



HOUSE OF LORDS

# Library Note

## **Antarctic Bill (HL Bill 76 of 2012–13)**

The Antarctic Bill would implement Annex VI (the 'Liability Annex') to the Antarctic Treaty's Environmental Protocol and sets out measures to reduce risks of environmental emergencies in Antarctica. It would also make a number of changes to the Antarctic Act 1994 to give additional protection to the Antarctic environment. This Library Note provides background information in advance of the Bill's second reading in the House of Lords on 1 February 2013. It gives brief background on the UK's involvement in the Antarctic and the Antarctic Treaty, before summarising the Bill's report stage and third reading in the House of Commons. The Note should be read in conjunction with House of Commons Library Research Paper, [Antarctic Bill](#) (30 October 2012, RP 12/63), and House of Commons Library Standard Note, [Antarctic Bill: Committee Stage](#) (17 January 2013, SN/IA/6528). Also relevant are House of Lords Library Note, [Debate on 18 October: Scott Expedition to Antarctica and Scientific Legacy](#) (16 October 2012, LLN 2012/034) and House of Commons Library Standard Note, [Antarctica: The Treaty System and Territorial Claims](#) (18 July 2012, SN/IA/5040).

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## 1. Introduction

The Antarctic Bill is a Private Member's Bill introduced by Neil Carmichael MP with Government support. It builds on a draft Bill published by the previous Government in 2009. It seeks to implement Annex VI (the 'Liability Annex') to the Antarctic Treaty's Environmental Protocol and sets out measures to reduce risks of environmental emergencies in Antarctica. It also makes a number of amendments to the Antarctic Act 1994 to give additional protection to the Antarctic environment. The Bill received its second reading in the Commons on 2 November 2012 and was considered in a Public Bill Committee on 21 November 2012 without amendment. It was considered on report on 18 January 2013, also without amendment. The Bill ([HL Bill 76](#)), as introduced by Viscount Montgomery of Alamein, is due to have its second reading in the Lords on 1 February 2013.

This Note gives background to the Bill and a précis of its report stage and third reading in the Commons. It should be read alongside House of Commons Library Research Paper, [Antarctic Bill](#) (30 October 2012, RP 12/63), and House of Commons Library Standard Note, [Antarctic Bill: Committee Stage](#) (17 January 2013, SN/IA/6528). Also relevant are House of Lords Library Note, [Debate on 18 October: Scott Expedition to Antarctica and Scientific Legacy](#) (16 October 2012, LLN 2012/034) and House of Commons Library Standard Note, [Antarctica: The Treaty System and Territorial Claims](#) (18 July 2012, SN/IA/5040).

## 2. Background

### 2.1 Antarctic: Geography, Wildlife, Environment and Challenges

The Antarctic ice sheet is the largest single mass of ice on Earth. It covers an area of almost 14 million km<sup>2</sup> (6.5 million square miles) and contains 30 million km<sup>3</sup> of ice. Around 90 per cent of the fresh water on the Earth's surface is held in the ice sheet, an amount equivalent to 70m of water in the world's oceans. In East Antarctica the ice sheet rests on a major land mass, but in West Antarctica the bed is in places more than 2,500m below sea level. The majority of the biodiversity found in the Antarctic is in the marine environment where there are whales, fish, seals, squid, krill and a whole range of bottom-dwelling marine organisms. Many micro-organisms also inhabit the marine environment around Antarctica and marine sea birds including penguin, albatross, petrels and skuas are found around the Antarctic and the sub-Antarctic Islands. On the continent, terrestrial invertebrates are the most species-rich animal group in Antarctica and on the Southern Ocean islands. Nematode worms, water bears (tardigrades), wheel-animals (rotifers), springtails and mites are the most common.<sup>1</sup> Many globally significant processes are driven by the unique climate and geography of the Antarctic: the uptake of carbon dioxide by the Southern Ocean; the overturning circulation of the deep ocean; the balance between water storage and discharge in the main continental ice sheet; changes in surface energy, mass and momentum exchange by ice masses; and energy transfer between all levels of the atmosphere to space. It is also a place for research on future

<sup>1</sup> See: <https://www.comnap.aq/Information/SitePages/Home.aspx>. A concise list of various statistics about Antarctica can be found on the Scientific Committee on Antarctic Research (SCAR) [website](#).

greenhouse gas levels, sea-level rises, the variability and rate of climate change and changes in atmospheric composition, including the stratospheric ‘ozone hole’.<sup>2</sup>

The Europa World Year Book Online points to a number of studies that have expressed increasing concern at the apparent retreat of Antarctica’s glaciers and ice sheet. One study of changes in polar ice mass and trends in acceleration in polar ice loss, published in the journal *Geophysical Research Letters* in March 2011, based on analysis of data from 1992–2009, found that loss from the Antarctic ice sheet was increasing by an average of 14,500 million metric tons per year. The authors concluded that continuation in this rapid acceleration in loss, cumulatively with accelerated loss, also shown by the study, from the Greenland ice sheet, could contribute 150 mm to average global sea level by 2050.<sup>3</sup> A number of issues have been identified as potentially threatening the Antarctic environment, including possible disagreement over access to hydro-carbon resources; biological prospecting, or bioprospecting; fishing; tourism and marine pollution.<sup>4</sup> For instance, in terms of tourism, the Antarctic and Southern Ocean Coalition notes that from a base of 4,698 tourists in the 1990/91 summer, annual numbers have risen to 36,875 over the 2009/2010 season and are expected to rise further in the future.<sup>5</sup> There have also been a number of specific incidents that have demonstrated the potential for environmental damage to the region. A Regulation Impact Statement published in March 2011 by the Australian Government on Annex VI,<sup>6</sup> contained a table detailing several examples:

Table 1: Examples of Incidents with the Potential to Cause an Environmental Emergency in the Antarctic

Vessel	Incident	Outcome
<b>MV Ocean Nova</b>	Grounded in February 2009.	Passengers were evacuated to nearby vessels. The vessel was freed from its position the next day without serious damage to the hull and with no leakage of fuel.
<b>MV Ushuala</b>	Grounded in December 2008 puncturing two fuel tanks.	Passengers were evacuated to nearby vessels. A small fuel spill occurred and the vessel was floated free two days later.
<b>MS Explorer</b>	Sank after being damaged while navigating in ice in November 2007.	Following a mayday call, all passengers and crew were evacuated into lifeboats before the vessel sank. All were safely rescued within five hours. A small fuel spill occurred.

<sup>2</sup> See for example: <http://www.antarctica.gov.au/about-antarctica/fact-files/climate-change>.

<sup>3</sup> See: House of Lords Library Note, *Debate on 18 October: Scott Expedition to Antarctica and Scientific Legacy* (16 October 2012; LLN 2012/034), pp 2–4.

