

**Ministry of Earth Sciences
Govt of India**

Indian Antarctic Bill

Ministry of Earth Sciences (MoES)/National Centre for Polar and Ocean Research (NCPOR) is in the process of preparing Indian Antarctic Bill. This Bill is in pursuant to India's accession to Antarctic Treaty, 1959 and the Protocol on Environment Protection (Madrid protocol) to the Antarctic Treaty. The Bill aims at having India's own national measures for protecting the Antarctic environment and dependent and associated ecosystem.

The details of the proposed Bill are attached.

Any comments/suggestions on the proposed Bill may be sent to Dr. Vijay Kumar, Scientist G, MoES at vijay.kumar66@nic.in by 13th February 2020.

EXPLANATORY MEMORANDUM
INDIAN ANTARCTIC BILL

MINISTRY OF EARTH SCIENCES



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INDIAN ANTARCTIC BILL

EXPLANATORY MEMORANDUM

1.0. Introduction

- 1.1 The Antarctic Treaty was signed on December 1st, 1959 by twelve countries (Argentina, Australia, Belgium, Chile, French Republic, Japan, New Zealand, Norway, Union of South Africa, Union of Soviet Socialist Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America) and came into force on 23rd June, 1961 after ratification by the above twelve countries. The Treaty covers the area south of 60°S latitude. The objectives of the treaty are to demilitarize Antarctica and establish it as a zone used for peaceful research activities and to set aside any disputes regarding territorial sovereignty, thereby ensuring international cooperation.
- 1.2 The Protocol on Environmental Protection (Madrid Protocol) to the Antarctic Treaty was signed in Madrid on October 4, 1991 and entered into force in 1998. It designates Antarctica as a “natural reserve, devoted to peace and science” (Article 2). The Protocol on Environmental Protection has six Annexes. Annexes I to IV were adopted in 1991 together with the Protocol and entered into force in 1998. Annex V on Area Protection and Management was adopted separately during the 16th Antarctica Treaty Consultative Meeting (ATCM) in 1991 and entered into force in 2002. Annex VI on Liability Arising from Environmental Emergencies was adopted by the XXVIII- ATCM in Stockholm in 2005, awaiting approval by all the Consultative Parties to enter into force.
- 1.3 India signed Antarctic Treaty on 19th August 1983 and soon received consultative status on 12th September 1983. The Protocol on Environmental Protection to the Antarctic Treaty (the Environmental Protocol) entered into force for India on 14th January 1998. India is also a member of Council of Managers of National Antarctic Programme (COMNAP), Scientific Committee of Antarctica Research (SCAR) and Commission for Conservation of Antarctic Marine Living Resources (CCAMLR). With active research stations; Maitri at Schirmacher Hills, Bharati at Larsemann Hills as well as Himadri station in Arctic, India now belongs to the elite group of nations that have multiple research stations within the Polar Region.

- 1.4 Indian Antarctic Bill is in pursuant to India's accession to Antarctic Treaty, 1959 and the Protocol on Environment Protection (Madrid protocol) to the Antarctic Treaty. The Bill aims at having India's own national measures for protecting the Antarctic environment and dependent and associated ecosystem. India needs to formulate and enforce its own laws for Antarctica. The enforcement of such laws will confer jurisdiction on the courts of India to deal with any dispute or crimes committed in certain parts of Antarctica. Legislation of such a kind will bind the citizens to the policies of the Antarctic treaty system in a powerful way. Legislation will ensure programmatic continuity as officials; governments and government priorities change over time. This will also be useful in building credibility and enhance the status of the country globally.

2.0. Objectives

The Objectives of this Bill are to

- 2.1. ensure fulfilment of obligations of India under the Antarctic Treaty of 1959, to the Convention on the Conservation of Antarctic Marine Living Resources of 1982, and to the Protocol on Environmental Protection to the Antarctic Treaty of 1998;
- 2.2. promote Antarctica as a natural reserve, devoted to peace and science and to ensure that Antarctic does not become the scene or object of international discord;
- 2.3. ensure the comprehensive protection of the Antarctic environment and dependent and associated ecosystems; and
- 2.4. facilitate and promote research in Antarctic by institutions and individuals permitted by India.

