

REGULATION IMPACT STATEMENT

MEASURE 1 (2005)

ANNEX VI TO THE PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY: LIABILITY ARISING FROM ENVIRONMENTAL EMERGENCIES

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Contents

1. Problem.....	1
2. Objective.....	4
3. Options.....	4
4. Impact Analysis	5
5. Consultation.....	8
6. Conclusion and recommended option.....	10
7. Implementation and Review	11

MEASURE 1 (2005)

ANNEX VI TO THE PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY: LIABILITY ARISING FROM ENVIRONMENTAL EMERGENCIES

1. PROBLEM

- 1.1 Government and non government activities undertaken in Antarctica are governed by the Antarctic Treaty and the Protocol on Environmental Protection to the Antarctic Treaty (the Environmental Protocol).
- 1.2 Measures, Decisions and Resolutions¹ that give effect to the principles of the Antarctic Treaty and Environmental Protocol are developed at annual Antarctic Treaty Consultative Meetings (ATCMs) by consensus agreement of the Antarctic Treaty Consultative Parties (ATCPs).² Of these instruments, Measures are intended to become legally binding once approved by all ATCPs.
- 1.3 Article 16 of the Environmental Protocol obliged the ATCPs to develop a liability regime for environmental emergencies arising in the Antarctic:

[c]onsistent with the objectives of this Protocol for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems, the Parties undertake to elaborate rules and procedures relating to liability for damage arising from activities taking place in the Antarctic Treaty area and covered by this Protocol.

In this context, an environmental emergency is an accidental event that has occurred and that results in, or imminently threatens to result in, any significant and harmful impact on the Antarctic environment, for example the loss of the *Bahia Paraiso* and resulting fuel spill in 1989 (approximate cost of incident response was \$US2.5 million).

- 1.4 ATCPs deemed the implementation of an environmental liability scheme *integral* to the Environmental Protocol's ability to protect of the Antarctic Environment. Serious incidents with the potential to cause an environmental emergency in the Antarctic have raised concern amongst ATCPs. Table 1 provides examples of incidents with potential to cause an environmental emergency in the Antarctic. In addition, such emergencies can arise from aircraft operations (eg fuel spills during refuelling operations, and aircraft accidents) and activities undertaken by national programs (eg leakage of fuel from station storage facilities, and chemical spills).
- 1.5 General liability schemes are effective for two reasons. Firstly, they *assign* liability to an entity that causes harm. Secondly, the entity assigned liability is held *responsible* for costs incurred by other entities resultant from the harm caused.
- 1.6 Many States – including Australia³ – possess environmental accountability schemes. Importantly, these schemes' jurisdictions cannot be extended to Antarctica.
- 1.7 ATCPs adopted the Environmental Protocol in October 1991. It entered effect in January 1998. However, the implementation of an environmental liability scheme for the protection of the Antarctic environment is still pending.

¹ Prior to 1995 these instruments were collectively referred to as Recommendations.

² As at March 2011, there were 48 parties to the Antarctic Treaty including the 28 consultative parties.

³ For example see Division 13 Conservation Orders *Environment Protection Biodiversity Conservation Act 1999*.

Table 1: Examples of incidents with the potential to cause an environmental emergency in the Antarctic

Vessel	Incident	Outcome
MV Ocean Nova	Grounded in February 2009.	Passengers were evacuated to nearby vessels. The vessel was freed from its position the next day without serious damage to the hull and with no leakage of fuel.
MV Ushuaia	Grounded in December 2008 puncturing two fuel tanks.	Passengers were evacuated to nearby vessels. A small fuel spill occurred and the vessel was floated free two days later.
MS Explorer	Sank after being damaged while navigating in ice in November 2007.	Following a mayday call, all passengers and crew were evacuated into lifeboats before the vessel sank. All were safely rescued within five hours. A small fuel spill occurred.
MV Nordkapp	Grounded in January 2007 with minor damage to the hull.	Passengers were evacuated to nearby vessels and the vessel was later freed from its position. A small fuel spill occurred.
Bahia Paraiso	Grounded in January 1989.	Vessel foundered and resulted in a spill of 600 000 litres of fuel and lubricants into surrounding waters and onto nearby shores. Clean-up operation recovered 65 000 litres of fuel (approx).

