



IMCO

INTERNATIONAL CONFERENCE ON
MARINE POLLUTION, 1973
Committee IV

Agenda item 2

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

PREAMBLE

The States Parties to the present Protocol,

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

Taking into account the resolution on International Co-operation concerning Pollutants other than Oil adopted by the diplomatic conference in Brussels at the same time,

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

Have agreed as follows:

ARTICLE I

1. Parties to the present Protocol may take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution by substances other than oil following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.
2. "Substances other than oil" as referred to in paragraph 1 shall be:
 - (a) those substances enumerated in a list which shall be established by an appropriate body designated by the Organization and which shall be annexed to the present Protocol, and
 - (b) those other substances which are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.
3. Whenever an intervening Party takes action with regard to a substance not included in the list referred to in paragraph 2(b) that Party shall have the burden of establishing that the substance under the circumstances present at the time of the intervention could reasonably pose a grave and imminent danger analogous to that posed by any of the substances enumerated in the list referred to in paragraph 2(a).

ARTICLE II

1. The provisions of paragraph 2 of Article I and Articles II to VIII of the Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 and the Annex thereto as they relate to oil shall be applicable with regard to the substances referred to in Article I of this Protocol.
2. For the purpose of this Protocol the list of experts referred to in Articles III(d) and IV of the Convention shall be extended to include experts qualified to give advice in relation to substances other than oil. Nominations to the list may be made by Member States of the Organization and by Parties to this Protocol.

ARTICLE III

1. The list referred to in paragraph 2(a) of Article I shall be maintained by the appropriate body designated by the Organization.
2. Any amendment to the list proposed by a Party to the Protocol shall be submitted to the Organization and circulated by it to all Members of the Organization and all Parties to the Protocol at least three months prior to its consideration by the appropriate body.
3. Parties to the present Protocol whether or not Members of the Organization shall be entitled to participate in the proceedings of the appropriate body.
4. Amendments shall be adopted by a two-thirds majority of only the Parties to the Protocol present and voting.
5. If adopted in accordance with paragraph 4 above, the amendment shall be communicated by the Organization to all Parties to the Protocol for acceptance.
6. The amendment shall be deemed to have been accepted at the end of a period of six months after it has been communicated, unless within that period an objection to the amendment has been communicated to the Organization by not less than one-third of the Parties to the Protocol.
7. An amendment deemed to have been accepted in accordance with paragraph 6 above shall enter into force three months after its acceptance for all Parties to the Protocol, with the exception of those which before that date have made a declaration of non-acceptance of the said amendment.

ARTICLE IV

1. The present Protocol shall be open for signature by the States which have signed or which accede to the Convention, and by any State invited to be represented at the International Conference on Marine Pollution 1973. The Protocol shall remain open for signature until 31 December 1974 at the Headquarters of the Organization.
2. Subject to paragraph 4, the Protocol shall be subject to ratification, acceptance or approval by the States which have signed it.

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

4. This Protocol may be ratified, accepted, approved or acceded to only by States which have ratified, accepted, approved or acceded to the Convention.

ARTICLE V

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

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

ARTICLE VI

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

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

ARTICLE VII

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

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

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

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

ARTICLE VIII

1. Upon the request of a Contracting Party, concurred in by at least one-third of the Contracting Parties, the Organization shall convene a conference of Contracting Parties to consider amendments to the present Protocol.
2. A conference for the purpose of revising or amending the present Protocol may be convened by the Organization.

ARTICLE IX

1. The present Protocol shall be deposited with the Secretary-General of the Organization.
2. The Secretary-General of the Organization shall:
 - (a) inform all States which have signed or acceded to the Protocol of:
 - (i) each new signature or deposit of instrument together with the date thereof;
 - (ii) the date of entry into force of the Protocol;
 - (iii) the deposit of any instrument of denunciation of this Protocol together with the date on which the denunciation takes effect;
 - (b) transmit certified true copies of the present Protocol to signatory States and to all States which accede to the present Protocol.

ARTICLE X

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

ARTICLE XI

This Protocol is established in a single original in the English, French and Spanish languages, all three texts being equally authentic. An official translation in the Russian language shall be prepared by the Secretariat of the Organization and deposited with the signed original.

IN WITNESS WHEREOF the undersigned plenipotentiaries being duly authorized for that purpose have signed the present Protocol.

DONE at London this day of November one thousand nine hundred
and seventy-three.
