitation of its resources. But a third one is still valid:

> [T]he real reason for the freedom of the open sea is represented in the motive which led to the attack against marine sovereignty, and is the purpose for which such attack was made-mainly, the freedom of communications and especially commerce, between the states which are separated by the sea. The sea being an international highway which connects distant lands, it is the common conclusion that it should not be under the sway of any state whatsoever. It is in the interest of free intercourse between the state that the principle of the freedom of the open sea has become universally recognized and will always be upheld (Oppenheim apud Bernhardt 1974, p. 302).

The United Nations Convention on the Law of the Sea represents the most recent agreement on how the sea should be managed in terms of authority or, in other words, in terms of sovereignty in international society. Internal waters represent those waters which cover the landward side of a state's baseline. Therefore, the coastal state has sovereignty over these waters which are considered inviolable as any part of its land territory. On the other hand, territorial waters cover the area of 12 nautical miles from the baseline. The coastal state has sovereign rights over these waters, but foreign vessels have the right of "innocent passage", which means that they are allowed only if they do not represent a security threat to the coastal state, which has the sovereign right to suspend an "innocent passage" according to its own judgment (Law of the Sea 1982).

The contiguous zone refers to waters from 12 to 22 nautical miles from coastal state's baseline. In this area, sovereignty is still exerted but restricted to customs, taxation, immigration and pollution in cases where foreign vessels make any infringement while still in territorial waters. Therefore, out of territorial waters, foreign vessels have the right of passage. Exclusive economic zones cover waters from territorial waters to 200 nautical miles from baseline. In this area, sovereignty is still present in terms of exclusive rights of resource exploitation by the coastal state. Foreign states have free passage of navigation and overflight, but they are still

subjected to the specific regulation of coastal states. The continental shelf refers to natural prolongation from the land territory to the edge of the continental shelf or 200 nautical miles from the coastal state's baseline whichever is the longest. If the first case exceeds 200 nautical miles, the prolongation cannot not exceed 350 nautical miles from coastal state's baseline or exceed 100 nautical miles beyond 2,500 meter isobaths (2,500 meters deep). A state can exclusively exploit non-living resources from the subsoil of its continental shelf and control living resources attached to the seabed of its continental shelf. But it does not have right to living resources in the column of water (Law of the Sea 1982). This is the limit of national sovereignty over waters.

On the other hand, waters beyond these limits were also addressed by the convention. High seas were considered all the waters not included in the exclusive economic zones, territorial sea or internal waters. Coastal or land-locked states have freedom of navigation, overflight, laying of submarine cables and pipelines, construction of artificial islands and other structures according to international law, fishing and conducting of scientific research. High seas should be reserved for peaceful purposes and no sovereignty claim has validity upon this area. Therefore, these waters are considered a global commons, which means that no nation state has exclusive authority over its extension. The exploitation of the area of the seabed and ocean floor and its subsoil in high seas should be conducted based on the principle of common heritage of mankind, and be of benefit to all not only to the populations of the states involved. As previously seen, several states asked for the inclusion of the Antarctic in the United Nations Convention on the Law of the Sea during the seventies. If the Antarctic is considered as high seas, no sovereignty claim would be valid in the region whatsoever. Therefore, ice derivation became an important question for the definition of Antarctica in terms of its sovereignty status.

Ice in Antarctic occurs in three forms: pack ice, ice shelves and ice sheet (Bernhardt 1974). Pack ice is formed from freezing sea water and once near land, it can attach to shore and form an ice foot. Ice shelves are also formed by freezing sea water, but in sheltered areas, making a deposit which can be attached to land for many years. And ice sheets are formed by frozen fresh water or by the compacting of snow layers. This is the only case which does not bring problems in terms of sovereignty, as ice sheets present a terrestrial origin and the Law of the Sea cannot be applied. The situation changes in case of pack ice and ice shelves, bringing a jurisdictional problem in terms of defining the limits of national sovereignty (Bernhardt 1974). Eastern Antarctica presents little problem as its subglacial topography is a continental mass of broad

basins and swells with altitudes varying from zero to two hundred meters. Therefore, the formation of ice tends to be terrestrial rather than maritime. Whereas Western Antarctica, as a deep basin, presents a more complicated topography with many depressions below sea level. Ice formation presents a much more blurred origin in this area (Bernhardt 1974). Nonetheless, this particular condition did not prevent the assimilation of ice shelves into Antarctic continental territory. The Antarctic Treaty differentiates Antarctica from high seas, referring to the whole domains below the 60°S latitude as the "area" and legally treating it as land. Therefore, the Antarctic is subject to possession and sovereignty claims can be considered valid in legal terms.

Antarctica's sovereignty is, then, basically founded on the ability of a state to display its authority over a portion of the territory. During the inter-war period, most of the sovereignty claims were made and technological progress brought by aviation enabled greater exploration of the Antarctic continent. Therefore, even if a permanent presence was not possible hitherto, the ability to reach different regions in Antarctica was an important step in knowing a territory which a state was willing to claim or wanted to have its sovereignty recognised. This was clearly the American strategy for the region during the thirties and forties. From private to public expeditions, the United States headed the aerial mapping of the region which was one of nation's strategies for the region: making a sovereignty claim. In this case, knowing was a prerequisite for controlling. With the Second World War, sovereignty authority displays only intensified. Argentina, Chile and the United Kingdom increased their physical presence in the region through stations, vessels and symbolic demonstrations such as flag-planting in their respective overlapping claims. Operation Tabarin was a British reaction not only to the German presence in the region, but also a reinforcement of the British presence in the region by the removal of Argentinean and Chilean sovereign marks. Likewise, Operations Highjump and Windmill not only aimed to expand knowledge about the region, but also to prepare a potential American claim. Albeit permanent settlement was still not possible at that time, efforts towards a territorial administration were being built as an avenue.

The end of the Second World War was marked by the consolidation of international society and its largest expansion since its emergence. So how would the Antarctic be organised in such terms? Disputed sovereignty claims should be addressed by the maintenance of previous territorial organisations as international society is essentially conservative. But there was no previous territorial organisation in Antarctica nor original inhabitants whose political and territorial organisation could have informed a potential solution. On the other side, no

sovereignty claim was fully recognised by international society and external recognition is a necessary condition for sovereignty. Therefore, concerns regarding the increasing frictions between Argentina, Chile and the United Kingdom led the United States to propose a condominium or a United Nations trusteeship in the region. In the first scenario, several states would manage the region by an international scheme of shared duties and rights. Hence, if sovereignty means an ultimate source of authority over a delimited territory and population, the sovereignty principle and the territorial ideal would not be able to take place through a condominium. A nation state would always need to subject its conduct in Antarctica to other states' consent. In the second case, a United Nations trusteeship refers to the promotion of "*... political, economic, social, and educational advancement of the inhabitants of trust territories, and their progressive development towards self-government or independence as may be appropriate in the particular circumstances of each territory and its peoples.*" (Jackson 1999, p. 443) In this case, sovereignty rights would also be waived, as the United Nations would retain the ultimate source of authority. Nonetheless, the Antarctic did not have an indigenous population, so no one could be brought to advancement and self-government. Human presence in Antarctica has always been established by companies, first, and later by nation states conducting their activities in the region.

None of the proposals were accepted by claimant states as a sovereignty principle and so the territorial ideal prevailed in the region. Therefore, the integration of Antarctica into international society on its terms became a challenge. Albeit the American initiative failed, important outcomes can be recognised from this attempt. First, other states became interested in engaging in Antarctica politics, which presented an automatic challenge to the sovereignty question. Once the United States made a proposition for the region in 1948, the Soviet Union stated that no arrangement on Antarctica would be recognised if the Soviet Union was not included. Along with the Soviet Union, Belgium, Japan and South Africa also stated their interest to be involved in Antarctic politics. Their interest would be based on their historic involvement with the region such as exploring expeditions, whaling and sub-Antarctic proximity. Once again, principles such as external recognition and ultimate authority were not achieved as sovereignty in Antarctica was not consensual among the involved actors; external states demonstrated their interest to be included in decision-making, producing several sources of authority.

A few years later, India's initiative to include the Antarctic question on the General Assembly's agenda initiated one of the biggest challenges to the Antarctic Treaty – which could have destabilised the region's politics. India stated how important it was to protect the Antarctic from Cold War disputes, and a broader participation was presumed to be a better strategy to manage a region which had, so far, been managed in former colonial terms. After diplomatic pressure, India decided to withdraw the Antarctic item of the agenda, but maintained its rights to return to the issue in the future. This Indian case represented not only a questioning of any initiative for exclusive authority in Antarctica. It also represented a former colony, recently integrated into international society, as a proper nation state, challenging colonial practices. The criticism of a colonial reminiscence in Antarctica persists in the region to the present day.

A second and very important outcome from the American attempt was the Escudero Declaration. As Chile was one of those who opposed to any arrangement which would imply the waiving of its sovereignty rights, on the occasion of an American visit to the country, Chilean representatives proposed the postponing of diplomatic discussions about sovereignty in Antarctica for five years, so other activities could be undertaken in the region. Among claimant states, scientific research was the only activity consensually agreed to take place without protest from any nation state in terms of territorial violability and the ultimate authority's management. Albeit the Escudero Declaration had a limited timeframe, suspending discussions in order to enable activities established a precedent which was adopted for the International Geophysical Year, in 1957-58, and for the agreement and operation of the Antarctic Treaty, beginning in 1959. This did not mean the exclusion of sovereignty from the region. Actually, it was quite the opposite: through science first and, progressively, through other practices, sovereignty claimants kept their claims alive. Therefore, the sovereignty principle and the territorial ideal have permeated Antarctic practices thereafter. In fact, through the maintenance of peace, scientific cooperation and environmental preservation, claimant states have administrated their practices on their corresponding claimed territory with autonomy. As observed through the configuration of Antarctic governance, claimant states along with the potential claimants (the United States and the Russian Federation) have been the far most engaged actors, controlling the operation of the Antarctic Treaty in economic, political, logistical, scientific and environmental terms.