<sup>4</sup> For an overview of these issues see: House of Lords Library Note, *Debate on 18 October: Scott Expedition to Antarctica and Scientific Legacy* (16 October 2012; LLN 2012/034), pp 14–16 and Gillian Triggs and Anna Riddell, *Antarctica: Legal and Environmental Challenges for the Future* (2007). For information on fishing and krill conservation see: <http://www.asoc.org/issues-and-advocacy/antarctic-wildlife-conservation/southern-ocean-fisheries> and <http://www.asoc.org/issues-and-advocacy/krill-conservation>. In August 2011, new UN regulations came into force governing pollution from heavy grade fuel oils in the Antarctic region: <http://www.un.org/apps/news/story.asp?NewsID=39201&Cr=marine&Cr1>.

<sup>5</sup> See: <http://www.asoc.org/issues-and-advocacy/antarctic-environmental-protection/antarctic-tourism>. See also Kees Bastmeijer et al, ‘Permanent Land-based Facilities for Tourism in Antarctica: The Need for Regulation’, *Review of European Community and International Environmental Law (RECIEL)*, volume 17, number 1 (April 2008), pp 84–99.

<sup>6</sup> See: <http://ris.finance.gov.au/files/2011/07/02-Antarctic-Measure-I-RIS.pdf>.

Vessel	Incident	Outcome
<b>MV Nordkapp</b>	Grounded in January 2007 with minor damage to the hull.	Passengers were evacuated to nearby vessels and the vessel was later freed from its position. A small fuel spill occurred.
<b>Bahia Paraiso</b>	Grounded in January 1989.	Vessel foundered and resulted in a spill of 600,000 litres of fuel and lubricants into surrounding waters and onto nearby shores. Clean-up operation recovered 65,000 litres of fuel (approx).

## 2.2 British Involvement in the Antarctic

British interest in the Antarctic dates back to at least the 18th century, when Captain James Cook captained the first recorded ship to cross the Antarctic Circle in 1773. Expeditions continued through the 19th century and into the early 20th century with the expeditions of Captain Robert Falcon Scott and Ernest Shackleton.<sup>7</sup> Edward Larson in his study of the Scott and Shackleton expeditions notes that these British expeditions were primarily concerned with science, rather than the race to the South Pole.<sup>8</sup> 17 January 2012 marked the centenary of Captain Robert Falcon Scott's team from the British Antarctic (Terra Nova) Expedition reaching the South Pole.<sup>9</sup> During the Second World War, the UK established a military presence in the Antarctic through Operation Tabarin, which also had a scientific role and which laid the basis for the British Antarctic Survey. After the war the UK has increasingly collaborated with other countries as they have established bases on the continent.

The UK's current presence is largely maintained through the [British Antarctic Territory](#) (BAT), established in March 1962, which relates to a sector of Antarctica claimed by the United Kingdom as one of its 14 British Overseas Territories. It comprises the region south of 60°S latitude and between longitudes 20°W and 80°W, forming a wedge shape that extends to the South Pole, overlapping the Antarctic claims of Argentina (Argentine Antarctica) and Chile. The BAT hosts a number of research stations maintained by the British Antarctic Survey (BAS). These include two permanently staffed research stations, [Halley](#) and [Rothera](#), and summer research stations located at [Signy](#), [Fossil Bluff](#) and [Sky Blu](#). The BAT also includes a number of heritage sites,<sup>10</sup> while several UK monuments, such as Scott's and Shackleton's huts, are jointly overseen by the UK and New Zealand.<sup>11</sup>

The UK's scientific contribution in the Antarctic is overseen by the [National Environment Research Council](#) (NERC), which is the UK's main agency for funding and managing research, training and knowledge exchange in the environmental sciences. NERC funds the [BAS](#) which is the UK's national Antarctic operator. The [Scott Polar Research Institute](#)

<sup>7</sup> For further coverage see: House of Lords Library Note, [Debate on 18 October: Scott Expedition to Antarctica and Scientific Legacy](#) (16 October 2012; LLN 2012/034), pp 4–8.

<sup>8</sup> Edward J Larson, *An Empire of Ice: Scott, Shackleton, and the Heroic Age of Antarctic Science* (2012).

<sup>9</sup> A range of events were organised to commemorate the centenary. See: <http://www.scott100.org/>. The House of Lords held a [debate](#) to mark the centenary on 18 October 2012.

<sup>10</sup> See: <http://britishantarcticterritory.fco.gov.uk/en/heritage/port-lockroy>.

<sup>11</sup> See: House of Lords Library Note, [Debate on 18 October: Scott Expedition to Antarctica and Scientific Legacy](#) (16 October 2012; LLN 2012/034), pp 19–21.

(SPRI) also funds research in the Antarctic.<sup>12</sup> In the summer and autumn of 2012 a merger was mooted between NERC and BAS, which caused concern in some quarters.<sup>13</sup> The merger was ruled out in November 2012.<sup>14</sup>

## 2.3 Antarctic Treaty

The preamble to the Antarctic Treaty states that its primary purpose is to ensure “in the interests of all mankind that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord”.<sup>15</sup> The Treaty was adopted on 1 December 1959 and entered into force on 23 June 1961 and essentially puts territorial claims to the Antarctic on hold. The UK was the first country to ratify the Treaty in 1961, which was enacted through the Antarctic Act 1967. Eleven other countries signed the original Treaty including: South Africa; Belgium; Japan; United States; Norway; France; New Zealand; Russia; Argentina; Australia; and Chile. Since then 38 other countries have acceded to the Treaty. 16 of these countries have acceded as Consultative Parties, as under Article IX.2 of the Treaty they have demonstrated their interest in Antarctica by “conducting substantial research activity there”. Along with the original twelve signatory countries this means that there are now 28 Consultative Parties in total who attend the Antarctic Treaty Consultative Meetings (ATCMs), where issues pertaining to Antarctica are discussed, and who can take part in the decision-making process.<sup>16</sup> The other 22 Non-Consultative Parties are invited to attend the ATCMs but do not participate in the decision-making. Various NGOs and agencies of the UN also attend.<sup>17</sup>

Every year the original twelve Parties to the Treaty and those Parties that demonstrate their interest in Antarctica by conducting substantial research activity there (the Consultative Parties), meet “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” (Article IX). The meetings also involve: Non-Consultative Parties; Observers—currently the [Scientific Committee on Antarctic Research](#) (SCAR), the [Commission for the Conservation of Antarctic Marine Living Resources](#) (CCAMLR) and the [Council of Managers of National Antarctic Programs](#) (COMNAP); invited Experts, such as the [Antarctic and Southern Ocean Coalition](#)

<sup>12</sup> For a more detailed overview, see: House of Lords Library Note, [Debate on 18 October: Scott Expedition to Antarctica and Scientific Legacy](#) (16 October 2012; LLN 2012/034), pp 19–24.

<sup>13</sup> *ibid*, pp 24–26.

<sup>14</sup> HC *Hansard*, 2 November 2012, col [25VWS](#). See also: <http://www.bbc.co.uk/news/science-environment-20178510>.

