

PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF MARINE POLLUTION BY SUBSTANCES OTHER THAN OIL 1973

The Parties to the present Protocol,

Being Parties to the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, done at Brussels on November 29, 1969.

Taking into account the Resolution on International Co-operation Concerning Pollutants other than Oil adopted by the International Legal Conference on Marine Pollution Damage, 1969.

Further taking into account that pursuant to the Resolution, the Intergovernmental Maritime Consultative Organization has intensified its work in collaboration with all interested international organizations, on all aspects of pollution by substances other than oil,

Have agreed as follows:

Article 1

1. Parties to the present Protocol may take such measures on the high seas as may be necessary to prevent mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution by substances other than oil following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.

2. "Substances other than oil" as referred to in paragraph 1 shall be:

(a) those substances enumerated in a list which shall be established by an appropriate body designated by the Organization and which shall be annexed to the present Protocol, and

(b) those other substances which are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

3. Whenever an intervening Party takes action with regard to a substance referred to in paragraph 2(b) above that Party shall have the burden of establishing that the substance, under the circumstances present at the time of the intervention, could reasonably pose a grave and imminent danger analogous to that posed by any of the substances enumerated in the list referred to in paragraph 2 (a) above.

Article I

1. The provisions of paragraph 2 of Article I and of Articles II to VIII of the Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, and the Annex thereto as they relate to oil, shall be applicable with regard to the substances referred to in Article I of the present Protocol.

2. For the purpose of the present Protocol the list of experts referred to in Articles III (c) and IV of the Convention shall be extended to include experts qualified to give advice in relation to substances other than oil. Nominations to the list may be made by Member States of the Organization and by Parties to the present Protocol.

Article II

1. The list referred to in paragraph 2 (a) of Article I shall be maintained by the appropriate body designated by the Organization.

2. Any amendment to the list proposed by a Party to the present Protocol shall be submitted to the Organization and circulated by it to all Members of the Organization and all Parties to the present Protocol at least three months prior to its consideration by the appropriate body.

3. Parties to the present Protocol whether or not Members of the Organization shall be entitled to participate in the proceedings of the appropriate body.

4. Amendments shall be adopted by a two-thirds majority of only the Parties to the present Protocol present and voting .

5. If adopted in accordance with paragraph 4 above, the amendment shall be communicated by the Organization to all Parties to the present Protocol for acceptance.

6. The amendment shall be deemed to have been accepted at the end of a period of six months after it has been communicated , unless within that period an objection to the amendment has been communicated to the Organization by not less than one-third of the Parties to the present Protocol.

7. An amendment deemed to have been accepted in accordance with paragraph 6 above shall enter into force three months after its acceptance for all Parties to the present Protocol, with the exception of those which before that date have made a declaration of non-acceptance of the said amendment.

Article III

1. The present Protocol shall be open for signature by the States which have signed the Convention referred to in Article I or acceded thereto, and by any State invited to be represented at the International Conference on Marine Pollution 1973. The Protocol shall remain open for signature from January 15, 1974 until December 31, 1974 at the Headquarters of the Organization.

2. Subject to paragraph 4 of this Article, the present Protocol shall be subject to ratification, acceptance or approval by the States which have signed it .

3. Subject to paragraph 4, this Protocol shall be open for accession by States which did not sign it.

4. The present Protocol may be ratified, accepted, approved or acceded to only by States which have ratified, accepted approved or acceded to the Convention referred to in Article I .

Article V

1. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization.

2. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the present Protocol with respect to all existing Parties or after the completion of all measures required for the entry into force of the amendment with respect to all existing Parties shall be deemed to apply to the Protocol as modified by the amendment.

Article VI

1. the present Protocol shall enter into force on the ninetieth day following the date on which fifteen States have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization, provided however that the present Protocol shall not enter into force before the Convention referred to in Article II has entered into force.

2. For each State which subsequently ratifies, accepts, approves or accedes to it, the present Protocol shall enter into force on the ninetieth day after the deposit by such State of the appropriate instrument.

Article VII

1. The Present Protocol may be denounced by any Party at any time after the date on which the Protocol enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

3. Denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation after its deposit with the Secretary-General of the Organization.

4. Denunciation of the Convention referred to in Article II by a Party shall be deemed to be a denunciation of the present Protocol by that Party, Such denunciation shall take effect on the same day as the denunciation of the Convention takes effect in accordance with paragraph 3 of Article XII of that convention.

Article VIII

1. A conference for the purpose of revising or amending the present Protocol may be convened by the Organisation.

2. The Organization shall convene a conference of Parties to the present Protocol for the purpose of revising or amending it at the request of not less than one-third of the Parties.

Article IX

1. The present Protocol shall be deposited with the Secretary-General of the Organization.

2. The Secretary-General of the Organization shall :

(a) inform all States which have signed the present Protocol or acceded thereto of:

(i) each new signature or deposit of an instrument together with the date thereof;

- (ii) the date of entry into force of the present Protocol;
 - (iii) the deposit of any instrument of denunciation of the present Protocol together with the date on which the denunciation takes effect;
 - (iv) any amendments to the present Protocol or its Annex and any objection or declaration of non-acceptance of the said amendment;
- (b) transmit certified true copies of the present Protocol to all States which have signed the present Protocol or acceded thereto.

