



Antarctic Bill: Committee Stage

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The *Antarctic Bill* is presented as a Private Member's Bill by Neil Carmichael MP. It was considered in Committee on 21 November 2012 and is due for its Report Stage and Third Reading on 18 January 2013. The Bill has Government support and follows from a draft Bill consulted on by the previous Government in 2009. It will be reported without amendment.

The Bill implements the 'Liability Annex' to the Antarctic Treaty's Environmental Protocol and sets out measures to reduce the 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.

[Library Research Paper 12/63](#) was prepared for the Commons Second Reading and provides analysis of the key clauses and relevant background. This note sets out the issues discussed in Committee. These included: the timing of the enactment of the provisions relating to the liability annex, compatibility with existing shipping liability provisions, and the wider issue of the future of the [British Antarctic Survey](#).

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1 Bill reported without amendment

The *Antarctic Bill* has cross-party support and there were no amendments tabled in Committee.

The original proposal for an Antarctic Bill came from the previous Government who consulted on a [draft Antarctic Bill](#) in December 2009 (Cm 7635). Mr Carmichael's Bill is based on this draft Bill with some amendments which address technical concerns raised in that consultation.

The Bill implements the 'Liability Annex' to the Antarctic Treaty's [Environmental Protocol](#) and sets out measures to reduce the 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. Further background on the international agreements in operation in Antarctica and scientific co-operation in the region can be found in [House of Lords Library Note 2012/034](#) (October 2012) which was prepared for the House of Lords Debate Scott Expedition to Antarctica and Scientific Legacy on 18 October 2012.

In Committee, Gavin Shaker, Shadow Environment, Food and Rural Affairs Minister, confirmed that the Opposition "warmly welcomed" Mr Carmichael's Bill.¹ He praised the "clear and principled" approach to the protection of the Antarctic environment, careful implementation of the liability annex, and amendments to the 1994 Act which ensured a coherent framework. He also emphasised the importance of the measures which extended environmental protection for various species and outlined the need to ensure a clear line of accountability for protecting the Antarctic via the Secretary of State.²

The Foreign Office Minister, Hugo Swire described the Bill as providing "appropriate and proportionate protection for the environment without disadvantaging British interests".³ He confirmed that all "responsible operators" welcomed the provisions.⁴

¹ PBC Deb 21 November 2012 c6

² Ibid c6

³ Ibid c13

2 Issues raised in Committee

The Bill Committee had no major concerns about the Bill and supported its aims.

Members acknowledged that increased tourism (with the associated ships) and the number of scientific bases in the region heightened the need for risk reduction measures in terms of contingency planning as well as polluter pays and liability measures for when environmental emergencies occurred. Neil Carmichael observed that the "potential for an absolute catastrophe in the Antarctic is high and we have to take action to stop that."⁵ Caroline Lucas MP described the Bill as painting "an inspiring picture of what UK leadership can look like."⁶

However, Members sought clarification on a number of areas that were also the key issues raised in the Second Reading Debate. These are detailed in the sections below.

2.1 Enactment of the Liability Annex

There are 48 [signatories to the Antarctic Treaty](#) and 29 of these are consultative parties. The consultative parties consist of the twelve original signatories to the Antarctic Treaty and other States which have become Consultative Parties by acceding to the Treaty and demonstrating their interest in Antarctica by carrying out substantial scientific activity there.⁷

The consultative parties need to ratify the liability annex before it comes into force. So far Finland, Peru, Poland, Spain, Sweden and Australia have ratified the annex.⁸ Caroline Lucas sought clarification as to whether the UK could move any faster to enact the provisions unilaterally.

