STATUTORY INSTRUMENTS

1962 No. 401

SOUTH ATLANTIC TERRITORIES

The Antarctic Treaty Order in Council, 1962

Made - - - -	*26th February*, 1962
Laid before Parliament	*2nd March*, 1962
Coming into Operation	*3rd March*, 1962

At the Court at Buckingham Palace, the 26th day of February, 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), the British Settlements Acts, 1887 and 1945(b), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement.

1.—(1) This Order may be cited as the Antarctic Treaty Order in Council, 1962.

(2) This Order shall come into operation on the same day as the British Antarctic Territory Order in Council, 1962(c), and shall be published in the Falkland Islands Government Gazette.

Interpretation.

2.—(1) In this Order—

"Antarctica" means the area south of the 60th parallel of south latitude, including all ice shelves, but does not include the high seas within that area;

"the British Antarctic Territory" means all islands and territories between the 20th degree of west longitude and the 80th degree of west longitude which are situated south of the 60th parallel of south latitude;

"Court" means a court established under section 14 of the British Antarctic Territory Order in Council, 1962;

"exchanged scientist" means a scientist exchanged under paragraph 1 (*b*) of Article III of the Treaty;

"the High Commissioner" means the High Commissioner appointed under section 4 of the British Antarctic Territory Order in Council, 1962, and includes any person who, under and to the extent of any authority in that behalf, is for the time being performing the functions of that office;

"observer" means an observer designated under paragraph 1 of Article VII of the Treaty;

(a) 53 & 54 Vict. c. 37. (b) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7.
(c) S.I. 1962/400 (1962 I, p. 356).

" the Territory " means the British Antarctic Territory as defined in this Order ;

" the Treaty " means the Antarctic Treaty set out in the Schedule to this Order.

(2) The Interpretation Act, 1889(a), shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to Acts of Parliament of the United Kingdom.

Jurisdiction not to be exercised by courts of Territory over observers, etc. of other contracting parties in certain cases.

3.—(1) Jurisdiction shall not be exercised by any court of the Territory over any person to whom this section applies in respect of any act done or omitted to be done by him while he is in any part of Antarctica for the purpose of exercising his functions.

(2) This section applies to any person who is an observer or an exchanged scientist or a member of the staff accompanying any observer or exchanged scientist and who is a national of any Contracting Party to the Treaty other than the United Kingdom.

Criminal jurisdiction over United Kingdom observers, etc. conferred on courts of Territory in certain cases.

4.—(1) Subject to the provisions of this section, where any person does or omits to do any act to which this section applies and that act or omission would, if it occurred in the Territory, be an offence under the law for the time being in force in the Territory, he shall be liable to be proceeded against and punished in the same manner in all respects as if the act or omission had occurred in the Territory ; and the courts of the Territory shall have jurisdiction accordingly.

(2) Proceedings for the trial and punishment of a person who is charged with an offence by virtue of the foregoing provisions of this section shall not be instituted in any court of the Territory except with the consent of the High Commissioner and on his certificate that the institution of such proceedings is, in his opinion, expedient.

(3) The High Commissioner, with the consent of a Secretary of State, may make such regulations as appear to him to be necessary or expedient in order to provide—

(*a*) for the arrest in any part of Antarctica to which this section applies of any person suspected of having committed an offence with respect to which the courts of the Territory have jurisdiction by virtue of the provisions of this section ; and

(*b*) for the conveyance in custody of any person so arrested to a convenient place in the Territory, or, where any court of the Territory having jurisdiction to enquire into a charge in respect of the offence which such person is suspected of having committed may exercise such jurisdiction when sitting in such other British territory as is mentioned in the proviso to subsection (2) of section 14 of the British Antarctic Territory Order in Council, 1962, to a convenient place in such territory for the purpose of being charged with that offence ; and

(*c*) for the taking of possession of and conveyance to a convenient place as aforesaid of any article that is situate in any part of

(a) 52 & 53 Vict. c. 63.

Antarctica to which this section applies and that may constitute evidence regarding the commission of an offence with respect to which the courts of the Territory have jurisdiction by virtue of the provisions of this section, and for securing the attendance before any such court of any person in any such part of Antarctica who may be able to give evidence regarding the commission of such an offence.

(4) This section applies to any act done or omitted to be done by a citizen of the United Kingdom and Colonies or a British protected person, who is an observer or an exchanged scientist or a member of the staff accompanying any observer or exchanged scientist, while he is in any part of Antarctica to which this section applies for the purpose of exercising his functions; and the parts of Antarctica to which this section applies are parts of Antarctica other than the Territory, the Australian Antarctic Territory and the Ross Dependency of New Zealand.