- 1.8 Government and non-government activities in Antarctica have increased markedly over the past three decades. Activities posing the greatest risk to the Antarctic environment include the operation and resupply of national Antarctic program stations and the operation of vessels.
- 1.9 The costs associated with a response to an environmental emergency in the Antarctic are likely to be very significant given the region's distance from ports and response facilities and difficult operating conditions (paragraph 1.3 refers).
- 1.10 ATCPs agree that in order to minimise risk to the Antarctic environment, government and non government operators alike must be *obliged* to:
- undertake reasonable preventative measures;
 - establish contingency plans;
 - undertake prompt and effective response action to environmental emergencies they cause; and
 - compensate a Party that responds to an environmental emergency in its stead.

Measure 1 (2005)

- 1.11 In recognising:
- the Environmental Protocol's warranting of an environmental liability regime; and
 - an identified need for obligatory preventative measures, contingency plans and prompt and effective response action to minimise risk to the Antarctic environment.
- ATCPs adopted Measure 1 (2005) at the 28th ATCM in Stockholm 2005.
- 1.12 Measure 1 (2005) applies *Annex VI to the Protocol on Environment Protection to the Antarctic Treaty: Liability Arising from Environmental Emergencies* (Annex VI).

1.13 Annex VI provides that ATCPs are to require operators⁴ (be they natural or juridical persons) under their jurisdiction that organise activities in the Antarctic Treaty area for which advanced notice is required in accordance with paragraph 5 of Article VII of the Antarctic Treaty to:

- undertake *reasonable preventative measures* to reduce the risk of environmental emergencies (Article 3);
- establish *contingency plans* for responses to environmental incidents (Article 4);
- take *prompt and effective response action* to any environmental emergency arising from its activities (Article 5); and
- maintain *adequate insurance or other financial security* to cover the costs of response action taken by other parties in its stead (Article 11).⁵

The nature of a response action to an environmental emergency will be incident dependent. For example, the response action to a fuel spill in the Antarctic may involve the use of aircraft to identify and monitor the extent of a fuel spill, placement of containment barriers, pumping fuel from a leaking vessel to an adjacent vessel, applying chemical dispersants, and taking action to rescue and treat affected wildlife. Accordingly, reasonable preventative measures will include specialised structures or equipment, procedures and training relevant to the activities contemplated by the operator, and contingency plans will likewise incorporate response plans, procedures and training relevant to potential environmental incidents.

1.14 In accordance with the liability provision of Article 16 of the Environmental Protocol, Measure 1 (2005) provides that an operator that fails to undertake prompt and effective response action to an environmental emergency arising from its activities would be *liable* to pay the costs of response action taken by Parties in its stead (Article 6).⁶ If no Parties respond to an environmental emergency, the erring operator would pay the costs of a response action into a fund administered by the Antarctic Treaty Secretariat (Article 12).⁷

1.15 If implemented, Measure 1 (2005) would apply to ATCPs⁸ and consequently government and non government operators under their jurisdiction. Pursuant to article 34 of the *Vienna Convention on the Law of Treaties*, Measure 1 (2005) would not apply to a non-party state (nor its respective operators) without its consent.

Need for obligatory regulation

1.16 In the absence of an environmental liability scheme and obligations on operators to undertake reasonable preventative measures; establish contingency plans; and undertake prompt and effective response action to environmental emergencies they cause, the integrity of the Antarctic environment is currently dependent upon operators':

- ability and willingness to *voluntarily* respond promptly and effectively to environmental emergencies that they cause themselves; and
- ability and willingness to *voluntarily* respond to environmental emergencies caused by *other* operators in the knowledge that the resources they expend are not recoverable against the responsible operator.

Article 15 of the Protocol requires parties to establish contingency plans for responding to Antarctic environmental emergencies. A range of relevant contingency planning guidelines have been prepared (eg fuel spill contingency planning guidelines have been developed by the Council of Managers of National Antarctic Programs). Such best practice guidelines are applied by national Antarctic programs (including Australia) and have also been adopted by

⁴ Operators include individuals who plan and undertake irregular private adventure expeditions to the Antarctic, also known as 'private adventure expeditioners'.

⁵ By virtue of Article 11 (3), *government operators* would not be compelled to obtain and maintain insurance or other financial security provided they can provide evidence of self-insurance.

⁶ ATCPs agree that an application of the liability policy embodied in Article 16 of the Environmental Protocol via Measure 1 (2005) would substantively advance preservation of the Antarctic environment.

⁷ Limits and exemptions on the imposition of liability apply. See Articles 8-10 of Annex VI.

the International Association of Antarctica Tour Operators for contingency planning by its membership.

