

**INTERNATIONAL AND UNITED STATES DOCUMENTS
ON OCEANS LAW AND POLICY**

Edited by John Norton Moore

Compiled by

**The Center for Oceans Law and Policy
University of Virginia School of Law**

for

The Virginia Sea Grant College Program



VOLUME II

Published by

**William S. Hein & Co., Inc.
Buffalo, N.Y.
1986**

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This work is a result of research sponsored by NOAA National Sea Grant College Program Office, Department of Commerce, under Grant # NA81AA-D-00025. The U.S. Government is authorized to produce and distribute reprints for governmental purposes notwithstanding any copyright notation that may appear hereon.

LC 86-83006
ISBN 0-89941-529-6 (Reprint Edition)

CENTER FOR OCEANS LAW AND POLICY

University of Virginia School of Law

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The Virginia Sea Grant College Program is part of a nationwide network of 30 university-based Sea Grant programs funded through the National Oceanic and Atmospheric Administration, U.S. Department of Commerce. In a partnership between universities, government, and industry, Sea Grant programs work together to address coastal issues through research, education and marine advisory services. The Virginia Sea Grant College Program is administered through the Virginia Graduate Marine Science Consortium with members at the University of Virginia, College of William and Mary, Old Dominion University, and Virginia Polytechnic Institute and State University.



ACKNOWLEDGEMENTS

This collection of documents has undergone a series of reviews, revisions and updates. Although it would be impossible to single out everyone who has reviewed the numerous drafts and contributed comments, suggestions and ideas to the project, I would like to mention those people who have been most directly involved in bringing this collection to fruition.

This project has spanned the tenure of three administrators at the Oceans Center—Sandra S. Hodge, Mari K. Normyle and Tomlin H. Clemmer—each of whom has provided invaluable administrative guidance to this continuing effort.

Over the years, many graduate students from the law school, the LL.M. Program and the Marine Affairs Program, have been employed as research assistants on the project. I am grateful to Ann Danneberg, Samuel P. Menefee, Ivon D'Almneida Pires Filho, Jill L. Rowe, Niels F. Seberg-Elverfeldt, Bernard A. Seward, Jr., Sharon K. Shutler, Barbara Timerman, Ibrahim J. Wani and Jeffrey R. Warren for their countless hours spent making inquiries, handling reviewers' comments, and compiling and copying the documents. I would especially like to thank Paul C. Ticco, who not only worked on the final compilation but also performed a market survey for the collection, and Kenton H. Trimble, who handled the final update of this material and was instrumental in getting it ready for publication.

In addition, special thanks are due to Neal R. Grandy for his coordination and guidance in working with the research staff, the Virginia Sea Grant College Program and the publisher on the final organization and presentation of the material. Our professional library staff also deserves a large measure of gratitude—Marsha Trimble Rogers, Archivist; and Margaret A. Aycock, Oceans and International Law Librarian—for their assistance in locating these documents and obtaining clean reprints for many of them.

Finally, I would like to express my gratitude and sincere appreciation to Dr. David E. Smith and Kym A. Young of the Virginia Sea Grant College Program for their continued interest in the project, as well as for their time and effort in coordinating with William S. Hein & Co. on the publication of this collection.

INTRODUCTION

The history of oceans law and policy, in large measure, may be examined by reviewing the development of associated laws and treaties. As the field has progressed and expanded, it has become increasingly difficult to keep pace with this evolution, even for those familiar with the subject. Anyone approaching the field for the first time faces even greater difficulty comprehending the broad spectrum of interrelated subjects and issues.

This problem has been compounded by the lack of a single consolidated source of relevant materials. Publication of these *International and United States Documents on Oceans Law and Policy* fills this gap by providing a collection of major documents relating to oceans law and policy. Divided into two main sections dealing with international and United States oceans issues, this multi-volume collection offers a systematic presentation of key documents, with each individual subsection organized chronologically to illustrate the development and interrelations of the topic within the broader context of international law. Although many more documents exist, this overview presents—within the constraints of space limitations—those that have enduring value to the field.

Full citations for each document are provided on the title page for that document. Often, two or more citations are provided for ease of reference. Most documents are presented in their entirety. For reasons of space, however, a few have been edited, and those documents are noted on their respective title pages. In these instances, those readers requiring the complete document may refer to the citation.

Representative of the broad range of ocean issues, this publication will serve academia, the oceans community, and policy-makers requiring specific documents for their research. We hope that this collection, because of its breadth, organization and choice of material, will be of lasting value as a reference source.

