INTRODUCTION
The 1959 Antarctic Treaty\(^1\) developed in response to a number of political, legal and scientific concerns over the future of Antarctica. The Treaty, which became operative in 1961, has proven particularly robust and effective in dealing with these issues during its 40 years of operation. Part of the key to its success has been its capacity to evolve through the adoption of new legal instruments which has expanded the scope of the original Treaty, the most prominent example of which is the 1991 Protocol on Environment Protection (Madrid Protocol).\(^2\) The Treaty contains a number of pivotal provisions which has allowed it to succeed. One of these is Article IV dealing with Antarctic sovereignty. However, as the Treaty's area of application extends north to 60\(^\circ\)S, this also has implications for the Southern Ocean. The Antarctic Treaty regime therefore provides a legal regime not only for the continent but also for the Southern Ocean, which through the extended reach of CCAMLR applies beyond 60\(^\circ\)S.

Throughout the life of the Antarctic Treaty there has been a considerable development in the law of the sea and the interaction of the law of the sea with the Antarctic Treaty System (ATS) has generated considerable academic interest. The Treaty was negotiated in the year following the 1958 First United Nations Conference on the Law of the Sea (UNCLOS I), at which the customary international law concepts of the territorial sea and continental shelf were codified into treaty law. Since that time the law of the sea has further developed through state practice and the 1982 United Nations Convention on the Law of the Sea (LOS Convention).\(^3\)

Developments within both the ATS and law of the sea suggest the interaction of these areas is growing. This paper gives particular attention to

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some of the pressing law of the sea issues facing Antarctica and the Southern Ocean in the coming decade.

**BASELINES IN ANTARCTICA**

The normal baseline is the "low-water line along the coast", however as much of the Antarctic continent is surrounded by ice throughout the year it is impossible in most areas to determine a traditional low-water mark. Ice shelves which are physically attached to the continent are also a significant Antarctic coastal feature, with the consequence that in some parts the Antarctic coastline is in fact the outer edge of the ice shelf. These distinctive polar conditions are not directly provided for in the LOS Convention and there is little state practice in the area. As all seven Antarctic claimants are also now parties to the LOS Convention and accordingly will be required to address the baseline issue prior to submitting to the Commission on the Limits of the Continental Shelf (CLCS) any claims over continental shelf areas in the Southern Ocean in excess of 200 miles, this is now emerging as a legal issue of some consequence. Until May 2001, Australia, as the only original party to the LOS Convention upon its entry into force on 16 November 1994, was to have been the first Antarctic claimant required to lodge its continental shelf claim within the 10 year deadline set for submission of continental shelf claims to the CLCS. However, following the eleventh meeting of the State's Parties to the LOS Convention in May 2001, the 10 year deadline is now deemed to have commenced on 13 May 1999 for all States that were parties to the Convention.5

The fundamental rule regarding baselines is found in Article 5 of the LOS Convention which provides that except where indicated otherwise (the most significant exception being in the case of archipelagic baselines) "the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast". This line is to be marked on official large-scale charts. Unhelpfully, there is no definition provided of the 'low-water line' in the LOS Convention. Straight baselines may, under Article 7 of the LOS Convention, be utilised:

1. In localities where the coastline is deeply indented and cut into; or
2. In localities where there are a fringe of islands along the coast in its immediate vicinity; and

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5 See UN Doc. SPLOS/72. Decision regarding the date of commencement of the ten year period for making submissions to the Commission on the Limits of the Continental Shelf (29 May 2001).
3. When, if because the coastline is highly unstable due to the presence of a delta or other natural conditions, the baseline points which otherwise would have been selected in 1 and 2 above, may be selected along the furthest seaward extent of the low-water line; and

4. To and from low-tide elevations permanently above sea level with lighthouses or similar installations built on them.

In the Antarctic context, the provisions of Article 7 are of some significance, especially where the "coastline is highly unstable". However, it remains unclear whether Article 7 was designed to address the problems which arise where the coastline is unstable due to the presence of ice, particularly ice shelves.