Inspection of Territory by observers.

5.—(1) All parts of the Territory and all stations, installations and equipment therein, and all ships and aircraft at points of discharging or embarking cargoes or personnel in those parts of the Territory shall be open at all times to inspection by any observers; and any person impeding or hindering any such observer in the exercise of his right of inspection shall be guilty of an offence.

(2) Subject to the provisions of section 3 of this Order, proceedings in respect of an offence under this section shall be taken before the competent court of the Territory and any person who is convicted of such an offence shall be liable to a fine not exceeding fifty pounds.

Exemption from certain laws of the Territory may be granted to observers.

6.—(1) Without prejudice to subsection (1) of the last foregoing section, the High Commissioner may, by order, grant exemption from the provisions of any enactment or instrument made thereunder in force in the Territory to observers and exchanged scientists and members of the staffs accompanying any such persons to such extent as appears to him to be necessary or expedient in order to facilitate access by such persons to any part of Antarctica for the purpose of exercising their functions or the exercise of their functions in any part of the Territory within Antarctica.

(2) The power to grant exemptions conferred by the preceding subsection shall be construed as including power to grant exemptions in respect of baggage, instruments or other goods accompanying or intended for the use of any such persons as are referred to in that subsection.

Revocation of Antarctic Order in Council, 1961.

7. The Antarctic Treaty Order in Council, 1961(a), is hereby revoked without prejudice to anything lawfully done thereunder.

W. G. Agnew.

(a) S.I. 1961/570 (1961 I, p. 1250).

THE SCHEDULE Section 2(1)

THE ANTARCTIC TREATY

The Governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Recognizing that it is in the interest 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;

Acknowledging the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica;

Convinced that the establishment of a firm foundation for the continuation and development of such cooperation on the basis of freedom of scientific investigation in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;

Convinced also that a treaty ensuring the use of Antarctica for peaceful purposes only and the continuance of international harmony in Antarctica will further the purposes and principles embodied in the Charter of the United Nations;

Have agreed as follows:

ARTICLE I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, *inter alia*, any measures of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons.

2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

ARTICLE II

Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

ARTICLE III

1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the Contracting Parties agreed that, to the greatest extent feasible and practicable:—

(*a*) information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy and efficiency of operations;

(*b*) scientific personnel shall be exchanged in Antarctica between expeditions and stations;

(*c*) scientific observations and results from Antarctica shall be exchanged and made freely available.

2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other international organizations having a scientific or technical interest in Antarctica.

ARTICLE IV

1. Nothing contained in the present Treaty shall be interpreted as:—

(*a*) a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;

(*b*) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;

(*c*) prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's right of or claim or basis of claim to territorial sovereignty in Antarctica.

2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

ARTICLE V

1. Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.

2. In the event of the conclusion of international agreements concerning the use of nuclear energy, including nuclear explosions and the disposal of radioactive waste material, to which all of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX are parties, the rules established under such agreements shall apply in Antarctica.

ARTICLE VI

The provisions of the present Treaty shall apply to the area south of 60° South Latitude, including all ice shelves, but nothing in the present Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

ARTICLE VII

1. In order to promote the objectives and ensure the observance of the provisions of the present Treaty, each Contracting Party whose representatives are entitled to participate in the meetings referred to in Article IX of the Treaty shall have the right to designate observers to carry out any inspection provided for by the present Article. Observers shall be nationals of the Contracting Parties which designate them. The names of observers shall be communicated to every other Contracting Party having the right to designate observers, and like notice shall be given of the termination of their appointment.

2. Each observer designated in accordance with the provisions of paragraph 1 of this Article shall have complete freedom of access at any time to any or all areas of Antarctica.

3. All areas of Antarctica, including all stations, installations and equipment within those areas, and all ships and aircraft at points of discharging or embarking cargoes or personnel in Antarctica, shall be open at all times to inspection by any observers designated in accordance with paragraph 1 of this Article.

4. Aerial observation may be carried out at any time over any or all areas of Antarctica by any of the Contracting Parties having the right to designate observers.

5. Each Contracting Party shall, at the time when the present Treaty enters into force for it, inform the other Contracting Parties, and thereafter shall give them notice in advance, of

(*a*) all expeditions to and within Antarctica, on the part of its ships or nationals, and all expeditions to Antarctica organized in or proceeding from its territory;

(*b*) all stations in Antarctica occupied by its nationals; and

(*c*) any military personnel or equipment intended to be introduced by it into Antarctica subject to the conditions prescribed in paragraph 2 of Article I of the present Treaty.