<sup>15</sup> To see the Treaty in full: [http://www.ats.aq/documents/ats/treaty\\_original.pdf](http://www.ats.aq/documents/ats/treaty_original.pdf).

<sup>16</sup> A full list of Consultative and Non-Consultative Parties can be found on the Scientific Committee on Antarctic Research (SCAR) [website](#).

<sup>17</sup> See: Marie Jacobsson, ‘The Antarctic Treaty System: Legal and Environmental Issues’, in Gillian Triggs and Anna Riddell, *Antarctica: Legal and Environmental Challenges for the Future* (2007), pp 3–4. She notes that NGOs include the International Hydrographic Organisation, the Antarctic and Southern Coalition, the International Association of Antarctic Tour Operators, the World Conservation Union and a number of regional fisheries organisations. Examples of the various UN agencies include the International Maritime Organisation, the Food and Agriculture Organisation and the UN Environment Programme.



(ASOC) and the [International Association of Antarctic Tour Operators](#) (IAATO). This forum is called the Antarctic Treaty Consultative Meeting (ATCM). Measures, Decisions and Resolutions, which are adopted at the ATCM by consensus, give effect to the principles of the Antarctic Treaty and the Environment Protocol and provide regulations and guidelines for the management of the Antarctic Treaty area and the work of the ATCM. Decisions, which address internal organizational matters of the ATCM, and Resolutions, which are hortatory texts, are not legally binding on Contracting Parties. In contrast, Measures are legally binding on the Consultative Parties once they have been approved by all Consultative Parties. The Treaty is administered by the [Secretariat of the Antarctic Treaty](#) based in Buenos Aires. Under direction of the ATCM, the Secretariat carries out a variety of tasks: supporting the annual ATCM and the meeting of the Committee for Environmental Protection (CEP); facilitating the exchange of information between the Parties required in the Treaty and the Environment Protocol; collecting, storing, archiving and making available the documents of the ATCM and providing and disseminating information about the Antarctic Treaty system and Antarctic activities.<sup>18</sup> A number of writers have argued that the Treaty is novel in the way it has been framed and subsequently developed and could offer important lessons for similarly contested areas, especially where environmental protection is seen as paramount.<sup>19</sup>

## 2.4 Additional Agreements

The Treaty is augmented by recommendations adopted at ATCMs and a number of international agreements. The [Agreed Measures for the Conservation of Antarctic Fauna and Flora](#) (adopted June 1964; in force 1982) protects designated species and areas, prohibits the deliberate introduction of non-native flora and fauna, parasites and diseases, stipulates that native birds or mammals cannot be killed or captured without a licence from a competent authority and ensures that settlements of wildlife such as seal and penguin colonies and specially-protected species are not disturbed. The [Convention for the Conservation of Antarctic Seals](#) (adopted December 1972; in force March 1978) regulates the hunting of seals, banning it for certain species and setting quotas for others. It also established three seal reserves. The [Convention on the Conservation of Antarctic Marine Living Resources](#) (adopted May 1980; in force April 1982) controls commercial fishing in the Antarctic and takes a whole food chain approach, so that the fishing of food for larger animals is also regulated.<sup>20</sup> The Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA) was adopted in 1988 but will not come into force. CRAMRA sought to regulate minerals prospecting, exploration and development activities, although mining would only be permitted if all Parties agreed that there was no risk to the environment. This latter aspect of the Convention was criticised by

<sup>18</sup> For a fuller overview of the operation of the Treaty, associated agreements, events such as the International Polar Year and the various international bodies involved see: House of Lords Library Note, [Debate on 18 October: Scott Expedition to Antarctica and Scientific Legacy](#) (16 October 2012; LLN 2012/034), pp 11–19 and House of Commons Library Standard Note, [Antarctica: The Treaty System and Territorial Claims](#) (18 July 2012, SN/IA/5040).

<sup>19</sup> *ibid*, pp 12–14.

<sup>20</sup> For further information see: <http://www.ccamlr.org/en/organisation/about-ccamlr>. For further commentary see Adriana Fabra and Virginia Gascón, 'The Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) and the Ecosystem Approach', *The International Journal of Marine and Coastal Law*, vol 23 no 3 (2008), pp 567–98 and Donald R Rothwell and Ruth Davis, *Antarctic Environmental Protection* (1997), pp 49–58.

environmental groups and some governments who argued instead for a complete ban on such activities. This opened up the potential of a split between on the one hand those countries who favoured abandoning CRAMRA and establishing the Antarctic as a ‘wilderness reserve’ or ‘World Park’, and on the other hand those countries who preferred keeping CRAMRA in conjunction with additional environmental measures.<sup>21</sup>

## 2.5 1991 Protocol on Environmental Protection

The differences which emerged after the failed attempt to introduce CRAMRA were bridged by the 1991 [Protocol on Environmental Protection](#). Donald R Rothwell argues that the Protocol created “for the very first time an integrated environmental protection regime in Antarctica” and that its entry into force in 1998 was “a testament to the international goodwill to cooperatively manage Antarctica and the robustness of the Antarctic Treaty system”. It also reflected the increasing environmental focus of the Antarctic Treaty System. The Protocol incorporated many of the mechanisms established under the Agreed Measures for the Conservation of Antarctic Fauna and Flora and Recommendations subsequently adopted by the Antarctic Treaty Consultative Parties. Article 2 of the Protocol designates the Antarctic environment and associated ecosystems “as a natural reserve, devoted to peace and science”. Article 3(2) stipulates that activities are planned with such ecosystems in mind to limit adverse impacts, including prior assessments of their potential impact. Article 8 contains an obligation for such Environmental Impact Assessments. Article 7 provides that: “Any activity relating to mineral resources, other than scientific research, shall be prohibited”. As Rothwell argues, this was an important aspect of the Protocol, as it ended “the debate over whether mining in Antarctica was acceptable”. The Annexes to the Protocol set out mandatory measures on: the requirement for environmental impact assessments ([Annex I](#)); conservation of fauna and flora ([Annex II](#)); the disposal of waste ([Annex III](#)); marine pollution ([Annex IV](#)); the Antarctic Protected Areas System ([Annex V](#)); and liabilities arising from environmental emergencies ([Annex VI](#)). The Protocol also allows for a [Committee for Environmental Protection](#) which provides permanent specialist advice to the Treaty Parties and oversees the detailed mandatory rules set out in the Annexes to the Protocol.<sup>22</sup>

## 2.6 Annex VI to the Protocol—The ‘Liability Annex’

As noted above, Annex VI relates to liabilities arising from environmental emergencies. The Annex is composed of 13 articles. Annex VI provides that Antarctic Treaty Consultative Parties, such as the UK, require operators (Government and non-Government) under their jurisdiction that organise activities in the Antarctic Treaty area, and for which advanced notice is required, to: undertake reasonable preventative

<sup>21</sup> See Donald R Rothwell, ‘A World Park for Antarctica? Foundations, Developments and the Future’, *Antarctic and Southern Ocean Law and Policy* (1990), Occasional Paper 3 and A D Watts, ‘The Convention on the Regulation of Antarctic Mineral Resource Activities 1988’, *The International and Comparative Law Quarterly*, vol 39 no 1 (January 1990), pp 169–82.