In drawing Antarctic baselines, determining whether ice shelves, fast ice or pack ice can be used as basepoints is a fundamental issue. Interestingly, none of the territorial claimants make any express reference to ice shelves in their Antarctic claims. This may indicate that the claimants see no need to treat ice shelves located on land any differently from the land itself. As many legal commentators are prepared to equate ice shelves with land, or at least accord them a *sui generis* classification,\(^6\) ice shelves should be considered subject to sovereign claims. This status seems to be reflected in Article VI of the Antarctic Treaty which expressly includes within the Treaty's area of application "all ice shelves".

In the case of fast ice, some commentators argue that because of its permanent nature it is susceptible to claim where it extends beyond land.\(^7\) Given the degree of permanence of fast ice in Antarctica, as shown by its use as a means of transporting goods to and from ships resupplying scientific bases, there would seem to be no grounds on which fast ice should be distinguished from ice shelves for the purposes of determining baselines other than that fast ice fringes the coast and is not physically attached to it. While pack ice also has a certain permanence, it should be considered differently to fast ice as it does not cling to the coast and is much more susceptible to seasonal variation. Accordingly, there is little to suggest that pack ice should influence the determination of a straight baseline.

The determination of any baselines in Antarctica raises a series of questions. Can a traditional low-water mark be identified? What therefore is the status of ice around the coastline? Can the outer edge of an ice shelf be used for a straight baseline? How are the provisions of the LOS Convention to be

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\(^7\) See M.M.R. Freeman "Contemporary Inuit Exploitation of the Sea-ice Environment" in Sikumiut *The People who use the Sea Ice* (Ottawa: Canadian Arctic Resources Committee, 1984) 73.
applied? Is the baseline to be adjusted when there is a calving of ice? These are legal issues for which at present there are no clear answers.

**MARITIME CLAIMS IN ANTARCTICA**

As the declaration of baselines and adjacent maritime zones around Antarctica is the act of a sovereign coastal State, it is necessary to consider what impact, if any, the provisions of the Antarctic Treaty may have upon such claims. Sovereignty in Antarctica was a pivotal issue at the time of the Treaty's negotiation in the late 1950s in need of a resolution. The mechanism adopted is found in Article IV which is in two parts. The first provides:

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 basis of claim to territorial sovereignty in Antarctica.

   Article IV (1) seeks to deal with the position concerning the existing territorial claims, and potential claims that could be made in Antarctica. It seeks to deal with the interests of a variety of States. These include the seven territorial claimants, those territorial claimants who may be in dispute with other claimants over the validity of their claims, and States such as the United States and Russia who may wish to assert a territorial claim in the future. The formula provided in Article IV (1) is such that all the principal parties in Antarctic affairs could come together under the control of a single regime without compromising their position on the status of sovereignty claims, or potential sovereignty claims.

   Article IV(2) addresses the issue of the continuing impact of the Treaty upon sovereignty claims throughout the duration of the Treaty. It provides:

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,  

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Art. IV (1)(c) particularly applies to the mutual non-recognition by Argentina, Chile and the UK of their claims.
or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

Article IV (2) deals with two situations. The first is the enhancement of an existing sovereignty claim based on traditional concepts of perfection of an inchoate title to territory. The second, is an outright prohibition on the assertion of new claims or the enlargement of existing claims while the Treaty is in force. The effect of Article IV(2) is that all claims, basis of claims, or potential claims were suspended as of 23 June 1961 and that nothing which occurs while the Treaty is in force will effect the pre-existing position of all the interested parties - both claimants, potential claimants, and non-claimants. As a result, the boundaries of existing territorial claims in Antarctica remain in place for the duration of the Treaty. Article IV has been described as the "cornerstone of the Antarctic Treaty". However, the intent, interpretation and potential application of Article IV has been and remains a source of great debate.

A further issue arises over whether maritime claims can even be asserted due to the potential lack of 'coastal states' in Antarctica. As only coastal states may assert maritime claims, it is necessary to determine whether any state has a valid claim over a coastal area before it is eligible to assert a maritime claim. In Antarctica this raises particular problems where Article IV of the Antarctic Treaty dominates discussion. Given the uncertain status in international law of the validity of the Antarctic claims, a threshold question is whether there exists any states in Antarctica whose territorial claims are recognized so as to allow them to assert a maritime claim. This question can only be answered by a long historical review of each of the territorial claims, which is beyond the scope of this work. It is appropriate, however, to consider whether the Antarctic Treaty's provisions allow for the assertion of Antarctic maritime claims. In the lead-up to the negotiation of the Treaty in 1959 the resolution of disputes over the status of Antarctic territorial claims was considered one of the pivotal issues. The provisions of Article IV(1) of the Treaty were considered the answer to this problem. Article IV(2) also prohibits the making of any additional or new sovereignty claims while the Treaty is in force. How Article IV(2) is interpreted can have a significant impact upon the ability of Antarctic territorial claimants to assert maritime claims.

