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PACIFIC ISLANDS HANDBOOK OF INTERNATIONAL MARINE POLLUTION CONVENTIONS

**(Consolidated texts of the main marine pollution conventions
of the World and the region)**

**Published by:
the South Pacific Regional Environment Programme (SPREP)
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Copies of this publication can be obtained by writing to:

Information Resource Centre Manager
South Pacific Regional Environment Programme
PO Box 240
APIA, Samoa
Phone: (685) 21929
Fax: (685) 20231
Email: IRC@sprep.org.ws
Website: www.sprep.org.ws/

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of the World and the region)**

Compiled by:

*Clare Cory¹
Lal Kurukulasuriya²
Steve Raaymakers³*

¹General Legal Counsel
NSW Fisheries
Locked Bag 9, Pyrmont, NSW, 2009
Australia

²Chief – Regional Environmental Law Programme
Regional Office for Asia and the Pacific
United Nations Environment Programme
Bangkok, Thailand

³Marine Pollution Adviser
South Pacific Regional Environment Programme
PO Box 240, Apia, Samoa

***SPREP/UNEP Environmental Law Publications Advisory Committee:
Mr Tamari'i Tutangata, Director, South Pacific Regional Environment Programme
Mr Donald Kaniaru, Director, UNEP Environmental Law and Institutions Programme Activity
Centre***

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FOREWORD

The South Pacific Regional Environment Programme (SPREP), established in 1982 with UNEP as one of its founders, is now an autonomous intergovernmental organisation responsible for environmental matters in the Pacific islands region. Its members are the governments and administrations of twenty-two Pacific island countries and four developed countries with direct interests in the region. SPREP's third Action Plan 1997-2000 outlines five programme areas of priority for the region: (1) Conservation of Biodiversity and Natural Resources; (2) Climate Change and Integrated Coastal Management; (3) Waste Management, Pollution Prevention and Emergencies; (4) Environmental Management, Planning and Institutional Strengthening; and (5) Environmental Education, Information and Training.

Within the Waste Management, Pollution Prevention and Emergencies area, SPREP through its Marine Pollution Adviser Mr Steve Raaymakers and Marine Pollution Prevention Officer, Mr Sefanaia Nawadra, has developed and is implementing a comprehensive programme to address marine pollution from maritime activities. This programme is called PACPOL – the Pacific Ocean Pollution Prevention Programme. PACPOL has been developed in direct response to the needs and priorities of SPREP member countries, and seeks to develop national and regional capacity to effectively reduce marine pollution. This includes assisting countries to adopt and implement the international legal regime for marine pollution, as provided by the conventions and protocols contained in this publication, and promulgated by the International Maritime Organization (IMO). The IMO is a major supporter of PACPOL, along with the Government of Canada and the Commonwealth Secretariat.

Pacific Island countries are blessed with extensive resource-abundant marine areas and large exclusive economic zones. The standard of living that we expect and the growing need for international trade to achieve our development goals means that shipping is particularly crucial in our isolated Pacific island states. The goods and materials we expect in our shops and stores primarily come by ship. In the case of many outlying islands there is simply no other form of access. Therefore the proper regulation of marine pollution from ships becomes equally as crucial and I hope this publication drives this issue home. I note, with pleasure, that Kiribati has become the most recent member of the IMO (156th) and that several states have already ratified the ORPC Convention, though less enthusiasm has been shown for the 1992 revisions of the Civil Liability and Fund Conventions.

The inherently global and transboundary dimension to issues relating to marine pollution demands a standardised, international response. For example the transnational trade in oil has required a global response to oil pollution from ships. Effective responses to manage the marine environment are conditional upon uniform and consistent domestic legislation. Some countries such as Papua New Guinea have enacted legislation to implement specific conventions, while other countries still do not have laws to regulate marine pollution. SPREP recognises the need to provide legal and institutional strengthening to Pacific island countries by providing the necessary tools to use. This book is one such tool. It provides SPREP member countries with access to the text of all of the main global and regional marine pollution conventions, in a single volume.

In addition to this Handbook, SPREP in conjunction with the Secretariat of the Pacific Community (SPC), has produced Regional Model Marine Pollution Legislation, as a template for use by Pacific island countries. This template allows countries to rapidly and easily develop domestic marine pollution legislation which is consistent with all of the Conventions contained in this Handbook, and standardised across our region.

The strengthened partnership in environmental law between SPREP and UNEP headquarters in Nairobi, as well as UNEP's Regional Office for Asia and the Pacific in Bangkok continues to deliver cost-effective and non-duplicative programmes of technical advice and cooperation in the field of environmental law and policy, responding to the needs and circumstances of countries in the region. Mr Donald Kaniaru, Director of UNEP's Environmental Law and Institutions Programme Activity Centre (ELIPAC) and Mr Lal Kurukulasuriya of UNEP's Regional Office for Asia and the Pacific continue to bring their extensive experience, enthusiasm and insight into the environmental law and capacity building dimensions of all joint activities.

I should like to express my appreciation for the work done by Ms Clare Cory (consultant to SPREP), Mr Steve Raaymakers, Mr Donald Kaniaru and Mr Lal Kurukulasuriya for compiling this important publication and also Mr Raaymakers for initiating and managing the project, and SPREP's Publications Unit for preparing the final document for publishing. I sincerely hope that this publication will be extensively used by all those engaged in marine pollution law and policy in Pacific island countries.

Tamari'i Tutangata
Director
SPREP

MESSAGE

This publication, which contains the texts of selected marine pollution conventions, agreements and protocols of relevance to countries in the Pacific islands region is the second in the SPREP/UNEP Series on Environmental Law and Policy. The publication, along with the first in the Series which contains the texts of major global and regional environmental conventions, agreements and protocols, is aimed at serving an important aspect of the information needs of countries in the region. Access to the texts of international conventions contained in this publication by a wide cross section of stakeholders, including government officials, members of the scientific and academic communities and the judiciary, the private sector, non-government organisations and the public is essential for taking appropriate measures at national and regional levels to translate global and regional accords into action. It is also an essential tool for enhancing public awareness and promoting the progressive development and implementation of environmental law, including marine pollution law.

Forging global and regional consensus on addressing environment and development issues through international accords, constitutes a major area of focus of the United Nations Environment Programme's (UNEP) mandate and Programme of Work, as affirmed in successive UNEP Governing Council decisions. An equally important area of focus lies in assisting countries, especially developing countries in their efforts to translate sustainable development policies and international conventions into action through country-relevant legislative and institutional measures. Enhancement of public awareness and participation in protecting the environment and utilizing natural resources in a sustainable way is an equally significant objective. The dissemination of information in the field of international environmental law, through publications such as these is therefore central to fulfilling UNEP's mission in the Asia-Pacific region.

UNEP's environmental law programme in the Asia-Pacific region continues to expand and grow. The programme currently includes technical advice to over ten Asia-Pacific countries and several sub-regional activities on various aspects of environmental law. These include symposia for judges on environmental law, regional forums for promoting partnership between government and the private sector on environmental compliance and enforcement as well as workshops on strengthening national legal and institutional measures for environmental management and the implementation of environmental conventions. I wish to acknowledge with much appreciation the continued support and assistance that the UNEP Regional Office for Asia and the Pacific (ROAP) has received in the development and implementation of these activities from Mr. Donald Kaniaru, Acting Director, Division of Environmental Policy Implementation and Chief, Legal, Economic and Other Instruments Unit.

ROAP looks forward to continued partnership with the Pacific Island States in the areas such as environment law, policy and management, environmental assessment, and State of the Environment (SoE) reporting. I once again welcome UNEP's collaboration with the South Pacific Regional Environment Programme (SPREP) under its Director, Tamari'i Tutangata, and the many advantages such a partnership brings, as is evident in the development and dissemination of publications under this Series. This publication, like the first in the Series on general environmental conventions, is also to be distributed extensively free-of-charge in the region to parliamentarians, judicial officers, government officials, universities, libraries and others interested in the field of marine pollution. It represents a valuable reference and resource book, giving interested parties access to the texts of the main international marine pollution conventions in a single volume.

Nirmal Andrews
Regional Director and Representative
UNEP/ROAP

PART I. INTERNATIONAL MARINE POLLUTION CONVENTIONS

1. London Convention: CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER, 1972.

1.1 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (96 Protocol).

SUMMARY

The London Convention regulates the dumping and incineration of wastes or other matter at sea which might adversely affect the marine environment.

It generally allows dumping at sea except that certain substances, as listed in three annexes, are subject to regulation through to prohibition.

Annex I lists prohibited substances, Annex II lists substances that need a special permit before they can be dumped at sea and Annex III list substances that require a general permit before they can be dumped at sea. Special exemptions allow for emergencies and where life, vessels or platforms are endangered.

The 96 Protocol significantly changes the 1972 London Convention by seeking to eliminate pollution of the sea by dumping. It reverses the approach taken by the earlier Convention. Rather than allowing dumping in general and prohibiting or regulating certain substances listed in three annexes, the 96 Protocol prohibits all dumping at sea, except for a limited list of substances specified in Annex I. The 96 Protocol also bans the incineration of wastes at sea.

The 96 Protocol seeks to incorporate the precautionary and prevention principles as well as promoting sustainable use and conservation of marine resources.

A Pacific islands regional equivalent to the London Convention has been in place since 1986, in the form of the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping (SPREP Dumping Protocol) of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 1986 (SPREP Convention) (Refer Part II – Pacific Islands Regional Marine Pollution Conventions).

Secretariat: International Maritime Organization
4 Albert Embankment
London SE1 7SR
United Kingdom
Ph +(44) 171 735 7611
Fax +(44) 171 587 3210
Email info@imo.org

CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER

Adopted in quadruplicate at London, Mexico City, Moscow and Washington, 29 December 1972
Entered into force 30 August 1975

PREAMBLE

The Contracting Parties to this Convention

Recognizing that the marine environment and the living organisms which it supports are of vital importance to humanity, and all people have an interest in assuring that it is so managed that its quality and resources are not impaired;

Recognizing that the capacity of the sea to assimilate wastes and render them harmless, and its ability to regenerate natural resources, is not unlimited;

Recognizing that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction;

Recalling Resolution 2749 (XXV) of the General Assembly of the United Nations on the principles governing the seabed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction;

Noting that marine pollution originates in many sources, such as dumping and discharges through the atmosphere, rivers, estuaries, outfalls and pipelines, and that it is important that States use the best practicable means to prevent such pollution and develop products and processes which will reduce the amount of harmful wastes to be disposed of;

Being convinced that international action to control the pollution of the sea by dumping can and must be taken without delay but that this action should not preclude discussion of measures to control other sources of marine pollution as soon as possible and;

Wishing to improve protection of the marine environment by encouraging States with a common interest in particular geographical areas to enter into appropriate agreements supplementary to this Convention;

Have agreed as follows:

Article 1

Contracting Parties shall individually and collectively promote the effective control of all sources of pollution of the marine environment, and pledge themselves especially to take all practicable steps to prevent the pollution of the sea by the dumping of waste and other matter that is 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.

Article 2

Contracting Parties shall, as provided for in the following Articles, take effective measures individually, according to their scientific, technical and economic capabilities, and collectively, to prevent marine pollution caused by dumping and shall harmonize their policies in this regard.

Article 3

For the purposes of this Convention:

1(a) "Dumping" means:

(i) any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

(ii) any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea;

1(b) "Dumping" does not include:

(i) the disposal at sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

(ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this convention;

1(c) The disposal of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of seabed mineral resources will not be covered by the provisions of this Convention.

2. "Vessels and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air cushioned craft and floating craft, whether self-propelled or not.

3. "Sea" means all marine waters other than the internal waters of States.

4. "Wastes or other matter" means material and substance of any kind, form or description.

5. "Special permit" means permission granted specifically on application in advance and in accordance with Annex II and Annex III.

6. "General permit" means permission granted in advance and in accordance with Annex III.

7. "The Organisation" means the organisation designated by the Contracting Parties in accordance with Article 14.2.

Article 4

1. In accordance with the provisions of this Convention, Contracting Parties shall prohibit the dumping of any wastes or other matter in whatever form or condition except as otherwise specified below:

- a. the dumping of wastes or other matter listed in Annex I is prohibited;
- b. the dumping of wastes or other matter listed in Annex II requires a prior special permit;
- c. the dumping of all other wastes or matter requires a prior general permit.

2. Any permit shall be issued only after careful consideration of all the factors set forth in Annex III, including prior studies of the characteristics of the dumping site, as set forth in Sections B and C of that Annex.

3. No provision of this Convention is to be interpreted as preventing a Contracting Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter not mentioned in Annex I. That Party shall notify such measures to the Organisation.

Article 5

1. The provisions of Article 4 shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimize the likelihood of damage to human or marine life and shall be reported forthwith to the Organisation.

2. A Contracting Party may issue a special permit as an exception to Article 4.1.a, in emergencies, posing unacceptable risk relating to human health and admitting no other feasible solution. Before doing so the Party shall consult any other country or countries that are likely to be affected and the Organisation which, after consulting other Parties, and international organizations as appropriate, shall, in accordance with Article 14 promptly recommend to the Party the most appropriate procedures to adopt. The Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organisation of the action it takes. The Parties pledge themselves to assist one another in such situations.

3. Any Contracting Party may waive its rights under paragraph 2 at the time of, or subsequent to ratification of, or accession to this Convention.

Article 6

1. Each Contracting Party shall designate an appropriate authority or authorities to:

- a. issue special permits which shall be required prior to, and for, the dumping of matter listed in Annex II and in the circumstances provided for in Article 5.2;
- b. issue general permits which shall be required prior to, and for, the dumping of all other matter;
- c. keep records of the nature and quantities of all matter permitted to be dumped and the location, time and method of dumping;
- d. monitor individually, or in collaboration with other Parties and competent international organisations, the condition of the seas for the purposes of this Convention.

2. The appropriate authority or authorities of a Contracting Party shall issue prior special or general permits in accordance with paragraph 1 in respect of matter intended for dumping:

- a. loaded in its territory;
- b. loaded by a vessel or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not party to this Convention.

3. In issuing permits under sub-paragraphs 1.a and b above, the appropriate authority or authorities shall comply with Annex III, together with such additional criteria, measures and requirements as they may consider relevant.

4. Each Contracting Party, directly or through a Secretariat established under a regional agreement, shall report to the Organisation, and where appropriate to other Parties, the information specified in sub-paragraphs c and d of paragraph 1 above, and the criteria, measures and requirements it adopts in accordance with paragraph 3 above. The procedure to be followed and the nature of such reports shall be agreed by the Parties in consultation.

Article 7

1. Each Contracting Party shall apply the measures required to implement the present Convention to all:

- a. vessels and aircraft registered in its territory or flying its flag;
- b. vessels and aircraft loading in its territory or territorial seas matter which is to be dumped;
- c. vessels and aircraft and fixed or floating platforms under its jurisdiction believed to be engaged in dumping.

2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Convention.

3. The Parties agree to co-operate in the development of procedures for the effective application of this Convention

particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Convention.

4. This Convention shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However each Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Convention, and shall inform the Organisation accordingly.

5. Nothing in this Convention shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping at sea.

Article 8

In order to further the objectives of this Convention, the Contracting Parties with common interests to protect the marine environment in a given geographical area shall endeavour, taking into account characteristic regional features, to enter into regional agreements consistent with this Convention for the prevention of pollution, especially by dumping. The Contracting Parties to the present Convention shall endeavour to act consistently with the objectives and provisions of such regional agreements, which shall be notified to them by the Organisation. Contracting Parties shall seek to co-operate with the Parties to regional agreements in order to develop harmonized procedures to be followed by Contracting Parties to the different conventions concerned. Special attention shall be given to co-operation in the field of monitoring and scientific research.

Article 9

The Contracting Parties shall promote, through collaboration within the Organisation and other international bodies, support for those Parties which request it for:

- a. the training of scientific and technical personnel;
- b. the supply of necessary equipment and facilities for research and monitoring;
- c. the disposal and treatment of waste and other measures to prevent or mitigate pollution caused by dumping; preferably within the countries concerned, so furthering the aims and purposes of this Convention.

Article 10

In accordance with the principles of international law regarding State responsibility for damage to the environment of other States or to any other area of the environment, caused by dumping of wastes and other matter of all kinds, the Contracting Parties undertake to develop procedures for the assessment of liability and the settlement of disputes regarding dumping.

Article 11

The Contracting Parties shall at their first consultative meeting consider procedures for the settlement of disputes concerning the interpretation and application of this Convention.

Article 12

The Contracting Parties pledge themselves to promote, within the competent specialised agencies and other international bodies, measures to protect the marine environment against pollution caused by:

- a. hydrocarbons, including oil, and their wastes;
- b. other noxious or hazardous matter transported by vessels for purposes other than dumping;
- c. wastes generated in the course of operation of vessels, aircraft, platforms and other man-made structures at sea;

- d. radio-active pollutants from all sources, including vessels;
- e. agents of chemical and biological warfare;
- f. wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

The Parties will also promote, within the appropriate international organisation, the codification of signals to be used by vessels engaged in dumping.

Article 13

Nothing in this Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction. The Contracting Parties agree to consult at a meeting to be convened by the Organisation after the Law of the Sea Conference, and in any case not later than 1976, with a view to defining the nature and extent of the right and the responsibility of a coastal State to apply the Convention in a zone adjacent to its coast.

Article 14

1. The Government of the United Kingdom of Great Britain and Northern Ireland as a depositary shall call a meeting of the Contracting Parties not later than three months after the entry into force of this Convention to decide on organisational matters.

2. The Contracting Parties shall designate a competent Organisation existing at the time of that meeting to be responsible for Secretariat duties in relation to this Convention. Any Party to this Convention not being a member of this Organisation shall make an appropriate contribution to the expenses incurred by the Organisation in performing these duties.

3. The Secretariat duties of the Organisation shall include:

- a. the convening of consultative meetings of the Contracting Parties not less frequently than once every two years and of special meetings of the Parties at any time on the request of two-thirds of the Parties;
- b. preparing and assisting, in consultation with the Contracting Parties and appropriate International Organisations, in the development and implementation of procedures referred to in sub-paragraph 4.e of this Article;
- c. considering inquiries by, and information from the Contracting Parties, consulting with them and with the appropriate International Organisations, and providing recommendations to the Parties on questions related to, but not specifically covered by the Convention;
- d. conveying to the Parties concerned all notifications received by the Organisations in accordance with Articles 4.3, 5.1 and 2, 6.4, 15, 20 and 21.

Prior to the designation of the Organisation these functions shall, as necessary, be performed by the depositary, who for this purpose shall be the Government of the United Kingdom of Great Britain and Northern Ireland.

4. Consultative or special meetings of the Contracting Parties shall keep under continuing review the implementation of this Convention and may, inter alia:

- a. review and adopt amendments to this Convention and its Annexes in accordance with Article 15;
- b. invite the appropriate scientific body or bodies to collaborate with and to advise the Parties or the Organisation on any scientific or technical aspect relevant to this Convention, including particularly the content of the Annexes;
- c. receive and consider reports made pursuant to Article 6.4;
- d. promote co-operation with and between regional organisations concerned with the prevention of marine pollution;

- e. develop or adopt, in consultation with appropriate International Organisations, procedures referred to in Article 5.2, including basic criteria for determining exceptional and emergency situations, and procedures for consultative advice and the safe disposal of matter in such circumstances, including the designation of appropriate dumping areas, and recommend accordingly;
 - f. consider any additional action that may be required.
5. The Contracting Parties at their first consultative meeting shall establish rules of procedure as necessary.

Article 15

1.
 - a. At meetings of the Contracting Parties called in accordance with Article 14 amendments to this Convention may be adopted by a two-thirds majority of those present. An amendment shall enter into force for the Parties which have accepted it on the sixtieth day after two-thirds of the Parties shall have deposited an instrument of acceptance of the amendment with the Organisation. Thereafter the amendment shall enter into force for any other Party 30 days after that Party deposits its instrument of acceptance of the amendment.
 - b. The Organisation shall inform all Contracting Parties of any requests made for a special meeting under Article 14 and of any amendments adopted at meetings of the Parties and of the date on which each such amendment enters into force for each Party.
2. Amendments to the Annexes will be based on scientific or technical considerations. Amendments to the Annexes approved by a two-thirds majority of those present at a meeting called in accordance with Article 14 shall enter into force for each Contracting Party immediately on notification of its acceptance to the Organisation and 100 days after approval by the meeting for all other Parties except for those which before the end of the 100 days make a declaration that they are not able to accept the amendment at that time. Parties should endeavour to signify their acceptance of an amendment to the Organisation as soon as possible after approval at a meeting. A Party may at any time substitute an acceptance for a previous declaration of objection and the amendment previously objected to shall thereupon enter into force for that Party.
3. An acceptance or declaration of objection under this Article shall be made by the deposit of an instrument with the Organisation. The Organisation shall notify all Contracting Parties of the receipt of such instruments.
4. Prior to the designation of the Organisation, the Secretariat functions herein attributed to it, shall be performed temporarily by the Government of the United Kingdom of Great Britain and Northern Ireland, as one of the depositaries of this Convention.

Article 16

This Convention shall be open for signature by any State at London, Mexico City, Moscow and Washington from 29 December 1972 until 31 December 1973.

Article 17

This Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Governments of Mexico, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, and the United States of America.

Article 18

After 31 December 1973, this Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

Article 19

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession.
2. For each Contracting Party ratifying or acceding to the Convention after the deposit of the fifteenth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such Party of its instrument of ratification or accession.

Article 20

The depositaries shall inform Contracting Parties:

- a. of signatures to this Convention and of the deposit of instruments of ratification, accession or withdrawal, in accordance with Articles 16, 17, 18 and 21; and
- b. of the date on which this Convention will enter into force, in accordance with Article 19.

Article 21

Any Contracting Party may withdraw from this Convention by giving six months' notice in writing to a depositary, which shall promptly inform all Parties of such notice.

Article 22

The original of this Convention, of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America who shall send certified copies thereof to all States.

ANNEX I

1. Organohalogen compounds.
2. Mercury and mercury compounds.
3. Cadmium and cadmium compounds.
4. Persistent plastics and other persistent synthetic materials, for example, netting and ropes, which may float or may remain in suspension in the sea in such a manner as to interfere materially with fishing, navigation or other legitimate uses of the sea.
5. Crude oil, fuel oil, heavy diesel oil, and lubricating oils, hydraulic fluids, and any mixtures containing any of these, taken on board for the purpose of dumping.
6. High-level radio-active wastes or other high-level radio-active matter, defined on public health, biological or other grounds, by the competent international body in this field, at present the International Atomic Energy Agency, as unsuitable for dumping at sea.
7. Materials in whatever form (e.g. solids, liquids, semi-liquids, gases or in a living state) produced for biological and chemical warfare.
8. The preceding paragraphs of this Annex do not apply to substances which are rapidly rendered harmless by physical, chemical or biological processes in the sea provided they do not:
 - (i) make edible marine organisms unpalatable, or
 - (ii) endanger human health or that of domestic animals.

The consultative procedure provided for under Article XIV should be followed by a Party if there is doubt about the harmlessness of the substance.

9. This Annex does not apply to wastes or other materials (e.g. sewage sludges and dredged spoils) containing the matters referred to in paragraphs 1-5 above as trace contaminants. Such wastes shall be subject to the provisions of Annexes II and III as appropriate.

ANNEX II

The following substances and materials requiring special care are listed for the purposes of Article VI(1)(a).

A. Wastes containing significant amounts of the matters listed below:

arsenic }
lead }
copper } and their compounds
zinc }
organosilicon compounds
cyanides
fluorides
pesticides and their by-products not covered in Annex 1

B. In the issue of permits for the dumping of large quantities of acids and alkalis, consideration shall be given to the possible presence in such wastes of the substances listed in paragraph A and to the following additional substances:

beryllium }
chromium }
nickel } and their compounds
vanadium }

C. Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.

D. Radio-active wastes or other radio-active matter not included in Annex I. In the issue of permits for the dumping of this matter, the Contracting Parties should take full account of the recommendations of the competent international body in this field, at present the International Atomic Energy Agency.

ANNEX III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account Article IV(2), include:

A - Characteristics and composition of the matter

1. Total amount and average composition of matter dumped (e.g. per year).
2. Form, e.g. solid, sludge, liquid, or gaseous.
3. Properties: physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeasts, parasites).
4. Toxicity.
5. Persistence: physical, chemical and biological.
6. Accumulation and biotransformation in biological materials or sediments.
7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.
8. Probability of production of taints or other changes reducing marketability of resources (fish, shellfish, etc.).

B - Characteristics of dumping site and method of deposit

1. Location (e.g. coordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed method of release.
5. Dispersal characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).
6. Water characteristics (e.g. temperature, pH, salinity, stratification, oxygen indices of pollution - dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD) - nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).
7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity).
8. Existence and effects of other dumpings which have been made in the dumping area (e.g. heavy metal background reading and organic carbon content).
9. In issuing a permit for dumping, Contracting Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Annex, taking into account seasonal variations.

C - General considerations and conditions

1. Possible effects on amenities (e.g. presence of floating or stranded material, turbidity, objectionable odour, discolouration and foaming).
2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting/culture.
3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structures, interference with ship operations, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance for scientific or conservation purposes).

1996 PROTOCOL TO THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER, 1972

Adopted in London by the Special Meeting of Contracting Parties to the London Convention 1972 on 7 November 1996
Has not entered into force as of 31 July 1999

PREAMBLE

The States Parties to this Convention,,

STRESSING the need to protect the marine environment and to promote the sustainable use and conservation of marine resources,

NOTING in this regard the achievements within the framework of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 and especially the evolution towards approaches based on precaution and prevention,

NOTING FURTHER the contribution in this regard by complementary regional and national instruments which aim to protect the marine environment and which take account of specific circumstances and needs of those regions and States,

REAFFIRMING the value of a global approach to these matters and in particular the importance of continuing co-operation and collaboration between Contracting Parties in implementing the Convention and the Protocol,

RECOGNIZING that it may be desirable to adopt, on a national or regional level, more stringent measures with respect to prevention and elimination of pollution of the marine environment from dumping at sea than are provided for in international conventions or other types of agreements with a global scope,

TAKING INTO ACCOUNT relevant international agreements and actions, especially the United Nations Convention on the Law of the Sea, 1982, the Rio Declaration on Environment and Development and Agenda 21,

RECOGNIZING ALSO the interests and capacities of developing States and in particular small island developing States,

BEING CONVINCED that further international action to prevent, reduce and where practicable eliminate pollution of the sea caused by dumping can and must be taken without delay to protect and preserve the marine environment and to manage human activities in such a manner that the marine ecosystem will continue to sustain the legitimate uses of the sea and will continue to meet the needs of present and future generations,

HAVE AGREED as follows:

Article 1 DEFINITIONS

For the purposes of this Protocol:

- 1 "Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended.
- 2 "Organization" means the International Maritime Organization.
- 3 "Secretary-General" means the Secretary-General of the Organization.
- 4 .1 "Dumping" means:
 - (1) any deliberate disposal into the sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

- (2) any deliberate disposal into the sea of vessels, aircraft, platforms or other man-made structures at sea;
- (3) any storage of wastes or other matter in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea; and
- (4) any abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal.

4.2 "Dumping" does not include:

- (1) the disposal into the sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or other man-made structures;
- (2) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Protocol; and
- (3) notwithstanding paragraph 4.1.4, abandonment in the sea of matter (e.g., cables, pipelines and marine research devices) placed for a purpose other than the mere disposal thereof.
- (4) The disposal or storage of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of seabed mineral resources is not covered by the provisions of this Protocol.

5.1 "Incineration at sea" means the combustion on board a vessel, platform or other man-made structure at sea of wastes or other matter for the purpose of their deliberate disposal by thermal destruction.

5.2 "Incineration at sea" does not include the incineration of wastes or other matter on board a vessel, platform, or other man-made structure at sea if such wastes or other matter were generated during the normal operation of that vessel, platform or other man-made structure at sea.

6 "Vessels and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air-cushioned craft and floating craft, whether self-propelled or not.

7 "Sea" means all marine waters other than the internal waters of States, as well as the seabed and the subsoil thereof; it does not include sub-seabed repositories accessed only from land.

8 "Wastes or other matter" means material and substance of any kind, form or description.

9 "Permit" means permission granted in advance and in accordance with relevant measures adopted pursuant to Article 4.1.2 or 8.2.

10 "Pollution" means the introduction, directly or indirectly, by human activity, of wastes or other matter into the sea which results or is likely to result in such deleterious effects as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.

Article 2 OBJECTIVES

Contracting Parties shall individually and collectively protect and preserve the marine environment from all sources of pollution and take effective measures, according to their scientific, technical and economic capabilities, to prevent, reduce and where practicable eliminate pollution caused by dumping or incineration at sea of wastes or other matter. Where appropriate, they shall harmonize their policies in this regard.

Article 3 GENERAL OBLIGATIONS

1 In implementing this Protocol, Contracting Parties shall apply a precautionary approach to environmental protection from dumping of wastes or other matter whereby appropriate preventative measures are taken when there is reason to believe that wastes or other matter introduced into the marine environment are likely to cause harm even when there is no conclusive evidence to prove a causal relation between inputs and their effects.

2 Taking into account the approach that the polluter should, in principle, bear the cost of pollution, each Contracting Party shall endeavour to promote practices whereby those it has authorized to engage in dumping or incineration at sea bear the cost of meeting the pollution prevention and control requirements for the authorized activities, having due regard to the public interest.

3 In implementing the provisions of this Protocol, Contracting Parties shall act so as not to transfer, directly or indirectly, damage or likelihood of damage from one part of the environment to another or transform one type of pollution into another.

4 No provision of this Protocol shall be interpreted as preventing Contracting Parties from taking, individually or jointly, more stringent measures in accordance with international law with respect to the prevention, reduction and where practicable elimination of pollution.

Article 4 DUMPING OF WASTES OR OTHER MATTER

1 .

(1) Contracting Parties shall prohibit the dumping of any wastes or other matter with the exception of those listed in Annex 1.

(2) The dumping of wastes or other matter listed in Annex 1 shall require a permit. Contracting Parties shall adopt administrative or legislative measures to ensure that issuance of permits and permit conditions comply with provisions of Annex 2. Particular attention shall be paid to opportunities to avoid dumping in favour of environmentally preferable alternatives.

2 No provision of this Protocol shall be interpreted as preventing a Contracting Party from prohibiting, insofar as that Contracting Party is concerned, the dumping of wastes or other matter mentioned in Annex 1. That Contracting Party shall notify the Organization of such measures.

Article 5 INCINERATION AT SEA

Contracting Parties shall prohibit incineration at sea of wastes or other matter.

Article 6 EXPORT OF WASTES OR OTHER MATTER

Contracting Parties shall not allow the export of wastes or other matter to other countries for dumping or incineration at sea.

Article 7 INTERNAL WATERS

1 Notwithstanding any other provision of this Protocol, this Protocol shall relate to internal waters only to the extent provided for in paragraphs 2 and 3.

2 Each Contracting Party shall at its discretion either apply the provisions of this Protocol or adopt other effective permitting and regulatory measures to control the deliberate disposal of wastes or other matter in marine internal waters where such disposal would be "dumping" or "incineration at sea" within the meaning of Article 1, if conducted at sea.

3 Each Contracting Party should provide the Organization with information on legislation and institutional mechanisms regarding implementation, compliance and enforcement in marine internal waters. Contracting Parties should also use their best efforts to provide on a voluntary basis summary reports on the type and nature of the materials dumped in marine internal waters.

Article 8 EXCEPTIONS

1 The provisions of Articles 4.1 and 5 shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be conducted so as to minimize the likelihood of damage to human or marine life and shall be reported forthwith to the Organization.

2 A Contracting Party may issue a permit as an exception to Articles 4.1 and 5, in emergencies posing an unacceptable threat to human health, safety, or the marine environment and admitting of no other feasible solution. Before doing so the Contracting Party shall consult any other country or countries that are likely to be affected and the Organization which, after consulting other Contracting Parties, and competent international organizations as appropriate, shall, in accordance with Article 18.6 promptly recommend to the Contracting Party the most appropriate procedures to adopt. The Contracting Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organization of the action it takes. The Contracting Parties pledge themselves to assist one another in such situations.

3 Any Contracting Party may waive its rights under paragraph 2 at the time of, or subsequent to ratification of, or accession to this Protocol.

Article 9 ISSUANCE OF PERMITS AND REPORTING

1 Each Contracting Party shall designate an appropriate authority or authorities to:

- (1) issue permits in accordance with this Protocol;
- (2) keep records of the nature and quantities of all wastes or other matter for which dumping permits have been issued and where practicable the quantities actually dumped and the location, time and method of dumping; and
- (3) monitor individually, or in collaboration with other Contracting Parties and competent international organizations, the condition of the sea for the purposes of this Protocol.

2 The appropriate authority or authorities of a Contracting Party shall issue permits in accordance with this Protocol in respect of wastes or other matter intended for dumping or, as provided for in Article 8.2, incineration at sea:

- (1) loaded in its territory; and
- (2) loaded onto a vessel or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not a Contracting Party to this Protocol.

3 In issuing permits, the appropriate authority or authorities shall comply with the requirements of Article 4, together with such additional criteria, measures and requirements as they may consider relevant.

4 Each Contracting Party, directly or through a secretariat established under a regional agreement, shall report to the Organization and where appropriate to other Contracting Parties:

- (1) the information specified in paragraphs 1.2 and 1.3;
- (2) the administrative and legislative measures taken to implement the provisions of this Protocol, including a summary of enforcement measures; and
- (3) the effectiveness of the measures referred to in paragraph 4.2 and any problems encountered in their application.

The information referred to in paragraphs 1.2 and 1.3 shall be submitted on an annual basis. The information referred

to in paragraphs 4.2 and 4.3 shall be submitted on a regular basis.

5 Reports submitted under paragraphs 4.2 and 4.3 shall be evaluated by an appropriate subsidiary body as determined by the Meeting of Contracting Parties. This body will report its conclusions to an appropriate Meeting or Special Meeting of Contracting Parties.

Article 10 APPLICATION AND ENFORCEMENT

1 Each Contracting Party shall apply the measures required to implement this Protocol to all:

(1) vessels and aircraft registered in its territory or flying its flag;

(2) vessels and aircraft loading in its territory the wastes or other matter which are to be dumped or incinerated at sea; and

(3) vessels, aircraft and platforms or other man-made structures believed to be engaged in dumping or incineration at sea in areas within which it is entitled to exercise jurisdiction in accordance with international law.

2 Each Contracting Party shall take appropriate measures in accordance with international law to prevent and if necessary punish acts contrary to the provisions of this Protocol.

3 Contracting Parties agree to co-operate in the development of procedures for the effective application of this Protocol in areas beyond the jurisdiction of any State, including procedures for the reporting of vessels and aircraft observed dumping or incinerating at sea in contravention of this Protocol.

4 This Protocol shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each Contracting Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Protocol and shall inform the Organization accordingly.

5 A State may, at the time it expresses its consent to be bound by this Protocol, or at any time thereafter, declare that it shall apply the provisions of this Protocol to its vessels and aircraft referred to in paragraph 4, recognising that only that State may enforce those provisions against such vessels and aircraft.

Article 11 COMPLIANCE PROCEDURES

1 No later than two years after the entry into force of this Protocol, the Meeting of Contracting Parties shall establish those procedures and mechanisms necessary to assess and promote compliance with this Protocol. Such procedures and mechanisms shall be developed with a view to allowing for the full and open exchange of information, in a constructive manner.

2 After full consideration of any information submitted pursuant to this Protocol and any recommendations made through procedures or mechanisms established under paragraph 1, the Meeting of Contracting Parties may offer advice, assistance or co-operation to Contracting Parties and non-Contracting Parties.

Article 12 REGIONAL CO-OPERATION

In order to further the objectives of this Protocol, Contracting Parties with common interests to protect the marine environment in a given geographical area shall endeavour, taking into account characteristic regional features, to enhance regional co-operation including the conclusion of regional agreements consistent with this Protocol for the prevention, reduction and where practicable elimination of pollution caused by dumping or incineration at sea of wastes or other matter. Contracting Parties shall seek to co-operate with the parties to regional agreements in order to develop harmonized procedures to be followed by Contracting Parties to the different conventions concerned.

Article 13 TECHNICAL CO-OPERATION AND ASSISTANCE

1 Contracting Parties shall, through collaboration within the Organization and in co-ordination with other competent international organizations, promote bilateral and multilateral support for the prevention, reduction and where practicable elimination of pollution caused by dumping as provided for in this Protocol to those Contracting Parties that request it for:

- (1) training of scientific and technical personnel for research, monitoring and enforcement, including as appropriate the supply of necessary equipment and facilities, with a view to strengthening national capabilities;
- (2) advice on implementation of this Protocol;
- (3) information and technical co-operation relating to waste minimization and clean production processes;
- (4) information and technical co-operation relating to the disposal and treatment of waste and other measures to prevent, reduce and where practicable eliminate pollution caused by dumping; and
- (5) access to and transfer of environmentally sound technologies and corresponding know-how, in particular to developing countries and countries in transition to market economies, on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights as well as the special needs of developing countries and countries in transition to market economies.

2 The Organization shall perform the following functions:

- (1) forward requests from Contracting Parties for technical co-operation to other Contracting Parties, taking into account such factors as technical capabilities;
- (2) co-ordinate requests for assistance with other competent international organizations, as appropriate; and
- (3) subject to the availability of adequate resources, assist developing countries and those in transition to market economies, which have declared their intention to become Contracting Parties to this Protocol, to examine the means necessary to achieve full implementation.

Article 14 SCIENTIFIC AND TECHNICAL RESEARCH

1 Contracting Parties shall take appropriate measures to promote and facilitate scientific and technical research on the prevention, reduction and where practicable elimination of pollution by dumping and other sources of marine pollution relevant to this Protocol. In particular, such research should include observation, measurement, evaluation and analysis of pollution by scientific methods.

2 Contracting Parties shall, to achieve the objectives of this Protocol, promote the availability of relevant information to other Contracting Parties who request it on:

- (1) scientific and technical activities and measures undertaken in accordance with this Protocol;
- (2) marine scientific and technological programmes and their objectives; and
- (3) the impacts observed from the monitoring and assessment conducted pursuant to Article 9.1.3.

Article 15 RESPONSIBILITY AND LIABILITY

In accordance with the principles of international law regarding State responsibility for damage to the environment of other States or to any other area of the environment, the Contracting Parties undertake to develop procedures regarding liability arising from the dumping or incineration at sea of wastes or other matter.

Article 16 SETTLEMENT OF DISPUTES

1 Any disputes regarding the interpretation or application of this Protocol shall be resolved in the first instance through negotiation, mediation or conciliation, or other peaceful means chosen by parties to the dispute.

2 If no resolution is possible within twelve months after one Contracting Party has notified another that a dispute exists between them, the dispute shall be settled, at the request of a party to the dispute, by means of the Arbitral Procedure set forth in Annex 3, unless the parties to the dispute agree to use one of the procedures listed in paragraph 1 of Article 287 of the 1982 United Nations Convention on the Law of the Sea. The parties to the dispute may so agree, whether or not they are also States Parties to the 1982 United Nations Convention on the Law of the Sea.

3 In the event an agreement to use one of the procedures listed in paragraph 1 of Article 287 of the 1982 United Nations Convention on the Law of the Sea is reached, the provisions set forth in Part XV of that Convention that are related to the chosen procedure would also apply, *mutatis mutandis*.

4 The twelve month period referred to in paragraph 2 may be extended for another twelve months by mutual consent of the parties concerned.

5 Notwithstanding paragraph 2, any State may, at the time it expresses its consent to be bound by this Protocol, notify the Secretary-General that, when it is a party to a dispute about the interpretation or application of Article 3.1 or 3.2, its consent will be required before the dispute may be settled by means of the Arbitral Procedure set forth in Annex 3.

Article 17 INTERNATIONAL CO-OPERATION

Contracting Parties shall promote the objectives of this Protocol within the competent international organizations.

Article 18 MEETINGS OF CONTRACTING PARTIES

1 Meetings of Contracting Parties or Special Meetings of Contracting Parties shall keep under continuing review the implementation of this Protocol and evaluate its effectiveness with a view to identifying means of strengthening action, where necessary, to prevent, reduce and where practicable eliminate pollution caused by dumping and incineration at sea of wastes or other matter. To these ends, Meetings of Contracting Parties or Special Meetings of Contracting Parties may:

- (1) review and adopt amendments to this Protocol in accordance with Articles 21 and 22;
- (2) establish subsidiary bodies, as required, to consider any matter with a view to facilitating the effective implementation of this Protocol;
- (3) invite appropriate expert bodies to advise the Contracting Parties or the Organization on matters relevant to this Protocol;
- (4) promote co-operation with competent international organizations concerned with the prevention and control of pollution;
- (5) consider the information made available pursuant to Article 9.4;
- (6) develop or adopt, in consultation with competent international organizations, procedures referred to in Article 8.2, including basic criteria for determining exceptional and emergency situations, and procedures for consultative advice and the safe disposal of matter at sea in such circumstances;
- (7) consider and adopt resolutions; and
- (8) consider any additional action that may be required.

2 The Contracting Parties at their first Meeting shall establish rules of procedure as necessary.

Article 19 DUTIES OF THE ORGANIZATION

1 The Organization shall be responsible for Secretariat duties in relation to this Protocol. Any Contracting Party to this Protocol not being a member of this Organization shall make an appropriate contribution to the expenses incurred by the Organization in performing these duties.

2 Secretariat duties necessary for the administration of this Protocol include:

- (1) convening Meetings of Contracting Parties once per year, unless otherwise decided by Contracting Parties, and Special Meetings of Contracting Parties at any time on the request of two-thirds of the Contracting Parties;
- (2) providing advice on request on the implementation of this Protocol and on guidance and procedures developed thereunder;
- (3) considering enquiries by, and information from Contracting Parties, consulting with them and with the competent international organizations, and providing recommendations to Contracting Parties on questions related to, but not specifically covered by, this Protocol;
- (4) preparing and assisting, in consultation with Contracting Parties and the competent international organizations, in the development and implementation of procedures referred to in Article 18.6.;
- (5) conveying to the Contracting Parties concerned all notifications received by the Organization in accordance with this Protocol; and
- (6) preparing, every two years, a budget and a financial account for the administration of this Protocol which shall be distributed to all Contracting Parties.

3 The Organization shall, subject to the availability of adequate resources, in addition to the requirements set out in Article 13.2.3.

- (1) collaborate in assessments of the state of the marine environment; and
- (2) co-operate with competent international organizations concerned with the prevention and control of pollution.

Article 20 ANNEXES

Annexes to this Protocol form an integral part of this Protocol.

Article 21 AMENDMENT OF THE PROTOCOL

- 1 Any Contracting Party may propose amendments to the Articles of this Protocol. The text of a proposed amendment shall be communicated to Contracting Parties by the Organization at least six months prior to its consideration at a Meeting of Contracting Parties or a Special Meeting of Contracting Parties.
- 2 Amendments to the Articles of this Protocol shall be adopted by a two-thirds majority vote of the Contracting Parties which are present and voting at the Meeting of Contracting Parties or Special Meeting of Contracting Parties designated for this purpose.
- 3 An amendment shall enter into force for the Contracting Parties which have accepted it on the sixtieth day after two-thirds of the Contracting Parties shall have deposited an instrument of acceptance of the amendment with the Organization. Thereafter the amendment shall enter into force for any other Contracting Party on the sixtieth day after the date on which that Contracting Party has deposited its instrument of acceptance of the amendment.
- 4 The Secretary-General shall inform Contracting Parties of any amendments adopted at Meetings of Contracting Parties and of the date on which such amendments enter into force generally and for each Contracting Party.
- 5 After entry into force of an amendment to this Protocol, any State that becomes a Contracting Party to this Protocol shall become a Contracting Party to this Protocol as amended, unless two-thirds of the Contracting Parties present and voting at the Meeting or Special Meeting of Contracting Parties adopting the amendment agree otherwise.

Article 22 AMENDMENT OF THE ANNEXES

1 Any Contracting Party may propose amendments to the Annexes to this Protocol. The text of a proposed amendment shall be communicated to Contracting Parties by the Organization at least six months prior to its consideration by a Meeting of Contracting Parties or Special Meeting of Contracting Parties.

2 Amendments to the Annexes other than Annex 3 will be based on scientific or technical considerations and may take into account legal, social and economic factors as appropriate. Such amendments shall be adopted by a two-thirds majority vote of the Contracting Parties present and voting at a Meeting of Contracting Parties or Special Meeting of Contracting Parties designated for this purpose.

3 The Organization shall without delay communicate to Contracting Parties amendments to the Annexes that have been adopted at a Meeting of Contracting Parties or Special Meeting of Contracting Parties.

4 Except as provided in paragraph 7, amendments to the Annexes shall enter into force for each Contracting Party immediately on notification of its acceptance to the Organization or 100 days after the date of their adoption at a Meeting of Contracting Parties, if that is later, except for those Contracting Parties which before the end of the 100 days make a declaration that they are not able to accept the amendment at that time. A Contracting Party may at any time substitute an acceptance for a previous declaration of objection and the amendment previously objected to shall thereupon enter into force for that Contracting Party.

5 The Secretary-General shall without delay notify Contracting Parties of instruments of acceptance or objection deposited with the Organization.

6 A new Annex or an amendment to an Annex which is related to an amendment to the Articles of this Protocol shall not enter into force until such time as the amendment to the Articles of this Protocol enters into force.

7 With regard to amendments to Annex 3 concerning the Arbitral Procedure and with regard to the adoption and entry into force of new Annexes the procedures on amendments to the Articles of this Protocol shall apply.

Article 23 RELATIONSHIP BETWEEN THE PROTOCOL AND THE CONVENTION

This Protocol will supersede the Convention as between Contracting Parties to this Protocol which are also Parties to the Convention.

Article 24 SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1 This Protocol shall be open for signature by any State at the Headquarters of the Organization from 1 April 1997 to 31 March 1998 and shall thereafter remain open for accession by any State.

2 States may become Contracting Parties to this Protocol by:

- (1) signature not subject to ratification, acceptance or approval; or
- (2) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (3) accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 25 ENTRY INTO FORCE

1 This Protocol shall enter into force on the thirtieth day following the date on which:

- (1) at least 26 States have expressed their consent to be bound by this Protocol in accordance with Article 24; and
- (2) at least 15 Contracting Parties to the Convention are included in the number of States referred to in paragraph 1.1.

2 For each State that has expressed its consent to be bound by this Protocol in accordance with Article 24 following the date referred to in paragraph 1, this Protocol shall enter into force on the thirtieth day after the date on which such State expressed its consent.

Article 26 TRANSITIONAL PERIOD

1 Any State that was not a Contracting Party to the Convention before 31 December 1996 and that expresses its consent to be bound by this Protocol prior to its entry into force or within five years after its entry into force may, at the time it expresses its consent, notify the Secretary-General that, for reasons described in the notification, it will not be able to comply with specific provisions of this Protocol other than those provided in paragraph 2, for a transitional period that shall not exceed that described in paragraph 4.

2 No notification made under paragraph 1 shall affect the obligations of a Contracting Party to this Protocol with respect to incineration at sea or the dumping of radioactive wastes or other radioactive matter.

3 Any Contracting Party to this Protocol that has notified the Secretary-General under paragraph 1 that, for the specified transitional period, it will not be able to comply, in part or in whole, with Article 4.1 or Article 9 shall nonetheless during that period prohibit the dumping of wastes or other matter for which it has not issued a permit, use its best efforts to adopt administrative or legislative measures to ensure that issuance of permits and permit conditions comply with the provisions of Annex 2, and notify the Secretary-General of any permits issued.

4 Any transitional period specified in a notification made under paragraph 1 shall not extend beyond five years after such notification is submitted.

5 Contracting Parties that have made a notification under paragraph 1 shall submit to the first Meeting of Contracting Parties occurring after deposit of their instrument of ratification, acceptance, approval or accession a programme and timetable to achieve full compliance with this Protocol, together with any requests for relevant technical co-operation and assistance in accordance with Article 13 of this Protocol.

6 Contracting Parties that have made a notification under paragraph 1 shall establish procedures and mechanisms for the transitional period to implement and monitor submitted programmes designed to achieve full compliance with this Protocol. A report on progress toward compliance shall be submitted by such Contracting Parties to each Meeting of Contracting Parties held during their transitional period for appropriate action.

Article 27 WITHDRAWAL

1 Any Contracting Party may withdraw from this Protocol at any time after the expiry of two years from the date on which this Protocol enters into force for that Contracting Party.

2 Withdrawal shall be effected by the deposit of an instrument of withdrawal with the Secretary-General.

3 A withdrawal shall take effect one year after receipt by the Secretary-General of the instrument of withdrawal or such longer period as may be specified in that instrument.

Article 28 DEPOSITARY

1 This Protocol shall be deposited with the Secretary-General.

2 In addition to the functions specified in Articles 10.5, 16.5, 21.4, 22.5 and 26.5, the Secretary-General shall:

(1) inform all States which have signed this Protocol or acceded thereto of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of this Protocol; and

(iii) the deposit of any instrument of withdrawal from this Protocol together with the date on which it was received and the date on which the withdrawal takes effect.

(2) transmit certified copies of this Protocol to all States which have signed this Protocol or acceded thereto.

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

Article 29 AUTHENTIC TEXTS

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Protocol.

DONE AT LONDON, this seventh day of November, one thousand nine hundred and ninety-six.

ANNEX 1
WASTES OR OTHER MATTER THAT MAY BE CONSIDERED FOR DUMPING

1 The following wastes or other matter are those that may be considered for dumping being mindful of the Objectives and General Obligations of this Protocol set out in Articles 2 and 3:

- .1 dredged material;
- .2 sewage sludge;
- .3 fish waste, or material resulting from industrial fish processing operations;
- .4 vessels and platforms or other man-made structures at sea;
- .5 inert, inorganic geological material;
- .6 organic material of natural origin; and
- .7 bulky items primarily comprising iron, steel, concrete and similarly unarmful materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping.

2 The wastes or other matter listed in paragraphs 1.4 and 1.7 may be considered for dumping, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that the material dumped poses no serious obstacle to fishing or navigation.

3 Notwithstanding the above, materials listed in paragraphs 1.1 to 1.7 containing levels of radioactivity greater than *de minimis* (exempt) concentrations as defined by the IAEA and adopted by Contracting Parties, shall not be considered eligible for dumping; provided further that within 25 years of 20 February 1994, and at each 25 year interval thereafter, Contracting Parties shall complete a scientific study relating to all radioactive wastes and other radioactive matter other than high level wastes or matter, taking into account such other factors as Contracting Parties consider appropriate and shall review the prohibition on dumping of such substances in accordance with the procedures set forth in Article 22.

ANNEX 2

ASSESSMENT OF WASTES OR OTHER MATTER THAT MAY BE CONSIDERED FOR DUMPING

GENERAL

1 The acceptance of dumping under certain circumstances shall not remove the obligations under this Annex to make further attempts to reduce the necessity for dumping.

WASTE PREVENTION AUDIT

2 The initial stages in assessing alternatives to dumping should, as appropriate, include an evaluation of:

- .1 types, amounts and relative hazard of wastes generated;
- .2 details of the production process and the sources of wastes within that process; and
- .3 feasibility of the following waste reduction/prevention techniques:
 - 1 product reformulation;
 - 2 clean production technologies;
 - 3 process modification;
 - 4 input substitution; and
 - 5 on-site, closed-loop recycling.

3 In general terms, if the required audit reveals that opportunities exist for waste prevention at source, an applicant is expected to formulate and implement a waste prevention strategy, in collaboration with relevant local and national agencies, which includes specific waste reduction targets and provision for further waste prevention audits to ensure that these targets are being met. Permit issuance or renewal decisions shall assure compliance with any resulting waste reduction and prevention requirements.

4 For dredged material and sewage sludge, the goal of waste management should be to identify and control the sources of contamination. This should be achieved through implementation of waste prevention strategies and requires collaboration between the relevant local and national agencies involved with the control of point and non-point sources of pollution. Until this objective is met, the problems of contaminated dredged material may be addressed by using disposal management techniques at sea or on land.

CONSIDERATION OF WASTE MANAGEMENT OPTIONS

5 Applications to dump wastes or other matter shall demonstrate that appropriate consideration has been given to the following hierarchy of waste management options, which implies an order of increasing environmental impact:

- .1 re-use;
- .2 off-site recycling;
- .3 destruction of hazardous constituents;
- .4 treatment to reduce or remove the hazardous constituents; and
- .5 disposal on land, into air and in water.

6 A permit to dump wastes or other matter shall be refused if the permitting authority determines that appropriate opportunities exist to re-use, recycle or treat the waste without undue risks to human health or the environment or disproportionate costs. The practical availability of other means of disposal should be considered in the light of a comparative risk assessment involving both dumping and the alternatives.

CHEMICAL, PHYSICAL AND BIOLOGICAL PROPERTIES

7 A detailed description and characterization of the waste is an essential precondition for the consideration of alternatives and the basis for a decision as to whether a waste may be dumped. If a waste is so poorly characterized that proper assessment cannot be made of its potential impacts on human health and the environment, that waste shall not be dumped.

8 Characterization of the wastes and their constituents shall take into account:

- .1 origin, total amount, form and average composition;
- .2 properties: physical, chemical, biochemical and biological;
- .3 toxicity;
- .4 persistence: physical, chemical and biological; and
- .5 accumulation and biotransformation in biological materials or sediments.

ACTION LIST

9 Each Contracting Party shall develop a national Action List to provide a mechanism for screening candidate wastes and their constituents on the basis of their potential effects on human health and the marine environment. In selecting substances for consideration in an Action List, priority shall be given to toxic, persistent and bioaccumulative substances from anthropogenic sources (e.g., cadmium, mercury, organohalogens, petroleum hydrocarbons, and, whenever relevant, arsenic, lead, copper, zinc, beryllium, chromium, nickel and vanadium, organosilicon compounds, cyanides, fluorides and pesticides or their by-products other than organohalogens). An Action List can also be used as a trigger mechanism for further waste prevention considerations.

10 An Action List shall specify an upper level and may also specify a lower level. The upper level should be set so as to avoid acute or chronic effects on human health or on sensitive marine organisms representative of the marine ecosystem. Application of an Action List will result in three possible categories of waste:

- .1 wastes which contain specified substances, or which cause biological responses, exceeding the relevant upper level shall not be dumped, unless made acceptable for dumping through the use of management techniques or processes;
- .2 wastes which contain specified substances, or which cause biological responses, below the relevant lower levels should be considered to be of little environmental concern in relation to dumping; and
- .3 wastes which contain specified substances, or which cause biological responses, below the upper level but above the lower level require more detailed assessment before their suitability for dumping can be determined.

DUMP-SITE SELECTION

11 Information required to select a dump-site shall include:

- .1 physical, chemical and biological characteristics of the water-column and the seabed;
- .2 location of amenities, values and other uses of the sea in the area under consideration;
- .3 assessment of the constituent fluxes associated with dumping in relation to existing fluxes of substances in the marine environment; and
- .4 economic and operational feasibility.

ASSESSMENT OF POTENTIAL EFFECTS

12 Assessment of potential effects should lead to a concise statement of the expected consequences of the sea or land disposal options, i.e., the "Impact Hypothesis". It provides a basis for deciding whether to approve or reject the proposed disposal option and for defining environmental monitoring requirements.

13 The assessment for dumping should integrate information on waste characteristics, conditions at the proposed dump-site(s), fluxes, and proposed disposal techniques and specify the potential effects on human health, living resources, amenities and other legitimate uses of the sea. It should define the nature, temporal and spatial scales and duration of expected impacts based on reasonably conservative assumptions.

14 An analysis of each disposal option should be considered in the light of a comparative assessment of the following concerns: human health risks, environmental costs, hazards, (including accidents), economics and exclusion of future uses. If this assessment reveals that adequate information is not available to determine the likely effects of the proposed disposal option then this option should not be considered further. In addition, if the interpretation of the comparative assessment shows the dumping option to be less preferable, a permit for dumping should not be given.

15 Each assessment should conclude with a statement supporting a decision to issue or refuse a permit for dumping.

MONITORING

16 Monitoring is used to verify that permit conditions are met - compliance monitoring - and that the assumptions made during the permit review and site selection process were correct and sufficient to protect the environment and human health - field monitoring. It is essential that such monitoring programmes have clearly defined objectives.

PERMIT AND PERMIT CONDITIONS

17 A decision to issue a permit should only be made if all impact evaluations are completed and the monitoring requirements are determined. The provisions of the permit shall ensure, as far as practicable, that environmental disturbance and detriment are minimized and the benefits maximized. Any permit issued shall contain data and information specifying:

- .1 the types and sources of materials to be dumped;
- .2 the location of the dump-site(s);
- .3 the method of dumping; and
- .4 monitoring and reporting requirements.

18 Permits should be reviewed at regular intervals, taking into account the results of monitoring and the objectives of monitoring programmes. Review of monitoring results will indicate whether field programmes need to be continued, revised or terminated and will contribute to informed decisions regarding the continuance, modification or revocation of permits. This provides an important feedback mechanism for the protection of human health and the marine environment.

ANNEX 3 ARBITRAL PROCEDURE

Article 1

1 An Arbitral Tribunal (hereinafter referred to as the "Tribunal") shall be established upon the request of a Contracting Party addressed to another Contracting Party in application of Article 16 of this Protocol. The request for arbitration shall consist of a statement of the case together with any supporting documents.

2 The requesting Contracting Party shall inform the Secretary-General of:

.1 its request for arbitration; and

.2 the provisions of this Protocol the interpretation or application of which is, in its opinion, the subject of disagreement.

3 The Secretary-General shall transmit this information to all Contracting States.

Article 2

1 The Tribunal shall consist of a single arbitrator if so agreed between the parties to the dispute within 30 days from the date of receipt of the request for arbitration.

2 In the case of the death, disability or default of the arbitrator, the parties to a dispute may agree upon a replacement within 30 days of such death, disability or default.

Article 3

1 Where the parties to a dispute do not agree upon a Tribunal in accordance with Article 2 of this Annex, the Tribunal shall consist of three members:

.1 one arbitrator nominated by each party to the dispute; and

.2 a third arbitrator who shall be nominated by agreement between the two first named and who shall act as its Chairman.

2 If the Chairman of a Tribunal is not nominated within 30 days of nomination of the second arbitrator, the parties to a dispute shall, upon the request of one party, submit to the Secretary-General within a further period of 30 days an agreed list of qualified persons. The Secretary-General shall select the Chairman from such list as soon as possible. He shall not select a Chairman who is or has been a national of one party to the dispute except with the consent of the other party to the dispute.

3 If one party to a dispute fails to nominate an arbitrator as provided in paragraph 1.1 within 60 days from the date of receipt of the request for arbitration, the other party may request the submission to the Secretary-General within a period of 30 days of an agreed list of qualified persons. The Secretary-General shall select the Chairman of the Tribunal from such list as soon as possible. The Chairman shall then request the party which has not nominated an arbitrator to do so. If this party does not nominate an arbitrator within 15 days of such request, the Secretary-General shall, upon request of the Chairman, nominate the arbitrator from the agreed list of qualified persons.

4 In the case of the death, disability or default of an arbitrator, the party to the dispute who nominated him shall nominate a replacement within 30 days of such death, disability or default. If the party does not nominate a replacement, the arbitration shall proceed with the remaining arbitrators. In the case of the death, disability or default of the Chairman, a replacement shall be nominated in accordance with the provision of paragraphs 1.2 and 2 within 90 days of such death, disability or default.

5 A list of arbitrators shall be maintained by the Secretary-General and composed of qualified persons nominated by the Contracting Parties. Each Contracting Party may designate for inclusion in the list four persons who shall not necessarily be its nationals. If the parties to the dispute have failed within the specified time limits to submit to the Secretary-General an agreed list of qualified persons as provided for in paragraphs 2, 3 and 4, the Secretary-General shall select from the list maintained by him the arbitrator or arbitrators not yet nominated.

Article 4

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Article 5

Each party to the dispute shall be responsible for the costs entailed by the preparation of its own case. The remuneration of the members of the Tribunal and of all general expenses incurred by the arbitration shall be borne equally by the parties to the dispute. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the parties.

Article 6

Any Contracting Party which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the parties to the dispute which have originally initiated the procedure, intervene in the arbitration procedure with the consent of the Tribunal and at its own expense. Any such intervenor shall have the right to present evidence, briefs and oral argument on the matters giving rise to its intervention, in accordance with procedures established pursuant to Article 7 of this Annex, but shall have no rights with respect to the composition of the Tribunal.

Article 7

A Tribunal established under the provisions of this Annex shall decide its own rules of procedure.

Article 8

1 Unless a Tribunal consists of a single arbitrator, decisions of the Tribunal as to its procedure, its place of meeting, and any question related to the dispute laid before it, shall be taken by majority vote of its members. However, the absence or abstention of any member of the Tribunal who was nominated by a party to the dispute shall not constitute an impediment to the Tribunal reaching a decision. In case of equal voting, the vote of the Chairman shall be decisive.

2 The parties to the dispute shall facilitate the work of the Tribunal and in particular shall, in accordance with their legislation and using all means at their disposal:

- .1 provide the Tribunal with all necessary documents and information; and
- .2 enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

3 The failure of a party to the dispute to comply with the provisions of paragraph 2 shall not preclude the Tribunal from reaching a decision and rendering an award.

Article 9

The Tribunal shall render its award within five months from the time it is established unless it finds it necessary to extend that time limit for a period not to exceed five months. The award of the Tribunal shall be accompanied by a statement of reasons for the decision. It shall be final and without appeal and shall be communicated to the Secretary-General who shall inform the Contracting Parties. The parties to the dispute shall immediately comply with the award.

**2. MARPOL 73/78:
INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM
SHIPS, 1973 AS MODIFIED BY THE PROTOCOL OF 1978 RELATING THERETO.**

**2.1 Amendment to Annexes I and II of the Protocol of 1978 Relating to the International
Convention for the Prevention of Pollution from Ships, 1990.**

**2.2 Amendment to Annexes I and V of the Protocol of 1978 Relating to the International
Convention for the Prevention of Pollution from Ships, 1990.**

SUMMARY

MARPOL 73/78 and its amendments constitute the primary international regulatory regime for pollution from ships. It sets design and operating standards for ships in relation to pollution prevention, in particular for oil and chemical tankers, and prohibits or regulates the discharge of pollutants from all ships.

MARPOL 73/78 is organised into six Annexes dealing with different pollution types. Annex I deals with oil, Annex II with noxious liquid substances, Annex III with harmful packaged substances, Annex IV with sewage, Annex V with garbage and Annex VI with air emissions from ships.

MARPOL also provides for the declaration of Special Areas and Particularly Sensitive Sea Areas, within which more stringent controls on ship-sourced pollution can be implemented by coastal states, with agreement of the international community.