The third outcome from the American attempt was a race for a permanent presence in the region. External recognition of sovereignty claims was not achieved by any state. Australia,

France, New Zealand and the United Kingdom mutually recognised their respective claims, but this was the furthest that the region reached in terms of sovereignty mimesis as an international society primary institution. The Antarctic, as a regional international society, has experienced sovereignty through other avenues, nevertheless this bedrock institution has still been its constitutive principle. The Soviet Union and the United States, albeit saving their own rights, reiterated their non-acknowledgement of any territorial claim in the region, demanding effective occupation as a criterion for any legitimate sovereignty. As previously discussed, Antarctic environmental conditions prevented permanent settlement for a while; however, technology enabled not only a better knowledge of the region, but also a continuous human presence even in inhospitable conditions. Science provided the means to achieve a political agreement, and also concrete knowledge for this uninterrupted presence. Therefore, the establishment of year-round stations was a remarkable achievement in the region, breaking down barriers to human occupation of hostile environments and making the administration of such territory feasible. If effective occupation was the condition lacking for a sovereignty recognition, in the fifties that obstacle was removed.

The 1955 CSAGI Antarctic Conference in Paris achieved a temporary suspension of sovereignty discussions, enabling the conduction of scientific research in Antarctica by the participants of the International Geophysical Year. The prospect of resuming the sovereignty question after the IGY prompted states to articulate some sort of solution for the region. In 1957, the United Kingdom along with Australia, New Zealand and South Africa began secret talks on a proposal for an international consortium in the region. As soon as Argentina and Chile got wind of the discussions, the proposal was immediately refuted as any option which would exclude their sovereignty rights was considered unacceptable. The United States rapidly took the lead in negotiations for an arrangement in the region, fearing that any other proposal agreed would not fully correspond to American interests in the region. Therefore, after sixty preparatory meetings, a conference took place in Washington in 1959, involving all claimant states and those who participated in the International Geophysical Year: Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, the Soviet Union, the United Kingdom and the United States.

The Treaty was only able to emerge because controversial issues were avoided. Interests were so diverse that achievement of an agreement was only possible with the avoidance of definitive solutions and their watering down when reference was unavoidable. The experience with the

Escudero Declaration and the IGY demonstrated that suspending discussions on sovereignty temporarily was a feasible escape from a problem which seemed unsolvable. By the same token, the conduction of scientific research in the region proved to be the most receptive practice among participants and no serious sovereignty conflicts had taken place in Antarctica during its suspension. Hence, the Treaty tried to converge different understandings about how governance should be in a region where sovereignty, according to international society, could not be used as an organising principle for authority nor as a spatial organisation of the territory. The Treaty's jurisdiction in the area south of 60°S parallel constituted the territorial limit of the Antarctic region, following a previous agreement of non-warship navigation between Argentina, Chile and the United Kingdom in 1949. However, the Treaty does not establish the differences between its jurisdictional territory and the high seas. The Antarctic Treaty includes ice shelves in its territory but, at the same time, acknowledges the rights of any state in high seas terms in its area, not providing a clear definition for the authority in the Southern Ocean. Therefore, the territoriality in Antarctica was not based on state boundaries, or in a connection between population, land and their respective political control. It is a region arbitrarily delimited whose political control emanates from the Treaty, but is exerted by nation states on its respective activities, stations and personnel.

This particular Antarctic territoriality has evolved along with the consolidation of the Antarctic Treaty. Established as the main activity in the region, scientific research was responsible for the increase of human presence in the region, which has progressively included overwinter stations. The establishment of facilities such as stations, camps and refuges have distinct criteria for localisation. Whereas claimant states followed their territorial claims by placing their stations and conducting their scientific research, other states such as the United States, the Russian Federation and more recently China, opted to establish stations in different parts of the region. Other Consultative states, on the other hand, chose a more pragmatic solution which was based on logistics and partnership. Stations were located in areas of easier access and near to already established partners, facilitating logistics (as in the case of station maintenance or medical emergencies) and reducing the environmental impact as they were concentrated in just one area. Therefore, the management of activities in Antarctic territory involves the following regional organisation: the Antarctic Peninsula, King George Island (subgroup of the Antarctic Peninsula), the Ross Sea region, East Antarctica, Larsemann Hills (subgroup of East Antarctica) and Dronning Maud Land. As sole endeavours in Antarctica tend to be very expensive and risky, collaboration among close stations fosters security and efficiency, and reduces costs.

Therefore, these regional groups gather annually at the general meeting of COMNAP, discussing ways to improve their activities and collaboration according to particular characteristics of their regional location. Albeit this territorial organisation does not correspond to sovereignty territorial ideals, it does represent the different Antarctic exploratory entries, leading to the different sovereignty claims in each sub-region (the Antarctic Peninsula, the Ross Sea, East Antarctica and Dronning Maud Land).

The Antarctica Peninsula presents the most populated area in Antarctica as the close proximity to South America facilitates the establishment and management of stations in this area. This is the region where almost all stations from Argentina, Chile and the United Kingdom are present, configuring a politics of presence in areas which correspond to their claimed territory. This is also observed in East Antarctica, where Australia and France locate their facilities, the Ross Sea where New Zealand is present and Dronning Maud Land where Norway is present. As France and Australia mutually recognised their territorial claims, their presence in the same region does not present a competing manoeuvre to each other. On the other hand, the Russian Federation, for instance, is present in Antarctic Peninsula (including King George Island), in East Antarctica (including Larsemann Hills) and in Dronning Maud Land. China is present in the Antarctic Peninsula (including King George Island), in the Ross Sea and in East Antarctica (including Larsemann Hills). And the United States are present in the Antarctic Peninsula and in the Ross Sea. These politics of geography are very informative about how different states understand the administration of their activities in Antarctica and localise themselves according to their specific policy for the region. Claimant states are more concerned in conducting activities in their claimed territories whereas states which directly oppose sovereignty claims established themselves throughout the region, including in claimed territories. Other Consultative Parties base their geographical choice on the proximity with other states with which they collaborate. If a state was perceived as a friend, physical proximity facilitated logistical collaborations, which is a very important relationship to be maintained in Antarctica. On the other hand, if a state was perceived as a rival (Wendt 1999), the establishment of close stations is also identified, reinforcing authority presence to others.[50]

[50] Since the Treaty has been established, enmity relations were not observed among Parties in Antarctica, as conflicts have never escalated in physical terms. Even during the Falkland/Malvinas war, United Kingdom and Argentina did not escalate their dispute into the Antarctic region.

Whereas Antarctic facilities present the closest spatial organisation to the sovereign territorial ideal, Antarctic territoriality is also manifested in two different forms of management: Antarctic Special Protected Areas (ASPAs) and Antarctic Special Management Areas (ASMAs). First established in 1964 by the Agreed Measures for the Conservation of Antarctic Fauna and Flora, Specially Protected Areas (SPAs) and Sites of Special Scientific Interest (SSSIs) referred to any designated area (including marine ones) which demanded the protection of its outstanding environmental, scientific, historic, aesthetic or wilderness values, or any ongoing scientific research.[51] With the advent of the Environmental Protocol, these two designations were renamed as the Antarctic Special Protected Areas, composing its Annex V which entered into force in 2002. An ASPA can be proposed by any party, or by the CEP, SCAR or CCAMLR, and its status is considered definitive unless a limited timeframe is established. Proponents must provide a management plan to be approved by the Consultative Meeting, describing the values to be protected, the objectives of the plan to protect those values, management activities to be undertaken to the achievement of these objectives, the period of designation, the description of the area, the identification of zones within the area where activities should be restricted, maps, supporting documentation and the conditions for issuing a permit. In this last case, parties should appoint their special authorities which will issue ASPA's permits for their respective nationals willing to conduct activities in these regions. Permits should always follow the area's management plan.

The dynamics of an ASPA's proposition provide important insights about territoriality and authority in Antarctica. So far, seventy-five ASPAs have been adopted by the Antarctic Treaty, having been proposed by sixteen different states. The United States, the United Kingdom, New Zealand, Australia and Chile are those who have most proposed unilaterally as well as collaboratively, albeit the latter case is far rarer (only six of such proposals). Collaborations generally involve those nations whose stations are closer to the areas they are keen to protect and were undertaken by: Chile, the United Kingdom and Spain; Argentina and Chile; Argentina and the United Kingdom; Australia and China; the United States and Italy; Australia, China,

[51] Areas to be designated as ASPAs are those which need to be kept inviolate from human interference, so future comparison could be established with those where human intervention is already in progress; areas which are the most representative of terrestrial (including glacial and aquatic) and marine ecosystems; areas with important or unusual assemblages of species; locality or only known habitat of species; areas with particular scientific interest; areas exemplary of geological, glaciological or geomorphological features; areas of outstanding aesthetic and wilderness value; site and monuments of recognised historic value; and any other area which presents appropriate values to be protected (Environment Protocol 1991).

India and the Russian Federation; and New Zealand and the United States. Considering the number of members of the Antarctic Treaty, the proportion of proponents of this kind of arrangement is small, but it still includes all claimant states along with Consultative Parties with a widespread presence in the region. Obtaining an ASPA approval represents the success of a particular interest over a particular region, changing the practices to be undertaken there. And although ultimate authority cannot be exerted directly, those who succeed in establishing an ASPA have defined the terms for practices which are most coherent with their own policy for this particular area.

Sovereignty in protected areas is diffused, but still present. An ASPA means a special status for the protection of an area considered of interest by a particular state (or group of states) that is willing to protect and control access. Albeit the values to be protected must be identified and agreed in a common basis within the Treaty, the differentiation between general areas and special areas in Antarctica is established discretionarily. Parties which have proposed ASPAs already demonstrate a higher level of engagement within the region, and success on its attainment means that this agent presents enough resources to change practices in its area of interest, even if only temporarily. However, being a proponent of an ASPA does not configure sovereignty over this particular territory. Whereas sovereignty in Antarctic facilities is easy to tackle, as national jurisdiction is comprised within a facility where the state is the ultimate authority, an ASPA presents a more restrictive feature. Sovereign practices are undertaken individual and punctually, as the state holds the ultimate authority only upon its own personnel – to whom it issues permits – and upon their conducted activities. However, states which are not proponents must abide by a management plan elaborated by another state, according to its particular interests and agreed consensually by a meeting. Therefore, we can identify authority and political control in several sources, as proponent states define the conduction of practices, but agreement and monitoring rest on decision-making agents in the Treaty, who demand exchange of information and reports about conducted activities.

