

## INDIAN ANTARCTICA BILL, 2022

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### ABSTRACT

*Indian Antarctica Bill, 2022 is the first domestic legislation of India regarding Antarctica. Antarctica entirely covers the south of the Arctic Circle and it is the biggest ice sheet in the globe. It is a unique continent as it holds 70% of the world's freshwater, mineral resources, and distinct species of animals and plants. It is a non-habitual continent, despite this, scientists from different countries live there for part of a year and do their research for understanding global environmental issues and many people visit there as tourists. This article aims to answer the question: India's position regarding Antarctica, the purpose of the Bill, the applicability of this Bill, Activities that require permission under this Bill, Activities that are completely prohibited, and penalties imposed on the commission of an offense.*

**Keywords:** Bill, Legislation, Law.

### INTRODUCTION

Indian Antarctica Bill, 2022 is the first domestic legislation of India regarding Antarctica. Antarctica entirely covers the south of the Arctic Circle and it is the biggest ice sheet in the globe, it holds 70% of the world's freshwater, mineral resources, and distinct species of animals and plants. It is a non-habitual continent, despite this, scientists from different countries live there for part of a year and do their research for understanding global environmental issues and many people visit there as tourists. "Chile", "New Zealand", "France", "Australia", "the United Kingdom", "Norway", and "Argentina" all claim parts of Antarctica, despite the continent not belonging to a country. To resolve the dispute between nations about territorial sovereignty and set up a zone for peaceful research Activities, ensuring International Cooperation, Antarctica Treaty was made in 1959 since then fifty-four countries are part of this treaty out of which twenty-nine countries hold the status of consultative parties.

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\*LLB, SECOND YEAR, HARISHCHANDRA P G COLLEGE, VARANASI.

## INDIA'S POSITION REGARDING ANTARCTICA

- Since its inception in 1981, the “Indian Antarctic Program has performed 41 scientific excursions there and constructed three permanent research base stations, Dakshin Gangotri (1983), Maitri (1988), and Bharati (2012). The Dakshin Gangotri station was abandoned in 1990 as it got buried under the snow. Currently, Maitri and Bharati are fully operational. Maitri is found at Schirmacher Hills, operational since 1989, and Bharati at Larsemann Hills, in operation since 2012.” An independent research center within the ‘Ministry of Earth Sciences, “the National Center for Polar and Ocean Research, Goa”, coordinates scientific research in Antarctica.
- To resolve the dispute between the nations about territorial sovereignty and set up a zone for peaceful research activities, ensuring International Cooperation, twelve nations namely, “Australia”, “Argentina”, “Belgium”, “Chile”, “France”, “Japan”, “New Zealand”, “Norway”, “the USSR”, “the UK”, “the Union of South Africa”, and “the USA” signed the “Antarctica Treaty” on the 1<sup>st</sup> day of December 1959 at Washington D.C. and this treaty came into force on the 23<sup>rd</sup> day of June 1961, after its ratification. India on the 19<sup>th</sup> day of August 1983 signed this treaty. India holds consultative status in the Antarctic Consultative Meetings with a right to vote.
- “CCAMLR (Convention on the Conservation of Antarctica Marine Living Resources)” was signed in Canberra on the 20<sup>th</sup> day of May 1980, and aims at protecting and conserving the Antarctica environment and marine living resources. India ratified the CCAMLR on the 17<sup>th</sup> day of June 1985.
- Strengthening the “Antarctic Treaty” system and developing a comprehensive plan to protect the Antarctic environment, “the Protocol on the Environmental Protection to the Antarctic Treaty (Madrid Protocol)” was signed on the 4<sup>th</sup> day of October 1991 at Madrid. India signed this “Madrid Protocol” on the 14<sup>th</sup> day of January 1998.
- India is also a part of “the Scientific Committee of Antarctic Research (SCAR)” and “the Council of Managers of the National Antarctic Programme (COMNAP)”.

India has a leading position in Antarctic research based on all of these factors. Although India is a part of several treaties, conventions, and protocols relating to Antarctica, there was no domestic legislation about Antarctica that can govern the activities in Antarctica. The first domestic legislation concerning Antarctica in India came forward in the form of “The Indian Antarctica Bill, 2022”.

“The Indian Antarctica Bill, 2022” was introduced by Union Minister Dr. Jitendra Singh in Lok Sabha on the 1<sup>st</sup> day of April 2022. Lok Sabha passed this Bill on the 22<sup>nd</sup> day of July 2022. Rajya Sabha passed this Bill on the 1<sup>st</sup> day of August 2022.

“To provide for some national measures for protecting the Antarctic Environment and its dependent and associated ecosystems”, this Bill gives an upshot to the “Antarctic Treaty”, “CCAMLR (Convention on the Conservation of Antarctic Marine Living Resources)”, and “the Madrid Protocol”.

### **THE PURPOSE OF THIS BILL**

This bill was needed because of the following reasons:

- To regulate the activities of Indian scientists and Indian expeditions in Antarctica.
- To regulate and promote tourism in Antarctica.  
To regulate and promote fishing in Antarctica.  
To regulate the operations of the private ships and aviation industry in Antarctica.