Secretariat: International Maritime Organization
4 Albert Embankment
London SE1 7SR
United Kingdom
Ph +(44) 171 735 7611
Fax +(44) 171 587 3210
Email info@imo.org

**PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION
OF POLLUTION FROM SHIPS, 1973, AS AMENDED BY AMENDMENTS OF 7 SEPTEMBER 1984
(ANNEX I) AND 5 DECEMBER 1985 (ANNEX II AND PROTOCOL I).**

Adopted at London on 17 February 1978

Entered into force 2 October 1983

Amendments entered into force on 7 January 1986 and 6 April 1987 respectively

Annex I (Oil) entered into force 2 October 1983, Annex II (Noxious Liquid Substances) entered into force, 6 April 1987, Annex III (Harmful substances in packaged forms) entered into force 1 January 1992, Annex IV (Sewage) not yet in force, Annex V (Garbage) entered into force 31 December 1988, Annex VI (Air pollution) not yet in force

THE PARTIES TO THE CONVENTION,

BEING CONSCIOUS of the need to preserve the human environment in general and the marine environment in particular,

RECOGNIZING that deliberate, negligent or accidental release of oil and other harmful substances from ships constitutes a serious source of pollution,

RECOGNIZING also the importance of the International Convention for the Prevention of Pollution of the Sea by Oil 1954, as being the first multilateral instrument to be concluded with the prime objective of protecting the environment, and appreciating the significant contribution which that Convention has made in preserving the seas and coastal environment from pollution,

DESIRING to achieve the complete elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimization of accidental discharge of such substances,

CONSIDERING that this object may best be achieved by establishing rules not limited to oil pollution having a universal purport,

HAVE AGREED as follows:

THE PARTIES TO THE PRESENT PROTOCOL,

RECOGNIZING the significant contribution which can be made by the International Convention for the Prevention of Pollution from Ships, 1973, to the protection of the marine environment from pollution from ships,

RECOGNIZING also the need to improve further the prevention and control of marine pollution from ships, particularly oil tankers,

RECOGNIZING further the need for implementing the Regulations for the Prevention of Pollution by Oil contained in Annex I of that Convention as early and as widely as possible,

ACKNOWLEDGING however the need to defer the application of Annex II of that Convention until certain technical problems have been satisfactorily resolved,

CONSIDERING that these objectives may best be achieved by the conclusion of a Protocol relating to the International Convention for the Prevention of Pollution from Ships, 1973,

HAVE AGREED as follows:

Article 1 GENERAL OBLIGATIONS UNDER THE CONVENTION

(1) The Parties to the Convention undertake to give effect to the provisions of the present Convention and those Annexes thereto by which they are bound, in order to prevent the pollution of the marine environment by the discharge of harmful substances or effluents containing such substances in contravention of the present Convention.

(2) Unless expressly provided otherwise, a reference to the present Convention constitutes at the same time a reference to its Protocols and to the Annexes.

Article I (PROTOCOL) GENERAL OBLIGATIONS

1. The Parties to the present Protocol undertake to give effect to the provisions of:
 - (a) the present Protocol and the Annex hereto which shall constitute an integral part of the present Protocol; and
 - (b) the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as "the Convention"), subject to the modifications and additions set out in the present Protocol.
2. The provisions of the Convention and the present Protocol shall be read and interpreted together as one single instrument.
3. Every reference to the present Protocol constitutes at the same time a reference to the Annex hereto.

Article 2 DEFINITIONS

For the purposes of the present Convention, unless expressly provided otherwise:

- (1) "Regulations" means the Regulations contained in the Annexes to the present Convention.
- (2) "Harmful substance" means any substance which, if introduced into the sea, is 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, and includes any substance subject to control by the present Convention.
- (3)
 - (a) "Discharge", in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;
 - (b) "Discharge" does not include:
 - (i) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13 November 1972; or
 - (ii) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or
 - (iii) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control.
- (4) "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.
- (5) "Administration" means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of any State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.
- (6) "Incident" means an event involving the actual or probable discharge into the sea of a harmful substance, or effluents containing such a substance.
- (7) "Organization" means the Inter-Governmental Maritime Consultative Organization.

Article 3 APPLICATION

- (1) The present Convention shall apply to:
 - (a) ships entitled to fly the flag of a Party to the Convention; and
 - (b) ships not entitled to fly the flag of a party but which operate under the authority of a Party.
- (2) Nothing in the present Article shall be construed as derogating from or extending the sovereign rights of the Parties under international law over the sea-bed and subsoil thereof adjacent to their coasts for the purposes of

exploration and exploitation of their natural resources.

(3) The present Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with the present Convention.

Article 4 VIOLATION

(1) Any violation of the requirements of the present Convention shall be prohibited and sanctions shall be established therefor under the law of the Administration of the ship concerned wherever the violation occurs. If the Administration is informed of such a violation and is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, in accordance with its law.

(2) Any violation of the requirements of the present Convention within the jurisdiction of any Party to the Convention shall be prohibited and sanctions shall be established therefor under the law of that Party. Whenever such a violation occurs, that Party shall either:

(a) cause proceedings to be taken in accordance with its law; or

(b) furnish to the Administration of the ship such information and evidence as may be in its possession that a violation has occurred.

(3) Where information or evidence with respect to any violation of the present Convention by a ship is furnished to the Administration of that ship, the Administration shall promptly inform the Party which has furnished the information or evidence, and the Organization, of the action taken.

(4) The penalties specified under the law of a Party pursuant to the present Article shall be adequate in severity to discourage violations of the present Convention and shall be equally severe irrespective of where the violations occur.

Article 5 CERTIFICATES AND SPECIAL RULES ON INSPECTION OF SHIPS

(1) Subject to the provisions of paragraph (2) of the present Article a certificate issued under the authority of a Party to the Convention in accordance with the provisions of the Regulations shall be accepted by the other Parties and regarded for all purposes covered by the present Convention as having the same validity as a certificate issued by them.

(2) A ship required to hold a certificate in accordance with the provisions of the Regulations is subject, while in the ports or off-shore terminals under the jurisdiction of a Party, to inspection by officers duly authorized by that Party. Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate. In that case, or if the ship does not carry a valid certificate, the Party carrying out the inspection shall take such steps as will ensure that the ship shall not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment. That Party may, however, grant such a ship permission to leave the port or off-shore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

(3) If a Party denies a foreign ship entry to the ports or off-shore terminals under its jurisdiction or takes any action against such a ship for the reasons that the ship does not comply with the provisions of the present Convention, the Party shall immediately inform the consul or diplomatic representative of the Party whose flag the ship is entitled to fly, or if this is not possible, the Administration of the ship concerned. Before denying entry or taking such action the Party may request consultation with the Administration of the ship concerned. Information shall also be given to the Administration when a ship does not carry a valid certificate in accordance with the provisions of the Regulations.

(4) With respect to the ships of non-Parties to the Convention, Parties shall apply the requirements of the present Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

Article 6 DETECTION OF VIOLATIONS AND ENFORCEMENT OF THE CONVENTION

(1) Parties to the Convention shall co-operate in the detection of violations and the enforcement of the provisions of the present Convention, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

(2) A ship to which the present Convention applies may, in any port or off-shore terminal of a Party, be subject to inspection by officers appointed or authorized by that Party for the purpose of verifying whether the ship has discharged any harmful substances in violation of the provisions of the Regulations. If an inspection indicates a violation of the Convention, a report shall be forwarded to the Administration for any appropriate action.

(3) Any Party shall furnish to the Administration evidence, if any, that the ship has discharged harmful substances or effluents containing such substances in violation of the provisions of the Regulations. If it is practicable to do so, the competent authority of the former Party shall notify the Master of the ship of the alleged violation.

(4) Upon receiving such evidence, the Administration so informed shall investigate the matter, and may request the other Party to furnish further or better evidence of the alleged contravention. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken in accordance with its law as soon as possible. The Administration shall promptly inform the Party which has reported the alleged violation, as well as the Organization, of the action taken.

(5) A Party may also inspect a ship to which the present Convention applies when it enters the ports or off-shore terminals under its jurisdiction, if a request for an investigation is received from any Party together with sufficient evidence that the ship has discharged harmful substances or effluents containing such substances in any place. The report of such investigation shall be sent to the Party requesting it and to the Administration so that the appropriate action may be taken under the present Convention.

Article 7 UNDUE DELAY TO SHIPS

(1) All possible efforts shall be made to avoid a ship being unduly detained or delayed under Article 4, 5 or 6 of the present Convention.

(2) When a ship is unduly detained or delayed under Article 4, 5 or 6 of the present Convention, it shall be entitled to compensation for any loss or damage suffered.

Article 8 REPORTS ON INCIDENTS INVOLVING HARMFUL SUBSTANCES

(1) A report of an incident shall be made without delay to the fullest extent possible in accordance with the provisions of Protocol I to the present Convention.

(2) Each Party to the Convention shall:

(a) make all arrangements necessary for an appropriate officer or agency to receive and process all reports on incidents; and

(b) notify the Organization with complete details of such arrangements for circulation to other Parties and Member States of the Organization.

(3) Whenever a Party receives a report under the provisions of the present Article, that Party shall relay the report without delay to:

(a) the Administration of the ship involved; and

(b) any other State which may be affected.

(4) Each Party to the Convention undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services, to report to its authorities any incident referred to in Protocol I to the present Convention. That Party shall, if it considers it appropriate, report accordingly to the Organization and to any other party concerned.

Article 9 OTHER TREATIES AND INTERPRETATION

(1) Upon its entry into force, the present Convention supersedes the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, as between Parties to that Convention.

(2) Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750C(XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

(3) The term "jurisdiction" in the present Convention shall be construed in the light of international law in force at the time of application or interpretation of the present Convention.

Article 10 SETTLEMENT OF DISPUTES

Any dispute between two or more Parties to the Convention concerning the interpretation or application of the present Convention shall, if settlement by negotiation between the Parties involved has not been possible, and if these Parties do not otherwise agree, be submitted upon request of any of them to arbitration as set out in Protocol II to the present Convention.

Article 11 COMMUNICATION OF INFORMATION

(1) The Parties to the Convention undertake to communicate to the Organization:

(a) the text of laws, orders, decrees and regulations and other instruments which have been promulgated on the various matters within the scope of the present Convention;

(b) "a list of nominated surveyors or recognized organizations which are authorized to act on their behalf in the administration of matters relating to the design, construction, equipment and operation of ships carrying harmful substances in accordance with the provisions of the Regulations for circulation to the Parties for information of their officers. The Administration shall therefore notify the Organization of the specific responsibilities and conditions of the authority delegated to nominated surveyors or recognized organizations."

(c) a sufficient number of specimens of their certificates issued under the provisions of the Regulations;

(d) a list of reception facilities including their location, capacity and available facilities and other characteristics;

(e) official reports or summaries of official reports in so far as they show the results of the application of the present Convention; and

(f) an annual statistical report, in a form standardized by the Organization, of penalties actually imposed for infringement of the present Convention.

(2) The Organization shall notify Parties of the receipt of any communications under the present Article and circulate to all Parties any information communicated to it under sub-paragraphs (1)(b) to (f) of the present Article.

Article 12 CASUALTIES TO SHIPS

(1) Each Administration undertakes to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the Regulations if such casualty has produced a major deleterious effect upon the marine environment.

(2) Each Party to the Convention undertakes to supply the Organization with information concerning the findings of such investigation, when it judges that such information may assist in determining what changes in the present Convention might be desirable.

Article 13 SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

(1) The present Convention shall remain open for signature at the Headquarters of the Organization from 15 January 1974 until 31 December 1974 and shall thereafter remain open for accession. States may become Parties to the present Convention by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

(3) The Secretary-General of the Organization shall inform all States which have signed the present Convention or acceded to it of any signature or of the deposit of any new instrument of ratification, acceptance, approval or accession and the date of its deposit.

Article IV (PROTOCOL) SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Protocol shall be open for signature at the Headquarters of the Organization from 1 June 1978 to 31 May 1979 and shall thereafter remain open for accession. States may become Parties to the present Protocol by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature, subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

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

Article 14 OPTIONAL ANNEXES

(1) A State may at the time of signing, ratifying, accepting, approving or acceding to the present Convention declare that it does not accept any one or all of Annexes III, IV and V (hereinafter referred to as "Optional Annexes") to the present Convention. Subject to the above, Parties to the Convention shall be bound by any Annex in its entirety.

(2) A State which has declared that it is not bound by an Optional Annex may at any time accept such Annex by depositing with the Organization an instrument of the kind referred to in Article 13(2) of the present Convention.

(3) A State which makes a declaration under paragraph (1) of the present Article in respect of an Optional Annex and which has not subsequently accepted that Annex in accordance with paragraph (2) of the present Article shall not be under any obligation nor entitled to claim any privileges under the present Convention in respect of matters related to such Annex and all references to Parties in the present Convention shall not include that State in so far as matters related to such Annex are concerned.

(4) The Organization shall inform the States which have signed or acceded to the present Convention of any declaration under the present Article as well as the receipt of any instrument deposited in accordance with the provisions of paragraph (2) of the present Article.

Article II (PROTOCOL) IMPLEMENTATION OF ANNEX II OF THE CONVENTION

1. Notwithstanding the provisions of Article 14(1) of the Convention, the Parties to the present Protocol agree that they shall not be bound by the provisions of Annex II of the Convention for a period of three years from the date of entry into force of the present Protocol or for such longer period as may be decided by a two-thirds majority of the Parties to the present Protocol in the Marine Environment Protection Committee (hereinafter referred to as "the Committee") of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the Organization").

2. During the period specified in paragraph 1 of this Article, the Parties to the present Protocol shall not be under any obligations nor entitled to claim any privileges under the Convention in respect of matters relating to Annex II of

the Convention and all reference to Parties in the Convention shall not include the Parties to the present Protocol in so far as matters relating to that Annex are concerned.

Article 15 ENTRY INTO FORCE

(1) The present Convention shall enter into force twelve months after the date on which not less than fifteen States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become parties to it in accordance with Article 13 of the present Convention.

(2) An Optional Annex shall enter into force twelve months after the date on which the conditions stipulated in paragraph (1) of the present Article have been satisfied in relation to that Annex.

(3) The Organization shall inform the States which have signed the present Convention or acceded to it of the date on which it enters into force and of the date on which an Optional Annex enters into force in accordance with paragraph (2) of the present Article.

(4) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the present Convention or any Optional Annex after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of the Convention or such Annex or three months after the date of deposit of the instrument whichever is the later date.

(5) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the Convention or an Optional Annex entered into force, the Convention or the Optional Annex shall become effective three months after the date of deposit of the instrument.

(6) After the date on which all the conditions required under Article 16 to bring an amendment to the present Convention or an Optional Annex into force have been fulfilled, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention or Annex as amended.

Article V (PROTOCOL) ENTRY INTO FORCE

1. The present Protocol shall enter into force twelve months after the date on which not less than fifteen States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become Parties to it in accordance with Article IV of the present Protocol.

2. Any instrument of ratification, acceptance, approval or accession deposited after the date on which the present Protocol enters into force shall take effect three months after the date of deposit.

3. After the date on which an amendment to the present Protocol is deemed to have been accepted in accordance with Article 16 of the Convention, any instrument of ratification, acceptance, approval or accession deposited shall apply to the present Protocol as amended.

Article 16 AMENDMENTS

(1) The present Convention may be amended by any of the procedures specified in the following paragraphs.

(2) Amendments after consideration by the Organization:

(a) any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by its Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration;

(b) any amendment proposed and circulated as above shall be submitted to an appropriate body by the Organization for consideration;

(c) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the appropriate body;

(d) amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting;

(e) if adopted in accordance with sub-paragraph (d) of this paragraph, amendments shall be communicated by the Secretary-General of the Organization to all the Parties to the Convention for acceptance;

(f) an amendment shall be deemed to have been accepted in the following circumstances:

(i) an amendment to an Article of the Convention shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet;

(ii) an amendment to an Annex to the Convention shall be deemed to have been accepted in accordance with the procedures specified in sub-paragraph (f)(iii) of this paragraph unless the appropriate body, at the time of its adoption, determines that the amendment shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet. Nevertheless, at any time before the entry into force of an amendment to an Annex to the Convention, a Party may notify the Secretary-General of the Organization that its express approval will be necessary before the amendment enters into force for it. The latter shall bring such notification and the date of its receipt to the notice of Parties;

(iii) an amendment to an Appendix to an Annex to the Convention shall be deemed to have been accepted at the end of a period to be determined by the appropriate body at the time of its adoption, which period shall not be less than ten months, unless within that period an objection is communicated to the Organization by not less than one-third of the Parties or by Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet whichever condition is fulfilled;

(iv) an amendment to Protocol I to the Convention shall be subject to the same procedures as for the amendments to the Annexes to the Convention, as provided for in sub-paragraphs (f)(ii) or (f)(iii) of this paragraph;

(v) an amendment to Protocol II to the Convention shall be subject to the same procedures as for the amendments to an Article of the Convention, as provided for in sub-paragraph (f)(i) of this paragraph;

(g) the amendment shall enter into force under the following conditions:

(i) in the case of an amendment to an Article of the Convention, to Protocol II, or to Protocol I or to an Annex to the Convention not under the procedure specified in sub-paragraph (f)(iii) of this paragraph, the amendment accepted in conformity with the foregoing provisions shall enter into force six months after the date of its acceptance with respect to the Parties which have declared that they have accepted it;

(ii) in the case of an amendment to Protocol I, to an Appendix to an Annex or to an Annex to the Convention under the procedure specified in sub-paragraph (f)(iii) of this paragraph, the amendment deemed to have been accepted in accordance with the foregoing conditions shall enter into force six months after its acceptance for all the Parties with the exception of those which, before that date, have made a declaration that they do not accept it, or a declaration under sub-paragraph (f)(ii) of this paragraph, that their express approval is necessary.

(3) Amendment by a Conference:

(a) Upon the request of a Party, concurred in by at least one-third of the Parties, the Organization shall convene a Conference of Parties to the Convention to consider amendments to the present Convention.

(b) Every amendment adopted by such a Conference by a two-thirds majority of those present and voting of the Parties shall be communicated by the Secretary-General of the Organization to all Contracting Parties for their acceptance.

(c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and to have entered into force in accordance with the procedures specified for that purpose in sub-paragraphs (2)(f) and (g) of the present Article.

(4) (a) In the case of an amendment to an Optional Annex, a reference in the present Article to a "Party to the Convention" shall be deemed to mean a reference to a Party bound by that Annex.

(b) Any Party which has declined to accept an amendment to an Annex shall be treated as a non-Party only for the purpose of application of that Amendment.

(5) The adoption and entry into force of a new Annex shall be subject to the same procedures as for the adoption and entry into force of an amendment to an Article of the Convention.

(6) Unless expressly provided otherwise, any amendment to the present Convention made under this Article, which relates to the structure of a ship, shall apply only to ships for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, on or after the date on which the amendment comes into force.

(7) Any amendment to a Protocol or to an Annex shall relate to the substance of that Protocol or Annex and shall be consistent with the Articles of the present Convention.

(8) The Secretary-General of the Organization shall inform all Parties of any amendments which enter into force under the present Article, together with the date on which each such amendment enters into force.

(9) Any declaration of acceptance or of objection to an amendment under the present Article shall be notified in writing to the Secretary-General of the Organization. The latter shall bring such notification and the date of its receipt to the notice of the Parties to the Convention.

Article VI (PROTOCOL) AMENDMENTS

The procedures set out in Article 16 of the Convention in respect of amendments to the Articles, an Annex and an Appendix to an Annex of the Convention shall apply respectively to amendments to the Articles, the Annex and an Appendix to the Annex of the present Protocol.

Article 17 PROMOTION OF TECHNICAL CO-OPERATION

The Parties to the Convention shall promote, in consultation with the Organization and other international bodies, with assistance and co-ordination by the Executive Director of the United Nations Environment Programme, support for those Parties which request technical assistance for:

- (a) the training of scientific and technical personnel;
 - (b) the supply of necessary equipment and facilities for reception and monitoring;
 - (c) the facilitation of other measures and arrangements to prevent or mitigate pollution of the marine environment by ships; and
 - (d) the encouragement of research;
- preferably within the countries concerned, so furthering the aims and purposes of the present Convention.

Article 18 DENUNCIATION

(1) The present convention or any Optional Annex may be denounced by any Parties to the Convention at any time after the expiry of five years from the date on which the Convention or such Annex enters into force for that Party.

(2) Denunciation shall be effected by notification in writing to the Secretary-General of the Organization who shall inform all the other Parties of any such notification received and of the date of its receipt as well as the date on which such denunciation takes effect.

(3) A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General of the Organization or after the expiry of any other longer period which may be indicated in the notification.

Article VII (PROTOCOL) DENUNCIATION

1. The present Protocol may be denounced by any Party to the present Protocol at any time after the expiry of five years from the date on which the Protocol enters into force for that Party.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General of the Organization.
3. A denunciation shall take effect twelve months after receipt of the notification by the Secretary-General of the Organization or after the expiry of any other longer period which may be indicated in the notification.

Article 19 DEPOSIT AND REGISTRATION

- (1) The present Convention shall be deposited with the Secretary-General of the Organization who shall transmit certified true copies thereof to all States which have signed the present Convention or acceded to it.
- (2) As soon as the present Convention enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

Article VIII (PROTOCOL) DEPOSITARY

1. The present Protocol shall be deposited with the Secretary-General of the Organization (hereinafter referred to as "the Depositary").
2. The Depositary shall:
 - (a) inform all States which have signed the present Protocol or acceded thereto of:
 - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, 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 it was received and the date on which the denunciation takes effect;
 - (iv) any decision made in accordance with Article II(i) of the present Protocol;
 - (b) transmit certified true copies of the present Protocol to all States which have signed the present Protocol or acceded thereto.
3. As soon as the present Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 20 LANGUAGES

The present Convention is established in a single copy in the English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German, Italian and Japanese languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed the present Convention.

DONE AT LONDON this second day of November, one thousand nine hundred and seventy-three.

Article IX (PROTOCOL) LANGUAGES

The present Protocol is established in a single original in the English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German, Italian and Japanese languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed the present Protocol.

DONE AT LONDON this seventeenth day of February one thousand nine hundred and seventy-eight.

PROTOCOL I

PROVISIONS CONCERNING REPORTS ON INCIDENTS INVOLVING HARMFUL SUBSTANCES (in accordance with Article 8 of the Convention)

Article I DUTY TO REPORT

(1) The Master or other person having charge of any ship involved in an incident referred to in Article II of this Protocol shall report the particulars of such incident without delay and to the fullest extent possible in accordance with the provisions of this Protocol.

(2) In the event of the ship referred to in paragraph (1) of this Article being abandoned, or in the event of a report from such a ship being incomplete or unobtainable, the owner, charterer, manager or operator of the ship, or their agent shall, to the fullest extent possible, assume the obligations placed upon the Master under the provisions of this Protocol.

Article II WHEN TO MAKE REPORTS

(1) The report shall be made when an incident involves:

(a) a discharge or probable discharge of oil, or noxious liquid substances carried in bulk, resulting from damage to the ship or its equipment, or for the purpose of securing the safety of a ship or saving life at sea; or

(b) a discharge or probable discharge of harmful substances in packaged form, including those in freight containers, portable tanks, road and rail vehicles and shipborne barges; or

(c) a discharge during the operation of the ship of oil or noxious liquid substances in excess of the quantity or instantaneous rate permitted under the present Convention.

(2) For the purposes of this Protocol:

(a) "Oil" referred to in sub-paragraph 1(a) of this Article means oil as defined in Regulation 1(1) of Annex I of the Convention.

(b) "Noxious liquid substances" referred to in sub-paragraph 1(a) of this Article means noxious liquid substances as defined in Regulation 1(6) of Annex II of the Convention.

(c) "Harmful substances" in packaged form referred to in sub-paragraph 1(b) of this Article means substances which are identified as marine pollutants in the International Maritime Dangerous Goods (IMDG) Code.

Article III CONTENTS OF REPORT

Reports shall in any case include:

(a) identity of ships involved;

(b) time, type and location of incident;

(c) quantity and type of harmful substance involved;

(d) assistance and salvage measures.

Article IV SUPPLEMENTARY REPORT

Any person who is obliged under the provisions of this Protocol to send a report shall, when possible:

(a) supplement the initial report, as necessary, and provide information concerning further developments; and

(b) comply as fully as possible with requests from affected States for additional information.

Article V REPORTING PROCEDURES

- (1) Reports shall be made by the fastest telecommunications channels available with the highest possible priority to the nearest coastal State.
- (2) In order to implement the provisions of this Protocol, Parties to the present Convention shall issue, or cause to be issued, regulations or instructions on the procedures to be followed in reporting incidents involving harmful substances, based on guidelines developed by the Organization.

PROTOCOL II

ARBITRATION

(in accordance with Article 10 of the Convention)

Article I

Arbitration procedure, unless the Parties to the dispute decide otherwise, shall be in accordance with the rules set out in this Protocol.

Article II

(1) An Arbitration Tribunal shall be established upon the request of one Party to the Convention addressed to another in application of Article 10 of the present Convention. The request for arbitration shall consist of a statement of the case together with any supporting documents.

(2) The requesting Party shall inform the Secretary-General of the Organization of the fact that it has applied for the establishment of a Tribunal, of the names of the Parties to the dispute, and of the Articles of the Convention or Regulations over which there is in its opinion disagreement concerning their interpretation or application. The Secretary-General shall transmit this information to all Parties.

Article III

The Tribunal shall consist of three members: one Arbitrator nominated by each Party to the dispute and a third Arbitrator who shall be nominated by agreement between the two first named, and shall act as its Chairman.

Article IV

(1) If, at the end of a period of sixty days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organization upon request of either Party shall within a further period of sixty days proceed to such nomination, selecting him from a list of qualified persons previously drawn up by the Council of the Organization.

(2) If, within a period of sixty days from the date of receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other party may directly inform the Secretary-General of the Organization who shall nominate the Chairman of the Tribunal within a period of sixty days, selecting him from the list prescribed in paragraph (1) of the present Article.

(3) The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organization to make the nomination in the form and conditions prescribed in the preceding paragraph.

(4) The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party.

(5) In the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of sixty days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In case of the decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article III above, or in the absence of agreement between the members of the Tribunal within a period of sixty days of the decease or default, according to the provisions of the present Article.

Article V

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Article VI

Each Party shall be responsible for the remuneration of its Arbitrator and connected costs and for the costs entailed by the preparation of its own case. The remuneration of the Chairman of the Tribunal and of all general expenses incurred by the Arbitration shall be borne equally by the Parties. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof.

Article VII

Any Party to the Convention which has an interest of a legal nature and which may be affected by the decision in the case may, after giving written notice to the Parties which have originally initiated the procedure, join in the arbitration procedure with the consent of the Tribunal.

Article VIII

Any Arbitration Tribunal established under the provisions of the present Protocol shall decide its own rules of procedure.

Article IX

(1) Decisions of the Tribunal both as to its procedure and its place of meeting and as to any question laid before it, shall be taken by majority votes of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible, shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the vote of the Chairman shall be decisive.

(2) The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal:

- (a) provide the Tribunal with the necessary documents and information;
- (b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.
- (3) Absence or default of one Party shall not constitute an impediment to the procedure.

Article X

(1) The Tribunal shall render its award within a period of five months from the time it is established unless it decides, in the case of necessity, to extend the time limit for a further period not exceeding three months. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organization. The Parties shall immediately comply with the award.

(2) Any controversy which may arise between the Parties as regards interpretation or execution of the award may be submitted by either Party for judgment to the Tribunal which made the award, or, if it is not available to another Tribunal constituted for this purpose, in the same manner as the original Tribunal.

ANNEX I REGULATIONS FOR THE PREVENTION OF POLLUTION BY OIL

CHAPTER I GENERAL

Regulation 1 DEFINITIONS

For the purposes of this Annex:

- (1) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals which are subject to the provisions of Annex II of the present Convention) and, without limiting the generality of the foregoing, includes the substances listed in Appendix I to this Annex.
- (2) "Oily mixture" means a mixture with any oil content.
- (3) "Oil fuel" means any oil used as fuel in connexion with the propulsion and auxiliary machinery of the ship in which such oil is carried.
- (4) "Oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes combination carriers and any "chemical tanker" as defined in Annex II of the present Convention when it is carrying a cargo or part cargo of oil in bulk.
- (5) "Combination carrier" means a ship designed to carry either oil or solid cargoes in bulk.
- (6) "New ship" means a ship:
 - (a) For which the building contract is placed after 31 December 1975; or
 - (b) In the absence of a building contract, the keel of which is laid or which is at a similar stage of construction after 30 June 1976; or
 - (c) The delivery of which is after 31 December 1979; or
 - (d) Which has undergone a major conversion:
 - (i) For which the contract is placed after 31 December 1975; or
 - (ii) In the absence of a contract, the construction work of which is begun after 30 June 1976; or
 - (iii) Which is completed after 31 December 1979.
- (7) "Existing ship" means a ship which is not a new ship.
- (8) "Major conversion" means a conversion of an existing ship:
 - (a) Which substantially alters the dimensions or carrying capacity of the ship; or
 - (b) Which changes the type of the ship; or
 - (c) The intent of which in the opinion of the Administration is substantially to prolong its life; or
 - (d) Which otherwise so alters the ship that if it were a new ship, it would become subject to relevant provisions of the present Convention not applicable to it as an existing ship.
- (9) "Nearest land". The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law, except that, for the purposes of the present Convention "from the nearest land" off the north eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in
 Latitude 11deg.00' South, longitude 142deg.08' East to a point in latitude 10deg.35' South,
 Longitude 141deg.55' East, thence to a point latitude 10deg.00' South,
 Longitude 142deg.00' East, thence to a point latitude 9deg.10' South,
 Longitude 143deg.52' East, thence to a point latitude 9deg.00' South,

Longitude 144deg.30' East, thence to a point latitude 13deg.00' South,
 Longitude 144deg.00' East, thence to a point latitude 15deg.00' South,
 Longitude 146deg.00' East, thence to a point latitude 18deg.00' South,
 Longitude 147deg.00' East, thence to a point latitude 21deg.00' South,
 Longitude 153deg.00' East, thence to a point on the coast of Australia in latitude 24deg.42' South, longitude 153deg.15' East.

(10) "Special area" means a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by oil is required. Special areas shall include those listed in Regulation 10 of this Annex.

(11) "Instantaneous rate of discharge of oil content" means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant.

(12) "Tank" means an enclosed space which is formed by the permanent structure of a ship and which is designed for the carriage of liquid in bulk.

(13) "Wing tank" means any tank adjacent to the side shell plating.

(14) "Centre tank" means any tank inboard of a longitudinal bulkhead.

(15) "Slop tank" means a tank specifically designated for the collection of tank drainings, tank washings and other oily mixtures.

(16) "Clean ballast" means the ballast in a tank which since oil was last carried therein, has been so cleaned that effluent therefrom if it were discharged from a ship which is stationary into clean calm water on a clear day would not produce visible traces of oil on the surface of the water or on adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. If the ballast is discharged through an oil discharge monitoring and control system approved by the Administration, evidence based on such a system to the effect that the oil content of the effluent did not exceed 15 parts per million shall be determinative that the ballast was clean, notwithstanding the presence of visible traces.

(17) "Segregated ballast" means the ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious substances as variously defined in the Annexes of the present Convention.

(18) "Length" (L) means 96 percent of the total length on a waterline at 85 percent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline. The length (L) shall be measured in metres.

(19) "Forward and after perpendiculars" shall be taken at the forward and after ends of the length (L). The forward perpendicular shall coincide with the foreside of the stem on the waterline on which the length is measured.

(20) "Amidships" is at the middle of the length (L).

(21) "Breadth" (B) means the maximum breadth of the ship, measured amidships to the moulded line of the frame in a ship with a metal shell and to the outer surface of the hull in a ship with a shell of any other material. The breadth (B) shall be measured in metres.

(22) "Deadweight" (DW) means the difference in metric tons between the displacement of a ship in water of a specific gravity of 1.025 at the load waterline corresponding to the assigned summer freeboard and the lightweight of the ship.

(23) "Lightweight" means the displacement of a ship in metric tons without cargo, oil fuel, lubricating oil, ballast water, fresh water and feedwater in tanks, consumable stores, passengers and their effects.

(24) "Permeability" of a space means the ratio of the volume within that space which is assumed to be occupied by water to the total volume of that space.

(25) "Volumes" and "areas" in a ship shall be calculated in all cases to moulded lines.

Regulation 2 APPLICATION

- (1) Unless expressly provided otherwise, the provisions of this Annex shall apply to all ships.
- (2) In ships other than oil tankers fitted with cargo spaces which are constructed and utilized to carry oil in bulk of an aggregate capacity of 200 cubic metres or more, the requirements of Regulations 9, 10, 14, 15(1), (2) and (3), 18, 20 and 24(4) of this Annex for oil tankers shall also apply to the construction and operation of those spaces, except that where such aggregate capacity is less than 1,000 cubic metres the requirements of Regulation 15(4) of this Annex may apply in lieu of Regulation 15(1), (2) and (3).
- (3) Where a cargo subject to the provisions of Annex II of the present Convention is carried in a cargo space of an oil tanker, the appropriate requirements of Annex II of the present Convention shall also apply.
- (4) (a) Any hydrofoil, air-cushion vehicle and other new type of vessel (near-surface craft, submarine craft, etc.) whose constructional features are such as to render the application of any of the provisions of Chapters II and III of this Annex relating to construction and equipment unreasonable or impracticable may be exempted by the Administration from such provisions, provided that the construction and equipment of that ship provides equivalent protection against pollution by oil, having regard to the service for which it is intended.
- (b) Particulars of any such exemption granted by the Administration shall be indicated in the Certificate referred to in Regulation 5 of this Annex.
- (c) The Administration which allows any such exemption shall, as soon as possible, but not more than ninety days thereafter, communicate to the Organization particulars of same and the reasons therefor, which the Organization shall circulate to the Parties to the Convention for their information and appropriate action, if any.

Regulation 3 EQUIVALENTS

- (1) The Administration may allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by this Annex if such fitting, material, appliance or apparatus is at least as effective as that required by this Annex. This authority of the Administration shall not extend to substitution of operational methods to effect the control of discharge of oil as equivalent to those design and construction features which are prescribed by Regulations in this Annex.
- (2) The Administration which allows a fitting, material, appliance or apparatus, as an alternative to that required by this Annex shall communicate to the Organization for circulation to the Parties to the Convention particulars thereof, for their information and appropriate action, if any.

Regulation 4 SURVEYS

- (1) Every oil tanker of 150 tons gross tonnage and above, and every other ship of 400 tons gross tonnage and above shall be subject to the surveys specified below:
- (a) An initial survey before the ship is put in service or before the Certificate required under Regulation 5 of this Annex is issued for the first time, which shall include a complete survey of its structure, equipment, fittings, arrangements and material in so far as the ship is covered by this Annex. This survey shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex.
- (b) Periodical surveys at intervals specified by the Administration, but not exceeding five years, which shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex. However, where the duration of the International Oil Pollution Prevention Certificate (1973) is extended as specified in Regulation 8(3) or (4) of this Annex, the interval of the periodical survey may be extended correspondingly.
- (c) Intermediate surveys at intervals specified by the Administration but not exceeding thirty months, which shall be such as to ensure that the equipment and associated pump and piping systems, including oil discharge monitoring and control systems, oily-water separating equipment and oil filtering systems, fully comply with the applicable requirements of this Annex and are in good working order. Such intermediate surveys shall be endorsed on the International Oil Pollution Prevention Certificate (1973) issued under Regulation 5 of this Annex.
- (2) The Administration shall establish appropriate measures for ships which are not subject to the provisions of paragraph (1) of this Regulation in order to ensure that the applicable provisions of this Annex are complied with.

(3) Surveys of the ship as regards enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it. In every case the Administration concerned fully guarantees the completeness and efficiency of the surveys.

(4) After any survey of the ship under this Regulation has been completed, no significant change shall be made in the structure, equipment, fittings, arrangements or material covered by the survey without the sanction of the Administration, except the direct replacement of such equipment or fittings.

Regulation 5 ISSUE OF CERTIFICATE

(1) An International Oil Pollution Prevention Certificate (1973) shall be issued, after survey in accordance with the provisions of Regulation 4 of this Annex, to any oil tanker of 150 tons gross tonnage and above and any other ships of 400 tons gross tonnage and above which are engaged in voyages to ports or off-shore terminals under the jurisdiction of other Parties to the Convention. In the case of existing ships this requirement shall apply twelve months after the date of entry into force of the present Convention.

(2) Such Certificate shall be issued either by the Administration or by any persons or organization duly authorized by it. In every case the Administration assumes full responsibility for the Certificate.

Regulation 6 ISSUE OF A CERTIFICATE BY ANOTHER GOVERNMENT

(1) The Government of a Party to the Convention may, at the request of the Administration, cause a ship to be surveyed and, if satisfied that the provisions of this Annex are complied with, shall issue or authorize the issue of an International Oil Pollution Prevention Certificate (1973) to the ship in accordance with this Annex.

(2) A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

(3) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as the Certificate issued under Regulation 5 of this Annex.

(4) No International Oil Pollution Prevention Certificate (1973) shall be issued to a ship which is entitled to fly the flag of a State which is not a Party.

Regulation 7 FORM OF CERTIFICATE

The International Oil Pollution Prevention Certificate (1973) shall be drawn up in an official language of the issuing country in the form corresponding to the model given in Appendix II to this Annex. If the language used is neither English nor French, the text shall include a translation into one of these languages.

Regulation 8 DURATION OF CERTIFICATE

(1) An International Oil Pollution Prevention Certificate (1973) shall be issued for a period specified by the Administration, which shall not exceed five years from the date of issue, except as provided in paragraphs (2), (3) and (4) of this Regulation.

(2) If a ship at the time when the Certificate expires is not in a port or off-shore terminal under the jurisdiction of the Party to the Convention whose flag the ship is entitled to fly, the Certificate may be extended by the Administration, but such extension shall be granted only for the purpose of allowing the ship to complete its voyage to the State whose flag the ship is entitled to fly or in which it is to be surveyed and then only in cases where it appears proper and reasonable to do so.

(3) No Certificate shall be thus extended for a period longer than five months and a ship to which such extension is granted shall not on its arrival in the State whose flag it is entitled to fly or the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port or State without having obtained a new Certificate.

(4) A Certificate which has not been extended under the provisions of paragraph (2) of this Regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it.

(5) A Certificate shall cease to be valid if significant alterations have taken place in the construction, equipment, fittings, arrangements, or material required without the sanction of the Administration, except the direct replacement of such equipment or fittings, or if intermediate surveys as specified by the Administration under Regulation 4(1)(c) of this Annex are not carried out.

(6) A Certificate issued to a ship shall cease to be valid upon transfer of such a ship to the flag of another State, except as provided in paragraph (7) of this Regulation.

(7) Upon transfer of a ship to the flag of another Party, the Certificate shall remain in force for a period not exceeding five months provided that it would not have expired before the end of that period, or until the Administration issues a replacement Certificate, whichever is earlier. As soon as possible after the transfer has taken place the Government of the Party whose flag the ship was formerly entitled to fly shall transmit to the Administration a copy of the Certificate carried by the ship before the transfer and, if available, a copy of the relevant survey report.

CHAPTER II REQUIREMENTS FOR CONTROL OF OPERATIONAL POLLUTION

Regulation 9 CONTROL OF DISCHARGE OF OIL

(1) Subject to the provisions of Regulations 10 and 11 of this Annex and paragraph (2) of this Regulation, any discharge into the sea of oil or oily mixtures from ships to which this Annex applies shall be prohibited except when all the following conditions are satisfied:

(a) For an oil tanker, except as provided for in sub-paragraph (b) of this paragraph:

- (i) The tanker is not within a special area;
- (ii) The tanker is more than 50 nautical miles from the nearest land;
- (iii) The tanker is proceeding en route;
- (iv) The instantaneous rate of discharge of oil content does not exceed 60 litres per nautical mile;
- (v) The total quantity of oil discharged into the sea does not exceed for existing tankers 1/15,000 of the total quantity of the particular cargo of which the residue formed a part, and for new tankers 1/30,000 of the total quantity of the particular cargo of which the residue formed a part; and
- (vi) The tank has in operation, except as provided for in Regulation 15(3) [(5) and (6)] [Footnote 9] of this Annex, an oil discharge monitoring and control, system and a slop tank arrangement as required by Regulation 15 of this Annex;

(b) From a ship of 400 tons gross tonnage and above other than an oil tanker and from machinery space bilges excluding cargo pump room bilges of an oil tanker unless mixed with oil cargo residue:

- (i) The ship is not within a special area;
- (ii) The ship is more than 12 nautical miles from the nearest land;
- (iii) The ship is proceeding en route;
- (iv) The oil content of the effluent is less than 100 parts per million; and
- (v) The ship has in operation an oil discharge monitoring and control system, oily-water separating equipment, oil filtering system or other installation as required by Regulation 16 of this Annex.

(2) In the case of a ship of less than 400 tons gross tonnage other than an oil tanker whilst outside the special area, the Administration shall ensure that it is equipped as far as practicable and reasonable with installations to ensure the storage of oil residues on board and their discharge to reception facilities or into the sea in compliance with the requirements of paragraph (1)(b) of this Regulation.

(3) Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, Governments of Parties to the Convention should, to the extent they are reasonably able to do so, promptly investigate the facts bearing on the issue of whether there has been a violation of the provisions of this Regulation or Regulation 10 of this Annex. The investigation should include, in particular, the wind and sea conditions, the track and speed of the ship, other possible sources of the visible traces in the vicinity, and any relevant oil discharge records.

(4) The provisions of paragraph (1) of this Regulation shall not apply to the discharge of clean or segregated ballast. The provisions of sub-paragraph (1)(b) of this Regulation shall not apply to the discharge of oily mixture which without dilution has an oil content not exceeding 15 parts per million.

(5) No discharge into the sea shall contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Regulation.

(6) The oil residues which cannot be discharged into the sea in compliance with paragraphs (1), (2) and (4) of this Regulation shall be retained on board or discharged to reception facilities.

Regulation 10 METHODS FOR THE PREVENTION OF OIL POLLUTION FROM SHIPS WHILE OPERATING IN SPECIAL AREAS

(1) For the purposes of this Annex the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area and the "Gulfs area" which are defined as follows:

(a) The Mediterranean Sea area means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41deg.N parallel and bounded to the west by the Straits of Gibraltar at the meridian of 5deg.36'W.

(b) The Baltic Sea area means the Baltic Sea proper with the Gulf of Bothnia, the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57deg.44.8'N.

(c) The Black Sea area means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41deg.N.

(d) The Red Sea area means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12deg.8.5'N, 43deg.19.6'E) and Husn Murad (12deg.40.4'N, 43deg.30.2'E).

(e) The Gulfs area means the sea area located north west of the rhumb line between Ras al Hadd (22deg.30'N, 59deg.48'E) and Ras Al Fasteh (25deg.04'N, 61deg.25'E).

(2) (a) Subject to the provisions of Regulation 11 of this Annex, any discharge into the sea of oil or oily mixture from any oil tanker and any ship of 400 tons gross tonnage and above other than an oil tanker shall be prohibited, while in a special area.

(b) Such ships while in a special area shall retain on board all oil drainage and sludge, dirty ballast and tank washing waters and discharge them only to reception facilities.

(3) (a) Subject to the provisions of Regulation 11 of this Annex, any discharge into the sea of oil or oily mixture from a ship of less than 400 tons gross tonnage, other than an oil tanker, shall be prohibited while in a special area, except when the oil content of the effluent without dilution does not exceed 15 parts per million or alternatively when all of the following conditions are satisfied:

(i) The ship is proceeding en route;

(ii) The oil content of the effluent is less than 100 parts per million; and

(iii) The discharge is made as far as practicable from the land, but in no case less than 12 nautical miles from the nearest land.

(b) No discharge into the sea shall contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Regulation.

(c) The oil residues which cannot be discharged into the sea in compliance with sub-paragraph (a) of this paragraph shall be retained on board or discharged to reception facilities.

(4) The provisions of this Regulation shall not apply to the discharge of clean or segregated ballast.

(5) Nothing in this Regulation shall prohibit a ship on a voyage only part of which is in a special area from discharging outside the special area in accordance with Regulation 9 of this Annex.

(6) Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, the Governments of Parties to the Convention should, to the extent they are reasonably able to do so, promptly investigate the facts bearing on the issue of whether there has been a violation of the provisions of this Regulation or Regulation 9 of this Annex. The investigation should include, in particular, the wind and sea conditions, the track and speed of the ship, other possible sources of the visible traces in the vicinity, and any relevant oil discharge records.

(7) Reception facilities within special areas:

(a) Mediterranean Sea, Black Sea and Baltic Sea areas:

(i) The Government of each Party to the Convention, the coastline of which borders on any given special area undertakes to ensure that not later than 1 January 1977 all oil loading terminals and repair ports within the special area are provided with facilities adequate for the reception and treatment of all the dirty ballast and tank washing water from oil tankers. In addition all ports within the special area shall be provided with adequate reception facilities for other residues and oily mixtures from all ships. Such facilities shall have adequate capacity to meet the needs of the ships using them without causing undue delay.

(ii) The Government of each Party having under its jurisdiction entrances to seawater courses with low depth contour which might require a reduction of draught by the discharge of ballast undertakes to ensure the provision of the facilities referred to in sub-paragraph (a)(i) of this paragraph but with the proviso that ships required to discharge slops or dirty ballast could be subject to some delay.

(iii) During the period between the entry into force of the present Convention (if earlier than 1 January 1977) and 1 January 1977 ships while navigating in the special areas shall comply with the requirements of Regulation 9 of this Annex. However, the Governments of Parties the coastlines of which border any of the special areas under this sub-paragraph may establish a date earlier than 1 January 1977, but after the date of entry into force of the present Convention, from which the requirements of this Regulation in respect of the special areas in question shall take effect:

(1) If all the reception facilities required have been provided by the date so established; and

(2) Provided that the Parties concerned notify the Organization of the date so established at least six months in advance, for circulation to other Parties.

(iv) After 1 January 1977, or the date established in accordance with sub-paragraph (a)(iii) of this paragraph if earlier, each Party shall notify the Organization for transmission to the Contracting Governments concerned of all cases where the facilities are alleged to be inadequate.

(b) Red Sea area and Gulfs area:

(i) The Government of each Party the coastline of which borders on the special areas undertakes to ensure that as soon as possible all oil loading terminals and repair ports within these special areas are provided with facilities adequate for the reception and treatment of all the dirty ballast and tank washing water from tankers. In addition all ports within the special area shall be provided with adequate reception facilities for other residues and oily mixtures from all ships. Such facilities shall have adequate capacity to meet the needs of the ships using them without causing undue delay.

(ii) The Government of each Party having under its jurisdiction entrances to seawater courses with low depth contour which might require a reduction of draught by the discharge of ballast shall undertake to ensure the provision of the facilities referred to in sub-paragraph (b)(i) of this paragraph but with the proviso that ships required to discharge slops or dirty ballast could be subject to some delay.

(iii) Each Party concerned shall notify the Organization of the measures taken pursuant to provisions of sub-paragraph (b)(i) and (ii) of this paragraph. Upon receipt of sufficient notifications the Organization shall establish a date from which the requirements of this Regulation in respect of the area in question shall take effect. The Organization shall notify all Parties of the date so established no less than twelve months in advance of that date.

(iv) During the period between the entry into force of the present Convention and the date so established, ships while navigating in the special area shall comply with the requirements of Regulation 9 of this Annex.

(v) After such date oil tankers loading in ports in these special areas where such facilities are not yet available shall also fully comply with the requirements of this Regulation. However, oil tankers entering these special areas for the purpose of loading shall make every effort to enter the area with only clean ballast on board.

(vi) After the date on which the requirements for the special area in question take effect each Party shall notify the Organization for transmission to the Parties concerned of all cases where the facilities are alleged to be inadequate.

(vii) At least the reception facilities as prescribed in Regulation 12 of this Annex shall be provided by 1 January 1977 or one year after the date of entry into force of the present Convention, whichever occurs later.

Regulation 11 EXCEPTIONS

Regulations 9 and 10 of this Annex shall not apply to:

(a) The discharge into the sea of oil or oily mixture necessary for the purpose of securing the safety of a ship or saving life at sea; or

(b) The discharge into the sea of oil or oily mixture resulting from damage to a ship or its equipment:

(i) Provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimizing the discharge; and

(ii) Except if the owner or the Master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

(c) The discharge into the sea of substances containing oil, approved by the Administration, when being used for the purpose of combating specific pollution incidents in order to minimize the damage from pollution. Any such discharge shall be subject to the approval of any Government in whose jurisdiction it is contemplated the discharge will occur.

Regulation 12 RECEPTION FACILITIES

(1) Subject to the provisions of Regulation 10 of this Annex, the Government of each Party undertakes to ensure the provision at oil loading terminals, repair ports, and in other ports in which ships have oily residues to discharge, of facilities for the reception of such residues and oily mixtures as remain from oil tankers and other ships adequate to meet the needs of the ships using them without causing undue delay to ships.

(2) Reception facilities in accordance with paragraph (1) of this Regulation shall be provided in:

(a) All ports and terminals in which crude oil is loaded into oil tankers where such tankers have immediately prior to arrival completed a ballast voyage of not more than 72 hours or not more than 1,200 nautical miles;

(b) All ports and terminals in which oil other than crude oil in bulk is loaded at an average quantity of more than 1,000 metric tons per day;

(c) All ports having ship repair yards or tank cleaning facilities;

(d) All ports and terminals which handle ships provided with the sludge tank(s) required by Regulation 17 of this Annex;

(e) All ports in respect of oily bilge waters and other residues, which cannot be discharged in accordance with

Regulation 9 of this Annex; and

(f) All loading ports for bulk cargoes in respect of oil residues from combination carriers which cannot be discharged in accordance with Regulation 9 of this Annex.

(3) The capacity for the reception facilities shall be as follows:

(a) Crude oil loading terminals shall have sufficient reception facilities to receive oil and oily mixtures which cannot be discharged in accordance with the provisions of Regulation 9(1)(a) of this Annex from all oil tankers on voyages as described in paragraph (2)(a) of this Regulation.

(b) Loading ports and terminals referred to in paragraph (2)(b) of this Regulation shall have sufficient reception facilities to receive oil and oily mixtures which cannot be discharged in accordance with the provisions of Regulation 9(1)(a) of this Annex from oil tankers which load oil other than crude in bulk.

(c) All ports having ship repair yards or tank cleaning facilities shall have sufficient reception facilities to receive all residues and oily mixtures which remain on board for disposal from ships prior to entering such yards or facilities.

(d) All facilities provided in ports and terminals under paragraph (2)(d) of this Regulation shall be sufficient to receive all residues retained according to Regulation 17 of this Annex from all ships that may reasonably be expected to call at such ports and terminals.

(e) All facilities provided in ports and terminals under this Regulation shall be sufficient to receive oily bilge waters and other residues which cannot be discharged in accordance with Regulation 9 of this Annex.

(f) The facilities provided in loading ports for bulk cargoes shall take into account the special problems of combination carriers as appropriate.

(4) The reception facilities prescribed in paragraphs (2) and (3) of this Regulation shall be made available no later than one year from the date of entry into force of the present Convention or by 1 January 1977, whichever occurs later.

(5) Each Party shall notify the Organization for transmission to the Parties concerned of all cases where the facilities provided under this Regulation are alleged to be inadequate.

Regulation 13 SEGREGATED BALLAST OIL TANKERS

(1) Every new oil tanker of 70,000 tons deadweight and above shall be provided with segregated ballast tanks and shall comply with the requirements of this Regulation.

(2) The capacity of the segregated ballast tanks shall be so determined that the ship may operate safely on ballast voyages without recourse to the use of oil tanks for water ballast except as provided for in paragraph (3) of this Regulation. In all cases, however, the capacity of segregated ballast tanks shall be at least such that in any ballast condition at any part of the voyage, including the conditions consisting of lightweight plus segregated ballast only, the ship's draughts and trim can meet each of the following requirements:

(a) The moulded draught amidships (dm) in metres (without taking into account any ship's deformation) shall not be less than: $dm = 2.0 + 0.02L$;

(b) The draughts at the forward and after perpendiculars shall correspond to those determined by the draught amidships (dm), as specified in sub-paragraph (a) of this paragraph, in association with the trim by the stern of not greater than 0.015L; and

(c) In any case the draught at the after perpendicular shall not be less than that which is necessary to obtain full immersion of the propeller(s).

(3) In no case shall ballast water be carried in oil tanks except in weather conditions so severe that, in the opinion of the Master, it is necessary to carry additional ballast water in oil tanks for the safety of the ship. Such additional ballast water shall be processed and discharged in compliance with Regulation 9 and in accordance with the requirements of Regulation 15 of this Annex, and entry shall be made in the Oil Record Book.

(4) Any oil tanker which is not required to be provided with segregated ballast tanks in accordance with paragraph (1) of this Regulation may, however, be qualified as a segregated ballast tanker, provided that in the case of an oil tanker of 150 metres in length and above it fully complies with the requirements of paragraphs (2) and (3) of this Regulation and

in the case of an oil tanker of less than 150 metres in length the segregated ballast conditions shall be to the satisfaction of the Administration.

Regulation 14 SEGREGATION OF OIL AND WATER BALLAST

(1) Except as provided in paragraph (2) of this Regulation, in new ships of 4,000 tons gross tonnage and above other than oil tankers, and in new oil tankers of 150 tons gross tonnage and above, no ballast water shall be carried in any oil fuel tank.

(2) Where abnormal conditions or the need to carry large quantities of oil fuel render it necessary to carry ballast water which is not a clean ballast in any oil fuel tank, such ballast water shall be discharged to reception facilities or into the sea in compliance with Regulation 9 using the equipment specified in Regulation 16(2) of this Annex, and an entry shall be made in the Oil Record Book to this effect.

(3) All other ships shall comply with the requirements of paragraph (1) of this Regulation as far as reasonable and practicable.

Regulation 15 RETENTION OF OIL ON BOARD

(1) Subject to the provisions of paragraphs (5) and (6) of this Regulation, oil tankers of 150 tons gross tonnage and above shall be provided with arrangements in accordance with the requirements of paragraphs (2) and (3) of this Regulation, provided that in the case of existing tankers the requirements for oil discharge monitoring and control systems and slop tank arrangements shall apply three years after the date of entry into force of the present Convention.

(2) (a) Adequate means shall be provided for cleaning the cargo tanks and transferring the dirty ballast residue and tank washings from the cargo tanks into a slop tank approved by the Administration. In existing oil tankers, any cargo tank may be designated as a slop tank.

(b) In this system arrangements shall be provided to transfer the oily waste into a slop tank or combination of slop tanks in such a way that any effluent discharged into the sea will be such as to comply with the provisions of Regulation 9 of this Annex.

(c) The arrangements of the slop tank or combination of slop tanks shall have a capacity necessary to retain the slops generated by tank washing, oil residues and dirty ballast residues but the total shall be not less than 3 percent of the oil carrying capacity of the ship, except that, where segregated ballast tanks are provided in accordance with Regulation 13 of this Annex, or where arrangements such as eductors involving the use of water additional to the washing water are not fitted, the Administration may accept 2 percent. New oil tankers over 70,000 tons deadweight shall be provided with at least two slop tanks.

(d) Slop tanks shall be so designed particularly in respect of the position of inlets, outlets, baffles or weirs where fitted, so as to avoid excessive turbulence and entrainment of oil or emulsion with the water.

(3) (a) An oil discharge monitoring and control system approved by the Administration shall be fitted. In considering the design of the oil content meter to be incorporated in the system, the Administration shall have regard to the specification recommended by the Organization.^[Footnote 10] The system shall be fitted with a recording device to provide a continuous record of the discharge in litres per nautical mile and total quantity discharged, or the oil content and rate of discharge. This record shall be identifiable as to time and date and shall be kept for at least three years. The oil discharge monitor and control system shall come into operation when there is any discharge of effluent into the sea and shall be such as will ensure that any discharge of oily mixture is automatically stopped when the instantaneous rate of discharge of oil exceeds that permitted by Regulation 9(1)(a) of this Annex. Any failure of this monitoring and control system shall stop the discharge and be noted in the Oil Record Book. A manually operated alternative method shall be provided and may be used in the event of such failure, but the defective unit shall be made operable before the oil tanker commences its next ballast voyage unless it is proceeding to a repair port. Existing oil tankers shall comply with all of the provisions specified above except that the stopping of the discharge may be performed manually and the rate of discharge may be estimated from the pump characteristic.

(b) Effective oil/water interface detectors approved by the Administration shall be provided for a rapid and accurate determination of the oil/water interface in slop tanks and shall be available for use in other tanks where the separation of oil and water is effected and from which it is intended to discharge effluent direct to the sea.

(c) Instructions as to the operation of the system shall be in accordance with an operational manual approved by the Administration. They shall cover manual as well as automatic operations and shall be intended to ensure that at no time shall oil be discharged except in compliance with the conditions specified in Regulation 9 of this Annex. [Footnote 11]

(4) The requirements of paragraphs (1), (2) and (3) of this Regulation shall not apply to oil tankers of less than 150 tons gross tonnage, for which the control of discharge of oil under Regulation 9 of this Annex shall be effected by the retention of oil on board with subsequent discharge of all contaminated washings to reception facilities. The total quantity of oil and water used for washing and returned to a storage tank shall be recorded in the Oil Record Book. This total quantity shall be discharged to reception facilities unless adequate arrangements are made to ensure that any effluent which is allowed to be discharged into the sea is effectively monitored to ensure that the provisions of Regulation 9 of this Annex are complied with.

(5) The Administration may waive the requirements of paragraphs (1), (2) and (3) of this Regulation for any oil tanker which engages exclusively on voyages both of 72 hours or less in duration and within 50 miles from the nearest land, provided that the oil tanker is not required to hold and does not hold an International Oil Pollution Prevention Certificate (1973). Any such waiver shall be subject to the requirement that the oil tanker shall retain on board all oily mixtures for subsequent discharge to reception facilities and to the determination by the Administration that facilities available to receive such oily mixtures are adequate.

(6) Where in the view of the Organization equipment required by Regulation 9(1)(a)(vi) of this Annex and specified in sub-paragraph (3)(a) of this Regulation is not obtainable for the monitoring of discharge of light refined products (white oils), the Administration may waive compliance with such requirement, provided that discharge shall be permitted only in compliance with procedures established by the Organization which shall satisfy the conditions of Regulation 9(1)(a) of this Annex except the obligation to have an oil discharge monitoring and control system in operation. The Organization shall review the availability of equipment at intervals not exceeding twelve months.

(7) The requirements of paragraphs (1), (2) and (3) of this Regulation shall not apply to oil tankers carrying asphalt, for which the control of discharge of asphalt under Regulation 9 of this Annex shall be effected by the retention of asphalt residues on board with discharge of all contaminated washings to reception facilities.

Regulation 16 OIL DISCHARGE MONITORING AND CONTROL SYSTEM AND OILY-WATER SEPARATING EQUIPMENT

(1) Any ship of 400 tons gross tonnage and above shall be fitted with an oily-water separating equipment or filtering system complying with the provisions of paragraph (6) of this Regulation. Any such ship which carries large quantities of oil fuel shall comply with paragraph 2 of this Regulation or paragraph (1) of Regulation 14.

(2) Any ship of 10,000 tons gross tonnage and above shall be fitted:

(a) In addition to the requirements of paragraph (1) of this Regulation with an oil discharge monitoring and control system complying with paragraph (5) of this Regulation; or

(b) As an alternative to the requirements of paragraph (1) and sub-paragraph (2)(a) of this Regulation, with an oily-water separating equipment complying with paragraph (6) of this Regulation and an effective filtering system, complying with paragraph (7) of this Regulation.

(3) The Administration shall ensure that ships of less than 400 tons gross tonnage are equipped, as far as practicable, to retain on board oil or oily mixtures or discharge them in accordance with the requirements of Regulation 9(1)(b) of this Annex.

(4) For existing ships the requirements of paragraphs (1), (2) and (3) of this Regulation shall apply three years after the date of entry into force of the present Convention.

(5) An oil discharge monitoring and control system shall be of a design approved by the Administration. In considering the design of the oil content meter to be incorporated into the system, the Administration shall have regard to the specification recommended by the Organization. [Footnote 12] The system shall be fitted with a recording device to provide a continuous record of the oil content in parts per million. This record shall be identifiable as to time and date and shall be kept for at least three years. The monitoring and control system shall come into operation when there is any discharge of effluent into the sea and shall be such as will ensure that any discharge of oily mixture is automatically stopped when the oil content of effluent exceeds that permitted by Regulation 9(1)(b) of this Annex. Any failure of this monitoring and control system shall stop the discharge and be noted in the Oil Record Book. The defective unit shall be made operable before the ship commences its next voyage unless it is proceeding to a repair port.

Existing ships shall comply with all of the provisions specified above except that the stopping of the discharge may be performed manually.

(6) Oily-water separating equipment or an oil filtering system shall be of a design approved by the Administration and shall be such as will ensure that any oily mixture discharged into the sea after passing through the separator or filtering systems shall have an oil content of [less] than 100 parts per million. In considering the design of such equipment, the Administration shall have regard to the specification recommended by the Organization. [Footnote 13]

(7) The oil filtering system referred to in paragraph (2)(b) of this Regulation shall be of a design approved by the Administration and shall be such that it will accept the discharge from the separating system and produce an effluent the oil content of which does not exceed 15 parts per million. It shall be provided with alarm arrangements to indicate when this level cannot be maintained.

Regulation 17 TANKS FOR OIL RESIDUES (SLUDGE)

(1) Every ship of 400 tons gross tonnage and above shall be provided with a tank or tanks of adequate capacity, having regard to the type of machinery and length of voyage, to receive the oily residues (sludges) which cannot be dealt with otherwise in accordance with the requirements of this Annex, such as those resulting from the purification of fuel and lubricating oils and oil leakages in the machinery spaces.

(2) In new ships, such tanks shall be designed and constructed so as to facilitate their cleaning and the discharge of residues to reception facilities. Existing ships shall comply with this requirement as far as is reasonable and practicable.

Regulation 18 PUMPING, PIPING AND DISCHARGE ARRANGEMENTS OF OIL TANKERS

(1) In every oil tanker, a discharge manifold for connexion to reception facilities for the discharge of dirty ballast water or oil contaminated water shall be located on the open deck on both sides of the ship.

(2) In every oil tanker, pipelines for the discharge to the sea of effluent which may be permitted under Regulation 9 of this Annex shall be led to the open deck or to the ship's side above the waterline in the deepest ballast condition. Different piping arrangements to permit operation in the manner permitted in sub-paragraphs (4)(a) and (b) of this Regulation may be accepted.