- 1.17 The Australian Government has strategic and policy interests in Antarctica. Of these the implementation of Measure 1 (2005) would directly contribute to:
- the maintenance of the Antarctic Treaty system and enhancement of Australia's standing and influence within it; and
 - the protection of the Antarctic environment.
- 1.18 Australia must participate proactively within the governance institutions of the Antarctic Treaty system to enhance its standing and influence and advance its Antarctic interests.
- 1.19 Because Measures adopted by the ATCM – such as Measure 1 (2005) – do not enter into force until they are implemented by all ATCPs, taking the necessary domestic actions in a timely manner is crucial to Australia's maintenance of influence within the Antarctic Treaty system.
- 1.20 The Australian Government has domestic administrative responsibilities for the Antarctic. These principally relate to the regulation of activities conducted in Antarctica by Australian entities.
- 1.21 Consequently, a decision by Australia not to implement Measure 1 (2005) would:
- perpetuate unacceptable risks to the Antarctic environment; and deleteriously affect its:
 - standing and influence in the Antarctic Treaty system;
 - relations with other ATCPs;
 - national Antarctic program; and
 - domestic standing should its national Antarctic program or an Australian operator be later involved in an environmental emergency that causes harm to the Antarctic environment.

2. OBJECTIVE

- 2.1 Australia seeks to implement Annex VI to:
- protect the Antarctic environment;
 - maintain the Antarctic Treaty system and enhance its standing and influence within it; and
 - ensure that operators responsible for environmental emergencies either respond adequately, or are held liable for the costs incurred by a Party undertaking response action in its stead.

3. OPTIONS

- 3.1 There are two options:

Option 1

Maintenance of non-regulation

- do not implement Annex VI and maintain the existing non-regulatory approach to Antarctic environmental emergencies.

Option 2

Implementation of explicit government regulation

- implement Annex VI and modify Commonwealth legislation to give subsequent effect.

- 3.2 Note that implementation of Annex VI via quasi-regulation (i.e. development of a national code of practice or industry accreditation scheme) is not a feasible option given:
- a Measure adopted by the ATCM requires all ATCPs to effect domestic implementation for that Measure to have substantive effect; and

- the substance and rigour of national codes and schemes typically vary from party to party. The universal efficacy of Annex VI would be impeded where one party's national code of practice or accreditation scheme is less rigorous than those of other parties.

4. IMPACT ANALYSIS

Option 1: Maintenance of non-regulation

Costs and benefits to operators

- 4.1 Option 1 represents the status quo and would impose no additional costs or benefits.
- 4.2 Option 1 does not minimise the risk and seriousness of environmental emergencies given it does not *compel* operators to establish contingency plans; undertake reasonable preventative measures; take prompt and effective action; or maintain adequate insurance or other financial activity. The likelihood of requests upon others – including national Antarctic programs – to provide unplanned assistance in the event of environmental emergencies caused by other operators is greater if the status quo is maintained.
- 4.3 Under option 1, operators responsible for environmental emergencies are not liable for the costs incurred by a party taking response action in its stead.

Costs and benefits to government

- 4.4 Maintenance of the status quo would not minimise the risk or seriousness, or ensure adequate response to, environmental emergencies caused through operator activities in the Antarctic.
- 4.5 The likelihood of requests upon the Australian Government's national Antarctic program and government operators to provide unplanned assistance in the event of environmental emergencies caused by operators is greater if the status quo is maintained.
- 4.6 Option 1 does not provide the Australian Government – as an operator of activities in the Antarctic – a right to recover costs it would expend in responding to an environmental emergency caused by an operator.
- 4.7 ATCPs and the Australian public expect Australia to take proactive measures to minimise harm risks posed by the conduct of activities in the Antarctic. An increased risk of harm, under option 1, is inconsistent with the Australian Government's policy priority of protecting the Antarctic environment.
- 4.8 The Australian Government was party to the unanimous adoption of Annex VI at the 28th ATCM. Annex VI requires the approval of all ATCPs (including Australia) to enter effect. Given these considerations, Australia's international standing on Antarctic governance matters and its bilateral relations with key ATCPs would be detrimentally affected if it decides not to implement Measure 1 (2005).
- 4.9 Australia's standing within the Antarctic Treaty System would also be harmed should an activity undertaken without adequate contingency plans or insurance causes harm *after* Australia decides not to implement Measure 1 (2005). Such an occurrence may also harm the Australian Government's domestic standing.

