



Міжнародне співробітництво: суспільно-географічні та політико-правові аспекти освоєння Антарктики

International Co-Operation: Socio-Economic, Political and Legal Issues of Antarctic Exploration

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Russian aggression against Ukraine: a new challenge facing Antarctic governance

Abstract. The Antarctic Treaty System has long been seen as an example of successful international cooperation for peace, research, and environmental protection for the benefit of all humanity. However, the military aggression of one Antarctic decision-making state against another has a destructive effect on the latter's national Antarctic program resulting in a sequestered budget, a reduced research program, and a need to support the scientists threatened or displaced by the warfare. Such military aggression requires a consolidated response from the Antarctic community and challenges the Antarctic Treaty itself as an early and critical arms-control instrument and could undermine the ATS regime. This study examines the first individual and collective efforts to counter Russian full-scale military invasion of Ukraine since February 24, 2022, made by the international polar community, particularly during the highest annual international forum for the Antarctic governance – the 44th Antarctic Treaty Consultative Meeting, ATCM (Berlin, 2022). It is argued that this meeting saw an unprecedented deviation from almost 60 years of diplomatic practices by Antarctic Treaty Parties of controversy avoidance and use of imprecise language in their reports. In Berlin, there was the condemnation in the strongest possible terms of Russian unjustifiable, unprovoked, and illegal invasion of Ukraine. This démarche to the Russian delegation will necessarily affect the further work of other Antarctic-related administrative and advisory bodies within the Antarctic Treaty System. That includes ATCM's observers and experts' organisations such as the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), the Council of Managers of National Antarctic Programs (COMNAP), the Scientific Committee on Antarctic Research (SCAR), and the International Association of Antarctica Tour Operators (IAATO). It is expected that if the aggression continues, isolation measures such as international and national sanctions and institutional restrictions will be extended. In this case, further progress in rejecting any Russian initiatives and suspending ongoing joint projects with Russian partners will significantly complicate the diplomatic, research, fishery, and logistics activities of the Russian Federation within the Antarctic area until the situation allows for the resumption of cooperation.

Keywords: Akademik Vernadsky station, Antarctic Treaty System, Consultative Parties, hybrid warfare, international regimes

1 Introduction

The Antarctic Treaty, signed by 12 States in Washington, DC, on December 1, 1959, was a success of diplomacy since international tensions in relation to the contested territorial claims were succeeded by stability and effective cooperation in the interest of all mankind (Rothwell, 2019). Growing from seven claimants and

five non-claimant signatories (although two, the US and Soviet Union, reserved a “basis of claim”), the Antarctic Treaty now engages 54 states (including 29 Consultative Parties that participate in the decision-making), representing nearly 90% of the global human population.

For more than six decades, the Antarctic Treaty and its related agreements, known as the Antarctic Treaty

System (ATS), have provided a firm foundation for international governance of all kinds of current human activities on the whole continent and the surrounding Southern Ocean south of the Antarctic Convergence, covering nearly 10% of the Earth's surface (Fedchuk, 2019).

The additional instruments of the ATS have created a regime for the regulation and protection of Antarctic seals, a regime for the regulation of Antarctic marine living resources, and a regime for the comprehensive protection of the Antarctic environment. In addition, the Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA) was adopted in 1988; however, this instrument was effectively abandoned when key Antarctic Treaty Parties, namely Australia and France, decided to favour the Protocol on Environmental Protection to the Antarctic Treaty to ban mining in Antarctica and designate it as a natural reserve devoted to peace and science (Rothwell, 2019).

According to paragraph 1 of Article IX of the Antarctic Treaty, representatives from the Contracting Parties shall meet at suitable intervals 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 (The Secretariat of the Antarctic Treaty, <https://www.ats.aq/e/antarctic treaty.html>).

Since 1961, Antarctic governance has taken place in Consultative Meetings, through which decision-making for the region takes place. Consensus-based decision-making, whilst not defined within the ATS instruments, has been understood to mean "the absence of formal objection" (Watts, 1992), guaranteed

that Parties would not have their interests jeopardized, encouraging their progressive engagement with the Treaty. Such authorized practices have always attempted to reinforce the goals the original Parties agreed to as Antarctic governance's main pillars: preserving peace, scientific cooperation, and environmental protection (Sampaio, 2022).

Carrying out substantive scientific research as a key criterion for national engagement in the Antarctic, Parties entitled to participate in the meetings are categorized as Consultative Parties; those who are only signatories are categorized as non-Consultative Parties. Non-Consultative Parties cannot participate in the Treaty's consensus decision-making process. Non-state actors (advisory bodies) whose contributions are considered essential for the Treaty's decision-making have received Observer status. They include the Scientific Committee on Antarctic Research (SCAR), the Commission for the Conservation of Antarctic Living Resources (CCAMLR), and the Council of Managers of National Antarctic Programs (COMNAP). Other intergovernmental and nongovernmental bodies are granted access to the meetings on a discretionary basis as Experts.