(3) In new oil tankers means shall be provided for stopping the discharge of effluent into the sea from a position on upper deck or above located so that the manifold in use referred to in paragraph (1) of this Regulation and the effluent from the pipelines referred to in paragraph (2) of this Regulation may be visually observed. Means for stopping the discharge need not be provided at the observation position if a positive communication system such as telephone or radio system is provided between the observation position and the discharge control position.

(4) All discharges shall take place above the waterline except as follows:

(a) Segregated ballast and clean ballast may be discharged below the waterline in ports or at offshore terminals.

(b) Existing ships which, without modification, are not capable of discharging segregated ballast above the waterline may discharge segregated ballast below the waterline provided that an examination of the tank immediately before the discharge has established that no contamination with oil has taken place.

Regulation 19 STANDARD DISCHARGE CONNECTION

To enable pipes of reception facilities to be connected with the ship's discharge pipeline for residues from machinery bilges, both lines shall be fitted with a standard discharge connection in accordance with the following table:

Standard dimensions of flanges for discharge connections

Description	Dimension
Outside diameter	215mm
Inner diameter	According to pipe outside diameter
Bolt circle diameter	183 mm

Slots in flange	6 holes 22 mm in diameter equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width to be 22 mm
Flange thickness	20 mm
Bolts and nuts:	quantity 6, each of 20 mm in diameter and of suitable length
The flange is designed to accept pipes up to a maximum internal diameter of 125 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a gasket of oil-proof material, shall be suitable for a service pressure of 6 kg/cm ² .	

Regulation 20 OIL RECORD BOOK

(1) Every oil tanker of 150 tons gross tonnage and above and every ship of 400 tons gross tonnage and above other than an oil tanker shall be provided with an Oil Record Book, whether as part of the ship's official log book or otherwise, in the form specified in Appendix III to this Annex.

(2) The Oil Record Book shall be completed on each occasion, on a tank-to-tank basis, whenever any of the following operations take place in the ship;

(a) For oil tankers

- (i) Loading of oil cargo;
- (ii) Internal transfer of oil cargo during voyage;
- (iii) Opening or closing before and after loading and unloading operations of valves or similar devices which inter-connect cargo tanks;
- (iv) Opening or closing of means of communication between cargo piping and seawater ballast piping;
- (v) Opening or closing of ships' side valves before, during and after loading and unloading operations;
- (vi) Unloading of oil cargo;
- (vii) Ballasting of cargo tanks;
- (viii) Cleaning of cargo tanks;
- (ix) Discharge of ballast except from segregated ballast tanks;
- (x) Discharge of water from slop tanks;
- (xi) Disposal of residues;
- (xii) Discharge overboard of bilge water which has accumulated in machinery spaces whilst in port, and the routine discharge at sea of bilge water which has accumulated in machinery spaces.

(b) For ships other than oil tankers

- (i) Ballasting or cleaning of fuel oil tanks or oil cargo spaces;
- (ii) Discharge of ballast or cleaning water from tanks referred to under (i) of this sub-paragraph;
- (iii) Disposal of residues;
- (iv) Discharge overboard of bilge water which has accumulated in machinery spaces whilst in port, and the routine discharge at sea of bilge water which has accumulated in machinery spaces.

(3) In the event of such discharge of oil or oily mixture as is referred to in Regulation 11 of this Annex or in the event of accidental or other exceptional discharge of oil not excepted by that Regulation, a statement shall be made in the Oil Record Book of the circumstances of, and the reasons for, the discharge.

(4) Each operation described in paragraph (2) of this Regulation shall be fully recorded without delay in the Oil Record Book so that all the entries in the book appropriate to that operation are completed. Each section of the book shall be signed by the officer or officers in charge of the operations concerned and shall be countersigned by the Master of the ship. The entries in the Oil Record Book shall be in an official language of the State whose flag the ship is entitled to fly, and, for ships holding an International Oil Pollution Prevention Certificate (1973) in English or French. The entries in an official national language of the State whose flag the ship is entitled to fly shall prevail in case of a dispute or discrepancy.

(5) The Oil Record Book shall be kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship. It shall be preserved for a period of three years after the last entry has been made.

(6) The competent authority of the Government of a Party to the Convention may inspect the Oil Record Book on board any ship to which this Annex applies while the ship is in its port or offshore terminals and may make a copy of any entry in that book and may require the Master of the ship to certify that the copy is a true copy of such entry. Any copy so made which has been certified by the Master of the ship as a true copy of an entry in the ship's Oil Record Book shall be made admissible in any judicial proceedings as evidence of the facts stated in the entry. The inspection of an Oil Record Book and the taking of a certified copy by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

Regulation 21 SPECIAL REQUIREMENTS FOR DRILLING RIGS AND OTHER PLATFORMS

Fixed and floating drilling rigs when engaged in the exploration, exploitation and associated offshore processing of seabed mineral resources and other platforms shall comply with the requirements of this Annex applicable to ships of 400 tons gross tonnage and above other than oil tankers, except that:

- (a) They shall be equipped as far as practicable with the installations required in Regulations 16 and 17 of this Annex;
- (b) They shall keep a record of all operations involving oil or oily mixture discharges, in a form approved by the Administration; and
- (c) In any special area and subject to the provisions of Regulation 11 of this Annex, the discharge into the sea of oil or oily mixture shall be prohibited except when the oil content of the discharge without dilution does not exceed 15 parts per million.

CHAPTER III REQUIREMENTS FOR MINIMIZING OIL POLLUTION FROM OIL TANKERS DUE TO SIDE AND BOTTOM DAMAGES

Regulation 22 DAMAGE ASSUMPTIONS

(1) For the purpose of calculating hypothetical oil outflow from oil tankers, three dimensions of the extent of damage of a parallelepiped on the side and bottom of the ship are assumed as follows. In the case of bottom damages two conditions are set forth to be applied individually to the stated portions of the oil tanker.

(a) Side damage

- (i) Longitudinal extent (lc): $\frac{1}{3} L$ $\frac{2}{3}$ or 14.5 metres, whichever is less
- (ii) Transverse extent (tc): $\frac{B}{5}$ or 11.5 metres, whichever is less (inboard from the ship's side at right angles to the centre-line at the level corresponding to the assigned summer freeboard)
- (iii) Vertical extent (vc): from the base line upwards without limit

(b) Bottom damage

For 0.3L from the forward perpendicular of the ship. Any other part of the ship

(i) Longitudinal extent (s): $L/10$; $L/10$ or 5 metres whichever is less

(ii) Transverse extent (ts): $B/6$ or 10 metres, 5 metres whichever is less but not less than 5 metres

(iii) Vertical extent from the base line (vs): B or 6 metres whichever is less

(2) Wherever the symbols given in this Regulation appear in this Chapter, they have the meaning as defined in this Regulation.

Regulation 23 HYPOTHETICAL OUTFLOW OF OIL

(1) The hypothetical outflow of oil in the case of side damage (O_c) and bottom damage (O_s) shall be calculated by the following formulae with respect to compartments breached by damage to all conceivable locations along the length of the ship to the extent as defined in Regulation 22 of this Annex.

(a) For side damages:

$$O_c = W_i + K_i C_i \text{ (I)}$$

(b) For bottom damages:

$$O_s = 1/3 (Z_i W_i + Z_i C_i) \text{ (II)}$$

where:

W_i = volume of a wing tank in cubic metres assumed to be breached by the damage as specified in Regulation 22 of this Annex; W_i for a segregated ballast tank may be taken equal to zero,

C_i = volume of a centre tank in cubic metres assumed to be breached by the damage as specified in Regulation 22 of this Annex; C_i for a segregated ballast tank may be taken equal to zero,

$K_i = 1 - b_i/t_c$ when b_i is equal to or greater than t_c , K_i shall be taken equal to zero,

$Z_i = 1 - h_i/v_s$ when h_i is equal to or greater than v_s , Z_i shall be taken equal to zero,

b_i = width of wing tank in metres under consideration measured inboard from the ship's side at right angles to the centreline at the level corresponding to the assigned summer freeboard,

h_i = minimum depth of the double bottom in metres under consideration; where no double bottom is fitted h_i shall be taken equal to zero.

Whenever symbols given in this paragraph appear in this Chapter, they have the meaning as defined in this Regulation.

(2) If a void space or segregated ballast tank of a length less than c as defined in Regulation 22 of this Annex is located between wing oil tanks, O_c in formula (I) may be calculated on the basis of volume W_i being the actual volume of one such tank (where they are of equal capacity) or the smaller of the two tanks (if they differ in capacity) adjacent to such space, multiplied by S_i as defined below and taking for all other wing tanks involved in such a collision the value of the actual full volume.

$$S_i = 1 - l_i/l_c$$

where i = length in metres of void space or segregated ballast tank under consideration.

(3) (a) Credit shall only be given in respect of double bottom tanks which are either empty or carrying clean water when cargo is carried in the tanks above.

(b) Where the double bottom does not extend for the full length and width of the tank involved, the double bottom is considered non-existent and the volume of the tanks above the area of the bottom damage shall be included in formula (II) even if the tank is not considered breached because of the installation of such a partial double bottom.

(c) Suction wells may be neglected in the determination of the value h_i provided such wells are not excessive in area and extend below the tank for a minimum distance and in no case more than half the height of the double bottom. If the

depth of such a well exceeds half the height of the double bottom, h_i shall be taken equal to the double bottom height minus the well height.

Piping serving such wells if installed within the double bottom shall be fitted with valves or other closing arrangements located at the point of connexion to the tank served to prevent oil outflow in the event of damage to the piping. Such piping shall be installed as high from the bottom shell as possible. These valves shall be kept closed at sea at any time when the tank contains oil cargo, except that they may be opened only for cargo transfer needed for the purpose of trimming of the ship.

(4) In the case where bottom damage simultaneously involves four centre tanks, the value of O_s may be calculated according to the formula

$$O_s = 1/4(Z_i W_i + Z_i C_i) \text{ (III)}$$

(5) An Administration may credit as reducing oil outflow in case of bottom damage, an installed cargo transfer system having an emergency high suction in each cargo oil tank, capable of transferring from a breached tank or tanks to segregated ballast tanks or to available cargo tankage if it can be assured that such tanks will have sufficient ullage.

Credit for such a system would be governed by ability to transfer in two hours of operation oil equal to one half of the largest of the breached tanks involved and by availability of equivalent receiving capacity in ballast or cargo tanks. The credit shall be confined to permitting calculation of O_s according to formula (III). The pipes for such suctions shall be installed at least at a height not less than the vertical extent of the bottom damage vs. The Administration shall supply the Organization with the information concerning the arrangements accepted by it, for circulation to other Parties to the Convention.

Regulation 24 LIMITATION OF SIZE AND ARRANGEMENT OF CARGO TANKS

(1) Every new oil tanker shall comply with the provision[s] of this Regulation. Every existing oil tanker shall be required, within two years after the date of entry into force of the present Convention, to comply with the provisions of this Regulation if such a tanker falls into either of the following categories:

(a) A tanker, the delivery of which is after 1 January 1977; or

(b) A tanker to which both the following conditions apply:

(i) Delivery is not later than 1 January 1977; and

(ii) The building contract is placed after 1 January 1974, or in cases where no building contract has previously been placed, the keel is laid or the tanker is at a similar stage of construction after 30 June 1974.

(2) Cargo tanks of oil tankers shall be of such size and arrangements that the hypothetical outflow O_c or O_s calculated in accordance with the provisions of Regulation 23 of this Annex anywhere in the length of the ship does not exceed 30,000 cubic metres or $400 \times \text{cube root of } DW$ whichever is the greater, but subject to a maximum of 40,000 cubic metres.

(3) The volume of any one wing cargo oil tank of an oil tanker shall not exceed seventy-five percent of the limits of the hypothetical oil outflow referred to in paragraph (2) of this Regulation. The volume of any one centre cargo oil tank shall not exceed 50,000 cubic metres. However, in segregated ballast oil tankers as defined in Regulation 13 of this Annex, the permitted volume of a wing cargo oil tank situated between two segregated ballast tanks, each exceeding c in length, may be increased to the maximum limit of hypothetical oil outflow provided that the width of the wing tanks exceeds tc .

(4) The length of each cargo tank shall not exceed 10 metres or one of the following values, whichever is the greater:

(a) Where no longitudinal bulkhead is provided: $0.1L$

(b) Where a longitudinal bulkhead is provided at the centreline only: $0.15L$

(c) Where two or more longitudinal bulkheads are provided:

(i) For wing tanks: $0.2L$

(ii) For centre tanks:

(1) If b_i/B is equal to or greater than $1/5$: $0.2L$

(2) If b_i/B is less than $1/5$:

- Where no centreline longitudinal bulkhead is provided: $(0.5 b_i/B + 0.1)L$
- Where a centreline longitudinal bulkhead is provided: $(0.25 b_i/B + 0.15)L$

(5) In order not to exceed the volume limits established by paragraphs (2), (3) and (4) of this Regulation and irrespective of the accepted type of cargo transfer system installed, when such system inter-connects two or more cargo tanks, valves or other similar closing devices shall be provided for separating the tanks from each other. These valves or devices shall be closed when the tanker is at sea.

(6) Lines of piping which run through cargo tanks in a position less than t_c from the ship's side or less than v_c from the ship's bottom shall be fitted with valves or similar closing devices at the point at which they open into any cargo tank. These valves shall be kept closed at sea at any time when the tanks contain cargo oil, except that they may be opened only for cargo transfer needed for the purpose of trimming of the ship.

Regulation 25 SUBDIVISION AND STABILITY

(1) Every new oil tanker shall comply with the subdivision and damage stability criteria as specified in paragraph (3) of this Regulation, after the assumed side or bottom damage as specified in paragraph (2) of this Regulation, for any operating draught reflecting actual partial or full load conditions consistent with trim and strength of the ship as well as specific gravities of the cargo. Such damage shall be applied to all conceivable locations along the length of the ship as follows:

(a) In tankers of more than 225 metres in length, anywhere in the ship's length;

(b) In tankers of more than 150 metres, but not exceeding 225 metres in length, anywhere in the ship's length except involving either after or forward bulkhead bounding the machinery space located aft. The machinery space shall be treated as a single floodable compartment;

(c) In tankers not exceeding 150 metres in length, anywhere in the ship's length between adjacent transverse bulkheads with the exception of the machinery space. For tankers of 100 metres or less in length where all requirements of paragraph (3) of this Regulation cannot be fulfilled without materially impairing the operational qualities of the ship, Administrations may allow relaxations from these requirements.

Ballast conditions where the tanker is not carrying oil in cargo tanks excluding any oil residues, shall not be considered.

(2) The following provisions regarding the extent and the character of the assumed damage shall apply:

(a) The extent of side or bottom damage shall be as specified in Regulation 22 of this Annex, except that the longitudinal extent of bottom damage within $0.3L$ from the forward perpendicular shall be the same as for side damage, as specified in Regulation 22(1)(a)(i) of this Annex. If any damage of lesser extent results in a more severe condition such damage shall be assumed.

(b) Where the damage involving transverse bulkheads is envisaged as specified in sub-paragraphs (1)(a) and (b) of this Regulation, transverse watertight bulkheads shall be spaced at least at a distance equal to the longitudinal extent of assumed damage specified in sub-paragraph (a) of this paragraph in order to be considered effective. Where transverse bulkheads are spaced at a lesser distance, one or more of these bulkheads within such extent of damage shall be assumed as non-existent for the purpose of determining flooded compartments.

(c) Where the damage between adjacent transverse watertight bulkheads is envisaged as specified in sub-paragraph (1)(c) of this Regulation, no main transverse bulkhead or a transverse bulkhead bounding side tanks or double bottom tanks shall be assumed damaged, unless:

(i) The spacing of the adjacent bulkheads is less than the longitudinal extent of assumed damage specified in sub-paragraph (a) of this paragraph; or

(ii) There is a step or a recess in a transverse bulkhead of more than 3.05 metres in length, located within the extent of penetration of assumed damage. The step formed by the after peak bulkhead and after peak tank top shall not be regarded as a step for the purpose of this Regulation.

(d) If pipes, ducts or tunnels are situated within the assumed extent of damage, arrangements shall be made so that progressive flooding cannot thereby extend to compartments other than those assumed to be floodable for each case of damage.

- (3) Oil tankers shall be regarded as complying with the damage stability criteria if the following requirements are met:
- (a) The final waterline, taking into account sinkage, heel and trim, shall be below the lower edge of any opening through which progressive flooding may take place. Such openings shall include air pipes and those which are closed by means of weathertight doors or hatch covers and may exclude those openings closed by means of watertight manhole covers and flush scuttles, small watertight cargo tank hatch covers which maintain the high integrity of the deck, remotely operated watertight sliding doors, and side scuttles of the non-opening type.
 - (b) In the final stage of flooding, the angle of heel due to unsymmetrical flooding shall not exceed 25 degrees, provided that this angle may be increased up to 30 degrees if no deck edge immersion occurs.
 - (c) The stability in the final stage of flooding shall be investigated and may be regarded as sufficient if the righting lever curve has at least a range of 20 degrees beyond the position of equilibrium in association with a maximum residual righting lever of at least 0.1 metre. The Administration shall give consideration to the potential hazard presented by protected or unprotected openings which may become temporarily immersed within the range of residual stability.
 - (d) The Administration shall be satisfied that the stability is sufficient during intermediate stages of flooding.
- (4) The requirements of paragraph (1) of this Regulation shall be confirmed by calculations which take into consideration the design characteristics of the ship, the arrangements, configuration and contents of the damaged compartments; and the distribution, specific gravities and the free surface effect of liquids. The calculations shall be based on the following:
- (a) Account shall be taken of any empty or partially filled tank, the specific gravity of cargoes carried, as well as any outflow of liquids from damaged compartments.

(b) The permeabilities are assumed as follows:

Permeability Spaces

Appropriated to stores	0.60
Occupied by accommodation	0.95
Occupied by machinery	0.85
Voids	0.95
Intended for consumable liquids	0 or 0.95*
Intended for other liquids	0 to 0.95**

* Whichever results in the more severe requirements.

** The permeability of partially filled compartments shall be consistent with the amount of liquid carried.

(c) The buoyancy of any superstructure directly above the side damage shall be disregarded. The unflooded parts of superstructures beyond the extent of damage, however, may be taken into consideration provided that they are separated from the damaged space by watertight bulkheads and the requirements of sub-paragraph (3)(a) of this Regulation in respect of these intact spaces are complied with. Hinged watertight doors may be acceptable in watertight bulkheads in the superstructure.

(d) The free surface effect shall be calculated at an angle of heel of 5 degrees for each individual compartment. The Administration may require or allow the free surface corrections to be calculated at an angle of heel greater than 5 degrees for partially filled tanks.

(e) In calculating the effect of free surfaces of consumable liquids it shall be assumed that, for each type of liquid at least one transverse pair or a single centreline tank has a free surface and the tank or combination of tanks to be taken into account shall be those where the effect of free surfaces is the greatest.

(5) The Master of every oil tanker and the person in charge of a non-self-propelled oil tanker to which this Annex applies shall be supplied in an approved form with:

(a) Information relative to loading and distribution of cargo necessary to ensure compliance with the provisions of this Regulation; and

(b) Data on the ability of the ship to comply with damage stability criteria as determined by this Regulation, including the effect of relaxations that may have been allowed under sub-paragraph (1)(c) of this Regulation.

APPENDIX I LIST OF OILS*

Asphalt solutions
 Blending stocks
 Roofers flux
 Straight run residue
 Oils
 Clarified
 Crude oil
 Mixtures containing crude oil
 Diesel oil
 Fuel oil No. 4
 Fuel oil No. 5
 Fuel oil No. 6
 Residual fuel oil
 Road oil
 Transformer oil
 Aromatic oil (excluding vegetable oil)
 Lubricating oils and blending stocks
 Mineral oil
 Motor oil
 Penetrating oil
 Spindle oil
 Turbine oil

Distillates

Straight run
 Flashed feed stocks

Gas oil

Cracked

Gasoline blending stocks

Alkylates - fuel
 Reformates
 Polymer - fuel

Gasolines

Casinghead (natural)
 Automotive
 Aviation
 Straight run
 Fuel oil No. 1 (kerosene)
 Fuel oil No. 1-D
 Fuel oil No. 2
 Fuel oil No. 2-D

Jet fuels

JP-1 (kerosene)
 JP-3
 JP-4
 JP-5 (kerosene, heavy)
 Turbo fuel
 Kerosene
 Mineral spirit

Naphtha

Solvent

Petroleum

Heartcut distillate oil

* The list of oils shall not necessarily be considered as comprehensive. [Footnote appeared in original text.]

APPENDIX II FORM OF CERTIFICATE**INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE (1973)**

Issued under the Provisions of the International Convention for the Prevention of Pollution from Ships, 1973, under the Authority of the Government of

(full designation of the country)

by _____ (full designation of the competent person or organization authorized under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973)

Name of ship

Distinctive number or letter

Port of registry

Gross tonnage

Type of ship:

Oil tanker, including combination carrier*

Asphalt carrier*

Ship other than an oil tanker with cargo tanks coming under Regulation 2(2) of Annex I of the Convention*

Ship other than any of the above*

New/existing ship*

Date of building or major conversion contract _____

Date on which keel was laid or ship was at a similar stage of construction or on which major conversion was commenced _____

Date of delivery or completion of major conversion _____

PART A. ALL SHIPS

The ship is equipped with:

For ships of 400 tons gross tonnage and above:

(a) Oily-water separating equipment* (capable of producing the effluent with an oil content not exceeding 100 parts per million) or

(b) An oil filtering system* (capable of producing the effluent with an oil content not exceeding 100 parts per million)

For ships of 10,000 tons gross tonnage and above:

(c) An oil discharge monitoring and control system* (additional to (a) or (b) above) or

(d) Oily-water separating equipment and an oil filtering system* (capable of producing the effluent with an oil content not exceeding 15 parts per million) in lieu of (a) or (b) above.

* Delete as appropriate

Particulars of requirements from which exemption is granted under Regulation 2(2) and 2(4)(a) of Annex I of the Convention:

Remarks:

PART B. OIL TANKER+*

Deadweight metric tons. Length of ship metres.

It is certified that this ship is:

- (a) Required to be constructed according to and complies with**
- (b) Not required to be constructed according to**
- (c) Not required to be constructed according to, but complies with**

the requirements of Regulation 24 of Annex I of the Convention.

The capacity of segregated ballast tanks is cubic metres and complies with the requirements of Regulation 13 of Annex I of the Convention.

The segregated ballast is distributed as follows:

Tank	Quantity	Tank	Quantity
------	----------	------	----------

THIS IS TO CERTIFY:

That the ship has been surveyed in accordance with Regulation 4 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, concerning the prevention of pollution by oil; and

That the survey shows that the structure, equipment, fittings, arrangement and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex I of the Convention.

+ This Part should be completed for oil tankers including combination carriers and asphalt carriers, and those entries which are applicable should be completed for ships other than oil tankers which are constructed and utilized to carry oil in bulk of an aggregate capacity of 200 cubic metres or above.

* This page need not be reproduced on a Certificate issued to any ship other than those referred to in footnote+.

** Delete as appropriate.

This Certificate is valid until subject to intermediate survey(s) at intervals of

Issued at

(place of issue of Certificate)

..... 19....

(Signature of duly authorised official issuing the Certificate)

(Seal or stamp of the issuing Authority, as appropriate)

Endorsement for existing ships*

This is to certify that this ship has been so equipped as to comply with the requirements of the International Convention for the Prevention of Pollution from Ships, 1973 as relating to existing ships three years from the date of entry into force of the Convention.

Signed

(Signature of duly authorized official)

Place of endorsement

Date of endorsement

(Seal or stamp of the Authority, as appropriate)

Intermediate survey

This is to certify that at an intermediate survey required by Regulation 4(1)(c) of Annex I of the Convention, this ship and the condition thereof are found to comply with the relevant provisions of the Convention.

Signed

(Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

Signed

(Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

* This entry need not be reproduced on a Certificate other than the first Certificate issued to any ship.

Under the provisions of Regulation 8(2) and (4) of Annex I of the Convention the validity of this Certificate is extended until _____

Signed _____

(Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

APPENDIX III FORM OF OIL RECORD BOOK**OIL RECORD BOOK****I. FOR OIL TANKERS***

Name of ship _____

Total cargo carrying capacity of ship in cubic metres _____

Voyage from (date) to (date)

(a) Loading of oil cargo

1. Date and place of loading _____

2. Types of oil loaded _____

3. Identity of tank(s) loaded _____

4. Closing of applicable cargo tank valves and applicable line cut-off valves on completion of loading**

The undersigned certifies that in addition to the above, all sea valves, overboard discharge valves, cargo tank and pipeline connections and inter-connections, were secured on completion of loading oil cargo.

Date of entry Officer in charge _____

Master _____

(b) Internal transfer of oil cargo during voyage

5. Date of internal transfer _____

6. Identity of tank(s) _____

(i) From _____

(ii) To _____

7. Was(were) tank(s) in 6(i) emptied? _____

The undersigned certifies that in addition to the above, all sea valves, overboard discharge valves, cargo tank and pipeline connections and inter-connections, were secured on completion of internal transfer of oil cargo.

Date of entry Officer in charge _____

Master _____

(c) Unloading of oil cargo

8. Date and place of unloading _____

9. Identity of tank(s) unloaded _____

10. Was(were) tank(s) emptied? _____

11. Opening of applicable cargo tank valves and applicable line cut-off valves prior to cargo unloading**

12. Closing of applicable cargo tank valves and applicable line cut-off valves on completion of unloading**

The undersigned certifies that in addition to the above, all sea valves, overboard discharge valves, cargo tank and pipeline connections and inter-connections, were secured on completion of unloading of oil cargo.

Date of entry Officer in charge _____

Master _____

* This Part should be completed for oil tankers including combination carriers and asphalt carriers, and those entries which are applicable shall be completed for ships other than oil tankers which are constructed and utilized to carry oil in bulk of an aggregate capacity of 200 cubic metres or above. This Part need not be reproduced on an Oil Record Book issued to any ship other than those referred to above.

** Applicable valves and similar devices are those referred to in Regulations 20(2)(a)(iii), 23 and 24 of Annex I of the Convention.

(d) Ballasting of cargo tanks

13. Identity of tank(s) ballasted _____

14. Date and position of ship at start of ballasting _____

15. If valves connecting cargo lines and segregated ballast lines were used give time, date and position of ship when valves were (a) opened, and (b) closed

The undersigned certifies that in addition to the above, all sea valves, overboard discharge valves, cargo tank and

pipeline connections and inter-connections, were secured on completion of ballasting.

Date of entry Officer in charge
Master

(e) Cleaning of cargo tanks

16. Identity of tank(s) cleaned
17. Date and duration of cleaning
18. Methods of cleaning*

Date of entry Officer in charge
Master

* Hand hosing, machine washing and/or chemical cleaning. Where chemically cleaned, the chemical concerned and the amount used should be stated.

(f) Discharge of dirty ballast

19. Identity of tank(s)
20. Date and position of ship at start of discharge to sea
21. Date and position of ship at finish of discharge to sea
22. Ship's speed(s) during discharge
23. Quantity discharged to sea
24. Quantity of polluted water transferred to slop tank(s) (identify slop tank(s))
25. Date and port of discharge into shore reception facilities (if applicable)
26. Was any part of the discharge conducted during darkness, if so, for how long?
27. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?
28. Was any oil observed on the surface of the water in the locality of the discharge?

Date of entry Officer in charge
Master

(g) Discharge of water from slop tanks

29. Identity of slop tank(s)
30. Time of settling from last entry of residues, or
31. Time of settling from last discharge
32. Date, time and position of ship at start of discharge
33. Sounding of total contents at start of discharge
34. Sounding of oil/water interface at start of discharge
35. Bulk quantity discharged and rate of discharge
36. Final quantity discharged and rate of discharge
37. Date, time and position of ship at end of discharge
38. Ship's speed(s) during discharge
39. Sounding of oil/water interface at end of discharge
40. Was any part of the discharge conducted during darkness, if so, for how long?
41. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?
42. Was any oil observed on the surface of the water in the locality of the discharge?

Date of entry Officer in charge
Master

(h) Disposal of residues

43. Identity of tank(s)
 44. Quantity disposed from each tank
 45. Method of disposal of residue:
 - (a) Reception facilities
 - (b) Mixed with cargo
 - (c) Transferred to another (other) tank(s) (identify tank(s))
 - (d) Other method (state which)
 46. Date and port of disposal of residue
- Date of entry Officer in charge
Master

(i) Discharge of clean ballast contained in cargo tanks

47. Date and position of ship at commencement of discharge of clean ballast
48. Identity of tank(s) discharged

49. Was(were) the tank(s) empty on completion?
 50. Position of vessel on completion if different from 47
 51. Was any part of the discharge conducted during darkness, if so, for how long?
 52. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?
 53. Was any oil observed on the surface of the water in the locality of the discharge?

Date of entry Officer in charge

Master

(j) Discharge overboard of bilge water containing oil which has accumulated in machinery spaces whilst in port*

54. Port
 55. Duration of stay
 56. Quantity disposed
 57. Date and place of disposal
 58. Method of disposal (state whether a separator was used)

Date of entry Officer in charge

Master

* Where the pump starts automatically and discharges through a separator at all times it will be sufficient to enter each day "Automatic discharge from bilges through a separator".

(k) Accidental or other exceptional discharges of oil

59. Date and time of occurrence
 60. Place or position of ship at time of occurrence
 61. Approximate quantity and type of oil
 62. Circumstances of discharge or escape, the reasons therefor and general remarks

Date of entry Officer in charge

Master

(l) Has the oil monitoring and control system been out of operation at any time when discharging overboard? If so, give time and date of failure and time and date of restoration and confirm that this was due to equipment failure and state reason if known

Date of entry Officer in charge

Master

(m) Additional operational procedures and general remarks

For oil tankers of less than 150 tons gross tonnage operating in accordance with Regulation 15(4) of Annex I of the Convention, an appropriate oil record book should be developed by the Administration.

For asphalt carriers, a separate oil record book may be developed by the Administration utilizing sections (a), (b), (c), (e), (h), (j), (k) and (m) of this form of oil record book.

II. FOR SHIPS OTHER THAN OIL TANKERS

Name of ship

Operations from (date), to (date)

(a) Ballasting or cleaning of oil fuel tanks

1. Identity of tank(s) ballasted
 2. Whether cleaned since they last contained oil and, if not, type of oil previously carried
 3. Date and position of ship at start of cleaning
 4. Date and position of ship at start of ballasting
 Date of entry Officer in charge

Master

(b) Discharge of dirty ballast or cleaning water from tanks referred to under section (a)

5. Identity of tank(s)
 6. Date and position of ship at start of discharge
 7. Date and position of ship at finish of discharge
 8. Ship's speed(s) during discharge
 9. Method of discharge (state whether to reception facility or through installed equipment)
 10. Quantity discharged

Date of entry Officer in charge

Master

(c) Disposal of residues

11. Quantity of residue retained on board

12. Methods of disposal of residue:

(a) Reception facilities

(b) Mixed with next bunkering

(c) transferred to another (other) tank*

(d) Other method (state which)

13. Date and port of disposal of residue

Date of entry Officer in charge

Master

(d) Discharge overboard of bilge water containing oil which has accumulated in machinery spaces whilst in port*

14. Port

15. Duration of stay

16. Quantity discharged

17. Date and place of discharge

18. Method of discharge:

(a) Through oily-water separating equipment;

(b) Through oil filtering system;

(c) Through oily-water separating equipment and an oil filtering system;

(d) To reception facilities

Date of entry Officer in charge

Master

* Where the pump starts automatically and discharges through a separator at all times it will be sufficient to enter each day "Automatic discharge from bilges through a separator".

(e) Accidental or other exceptional discharges of oil

19. Date and time of occurrence

20. Place or position of ship at time of occurrence

21. Approximate quantity and type of oil

22. Circumstances of discharge or escape, the reasons therefor and general remarks

Date of entry Officer in charge

Master

(f) Has the required oil monitoring and control system been out of operation at any time when discharging overboard? If so, state time and date of failure and time and date of restoration, and confirm that this was due to equipment failure, and state reason if known

Date of entry Officer in charge

Master

(g) New ships of 4,000 tons gross tonnage and above: has dirty ballast been carried in oil fuel tanks?

Yes/No

If so, state which tanks were so ballasted and method of discharge of the dirty ballast

Date of entry Officer in charge

Master

(h) Additional operational procedures and general remarks

Date of entry Officer in charge

Master

MODIFICATIONS AND ADDITIONS TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973

ANNEX I (PROTOCOL)

REGULATIONS FOR THE PREVENTION OF POLLUTION BY OIL

Regulation 1 DEFINITIONS

Paragraphs (1) to (7) - No change

The existing text of paragraph (8) is replaced by the following:

8. a) 'Major conversion' means a conversion of an existing ship:

- (i) which substantially alters the dimensions or carrying capacity of the ship; or
- (ii) which changes the type of the ship; or
- (iii) the intent of which in the opinion of the Administration is substantially to prolong its life; or
- (iv) which otherwise so alters the ship that, if it were a new ship, it would become subject to relevant provisions of the present Protocol not applicable to it as an existing ship.

b) Notwithstanding the provisions of subparagraph (a) of this paragraph, conversion of an existing oil tanker of 20,000 tons deadweight and above to meet the requirements of Regulation 13 of this Annex shall not be deemed to constitute a major conversion for the purpose of this Annex.

Paragraph (9) to (22) No change

The existing text of paragraph (23) is replaced by the following:

(23) 'Lightweight' means the displacement of a ship in metric tons without cargo, fuel, lubricating oil, ballast water, fresh water and feed water in tanks, consumable stores, and passengers and crew and their effects.

Paragraphs (24) and (25) No change

The following paragraphs are added to the existing text:

(26) Notwithstanding the provisions of paragraph (6) of this Regulation, for the purposes of Regulation 13, 13B, 13E and 18 (5) of this Annex, "new oil tanker" means an oil tanker:

- a) for which the building contract is placed after 1 June 1979; or
- b) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after 1 January 1979; or
- c) the delivery of which is after 1 June 1982; or
- d) which has undergone a major conversion:
 - (i) for which the contract is placed after 1 June 1979; or
 - (ii) in the absence of a contract, the construction work of which is begun after 1 January 1980; or
 - (iii) which is completed after 1 June 1982, except that, for oil tankers of 70,000 tons deadweight and above, the definition in paragraph (6) of this Regulation shall apply for the purposes of Regulation 13(1) of this Annex.

(27) Notwithstanding the provisions of paragraph (7) of this Regulation, for the purposes of Regulations 13, 13A, 13B, 13C, 13D and 18(6) of this Annex, "existing oil tanker" means an oil tanker which is not a new oil tanker as defined in paragraph (26) of this Regulation.

(28) "Crude Oil" means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes:

- a) crude oil from which certain distillate fractions may have been removed; and
- b) crude oil to which certain distillate fractions may have been added.

(29) "Crude oil tanker" means an oil tanker engaged in the trade of carrying crude oil.

(30) "Product carrier" means an oil tanker engaged in the trade of carrying oil other than crude oil.

Regulations 2 and 3 No change

The existing text of Regulation 4 is replaced by the following:

Surveys and Inspections

(1) Every oil tanker of 150 tons gross tonnage and above, and every other ship of 400 tons gross tonnage and above shall be subject to the surveys specified below:

a) An initial survey before the ship is put in service or before the Certificate required under Regulation 5 of this Annex is issued for the first time, which shall include a complete survey of its structure, equipment, systems, fittings, arrangements and material in so far as the ship is covered by this Annex. This survey shall be such as to ensure that the structure, equipment, system fittings, arrangements and material fully comply with the applicable requirements of this Annex.

b) Periodical surveys at intervals specified by the Administration, but not exceeding five years, which shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the requirements of this Annex.

c) A minimum of one intermediate survey during the period of validity of the Certificate which shall be such as to ensure that the equipment and associated pump and piping systems, including oil discharge monitoring and control systems, crude oil washing systems, oily-water separating equipment and oil filtering systems, fully comply with the applicable requirements of this Annex and are in good working order. In cases where only one such intermediate survey is carried out in any one Certificate validity period, it shall be held not before six months prior to, nor later than six months after the half-way date of the Certificate's period of validity. Such intermediate surveys shall be endorsed on the Certificate issued under Regulation 5 of this Annex.

2. The Administration shall establish appropriate measures for ships which are not subject to the provisions of paragraph (1) of this Regulation in order to ensure that the applicable provisions of this Annex are complied with.

3.

a) Surveys of ships as regards the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.

b) The Administration shall institute arrangements for unscheduled inspections to be carried out during the period of validity of the Certificate. Such inspections shall ensure that the ship and its equipment remain in all respects satisfactory for the services for which the ship is intended. These inspections may be carried out by their own inspection services, or by nominated surveyors or by recognized organizations, or by other Parties upon request of the Administration. Where the Administration, under the provisions of paragraph (1) of this Regulation, establishes mandatory annual surveys, the above unscheduled inspections shall not be obligatory.

c) An Administration nominating surveyors or recognizing organizations to conduct surveys and inspections as set forth in sub-paragraphs (a) and (b) of this paragraph, shall as a minimum empower any nominated surveyor or

recognized organization to:

- (i) require repairs to a ship; and
- (ii) carry out surveys and inspections if requested by the appropriate authorities of a Port State.

The Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations, for circulation to Parties to the present Protocol for the information of their officers.

(d) When a nominated surveyor or recognized organization determines that the condition of the ship or its equipment does not correspond substantially with the particulars of the Certificate or is and there the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, such survey or organization shall immediately ensure that corrective action is taken and shall in due course notify the Administration. If such corrective action is not taken the Certificate should be withdrawn and the Administration shall be notified immediately; and if the ship is in a port of another Party, the appropriate authorities of the Port State shall also be notified immediately. When an officer of the Administration, a nominated surveyor or recognized organization has notified the appropriate authorities of the Port State, the Government of the Port State concerned shall give such officer, surveyor or organization any necessary assistance to carry out their obligations under this Regulation. When applicable, the Government of the Port State concerned shall take such steps as will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available without presenting an unreasonable threat of harm to the marine environment.

e) In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the survey and inspection and shall undertake to ensure the necessary arrangements to satisfy this obligation.

4.

a) The condition of the ship and its equipment shall be maintained with the provisions of the present Protocol to ensure that the ship in all respects will remain fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

b) After any survey of the ship under paragraph (1) of this Regulation has been completed, no change shall be made in the structure, equipment, fittings, arrangements or material covered by the survey, without the sanction of the Administration, except the direct replacement of such equipment and fittings.

c) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by this Annex the master or owner of the ship shall report at the earliest opportunity to the Administration the recognized organization of the nominated surveyor responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by paragraph (i) of this Regulation is necessary. If the ship is in port of another Party, the master or owner shall also report immediately to the appropriate authorities of the Port State and the nominated surveyor or recognized organization shall ascertain that such report has been made.

Regulations 5, 6 and 7

In the existing text of these Regulations, delete all reference to "(1973)" in relation to the International Oil Pollution Prevention Certificate.

Regulation 8 DURATION OF CERTIFICATE

The existing text of Regulation 8 is replaced by the following:

1. An International Oil Pollution Prevention Certificate shall be issued for a period specified by the Administration, which shall not exceed five years from the date of issue, provided that in the case of an oil tanker operating with dedicated clean ballast tanks for a limited period specified in Regulation 13(9) of this Annex, the period of validity of the Certificate shall not exceed such specified period.

2. A Certificate shall cease to be valid if significant alterations have taken place in the construction, equipment, systems, fittings, arrangements or material required without the sanction of the Administration, except the direct replacement of such equipment or fittings, or of intermediate surveys as specified by the Administration under Regulation 4(1)(c) of this Annex are not carried out.

3. A Certificate issued to a ship shall also cease to be valid upon transfer of the ship to the flag of another State. A new Certificate shall only be issued when the Governments issuing the new Certificate is fully satisfied that the ship is in full compliance with the requirements of Regulation 4(4)(a) and (b) of this Annex. In the case of a transfer between Parties, if requested within three months after the transfer has taken place, the Government of the Party whose flag the ship was formerly entitled to fly shall transmit as soon as possible to the Administration a copy of the Certificate carried by the ship before the transfer and, if available, a copy of the relevant survey report.

Regulations 9 to 12 Ñ No change

the existing text to Regulation 13 is replaced by the following Regulations:

Regulation 13 SEGREGATED BALLAST TANKS, DEDICATED CLEAN BALLAST TANKS AND CRUDE OIL WASHING

Subject to the provisions of Regulation 13C and 13D of this Annex, oil tanker shall comply with the requirements of this Regulation.

New oil tankers 20,000 tons deadweight and above

1. Every new crude oil tanker of 20,000 tons deadweight and above and every new product carrier of 30,000 tons deadweight and above shall be provided with segregated ballast tanks and shall comply with paragraphs (2), (3) and (4), or paragraph (5) as appropriate, of this Regulation.

2. The capacity of the segregated ballast tanks shall be so determined that the ship may operate safely on ballast voyages without recourse to the use of cargo tanks for water ballast except as provided for in paragraph (3) or (4) of this Regulation. In all cases, however, the capacity of segregated ballast tanks shall be at least such that, in any ballast condition at any part of the voyage, including conditions consisting of lightweight plus segregated ballast only, the ship's draughts and trim can meet each of the following requirements:

a) the moulded draught amidships (dm) in meters (without taking into account any ship's deformation) shall not be less than: $dm = 2.0 + 0.02L$;

b) the draughts at the forward and after perpendiculars shall correspond to those determined by the draught amidships (dm) as specified in sub-paragraphs (a) of this paragraph, in association with the trim by the stern of not greater than 0.015L; and

c) in any case the draught at the after perpendicular shall not be less than that which is necessary to obtain full immersion of the propeller(s).

3. In no case shall ballast water be carried in cargo tanks except on those rare voyages when wheather conditions are so severe that, in the opinion of the master, it is necessary to carry additional ballast water in cargo tanks for the safety of the ship. Such additional ballast water shall be processed and discharged in compliance with Regulation 9 of this Annex and in accordance with the requirements of Regulation 15 of this Annex and entry shall be made in the Oil Record Book referred to in Regulation 20 of this Annex.

4. In the case of new crude oil tankers, the additional ballast permitted in paragraph (3) of this Regulation shall be carried in cargo tanks only if such tanks have been crude oil washed in accordance with Regulation 13B of this Annex before departure from an oil unloading port or terminal.

5. Notwithstanding the provisions of paragraph (2) of this Regulation, the segregated ballast conditions for oil tankers less than 150 meters in length shall be to the satisfaction of the Administration.

6. Every new crude oil tanker of 20,000 tons deadweight and above shall be fitted with cargo tank cleaning system using crude oil washing. The Administration shall undertake to ensure that the system fully complies with the requirements of Regulation 13B of this Annex within one year after the tanker was first engaged in the trade of carrying crude oil or by the end of the third voyage carrying crude oil suitable for crude oil washing, whichever occurs later. Unless such oil tanker carries crude oil which is not suitable for crude oil washing, the oil tanker shall operate the system in accordance with the requirements of that Regulation.

Existing crude oil tankers of 40,000 tons deadweight and above

7. Subject to the provisions of paragraphs (8) and (9) of this Regulation every existing crude oil tanker of 40,000 tons deadweight and above shall be provided with segregated ballast tanks and shall comply with the requirements of paragraphs (2) and (3) of this Regulation from the date of entry into force of the present Protocol.

8. Existing crude oil tankers referred to in paragraph (7) of this Regulation may, in lieu of being provided with segregated ballast tanks, operate with a cargo tank cleaning procedure using crude oil washing in accordance with Regulation 13B of this Annex unless the crude oil tanker is intended to carry crude oil which is not suitable for crude oil washing.

9. Existing crude oil tankers referred to in paragraphs (7) and (8) of this Regulation may, in lieu of being provided with segregated ballast tanks or operating with a cargo tank cleaning procedure using crude oil washing, operate with dedicated clean ballast tanks in accordance with the provisions of Regulation 13A of this Annex for the following period:

a) for crude oil tankers of 70,000 tons deadweight and above, until two years after the date of entry into force of the present Protocol; and

b) Crude oil tankers of 40,000 tons deadweight and above but below 70,000 tons deadweight, until four years after the date of entry into force of the present Protocol.

Existing product carriers of 40,000 tons deadweight and above

(10) From the date of entry into force of the present Protocol, every existing product carrier of 40,000 tons deadweight and above shall be provided with segregated ballast tanks and shall comply with the requirements of paragraphs (2) and (3) of this Regulation, or, alternatively, operate with dedicated clean ballast tanks in accordance with the provisions of Regulation 13A of this Annex.

An oil tanker qualified as a segregated ballast oil tanker

(11) Any oil tanker which is not required to be provided with segregated ballast tanks in accordance with paragraph (1), (7) or (10) of this Regulation may, however, be qualified as a segregated ballast tanker, provided that it complies with the requirements of paragraphs (2) and (3), or paragraph (5) as appropriate, of this Regulation.

Regulation 13A REQUIREMENTS FOR OIL TANKERS WITH DEDICATED CLEAN BALLAST TANKS

1. An oil tanker operating with dedicated clean ballast tanks in accordance with the provisions of Regulation 13(9) or (10) of this Annex, shall have adequate tank capacity, dedicated solely to the carriage of clean ballast as defined in Regulation 1(16) of this Annex, to meet the requirements of Regulations 13(2) and (3) of this Annex.

2. The arrangements and operational procedures for dedicated clean ballast tanks shall comply with the requirements established by the Administration. Such requirements shall contain at least all the provisions of the Specifications for Oil Tankers with Dedicated Clean Ballast Tanks adopted by the International Conference on Tanker Safety and Pollution Prevention, 1978, in Resolution 14 and as may be revised by the Organization.

3. An oil tanker operating with dedicated clean ballast tanks shall be equipped with an oil content meter, approved by the Administration on the basis of specification recommended by the Organization*, to enable supervision of the oil content in ballast water being discharged. The oil content meter shall be installed no later than at the first scheduled shipyard visit of the tanker following the entry into force of the present Protocol. Until such time as the content meter is installed, it shall immediately before discharge of ballast be established by examination of the ballast water from dedicated tanks that no contamination with the oil has taken place.

* Reference is made to the Recommendations on International Performance and Test Specifications for Oily-Water separating Equipment and Oil content meters adopted by the organization by Resolution A. 393 (x)

4. Every oil tanker operating with dedicated clean ballast tanks shall be provided with:

a) a Dedicated Clean Ballast Tank Operations Manual detailing the system and specifying operational procedures. Such a Manual shall be to the satisfaction of the Administration and shall contain all the information set out in

specifications referred to in paragraph (2) of this Regulation. If an alteration affecting the dedicated clean ballast tank system is made, the Operation Manual shall be revised accordingly: and

b) a Supplement to the Oil Record Book referred to in Regulation 20 of this Annex as set out in Supplement 1 to Appendix III of this Annex. The Supplement shall be permanently attached to the Oil Record Book.

Regulation 13B REQUIREMENTS FOR CRUDE OIL WASHING

1. Every crude oil washing system required to be provided in accordance with Regulation 13(6) and (8) of this Annex shall comply with the requirements of this Regulation.
2. The crude oil washing installation and associated equipment and arrangements shall comply with the requirements established by the Administration. Such requirements shall contain at least all the provisions of the Specifications for the Design, Operation and Control of Crude Oil Washing Systems adopted by the International Conference on Tanker Safety and Pollution Prevention, 1978, in Resolution 15 and as may be revised by the Organization.
3. An inert gas system shall be provided in every cargo tank and slop tank in accordance with the appropriate Regulations of Chapter II-2 of the International Convention for the Safety of Life at Sea, 1974, as modified and added to by the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974.
4. With respect to the ballasting of cargo tanks, sufficient cargo tanks shall be crude oil washed prior to each ballast voyage in order that, taking into account the tanker's trading pattern and expected weather conditions, ballast water is put only into cargo tanks which have been crude oil washed.
5. Every oil tanker operating with crude oil washing systems shall be provided with:
 - a) an Operations and Equipment Manual detailing the system and equipment and specifying an operational procedure. Such a Manual shall be to the satisfaction of the Administration and shall contain all the information set out in the Specifications referred to in paragraph (2) of this Regulation. If an alteration affecting the crude oil washing system is made, the Operations and Equipment Manual shall be revised accordingly; and
 - b) a Supplement to the Oil Record Book referred to in Regulation 20 of this Annex as set out in Supplement 2 of Appendix III of this Annex. The Supplement shall be permanently attached to the Oil Record Book.

Regulation 13C EXISTING TANKERS ENGAGED IN SPECIFIC TRADES.

1. Subject to the provisions of paragraphs (2) and (3) of this Regulation, Regulation 13(7) to (10) of this Annex shall not apply to an existing oil tanker solely engaged in specific trades between:
 - a) ports or terminals within a State Party to the present Protocols; or
 - b) ports or terminals of States Parties to the present Protocol, where:
 - (i) the voyage is entirely within a Special Area as defined in Regulation 10(1) of this Annex; or
 - (ii) the voyage is entirely within other limits designated by the Organization.
2. The provisions of paragraph (1) of this Regulation shall only apply when the ports or terminals where cargo is loaded on such voyages are provided with reception facilities adequate for the reception and treatment of all the ballast and tank washing water from oil tankers using them and all the following conditions are complied with:
 - a) subject to the exceptions provided for in Regulation 11 of this Annex, all ballast water, including clean ballast water, and tank washing residues are retained on board and transferred to the reception facilities and the entry in the appropriate Sections of the Supplement to the Oil Record Book referred to in paragraph (3) of this Regulation is endorsed by the competent Port State authority;
 - b) agreement has been reached between the Administration and the Governments of the Port States referred to in subparagraph (1)(a) or (b) of this Regulation concerning the use of an existing oil tanker for a specific trade;
 - c) the adequacy of the reception facilities in accordance with the relevant provisions of this Annex at the ports or terminals referred to above,
 - d) The International oil pollution prevention certificate is endorsed to the effect that the oil tanker is solely engaged in such specific trade,
3. Every oil tanker engaged in a specific trade shall be provided with a Supplement to the Oil Record Book referred to in Regulation 20 of this Annex as set out in Supplement 3 to Appendix III of this Annex. The Supplement shall be permanently attached to the Oil Record Book.

Regulation 13D EXISTING OIL TANKERS HAVING SPECIAL BALLAST ARRANGEMENTS

1. Where an existing oil tanker is so constructed or operates in such a manner that it complies at all times with the draught and trim requirements set out in Regulation 13(2) of this Annex without recourse to the use of ballast water, it shall be deemed to comply with the segregated ballast tank requirements referred to in Regulation 13(7) of this Annex, provided that all of the following conditions are complied with:

- a) operational procedures and ballast arrangements are approved by the Administration;
- b) agreement is reached between the Administration and the Governments of the Port States Parties to the present Protocol concerned when the draught and trim requirements are achieved through an operational procedure; and
- c) the International Oil Pollution Prevention Certificate is endorsed to the effect that the oil tanker is operating with special ballast arrangements.

2. In no case shall ballast water be carried in oil tanks except on those rare voyages when weather conditions are so severe that, in the opinion of the master, it is necessary to carry additional ballast water in cargo tanks for the safety of the ship. Such additional ballast water shall be processed and discharged in compliance with Regulation 9 of this Annex and in accordance with the requirements of Regulation 15 of this Annex, and entry shall be made in the Oil Record Book referred to in Regulation 20 of this Annex.

3. An Administration which has endorsed a Certificate in accordance with sub-paragraph (1)(c) of this Regulation shall communicate to the Organization the particulars thereof for circulation to the Parties to the present Protocol.

Regulation 13E PROTECTIVE LOCATION OF SEGREGATED BALLAST SPACES

1. In every new crude oil tanker of 20,000 tons deadweight and above and every new product carrier of 30,000 tons deadweight and above, the segregated ballast tanks required to provide the capacity to comply with the requirements of Regulation 13 of this Annex which are located within the cargo tank length, shall be arranged in accordance with the requirements of paragraphs (2), (3) and (4) of this Regulation to provide a measure of protection against oil outflow in the event of grounding or collision.

2. Segregated ballast tanks and spaces other than oil tanks within the cargo tank length (Lt) shall be so arranged as to comply with the following requirement:

$$PAc + PAs \geq J[Lt + 2D]$$

where:

PAc = the side shell area in square metres for each segregated ballast tank or space other than an oil tank based on projected moulded dimensions,

PAs = the bottom shell area in square metres for each such tank or space based on projected moulded dimensions,

Lt = length in metres between the forward and after extremities of the cargo tanks,

B = maximum breadth of the ship in metres as defined in Regulation 1(21) of this Annex,

D = moulded depth in metres measured vertically from the top of the keel to the top of the freeboard deck beam at side amidships. In ships having rounded gunwales, the moulded depth shall be measured to the point of intersection of the moulded lines of the deck and side shell plating, the lines extending as though the gunwale were of angular design,

J = 0.45 for oil tankers of 20,000 tons deadweight 0.03 for oil tankers of 200,000 tons deadweight and above, subject to the provisions of paragraph (3) of this Regulation.

For intermediate values of deadweight the value of J shall be determined by linear interpolation.

Whenever symbols given in this paragraph appear in this Regulation, they have the meaning as defined in this paragraph.

3. For tankers of 200,000 tons deadweight and above the value of J may be reduced as follows:

$J_{\text{reduced}} = [J \tilde{N} (a \tilde{N} O_c + O_s)]$ or $0.24 O_a$ whichever is greater where:

$a = 0.25$ for oil tankers of 200,000 tons deadweight

$a = 0.40$ for oil tankers of 300,000 tons deadweight

$a = 0.50$ for oil tankers of 420,000 tons deadweight and above,

For intermediate values of deadweight the a shall be determined by linear interpolation.

O_c = as defined in Regulation 23(1)(a) of this Annex,

O_s = as defined in Regulation 23(1)(b) of this Annex,

O_a = the allowable oil outflow as required by Regulation 24(2) of this Annex.

4. In the determination of P_{Ac} and PAs for segregated ballast tanks and spaces and other than oil tanks the following shall apply:

a) the minimum width of each wing tank or space either of which extends for the full depth of the ship's side or from the deck to the top of the double bottom shall be not less than 2 metres. The width shall be measured inboard from the ship's side at right angles to the centre line. Where a lesser width is provided the wing tank or space shall not be taken into account when calculating the protecting area P_{Ac} ; and

b) the minimum vertical depth of each double bottom tank or space shall be $B/15$ or 2 metres, whichever is the lesser. Where a lesser depth is provided the bottom tank or space shall not be taken into account when calculating the protecting area PAs .

The minimum width and depth of wing tanks and double bottom tanks shall be measured clear of the bilge area and, in the case of minimum width, shall be measured clear of any rounded gunwale area.

Regulation 14 No change

Regulation 15

In the existing text of this Regulation, delete reference to "(1973)" in relation to the International Oil Pollution Prevention Certificate.

Regulation 16 and 17 No change

Regulation 18 PUMPING, PIPING AND DISCHARGE ARRANGEMENTS OF OIL TANKERS

Paragraphs (1) to (4) No change

The following paragraphs are added to the existing text:

5. Every new oil tanker required to be provided with segregated ballast tanks, or fitted with a crude oil washing system shall comply with the following requirements:

a) it shall be equipped with oil piping so designed and installed such that oil retention in the lines is minimized; and

b) means shall be provided to drain all cargo pumps and all oil lines at the completion of cargo discharge, where necessary by connexion to a stripping device. The line and pump drainings shall be capable of being discharged both ashore and to a cargo tank or a slop tank. For discharge ashore a special small diameter line shall be provided for that purpose and connected outboard of the ship's manifold valves.

6. Every existing crude carrier required to be provided with segregated ballast tanks, or fitted with a crude oil washing system or operated with dedicated clean ballast tanks, shall comply with the provisions of paragraph (5)(b) of this Regulation.

Regulation 19 No change

Regulation 20

In the existing text of this Regulation, delete reference to "(1973)" in relation to the International Oil Pollution Prevention Certificate.

Regulation 21 to 25 No change

APPENDIX I List of Oils

No change

APPENDIX II FORM OF CERTIFICATE

The existing form of Certificate is replaced by the following form:

INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE

Issued under the provision of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, under the Authority of the Government of

.....
(full designation of the country)

by (full designation of the competent person or organization authorized under the provision of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973)

Name of Ship

Distinctive Number or Letters

Port of Registry

Gross Tonnage

Type of ship:

Crude oil tanker*

Product carrier*

Crude oil/product carrier*

Ship other than an oil tanker with cargo tanks coming under Regulation 2 (2) of Annex I of the Protocol*

Ship other than any of the above*

* Delete as appropriate

Date of building or major conversion contract Date on which keel was laid or ship was at a similar stage of construction or on which major conversion was commenced

Date of delivery or completion of major conversion

PART A ALL SHIPS

The ship is equipped with:

for ships of 400 tons gross tonnage and above:

a) oily-water separating equipment* (capable of producing effluent with an oil content not exceeding 100 parts per million)

b) an oil filtering system* (capable of producing effluent with an oil content not exceeding 100 parts per million)

* Delete as appropriate

for ships of 10,000 tons gross tonnage and above:

c) an oil discharge monitoring and control system* (additional) to (a) or (b) above) or

d) oily-water separating equipment and an oil filtering system* (capable of producing effluent with an content not exceeding 15 parts per million) in lieu of (a) or (b) above.

Particulars of requirements from which exemption is granted under Regulations 2 (2) and 2 (4) of Annex I of the Protocol:

.....

.....

Remarks:

Endorsement for existing ships (1)

(1) This entry need not be reproduced on a Certificate other than the first Certificate issued to any ship.

This is to certify that this ship has now been so equipped as to comply with the requirements of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, as relating to existing ships (2)

(2) The period after the entry into force of the Protocol within which oily-water separating equipment, oil discharge control systems, oil filtering systems and/or slop tank arrangements must be provided is set out in Regulations 13A(3), 15(1) and 16(4) of Annex I of the Protocol.

Signed (Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

PART B OIL TANKERS(3)

(3) This Part should be completed for oil tankers including combination carriers, and those entries which are applicable should be completed for ships other than oil tankers which are constructed and utilized to carry oil in bulk of an aggregate capacity of 200 cubic metres or above.

Carrying Capacity
of Ship (m²) Deadweight of Ship
(metric tons) Length of ship (m)

It is certified that this ship is constructed and equipped, and must operate, in accordance with the following:

1. This ship is:

a) required to be constructed to and complies with (4)

(4) Delete as appropriate.

b) not required to be constructed according to (4)

c) not required to be constructed according to, but complies with (4) the requirements of Regulation 24 of Annex I of the Protocol

2. The ship is:

a) required to be constructed according to and complies with (4)

b) not required to be constructed according to (4) the requirements of Regulation 13E of Annex I of the Protocol.

3. This ship is:

a) required to be provided with segregated ballast tanks according to, and complies with (4)

b) not required to be provided with segregated ballast tanks according to 4

c) not required to be provided with segregated ballast tanks according to, but complies with 4)

d) in accordance with Regulation 13C or 13D of Annex I of the Protocol, and as specified in Part C of this Certificate, exempted from (4) the requirements of Regulation 13 of Annex I of the Protocol.

e) fitted with a cargo tank cleaning system using crude oil washing in accordance with the provisions of Regulation 13B of Annex I of the Protocol, in lieu of being provided with segregated ballast tanks (4)

f) provided with dedicated clean ballast tanks in accordance with the provisions of Regulation 13A of Annex I of the Protocol, in lieu of being either provided with segregated ballast tanks or fitted with a cargo tank cleaning system using crude oil washing (4)

(4) Delete as appropriate.

4. This ship is:

a) required to be fitted with a cargo tank cleaning system using crude oil washing according to, and complies with*

* Delete as appropriate

b) not required to be fitted with a cargo tank cleaning system using crude oil washing according to* the requirements of Regulation 13(6) of Annex I of the Protocol.

Segregated ballast tanks**

** Delete if not applicable

The segregated ballast tanks are distributed as follows:

Tank	Volume (m ³)	Tank	Volume (m ³)
Dedicated Clean Ballast Tanks**			

This ship is operating with dedicated clean ballast tanks until (date)
in accordance with the requirements of Regulation 13A of Annex I of the Protocol. The dedicated clean ballast tanks are designated as follows:

Tank	Volume (m ³)	Tank	Volume (m ³)
Manual**			

This is to certify that this ship has been supplied with:

a) a valid Dedicated Clean Ballast Tank Operation Manual in accordance with Regulation 13A of Annex I of the Protocol*

* Delete as appropriate

b) a valid Operations and Equipment Manual for Crude Oil Washing in accordance with Regulation 13B of Annex I of the Protocol*

Identification of the valid Manual.....

Signed (Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

Identification of the valid Manual.....

Signed (Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

PART C EXEMPTIONS*

* Delete if not applicable

This is to certify that this ship is:

a) solely engaged in trade betweenand

in accordance with Regulation of 13C of Annex I of the Protocol**; or

** Delete as appropriate

b) operating with special ballast arrangements in accordance with Regulation 13D of Annex I of the Protocol** and is therefor exempted from the requirements of Regulation 13 of Annex I of the Protocol.

Signed (Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

THIS IS TO CERTIFY:

That the ship has been surveyed in accordance with Regulation 4 of Annex I of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, concerning the prevention of pollution by oil; and

that the survey shows that the structure, equipment, systems, fittings, arrangement and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex I of that Protocol.

This Certificate is valid until

subject to intermediate survey(s) at intervals of.....

Issued at..... (Place of issue of Certificate)

.....19.....

(signature of duly authorized official)

(Seal or stamp of the Authority, as appropriate)

Intermediate Survey

This is to certify that at an intermediate survey required by Regulation 4(1)(c) of Annex I of the Protocol 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, this ship and the condition thereof were found to comply with the relevant provisions of that Protocol.

Signed (Signature of duly authorized official)

Place

Date

Next intermediate survey due

(Seal or stamp of the Authority, as appropriate)

Signed (Signature of duly authorized official)

Place

Date

Next intermediate survey due

(Seal or stamp of the Authority, as appropriate)

Signed (Signature of duly authorized official)

Place

Date

Next intermediate survey due

(Seal or stamp of the Authority, as appropriate)

Signed (Signature of duly authorized official)

Place

Date

Next intermediate survey due

(Seal or stamp of the Authority, as appropriate)

APPENDIX III

Form of Oil Record Book

The following forms of Supplements to the Oil Record Book are added to the existing form:

Supplement I

FORM OF SUPPLEMENT TO OIL RECORD BOOK FOR OIL TANKERS OPERATED WITH DEDICATED CLEAN BALLAST TANKS*

* This Supplement should be attached to the Oil Record Book for oil tankers operating with dedicated clean ballast tanks in accordance with Regulation 13A of Annex I of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973. Other information as required should be entered in the Oil Record Book.