<sup>22</sup> Donald R Rothwell, ‘Polar Environmental Protection and International Law: The 1991 Antarctic Protocol’, *European Journal of International Law* (2000), vol 11, no 3, pp 519–614. See also Philippe Sands, *Principles of International Environmental Law* (2003), pp 725–26 and D Vidas et al (eds), *Implementing the Environmental Protection Regime for the Antarctic* (2000).

measures to reduce the risk of environmental emergencies (Article 3); establish contingency plans for responses to environmental incidents (Article 4); take prompt and effective response action to any environmental emergency arising from its activities (Article 5); and maintain adequate insurance or other financial security to cover the costs of response action taken by other parties in its stead (Article 11). An operator that fails to undertake prompt and effective response action to an environmental emergency arising from its activities would be liable to pay the costs of response action taken by Parties in its stead (Article 6). If no Parties respond to an environmental emergency, the erring operator would pay the costs of a response action into a fund administered by the Antarctic Treaty Secretariat (Article 12).<sup>23</sup>

## 2.7 UK, the Protocol and the Current Permit Regime for the Antarctic

The UK signed the 1991 Protocol and ratified it with the introduction of the Antarctic Act 1994. However, the 1994 Act did not cover Annex VI of the Protocol. The Antarctic Act 1994 does, however, currently govern a system of permits for British expeditions to the Antarctic. It requires a permit for any member of a British expedition, unless: they have one from another contracting party to the Treaty; or are aboard ships or aircraft travelling to an immediate destination outside Antarctica or are aboard fishing vessels not engaged in an expedition. The FCO [guidance](#) notes that additional permits are required for certain activities: mineral resource activities by UK nationals (all minerals related activities in Antarctica are prohibited, except for scientific research); the taking of, or harmful interference with, fauna or flora (Section 7 permit); the introduction of non-native animals or plants (Section 8 permit); entry into areas protected under the Protocol (Antarctic Specially Protected Areas) or under the Convention on the Conservation of Antarctic Marine Living Resources (Section 9 and 11 permits).<sup>24</sup> The permit application requires the completion of a [Preliminary Environmental Impact Questionnaire](#) to “determine the severity of environmental impact of an activity on the Antarctic environment”. Depending on the nature of the planned activities there may be a need for further, more comprehensive and detailed assessments—either an Initial Environmental Evaluation (IEE) or Comprehensive Environmental Evaluation (CEE). The FCO website notes the sorts of activities that would probably require a full EIA: British expeditions to Antarctica which involve an activity that may have a greater than minor or transitory impact; the construction of, or modifications to, British research stations in Antarctica. Permit applicants also have to meet the requirements under of Annexes III (waste disposal) and IV (marine pollution) to the Environmental Protocol. The guidance sets out what materials have to be removed, which can be disposed of once made sterile and how other wastes, such as sewage, should be disposed of.<sup>25</sup> Permit applications must currently show that adequate contingency measures have been put in place to deal with health and safety issues, any medical emergencies (including evacuations) and provide adequate

<sup>23</sup> For a commentary on Annex VI, see: Louise Angelica de La Fayette, ‘Responding to Environmental Damage in Antarctica’ in Gillian Triggs and Anna Riddell, *Antarctica: Legal and Environmental Challenges for the Future* (2007), pp 13–154.

<sup>24</sup> FCO, [Guidance notes to applicants for a permit for a British expedition to Antarctica \(Section 3 permit\)](#), (accessed 24 January 2013), p 2.

<sup>25</sup> For a full list, see: FCO, [Guidance notes to applicants for a permit for a British expedition to Antarctica \(Section 3 permit\)](#), (accessed 24 January 2013), pp 7–8.

search and rescue arrangements. There is also a requirement to ensure adequate insurance to cover the cost of any of the above.<sup>26</sup> Currently there is no requirement for expeditions to have contingency plans to deal with any environmental emergencies.<sup>27</sup>

## 2.8 Implementing Annex VI of the Protocol

In November 2009, the previous Labour Government published a [Draft Antarctic Bill](#) (Cm 7635). It sought to consult on the introduction of Annex VI into UK law and to “provide additional protection to the Antarctic environment and those travelling to the continent”. The document noted that early ratification of the Liability Annex was “desired in order to maintain the UK’s influential status”. More specifically, it noted that “the Annex effectively establishes a “polluter pays” mechanism, as it requires operators to take prompt and effective response action to any environmental emergencies arising from their activities, or where no such action is taken, it imposes financial liability on the defaulting operator”.<sup>28</sup> The [consultation response](#) was published in April 2010. It noted that: “None of the comments suggested that work on the draft Antarctic Bill should not proceed, and many stakeholders welcomed the UK taking a leading position in seeking to be among the first to ratify the Liability Annex to the Protocol on Environmental Protection to the Antarctic Treaty”.<sup>29</sup> However, several responses were concerned about the level of liability that might be incurred by smaller expedition operators or commercial fishing operators and whether it would be expedition organisers or their employees who would be liable for any damage. The document said that the draft Antarctic Bill would be finalised for potential introduction to Parliament as legislative time allowed. However, a Bill was not introduced before the May 2010 General Election.

## 3. Antarctic Bill

On June 2012, the [Antarctic Bill](#) (HC Bill 14) was introduced as a Private Member’s Bill by Neil Carmichael MP.<sup>30</sup> The Bill is supported by the Government and generally draws on the previous Government’s draft Bill. It omits the draft Bill’s provisions covering the requirement for contingency and safety planning to include search and rescue, for all British operators regardless of the country granting their permit, as it was felt that this could be addressed through the permitting system and would not require legislation.<sup>31</sup>

The Bill is divided into two parts. Part I of the Bill implements the Liability Annex. It includes new civil and criminal offences for any failure to take adequate preventative measures before travel to Antarctica, or failure to take appropriate response actions following an environmental emergency. An environmental emergency is defined as “an accidental event that results in, or imminently threatens to result in, any significant harmful impact on the environment of Antarctica”.

<sup>26</sup> *ibid*, pp 8–9.

<sup>27</sup> For further coverage, see: House of Commons Library Research Paper, [Antarctic Bill](#) (30 October 2012, RP 12/63)).

<sup>28</sup> FCO, [Draft Antarctic Bill](#) (Cm 7635; November 2009), p 1.

<sup>29</sup> FCO, [Government Response to the Consultation on the Draft Antarctic Bill](#) (April 2010), p 2.