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International Convention for the Northeast Atlantic
Fisheries (with annex), February 8, 1949*

* 1 U.S.T. 478; T.I.A.S. 2089, 157 U.N.T.S. 157.

No. 2053

**CANADA, DENMARK, FRANCE,
ICELAND, ITALY, etc.**

International Convention for the Northwest Atlantic Fisheries (with annex). Done at Washington, on 8 February 1949

Official text: English.

Registered by the United States of America on 19 January 1953.

No. 2053. INTERNATIONAL CONVENTION¹ FOR THE
NORTHWEST ATLANTIC FISHERIES. DONE AT WASH-
INGTON, ON 8 FEBRUARY 1949

The Governments whose duly authorized representatives have subscribed hereto, sharing a substantial interest in the conservation of the fishery resources of the Northwest Atlantic Ocean, have resolved to conclude a convention for the investigation, protection and conservation of the fisheries of the Northwest Atlantic Ocean, in order to make possible the maintenance of a maximum sustained catch from those fisheries and to that end have, through their duly authorized representatives, agreed as follows:

Article I

1. The area to which this Convention applies, hereinafter referred to as "the Convention area", shall be all waters, except territorial waters, bounded by a line beginning at a point on the coast of Rhode Island in 71° 40' west longitude; thence due south to 39° 00' north latitude; thence due east to 42° 00' west longitude; thence due north to 59° 00' north latitude; thence due west to 44° 00' west longitude; thence due north to the coast of Greenland; thence along the west coast of Greenland to 78° 10' north latitude; thence southward to a point in 75° 00' north latitude and 73° 30' west longitude; thence along a rhumb line to a point in 69° 00' north latitude and 59° 00' west longitude; thence due south to 61° 00' north latitude; thence due west to 64° 30' west longitude; thence due south to the coast of Labrador; thence in a southerly direction along the coast

¹ In accordance with article XV the convention came into force on 3 July 1950, upon the deposit with the Government of the United States of America of the fourth instrument of ratification, with respect to the following Governments which deposited their instruments of ratification on the dates indicated:

United States of America	1 September 1949	Iceland	13 February 1950
United Kingdom of Great Britain and Northern Ireland	15 December 1949	Canada	3 July 1950
		(The ratification by Canada of the Convention extends to Newfoundland with a reservation)*	

and thereafter with respect to each of the following Governments on the date of deposit of its instrument of ratification, as indicated below:

Denmark	14 December 1950	Norway	2 July 1952
Spain	17 January 1952	Portugal	19 July 1952
(with a reservation)**		Italy	19 August 1952

* "Any claims Canada may have in regard to the limits of territorial waters or to the jurisdiction over fisheries, particularly as a result of the entry of Newfoundland into Confederation, will not be prejudiced."

** "Reserving paragraph 2 of Article I."

of Labrador to the southern terminus of its boundary with Quebec; thence in a westerly direction along the coast of Quebec, and in an easterly and southerly direction along the coasts of New Brunswick, Nova Scotia, and Cape Breton Island to Cabot Strait; thence along the coasts of Cape Breton Island, Nova Scotia, New Brunswick, Maine, New Hampshire, Massachusetts, and Rhode Island to the point of the beginning.

2. Nothing in this Convention shall be deemed to affect adversely (pre-judice) the claims of any Contracting Government in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

3. The Convention area shall be divided into five sub-areas, the boundaries of which shall be those defined in the Annex to this Convention, subject to such alterations as may be made in accordance with the provisions of paragraph 2 of Article VI.

Article II

1. The Contracting Governments shall establish and maintain a Commission for the purposes of this Convention. The Commission shall be known as the International Commission for the Northwest Atlantic Fisheries, hereinafter referred to as "the Commission".

2. Each of the Contracting Governments may appoint not more than three Commissioners and one or more experts or advisers to assist its Commissioner or Commissioners.

3. The Commission shall elect from its members a Chairman and a Vice Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election but not to a succeeding term. The Chairman and Vice Chairman must be Commissioners from different Contracting Governments.

4. The seat of the Commission shall be in North America at a place to be chosen by the Commission.

5. The Commission shall hold a regular annual meeting at its seat or at such place in North America as may be agreed upon by the Commission.

6. Any other meeting of the Commission may be called by the Chairman at such time and place as he may determine, upon the request of the Commissioner of a Contracting Government and subject to the concurrence of the Commissioners of two other Contracting Governments, including the Commissioner of a Government in North America.

7. Each Contracting Government shall have one vote which may be cast by any Commissioner from that Government. Decisions of the Commission shall be taken by a two-thirds majority of the votes of all the Contracting Governments.