Name of ship

Distinctive number or letters

Total cargo carrying capacitycubic metres

Total dedicated clean ballast capacitycubic metres

The following tanks are designated as dedicated clean ballast tanks:

Tank	Volume (m ²)	Tank	Volume (m ²)
------	--------------------------	------	--------------------------

NOTE: The periods covered by the Supplement should be consistent with the periods covered by the Oil Record Book.

(A) Ballasting of dedicated clean ballast tanks

101. Identity of tank(s) ballasted

102. Date and position of ship when water intended for flushing, or port ballast was taken to dedicated clean ballast tank(s)

103. Date and position of ship when pump(s) and lines were flushed to slop tank

104. Date and position of ship when additional ballast water was taken to dedicated clean ballast tank(s)

105. Date, time and position of ship when (a) valves to slop tank, (b) valves to cargo tanks, (c) other valves affecting the clean ballast system were closed

106. Quantity of clean ballast taken on board

The undersigned certifies that, in addition to the above, all sea valves, cargo tanks and pipeline connexions and connexions between tanks or inter-tank connexions, were secured on the completion of ballasting tanks.

Date of entry Officer in charge

Master

(B) Discharge of clean ballast

107. Identity of tank(s)

108. Date, time and position of ship at start of discharge of clean ballast (a) to sea, or (b) into reception facility

109. Date, time and position of ship upon completion of discharge to sea

110. Quantity discharged (a) to sea, or (b) into reception facility

111. Was the ballast water checked for oil contamination before discharge?

112. Was the discharge monitored during discharge by an oil content meter?

113. Was there any indication of oil contamination of the ballast water before or during discharge?

114. Date and position of ship when pump and lines were flushed after loading

115. Date, time and position of ship when (a) valves to slop tank, (b) valves to cargo tanks, (c) other valves affecting the clean ballast system were closed

116. Quantity of polluted water transferred to slop tank(s). (Identity slop tank(s))

The undersigned certifies that, in addition to the above, all sea valves overboard discharge valves, cargo tank and pipeline connexions and connexions between tanks or inter-tank connexions, were secured on completion of discharge of clean ballast and that the pump(s) and pipes designated for clean ballast operations were properly cleaned upon completion of discharge of clean ballast.

Date of entry Officer in charge.....

Master

Supplement 2

FORM OF SUPPLEMENT TO OIL RECORD BOOK FOR CRUDE OIL TANKERS OPERATING WITH A CARGO TANK CLEANING PROCEDURE USING CRUDE OIL WASHING*

* This Supplement should be attached to the Oil Record Book for crude oil tankers operating with a cargo tank cleaning procedure using crude oil washing in accordance with Regulation 13B of Annex I of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and is intended to replace Section (e) of the Oil Record Book. Details of ballasting and deballasting and other information required should be entered in the Oil Record Book.

Name of ship

Distinctive number of letters

Total cargo carrying capacity cubic metres

Voyage from to
(Port(s)) (date) (Port(s)) (date)

NOTES: The periods covered by the supplement should be consistent with the periods covered by the Oil Record Book. The cargo tanks crude oil washed should be those laid down in the Operations and Equipment Manual required by Regulation 13B (5) (a) of the Protocol.

A separate column should be used for each tank washed or water rinsed.

(A) Crude oil washing

201. Date when and port where crude oil washing was carried out or ship's position if carried out between two discharge ports

202. Identity of tank(s) washed (see Note 1)

203. Number of machines in use

204. Commenced washing (a) date and time (b) ullage

205. Washing pattern employed (see Note 2)

206. Washing line pressure

207. Completed or stopped washing (a) date and time (b) ullage

208. Remarks

The tanks were washed in accordance with programmes given in the Operations and Equipment Manual (see Note 3) and confirmed dry on completion.

Date of entry Officer in charge.....

Master

Note 1 When an individual tank has more machines than can be operated simultaneously, as described in the Operations and Equipment Manual, then the section being crude oil washed should be identified, e.g. No. 2 centre, forward section.

Note 2 In accordance with the Operations and Equipment Manual, enter whether single-stage or multi-stage method of washing is employed. If multi-stage method is used, give the vertical arc covered by the machines and the number of times that arc is covered for that particular stage of the programme.

Note 3 If the programmes given in the Operations and Equipment Manual are not followed, then details must be given under Remarks.

(B) Water rinsing or flushing of tank bottom

209. Date and position of ship when rinsing or flushing was carried out

210. Identity of tank(s) and date

211. Volume of water used

212. Transferred to:

(a) reception facilities

(b) slop tank(s) (identify slop tank(s))

Date of entry Officer in charge.....

Master

Supplement 3

FORM OF SUPPLEMENT TO OIL RECORD BOOK FOR OIL TANKERS ENGAGED IN SPECIFIC TRADES*

* This Supplement should be attached to the Oil Record Book for crude oil tankers operating with a cargo tank cleaning procedure using crude oil washing in accordance with Regulation 13B of Annex I of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and is intended to replace Section (e) of the Oil Record Book. Details of ballasting and deballasting and other information required should be entered in the Oil Record Book.

Name of ship

Distinctive number or letters

Total cargo carrying capacitycubic metres

Total ballast water capacity required for compliance with Regulation 13(2) and (3) of Annex I of the Protocol
.....cubic metres

Voyages from to
(Port(s)) (Port(s))

NOTE: The periods covered by the Supplement should be consistent with the periods covered by the Oil Record Book.

(A) Loading of ballast water

301. Identity of tank(s) ballasted

302. Date and position of ship when ballasted

303. Total quantity of ballast loaded in cubic metres

304. Method of calculating ballast quantity

305. Remarks

306. Date and signature of officer in charge

307. Date and signature of Master

(B) Re-allocation of ballast water within the ship

308. Reason for re-allocation

309. Date and signature of officer in charge

310. Date and signature of Master

(C) Ballast water discharge to reception facility

- 311. Date and port(s) where ballast water was discharged
- 312. Name or designation of reception facility
- 313. Total quantity of ballast water discharged in cubic metres
- 314. Method of calculating ballasting quantity
- 315. Date and signature of officer in charge
- 316. Date and signature of Master
- 317. Date, signature and stamp of port authority official

* This Supplement should be attached to the Oil Record Book for oil tankers engaged in specific traders in accordance with Regulation 13C of Annex I of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and is intended to replace Sections (d), (f), (g) and (i) of the Oil Record Book. Other information required should be entered in the Oil Record Book.

ANNEXES II, III, IV AND V

No changes [to 1973 Convention].

ANNEX II

REGULATIONS FOR THE CONTROL OF POLLUTION BY NOXIOUS LIQUID SUBSTANCES IN BULK

Regulation 1 DEFINITIONS

For the purposes of this Annex:

- (1) "Chemical tanker" means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk and includes an "oil tanker" as defined in Annex I of the present Convention when carrying a cargo or part cargo of noxious liquid substances in bulk.
- (2) "Clean ballast" means ballast carried in a tank which, since it was last used to carry a cargo containing a substance in Category A, B, C or D has been thoroughly cleaned and the residues resulting therefrom have been discharged and the tank emptied in accordance with the appropriate requirements of this Annex.
- (3) "Segregated ballast" means ballast water introduced into a tank permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious liquid substances as variously defined in the Annexes of the present Convention, and which is completely separated from the cargo and oil fuel system.
- (4) "Nearest land" is as defined in Regulation 1(9) of Annex I of the present Convention.
- (5) "Liquid substances" are those having a vapour pressure not exceeding 2.8 kPa/cm² at a temperature of 37.8°C.
- (6) "Noxious liquid substance" means any substance designated in Appendix II to this Annex or provisionally assessed under the provisions of Regulation 3(4) as falling into Category A, B, C or D.
- (7) "Special area" means a sea area where for recognized technical reasons in relation to its oceanographic and ecological condition and to its peculiar transportation traffic the adoption of special mandatory methods for the prevention of sea pollution by noxious liquid substances is required.

Special areas shall be:

- (a) The Baltic Sea Area, and
- (b) The Black Sea Area.
- (8) "Baltic Sea Area" is as defined in Regulation 19(1)(b) of Annex I of the present Convention.
- (9) "Black Sea Area" is as defined in Regulation 10(1)(c) of Annex I of the present Convention.

Regulation 2 APPLICATION

- (1) Unless expressly provided otherwise the provisions of this Annex shall apply to all ships carrying noxious liquid substances in bulk.
- (2) Where a cargo subject to the provisions of Annex I of the present Convention is carried in a cargo space of a chemical tanker, the appropriate requirements of Annex I of the present Convention shall also apply.
- (3) Regulation 13 of this Annex shall apply only to ships carrying substances which are categorized for discharge control purposes in Category A, B or C.

Regulation 3 CATEGORIZATION AND LISTING OF NOXIOUS LIQUID SUBSTANCES

- (1) For the purpose of the Regulations of this Annex, except Regulation 13, noxious liquid substances shall be divided into four categories as follows:
 - (a) Category A
Noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations would present a major hazard to either marine resources or human health or cause serious harm to amenities or other legitimate uses of the sea and therefore justify the application of stringent anti-pollution measures.

(b) Category B

Noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations would present a hazard to either marine resources or human health or cause harm to amenities or other legitimate uses of the sea and therefore justify the application of special anti-pollution measures.

(c) Category C

Noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations would present a minor hazard to either marine resources or human health or cause minor harm to amenities or other legitimate uses of the sea and therefore require special operational conditions.

(d) Category D

Noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations would present a recognizable hazard to either marine resources or human health or cause minimal harm to amenities or other legitimate uses of the sea and therefore require some attention in operational conditions.

(2) Guidelines for use in the categorization of noxious liquid substances are given in Appendix I to this Annex.

(3) The list of noxious liquid substances carried in bulk and presently categorized which are subject to the provisions of this Annex is set out in Appendix II to this Annex.

(4) Where it is proposed to carry a liquid substance in bulk which has not been categorized under paragraph (1) of this Regulation or evaluated as referred to in Regulation 4(1) of this Annex, the Governments of Parties to the Convention involved in the proposed operation shall establish and agree on a provisional assessment for the proposed operation on the basis of the guidelines referred to in paragraph (2) of this Regulation. Until full agreement between the Governments involved has been reached, the substance shall be carried under the most severe conditions proposed. As soon as possible, but not later than ninety days after its first carriage, the Administration concerned shall notify the Organization and provide details of the substance and the provisional assessment for prompt circulation to all Parties for their information and consideration. The Government of each Party shall have a period of ninety days in which to forward its comments to the Organization, with a view to the assessment of the substance.

Regulation 4 OTHER LIQUID SUBSTANCES

(1) The substances listed in Appendix III to this Annex have been evaluated and found to fall outside the Categories A, B, C and D, as defined in Regulation 3(1) of this Annex because they are presently considered to present no harm to human health, marine resources, amenities or other legitimate uses of the sea, when discharged into the sea from tank cleaning or deballasting operations.

(2) The discharge of bilge or ballast water or other residues or mixtures containing only substances listed in Appendix III to this Annex shall not be subject to any requirement of this Annex.

(3) The discharge into the sea of clean ballast or segregated ballast shall not be subject to any requirement of this Annex.

Regulation 5 DISCHARGE OF NOXIOUS LIQUID SUBSTANCES

Categories A, B and C substances outside Special Areas and Category D substances in all Areas

Subject to the provisions of Regulation 6 of this Annex,

(1) The discharge into the sea of substances in Category A as defined in Regulation 3(1)(a) of this Annex or of those provisionally assessed as such or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited. If tanks containing such substances or mixtures are to be washed, the resulting residues shall be discharged to a reception facility until the concentration of the substance in the effluent to such facility is at or below the residual concentration prescribed for that substance in column III of Appendix II to this Annex and until the tank is empty. Provided that the residue then remaining in the tank is subsequently diluted by the addition of a volume of water of not less than 5 percent of the total volume of the tank, it may be discharged into the sea when all the following conditions are also satisfied:

(a) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

- (b) The discharge is made below the waterline, taking into account the location of the seawater intakes; and
- (c) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.
- (2) The discharge into the sea of substances in Category B as defined in Regulation 3(1)(b) of this Annex or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:
- (a) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;
- (b) The procedures and arrangements for discharge are approved by the Administration. Such procedures and arrangements shall be based upon standards developed by the Organization and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 1 part per million;
- (c) The maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in sub-paragraph (b) of this paragraph, which shall in no case exceed the greater of 1 cubic metre or 1/3,000 of the tank capacity in cubic metres;
- (d) The discharge is made below the waterline, taking into account the location of the seawater intakes; and
- (e) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.
- (3) The discharge into the sea of substances in Category C as defined in Regulation 3(1)(c) of this Annex or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:
- (a) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;
- (b) The procedures and arrangements for discharge are approved by the Administration. Such procedures and arrangements shall be based upon standards developed by the Organization and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 10 parts per million;
- (c) The maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in sub-paragraph (b) of this paragraph, which shall in no case exceed the greater of 3 cubic metres or 1/1,000 of the tank capacity in cubic metres;
- (d) The discharge is made below the waterline, taking into account the location of the seawater intakes; and
- (e) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.
- (4) The discharge into the sea of substances in Category D as defined in Regulation 3(1)(d) of this Annex, or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:
- (a) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;
- (b) Such mixtures are of a concentration not greater than one part of the substance in ten parts of water; and
- (c) The discharge is made at a distance of not less than 12 nautical miles from the nearest land.
- (5) Ventilation procedures approved by the Administration may be used to remove cargo residues from a tank. Such procedures shall be based upon standards developed by the Organization. If subsequent washing of the tank is necessary, the discharge into the sea of the resulting tank washings shall be made in accordance with paragraph (1), (2), (3) or (4) of this Regulation, whichever is applicable.

(6) The discharge into the sea of substances which have not been categorized, provisionally assessed, or evaluated as referred to in Regulation 4(1) of this Annex, or of ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited.

Categories A, B and C substances within Special Areas
Subject to the provisions of Regulation 6 of this Annex,

(7) The discharge into the sea of substances in Category A as defined in Regulation 3(1)(a) of this Annex or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited. If tanks containing such substances or mixtures are to be washed the resulting residues shall be discharged to a reception facility which the States bordering the special area shall provide in accordance with Regulation 7 of this Annex, until the concentration of the substance in the effluent to such facility is at or below the residual concentration prescribed for that substance in column IV of Appendix II to this Annex and until the tank is empty. Provided that the residue then remaining in the tank is subsequently diluted by the addition of a volume of water of not less than 5 percent of the total volume of the tank, it may be discharged into the sea when all the following conditions are also satisfied:

(a) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(b) The discharge is made below the waterline, taking into account the location of the seawater intakes; and

(c) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(8) The discharge into the sea of substances in Category B as defined in Regulation 3(1)(b) of this Annex or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:

(a) The tank has been washed after unloading with a volume of water of not less than 0.5 percent of the total volume of the tank, and the resulting residues have been discharged to a reception facility until the tank is empty;

(b) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(c) The procedures and arrangements for discharge and washings are approved by the Administration. Such procedures and arrangements shall be based upon standards developed by the Organization and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 1 part per million;

(d) The discharge is made below the waterline, taking into account the location of the seawater intakes; and

(e) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(9) The discharge into the sea of substances in Category C as defined in Regulation 3(1)(c) of this Annex or of those provisionally assessed as such, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when all the following conditions are satisfied:

(a) The ship is proceeding en route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of ships which are not self-propelled;

(b) The procedures and arrangements for discharge are approved by the Administration. Such procedures and arrangements shall be based upon standards developed by the Organization and shall ensure that the concentration and rate of discharge of the effluent is such that the concentration of the substance in the wake astern of the ship does not exceed 1 part per million;

(c) The maximum quantity of cargo discharged from each tank and its associated piping system does not exceed the maximum quantity approved in accordance with the procedures referred to in sub-paragraph (b) of this paragraph which shall in no case exceed the greater of 1 cubic metre or 1/3,000 of the tank capacity in cubic metres;

(d) The discharge is made below the waterline, taking into account the location of the seawater intakes; and

(e) The discharge is made at a distance of not less than 12 nautical miles from the nearest land and in a depth of water of not less than 25 metres.

(10) Ventilation procedures approved by the Administration may be used to remove cargo residues from a tank. Such procedures shall be based upon standards developed by the Organization. If subsequent washing of the tank is necessary, the discharge into the sea of the resulting tank washings shall be made in accordance with paragraph (7), (8) or (9) of this Regulation, whichever is applicable.

(11) The discharge into the sea of substances which have not been categorized, provisionally assessed or evaluated as referred to in Regulation 4(1) of this Annex, or of ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited.

(12) Nothing in this Regulation shall prohibit a ship from retaining on board the residues from a Category B or C cargo and discharging such residues into the sea outside a special area in accordance with paragraph (2) or (3) of this Regulation, respectively.

(13) (a) The Governments of Parties to the Convention, the coastlines of which border on any given special area, shall collectively agree and establish a date by which time the requirement of Regulation 7(1) of this Annex will be fulfilled and from which the requirements of paragraphs (7), (8), (9) and (10) of this Regulation in respect of that area shall take effect and notify the Organization of the date so established at least six months in advance of that date. The Organization shall then promptly notify all Parties of that date.

(b) If the date of entry into force of the present Convention is earlier than the date established in accordance with subparagraph (a) of this paragraph, the requirements of paragraphs (1), (2) and (3) of this Regulation shall apply during the interim period.

Regulation 6 EXCEPTIONS

Regulation 5 of this Annex shall not apply to:

(a) The discharge into the sea of noxious liquid substances or mixtures containing such substances necessary for the purpose of securing the safety of a ship or saving life at sea; or

(b) The discharge into the sea of noxious liquid substances or mixtures containing such substances resulting from damage to a ship or its equipment:

(i) Provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimizing the discharge; and

(ii) Except if the owner or the Master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or

(c) The discharge into the sea of noxious liquid substances or mixtures containing such substances, approved by the Administration, when being used for the purpose of combating specific pollution incidents in order to minimize the damage from pollution. Any such discharge shall be subject to the approval of any Government in whose jurisdiction it is contemplated the discharge will occur.

Regulation 7 RECEPTION FACILITIES

(1) The Government of each Party to the Convention undertakes to ensure the provision of reception facilities according to the needs of ships using its ports, terminals or repair ports as follows:

(a) Cargo loading and unloading ports and terminals shall have facilities adequate for reception without undue delay to ships of such residues and mixtures containing noxious liquid substances as would remain for disposal from ships carrying them as a consequence of the application of this Annex; and

(b) Ship repair ports undertaking repairs to chemical tankers shall have facilities adequate for the reception of residues and mixtures containing noxious liquid substances.

(2) The Government of each Party shall determine the types of facilities provided for the purpose of paragraph (1) of this Regulation at each cargo loading and unloading port, terminal and ship repair port in its territories and notify the Organization thereof.

(3) Each Party shall notify the Organization, for transmission to the Parties concerned, of any case where facilities required under paragraph (1) of this Regulation are alleged to be inadequate.

Regulation 8 MEASURES OF CONTROL

(1) The Government of each Party to the Convention shall appoint or authorize surveyors for the purpose of implementing this Regulation.

Category A substances in all Areas

(2)

(a) If a tank is partially unloaded or unloaded but not cleaned, an appropriate entry shall be made in the Cargo Record Book.

(b) Until that tank is cleaned every subsequent pumping or transfer operation carried out in connexion with that tank shall also be entered in the Cargo Record Book.

(3) If the tank is to be washed:

(a) The effluent from the tank washing operation shall be discharged from the ship to a reception facility at least until the concentration of the substance in the discharge, as indicated by analyses of samples of the effluent taken by the surveyor, has fallen to the residual concentration specified for that substance in Appendix II to this Annex. When the required residual concentration has been achieved, remaining tank washings shall continue to be discharged to the reception facility until the tank is empty. Appropriate entries of these operations shall be made in the Cargo Record Book and certified by the surveyor; and

(b) After diluting the residue then remaining in the tank with at least 5 percent of the tank capacity of water, this mixture may be discharged into the sea in accordance with the provisions of sub-paragraphs (1)(a), (b) and (c) or 7(a), (b) and (c), whichever is applicable, of Regulation 5 of this Annex. Appropriate entries of these operations shall be made in the Cargo Record Book.

(4) Where the Government of the receiving Party is satisfied that it is impracticable to measure the concentration of the substance in the effluent without causing undue delay to the ship, that Party may accept an alternative procedure as being equivalent to sub-paragraph (3)(a) provided that:

(a) A precleaning procedure for that tank and that substance, based on standards developed by the Organization, is approved by the Administration and that Party is satisfied that such procedure will fulfil the requirements of paragraph (1) or (7), whichever is applicable, of Regulation 5 of this Annex with respect to the attainment of the prescribed residual concentrations;

(b) A surveyor duly authorized by that Party shall certify in the Cargo Record Book that:

(i) The tank, its pump and piping system have been emptied, and that the quantity of cargo remaining in the tank is at or below the quantity on which the approved precleaning procedure referred to in sub-paragraph (ii) of this paragraph has been based;

(ii) Precleaning has been carried out in accordance with the precleaning procedure approved by the Administration for that tank and that substance; and

(iii) The tank washings resulting from such precleaning have been discharged to a reception facility and the tank is empty;

(c) The discharge into the sea of any remaining residues shall be in accordance with the provisions of paragraph (3)(b) of this Regulation and an appropriate entry is made in the Cargo Record Book.

Category B substances outside Special Areas and Category C substances in all Areas

(5) Subject to such surveillance and approval by the authorized or appointed surveyor as may be deemed necessary by the Government of the Party, the Master of a ship shall, with respect to a Category B substance outside special areas or a Category C substance in all areas, ensure compliance with the following:

(a) If a tank is partially unloaded or unloaded but not cleaned, an appropriate entry shall be made in the Cargo Record Book.

(b) If the tank is to be cleaned at sea:

- (i) The cargo piping system serving that tank shall be drained and an appropriate entry made in the Cargo Record Book;
- (ii) The quantity of substance remaining in the tank shall not exceed the maximum quantity which may be discharged into the sea for that substance under Regulation 5(2)(c) of this Annex outside special areas in the case of Category B substances, or under Regulations 5(3)(c) and 5(9)(c) outside and within special areas respectively in the case of Category C substances. An appropriate entry shall be made in the Cargo Record Book;
- (iii) Where it is intended to discharge the quantity of substance remaining into the sea the approved procedures shall be complied with, and the necessary dilution of the substance satisfactory for such a discharge shall be achieved. An appropriate entry shall be made in the Cargo Record Book; or
- (iv) Where the tank washings are not discharged into the sea, if any internal transfer of tank washings takes place from that tank an appropriate entry shall be made in the Cargo Record Book; and
- (v) Any subsequent discharge into the sea of such tank washings shall be made in accordance with the requirements of Regulation 5 of this Annex for the appropriate area and Category of substance involved.

(c) If the tank is to be cleaned in port:

- (i) The tank washings shall be discharged to a reception facility and an appropriate entry shall be made in the Cargo Record Book; or
 - (ii) The tank washings shall be retained on board the ship and an appropriate entry shall be made in the Cargo Record Book indicating the location and disposition of the tank washings.
- (d) If after unloading a Category C substance within a special area, any residues or tank washings are to be retained on board until the ship is outside the special area, the Master shall so indicate by an appropriate entry in the Cargo Record Book and in this case the procedures set out in Regulation 5(3) of this Annex shall be applicable.

Category B substances within Special Areas

(6) Subject to such surveillance and approval by the authorized or appointed surveyor as may be deemed necessary by the Government of the Party, the Master of a ship shall, with respect to a Category B substance within a special area, ensure compliance with the following:

- (a) If a tank is partially unloaded or unloaded but not cleaned, an appropriate entry shall be made in the Cargo Record Book.
- (b) Until that tank is cleaned every subsequent pumping or transfer operation carried out in connexion with that tank shall also be entered in the Cargo Record Book.
- (c) If the tank is to be washed, the effluent from the tank washing operation, which shall contain a volume of water not less than 0.5 percent of the total volume of the tank, shall be discharged from the ship to a reception facility until the tank, its pump and piping system are empty. An appropriate entry shall be made in the Cargo Record Book.
- (d) If the tank is to be further cleaned and emptied at sea, the Master shall:
 - (i) Ensure that the approved procedures referred to in Regulation 5(8)(c) of this Annex are complied with and that the appropriate entries are made in the Cargo Record Book; and
 - (ii) Ensure that any discharge into the sea is made in accordance with the requirements of Regulation 5(8) of this Annex and an appropriate entry is made in the Cargo Record Book.
- (e) If after unloading a Category B substance within a special area, any residues or tank washings are to be retained on board until the ship is outside the special area, the Master shall so indicate by an appropriate entry in the Cargo

Record Book and in this case the procedures set out in Regulation 5(2) of this Annex shall be applicable.

Category D substances in all Areas

(7) The Master of a ship shall, with respect to a Category D substance, ensure compliance with the following:

(a) If a tank is partially unloaded or unloaded but not cleaned, an appropriate entry shall be made in the Cargo Record Book.

(b) If the tank is to be cleaned at sea:

(i) The cargo piping system serving that tank shall be drained and an appropriate entry made in the Cargo Record Book;

(ii) Where it is intended to discharge the quantity of substance remaining into the sea, the necessary dilution of the substance satisfactory for such a discharge shall be achieved. An appropriate entry shall be made in the Cargo Record Book; or

(iii) Where the tank washings are not discharged into the sea, if any internal transfer of tank washings takes place from that tank an appropriate entry shall be made in the Cargo Record Book; and

(iv) Any subsequent discharge into the sea of such tank washings shall be made in accordance with the requirements of Regulation 5(4) of this Annex.

(c) If the tank is to be cleaned in port:

(i) The tank washings shall be discharged to a reception facility and an appropriate entry shall be made in the Cargo Record Book; or

(ii) The tank washings shall be retained on board the ship and an appropriate entry shall be made in the Cargo Record Book indicating the location and disposition of the tank washings.

Discharge from a slop tank

(8) Any residues retained on board in a slop tank, including those from pump room bilges, which contain a Category A substance, or within a special area either a Category A or a Category B substance, shall be discharged to a reception facility in accordance with the provisions of Regulation 5(1), (7) or (8) of this Annex, whichever is applicable. An appropriate entry shall be made in the Cargo Record Book.

(9) Any residues retained on board in a slop tank, including those from pump room bilges, which contain a quantity of a Category B substance outside a special area or a Category C substance in all areas in excess of the aggregate of the maximum quantities specified in Regulation 5(2)(c), (3)(c) or (9)(c) of this Annex, whichever is applicable, shall be discharged to a reception facility. An appropriate entry shall be made in the Cargo Record Book.

Regulation 9 CARGO RECORD BOOK

(1) Every ship to which this Annex applies shall be provided with a Cargo Record Book, whether as part of the ship's official log book or otherwise, in the form specified in Appendix IV to this Annex.

(2) The Cargo Record Book shall be completed, on a tank-to-tank basis, whenever any of the following operations with respect to a noxious liquid substance take place in the ship:

(i) Loading of cargo;

(ii) Unloading of cargo;

(iii) Transfer of cargo;

(iv) Transfer of cargo, cargo residues or mixtures containing cargo to a slop tank;

(v) Cleaning of cargo tanks;

(vi) Transfer from slop tanks;

(vii) Ballasting of cargo tanks;

(viii) Transfer of dirty ballast water;

(ix) Discharge into the sea in accordance with Regulation 5 of this Annex.

(3) In the event of any discharge of the kind referred to in Article [8] of the present Convention and Regulation 6 of this Annex of any noxious liquid substance or mixture containing such substance, whether intentional or accidental, an entry shall be made in the Cargo Record Book stating the circumstances of, and the reason for, the discharge.

(4) When a surveyor appointed or authorized by the Government of the Party to supervise any operations under this Annex has inspected a ship, then that surveyor shall make an appropriate entry in the Cargo Record Book.

(5) Each operation referred to in paragraphs (2) and (3) of this Regulation shall be fully recorded without delay in the Cargo Record Book so that all the entries in the Book appropriate to that operation are completed. Each entry shall be signed by the officer or officers in charge of the operation concerned and, when the ship is manned, each page shall be signed by the Master of the ship. The entries in the Cargo Record Book shall be in an official language of the State whose flag the ship is entitled to fly, and, for ships holding an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) in English or French. The entries in an official national language of the State whose flag the ship is entitled to fly shall prevail in case of a dispute or discrepancy.

(6) The Cargo Record Book shall be kept in such a place as to be readily available for inspection and, except in the case of unmanned ships under tow, shall be kept on board the ship. It shall be retained for a period of two years after the last entry has been made.

(7) The competent authority of the Government of a Party may inspect the Cargo Record Book on board any ship to which this Annex applies while the ship is in its port, and may make a copy of any entry in that book and may require the Master of the ship to certify that the copy is a true copy of such entry. Any copy so made which has been certified by the Master of the ship as a true copy of an entry in the ship's Cargo Record Book shall be made admissible in any judicial proceedings as evidence of the facts stated in the entry. The inspection of a Cargo Record Book and the taking of a certified copy by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

Regulation 10 SURVEYS

(1) Ships which are subject to the provisions of this Annex and which carry noxious liquid substances in bulk shall be surveyed as follows:

(a) An initial survey before a ship is put into service or before the certificate required by Regulation 11 of this Annex is issued for the first time, which shall include a complete inspection of its structure, equipment, fittings, arrangements and material in so far as the ship is covered by this Annex. The survey shall be such as to ensure full compliance with the applicable requirements of this Annex.

(b) Periodical surveys at intervals specified by the Administration which shall not exceed five years and which shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex. However, where the duration of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) is extended as specified in Regulation 12(2) or (4) of this Annex, the interval of the periodical survey may be extended correspondingly.

(c) Intermediate surveys at intervals specified by the Administration which shall not exceed thirty months and which shall be such as to ensure that the equipment and associated pump and piping systems, fully comply with the applicable requirements of this Annex and are in good working order. The survey shall be endorsed on the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) issued under Regulation 11 of this Annex.

(2) Surveys of a ship with respect to the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it. In every case the Administration concerned shall fully guarantee the completeness and efficiency of the surveys.

(3) After any survey of a ship under this Regulation has been completed, no significant change shall be made in the structure, equipment, fittings, arrangements or material, covered by the survey without the sanction of the Administration, except the direct replacement of such equipment and fittings for the purpose of repair or maintenance.

Regulation 11 **ISSUE OF CERTIFICATE**

(1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) shall be issued to any ship carrying noxious liquid substances which is engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention after survey of such ship in accordance with the provisions of Regulation 10 of this Annex.

(2) Such Certificate shall be issued either by the Administration or by a person or organization duly authorized by it. In every case the Administration shall assume full responsibility for the Certificate.

(3)

(a) The Government of a Party may, at the request of the Administration, cause a ship to be surveyed and if satisfied that the provisions of this Annex are complied with shall issue or authorize the issue of a Certificate to the ship in accordance with this Annex.

(b) A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

(c) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and shall have the same force and receive the same recognition as a certificate issued under paragraph (1) of this Regulation.

(d) No International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) shall be issued to any ship which is entitled to fly the flag of a State which is not a Party.

(4) The Certificate shall be drawn up in an official language of the issuing country in a form corresponding to the model given in Appendix V to this Annex. If the language used is neither English nor French, the text shall include a translation into one of these languages.

Regulation 12 **DURATION OF CERTIFICATE**

(1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (1973) shall be issued for a period specified by the Administration, which shall not exceed five years from the date of issue, except as provided in paragraphs (2) and (4) of this Regulation.

(2) If a ship at the time when the Certificate expires is not in a port or offshore terminal under the jurisdiction of the Party to the Convention whose flag the ship is entitled to fly, the Certificate may be extended by the Administration, but such extension shall be granted only for the purpose of allowing the ship to complete its voyage to the State whose flag the ship is entitled to fly or in which it is to be surveyed and then only in cases where it appears proper and reasonable to do so.

(3) No Certificate shall be thus extended for a period longer than five months and a ship to which such extension is granted shall not on its arrival in the State whose flag it is entitled to fly or the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port or State without having obtained a new Certificate.

(4) A Certificate which has not been extended under the provisions of paragraph (2) of this Regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it.

(5) A Certificate shall cease to be valid if significant alterations have taken place in the structure, equipment, fittings, arrangements and material required by this Annex without the sanction of the Administration, except the direct replacement of such equipment or fitting for the purpose of repair or maintenance or if intermediate surveys as specified by the Administration under Regulation 10(1)(c) of this Annex are not carried out.

(6) A Certificate issued to a ship shall cease to be valid upon transfer of such a ship to the flag of another State, except as provided in paragraph (7) of this Regulation.

(7) Upon transfer of a ship to the flag of another Party, the Certificate shall remain in force for a period not exceeding five months provided that it would not have expired before the end of that period, or until the Administration issues a replacement Certificate, whichever is earlier. As soon as possible after the transfer has taken place the Government of the Party whose flag the ship was formerly entitled to fly shall transmit to the Administration a copy of the Certificate carried by the ship before the transfer and, if available, a copy of the relevant survey report.

Regulation 13 REQUIREMENTS FOR MINIMIZING ACCIDENTAL POLLUTION

- (1) The design, construction, equipment and operation of ships carrying noxious liquid substances in bulk which are subject to the provisions of this Annex shall be such as to minimize the uncontrolled discharge into the sea of such substances.
- (2) Pursuant to the provisions of paragraph (1) of this Regulation, the Government of each Party shall issue, or cause to be issued, detailed requirements on the design, construction, equipment and operation of such ships.
- (3) In respect of chemical tankers, the requirements referred to in paragraph (2) of this Regulation shall contain at least all the provisions given in the Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk adopted by the Assembly of the Organization in Resolution A.212(VII) and as may be amended by the Organization, provided that the amendments to that Code are adopted and brought into force in accordance with the provisions of Article 16 of the present Convention for amendment procedures to an Appendix to an Annex.

APPENDIX I
GUIDELINES FOR THE CATEGORIZATION OF NOXIOUS LIQUID SUBSTANCES

Category A

Substances which are bioaccumulated and liable to produce a hazard to aquatic life or human health; or which are highly toxic to aquatic life (as expressed by a Hazard Rating 4, defined by a TLm less than 1 ppm); and additionally certain substances which are moderately toxic to aquatic life (as expressed by a Hazard Rating 3, defined by a TLm of 1 or more, but less than 10 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category B

Substances which are bioaccumulated with a short retention of the order of one week or less; or which are liable to produce tainting of the sea food; or which are moderately toxic to aquatic life (as expressed by a Hazard Rating 3, defined by a TLm of 1 ppm or more, but less than 10 ppm); and additionally certain substances which are slightly toxic to aquatic life (as expressed by a Hazard Rating 2, defined by a TLm of 10 ppm or more, but less than 100 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category C

Substances which are slightly toxic to aquatic life (as expressed by a Hazard Rating 2, defined by a TLm of 10 or more, but less than 100 ppm); and additionally certain substances which are practically non-toxic to aquatic life (as expressed by a Hazard Rating 1, defined by a TLm of 100 ppm or more, but less than 1,000 ppm) when particular weight is given to additional factors in the hazard profile or to special characteristics of the substance.

Category D

Substances which are practically non-toxic to aquatic life, (as expressed by a Hazard Rating 1, defined by a TLm of 100 ppm or more, but less than 1,000 ppm); or causing deposits blanketing the seafloor with a high biochemical oxygen demand (BOD); or highly hazardous to human health, with an LD50 of less than 5 mg/kg; or produce moderate reduction of amenities because of persistency, smell or poisonous or irritant characteristics, possibly interfering with use of beaches; or moderately hazardous to human health, with an LD50 of 5 mg/kg or more, but less than 50 mg/kg and produce slight reduction of amenities.

Other liquid substances (for the purposes of Regulation 4 of this Annex)

Substances other than those categorized in Categories A, B, C and D above.

APPENDIX II LIST OF NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK

Substance	UN Number	Pollution Category for operational discharge (Regulation 3 of Annex II)	Residual Concentration (% by weight) (Regulation 5(1) of Annex II) (Regulation 5(7) of Annex II)	Outside special areas Within special areas
	I	II	III	IV

Acetaldehyde	1089	C		
Acetic acid	1842	C		
Acetic anhydride.....	1715	C		
Acetone	1090	D		
Acetone cyanohydrin	1541	A	0.1	0.05
Acetyl chloride	1717	C		
Acrolein	1092	A	0.1	0.05
Acrylic acid*.....	-	C		
Acrylonitrile.....	1093	B		
Adiponitrile	-	D		
Alkylbenzene sulfonate... (straight chain)	-	C		
(branched chain)	-	B		
Allyl alcohol	1098	B		
Allyl chloride.....	1100	C		
Alum (15% solution)	-	D		
Aminoethylethanolamine - (Hydroxyethyl-ethylenediamine)*		D		
Ammonia (28% aqueous)...	1005	B		
iso-Amyl acetate	1104	C		
n-Amyl acetate.....	1104	C		
n-Amyl alcohol.....	-	D		
Aniline.....	1547	C		
Benzene	1114	C		
Benzyl alcohol	-	D		
Benzyl chloride	1738	B		
n-Butyl acetate	1123	D		
sec-Butyl acetate	1124	D		
n-Butyl acrylate.....	-	D		
Butyl butyrate*.....	-	B		
Butylene glycol(s).....	-	D		
Butyl methacrylate.....	-	D		
n-Butyraldehyde	1129	B		
Butyric acid.....	-	B		
Calcium hydroxide (solution) .-		D		
Camphor oil.....	1130	B		
Carbon disulphide	1131	A	0.1	0.005
Carbon tetrachloride	1846	B		
Caustic potash- (Potassium hydroxide)....	1814	C		
Chloroacetic acid	1750	C		
Chloroform.....	1888	B		
Chlorohydrins (crude)* ..	-	D		
Chloroprene*.....	1991	C		
Chlorosulphonic acid.....	1754	C		
para-Chlorotoluene	-	B		
Citric acid (10N25%).....	-	D		
Creosote	1334	A	0.1	0.05

Substance	I	II	III	IV
Cresols	2076	A	0.1	0.05
Cresylic acid	2022	A	0.1	0.05
Crotonaldehyde.....	1143	B		
Cumene	1918	C		
Cyclohexane	1145	C		
Cyclohexanol	-	D		
Cyclohexanone	1915	D		
Cyclohexylamine*	-	D		
para-Cymene (Isopropyltoluene)*	2046	D		
Decahydronaphthalene ..	1147	D		
Decane*	-	D		
Diacetone alcohol*	1148	D		
Dibenzyl ether*	-	C		
Dichlorobenzenes	1591	A	0.1	0.05
Dichloroethyl ether	1916	B		
Dichloropropene Ñ Dichloropropane mixture (D D. Soil fumigant)	2047	B		
Diethylamine	1154	C		
Diethylbenzene (mixed isomers).....	2049	C		
Diethyl ether.....	1155	D		
Diethylene triamine*	2079	C		
Diethylene glycol monocthyl ether..		C		
Diethylketone (3-Pentanone).....	1156	D		
Diisobutylene*	2050	D		
Diisobutyl ketone	1157	D		
Diisopropanolamine	-	C		
Diisopropylamine	1158	C		
Diisopropyl ether*	1159	D		
Dimethylamine (40% aqueous)	1160	C		
Dimethylethanolamine (2-Dimethylamino-ethanol)*	2051	C		
Dimethylformamide	-	D		
1, 4-Dioxane*	1165	C		
Diphenyl/Diphenyloxide mixtures* ..	-	D		
Dodecylbenzene	-	D		
Epichlorohydrin	2023	B		
2-Ethoxyethyl acetate* ...	1172	D		
Ethyl acetate	1173	D		
Ethyl acrylate.....	1917	D		
Ethyl amyl ketone*	-	C		
Ethylbenzene	1175	C		
Ethyl cyclohexane	-	D		
Ethylene chlorohydrin (2-Chloro-ethanol)	1135	D		
Ethylene cyanohydrin*	-	D		
Ethylenediamine	1604	C		
Ethylene dibromide	1605	B		
Ethylene dichloride	1184	B		
Ethylene glycol monethyl ether (Methyl cello-solve)	1171	D		
2-Ethylhexyl acrylate* ...	-	D		

Substance	I	II	III	V
2-Ethylhexyl alcohol.....	-	C		
Ethyl lactate*	1192	D		
2-Ethyl 3-propylacrolein*. -		B		
Formaldehyde (37% solution)	1198	C		
Formic acid.....	1779	D		
Furfuryl alcohol.....	-	C		
Heptanoic acid* :.....	-	D		
Hexamethylenediamine*	1783	C		
Hydrochloric acid.....	1789	D		
Hydrofluoric acid (40% aqueous)	1790	B		
Hydrogen peroxide (greater than 60%).	2015	C		
Isobutyl acrylate.....	-	D		
Isobutyl alcohol	1212	D		
Isobutyl methacrylate	-	D		
Isobutyraldehyde	2045	C		
Isooctane*	-	D		
Isopentane	-	D		
Isophorone.....	-	D		
Isopropylamine	1221	C		
Isopropyl cyclohexane.....	-	D		
Isoprene	1218	D		
Lactic acid	-	D		
Nesityl oxide*	1229	C		
Methyl acetate	1231	D		
Methyl acrylate	1919	C		
Methylamyl alcohol	-	D		
Methylene Chloride	1593	B		
2-Methyl-5-Ethylpyridine* .	-	B		
Methyl methacrylate.....	1247	D		
2-Methylpentene*	-	D		
alpha-Methylstyrene*	-	D		
Monochlorobenzene	1134	B		
Monoethanolamine	-	D		
Monoisopropanolamine	-	C		
Monomethyl ethanolamine ...	-	C		
Mononitrobenzene	-	C		
Monoisopropylamine	-	C		
Morpholine*	2054	C		
Naphthalene (molten)	1334	A	0.1	0.05
Naphthenic acids*	-	A	0.1	0.05.
Nitric acid (90%)	2031/2032	C		
2-Nitropropane	-	D		
ortho-Nitrotoluene	1664	C		
Nonyl alcohol*	-	C		
Nonylphenol	-	C		
n-Octanol	-	C		
Oleum	1831	C		
Oxalic acid ((10% solution)	-	D		
Pentachloroethane	1669	B		
n-Pentane	1265	C		
Perchloroethylene (Tetrachloroethylene).	1897	B		
Phenol	1671	B		
Phosphoric acid	1805	D		
Phosphorus (elemental)	1338	A	0.1	0.005
Phthalic Anhydride (molten)	-	C		

Substance	I	II	III	IV
beta-Propiolactone*	-	B		
Propionaldehyde	1275	D		
Propionic acid.....	1848	D		
Propionic anhydride.	-	D		
n-Propyl acetate*	1276	C		
n-Propyl alcohol.....	1274	D		
n-Propylamine	1277	C		
Pyridine	1282	B		
Silicon tetrachloride	1818	D		
Sodium bichromate (solution)	-	C		
Sodium hydroxide	1824	C		
Sodium pentachlorophenate(solution) ..	-	A	0.1	0.05
Styrene monomer.....	2055	C		
Sulphuric acid.....	1830/1831/1832	C		
Tallow	-	D		
Tetraethyl Lead	1649	A	0.1	0.05
Tetrahydrofuran	2056	D		
Tetrahydronaphthalene	1540	C		
Tetramethylbenzene	-	D		
Tetramethyl Lead	1649	A	0.1	0.05
Titanium tetrachloride ...	1838	D		
Toluene	1294	C		
Toluene diisocyanate*	2078	B		
Trichloroethane	-	C		
Trichloroethylene	1710	B		
Triethanolamine	-	D		
Triethylamine	1296	C		
Trimethylbenzene*	-	C		
Tritoly phosphate(Tricresyl phosphate)*	-	B		
Turpentine (wood)	1299	B		
Vinyl acetate	1301	C		
Vinylidene chloride*	1303	B		
Xylenes (mixed isomers) ...	1307	C		

* Asterisk indicates that the substance has been provisionally included in this list and that further data are necessary in order to complete the evaluation of its environmental hazards, particularly in relation to living resources. [Footnote appeared in original text.]

APPENDIX III
LIST OF OTHER LIQUID SUBSTANCES CARRIED IN BULK

Acetonitrile (methyl cyanide)
tert-Amyl alcohol
n-Butyl alcohol
Butyrolactone
Calcium chloride (solution)
Castor oil
Citric juices
Coconut oil
Cod liver oil
iso-Decyl alcohol
n-Decyl alcohol
Decyl octyl alcohol
Dibutyl ether
Diethanolamine
Diethylene glycol
Dipentene
Dipropylene glycol
Ethyl alcohol
Ethylene glycol
Fatty alcohols (C12-C20)
Glycerine
n-Heptane
Heptene (mixed isomers)
n-Hexane
Ligroin
Methyl alcohol
Methylamyl acetate
Methyl ethyl ketone (2-butanone)
Milk
Molasses
Olive oil
Polypropylene glycol
iso-Propyl acetate
iso-Propyl alcohol
Propylene glycol
Propylene oxide
Propylene tetramer
Propylene trimer
Sorbitol
Sulphur (liquid)
Tridecanol
Triethylene glycol
Triethylenetetramine
Tripropylene glycol
Water
Wine

APPENDIX IV
CARGO RECORD BOOK FOR SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK

Name of ship

Cargo carrying capacity of each tank in cubic metres

Voyage from to

(a) Loading of cargo

1. Date and place of loading
2. Name and category of cargo(es) loaded
3. Identity of tank(s) loaded

(b) Transfer of cargo

4. Date of transfer
5. Identity of tank(s) (i) From
(ii) To
6. Was(were) tank(s) in 5(i) emptied?
7. If not, quantity remaining

(c) Unloading of cargo

8. Date and place of unloading
9. Identity of tank(s) unloaded
10. Was(were) tank(s) emptied?
11. If not, quantity remaining in tank(s)
12. Is(are) tank(s) to be cleaned?
13. Amount transferred to slop tank
14. Identity of slop tank

(d) Ballasting of cargo tanks

15. Identity of tank(s) ballasted
16. Date and position of ship at start of ballasting

(e) Cleaning of cargo tanks

Category A substances

17. Identity of tank(s) cleaned
18. Date and location of cleaning
19. Method(s) of cleaning
20. Location of reception facility used
21. Concentration of effluent when discharge to reception facility stopped
22. Quantity remaining in tank
23. Procedure and amount of water introduced into tank in final cleaning
24. Location, date of discharge into sea
25. Procedure and equipment used in discharge into the sea

Category B, C and D substances

26. Washing procedure used
27. Quantity of water used
28. Date, location of discharge into sea
29. Procedure and equipment used in discharge into the sea

(f) Transfer of dirty ballast water

30. Identity of tank(s)
31. Date and position of ship at start of discharge into sea
32. Date and position of ship at finish of discharge into sea
33. Ship's speed(s) during discharge
34. Quantity discharged into sea
35. Quantity of polluted water transferred to slop tank(s) (identify slop tank(s))
36. Date and port of discharge to shore reception facilities (if applicable)

(g) Transfer from slop tank/disposal of residue

37. Identity of slop tank(s)

38. Quantity disposed from each tank
39. Method of disposal of residue:
- (a) Reception facilities
 - (b) Mixed with cargo
 - (c) Transferred to another (other) tank(s) (identify tank(s))
 - (d) Other method
40. Date and port of disposal of residue
- (h) Accidental or other exceptional discharge
41. Date and time of occurrence
42. Place or position of ship at time of occurrence
43. Approximate quantity, name and category of substance
44. Circumstances of discharge or escape and general remarks.
- Signature of Master

APPENDIX V
FORM OF CERTIFICATE

**INTERNATIONAL POLLUTION PREVENTION CERTIFICATE FOR THE CARRIAGE OF NOXIOUS LIQUID
SUBSTANCES IN BULK (1973)**

(Note: This Certificate shall be supplemented in the case of a chemical tanker by the certificate required pursuant to the provisions of Regulation 13(3) of Annex II of the Convention)

(Official Seal)

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, under the authority of the Government of _____

(full official designation of the country)

by _____

(full official designation of the competent person or organization authorized under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973)

Name of ship	Distinctive number or letter	Port of registry	Gross tonnage

THIS IS TO CERTIFY:

1. That the ship has been surveyed in accordance with the provisions of Regulation 10 of Annex II of the Convention.
2. That the survey showed that the design, construction and equipment of the ship are such as to minimize the uncontrolled discharge into the sea of noxious liquid substances.
3. That the following arrangements and procedures have been approved by the Administration in connexion with the implementation of Regulation 5 of Annex II of the Convention:

(Continued on the annexed signed and dated sheet(s))

This certificate is valid, until _____, subject to intermediate survey(s) at intervals of _____

Issued at _____

(place of issue of Certificate)

..... 19....

(Signature of duly authorized official issuing the Certificate)

(Seal or stamp of the issuing Authority, as appropriate)

Intermediate surveys

This is to certify that at an intermediate survey required by Regulation 10(1)(c) of Annex II of the Convention, this ship and the condition thereof are found to comply with the relevant provisions of the Convention.

Signed

(Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

Signed

(Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

Under the provisions of Regulation 12(2) and (4) of Annex II of the Convention the validity of this Certificate is extended until _____

Signed

(Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

ANNEX III

REGULATIONS FOR THE PREVENTION OF POLLUTION BY HARMFUL SUBSTANCES CARRIED BY SEA IN PACKAGED FORMS OR IN FREIGHT CONTAINERS, PORTABLE TANKS OR ROAD AND RAIL TANK WAGONS

Regulation 1 APPLICATION

1. Unless expressly provided otherwise, the Regulations of this Annex apply to all ships carrying harmful substances in packaged forms, or in freight containers, portable tanks or road and rail tank wagons.
2. Such carriage of harmful substances is prohibited except in accordance with the provisions of this Annex.
3. To supplement the provisions of this Annex the Government of each Party to the Convention shall issue, or cause to be issued, detailed requirements on packaging, marking and labelling, documentation, stowage, quantity limitations, exceptions and notification, for preventing or minimizing pollution of the marine environment by harmful substances.
4. For the purpose of this Annex, empty receptacles, freight containers, portable tanks and road and rail tank wagons which have been used previously for the carriage of harmful substances shall themselves be treated as harmful substances unless adequate precautions have been taken to ensure that they contain no residue that is hazardous to the marine environment.

Regulation 2 PACKAGING

Packagings, freight containers, portable tanks and road and rail tank wagons shall be adequate to minimize the hazard to the marine environment having regard to their specific contents.

Regulation 3 MARKING AND LABELLING

Packages, whether shipped individually or in units or in freight containers, portable tanks or road and rail tank wagons containing a harmful substance, shall be durably marked with the correct technical name (trade names shall not be used as the correct technical name), and further marked with a distinctive label or stencil of label, indicating that the contents are harmful. Such identification shall be supplemented where possible by any other means, for example by the use of the United Nations number.

Regulation 4 DOCUMENTATION

1. In all documents relating to the carriage of harmful substances by sea where such substances are named, the correct technical name of the substances shall be used (trade names shall not be used).
2. The shipping documents supplied by the shipper shall include a certificate or declaration that the shipment offered for carriage is properly packed, marked and labelled and in proper condition for carriage to minimize the hazard to the marine environment.
3. Each ship carrying harmful substances shall have a special list or manifest setting forth the harmful substances on board and the location thereof. A detailed stowage plan which sets out the location of all harmful substances on board may be used in place of such special list or manifest. Copies of such documents shall also be retained on shore by the owner of the ship or his representative until the harmful substances are unloaded.
4. In a case where the ship carries a special list or manifest or a detailed stowage plan, required for the carriage of dangerous goods by the International Convention for the Safety of Life at Sea in force, the documents required for the purpose of this Annex may be combined with those for dangerous goods. Where documents are combined, a clear distinction shall be made between dangerous goods and other harmful substances.

Regulation 5 STOWAGE

Harmful substances shall be both properly stowed and secured so as to minimize the hazards to the marine environment without impairing the safety of ship and persons on board.

Regulation 6 QUANTITY LIMITATIONS

Certain harmful substances which are very hazardous to the marine environment may, for sound scientific and technical reasons, need to be prohibited for carriage or be limited as to the quantity which may be carried aboard any one ship. In limiting the quantity due consideration shall be given to size, construction and equipment of the ship as well as the packaging and the inherent nature of the substance.

Regulation 7 EXCEPTIONS

1. Discharge by jettisoning of harmful substances carried in packaged forms, freight containers, portable tanks or road and rail tank wagons shall be prohibited except where necessary for the purpose of securing the safety of the ship or saving life at sea.
2. Subject to the provisions of the present Convention, appropriate measures based on the physical, chemical and biological properties of harmful substances shall be taken to regulate the washing of leakages overboard provided that compliance with such measures would not impair the safety of the ship and persons on board.

Regulation 8 NOTIFICATION

With respect of certain harmful substances, as may be designated by the Government of a Party to the Convention, the master or owner of the ship or his representative shall notify the appropriate port authority of the intent to load or unload such substances at least 24 hours prior to such action.

ANNEX IV

REGULATIONS FOR THE PREVENTION OF POLLUTION BY SEWAGE FROM SHIPS

Regulation 1 DEFINITIONS

For the purposes of the present Annex:

1. "New ship" means a ship:
 - a) for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction, on or after the date of entry into force of this Annex; or
 - b) the delivery of which is three years or more after the date of entry into force of this Annex.
2. "Existing ship" means a ship which is not a new ship.
3. "Sewage" means:
 - a) drainage and other wastes from any form of toilets urinals, and WC scuppers;
 - b) drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;
 - c) drainage from spaces containing living animals; or
 - d) other waste waters when mixed with the drainages defined above.
4. "Holding tank" means a tank used for the collection and storage of sewage.
5. "Nearest land". The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law except that, for the purposes of the present Convention "from the nearest land" off the north eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in

latitude 11 deg 00 min South, longitude 142 deg 08 min East to a point in latitude 10 deg 35 min South,

longitude 141 min 55 min East Ñ thence to a point latitude 10 deg 00 min South,

longitude 142 deg 00 min East, thence to a point latitude 9 deg 00 min South,

longitude 143 deg 52 min East, thence to a point latitude 0 deg 00 min South,

longitude 144 deg 30 min East, thence to a point latitude 13 deg 00 min South

longitude 144 deg 00 min East, thence to a point latitude 15 deg 00 min South,

longitude 146 deg 00 min East, thence to a point latitude 18 deg 00 min South,

longitude 147 deg 00 min East, thence to a point latitude 21 deg 00 min South,

longitude 153 deg 00 min East, thence to a point on the coast of Australia in latitude 24 deg 42 min South, longitude 153 deg 15 min East.

Regulation 2 APPLICATION

The provisions of this Annex shall apply to:

- a) (i) new ships of 200 tons gross tonnage and above;
- (ii) new ships of less than 200 tons gross tonnage which are certified to carry more than 10 persons;
- (iii) new ships which do not have a measured gross tonnage and are certified to carry more than 10 persons; and

- b) (i) existing ships of 200 tons gross tonnage and above, 10 years after the date of entry into force of this Annex;
- (ii) existing ships less than 200 tons gross tonnage which are certified to carry more than 10 persons, 10 years after the date of entry into force of this Annex; and
- (iii) existing ships which do not have a measured gross tonnage and are certified to carry more than 10 persons, 10 years after the date of entry into force of this Annex.

Regulation 3 SURVEYS

1. Every ship which is required to comply with the provisions of this Annex and which is engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention shall be subject to the surveys specified below:

a) An initial survey before the ship is put in service or before the Certificate required under Regulation 4 of this Annex is issued for the first time, which shall include a survey of the ship which shall be such as to ensure:

- (i) when the ship is equipped with a sewage treatment plant the plant shall meet operational requirements based on standards and the test methods developed by the Organization;
- (ii) when the ship is fitted with a system to comminute and disinfect the sewage, such a system shall be of a type approved by the Administration;
- (iii) when the ship is equipped with a holding tank the capacity of such a tank shall be to the satisfaction of the Administration for the retention of all sewage having regard to the operation of the ship, the number of persons on board and other relevant factors. The holding tank shall have a means to indicate visually the amount of its contents; and
- (iv) that the ship is equipped with a pipeline leading to the exterior convenient for the discharge of sewage to a reception facility and that such a pipeline is fitted with a standard shore connection in compliance with Regulation 11 of this Annex.

This survey shall be such as to ensure that the equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex.

b) Periodical surveys at intervals specified by the Administration but not exceeding five years which shall be such as to ensure that the equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex. However, where the duration of the International Sewage Pollution Prevention Certificate (1973) is extended as specified in Regulation 7(2) or (4) of this Annex, the interval of the periodical survey may be extended correspondingly.

2. The Administration shall establish appropriate measures for ships which are not subject to the provisions of paragraph (I) of this Regulation in order to ensure that the provisions of this Annex are complied with.

3. Surveys of the ship as regards enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it. In every case the Administration concerned fully guarantees the completeness and efficiency of the surveys.

4. After any survey of the ship under this Regulation has been completed, no significant change shall be made in the equipment, fittings, arrangements, or material covered by the survey without the approval of the Administration, except the direct replacement of such equipment or fittings.

Regulation 4 ISSUE OF CERTIFICATE

1. An International Sewage Pollution Certificate (1973) shall be issued, after survey in accordance with the provisions of Regulation 3 of this Annex, to any ship which is engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention.

2. Such Certificate shall be issued either by the Administration or by any persons or organization duly authorized by it. In every case the Administration assumes full responsibility for the Certificate.

Regulation 5 ISSUE OF A CERTIFICATE BY ANOTHER GOVERNMENT

1. The Government of a Party to the Convention may, at the request of the Administration, cause a ship to be surveyed and if satisfied that the provisions of this Annex are complied with, shall issue or authorize the issue of an International Sewage Pollution Prevention Certificate (1973) to the ship in accordance with this Annex.
2. A copy of the Certificate and a copy of the survey report shall be transmitted as early as possible to the Administration requesting the survey.
3. A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as the Certificate issued under Regulation 4 of this Annex.
4. No International Sewage Pollution Prevention Certificate (1973) shall be issued to a ship which is entitled to fly the flag of a State, which is not a Party.

Regulation 6 FORM OF CERTIFICATE

The International Sewage Pollution Certificate (1973) shall be drawn up in an official language of the issuing country in the form corresponding to the model given in the Appendix to this Annex. If the language used is neither English nor French, the text shall include a translation into one of these languages.

Regulation 7 DURATION OF CERTIFICATE

1. An International Sewage Pollution Certificate (1973) shall be issued for a period specified by the Administration, which shall not exceed five years from the date of issue, except as provided in paragraphs (2), (3) and (4) of this Regulation.
2. If a ship at the time when the Certificate expires is not in a port or offshore terminal under the jurisdiction of the Party to the Convention whose flag the ship is entitled to fly, the Certificate may be extended by the Administration, but such extension shall be granted only for the purpose of allowing the ship to complete its voyage to the State whose flag the ship is entitled to fly or in which it is to be surveyed and only in cases where it appears proper and reasonable to do so.
3. No Certificate shall be thus extended for a period longer than five months and a ship to which such extension is granted shall not on its arrival in the State whose flag it is entitled to fly or the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port or State without having obtained a new Certificate.
4. A Certificate which has not been extended under the provisions of paragraph (2) of this Regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it.
5. A Certificate shall cease to be valid if significant alterations have taken place in the equipment, fittings, arrangements or material required without the approval of the Administration, except the direct replacement of such equipment or fittings.
6. A Certificate issued to a ship shall cease to be valid upon transfer of such a ship to the flag of another State, except as provided in paragraph (7) of this Regulation.
7. Upon transfer of a ship to the flag of another Party, the Certificate shall remain in force for a period not exceeding five months provided that it would not have expired before the end of that period, or until the Administration issues a replacement Certificate, whichever is earlier. As soon as possible after the transfer has taken place the Government of the Party whose flag the ship was formerly entitled to fly shall transmit to the Administration a copy of the Certificate carried by the ship before the transfer and, if available, a copy of the relevant survey report.

Regulation 8 DISCHARGE OF SEWAGE

1. Subject to the provisions of Regulation 9 of this Annex, the discharge of sewage into the sea is prohibited, except when:

a) the ship is discharged comminuted and disinfected sewage using a system approved by the Administration in accordance with Regulation 3(1)(a) at a distance of more than four nautical miles from the nearest land, or sewage which is not comminuted or disinfected at a distance of more than 12 nautical miles from the nearest land, provided that in any case, the sewage that has been stored in holding tanks shall not be discharged instantaneously but at a moderate rate when the ship is en route and proceeding at not less than 4 knots; the rate of discharge shall be approved by the Administration based upon standards developed by the Organization; or

b) the ship has in operation an approved sewage treatment plant which has been certified by the Administration to meet the operational requirements referred to in Regulation 3(1)(a)(i) of this Annex, and

(i) the test results of the plant are laid down in the ship's International Sewage Pollution Prevention Certificate (1973);

(ii) additionally, the effluent shall not produce visible floating solids in, nor cause the discolouration of the surrounding water; or

c) the ship is situated in the waters under the jurisdiction of a State and is discharged sewage in accordance with such less stringent requirements as may be imposed by such State.

2. When the sewage is mixed with wastes or waste water having different discharge requirements, the more stringent requirements shall apply.

Regulation 9 EXCEPTIONS

a) the discharge of sewage from a ship necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or

b) the discharge of sewage resulting from damage to a ship or its equipment if all reasonable precautions have been taken before and after the occurrence of the damage, for the purpose of preventing or minimizing the discharge.

Regulation 10 RECEPTION FACILITIES

1. The Government of each Party to the Convention undertakes to ensure the provision of facilities at ports and terminals for the reception of sewage, without causing undue delay to ships, adequate to meet the needs of the ships using them.

2. The Government of each Party shall notify the Organization for transmission to the Contracting Governments concerned of all cases where the facilities provided under this Regulation are alleged to be inadequate.

Regulation 11 STANDARD DISCHARGE CONNECTIONS

To enable pipes of reception facilities to be connected with the ship's discharge pipeline, both lines shall be fitted with a standard discharge connection in accordance with the following table:

Standard Dimensions of Flanges for Discharge Connections

Dimension	Description
Outside diameter	210 mm

Inner diameter according to pipe outside diameter

Bolt circle diameter 170 mm

Slots in flange 4 holes 18 mm diameter equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width to be 18 mm.

Flange thickness 16 mm

Bolts and nuts: quantity and diameter 4, each of 16 mm in diameter and of suitable length

The flange is designed to accept pipes up to a maximum internal diameter of 100 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a suitable gasket, shall be suitable for a service pressure of 6 kg/cm².

For ships having a moulded depth of 5 metres and less, the inner diameter of the discharge connection may be 38 millimetres.