ARTICLE VIII

1. In order to facilitate the exercise of their functions under the present Treaty, and without prejudice to the respective positions of the Contracting Parties relating to jurisdiction over all other persons in Antarctica, observers designated

under paragraph 1 of Article VII and scientific personnel exchanged under subparagraph 1 (*b*) of Article III of the Treaty, and members of the staffs accompanying any such persons, shall be subject only to the jurisdiction of the Contracting Party of which they are nationals in respect of all acts or omissions occurring while they are in Antarctica for the purpose of exercising their functions.

2. Without prejudice to the provisions of paragraph 1 of this Article, and pending the adoption of measures in pursuance of subparagraph 1 (*e*) of Article IX, the Contracting Parties concerned in any case of dispute with regard to the exercise of jurisdiction in Antarctica shall immediately consult together with a view to reaching a mutually acceptable solution.

Article IX

1. Representatives of the Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, 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, including measures regarding:

(*a*) use of Antarctica for peaceful purposes only;

(*b*) facilitation of scientific research in Antarctica;

(*c*) facilitation of international scientific cooperation in Antarctica;

(*d*) facilitation of the exercise of the rights of inspection provided for in Article VII of the Treaty;

(*e*) questions relating to the exercise of jurisdiction in Antarctica;

(*f*) preservation and conservation of living resources in Antarctica.

2. Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such time as that Contracting Party demonstrates its interest in Antarctica by conducting substantial scientific research activity there, such as the establishment of a scientific station or the despatch of a scientific expedition.

3. Reports from the observers referred to in Article VII of the present Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.

4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all the Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.

5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article.

Article X

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.

Article XI

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of the present Treaty, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

2. Any dispute of this character not so resolved shall, with the consent, in each case, of all parties to the dispute, be referred to the International Court of Justice for settlement; but failure to reach agreement on reference to the International Court shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.

ARTICLE XII

1.—(*a*) The present Treaty may be modified or amended at any time by unanimous agreement of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX. Any such modification or amendment shall enter into force when the depositary Government has received notice from all such Contracting Parties that they have ratified it.

(*b*) Such modification or amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the depositary Government. Any such Contracting Party from which no notice of ratification is received within a period of two years from the date of entry into force of the modification or amendment in accordance with the provisions of subparagraph 1 (*a*) of this Article shall be deemed to have withdrawn from the present Treaty on the date of the expiration of such period.

2.—(*a*) If after the expiration of thirty years from the date of entry into force of the present Treaty, any of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX so requests by a communication addressed to the depositary Government, a Conference of all the Contracting Parties shall be held as soon as practicable to review the operation of the Treaty.

(*b*) Any modification or amendment to the present Treaty which is approved at such a Conference by a majority of the Contracting Parties there represented, including a majority of those whose representatives are entitled to participate in the meetings provided for under Article IX, shall be communicated by the depositary Government to all the Contracting Parties immediately after the termination of the Conference and shall enter into force in accordance with the provisions of paragraph 1 of the present Article.

(*c*) If any such modification or amendment has not entered into force in accordance with the provisions of subparagraph 1 (*a*) of this Article within a period of two years after the date of its communication to all the Contracting Parties, any Contracting Party may at any time after the expiration of that period give notice to the depositary Government of its withdrawal from the present Treaty; and such withdrawal shall take effect two years after the receipt of the notice by the depositary Government.

ARTICLE XIII

1. The present Treaty shall be subject to ratification by the signatory States. It shall be open for accession by any State which is a Member of the United Nations, or by any other State which may be invited to accede to the Treaty with the consent of all the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX of the Treaty.

2. Ratification of or accession to the present Treaty shall be effected by each State in accordance with its constitutional processes.

3. Instruments of ratification and instruments of accession shall be deposited with the Government of the United States of America, hereby designated as the depositary Government.

4. The depositary Government shall inform all signatory and acceding States of the date of each deposit of an instrument of ratification or accession, and the date of entry into force of the Treaty and of any modification or amendment thereto.

5. Upon the deposit of instruments of ratification by all the signatory States, the present Treaty shall enter into force for those States and for States which have deposited instruments of accession. Thereafter the Treaty shall enter into force for any acceding State upon the deposit of its instrument of accession.

6. The present Treaty shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XIV

The present Treaty, done in the English, French, Russian, and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed the present Treaty.

DONE at Washington this first day of December one thousand nine hundred and fifty-nine.

[Here follow the signatures on behalf of the Governments of:—Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America.]

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order, which revokes the Antarctic Treaty Order in Council, 1961, makes provision relating to the new colony known as "the British Antarctic Territory" for the implementation in certain respects of the Antarctic Treaty signed at Washington on 1st December, 1959.