There has been variable practice concerning territorial sea claims in Antarctica. In some instances claims have been made in conjunction with territorial claims. In other instances, separate proclamations have been made over territorial sea zones. In the case of New Zealand's territorial sea off the

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10 See eg Auburn, supra note 5 at 104-110; Gillian D. Triggs International Law and Australian Sovereignty in Antarctica (Legal Books, Sydney: 1986) 137-150.
Ross Dependency it seems that there was no formal proclamation as such but rather a gradual recognition that through the application of previous UK legislation a territorial sea did indeed exist. Despite this variable practice, the limitations on claims in Article IV(2) of the Treaty cannot be interpreted as inhibiting claimants from asserting territorial sea claims. This follows because the territorial sea is considered an inherent right of coastal states recognised in customary international law and conventions prior to the entry into force of the Antarctic Treaty.\footnote{D.P. O'Connell *The International Law of the Sea* (Clarendon Press, Oxford: 1982) 60-169, Churchill and Lowe, supra note 4 at 71-77.}

A more difficult question arises over whether territorial sea claims can be enlarged without breaching Article IV(2). If customary international law now recognises that coastal states are entitled to a 12 nautical mile territorial sea it could be argued that the enlargement of an Antarctic territorial sea claim from 3 to 12 nautical miles is not an enlargement for the purposes of Article IV(2) of the Treaty, but merely an act adopting a current coastal state entitlement recognised by international law. Nevertheless, it must be conceded that the enlargement of a pre-existing claim to a territorial sea offshore Antarctica will result in the assertion of sovereignty over a greater maritime area.

Exclusive Economic Zone (EEZ) or fisheries zones have only been claimed in Antarctica by Argentina, Australia and Chile.\footnote{See W.M. Bush *Antarctic and International Law: A Collection of Inter-State and National Documents* Vol II (Oceana, London: 1982) 72, 202-203, 208-209, 448-449.} However, varying practices have been adopted by the claimant states towards their mainland claims and those of offshore and sub-Antarctic islands. EEZ claims raise difficulties for the Antarctic territorial claimants under Article IV(2). This follows because the EEZ concept was not recognised in international law prior to 1961, and unlike the territorial sea or continental shelf it is not recognised as an inherent sovereign right of a coastal state.\footnote{Barbara Kwiatkowska *The 200 Mile Exclusive Economic Zone in the New Law of the Sea* (Martinus Nijhoff, Dordrecht: 1989) 7-9.} It follows that EEZ claims must be proclaimed if they are to be asserted. Under these circumstances, the conclusion seems inescapable that the declaration of an EEZ in Antarctica seeking to assert resource sovereignty and jurisdiction is either an enlargement of an existing claim or assertion of a new claim and thereby infringes Article IV (2).\footnote{James Crawford and Donald R. Rothwell "Legal Issues Confronting Australia's Antarctica" (1992) 13 *Australian Year Book of International Law* 53 at 81.}

THE ANTARCTIC CONTINENTAL SHELF

While the outer limits of the continental shelf have been extended by the LOS Convention, the extent of coastal state rights to a continental shelf did not change. The law of the sea recognizes that coastal states have inherent sovereign rights over a continental shelf which need not be actively proclaimed. As such, it...
can be argued that an Antarctic continental shelf is an inherent right of every claimant and does not represent the assertion of a new claim. Consequently under the terms of the Antarctic Treaty it would seem that coastal states are entitled to assert continental shelf claims in Antarctica. However, as in the case of the territorial sea, an issue can arise over whether the enlargement of a previously asserted continental shelf claim in order to meet the new standards set by LOS Convention breaches the terms of Article IV(2).

By revising the juridical limits of the continental shelf, the LOS Convention not only presented an opportunity for coastal States to assert more extensive continental shelf claims but also created a need for those claims to be subject to close scrutiny. Accordingly, as envisaged by Article 76, Annex II establishes the Commission on the Limits of the Continental Shelf (CLCS) to make recommendations on the outer limits of the continental shelf.