APPENDIX**FORM OF CERTIFICATE****INTERNATIONAL SEWAGE POLLUTION PREVENTION CERTIFICATE(1973)**

Issued under the Provisions of the International Convention for the Prevention of Pollution from Ships, 1973, under the Authority of the Government of

...
(full designation of the country)

by..... (full designation of the competent person or organization authorized under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973)

Distinctive	Number of persons
Name of ship	Port of Registry
Letters	Gross Tonnage
which the ship is	certified to carry

New/existing ship*

Date of building contract

* Delete as appropriate

Date on which keel was laid or ship was at a similar stage of construction

Date of delivery

THIS IS TO CERTIFY THAT:

1. The ship is equipped with a sewage treatment plant/comminuter/holding tank* and a discharge pipeline in compliance with Regulation 3(1)(a)(i) to (iv) of Annex IV of the Convention as follows:

*a) Description of the sewage treatment plant:

* Delete as appropriate

Type of sewage treatment plant.....

Name of manufacturer

The sewage treatment plant is certified by the Administration to meet the following effluent standards:**

** Parameters should be incorporated

*b) Description of comminuter:

* Delete as appropriate

Type of comminuter

Name of manufacturer.....

Standard of sewage after disinfection

*c) Description of holding tank equipment:

Total capacity of the holding tankm3

Location

d) A pipeline for the discharge of sewage to a reception facility, fitted with a standard shore connection.

2. The ship has been surveyed in accordance with Regulation 3 of Annex IV of the International Convention for the Prevention of Pollution from Ships, 1973, concerning the prevention of pollution by sewage and the survey showed that the equipment of the ship and the condition thereof are in all respects satisfactory and the ship complies with the applicable requirements of Annex IV of the Convention.

This Certificate is valid until

Issued at.....

(place of issue of Certificate)

..... 19... ..

(Signature of official issuing the Certificate)

(Seal or stamp of the Issuing Authority, as appropriate)

Under the provisions of Regulation 7(2) and (4) of Annex IV of the Convention the validity of this Certificate is extended until

Signed

(Signature of duly authorized official)

Place

Date

(Seal or stamp of the Authority, as appropriate)

ANNEX V

REGULATIONS FOR THE PREVENTION OF POLLUTION BY GARBAGE FROM SHIPS

Regulation 1 DEFINITIONS

For the purposes of this Annex:

1. "Garbage" means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically except those substances which are defined or listed in other Annexes to the present Convention.

2. "Nearest land". The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law except that, for the purposes of the present Convention "from the nearest land" off the north eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in

latitude of 11 deg 00 min South, longitude 142 deg 08 min East to a point in latitude 10 deg 35 min South,

longitude 141++ 55 min East, thence to a point latitude 10 deg 00 min South,

longitude 142 deg 00 min East, thence to a point latitude 9 deg 00 min South,

longitude 143 deg 52 min East, thence to a point latitude 9 deg 00 min South,

longitude 144 deg 30 min East, thence to a point latitude 13 deg 00 min South,

longitude 144 deg 00 min East, thence to a point latitude 15 deg 00 min South,

longitude 146 deg 00 min East, thence to a point latitude 18 deg 00 min South,

longitude 147 deg 00 min East, thence to a point latitude 21 deg 00 min South,

longitude 153 deg 00 min East, thence to a point on the coast of Australia in latitude 24 deg 42 min South, longitude 153 deg 15 min East.

3. "Special Area" means a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by garbage is required. Special areas shall include those listed in Regulation 5 of this Annex.

Regulation 2 APPLICATION

The provisions of this Annex shall apply to all ships.

Regulation 3 DISPOSAL OF GARBAGE OUTSIDE SPECIAL AREAS

1. Subject to the provisions of Regulations 4, 5 and 6 of this Annex:

a) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags is prohibited;

b) the disposal into the sea of the following garbage shall be made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than:

(i) 25 nautical miles for dunnage, lining and packing material which will float;

(ii) 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse;

c) disposal into the sea of garbage specified in sub-paragraph (b)(ii) of this Regulation may be permitted when it has passed through a comminuter or grinder and made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than 3 nautical miles. Such comminuted or ground garbage shall be capable of passing through a screen with openings no greater than 25 millimetres.

2. When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

Regulation 4 SPECIAL REQUIREMENTS FOR DISPOSAL OF GARBAGE

1. Subject to the provisions of paragraph (2) of this Regulation, the disposal of any materials regulated by this Annex is prohibited from fixed or floating platforms engaged in the exploration, exploitation and associated offshore processing of seabed mineral resources, and from all other ships when alongside or within 500 metres of such platforms.

2. The disposal into the sea of food wastes may be permitted when they have been passed through a comminuter or grinder from such fixed or floating platforms located more than 12 nautical miles from land and all other ships when alongside or within 500 metres of such platforms. Such comminuted or ground food wastes shall be capable of passing through a screen with openings no greater than 25 millimetres.

Regulation 5 DISPOSAL OF GARBAGE WITHIN SPECIAL AREAS

1. For the purposes of this Annex the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area and the "Gulfs area" which are defined as follows:

a) The Mediterranean Sea area means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41 deg N parallel and bounded to the west by the Gibraltar at the meridian of 5 deg 36 min W.

b) The Baltic Sea area means the Baltic Sea proper with the Gulf of Bothnia and the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57 deg 44.8 min N.

c) The Black Sea area means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41 deg N.

d) The Red Sea area means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south of the rhumb line between Ras si Ane (12 deg 8.5 min N, 43 deg 19.6 min E) and Husn Murad (12 deg 40.4 min N, 43 deg 30.2 min E).

e) The "Gulfs area" means the sea area located north west of the rhumb line between Ras al Hadd (22 deg 30 min N, 59 deg 48 min E) and Ras el Fasteh (25; 04minN, 61 deg 25minE).

2. Subject to the provisions of Regulation 6 of this Annex:

a) disposal into the sea of the following is prohibited:

(i) all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags; and

(ii) all other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials;

b) disposal into the sea of food wastes shall be made as far as practicable from land, but in any case not less than 12 nautical miles from the nearest land.

3. When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

4. Reception facilities within special areas:

- a) The Government of each Party to the Convention, the coastline of which borders a special area undertakes to ensure that as soon as possible in all ports within a special area, adequate reception facilities are provided in accordance with Regulation 7 of this Annex, taking into account the special needs of ships operating in these areas.
- b) The Government of each Party concerned shall notify the Organization of the measures taken pursuant to subparagraph (a) of this Regulation. Upon receipt of sufficient notifications the Organization shall establish a date from which the requirements of this Regulation in respect of the area in question shall take effect. The Organization shall notify the Parties of the date so established no less than twelve months in advance of that date.
- c) After the date so established, ships calling also at ports in these special areas where such facilities are not yet available, shall fully comply with the requirements of this Regulation.

Regulation 6 EXCEPTIONS

Regulations 3, 4 and 5 of this Annex shall not apply

- a) the disposal of garbage from a ship necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or
- b) the escape of garbage resulting from damage to a ship or its equipment provided all reasonable precautions have been taken before and after the occurrence of the damage, for the purpose of preventing or minimizing the escape; or
- c) the accidental loss of synthetic fishing or synthetic material incidental to the repair of such nets, provided that all reasonable precautions have been taken to prevent such loss.

Regulation 7 RECEPTION FACILITIES

1. The Government of each Party to the Convention undertakes to ensure the provision of facilities at ports and terminals for the reception of garbage, without causing undue delay to ships, and according to the needs of the ships using them.
2. The Government of each Party shall notify the Organization for transmission to the Parties of all cases where the facilities provided under this Regulation are alleged to be inadequate.

Footnote

The International Conference on Tanker Safety and Pollution Prevention, 1978, negotiated the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL PROT 1978). By virtue of Article 1(b) of the Protocol, it incorporates the terms of the Convention subject to the modifications and additions made by the Protocol. The present text is a consolidation of the Convention and the Protocol as amended 7 September 1984 (Annex I) and 5 December 1985 (Annex II and Protocol I) (amendments entered into force on 7 January 1986 and 6 April 1987 respectively).

9]The words and paragraphs appearing between brackets reflect corrections to the original text of the Convention and communicated to the States concerned by the Secretary-General of the International Maritime Organization in a procès-verbal of rectification dated 13 June 1978. [Footnote appeared in original text.]

10]Reference is made to the Recommendation on International Performance Specifications for Oily-Water Separating Equipment and Oil Content Meters adopted by the Organization by Resolution A.233(VII) [Footnote appeared in original text.].

11] Reference is made to "Clean Seas Guide for Oil Tankers", published by the International Chamber of Shipping and the Oil Companies International Marine Forum. [Footnote appeared in original text.]

12]Reference is made to the Recommendation on International Performance Specifications for Oily-Water Separating Equipment and Oil Content Meters adopted by the Organization by Resolution A.233(VII) [Footnote appeared in original text.].

13]Reference is made to the Recommendation on International Performance Specifications for Oily-Water Separating Equipment and Oil Content Meters adopted by the Organization by Resolution A.233(VII) [Footnote appeared in original text.].

AMENDMENTS TO ANNEXES I AND II OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 (MARPOL 73/78)

INTRODUCTION OF THE HARMONIZED SYSTEM OF SURVEY AND CERTIFICATION

Adopted at London, 16 March 1990
Entered into force 17 March 1992

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

Recalling Article 38 of the Convention on the International Maritime Organization concerning the functions of the Committee,

Noting Article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention"), and article VI of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1978 Protocol"), which confer upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

Recalling that the International Conference on Tanker Safety and Pollution Prevention, 1978, by resolution 10, recommended that IMO take the necessary action to amend the International Convention for the Safety of Life at Sea, 1974 (the 1974 SOLAS Convention), the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the 1978 Protocol relating thereto (MARPOL 73/78), and the International Convention on Load Lines, 1966 (the 1966 Load Line Convention), with a view to standardizing the periods of validity of the certificates as well as the intervals of surveys required by these Conventions,

Noting Further that the International Conference on the Harmonized System of Survey and Certification, 1988, had adopted the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974 (the 1988 SOLAS Protocol), and the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (the 1988 Load Line Protocol), which introduce, inter alia, the harmonized system of survey and certification under the 1974 SOLAS Convention and the 1966 Load Line Convention, and that the Conference recommended the Maritime Safety Committee and the Marine Environment Protection Committee to take the necessary action:

(a) to amend MARPOL 73/78, the IBC Code, the BCH Code and the IGC Code in order to harmonize their survey and certification requirements with those of the 1988 SOLAS Protocol and the 1988 Load Line Protocol and,

(b) to bring those amendments into force on the same date, or on a date as close as possible to the date on which the 1988 SOLAS Protocol and the 1988 Load Line Protocol enter into force.

Having considered, at its twenty-ninth session, amendments to the 1978 Protocol proposed and circulated in accordance with article 16(2)(a) of the 1973 Convention,

1. *Adopts*, in accordance with article 16(2)(d) of the 1973 Convention, amendments to the Annex of the 1978 Protocol, the text of which is set out in the Annex to the present resolution;

2. *Requests* the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to the 1978 Protocol certified copies of the present resolution and the text of the amendments contained in the Annex;

3. *Determines*, in accordance with article 16(2)(f)(ii) and (iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted six months after the date on which the conditions for the entry into force of both the 1988 SOLAS Protocol and the 1988 Load Line Protocol are met, provided that the date of acceptance is not before 1 August 1991, unless prior to that date, objections are communicated to the Organization as provided for in article 16(2)(f)(iii);

4. *Invites* the Parties to note that, in accordance with article 16(2)(g)(ii) of the 1973 Convention, the amendments shall enter into force six months after their acceptance in accordance with the preceding paragraph;

5. *Requests* the Secretary-General to inform all Parties when the conditions for the entry into force of both the 1988 SOLAS Protocol and the 1988 Load Line Protocol are met and, in conformity with article 16(8) of the Convention, when the amendments to the 1978 Protocol contained in the Annex to the present resolution will enter into force;
6. *Further requests* the Secretary-General to transmit to the Members of the Organization which are not Parties to the 1978 Protocol copies of the resolution and its Annex and to inform them when the amendments enter into force.

ANNEX

AMENDMENTS TO ANNEXES I AND II OF MARPOL 73/78

1. MARPOL 73/78, ANNEX I*Regulation 1* DEFINITIONS

New definition is added as follows:

"(31) "Anniversary date" means the day and the month of each year which will correspond to the date of expiry of the International Oil Pollution Prevention Certificate."

Regulation 4 SURVEYS AND INSPECTIONS

The existing title is replaced by the following:

"Surveys"

The existing text is replaced by the following:

"(1) Every oil tanker of 150 tons gross tonnage and above, and every other ship of 400 tons gross tonnage and above shall be subject to the surveys specified below:

(a) An initial survey before the ship is put in service or before the Certificate required under regulation 5 of this Annex is issued for the first time, which shall include a complete survey of its structure, equipment, systems, fittings, arrangements and material in so far as the ship is covered by this Annex. This survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Annex.

(b) A renewal survey at intervals specified by the Administration, but not exceeding 5 years, except where regulation 8(2), 8(5), 8(6) or 8(7) of this Annex is applicable. The renewal survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with applicable requirements of this Annex.

(c) An intermediate survey within 3 months before or after the second anniversary date or within 3 months before or after the third anniversary date of the Certificate which shall take the place of one of the annual surveys specified in paragraph (1)(d) of this regulation. The intermediate survey shall be such as to ensure that the equipment and associated pump and piping systems, including oil discharge monitoring and control systems, crude oil washing systems, oily-water separating equipment and oil filtering systems, fully comply with the applicable requirements of this Annex and are in good working order. Such intermediate surveys shall be endorsed on the Certificate issued under regulation 5 or 6 of this Annex.

(d) An annual survey within 3 months before or after each anniversary date of the Certificate, including a general inspection of the structure, equipment, systems, fittings, arrangements and material referred to in paragraph (1)(a) of this regulation to ensure that they have been maintained in accordance with paragraph (4) of this regulation and that they remain satisfactory for the service for which the ship is intended. Such annual surveys shall be endorsed on the Certificate issued under regulation 5 or 6 of this Annex.

(e) An additional survey either general or partial, according to the circumstances, shall be made after a repair resulting from investigations prescribed in paragraph (4) of this regulation, or whenever any important repairs or renewals are made. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory and that the ship complies in all respects with the requirements of this Annex.

(2) The Administration shall establish appropriate measures for ships which are not subject to the provisions of paragraph (1) of this regulation in order to ensure that the applicable provisions of this Annex are complied with.

(3) (a) Surveys of ships as regards the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.

(b) An Administration nominating surveyors or recognizing organizations to conduct surveys as set forth in subparagraph (a) of this paragraph shall, as a minimum, empower any nominated surveyor or recognized organization to:

(i) require repairs to a ship; and

(ii) carry out surveys, if requested by the appropriate authorities of a port State.

The Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations, for circulation to Parties to the present Protocol for the information of their officers.

(c) When a nominated surveyor or recognized organization determines that the condition of the ship or its equipment does not correspond substantially with the particulars of the Certificate or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, such surveyor or organization shall immediately ensure that corrective action is taken and shall in due course notify the Administration. If such corrective action is not taken the Certificate should be withdrawn and the Administration shall be notified immediately; and if the ship is in a port of another Party, the appropriate authorities of the port State shall also be notified immediately. When an officer of the Administration, a nominated surveyor or a recognized organization has notified the appropriate authorities of the port State, the Government of the port State concerned shall give such officer, surveyor or organization any necessary assistance to carry out their obligations under this regulation. When applicable, the Government of the port State concerned shall take such steps as will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available without presenting an unreasonable threat of harm to the marine environment.

(d) In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(4) (a) The condition of the ship and its equipment shall be maintained to conform with the provisions of the present Convention to ensure that the ship in all respects will remain fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(b) After any survey of the ship under paragraph (1) of this regulation has been completed, no change shall be made in the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the sanction of the Administration, except the direct replacement of such equipment and fittings.

(c) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by this Annex the master or owner of the ship shall report at the earliest opportunity to the Administration, the recognized organization or the nominated surveyor responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by paragraph (1) of this regulation is necessary. If the ship is in a port of another Party, the master or owner shall also report immediately to the appropriate authorities of the port State and the nominated surveyor or recognized organization shall ascertain that such report has been made".

Regulation 5 ISSUE OF CERTIFICATE

The existing heading is replaced by the following:

"Issue or Endorsement of Certificate"

The existing text is replaced by the following:

"(1) An International Oil Pollution Prevention Certificate shall be issued, after an initial or renewal survey in accordance with the provisions of regulation 4 of this Annex, to any oil tanker of 150 tons gross tonnage and above

and any other ships of 400 tons gross tonnage and above which are engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to the Convention.

(2) Such Certificate shall be issued or endorsed either by the Administration or by any persons or organization duly authorized by it. In every case the Administration assumes full responsibility for the Certificate.

(3) Notwithstanding any other provisions of the amendments to this Annex adopted by the Marine Environment Protection Committee (MEPC) by resolution MEPC.39(29), any International Oil Pollution Prevention Certificate, which is current when these amendments enter into force, shall remain valid until it expires under the terms of this Annex prior to the amendments entering into force".

Regulation 6 ISSUE OF CERTIFICATE BY ANOTHER GOVERNMENT

The existing heading is replaced by the following:

"Issue or endorsement of a certificate by another Government".

The existing text is replaced by the following:

"(1) The Government of a Party to the Convention may, at the request of the Administration, cause a ship to be surveyed and, if satisfied that the provisions of this Annex are complied with, shall issue or authorize the issue of an International Oil Pollution Prevention Certificate to the ship, and where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with this Annex.

(2) A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

(3) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as the Certificate issued under regulation 5 of this Annex.

(4) No International Oil Pollution Prevention Certificate shall be issued to a ship which is entitled to fly the flag of a State which is not a Party".

Regulation 7 FORM OF CERTIFICATE

The existing text is replaced by the following:

"The International Oil Pollution Prevention Certificate shall be drawn up in a form corresponding to the model given in appendix II to this Annex. If the language used is neither English nor French, the text shall include a translation into one of these languages".

Regulation 8 DURATION OF CERTIFICATE

The existing heading is replaced by the following:

"Duration and validity of certificate".

The existing text is replaced by the following:

"(1) An International Oil Pollution Prevention Certificate shall be issued for a period specified by the Administration which shall not exceed 5 years.

(2) (a) Notwithstanding the requirements of paragraph (1) of this regulation, when the renewal survey is completed within 3 months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding 5 years from the date of expiry of the existing Certificate.

(b) When the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding 5 years from the date of expiry of the existing Certificate.

(c) When the renewal survey is completed more than 3 months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding 5 years from the date of completion of the renewal survey.

(3) If a Certificate is issued for a period of less than 5 years, the Administration may extend the validity of the Certificate beyond the expiry date to the maximum period specified in paragraph (1) of this regulation, provided that the surveys referred to in regulation 4(1)(c) and 4(1)(d) of this Annex applicable when a Certificate is issued for a period of 5 years are carried out as appropriate.

(4) If a renewal survey has been completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the person or organization authorized by the Administration may endorse the existing Certificate and such a Certificate shall be accepted as valid for a further period which shall not exceed 5 months from the expiry date.

(5) If a ship at the time when a Certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of the Certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No Certificate shall be extended for a period longer than 3 months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new Certificate. When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding 5 years from the date of expiry of the existing Certificate before the extension was granted.

(6) A Certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it. When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding 5 years from the date of expiry of the existing Certificate before the extension was granted.

(7) In special circumstances, as determined by the Administration, a new Certificate need not be dated from the date of expiry of the existing Certificate as required by paragraph (2)(b), (5) or (6) of this regulation. In these special circumstances, the new Certificate shall be valid to a date not exceeding 5 years from the date of completion of the renewal survey.

(8) If an annual or intermediate survey is completed before the period specified in regulation 4 of this Annex, then:

(a) the anniversary date shown on the Certificate shall be amended by endorsement to a date which shall not be more than 3 months later than the date on which the survey was completed;

(b) the subsequent annual or intermediate survey required by regulation 4 of this Annex shall be completed at the intervals prescribed by that regulation using the new anniversary date;

(c) the expiry date may remain unchanged provided one or more annual or intermediate surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by regulation 4 of this Annex are not exceeded.

(9) A Certificate issued under regulation 5 or 6 this Annex shall cease to be valid in any of the following cases:

(a) if the relevant surveys are not completed within the periods specified under regulation 4(1) of this Annex;

(b) if the Certificate is not endorsed in accordance with regulation 4(1)(c) or 4(1)(d) of this Annex.

(c) Upon transfer of the ship to the flag of another State. A new Certificate shall only be issued when the Government issuing the new Certificate is fully satisfied that the ship is in compliance with the requirements of regulation 4(4)(a) and 4(4)(b) of this Annex. In the case of a transfer between Parties, if requested within 3 months after the transfer has taken place, the Government of the Party whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the Administration copies of the Certificate carried by the ship before the transfer and, if available, copies of the relevant survey reports".

Appendix II FORM OF CERTIFICATE

The existing Form of Certificate is replaced by the following:

"INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE"

(Note: This Certificate shall be supplemented by a Record of Construction and Equipment)

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as amended by resolution MEPC.39(29), (hereinafter referred to as "the Convention") under the authority of the Government of:

.....

(full designation of the country)

by

(full designation of the competent person or organization authorized under the provisions of the Convention)

Particulars of ship[1]

Name of ship

Distinctive number or letters

Port of registry

Gross tonnage

Deadweight of ship (metric tons)[2]

IMO Number[3].....

Type of Ship[4]:

Oil tanker

Ship other than an oil tanker with cargo tanks coming under regulation 2(2) of Annex I of the Convention.

Ship other than any of the above.

THIS IS TO CERTIFY:

1. That the ship has been surveyed in accordance with regulation 4 of Annex I of the Convention.
2. That the survey shows that the structure, equipment, systems, fittings, arrangements and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex I of the Convention.

This Certificate is valid until[5]

subject to surveys in accordance with regulation 4 of Annex I of the Convention.

Issued at

(Place of issue of Certificate)

.....

(Date of issue) (Signature of authorized official issuing the Certificate)

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS

THIS IS TO CERTIFY that, at a survey required by regulation 4 of Annex I of the Convention, the ship was found to comply with the relevant provisions of the Convention:

Annual survey: Signed
(Signature of authorized official)

Place

Date

(Seal or Stamp of the authority, as appropriate)

Annual/Intermediate⁴

survey: Signed
(Signature of authorized official)

Place

Date

(Seal or stamp of the authority, as appropriate)

Annual/Intermediate⁴

survey: Signed
(Signature of authorized official)

Place

Date

(Seal or stamp of the authority, as appropriate)

Annual survey: Signed

(Signature of authorized official)

Place

Date

(Seal or stamp of the authority, as appropriate)

ANNUAL/INTERMEDIATE SURVEY IN ACCORDANCE WITH REGULATION 8(8)(C)

THIS IS TO CERTIFY that, at an annual/intermediate⁴

survey in accordance with regulation 8(8)(c) of Annex I of the Convention, the ship was found to comply with the relevant provisions of the Convention.

Signed
(Signature of authorized official)

Place

Date

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN 5 YEARS WHERE REGULATION 8(3) APPLIES

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 8(3) of Annex I of the Convention, be accepted as valid until

Signed

(Signature of authorized official)
 Place
 Date
 (Seal or stamp of the authority, as appropriate)

ENDORSEMENT WHERE THE RENEWAL SURVEY HAS BEEN COMPLETED AND REGULATION 8(4) APPLIES

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 8(4) of Annex I of the Convention, be accepted as valid until

Signed
 (Signature of authorized official)
 Place
 Date

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF SURVEY OR FOR A PERIOD OF GRACE WHERE REGULATION 8(5) OR 8(6) APPLIES

This Certificate shall, in accordance with regulation 8(5) or 8(6) of Annex I of the Convention, be accepted as valid until

Signed
 (Signature of authorized official)
 Place
 Date
 (Seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ADVANCEMENT OF ANNIVERSARY DATE WHERE REGULATION 8(8) APPLIES

In accordance with regulation 8(8) of Annex I of the Convention, the new anniversary date is

Signed
 (Signature of authorized official)
 Place
 Date
 (Seal or stamp of the authority, as appropriate)

In accordance with regulation 8(8) of Annex I of the Convention, the new anniversary date is

Signed
 (Signature of authorized official)
 Place
 Date
 (Seal or stamp of the authority, as appropriate)"

2. MARPOL 73/78, ANNEX II

Regulation 1 DEFINITIONS

New definition is added as follows:

"(14) "Anniversary date" means the day and the month of each year which will correspond to the date of expiry of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk".

Regulation 10 SURVEYS

The existing text is replaced by the following:

"(1) Ships carrying noxious liquid substances in bulk shall be subject to the surveys specified below:

(a) An initial survey before the ship is put in service or before the Certificate required under regulation 11 of this Annex is issued for the first time, which shall include a complete survey of its structure, equipment, systems, fittings, arrangements and material in so far as the ship is covered by this Annex. This survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Annex.

(b) A renewal survey at intervals specified by the Administration, but not exceeding 5 years, except where regulation 12(2), 12(5), 12(6) or 12(7) of this Annex is applicable. The renewal survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with applicable requirements of this Annex.

(c) An intermediate survey within 3 months before or after the second anniversary date or within 3 months before or after the third anniversary date of the Certificate which shall take the place of one of the annual surveys specified in paragraph (1)(d) of this regulation. The intermediate survey shall be such as to ensure that the equipment and associated pump and piping systems fully comply with the applicable requirements of this Annex and are in good working order. Such intermediate surveys shall be endorsed on the Certificate issued under regulation 11 of this Annex.

(d) An annual survey within 3 months before or after each anniversary date of the Certificate including a general inspection of the structure, equipment, systems, fittings, arrangements and material referred to in paragraph (1)(a) of this regulation to ensure that they have been maintained in accordance with paragraph (3) of this regulation and that they remain satisfactory for the service for which the ship is intended. Such annual surveys shall be endorsed on the Certificate issued under regulation 11 of this Annex.

(e) An additional survey either general or partial, according to the circumstances, shall be made after a repair resulting from investigations prescribed in paragraph (3) of this regulation, or whenever any important repairs or renewals are made. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory and that the ship complies in all respects with the requirements of this Annex.

(2) (a) Surveys of ships as regards the enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.

(b) An Administration nominating surveyors or recognizing organizations to conduct surveys as set forth in subparagraph (a) of this paragraph shall, as a minimum, empower any nominated surveyor or recognized organization to:

- (i) require repairs to a ship; and
- (ii) carry out surveys if requested by the appropriate authorities of a port State.

The Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations, for circulation to Parties to the present Convention for the information of their officers.

(c) When a nominated surveyor or recognized organization determines that the condition of the ship or its equipment does not correspond substantially with the particulars of the Certificate, or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, such surveyor or organization shall immediately ensure that corrective action is taken and shall in due course notify the Administration. If such corrective action is not taken the Certificate should be withdrawn and the Administration shall be notified immediately; and if the ship is in a port of another Party, the appropriate authorities of the port State shall also be notified immediately. When

an officer of the Administration, a nominated surveyor or a recognized organization has notified the appropriate authorities of the port State, the Government of the port State concerned shall give such officer, surveyor or organization any necessary assistance to carry out their obligations under this regulation. When applicable, the Government of the port State concerned shall take such steps as will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available without presenting an unreasonable threat of harm to the marine environment.

(d) In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(3) (a) The condition of the ship and its equipment shall be maintained to conform with the provisions of the present Convention to ensure that the ship in all respects will remain fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(b) After any survey of the ship under paragraph (1) of this regulation has been completed, no change shall be made in the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the sanction of the Administration, except the direct replacement of such equipment and fittings.

(c) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by this Annex, the master or owner of the ship shall report at the earliest opportunity to the Administration, the recognized organization or the nominated surveyor responsible for issuing the relevant Certificate, who shall cause investigations to be initiated to determine whether a survey as required by paragraph (1) of this regulation is necessary. If the ship is in a port of another Party, the master or owner shall also report immediately to the appropriate authorities of the port State and the nominated surveyor or recognized organization shall ascertain that such report has been made."

Regulation 11 ISSUE OF CERTIFICATE

The existing heading is replaced by the following:

"Issue or endorsement of certificate".

The existing text is replaced by the following:

"(1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be issued, after an initial or renewal survey in accordance with the provisions of regulation 10 of this Annex, to any ship carrying noxious liquid substances in bulk and which is engaged in voyages to ports or terminals under the jurisdiction of other Parties to the Convention.

(2) Such Certificate shall be issued or endorsed either by the Administration or by any person or organization duly authorized by it. In every case, the Administration assumes full responsibility for the Certificate.

(3) (a) The Government of a Party to the Convention may, at the request of the Administration, cause a ship to be surveyed and, if satisfied that the provisions of this Annex are complied with, shall issue or authorize the issue of an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk to the ship and, where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with this Annex.

(b) A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

(c) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as the Certificate issued under paragraph (1) of this regulation.

(d) No International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be issued to a ship which is entitled to fly the flag of a State which is not a Party.

(4) The International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be drawn up in the form corresponding to the model given in appendix V to this Annex. If the language used is neither English nor French, the text shall include a translation into one of these languages.

(5) Notwithstanding any other provisions of the amendments to this Annex adopted by the Marine Environment Protection Committee (MEPC) by resolution MEPC.39(29), any International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk, which is current when these amendments enter into force, shall remain valid until it expires under the terms of this Annex prior to the amendments entering into force".

Regulation 12 DURATION OF CERTIFICATE

The existing heading is replaced by the following:

"Duration and validity of certificate".

The existing text is replaced by the following:

(1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be issued for a period specified by the Administration which shall not exceed 5 years.

(2) (a) Notwithstanding the requirements of paragraph (1) of this regulation, when the renewal survey is completed within 3 months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding 5 years from the date of expiry of the existing Certificate.

(b) When the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding 5 years from the date of expiry of the existing Certificate.

(c) When the renewal survey is completed more than 3 months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding 5 years from the date of completion of the renewal survey.

(3) If a Certificate is issued for a period of less than 5 years, the Administration may extend the validity of the Certificate beyond the expiry date to the maximum period specified in paragraph (1) of this regulation, provided that the surveys referred to in regulation 10(1)(c) and 10(1)(d) of this Annex applicable when a Certificate is issued for a period of 5 years are carried out as appropriate.

(4) If a renewal survey has been completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the person or organization authorized by the Administration may endorse the existing Certificate and such a Certificate shall be accepted as valid for a further period which shall not exceed 5 months from the expiry date.

(5) If a ship at the time when a Certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of the Certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No Certificate shall be extended for a period longer than 3 months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new Certificate. When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding 5 years from the date of expiry of the existing Certificate before the extension was granted.

(6) A Certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it. When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding 5 years from the date of expiry of the existing Certificate before the extension was granted.

(7) In special circumstances, as determined by the Administration, a new Certificate need not be dated from the date of expiry of the existing Certificate as required by paragraph (2)(b), (5) or (6) of this regulation. In these special circumstances, the new Certificate shall be valid to a date not exceeding 5 years from the date of completion of the renewal survey.

(8) If an annual or intermediate survey is completed before the period specified in regulation 10 of this Annex, then:

- (a) the anniversary date shown on the Certificate shall be amended by endorsement to a date which shall not be more than 3 months later than the date on which the survey was completed;
 - (b) the subsequent annual or intermediate survey required by regulation 10 of this Annex shall be completed at the intervals prescribed by that regulation using the new anniversary date;
 - (c) the expiry date may remain unchanged provided one or more annual or intermediate surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by regulation 10 of this Annex are not exceeded.
- (9) A Certificate issued under regulation 11 of this Annex shall cease to be valid in any of the following cases:
- (a) if the relevant surveys are not completed within the periods specified under regulation 10(1) of this Annex;
 - (b) if the Certificate is not endorsed in accordance with regulation 10(1)(c) or 10(1)(d) of this Annex;
 - (c) upon transfer of the ship to the flag of another State. A new Certificate shall only be issued when the Government issuing the new Certificate is fully satisfied that the ship is in compliance with the requirements of regulation 10(4)(a) and 10(4)(b) of this Annex. In the case of a transfer between Parties, if requested within 3 months after the transfer has taken place, the Government of the Party whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the Administration copies of the Certificate carried by the ship before the transfer and, if available, copies of the relevant survey reports".

Appendix V FORM OF CERTIFICATE

The existing Form of Certificate is replaced by the following:

"INTERNATIONAL POLLUTION PREVENTION CERTIFICATE FOR THE CARRIAGE OF NOXIOUS LIQUID SUBSTANCES IN BULK

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as amended by resolution MEPC.39(29) (hereinafter referred to as "the Convention") under the authority of the Government of:

.....
(full designation of the country)

by
(full designation of the competent person or organization authorized under the provisions of the Convention)

Particulars of ship[6]

Name of ship
Distinctive number or letters
Port of registry
Gross tonnage
IMO Number[7]

THIS IS TO CERTIFY:

1. That the ship has been surveyed in accordance with regulation 10 of Annex II of the Convention.
2. That the survey showed that the structure, equipment, systems, fittings, arrangements and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex II of the Convention.
3. That the ship has been provided with a Manual in accordance with the Standards for the Procedures and Arrangements as called for by regulations 5, 5A and 8 of Annex II of the Convention, and that the arrangements and equipment of the ship prescribed in the Manual are in all respects satisfactory and comply with the applicable requirements of the said Standards.
4. That the ship is suitable for the carriage in bulk of the following noxious liquid substances, provided that all relevant operational provisions of Annex II of the Convention are observed.

Noxious liquid substances
Conditions of carriage (tank numbers etc.)

Continued on additional signed and dated sheets[8]

This Certificate is valid until[9]

subject to surveys in accordance with regulation 10 of Annex II of the Convention.

Issued at
(Place of issue of Certificate)

.....
(Date of issue) (Signature of authorized official issuing the Certificate)
(Seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS

THIS IS TO CERTIFY that, at a survey required by regulation 10 of Annex II of the Convention, the ship was found to comply with the relevant provisions of the Convention:

Annual survey: Signed
(Signature of authorized official)

Place
Date

(Seal or stamp of the authority, as appropriate)

Annual/Intermediate⁸

survey: Signed
(Signature of authorized official)

Place
Date

(Seal or stamp of the authority, as appropriate)

Annual/Intermediate⁸

survey: Signed
(Signature of authorized official)

Place
Date

(Seal or stamp of the authority, as appropriate)

Annual survey: Signed
(Signature of authorized official)

Place
Date

(Seal or stamp of the authority, as appropriate)

<i>ANNUAL/INTERMEDIATE SURVEY IN ACCORDANCE WITH REGULATION 12(8)(C)</i>
--

THIS IS TO CERTIFY that, at an annual/intermediate⁸ survey in accordance with regulation 12(8)(c) of Annex II of the Convention, the ship was found to comply with the relevant provisions of the Convention.

Signed
(Signature of authorized official)

Place
Date

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN 5 YEARS WHERE REGULATION 12(3) APPLIES

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 12(3) of Annex II of the Convention, be accepted as valid until

Signed
 (Signature of authorized official)
 Place
 Date
 (Seal or stamp of the authority, as appropriate)

ENDORSEMENT WHERE THE RENEWAL SURVEY HAS BEEN COMPLETED AND REGULATION 12(4) APPLIES

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 12(4) of Annex II of the Convention, be accepted as valid until

Signed
 (Signature of authorized official)
 Place
 Date
 (Seal or stamp of the authority, as appropriate)

Endorsement to extend the validity of the Certificate until reaching the port of survey or for a period of grace where regulation 12(5) or 12(6) applies

This Certificate shall, in accordance with regulation 12(5) or 12(6)8 of Annex II of the Convention, be accepted as valid until

Signed
 (Signature of authorized official)
 Place
 Date
 (Seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ADVANCEMENT OF ANNIVERSARY DATE WHERE REGULATION 12(8) APPLIES

In accordance with regulation 12(8) of Annex II of the Convention, the new anniversary date is

Signed
 (Signature of authorized official)
 Place
 Date
 (Seal or stamp of the authority, as appropriate)

In accordance with regulation 12(8) of Annex II of the Convention, the new Anniversary date is

Signed
 (Signature of authorized official)
 Place
 Date
 (Seal or stamp of the authority, as appropriate)".

In accordance with regulation 12(8) of Annex II of the Convention, the new Anniversary date is

Footnotes

[1]1. Alternatively, the particulars of the ship may be placed horizontally in boxes. [Footnote appeared in original text.]

[2] For oil tankers. [Footnote appeared in original text.]

[3] In accordance with resolution A.600(15) - IMO Ship Identification Number Scheme, this information may be included voluntarily. [Footnote appeared in original text.]

[4] Delete as appropriate. [Footnote appeared in original text.]

[5] Insert the date of expiry as specified by the Administration in accordance with regulation 8(1) of Annex I of the Convention. The day and the month of this date correspond to the anniversary date as defined in regulation 1(31) of Annex I of the Convention, unless amended in accordance with regulation 8(8) of Annex I of the Convention. [Footnote appeared in original text.]

[6] Alternatively, the particulars of the ship may be placed horizontally in boxes. [Footnote appeared in original text.]

[7] In accordance with resolution A.600(15) - IMO Ship Identification Number Scheme, this information may be included voluntarily. [Footnote appeared in original text.]

[8] Delete as appropriate. [Footnote appeared in original text.]

[9] Insert the date of expiry as specified by the Administration in accordance with regulation 12(1) of Annex II of the Convention. The day and the month of this date correspond to the anniversary date as defined in regulation 1(14) of Annex II of the Convention, unless amended in accordance with regulation 12(8) of Annex II of the Convention. [Footnote appeared in original text.]

AMENDMENTS TO ANNEXES I AND V OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 (MARPOL 73/78)

DESIGNATION OF ANTARCTIC AREA AS A SPECIAL AREA

Adopted at London, 16 March 1990

Entered into force 17 March 1992

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

Recalling Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Committee,

Noting article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and article VI of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1978 Protocol") which confer upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

Having Considered, at its thirtieth session, amendments to the 1978 Protocol proposed and circulated in accordance with article 16(2)(a) of the 1973 Convention,

Having considered also the objective that all wastes are to be removed from the Antarctic area due to the ecological importance of the fragile ecosystems of the area,

1. *Adopts*, in accordance with article 16(2)(d) of the 1973 Convention, amendments to the Annex of the 1978 Protocol, the text of which is set out in the Annex to the present resolution;
2. *Determines*, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 16 September 1991 unless, prior to this date, one third or more of the Parties, or the Parties the combined merchant fleets of which constitute fifty per cent or more of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;
3. *Invites* the Parties to note that, in accordance with article 16(2)(g)(ii) of 1973 Convention, the amendments shall enter into force on 17 March 1992 upon their acceptance in accordance with paragraph 2 above;
4. *Decides* that the requirements of Regulation 10 of Annex I and Regulation 5 of Annex V of MARPOL 73/78 in respect of the Antarctic area shall take effect on the day the amendments thereto adopted under this resolution enter into force, which is expected to be 17 March 1992;
5. *Requests* the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to Annexes I and V of MARPOL 73/78 certified copies of the present resolution and the text of the amendments contained in Annexes 1 and 2 respectively;
6. *Further requests* the Secretary-General to transmit to the Members of the Organization which are not Parties to Annexes I or V of MARPOL 73/78 copies of the resolution and its annexes.

ANNEX 1

AMENDMENTS TO ANNEXES I and V OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 (MARPOL 73/78)

ANNEX I REGULATIONS FOR THE PREVENTION OF POLLUTION BY OIL

Regulation 10 is amended to read as follows:

Regulation 10

Methods for the prevention of oil pollution from ships while operating in Special Areas

(1) For the purposes of this Annex, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the "Gulfs area", the Gulf of Aden and the Antarctic area, which are defined as follows:

(a) - (f) No change.

(g) "The Antarctic area means the sea area south of 60deg. south latitude".

(2) Subject to the provisions of Regulation 11 of this Annex:

(a) Any discharge into the sea of oil or oily mixture from any oil tanker, or any ship of 400 tons gross tonnage and above other than an oil tanker, shall be prohibited, while in a special area. In respect of the Antarctic area, any discharge into the sea of oil or oily mixture from any ship shall be prohibited.

(b) Except as provided for in respect of the Antarctic area under paragraph 2(a) of this Regulation, any discharge into the sea of oil or oily mixture from a ship of less than 400 tons gross tonnage, other than an oil tanker, shall be prohibited while in a special area, except when the oil content of the effluent without dilution does not exceed 15 parts per million or alternatively when all of the following conditions are satisfied:

(2)(b) (i), (ii), (iii) No change.

(3) - (7) No change.

(8) Notwithstanding paragraph (7) of this Regulation, the following rules apply to the Antarctic area:

(a) The Government of each Party to the Convention whose ports are used by ships departing en route to or arriving from the Antarctic area undertakes to ensure that as soon as practicable adequate facilities are provided for the reception of all sludge, dirty ballast, tank washing water, and other oily residues and mixtures from all ships, without causing undue delay, and according to the needs of the ships using them.

(b) The Government of each Party to the Convention shall ensure that all ships entitled to fly its flag, before entering the Antarctic area, are fitted with a tank or tanks of sufficient capacity on board for the retention of all sludge, dirty ballast, tank washing water and other oily residues and mixtures while operating in the area and have concluded arrangements to discharge such oily residues at a reception facility after leaving the area.

ANNEX 2

AMENDMENTS TO ANNEXES I AND V OF THE PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 (MARPOL 73/78)

ANNEX V: REGULATIONS FOR THE PREVENTION OF POLLUTION BY GARBAGE FROM SHIPS

Regulation 5 is amended to read as follows:

Regulation 5 DISPOSAL OF GARBAGE WITHIN SPECIAL AREAS

(1) For the purposes of this Annex, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the "Gulfs area", the North Sea area and the Antarctic area, which are defined as follows:

(a) - (f) No change.

(g) The Antarctic area means the sea area south of 60deg. south latitude.

(2) - (4) No change.

(5) Notwithstanding paragraph 4 of this Regulation, the following rules apply to the Antarctic area:

(a) The Government of each Party to the Convention whose ports are used by ships departing en route to or arriving from the Antarctic area undertakes to ensure that as soon as practicable adequate facilities are provided for the reception of all garbage from all ships, without causing undue delay, and according to the needs of the ships using them.

(b) The Government of each Party to the Convention shall ensure that all ships entitled to fly its flag, before entering the Antarctic area, have sufficient capacity on board for the retention of all garbage while operating in the area and have concluded arrangements to discharge such garbage at a reception facility after leaving the area.

**3. INTERVENTION Convention:
INTERNATIONAL CONVENTION RELATING TO INTERVENTION ON THE HIGH
SEAS IN CASES OF OIL POLLUTION CASUALTIES, 1969**

**3.1 Protocol Relating to the Intervention on the High Seas in Cases of Pollution by
Substances Other than Oil, 1973.**

SUMMARY

The INTERVENTION Convention provides powers to Coastal States to take action against a vessel on the high seas in respect of marine casualties resulting in or likely to result in major environmental or economic damage within the Coastal State's jurisdiction.

The 73 Protocol extends most of the provisions to not only oil but other substances listed in an annex. Coastal States are also able to take action for substances not in the annex provided they can show that at the time of intervention the substance could 'reasonably pose a grave and imminent threat' similar to those posed by substances in the annex.

Secretariat: International Maritime Organization
 4 Albert Embankment
 London SE1 7SR
 United Kingdom
 Ph +(44) 171 735 7611
 Fax +(44) 171 587 310
 Email info@imo.org

INTERNATIONAL CONVENTION RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF OIL POLLUTION CASUALTIES

Adopted at Brussels, 29 November 1969
Entered into force 6 May 1975

PREAMBLE

The States Parties to the present Convention,

Conscious of the need to protect the interests of their peoples against the grave consequences of a maritime casualty resulting in danger of oil pollution of sea and coastlines,

Convinced that under these circumstances measures of an exceptional character to protect such interests might be necessary on the high seas and that these measures do not affect the principle of freedom of the high seas,

Have agreed as follows:

Article I

1. Parties to the present Convention 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 of the sea by 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. However, no measures shall be taken under the present Convention against any warship or other ship owned or operated by a State and used, for the time being, only on government non-commercial service.

Article II

For the purpose of the present Convention:

1. "maritime casualty" means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo;

2. "ship" means:

(a) any sea-going vessel of any type whatsoever, and

(b) any floating craft, with the exception of an installation or device engaged in the exploration and exploitation of the resources of the sea-bed and the ocean floor and the subsoil thereof;

3. "oil" means crude oil, fuel oil, diesel oil and lubricating oil;

4. "related interests" means the interests of a coastal State directly affected or threatened by the maritime casualty, such as:

(a) maritime coastal, port or estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;

(b) tourist attractions of the area concerned;

(c) the health of the coastal population and the well-being of the area concerned, including conservation of living marine resources and of wildlife;

5. "Organization" means the Inter-Governmental Maritime Consultative Organization.

Article III

When a coastal State is exercising the right to take measures in accordance with Article I, the following provisions shall apply:

- (a) before taking any measures, a coastal State shall proceed to consultations with other States affected by the maritime casualty, particularly with the flag State or States;
- (b) the coastal State shall notify without delay the proposed measures to any persons physical or corporate known to the coastal State, or made known to it during the consultations, to have interests which can reasonably be expected to be affected by those measures. The coastal State shall take into account any views they may submit;
- (c) before any measure is taken, the coastal State may proceed to a consultation with independent experts, whose names shall be chosen from a list maintained by the Organization;
- (d) in cases of extreme urgency requiring measures to be taken immediately, the coastal State may take measures rendered necessary by the urgency of the situation, without prior notification or consultation or without continuing consultations already begun;
- (e) a coastal State shall, before taking such measures and during their course, use its best endeavours to avoid any risk to human life, and to afford persons in distress any assistance of which they may stand in need, and in appropriate cases to facilitate the repatriation of ships crews, and to raise no obstacle thereto;
- (f) measures which have been taken in application of Article I shall be notified without delay to the States and to the known physical or corporate persons concerned, as well as to the Secretary-General of the Organization.

Article IV

1. Under the supervision of the Organization, there shall be set up and maintained the list of experts contemplated by Article III of the present Convention, and the Organization shall make necessary and appropriate regulations in connexion therewith, including the determination of the required qualifications.
2. Nominations to the list may be made by Member States of the Organization and by Parties to this Convention. The experts shall be paid on the basis of services rendered by the States utilizing those services.

Article V

1. Measures taken by the coastal State in accordance with Article I shall be proportionate to the damage actual or threatened to it.
2. Such measures shall not go beyond what is reasonably necessary to achieve the end mentioned in Article I and shall cease as soon as that end has been achieved; they shall not unnecessarily interfere with the rights and interests of the flag State, third States and of any persons, physical or corporate, concerned.
3. In considering whether the measures are proportionate to the damage, account shall be taken of:
 - (a) the extent and probability of imminent damage if those measures are not taken; and
 - (b) the likelihood of those measures being effective; and
 - (c) the extent of the damage which may be caused by such measures.

Article VI

Any Party which has taken measures in contravention of the provisions of the present Convention causing damage to others, shall be obliged to pay compensation to the extent of the damage caused by measures which exceed those reasonably necessary to achieve the end mentioned in Article I.

Article VII

Except as specifically provided, nothing in the present Convention shall prejudice any otherwise applicable right, duty, privilege or immunity or deprive any of the Parties or any interested physical or corporate person of any remedy otherwise applicable.

Article VIII

1. Any controversy between the Parties as to whether measures taken under Article I were in contravention of the provisions of the present Convention, to whether compensation is obliged to be paid under Article VI, and to the amount of such compensation shall, if settlement by negotiation between the Parties involved or between the Party which took the measures and the physical or corporate claimants has not been possible, and if the Parties do not otherwise agree, be submitted upon request of any of the Parties concerned to conciliation, or if conciliation does not succeed, to arbitration, as set out in the Annex to the present Convention.

2. The Party which took the measures shall not be entitled to refuse a request for conciliation or arbitration under provisions of the preceding paragraph solely on the grounds that any remedies under municipal law in its own courts have not been exhausted.

Article IX

1. The present Convention shall remain open for signature until 31 December 1970 and shall thereafter remain open for accession.

2. States Members of the United Nations or any of the Specialized Agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice may become Parties to this Convention by:

- (a) signature without reservation as to ratification, acceptance or approval;
- (b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
- (c) accession.

Article X

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 Convention 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 those Parties shall be deemed to apply to the Convention as modified by the amendment.

Article XI

1. The present Convention shall enter into force on the ninetieth day following the date on which Governments of fifteen States have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization.

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

Article XII

1. The present Convention may be denounced by any Party at any time after the date on which the Convention comes into force for that State.

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

3. A 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.

Article XIII

1. The United Nations where it is the administering authority for a territory, or any State Party to the present Convention responsible for the international relations of a territory, shall as soon as possible consult with the appropriate authorities of such territories or take such other measures as may be appropriate, in order to extend the present Convention to that territory and may at any time by notification in writing to the Secretary-General of the Organization declare that the present Convention shall extend to such territory.

2. The present Convention shall, from the date of receipt of the notification or from such other date as may be specified in the notification, extend the territory named therein.

3. The United Nations, or any Party which has made a declaration under paragraph 1 of this Article may at any time after the date on which the Convention has been so extended to any territory declare by notification in writing to the Secretary-General of the Organization that the present Convention shall cease to extend to any such territory named in the notification.

4. The present Convention shall cease to extend to any territory mentioned in such notification one year, or such longer period as may be specified therein, after the date of receipt of the notification by the Secretary-General of the Organization.

Article XIV

1. A Conference for the purpose of revising or amending the present Convention may be convened by the Organization.

2. The Organization shall convene a Conference of the States Parties to the present Convention for revising or amending the present Convention at the request of not less than one-third of the Parties.

Article XV

1. The present Convention 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 or acceded to the Convention of:

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

(ii) the deposit of any instrument of denunciation of this Convention together with the date of the deposit;

(iii) the extension of the present Convention to any territory under paragraph 1 of Article XIII and of the termination of any such extension under the provisions of paragraph 4 of that Article stating in each case the date on which the present Convention has been or will cease to be so extended;

(b) transmit certified true copies of the present Convention to all Signatory States and to all States which accede to the present Convention.

Article XVI

As soon as the present Convention comes into force, the text 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 XVII

The present Convention is established in a single copy in the English and French languages, both texts being equally authentic. Official translations in the Russian and Spanish languages shall be prepared and deposited with the signed original. In witness whereof the undersigned being duly authorized by their respective Governments for that purpose have signed the present Convention.

DONE at Brussels this twenty-ninth day of November 1969.

ANNEX

Chapter I Conciliation omitted
Chapter II Arbitration omitted

4. OPRC 90: INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND COOPERATION, 1990.

SUMMARY

OPRC 90 is a treaty designed to help Governments combat major oil pollution incidents. The Convention recognizes that, in the event of a pollution incident, prompt and effective action is essential. This in turn depends upon the establishment of oil pollution emergency plans on ships and offshore installations, and at ports and oil handling facilities, together with national and regional contingency plans as appropriate. The Convention is intended to encourage this process and at the same time to establish a framework for international co-operation in responding to pollution emergencies which will enable maximum resources to be mobilized as quickly as possible.

The Convention is designed to facilitate international co-operation and mutual assistance in preparing for and responding to a major oil pollution incident and to encourage States to develop and maintain an adequate capability to deal with oil pollution emergencies.

It will also to be applied to hazardous and noxious substances pending revision of the Convention in the future to cover such substances.

Under OPRC 90, when assistance is rendered to combat pollution incidents the requesting Party should reimburse the assisting Party for the cost of assistance, although under certain circumstances the requesting Party may ask for the reimbursement of expenses to be waived, reduced or postponed. Due consideration should be given to the needs of developing countries.

A Pacific islands regional equivalent to OPRC 90 has been in place since 1986, in the form of the Protocol concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region (SPREP Pollution Emergencies Protocol) of the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 1986 (SPREP Convention) (Refer Part II – Pacific Islands Regional Marine Pollution Conventions).

Both OPRC 90 and the SPREP Pollution Emergencies Protocol are being implemented in the Pacific islands region through development and adoption of the Pacific Islands Regional Marine Spill Contingency Plan (PACPLAN), combined with the provision of assistance by SPREP to member countries to develop National Marine Spill Contingency Plans (NATPLANs).

Secretariat: International Maritime Organization
4 Albert Embankment
London SE1 7SR
United Kingdom
Ph +(44) 171 735 7611
Fax +(44) 171 587 310
Email info@imo.org

INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND COOPERATION

Adopted at London on 30 November 1990
Entered into force 13 May 1995

PREAMBLE

The Parties to the present Convention,

Conscious of the need to preserve the human environment in general and the marine environment in particular,

Recognizing the serious threat posed to the marine environment by oil pollution incidents involving ships, offshore units, sea ports and oil handling facilities,

Mindful of the importance of precautionary measures and prevention in avoiding oil pollution in the first instance, and the need for strict application of existing international instruments dealing with maritime safety and marine pollution prevention, particularly the International Convention for the Safety of Life at Sea, 1974, as amended, and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and also the speedy development of enhanced standards for the design, operation and maintenance of ships carrying oil, and of offshore units,

Mindful also that, in the event of an oil pollution incident, prompt and effective action is essential in order to minimize the damage which may result from such an incident,

Emphasizing the importance of effective preparation for combating oil pollution incidents and the important role which the oil and shipping industries have in this regard,

Recognizing further the importance of mutual assistance and international cooperation relating to matters including the exchange of information respecting the capabilities of States to respond to oil pollution incidents, the preparation of oil pollution contingency plans, the exchange of reports of incidents of significance which may affect the marine environment or the coastline and related interests of States, and research and development respecting means of combating oil pollution in the marine environment,

Taking account of the "polluter pays" principle as a general principle of international environmental law,

Taking account also of the importance of international instruments on liability and compensation for oil pollution damage, including the 1969 International Convention on Civil Liability for Oil Pollution Damage (CLC); and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND); and the compelling need for early entry into force of the 1984 Protocols to the CLC and FUND Conventions,

Taking account further of the importance of bilateral and multilateral agreements and arrangements including regional conventions and agreements,

Bearing in mind the relevant provisions of the United Nations Convention on the Law of the Sea, in particular of its part XII,

Being aware of the need to promote international cooperation and to enhance existing national, regional and global capabilities concerning oil pollution preparedness and response, taking into account the special needs of the developing countries and particularly small island States,

Considering that these objectives may best be achieved by the conclusion of an International Convention on Oil Pollution Preparedness, Response and Cooperation,

Have agreed as follows:

Article 1 GENERAL PROVISIONS

- (1) Parties undertake, individually or jointly, to take all appropriate measures in accordance with the provisions of this Convention and the Annex thereto to prepare for and respond to an oil pollution incident.
- (2) The Annex to this Convention shall constitute an integral part of the Convention and a reference to this Convention constitutes at the same time a reference to the Annex.
- (3) This Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with this Convention.

Article 2 DEFINITIONS

For the purposes of this Convention:

- (1) Oil means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products.
- (2) Oil pollution incident means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of one or more States, and which requires emergency action or other immediate response.
- (3) Ship means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, and floating craft of any type.
- (4) Offshore unit means any fixed or floating offshore installation or structure engaged in gas or oil exploration, exploitation or production activities, or loading or unloading of oil.
- (5) Sea ports and oil handling facilities means those facilities which present a risk of an oil pollution incident and includes, inter alia, sea ports oil terminals, pipelines and other oil handling facilities.
- (6) Organization means the International Maritime Organization.
- (7) Secretary-General means the Secretary-General of the Organization.

Article 3 OIL POLLUTION EMERGENCY PLANS

- (1)
 - (a) Each Party shall require that ships entitled to fly its flag have on board a shipboard oil pollution emergency plan as required by and in accordance with the provisions adopted by the Organization for this purpose.
 - (b) A ship required to have on board an oil pollution emergency plan in accordance with subparagraph (a) is subject, while in a port or at an offshore terminal under the jurisdiction of a Party to inspection by officers duly authorized by that Party, in accordance with the practices provided for in existing international agreements or its national legislation.
- (2) Each Party shall require that operators of offshore units under its jurisdiction have oil pollution emergency plans, which are coordinated with the national system established in accordance with article 6 and approved in accordance with procedures established by the competent national authority.
- (3) Each Party shall require that authorities or operators in charge of such sea ports and oil handling facilities under its jurisdiction as it deems appropriate have oil pollution emergency plans or similar arrangements which are coordinated with the national system established in accordance with article 6 and approved in accordance with procedures established by the competent national authority.

Article 4 OIL POLLUTION REPORTING PROCEDURES

- (1) Each Party shall:

(a) require masters or other persons having charge of ships flying its flag and persons having charge of offshore units under its jurisdiction to report without delay any event on their ship or offshore unit involving a discharge or probable discharge of oil:

(i) in the case of a ship, to the nearest coastal State;

(ii) in the case of an offshore unit, to the coastal State to whose jurisdiction the unit is subject;

(b) require masters or other persons having charge of ships flying its flag and persons having charge of offshore units under its jurisdiction to report without delay any observed event at sea involving a discharge of oil or the presence of oil:

(i) in the case of a ship, to the nearest coastal State;

(ii) in the case of an offshore unit, to the coastal State to whose jurisdiction the unit is subject;

(c) require persons having charge of sea ports and oil handling facilities under its jurisdiction to report without delay any event involving a discharge or probable discharge of oil or the presence of oil to the competent national authority;

(d) instruct its maritime inspection vessels or aircraft and other appropriate services or officials to report without delay any observed event at sea or at a sea port or oil handling facility involving a discharge of oil or the presence of oil to the competent national authority or, as the case may be, to the nearest coastal State;

(e) request the pilots of civil aircraft to report without delay any observed event at sea involving a discharge of oil or the presence of oil to the nearest coastal State.

(2) Reports under paragraph (1)(a)(i) shall be made in accordance with the requirements developed by the Organization and based on the guidelines and general principles adopted by the Organization. Reports under paragraph (1)(a)(ii), (b), (c) and (d) shall be made in accordance with the guidelines and general principles adopted by the Organization to the extent applicable.

Article 5 ACTION ON RECEIVING AN OIL POLLUTION REPORT

(1) Whenever a Party receives a report referred to in article 4 or pollution information provided by other sources, it shall:

(a) assess the event to determine whether it is an oil pollution incident;

(b) assess the nature, extent and possible consequences of the oil pollution incident; and

(c) then, without delay, inform all States whose interests are affected or likely to be affected by such oil pollution incident, together with

(i) details of its assessments and any action it has taken, or intends to take, to deal with the incident, and

(ii) further information as appropriate, until the action taken to respond to the incident has been concluded or until joint action has been decided by such States.

(2) When the severity of such oil pollution incident so justifies, the Party should provide the Organization directly or, as appropriate, through the relevant regional organization or arrangements with the information referred to in paragraph (1)(b) and (c).

(3) When the severity of such oil pollution incident so justifies, other States affected by it are urged to inform the Organization directly or, as appropriate, through the relevant regional organizations or arrangements of their assessment of the extent of the threat to their interests and any action taken or intended.

(4) Parties should use, in so far as practicable, the oil pollution reporting system developed by the Organization when exchanging information and communicating with other States and with the Organization.

Article 6 NATIONAL AND REGIONAL SYSTEMS FOR PREPAREDNESS AND RESPONSE

(1) Each Party shall establish a national system for responding promptly and effectively to oil pollution incidents. This system shall include as a minimum:

(a) the designation of:

- (i) the competent national authority or authorities with responsibility for oil pollution preparedness and response;
- (ii) the national operational contact point or points, which shall be responsible for the receipt and transmission of oil pollution reports as referred to in article 4; and
- (iii) an authority which is entitled to act on behalf of the State to request assistance or to decide to render the assistance requested;

(b) a national contingency plan for preparedness and response which includes the organizational relationship of the various bodies involved, whether public or private, taking into account guidelines developed by the Organization.

(2) In addition, each Party, within its capabilities either individually or through bilateral or multilateral cooperation and, as appropriate, in cooperation with the oil and shipping industries, port authorities and other relevant entities, shall establish:

(a) a minimum level of pre-positioned oil spill combating equipment, commensurate with the risk involved, and programmes for its use;

(b) a programme of exercises for oil pollution response organizations and training of relevant personnel;

(c) detailed plans and communication capabilities for responding to an oil pollution incident. Such capabilities should be continuously available; and

(d) a mechanism or arrangement to coordinate the response to an oil pollution incident with, if appropriate, the capabilities to mobilize the necessary resources.

(3) Each Party shall ensure that current information is provided to the Organization, directly or through the relevant regional organization or arrangements, concerning:

(a) the location, telecommunication data and, if applicable, areas of responsibility of authorities and entities referred to in paragraph (1)(a);

(b) information concerning pollution response equipment and expertise in disciplines related to oil pollution response and marine salvage which may be made available to other States, upon request; and

(c) its national contingency plan.

Article 7 INTERNATIONAL CO-OPERATION IN POLLUTION RESPONSE

(1) Parties agree that, subject to their capabilities and the availability of relevant resources, they will co-operate and provide advisory services, technical support and equipment for the purpose of responding to an oil pollution incident, when the severity of such incident so justifies, upon the request of any Party affected or likely to be affected. The financing of the costs for such assistance shall be based on the provisions set out in the Annex to this Convention.

(2) A Party which has requested assistance may ask the Organization to assist in identifying sources of provisional financing of the costs referred to in paragraph (1).

(3) In accordance with applicable international agreements, each Party shall take necessary legal or administrative measures to facilitate:

(a) the arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and

(b) the expeditious movement into, through, and out of its territory of personnel, cargoes, materials and equipment referred to in subparagraph (a).

Article 8 RESEARCH AND DEVELOPMENT

(1) Parties agree to co-operate directly or, as appropriate, through the Organization or relevant regional organizations or arrangements in the promotion and exchange of results of research and development programmes relating to the enhancement of the state-of-the-art of oil pollution preparedness and response, including technologies and techniques for surveillance, containment, recovery, dispersion, clean-up and otherwise minimizing or mitigating the effects of oil pollution, and for restoration.

(2) To this end, Parties undertake to establish directly or, as appropriate, through the Organization or relevant regional organizations or arrangements, the necessary links between Parties' research institutions.

(3) Parties agree to co-operate directly or through the Organization or relevant regional organizations or arrangements to promote, as appropriate, the holding on a regular basis of international symposia on relevant subjects, including technological advances in oil pollution combating techniques and equipment.

(4) Parties agree to encourage, through the Organization or other competent international organizations, the development of standards for compatible oil pollution combating techniques and equipment.