In similar terms, an Antarctic Specially Managed Area (ASMA) refers to any area, including marine ones, where activities should be managed in order to assist coordination, avoid conflict, improve cooperation among parties or minimise environmental impacts. An ASMA encompasses areas where activities could cause mutual interference or cumulative environmental impacts, or areas which present sites or monuments of historic value. Parties, the CEP, SCAR and CCAMLR can propose an ASMA, as long as they provide its respective

management plan. This plan should include the values to be protected, the objectives for the protection of these values, management activities to be taken for the achievement of these objectives, the period of designation, the description of the area, the identification of zones within the area where activities should be restricted, maps and supporting documentation. In the specific case of an ASMA, the plan should also include a code of conduct about access, activities to be conducted, location of field camps, management of structures, rules of coexistence with fauna and flora, collection of alien material, disposal of waste and the provision of reports to the appropriate authorities regarding visits to the area. In contrast to an ASPA, an ASMA does not demand the issuing of a permit, unless it encompasses one or more ASPAs. Therefore, territoriality and authority is undertaken differently, as there is no restriction of access to the referred region, only the need to coordinate actions among interested parties.

Important differences can be underlined between ASPAs and ASMAs. ASMAs are generally presented collectively, since the justification for a special management of an area is based on the need to coordinate activities among regional actors. This need to coordinate activities came with the growth in the number of participants and the environmental impact of their activities, configuring an ASMA as a recent territorial management for the region (the first one was established in 2004). This recent character of an ASMA could be one of the reasons for its low number when compared to the number of ASPAs. However, challenges imposed by cooperative efforts and the achievement of a consensual agreement are also another significant factor for the low number of ASMAs. There have been only seven agreed so far, with the United States being involved in five different ones (three in the region of the Antarctic Peninsula, one in the Ross Sea and one in the South Pole). The American position is also unique, as no other state is part of more than one ASMA and no one manages an area alone.[52] Therefore, two cases will be presented to exemplify the struggles faced when an ASMA is attempted. The Chinese case shows the Treaty's resistance regarding an individual party proposal; whereas the German case demonstrates how the lack of consensus can result in a joint proposal being unfeasible.

China has proposed a management area for Kunlun Station, Dome A, at the 36th ATCM (2013). The present scientific value of Dome A and its potential use in future scientific activities were

[52] Australia and the United States were the first ones to propose an ASMA in 2004 (ASMA 2 McMurdo Dry Valleys, Southern Victoria Land and ASMA 3 Cape Denison, Commonwealth Bay, George V Land, East Antarctica). Nevertheless, the ASMA 3 was revoked by Measure 9 2014, being integrated into the ASPA 162.

generally acknowledged, but questions were raised about the appropriateness of an ASMA for the protection of the referred value. Parties pointed to the lack of multinational and/or multiple activities conflicting in the region and, due to its interior location, no intensive growth was foreseen in the short-term. Intersessional Contact Groups have been run since 2013, and parties have kept their reservation to the Chinese proposition based on the lack of substantive evidence that the area required special management. China has kept the discussion alive, introducing working papers to the Committee (CEP) where a proactive action for the region, the existence of other ASMAs managed by single parties and precedent cases agreed by the Committee were perceived as supporting evidence for a favourable agreement on an ASMA for the region.

> [T]he core spirit of an ASMA is not to calculate how many countries are carrying out activities, but to evaluate how much impact is caused by the human activities to the area. What concerns China is to build a kind of standard and effective environmental protection system in the Dome A area, so as to contribute to Antarctic environmental protection with a high standard. Considering the fact that the environmental capacity is extremely low and the international scientific cooperation is becoming more frequent there, under the framework of the Protocol and its annexes, China hopes and would like to communicate and cooperate with Parties as far as the issue of Dome A ASMA establishment and operation is concerned (38th ATCM 2015, p. 151).

Nonetheless, no agreement has been reached regarding an ASMA for Dome A. Norway, France, the United States, the Russian Federation, New Zealand, the United Kingdom and Australia are some of those who still have not seen a reasonable justification for the establishment of an ASMA in Dome A. However, single propositions are not the only ones which face resistance due to the terms of the Protocol. The presence of several states and, consequently, several different perspectives, can also be viewed as a challenge to the success of an ASMA proposal. Germany attempted to establish an ASMA for the Fildes Peninsula and Ardley Islands (King George Island) from 2004 to 2011 without success.

Germany presented its first information paper for the establishment of an ASPA or ASMA for the region of Fildes Peninsula and Ardley Islands (King George Islands) at the 27th ATCM (2004). In this paper, Germany identified a conflict of interest between nature conservation, science, logistics and tourism in the region, and alleged that its scientific value demanded a special and coordinated effort among interested actors. There are no references to this paper in the ATCM's final report. The following year, Germany presented another information paper, which informed on the progress of its research in risk assessment of the region and linked to the inspection conducted jointly with the United Kingdom in 1999. The final report of the 28th

ATCM 8th CEP (2005) refers to Germany's presentation of a draft Management Plan for the region and supports a Chilean suggestion for the establishment of an International Working Group, composed of parties with facilities in the area or those interested in conducting activities in the same region. At the 29th ATCM 9th CEP (2006) a working paper was finally presented, and authored by Germany, Brazil, China, Korea (ROK) and the Russian Federation. In this paper, parties presented the outcome of workshops organised in the intersessional period, hosted in Germany and at the Bellingshausen Station (King George Island, Antarctica) where the establishment of an ASMA and the proposal for an Intersessional Contact Group (ICG) were discussed. Chile attended the workshops, but did not author the working paper. In the final report of the 29th ATCM, a "reaching of agreement" is referred to between Germany and Chile, and an ICG is formally agreed.

From 2007 to 2012, intersessional contact groups were convened by Germany and Chile, discussing the possibilities of an ASMA for the region. Albeit Germany was very engaged, there was resistance from some parties, especially from Chile. Papers were submitted to inform the meeting about the progress of the ICG[53], but there are no references in the final reports of either the 30th ATCM (2007) or the 31st ATCM (2008) to the information papers submitted. Nevertheless, at the 32nd ATCM (2009), a co-authored working paper by Germany and Chile is referred to in the final report. Records mention a German statement about how "*limited intersessional work had been achieved due to sporadic participation of IWG members*" (32nd ATCM 2009, p. 115). A Chilean reply is found subsequently acknowledging the progress made in the ICG and presenting its information paper about the environmental importance of the region. As previously commented, disagreements in Antarctic meetings are manifested by silence. And the sporadic participation of the ICG members demonstrated the lack of support to Germany's proposal.

In the second co-authored working paper presented in 33rd ATCM (2010), Germany and Chile introduce a summary of progress achieved in the last ICGs as well as in the International Working Group hosted in Punta Areas, Chile. Acknowledging the need to define the boundaries

[53] There were three specific information papers and three working papers about the ICG: Germany authored information papers alone in 2007 and 2008. An information paper was also co-authored with Chile in 2007. From 2009 until 2011, working papers were presented jointly by the two states. Chile presented papers individually about the region as well. They were two working papers for the revision of ASPAs' management plans in the area, and two information papers about historic sites and the environmental importance of the region.

of the facility zone, the paper states the lack of agreement on that. Discussions presented in the final report clearly shows different positions within the group. Uruguay not only took the lead for a common agreement on the facility's boundaries, but also reiterated to parties about the work in progress for a code of conduct. Argentina also showed support for the initiative, expressing its desire for the development of guidelines. On the other hand, the Russian Federation expressed the difficulties in agreeing on a management plan for the region due to its extensive area, number of stations and multi-national presence. Chile and Germany thanked all participants and the Committee acknowledged the efforts to develop a cooperative international management plan for the region. In the last working paper co-authored by Germany and Chile about the progress of the ICG, there is the acknowledgement that the working plan of the ICG could not be finalised due to the lack of comment from members with stations in the region about the draft management plan and the code of conduct. The paper invites participants to continue to engage and announces an informal meeting to take place alongside with the 34th ATCM (2011). Albeit the committee states that works from IWG would continue to be discussed in the next Consultative Meeting, no papers were submitted and no references are found in the final report of the 35th ATCM (2012).

Facilities, ASPAs and ASMAs configure the territorial practices in this regional international society. Albeit territoriality in international society is determined by the sovereign territorial ideal, in Antarctica, this norm localisation is slightly different, as sovereignty claims do not present external acknowledgement and the spatial organisation by delimited territories do not present a formal ultimate authority. Even when national jurisdiction is acknowledged to flag-states (in facilities or in expeditions taking place in ASPAs and ASMAs), their conduct is still restricted by Antarctic Treaty directives. International society has been constituted by the sovereignty principle and the territorial ideal, but in Antarctica an exact reproduction did not take place due to international society's goals of self-preservation, independence of states and peace maintenance. These goals have had precedence over the constitution of Antarctica's practices and identities in standard sovereignty terms and the Antarctic Treaty's governance has been, since then, constituted by the formal suspension of the sovereignty principle and the territorial ideal.

In this section we have reviewed how sovereignty is present in Antarctica, since its emergence to international society. Albeit the Treaty has opted for its non-definition, Antarctica represents a regional international society where the sovereignty principle and the territorial ideal has been

displaced, but its ontology still permeates Antarctica's practices and identities. In the next, and final, section of this work, we are going to explore how sovereignty has always been present in Antarctica, as its decision-making preserves the same agents who have constituted it. If the Antarctic Treaty is considered the ultimate authority on Antarctica in international society, those who control its decision-making process have found in the Treaty the avenue to exert its sovereignty prerogatives, even if formally claims and potential claims are configured as "undefined". Therefore, maintaining Antarctic sovereignty status as an exception to international society, in fact only supports the sovereignty principle and the territorial ideal as the main means to organise human societies, including in Antarctica.

5.3 The Antarctic exceptionality

Albeit the sovereign principle and the territorial ideal is formally absent in Antarctic practices, we have been trying to demonstrate throughout this work how sovereignty has permeated the Antarctic and the implications of its presence for governance in the region. Localisation of sovereignty's norms has been displaced when compared to international society, but its ontology pervades Antarctic practices and identities. Actors are granted power of decision-making in relation to their historical involvement, actual presence and conduction of activities over which they have exclusive jurisdiction. As a consequence, Antarctic governance is exerted by those with authority prerogatives, constituting the rules and norms which determine their practices, inasmuch as these practices constitute their successful engagement, reinforcing their authority. Therefore, Antarctic sovereignty has been exerted in the region through effective administration (Bernhardt 1974).