Article X

As soon as the present Protocol enters into force, a certified true copy thereof shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article XI

The present Protocol is established in a single original in the English, French, Russian and Spanish languages, all four texts being equally authentic.

In witness whereof the undersigned being duly authorized for that purpose have signed the present Protocol.

Done at London, this second day of November one thousand nine hundred and seventy-three.

ANNEX

LIST OF SUBSTANCES ESTABLISHED BY THE MARINE ENVIRONMENT PROTECTION COMMITTEE OF THE ORGANIZATION IN ACCORDANCE WITH PARAGRAPH 2 (a) OF ARTICLE I

1. Oil (when carried in bulk)

Asphalt Solutions

Blending stocks

Roofers Flux

Straight Run Residue

Oil

Clarified

Mixtures containing Crude Oil

Road Oil

Aromatic Oil (excluding vegetable oil)

Blending Stocks

Mineral Oil
Penetrating Oil
Spindle Oil
Turbine Oil

Distillates
Straight Run
Flashed Feed stocks

Gas oil
Cracked

Gasoline Blending Stocks
Alkylated—fuel
Reformats
Polymer—fuel

Gasolines
Casinghead (natural)
Automotive
Aviation
Straight Run

Jet fuels
JP-1 (Kerosene)
JP-3
JP-4
JP-5 (Kerosene, heavy)
Turbo Fuel
Mineral Spirit

Naphtha
Solvent
Petroleum
Heartcut Distillate Oil

2. Noxious Substances

Acetic anhydride
Acetone
Acetone cyanohydrin
Acrolein
Acrylonitrile
Aldrin
Allyl isothiocyanate
Aluminium phosphide
Ammonia (28% aqueous)
Ammonium phosphate

Amyl mercaptan
Aniline
Aniline hydrochloride
Antimony compounds
Arsenic compounds
Atrazine
Azinphos methyl (Guthion)
Barium azide
Barium cyanide
Barium oxide
Benzene
Benzenehexachloride isomers (Lindane)
Benzidine
Beryllium powder
Bromine
Bromobenzyl cyanide
n-Butyl acrylate
Butyric acid
Cacodylic acid
Cadmium compounds
Carbaryl (Sevin)
Carbon disulphide
Carbontetrachloride
Chlorodane
Chloroacetone
Chloroacetophenone
Chlorodinitrobenzene
Chloroform
Chlorohydrins (crude)
Chloropicrin
Chromic acid (Chromium trioxide)
Cocculus (solid)
Copper compounds
Cresols
Cupriethylene diamine
Cyanide compounds
Cyanogen bromide
Cyanogen chloride
DDT
Dichloroanilines
Dichlorobenzenes
Dieldrin
Dimethoate (Cygon)
Dimethyl amine (40% aqueous)
Dinitroanilines
4,6-Dinitroorthocresol
Dinitrophenols

Endosulphan (Thiodan)
Endrin
Epichlorohydrin
Ethyl bromoacetate
Ethylene chlorohydrin (2-Chloro-ethanol)
Ethylene dichloride
Ethyl parathion
Fentin acetate (dry)
Fluosilicic acid
Heptachlor
Hexachlorobenzene
Hexaethyl tetraphosphate
Hydrocyanic acid
Hydrofluoric acid (40% aqueous)
Isoprene
Lead compounds
Lindane (Gammexane, BHC)
Malathion
Mercuric compounds
Methyl alcohol
Methylene chloride
Molasses
Naphthalene (molten)
Naphthylthiourea
Nitric acid (90%)
Oleum
Parathion
Paraquat
Phenol
Phosphoric acid
Phosphorus (elemental)
Polyhalogenated biphenyls
Sodium pentachlorophenate (solution)
Styrene monomer
Toluene
Toluene diisocyanate
Toxaphene
Tritolyl phosphate (Tricresyl phosphate)
2,4,5-T

3. Liquefied Gases (when carried in bulk)

Acetaldehyde
Anhydrous Ammonia
Butadiene
Butane
Butane/Propane Mixtures

Butylenes
 Chlorine
 Dimethylamine
 Ethyl Chloride
 Ethane
 Ethylene
 Ethylene Oxide
 Methane (LNG)
 Methyl Acetylene Propadiene mixture
 Methyl Bromide
 Methyl Chloride
 Propane
 Propylene
 Vinyl Chloride Monomer
 Anhydrous Hydrogen Chloride
 Anhydrous Hydrogen Fluoride
 Sulphur Dioxide

4. Radioactive Substances

Radioactive substances, including, but not limited to, elements and compounds the isotopes of which are subject to the requirements of Section 835 of the Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition. published by the International Atomic Energy Agency, and which may be found to be stored or transported as substances and/or materials in Type A packages, Type B packages, as fissile materials or materials transported under special arrangements, such as

⁶⁰Co, ¹³⁷Cs, ²²⁶Ra, ²³⁹Pu ²³⁵U.