Article 9 TECHNICAL CO-OPERATION

(1) Parties undertake directly or through the Organization and other international bodies, as appropriate, in respect of oil pollution preparedness and response, to provide support for those Parties which request technical assistance:

- (a) to train personnel;
- (b) to ensure the availability of relevant technology, equipment and facilities;
- (c) to facilitate other measures and arrangements to prepare for and respond to oil pollution incidents; and
- (d) to initiate joint research and development programmes.

(2) Parties undertake to co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology in respect of oil pollution preparedness and response.

Article 10 PROMOTION OF BILATERAL AND MULTILATERAL CO-OPERATION IN PREPAREDNESS AND RESPONSE

Parties shall endeavour to conclude bilateral or multilateral agreements for oil pollution preparedness and response. Copies of such agreements shall be communicated to the Organization which should make them available on request to Parties.

Article 11 RELATION TO OTHER CONVENTIONS AND INTERNATIONAL AGREEMENTS.

Nothing in this Convention shall be construed as altering the rights or obligations of any Party under any other convention or international agreement.

Article 12 INSTITUTIONAL ARRANGEMENTS

(1) Parties designate the Organization, subject to its agreement and the availability of adequate resources to sustain the activity, to perform the following functions and activities:

(a) information services:

(i) to receive, collate and disseminate on request the information provided by Parties (see, for example articles 5 (2) and (3), 6 (3) and 10) and relevant information provided by other sources; and

(ii) to provide assistance in identifying sources of provisional financing of costs (see, for example, article 7 (2));

(b) education and training:

(i) to promote training in the field of oil pollution preparedness and response (see, for example, article 9); and

(ii) to promote the holding of international symposia (see, for example, article 8 (3));

(c) technical services:

(i) to facilitate co-operation in research and development (see, for example, articles 8 (1), (2) and (4) and 9(1)(d));

(ii) to provide advice to States establishing national or regional response capabilities; and

(iii) to analyse the information provided by Parties (see, for example, articles 5 (2) and (3), 6 (3) and 8 (1)) and relevant information provided by other sources and provide advice or information to States;

(d) technical assistance:

(i) to facilitate the provision of technical assistance to States establishing national or regional response capabilities; and

(ii) to facilitate the provision of technical assistance and advice, upon the request of States faced with major oil pollution incidents.

(2) In carrying out the activities specified in this article, the Organization shall endeavour to strengthen the ability of States individually or through regional arrangements to prepare for and combat oil pollution incidents, drawing upon the experience of States, regional agreements and industry arrangements and paying particular attention to the needs of developing countries.

(3) The provisions of this article shall be implemented in accordance with a programme developed and kept under review by the Organization.

Article 13 EVALUATION OF THE CONVENTION

Parties shall evaluate within the Organization the effectiveness of the Convention in the light of its objectives, particularly with respect to the principles underlying co-operation and assistance.

Article 14 AMENDMENTS

(1) This Convention may be amended by one of the procedures specified in the following paragraphs.

(2) Amendment after consideration by the Organization:

(a) Any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by the Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration.

(b) Any amendment proposed and circulated as above shall be submitted to the Marine Environment Protection Committee of the Organization for consideration.

(c) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Marine Environment Protection Committee.

(d) Amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting.

(e) If adopted in accordance with subparagraph (d), amendments shall be communicated by the Secretary-General to all Parties to the Convention for acceptance.

(f)

(i) An amendment to an article or the Annex of the Convention shall be deemed to have been accepted on the date on which it is accepted by two thirds of the Parties.

(ii) An amendment to an appendix shall be deemed to have been accepted at the end of a period to be determined by the Marine Environment Protection Committee at the time of its adoption, which period shall not be less than ten months, unless within that period an objection is communicated to the Secretary-General by not less than one third of the Parties.

(g)

(i) An amendment to an article or the Annex of the Convention accepted in conformity with subparagraph (f)(i) shall enter into force six months after the date on which it is deemed to have been accepted with respect to the Parties which have notified the Secretary-General that they have accepted it.

(ii) An amendment to an appendix accepted in conformity with subparagraph (f) (ii) shall enter into force six months after the date on which it is deemed to have been accepted with respect to all Parties with the exception of those which, before that date, have objected to it. A Party may at any time withdraw a previously communicated objection by submitting a notification to that effect to the Secretary-General.

(3) Amendment by a Conference:

(a) Upon the request of a Party, concurred with by at least one third of the Parties, the Secretary-General shall convene a Conference of Parties to the Convention to consider amendments to the Convention.

(b) An amendment adopted by such a Conference by a two-thirds majority of those Parties present and voting shall be communicated by the Secretary-General to all Parties for their acceptance.

(c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in paragraph (2)(f) and (g).

(4) The adoption and entry into force of an amendment constituting an addition of an Annex or an appendix shall be subject to the procedure applicable to an amendment to the Annex.

(5) Any Party which has not accepted an amendment to an article or the Annex under paragraph (2)(f)(i) or an amendment constituting an addition of an Annex or an appendix under paragraph (4) or has communicated an objection to an amendment to an appendix under paragraph (2)(f)(ii) shall be treated as a non-Party only for the purpose of the application of such amendment. Such treatment shall terminate upon the submission of a notification of acceptance under paragraph (2)(f)(i) or withdrawal of the objection under paragraph (2)(g)(ii).

(6) The Secretary-General shall inform all Parties of any amendment which enters into force under this article, together with the date on which the amendment enters into force.

(7) Any notification of acceptance of, objection to, or withdrawal of objection to, an amendment under this article shall be communicated in writing to the Secretary-General who shall inform Parties of such notification and the date of its receipt.

(8) An appendix to the Convention shall contain only provisions of a technical nature.

Article 15 SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

(1) This Convention shall remain open for signature at the Headquarters of the Organization from 30 November 1990 until 29 November 1991 and shall thereafter remain open for accession. Any State may become Party to this

Convention by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 16 ENTRY INTO FORCE

(1) This Convention shall enter into force twelve months after the date on which not less than fifteen States have either signed it without reservation as to ratification, acceptance or approval or have deposited the requisite instruments of ratification, acceptance, approval or accession in accordance with article 15.

(2) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of this Convention or three months after the date of deposit of the instrument, whichever is the later date.

(3) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which this Convention entered into force, this Convention shall become effective three months after the date of deposit of the instrument.

(4) After the date on which an amendment to this Convention is deemed to have been accepted under article 14, any instrument of ratification, acceptance, approval or accession deposited shall apply to this Convention as amended.

Article 17 DENUNCIATION

(1) This Convention may be denounced by any Party at any time after the expiry of five years from the date on which this Convention enters into force for that Party.

(2) Denunciation shall be effected by notification in writing to the Secretary-General.

(3) A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General or after the expiry of any longer period which may be indicated in the notification.

Article 18 DEPOSITARY

(1) This Convention shall be deposited with the Secretary-General.

(2) The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of this Convention; and

(iii) the deposit of any instrument of denunciation of this Convention together with the date on which it was received and the date on which the denunciation takes effect;

(b) transmit certified true copies of this Convention to the Governments of all States which have signed this Convention or acceded thereto.

(3) As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 19 LANGUAGES

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

DONE AT LONDON this thirtieth day of November one thousand nine hundred and ninety.

ANNEX

REIMBURSEMENT OF COSTS OF ASSISTANCE

(1)

(a) Unless an agreement concerning the financial arrangements governing actions of Parties to deal with oil pollution incidents has been concluded on a bilateral or multilateral basis prior to the oil pollution incident, Parties shall bear the costs of their respective actions in dealing with pollution in accordance with subparagraph (i) or subparagraph (ii).

(i) If the action was taken by one Party at the express request of another Party, the requesting Party shall reimburse to the assisting Party the cost of its action. The requesting Party may cancel its request at any time, but in that case it shall bear the costs already incurred or committed by the assisting Party.

(ii) If the action was taken by a Party on its own initiative, this Party shall bear the costs of its action.

(b) The principles laid down in subparagraph (a) shall apply unless the Parties concerned otherwise agree in any individual case.

(2) Unless otherwise agreed, the costs of action taken by a Party at the request of another Party shall be fairly calculated according to the law and current practice of the assisting Party concerning the reimbursement of such costs.

(3) The Party requesting assistance and the assisting Party shall, where appropriate, co-operate in concluding any action in response to a compensation claim. To that end, they shall give due consideration to existing legal regimes. Where the action thus concluded does not permit full compensation for expenses incurred in the assistance operation, the Party requesting assistance may ask the assisting Party to waive reimbursement of the expenses exceeding the sums compensated or to reduce the costs which have been calculated in accordance with paragraph (2). It may also request a postponement of the reimbursement of such costs. In considering such a request, assisting Parties shall give due consideration to the needs of the developing countries.

(4) The provisions of this Convention shall not be interpreted as in any way prejudicing the rights of Parties to recover from third parties the costs of actions to deal with pollution or the threat of pollution under other applicable provisions and rules of national and international law. Special attention shall be paid to the 1969 International Convention on Civil Liability for Oil Pollution Damage and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage or any subsequent amendment to those Conventions.

5. CLC 92: INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE, 1992.

SUMMARY

CLC 92 requires compulsory insurance on oil tankers to cover compensation claims for oil pollution damage suffered by Coastal States. Tanker owners' liability is strict but limited, and claims can be made up to US\$85 million. CLC 92 only applies to pollution damage from heavy oils carried by tankers. CLC 92 is closely linked to FUND 92 (see Chapter 6).

CLC 92 has become extremely important due to the fact that this is the only avenue currently available to Coastal States to ensure that they are covered for compensation for pollution damage. The oil tanker and cargo owners had previously sponsored a voluntary compensation scheme known as TOVALOP and CRISTAL. However, no real discussion of these industry schemes is necessary because in February 1997, these initiatives were cancelled. This occurred due to the fact that international legal compensation schemes were developed and came into force through CLC 69 and Fund 71. Further, CLC 69 and FUND 71 have been superseded by the much improved compensation regimes provided by CLC 92 and FUND 92.

Since the industry related schemes are no longer in force, it is imperative for non-signatory countries to quickly accede to CLC 92 to provide for compensation in the event of a major oil disaster. Until these compensation schemes adopted, the island countries of the Region are effectively "naked" in respect to compensation issues. These schemes make even more sense in that there is no cost to the governments.

Secretariat: International Oil Pollution Compensation Funds
4 Albert Embankment
London SE1 7SR
United Kingdom
Ph +(44) 171 582 2606
Fax +(44) 171 735 0326
Email iopcfund@dircon.co.uk

INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE 1992

Adopted at London on 27 November 1992
Entered into force 30 May 1996

The States Parties to the present Convention,

Conscious of the dangers of pollution posed by the worldwide maritime carriage of oil in bulk,

Convinced of the need to ensure that adequate compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil from ships,

Desiring to adopt uniform international rules and procedures for determining questions of liability and providing adequate compensation in such cases,

Have agreed as follows:

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention on Civil Liability for Oil Pollution Damage, 1969 and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNIZING that special provisions are necessary in connection with the introduction of corresponding amendments to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,

HAVE AGREED as follows:

Article I

For the purposes of this Convention:

1. "Ship" means any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard.
2. "Person" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. "Owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "owner" shall mean such company.
4. "State of the ship's registry" means in relation to registered ships the State of registration of the ship, and in relation to unregistered ships the State whose flag the ship is flying.
5. "Oil" means any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship.

6. "Pollution damage" means:

(a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;

(b) the costs of preventive measures and further loss or damage caused by preventive measures.

7. "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage.

8. "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage.

9. "Organization" means the International Maritime Organization.

10. "1969 Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1969. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article II

This Convention shall apply exclusively:

(a) to pollution damage caused:

(i) in the territory, including the territorial sea, of a Contracting State, and

(ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;

(b) to preventive measures, wherever taken, to prevent or minimize such damage.

Article III

1. Except as provided in paragraphs 2 and 3 of this Article, the owner of a ship at the time of an incident, or, where the incident consists of a series of occurrences, at the time of the first such occurrence, shall be liable for any pollution damage caused by the ship as a result of the incident.

2. No liability for pollution damage shall attach to the owner if he proves that the damage:

(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character, or

(b) was wholly caused by an act or omission done with intent to cause damage by a third party, or

(c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

3. If the owner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from his liability to such person.

4. No claim for compensation for pollution damage may be made against the owner otherwise than in accordance

with this Convention. Subject to paragraph 5 of this Article, no claim for compensation for pollution damage under this Convention or otherwise may be made against:

- (a) the servants or agents of the owner or the members of the crew;
- (b) the pilot or any other person who, without being a member of the crew, performs services for the ship;
- (c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;
- (e) any person taking preventive measures;
- (f) all servants or agents of persons mentioned in subparagraphs (c), (d) and (e);

unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

5. Nothing in this Convention shall prejudice any right of recourse of the owner against third parties.

Article IV

When an incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under Article III, shall be jointly and severally liable for all such damage which is not reasonably separable.

Article V

1. The owner of a ship shall be entitled to limit his liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:

- (a) 3 million units of account for a ship not exceeding 5,000 units of tonnage;
- (b) for a ship with a tonnage in excess thereof, for each additional unit of tonnage, 420 units of account in addition to the amount mentioned in subparagraph (a);
provided, however, that this aggregate amount shall not in any event exceed 59.7 million units of account.

2. The owner shall not be entitled to limit his liability under this Convention if it is proved that the pollution damage resulted from his personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

3. For the purpose of availing himself of the benefit of limitation provided for in paragraph 1 of this Article the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of any one of the Contracting States in which action is brought under Article IX or, if no action is brought, with any Court or other competent authority in any one of the Contracting States in which an action can be brought under Article IX. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the Contracting State where the fund is constituted, and considered to be adequate by the Court or other competent authority.

4. The fund shall be distributed among the claimants in proportion to the amounts of their established claims.

5. If before the fund is distributed the owner or any of his servants or agents or any person providing him insurance or other financial security has as a result of the incident in question, paid compensation for pollution damage, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

6. The right of subrogation provided for in paragraph 5 of this Article may also be exercised by a person other than

those mentioned therein in respect of any amount of compensation for pollution damage which he may have paid but only to the extent that such subrogation is permitted under the applicable national law.

7. Where the owner or any other person establishes that he may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which such person would have enjoyed a right of subrogation under paragraphs 5 or 6 of this Article, had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize pollution damage shall rank equally with other claims against the fund.

9

(a). The "unit of account" referred to in paragraph 1 of this Article is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is a member of the International Monetary Fund shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is not a member of the International Monetary Fund shall be calculated in a manner determined by that State.

(b). Nevertheless, a Contracting State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

(c). The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the Contracting State as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first three sentences of paragraph 9(a). Contracting States shall communicate to the depositary the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

10. For the purpose of this Article the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

11. The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this Article on the same conditions and having the same effect as if it were constituted by the owner.. Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limit his liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

Article VI

1. Where the owner, after an incident, has constituted a fund in accordance with Article V, and is entitled to limit his liability,

(a) no person having a claim for pollution damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim;

(b) the Court or other competent authority of any Contracting State shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for pollution damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.

2. The foregoing shall, however, only apply if the claimant has access to the Court administering the fund and the fund is actually available in respect of his claim.

Article VII

1. The owner of a ship registered in a Contracting State and carrying more than 2,000 tons of oil in bulk as cargo shall be required to maintain insurance or other financial security, such as the guarantee of a bank or a certificate delivered by an international compensation fund in the sums fixed by applying the limits of liability prescribed in Article V, paragraph 1 to cover his liability for pollution damage under this Convention.

2. A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a Contracting State has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a Contracting State such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a Contracting State it may be issued or certified by the appropriate authority of any Contracting State. This certificate shall be in the form of the annexed model and shall contain the following particulars:

(a) name of ship and port of registration;

(b) name and principal place of business of owner;

(c) type of security;

(d) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established;

(e) period of validity of certificate which shall not be longer than the period of validity of the insurance or other security.

3. The certificate shall be in the official language or languages of the issuing State. If the language used is neither English nor French, the text shall include a translation into one of these languages.

4. The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a Contracting State, with the authorities of the State issuing or certifying the certificate.

5. An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 of this Article, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 4 of this Article, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this Article.

6. The State of registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the certificate.

7. Certificates issued or certified under the authority of a Contracting State in accordance with paragraph 2 shall be accepted by other Contracting States for the purposes of this Convention and shall be regarded by other Contracting States as having the same force as certificates issued or certified by them even if issued or certified in respect of a ship not registered in a Contracting State. A Contracting State may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the certificate is not financially capable of meeting the obligations imposed by this Convention.

8. Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the owner's liability for pollution damage. In such case the defendant may, even if the owner is not entitled to limit his liability according to Article V, paragraph 2, avail himself of the limits of liability prescribed in Article V, paragraph 1. He may further avail himself of the defences (other than the bankruptcy or winding up of the owner) which the owner himself would have been entitled to invoke. Furthermore, the defendant may avail himself of the defence that the pollution damage resulted from the wilful misconduct of the owner himself, but the defendant shall not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the owner against him. The defendant shall in any event have the right to require the owner to be joined in the proceedings.

9. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 of this Article shall be available exclusively for the satisfaction of claims under this Convention.

10. A Contracting State shall not permit a ship under its flag to which this Article applies to trade unless a certificate has been issued under paragraph 2 or 12 of this Article.

11. Subject to the provisions of this Article, each Contracting State shall ensure, under its national legislation, that insurance or other security to the extent specified in paragraph 1 of this Article is in force in respect of any ship, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an off-shore terminal in its territorial sea, if the ship actually carries more than 2.000 tons of oil in bulk as cargo.

12. If insurance or other financial security is not maintained in respect of a ship owned by a Contracting State, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limits prescribed by Article V paragraph 1. Such a certificate shall follow as closely as practicable the model prescribed by paragraph 2 of this Article.

Article VIII

Rights of compensation under this Convention shall be extinguished unless an action is brought thereunder within three years from the date when the damage occurred. However, in no case shall an action be brought after six years from the date of the incident which caused the damage. Where this incident consists of a series of occurrences, the six years' period shall run from the date of the first such occurrence.

Article IX

1. Where an incident has caused pollution damage in the territory, including the territorial sea or an area referred to in Article II, of one or more Contracting States or preventive measures have been taken to prevent or minimize pollution damage in such territory including the territorial sea or area, actions for compensation may only be brought in the Courts of any such Contracting State or States. Reasonable notice of any such action shall be given to the defendant.

2. Each Contracting State shall ensure that its Courts possess the necessary jurisdiction to entertain such actions for compensation. 3. After the fund has been constituted in accordance with Article V the Courts of the State in which the fund is constituted shall be exclusively competent to determine all matters relating to the apportionment and distribution of the fund.

Article X

1. Any judgment given by a Court with jurisdiction in accordance with Article IX which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any Contracting State, except:

(a) where the judgment was obtained by fraud; or

(b) where the defendant was not given reasonable notice and a fair opportunity to present his case.

2. A judgment recognized under paragraph I of this Article shall be enforceable in each Contracting State as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.

Article XI

1. The provisions of this Convention shall not apply to warships or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.

2. With respect to ships owned by Contracting State and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in Article IX and shall waive all defences based on its status as a sovereign State.

Article XII

This Convention shall supersede any International Conventions in force or open for signature, ratification or accession at the date on which the Convention is opened for signature, but only to the extent that such Conventions would be in

conflict with it; however, nothing in this Article shall affect the obligations of Contracting States to non-Contracting States arising under such International Conventions.

Article XIII TRANSITIONAL PROVISIONS

The following transitional provisions shall apply in the case of a State which at the time of an incident is a Party both to this Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of this Convention, liability under this Convention shall be deemed to be discharged if, and to the extent that, it also arises under the 1969 Liability Convention;
- (b) where an incident has caused pollution damage within the scope of this Convention, and the State is a Party both to this Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of subparagraph (a) of this Article shall arise under this Convention only to the extent that pollution damage remains uncompensated after application of the said 1971 Convention;
- (c) in the application of Article III, paragraph 4, of this Convention the expression "this Convention" shall be interpreted as referring to this Convention or the 1969 Liability Convention, as appropriate;
- (d) in the application of Article V, paragraph 3, of this Convention the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with subparagraph (a) of this Article.

Article XIV FINAL CLAUSES

The final clauses of this Convention shall be Articles 12 to 18 of the Protocol of 1992 to amend the 1969 Liability Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.

Article 12 SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by all States.
2. Subject to paragraph 4, any State may become a Party to this Protocol by:
 - (a) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
 - (b) accession.
3. 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.
4. Any Contracting State to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the 1971 Fund Convention, may ratify, accept, approve or accede to this Protocol only if it ratifies, accepts, approves or accedes to the Protocol of 1992 to amend that Convention at the same time, unless it denounces the 1971 Fund Convention to take effect on the date when this Protocol enters into force for that State.
5. A State which is a Party to this Protocol but not a Party to the 1969 Liability Convention shall be bound by the provisions of the 1969 Liability Convention as amended by this Protocol in relation to other States Parties hereto, but shall not be bound by the provisions of the 1969 Liability Convention in relation to States Parties thereto.
6. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1969 Liability Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

Article 13 ENTRY INTO FORCE

1. This Protocol shall enter into force twelve months following the date on which ten States including four States each with not less than one million units of gross tanker tonnage have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization.
2. However, any Contracting State to the 1971 Fund Convention may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol, declare that such instrument shall be deemed not to be effective for the purposes of this Article until the end of the six-month period in Article 31 of the Protocol of 1992 to amend the 1971 Fund Convention. A State which is not a Contracting State to the 1971 Fund Convention but which deposits an instrument of ratification, acceptance, approval or accession in respect of the Protocol of 1992 to amend the 1971 Fund Convention may also make a declaration in accordance with this paragraph at the same time.
3. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to the Secretary-General of the Organization. Any such withdrawal shall take effect on the date the notification is received, provided that such State shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.
4. For any State which ratifies, accepts, approves or accedes to it after the conditions in paragraph 1 for entry into force have been met, this Protocol shall enter into force twelve months following the date of deposit by such State of the appropriate instrument.

Article 14 REVISION AND AMENDMENT

1. A Conference for the purpose of revising or amending the 1992 Liability Convention may be convened by the Organization.
2. The Organization shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Liability Convention at the request of not less than one third of the Contracting States.

Article 15 AMENDMENTS OF LIMITATION AMOUNTS

1. Upon the request of at least one quarter of the Contracting States any proposal to amend the limits of liability laid down in Article V, paragraph 1, of the 1969 Liability Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.
3. All Contracting States to the 1969 Liability Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.
5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits in Article V, paragraph 1, of the 1969 Liability Convention as amended by this Protocol and those in Article 4, paragraph 4, of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992.
6.
 - (a) No amendment of the limits of liability under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.

(b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol increased by 6 per cent per year calculated on a compound basis from 15 January 1993.

(c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol multiplied by 3.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organization that they do not accept the amendment in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.

9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 16, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted by the Legal Committee but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article 16 DENUNCIATION

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

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

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

4. As between the Parties to this Protocol, denunciation by any of them of the 1969 Liability Convention in accordance with Article XVI thereof shall not be construed in any way as a denunciation of the 1969 Liability Convention as amended by this Protocol.

5. Denunciation of the Protocol of 1992 to amend the 1971 Fund Convention by a State which remains a Party to the 1971 Fund Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1971 Fund Convention takes effect according to Article 34 of that Protocol.

Article 17 DEPOSITARY

1. This Protocol and any amendments accepted under Article 15 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 or acceded to this Protocol of:

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

(ii) each declaration and notification under Article 13 and each declaration and communication under Article V, paragraph 9, of the 1992 Liability Convention;

(iii) the date of entry into force of this Protocol;

(iv) any proposal to amend limits of liability which has been made in accordance with Article 15, paragraph 1;

(v) any amendment which has been adopted in accordance with Article 15, paragraph 4;

(vi) any amendment deemed to have been accepted under Article 15, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;

(vii) the deposit of any instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;

(viii) any denunciation deemed to have been made under Article 16, paragraph 5;

(ix) any communication called for by any Article of this Protocol;

(b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to this Protocol.

3. As soon as this Protocol enters into force, the text 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 18 LANGUAGES

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON, this twenty-seventh day of November one thousand nine hundred and ninety-two.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

[Signatures not reproduced here.]

Additional explanatory text of:

IMO PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE, 1969

Article 1

The Convention which the provisions of this Protocol amend is the International Convention on Civil Liability for Oil Pollution Damage, 1969, hereinafter referred to as the "1969 Liability Convention". For States Parties to the Protocol of 1976 to the 1969 Liability Convention, such reference shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article 2-Article 10 (amendments to Convention)

Article 11

1. The 1969 Liability Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2. Articles I to XII ter, including the model certificate, of the 1969 Liability Convention as amended by this Protocol shall be known as the International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 Liability Convention).

ANNEX

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Name of ship	Distinctive number or letters	Port of registry	Name and address of owner
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This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Type of security
 Duration of security
 Name and address of the insurer(s) and/or guarantor(s) name
 Address

This certificate is valid until
 Issued or certified by the Government of
 (Full designation of the State)

At On

(Place) (Date)

.....
 Signature and title of issuing or certifying official

Explanatory Notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of Security" must stipulate the date on which such security takes effect.

**6. FUND 92:
INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN
INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE,
1992.**

SUMMARY

FUND 92 establishes an international fund to cover claims for oil pollution damage that exceed compensation available under CLC 92. Compensation is available up to US\$192 million.

To be a party to FUND 92, a country must first be a party to CLC 92. The benefits to Pacific island countries of being a party to FUND 92 are enormous. The fund is contributed to only by oil companies that import 150,000 tonnes or more of crude or heavy oil by sea each year. No Pacific island country fits this category, so coverage by the fund is free.

Secretariat: International Oil Pollution Compensation Funds
4 Albert Embankment
London SE1 7SR
United Kingdom
Ph +(44) 171 582 2606
Fax +(44) 171 735 0326
Email iopcfund@dircon.co.uk

INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE 1992

Adopted at London on 27 November 1992
Entered into force 30 May 1996

The States Parties to the present Convention,

Being Parties to the International Convention on Civil Liability for Oil Pollution Damage, adopted at Brussels on 29 November 1969, Conscious of the dangers of pollution posed by the world-wide maritime carriage of oil in bulk,

Convinced of the need to ensure that adequate compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil from ships,

Considering that the International Convention of 29 November 1969, on Civil Liability for Oil Pollution Damage, by providing a regime for compensation for pollution damage in Contracting States and for the costs of measures, wherever taken, to prevent or minimize such damage, represents a considerable progress towards the achievement of this aim,

Considering however that this regime does not afford full compensation for victims of oil pollution damage in all cases while it imposes an additional financial burden on ship owners,

Considering further that the economic consequences of oil pollution damage resulting from the escape or discharge of oil carried in bulk at sea by ships should not exclusively be borne by the shipping industry but should in part be borne by the oil cargo interests,

Convinced of the need to elaborate a compensation and indemnification system supplementary to the International Convention on Civil Liability for Oil Pollution Damage with a view to ensuring that full compensation will be available to victims of oil pollution incidents and that the ship-owners are at the same time given relief in respect of the additional financial burdens imposed on them by the said Convention,

Taking note of the Resolution on the Establishment of an International Compensation Fund for Oil Pollution Damage which was adopted on 29 November 1969 by the International Legal Conference on Marine Pollution Damage,

Have agreed as follows:

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNIZING the advantage for the States Parties of arranging for the amended Convention to coexist with and be supplementary to the original Convention for a transitional period,

CONVINCED that the economic consequences of pollution damage resulting from the carriage of oil in bulk at sea by ships should continue to be shared by the shipping industry and by the oil cargo interests,

BEARING IN MIND the adoption of the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969,

HAVE AGREED AS FOLLOWS:

GENERAL PROVISIONS

Article 1

For the purposes of this Convention

1. "1992 Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992.
- 1 bis. "1971 Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1971 Fund Convention as amended by that Protocol.
2. "Ship", "Person", "Owner", "Oil", "Pollution Damage", "Preventive Measures", "Incident", and "Organization" have the same meaning as in Article I of the 1992 Liability Convention
3. "Contributing Oil" means crude oil and fuel oil as defined in sub-paragraphs (a) and (b) below:
 - (a) "Crude Oil" means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation. It also includes crude oils from which certain distillate fractions have been removed (sometimes referred to as "topped crudes") or to which certain distillate fractions have been added (sometimes referred to as "spiked" or "reconstituted" crudes).
 - (b) "Fuel Oil" means heavy distillates or residues from crude oil or blends of such materials intended for use as, a fuel for the production of heat or power of a quality equivalent to the "American Society for Testing and Materials" Specification for Number Four Fuel Oil (Designation D 396-69), or heavier.
4. "Unit of account" has the same meaning as in Article V, paragraph 9, of the 1992 Liability Convention.
5. "Ship's tonnage" has the same meaning as in Article V, paragraph 10, of the 1992 Liability Convention.
6. "Ton", in relation to oil, means a metric ton.
7. "Guarantor" means any person providing insurance or other financial security to cover an owner's liability in pursuance of Article VII, paragraph 1, of the 1992 Liability Convention.
8. "Terminal installation" means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated off-shore and linked to such site.
9. Where an incident consists of a series of occurrences, it shall be treated as having occurred on the date of the first such occurrence.

Article 2

1. An International Fund for compensation for pollution damage, to be named "The International Oil Pollution Compensation Fund 1992" and hereinafter referred to as "the Fund", is hereby established with the following aims:
 - (a) to provide compensation for pollution damage to the extent that the protection afforded by the 1992 Liability Convention is inadequate;
 - (b) to give effect to the related purposes set out in this Convention.
2. The Fund shall in each Contracting State be recognized as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each Contracting State shall recognize the Director of the Fund (hereinafter referred to as "The Director") as the legal representative of the Fund.

Article 3

This Convention shall apply exclusively:

(a) to pollution damage caused:

(i) in the territory, including the territorial sea, of a Contracting State, and

(ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;

(b) to preventive measures, wherever taken, to prevent or minimize such damage.

COMPENSATION

Article 4

1. For the purpose of fulfilling its function under Article 2, paragraph 1 (a), the Fund shall pay compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of the 1992 Liability Convention,

(a) because no liability for the damage arises under the 1992 Liability Convention;

(b) because the owner liable for the damage under the 1992 Liability Convention is financially incapable of meeting his obligations in full and any financial security that may be provided under Article VII of that Convention does not cover or is insufficient to satisfy the claims for compensation for the damage; an owner being treated as financially incapable of meeting his obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under the 1992 Liability Convention after having taken all reasonable steps to pursue the legal remedies available to him;

(c) because the damage exceeds the owner's liability under the 1992 Liability Convention as limited pursuant to Article V, paragraph 1, of that Convention or under the terms of any other international Convention in force or open for signature, ratification or accession at the date of this Convention. Expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize pollution damage shall be treated as pollution damage for the purposes of this Article.

2. The Fund shall incur no obligation under the preceding paragraph if:

(a) it proves that the pollution damage resulted from an act of war, hostilities, civil war or insurrection or was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or

(b) the claimant cannot prove that the damage resulted from an incident involving one or more ships.

3. If the Fund proves that the pollution damage resulted wholly or partially either from an act or omission done with the intent to cause damage by the person who suffered the damage or from the negligence of that person, the Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The Fund shall in any event be exonerated to the extent that the shipowner may have been exonerated under Article III, paragraph 3, of the 1992 Liability Convention. However, there shall be no such exoneration of the Fund with regard to preventive measures.

4.

(a) Except as otherwise provided in subparagraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the 1992 Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.

(b) Except as otherwise provided in subparagraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional inevitable and irresistible character shall not exceed 135 million units of account.

(c) The maximum amount of compensation referred to in subparagraphs (a) and (b) shall be 200 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of

which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons

(d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the 1992 Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.

(e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.

5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

6. The Assembly of the Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner of the ship has not constituted a fund in accordance with Article V, paragraph 3, of the 1992 Liability Convention. In such case paragraph 4(e) of this Article applies accordingly.

7. The Fund shall, at the request of a Contracting State, use its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or mitigate pollution damage arising from an incident in respect of which the Fund may be called upon to pay compensation under this Convention.

8. The Fund may on conditions to be laid down in the Internal Regulations provide credit facilities with a view to the taking of preventive measures against pollution damage arising from a particular incident in respect of which the Fund may be called upon to pay compensation under this Convention.

Article 5 deleted

Article 6

Rights to compensation under Article 4 shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to Article 7, paragraph 6, within three years from the date when the damage occurred. However, in no case shall an action be brought after six years from the date of the incident which caused the damage.

Article 7

1. Subject to the subsequent provisions of this Article, any action against the Fund for compensation under Article 4 of this Convention shall be brought only before a court competent under Article IX of the 1992 Liability Convention in respect of actions against the owner who is or who would, but for the provisions of Article III, paragraph 2, of that Convention, have been liable for pollution damage caused by the relevant incident.

2. Each Contracting State shall ensure that its courts possess the necessary jurisdiction to entertain such actions against the Fund as are referred to in paragraph 1.

3. Where an action for compensation for pollution damage has been brought before a court competent under Article IX of the 1992 Liability Convention against the owner of a ship or his guarantor, such court shall have exclusive jurisdictional competence over any action against the Fund for compensation under the provisions of Article 4 of this

Convention in respect of the same damage. However, where an action for compensation for pollution damage under the 1992 Liability Convention has been brought before a court in a State Party to the 1992 Liability Convention but not to this Convention, any action against the Fund under Article 4 of this Convention shall at the option of the claimant be brought either before a court the State where the Fund has its headquarters or before any court of a State Party to this Convention competent under Article IX of the 1992 Liability Convention.

4. Each Contracting State shall ensure that the Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with Article IX of the 1992 Liability Convention before a competent court of that State against the owner of a ship or his guarantor.

5. Except as otherwise provided in paragraph 6, the Fund shall not be bound by any judgment or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.

6. Without prejudice to the provisions of paragraph 4, where an action under the 1992 Liability Convention for compensation for pollution damage has been brought against an owner or his guarantor before a competent court in a Contracting State, each party to the proceedings shall be entitled under the national law of that State to notify the Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seized and in such time and in such a manner that the Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgment rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgment was given, become binding upon the Fund in the sense that the facts and findings in that judgment may not be disputed by the Fund even if the Fund has not actually intervened in the proceedings.

Article 8

Subject to any decision concerning the distribution referred to in Article 4, paragraph 5, any judgment given against the Fund by a court having jurisdiction in accordance with Article 7, paragraphs 1 and 3, shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognized and enforceable in each Contracting State on the same conditions as are prescribed in Article X of the 1992 Liability Convention.

Article 9

1. The Fund shall, in respect of any amount of compensation for pollution damage paid by the Fund in accordance with Article 4, paragraph 1, of this Convention, acquire by subrogation the rights that the person so compensated may enjoy under the 1992 Liability Convention against the owner or his guarantor.

2. Nothing in this Convention shall prejudice any right of recourse or subrogation of the Fund against persons other than those referred to in the preceding paragraph. In any event the right of the Fund to subrogation against such person shall not be less favourable than that of an insurer of the person to whom compensation has been paid.

3. Without prejudice to any other rights of subrogation or recourse against the Fund which may exist, a Contracting State or agency thereof which has paid compensation for pollution damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

CONTRIBUTIONS

Article 10

1. Annual contributions to the Fund shall be made in respect of each Contracting State by any person who, in the calendar year referred to in Article 12, paragraph 2(a) of (b), has received in total quantities exceeding 150,000 tons:

(a) in the ports or terminal installations in the territory of that State contributing oil carried by sea to such ports or terminal installations; and

(b) in any installations situated in the territory of that Contracting State contributing oil which has been carried by sea and discharged in a port or terminal installation of a non-Contracting State, provided that contributing oil shall only be taken into account by virtue of this sub-paragraph on first receipt in a Contracting State after its discharge in that non-Contracting State.

2.

(a) For the purposes of paragraph 1, where the quantity of contributing oil received in the territory of a Contracting State by any person in a calendar year when aggregated with the quantity of contributing oil received in the same Contracting State in that year by any associated person or persons exceeds 150,000 tons, such person shall pay

contributions in respect of the actual quantity received by him notwithstanding that that quantity, did not exceed 150,000 tons.

(b) "Associated person" means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the State concerned.

Article 11 deleted

Article 12

1. With a view to assessing the amount of annual contributions due, if any, and taking account of the necessity to maintain sufficient liquid funds, the Assembly shall for each calendar year make an estimate in the form of a budget of:

(i) Expenditure

(a) costs and expenses of the administration of the Fund in the relevant year and any deficit from operations in preceding years;

(b) payments to be made by the Fund in the relevant year for the satisfaction of claims against the Fund due under Article 4, including repayment on loans previously taken by the Fund for the satisfaction of such claims, to the extent that the aggregate amount of such claims in respect of any one incident does not exceed four million units of account;

(c) payments to be made by the Fund in the relevant year for the satisfaction of claims against the Fund due under Article 4, including repayments on loans previously taken by the Fund for the satisfaction of such claims, to the extent that the aggregate amount of such claims in respect of any one incident is in excess of four million units of account;

(ii) Income

(a) surplus funds from operations in preceding years, including any interest;

(b) annual contributions, if required to balance the budget;

(c) any other income.

2. The Assembly shall decide the total amount of contributions to be levied. On the basis of that decision, the Director shall, in respect of each Contracting State, calculate for each person referred to in Article 10 the amount of his annual contribution:

(a) in so far as the contribution is for the satisfaction of payments referred to in paragraph 1 (i) (a) and (b) on the basis of a fixed sum for each ton of contributing oil received in the relevant State by such persons during the preceding calendar year; and

(b) in so far as the contribution is for the satisfaction of payments referred to in paragraph 1 (i) (c) of this Article on the basis of a fixed sum for each ton of contributing oil received by such person during the calendar year preceding that in which the incident in question occurred, provided that State was a party to this Convention at the date of the incident.

3. The sums referred to in paragraph 2 above shall be arrived at by dividing the relevant total amount of

contributions required by the total amount of contributing oil received in all Contracting States in the relevant year.

4. The annual contribution shall be due on the date to be laid down in the Internal Regulations of the Fund. The Assembly may decide on a different date of payment.

5. The Assembly may decide, under conditions to be laid down in the Financial Regulations of the fund, to make transfers between funds received in accordance with Article 12.2(a) and funds received in accordance with Article 12.2(b).

Article 13

1. The amount of any contribution due under Article 12 and which is in arrears shall bear interest at a rate which shall be determined in accordance with the Internal Regulations of the Fund, provided that different rates may be fixed for different circumstances.
2. Each Contracting State shall ensure that any obligation to contribute to the Fund arising under this Convention in respect of oil received within the territory of that State is fulfilled and shall take any appropriate measures under its law, including the imposing of such sanctions as it may deem necessary, with a view to the effective execution of any such obligation; provided however, that such measures shall only be directed against those persons who are under an obligation to contribute to the Fund.
3. Where a person who is liable in accordance with the provisions of Articles 10 and 12 to make contributions to the Fund does not fulfill his obligations in respect of any such contribution or any part thereof and is in arrear, the Director shall take all appropriate action against such person on behalf of the Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

Article 14

1. Each Contracting State may at the time when it deposits its instrument of ratification or accession or at any time thereafter declare that it assumes itself obligations that are incumbent under this Convention on any person who is liable to contribute to the Fund in accordance with Article 10, paragraph 1, in respect of oil received within the territory of that State. Such declaration shall be made in writing and shall specify which obligations are assumed.
2. Where a declaration under paragraph 1 is made prior to the entry into force of this Convention in accordance with Article 40, it shall be deposited with the Secretary-General of the Organization who shall after the entry into force of the Convention communicate the declaration to the Director.
3. A declaration under paragraph 1 which is made after the entry into force of this Convention shall be deposited with the Director.
4. A declaration made in accordance with this Article may be withdrawn by the relevant State giving notice thereof in writing to the Director. Such notification shall take effect three months after the Director's receipt thereof.
5. Any State which is bound by a declaration made under this Article shall, in any proceedings brought against it before a competent court in respect of any obligation specified in the declaration, waive any immunity that it would otherwise be entitled to invoke.

Article 15

1. Each Contracting State shall ensure that any person who receives contributing oil within its territory in such quantities that he is liable to contribute to the Fund appears on a list to be established and kept up to date by the Director in accordance with the subsequent provisions of this Article.
2. For the purposes set out in paragraph 1, each Contracting State shall communicate, at a time and in the manner to be prescribed in the Internal Regulations, to the Director the name and address of any person who in

respect of that State is liable to contribute to the Fund pursuant to Article 10, as well as data on the relevant quantities of contributing oil received by any such person during the preceding calendar year.
3. For the purposes of ascertaining who are, at any given time, the persons liable to contribute to the Fund in accordance with Article 10, paragraph 1, and of establishing, where applicable, the quantities of oil to be taken into account for any such person when determining the amount of his contribution, the list shall be prima facie evidence of the facts stated therein.
4. Where a Contracting State does not fulfil its obligations to submit to the Director the communication referred to in paragraph 2 and this results in a financial loss for the Fund, that Contracting State shall be liable to compensate the Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by that Contracting State.

Article 16 ORGANIZATION AND ADMINISTRATION

The Fund shall have an Assembly and a Secretariat headed by a Director.

ASSEMBLY

Article 17

The Assembly shall consist of all Contracting States to this Convention.

Article 18

The functions of the Assembly shall be:

1. to elect at each regular session its Chairman and two Vice-Chairmen who shall hold office until the next regular session;
2. to determine its own rules of procedure, subject to the provisions of this Convention;
3. to adopt Internal Regulations necessary for the proper functioning of the Fund;
4. to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;
5. to adopt the annual budget and fix the annual contributions;
6. to appoint auditors and approve the accounts of the Fund;
7. to approve settlements of claims against the Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with Article 4, paragraph 5, and to determine the terms and conditions according to which provisional payments in respect of claims shall be made with a view to ensuring that victims of pollution damage are compensated as promptly as possible;
8. deleted
9. to establish any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the Contracting States, in respect of which the largest quantities of contributing oil are being received, are appropriately represented; the Rules of Procedure of the Assembly may be applied, *mutatis mutandis*, for the work of such subsidiary body;
10. to determine which non-Contracting States and which inter-governmental and international non-governmental organizations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies;
11. to give instructions concerning the administration of the Fund to the Director and subsidiary bodies;
12. deleted
13. to supervise the proper execution of the Convention and of its own decisions;
14. to perform such other functions as are allocated to it under the Convention or are otherwise necessary for the proper operation of the Fund.

Article 19

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.

2. Extraordinary sessions of the Assembly shall be convened by the Director at the request of at least one-third of the members of the Assembly and may be convened on the Director's own initiative after consultation with the Chairman of the Assembly. The Director shall give members at least thirty days' notice of such sessions.

Article 20

A majority of the members of the Assembly shall constitute a quorum for its meetings. Executive Committee

Article 21-27 deleted

SECRETARIAT

Article 28

1. The Secretariat shall comprise the Director and such staff as the administration of the Fund may require.
2. The Director shall be the legal representative of the Fund.

Article 29

1. The Director shall be the chief administrative officer of the Fund. Subject to the instructions given to him by the Assembly, he shall perform those functions which are assigned to him by this Convention, the Internal Regulations of the Fund and the Assembly.

2. The Director shall in particular:

- (a) appoint the personnel required for the administration of the Fund;
- (b) take all appropriate measures with a view to the proper administration of the Fund's assets;
- (c) collect the contributions due under this Convention while observing in particular the provisions of Article 13, paragraph 3;
- (d) to the extent necessary to deal with claims against the Fund and carry out the other functions of the Fund, employ the services of legal, financial and other experts;
- (e) take all appropriate measures for dealing with claims against the Fund within the limits and on conditions to be laid down in the Internal Regulations, including the final settlement of claims without the prior approval of the Assembly where these Regulations so provide;
- (f) prepare and submit to the Assembly, the financial statements and budget estimates for each calendar year;
- (g) prepare, in consultation with the Chairman of the Assembly, and publish a report of the activities of the Fund during the previous calendar year;
- (h) prepare, collect and circulate the papers, documents, agenda, minutes and information that may be required for the work of the Assembly and subsidiary bodies.

Article 30

In the performance of their duties the Director and the staff and experts appointed by him shall not seek or receive instructions from any Government or from any authority external to the Fund. They shall refrain from any action which might reflect on their position as international officials. Each Contracting State on its part undertakes to respect the exclusively international character of the responsibilities of the Director and the staff and experts appointed by him, and not to seek to influence them in the discharge of their duties.

Article 31 FINANCES

1. Each Contracting State shall bear the salary, travel and other expenses of its own delegation to the Assembly and of its representatives on subsidiary bodies.
2. Any other expenses incurred in the operation of the Fund shall be borne by the Fund.

VOTING

Article 32

The following provisions shall apply to voting in the Assembly:

- (a) each member shall have one vote;
- (b) except as otherwise provided in Article 33, decisions of the Assembly shall be by a majority vote of the members present and voting;
- (c) decisions where a three-fourths or a two-thirds majority is required shall be by a three-fourths or two-thirds majority vote, as the case may be, of those present;
- (d) for the purpose of this Article the phrase "members present" means "members present at the meeting at the time of the vote", and the phrase "members present and voting" means "members present and casting an affirmative or negative vote". Members who abstain from voting shall be considered as not voting.

Article 33

The following decisions of the Assembly shall require a two-thirds majority:

- (a) a decision under Article 13, paragraph 3, not to take or continue action against a contributor;
- (b) the appointment of the Director under Article 18, paragraph 4;
- (c) the establishment of subsidiary bodies, under Article 18, paragraph 9, and matters relating to such establishment.

Article 34

1. The Fund, its assets, income, including contributions, and other property shall enjoy in all Contracting States exemption from all direct taxation.
2. When the Fund makes substantial purchases of movable or immovable property, or has important work carried out which is necessary for the exercise of its official activities and the cost of which includes indirect taxes or sales taxes, the Governments of Member States shall take, whenever possible, appropriate measures for the remission or refund of the amount of such duties and taxes.
3. No exemption shall be accorded in the case of duties, taxes or dues which merely constitute payment for public utility services.
4. The Fund shall enjoy exemption from all customs duties, taxes and other related taxes on articles imported or exported by it or on its behalf for its official use. Articles thus imported shall not be transferred either for consideration or gratis on the territory of the country into which they have been imported except on conditions agreed by the government of that country.
5. Persons contributing to the Fund and victims and owners of ships receiving compensation from the Fund shall be subject to the fiscal legislation of the State where they are taxable, no special exemption or other benefit being conferred on them in this respect.

6. Information relating to individual contributors supplied for the purpose of this Convention shall not be divulged outside the Fund except in so far as it may be strictly necessary to enable the Fund to carry out its functions, including the bringing and defending of legal proceedings.

7. Independently of existing or future regulations concerning currency or transfers, Contracting States shall authorize the transfer and payment of any contribution to the Fund and of any compensation paid by the Fund without any restriction.

TRANSITIONAL PROVISIONS

Article 35

Claims for compensation under Article 4 arising from incidents occurring after the date of entry into force of this Convention may not be brought against the Fund earlier than the one hundred and twentieth day after that date.

Article 36

The Secretary-General of the Organization shall convene the first session of the Assembly. This session shall take place as soon as possible after entry into force of this Convention and, in any case, not more than thirty days after such entry into force.

Article 36 bis

The following transitional provisions shall apply in the period, hereinafter referred to as the transitional period, commencing with the date of entry into force of this Convention and ending with the date on which the denunciations provided for in Article 31 of the 1992 Protocol to amend the 1971 Fund Convention take effect:

(a) In the application of paragraph 1(a) of Article 2 of this Convention, the reference to the 1992 Liability Convention shall include reference to the International Convention on Civil Liability for Oil Pollution Damage, 1969, either in its original version or as amended by the Protocol thereto of 1976 (referred to in this Article as "the 1969 Liability Convention"), and also the 1971 Fund Convention.

(b) Where an incident has caused pollution damage within the scope of this Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of the 1969 Liability Convention, the 1971 Fund Convention and the 1992 Liability Convention, provided that, in respect of pollution damage within the scope of this Convention in respect of a Party to this Convention but not a Party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been party to each of the above-mentioned Conventions.

(c) In the application of Article 4 of this Convention, the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under the 1969 Liability Convention, if any, and the amount of compensation actually paid or deemed to have been paid under the 1971 Fund Convention.

(d) Paragraph 1 of Article 9 of this Convention shall also apply to the rights enjoyed under the 1969 Liability Convention.

Article 36 ter

1. Subject to paragraph 4 of this Article, the aggregate amount of the annual contributions payable in respect of contributing oil received in a single Contracting State during a calendar year shall not exceed 27.5% of the total amount of annual contributions pursuant to the 1992 Protocol to amend the 1971 Fund Convention, in respect of that calendar year.

2. If the application of the provisions in paragraphs 2 and 3 of Article 12 would result in the aggregate amount of the contributions payable by contributors in a single Contracting State in respect of a given calendar year exceeding 27.5%

of the total annual contributions, the contributions payable by all contributors in that State shall be reduced pro rata so that their aggregate contributions equal 27.5% of the total annual contributions to the Fund in respect of that year.

3. If the contributions payable by persons in a given Contracting State shall be reduced pursuant to paragraph 2 of this Article, the contributions payable by persons in all other Contracting States shall be increased pro rata so as to ensure that the total amount of contributions payable by all persons liable to contribute to the Fund in respect of the calendar year in question will reach the total amount of contributions decided by the Assembly.

4. The provisions in paragraphs 1 to 3 of this Article shall operate until the total quantity of contributing oil received in all Contracting States in a calendar year has reached 750 million tons or until a period of 5 years after the date of entry into force of the said 1992 Protocol has elapsed, whichever occurs earlier.

Article 36 quater

Notwithstanding the provisions of this Convention, the following provisions shall apply to the administration of the Fund during the period in which both the 1971 Fund Convention and this Convention are in force:

(a) The Secretariat of the Fund, established by the 1971 Fund Convention (hereinafter referred to as "the 1971 Fund"), headed by the Director, may also function as the Secretariat and the Director of the Fund.

(b) If, in accordance with subparagraph (a), the Secretariat and the Director of the 1971 Fund also perform the function of Secretariat and Director of the Fund, the Fund shall be represented, in cases of conflict of interests between the 1971 Fund and the Fund, by the Chairman of the Assembly of the Fund.

(c) The Director and the staff and experts appointed by him, performing their duties under this Convention and the 1971 Fund Convention, shall not be regarded as contravening the provisions of Article 30 of this Convention in so far as they discharge their duties in accordance with this Article.

(d) The Assembly of the Fund shall endeavour not to take decisions which are incompatible with decisions taken by the Assembly of the 1971 Fund. If differences of opinion with respect to common administrative issues arise, the Assembly of the Fund shall try to reach a consensus with the Assembly of the 1971 Fund, in a spirit of mutual co-operation and with the common aims of both organizations in mind.

(e) The Fund may succeed to the rights, obligations and assets of the 1971 Fund if the Assembly of the 1971 Fund so decides, in accordance with Article 44, paragraph 2, of the 1971 Fund Convention.

(f) The Fund shall reimburse to the 1971 Fund all costs and expenses arising from administrative services performed by the 1971 Fund on behalf of the Fund.

Article 36 quinquies FINAL CLAUSES

The final clauses of this Convention shall be Articles 28 to 39 of the Protocol of 1992 to amend the 1971 Fund Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.

FINAL CLAUSES

Article 28 SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by any State which has signed the 1992 Liability Convention.

2. Subject to paragraph 4, this Protocol shall be ratified, accepted or approved by States which have signed it.

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

4. This Protocol may be ratified, accepted, approved or acceded to only by States which have ratified, accepted, approved or acceded to the 1992 Liability Convention.
5. 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.
6. A State which is a Party to this Protocol but is not a Party to the 1971 Fund Convention shall be bound by the provisions of the 1971 Fund Convention as amended by this Protocol in relation to other Parties hereto, but shall not be bound by the provisions of the 1971 Fund Convention in relation to Parties thereto.
7. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1971 Fund Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

Article 29 INFORMATION ON CONTRIBUTING OIL

1. Before this Protocol comes into force for a State, that State shall, when depositing an instrument referred to in Article 28, paragraph 5, and annually thereafter at a date to be determined by the Secretary-General of the Organization, communicate to him the name and address of any person who in respect of that State would be liable to contribute to the Fund pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol as well as data on the relevant quantities of contributing oil received by any such person in the territory of that State during the preceding calendar year.
2. During the transitional period, the Director shall, for Parties, communicate annually to the Secretary-General of the Organization data on quantities of contributing oil received by persons liable to contribute to the Fund pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol.

Article 30 ENTRY INTO FORCE

1. This Protocol shall enter into force twelve months following the date on which the following requirements are fulfilled:
 - (a) at least eight States have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization; and
 - (b) the Secretary-General of the Organization has received information in accordance with Article 29 that those persons who would be liable to contribute pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol have received during the preceding calendar year a total quantity of at least 450 million tons of contributing oil.
2. However, this Protocol shall not enter into force before the 1992 Liability Convention has entered into force.
3. For each State which ratifies, accepts, approves or accedes to this Protocol after the conditions in paragraph 1 for entry into force have been met, the Protocol shall enter into force twelve months following the date of the deposit by such State of the appropriate instrument.
4. Any State may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol declare that such instrument shall not take effect for the purpose of this Article until the end of the six-month period in Article 31.
5. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to the Secretary-General of the Organization. Any such withdrawal shall take effect on the date the notification is received, and any State making such a withdrawal shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.
6. Any State which has made a declaration under Article 13, paragraph 2, of the Protocol of 1992 to amend the 1969 Liability Convention shall be deemed to have also made a declaration under paragraph 4 of this Article. Withdrawal of a declaration under the said Article 13, paragraph 2, shall be deemed to constitute withdrawal also under paragraph 5 of this Article.

Article 31 DENUNCIATION OF THE 1969 AND 1971 CONVENTIONS

Subject to Article 30, within six months following the date on which the following requirements are fulfilled:

(a) at least eight States have become Parties to this Protocol or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization, whether or not subject to Article 30, paragraph 4, and

(b) the Secretary-General of the Organization has received information in accordance with Article 29 that those persons who are or would be liable to contribute pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol have received during the preceding calendar year a total quantity of at least 750 million tons of contributing oil; each Party to this Protocol and each State which has deposited an instrument of ratification, acceptance, approval or accession, whether or not subject to Article 30, paragraph 4, shall, if Party thereto, denounce the 1971 Fund Convention and the 1969 Liability Convention with effect twelve months after the expiry of the above-mentioned six-month period.

Article 32 REVISION AND AMENDMENT

1. A conference for the purpose of revising or amending the 1992 Fund Convention may be convened by the Organization.

2. The Organization shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Fund Convention at the request of not less than one third of all Contracting States.

Article 33 AMENDMENT OF COMPENSATION LIMITS

1. Upon the request of at least one quarter of the Contracting States, any proposal to amend the limits of amounts of compensation laid down in Article 4, paragraph 4, of the 1971 Fund Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.

2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.

3. All Contracting States to the 1971 Fund Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.

5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom and changes in the monetary values. It shall also take into account the relationship between the limits in Article 4, paragraph 4, of the 1971 Fund Convention as amended by this Protocol and those in Article V, paragraph 1, of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

6. (a) No amendment of the limits under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.

(b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1971 Fund Convention as amended by this Protocol increased by six per cent per year calculated on a compound basis from 15 January 1993.

(c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1971 Fund Convention as amended by this Protocol multiplied by three.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification unless within that period not less than one quarter of the States that were Contracting States at the time of

the adoption of the amendment by the Legal Committee have communicated to the Organization that they do not accept the amendment in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.

9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 34, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted by the Legal Committee but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article 34 DENUNCIATION

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

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

3. A denunciation shall take effect twelve months, 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 1992 Liability Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1969 Liability Convention takes effect according to Article 16 of that Protocol.

5. Any Contracting State to this Protocol which has not denounced the 1971 Fund Convention and the 1969 Liability Convention as required by Article 31 shall be deemed to have denounced this Protocol with effect twelve months after the expiry of the six-month period mentioned in that Article. As from the date on which the denunciations provided for in Article 31 take effect, any Party to this Protocol which deposits an instrument of ratification, acceptance, approval or accession to the 1969 Liability Convention shall be deemed to have denounced this Protocol with effect from the date on which such instrument takes effect.

6. As between the Parties to this Protocol, denunciation by any of them of the 1971 Fund Convention in accordance with Article 41 thereof shall not be construed in any way as a denunciation of the 1971 Fund Convention as amended by this Protocol.

7. Notwithstanding a denunciation of this Protocol by a Party pursuant to this Article, any provisions of this Protocol relating to the obligations to make contributions under Article 10 of the 1971 Fund Convention as amended by this Protocol with respect to an incident referred to in Article 12, paragraph 2(b), of that amended Convention and occurring before the denunciation takes effect shall continue to apply.

Article 35 EXTRAORDINARY SESSIONS OF THE ASSEMBLY

1. Any Contracting State may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions for the remaining Contracting States, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not later than sixty days after receipt of the request.

2. The Director may convene, on his own initiative, an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if he considers that such denunciation will result in a significant increase in the level of contributions of the remaining Contracting States.

3. If the Assembly at an extraordinary session convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions for the remaining Contracting States, any such State may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Protocol with effect from the same date.

Article 36 TERMINATION

1. This Protocol shall cease to be in force on the date when the number of Contracting States falls below three.
2. States which are bound by this Protocol on the day before the date it ceases to be in force shall enable the Fund to exercise its functions as described under Article 37 of this Protocol and shall, for that purpose only, remain bound by this Protocol.

Article 37 WINDING UP OF THE FUND

1. If this Protocol ceases to be in force, the Fund shall nevertheless:
 - (a) meet its obligations in respect of any incident occurring before the Protocol ceased to be in force;
 - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under subparagraph (a), including expenses for the administration of the Fund necessary for this purpose.
2. The Assembly shall take all appropriate measures to complete the winding up of the Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund.
3. For the purposes of this Article the Fund shall remain a legal person.

Article 38 DEPOSITARY

1. This Protocol and any amendments accepted under Article 33 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 or acceded to this Protocol of:
 - (i) each new signature or deposit of an instrument together with the date thereof;
 - (ii) each declaration and notification under Article 30 including declarations and withdrawals deemed to have been made in accordance with that Article;
 - (iii) the date of entry into force of this Protocol;
 - (iv) the date by which denunciations provided for in Article 31 are required to be made;
 - (v) any proposal to amend limits of amounts of compensation which has been made in accordance with Article 33, paragraph 1;
 - (vi) any amendment which has been adopted in accordance with Article 33, paragraph 4;
 - (vii) any amendment deemed to have been accepted under Article 33, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;
 - (viii) the deposit of an instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;
 - (ix) any denunciation deemed to have been made under Article 34, paragraph 5;
 - (x) any communication called for by any Article in this Protocol;
 - (b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to the Protocol.
3. As soon as this Protocol enters into force, the text 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 39 LANGUAGES

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this twenty-seventh day of November one thousand nine hundred and ninety-two.
IN WITNESS WHEREOF the undersigned being duly authorized for that purpose have signed this Protocol.

Additional explanatory text of :

IMO PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE, 1971

Article 1

The Convention which the provisions of this Protocol amend is the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the "1971 Fund Convention". For States Parties to the Protocol of 1976 to the 1971 Fund Convention, such reference shall be deemed to include the 1971 Fund Convention as amended by that Protocol.

Article 2-26 (amendments)

Article 27

1. The 1971 Fund Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2. Articles 1 to 36 quinquies of the 1971 Fund Convention as amended by this Protocol shall be known as the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (1992 Fund Convention).

7. HNS Convention
INTERNATIONAL CONVENTION ON LIABILITY AND COMPENSATION FOR
DAMAGE IN CONNECTION WITH THE CARRIAGE OF HAZARDOUS AND
NOXIOUS SUBSTANCES BY SEA, 1996

SUMMARY

The HNS Convention is similar to CLC 92 and FUND 92 in that it establishes a compensation regime for victims of marine pollution damage, albeit in this case in the event of pollution from the escape or release of dangerous substances other than oil. The convention provides for a fund and liability extends to both ship and cargo owners.

Secretariat: International Maritime Organization
 4 Albert Embankment
 London SE1 7SR
 United Kingdom
 Ph +(44) 171 735 7611
 Fax +(44) 171 587 310
 Email info@imo.org

INTERNATIONAL CONVENTION ON LIABILITY AND COMPENSATION FOR DAMAGE IN CONNECTION WITH THE CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES BY SEA, 1996

**Adopted at London on 3 May 1996
Not yet in force as of 31 July 1999**

PREAMBLE

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the dangers posed by the world-wide carriage by sea of hazardous and noxious substances,

CONVINCED of the need to ensure that adequate, prompt and effective compensation is available to persons who suffer damage caused by incidents in connection with the carriage by sea of such substances,

DESIRING to adopt uniform international rules and procedures for determining questions of liability and compensation in respect of such damage,

CONSIDERING that the economic consequences of damage caused by the carriage by sea of hazardous and noxious substances should be shared by the shipping industry and the cargo interests involved,

Have agreed as follows:

CHAPTER I GENERAL PROVISIONS

Article 1 DEFINITIONS

For the purposes of this Convention:

1. "Ship" means any seagoing vessel and seaborne craft, of any type whatsoever.
2. "Person" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. "Owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "owner" shall mean such company.
4. "Receiver" means either:
 - (a) the person who physically receives contributing cargo discharged in the ports and terminals of a State Party; provided that if at the time of receipt the person who physically receives the cargo acts as an agent for another who is subject to the jurisdiction of any State Party, then the principal shall be deemed to be the receiver, if the agent discloses the principal to the HNS Fund; or
 - (b) the person in the State Party who in accordance with the national law of that State Party is deemed to be the receiver of contributing cargo discharged in the ports and terminals of a State Party, provided that the total contributing cargo received according to such national law is substantially the same as that which would have been received under (a).
5. "Hazardous and noxious substances" (HNS) means:
 - (a) any substances, materials and articles carried on board a ship as cargo, referred to in (i) to (vii) below:
 - (i) oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;

(ii) noxious liquid substances carried in bulk referred to in appendix II of Annex II to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and those substances and mixtures provisionally categorized as falling in pollution category A, B, C or D in accordance with regulation 3(4) of the said Annex II;

(iii) dangerous liquid substances carried in bulk listed in Chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, 1983, as amended, and the dangerous products for which the preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.3 of the Code;

(iv) dangerous, hazardous and harmful substances, materials and articles in packaged form covered by the International Maritime Dangerous Goods Code, as amended;

(v) liquefied gases as listed in Chapter 19 of the International Code for the Construction and Equipment of Ships carrying Liquefied Gases in Bulk, 1983, as amended, and the products for which preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.6 of the Code;

(vi) liquid substances carried in bulk with a flashpoint not exceeding 60deg.C (measured by a closed cup test);

(vii) solid bulk materials possessing chemical hazards covered by appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended, to the extent that these substances are also subject to the provisions of the International Maritime Dangerous Goods Code when carried in packaged form; and

(b) residues from the previous carriage in bulk of substances referred to in (a)(i) to (iii) and (v) to (vii) above.

