

Lessons from the Antarctic
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Abstract

The Antarctic has been said to symbolise the greatest expression of international peace in our world today, with the entire continent being formally designated “a natural reserve, devoted to peace and science”, putting all territorial claims on hold. A mechanism for international co-operation to protect and preserve the continent of Antarctica was established by means of the Antarctic Treaty (entered into force in 1961) and, in 1991, a Protocol on Environmental Protection to the Treaty was adopted to provide comprehensive protection of the Antarctic Environment. Whilst tourism is a legitimate activity under the Treaty, Antarctica receives relatively few visits compared to other wilderness destinations, particularly in relation to its size. The number of estimated visitors to Antarctica in 2015/16 of 40, 029 (nearly all arrive by ship) is down from a peak of 46, 265 in 2007/08¹, although there is always a concern that tourist operations in the Antarctic may have a cumulative impact on the environment. In 2005, the Antarctic Treaty Consultative Parties adopted Annex VI to the Protocol titled “Liability Arising from Environmental Emergencies”, although it is yet to enter into force since the requisite number of ratifying States has not yet been achieved.

The presentation focuses on that liability regime for the costs of response action to environmental emergencies arising from activities in the Antarctic Treaty Area; whether it is ‘fit for purpose’, and incident data and insurance cover for vessels operating in Antarctic waters. The presentation will also cover a number of the important features of the Liability Annex, and will conclude that there are substantive elements that are missing from the Annex that are contained in the IMO liability and compensation regimes and that could be considered as beneficial for the purposes of cost recovery.

¹ IAATO Antarctica Tourism Fact sheet 2015/16