The principal difficulty facing extended shelf claims in the Southern Ocean relate to the method by which claims will be considered by the CLCS. In September 1998, the CLCS adopted rules of procedure,15 outlining aspects of its operation including, inter alia, the manner in which meetings would be conducted, voting within meetings, and the submission of data by coastal States. The provisions in relation to the submission of data by coastal States are significant because data must be received by the Commission to substantiate any claim to an extended continental shelf.16 In relation to Antarctic continental shelf claims, Rule 44 of the CLCS Rules of Procedure is of particular relevance. It, in part, provides:

In case there is a dispute in the delimitation of the continental shelf between opposite or adjacent States or in other cases of unresolved land or maritime disputes, submissions may be made and shall be considered in accordance with Annex I to these Rules.17

Annex I of the Rules provides that where a dispute under Rule 44 exists, the coastal State making the submission is under an obligation to advise the Commission of the dispute.18 After noting procedures in relation to scenarios involving delimitation, the Annex goes on to provide:

In cases where a land or maritime dispute exists, the Commission shall not examine and qualify a submission made by any of the States concerned in the dispute. However, the Commission may

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16 See LOS Convention, art. 4, Annex II.
17 CLCS Rules of Procedure, rule 44 (1).
18 CLCS Rules of Procedure, para. 1, Annex I.
examine one or more submissions in the areas under dispute with prior consent given by all States that are party to such a dispute.\footnote{CLCS Rules of Procedure, para. 5(a), Annex I.}

These provisions effectively mean that while the Commission will receive data in relation to disputes involving land or maritime areas, it will not act upon such data except in one of two situations. The first being where all the parties to a dispute are prepared to allow the data to be examined by the Commission, while the second would be the resolution of the dispute itself.

In terms of the seven Antarctic claimants, the clock has started for all of them as all are parties to the LOS Convention. However, the ten year deadline is now measured from 13 May 1999, which was the date of the adoption by the CLCS of its Scientific and Technical Guidelines. At the present point in time, only three of the claimants have sought to formally assert a claim over the continental shelf around their Antarctic territory: Argentina; Australia; and Chile. The lack of legislative action by the other claimants is not significant in itself for the purposes of claiming an extended shelf. Article 77(3) of the LOS Convention confirms a right to a continental shelf and does not require any express proclamation by a coastal State. Further, the 10 year period is initiated by the coastal State becoming a party to the LOS Convention, not from its assertion of a continental shelf claim. Should any claimant State wish to successfully assert an extended continental shelf claim beyond 200 nautical miles in the future, it will have to submit its data by May 2009 or within 10 years of becoming a party, even if it has no intention in the immediate future of ever proclaiming its rights over the shelf.

There are at least three sub-Antarctic island groups which potentially generate a continental shelf that will extend both south of 60°S and beyond 200 nautical miles: Heard Island; Macquarie Island; and the South Sandwich Islands. In the case of the last group, they are the subject of a sovereignty dispute between the United Kingdom and Argentina, so would face the same difficulties for the CLCS as any Antarctic territory. For the other two islands, Macquarie Island potentially generates a continental shelf that extends into the Antarctic Treaty area, but this shelf does not come in contact with any potential Antarctic shelf. In the case of Heard Island, its shelf does extend to touch a possible Antarctic shelf, but both the island and the corresponding portion of Antarctica are subject to an Australian claim.

**SOUTHERN OCEAN MARITIME BOUNDARY DELIMITATION**

Assuming the existence of maritime claims in Antarctica, there will eventually be a need to resolve overlapping maritime claims by way of maritime boundary delimitation. Articles 74 and 83 of the LOS Convention provide a framework for
this process, but there is also considerable scope for the parties themselves to reach a resolution by whatever means they may choose. It is important to note that not all states seek to resolve their overlapping maritime boundaries and it is possible that some Antarctic claimants may be content to leave their maritime boundaries with neighbouring claimants unresolved. For some states where sovereignty is not an issue, it will be necessary to resolve overlapping maritime claims. Australia and France, for example, have delimited maritime boundaries adjacent to their sub-Antarctic possessions of Heard and McDonald Islands and Kerguelen Island. Adjacent to the AAT, it may be necessary for Australia to eventually delimit maritime boundaries with New Zealand (Ross Dependency), France (Adelie Land), and Norway (Dronning Maud Land).