Effective administration in Antarctica is achieved by the ability to propose a particular addressment for a practice, generate a consensual agreement and have it conducted by others. Effective administration is performed beyond national field activities as these practices are regulated by Consultative Meetings. Likewise, being a Consultative Party is not enough for an effective administration either as not all decision-makers actually propose addressment nor are all those propositions successful in generating an agreement. Therefore, Antarctic authority comes from substantive national field activities which legitimise certain states to propose addressment of practices in their interest and have it accepted by Consultative Parties, because they present a legitimate engagement with the region. The endorsement comes with consensual agreement from the Treaty. If sovereignty has an internal and an external component, Antarctic

Treaty governance is externally recognised in international society as the ultimate authority for the region. On the other hand, internally, the source of authority is formally diluted. Consultative Meetings have the prerogative on the production of norms which regulate all the practices in the region. Nevertheless, nation states still maintain their jurisdiction over their own activities.

This diffused feature of internal sovereignty can be analysed through the three different territorialities in Antarctica. In facilities and camps, for instance, the jurisdiction is national, but which practices are allowed and which are restricted is a decision made by the Antarctic Treaty. In an ASPA, a proposition is made generally by one state, which elaborates the respective management plan; but the agreement rests on the Treaty. Therefore, in this case, authority is found in nation states conducting activities in an ASPA; in the nation state who succeeded in having an ASPA approved, restricting access and activities in the place of interest; and in the Treaty, which agrees or not on an ASPA and monitors access and conducted activities through reports and exchange of information. In an ASMA, authority is even more intricate. An ASMA is expected to be proposed by a group of states which commonly conduct activities in an area where there is an intrinsic value to be protected. With a single state, as in the case of China and Dome A, more challenges are faced to demonstrate the need to secure a territory as an ASMA, as codes of conduct will be established by only this agent. The American and Australian cases have been justified by the Treaty considering the multiple nature of activities in a region where their national stations are closer. Therefore, almost half of all ASMAs have just one single proponent. In this case, other parties willing to conduct activities will need to abide to procedures defined by proponents through their management plan. Therefore, inside expeditions and facilities in the area, national authority prevails. Nonetheless, practices in the specific area are regulated by ASMA's proponents, which monitor activities by reports and exchange of information from the different agents in the area, presenting the results of their management to Consultative Meetings. And the authority for the agreement or not of an ASMA relies on the Treaty.

Considering the different assertions of sovereignty in literature, focusing on its internal aspect (Hinsley 1986), on its external aspect (James 1999) or on a combined inside/outside perspective (Jackson 1999), all direct us to a common element on these views: who is the ultimate authority or, who takes ultimate decisions, defining when it is a constitutional order and when it is an exception. In Antarctica, sovereignty non-definition has relied on the decision that the Antarctic

is an exception. Considering the meaning of exception as "*something that is excepted; a particular case which comes within the terms of a rule, but to which the rule is not applicable; something abnormal or unusual; contrasted with the rule*" (Oxford English Dictionary 2016), the Antarctic Treaty has maintained Antarctica as an exceptional place of exceptional conditions, governed by exceptional rules for an exceptional term. Therefore, those who achieved an agreement for the Antarctic Treaty are the same ones who conserved their leadership and control upon Antarctic practices.

Antarctica represents the only territory in the world where the sovereignty principle and the territorial ideal were not able to provide the normative framework to address the claiming question. Literature generally refers to an "undefined sovereignty", as no institutional background existed to inform how to constitute Antarctic practices and identities without relying on sovereignty. The experience with the Escudero Declaration and the International Geophysical Year provided a successful temporary alternative, as claimant as well as non-claimant interested states agreed to suspend sovereignty discussion in order to conduct scientific activities in the region. Therefore, Article IV in the Treaty represents the foundation of Antarctic regional international society, turning the temporary suspension of sovereignty into a permanent condition for the Treaty's duration.

> 1. Nothing contained in the present Treaty shall be interpreted as:
>
> (a) a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;
>
> (b) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;
>
> (c) prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's right of or claim or basis of claim to territorial sovereignty in Antarctica.
>
> 2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force (The Antarctic Treaty 1959).

Article IV guarantees claimant states that their rights have not been renounced or reduced by the Treaty nor will be by any practice conducted in the region whilst the agreement is in force. Likewise, no activity has represented the reinforcement of an existing claim nor supported the

assertion of a new one. Therefore, Article IV simply maintained sovereignty claims, not dismissing them but not recognising them either. And if states were able to make an exception and conduct activities for a short period in these conditions, the solution brought about by the Treaty was the extension of an exception. This extension was based on claimant states' perception that their claims would be continuously challenged not only by other claimants but also by non-claimants. An extended exception enabled participation in the region's governance without waiving rights and without creating disputes in order to achieve a definitive solution. Furthermore, other states could also engage without posing a threat, as they would never be able to claim sovereignty inasmuch as they would never need to acknowledge anyone else's claim either (Rothwell 1996).

In Schmitt's assertion, sovereignty represents the highest, legally independent and underived power which rests on the monopoly of decision-making. Sovereignty is not an attribute of law neither of the state; in fact, it is manifested in the making of law by the state through decisions whose content becomes irrelevant. Legal ideas, in their purity, can never become reality, as they cannot translate themselves independently and, to be realisable, they need a person or an organisation body whose authority enable their transformation into a decision. Legal thoughts can take legal ideas into another context to be realised, adding alien elements which cannot be traced back to their origin nor to the content of the norm through which this legal idea is applied. Consequently, decisions present a moment of indifference to content, because deduction of the original premises – from a decision to a legal idea – cannot be precisely traced; in addition, the circumstances of a norm do not necessarily correspond to the circumstance of its related decision. Therefore, it is the instance of decision-making that renders a decision as relative to its content, and as absolute and independent in exceptional situations (Schmitt 2005).

As such, a legal order rests on a decision not on a norm. Understood as an ordinary legal prescription, general norms demand a regular frame in life to be factually applied, configuring a "normal situation", with immanent validity (Schmitt 2005). Nevertheless, it is a decision that enables the application of a norm and it is the sovereign who has the monopoly over the final decision. A sovereign order represents a normative system where the state configures its final point of ascription. Therefore, the sovereign is the one who frames life when ascribing norms, differing normal situations from not-normal ones. Not-normal situations are those ones defined as exceptional and although these situations are derived from an existing constitutional order, a norm cannot encompass an exception. An exception takes place by the suspension of the

entire existing order, receding the norm whereas the state remains, based on its right of self-preservation. In this case, decisions detach themselves from any normativity and become absolute (Schmitt 2005).

> The authentic nature of the political act is a decision that cannot be constrained by any normative foundations. The factual pure act of deciding what to do when normative frameworks do not provide the answer is the moment of authentic political creation. It implies a specific conception of ordering, in which political order derives from defining the exceptional rather than from deducing specific norms from general ones (Prozorov 2005 apud Huysmans 2008, p. 170)

Article IV of the Antarctic Treaty represents this moment of "authentic political creation". The Antarctic order could not be derived from general norms of international society, as the sovereignty principle and the territorial ideal could not be formally applied in their standard assertion. Therefore, the decision for the establishment of a governance framework in the region had its content based on a non-definition of its sovereignty status. But, if Schmitt's perspective is applied, what is most important for establishing a legal order is the competence of a decision, not its content. Schmitt's focus on "who decides" comes with the identification that liberal approaches were not able to address situations where the highest authority cannot make a decision based on established procedures (Huysmans 2008). If in international society the highest authorities are the sovereign states, they were not able to make a decision on Antarctica based on the available normative procedures of the time. The feasible alternative was to decide to make the region an exception, based on the exceptional periods agreed in the Escudero Declaration and the IGY. Therefore, sovereignty is more present than ever, but its norm localisation is distinct to the general international society. Formally, authority within the Antarctic region is diffused between nation states and the Antarctic Treaty, as ultimate decisions are prescribed to both depending on the issue.

One could argue that Consultative Meetings are nothing more than decisions made by nation states, the real ultimate authority as sovereignty is defined in legal, absolute and unitary terms. And this is very reasonable. Antarctic ultimate authority relies on the nation state, without a doubt. However, the consensual rule adopted by Consultative Meetings also gathers individual voices into one: in the Treaty. Consensual agreement was established as the Treaty's operational core to protect individual parties from other's alliances, preserving its original authority at the moment of signing. Therefore, the Treaty's decisions prevail over individual

parties, observers and experts. Nevertheless, tensions between decisional autonomy from parties and decisional centrality in Consultative Meetings have been observed over the years. Choices made to maintain the decision-making as informal and less bureaucratic as possible, such in the cases of rotating meeting hosts and the over-lengthy negotiations for the secretariat, are exemplary of parties' fear of losing authority, even to a bureaucratic body. However, this fear has quickly vanished as the institutionalisation of the Antarctic Treaty did not provoke any changes to its authority framework. All observed changes within the Treaty were only undertaken maintaining decision-making power for the same agents who signed the agreement in 1959. Therefore, consensus rule has not only protected the original authorities but it has also sustained this loci of authority.

Decisions made by consensus preserved the Antarctic governance status quo. The most significant changes to the Treaty came from its opening up in the seventies and the incorporation of side agreements, conventions and protocols which addressed new problems by maintaining intact the principles and the operation of the Treaty. The opening up of the Treaty has taken place by defining membership criteria based on the conduction of substantive scientific research. In this case, the decision-making prerogative of a Consultative Member was only open to for those fully engaged in Antarctica and, as previously seen, engagement in Antarctica is still dependant on those more experienced and already established in the region. The original authority framework has been preserved by the need to rely on experience and expertise to start those activities considered valid by the Treaty's decision-makers. Another noticeable change in the operation of the Treaty was the establishment of new roles for participants. Members were divided between Consultative and non-Consultative, which means those with substantive scientific activity were enabled to decide, while the others can participate in the Treaty, but not make a decision. This institutional separation is distinguished by the rights to propose working papers. Only decision-makers have the prerogative to propose working papers which are necessarily presented and discussed by the meeting, producing decisions.