The Minister of State, Foreign and Commonwealth Office, Hugo Swire, confirmed that once the Bill is passed, the UK will actively lobby parties that have not yet ratified the liability annex to ensure that it is brought into force globally as soon as possible.⁹ Jeremy Corbyn cautioned that it had taken three years to get a majority of treaty states to enact the environmental protocol and a further ten years to get the offices related to the protocol set up.¹⁰

The Minister also maintained that the Government would not be seeking to implement the provisions ahead of the other Treaty parties. The Government's position, like that of the previous Government, remains that early implementation of the provisions would put UK businesses, universities, other scientific institutions and the tax payer at a disadvantage compared to their international counterparts. It would also be likely to result in some UK organisations seeking a permit from a party to the treaty that has not enacted the liability provisions, rather than the UK. This could then reduce the UK's influence and control over the Antarctic activities of its operators.¹¹

⁴ Ibid c13

⁵ PBC Deb 21 November 2012 c5

⁶ Ibid c9

⁷ Scientific Committee on Antarctic Research website, [HAntarctic Treaty page](#)H as on 17 January 2013

⁸ PBC Deb 21 November 2012 c 16

⁹ Ibid c.16

¹⁰ Ibid c11

¹¹ Ibid c16

2.2 Enacting the Bill's previous provisions relating to search and rescue

The Minister confirmed that provisions relating to search and rescue which formed part of an early version of the Bill, prepared by the previous Government, can be implemented under the existing permitting regime and there is no need for primary legislation.¹²

Gavin Shuker sought further explanation of how the permitting regime worked in practice.¹³ The Minister explained that the FCO issues between 35-40 permits per year for activities in Antarctica. He confirmed that the process requires an application form and preliminary environmental assessment. These are assessed by FCO officials seeking expert advice as necessary and applicants are normally invited for a discussion prior to departure. The process looks at: planning, contingency arrangements, insurance and medical and evacuation procedures.

The current permit requirements for British expeditions entering the Antarctic were introduced through the *Antarctic Act 1994*. These are summarised in [Library Research Paper 12/63](#). The FCO website provides a comprehensive guide to the requirements when planning an expedition to Antarctica on its [Permits for Expeditions](#) page.

2.3 Confirmation of compatibility with shipping liability measures

The Minister confirmed that the liability limits in the schedule were intended to complement those contained within the 1996 protocol to the limitation of liability for maritime claims, known as the Convention on Limitation of Liability Maritime Claims (LLMC).¹⁴

Paragraph 5 of the schedule ensures that no shipping operator can be held liable for the same costs twice. Therefore liability cannot be sought for environmental clean-up under both the LLMC and the Antarctic Bill. If the environmental clean-up work involves vessel salvage the operator again cannot be liable twice under the salvage convention and the Antarctic Bill.

The Bill would also cover oil spillages from ships or bases.¹⁵

2.4 Insurance Requirements

Clause 6 requires that anyone organising activities in Antarctica has "adequate insurance cover or other financial security" such as bonds and bank guarantees to cover the costs of any response action related to the environmental emergency and civil liability provisions of Part I of the Bill.

Mark Lazarowicz enquired as to how this requirement would be verified.¹⁶ The Minister confirmed that proof of insurance will need to be given to the FCO prior to departure to Antarctica through the existing permitting regime.

2.5 Extent of the Bill

Jeremy Corbyn sought clarification that the Government would be seeking to extend the provisions to the Channel Islands, Isle of Man and other British-controlled territories as the Bill allowed. The Minister confirmed that in line with clause 18 (2) of the Bill, the Government

¹² Ibid c15

¹³ Ibid c7

¹⁴ Ibid c14

¹⁵ Ibid c14

¹⁶ Ibid c17

would be extending the Bill to these other territories and dependencies in consultation with them as had been the case with the Antarctic Act 1994.¹⁷

3 Other Antarctic Issues

The Committee also used the opportunity of the session to put down markers with the Government about other current Antarctic issues. These are set out below.