3.0. Benefits

The main benefits are:

- 3.1. improved efficiency, transparency and accountability in decision making on all Antarctic matters involving India and the States;
- 3.2. more focused involvement of India in Antarctic issues based on matters of national significance, which will lead to better use of

- national resources and improved environmental and research outcomes;
- 3.3. coordination, streamlining and proper monitoring of operations, permissions and issues through the framework for accreditation of governmental processes and decisions;
 - 3.4. enhanced role of India in heritage matters, marine protected areas, environmental emergencies among others;
 - 3.5. use of rules and agreements, and other instruments to encourage a focus on long-term planning and monitoring.

The main benefits to research institutions and industry are:

- 3.6. greater certainty of roles, responsibilities and processes relating to the environment, particularly India's involvement in heritage issues, marine reserve issues, mining issues, among others;
- 3.7. enhanced role and responsibility through simplified and clearer framework in which institutions and industry can pursue enhanced research and economic pursuits;
- 3.8. a framework for improved accreditation arrangements whereby only one government assessment and approval process will be applied to an activity or proposal - the government best placed to undertake an assessment will do so with unnecessary duplication removed;
- 3.9. the delay, uncertainty and inefficiency associated with lack of proper framework will be eliminated;
- 3.10. there will be set timeframes within which decisions must be made; and
- 3.11. optimum utilization of resources allocated by the government and creation of public partnership arrangements to promote and exploit full potential of benefits available under the Antarctic Treaty, especially Antarctic Tourism.

4.0. Option

The only option available to government is to continue with the existing norms and practices governing its Antarctic operations with all risks and limitations that are and will be encountered in the absence of a comprehensive legislative and regulatory framework.

5.0. Impact analysis

The main parties affected by the problem are the governmental departments, research institutions, individuals and to a certain extent industry.

6.0. Financial Impact Statement

The Antarctic operations of India are currently funded from the budget allocated to the Ministry of Earth Sciences under relevant head. Indian Antarctic Act envisages establishment of Indian Antarctic Authority to ensure the implementation of this Act. Accordingly, recurrent grant related to the functioning of the Authority shall be allocated in yearly budget.

7.0. Implementation and Review

It is envisaged that the Bill will be introduced into the 2020 session of the Parliament. In view of the parliamentary processes that need to be observed, including the likely referral of the Bill to a Committee, it is expected that act will enter into force towards the end of 2020. Thereafter, the Indian Antarctic Authority will monitor the operation of the Act on an on-going basis. The Act will be reviewed not later than 5 years into entry into force by an empowered committee of experts constituted by the Ministry of Earth Sciences.

8.0. Indian Antarctic Act

Chapter I provides preliminary information such as citation of the Act, definitions, and application of the Act.

Chapter 2 provides all essential prohibitions as required under the Antarctic Treaty, Madrid Protocol and amendments made thereto and as applicable to India.

Chapter 3 describes the scope, programs and activities to promote scientific research in Antarctic.

Chapter 4 establishes the Indian Antarctic Authority, its objectives, functions, powers, funds and requirements concerning annual report and statutory audits of funds.

Chapter 5 enlists the regulations that can be made by the Antarctic Authority of India to fulfil India's obligations under relevant international instruments and ensure efficient and effective implementation of this Act.

Chapter 6 provides for the provision of issuance and regulation related to permits.

Chapter 7 outlines permit procedure for the initial environmental evaluation.

Chapter 8 outlines permit procedure for the comprehensive environmental evaluation.

Chapter 9 stipulates provisions concerning the permissions and prohibitions concerning the introduction of non-native species into the Antarctic.

Chapter 10 enumerates customs control provisions.

Chapters 11 to 15 provides for provisions on the waste management plans and emergency plans, waste incineration provisions, disposal of liquid wastes, storage of wastes in general, work sites and waste disposal sites.

Chapter 16 provides a general regulation on prevention of marine pollution in Antarctic.

Chapter 17 and 18 provide for inspections in India and inspections in the Antarctic.

Chapter 19 makes necessary provisions concerning the disclosure of information.

Chapters 20 and 21 provide for the provisions on liability for an environmental emergency and emergencies in Antarctica in general.

Chapter 22 provides miscellaneous provisions concerning orders and regulations, grievance address mechanism and review mechanism for the Act.

9.0. Relations with other Acts

The Act further promotes the object and purposes of the Maritime Zones Act, 1976; Merchant Shipping Act, 1958; Electricity Act, 2003; Forest (Conservation) Act, 1980; Environment Protection Act, 1986; Air (Prevention and Control of

Pollution), Act 1981; Water (Prevention and Control) Act, 1974; Wildlife Protection Act, 1972; Biological Diversity Act, 2002; Ozone Depleting Substances (Regulation and Control) Rules, 200; Indian Fisheries Act, 1897.