Not all maritime boundaries in the Southern Ocean will be capable of resolution. In the case of the Antarctic Peninsula, not only will maritime claims overlap between Argentina, Chile and the UK, but the unresolved nature of the continental claims in that region will make it impossible to adequately determine the maritime boundaries. The unclaimed sector of Antarctica also presents challenges for maritime boundary delimitation and both Chile and New Zealand will need to be mindful of any rights which may exist for a future claimant over that territory when asserting their maritime claims in the region.20

MARINE LIVING RESOURCES

The most comprehensive management mechanism which exists in the polar regions for any resource is the 1980 Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR). The Convention was adopted as a result of concerns which developed during the 1970s that unregulated exploitation of fishery stocks in the Southern Ocean could develop into a major commercial activity. Given what had occurred with unregulated whaling in the nineteenth and early twentieth centuries there was a desire to deal with resource management issues before major problems arose. CCAMLR represents an attempt to adopt the 'precautionary approach' to resource management in Antarctica and this is recognised in its Preamble. Following the speedy entry into force of CCAMLR in 1982 there were high hopes that it would be able to deal with the emerging problem of Antarctic marine living resource management and to right any difficulties which had been identified following years of unregulated access to the resource. However, these expectations have not been met, due to a combination of institutional and political problems.

CCAMLR has focused on regulating two fisheries in particular. The krill fishery has received considerable attention, primarily because it was one of the

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driving factors behind the development of CCAMLR due to the concerns over unregulated harvesting of a stock which plays a key role in the Antarctic food chain. Catch limits have progressively been placed on krill in the South Atlantic and South Indian Ocean sectors of the Southern Ocean. More recently there has been much attention given to the management of Patagonian toothfish (*Dissostichus eleginoides*). The management of this fishery has proved to be particularly challenging due to stocks being found both outside the CCAMLR area of operation and also adjacent to the maritime zones of sub-Antarctic islands over which sovereignty is not disputed, but which do fall within the CCAMLR area. In addition, there have been widespread reports of illegal fishing for the toothfish by vessels from non-CCAMLR parties, which has further highlighted the difficulty in applying CCAMLR to non-parties. The enforcement of fisheries laws in the Southern Ocean is particularly difficult due to the vast distances patrol vessels are forced to operate from their bases and the conditions which exist in the Southern Ocean. Australia has successfully arrested three illegal fishing vessels offshore the Heard and McDonald Islands, and the French also have been operating regular patrols in the vicinity of the Kerguelen Islands. While this matter has been extensively discussed at recent meetings of the CCAMLR Commission, there has been no cessation of the illegal fishing.

In the case of whaling, the 1946 International Convention for the Regulation of Whaling (ICRW) is particularly important because of the large numbers of whales which frequent the Southern Ocean and the history of Antarctic whaling. The Convention, which has been signed by most whaling nations and the principal parties to the Antarctic Treaty, creates a regulatory regime for the catching of whales in all the world's oceans. The ICRW is administered by the International Whaling Commission (IWC). State parties through the IWC forum can set catch quotas, designate protected species, and regulate whaling methods. While the Convention seeks to prevent the over-exploitation of whales it could not be claimed that it is protectionist. Rather it seeks to ensure sustainable whaling. Given the serious depletion of whale stocks that had occurred before the Convention's entry into force, the IWC has always sought to closely monitor and regulate any whaling activities taking place in the Southern Ocean. In 1982 all commercial whaling was prohibited in Antarctic waters, and elsewhere from 1986. However, 'scientific whaling' still occurs for research purposes, principally by Japan. This has been the subject of controversy as claims have been made that Japanese whalers have used this as a loophole to engage in commercial whaling in the Southern Ocean.