As Sampaio (2022) argues, the Antarctic Treaty has shaped actors' expectations on how they should engage within the region. It has been able to continue and develop by providing a solution to the sovereignty issue through time. Moreover, the author concluded that the striking features of the ATS's institutional design are specific diplomatic practices such as the progressive introduction of issues, avoidance of contentious issues, and ambiguous text, all of which have enabled parties to circumvent conflict and reach consensual agreement contributing to the Treaty's effectiveness and legitimacy.

However, as Hemmings (2022) highlighted, Russian invasion of Ukraine, facilitated partly by Belarus, presents an offence against many norms of international relations. That is why the international reaction to this has been swift, resulting in the overwhelmingly supported General Assembly Resolutions, as well as a broad range of mainly Western diplomatic, economic and military sanctions against Russia, and actions in support of Ukraine, except for direct

military involvement in the conflict within the country itself. Furthermore, the fact that one decision-making party to the Antarctic Treaty invaded another one challenges the Antarctic Treaty itself as an early and critical arms-control instrument (Hemmings, 2022). It presents a new sort of challenge to Antarctic governance even though the activity has not occurred in the Antarctic because the Russian Federation's actions interfere with Ukraine's ability to peacefully exercise its rights and duties within the ATS and support its active research activities in Antarctica. This reality joins other, and very different, factors widely discussed in the polar academic literature, such as competition between the claimant and non-claimant states, the growth, and diversification of commercial activities relating to Antarctic natural resources, be it fishery, tourism, or bioprospecting (and potentially prospecting for minerals in the future), all of which poses threats to the Antarctic Treaty System (Hemmings, 2017; Dodds, 2019).

This paper outlines the main challenges faced by the National Antarctic Program of Ukraine in the context of Russia's prolonged hybrid war since 2014 and the full-scale warfare of the invasion after February 24, 2022. Then the paper examines the first individual and collective efforts within the international polar community to counter Russian invasion of Ukraine and forecasts some possible effects of the ATCM outcomes for other international organizations within the Antarctic Treaty System.

The authors, being members of the Ukrainian delegation to the recent Antarctic Treaty Consultative Meetings, including that in Berlin from May 23 to June 2, 2022, summarize their contribution and experience and interpret the background of the relevant discussions on the margins of those meetings. We describe fellow Antarctic Treaty Parties' reaction to Russia's invasion of Ukraine. As a countercheck, literature review and content analysis of the meeting documents and the Final Reports of Antarctic Treaty Consultative Meetings (available at the Antarctic Treaty Secretariat's official website <https://www.ats.aq/>) were made to confirm the unprecedented nature of Treaty Parties' deviation from their usual – and early adopted – diplomatic practice of avoiding controver-

sy and the use of imprecise language to manage such controversy in ATCM Final Reports.

2 Results

2.1 Post-Soviet Union Antarctic issues between the Russian Federation and Ukraine

After the collapse of the Soviet Union in 1991, the Russian Federation, which declared itself its legal successor, kept all Soviet Antarctic stations under its jurisdiction, although according to Article 1 of the Agreement on the distribution of all property of the former USSR abroad of July 6, 1992, 16.37% of the assets of the USSR should have been moved to Ukraine (legislation of Ukraine: https://zakon.rada.gov.ua/laws/show/997_022?lang=en). Article 2 of this Agreement states that the application of this fixed share applies, among other things, to space, air, sea, ground, and other systems and their infrastructures, which certainly includes scientific stations. However, this Agreement regarding the transfer of Antarctic stations by the Russian Federation was not fulfilled, despite the fact that Ukraine had been taking an active part in large-scale comprehensive studies within the Soviet Antarctic expeditions for a long time. For instance, owing to the specially designed snow trucks made in Ukraine, there were numerous research and supply inland traverses, including to the South Pole and the Pole of Inaccessibility, from the 1950s on.

Meanwhile, in 1994, the United Kingdom decided to transfer one of its Antarctic stations to another state, subject to the continuation of long-term geophysical observations. In July 1995, after negotiations between the United Kingdom's and Ukraine's governments, a Memorandum of Understanding was signed between the British Antarctic Survey and the Ukrainian Antarctic Centre. On February 6, 1996, the British Faraday station was transferred to Ukraine free of charge and renamed in honour of Volodymyr Vernadsky, the first president of the Academy of Sciences of Ukraine (1918), who made a significant contribution to understanding the Earth's biosphere and noosphere.

This was the first and, to date, the only case of a transfer of an Antarctic station by a western, developed state to a state of the former USSR, indicating a

qualitative transition from Cold War rivalry to international cooperation in the post-Soviet space. For Ukraine, acquiring its own Antarctic station is another expression of its independence and desire for closer integration into the international scientific community (Hemmings, 2011).