"The main aim of the Bill is also to ensure de-militarization of the region along with getting it rid of mining or illegal activities. It also aims that there should not be any nuclear tests/explosions in the region. " Said, Dr. Jitendra Singh.

### **THIS BILL OFFERS**

- To stop the Indian expedition from carrying out certain activities in Antarctica without permission granted by another party to the protocol.
- Set up the “Committee on Antarctic Governance and Environmental Protection” to carry out the functions set forth therein.
- Arranging inspections in India by inspectors appointed by the Central Government and organizing inspection teams to conduct inspections in Antarctica.
- Prescribe penalties for breach of any proviso of the Bill.
- Establishment of an Antarctic fund to protect the Antarctic environment and conduct research work in Antarctica.
- Prescribing provisions for the Designated court for speedy trial and laying down their territorial jurisdiction.

## APPLICABILITY OF THIS BILL

Clause 2 of the bill states that

- a) “a citizen of any other country; or
- b) a company, body corporate, corporation, partnership firm, joint venture, an association of persons, or any other entity incorporated, established, or registered as such under any law in force in India; or
- c) any vessel or aircraft registered in India or outside India, if such person, vessel, or aircraft is part of an Indian expedition to Antarctica under a permit issued under this Bill and shall include any such vessel or aircraft which is registered in India but chartered by any other Party for entering into Antarctica;
- d) Antarctica, forming of the following areas, namely: —
  - i. the continent of Antarctica, including its ice shelves.
  - ii. all islands south of 60° South Latitude, including their ice shelves.
  - iii. all areas of the continental shelf that are adjacent to that continent or to those islands that are south of 60° South Latitude.
  - iv. all sea and air space south of 60° South Latitude.
  - v. the area specified in Article I of the Convention on the Conservation of Antarctic Marine Living Resources”<sup>1</sup>

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## WHEN PERMISSION IS NEEDED

- **Clause 4** of the Bill states that “No person taking part in the Indian expedition shall enter or remain in Antarctica without the permission or written permission of any other Party to the Protocol. However, permission is not needed for travel via, on, or across the high seas to destinations other than Antarctica”.<sup>2</sup>
- **Clause 5** of the bill states that “No person may enter or be at an Indian base in Antarctica without the permission or written consent of another Party to the Protocol”.<sup>3</sup>
- **Clause 6** of the bill states that “No Indian-flagged vessel or aircraft shall enter or remain in Antarctica without the permission or written consent of another Party to the Protocol. However, no permit is needed for vessels transiting, on or via the high seas to direct

<sup>1</sup> The Indian Antarctica Bill, 2022 , Clause 2.

<sup>2</sup> The Indian Antarctica Bill 2022, s 4

<sup>3</sup> The Indian Antarctica Bill 2022, s 5

destinations outside Antarctica. Further, with the proviso that no permit is needed for aircraft flying to direct destinations outside Antarctica”.<sup>4</sup>

- **Clause 7** of the bill states that “Any person or ship in Antarctica,
- (a) drilling, dredging, or excavating of mineral resources
  - (b) collect samples of mineral resources
  - (c) make every effort to identify specific occurrences or deposits of Mineral Resources or areas where such occurrences or deposits may be found except by the permits granted under this Bill.

However, for this Clause, no permission is granted unless the Committee believes that activities are continued only for the purposes of -

- (a) scientific research
  - (b) in connection with the construction, maintenance, or repair of Indian stations or other structures, roads, runways, or jetties in Antarctica maintained by or on behalf of India”.<sup>5</sup>
- **Clause 8** of the bill states that “No person in Antarctica shall, without a permit or written authorization of another Party to the Protocol—
- (a) remove or damage native plants intentionally in a manner that significantly affects their local distribution or abundance
  - (b) fly or land a helicopter or other aircraft intentionally in a manner that disturbs any concentration of native birds or seals
  - (c) use a vehicle or vessel, including a hovercraft and a small boat, intentionally in a manner that disturbs any concentration of native birds or seals;
  - (d) use an explosive or firearm intentionally in a manner that disturbs any concentration of native birds or seals
  - (e) while on foot, wilfully disturb a breeding or moulting native bird or concentration of seals
  - (f) significantly damage any concentration of terrestrial native plants by landing an aircraft, driving a vehicle, or walking on it
  - (g) engage in any activity that results in a significant adverse change of the habitat of any specially protected species or population of native mammals, native birds, native plants, or native invertebrates

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<sup>4</sup> The Indian Antarctica Bill 2022, s 6

<sup>5</sup> The Indian Antarctica Bill 2022, s 7

(h) remove soil or any biological material native to Antarctica intentionally

(i) kill, injure, capture, handle or molest a native mammal or native bird unless the such act was done to protect the life of a person<sup>6</sup>

