



- (e) The Act, like that of Australia, excepts from its operation the high seas within Antarctica.

As far as I can ascertain, the only other country which has taken legislative steps to meet the jurisdictional difficulties in Antarctica is Norway. Prior to the ratification of the Treaty by Norway, the Norwegian Parliament adopted legislation to amend an act of 1930 extending Norwegian jurisdiction to Norwegian Antarctic territory. The effect of the amending legislation was to give foreigners immunity from Norwegian law in Antarctica where this was required by international treaties. The amending legislation did not thus refer to the Antarctic Treaty specifically but to international treaties generally.

You will note that all the countries so far who have taken steps to give effect in legislation to the jurisdictional provisions of the Antarctic Treaty are claimant countries. If the Union legislates in this field it will be the first non-claimant to do so. It occurs to me, therefore, that the Union will have to be very careful indeed in drawing up its legislation to prevent the impression being gained that by doing so it impliedly recognises the jurisdiction of other Treaty parties over Antarctic Territory. The Union's main concern is apparently to extend the jurisdiction of South African Courts to territory outside the Union namely Antarctica, where the jurisdiction of these courts does not apply. Without being aware of the legal intricacies involved could this, for example, not be achieved by arguing that Antarctica is terra nullius (after all we recognise no claims there) and so simply extending the jurisdiction of South African courts over South African citizens in Antarctica without the necessity of even referring specifically to the Treaty. As far as exempting observers and exchange scientists etc. from the jurisdiction of South African Courts is concerned it does not seem to me that this is really something with which the Union need trouble itself.

The above are merely thoughts which have occurred to me and it may be that I am anticipating difficulties where there are in fact no difficulties at all. You will, however, be in a better position to know what the correct position is.

The Act also provides that...  
 W. C. AVUDE  
 AMBASSADOR.

23rd December, 1960.

Airbag - Safeland

CONFIDENTIAL

THE SECRETARY FOR EXTERNAL AFFAIRS.



Antarctica.

I refer to your minute 102/2/7/1 over 102/2/7/3 of 1st November, 1960, in regard to the question of adopting legislation in order to give effect to Article VIII of the Antarctic Treaty and have to advise you that New Zealand has adopted similar legislation to that already adopted by Australia in this regard.

You already have the text of the Australian Act and I enclose the text of the New Zealand Act which the New Zealand Embassy has kindly made available.

The New Zealand Act, you will note, deals with:-

- (a) crimes committed in the Ross Dependency by any person and crimes committed by New Zealanders in other parts of Antarctica not within the jurisdiction of any country.
- (b) Crimes committed by New Zealanders who are observers and exchange scientists or the members of the staffs of such observers or exchange scientists, whilst they are in any part of Antarctica other than the Ross Dependency which is within the jurisdiction of any country.
- (c) Restriction of New Zealand jurisdiction in the case of civil and criminal offenses committed by nationals of other parties to the Treaty who are observers or exchange scientists or members of their staffs whilst they are in any part of Antarctica including the Ross Dependency.
- (d) The Act also provides that a certificate from the Minister of External Affairs shall determine whether or not a person is an observer or exchange scientist or a member of the staff of any such observer or exchange scientist.

*Handwritten notes:*  
in 2/11/61  
Z  
P

(e)/....



CONFIDENTIAL

23rd December, 1960.

With the  
Compliments of the  
Embassy  
of the  
Union of South Africa  
Washington, D.C.

LONDON.

23rd December, 1960.



AFFAIRS.

minute 102/2/7/1 over 102/2/7/3 of  
rd to the question of adopting  
e effect to Article VIII of the  
o advise you that New Zealand  
tion to that already adopted by  
Treaty are claimant countries.  
the text of the Australian Act  
the New Zealand Act which the New  
made available.