At the 27th ATCM (Cape Town, 2004), when considering Ukraine's application for the status of a Consultative Party to the Antarctic Treaty, the delegation of the Russian Federation expressed its disagreement, referring to the existence of unresolved claims of Ukraine to scientific stations from the Russian Antarctic Expedition. Only the renunciation of any claims by the Ukrainian delegation to some of the stations built by the USSR opened the way to consensus. As a result, Ukraine became the 28th Consultative Party to the Antarctic Treaty (Decision 2 (2005) XXVIII ATCM).

2.2 Consequences of Russian aggression for the Ukrainian Antarctic research in 2014–2021

A decade later and following the Russian Federation's attempted annexation of the Autonomous Republic of Crimea (condemned on March 27, 2014, by the UN General Assembly Resolution 68/262 On the territorial integrity of Ukraine), Ukraine lost several scientific facilities and personnel, including four institutes in the field of marine research. That created significant difficulties in the implementation of oceanographic research by Ukraine, including within the framework of the State Special-Purpose Research Program in Antarctica for 2011–2023.

Moreover, Ukraine, having found itself in a difficult economic situation as a result of the loss of control over part of the eastern regions of the country caused by further military actions by the Russian Federation, was forced to draw attention to this at the 38th ATCM in Sofia, Bulgaria (ATCM, 2015a). In the Working Paper, Ukraine raised the possibility of amending the Financial Regulations of the Antarctic Treaty Secretariat so that each Consultative Party that finds itself in a situation of *force majeure* (military aggression, natural disaster, etc.) has the opportunity to pay contributions to the Antarctic Treaty Secretariat

in instalments until the settlement of the situation. The Meeting noted that, under the Financial Regulations, Parties in arrears in payment of their contributions can still fully participate in the ATCM and therefore did not see the need to amend the Financial Regulations (ATCM, 2015b).

This general point Ukraine made at the 38th ATCM may, in fact, be significant in the other major ATS instrument, the CCAMLR Secretariat, where there are different consequences if a state is in arrears with its contributions. Thus, according to Article XIX.6 of the CAMLR Convention, a Member of the Commission that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Commission (the full text of the Convention is available at <https://www.ccamlr.org/en/organisation/camlr-convention-text#XIX>).

Nevertheless, at the opening of the 40th CCAMLR meeting in 2021, the Commission noted that Brazil, being more than two years in arrears in respect of its budgetary contributions to the organisation, still was welcome to participate in discussions at the 40th CCAMLR meeting. However, pursuant to Article XIX of the Convention, the Commission agreed that Brazil would not be entitled to block a consensus decision of other Members until the situation is resolved by Brazil (CCAMLR, 2021).

2.3 The impact of Russia's full-scale military aggression in 2022 on the work of the National Antarctic Program of Ukraine

For almost two decades, Ukraine chartered foreign tourist and supply vessels to transport its Antarctic expedition teams and supplies to the Akademik Vernadsky station. This was, however, extremely complicated due to these vessels' dense schedules and the impossibility of adjusting them on short notice. Therefore, the Ukrainian Government decided to purchase an ice-class vessel in 2019, when the state's economy was improving.

In August 2021, the Government of Ukraine acquired the British research vessel (R/V), the RRS *James Clark Ross* (renamed *Noosfera*), for the needs of

Ukrainian Antarctic expeditions and the restoration of integrated marine research not only in the Southern Ocean but also in other parts of the World Ocean.

R/V *Noosfera* set out on its first Antarctic voyage under the flag of Ukraine from its home port of Odesa on January 28, 2022. Less than a month later, Odesa was shelled by warships of the Russian Federation and remained at risk of assault. The Black Sea waters near the port were infested by Russian naval mines, which made navigation extremely dangerous and prevented civilian navigation in the northwestern part of the Black Sea.

R/V *Noosfera* crossed the Atlantic with the crew on board, while the main staff (winterers) of the XXVII Ukrainian Antarctic Expedition, as well as the scientists and technicians involved in the summer expedition, were supposed to get to Chile by air and to board the ship there. The flight, scheduled for February 28, 2022, which became the fourth day of a full-scale military invasion by the Russian Federation, was suspended because the sky was closed to civilian air traffic. Some of the participants of the Ukrainian Antarctic Expedition were conscripted into the Armed Forces of Ukraine, and some others, as reservists, were unable to leave Ukraine because of the declaration of martial law. In agreement with the Government of Ukraine, the main staff of the XXVII Ukrainian Antarctic Expedition (14 people) travelled to Warsaw Airport and flew to Chile.

At the same time, the personnel of the XXVI Ukrainian Antarctic Expedition and the seasonal group of specialists who remained at the Akademik Vernadsky station and were waiting to be relieved found out about the outbreak of war far from home. Native cities of many of them were destroyed by massive missile and bomb attacks in the eastern regions of Ukraine.

On March 30, 2022, despite these tragic circumstances, R/V *Noosfera* safely arrived at Akademik Vernadsky station. The process of personnel turnover, unloading of materials and supplies, and station preparation for the next season was completed in the normal mode.