<sup>30</sup> The Bill’s Explanatory Notes are at: <http://www.publications.parliament.uk/pa/bills/lbill/2012-2013/0076/en/2013076en.pdf>.

<sup>31</sup> See: House of Commons Library Research Paper, [Antarctic Bill](#) (30 October 2012, RP 12/63), p 8.

Clause 5 imposes a duty for an organiser of UK-connected activities in Antarctica to take preventative measures (e.g. specialised structures, procedures and training) and make a contingency plan to reduce the risks and potential adverse impacts of connected environmental emergencies. Clause 6 requires an organiser to obtain “adequate insurance cover or other financial security” (eg bonds and bank guarantees) to cover the costs of any response action related to an environmental emergency. Such cover cannot be subject to any “limitation, exception or exclusion” that would make it “fundamentally deficient” to cover such costs. Failure to comply carries a maximum two year prison sentence and/or fine.

Clause 1 stipulates that persons based in the UK or connected with UK activities when organising such activities in the Antarctic (Government and non-Government) must take response action in a “reasonable, prompt and effective” manner, if they result in an environmental emergency. A response action is defined as “measures taken after an emergency to prevent, minimise or contain its impact” and as “reasonable” if appropriate, practicable and proportionate. The Bill stated that this has to be assessed on objective and available criteria, including: risks to the environment of Antarctica and the rate of its natural recovery; risks to human life and safety; and technological and economic feasibility. A reasonable response would establish extent and impact and might involve rectification. Failure to comply with this carries a maximum two year prison sentence and/or fine.

Clause 7 introduces a duty on anyone organising activities in Antarctica (connected with the UK) or their employees to inform the Secretary of State of an environmental emergency as soon as they become aware of an environmental emergency. Clause 8 gives the Secretary of State the powers to require information from a person organising UK-connected activities in Antarctica if it is suspected that they have directly or indirectly caused an environmental emergency or an incident. Failure to comply with the provisions of either clause carries a maximum two year jail term and/or fine.

Clauses 2, 3 and 4 set out a framework for Parties to recover their costs from non-governmental operators when they have failed to take response action to environmental emergencies. Clause 2 allows the Government to recover costs when the Crown or Crown-authorized persons (probably the Royal Navy) have had to respond to an environmental emergency because those UK-based organisers or persons whose activities are connected to the UK have not acted. It also allows other Parties to Annex VI to recover costs through UK courts when they acted in lieu of response actions from UK-based operators. Such proceedings must be brought within three years of the response action or from when it has been established who had organised the activities, with a maximum of 15 years from when the response action had been effected. Clause 3 establishes that where no response action was taken by either the operator or the Party to the Annex, the operator responsible is required to pay the equivalent costs of the response action that should have been taken into an Antarctic Environmental Liability Fund, administered by the Secretariat of the Antarctic Treaty.

The schedule to the Bill sets out the limits to what can be recovered, as listed in Annex VI, which are based on the IMF's Special Drawing Rights SDR.<sup>32</sup>

A number of general exclusions to the criminal and civil liability provisions are included in clause 9. This includes a “person organising activities as an employee of another person and someone in the course of service in the regular forces or reserve forces (including training)”. Specific activities are also included, namely fishing for profit and activities carried out on a vessel or aircraft while travelling to an immediate destination outside Antarctica.

Part 1 will not come into force until the Liability Annex itself is in force, in order to provide a level playing field for British Antarctic operators.

Part 2 of the Bill inter alia amends the 1994 Act and implements agreed revisions to Annex II of the Protocol on Environmental Protection to the Antarctic Treaty— Conservation of Antarctic Fauna and Flora. It also includes provisions to protect historic sites and monuments and to address the increasing vulnerability of the Antarctic environment as a result of climate change. Clause 14 amends the 1994 Act to allow the UK to give permits to non-British nationals. This would, for example, allow foreign scientists to work on British expeditions. Clause 15 allows the conservation or repair of designated Historic Sites and Monuments in Antarctica to be authorised through the Antarctic Act 1994 permitting regime. It will make it an offence to damage, destroy or remove any part of a historic site or monument and will allow the removal or relocation of a protected site or monument as part of an effective management regime. Clause 16 extends environmental protection to: marine invertebrates; native invertebrates; and species who naturally migrate to the Antarctic. It prohibits: keeping non-indigenous animals on board ships in the Antarctic (with the exception of recognised assistance dogs or animals on ships transiting across the Antarctic Marine Area); the non-authorised introduction of microscopic non-native organisms into the Antarctic; and the introduction of non-fertile soil into the Antarctic.

The Bill's [Impact Assessment](#) states that in “normal circumstances” it is not expected to incur any significant costs for business or Government. The only additional day to day costs to business will be a “minimal rise in procedural expenses” and “slightly increased insurance premiums”. Costs in the event of an environmental emergency will be significantly higher, although in the case of business this should be covered by their insurance.

A more detailed commentary on the Bill is provided by House of Commons Library Research Paper, [Antarctic Bill](#) (30 October 2012, RP 12/63).

<sup>32</sup> The SDR is an international reserve asset, created by the IMF in 1969 to supplement its member countries' official reserves. Its value is based on a basket of four key international currencies, and SDRs can be exchanged for freely usable currencies. Today it is based on the euro, Japanese yen, pound sterling, and US dollar. See: [http://www.imf.org/external/np/fin/data/rms\\_sdrv.aspx](http://www.imf.org/external/np/fin/data/rms_sdrv.aspx).

## 4. Commons Second Reading and Public Bill Committee

The Bill received its second reading in the House of Commons on 2 November 2012 without a division.<sup>33</sup> The Bill was considered in a Public Bill Committee on 21 November 2012.<sup>34</sup> Issues raised in Committee included the timing of the enactment of the provisions relating to the Liability Annex, compatibility with existing shipping liability provisions, insurance requirements and the extent of the Bill. The Committee also considered the future of the British Antarctic Survey. No amendments were tabled. A commentary is provided by House of Commons Library Standard Note, [Antarctic Bill: Committee Stage](#) (17 January 2013, SN/IA/6528).

## 5. Commons Report Stage

At report on 18 January 2013, a new clause and several amendments were debated. The amendments were withdrawn. This section offers a summary of key issues that were raised.