- (a) Crimes committed in the Ross Dependency by any person and crimes committed by New Zealanders in other parts of Antarctica not within the jurisdiction of any country.
- (b) Crimes committed by New Zealanders who are observers and exchange scientists or the members of the staffs of such observers or exchange scientists, whilst they are in any part of Antarctica other than the Ross Dependency which is within the jurisdiction of any country.
- (c) Restriction of New Zealand jurisdiction in the case of civil and criminal offenses committed by nationals of other parties to the Treaty who are observers or exchange scientists or members of their staffs whilst they are in any part of Antarctica including the Ross Dependency.
- (d) The Act also provides that a certificate from the Minister of External Affairs shall determine whether or not a person is an observer or exchange scientist or a member of the staff of any such observer or exchange scientist.

*Handwritten notes:*  
in 2/1/61  
Z. J. P.

RESOLUTION ON BIOLOGY ADOPTED AT THE CLOSING PLENARY SESSION  
OF THE ANTARCTIC SYMPOSIUM HELD AT BUENOS AIRES NOVEMBER 17-25,  
1959

The delegates to this Symposium are convinced that the time has come to take positive steps towards the protection and preservation of Antarctic wild life.

The nature of a fauna developed through the joint advantages of an unrivalled food supply at sea and the absence of indigenous enemies on land make such steps essential, both because of the unique characteristics of the birds and mammals concerned, and because of their complete lack of means or instinct of self-preservation while out of the water, and their consequent extreme vulnerability to the mischief of unprincipled men and uncontrolled dogs. It is recognized that the killing of seals, penguins and other creatures is sometimes necessary to provide food for men and dogs, and that the judicious collection of biological specimens is likewise fitting and proper.

However, it must be conceded that each season the resupply operations in support of Antarctic scientific bases bring with them into the Antarctic a number of persons, members of ships' companies and others, who possess a minimum of interest in the natural life and its conservation and who, if not supervised and controlled, have made and will continue to cause serious damage to the flora and fauna. Penguins and other colonial forms readily accessible to predation are easy victims and highly vulnerable fauna types.

It is also true that some careless aspects of modern operations such as the flying of helicopters over penguin rookeries and the pumping of bilges by ships close to shore, with no malice intended, can cause tremendous harm to wild-life populations. Well-intended but ill-advised activities which disturb the natural interplay of population densities, such as the destruction of skuas on the theory that this will benefit the penguins, also leave their marks.

Considering all the above and in recognition of the international aspect of Antarctic scientific activities, it is our firm conviction that the several nations supporting Antarctic stations should take joint steps to ensure the preservation of the Antarctic flora and fauna and its protection from needless persecution and destruction; and further, that the proper agency to co-ordinate such steps is the Special Committee on Antarctic Research (SCAR).

The meeting therefore recommends that these views be made known to SCAR with the request that it prepare standard regulations which will provide the protection necessary to all forms of Antarctic flora and fauna, and that member nations be exhorted to accede to these regulations and agree to their strict enforcement.

...to their ...  
...will therefore ...  
...has approved the ...  
...the protocols will be ...  
...of the Treaty ...  
...year.

...as far as the ...

RESOLUTION PASSED UNANIMOUSLY AT THE TWELFTH INTERNATIONAL CONFERENCE OF THE INTERNATIONAL COUNCIL FOR BIRD PRESERVATION HELD AT TOKYO MAY 24-29, 1960.

The delegates to this Conference are convinced that the time has come to take concrete steps towards the protection and preservation of Antarctica wild life.

The International Council for Bird Preservation calls attention to the urgent need for international protection of the unique Antarctic fauna, and particularly to the danger to such fauna of releasing sled dogs, of introducing intentionally, or unintentionally, exotic animals, of permitting discharge of oil in Antarctic waters, and of allowing interference by crews and personnel with penguins and other indigenous wildlife. It urges the inclusion in the proposed Antarctic treaty of appropriate provisions governing these and other matters designed to protect the Antarctic fauna, and it further urges the setting aside of adequate inviolate reserves for the preservation of this fauna and of the natural Antarctic environment.