It should be noted that at the time of R/V *Noosfera*'s departure from the port of Odesa, Ukraine was planning large-scale research work in Antarctica's

Atlantic sector and in the Western Antarctic Peninsula region (CCAMLR Statistical Subareas 48.1 and 48.2). In particular, in March-April 2022, it was planned to continue the oceanographic research begun by Ukraine on the R/V *Ernst Krenkel* in March-April 1997 and 1998. It was expected that new data would be obtained on the changing ecological characteristics of the marine environment in the Western Antarctic Peninsula region, which would have provided additional scientific justification for further marine protection in the CCAMLR planning Domain 1.

However, due to the military aggression of the Russian Federation against Ukraine, the reorientation of the country's economy under martial law, and the sequestration of Ukraine's budget allocations for education, science, culture, and other socially important areas, the budget of the National Antarctic Program of Ukraine was also cut. That is why the marine research program of R/V *Noosfera* was reduced. The vessel's return to Ukraine is now impossible, which raises the question of finding a temporary home port for R/V *Noosfera* during the off-season. Currently, the vessel is in Cape Town, South Africa (Walters, 2022).

Significantly, the reduction in marine research and the possible long demurrage of the vessel will undoubtedly hinder the development of Ukraine's scientific capacity before it commences its CCAMLR Chairmanship in 2023–2024. Moreover, on October 10, because of a massive Russian missile attack on critical infrastructure and civilian objects in Ukrainian cities, the head office of the State Institution National Antarctic Scientific Center located in Kyiv was partly destroyed. Although no one was injured, the force of a missile strikes shattered windows, collapsed ceilings, and damaged walls. This was the first case in the history of the Antarctic Treaty System when a state agency responsible for managing scientific research in the Antarctic Treaty Area on behalf of its government suffered destruction as a result of a direct military attack. This action posed a direct assault on Ukraine's ability to act peacefully in support of its international rights and duties as an Antarctic Treaty Consultative Party and CCAMLR Commission Member. The situation worsened because this event had occurred a few weeks before Ukraine had to participate in the

annual CCAMLR meetings in Hobart, which once again showed the Russian Federation's failure to respect the peaceful functioning of the ATS.

2.4 Reaction of the international polar community to Russia's armed aggression

It is remarkable that within the international polar community, seven Arctic States were among the first to react to Russia's invasion of Ukraine. In their joint declaration on March 3, 2022 (U.S. Department of States, 2022), the Arctic States decided to pause all official meetings of the Arctic Council and its subsidiary bodies until further notice. The Arctic Council is the world's primary forum for cooperation among the Arctic nations, which Russia chairs in 2021–2023. The reason given in the joint declaration is Russia's flagrant violation of the core principles of territorial integrity based on international law which have long underpinned the work of the Arctic Council. In addition, concerns have been raised over recent years about the Russian Federation progressively militarizing the Russian Arctic, with wider consequences for Arctic politics (Boulègue, 2022; Kjellén, 2022; Paul & Swistek, 2022).

The next day after the Arctic States' declaration, the European Commission published its statement in which it decided to suspend cooperation with Russian entities in research, science, and innovation (European Commission, 2022). Other Arctic-related international organizations made similar decisions. The International Arctic Science Committee, IASC, decided on March 9 that the Arctic Science Summit Week 2022 will be closed to individuals representing Russian institutions, organizations, and businesses on-site in Tromsø (Norway) and online. In addition, the University of the Arctic (UArctic) decided that collaboration between UArctic and 55 Russian institutions is paused until the situation allows for continuation, with subsequent practical actions as follows: organization of the UArctic Congress 2022 in Moscow is paused until further notice; UArctic members in Russia are not asked to pay membership fees for 2022 (as Russian partners may be restricted due to sanctions and national and institutional regulations).

Such a wide resonance in the international community could not have gone unnoticed by the Antarctic Treaty Parties too. However, at first, there could be heard reflections that ATCM should steer clear of any position concerning the invasion of Ukraine (e.g., Shibata, 2022). The great strength of ATCM has been its ability to avoid contentious issues, which has enabled Parties to circumvent conflicts, exemplified by the instance of the Falklands/Malvinas war in 1982. That was the first armed conflict between two Antarctic Treaty signatories with voting rights.

However, as Hemmings (2022) highlighted, ATCMs were held biennially at that time, and in the year of the Falklands war, there was no Meeting. Moreover, he noted that the conflict was regional warfare related to a dependency and not the metropolitan territory of either state. In contrast, the Russian Federation's war against Ukraine is fought on a much larger scale than the war in the South Atlantic; it poses an existential threat to the invaded state and incurs civilian casualties, refugees, and threat of the use of nuclear weapons. It is a challenge to international order in general (Table).

It is noteworthy that Russia's invasion of Ukraine has a considerable influence on the Ukrainian Antarctic Program. That is the main reason why this issue falls within the mandate of the Antarctic Treaty Consultative Meeting. Notwithstanding the diplomatic trials (as Russia and Ukraine – both decision-making Treaty Parties – sent their delegations to sit around the same table for the first time since Russia's unprovoked invasion on February 24, 2022), there was a common position of Germany as the host country of the 44th ATCM, the US as the depositary state of the Antarctic Treaty, 10 of the 12 original signatories to the Antarctic Treaty (except Russia and South Africa), all seven claimant states, and the overwhelming majority of the rest of Consultative Parties (except China) to signal that Russian Federation's behaviour in causing the biggest land war since 1945 was unacceptable.