8. The Commission shall adopt, and amend as occasion may require, financial regulations and rules and by-laws for the conduct of its meetings and for the exercise of its functions and duties.

Article III

1. The Commission shall appoint an Executive Secretary according to such procedure and on such terms as it may determine.

2. The staff of the Commission shall be appointed by the Executive Secretary in accordance with such rules and procedures as may be determined and authorized by the Commission.

3. The Executive Secretary shall, subject to the general supervision of the Commission, have full power and authority over the staff and shall perform such other functions as the Commission shall prescribe.

Article IV

1. The Contracting Governments shall establish and maintain a Panel for each of the sub-areas provided for by Article I, in order to carry out the objectives of this Convention. Each Contracting Government participating in any Panel shall be represented on such Panel by its Commissioner or Commissioners, who may be assisted by experts or advisers. Each Panel shall elect from its members a Chairman who shall serve for a period of two years and shall be eligible for re-election but not to a succeeding term.

2. After this Convention has been in force for two years, but not before that time, Panel representation shall be reviewed annually by the Commission, which shall have the power, subject to consultation with the Panel concerned, to determine representation on each Panel on the basis of current substantial exploitation in the sub-area concerned of fishes of the cod group (*Gadiformes*), of flat-fishes (*Pleuronectiformes*), and of rosefish (*genus Sebastes*), except that each Contracting Government with coastline adjacent to a sub-area shall have the right of representation on the Panel for the sub-area.

3. Each Panel may adopt, and amend as occasion may require, rules of procedure and by-laws for the conduct of its meetings and for the exercise of its functions and duties.

4. Each Government participating in a Panel shall have one vote, which shall be cast by a Commissioner representing that Government. Decisions of the Panel shall be taken by a two-thirds majority of the votes of all the Governments participating in that Panel.

5. Commissioners of Contracting Governments not participating in a particular Panel shall have the right to attend the meetings of such Panel as observers, and may be accompanied by experts and advisers.

6. The Panels shall, in the exercise of their functions and duties, use the services of the Executive Secretary and the staff of the Commission.

Article V

1. Each Contracting Government may set up an Advisory Committee composed of persons, including fishermen, vessel owners and others, well informed concerning the problems of the fisheries of the Northwest Atlantic Ocean. With the assent of the Contracting Government concerned, a representative or representatives of an Advisory Committee may attend as observers all non-executive meetings of the Commission or of any Panel in which their Government participates.

2. The Commissioners of each Contracting Government may hold public hearings within the territories they represent.

Article VI

1. The Commission shall be responsible in the field of scientific investigation for obtaining and collating the information necessary for maintaining those stocks of fish which support international fisheries in the Convention area and the Commission may, through or in collaboration with agencies of the Contracting Governments or other public or private agencies and organizations or, when necessary, independently :

(a) make such investigations as it finds necessary into the abundance, life history and ecology of any species of aquatic life in any part of the Northwest Atlantic Ocean;

(b) collect and analyze statistical information relating to the current conditions and trends of the fishery resources of the Northwest Atlantic Ocean;

(c) study and appraise information concerning the methods for maintaining and increasing stocks of fish in the Northwest Atlantic Ocean;

(d) hold or arrange such hearings as may be useful or essential in connection with the development of complete factual information necessary to carry out the provisions of this Convention;

(e) conduct fishing operations in the Convention area at any time for purposes of scientific investigation;

(f) publish and otherwise disseminate reports of its findings and statistical, scientific and other information relating to the fisheries of the Northwest Atlantic Ocean as well as such other reports as fall within the scope of this Convention.

2. Upon the unanimous recommendation of each Panel affected, the Commission may alter the boundaries of the sub-areas set out in the Annex. Any such alteration shall forthwith be reported to the Depositary Government which shall inform the Contracting Governments, and the sub-areas defined in the Annex shall be altered accordingly.

3. The Contracting Governments shall furnish to the Commission, at such time and in such form as may be required by the Commission, the statistical information referred to in paragraph 1 (b) of this Article.

Article VII

1. Each Panel established under Article IV shall be responsible for keeping under review the fisheries of its sub-area and the scientific and other information relating thereto.

2. Each Panel, upon the basis of scientific investigations, may make recommendations to the Commission for joint action by the Contracting Governments on the matters specified in paragraph 1 of Article VIII.

3. Each Panel may recommend to the Commission studies and investigations within the scope of this Convention which are deemed necessary in the development of factual information relating to its particular sub-area.

4. Any Panel may make recommendations to the Commission for the alteration of the boundaries of the sub-areas defined in the Annex.