6. "Damage" means:

(a) loss of life or personal injury on board or outside the ship carrying the hazardous and noxious substances caused by those substances;

(b) loss of or damage to property outside the ship carrying the hazardous and noxious substances caused by those substances;

(c) loss or damage by contamination of the environment caused by the hazardous and noxious substances, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and

(d) the costs of preventive measures and further loss or damage caused by preventive measures.

Where it is not reasonably possible to separate damage caused by the hazardous and noxious substances from that caused by other factors, all such damage shall be deemed to be caused by the hazardous and noxious substances except if, and to the extent that, the damage caused by other factors is damage of a type referred to in Article 4, paragraph 3.

In this paragraph, "caused by those substances" means caused by the hazardous or noxious nature of the substances.

7. "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize damage.

8. "Incident" means any occurrence or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage.

9. "Carriage by sea" means the period from the time when the hazardous and noxious substances enter any part of the ship's equipment, on loading, to the time they cease to be present in any part of the ship's equipment, on discharge. If no ship's equipment is used, the period begins and ends respectively when the hazardous and noxious substances cross the ship's rail.

10. "Contributing cargo" means any hazardous and noxious substances which are carried by sea as cargo to a port or terminal in the territory of a State Party and discharged in that State. Cargo in transit which is transferred directly,

or through a port or terminal, from one ship to another, either wholly or in part, in the course of carriage from the port or terminal of original loading to the port or terminal of final destination shall be considered as contributing cargo only in respect of receipt at the final destination.

11. The "HNS Fund" means the International Hazardous and Noxious Substances Fund established under Article
12. "Unit of account" means the Special Drawing Right as defined by the International Monetary Fund.
13. "State of the ship's registry" means in relation to a registered ship the State of registration of the ship, and in relation to an unregistered ship the State whose flag the ship is entitled to fly.
14. "Terminal" means any site for the storage of hazardous and noxious substances received from waterborne transportation, including any facility situated off-shore and linked by pipeline or otherwise to such site.
15. "Director" means the Director of the HNS Fund.
16. "Organization" means the International Maritime Organization.
17. "Secretary-General" means the Secretary-General of the Organization.

Article 2 ANNEXES

The Annexes to this Convention shall constitute an integral part of this Convention.

Article 3 SCOPE OF APPLICATION

This Convention shall apply exclusively:

- (a) to any damage caused in the territory, including the territorial sea, of a State Party;
- (b) to damage by contamination of the environment caused in the exclusive economic zone of a State Party, established in accordance with international law, or, if a State Party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;
- (c) to damage, other than damage by contamination of the environment, caused outside the territory, including the territorial sea, of any State, if this damage has been caused by a substance carried on board a ship registered in a State Party or, in the case of an unregistered ship, on board a ship entitled to fly the flag of a State Party; and
- (d) to preventive measures, wherever taken.

Article 4

1. This Convention shall apply to claims, other than claims arising out of any contract for the carriage of goods and passengers, for damage arising from the carriage of hazardous and noxious substances by sea.
2. This Convention shall not apply to the extent that its provisions are incompatible with those of the applicable law relating to workers' compensation or social security schemes.
3. This Convention shall not apply:
 - (a) to pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended, whether or not compensation is payable in respect of it under that Convention; and
 - (b) to damage caused by a radioactive material of class 7 either in the International Maritime Dangerous Goods Code, as amended, or in appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended.
4. Except as provided in paragraph 5, the provisions of this Convention shall not apply to warships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.

5. A State Party may decide to apply this Convention to its warships or other vessels described in paragraph 4, in which case it shall notify the Secretary-General thereof specifying the terms and conditions of such application.
6. With respect to ships owned by a State Party and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in Article 38 and shall waive all defences based on its status as a sovereign State.

Article 5

1. A State may, at the time of ratification, acceptance, approval of, or accession to, this Convention, or any time thereafter, declare that this Convention does not apply to ships:

- (a) which do not exceed 200 gross tonnage; and
- (b) which carry hazardous and noxious substances only in packaged form; and
- (c) while they are engaged on voyages between ports or facilities of that State.

2. Where two neighbouring States agree that this Convention does not apply also to ships which are covered by paragraph 1(a) and (b) while engaged on voyages between ports or facilities of those States, the States concerned may declare that the exclusion from the application of this Convention declared under paragraph 1 covers also ships referred to in this paragraph.

3. Any State which has made the declaration under paragraph 1 or 2 may withdraw such declaration at any time.

4. A declaration made under paragraph 1 or 2, and the withdrawal of the declaration made under paragraph 3, shall be deposited with the Secretary-General who shall, after the entry into force of this Convention, communicate it to the Director.

5. Where a State has made a declaration under paragraph 1 or 2 and has not withdrawn it, hazardous and noxious substances carried on board ships covered by that paragraph shall not be considered to be contributing cargo for the purpose of application of Articles 18, 20, Article 21, paragraph 5 and Article 43.

6. The HNS Fund is not liable to pay compensation for damage caused by substances carried by a ship to which the Convention does not apply pursuant to a declaration made under paragraph 1 or 2, to the extent that:

- (a) the damage as defined in Article 1, paragraph 6(a), (b) or (c) was caused in:
 - (i) the territory, including the territorial sea, of the State which has made the declaration, or in the case of neighbouring States which have made a declaration under paragraph 2, of either of them; or
 - (ii) the exclusive economic zone, or area mentioned in Article 3(b), of the State or States referred to in (i);
- (b) the damage includes measures taken to prevent or minimize such damage.

Article 6 DUTIES OF STATE PARTIES

Each State Party shall ensure that any obligation arising under this Convention is fulfilled and shall take appropriate measures under its law including the imposing of sanctions as it may deem necessary, with a view to the effective execution of any such obligation.

CHAPTER II LIABILITY

Article 7 LIABILITY OF THE OWNER

1. Except as provided in paragraphs 2 and 3, the owner at the time of an incident shall be liable for damage caused by any hazardous and noxious substances in connection with their carriage by sea on board the ship, provided that if an incident consists of a series of occurrences having the same origin the liability shall attach to the owner at the time of the first of such occurrences.
2. No liability shall attach to the owner if the owner proves that:
 - (a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
 - (b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party; or
 - (c) the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function; or
 - (d) the failure of the shipper or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either
 - (i) has caused the damage, wholly or partly; or
 - (ii) has led the owner not to obtain insurance in accordance with Article 12; provided that neither the owner nor its servants or agents knew or ought reasonably to have known of the hazardous and noxious nature of the substances shipped.
3. If the owner proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from liability to such person.
4. No claim for compensation for damage shall be made against the owner otherwise than in accordance with this Convention.
5. Subject to paragraph 6, no claim for compensation for damage under this Convention or otherwise may be made against:
 - (a) the servants or agents of the owner or the members of the crew;
 - (b) the pilot or any other person who, without being a member of the crew, performs services for the ship;
 - (c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;
 - (d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;
 - (e) any person taking preventive measures; and
 - (f) the servants or agents of persons mentioned in (c), (d) and (e); unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
6. Nothing in this Convention shall prejudice any existing right of recourse of the owner against any third party, including, but not limited to, the shipper or the receiver of the substance causing the damage, or the persons indicated in paragraph 5.

Article 8 INCIDENTS INVOLVING TWO OR MORE SHIPS

1. Whenever damage has resulted from an incident involving two or more ships each of which is carrying hazardous and noxious substances, each owner, unless exonerated under Article 7, shall be liable for the damage. The owners shall be jointly and severally liable for all such damage which is not reasonably separable.
2. However, owners shall be entitled to the limits of liability applicable to each of them under Article 9.
3. Nothing in this Article shall prejudice any right of recourse of an owner against any other owner.

Article 9 LIMITATION OF LIABILITY

1. The owner of a ship shall be entitled to limit liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:

(a) 10 million units of account for a ship not exceeding 2,000 units of tonnage; and

(b) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (a):

for each unit of tonnage from 2,001 to 50,000 units of tonnage, 1,500 units of account;

for each unit of tonnage in excess of 50,000 units of tonnage, 360 units of account;

provided, however, that this aggregate amount shall not in any event exceed 100 million units of account.

2. The owner shall not be entitled to limit liability under this Convention if it is proved that the damage resulted from the personal act or omission of the owner, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

3. The owner shall, for the purpose of benefitting from the limitation provided for in paragraph 1, constitute a fund for the total sum representing the limit of liability established in accordance with paragraph 1 with the court or other competent authority of any one of the States Parties in which action is brought under Article 38 or, if no action is brought, with any court or other competent authority in any one of the States Parties in which an action can be brought under Article 38. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the law of the State Party where the fund is constituted, and considered to be adequate by the court or other competent authority.

4. Subject to the provisions of Article 11, the fund shall be distributed among the claimants in proportion to the amounts of their established claims.

5. If before the fund is distributed the owner or any of the servants or agents of the owner or any person providing to the owner insurance or other financial security has as a result of the incident in question, paid compensation for damage, such person shall, up to the amount that person has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

6. The right of subrogation provided for in paragraph 5 may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for damage which such person may have paid but only to the extent that such subrogation is permitted under the applicable national law.

7. Where owners or other persons establish that they may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which the right of subrogation would have been enjoyed under paragraphs 5 or 6 had the compensation been paid before the fund was distributed, the court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce the claim against the fund.

8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall rank equally with other claims against the fund.

9.

(a) The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State.

(b) Nevertheless, a State Party which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five-and-a-half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

(c) The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first two sentences of paragraph 9(a). States Parties shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

10. For the purpose of this Article the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

11. The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this Article on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limitation of liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

Article 10

1. Where the owner, after an incident, has constituted a fund in accordance with Article 9 and is entitled to limit liability:

(a) no person having a claim for damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim; and

(b) the court or other competent authority of any State Party shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.

2. The foregoing shall, however, only apply if the claimant has access to the court administering the fund and the fund is actually available in respect of the claim.

Article 11 DEATH AND INJURY

Claims in respect of death or personal injury have priority over other claims save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with Article 9, paragraph 1.

Article 12 COMPULSORY INSURANCE OF THE OWNER

1. The owner of a ship registered in a State Party and actually carrying hazardous and noxious substances shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, in the sums fixed by applying the limits of liability prescribed in Article 9, paragraph 1, to cover liability for damage under this Convention.

2. A compulsory insurance certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party such compulsory insurance certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in Annex I and shall contain the following particulars:

- (a) name of the ship, distinctive number or letters and port of registry;
- (b) name and principal place of business of the owner;
- (c) IMO ship identification number;
- (d) type and duration of security;
- (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
- (f) period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.

3. The compulsory insurance certificate shall be in the official language or languages of the issuing State. If the language used is neither English, nor French nor Spanish, the text shall include a translation into one of these languages.

4. The compulsory insurance certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.

5. An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 4, unless the compulsory insurance certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this Article.

6. The State of the ship's registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the compulsory insurance certificate.

7. Compulsory insurance certificates issued or certified under the authority of a State Party in accordance with paragraph 2 shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as compulsory insurance certificates issued or certified by them even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the compulsory insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

8. Any claim for compensation for damage may be brought directly against the insurer or other person providing financial security for the owner's liability for damage. In such case the defendant may, even if the owner is not entitled to limitation of liability, benefit from the limit of liability prescribed in accordance with paragraph 1. The defendant may further invoke the defences (other than the bankruptcy or winding up of the owner) which the owner would have been entitled to invoke. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the owner against the defendant. The defendant shall in any event have the right to require the owner to be joined in the proceedings.

9. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention.

10. A State Party shall not permit a ship under its flag to which this Article applies to trade unless a certificate has been issued under paragraph 2 or 12.

11. Subject to the provisions of this Article, each State Party shall ensure, under its national law, that insurance or other security in the sums specified in paragraph 1 is in force in respect of any ship, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an offshore facility in its territorial sea.

12. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a compulsory insurance certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed in accordance with paragraph 1. Such a compulsory insurance certificate shall follow as closely as possible the model prescribed by paragraph 2.

CHAPTER III

COMPENSATION BY THE INTERNATIONAL HAZARDOUS AND NOXIOUS SUBSTANCES FUND (HNS FUND)

Article 13 ESTABLISHMENT OF THE HNS FUND

1. The International Hazardous and Noxious Substances Fund (HNS Fund) is hereby established with the following aims:

(a) to provide compensation for damage in connection with the carriage of hazardous and noxious substances by sea, to the extent that the protection afforded by Chapter II is inadequate or not available; and

(b) to give effect to the related tasks set out in Article 15.

2. The HNS Fund shall in each State Party be recognized as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each State Party shall recognize the Director as the legal representative of the HNS Fund.

Article 14 COMPENSATION

1. For the purpose of fulfilling its function under Article 13, paragraph 1(a), the HNS Fund shall pay compensation to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of Chapter II:

(a) because no liability for the damage arises under Chapter II;

(b) because the owner liable for the damage under Chapter II is financially incapable of meeting the obligations under this Convention in full and any financial security that may be provided under Chapter II does not cover or is insufficient to satisfy the claims for compensation for damage; an owner being treated as financially incapable of meeting these obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under Chapter II after having taken all reasonable steps to pursue the available legal remedies;

(c) because the damage exceeds the owner's liability under the terms of Chapter II.

2. Expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall be treated as damage for the purposes of this Article.

3. The HNS Fund shall incur no obligation under the preceding paragraphs if:

(a) it proves that the damage resulted from an act of war, hostilities, civil war or insurrection or was caused by hazardous and noxious substances which had escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or

(b) the claimant cannot prove that there is a reasonable probability that the damage resulted from an incident involving one or more ships.

4. If the HNS Fund proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the HNS Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The HNS Fund shall in any event

be exonerated to the extent that the owner may have been exonerated under Article 7, paragraph 3. However, there shall be no such exonerated of the HNS Fund with regard to preventive measures.

5.

(a) Except as otherwise provided in subparagraph (b), the aggregate amount of compensation payable by the HNS Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and any amount of compensation actually paid under Chapter II for damage within the scope of application of this Convention as defined in Article 3 shall not exceed 250 million units of account.

(b) The aggregate amount of compensation payable by the HNS Fund under this Article for damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 250 million units of account.

(c) Interest accrued on a fund constituted in accordance with Article 9, paragraph 3, if any, shall not be taken into account for the computation of the maximum compensation payable by the HNS Fund under this Article.

(d) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency with reference to the Special Drawing Right on the date of the decision of the Assembly of the HNS Fund as to the first date of payment of compensation.

6. Where the amount of established claims against the HNS Fund exceeds the aggregate amount of compensation payable under paragraph 5, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants. Claims in respect of death or personal injury shall have priority over other claims, however, save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with paragraph 5.

7. The Assembly of the HNS Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner has not constituted a fund in accordance with Chapter II. In such cases paragraph 5(d) applies accordingly.

Article 15 RELATED TASKS OF THE HNS FUND

For the purpose of fulfilling its function under Article 13, paragraph 1(a), the HNS Fund shall have the following tasks:

- (a) to consider claims made against the HNS Fund;
- (b) to prepare an estimate in the form of a budget for each calendar year of:

Expenditure:

(i) costs and expenses of the administration of the HNS Fund in the relevant year and any deficit from operations in the preceding years; and

(ii) payments to be made by the HNS Fund in the relevant year;

Income:

(iii) surplus funds from operations in preceding years, including any interest;

(iv) initial contributions to be paid in the course of the year;

(v) annual contributions if required to balance the budget; and

(vi) any other income;

(c) to use at the request of a State Party its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or mitigate damage arising from an incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention; and

(d) to provide, on conditions laid down in the internal regulations, credit facilities with a view to the taking of preventive measures against damage arising from a particular incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention.

Article 16 GENERAL PROVISIONS ON CONTRIBUTIONS

1. The HNS Fund shall have a general account, which shall be divided into sectors.
2. The HNS Fund shall, subject to Article 19, paragraphs 3 and 4, also have separate accounts in respect of:
 - (a) oil as defined in Article 1, paragraph 5(a)(i) (oil account);
 - (b) liquefied natural gases of light hydrocarbons with methane as the main constituent (LNG) (LNG account); and
 - (c) liquefied petroleum gases of light hydrocarbons with propane and butane as the main constituents (LPG) (LPG account).
3. There shall be initial contributions and, as required, annual contributions to the HNS Fund.
4. Contributions to the HNS Fund shall be made into the general account in accordance with Article 18, to separate accounts in accordance with Article 19 and to either the general account or separate accounts in accordance with Article 20 or Article 21, paragraph 5. Subject to Article 19, paragraph 6, the general account shall be available to compensate damage caused by hazardous and noxious substances covered by that account, and a separate account shall be available to compensate damage caused by a hazardous and noxious substance covered by that account.
5. For the purposes of Article 18, Article 19, paragraph 1(a)(i), paragraph 1(a)(ii) and paragraph 1(c), Article 20 and Article 21, paragraph 5, where the quantity of a given type of contributing cargo received in the territory of a State Party by any person in a calendar year when aggregated with the quantities of the same type of cargo received in the same State Party in that year by any associated person or persons exceeds the limit specified in the respective subparagraphs, such a person shall pay contributions in respect of the actual quantity received by that person notwithstanding that that quantity did not exceed the respective limit.
6. "Associated person" means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the State concerned.

Article 17 GENERAL PROVISIONS ON ANNUAL CONTRIBUTIONS

1. Annual contributions to the general account and to each separate account shall be levied only as required to make payments by the account in question.
2. Annual contributions payable pursuant to Articles 18, 19 and Article 21, paragraph 5 shall be determined by the Assembly and shall be calculated in accordance with those Articles on the basis of the units of contributing cargo received or, in respect of cargoes referred to in Article 19, paragraph 1(b), discharged during the preceding calendar year or such other year as the Assembly may decide.
3. The Assembly shall decide the total amount of annual contributions to be levied to the general account and to each separate account. Following that decision the Director shall, in respect of each State Party, calculate for each person liable to pay contributions in accordance with Article 18, Article 19, paragraph 1 and Article 21, paragraph 5, the amount of that person's annual contribution to each account, on the basis of a fixed sum for each unit of contributing cargo reported in respect of the person during the preceding calendar year or such other year as the Assembly may decide. For the general account, the abovementioned fixed sum per unit of contributing cargo for each sector shall be calculated pursuant to the regulations contained in Annex II to this Convention. For each separate account, the fixed sum per unit of contributing cargo referred to above shall be calculated by dividing the total annual contribution to be levied to that account by the total quantity of cargo contributing to that account.
4. The Assembly may also levy annual contributions for administrative costs and decide on the distribution of such costs between the sectors of the general account and the separate accounts.
5. The Assembly shall also decide on the distribution between the relevant accounts and sectors of amounts paid in compensation for damage caused by two or more substances which fall within different accounts or sectors, on the basis of an estimate of the extent to which each of the substances involved contributed to the damage.

Article 18 ANNUAL CONTRIBUTIONS TO THE GENERAL ACCOUNT

1. Subject to Article 16, paragraph 5, annual contributions to the general account shall be made in respect of each State Party by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of aggregate quantities exceeding 20,000 tonnes of contributing cargo, other than substances referred to in Article 19, paragraph 1, which fall within the following sectors:

- (a) solid bulk materials referred to in Article 1, paragraph 5(a)(vii);
- (b) substances referred to in paragraph 2; and
- (c) other substances.

2. Annual contributions shall also be payable to the general account by persons who would have been liable to pay contributions to a separate account in accordance with Article 19, paragraph 1 had its operation not been postponed or suspended in accordance with Article 19. Each separate account the operation of which has been postponed or suspended under Article 19 shall form a separate sector within the general account.

Article 19 ANNUAL CONTRIBUTIONS TO SEPARATE ACCOUNTS

1. Subject to Article 16, paragraph 5, annual contributions to separate accounts shall be made in respect of each State Party:

- (a) in the case of the oil account,
 - (i) by any person who has received in that State in the preceding calendar year, or such other year as the Assembly may decide, total quantities exceeding 150,000 tonnes of contributing oil as defined in Article 1, paragraph 3 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, and who is or would be liable to pay contributions to the International Oil Pollution Compensation Fund in accordance with Article 10 of that Convention; and
 - (ii) by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of total quantities exceeding 20,000 tonnes of other oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
 - (b) in the case of the LNG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, immediately prior to its discharge, held title to an LNG cargo discharged in a port or terminal of that State;
 - (c) in the case of the LPG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, was the receiver in that State of total quantities exceeding 20,000 tonnes of LPG.
2. Subject to paragraph 3, the separate accounts referred to in paragraph 1 above shall become effective at the same time as the general account.
3. The initial operation of a separate account referred to in Article 16, paragraph 2 shall be postponed until such time as the quantities of contributing cargo in respect of that account during the preceding calendar year, or such other year as the Assembly may decide, exceed the following levels:
- (a) 350 million tonnes of contributing cargo in respect of the oil account;
 - (b) 20 million tonnes of contributing cargo in respect of the LNG account; and
 - (c) 15 million tonnes of contributing cargo in respect of the LPG account.
4. The Assembly may suspend the operation of a separate account if:
- (a) the quantities of contributing cargo in respect of that account during the preceding calendar year fall below the respective level specified in paragraph 3; or

(b) when six months have elapsed from the date when the contributions were due, the total unpaid contributions to that account exceed ten percent of the most recent levy to that account in accordance with paragraph 1.

5. The Assembly may reinstate the operation of a separate account which has been suspended in accordance with paragraph 4.

6. Any person who would be liable to pay contributions to a separate account the operation of which has been postponed in accordance with paragraph 3 or suspended in accordance with paragraph 4, shall pay into the general account the contributions due by that person in respect of that separate account. For the purpose of calculating future contributions, the postponed or suspended separate account shall form a new sector in the general account and shall be subject to the HNS points system defined in Annex II.

Article 20 INITIAL CONTRIBUTIONS

1. In respect of each State Party, initial contributions shall be made of an amount which shall for each person liable to pay contributions in accordance with Article 16, paragraph 5, Articles 18, 19 and Article 21, paragraph 5 be calculated on the basis of a fixed sum, equal for the general account and each separate account, for each unit of contributing cargo received or, in the case of LNG, discharged in that State, during the calendar year preceding that in which this Convention enters into force for that State.

2. The fixed sum and the units for the different sectors within the general account as well as for each separate account referred to in paragraph 1 shall be determined by the Assembly.

3. Initial contributions shall be paid within three months following the date on which the HNS Fund issues invoices in respect of each State Party to persons liable to pay contributions in accordance with paragraph 1.

Article 21 REPORTS

1. Each State Party shall ensure that any person liable to pay contributions in accordance with Articles 18, 19 or paragraph 5 of this Article appears on a list to be established and kept up to date by the Director in accordance with the provisions of this Article.

2. For the purposes set out in paragraph 1, each State Party shall communicate to the Director, at a time and in the manner to be prescribed in the internal regulations of the HNS Fund, the name and address of any person who in respect of the State is liable to pay contributions in accordance with Articles 18, 19 or paragraph 5 of this Article, as well as data on the relevant quantities of contributing cargo for which such a person is liable to contribute in respect of the preceding calendar year.

3. For the purposes of ascertaining who are, at any given time, the persons liable to pay contributions in accordance with Articles 18, 19 or paragraph 5 of this Article and of establishing, where applicable, the quantities of cargo to be taken into account for any such person when determining the amount of the contribution, the list shall be prima facie evidence of the facts stated therein.

4. Where a State Party does not fulfil its obligations to communicate to the Director the information referred to in paragraph 2 and this results in a financial loss for the HNS Fund, that State Party shall be liable to compensate the HNS Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by a State Party.

5. In respect of contributing cargo carried from one port or terminal of a State Party to another port or terminal located in the same State and discharged there, States Parties shall have the option of submitting to the HNS Fund a report with an annual aggregate quantity for each account covering all receipts of contributing cargo, including any quantities in respect of which contributions are payable pursuant to Article 16, paragraph 5. The State Party shall, at the time of reporting, either:

(a) notify the HNS Fund that that State will pay the aggregate amount for each account in respect of the relevant year in one lump sum to the HNS Fund; or

(b) instruct the HNS Fund to levy the aggregate amount for each account by invoicing individual receivers or, in the case of LNG, the title holder who discharges within the jurisdiction of that State Party, for the amount payable by each of them. These persons shall be identified in accordance with the national law of the State concerned.

Article 22 NON-PAYMENT OF CONTRIBUTIONS

1. The amount of any contribution due under Articles 18, 19, 20 or Article 21, paragraph 5 and which is in arrears shall bear interest at a rate which shall be determined in accordance with the internal regulations of the HNS Fund, provided that different rates may be fixed for different circumstances.
2. Where a person who is liable to pay contributions in accordance with Articles 18, 19, 20 or Article 21, paragraph 5 does not fulfil the obligations in respect of any such contribution or any part thereof and is in arrears, the Director shall take all appropriate action, including court action, against such a person on behalf of the HNS Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

Article 23 OPTIONAL LIABILITY OF STATES PARTIES FOR THE PAYMENT OF CONTRIBUTIONS

1. Without prejudice to Article 21, paragraph 5, a State Party may at the time when it deposits its instrument of ratification, acceptance, approval or accession or at any time thereafter declare that it assumes responsibility for obligations imposed by this Convention on any person liable to pay contributions in accordance with Articles 18, 19, 20 or Article 21, paragraph 5 in respect of hazardous and noxious substances received or discharged in the territory of that State. Such a declaration shall be made in writing and shall specify which obligations are assumed.
2. Where a declaration under paragraph 1 is made prior to the entry into force of this Convention in accordance with Article 46, it shall be deposited with the Secretary-General who shall after the entry into force of this Convention communicate the declaration to the Director.
3. A declaration under paragraph 1 which is made after the entry into force of this Convention shall be deposited with the Director.
4. A declaration made in accordance with this Article may be withdrawn by the relevant State giving notice thereof in writing to the Director. Such a notification shall take effect three months after the Director's receipt thereof.
5. Any State which is bound by a declaration made under this Article shall, in any proceedings brought against it before a competent court in respect of any obligation specified in the declaration, waive any immunity that it would otherwise be entitled to invoke.

Article 24 ORGANIZATION AND ADMINISTRATION

The HNS Fund shall have an Assembly and a Secretariat headed by the Director.

Article 25 ASSEMBLY

The Assembly shall consist of all States Parties to this Convention.

Article 26

The functions of the Assembly shall be:

- (a) to elect at each regular session its President and two Vice-Presidents who shall hold office until the next regular session;
- (b) to determine its own rules of procedure, subject to the provisions of this Convention;
- (c) to develop, apply and keep under review internal and financial regulations relating to the aim of the HNS Fund as described in Article 13, paragraph 1(a), and the related tasks of the HNS Fund listed in Article 15;
- (d) to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;
- (e) to adopt the annual budget prepared in accordance with Article 15(b);

(f) to consider and approve as necessary any recommendation of the Director regarding the scope of definition of contributing cargo;

(g) to appoint auditors and approve the accounts of the HNS Fund;

(h) to approve settlements of claims against the HNS Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with Article 14 and to determine the terms and conditions according to which provisional payments in respect of claims shall be made with a view to ensuring that victims of damage are compensated as promptly as possible;

(i) to establish a Committee on Claims for Compensation with at least 7 and not more than 15 members and any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the States Parties are appropriately represented; the Rules of Procedure of the Assembly may be applied, *mutatis mutandis*, for the work of such subsidiary body;

(j) to determine which States not party to this Convention, which Associate Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies;

(k) to give instructions concerning the administration of the HNS Fund to the Director and subsidiary bodies;

(l) to supervise the proper execution of this Convention and of its own decisions;

(m) to review every five years the implementation of this Convention with particular reference to the performance of the system for the calculation of levies and the contribution mechanism for domestic trade; and

(n) to perform such other functions as are allocated to it under this Convention or are otherwise necessary for the proper operation of the HNS Fund.

Article 27

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.
2. Extraordinary sessions of the Assembly shall be convened by the Director at the request of at least one-third of the members of the Assembly and may be convened on the Director's own initiative after consultation with the President of the Assembly. The Director shall give members at least thirty days' notice of such sessions.

Article 28

A majority of the members of the Assembly shall constitute a quorum for its meetings.

Article 29 SECRETARIAT

1. The Secretariat shall comprise the Director and such staff as the administration of the HNS Fund may require.
2. The Director shall be the legal representative of the HNS Fund.

Article 30

1. The Director shall be the chief administrative officer of the HNS Fund. Subject to the instructions given by the Assembly, the Director shall perform those functions which are assigned to the Director by this Convention, the internal regulations of the HNS Fund and the Assembly.

2. The Director shall in particular:

- (a) appoint the personnel required for the administration of the HNS Fund;
- (b) take all appropriate measures with a view to the proper administration of the assets of the HNS Fund;
- (c) collect the contributions due under this Convention while observing in particular the provisions of Article 22, paragraph 2;
- (d) to the extent necessary to deal with claims against the HNS Fund and to carry out the other functions of the HNS Fund, employ the services of legal, financial and other experts;
- (e) take all appropriate measures for dealing with claims against the HNS Fund, within the limits and on conditions to be laid down in the internal regulations of the HNS Fund, including the final settlement of claims without the prior approval of the Assembly where these regulations so provide;
- (f) prepare and submit to the Assembly the financial statements and budget estimates for each calendar year;
- (g) prepare, in consultation with the President of the Assembly, and publish a report on the activities of the HNS Fund during the previous calendar year; and
- (h) prepare, collect and circulate the documents and information which may be required for the work of the Assembly and subsidiary bodies.

Article 31

In the performance of their duties the Director and the staff and experts appointed by the Director shall not seek or receive instructions from any Government or from any authority external to the HNS Fund. They shall refrain from any action which might adversely reflect on their position as international officials. Each State Party on its part undertakes to respect the exclusively international character of the responsibilities of the Director and the staff and experts appointed by the Director, and not to seek to influence them in the discharge of their duties.

Article 32 FINANCES

- 1. Each State Party shall bear the salary, travel and other expenses of its own delegation to the Assembly and of its representatives on subsidiary bodies.
- 2. Any other expenses incurred in the operation of the HNS Fund shall be borne by the HNS Fund.

Article 33 VOTING

The following provisions shall apply to voting in the Assembly:

- (a) each member shall have one vote;
- (b) except as otherwise provided in Article 34, decisions of the Assembly shall be made by a majority vote of the members present and voting;
- (c) decisions where a two-thirds majority is required shall be a two-thirds majority vote of members present; and
- (d) for the purpose of this Article the phrase "members present" means "members present at the meeting at the time of the vote", and the phrase "members present and voting" means "members present and casting an affirmative or negative vote". Members who abstain from voting shall be considered as not voting.

Article 34

The following decisions of the Assembly shall require a two-thirds majority:

- (a) a decision under Article 19, paragraphs 4 or 5 to suspend or reinstate the operation of a separate account;
- (b) a decision under Article 22, paragraph 2, not to take or continue action against a contributor;
- (c) the appointment of the Director under Article 26(d);
- (d) the establishment of subsidiary bodies, under Article 26(i), and matters relating to such establishment; and
- (e) a decision under Article 51, paragraph 1, that this Convention shall continue to be in force.

Article 35 TAX EXEMPTIONS AND CURRENCY REGULATIONS

1. The HNS Fund, its assets, income, including contributions, and other property necessary for the exercise of its functions as described in Article 13, paragraph 1, shall enjoy in all States Parties exemption from all direct taxation.
2. When the HNS Fund makes substantial purchases of movable or immovable property, or of services which are necessary for the exercise of its official activities in order to achieve its aims as set out in Article 13, paragraph 1, the cost of which include indirect taxes or sales taxes, the Governments of the States Parties shall take, whenever possible, appropriate measures for the remission or refund of the amount of such duties and taxes. Goods thus acquired shall not be sold against payment or given away free of charge unless it is done according to conditions approved by the Government of the State having granted or supported the remission or refund.
3. No exemption shall be accorded in the case of duties, taxes or dues which merely constitute payment for public utility services.
4. The HNS Fund shall enjoy exemption from all customs duties, taxes and other related taxes on articles imported or exported by it or on its behalf for its official use. Articles thus imported shall not be transferred either for consideration or gratis on the territory of the country into which they have been imported except on conditions agreed by the Government of that country.
5. Persons contributing to the HNS Fund as well as victims and owners receiving compensation from the HNS Fund shall be subject to the fiscal legislation of the State where they are taxable, no special exemption or other benefit being conferred on them in this respect.
6. Notwithstanding existing or future regulations concerning currency or transfers, States Parties shall authorize the transfer and payment of any contribution to the HNS Fund and of any compensation paid by HNS Fund without any restriction.

Article 36 CONFIDENTIALITY OF INFORMATION

Information relating to individual contributors supplied for the purpose of this Convention shall not be divulged outside the HNS Fund except in so far as it may be strictly necessary to enable the HNS Fund to carry out its functions including the bringing and defending of legal proceedings.

CHAPTER IV CLAIMS AND ACTIONS

Article 37 LIMITATION OF ACTIONS

1. Rights to compensation under Chapter II shall be extinguished unless an action is brought thereunder within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage and of the identity of the owner.
2. Rights to compensation under Chapter III shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to Article 39, paragraph 7, within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage.
3. In no case, however, shall an action be brought later than ten years from the date of the incident which caused the damage.
4. Where the incident consists of a series of occurrences, the ten-year period mentioned in paragraph 3 shall run from the date of the last of such occurrences.

Article 38 JURISDICTION IN RESPECT OF ACTION AGAINST THE OWNER

1. Where an incident has caused damage in the territory, including the territorial sea or in an area referred to in Article 3(b), of one or more States Parties, or preventive measures have been taken to prevent or minimize damage in such territory including the territorial sea or in such area, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of any such States Parties.
2. Where an incident has caused damage exclusively outside the territory, including the territorial sea, of any State and either the conditions for application of this Convention set out in Article 3(c) have been fulfilled or preventive measures to prevent or minimize such damage have been taken, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of:
 - (a) the State Party where the ship is registered or, in the case of an unregistered ship, the State Party whose flag the ship is entitled to fly; or
 - (b) the State Party where the owner has habitual residence or where the principal place of business of the owner is established; or
 - (c) the State Party where a fund has been constituted in accordance with Article 9, paragraph 3.
3. Reasonable notice of any action taken under paragraph 1 or 2 shall be given to the defendant.
4. Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.
5. After a fund under Article 9 has been constituted by the owner or by the insurer or other person providing financial security in accordance with Article 12, the courts of the State in which such fund is constituted shall have exclusive jurisdiction to determine all matters relating to the apportionment and distribution of the fund.

Article 39 JURISDICTION IN RESPECT OF ACTION AGAINST THE HNS FUND OR TAKEN BY THE HNS FUND

1. Subject to the subsequent provisions of this Article, any action against the HNS Fund for compensation under Article 14 shall be brought only before a court having jurisdiction under Article 38 in respect of actions against the owner who is liable for damage caused by the relevant incident or before a court in a State Party which would have been competent if an owner had been liable.

2. In the event that the ship carrying the hazardous or noxious substances which caused the damage has not been identified, the provisions of Article 38, paragraph 1, shall apply mutatis mutandis to actions against the HNS Fund.
3. Each State Party shall ensure that its courts have jurisdiction to entertain such actions against the HNS Fund as are referred to in paragraph 1.
4. Where an action for compensation for damage has been brought before a court against the owner or the owner's guarantor, such court shall have exclusive jurisdiction over any action against the HNS Fund for compensation under the provisions of Article 14 in respect of the same damage.
5. Each State Party shall ensure that the HNS Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with this Convention before a competent court of that State against the owner or the owner's guarantor.
6. Except as otherwise provided in paragraph 7, the HNS Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.
7. Without prejudice to the provisions of paragraph 5, where an action under this Convention for compensation for damage has been brought against an owner or the owner's guarantor before a competent court in a State Party, each party to the proceedings shall be entitled under the national law of that State to notify the HNS Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seized and in such time and in such a manner that the HNS Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgement rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgement was given, become binding upon the HNS Fund in the sense that the facts and findings in that judgement may not be disputed by the HNS Fund even if the HNS Fund has not actually intervened in the proceedings.

Article 40 RECOGNITION AND ENFORCEMENT

1. Any judgement given by a court with jurisdiction in accordance with Article 38, which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any State Party, except:
 - (a) where the judgement was obtained by fraud; or
 - (b) where the defendant was not given reasonable notice and a fair opportunity to present the case.
2. A judgement recognized under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.
3. Subject to any decision concerning the distribution referred to in Article 14, paragraph 6, any judgement given against the HNS Fund by a court having jurisdiction in accordance with Article 39, paragraphs 1 and 3 shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognized and enforceable in each State Party.

Article 41 SUBROGATION AND RECOURSE

1. The HNS Fund shall, in respect of any amount of compensation for damage paid by the HNS Fund in accordance with Article 14, paragraph 1, acquire by subrogation the rights that the person so compensated may enjoy against the owner or the owner's guarantor.
2. Nothing in this Convention shall prejudice any rights of recourse or subrogation of the HNS Fund against any person, including persons referred to in Article 7, paragraph 2(d), other than those referred to in the previous paragraph, in so far as they can limit their liability. In any event the right of the HNS Fund to subrogation against such persons shall not be less favourable than that of an insurer of the person to whom compensation has been paid.

3. Without prejudice to any other rights of subrogation or recourse against the HNS Fund which may exist, a State Party or agency thereof which has paid compensation for damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

Article 42 SUPERSESSION CLAUSE

This Convention shall supersede any convention in force or open for signature, ratification or accession at the date on which this Convention is opened for signature, but only to the extent that such convention would be in conflict with it; however, nothing in this Article shall affect the obligations of States Parties to States not party to this Convention arising under such convention.

CHAPTER V TRANSITIONAL PROVISIONS

Article 43 INFORMATION ON CONTRIBUTING CARGO

When depositing an instrument referred to in Article 45, paragraph 3, and annually thereafter until this Convention enters into force for a State, that State shall submit to the Secretary-General data on the relevant quantities of contributing cargo received or, in the case of LNG, discharged in that State during the preceding calendar year in respect of the general account and each separate account

Article 44 FIRST SESSION OF THE ASSEMBLY

The Secretary-General shall convene the first session of the Assembly. This session shall take place as soon as possible after the entry into force of this Convention and, in any case, not more than thirty days after such entry into force.

CHAPTER VI FINAL CLAUSES

Article 45 SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. This Convention shall be open for signature at the Headquarters of the Organization from 1 October 1996 to 30 September 1997 and shall thereafter remain open for accession.

2. States may express their consent to be bound by this Convention by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 46 ENTRY INTO FORCE

1. This Convention shall enter into force eighteen months after the date on which the following conditions are fulfilled:

- (a) at least twelve States, including four States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it, and

(b) the Secretary-General has received information in accordance with Article 43 that those persons in such States who would be liable to contribute pursuant to Article 18, paragraphs 1(a) and (c) have received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo contributing to the general account.

2. For a State which expresses its consent to be bound by this Convention after the conditions for entry into force have been met, such consent shall take effect three months after the date of expression of such consent, or on the date on which this Convention enters into force in accordance with paragraph 1, whichever is the later.

Article 47 REVISION AND AMENDMENT

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of six States Parties or one-third of the States Parties whichever is the higher figure.

3. Any consent to be bound by this Convention expressed after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Article 48 AMENDMENT OF LIMITS

1. Without prejudice to the provisions of Article 47, the special procedure in this Article shall apply solely for the purposes of amending the limits set out in Article 9, paragraph 1 and Article 14, paragraph 5.

2. Upon the request of at least one half, but in no case less than six, of the States Parties, any proposal to amend the limits specified in Article 9, paragraph 1, and Article 14, paragraph 5, shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.

3. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization (the Legal Committee) for consideration at a date at least six months after the date of its circulation.

4. All Contracting States, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

5. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided in paragraph 4, on condition that at least one half of the Contracting States shall be present at the time of voting.

6. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits established in Article 9, paragraph 1, and those in Article 14, paragraph 5.

7.

(a) No amendment of the limits under this Article may be considered less than five years from the date this Convention was opened for signature nor less than five years from the date of entry into force of a previous amendment under this Article.

(b) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention increased by six percent per year calculated on a compound basis from the date on which this Convention was opened for signature.

(c) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention multiplied by three.

8. Any amendment adopted in accordance with paragraph 5 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period no less than one-fourth of the States which were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.

9. An amendment deemed to have been accepted in accordance with paragraph 8 shall enter into force eighteen months after its acceptance.

10. All Contracting States shall be bound by the amendment, unless they denounce this Convention in accordance with Article 49, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

11. When an amendment has been adopted but the eighteen month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 8. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Convention enters into force for that State, if later.

Article 49 DENUNCIATION

1. This Convention may be denounced by any State Party at any time after the date on which it enters into force for that State Party.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

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

4. Notwithstanding a denunciation by a State Party pursuant to this Article, any provisions of this Convention relating to obligations to make contributions under Articles 18, 19 or Article 21, paragraph 5 in respect of such payments of compensation as the Assembly may decide relating to an incident which occurs before the denunciation takes effect shall continue to apply.

Article 50 EXTRAORDINARY SESSIONS OF THE ASSEMBLY

1. Any State Party may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions from the remaining States Parties, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not less than sixty days after receipt of the request.

2. The Director may take the initiative to convene an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if the Director considers that such denunciation will result in a significant increase in the level of contributions from the remaining States Parties.

3. If the Assembly, at an extraordinary session, convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions from the remaining States Parties, any such State may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Convention with effect from the same date.

Article 51 CESSATION

1. This Convention shall cease to be in force:

(a) on the date when the number of States Parties falls below 6; or

(b) twelve months after the date on which data concerning a previous calendar year were to be communicated to the Director in accordance with Article 21, if the data shows that the total quantity of contributing cargo to the general account in accordance with Article 18, paragraphs 1(a) and (c) received in the States Parties in that preceding calendar year was less than 30 million tonnes.

Notwithstanding (b), if the total quantity of contributing cargo to the general account in accordance with Article 18, paragraphs 1(a) and (c) received in the States Parties in the preceding calendar year was less than 30 million tonnes but more than 25 million tonnes, the Assembly may, if it considers that this was due to exceptional circumstances and is not likely to be repeated, decide before the expiry of the abovementioned twelve month period that the Convention shall continue to be in force. The Assembly may not, however, take such a decision in more than two subsequent years.

2. States which are bound by this Convention on the day before the date it ceases to be in force shall enable the HNS Fund to exercise its functions as described under Article 52 and shall, for that purpose only, remain bound by this Convention.

Article 52 WINDING UP OF THE HNS FUND

1. If this Convention ceases to be in force, the HNS Fund shall nevertheless:

(a) meet its obligations in respect of any incident occurring before this Convention ceased to be in force; and

(b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under (a), including expenses for the administration of the HNS Fund necessary for this purpose.

2. The Assembly shall take all appropriate measures to complete the winding up of the HNS Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the HNS Fund.

3. For the purposes of this Article the HNS Fund shall remain a legal person.

Article 53 DEPOSITARY

1. This Convention and any amendment adopted under Article 48 shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;

(ii) the date of entry into force of this Convention;

(iii) any proposal to amend the limits on the amounts of compensation which has been made in accordance with Article 48, paragraph 2;

(iv) any amendment which has been adopted in accordance with Article 48, paragraph 5;

(v) any amendment deemed to have been accepted under Article 48, paragraph 8, together with the date on which that amendment shall enter into force in accordance with paragraphs 9 and 10 of that Article;

(vi) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect; and

(vii) any communication called for by any Article in this Convention; and

(b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

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

Article 54 LANGUAGES

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE at London this third day of May one thousand nine hundred and ninety-six.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

[Signatures not reproduced here.]

ANNEX I
CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF LIABILITY FOR
DAMAGE CAUSED BY HAZARDOUS AND NOXIOUS SUBSTANCES (HNS)

Issued in accordance with the provisions of Article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996

Name of ship

Distinctive number or letters

IMO ship identification number

Port of registry

Name and full address of the principal place of business of the owner

This is to certify that there is in force in respect of the abovenamed ship a policy of insurance or other financial security satisfying the requirements of Article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.

Type of security

Duration of security

Name and address of the insurer(s) and/or guarantor(s)

Name

Address

This certificate is valid until

Issued or certified by the Government of

(Full designation of the State)

At on

(Place) (Date)

.....
 (Signature and title of issuing or certifying official)

Explanatory notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of the Security" must stipulate the date on which such security takes effect.
5. The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.

ANNEX II
REGULATIONS FOR THE CALCULATION OF ANNUAL CONTRIBUTIONS
TO THE GENERAL ACCOUNT

Regulation 1

1. The fixed sum referred to in article 17, paragraph 3 shall be determined for each sector in accordance with these regulations.
2. When it is necessary to calculate contributions for more than one sector of the general account, a separate fixed sum per unit of contributing cargo shall be calculated for each of the following sectors as may be required:
 - (a) solid bulk materials referred to in Article 1, paragraph 5(a)(vii);
 - (b) oil, if the operation of the oil account is postponed or suspended;
 - (c) LNG, if the operation of the LNG account is postponed or suspended;
 - (d) LPG, if the operation of the LPG account is postponed or suspended;
 - (e) other substances.

Regulation 2

1. For each sector, the fixed sum per unit of contributing cargo shall be the product of the levy per HNS point and the sector factor for that sector.
2. The levy per HNS point shall be the total annual contributions to be levied to the general account divided by the total HNS points for all sectors.
3. The total HNS points for each sector shall be the product of the total volume, measured in metric tonnes, of contributing cargo for that sector and the corresponding sector factor.
4. A sector factor shall be calculated as the weighted arithmetic average of the claims/volume ratio for that sector for the relevant year and the previous nine years, according to this regulation.
5. Except as provided in paragraph 6, the claims/volume ratio for each of these years shall be calculated as follows:
 - (a) established claims, measured in units of account converted from the claim currency using the rate applicable on the date of the incident in question, for damage caused by substances in respect of which contributions to the HNS Fund are due for the relevant year; divided by
 - (b) the volume of contributing cargo corresponding to the relevant year.
6. In cases where the information required in paragraphs 5(a) and (b) is not available, the following values shall be used for the claims/volume ratio for each of the missing years:

(a) solid bulk materials referred to in Article 1, paragraph 5(a)(vii)	0
(b) oil, if the operation of the oil account is postponed	0
(c) LNG, if the operation of the LNG account is postponed	0
(d) LPG, if the operation of the LPG account is postponed	0
(e) other substances	0.0001
7. The arithmetic average of the ten years shall be weighted on a decreasing linear scale, so that the ratio of the relevant year shall have a weight of 10, the year prior to the relevant year shall have a weight of 9, the next preceding year shall have a weight of 8, and so on, until the tenth year has a weight of 1.

8. If the operation of a separate account has been suspended, the relevant sector factor shall be calculated in accordance with those provisions of this regulation which the Assembly shall consider appropriate.

**8. UNCLOS:
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA, 1982 –
CHAPTERS 1 & 12.**

SUMMARY

UNCLOS is a comprehensive legal framework for the conduct and regulation of all marine sector activities. This includes a framework for settlement of disputes from conflicting ocean activities and state interests at sea.

There are 17 parts and 9 annexes. Chapters 1 and 12 only are depicted here as Chapter 12 consists of 46 articles which are a first attempt to provide a framework to protect the marine environment. It covers all forms of marine pollution and creates special enforcement provisions for flag, port and coastal states.

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

(Chapters 1 and 12)

Adopted at Montego Bay, Jamaica, 10 December 1982
Entered into force 16 November 1994

PREAMBLE

The States Parties to this Convention,

Prompted by the desire to settle, in a spirit of mutual understanding and co-operation, all issues relating to the law of the sea and aware of the historic significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world,

Noting that developments since the United Nations Conferences on the Law of the Sea held at Geneva in 1958 and 1960 have accentuated the need for a new and generally acceptable Convention on the law of the sea,

Conscious that the problems of ocean space are closely interrelated and need to be considered as a whole,

Recognising the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilisation of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment,

Bearing in mind that the achievement of these goals will contribute to the realisation of a just and equitable international economic order which takes into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries, whether coastal or land-locked,

Desiring by this Convention to develop the principles embodied in resolution 2749 (XXV) of 17 December 1970 in which the General Assembly of the United Nations solemnly declared inter alia that the area of the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States,

Believing that the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, co-operation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world, in accordance with the Purposes and Principles of the United Nations as set forth in the Charter,

Affirming that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I INTRODUCTION

Article 1 USE OF TERMS AND SCOPE

1. For the purposes of this Convention:

- (1) "Area" means the sea-bed and ocean floor and subsoil thereof beyond the limits of national jurisdiction;
- (2) "Authority" means the International Sea-Bed Authority;
- (3) "activities in the Area" means all activities of exploration for, and exploitation of, the resources of the Area;
- (4) "pollution of the marine environment" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities including

fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

(5) (a) "dumping" means:

(i) any deliberate disposal of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

(ii) any deliberate disposal of vessels, aircraft, platforms or other man-made structures at sea

(b) "dumping" does not include:

(i) the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

(ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.

2. (1) "States Parties" means States which have consented to be bound by this Convention and for which this Convention is in force.

(2) This Convention applies mutatis mutandis to the entities referred to in Article 305, paragraph 1(b), (c), (d), (e) and (f), which become Parties to this Convention in accordance with the conditions relevant to each, and to that extent "States Parties" refers to those entities.

PART II PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

SECTION 1: GENERAL PROVISIONS

Article 192 GENERAL OBLIGATION

States have the obligation to protect and preserve the marine environment.

Article 193 SOVEREIGN RIGHT OF STATES TO EXPLOIT THEIR NATURAL RESOURCES

States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.

Article 194 MEASURES TO PREVENT, REDUCE AND CONTROL POLLUTION OF THE MARINE ENVIRONMENT

1. States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonise their policies in this connection.

2. States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention.

3. The measures taken pursuant to this Part shall deal with all sources of pollution of the marine environment. These measures shall include, inter alia, those designed to minimise to the fullest possible extent:

(a) the release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping;

(b) pollution from vessels, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, preventing intentional and unintentional discharges, and regulating the design, construction, equipment, operation and manning of vessels;

(c) pollution from installations and devices used in exploration or exploitation of the natural resources of the sea-bed and subsoil, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices;

(d) pollution from other installations and devices operating in the marine environment, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices.

4. In taking measures to prevent, reduce or control pollution of the marine environment, States shall refrain from unjustifiable interference with activities carried out by other States in the exercise of their rights and in pursuance of their duties in conformity with this Convention.

5. The measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

Article 195 DUTY NOT TO TRANSFER DAMAGE OR HAZARDS OR TRANSFORM ONE TYPE OF POLLUTION INTO ANOTHER

In taking measures to prevent, reduce and control pollution of the marine environment, States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another.

Article 196 USE OF TECHNOLOGIES OR INTRODUCTION OF ALIEN OR NEW SPECIES

1. States shall take all measures necessary to prevent, reduce and control pollution of the marine environment resulting from the use of technologies under their jurisdiction or control, or the intentional or accidental introduction of species, alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto.

2. This Article does not affect the application of this Convention regarding the prevention, reduction and control of pollution of the marine environment.

SECTION 2: GLOBAL AND REGIONAL CO-OPERATION

Article 197 CO-OPERATION ON A GLOBAL OR REGIONAL BASIS

States shall co-operate on a global basis and, as appropriate, on a regional basis, directly or through competent international organisations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.

Article 198 NOTIFICATION OF IMMINENT OR ACTUAL DAMAGE

When a State becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution, it shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organisations.

Article 199 CONTINGENCY PLANS AGAINST POLLUTION

In the cases referred to in Article 198, States in the area affected, in accordance with their capabilities, and the

competent international organisations shall co-operate, to the extent possible, in eliminating the effects of pollution and preventing or minimising the damage. To this end, States shall jointly develop and promote contingency plans for responding to pollution incidents in the marine environment.

Article 200 STUDIES, RESEARCH PROGRAMMES AND EXCHANGE OF INFORMATION AND DATA

States shall co-operate, directly or through competent international organisations, for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall endeavour to participate actively in regional and global programmes to acquire knowledge for the assessment of the nature and extent of pollution, exposure to it, and its pathways, risks and remedies.

Article 201 SCIENTIFIC CRITERIA FOR REGULATIONS

In the light of the information and data acquired pursuant to Article 200, States shall co-operate, directly or through competent international organisations, in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practices and procedures for the prevention, reduction and control of pollution of the marine environment.

SECTION 3: TECHNICAL ASSISTANCE

Article 202 SCIENTIFIC AND TECHNICAL ASSISTANCE TO DEVELOPING STATES

States shall, directly or through competent international organisations:

(a) promote programmes of scientific, educational, technical and other assistance to developing States for the protection and preservation of the marine environment and the prevention, reduction and control of marine pollution. Such assistance shall include, inter alia:

- (i) training of their scientific and technical personnel;
- (ii) facilitating their participation in relevant international programmes;
- (iii) supplying them with necessary equipment and facilities;
- (iv) enhancing their capacity to manufacture such equipment;
- (v) advice on and developing facilities for research, monitoring, educational and other programmes;

(b) provide appropriate assistance, especially to developing States, for the minimisation of the effects of major incidents which may cause serious pollution of the marine environment;

(c) provide appropriate assistance, especially to developing States, concerning the preparation of environmental assessments.

Article 203 PREFERENTIAL TREATMENT FOR DEVELOPING STATES

Developing States shall, for the purposes of prevention, reduction and control of pollution of the marine environment or minimisation of its effects, be granted preference by international organisations in:

- (a) the allocation of appropriate funds and technical assistance; and
- (b) the utilization of their specialised services.

SECTION 4: MONITORING AND ENVIRONMENTAL ASSESSMENT

Article 204 MONITORING OF THE RISKS OR EFFECTS OF POLLUTION

1. States shall, consistent with the rights of other States, endeavour, as far as practicable, directly or through the competent international organisations, to observe, measure, evaluate and analyse, by recognised scientific methods, the risks or effects of pollution of the marine environment.
2. In particular, States shall keep under surveillance the effects of any activities which they permit or in which they engage in order to determine whether these activities are likely to pollute the marine environment.

Article 205 PUBLICATION OF REPORTS

States shall publish reports of the results obtained pursuant to Article 204 or provide such reports at appropriate intervals to the competent international organisations, which should make them available to all States.

Article 206 ASSESSMENT OF POTENTIAL EFFECTS OF ACTIVITIES

When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in Article 205.

SECTION 5: INTERNATIONAL RULES AND NATIONAL LEGISLATION TO PREVENT, REDUCE AND CONTROL POLLUTION OF THE MARINE ENVIRONMENT

Article 207 POLLUTION FROM LAND-BASED SOURCES

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.
2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.
3. States shall endeavour to harmonise their policies in this connection at the appropriate regional level.
4. States, acting especially through competent international organisations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.
5. Laws, regulations, measures, rules, standards and recommended practices and procedures referred to in paragraphs 1, 2 and 4 shall include those designed to minimise, to the fullest extent possible, the release of toxic, harmful or noxious substances, especially those which are persistent, into the marine environment.

Article 208 POLLUTION FROM SEA-BED ACTIVITIES SUBJECT TO NATIONAL JURISDICTION

1. Coastal States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising from or in connection with sea-bed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to Articles 60 and 80.
2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.
3. Such laws, regulations and measures shall be no less effective than international rules, standards and recommended practices and procedures.

4. States shall endeavour to harmonise their policies in this connection at the appropriate regional level.
5. States, acting especially through competent international organisations or diplomatic conference, shall establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment referred to in paragraph 1. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

Article 209 POLLUTION FROM ACTIVITIES IN THE AREA

1. International rules, regulations and procedures shall be established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area. Such rules, regulations and procedures shall be re-examined from time to time as necessary.
2. Subject to the relevant provisions of this Section, States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from activities in the Area undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority, as the case may be. The requirements of such laws and regulations shall be no less effective than the international rules, regulations and procedures referred to in paragraph 1.

Article 210 POLLUTION BY DUMPING

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment by dumping.
2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.
3. Such laws, regulations and measures shall ensure that dumping is not carried out without permission of the competent authorities of States.
4. States, acting especially through competent international organisations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.
5. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf shall not be carried out without the express prior approval of the coastal State, which has the right to permit, regulate and control such dumping after due consideration of the matter with other States which by reason of their geographical situation may be adversely affected thereby.
6. National laws, regulations and measures shall be no less effective in preventing, reducing and controlling such pollution than the global rules and standards.

Article 211 POLLUTION FROM VESSELS

1. States, acting through the competent international organisation or general diplomatic conference, shall establish international rules and standards to prevent, reduce and control pollution of the marine environment from vessels and promote the adoption, in the same manner, wherever appropriate, of routing systems designed to minimise the threat of accidents which might cause pollution of the marine environment, including the coastline, and pollution damage to the related interests of coastal States. Such rules and standards shall, in the same manner, be re-examined from time to time as necessary.
2. States shall adopt laws and regulations for the prevention, reduction and control of pollution of the marine environment from vessels flying their flag or of their registry. Such laws and regulations shall at least have the same effect as that of generally accepted international rules and standards established through the competent international organisation or general diplomatic conference.
3. States which establish particular requirements for the prevention, reduction and control of pollution of the marine environment as a condition for the entry of foreign vessels into their ports or internal waters or for a call at their off-shore terminals shall give due publicity to such requirements and shall communicate them to the competent international organisation. Whenever such requirements are established in identical form by two or more coastal States

in an endeavour to harmonise policy, the communication shall indicate which States are participating in such co-operative arrangements. Every State shall require the master of a vessel flying its flag or of its registry, when navigating within the territorial sea of a State participating in such co-operative arrangements, to furnish, upon the request of that State, information as to whether it is proceeding to a State of the same region participating in such co-operative arrangements and, if so, to indicate whether it complies with the port entry requirements of that State. This Article is without prejudice to the continued exercise by a vessel of its right of innocent passage or to the application of Article 25, paragraph 2.

4. Coastal States may, in the exercise of their sovereignty within their territorial sea, adopt laws and regulations for the prevention, reduction and control of marine pollution from foreign vessels, including vessels exercising the right of innocent passage. Such laws and regulations shall, in accordance with Part II, Section 3, not hamper innocent passage of foreign vessels.

5. Coastal States, for the purpose of enforcement as provided for in Section 6, may in respect of their exclusive economic zones adopt laws and regulations for the prevention, reduction and control of pollution from vessels conforming to and giving effect to generally accepted international rules and standards established through the competent international organisation or general diplomatic conference.

6.

(a) Where the international rules and standards referred to in paragraph 1 are inadequate to meet special circumstances and coastal States have reasonable grounds for believing that a particular, clearly defined area of their respective exclusive economic zones is an area where the adoption of special mandatory measures for the prevention of pollution from vessels is required for recognised technical reasons in relation to its oceanographically and ecological conditions, as well as its utilisation or the protection of its resources and the particular character of its traffic, the coastal States, after appropriate consultations through the competent international organisation with any other States concerned, may, for that area, direct a communication to that organisation, submitting scientific and technical evidence in support and information on necessary reception facilities. Within 12 months after receiving such a communication, the organisation shall determine whether the conditions in that area correspond to the requirements set out above. If the organisation so determines, the coastal States may, for that area, adopt laws and regulations for the prevention, reduction and control of pollution from vessels implementing such international rules and standards or navigational practices as are made applicable, through the organisation, for special areas. These laws and regulations shall not become applicable to foreign vessels until 15 months after the submission of the communication to the organisation.

(b) The coastal States shall publish the limits of any such particular, clearly defined area.

(c) If the coastal States intend to adopt additional laws and regulations for the same area for the prevention, reduction and control of pollution from vessels, they shall, when submitting the aforesaid communication, at the same time notify the organisation thereof. Such additional laws and regulations may relate to discharges or navigational practices but shall not require foreign vessels to observe design, construction, manning or equipment standards other than generally accepted international rules and standards; they shall become applicable to foreign vessels 15 months after the submission of the communication to the organisation, provided that the organisation agrees within 12 months after the submission of the communication.

7. The international rules and standards referred to in this Article should include inter alia those relating to prompt notification to coastal States, whose coastline or related interests may be affected by incidents, including maritime casualties, which involve discharges or probability of discharges.

Article 212 POLLUTION FROM OR THROUGH THE ATMOSPHERE

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from or through the atmosphere, applicable to the air space under their sovereignty and to vessels flying their flag or vessels or aircraft of their registry, taking into account internationally agreed rules standards and recommended practices and procedures and the safety of air navigation.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States, acting especially through competent international organisations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution.

SECTION 6: ENFORCEMENT

Article 213 ENFORCEMENT WITH RESPECT TO POLLUTION FROM LAND-BASED SOURCES

States shall enforce their laws and regulations adopted in accordance with Article 207 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organisations or diplomatic conference to prevent, reduce and control pollution of the marine environment from land-based sources.

Article 214 ENFORCEMENT WITH RESPECT TO POLLUTION FROM SEA-BED ACTIVITIES

States shall enforce their laws and regulations adopted in accordance with Article 208 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organisations or diplomatic conference to prevent, reduce and control pollution of the marine environment arising from or in connection with sea-bed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to Articles 60 and 80.

Article 215 ENFORCEMENT WITH RESPECT TO POLLUTION FROM ACTIVITIES IN THE AREA

Enforcement of international rules, regulations and procedures established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area shall be governed by that Part.

Article 216 ENFORCEMENT WITH RESPECT TO POLLUTION BY DUMPING

1. Laws and regulations adopted in accordance with this Convention and applicable international rules and standards established through competent international organisations or diplomatic conference for the prevention, reduction and control of pollution of the marine environment by dumping shall be enforced:

- (a) by the coastal State with regard to dumping within its territorial sea or its exclusive economic zone or onto its continental shelf;
- (b) by the flag State with regard to vessels flying its flag or vessels or aircraft of its registry;
- (c) by any State with regard to acts of loading of wastes or other matter occurring within its territory or at its off-shore terminals.

2. No State shall be obliged by virtue of this Article to institute proceedings when another State has already instituted proceedings in accordance with this Article.

Article 217 ENFORCEMENT BY FLAG STATES

1. States shall ensure compliance by vessels flying their flag or of their registry with applicable international rules and standards, established through the competent international organisation or general diplomatic conference, and with their laws and regulations adopted in accordance with this Convention for the prevention, reduction and control of pollution of the marine environment from vessels and shall accordingly adopt laws and regulations and take other measures necessary for their implementation. Flag States shall provide for the effective enforcement of such rules, standards, laws and regulations, irrespective of where a violation occurs.

2. States shall, in particular, take appropriate measures in order to ensure that vessels flying their flag or of their registry are prohibited from sailing, until they can proceed to sea in compliance with the requirements of the international rules and standards referred to in paragraph 1, including requirements in respect of design, construction, equipment and manning of vessels.