To this end, the high German representatives, Ms. Jennifer Lee Morgan, State Secretary and Special Envoy for International Climate Action at the Federal Foreign Office, and Dr. Bettina Hoffmann, Parliamentary State Secretary at the Federal Ministry

for the Environment, Nature Conservation, Nuclear Safety, and Consumer Protection, officially opened the conference, both condemning in the strongest possible terms the unjustifiable, unprovoked and illegal war of one Consultative Party against another. They called on the Russian Federation to end the war against Ukraine, noting that this breach of international law was also contrary to the spirit of the Antarctic Treaty (ATCM, 2022a).

Immediately after the official opening of the 44th ATCM, the Ukrainian delegation presented an Information Paper titled Implementation of the National Antarctic Program of Ukraine in the Conditions of Hybrid Warfare and Open Military Aggression of the Russian Federation: Challenges and Lessons Learned (ATCM, 2022b). It was assigned to Agenda Item 4 “Operation of the Antarctic Treaty System”, which deals with the reports by the Treaty Parties (the depositary states for the Antarctic Treaty, Convention for the Conservation of Antarctic Seals, Convention on the Conservation of Antarctic Marine Living Resources, and the Protocol on Environmental Protection to the Antarctic Treaty), Observers and Experts. Discussion under this Agenda Item is in no way intended to approve any consensus decision; rather, it gives Parties the possibility of expressing their positions.

Ukraine’s paper contained information about the consequences of Russia’s military aggression against Ukraine for its National Antarctic Program. In addition, it requested the Antarctic Treaty Parties to op-

pose the aggression of the Russian Federation in Ukraine within the framework of the ATCM since the Russian Federation, in the eyes of the Treaty Parties, had lost the trust and the status of a partner that respects international law, human rights, and human life as the highest values.

Following the order of the Cabinet of Ministers (Ukrainian Government) of March 14, 2022, No 7482/0/1-22 on the exclusion of Russian representatives from international organizations, professional associations, and international projects, and at the same time realizing that joint measures shall require a mandatory consensus to amend the Rules of Procedure (for example, depriving a Party of the right to vote at the next two ATCMs), Ukraine, therefore, proposed a list of the joint and bilateral measures that may turn out to be effective, such as:

- political démarches;
- boycott of initiatives of the aggressor Party, its chairmanships during intersession contact groups, and nomination of its representatives to the governing bodies of working groups;
- termination or suspension of the implementation of joint scientific and logistic projects;
- refusal to purchase goods and services from suppliers from the aggressor Party, as well as from suppliers whose owners are affiliated with the aggressor Party;
- refusal to supply goods and services to buyers from the aggressor Party and buyers whose owners are affiliated with the aggressor Party.

Table. The comparison of two military conflicts between the Antarctic Treaty Parties

The Falklands/Malvinas war, April 2 – June 14, 1982	Russia’s war against Ukraine, 2022 (ongoing)
Scale of the conflict:	
Regional warfare related to dependency and not the metropolitan territory of either state	Threat of extinction of the invaded state; civilian casualties, refugees; Threat of the use of nuclear weapons; A challenge to international order
Influence on the Antarctic Treaty regime:	
There were no discussions at the ATCM (the conflict had been solved by the next ATCM in 1983), and no direct effect on the national Antarctic programs	ATCM during the ongoing war; considerable attention among both the Arctic states and Antarctic Treaty’s Parties; significant impact on the Ukrainian Antarctic Program

Note: Adapted from (Hemmings, 2022).

In response, most Parties expressed their solidarity with Ukraine, noting the Russian Federation's flagrant violation of the core principles of sovereignty based on international law, including the United Nations Charter. These Parties called for an immediate end to all hostilities against Ukraine and urged the Russian Federation to withdraw its troops from Ukraine and respect Ukraine's territorial integrity. Most Parties also noted the wider negative impacts of the Russian Federation's invasion of Ukraine on worldwide energy and food security and multilateral cooperation in general. Several Parties also condemned Belarus's involvement in this unlawful use of force against Ukraine. Acknowledging the challenges facing Ukraine and recalling previous collaboration with its National Antarctic Program, most Parties offered support to Ukraine, particularly regarding the logistics in Antarctica. They stressed that the Antarctic Treaty had overcome difficult political challenges throughout its 60-year-long history based on its basic principles – peace and international cooperation and that the Parties should strive to advance pressing issues that fall within the mandate of the Antarctic Treaty System.

Apart from the statements of support, some practical actions were undertaken during the ATCM. The Meeting agreed not to continue inter-sessional discussions initiated and moderated by Russia. Additionally, as an individual action, the US decided to denounce the 2012 Memorandum of Understanding (MoU) between the Governments of the United States and the Russian Federation on Cooperation in Antarctica, under which only one joint bilateral Antarctic inspection was held in the season 2012–2013.