It is also urged that such careless activities as the dropping of litter, the flying of helicopters over penguins, the use of weapons of war, the use of ships close to shore, and the use of explosives, should be prohibited. It is also urged that the use of nuclear power should be prohibited in the vicinity of the Antarctic continent, and that the destruction of penguins and other wildlife should be prohibited. It is also urged that the penguins, and other wildlife, should be protected.

Considering all the above and in recognition of the international aspect of Antarctic scientific activities, it is the conviction of the several nations supporting the Antarctic Treaty that joint steps to secure the preservation of the Antarctic flora and fauna and the protection from careless persecution and destruction, and further, that the ICBP agency to co-ordinate such steps is the Special Committee on Antarctic Research (SCAR).

The meeting therefore recommends that these views be made known to SCAR with the request that it prepare standard regulations which will provide the protection necessary to all forms of Antarctic flora and fauna, and that similar regulations be enacted to accord to these regulations the same to their strict enforcement.

As soon as the protocols will be approved but it is possible that ratification of the Treaty may well be delayed until May or June next year.

As far as the Argentine is concerned the Treaty

Item 15: The Exchange of Information and Advice  
relating to the Application of Nuclear Energy in  
the Treaty Area.

In proposing this item the South African Government had in mind the fact that at least one country had already announced its intention to erect a nuclear reactor in Antarctica and that other countries would no doubt follow suit as atomic power comes into general use. In the circumstances it would seem that the availability of expert advice on nuclear questions affecting Antarctica will be highly desirable and indeed necessary as time goes on. The pioneers in this field would, for example, no doubt encounter peculiar difficulties arising out of the need to operate reactors in the Extreme cold of the Antarctic, and would gain experience which would be of exceeding value to those following in their footsteps. Furthermore as atomic power comes into general use in Antarctica the question of the disposal of radio-active waste is likely to become an issue of major importance and periodic information on the latest developments in this field would be most useful.

In the light of the above, it is suggested that the Canberra Meeting might give consideration to the possibility of arranging for regular consultation between Treaty Powers with a view to the exchange of information and advice relating to the application of nuclear energy in the Treaty area and to the exchange of information on the disposal of radio-active waste material produced in Antarctica.

be in difficulty and needed assistance. The Institute also wondered whether the exchange of scientific information in the papers was not too detailed as this type of exchange is already being carried out by SCAR.

As the Canberra meeting will no longer take place in February, the Group considered that there was no necessity to meet as frequently as it has been doing and it was accordingly agreed that the next meeting should be held on 31st January, 1961.

W. C. NAUDE

AMBASSADOR.

...the availability of experts...  
...and indeed necessary to...  
...the field would, for example...  
...difficulties arising out of the...  
...the Extreme cold of the An...  
...which would be of exceeding value to these...  
...Furthermore an...  
...the question of the...  
...is likely to...  
...the latest develop-  
...be met desired.

In the light of the above, it is suggested that the...  
...give consideration to the possibility...  
...between Treaty Powers...  
...and advice relating...  
...in the Treaty area and...  
...of radioactive...  
...in Antarctica.



recalled his promise at the previous meeting to circulate the resolution adopted at the Eleventh Meeting of the International Committee and stated that instead he would circulate the recommendation of the Twelfth Meeting. He also circulated a copy of the resolution of the Antarctic Symposium held at Buenos Aires in 1959. Copies of these papers are attached.

There was no further discussion of the French item (item 12) concerning reciprocal assistance as the French representative had not yet received the clarifications he had requested on the subject.

The Group briefly touched on the Rules of Procedure forwarded to you with my minute 43/44 of 16th December, 1960. The New Zealand representative was the only member of the Group who had received any instructions on this question. He expressed some doubt as to the necessity of retaining rules 8 to 17 because the New Zealand authorities apparently feel that these rules will increase the formality and rigidity of the Meetings. The maintaining of these rules will undoubtedly make for less flexibility but on the other hand if there are no such rules a greater burden falls upon the Chairman to ensure the orderly maintenance of proceedings. I shall be glad to have your views on these draft rules of procedure in due course.