The establishment of observers and experts was also another modification within the Treaty. Observers are limited to SCAR, CCAMLR and COMNAP, whose advisory role has been acknowledged in terms of science, marine resource management and logistics. Observers' contribution has been very important to the conduction of activities by the Treaty, providing expertise for parties when decisions must be made. And albeit observers have the prerogative of proposing working papers, they do not have a saying in the making of consensual

agreements. On the other hand, experts were the way found to involve epistemic communities and make the Treaty's procedures available to public scrutiny. Governmental organisations, non-governmental organisations and specialised agencies can be invited in the meetings, however they can only propose information papers. Therefore, external criticism of the Treaty's ultimate authority in the region was acknowledged as a challenge to its legitimacy, but all these changes have been formatted to preserve the Treaty's original authority framework.

Consensual decisions also preserved the status quo through reducing the pace of the Treaty's transformation even in face of resource management demands. International society primary institutions – such as trade and environmental stewardship – expanded to Antarctica, putting pressure on the Treaty for their addressment as they would involve sovereignty definitions and challenges to consensual decisions. Antarctica has experienced different practices of trade: sealing and whaling were definitely the first ones that introduced the region to international society. Nevertheless, uncontrolled activities reduced animal stocks drastically whilst pelagic whaling brought activities to the Southern Ocean, being outside of the Antarctic Treaty's jurisdiction. Therefore, the Treaty provided the platform for discussing agreements where commercial could be controlled in the Antarctic region, and the lack of an immediate monetary gain made preservation a promising and uncontroversial avenue to deal with resource management. At 1st ATCM (1961), discussions were initiated about a convention for the conservation of Antarctic wildlife. Roberts (1961) describes how the idea of an international cooperation on environmental preservation not only met a general agreement, but that it would also serve to consolidate the Treaty's international legitimacy by demonstrating that the arrangement was not only an instrument to stop sovereignty disputes, fostering its acceptability.

> We have an opportunity to demonstrate positive international co-operation in the matter of the preservation and conservation of wild life in a large area of the world for the first time in history. It is uncontroversial subject in itself, and agreement on it could have a wide popular appeal and help to get the idea across that the Antarctic Treaty is more than a mere device to stop bickering over sovereignty (the cynical comments which can be expected from some quarters notwithstanding) (Roberts 1961, p. 21).

Albeit there was an agreement on preserving living resources in Antarctica, there was not a consensus on how this could be achieved. Preferences varied between a convention or some form of measures or recommendations, as a convention would represent legal autonomy from the Treaty, enabling regulations without jeopardising the Antarctic Treaty, whereas agreed

measures would be encompassed and subject to the Treaty's principles and authority. The 1964 Agreed Measures for the Conservation of Antarctic Fauna and Flora represented the first agreement made within the Treaty and established environmental preservation as another consensual practice to be undertaken. The 1964 Agreed Measures faced opposition from Norway whilst pelagic sealing in pack ice was not removed. Norway wanted to protect its commercial interests and international law provided the precedent for the exclusion of pelagic sealing, as pack ice would represent high seas, hence international jurisdiction. Sealing was only fully addressed by the Antarctic Treaty with the Convention for the Conservation of Antarctic Seals, signed in 1972. The main focus of this agreement was to protect Antarctic seals in the Antarctic sea (its jurisdictional area is south of parallel 60°S) and, at the same time, manage their harvesting in sustainable levels (Jabour and Haward 2009). The convention modality was chosen because, in this case, commercial exploration was foreseen and participation of interested non-member states was feasible, avoiding criticism to the Treaty or pressure for its membership. The advisory contribution of SCAR is also part of the agreement, as the enlisting of protected species is based on scientific observation of populations, enabling control over stocks. Therefore, CCAS provides a normative framework for sealing, balancing scientific research, environmental preservation and commercial exploration under the umbrella of the Antarctic Treaty[54].

The Convention for the Conservation of Antarctic Marine Living Resources, signed in 1980, was the next convention to evolve from the need to manage resources in the Antarctic region. Agreed as a convention for the same reason as CCAS (outside participation prevented pressure on the Treaty, preserving the Treaty's principles and operations), CCAMLR was foreseen mostly to control fishing activities in the Southern Ocean, but it applies to any marine living resource (with the exception of seals and whales). Therefore, interested actors surpassed the number of participants compared to CCAS, fostering a much more autonomous institutional evolvement, parallel to the Antarctic Treaty. The Antarctic convergence represents CCAMLR's jurisdictional limit, which is beyond the parallel 60°S, configuring a biogeographical, instead of a political, boundary. Likewise, the role of SCAR was diluted as CCAMLR is composed of a commission which receives advice from its own scientific committee, determining how to proceed in the Southern Ocean for the conservation and rational use of Antarctic marine living

[54] As at the present time there is no commercial harvesting of Antarctic seals in the Southern Ocean, the CCAS is considered an inert convention (Jabour and Haward 2009).

resources (Jabour and Haward 2009). The commission is responsible for facilitating research, managing data, publishing information, identifying conservation needs and adopting conservation measures. The scientific committee's role is to undertake research on Southern Ocean ecosystems and recommend appropriate conservation measures to the committee. Therefore, the CCAMLR has been balancing environmental preservation, scientific research commission and commercial exploration as well.

Resource management has attracted different national agendas which tried to influence CCAMLR's decision-making. For instance, the establishment of Marine Protected Areas, as previously seen, has been a difficult and controversial achievement, once different actors which are not necessarily interested in Antarctica (nor in its sovereignty question) have engaged with CCAMLR basically for the sake of their fishing rights in the Southern Ocean. The fear from claimant states of losing their sovereignty rights with an widespread participation, even when those rights have not been recognised, led CCAMLR to reproduce Article IV of the Antarctic Treaty in its text, establishing itself under the umbrella of the Antarctic Treaty. Management of resources in marine areas could have raised questions regarding territorial waters of coastal states and their exclusive right of exploration and control. Therefore, a bifocal approach was also adopted by CCAMLR, as the convention refers to the "Antarctic area", but there is no accuracy on which area Article IV should be applied. Claimants interpret this as a confirmation of their sovereignty rights on coastal areas, whereas non-claimants interpret it that sovereignty rights refer to coastal states north of parallel 60°S. After the experience of CCAS, the Antarctic Treaty learned how to deal with sovereignty issues in its marine area, developing CCAMLR to supplement the Treaty's governance on marine resource management. By reproducing Article IV, CCAMLR reinforced the Treaty's principles whilst it conveniently kept a separated decision-making process, protecting the Treaty's authority from pressures which could have destabilised its external recognition.

Resource management continued to challenge the Antarctic Treaty's governance. The Convention on the Regulation of Antarctic Mineral Resource Activities was signed in 1988, but never ratified. As we have seen, this was the longest negotiation undertaken by the Treaty which boosted the number of accessions and of consultative status granted, but which equally raised external pressure on the legitimacy of the Treaty's authority in the region. Mining would have represented resource exploration activities on a much larger scale than any other practice in the region, creating a substantive challenge for environmental preservation and, mostly, for

consensual decisions and sovereignty. The regime's goal was the establishment of a strict regulation for the prospection, exploration, exploitation and development of mineral activities. Its jurisdictional area encompassed continental and marine territories south of parallel 60°S, overlapping any other regime in the region, including UNCLOS.

With the increasing number of participants, a complex institutional framework was created in order to accommodate the different interests in place. An Antarctic Mineral Commission would be in charge of making executive policy decisions, consensually defining rules and designating areas to be opened up to exploration and development. A Special Meeting would be open to all the Treaty's parties and its duty was to advise the Commission about any matters in the opened up areas. An Advisory Committee would be in charge of providing any scientific, technical or environmental expertise on Antarctic mineral activities to the Commission and the Regulatory Committee. The Advisory Committee would not have any decision-making prerogative, being expected to provide the proper forum for consultation and cooperation among actors. And the Regulatory Committee would represent geographic areas designated by the Commission for the exploration and development of mineral activities. Regulatory Committees would gain considerable power in terms of issuing permits for exploration and development, for management schemes between contractors and authorities and inspections (Joyner 1998).

The high complexity in CRAMRA's institutional framework aimed to preserve the Antarctic Treaty's source of authority. The Antarctic Treaty's provisions were recalled in the first paragraph of the Convention's preamble, consensus was adopted as the decision-making procedure and consistency with the Antarctic Treaty's components and obligations was asserted by the Convention (Joyner 1998). The Commission was composed of all the Treaty's Consultative Parties at the moment of signing, by parties which conducted substantive scientific, technical or environmental research in the area; and parties sponsoring mineral resource exploration and development. The Advisory Committee was open to the Convention's parties and non-parties (in this case as observers) if they were already members of the Treaty and CCAMLR. The Regulatory Committees provided the most intricate arrangement. Any Consultative Parties was eligible to compose a committee. But among the ten members, four should be claimant states and six non-claimant ones. From these six, the United States and the Soviet Union would be permanent members (Joyner 1998). Therefore, practices and identities which constituted the Antarctic Treaty were reinforced in CRAMRA, completing the resource management addressment already initiated in Antarctica. However, CRAMRA was never

ratified as France and Australia announced their decision to withdrawn from the Convention for a more comprehensive environmental agreement.[55]

Resource management in Antarctica has been addressed by conventions, or aside frameworks which not only did not threaten the Treaty, but in fact reinforced its authority. Once CRAMRA could not proceed, another arrangement was needed to provide the necessary addressment for questions which were now reopened. If the reason for CRAMRA's failure was the risk presented to the Antarctic environment, the Protocol on Environmental Protection was agreed in 1991 to consolidate environment protection as a fundamental Antarctic practice as scientific research. Compared to other agreements, the Protocol was the fastest to be agreed. If scientific research and environmental protection were the practices upon which the Protocol was based – and they were already being conducted in the region – institutional innovations did not present challenges which could make consensus difficult nor did sovereignty practices threaten the region. Previous agreements needed to balance resource management and environmental protection, whereas the Protocol could only focus on environmental matters, banning mining activities and becoming the first formal addition to the Treaty (besides recommendations, resolutions, decisions and measures)[56]. The CEP has been meeting regularly since 1998 and all its decisions, resolutions and measures need to be reported to Consultative Meetings for adoption. Therefore, the Protocol presents an institutional change which only reinforced the Antarctic Treaty's authority source.