In turn, the Russian Federation stated that many of the provisions in the information paper submitted by Ukraine were false. It noted that the paper and comments by many Parties posed a threat to the tradition of international cooperation that underpinned the Antarctic Treaty System. The Russian Federation expressed its outrage at the characterisation of its activities in Ukraine as unprovoked and unjustified, referring to parts of the opening addresses during the Meeting's official opening ceremony. It stated that its military operation in the Donetsk and Luhansk regions of Ukraine was necessary to protect Russians from Ukrai-

nian aggression and was being carried out following Article 51 of the United Nations Charter. The Russian Federation called on Parties to ignore the Ukrainian paper and refrain from accusatory rhetoric.

It is extremely remarkable that for the first time in the ATCM's practice, a substantial number of Parties, including the US, the UK, and EU states, stood up and walked out of the meeting room for the duration of the Russian Federation's address, but not China and South Africa. The latter has adopted a controversial "non-aligned" approach, providing at the same time its seaports and logistics services for both Russian and Ukrainian Antarctic Programs. While acknowledging the challenges facing Ukraine's National Antarctic Program, China suggested that the ATCM was not an appropriate venue to discuss geopolitical issues. China cautioned that the Meeting should focus on its work and multilateral mechanisms as ATCM should not be politicised.

After a lengthy debate, the Parties adopted the Final Report of the 44th Antarctic Treaty Consultative Meeting under Rule 25 of the ATCM Rules of Procedure, which says that the Final Report shall contain a brief account of the proceedings of the Meeting. Finally, to ensure not to block important decisions for reasons unrelated to Antarctic interests, the report was approved by a majority of the Representatives of Consultative Parties present. However, it was noted in the Final Report that consensus was not reached on paragraphs regarding the host's opening statements, the Ukrainian statement, and those of supporters, and the paragraph reporting the Russian Federation's statement (ATCM, 2022a).

3 Discussion

Sampaio (2022) argues that the most remarkable changes to the operation of the Antarctic Treaty regime were membership expansion and the establishment of subsidiary instruments that deal with economic activities under new conventions (entered into force and/or being negotiated within the ATS such as the CAMLR Convention, CRAMRA, and the Environmental Protocol). In her view, it was precisely the diplomatic culture of controversy avoidance that led to

the delegation of Antarctic resource management to other forums, namely CCAMLR, SCAR, COMNAP, and even the private self-regulation of tourism by the International Association of Antarctic Tour Operators, IAATO. All these forums were the solution found by Treaty Parties to preserve the regime by outsourcing potential conflict to other decision-making platforms, enabling, in this manner, the evolution of the Treaty itself and the preservation of its effectiveness (Sampaio, 2022).

However, the unprecedented interference in the National Antarctic Program of Ukraine and the Antarctic Treaty's regime resulted in the deviation of Treaty Parties from almost 60 years of diplomatic practice of controversy avoidance, namely the condemnation of Russia's unjustifiable, unprovoked and illegal invasion of Ukraine. Their *démarche* to the Russian delegation will necessarily affect further work of the ATCM (the next one will be held in Helsinki, Finland, in May–June 2023), as well as other Treaty-related meetings, including the 41st meeting of the Commission of Conservation of Antarctic Marine Living Resources held in Hobart, Australia, October 24 to November 4, 2022.

Unlike the last ATCM meeting in Berlin early in 2022, Ukraine made the statement twice at the 41st CCAMLR meeting. For the first time, at the opening plenary, where the US, the UK, Australia, New Zealand, Japan, the EU, and its Member States confirmed their solidarity with Ukraine again and specifically condemned Russia's invasion of Ukraine, which threatens the rules-based international order. In response, the Russian Delegation urged the parties to avoid anti-Russian rhetoric and return to depoliticized discussions within the mandate of CCAMLR. However, several Members left the meeting room during the reading of Russia's statement, as was done at the last ATCM in Berlin.

In addition, Ukraine made another statement under Agenda Item No. 3 (Implementation of Convention objectives), which described more how Russia's aggression against Ukraine led to significant difficulties in the implementation of the oceanographic research by Ukraine within the framework of the National Antarctic Program. Most Members stated that

the sustained damage to the National Antarctic Scientific Center in Kyiv due to the ongoing war in Ukraine was regrettable and undermines the Antarctic Treaty System and the objectives of the Convention, including its fisheries management.

Despite Russia's attempts to prevent it, the Commission welcomed Ukraine to serve as Chair of the Commission for the 2023 and 2024 meetings, following the procedure agreed upon by the Commission at its first meeting. Ukraine will take office for the next two years right after the conclusion of the 41st CCAMLR meeting per the Rules of Procedure (CCAMLR, 2022).