Costs and benefits to consumers

- 4.10 The current non-regulatory approach imposes negligible costs upon consumers.

Option 2: Implementation of explicit government regulation

- 4.11 Option 2 would affect operators that organise or conduct activities in the Antarctic Treaty area.

Costs and benefits to non government operators

- 4.12 Option 2 would compel non government operators to undertake reasonable preventative measures to reduce the risk of environmental emergencies. Preventative measures may include: specialised structures or equipment incorporated into the design and construction of facilities and means of transportation; specialised procedures incorporated into the operation or maintenance of facilities and means of transportation; and specialised training of personnel (paragraph 1.13 refers). Most operators would expend resources in undertaking reasonable preventative measures. Although the cost of such preventative measures is not known, the associated cost would not be appreciable in the context of broader operational and regulatory costs.
- 4.13 Option 2 would compel non government operators to establish contingency plans for responses to environmental incidents. Where appropriate, contingency plans are to include:
- procedures for conducting an assessment of the nature of the incident;
 - notification procedures;
 - identification and mobilisation of resources;
 - response plans;
 - training;
 - record keeping; and
 - demobilisation.
- Most operators would expend resources in the establishment of contingency plans. The cost of establishing contingency plans would not be significant in the context of broader operational and regulatory costs.
- 4.14 Option 2 would compel non government operators to maintain *adequate insurance or other financial security* to cover the costs of response action taken by other Parties in its stead. The preponderance of non government operators possess insurance. Contemporary insurance policies usually cover liability for costs arising from harm to persons; infrastructure; third party property; and the environment. The implementation of Annex VI is unlikely to impose appreciable additional costs upon non commercial operators.
- 4.15 The only administrative cost envisaged for non government operators under option 2 would be an obligation to provide documentary evidence of compliance with Annex VI obligations (for example environmental contingency plans and insurance certificates). These costs are unlikely to be significant considering the significant costs borne from their conduct of Antarctic operations.
- 4.16 To implement option 2, operators would need to acquire requisite knowledge of option 2's obligations. Operators would need to expend resources to acquire this knowledge. The cost in acquiring this knowledge would not be significant in the context of operational and regulatory costs.
- 4.17 Those organising or conducting private adventure expeditions would need to either meet the requirements for non government operators or conduct their activities in cooperation with an authorised non government operator. In the former instance, they would be in effect a non government operator, while in the latter instance they would be a consumer whose liability would be covered by the relevant non-governmental operator.
- 4.18 Aspects of the obligations arising from Measure 1 (2005) are closely related to those under Measure 4 (2004) *Insurance and contingency planning for tourism and non governmental activities in the Antarctic Treaty area*. In particular, both measures require operators to establish contingency plans and maintain adequate insurance or other financial security. It is anticipated that operators will integrate contingency planning requirements under Measure 1 (2005) with those for responding to health and safety, search and rescue, medical care and evacuation incidents in the Antarctic under Measure 4 (2004). The additional insurance requirements under Measure 4 (2004) relate to the cost of search and rescue, medical care or

evacuation operations. Insurance costs in implementing both measures are likely to be encompassed within existing limits of liability insurance policies.⁹

Costs and benefits to government and government operators

4.19 Option 2 will enable Australia – as a Party – to recover the costs it would expend in responding to an environmental emergency caused by an operator. For example, in 2003, Chile estimated that for an incident involving the loss of a vessel and resultant release of bunker and fuel, the cost of a response action would be between \$US3 to 5 million (including mobilisation of aircraft and a vessel to Antarctica and clean-up operations).¹⁰

4.20 Option 2 would compel government operators to undertake reasonable preventative measures to reduce the risk of environmental emergencies. Preventative measures may include:

- specialised structures or equipment incorporated into the design and construction of facilities and means of transportation;
- specialised procedures incorporated into the operation or maintenance of facilities and means of transportation; and
- specialised training of personnel.

Most operators would expend resources in undertaking reasonable preventative measures. However the associated cost would not be appreciable in the context of broader operational and regulatory costs.

4.21 Option 2 would compel government operators to establish contingency plans for responses to environmental incidents. Where appropriate, contingency plans are to include:

- procedures for conducting an assessment of the nature of the incident;
- notification procedures;
- identification and mobilisation of resources;
- response plans;
- training;
- record keeping; and
- demobilisation.

Most operators would expend resources in the establishment of contingency plans. The cost of establishing contingency plans would not be significant in the context of broader operational and regulatory costs.