All agreements so far established by the Antarctic Treaty have carefully preserved its original authority framework. Decision-making has always been considered the core of Antarctic governance and its preservation defined different solutions for potential problems as long as the Treaty's decision-makers continued to be the Treaty's decision-makers. And once Antarctic resource management demanded addressment, the Treaty responded according to the

[55] CRAMRA did not have the opportunity to be ratified after its signing, as France and Australia withdrew from the Convention in 1989 alleging that environmental protection in the regime was inadequate for the activities proposed. The regime could only be ratified if all signatories proceeded as such in a one-year period (Rothwell 1996). Likewise, the international context was experiencing a strengthening in environmental concerns, especially after the oil spill accident with Exxon Valdez in Alaska, the oil spill at the American station at the South Pole, and the accidents with the Argentinian ship Bahia Paraiso and the Peruvian ship Humboldt. Public opinion placed pressure on governments, leading not only France and Australia to abandon CRAMRA, but also Chile to raise the discussion of a comprehensive environmental protection for Antarctica (Stokke and Vidas 1996, Howkins 2016).

[56] The 1964 Agreed Measures for the Conservation of Antarctic Fauna and Flora were integrated into the Protocol, constituting its Annex II.

emergence and urgency of questions, solving problems in a case-by-case basis. As previously seen, the transformative pace of the Antarctic Treaty has always been very slow, guaranteeing that its normative framework suffered as little pressure as possible. Consensual decisions were essential to operate Antarctic governance in this preservationist mode, taking as long as necessary to make a decision without causing turbulence, ignoring or setting aside those issues perceived as threatening, but in a way which reinforced the Treaty's authority instead of challenging it – this was the case for all Antarctic conventions.

Literature classifies this exceptional governance framework in Antarctica as *bifocalism* or productively ambiguous formulation of sovereignty (Haward 2012, Stokke and Vidas 1996). *Bifocalism* states that sovereignty in not undefined. In fact, Antarctica would present different definitions for sovereignty whose variation would follow the different interests present in the region. Claimant states would engage on a territorial-basis whereas non-claimants would base themselves on their consultative-status. Haward (2012) states that this interpretation is contested by Chaturvedi (2012), who would ignore the equal status of all Consultative Parties, stating that that Antarctica still hosts a legacy of colonial times. Haward affirms that post-colonial interpretations would miss the significant contribution from claimant states to the evolution of the Antarctic Treaty System, who make the recognition of their own claims even more difficult. Nevertheless, Haward's interpretation is very helpful up to a certain point. Post-colonial interpretations (Chaturvedi 2012, Dodds 2011) are not in contradiction to *bifocalism*, as different interpretations result in different engagements. The consolidation of the Antarctic Treaty was possible due to a bifocal approach to its internal authority source, as Article IV enabled the ambiguous formulation of sovereignty by agents and different sources of authority inside the Treaty do not configure a paradox for agents. If sovereignty must be legal, unitary and absolute, bifocal sovereignty in Antarctica is legal, but not unitary or absolute. The formal establishment and the general acceptance of different sources of authority inside the Antarctic Treaty constitutes its originality or exceptionality, configuring the Antarctic as a regional international society.

However, when Antarctic practices are observed systematically, post-colonial interpretations are not easily dismissible. Are all Consultative Parties real decision-makers? From 1959 to the current day, by different sets of engagement such as political, economic, logistic, scientific and environmental, the agents that gather enough resources to constitute rules and determine Antarctic practices have always been the same. Claimant and potential claimants control

Antarctic governance in every aspect. They emanate authority, because they are the proper decision-makers. They propose papers which become agreements, they are the most pungent presence in the continent, and they are the most successful in what are considered the best Antarctic practices: scientific production and environmental protection. The legitimacy and expertise of their engagement strengthen their authority, which is reinforced by other Consultative and non-Consultative Members, observers and experts. Collaboration requests to claimant and potential claimant states for joint inspections or scientific projects, for instance, providing not only an established expertise, but also legitimacy to those later integrated.

Consensus, therefore, did not stop the authority deployment from claimant and potential claimant states in Antarctic Treaty governance. In the case of outside opposition (from India and Malaysia for instance), diplomatic talks based on the exceptional conditions of Antarctica succeeded not only in stopping criticism, but also in the withdrawal or in the cooling down of the "Antarctic question" on the United Nations agenda in 1956 and 1983, respectively. The Treaty was able to co-opt antagonism, reinforcing its legitimacy. Within members, there is a general endorsement to governance procedures, so claimants and potential-claimants rarely face opposition to their agendas. As creators and experienced actors, they know how to employ the Treaty's devices in order to achieve their goals and preserve their authority. Private diplomatic negotiations, the use of time and language, strategic scientific/logistic support; many avenues are found to keep their primacy in Antarctic practices and, consequently, in Antarctic governance. Opposition from Consultative Parties tends to turn into silence, whereas disputes among claimants and potential claimants result in long negotiations, which most of the time are not publicised. Therefore, consensus does not result in the balance of power, but actually in its preservation.

Considering sovereignty as the bedrock institution of international society, what we have is a formal and factual sovereignty constitution of Antarctica as a regional international society. Formally, sovereignty is undefined and authority in Antarctica is interpreted through bifocal terms. Claimant states continually act based on the sovereignty territorial ideal whilst non-claimant states act based on their consultative status. Nevertheless, when data is considered, non-claimant states have preserved a relative shy engagement in the region, especially in decision-making. The overwhelming authority of claimants (Argentina, Australia, Chile, France, New Zealand, Norway and the United Kingdom) and potential claimants (the United States and the Russian Federation) has not been properly challenged; albeit the growing

presence of China, India and South Korea in the continent, and the strong scientific engagement of Germany offer a counterpoint. Once these agents internalise the modus operandi of Antarctic Treaty governance, accumulating resources upon which they can also establish the rules and be recognised as crucial Antarctic actors, internal disputes of authority will occur more regularly. So far, the Antarctic Treaty has provided to claimant and potential claimant states the continuity of their sovereignty by other means.

Conclusions

Antarctic exceptionality has constituted this region as a regional international society. The emergence of sovereignty and territoriality primary institutions in international society follows the constitution of international society itself, as internal ultimate authority and external independence of territorial states became international society's foundation. The source of authority has moved from Christendom and the Holy Roman Empire to absolutist kings, who progressively challenged the outside's influence on their particular realms. Likewise, from territories whose limits were defined by wars or heritage, the formation of states has established permanent frontiers which transcend the ruler. The delimitation of political units in a bordered territory enabled rulers to exert their authority more easily, reinforcing their own authority. As long as more political units identified themselves by the same sovereignty and territorial practices, the more values and goals they were perceived to share. The Peace of Westphalia, in 1648, marked not only the end of religious conflict in Europe, but it has also enabled a common acknowledgement that each political unit should be responsible for the faith of its subjects. External ruling on states' affairs was commonly rejected, enabling the founding elements for international society's formation. The Congress of Vienna, in 1814, was its consolidation. The Napoleonic Wars reminded European states of the risks embedded in expansionism and how balance of power was an important institution for the preservation of international society. Acquisition of territory by conquest became interdicted among international society's states, while the rest of the world was available for possession. As the nineteenth century was marked by ideologies such as nationalism and Darwinism, not only was legitimacy transferred from the ruler to the people, but also nations searched for other stages on which competition was to take place.

Antarctica emerged at this moment in international society. Trade was the first primary institution to determine practices in the region, but competition among great powers quickly

expanded balance of power and nationalism as well. However, as sovereignty is the bedrock institution of international society, its expansion – along with the territoriality institution – came through Antarctic sovereignty claims at the beginning of the twentieth century. This set up the core of Antarctic exceptionality and its constitution as a regional international society. Sovereignty denotes recognition, so internal ultimate authority and external independence can take place. And this did not happen in Antarctica. Some claims overlapped whilst potential claimants did not recognise those nor did they resolve to make their own claims. Albeit acquisition of territory was commonly accepted in international society at that time, the environmental conditions of the region challenged a permanent settlement and administration, contributing to a problematic expansion of sovereignty and territoriality. Defined as a continent – which included all sorts of ice formation – Antarctica was not subjected to the same addressment from the Law of the Seas, so sovereignty claims had juridical validity.

The Second World War marked once more the disturbance of international society with an expansionism which transgressed the sovereignty principle. Therefore, the post-war period reinforced international society's principles through the establishment of the United Nations; and through the membership franchise to former colonies that began to define themselves in territorial state terms. But this was not an option for Antarctica. The largest expansion of international society was deterred in a region which was already incorporated by the expansion of primary institutions, but whose completion would oppose international society's principles of peace maintenance, independence of states, honouring of agreements and respect of property rights. If authority should rely on sovereign states whose territory is the main form of space organisation in international society, this configuration was not able to take place. The Escudero Declaration and the IGY provided the trail to the completion of international society expansion to Antarctica. The decision for temporarily not defining sovereignty was understood as an exception for the preservation of international society and its principles. If a sovereign is the one who decides, sovereignty was taking place in Antarctica, but in an adapted way as the historic, environmental and political circumstances of the region were exceptional in international society as a whole.

The Antarctic Treaty consolidated Antarctica as a regional international society once it represented the only place of un-defined sovereignty in the world. Sovereignty and territoriality have been present since Antarctica emerged; but their norm localisation needed to change to be reconciled with international society's principles. And this is what the Antarctic Treaty enabled.

Article IV assured engagement based on different perspectives of sovereignty in the region. Scientific research and environmental protection were considered uncontroversial practices – which mean activities that do not require a sovereignty definition; therefore, they were raised as Antarctic principles, directing the governance of the region. On the other hand, resource management had much stronger sovereignty implications, leading the Treaty to establish side conventions to address those issues to be avoided. Antarctic sovereignty and territoriality had their practices adapted. External independence has been assured by international society recognition that the authority in Antarctica rests with the Treaty. Likewise, the Treaty's jurisdiction lies below the parallel 60°S, which also has defined its territoriality. Internally, ultimate authority has been diffused. National Antarctic programmes have sovereignty prerogatives on their activities, but they should conform those activities according to the decisions taken in Consultative Meetings.