Continuing Hemmings's (2022) reflections, the most obvious option for 2023 is to prevent Russia's attendance. This would seem consistent with practice in other areas of international engagement where Russia has been isolated and disinvented, e.g., Arctic Council states declaring that they would not participate in the forthcoming meeting in Russia. Presumably, the governments of Finland and Australia (as host states of ATCM and CCAMLR, respectively) could deny any Russian officials access to the ATCM in 2023 if there is the political will to do so. But denial of participation probably cannot operate in this instance because of concerns about establishing new precedents within the ATS. Alternatively, Finland and Australia could deny entry to officials from Russia, leaving representation to diplomats from their embassies in the host country as the least-worst option. This may be aided by the fact that both these states clearly criticized the Russian Federation's behaviour. Finland recently decided to become a NATO Party to protect itself from possible Russian aggression. Australia has provided political, humanitarian, and military-equipment support to Ukraine and created AUKUS, a trilateral security pact between Australia, the United Kingdom, and the United States, primarily for the Indo-Pacific region. However, all three states also coordinate their positions concerning Russian aggression. Moreover, Ukraine, during its chairing of the CCAMLR Commission in 2023–2024, could also initiate measures against Russia as it was done at the last ATCM in Berlin. Thus, if Antarctic Treaty Parties and CCAMLR Members wish, further *démarches* will be possible.

Meanwhile, the Antarctic Treaty Parties' clear and public stand against Russia has already affected Belarus, a non-Consultative Party since 2006, hitherto dependent upon Russian Federation's support to enable its Antarctic activities and partly facilitating Russia's invasion of Ukraine. In 2021, at the virtual ATCM in Paris, Belarus requested a Consultative Party status, the consideration of which was postponed to the 2022 ATCM in Berlin, noting the necessity of an in-person meeting to discuss such an important matter (ATCM, 2021). In point of fact, the Treaty Parties did not want to support the request by Belarus to become a Consultative Party because, despite the great work done to establish regular expeditions and build its research station, it is clear that the current political regime in the country will not be conducive to further development of the Belarusian Antarctic Program, especially in strengthening international cooperation, as required by the Antarctic Treaty. Moreover, the situation in 2022 got even worse for Belarus since it decided to facilitate Russia's invasion of Ukraine. Realizing the lack of consensus before ATCM in Berlin, Belarus itself sent the host country secretariat an official request to postpone consideration of its application till the next year.

However, Russia tried to influence the situation in Berlin, as the Parties also discussed a request from Canada for Consultative Status (Canada has been a non-Consultative Party since 1988). All but two Consultative Parties agreed that Canada's application met the requirements of the guidelines set out in Decision 2 (2017), including the requirement for substantial scientific research activity under paragraph 2 of Article IX of the Antarctic Treaty. Both China and the Russian Federation stated procedural and substantive grounds for not deciding at this ATCM. Therefore, Canada's application will be discussed at the next ATCM in Helsinki in 2023, when Belarus will apply again too. It could be Russia's guarantee and a kind of political bidding that the Belarusian application will be considered together with the Canadian one.

The Antarctic Treaty Parties' condemnation of Russia's invasion of Ukraine also affects other Antarctic-related administration and advisory bodies, such as the Scientific Committee on Antarctic Research (SCAR)

and the Council of Managers of National Antarctic Programs (COMNAP).

SCAR is an international nongovernmental organization based at Scott Polar Research Institute, Cambridge. On the one hand, SCAR depends on membership fees, and the Russian contribution is significant because Russia is one of the only two special contributors (along with the US) that demonstrate the importance of the Antarctic region to their national priorities (<https://scar.org/about-us/members/detailed-information/>). On the other hand, it seems that Russia will not be able to pay any membership fee in the near future because of sanctions.

The SCAR website includes a link to its parent body, the International Science Council, which has expressed its deep dismay and concerns regarding the military hostilities in Ukraine that have generated a grave humanitarian crisis (ISC Statement: <https://council.science/current/news/isc-statement-ukraine/>). SCAR stresses that it is an apolitical organization that promotes scientific cooperation and cannot comment on these matters or act as a forum for such a discussion. Nevertheless, the SCAR Delegates represent its members. Therefore, any member has the right to propose a resolution to the assembled Delegates at the biennial SCAR Delegates Meeting to make decisions by unanimous agreement of its members. It was decided to postpone the consideration of Belarus' application for a SCAR full membership status until the next SCAR Delegates Meeting in 2024.

COMNAP has not felt able to publicly say anything about the consequences of the invasion of Ukraine. However, the COMNAP Annual General Meeting scheduled for Warsaw in 2022 did not take place as an in-person event, and one imagines that this is related to the situation in Ukraine and the influx of refugees (Hemmings, 2022). Moreover, the COMNAP executive committee has decided to postpone the COMNAP Meeting in Minsk (Belarus) to 2025 instead of 2023.