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22 161 UNTS 74.
MARITIME REGULATION AND ENFORCEMENT

With the growth in interest in Antarctic fisheries during the 1990s the Antarctic Treaty parties, and especially the Antarctic territorial claimants such as Australia, have been faced with problems in regulating fishing in the Southern Ocean. While CCAMLR provides a framework for Southern Ocean fisheries management and regulation, it is really only effective when dealing with CCAMLR parties. How to deal with IUU fishing in the Southern Ocean has raised much greater problems. There are essentially two key issues associated with maritime regulation and enforcement operations in the Southern Ocean. The first is the legal constraint placed on such operations by the uncertain sovereignty claims which exist in the regime and the limited jurisdiction which can be exercised under the ATS. For Australia this problem is greatest in relation to maritime activities offshore the AAT. To an extent Australia seeks to rely not only upon the cooperative mechanisms established under CCAMLR to regulate maritime activities in this area, but also uses a certain amount of bluff. For example, the new Environment Protection and Biodiversity Conservation Act 1999 (Cth) prohibits whaling activities within the Australian Whale Sanctuary including the EEZ of the AAT. An additional factor assisting Australia's position is that the EEZ waters offshore the AAT are not the subject of extensive fishing activities. Offshore Australia's external territories of Heard Island and the McDonald Islands, both of which are sub-Antarctic islands which fall within the CCAMLR area of operation, the position differs. Here Australian sovereignty is unquestioned, though there is an obligation for Australia to act consistently with CCAMLR.

The greater problem confronting Australia, and any other Antarctic claimant wishing to give effect to maritime laws and regulations, is that of practically enforcing those laws. Following reports of illegal fishing operations in 1997/1998 the Royal Australian Navy dispatched the frigates HMAS Anzac and Newcastle on patrol in the Southern Ocean resulting in the arrest of three illegal fishing vessels. These operations, aimed at protecting the Patagonian toothfish fishery in and around Heard Island and the McDonald Islands, highlighted Australia's lack of adequate enforcement capacity in the region and the costs associated with any operations if action was going to be taken with estimates of up to $15.8 million having been spent in recent years on enforcement operations. These issues were further highlighted in March 2001 when the Australian fisheries patrol vessel Southern Supporter intercepted the Togo-registered South Tomi illegally fishing in the Southern Ocean and engaged

23 Environment Protection and Biodiversity Conservation Act 1999 (Cth), ss 225, 229, 528.
in a hot pursuit of the vessel all the way to South Africa prior to apprehension and return to Australia.\(^{24}\)

These incidents have only reinforced concerns about the lack of coastal state enforcement capacity in the Southern Ocean through the combination of the weakness in the legal regime and an incapacity to engage in distant operations in polar conditions with ill equipped vessels. One possible response to this problem may be greater regional and sub-regional cooperation to deal with IUU fishing in which both flag and port states take a greater role. This is one of the options Australia, France, New Zealand and South Africa have been considering and it is no coincidence that all four have sub-Antarctic islands which fall within or adjacent to CCAMLR areas of operation.

**CONCLUSION**

The impact of the LOS Convention on the legal regime of the Southern Ocean is undeniable. As most States are interested in keeping this law of the sea framework intact, it is to be expected that States generally will seek to regulate new ocean uses by the development of new law, within the limits set by this basic framework. The impact of the entry into force of the LOS Convention has not been very conspicuous in most areas. This is in large part explained by acceptance of most of the Convention into customary law before 1994. The impact of entry into force has been mostly felt in terms of procedural consequences, such as the establishment of the CLCS under article 76 of the Convention.

Against this interaction of the law of the sea with the Southern Ocean, the continued development of the ATS in the 21\(^{st}\) century seems inevitable. The history of the Antarctic Treaty System has been one of gradual expansion outwards from the continent encompassing more of the Southern Ocean. As this study has demonstrated there are a multitude of legal and political issues confronting the Southern Ocean and many of them revolve around how the ocean is delimited (either by coastal States, Antarctic Treaty parties, or the international community) and the respect given to jurisdiction exercised within that ocean space. Incidents concerning illegal fishing in the CCAMLR area during the 1990s represented one of the few examples of disregard for the Antarctic Treaty regime since it was adopted in 1959. However, notwithstanding the actions of Australia in responding to these incidents, they highlighted the challenges in enforcing jurisdiction in polar oceans. How the Antarctic Treaty regime responds to these challenges in the future will be the real test for the system especially as distant water fishing nations seek out new fishing grounds,

\(^{24}\) See Wilson Tuckey (Minister for Forestry and Conservation) "Australia Captures Million Dollar Foreign Fish Poacher" (Media Release AAFA01/30TU: 12 April 2001).
Antarctic ship-borne tourism continues to expand, and climate change makes navigation in the Southern Ocean more feasible.