Territoriality has also been performed differently in Antarctica. Permanent facilities have been established according to a differing logic: claimant states are present in their claimed territory, potential claimants are present in all Antarctic sectors, and Consultative Parties are present to the closest gateway and to potential collaborators. Protected areas also inform another form of territorial organisation. In these areas, activities are restricted through the establishment of codes of conduct by the area proponent and through the requirement of issuing permits. These reduce even more the autonomy of nation states and the exercise of their sovereignty over their own activities. Managed areas are other important territorial practice. States whose stations proximity demands coordination can propose management plans for this particular area. However, propositions from single states, or from non-claimant states in an area where a claimant is already established, are harder to obtain. Therefore, sovereignty and territoriality have been exerted through indirect avenues, preserving the exceptional condition of Antarctic governance through the operation of the Antarctic Treaty.

As a regional international society, Antarctica has been able to be kept apart in a coordinated way with international society through the Antarctic Treaty. Considering that claimants and potential claimants are those who established the Treaty, agreed on the exceptional condition of its sovereignty and have been controlling its decision-making since then; it is possible to state that the ultimate authority in Antarctica relies on them. Albeit the Treaty's norms, rules and procedures have been opened up to different participants; they have, in fact, just reassured the original power configuration. Sovereignty and territoriality have not been interrupted, they

have just found alternative ways to expand and constitute the region's identities and practices. Therefore, Antarctica might continue to be preserved as an exceptional place, publicly justified by its unique environment or its unique scientific values. The Antarctic Treaty presents this "unconventional" governance arrangement which has been able to preserve the region. However, the decision for Antarctic exceptionality actually implies an exception for not defining its sovereignty in standard term. This exceptionality has enabled sovereignty and territoriality institutions to constitute Antarctic practices, keeping the region independent from outside rule, and configuring claimant and potential claimants as its ultimate authority.

6 CONCLUSION

This work has fundamentally proposed to explain how an obscurity of sovereignty has defined Antarctic governance. We are aware that governance can take place without government; and when it does, alternative definitions were made available for cases where state sovereignty was not applicable. The sovereignty principle refers to the internal ultimate authority and external independence of a delimited territory. The consolidation of international society enabled the emergence of the sovereignty principle, which in turn constituted international society's identities and practices. Along with sovereignty, the nation state became the territorial ideal for organising international society's social forms. Hence, sovereignty and territoriality were expanded throughout international society, but not all places that were reached were able to be constituted under such terms. Places without sovereignty have been defined according to the principles of *res nullius*, *res communis* or common heritage of mankind, once managing their ultimate authority and independence became a challenge. Whilst *res nullius* means territories without ownership but open to sovereignty claims, *res communis* refers to places where appropriation is not possible, demanding an open access regime. In this case, the benefits from the territory's resource exploitation would belong to the flag-state conducting the activities. However, in areas defined as common heritage of mankind, activities undertaken must be restricted to peaceful purposes and benefits must be shared with all peoples. Therefore, these different principles were important to address cases which could raise potential conflict with international society principles, especially in respect of property rights, which lie at the foundation of sovereignty. But this was not the case in Antarctica.

Sovereignty and territoriality are considered formally undefined in Antarctica. Thus, national territory, *res nullius*, *res communis* or common heritage of mankind are principles not applied to the region, which has provided the foundation of our research question. How can a region be governed by a Treaty without a defined sovereignty? What kind of practices are, then, undertaken? What kind of actors are engaged? Throughout this work, we have tried to demonstrate that sovereignty and territoriality, through their practices and identities, have been present in Antarctica since the first claims, at the beginning of the twentieth century. And they have never stopped. Different arrangements to dodge the demand for effective occupation, banal nationalism performances, scientific research engagement, and year-round stations have all paved the way for claimant states to demonstrate authority and organise the territory. But

nothing compares to the establishment of the Antarctic Treaty: through the suspension of sovereignty discussions – or, in other words, through the impossibility to localise sovereignty and territoriality norms in standard terms – the Antarctic Treaty has just enabled claimants and potential claimants to continue the deployment of their authority on other terms.

The operation of the Antarctic Treaty has configured a diplomatic culture which preserves its original power-configuration. Argentina, Australia, Chile, France, New Zealand, Norway, the Russian Federation, the United Kingdom and the United States have maintained themselves as the main agents in Antarctica, as they dominate the deployment of resources and rules in Antarctic practices, configuring their protagonist role in the region. They are the parties who are most financially engaged, funding the Secretariat at higher levels (regardless of their relative economic power) and conducting activities, such as inspections, which demand technical and financial investment from involved parties. They are the most politically engaged as well. They are the biggest proponents of working papers, which comprise the exclusive procedure to have issues of interest addressed by the Treaty. They also dominate the proposition and participation in intersessional contact groups, the stage where working papers are prepared and adjusted for their presentation in meetings, increasing their chance of generating resolutions, decisions or measures, which are the Treaty's structuring devices. They are the parties most present in Antarctica. Claimants and potential claimants have the highest number of facilities which are located (not by coincidence) in their claimed territories or across all Antarctic sectors when they have just saved their rights for a potential claim.

Raised as principles of the Antarctic Treaty due to their uncontroversial nature, scientific research and environmental protection are also dominated by claimants and potential claimants' practices. Antarctic scientific publications reflect the final product of research conducted in the region, and claimants and potential claimants have been the most productive since 1970. Leadership in science is one of the greatest assets for an Antarctic actor: it not only affords knowledge about the region (which automatically means more control over it), but it also afforded prestige to the actors. Since the Escudero Declaration and the IGY 1957-58, science has enabled engagement in Antarctica without demanding a definition of its sovereignty status, while demanding from newcomers a substantive investment to conduct activities in such an inhospitable environment. Therefore, reliance on those more experienced, and already established in the region, has legitimised the governance arrangement and the authority of those who lead Antarctic science. The commitment and legitimacy provided by science as an

Antarctic principle led to the adoption of "substantive scientific activities" in the region as a membership criterion and, later, as a requisite for acceding to Consultative status.

Environmental protection has also been dominated by claimants and potential claimants. They are the most engaged in addressing environmental issues in Consultative Meetings, which means that they are those who regulate environmental practices in Antarctica. They are also those who most often propose special areas in Antarctica. Antarctic Special Protected Areas are one of the main practices of territoriality in the region, defining an area based on its special character in terms of scientific value or environmental vulnerability, for instance. Those who achieve an ASPA agreement establish its code of conduct and management plan, determining others' practices (which is a demonstration of authority). Similar terms are also found in Antarctic Special Managed Areas. Much rarer than ASPAs, an ASMA refers to a coordination among close National Antarctic Programmes if their activities in a specific region are generating impact or affecting each other's performances. It is preferred that ASMAs are proposed jointly by several parties due to their coordinated nature; however, half of them are managed by a single actor, which creates a strong precedent of authority and territoriality in the region.

Environmental protection, like scientific research, became an important asset for Antarctic Treaty parties for several reasons. First, it restricted resource management, which automatically avoids activities that might demand a sovereignty definition. Second, environmental protection became a qualifier for any activity in Antarctica, as they need to be adjusted to reduce their impact. Consequently, the cost increment for abiding by environmental protection requirements demands investment and expertise from parties, which excludes those not so politically engaged or not capable of being economically invested in the region. And third, environmental protection reinforces the preservationist spirit in Antarctica, which favours a Treaty continuously dedicated to preserving its sovereignty non-definition. Therefore, scientific research and environmental protection principles reinforce claimants and potential claimants' positions, in the same way that these actors qualify these principles into the main guidance for the regions' practices.

Claimants and potential claimants' protagonist role has been enabled by Antarctic Treaty diplomatic culture. Based on a self-reinforcing social system, the Antarctic Treaty, through Consultative Meetings, has translated its preservationist spirit into rules and procedures, which

reinforce its original power-configuration. Frequency and structure of meetings were designed to maintain an informal and decentralised atmosphere in Antarctic decision-making, which has preserved the framework from major modifications. Changing from biannual to yearly meetings in 1991, frequency was modified not only to enable parties to have enough time to approve agreements, but also to slow down the pace of presentation of demands, negotiations and, eventually, reaching decisions. This change of frequency took place due to the extra demands brought about by the Environmental Protocol, and the assurance that the Treaty was consolidated enough to deal with more pressure. Likewise, the establishment of a secretariat was discussed since the first years of the Treaty's operation. However, a decision was only reached in 2001. The concern among parties was that the bureaucratisation of the Treaty could constitute a new actor to compete and outdo existing actors' conduct in Antarctica. Resting the source of ultimate authority on parties – or, in other words, on claimants and potential claimants – has always been paramount.

Consensus has always been an important procedure in Antarctic diplomatic culture, perhaps even the core constituent of its decision-making. Based on the principle of controversy avoidance, consensus was formally adopted to avoid the formation of alliances among parties. But this procedure has also proved to be a useful instrument in maintaining a slow pace in institutional modifications. The need for complete agreement on any decision has avoided the approval of controversial issues which implies a sovereignty definition for its regulation. Therefore, consensus has protected the Treaty from change. Likewise, when a disputed approval was inevitable – due to pressure from claimants and potential claimants or due to the urgency of the issue – multiple interpretations of the mandatory character of a recommendation allowed parties to still dodge those issues which they do not agree on, but which they could not avoid addressing. Bearing in mind a very slow system of adoption, the change in 1995 from recommendations to measures, decisions and resolutions allowed for quicker adoption of those agreements considered procedural and non-controversial. Recommendations could offer a hortatory interpretation if the focus was on the language, but a mandatory one if the focus was on the legal instrument. Therefore, decisions were defined to be exclusively related to the Treaty's operational procedures, being adopted immediately after being agreed, whilst resolutions were of a hortatory nature. Only those measures which do not relate to the approval of ASMAs or ASPAs management plans need to be ratified by all the parties present when they were agreed.

When issues were too controversial and risky for Antarctica's formal undefined sovereignty, side agreements were developed. The Antarctic Treaty does not present significant modifications in its institutional framework. The most significant one was the Environmental Protocol (agreed in 1991 and in force since 1998), which consolidated a preservationist orientation in Antarctic practices and moved the Treaty away from mineral resource exploitation. Environmental concerns have been present in the Treaty since its first years of operation. Identified in similar terms to scientific research, the concern of the Antarctic Treaty's decision-makers was the legitimation of the Treaty in international society. Therefore, investing in uncontroversial activities was the avenue to preserve the political achievements of the Treaty. The 1964 Agreed Measures for the Conservation of Antarctic Fauna and Flora were discussed since the first ATCM (1961) and provided the first environmental protection framework in the region. As the only controversy was found in the regulation or not of sealing in pack ice (which was kept outside this agreement), the measures format enabled the incorporation of this regulation into the Antarctic Treaty. For controversial issues, addressment was handled by the development of side conventions, which were established under the aegis of the Treaty, but were distant enough to gather more actors and deal with more complicated issues without jeopardising the main agreement.