If the foregoing necessarily requires collective action on the part of the Antarctic Treaty System, as Hemmings (2022) also noted, there are other actions available to individual sovereign states due to their governments' sanctions over the war in Ukraine. In particular, Russia largely conducts its national legis-

tics to and from Antarctica via air and shipping routes through South Africa. Moreover, South Africa is also important for the Russian fishing vessels operating under CCAMLR. Therefore, South African restriction on the use of its facilities might be a powerful brake on Russian Antarctic activities (and given their dependency on Russian logistics, Belarus too), particularly given the expectation that other Antarctic Gateway states (Argentina, Chile, Australia, and New Zealand) might be expected not to offer alternative facilities (Hemmings, 2022).

In addition, the Antarctic tourism industry uses a number of Russian-registered vessels, some of which still appear to be owned by Russian state agencies. Following the passing of its Russian Sanctions Bill 2022, the New Zealand Government canceled a voyage of a Russian vessel, *The Spirit of Enderby* (former *Professor Khromov*), run by Heritage Expeditions, the only New Zealand Antarctic tourism company. That company has now contracted an alternative vessel not flagged to the Russian Federation to support its Antarctic tourism. Moreover, in response to Russia invading Ukraine, the New Zealand Government passed legislation allowing it to impose economic sanctions targeting people, companies, assets, and services involved with Russia's aggression (<https://www.pressreader.com/new-zealand/the-press/20220311/281586654067540>).

4 Conclusions

As was shown above, both hybrid warfare and open military aggression by one Consultative Party against another undoubtedly have a destructive effect on the implementation of the invaded Party's National Antarctic Program and that of the attacker Party (as a result of collective and individual sanctions, including national and institutional restrictions).

Thus, due to the Russian military aggression and the subsequent reorientation of the country's economy under martial law, the budget of the National Antarctic Program of Ukraine was sequestered; the marine research program of the R/V *Noosfera* was reduced, and the return of the vessel to the Ukrainian home port is delayed. Moreover, the native cities and

university facilities of many Antarctic scientists from the eastern regions of Ukraine were partly or totally destroyed. They and their families were forced to seek asylum in the western regions of Ukraine or abroad. In this regard, the global scientific community should protect Ukrainian scientists threatened or displaced by this warfare by providing them opportunities to continue their work.

Moreover, the Russian military aggression challenges the Antarctic Treaty itself and could undermine the regime as a whole, which requires a consolidated response from the Antarctic community. It is precisely that unprecedented deviation of Antarctic Treaty Consultative Parties' specific diplomatic practices of controversy avoidance and use of imprecise language in final reports that will necessarily affect the further work of the Antarctic Treaty System.

If the aggression continues, the isolation measures, such as international and national sanctions and institutional restrictions, will be extended. In this case, further progress in rejecting any Russian initiatives and suspending ongoing joint projects with Russian partners will significantly complicate the achievement of the Russia Federation's diplomatic, research, fishery, and logistics activities in the Antarctic and the Southern Ocean area until the situation allows for the continuation of such cooperation.

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Російська агресія проти України: новий виклик для управління Антарктикою

Реферат. Договір про Антарктику вважався прикладом успішної міжнародної співпраці заради миру, наукових досліджень й охорони навколишнього середовища на благо людства. Однак воєнна агресія однієї сторони Договору проти іншої, всупереч духу Договору про Антарктику, має руйнівний вплив на її національні антарктичні програми та вимагає консолідованої відповіді антарктичної спільноти. У цій статті розглядаються перші індивідуальні та колективні зусилля щодо протидії повномасштабному воєнному вторгненню росії в Україну у 2022 році, вчинені міжнародною полярною спільнотою, в першу чергу в рамках роботи найвищого щорічного міжнародного форуму з питань управління Антарктикою – 44-ї Консультативної наради з Договору про Антарктику, КНДА (м. Берлін, 2022 р.). Стверджується, що безпрецедентний відхід Сторін Договору від запровадженої ними майже 60-річної дипломатичної практики уникання протиріч і найрішучіше засудження невинного, безпідставного та незаконного вторгнення росії в Україну з подальшим демаршем на виступ російської делегації, обов'язково вплинуть на подальшу роботу інших пов'язаних з Антарктикою адміністративних та дорадчих органів, задіяних у роботу КНДА як спостерігачі та експерти (таких як Комісія зі збереження морських живих ресурсів Антарктики (ККАМЛР), Рада керуючих національними антарктичними програмами (КОМНАП), Науковий комітет з антарктичних досліджень (СКАР) та Міжнародна асоціація антарктичних туроператорів (ІААТО). Очікується, що у разі продовження російської агресії заходи з ізоляції, такі як національні санкції та інституційні обмеження, будуть продовжені та посилені. У цьому випадку подальший прогрес у блокуванні будь-яких російських ініціатив і припинення поточних спільних проектів з російською федерацією суттєво ускладнить виконання дипломатичної, дослідницької, рибпромислової та логістичної діяльності росії в антарктичному регіоні, допоки ситуація не дозволить продовжити таку співпрацю.

Ключові слова: гібридна війна, Консультативні сторони, міжнародні режими, Система Договору про Антарктику, станція «Академік Вернадський»