Before adjourning to-day the Group heard from the Norwegian representative some tentative views of the Norwegian Polar Institute on the various papers submitted on information relating to the expeditions and stations of various countries. These views were briefly that the Institute considered that the United States paper had been too long, whilst that of the United Kingdom was too short. The Australian paper in their view on the other hand was well balanced. The Institute was also critical of the lack of information in the various papers on the speed and range of action of vessels used in Antarctica - they consider that such data should be supplied because it might be important if a vessel of any country should

has as you know, already been ratified by the Senate. The Government majority in the House is, however, a slender one and it does not wish at the moment to push for ratification of the Treaty in particular as Chile is delaying ratification - for it is argued that the opposition in the House could well make capital out of the fact that the Chileans had not taken steps to ratify by suggesting that there consequently must be something wrong with the Treaty. In other words the Argentine Government might well decide to delay initiating steps to obtain ratification until the Chileans move in this direction. In the meantime there does not seem to be much that anyone can do to hasten the process except to exert pressure where possible at each meeting of the Interim Group.

The Group next took up discussion of the agenda for the Canberra meeting but did not progress very far. The South African representative circulated a paper (copy attached) in regard to the item 15 on the agenda concerning nuclear energy. The paper is based in the main on the comments contained in your Minute 102/2/7/3 of 23rd September, 1960. As stated in my minute 43/44 of 16th December, 1960, it will be incumbent on South Africa as the initiator of this item to produce a background paper which could serve as a basis for discussion in Canberra. It would be most useful if your thoughts on how this item should be tackled at Canberra and any working paper prepared by you can be communicated to me in order that these may serve as a basis for the exchange of views informally with other members of the Group.

With reference to item 10 of the agenda concerning living resources the United States representative in referring to the United Kingdom paper circulated at the Twenty-fifth Meeting of the Group (my minute 43/44 of 16th December, 1960, refers) pointed out that the International Committee on Bird Preservation had held its Twelfth Meeting in Tokyo subsequent to the meeting referred to in the United Kingdom paper. He recalled / ...



Ref. Nr. : 43/44

EMBASSY OF THE UNION OF SOUTH AFRICA  
AMBASSADE VAN DIE UNIE VAN SUID-AFRIKA  
WASHINGTON 8. D. C.

23rd December, 1960.

The SECRETARY FOR EXTERNAL AFFAIRS.

(Copy to London and Canberra)

ANTARCTICA.

The Twenty-sixth Meeting of the Interim Group was held yesterday.

After approving the summary record of the Twenty-fifth Meeting the Group passed to the question of ratification. The Chilean and Argentine representatives had no further information to impart to the Group. The Australian representative, however, announced that they no longer considered it possible for the Canberra meeting to be held at the beginning of February and that they were accordingly postponing the date until a time to be announced later.

It would now seem that ratification by Chile and the Argentine may be delayed well into next year. The difficulty over the ratification of the Treaty is, it is believed, tied in with the protocols recently signed by the Argentine and Chile over the boundary dispute between the two countries. The Chilean authorities apparently do not feel that they can face Congress with two such controversial matters as the protocols and the Antarctic Treaty at the same time. Consequently one of these matters has to be disposed of first and the choice has fallen on the protocols. It was felt, I believe, that the Treaty was likely to stir up more nationalist sentiment than the protocols. No effort will therefore be made to push the Treaty until the Congress has approved the protocols. There is no certainty as to when the protocols will be approved but it is possible that ratification of the Treaty may well be delayed until May or June next year.

As far as the Argentine is concerned the Treaty

has / ...

*Handwritten notes:*  
See [unclear]  
[unclear]  
[unclear]  
7/1/61  
[unclear]