### 5.1 Provision of a Cost-Benefit Analysis Review of the Bill

David Nuttall (Conservative) moved new clause 1, which sought to make provision for a cost-benefit analysis of the Act three years after it had come into force. He said that it was not “a wrecking amendment” and would not “undermine the basic purpose of this excellent Bill”.<sup>35</sup> He anticipated that “such a review would take place at the beginning of 2016”. He thought that such an analysis, which he hoped would be applied to both Government and private individuals, was required so that the Government could explain the costs of the Bill and “its effects on private companies, research in the Antarctic and those who want to visit the Antarctic or have their livelihoods there”.<sup>36</sup> In considering how a cost-benefit analysis would work in practice, he accepted that the impact of the Bill could not be assessed in just monetary terms as the Bill was seeking to bring into UK law environmental protection measures. He hoped that such an analysis would not be overly bureaucratic, though he accepted some cost would be involved.<sup>37</sup> More specifically he hoped that a cost-benefit analysis could identify whether the provisions were “putting people off from visiting or carrying out scientific work in the region” and whether the costs involved in obtaining insurance or bonds were proving an insurmountable hurdle for those affected by the Bill. It could also assess other areas, such as the effectiveness of the reporting obligations contained in clause 7 of the Bill in terms of promptness and the appropriateness of the preventative measures and contingency plan contained in clause 5. A review of the Bill could also seek to ascertain the impact of excluding fishing for profit and the transit of ships across the Antarctic to elsewhere from its provisions.<sup>38</sup> He also thought that though his proposal was intended for the UK and UK nationals it could

<sup>33</sup> HC *Hansard*, 2 November 2012, cols [492–510](#) and cols [521–42](#).

<sup>34</sup> <http://www.publications.parliament.uk/pa/cm201213/cmpublic/antarctic/121121/pm/121121s01.pdf>.

<sup>35</sup> HC *Hansard*, 18 January 2013, col [1143](#).

<sup>36</sup> *ibid*, col [1144](#).

<sup>37</sup> *ibid*, col [1145](#).

<sup>38</sup> *ibid*, col [1148](#).

serve as “a model or precedent for a cost-benefit analysis applying to the overall use of the Antarctic”.<sup>39</sup>

Kerry McCarthy (Labour) criticised the proposed new clause I as “unclear and vague” and was concerned that the proposed cost-benefit analysis would send out “completely the wrong signals if we are already questioning, at this stage, whether this Bill is really of benefit”. She accepted that keeping track of costs was important but was not sure “how quantifiable these costs and benefits would be”. She suggested that the “immeasurable environmental benefits” that would arise from the Bill, such as “protecting the natural environment in the Antarctic and preserving the continent for scientific research”, could not be “reduced to a simple cost-benefit analysis on a financial basis”.<sup>40</sup>

Philip Davies (Conservative), in response to questions from Oliver Colvile (Conservative), wondered whether the Bill could include a sunset clause, whereby, after five years, the Act would expire and would have to be brought back again with a cost-benefit analysis to help decide whether to extend the legislation or not on the basis of its effectiveness.<sup>41</sup>

Neil Carmichael (Conservative) thought that cost-benefit analyses were “unnecessarily bureaucratic at the best of times” and said that the Bill was “financially neutral anyway”. Furthermore, it set out “a large number of measurement structures and these are well addressed in the annexes”. As such he did not believe that new clause I was necessary.<sup>42</sup> He contended that a real demonstration of the effectiveness of the Bill would be whether other nation states implemented similar legislation, as it would indicate UK leadership.<sup>43</sup>

Mark Simmonds, the Under-Secretary of State for Foreign and Commonwealth Affairs, said that the Government had “prepared and made available a full impact assessment for this Bill”, which had been “independently reviewed by the Regulatory Policy Committee, which determined it was fit for purpose and that the costs and benefits of the Bill had been adequately assessed”. He stated that the most “likely monetised costs to arise from the Bill were identified as additional premiums for insurance cover... and one-off costs to any operators who will need to update their equipment or plans to deal with an environmental emergency”. He noted that the insurance industry was consulted, and that it was suggested that “additional insurance premiums to cover the costs of responding to an environmental emergency would probably either be minimal or non-existent... given the level of insurance already required by operators and vessels in Antarctica”. He also said that the one-off costs to operators of updating their equipment or plans was also deemed small, given that the vast majority of UK operators already met the requirements.<sup>44</sup> There might be some costs associated with training for potential response action, but this was not expected to be significant. However, he pointed to a number of “non-monetised” benefits. These included a reduction in the likelihood of an environmental emergency occurring in the Antarctic through effective forward planning

<sup>39</sup> *ibid*, col [1149](#).

<sup>40</sup> *ibid*, col [1152](#).

<sup>41</sup> *ibid*, cols [1159–60](#).

<sup>42</sup> *ibid*, col [1161](#).

<sup>43</sup> *ibid*, cols [1161–62](#).

<sup>44</sup> *ibid*, cols [1183–84](#).



and appropriate sanctions to deter potential irresponsible behaviour. The Bill would reduce the environmental damage caused by any environmental emergency that did arise, would simplify permitting procedures for non-UK nationals and improve the conservation and preservation of UK historic monuments and sites in Antarctica. It would also allow greater avoidance of the costs associated with undertaking environmental clean-up operations in Antarctica. He pointed to the sinking of the Argentine vessel *Bahia Paraiso* in 1989, resulting in 600,000 litres of spilt fuel affecting nearby wildlife colonies. It was estimated that in today's prices the resulting clean-up bill would be more than \$10 million.<sup>45</sup> He did not think that the Bill would reduce Antarctic tourism, as the Bill would ensure that tourism was well planned and undertaken responsibly. He said that it was also worth noting that UK operators would face a level playing field, as the Liability Annex would only come into force when all party states had ratified it.<sup>46</sup> He said that new clause 1 was also unnecessary because the Antarctic Treaty Consultative Meeting of State Parties would review the operations of the Annex across the whole suite of Antarctic operations and therefore the "UK would not need a review outside the structure of these international mechanisms".<sup>47</sup> The UK played a significant, positive and engaged role and if opportunities emerged from that analysis in the future to add additional environmental protection with the agreement of all the other members of the Antarctic Council, the UK would consider it extremely closely.<sup>48</sup>

Mr Nuttall was reassured that the Protocol would be reviewed by all the signatories to the Antarctic Treaty once it was in force. He withdrew new clause 1.<sup>49</sup>

## 5.2 Extending Protection of British Sites and Monuments to All of the Antarctic

David Nuttall moved amendment 1, which sought to extend the remit of clause 15. Clause 15 would amend section 10 of the Antarctic Act 1994 to make it an offence for any UK national to damage, destroy or remove any part of a site or monument designated by regulations as an Antarctic Site or monument. However, he wanted clause 15 to make it "absolutely clear" that it did not just apply to sites and monuments in the British Antarctic Territory (BAT). The amendment would ensure that the clause would apply to designated Historic Sites and Monuments anywhere in the Antarctic", such as the historic British huts that were located on the north shore of Cape Evans on Ross Island, in the New Zealand claim area.<sup>50</sup>

Neil Carmichael said that clause 15 related to "who is doing something, not to where the action is being taken" and that it related to British people and those connected with Britain. He noted, for instance, that if Britain "wanted to take action to preserve the hut of Captain Robert Scott and his colleagues, the fact that it is in what might be described as the New Zealand slice of Antarctica would not prevent us from doing so" and "as we would be going there to preserve the hut, British law would apply to our efforts to

<sup>45</sup> *ibid*, col [1184](#).

<sup>46</sup> *ibid*, cols [1184–85](#).