4.22 Unlike non government operators, government operators (by virtue of Article 11 (3)) would not be compelled to obtain and maintain insurance or other financial security under option 2 provided they can provide evidence of self-insurance.¹¹

4.23 The only administrative cost to government under option 2 is a requirement to assess documentary evidence provided by operators proving their compliance with Annex VI (for example environmental contingency plans and insurance certificates). Minimal resources would be expended by government to fulfil these requirements.

4.24 The Australian Government has strategic and policy interests in the Antarctic. Of these the implementation of Annex VI would directly contribute to:

- the maintenance of the Antarctic Treaty system and enhancement of Australia's standing and influence within it; and
- the protection of the Antarctic environment.

⁹ Maritime and aviation liability are addressed through international conventions governing limits to liability – namely the Protocol to the 1976 *Convention on Limitation of Liability for Maritime Claims* and the *Convention for the Unification of Certain Rules for International Carriage by Air*.

¹⁰ See footnote 7.

¹¹ Evidence of self-insurance may include documentary evidence from a relevant government agency that sufficient funds are available in the event that the relevant government operator causes an environmental emergency.

- 4.25 Australia must participate proactively within the governance institutions of the Antarctic Treaty system to enhance its standing and influence and advance its Antarctic interests. Because Measures adopted by the ATCM – such as Annex VI – do not enter into force until they are implemented by all ATCPs, taking the necessary domestic actions in a timely manner is crucial to Australia’s maintenance of influence within the Antarctic Treaty system.
- 4.26 A decision by Australia not to implement Annex VI would:
- perpetuate unacceptable risks to the Antarctic environment; and deleteriously affect its:
 - standing and influence in the Antarctic Treaty system;
 - relations with other ATCPs; and
 - domestic standing should its national Antarctic program or an Australian operator be later involved in an environmental emergency that causes harm to the Antarctic environment.

Costs and benefits to consumers

- 4.27 Operators would expend resources in the acquisition of the insurance or other financial security required by Measure 1 (2005). To cover this additional expense, operators may pass additional costs onto consumers.
- 4.28 Consumer experiences may be enhanced where consumers undertake activities in the knowledge that their activity operator adheres to measures – such as Annex VI – that minimise the likelihood of harm to the Antarctic environment.

5. CONSULTATION

- 5.1 The Australian Antarctic Division (AAD) conducted a full consultation on the implementation of Annex VI with nineteen operators plus relevant government agencies in 2008.
- 5.2 In January 2008, operators were provided a briefing package on Annex VI. This consisted of:
- an introductory cover letter and overview;
 - a table detailing the anticipated effects upon the conduct of operations; and
 - a copy of Annex VI.
- All operators were invited to provide general comments and input on operation planning and management. One operator provided a response.
- 5.3 This operator stated that the implementation of Annex VI – specifically its obligation on operators to maintain adequate insurance or other financial security to cover the costs of environmental response action taken by other parties – would deleteriously affect the commerciality of its operations. This operator conducted a small number of voyages to Antarctica which were not undertaken for commercial gain alone. This operator has since ceased operations.
- 5.4 Noting this response, AAD developed and provided a questionnaire to all operators in June 2008.
- It invited specific comments upon:
- the availability of insurance;
 - the costs and conditions of insurance; and
 - the impact of insurance upon operations and clients.

Five operators provided responses. The responses indicated that:

- protection and indemnity insurance policies can (and now often do) cover costs associated with environmental harm;^{12 13}
- several insurance brokers can and do provide protection and indemnity insurance (i.e. 'P&I') for Antarctic operations;
- all five operators possessed protection and indemnity insurance in addition to marine insurance (i.e. insurance coverage for harm to vessel structure and equipment);
- the cost of protection and indemnity insurance is calculated on the basis of several factors, including:
 - the nature of the operations;
 - the duration and location of the operations;
 - the operator's previous claims history;
 - staff credentials and skills; and
 - vessel length and tonnage.

Given the diversity of operations undertaken, the cost of protection and indemnity insurance necessarily varied from operator to operator. Costs for *comprehensive* protection and indemnity insurance varied from \$8,000 to \$140,000 per annum. Importantly, Annex VI would not oblige operators to obtain *comprehensive* protection and indemnity insurance. It would only oblige operators to obtain insurance or other financial security insofar as it would cover the costs of response action taken by other parties. Therefore, operators would only be *obliged* to pay a *proportion* of these sums given these sums are for *comprehensive* protection and indemnity insurance.