3. States shall ensure that vessels flying their flag or of their registry carry on board certificates required by and issued pursuant to international rules and standards referred to in paragraph 1. States shall ensure that vessels flying their flag are periodically inspected in order to verify that such certificates are in conformity with the actual condition of the vessels. These certificates shall be accepted by other States as evidence of the condition of the vessels and shall be regarded as having the same force as certificates issued by them, unless there are clear grounds for believing that the condition of the vessel does not correspond substantially with the particulars of the certificates.

4. If a vessel commits a violation of rules and standards established through the competent international organisation or general diplomatic conference, the flag State, without prejudice to Articles 218, 220 and 228, shall provide for immediate investigation and where appropriate institute proceedings in respect of the alleged violation irrespective of where the violation occurred or where the pollution caused by such violation has occurred or has been spotted.
5. Flag States conducting an investigation of the violation may request the assistance of any other State whose co-operation could be useful in clarifying the circumstances of the case. States shall endeavour to meet appropriate requests of flag States.
6. States shall, at the written request of any State, investigate any violation alleged to have been committed by vessels flying their flag. If satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, flag States shall without delay institute such proceedings in accordance with their laws.
7. Flag States shall promptly inform the requesting State and the competent international organisation of the action taken and its outcome. Such information shall be available to all States.
8. Penalties provided for by the laws and regulations of States for vessels flying their flag shall be adequate in severity to discourage violations wherever they occur.

Article 218 ENFORCEMENT BY PORT STATES

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may undertake investigations and, where the evidence so warrants, institute proceedings in respect of any discharge from that vessel outside the internal waters, territorial sea or exclusive economic zone of that State in violation of applicable international rules and standards established through the competent international organisation or general diplomatic conference.
2. No proceedings pursuant to paragraph 1 shall be instituted in respect of a discharge violation in the internal waters, territorial sea or exclusive economic zone of another State unless requested by that State, the flag State, or a State damaged or threatened by the discharge violation, or unless the violation has caused or is likely to cause pollution in the internal waters, territorial sea or exclusive economic zone of the State instituting the proceedings.
3. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State shall, as far as practicable, comply with requests from any State for investigation of a discharge violation referred to in paragraph 1, believed to have occurred in, caused, or threatened damage to the internal waters, territorial sea or exclusive economic zone of the requesting State. It shall likewise, as far as practicable, comply with requests from the flag State for investigation of such a violation, irrespective of where the violation occurred.
4. The records of the investigation carried out by a port State pursuant to this Article shall be transmitted upon request to the flag State or to the coastal State. Any proceedings instituted by the port State on the basis of such an investigation may, subject to Section 7, be suspended at the request of the coastal State when the violation has occurred within its internal waters, territorial sea or exclusive economic zone. The evidence and records of the case, together with any bond or other financial security posted with the authorities of the port State, shall in that event be transmitted to the coastal State. Such transmittal shall preclude the continuation of proceedings in the port State.

Article 219 MEASURES RELATING TO SEAWORTHINESS OF VESSELS TO AVOID POLLUTION

Subject to Section 7, States which, upon request or on their own initiative, have ascertained that a vessel within one of their ports or at one of their offshore terminals is in violation of applicable international rules and standards relating to seaworthiness of vessels and thereby threatens damage to the marine environment shall, as far as practicable, take administrative measures to prevent the vessel from sailing. Such States may permit the vessel to proceed only to the nearest appropriate repair yard and, upon removal of the causes of the violation, shall permit the vessel to continue immediately.

Article 220 ENFORCEMENT BY COASTAL STATES

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may, subject to Section 7, institute proceedings in respect of any violation of its laws and regulations adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels when the violation has occurred within the territorial sea or the exclusive economic zone of that State.

2. Where there are clear grounds for believing that a vessel navigating in the territorial sea of a State has, during its passage therein, violated laws and regulations of that State adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels, that State, without prejudice to the application of the relevant provisions of Part II, Section 3, may undertake physical inspection of the vessel relating to the violation and may, where the evidence so warrants institute proceedings, including detention of the vessel, in accordance with its laws, subject to the provisions of Section 7.

3. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation of applicable international rules and standards for the prevention, reduction and control of pollution from vessels or laws and regulations of that State conforming and giving effect to such rules and standards, that State may require the vessel to give information regarding its identity and port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred.

4. States shall adopt laws and regulations and take other measures so that vessels flying their flag comply with requests for information pursuant to paragraph 3.

5. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a substantial discharge causing or threatening significant pollution of the marine environment, that State may undertake physical inspection of the vessel for matters relating to the violation if the vessel has refused to give information or if the information supplied by the vessel is manifestly at variance with the evident factual situation and if the circumstances of the case justify such inspection.

6. Where there is clear objective evidence that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of the coastal State, or to any resources of its territorial sea or exclusive economic zone, that State may, subject to Section 7, provided that the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws.

7. Notwithstanding the provisions of paragraph 6, whenever appropriate procedures have been established, either through the competent international organisation or as otherwise agreed, whereby compliance with requirements for bonding or other appropriate financial security has been assured, the coastal State if bound by such procedures shall allow the vessel to proceed.

8. The provisions of paragraphs 3, 4, 5, 6 and 7 also apply in respect of national laws and regulations adopted pursuant to Article 211, paragraph 6.

Article 221 MEASURES TO AVOID POLLUTION ARISING FROM MARITIME CASUALTIES

1. Nothing in this Part shall prejudice the right of States, pursuant to international law, both customary and conventional, to take and enforce measures beyond the territorial sea proportionate to the actual or threatened damage to protect their coastline or related interests, including fishing, from pollution or threat of pollution following upon a maritime casualty or acts relating to such a casualty, which may reasonably be expected to result in major harmful consequences.

2. For the purposes of this Article, "maritime casualty" means a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo.

Article 222 ENFORCEMENT WITH RESPECT TO POLLUTION FROM OR THROUGH THE ATMOSPHERE

States shall enforce, within the air space under their sovereignty or with regard to vessels flying their flag or vessels or aircraft of their registry, their laws and regulations adopted in accordance with Article 212, paragraph 1, and with other provisions of this Convention and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organisations or diplomatic conference to prevent, reduce and control pollution of the marine environment from or through the atmosphere, in conformity with all relevant international rules and standards concerning the safety of air navigation.

SECTION 7: SAFEGUARDS

Article 223 MEASURES TO FACILITATE PROCEEDINGS

In proceedings instituted pursuant to this Part, States shall take measures to facilitate the hearing of witnesses and the admission of evidence submitted by authorities of another State, or by the competent international organisation, and shall facilitate the attendance at such proceedings of official representatives of the competent international organisation, the flag State and any State affected by pollution arising out of any violation. The official representatives attending such proceedings shall have such rights and duties as may be provided under national laws and regulations or international law.

Article 224 EXERCISE OF POWERS OF ENFORCEMENT

The powers of enforcement against foreign vessels under this Part may only be exercised by officials or by warships, military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorised to that effect.

Article 225 DUTY TO AVOID ADVERSE CONSEQUENCES IN THE EXERCISE OF THE POWERS OF ENFORCEMENT

In the exercise under this Convention of their powers of enforcement against foreign vessels, States shall not endanger the safety of navigation or otherwise create any hazard to a vessel, or bring it to an unsafe port or anchorage, or expose the marine environment to an unreasonable risk.

Article 226 INVESTIGATION OF FOREIGN VESSELS

1.

(a) States shall not delay a foreign vessel longer than is essential for purposes of the investigations provided for in Articles 216, 218 and 220. Any physical inspection of a foreign vessel shall be limited to an examination of such certificates, records or other documents as the vessel is required to carry by generally accepted international rules and standards or of any similar documents which it is carrying; further physical inspection of the vessel may be undertaken examination and only when:

- (i) there are clear grounds for believing that the condition of the vessel or its equipment does not correspond substantially with the particulars of those documents;
- (ii) the contents of such documents are not sufficient to confirm or verify a suspected violation; or
- (iii) the vessel is not carrying valid certificates and records.

(b) If the investigation indicates a violation of applicable laws and regulations or international rules and standards for the protection and preservation of the marine environment, release shall be made promptly subject to reasonable procedures such as bonding or other appropriate financial security.

(c) Without prejudice to applicable international rules and standards relating to the seaworthiness of vessels, the release of a vessel may, whenever it would present an unreasonable threat of damage to the marine environment, be refused or made conditional upon proceeding to the nearest appropriate repair yard. Where release has been refused or made conditional, the flag State of the vessel must be promptly notified, and may seek release of the vessel in accordance with Part XV.

2. States shall co-operate to develop procedures for the avoidance of unnecessary physical inspection of vessels at sea.

Article 227 NON-DISCRIMINATION WITH RESPECT TO FOREIGN VESSELS

In exercising their rights and performing their duties under this Part, States shall not discriminate in form or in fact against vessels of any other State.

Article 228 SUSPENSION AND RESTRICTIONS ON INSTITUTION OF PROCEEDINGS

1. Proceedings to impose penalties in respect of any violation of applicable laws and regulations or international rules and standards relating to the prevention, reduction and control of pollution from vessels committed by a foreign vessel beyond the territorial sea of the State instituting proceedings shall be suspended upon the taking of proceedings to impose penalties in respect of corresponding charges by the flag State within six months of the date on which proceedings were first instituted, unless those proceedings relate to a case of major damage to the coastal State or the flag State in question has repeatedly disregarded its obligation to enforce effectively the applicable international rules and standards in respect of violations committed by its vessels. The flag State shall in due course make available to the State previously instituting proceedings a full dossier of the case and the records of the proceedings, whenever the flag State has requested the suspension of proceedings in accordance with this Article. When proceedings instituted by the flag State have been brought to a conclusion, the suspended proceedings shall be terminated. Upon payment of costs incurred in respect of such proceedings, any bond posted or other financial security provided in connection with the suspended proceedings shall be released by the coastal State.

2. Proceedings to impose penalties on foreign vessels shall not be instituted after the expiry of three years from the date on which the violation was committed, and shall not be taken by any State in the event of proceedings having been instituted by another State subject to the provisions set out in paragraph 1.

3. The provisions of this Article are without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws irrespective of prior proceedings by another State.

Article 229 INSTITUTION OF CIVIL PROCEEDINGS

Nothing in this Convention affects the institution of civil proceedings in respect of any claim for loss or damage resulting from pollution of the marine environment.

Article 230 MONETARY PENALTIES AND THE OBSERVANCE OF RECOGNIZED RIGHTS OF THE ACCUSED

1. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels beyond the territorial sea.

2. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels in the territorial sea, except in the case of a wilful and serious act of pollution in the territorial sea.

3. In the conduct of proceedings in respect of such violations committed by a foreign vessel which may result in the imposition of penalties, recognised rights of the accused shall be observed.

Article 231 NOTIFICATION TO THE FLAG STATE AND OTHER STATES CONCERNED

States shall promptly notify the flag State and any other State concerned of any measures taken pursuant to Section 6 against foreign vessels, and shall submit to the flag State all official reports concerning such measures. However, with respect to violations committed in the territorial sea, the foregoing obligations of the coastal State apply only to such measures as are taken in proceedings. The diplomatic agents or consular officers and where possible the maritime authority of the flag State, shall be immediately informed of any such measures taken pursuant to Section 6 against foreign vessels.

Article 232 LIABILITY OF STATES ARISING FROM ENFORCEMENT MEASURES

States shall be liable for damage or loss attributable to them arising from measures taken pursuant to Section 6 when such measures are unlawful or exceed those reasonably required in the light of available information. States shall

provide for recourse in their courts for actions in respect of such damage or loss.

Article 233 SAFEGUARDS WITH RESPECT TO STRAITS USED FOR INTERNATIONAL NAVIGATION

Nothing in Sections 5, 6 and 7 affects the legal regime of straits used for international navigation. However, if a foreign ship other than those referred to in Section 10 has committed a violation of the laws and regulations referred to in Article 42, paragraph 1(a) and (b), causing or threatening major damage to the marine environment of the straits, the States bordering the straits may take appropriate enforcement measures and if so shall respect *mutatis mutandis* the provisions of this Section.

SECTION 8: ICE-COVERED AREAS

Article 234 ICE-COVERED AREAS

Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence.

SECTION 9: RESPONSIBILITY AND LIABILITY

Article 235 RESPONSIBILITY AND LIABILITY

1. States are responsible for the fulfilment of their international obligations concerning the protection and preservation of the marine environment. They shall be liable in accordance with international law.
2. States shall ensure that recourse is available in accordance with their legal systems for prompt and adequate compensation or other relief in respect of damage caused by pollution of the marine environment by natural or juridical persons under their jurisdiction.
3. With the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall co-operate in the implementation of existing international law and the further development of international law relating to responsibility and liability for the assessment of and compensation for damage and the settlement of related disputes, as well as, where appropriate, development of criteria and procedures for payment of adequate compensation, such as compulsory insurance or compensation funds.

SECTION 10: SOVEREIGN IMMUNITY**Article 236 SOVEREIGN IMMUNITY**

The provisions of this Convention regarding the protection and preservation of the marine environment do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State and used, for the time being only on government non-commercial service. However, each State shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.

SECTION 11: OBLIGATIONS UNDER OTHER CONVENTIONS ON THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT**Article 237 OBLIGATION UNDER OTHER CONVENTIONS ON THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT**

1. The provisions of this Part are without prejudice to the specific obligations assumed by States under special conventions and agreements concluded previously which relate to the protection and preservation of the marine environment and to agreements which may be concluded in furtherance of the general principles set forth in this Convention.
2. Specific obligations assumed by States under special conventions, with respect to the protection and preservation of the marine environment, should be carried out in a manner consistent with the general principles and objectives of this Convention.

PART II. PACIFIC ISLANDS REGIONAL MARINE POLLUTION CONVENTIONS

**9. SPREP Convention:
CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND
ENVIRONMENT OF THE SOUTH PACIFIC REGION, 1986**

**9.1. SPREP Dumping Protocol:
Protocol for the Prevention of Pollution of the South Pacific Region by Dumping**

**9.2. SPREP Pollution Emergencies Protocol:
Protocol concerning Cooperation in Combating Pollution Emergencies in the South Pacific
Region**

SUMMARY

The SPREP Convention is a comprehensive umbrella agreement for the protection, management and development of the marine and coastal environments and natural resources of the South Pacific.

It lists sources of marine pollution that require control and identifies environmental management issues requiring regional cooperation.

There are two protocols that cover dumping of wastes at sea and cooperation in combating marine pollution emergencies, similar to the London Convention and OPRC 90 respectively.

Secretariat: South Pacific Regional Environment Programme
PO Box 240
Apia, Samoa
Ph +(685) 21929
Fax +(685) 20231
Email sprep@sprep.org.ws
Website www.sprep.org.ws

CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION AND RELATED PROTOCOLS

Adopted at Noumea on 24 November 1986
Entered into force 22 August 1990

The Parties,

Fully aware of the economic and social value of the natural resources of the environment of the South Pacific Region;

Taking into account the traditions and cultures of the Pacific people as expressed in accepted customs and practices;

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations;

Recognizing the special hydrological, geological and ecological characteristics of the region which requires special care and responsible management;

Recognizing further the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the insufficient integration of an environmental dimension into the development process;

Seeking to ensure that resource development shall be in harmony with the maintenance of the unique environmental quality of the region and the evolving principles of sustained resource management;

Realizing fully the need for co-operation amongst themselves and with competent international, regional and sub-regional organizations in order to ensure a co-ordinated and comprehensive development of the natural resources of the region;

Recognizing the desirability for the wider acceptance and national implementation of international agreements already in existence concerning the marine and coastal environment;

Noting, however, that existing international agreements concerning the marine and coastal environment do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the South Pacific Region;

Desirous to adopt the regional convention to strengthen the implementation of the general objective of the Action Plan for Managing the Natural Resources and Environment of the South Pacific Region adopted at Rarotonga, Cook Islands, on 11 March 1982;

Have agreed as follows:

Article 1 GEOGRAPHICAL COVERAGE

1. This Convention shall apply to the South Pacific Region, hereinafter referred to as "the Convention Area" as defined in paragraph (a) of Article 2.
2. Except as may be otherwise provided in any Protocol to this Convention, the Convention Area shall not include internal waters or archipelagic waters of the Parties as defined in accordance with international law.

Article 2 DEFINITIONS

For the purposes of this Convention and its Protocols unless otherwise defined in any such Protocol:

(a) the "Convention Area" shall comprise:

- (i) the 200 nautical mile zones established in accordance with international law of:

American Samoa
 Australia (East coast and Islands to eastward including Macquarie Island)
 Cook Islands
 Federated States of Micronesia
 French Polynesia
 Guam
 Kiribati
 Marshall Islands
 Nauru
 New Caledonia and Dependencies
 New Zealand
 Niue
 Northern Mariana Islands
 Palau
 Papua New Guinea
 Pitcairn Islands
 Solomon Islands
 Tokelau
 Tonga
 Tuvalu
 Vanuatu
 Wallis and Futuna
 Western Samoa

(ii) those areas of high seas which are enclosed from all sides by the 200 nautical mile zones referred to in sub-paragraph (i);

(iii) areas of the Pacific Ocean which have been included in the Convention Area pursuant to Article 3;

(b) "dumping" means:

- any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures;
- any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea;

"dumping" does not include:

- the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;
- placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention;

(c) "wastes or other matter" means material and substances of any kind, form or description;

(d) the following wastes or other matter shall be considered to be non-radioactive: sewage sludge, dredge spoil, fly ash, agricultural wastes, construction materials, vessels, artificial reef building materials and other such materials provided that they have not been contaminated with radio nuclides of anthropogenic origin (except dispersed global fallout from nuclear weapons testing), nor are potential sources of naturally occurring radio nuclides for commercial purposes, nor have been enriched in natural or artificial radio nuclides;

If there is a question as to whether the material to be dumped should be considered non-radioactive, for the purposes of this Convention, such material shall not be dumped unless the appropriate national authority of the proposed dumper confirms that such dumping would not exceed the individual and collective dose limits of the International Atomic Energy Agency general principles for the exemption of radiation sources and practices from regulatory control. The national authority shall also take into account the relevant recommendations, standards and guidelines developed by the International Atomic Energy Agency.

(e) "vessels" and "aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air cushioned craft and floating craft, whether self-propelled or not;

(f) "pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

In applying this definition to the Convention obligations, the Parties shall use their best endeavours to comply with the appropriate standards and recommendations established by competent international organizations, including the International Atomic Energy Agency;

(g) "Organisation" means the South Pacific Commission; [*will be amended to be SPREP*]

(h) "Director" means the Director of the South Pacific Bureau for Economic Co-operation. [*will be amended to be Secretary-General of the South Pacific Forum Secretariat*]

Article 3 ADDITION TO THE CONVENTION AREA

Any Party may add areas under its jurisdiction within the Pacific Ocean between the Tropic of Cancer and 60 degrees South latitude and between 130 degrees East longitude and 120 degrees West longitude to the Convention Area. Such addition shall be notified to the Depositary who shall promptly notify the other Parties and the Organisation. Such areas shall be incorporated within the Convention Area ninety days after notification to the Parties by the Depositary provided there has been no objection to the proposal to add new areas by any Party affected by that proposal. If there is any such objection the Parties concerned will consult with a view to resolving the matter.

Article 4 GENERAL PROVISIONS

1. The Parties shall endeavour to conclude bilateral or multilateral agreements, including regional or sub-regional agreements, for the protection, development and management of the marine and coastal environment of the Convention Area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organisation and through it to all Parties to this Convention .
2. Nothing in this Convention or its Protocols shall be deemed to affect obligations assumed by a Party under agreements previously concluded.
3. Nothing in this Convention and its Protocols shall be construed to prejudice or affect the interpretation and application of any provision or term in the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.
4. This Convention and its Protocols shall be construed in accordance with international law relating to their subject matter.
5. Nothing in this Convention and its Protocols shall prejudice the present or future claims and legal views of any Party concerning the nature and extent of maritime jurisdiction.
6. Nothing in this Convention shall affect the sovereign right of States to exploit, develop and manage their own natural resources pursuant to their own policies, taking into account their duty to protect and preserve the environment. Each Party shall ensure that activities within its jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of its national jurisdiction.

Article 5 GENERAL OBLIGATIONS

1. The Parties shall endeavour, either individually or jointly, to take all appropriate measures in conformity with international law and in accordance with this Convention and those Protocols in force to which they are party to prevent, reduce and control pollution of the Convention Area, from any source, and to ensure sound environmental management and development of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities. In doing so the Parties shall endeavour to harmonize their policies at the regional level.
2. The Parties shall use their best endeavours to ensure that the implementation of this Convention shall not result in an increase in pollution in the marine environment outside the Convention Area.

3. In addition to the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping and the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, the Parties shall co-operate in the formulation and adoption of other Protocols prescribing agreed measures, procedures and standards to prevent, reduce and control pollution from all sources or in promoting environmental management in conformity with the objectives of this Convention .

4. The Parties shall, taking into account existing internationally recognized rules, standards, practices and procedures, co-operate with competent global regional and sub-regional organisations to establish and adopt recommended practices, procedures and measures to prevent, reduce and control pollution from all sources and to promote sustained resource management and to ensure the sound development of natural resources in conformity with the objectives of this Convention and its Protocols. and to assist each other in fulfilling their obligations under this Convention and its Protocols.

5. The Parties shall endeavour to establish laws and regulations for the effective discharge of the obligations prescribed in this Convention. Such laws and regulations shall be no less effective than international rules, standards and recommended practices and procedures.

Article 6 POLLUTION FROM VESSELS

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by discharges from vessels, and to ensure the effective application in the Convention Area of the generally accepted international rules and standards established through the competent international organisation or general diplomatic conference relating to the control of pollution from vessels.

Article 7 POLLUTION FROM LAND-BASED SOURCES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources in their territory.

Article 8 POLLUTION FROM SEABED ACTIVITIES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting directly or indirectly from exploration and exploitation of the seabed and its subsoil.

Article 9 AIRBORNE POLLUTION

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from discharges into the atmosphere from activities under their jurisdiction.

Article 10 DISPOSAL OF WASTES

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by dumping from vessels, aircraft, or man-made structures at sea, including the effective application of the relevant internationally recognized rules and procedures relating to the control of dumping of wastes and other matter. The Parties agree to prohibit the dumping of radioactive wastes or other radioactive matter in the Convention Area. Without prejudice to whether or not disposal into the seabed and subsoil of wastes or other matter is "dumping", the Parties agree to prohibit the disposal into the seabed and subsoil of the Convention Area of radioactive wastes or other radioactive matter.

2. This article shall also apply to the continental shelf of a Party where it extends, in accordance with international law, outward beyond the Convention Area .

Article 11 STORAGE OF TOXIC AND HAZARDOUS WASTES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from the storage of toxic and hazardous wastes. In particular, the Parties shall prohibit the storage of radioactive wastes or other radioactive matter in the Convention Area.

Article 12 TESTING OF NUCLEAR DEVICES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area which might result from the testing of nuclear devices.

Article 13 MINING AND COASTAL EROSION

The Parties shall take all appropriate measures to prevent, reduce and control environmental damage in the Convention Area, in particular coastal erosion caused by coastal engineering, mining activities, sand removal, land reclamation and dredging.

Article 14 SPECIALLY PROTECTED AREAS AND PROTECTION OF WILD FLORA AND FAUNA

The Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems and depleted, threatened or endangered flora and fauna as well as their habitat in the Convention Area. To this end, the Parties shall, as appropriate, establish protected areas, such as parks and reserves, and prohibit or regulate any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are designed to protect. The establishment of such areas shall not affect the rights of other Parties or third States under international law. In addition, the Parties shall exchange information concerning the administration and management of such areas.

Article 15 CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Parties shall co-operate in taking all necessary measures to deal with pollution emergencies in the Convention Area, whatever the cause of such emergencies, and to prevent, reduce and control pollution or the threat of pollution resulting therefrom. To this end, the Parties shall develop and promote individual contingency plans and joint contingency plans for responding to incidents involving pollution or the threat thereof in the Convention Area.
2. When a Party becomes aware of a case in which the Convention Area is in imminent danger of being polluted or has been polluted, it shall immediately notify other countries and territories it deems likely to be affected by such pollution, as well as the Organisation. Furthermore it shall inform as soon as feasible, such other countries and territories and the Organisation of any measures it has itself taken to reduce or control pollution or the threat thereof.

Article 16 ENVIRONMENTAL IMPACT ASSESSMENT

1. The Parties agree to develop and maintain, with the assistance of competent global, regional and subregional organisations as requested, technical guidelines and legislation giving adequate emphasis to environmental and social factors to facilitate balanced development of their natural resources and planning of their major projects which might affect the marine environment in such a way as to prevent or minimise harmful impacts on the Convention Area.
2. Each Party shall, within its capabilities, assess the potential effects of such projects on the marine environment, so that appropriate measures can be taken to prevent any substantial pollution of, or significant and harmful changes within, the Convention Area.
3. With respect to the assessment referred to in paragraph 2, each Party shall, where appropriate, invite:
 - (a) public comment according to its national procedures;
 - (b) other Parties that may be affected to consult with it and submit comments.

The results of these assessments shall be communicated to the Organisation, which shall make them available to interested Parties.

Article 17 SCIENTIFIC AND TECHNICAL CO-OPERATION

1. The Parties shall co-operate, either directly or with the assistance of competent global, regional and sub-regional organisations, in scientific research, environmental monitoring, and the exchange of data and other scientific and technical information related to the purposes of the Convention.

2. In addition, the Parties shall, for the purposes of this Convention, develop and co-ordinate research and monitoring programmes relating to the Convention Area and co-operate, as far as practicable, in the establishment and implementation of regional, sub-regional and international research programmes.

Article 18 TECHNICAL AND OTHER ASSISTANCE

The Parties undertake to co-operate, directly and when appropriate through the competent global, regional and sub-regional organisations, in the provision to other Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention Area, taking into account the special needs of the island developing countries and territories.

Article 19 TRANSMISSION OF INFORMATION

The Parties shall transmit to the Organisation information on the measures adopted by them in the implementation of this Convention and of Protocols to which they are Parties, in such form and at such intervals as the Parties may determine.

Article 20 LIABILITY AND COMPENSATION

The Parties shall co-operate in the formulation and adoption of appropriate rules and procedures in conformity with international law in respect of liability and compensation for damage resulting from pollution of the Convention Area.

Article 21 INSTITUTIONAL ARRANGEMENTS

1. The Organisation shall be responsible for carrying out the following secretariat functions:

- (a) to prepare and convene the meetings of Parties;
- (b) to transmit to the Parties notifications, reports and other information received in accordance with this Convention and its Protocols;
- (c) to perform the functions assigned to it by the Protocols to this Convention;
- (d) to consider enquiries by, and information from, the Parties and to consult with them on questions relating to this Convention and the Protocols;
- (e) to co-ordinate the implementation of cooperative activities agreed upon by the Parties;
- (f) to ensure the necessary co-ordination with other competent global, regional and sub-regional bodies;
- (g) to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions;
- (h) to perform such other functions as may be assigned to it by the Parties; and
- (i) to transmit to the South Pacific Conference and the South Pacific Forum the reports of ordinary and extraordinary meetings of the Parties.

2. Each Party shall designate an appropriate national authority to serve as the channel of communication with the Organisation for the purposes of this Convention.

Article 22 MEETINGS OF THE PARTIES

1. The Parties shall hold ordinary meetings once every two years. Ordinary meetings shall review the implementation of this Convention and its Protocols and, in particular, shall:

- (a) assess periodically the state of the environment in the Convention Area;
- (b) consider the information submitted by the Parties under Article 19;
- (c) adopt, review and amend as required annexes to this Convention and to its Protocols, in accordance with the provisions of Article 25;
- (d) make recommendations regarding the adoption of any Protocols or any amendments to this Convention or its Protocols in accordance with the provisions of Articles 23 and 24;
- (e) establish working groups as required to consider any matters concerning this Convention and its Protocols;
- (f) consider co-operative activities to be undertaken within the framework of this Convention and its Protocols, including their financial and institutional implications and to adopt decisions relating thereto;
- (g) consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its Protocols; and
- (h) adopt by consensus financial rules and budget prepared in consultation with the Organisation, to determine, *inter alia*, the financial participation of the Parties under this Convention and those Protocols to which they are party.

2. The Organisation shall convene the first ordinary meeting of the Parties not later than one year after the date on which the Convention enters into force in accordance with Article 31.

3. Extraordinary meetings shall be convened at the request of any Party or upon the request of the Organisation, provided that such requests are supported by at least two-thirds of the Parties. It shall be the function of an extraordinary meeting of the Parties to consider those items proposed in the request for the holding of the extraordinary meeting and any other items agreed to by all the Parties attending the meeting.

4. The Parties shall adopt by consensus at their first ordinary meeting, rules of procedure for their meetings.

Article 23 ADOPTION OF PROTOCOLS

1. The Parties may, at a conference of plenipotentiaries, adopt Protocols to this Convention pursuant to paragraph 3 of Article 5.

2. If so requested by a majority of the Parties, the Organisation shall convene a conference of plenipotentiaries for the purpose of adopting Protocols to this Convention.

Article 24 AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties.

2. Any Party to this Convention may propose amendments to any Protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties to the Protocol concerned.

3. A proposed amendment to the Convention or any Protocol shall be communicated to the Organisation which shall promptly transmit such proposal for consideration to all the other Parties.

4. A conference of plenipotentiaries to consider a proposed amendment to the Convention or any Protocol shall be convened not less than ninety days after the requirements for the convening of the Conference have been met pursuant to paragraphs 1 or 2, as the case may be.
5. Any amendment to this Convention shall be adopted by a three-fourths majority vote of the Parties to the Convention which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Convention. Amendments to any Protocol shall be adopted by a three-fourths majority vote of the Parties to the Protocol which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Protocol.
6. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments shall enter into force between Parties having accepted such amendments of the instruments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least three-fourths of the Parties to this Convention or to the Protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Party on the thirtieth day after the date on which that Party deposits its instrument.
7. After the entry into force of an amendment to this Convention or to a Protocol, any new Party to the Convention or such Protocol shall become a Party to the Convention or Protocol as amended.

Article 25 ANNEXES AND AMENDMENT OF ANNEXES

1. Annexes to this Convention or to any Protocol shall form an integral part of the Convention or such Protocol respectively.
2. Except as may be otherwise provided in any Protocol with respect to its annexes, the following procedures shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to annexes to any Protocol:
 - (a) any Party may propose amendments to the annexes to this Convention or annexes to any Protocol;
 - (b) any proposed amendment shall be notified by the Organisation to the Parties not less than sixty days before the convening of a meeting of the Parties unless this requirement is waived by the meeting;
 - (c) such amendments shall be adopted at a meeting of the Parties by a three-fourths majority vote of the Parties to the instrument in question;
 - (d) the Depositary shall without delay communicate the amendments so adopted to all Parties;
 - (e) any Party that is unable to approve an amendment to the annexes to this Convention or to annexes to any Protocol shall so notify in writing to the Depositary within one hundred days from the date of the communication of the amendment by the Depositary. A Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party;
 - (f) the Depositary shall without delay notify all Parties of any notification received pursuant to the preceding sub-paragraph; and
 - (g) on expiry of the period referred to in subparagraph (e) above, the amendment to the annex shall become effective for all Parties to this Convention or to the Protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph.
2. The adoption and entry into force of a new annex shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex as set out in the provisions of paragraph 2, provided that, if any amendment to the Convention or the Protocol concerned is involved, the new annex shall not enter into force until such time as that amendment enters into force.
3. Amendments to the Annex on Arbitration shall be considered to be amendments to this Convention or its Protocols and shall be proposed and adopted in accordance with the procedures set out in Article 24.

Article 26 SETTLEMENT OF DISPUTES

1. In case of a dispute between Parties as to the interpretation or application of this Convention or its Protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. If the Parties concerned cannot reach agreement, they should seek the good offices of, or jointly request mediation by, a third Party.
2. If the Parties concerned cannot settle their dispute through the means mentioned in paragraph 1, the dispute shall, upon common agreement except as may be otherwise provided in any Protocol to this Convention, be submitted to arbitration under conditions laid down in the Annex on Arbitration to this Convention. However, failure to reach common agreement on submission of the dispute to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by means referred to in paragraph 1.
3. A Party may at any time declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any other Party accepting the same obligation, the application of the arbitration procedure set out in the Annex on Arbitration. Such declaration shall be notified in writing to the Depositary who shall promptly communicate it to the other Parties.

Article 27 RELATIONSHIP BETWEEN THIS CONVENTION AND ITS PROTOCOLS

1. No State may become a Party to this Convention unless it becomes at the same time a Party to one or more Protocols. No State may become a Party to a Protocol unless it is, or becomes at the same time, a Party to this Convention.
2. Decisions concerning any Protocol pursuant to Articles 22, 24 and 25 of this Convention shall be taken only by the Parties to the Protocol concerned.

Article 28 SIGNATURE

This Convention, the Protocol Concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region, and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping shall be open for signature at the South Pacific Commission Headquarters in Noumea, New Caledonia on 25 November 1986 and at the South Pacific Bureau for Economic Co-operation Headquarters, Suva, Fiji from 26 November 1986 to 25 November 1987 by States which were invited to participate in the Plenipotentiary Meeting of the High Level Conference on the Protection of the Natural Resources and Environment of the South Pacific Region held at Noumea, New Caledonia from 24 November 1986 to 25 November 1986.

Article 29 RATIFICATION, ACCEPTANCE OR APPROVAL

This Convention and any Protocol thereto shall be subject to ratification, acceptance or approval by States referred to in Article 28. Instruments of ratification, acceptance or approval shall be deposited with the Director who shall be the Depositary.

Article 30 ACCESSION

1. This Convention and any Protocol hereto shall be open to accession by the States referred to in Article 28 as from the day following the date on which the Convention or Protocol concerned was closed for signature.
2. Any State not referred to in paragraph 1 may accede to the Convention and to any Protocol subject to prior approval by three-fourths of the Parties to the Convention or the Protocol concerned.
3. Instruments of accession shall be deposited with the Depositary.

Article 31 ENTRY INTO FORCE

1. This Convention shall enter into force on the thirtieth day following the date of deposit of at least ten instruments of ratification, acceptance, approval or accession.
2. Any Protocol to this Convention, except as otherwise provided in such Protocol, shall enter into force on the thirtieth day following the date of deposit of at least five instruments of ratification, acceptance or approval of such

Protocol, or of accession thereto, provided that no Protocol shall enter into force before the Convention. Should the requirements for entry into force of a Protocol be met prior to those for entry into force of the Convention pursuant to paragraph 1, such Protocol shall enter into force on the same date as the Convention.

3. Thereafter, this Convention and any Protocol shall enter into force with respect to any State referred to in Articles 28 or 30 on the thirtieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 32 DENUNCIATION

1. At any time after two years from the date of entry into force of this Convention with respect to a Party, that Party may denounce the Convention by giving written notification to the Depositary.

2. Except as may be otherwise provided in any Protocol to this Convention, any Party may, at any time after two years from the date of entry into force of such Protocol with respect to that Party, denounce the Protocol by giving written notification to the Depositary.

3. Denunciation shall take effect ninety days after the date on which notification of denunciation is received by the Depositary.

4. Any Party which denounces this Convention shall be considered as also having denounced any Protocol to which it was a Party.

5. Any Party which, upon its denunciation of a Protocol is no longer a Party to any Protocol to this Convention, shall be considered as also having denounced this Convention.

Article 33 RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the Parties, as well as the Organisation

(a) of the signature of this Convention and of any Protocol thereto and of the deposit of instruments of ratification, acceptance, approval, or accession in accordance with Articles 29 and 30;

(b) of the date on which the Convention and any Protocol will come into force in accordance with the provisions of Article 31;

(c) of notification of denunciation made in accordance with Article 32;

(d) of notification of any addition to the Convention Area in accordance with Article 3;

(e) of the amendments adopted with respect to the Convention and to any Protocol, their acceptance by the Parties and the date of their entry into force in accordance with the Provisions of Article 24; and

(f) of the adoption of new annexes and of the amendments of any annex in accordance with Article 25.

2. The original of this Convention and of any Protocol thereto shall be deposited with the Depositary who shall send certified copies thereof to the Signatories, the Parties, to the Organisation and to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Convention.

DONE at Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX ON ARBITRATION

Article 1

Unless the agreement referred to in Article 26 of the Convention provides otherwise, the arbitration procedure shall be in accordance with the rules set out in this Annex.

Article 2

The claimant Party shall notify the Organisation that the Parties have agreed to submit the dispute to arbitration pursuant to paragraph 2, or that paragraph 3 of Article 26 of the Convention is applicable. The notification shall state the subject matter of the arbitration and include the provisions of the Convention or any Protocol thereto, the interpretation or application of which is the subject of disagreement. The Organisation shall transmit this information to all Parties to the Convention or Protocol concerned.

Article 3

1. The Tribunal shall consist of a single arbitrator if so agreed between the Parties to the dispute within thirty days from the date of receipt of the notification for arbitration.
2. In the case of the death, disability or default of the arbitrator, the Parties to a dispute may agree upon a replacement within thirty days of such death, disability or default.

Article 4

1. Where the Parties to a dispute do not agree upon a Tribunal in accordance with Article 3 of this Annex, the Tribunal shall consist of three members:
 - (i) one arbitrator nominated by each Party to the dispute,
 - (ii) a third arbitrator who shall be nominated by agreement between the two first named and who shall act as its Chairman.
2. If the Chairman of a Tribunal is not nominated within thirty days of nomination of the second arbitrator, the Parties to a dispute shall, upon the request of one Party, submit to the Secretary-General of the Organisation within a further period of thirty days, an agreed list of qualified persons. The Secretary-General shall select the Chairman from such list as soon as possible. He shall not select a Chairman who is, or has been, a national of one Party to the dispute except with the consent of the other Party to the dispute.
3. If one Party to a dispute fails to nominate an arbitrator as provided in subparagraph 1(i) within sixty days from the date of receipt of the notification for arbitration, the other Party may request the submission to the Secretary-General of the Organisation within a period of thirty days of an agreed list of qualified persons. The Secretary-General shall select the Chairman of the Tribunal from such list as soon as possible. The Chairman shall then request the Party which has not nominated an arbitrator to do so. If this Party does not nominate an arbitrator within fifteen days of such request, the Secretary-General shall, upon request of the Chairman, nominate the arbitrator from the agreed list of qualified persons.
4. In the case of the death, disability or default of an arbitrator, the Party to the dispute who nominated him shall nominate a replacement within thirty days of such death, disability or default. If the Party does not nominate a replacement, the arbitration shall proceed with the remaining arbitrators. In the case of the death, disability or default of the Chairman, a replacement shall be nominated in accordance with paragraphs 1(ii) and 2 within ninety days of such death, disability or default.
5. A list of arbitrators shall be maintained by the Secretary-General of the Organisation and composed of qualified persons nominated by the Parties. Each Party may designate for inclusion in the list four persons who shall not necessarily be its nationals. If the Parties to the dispute have failed within the specified time limits to submit to the Secretary-General an agreed list of qualified persons as provided for in paragraphs 2, 3 and 4, the Secretary-General shall select from the list maintained by him the arbitrator or arbitrators not yet nominated.

Article 5

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

Article 6

The Tribunal may, at the request of one of the Parties to the dispute, recommend interim measures of protection.

Article 7

Each Party to the dispute shall be responsible for the costs entailed by the preparation of its own case. The remuneration of the members of the Tribunal and of all general expenses incurred by the arbitration shall be borne equally by the Parties to the dispute. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the Parties.

Article 8

Any Party which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the Parties to the dispute which have originally initiated the procedure, intervene in the arbitration procedure with the consent of the Tribunal which should be freely given. Any intervenor shall participate at its own expense. Any such intervenor shall have the right to present evidence, briefs and oral arguments on the matter giving rise to its intervention, in accordance with procedures established pursuant to Article 9 of this Annex but shall have no rights with respect to the composition of the Tribunal.

Article 9

A Tribunal established under the provisions of this Annex shall decide its own rules of procedure.

Article 10

1. Unless a Tribunal consists of a single arbitrator, decisions of the Tribunal as to its procedure, its place of meeting, and any question related to the dispute laid before it, shall be taken by majority vote of its members. However, the absence or abstention of any member of the Tribunal who was nominated by a Party to the dispute shall not constitute an impediment to the Tribunal reaching a decision. In case of equal voting, the vote of the Chairman shall be decisive.

2. The Parties to the dispute shall facilitate the work of the Tribunal and in particular shall, in accordance with their legislation and using all means at their disposal:

(i) provide the Tribunal with all necessary documents and information; and

(ii) enable the Tribunal to enter their territory to hear witnesses or experts, and to visit the scene of the subject matter of the arbitration.

3. The failure of a Party to the dispute to comply with the provisions of paragraph 2 or to defend its case shall not preclude the Tribunal from reaching a decision and rendering an award.

Article 11

The Tribunal shall render its award within five months from the time it is established unless it finds it necessary to extend that time limit for a period not to exceed five months. The award of the Tribunal shall be accompanied by a statement of reasons for the decision. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organisation who shall inform the Parties. The Parties to the dispute shall immediately comply with the award.

PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE SOUTH PACIFIC REGION BY DUMPING

The Parties to the Protocol,

Being Parties to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

Recognizing the danger posed to the marine environment by pollution caused by the dumping of waste or other matter;

Considering that they have a common interest to protect the South Pacific Region from this danger, taking into account the unique environmental quality of the region;

Desiring to enter into a regional agreement consistent with the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 as provided in Article VIII thereof according to which the Contracting Parties to that Convention have undertaken to endeavour to act consistently with the objectives and provisions of such regional agreement;

Have agreed as follows:

Article 1 DEFINITIONS

For the purpose of this Protocol "Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six.

Article 2 GEOGRAPHICAL COVERAGE

The area to which this Protocol applies, hereinafter referred to as the "Protocol Area", shall be the Convention Area as defined in Article 2 of the Convention together with the continental shelf of a Party where it extends, in accordance with international law, outward beyond the Convention Area.

Article 3 GENERAL OBLIGATIONS

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Protocol Area by dumping.
2. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf of a Party as defined in international law shall not be carried out without the express prior approval of that Party, which has the right to permit, regulate and control such dumping taking fully into account the provisions of this Protocol, and after due consideration of the matter with other Parties which by reason of their geographical situation may be adversely affected thereby.
3. National laws, regulations and measures adopted by the Parties shall be no less effective in preventing, reducing and controlling pollution by dumping than the relevant internationally recognized rules and procedures relating to the control of dumping established within the framework of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

Article 4 PROHIBITED SUBSTANCES

1. The dumping in the Protocol Area of wastes or other matter listed in Annex I to this Protocol is prohibited except as provided in this Protocol.
2. No provision of this Protocol is to be interpreted as preventing a Party from prohibiting, insofar as that Party is concerned the dumping of wastes or other matter not mentioned in Annex I. That Party shall notify such measures to the Organisation.

Article 5 SPECIAL PERMITS

The dumping in the Protocol Area of wastes or other matter listed in Annex II to this Protocol requires, in each case, a prior special permit.

Article 6 GENERAL PERMITS

The dumping in the Protocol Area of all wastes or other matter not listed in Annexes I and II to this Protocol requires a prior general permit.

Article 7 FACTORS GOVERNING THE ISSUE OF PERMITS

The permits referred to in Articles 5 and 6 shall be issued only after careful consideration of all the factors set forth in Annex III to this Protocol. The Organisation shall receive records of such permits.

Article 8 ALLOCATION OF SUBSTANCES TO ANNEXES

Substances are allocated to Annexes I and II of this Protocol in accordance with Annex IV.

Article 9 FORCE MAJEURE

The provisions of Articles 4, 5 and 6 shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of force majeure caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms, or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimise the likelihood of damage to human or marine life. Such dumping shall immediately be reported to the Organisation and, either through the Organisation or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and of the nature and quantities of the wastes or other matter dumped.

Article 10 EMERGENCIES

1. A Party may issue a special permit as an exception to Article 4, in emergencies arising in the Protocol Area, posing unacceptable risk relating to human health and admitting no other feasible solution. Before doing so the Party shall consult any other country or countries that are likely to be affected and the Organisation which, after consulting other Parties, and international organisations as appropriate, shall in accordance with Article 15 promptly recommend to the Party the most appropriate procedures to adopt. The Party shall follow these recommendations to the maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organisation of the action it takes. The Parties pledge themselves to assist one another in such situations.

2. This article does not apply with respect to materials in whatever form produced for biological and chemical warfare referred to in paragraph 6 of Section A of Annex I.

3. Any Party may waive its rights under paragraph 1 at the time of, or subsequent to, ratification, acceptance or approval of, or accession to this Protocol.

Article 11 ISSUANCE OF PERMITS

1. Each Party shall designate an appropriate authority or authorities to:

(a) issue the special permits provided for in Article 5 and in the emergency circumstances provided for in Article 10;

(b) issue the general permits provided for in Article 6;

(c) keep records of the nature and quantities of the wastes or other matter permitted to be dumped and of the location, date and method of dumping; and

(d) monitor individually, or in collaboration with other Parties, and competent international organisations, the condition of the Protocol Area for the purposes of this Protocol.

2. The appropriate authority or authorities of each Party shall issue the permits provided for in Articles 5 and 6 and in the emergency circumstances provided for in Article 10 in respect of the wastes or other matter intended for dumping:

(a) loaded in its territory or at its offshore terminals; or

(b) loaded by vessels flying its flag or vessels or aircraft of its registry when the loading occurs in the territory or at the offshore terminals of a State not Party to this Protocol.

3. In issuing permits under paragraphs 1 (a) and (b) the appropriate authority or authorities shall comply with Annex III together with such additional criteria, measures and requirements as they may consider relevant.

Article 12 IMPLEMENTATION AND ENFORCEMENT

1. Each Party shall apply the measures required to implement this Protocol to all:

(a) vessels flying its flag and vessels and aircraft of its registry;

(b) vessels and aircraft loading in its territory or at its offshore terminals wastes or other matter which are to be dumped; and

(c) vessels, aircraft and fixed or floating platforms believed to be engaged in dumping in areas under its jurisdiction.

2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Protocol.

3. The Parties agree to co-operate in the development of procedures for the effective application of this Protocol particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Protocol.

4. This Protocol shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However, each Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Protocol and shall inform the Organisation accordingly.

Article 13 ADOPTION OF OTHER MEASURES

Nothing in this Protocol shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping.

Article 14 REPORTING OF DUMPING INCIDENTS

Each Party undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the Protocol Area which give rise to suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur. That Party shall, if it considers it appropriate, report accordingly to the Organisation and to any other Party concerned.

Article 15 INSTITUTIONAL ARRANGEMENTS

The Parties designate the Organisation to carry out the following functions:

(a) to assist the Parties, upon request, in the communication of reports in accordance with Articles 9 and 14;

(b) to convey to the Parties concerned all notifications received by the Organisation in accordance with Articles 4(2) and 10;

(c) to transmit to the International Maritime Organisation as the organisation responsible for the secretariat functions under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 records and any other information received in accordance with Article 7;

(d) to keep itself informed on evolving international standards and the results of research and investigation, and to advise meetings of Parties to this Protocol of such developments and any modification of the Annexes which may become desirable; and

(e) to carry out other duties assigned to it by the Parties.

Article 16 MEETING OF THE PARTIES

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Parties to the Convention held pursuant to Article 22 of the Convention. The Parties to this Protocol may also hold extraordinary meetings in conformity with Article 22 of the Convention.

2. It shall be the function of the meetings of the Parties to this Protocol to:

(a) keep under review the implementation of this Protocol, and to consider the efficacy of the measures adopted and the need for any other measures, in particular in the form of Annexes.

(b) study and consider the records of the permits issued in accordance with Articles 5, 6, 7 and the emergency situation in Article 10, and of the dumping which has taken place;

(c) review and amend as required any Annex to this Protocol taking into account Annex IV;

(d) adopt as necessary guidelines for the preparation of records and procedures to be followed in submitting such records for the purposes of Article 7;

(e) develop, adopt and implement in consultation with the Organisation and other competent international organisations procedures pursuant to Article 10 including basic criteria for determining emergency circumstances and procedures for consultative advice and the safe disposal, storage or destruction of matter in such circumstances.

(f) invite, as necessary, the appropriate scientific body or bodies to collaborate with and to advise the Parties and the Organisation on any scientific or technical aspects relevant to this Protocol, including particularly the content and applicability of the Annexes; and

(g) perform such other functions as may be appropriate for the implementation of this Protocol.

3. The adoption of amendments to the Annexes to this Protocol pursuant to Article 25 of the Convention shall require a three-fourths majority vote of the Parties to this Protocol.

Article 17 RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present Protocol.

2. The rules of procedures and the financial rules adopted pursuant to Article 22 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed this Protocol.

DONE at Noumea, New Caledonia on the twenty-fifth day of November in the year one thousand nine hundred and eighty-six, in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX I

A

The following substances and materials are listed for the purposes of Article 4 of this Protocol:

1. Organohalogen compounds.
2. Mercury and mercury compounds.
3. Cadmium and cadmium compounds.
4. Persistent plastics and other persistent synthetic materials, for example, netting and ropes, which may remain in suspension in the sea in such a manner as to interfere materially with fishing, navigation or other legitimate uses of the sea.
5. Crude oil and its wastes, refined petroleum products, petroleum distillate residues and any mixtures containing any of these taken on board for the purpose of dumping.
6. Materials in whatever form (e.g. solids, liquids, semi-liquids, gases, or in a living state) produced for biological and chemical warfare.
7. Organosphosphorous compounds.

B

Section A does not apply to substances, other than substances produced for biological or chemical warfare, which are rapidly rendered harmless by physical, chemical or biological processes in the sea provided they do not:

- make edible marine organisms unpalatable, or
- endanger human health or that of marine biota.

The consultative procedure provided for under Article 10 shall be followed by a Party if there is doubt about the harmlessness of the substance.

C

This Annex does not apply to wastes or other materials, such as sewage sludges and dredged spoils, containing the matters referred to in paragraphs 1-5 of Section A as trace contaminants. The dumping of such wastes shall be subject to the provisions of Annexes II and III as appropriate.

ANNEX II

The following substances and materials requiring special care are listed for the purposes of Article 5 of this Protocol.

A

Wastes containing a significant amount of the matters listed below:

arsenic)
lead) and their compounds
copper)
zinc)

organosilicon compounds
cyanides
fluorides
pesticides and their by-products not covered in Annex I.

B

In the issue of permits for the dumping of acids and alkalis, consideration shall be given to the possible presence in such wastes of the substances listed in section A and to the following additional substances:

beryllium)
chromium) and their compounds
nickel)
vanadium)

C

Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.

D

Substances which, though of a non-toxic nature, may become harmful due to the quantities in which they are dumped, or which are liable to seriously reduce amenities.

ANNEX III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account Article 7 of this Protocol, include:

A. CHARACTERISTICS AND COMPOSITION OF THE MATTER

1. Total amount and average composition of matter dumped (e.g. per year).
2. Form (e.g. solid, sludge, liquid, or gaseous).
3. Properties: physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeasts, parasites).
4. Toxicity.
5. Persistence: physical, chemical and biological.
6. Accumulation and biotransformation in biological materials or sediments.
7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.
8. Probability of production of taints or other changes reducing marketability of resources (e.g. fish, shellfish, etc.).
9. In issuing a permit for dumping, Parties should consider whether an adequate scientific basis and sufficient knowledge of the composition and characteristics of the wastes or other matter proposed for dumping exist for assessing the impact of such material on the marine environment and human health.

B. CHARACTERISTICS OF DUMPING SITE AND METHOD OF DEPOSIT

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed methods of release.
5. Dispersal characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).
6. Water characteristics (e.g. temperature, pH, salinity, stratification, oxygen indices of pollution, dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD), nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).
7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity).
8. Existence and effects of other dumpings which have been made in the dumping area (e.g. heavy metal background reading and organic carbon content).
9. In issuing a permit for dumping, Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Annex taking into account seasonal variations.

C. GENERAL CONSIDERATIONS AND CONDITIONS

1. Possible effects on amenities (e.g. presence of floating or stranded materials, turbidity, objectionable odour, discolouration and foaming).
2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.

3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structure, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance of scientific or conservation purposes).
4. The practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful for dumping at sea.

D. REFERENCES

Reference should also be made to "Guidelines for the Implementation and Uniform Interpretation of Annex III" as adopted by the Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

ANNEX IV**ALLOCATION OF SUBSTANCES TO ANNEXES**

1. Substances are allocated to Annexes I and II on the ground of any combination of the following criteria:

Persistence and degradability,
Bioaccumulation potential,
Toxicity to marine life,
Toxicity to man, domestic animals, marine mammals and birds
preying on marine organisms,
Carcinogenicity and mutagenicity,
Ability to interfere with other legitimate uses of the sea.

2. Annex I substances are those which have a high degree of persistence coupled with:

(a) the ability to accumulate to harmful levels in terms of toxicity to marine organisms and their predators, to domestic animals or to man; or

(b) the ability to accumulate through marine pathways to levels harmful in terms of carcinogenicity or mutagenicity to domestic animals or to man; or

(c) the ability to cause interference with fisheries, amenities or other legitimate uses of the sea.

3. Annex II substances are all those considered suitable for inclusion in Annexes except for those allocated to Annex I.

PROTOCOL CONCERNING CO-OPERATION IN COMBATING POLLUTION EMERGENCIES IN THE SOUTH PACIFIC REGION

The Parties to this Protocol,

Being Parties to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

Conscious that the exploration, development and use of offshore and near shore minerals and the use of hazardous substances, as well as related vessel traffic, pose the threat of significant pollution emergencies in the South Pacific Region;

Aware that the islands of the region are particularly vulnerable to damage resulting from significant pollution due to the sensitivity of their ecosystems and their economic reliance on the continuous utilization of their coastal areas;

Recognizing that in the event of a pollution emergency or threat thereof, prompt and effective action should be taken initially at the national level to organise and co-ordinate prevention, mitigation and cleanup activities;

Recognizing further the importance of rational preparation and mutual co-operation and assistance in responding effectively to pollution emergencies or the threat thereof;

Determined to avert ecological damage to the marine environment and coastal areas of the South Pacific Region through the adoption of national contingency plans to be co-ordinated with appropriate bilateral and sub-regional contingency plans;

Have agreed as follows:

Article 1 DEFINITIONS

For the purposes of this Protocol:

(a) "Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

(b) "South Pacific Region" means the Convention Area as defined in Article 2 of the Convention and adjacent coastal areas;

(c) "related interests" of a Party refer, inter alia, to:

(i) maritime, coastal, port, or estuarine activities;

(ii) fishing activities and the management and conservation of living and non-living marine resources, including coastal ecosystems;

(iii) the cultural value of the area concerned and the exercise of traditional customary rights therein;

(iv) the health of the coastal population;

(v) tourist and recreational activities;

(d) "pollution incident" means a discharge or significant threat of a discharge of oil or other hazardous substance, however caused, resulting in pollution or an imminent threat of pollution to the marine and coastal environment or which adversely affects the related interests of one or more of the Parties and of a magnitude that requires emergency action or other immediate response for the purpose of minimizing its effects or eliminating its threat.

Article 2 APPLICATION

This Protocol applies to pollution incidents in the South Pacific Region.

Article 3 GENERAL PROVISIONS

1. The Parties to this Protocol shall, within their respective capabilities, co-operate in taking all necessary measures for the protection of the South Pacific Region from the threat and effects of pollution incidents.
2. The Parties shall, within their respective capabilities, establish and maintain, or ensure the establishment and maintenance of, the means of preventing and combating pollution incidents, and reducing the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the development or strengthening of the capability to respond to a pollution incident and the designation of a national authority responsible for the implementation of this Protocol.

Article 4 EXCHANGE OF INFORMATION

Each Party shall periodically exchange with other Parties, either directly or through the Organisation, current information relating to the implementation of this Protocol, including the identification of the officials charged with carrying out the activities covered by it, and information on its laws, regulations, institutions and operational procedures relating to the prevention and the means of reducing and combating the harmful effects of pollution incidents.

Article 5 COMMUNICATION OF INFORMATION CONCERNING, AND REPORTING OF, POLLUTION INCIDENTS

1. Each Party shall establish appropriate procedures to ensure that information regarding pollution incidents is reported as rapidly as possible and shall, *inter alia*:
 - (a) require appropriate officials of its government to report to it the occurrence of any pollution incident which comes to their attention;
 - (b) require masters of vessels flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it the existence of any pollution incident involving their vessel or facilities;
 - (c) establish procedures to encourage masters of vessels flying its flag or of its registry to report, to the extent practicable, the existence of any pollution incident involving their vessel to any coastal State in the South Pacific Region which they deem likely to be seriously affected;
 - (d) request masters of all vessels and pilots of all aircraft operating in the vicinity of its coasts to report to it any pollution incident of which they are aware.
2. In the event of receiving a report regarding a pollution incident, each Party shall promptly inform all other Parties whose interests are likely to be affected by such incident as well as the flag State of any vessel involved in it. Each Party shall also inform the Organisation and, directly or through the Organisation, the competent international organisations. Furthermore, it shall inform, as soon as feasible, such other Parties and organisations of any measures it has itself taken to minimize or reduce pollution or the threat thereof.

Article 6 MUTUAL ASSISTANCE

1. Each Party requiring assistance to deal with a pollution incident may request, either directly or through the Organisation, the assistance of the other Parties. The Party requesting assistance shall specify the type of assistance it requires. The Parties whose assistance is requested under this article shall, within their capabilities, provide this assistance based on an agreement with the requesting Party or Parties and taking into account, in particular in the case of pollution by hazardous substances other than oil, the technological means available to them. If the Parties responding jointly within the framework of this article so request, the Organisation may co-ordinate the activities undertaken as a result.
2. Each Party shall facilitate the movement of technical personnel, equipment and material necessary for responding to a pollution incident, into, out of and through its territory.

Article 7 OPERATIONAL MEASURES

Each Party shall, within its capabilities, take steps including those outlined below in responding to a pollution incident:

- (a) make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;
- (b) promptly communicate information concerning the situation to other Parties and the Organisation pursuant to article 5;
- (c) promptly determine its ability to take effective measures to respond to the pollution incident and the assistance that might be required and to communicate any request for such assistance to the Party or Parties concerned or the Organisation in accordance with article 6;
- (d) consult, as appropriate, with other affected or concerned Parties or the Organisation in determining the necessary response to a pollution incident;
- (e) carry out the necessary measures to prevent, eliminate or control the effects of the pollution incident, including surveillance and monitoring of the situation.

Article 8 SUB-REGIONAL ARRANGEMENTS

1. The Parties should develop and maintain appropriate sub-regional arrangements, bilateral or multilateral, in particular to facilitate the steps provided for in articles 6 and 7 and taking into account the general provisions of this Protocol.
2. The Parties to any arrangements shall notify the other Parties to this Protocol as well as the Organisation of the conclusion of such sub-regional arrangements and the provisions thereof.

Article 9 INSTITUTIONAL ARRANGEMENTS

The Parties designate the Organisation to carry out the following functions:

- (a) assisting Parties, upon request, in the communication of reports of pollution incidents in accordance with article 5;
- (b) assisting Parties, upon request, in the organisation of a response action to a pollution incident, in accordance with article 6;
- (c) assisting Parties, upon request, in the following areas:
 - (i) the preparation, periodic review, and updating of the contingency plans, referred to in paragraph 2 of Article 3, with a view, inter alia, to promoting the compatibility of the plans of the Parties; and
 - (ii) the identification of training courses and programmes;
- (d) assisting the Parties upon request, on a regional or sub-regional basis, in the following areas:
 - (i) the co-ordination of emergency response activities; and
 - (ii) the provision of a forum for discussions concerning emergency response and other related topics;
- (e) establishing and maintaining liaison with:
 - (i) appropriate regional and international organisations; and
 - (ii) appropriate private organisations, including producers and transporters of substances which could give rise to a pollution incident in the South Pacific Region and clean-up contractors and cooperatives;
- (f) maintaining an appropriate current inventory of available emergency response equipment;

- (g) disseminating information related to the prevention and control of pollution incidents and the removal of pollutants resulting therefrom;
- (h) identifying or maintaining emergency response communications systems;
 - (i) encouraging research by the Parties, as well as by appropriate international and private organisations, on the environmental effects of pollution incidents, the environmental effects of pollution incident control materials and other matters related to pollution incidents;
- (i) assisting Parties in the exchange of information pursuant to article 4; and
- (j) preparing reports and carrying out other duties assigned to it by the Parties.

Article 10 MEETINGS OF THE PARTIES

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Parties to the Convention, held pursuant to article 22 of the Convention. The Parties to this Protocol may also hold extraordinary meetings as provided for in article 22 of the Convention.
2. It shall be the function of the meetings of the Parties:
 - (a) to review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness;
 - (b) to consider any measures to improve cooperation under this Protocol including, in accordance with article 24 of the Convention, amendments to this Protocol.

Article 11 RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present Protocol.
2. The rules of procedure and the financial rules adopted pursuant to article 22 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at Noumea, New Caledonia on the twenty-fifth day of November in the year one thousand nine hundred and eighty-six, in a single copy in the English and French languages, the two texts being equally authentic.

PART III: STATUS OF CONVENTIONS IN SPREP MEMBER COUNTRIES (at January 2000)

	IMO	UNCLOS	MARPOL	OPRC	CLC 92	FUND 92	HNS	INTVN.	LC	LC 96 Prot.	SPREP Conv.	SPREP Dump. Prot.	SPREP Pol. Prot.
Countries													
Cook Is		x									x	x	x
Fiji	x	x	x					x			x	x	x
Federated States of Micronesia		x									x	x	x
Kiribati									x				
Marshall Is	x	x	x	x	x	x		x	x		x	x	x
Nauru	x	x									x	x	x
Niue													
Palau		x									x	x	x
Papua New Guinea	x	x	x					x	x		x	x	x
Samoa	x	x									x	x	x
Solomon Is	x	x							x		x	x	x
Tonga		x	x	x				x	x				
Tuvalu			x								x	x	x
Vanuatu	x		x	x	x	x		x	x	x			
Australia	x	x	x	x	x	x		x	x	x	x	x	x
France	x	x	x	x	x	x		x	x	x	x	x	x
New Zealand	x	x	x		x	x		x	x		x	x	x
United States of America	x		x	x				x	x		x	x	x

A key objective of PACPOL is to work towards complete filling of the above table, thereby establishing a standardised regulatory regime for ship-sourced marine pollution in the Pacific islands region.

Pacific island territories are not shown explicitly, although many are covered through convention membership by the SPREP non-island member with which they are associated.

For further details refer to the IMO web site (www.imo.org) or enquire at SPREP (sprep@sprep.org.ws).