<sup>47</sup> *ibid*, col [1185](#).

<sup>48</sup> *ibid*, col [1186](#).

<sup>49</sup> *ibid*, col [1189](#).

<sup>50</sup> *ibid*, cols [1150–51](#).

ensure that it was looked after properly”. He therefore did not think that the amendment was necessary.<sup>51</sup>

Mark Simmonds, the Under-Secretary of State for Foreign and Commonwealth Affairs, set out how Annex V of the Protocol operated. It was important to note that any party might propose a site or monument of recognised historic value for such designation to the Antarctic Treaty Consultative Meeting. As the Antarctic Treaty system operated on the basis of consensus, the agreement of all Antarctic Treaty Parties was needed for such a designation to be approved. Once approved, the proposed site was added to the approved list of historic sites and monuments, which was kept updated by the Antarctic Treaty secretariat. The designation of historic sites and monuments and the protection that afforded them under the Antarctic Treaty and subsequent protocols was of extremely high importance to the UK because of its significant historical ties and interest in the Antarctic. Clause 15 as drafted provided that the Secretary of State would grant a permit to any British national involved in such work. This would ensure that work was undertaken to high standards, and that a proper system was in place to guarantee that any artefacts removed for conservation work remained protected until they could be returned to Antarctica. That was important because the BAT had published a heritage strategy for the conservation of the British historic huts and other artefacts in the territory, which had been agreed with the United Kingdom Antarctic Heritage Trust and the British Antarctic Survey. That set out overall principles for heritage conservation in the territory, and the United Kingdom Antarctic Heritage Trust had developed such plans, and undertook a programme of maintenance at some of the sites, particularly the huts, each year. The Foreign and Commonwealth Office had granted the Trust £100,000 in 2011 to support this work.<sup>52</sup> He agreed that it was crucial that clause 15 extended to the whole of Antarctica, not just those historic sites and monuments in the BAT.

Mr Nuttall was reassured that the protection “necessary for the huts of Shackleton and Captain Scott to be preserved is already contained within the treaties and the Bill”. He withdrew amendment 1.<sup>53</sup>

### 5.3 Preventative Measures and Contingency Plans

Philip Davies (Conservative) said that nobody wanted to “bury or scupper the Bill” but that it was right that it received proper scrutiny. In this spirit, he moved amendment 2, which would have removed clause 5 of the Bill, as a probing amendment.<sup>54</sup> He questioned whether the measures contained within clause 5 were “perhaps already in place” and if its inclusion within the Bill was based on the notion that “we are starting from scratch when we are not”. He pointed, for instance, to Annex I to the Protocol, which had already been implemented by the Antarctic Act 1994, and which was “pretty comprehensive”. Clause 5 required the organiser of UK-connected activities in Antarctica to take reasonable preventative measures to reduce risks and potential adverse impacts and also make a contingency plan for responding to environmental emergencies and other incidents. However, he argued that the 1994 Act already made it an offence for a British

<sup>51</sup> *ibid*, col [1182](#).

<sup>52</sup> *ibid*, cols [1186–87](#).

<sup>53</sup> *ibid*, col [1189](#).

<sup>54</sup> *ibid*, col [1154](#).

expedition to enter Antarctica without the approval of the Secretary of State and that a permit was required for any member of a British expedition unless they had one from another contracting party to the Treaty. In addition, the FCO website set out a comprehensive guide on the requirements for an expedition and stated that all permits had to be accompanied by “completed environmental assessments”. He wanted assurance that the clause was not “in effect, double legislating and reinventing the wheel”.<sup>55</sup>

Kerry McCarthy (Labour) maintained that it was “entirely sensible that the Bill should contain a requirement that people organising activities in Antarctica should take reasonable preventive measures and make contingency plans to avoid an environmental emergency”. She said that she did “not understand why clause 5 should be removed”. Preventive measures were included in Article 3 of the Liability Annex and subsections requiring contingency plans related to Article 4 and she questioned whether Mr Davies wanted the UK to implement the Annex in full.<sup>56</sup>

Neil Carmichael said that the thrust of the Bill was to encourage operators to behave properly, especially in planning for their activities and that the “idea is therefore to avoid problems, rather than counter them”. Clause 5 would “ensure not only that there was a line of responsibility for operators, visitors, tourists and so on, but that they must have contingency plans”. He pointed out that in the absence of those two measures, such “people would make themselves vulnerable to punishment”. It also included the important provision that people and organisations should be properly insured for whatever they may do and as such “the clause puts into domestic law a clear set of responsibilities for operators visiting Antarctica”.<sup>57</sup> He accepted that environmental assessments were useful and necessary in many cases, but it was “very important to make sure that operators, visitors and others make every preparation in the proper way”.<sup>58</sup> He said that the Antarctic required special consideration because of its environmental vulnerability, and complex food chain and role in the global ecosystem.<sup>59</sup> He stressed the particular importance of contingency planning. It extended preparation from a management plan to a contingency plan that required “one to assess risk—to be well aware of what the risks are and how great they can be in the Antarctic”. The clause was a further “significant step in the right direction”.

The Minister, Mark Simmonds, said that the requirement to produce contingency plans in clause 5 covered a wider set of circumstances than both the requirement to take preventive measures and the duty to take response action under the 1994 Act. Clause 5 required a contingency plan to cover environmental emergency scenarios as well as those involving other incidents with a potential for adverse impacts on the Antarctic environment. They had to go beyond those emergencies and incidents that resulted from planned activities and consider events that might affect the carrying on of a planned activity. Many of those elements could be foreseen and planned for and form part of good contingency planning practice. However, not every potential incident could be foreseen at the pre-planning stage. Though the FCO could already require someone seeking a permit

<sup>55</sup> *ibid*, cols [1155–56](#).

<sup>56</sup> *ibid*, col [1153](#).

<sup>57</sup> *ibid*, col [1183](#).

<sup>58</sup> *ibid*, col [1162](#).