- **Clause 9** of the bill states that “No person, vessel, or aircraft shall bring into any part of Antarctica any animal species not native to Antarctica or non-native plant species, except by a permit or the written authorization of another Party to the Protocol”.<sup>7</sup>
- **Clause 10** of the bill states that “No person shall introduce into any part of Antarctica any microscopic organism of a species not native to Antarctica except according to the written consent of another Party to the Protocol”.<sup>8</sup>
- **Clause 11** of the Bill states that “no person or vessel or aircraft shall enter into an Antarctic Specially Protected Area or Marine Protected Area as may be prescribed except per a permit or the written authorization of another Party to the Protocol”.
- **Clause 12** of the Bill states that “no person, vessel, or aircraft shall dispose of waste in Antarctica except under a permit or the written authorization of another Party to the Protocol”.
- **Clause 13** of the Bill states that “no vessel shall, while in Antarctica, discharge into the sea any oil or oily mixture, affluent, bilge water, or any food waste except following a permit or the written authorization of another Party to the Protocol”.
- **Clause 15** of the Bill states that “the provisions of Clause 4, 5, 6, 11, 12, and 13 shall not apply in respect of emergencies involving the safety of a person, the protection of the environment, or the safety of any vessel, aircraft, equipment or facility that has a significant value”.
- **Clause 16** of the Bill states that “Any person who intends to go to Antarctica for commercial fishing shall apply for a permit to the Secretariat of the Commission for the Conservation of Antarctic Marine Living Resources through the Committee”.

## PROHIBITED ACTIVITIES UNDER THIS BILL

The following Activities are completely prohibited by this Bill -

- **Clause 17** of the Bill “prohibits the disposal of radioactive waste material or nuclear explosions in Antarctica”.

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<sup>6</sup> The Indian Antarctica Bill 2022, s 8

<sup>7</sup> The Indian Antarctica Bill 2022, s 9

<sup>8</sup> The Indian Antarctica Bill 2022, s 10

- **Clause 18** of the Bill “prohibits the introduction of non-sterile soil in Antarctica”.
- **Clause 19** of the Bill “prohibits introducing specified substances and products”.
- **Clause 20** of the Bill states that “no person shall damage, destroy or remove any historic site or monument or any of its part in Antarctica as may be prescribed”.
- **Clause 21** of the Bill states that “anything that has been obtained in contravention of the provisions of this Bill shall be owned, sell, offer for sale, traded, given, transported, or transferred by any person or vessel, or aircraft”.
- **Clause 22** of the Bill “prohibits vessels to discharge any garbage, plastic, or other product or substances into the sea that is harmful to the marine environment in Antarctica”.

### **PENALTY FOR CONTRAVENTION OF CERTAIN PROVISIONS OF THE BILL**

#### ➤ **By Person (Clause 41): -**

- “Contravention of sections 4, 5, 8, 12, 18, 19, 20, 21, 29(4), 36, or 37 shall be punishable with imprisonment for a term that may extend to two years, or with a fine that shall not be less than ten lakh rupees but which may extend to fifty lakh rupees, or with both.
- Contravention of sections 7, 9, or 10, shall be punishable with imprisonment for a term that may extend to seven years and with a fine which shall not be less than ten lakh rupees but that may extend to fifty lakh rupees.
- For the nuclear explosion in Antarctica, imprisonment for a term of not less than fourteen years may extend to imprisonment for life and with a fine of not less than fifty crore rupees.
- For disposal of any radioactive waste material in Antarctica, imprisonment for a term which shall not be less than fourteen years but which may extend to imprisonment for life and with a fine which shall not be less than twenty-five crore rupees.
- Contravention of sections 11, 16, 33, or 35, shall be punishable with imprisonment for a term which may extend to three years, or with a fine which shall not be less than fifteen lakh rupees but which may extend to seventy-five lakh rupees, or with both.
- Contravention of sections 14, or 32, shall be punishable with imprisonment for a term which may extend to one year, or with a fine which shall not be less

than five lakh rupees but which may extend to twenty lakh rupees, or with both”.

➤ **Involving Vessel (Clause 42): -**

- “For contravention of sections 6, 11, 12, 13, 18, 19, 21, or 22, with imprisonment for a term that may extend to three years, or with a fine which shall not be less than one crore rupees but which may extend to five crore rupees, or with both.
- For contravention of sections 7, 9, or 39, with imprisonment for a term that may extend to seven years and with a fine which shall not be less than two crore rupees but which may extend to ten crore rupees, or with both”.

➤ **Involving Aircraft (Clause 43): -**

- “For contravention of sections 6, 11, 12, 19, or 21, with imprisonment for a term that may extend to three years, or with a fine which shall not be less than one crore rupees but that may extend to five crore rupees, or with both.
- For contravention of section 9, imprisonment for a term that may extend to seven years and with a fine which shall not be less than two crore rupees but that may extend to ten crore rupees, or with both”.

## CONCLUSION

The Indian Antarctica Bill, 2022 is the first domestic legislation of India that supplies “national measures for protecting the Antarctic Environment and dependent and associated ecosystems” and regulates the activities performed in Antarctica by “any person, company, body corporate, corporation, partnership firm, joint venture, vessel, or aircraft which is a part of an Indian expedition to Antarctica under a permit issued under this Bill” and also impose a penalty for the commission of an offense.