5.5 In September 2008, all operators were invited to participate in a consultation roundtable. Eight operators attended. Issues discussed included the implementation process, contingency planning and insurance costs. The consultation roundtable found that:

- participating operators did not possess significant concerns regarding the implementation of Annex VI;
- there are a range of insurance brokers willing to provide protection and indemnity insurance for Antarctic operations;
- those operators that indicated that they possessed insurance advised that insurance generally was an unavoidable yet manageable cost in the undertaking of Antarctic operations;
- the great majority of operators possess protection and indemnity insurance and contingency plans; and
- the cost of protection and indemnity insurance is calculated on the basis of several factors, including:
 - the nature of an operation;
 - the duration and location of an operation;
 - the operator's previous claims history;
 - staff credentials and skills; and
 - vessel length and tonnage.

5.6 A very small number of individuals plan and undertake irregular private adventure expeditions in Antarctica from time-to-time.¹⁴ These individuals are known as private adventure expeditioners. A number of former private adventure expeditioners who currently conduct commercial tourism activities were consulted during the consultation process. Additional consultation was not feasible given:

¹² Comprehensive protection and indemnity insurance typically affords coverage to four heads of risk – harm to the environment; harm to infrastructure; harm to third party property and harm to persons.

¹³ Accordingly, it is probable that insurance brokers will be willing to provide insurance coverage for the costs of environmental response action taken by other parties in the stead of its client.

¹⁴ Australian Antarctic Division (AAD) notes that only two private adventure expeditions were conducted by Australians between 2008-2010.

- the infrequent, irregular and typically ‘one-off’ nature of these individuals’ activities;¹⁵ and
- the absence of any central organisation or peak body.

5.7 Before each annual ATCM, the Department of Foreign Affairs and Trade (DFAT) convenes consultative meetings with:

- the AAD of the Department of Sustainability, Environment, Water, Population and Communities (DSEWPAC);
- the Attorney-General’s Department (AGD);
- the Department of Resources, Energy and Tourism (RET); and
- from time-to-time, operators and non-governmental organisations.

The views expressed by these parties are considered in formulating positions on ATCM proposals. Overall, these parties collectively support the implementation of Annex VI.¹⁶

5.8 Overall, consultation on the implementation of Annex VI found that:

- the great majority of operators do not possess significant concerns regarding the implementation of Annex VI given:
 - the great majority of operators view contingency planning and insurance coverage as an unavoidable yet manageable cost in the conduct of operations in the Antarctic; and
 - most operators would not incur significant additional costs in meeting Annex VI’s obligations;
- there are a range of insurance brokers willing to provide protection and indemnity insurance for harm to the environment. Accordingly, it is probable that insurance brokers will be willing to provide insurance coverage for the cost of environmental response action taken by other parties in the stead of its client;
- the great majority of operators are likely to possess protection and indemnity insurance;
- the cost of protection and indemnity insurance is calculated on the basis of several factors:
 - the nature of an operation;
 - the duration and location of an operation;
 - the operator’s previous claims history;
 - staff credentials and skills; and
 - vessel length and tonnage;
- the great majority of operators are supportive of the implementation of Annex VI.

6. CONCLUSION AND RECOMMENDED OPTION

6.1 The recommended option is Option 2 – namely the implementation of Annex VI through legislative amendment to the *Antarctic Treaty (Environmental Protection) Act 1980*. Option 2 would provide the greatest net benefit by virtue of its:

- protection of the Antarctic environment;
- maintenance of the Antarctic Treaty system and enhancement of Australia’s standing and influence within it; and
- assurance that operators responsible for environmental emergencies are held liable for the costs incurred by Parties that undertake response action in their stead.

¹⁵ Conversely, engagement with Antarctic commercial tourism operators is comparatively much more feasible given their greater perpetuity, organisational clarity and representation through a central organisation (i.e. IAATO).

¹⁶ None of these parties provided comments that were critical of the implementation of Annex VI.

7. IMPLEMENTATION AND REVIEW

It is recommended that Annex VI be implemented. Annex VI may be implemented through amendment to the *Antarctic Treaty (Environment Protection) Act 1980*. Additional administrative requirements would be administered by the Minister for Sustainability, Environment, Water, Population and Communities via the Australian Antarctic Division (AAD) by virtue of the Minister's responsibility for the administration of the *Antarctic Treaty (Environment Protection) Act 1980*.