<sup>59</sup> *ibid*, col [1180](#).

for their Antarctic activities under the Antarctic Act 1994 to take preparatory measures, the Government believed that there was still a need to legislate to implement fully the requirements of the Liability Annex.<sup>60</sup> He noted that current FCO guidance required contingency and pre-planning because it “was good practice in the UK, ahead of the curve, not because we have signed the Annex”. For those UK operators who went through the UK’s permitting process, and who were already subject to it, the Government would “be keen to ensure that there is no duplication of effort and no additional bureaucracy arising from these proposals”. He contended that though liability provisions were likely to be invoked “only in very rare circumstances and are intended primarily to act as a deterrent”, their “real value” was the “proposed introduction of a duty on all state parties to ensure that their operators take preventive measures and make contingency plans that will apply to all expeditions, not just those from the UK”.<sup>61</sup>

Mr Davies was satisfied with the Minister’s explanation and withdrew his amendment.<sup>62</sup>

## 5.4 Other Issues and Comment

The Minister, Mark Simmonds, noted that to date six countries had ratified the protocols—Finland, Peru, Poland, Spain, Sweden and Australia—and that the UK very much hoped to be the seventh. He assured the House that once the Bill was passed the Government would “forcefully attempt to persuade other countries to ratify as quickly as possible so that the contents of the Bill can be implemented as quickly as possible”.<sup>63</sup>

Kerry McCarthy expressed disappointment that the Commission for the Conservation of Antarctic Marine Living Resources had failed to agree proposals for marine reserves in the Ross Sea and in East Antarctica. She said that it was important to protect the ocean environment as well as the ice mass.<sup>64</sup> Neil Carmichael (Conservative) said that the Bill dealt with some of the issues related to the Southern Ocean, and could be built on, though he took note of what had been said.<sup>65</sup> The Minister, Mark Simmonds, gave a “categorical assurance” that the Government was “working tirelessly to ensure that we can bring the international community together to reach a satisfactory resolution”. However, he added that “placing obligations on vessels that are just transiting Antarctic waters on a direct route to another destination would infringe their right of free passage in the high seas under international law” and such obligations would “therefore contravene Article VI of the Antarctic Treaty”. He pointed to the UK’s commitment to the implementation of marine protected areas in the Southern Ocean with the announcement by the Government of South Georgia and the South Sandwich Islands of one of the largest sustainable marine protected areas in the world, covering its entire maritime zone, a process started by the previous Government.<sup>66</sup>

<sup>60</sup> *ibid*, col [1188](#).

<sup>61</sup> *ibid*, col [1189](#).

<sup>62</sup> *ibid*, col [1189](#).

<sup>63</sup> *ibid*, col [1189](#).

<sup>64</sup> *ibid*, col [1180](#).

<sup>65</sup> *ibid*, col. [1180](#).

<sup>66</sup> *ibid*, col [1185](#).

## 6. Commons Third Reading

Neil Carmichael, who introduced the Bill, said that the Bill was important “precisely because we all care about the future of Antarctica and recognise its vulnerability, as well as its awesome size and climate”. He noted the widespread agreement on the Bill, which had been “impressive and reassuring”. He would not stop “trying to ensure that the Act—if the Bill becomes an Act—is used as an instrument to encourage other nation states to do what we have done and underline the need to protect Antarctica for the foreseeable future. In my book, that means a very long time”.<sup>67</sup> He paid tribute to the work of the British Antarctic Survey and highlighted Britain’s historical connection to the region. He said that the Bill would help to underline UK leadership in the region and would allow the UK to use its influence to ensure that all nation states respected the idea that “Antarctica should remain properly protected and not be exploited, and secondly that it remains demilitarised”.<sup>68</sup> For instance, he said that he would seek to ensure that the US took similar appropriate action.<sup>69</sup> He highlighted key aspects of the Bill. These included the requirement to plan contingency measures and have insurance so that if “things go wrong, we need to be sure that tidying-up operations can take place in a timely, efficient and comprehensive manner”. It also included extending protection to Antarctica’s flora and fauna and its monuments and historical sites. He said together this added up “to a very strong commitment by Britain to do the right thing for Antarctica”. Britain could protect the region’s environment, ensure that its own interests were prominent and continue to work in an international framework to encourage other nation states to do the same.<sup>70</sup>

Philip Davies (Conservative) said that the Bill “implements an important part of the Antarctic Treaty system, complementing and completing the set of internationally binding agreements”.<sup>71</sup> It updated the 1994 Act and implemented Annex VI of the Protocol on Environmental Protection to deal with issues such as the increased popularity of travel to the region. It ensured important provisions: a statutory duty to take reasonable, prompt and responsive action where activities directly or indirectly gave rise to an emergency; civil liabilities where there was a failure to respond; and a statutory duty to take preventative measures and make contingency plans. It would make a number of serious offences, with some subject to a maximum two year jail sentence and/or fine. He believed that clause 3, on the liability to the Antarctic environmental liability fund, was “essential” and “more important than many people might understand and it was previously lacking”.<sup>72</sup> He concluded that: “we can be very proud of the fact that we are continuing in a long tradition in this country of playing our part in protecting a very special part of the world”.<sup>73</sup>

David Nuttall (Conservative) was surprised given the cross-party support that the Bill had not been included in the Coalition’s programme for Government and had instead been

<sup>67</sup> *ibid*, col [1190](#).

<sup>68</sup> *ibid*, col [1194](#).

<sup>69</sup> *ibid*, col [1195](#).

<sup>70</sup> *ibid*, col [1196](#).

<sup>71</sup> *ibid*, col [1199](#).

<sup>72</sup> *ibid*, cols [1200–1201](#).

<sup>73</sup> *ibid*, col [1202](#).

“left to the vagaries of the Private Members’ Bill system”. He said that increasing visitor numbers to the Antarctic was a good thing, because it showed that more people were interested in exploring the world and the environment. However, it did bring a greater risk to the region: “It is for that reason that we need the Bill desperately. We are putting into law the maxim that prevention is better than cure, which is a good maxim to follow in matters of environmental protection”.<sup>74</sup> He hoped that if the Bill passed its third reading it would “receive a warm welcome and cross-party support in the other place, and have a speedy passage into law”.<sup>75</sup>

The Minister, Mark Simmonds, began by noting the level of consensus on the Bill: “One reason why the debates have been so successful is the cross-party support that has been shown consistently in the House for this important Bill and the important protections that it will afford to the pristine Antarctic environment”.<sup>76</sup> He stated that the Government had “consistently shown their support for this Bill and the important protections that it will afford to the Antarctic environment”. He set out the reasons for the Bill, such as the increase in tourism and growth in science interest which increased the risk of an environmental emergency in the region and hence the need to protect “one of the world’s most pristine natural environments, if not the most pristine”.<sup>77</sup> He described the Bill as “important, well-drafted and coherent”. It provided a comprehensive package of measures that would “greatly enhance the protections afforded to Antarctica and ensure that the UK has fully implemented current obligations in the Antarctic Treaty”. More generally, the Government was “fully committed to the Treaty, seeing it as one of the best conflict prevention strategies, as well as a robust protection for our sovereign claim to the British Antarctic Territory”. The Government was resolute in its commitment to the “indefinite prohibition of commercial exploitation of Antarctic minerals” and would continue to promote the values and importance of Antarctica, and ensure that the British historic and scientific legacy was promoted and conserved. The Government looked “forward to continued support as the Bill enters the other place and hopefully proceeds expeditiously to the statute book”.<sup>78</sup>

The Bill received its third reading without division.

<sup>74</sup> *ibid*, col [1205](#).

<sup>75</sup> *ibid*, col [1206](#).

<sup>76</sup> *ibid*, col [1206](#).

<sup>77</sup> *ibid*, col [1207](#).

<sup>78</sup> *ibid*, col [1208](#).