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POLLUTION



Treaty Series No. 27 (1983)

Protocol

relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973

London, 2 November 1973

[The United Kingdom instrument of ratification was deposited on 5 November 1979
and the Protocol entered into force on 30 March 1983]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
June 1983*

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

The Parties to the present Protocol,

Being Parties to the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, done at Brussels on 29 November 1969,⁽¹⁾

Taking into account the Resolution on International Co-operation Concerning Pollutants other than Oil adopted by the International Legal Conference on Marine Pollution Damage, 1969,⁽¹⁾

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,⁽²⁾ and

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

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

⁽¹⁾ Treaty Series No. 77 (1975), Cmnd. 6056.

⁽²⁾ IMCO Resolution A 296(VII) designated the Marine Environment Protection Committee as the appropriate body, which adopted, by Resolution MEPC 1(II) of 21 November 1974, the list of substances annexed hereto.

ARTICLE II

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

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

ARTICLE 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 present Protocol shall be submitted to the Organization and circulated by it to all Members of the Organization and all Parties to the present Protocol at least three months prior to its consideration by the appropriate body.

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

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

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

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

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

ARTICLE IV

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

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

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

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

ARTICLE V

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

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

ARTICLE VI

1. The present Protocol shall enter into force on the ninetieth day following the date on which fifteen States have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization⁽³⁾, provided however that the present Protocol shall not enter into force before the Convention referred to in Article II has entered into force.

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

ARTICLE VII

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

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

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

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

(3) The Protocol entered into force on 30 March 1983.

ARTICLE VIII

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

ARTICLE IX

1. The present Protocol shall be deposited with the Secretary-General of the Organization.
2. The Secretary-General of the Organization shall:
 - (a) inform all States which have signed the present Protocol or acceded thereto of:
 - (i) each new signature or deposit of an instrument together with the date thereof;
 - (ii) the date of entry into force of the present Protocol;
 - (iii) the deposit of any instrument of denunciation of the present Protocol together with the date on which the denunciation takes effect;
 - (iv) any amendments to the present Protocol or its Annex and any objection or declaration of non-acceptance of the said amendment;
 - (b) transmit certified true copies of the present Protocol to all States which have signed the present Protocol or acceded thereto.

ARTICLE X

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

ARTICLE XI

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

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

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

SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of signature</i>	<i>Date of deposit of ratification, acceptance (AC) or approval (AP)</i>
Denmark*	15 Jan. 1974	
Germany, Federal Republic of* ...	4 Mar. 1974	
Italy*	3 July 1974	1 Oct. 1982
Netherlands (Kingdom in Europe)*...	30 Dec. 1974	10 Sept. 1980†
New Zealand*‡	23 Dec. 1974	
Poland*	2 Oct. 1974	10 July 1981
Sweden*	31 May 1974	28 June 1976
Union of Soviet Socialist Republics ...	30 Dec. 1974	30 Dec. 1982 (AC)
United Kingdom	19 Dec. 1974	5 Nov. 1979
United States of America*	7 Mar 1974	7 Sept. 1978

ACCESSIONS

<i>State</i>	<i>Date</i>
Bahamas	5 Mar. 1981
Belgium	9 Sept. 1982
Liberia	17 Feb. 1981
Mexico	11 Apr. 1980
Norway	15 July 1980
Tunisia	4 May 1976
Yemen Arab Republic	6 Mar. 1979
Yugoslavia	31 Oct. 1980

TERRITORIAL EXTENSIONS

<i>Territory</i>	<i>Date</i>
Anguilla	9 Sept. 1982
Bermuda	5 May 1981
British Antarctic Territory	} 9 Sept. 1982
British Virgin Islands	
Cayman Islands	
Falkland Islands and Dependencies	
Hong Kong	
Montserrat	
Pitcairn, Henderson, Ducie and Oeno Islands ...	
St. Helena and Dependencies	
Turks and Caicos Islands	
United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in the island of Cyprus	

* Subject to ratification.

† Includes Netherlands Antilles.

‡ Does not include the Cook Islands, Niue or the Tokelau Islands.

ANNEX

LIST OF SUBSTANCES

1. Oil (when carried in bulk)

Asphalt solutions
Blending Stocks
Roofers Flux
Straight Run Residue

Oil
Clarified
Mixtures containing crude oil
Road oil
Aromatic oil (excluding vegetable oil)
Blending Stocks
Mineral oil
Penetrating oil
Spindle oil
Turbine oil

Distillates
Straight Run
Flashed Feed Stocks

Gas Oil
Cracked

Gasoline Blending Stocks
Alkylates—fuel
Reformates
Polymer—fuel

Gasolines
Casinghead (natural)
Automotive
Aviation
Straight Run

Jet Fuels
JP-1 (Kerosene)
JP-3
JP-4
JP-5 (Kerosene, Heavy)
Turbo Fuel
Mineral Spirit

Naphtha
Solvent
Petroleum
Heartcut Distillate Oil

2. Noxious substances

Acetic anhydride
Acetone
Acetone cyanohydrin
Acrolein
Acrylonitrile
Aldrin
Allyl isothiocyanate
Aluminium Phosphide
Ammonia (28% aqueous)
Ammonium phosphate
Amyl mercaptan
Aniline
Aniline hydrochloride
Antimony compounds
Arsenic compounds
Atrazine
Azinphos methyl (Guthion)

Barium azide
Barium cyanide
Barium oxide
Benzene
Benzenehexachloride isomers
(Lindane)
Benzidine
Beryllium powder
Bromino
Bromobenzyl cyanide
n-Butyl acrylate
Butyric acid
Cacodylic acid
Cadmium compounds
Carbaryl (Sevin)
Carbon disulphide

Carbontetrachloride	Fentin acetate (dry)
Chlorodane	Fluesilicic acid
Chloroacetone	Heptachlor
Chloroacetophenone	Hexachlorobenzene
Chlorodinitrobenzene	Hexaethyl tetraphosphate
Chloroform	Hydrocyanic acid
Chlorohydrins (crude)	Hydrofluoric acid (40% aqueous)
Chloropicrin	Isoprene
Chromic acid (Chromium trioxide)	Lead compounds
Cocculus (solid)	Lindane (gammexane, BHC)
Copper compounds	Malathion
Cresols	Mercuric compounds
Cupriethylene diamine	Methyl alcohol
Cyanide compounds	Methylene chloride
Cyanogen bromide	Molasses
Cyanogen chloride	Naphthalene (molten)
DDT	Naphthylthiourea
Dichloroanilines	Nitric acid (90%)
Dichlorobenzenes	Oleum
Dieldrin	Parathion
Dimethoate (Cygon)	Paraquat
Dimethyl amine (40% aqueous)	Phenol
Dinitroanilines	Phosphoric acid
4, 6-Dinitroorthocresol	Phosphorus (elemental)
Dinitrophenols	Polyhalogenated biphenyls
Endosulphan (Thiodan)	Sodium pentachlorophenate (solution)
Endrin	Styrene monomer
Epichlorohydrin	Toluene
Ethyl bromoacetate	Toluene diisocyanate
Ethylene chlorohydrin (2-Chloro-Ethanol)	Toxaphene
Ethylene dichloride	Tritolyl phosphate (Tricresyl phosphate)
Ethyl parathion	2, 4, 5-T

3. Liquefied gases (when carried in bulk)

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

4. Radioactive substances

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

60	137	226	239	235
Co,	Cs,	Ra,	Pu,	U:

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