3.1 Future of the British Antarctic Survey

Dr Julian Huppert, Gavin Shaker and Jeremy Corbyn sought further reassurances regarding the future of the British Antarctic Survey. This was also a key topic of discussion in the Second Reading debate on the Bill. The Minister confirmed that NERC was recruiting a new director and that FCO and BIS officials were meeting with NERC to discuss progress.¹⁸

The British Antarctic Survey is responsible for Britain's national scientific activities in Antarctica. These include taking regular ice cores to monitor climate change. In June 2012 the Natural Environment Research Council proposed merging BAS with the National Oceanography Centre to exploit synergies in their work and to cut the high costs of providing marine and polar infrastructure. NERC concluded a consultation on its plans in October 2012 with strong opposition from scientists, Parliamentarians (including the House of Commons All-Party Polar Regions Group and [Science and Technology Committee](#)) and polar affairs stakeholders.¹⁹ House of Commons [Library Research Paper 12/63 Antarctic Bill](#) (October 2012) provides further details. The House of Commons Science

As a result, NERC agreed that it would not proceed with the proposal. This outcome was announced by Science Minister David Willetts on the 2nd November 2012, the day of the Antarctic Bill's Second Reading. He also outlined how the Government's position on the future funding of the BAS:

The British Antarctic Survey is a national and international asset that delivers world-class environmental science, and this country's strategic presence in Antarctica and the South Atlantic. The UK's commitment to continuing this dual mission in the region is as strong as ever.

NERC has already committed to maintain the funding of the British Antarctic Survey at £42m a year for the rest of this spending review period.

Looking to the future - though without pre-empting the timing and size of the next spending review settlement - I consider that NERC should have a discrete funding line for Antarctic infrastructure and logistics from within the ring-fenced science budget to ensure a visible UK commitment to maintaining Antarctic science and presence.²⁰

3.2 Fishing controls

The Bill does not contain any clauses relating to fishing controls. WWF-UK did push for the protection of fish species along similar lines to those of marine plants and invertebrates when

¹⁷ PBC Deb 21 November 2012 c17

¹⁸ Ibid c16

¹⁹ See for example, HC 699 Sixth Report (2012-13) of the House of Commons Science and Technology Committee, [HProposed merger of British Antarctic Survey and National Oceanographic Centre](#), October 2012

²⁰ British Antarctic Survey Press Release, [HOutcome of NERC Council meeting to consider proposal to merge BAS and NOCH](#), 2 November 2012

the previous Government consulted on the Bill but the Government felt that the protection of Antarctic fish stocks was best pursued through the [Convention on the Conservation of Antarctic Marine Living Resources \(CCAMLR\)](#).²¹ This remains the Government view.

Jeremy Corbyn MP was concerned that not all countries had signed the Antarctic Treaty and many of these were involved in fishing and fishery exploitation in the area. He therefore highlighted the importance of the Convention as bringing such nations into the Treaty.²²

The Convention on the Conservation of Antarctic Marine Living Resources came into force in 1982, as part of the Antarctic Treaty System. It was established mainly in response to concerns that an increase in krill catches in the Southern Ocean could have a serious effect on populations of krill and other marine life; particularly on birds, seals and fish which mainly depend on krill for food.²³

Mr Corbyn noted that talks to reach agreement in October 2012 on the Convention had collapsed and expressed hopes that countries such as Russia (a treaty signatory) and Ukraine and others that are not treaty signatories would "come on board" to avoid a problem of some countries evading the treaty system and taking excessive stocks of fish.

The Minister said that he "shared the disappointment" that the recent Commission for the Conservation of Antarctic Marine Living Resources did not agree to new designations. However, he confirmed that the UK would work hard with others to ensure a more successful outcome in a special meeting of the Commission in July 2013.²⁴

²¹ FCO, Government response to the consultation on the Draft Antarctic Bill, April 2010, para 27

²² PBC Deb 21 November 2012 c10

²³ *British Antarctic Survey, HConvention on the Conservation of Antarctic Marine Living ResourcesH* web page as on 17 January 2013

²⁴ PBC Deb 21 November 2012 c17