The Convention for the Conservation of Antarctic Seals (CCAS), agreed in 1972, provided the first addressment of resource management in Antarctica. The convention regulated the exploitation and conservation of Antarctic seals, a point left out of the 1964 Agreed Measures. The Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR), agreed in 1980, represented the second resource management addressment by the Treaty. Fishing in the Southern Ocean became an important point of discussion, and its overlap with the United Nations Convention on the Law of the Seas (UNCLOS) was another concern for parties. CCAMLR developed as an autonomous institution, with several members who are not signers of the Treaty, and with an exclusive scientific body to advise on issues relating to conservation and exploitation of marine resources. The robust development of CCAMLR turned the convention in one of the Antarctic Treaty's observers, informing the meeting about resource management activity in the Southern Ocean. Whilst the last convention related to resource management was agreed, it was not adopted by the Antarctic Treaty. The Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA), agreed in 1988 (but never entered into force), was one of the biggest challenges faced by claimants and potential claimants. The regulation on mineral resource activities in the Antarctic attracted many actors

who wanted to be part of negotiations; it also attracted much criticism, especially from environmental non-governmental organisations, advocating for the protection of the region and warning of the risks involved in such activities. The risk of loss of control was real, especially when nations from the Non-Aligned Movement, led by Malaysia, denounced the exclusivism of Antarctic governance and pushed for the addressment of the Antarctic question by the General Assembly of the United Nations, a more representative forum.

CRAMRA represented a turning point for Antarctic governance. The pressure for more participation and the fear of United Nations involvement led the Treaty to establish new roles and open up its operation to international society. Consultative Parties were defined as those who demonstrated substantive scientific activity in the region, which came with decision-making prerogatives; non-Consultative Parties were those who signed the Treaty, but had restricted participation and no decision-making prerogative. Observers represented the category which formalised the advisory role of SCAR, CCAMLR and COMNAP, enabling unrestricted participation for these bodies, but no decision-making prerogative either. Experts configured the remaining actors, comprising mainly non-governmental organisations, specialised agencies and bodies from the United Nations that, like non-Consultative Parties, have restricted participation and no decision-making prerogative. But in contrast to non-Consultative Parties, experts must be invited to each meeting they wish to attend. Therefore, pressures fostered by CRAMRA negotiations resulted in a controlled opening up of the Antarctic Treaty, so claimants and potential claimants could continue to exert authority and perform territorialism practices without disruption. Participation was restricted as papers which were normally introduced to meetings for addressment or just for information sharing were directed towards the different roles established. Working papers, which must be presented for discussion, pave the way for the establishment of agreements (by consensus). Therefore, only Consultative Parties and observers can present this modality, which means that any issue relies on them to be properly addressed by the meeting. On the other hand, information papers, which are not required to be presented, aim just to share information among parties. Therefore, they do not result in an agreement and, for this reason, they can be introduced by any actor, representing the only avenue of participation for non-Consultative Parties and experts. Therefore, the impressive growth in the number of parties and Consultative Parties did not alter the power-configuration of the Antarctic Treaty.

Another important outcome from CRAMRA's negotiations was its agreement followed by its withdrawal. Non-aligned nations co-opted the environmental discourse to oppose not only the convention, but also Antarctic Treaty governance itself, a point explored by post-colonial analysis of Antarctica. Once Australia and France announced their refusal to ratify the convention due to their environmental concerns, an agreement founded on environmental protection was negotiated in record time. Since the establishment of the Environment Protocol, the number of memberships and of Consultative status being granted has dropped off. Not only were expectations on revenues from mineral exploration buried, but also engagement in Antarctica became more demanding in both technical and financial terms. Therefore, Antarctic diplomatic culture constituted a social system that produced and reproduced practices and identities in Antarctica through the deployment of resources and rules by claimants and potential claimants. The Antarctic Treaty's operation reinforces their leadership by norming the region's practices and constituting roles through a preservationist rationale. It fosters scientific research and environmental protection as the main practices and avoids controversy through consensus procedures, the dubious mandatory character of agreements and by the establishment of side conventions. The consequence is a slow pace in institutional modification, preserving the Treaty's status quo at each moment Antarctic practices are produced and reproduced. The operation of the Treaty also counts on a controlled participation, which opens up Antarctica to engagement, but restricts access by newcomers to decision-making through requirements of experience and expertise. Therefore, claimants and potential claimants have continuously enabled and exerted their authority in Antarctica, both before and after the establishment of the Antarctic Treaty.

Resting Antarctica's ultimate authority source on claimant and potential claimants was the solution found to reconcile the region with international society's principles. The preservation of international society, the independence of states, the maintenance of peace, the limits in the use of violence, the honouring of agreements and the respect to property rights could not be ignored in the region. Since the first discoveries at the end of eighteenth century, international society has developed a special relationship with the region. Sealing and whaling, followed by exploring and scientific expeditions have configured Antarctica as the stage that great powers used to consolidate their nationalism and reaffirm their relative power to each other. As conquest was a practice condemned within international society, acquisition of territories and populations around the world were employed. The borders of international society were defined between those who were able to constitute themselves by the sovereignty principle and the

territorial ideal of sovereignty state and those who were not. In this context, Antarctica was perceived as a territory to be controlled outside international society.

When primary institutions expanded, Antarctic practices and identities were constituted by trade, nationalism, balance of power, sovereignty, territoriality, diplomacy, equality of peoples and environmental stewardship. However, problems emerged when sovereignty and territoriality expansion entered into conflict with international society's principles: sovereignty claims were not recognised whilst attempts to organise Antarctic territory were made. Agreements could not be honoured, property rights could not be respected, peace could not be maintained nor could the region be considered independent if sovereignty and territoriality were not constituting identities and practices in the region. Antarctica belonged and did not belong to its claimers. And as long as they could perceive each other as friends or rivals, international societies principles would be assured in this region. However, with the end of the Second World War and the biggest expansion of international society, Antarctica presented a conundrum to all. How can a claim be recognised if the territory is not fully administered? Claims were valid because the region, mainly as a continent, presented the properties of acquisition and delimitation of its territory. And with technological progress, the first year-round stations were established in the 1950s, making an effective occupation much more feasible and sovereignty and territoriality in Antarctica impossible if international society's principles were taken into account.

The Antarctic Treaty established a non-solution to the sovereignty problem. Literature debates, so far, have focused on if this non-solution would be able to endure or not, instead of investigating what it means. Antarctic analyses based on regime theory have gone the furthest in investigating the political dynamics within the Antarctic Treaty and its relationship to international society. The reasons why the Treaty was formed and the compliance it generated to maintain have been the focus of these perspectives. Detailing how great powers have been fundamental actors to form a regime; how an issue should be politicised enough to converge different interests into its addressment; how normative and structural changes must keep actors' behaviour adjusted to a regime's principles, so its legitimacy and compliance are not harmed; or how cooperation and legitimacy can only be generated by the internalisation of a regime's principles, norms, rules and procedures as the best addressment for a common issue; all these perspectives offer important explanations for Antarctic Treaty maintenance and legitimacy in international society. But none has addressed the sovereignty question. In an international

regime, sovereignty and territoriality are taken for granted. However, in Antarctica this a condition which founds the region and differentiates it from any other in international society.

Certainly, the feasibility of Antarctic Treaty governance depends on its relationship with international society. So, the denouement offered by the Treaty could not be in contradiction with principles or practices and identities constituted by primary institutions of international society, which made claimants and potential claimants opt for turning the region into an exception. An exception, because nothing in Antarctica has a counterpart anywhere else in the world. A region which did not have original human settlements, a region where only experience and expertise enable its effective occupation, a region whose sovereignty is claimed by nation states which have resisted waiving their rights, a region whose environment demands scientific research to be known, a region that hosts a governance arrangement which is unique, as it is founded on a formal non-definition. In deciding its exceptionality, claimants and potential claimants maintained their own aspirations, turning Antarctica into a regional international society whose social system, run by the Antarctic Treaty, has produced and reproduced through practices and identities, their authority in the region. So, is this non-definition a fallacy? On some terms it is. As long as it is clear that sovereignty and territoriality take place in the region, this non-definition is just a way of expressing that their norms needed to be differently located, so they could constitute the region.

Territoriality constitutes Antarctic practices and identities. The region's external limit is established below the parallel 60°S, where the Treaty's decisions have primacy. This external independence comes with the recognition by international society that Antarctic Treaty decisions govern the region and being outside the United Nations system is indicative of this condition. Internally, stations and protected areas are also defined by the Treaty. Therefore, territorial organisation has taken place, following the principles, rules and codes of conduct established by the Treaty itself. Equally, sovereignty has also been constituting the region. Authority rests on Antarctic Treaty decision-making, designed to preserve its original power-configuration, which is composed of claimant and potential claimant states. Hence, sovereignty and territoriality primary institutions have just found other means – although exceptional ones – to keep constituting Antarctica in international society.

This research has provided a different approach to understand what Antarctica means. We still need to explore sovereignty in Antarctica further, especially what these different trajectories

mean for the ordinary practices and identities constituted by this primary institution. How claimants and potential claimants articulate with each other in decision-making is another promising research avenue. Cooperation and co-optation of other Consultative Parties as a strategy for resource and rule deployment could offer very interesting insights about the Treaty's governance as well. Investigating Chinese growth in Antarctica is also very promising. China has been constituting its Antarctic engagement on similar terms to potential claimants, which could cause significant disruption to a governance based on the preservation of its power-configuration. Comparing the "exceptionalisation" of Antarctic regional international society with other regional international societies might provide important theoretical tests for the English School. The possibilities are plenty, and we hope that this work has merely provided a starting point. Our goal – beyond focusing on a fundamental and underexplored element of Antarctic governance – was also to demonstrate how Antarctica can offer many possibilities to explore theoretical concepts and approaches, which we expect to see in International Relations debates soon.

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