5. Each Panel shall investigate and report to the Commission upon any matter referred to it by the Commission.

6. A Panel shall not incur any expenditure except in accordance with directions given by the Commission.

Article VIII

1. The Commission may, on the recommendations of one or more Panels, and on the basis of scientific investigations, transmit to the Depositary Government proposals, for joint action by the Contracting Governments, designed to keep the stocks of those species of fish which support international fisheries in the Convention area at a level permitting the maximum sustained catch by the application, with respect to such species of fish, of one or more of the following measures :

- (a) establishing open and closed seasons;
- (b) closing to fishing such portions of a sub-area as the Panel concerned finds to be a spawning area or to be populated by small or immature fish;
- (c) establishing size limits for any species;
- (d) prescribing the fishing gear and appliances the use of which is prohibited;
- (e) prescribing an over-all catch limit for any species of fish.

2. Each recommendation shall be studied by the Commission and thereafter the Commission shall either

- (a) transmit the recommendation as a proposal to the Depositary Government with such modifications or suggestions as the Commission may consider desirable, or
- (b) refer the recommendation back to the Panel with comments for its reconsideration.

3. The Panel may, after reconsidering the recommendation returned to it by the Commission, reaffirm that recommendation, with or without modification.

4. If, after a recommendation is reaffirmed, the Commission is unable to adopt the recommendation as a proposal, it shall send a copy of the recommendation to the Depositary Government with a report of the Commission's decision. The Depositary Government shall transmit copies of the recommendation and of the Commission's report to the Contracting Governments.

5. The Commission may, after consultation with all the Panels, transmit proposals to the Depositary Government within the scope of paragraph 1 of this Article affecting the Convention area as a whole.

6. The Depositary Government shall transmit any proposal received by it to the Contracting Governments for their consideration and may make such suggestions as will facilitate acceptance of the proposal.

7. The Contracting Governments shall notify the Depository Government of their acceptance of the proposal, and the Depository Government shall notify the Contracting Governments of each acceptance communicated to it, including the date of receipt thereof.

8. The proposal shall become effective for all Contracting Governments four months after the date on which notifications of acceptance shall have been received by the Depository Government from all the Contracting Governments participating in the Panel or Panels for the sub-area or sub-areas to which the proposal applies.

9. At any time after the expiration of one year from the date on which a proposal becomes effective, any Panel Government for the sub-area to which the proposal applies may give to the Depository Government notice of the termination of its acceptance of the proposal and, if that notice is not withdrawn, the proposal shall cease to be effective for that Panel Government at the end of one year from the date of receipt of the notice by the Depository Government. At any time after a proposal has ceased to be effective for a Panel Government under this paragraph, the proposal shall cease to be effective for any other Contracting Government upon the date a notice of withdrawal by such Government is received by the Depository Government. The Depository Government shall notify all Contracting Governments of every notice under this paragraph immediately upon the receipt thereof.

Article IX

The Commission may invite the attention of any or all Contracting Governments to any matters which relate to the objectives and purposes of this Convention.

Article X

1. The Commission shall seek to establish and maintain working arrangements with other public international organizations which have related objectives, particularly the Food and Agriculture Organization of the United Nations and the International Council for the Exploration of the Sea, to ensure effective collaboration and coordination with respect to their work and, in the case of the International Council for the Exploration of the Sea, the avoidance of duplication of scientific investigations.

2. The Commission shall consider, at the expiration of two years from the date of entry into force of this Convention, whether or not it should recommend to the Contracting Governments that the Commission be brought within the framework of a specialized agency of the United Nations.

Article XI

1. Each Contracting Government shall pay the expenses of the Commissioners, experts and advisers appointed by it.

2. The Commission shall prepare an annual administrative budget of the proposed necessary administrative expenditures of the Commission and an annual special projects budget of proposed expenditures on special studies and investigations to be undertaken by or on behalf of the Commission pursuant to Article VI or by or on behalf of any Panel pursuant to Article VII.

3. The Commission shall calculate the payments due from each Contracting Government under the annual administrative budget according to the following formula :

(a) from the administrative budget there shall be deducted a sum of 500 United States dollars for each Contracting Government;

(b) the remainder shall be divided into such number of equal shares as corresponds to the total number of Panel memberships;

(c) the payment due from any Contracting Government shall be the equivalent of 500 United States dollars plus the number of shares equal to the number of Panels in which that Government participates.

4. The Commission shall notify each Contracting Government the sum due from that Government as calculated under paragraph 3 of this Article and as soon as possible thereafter each Contracting Government shall pay to the Commission the sum so notified.

5. The annual special projects budget shall be allocated to the Contracting Governments according to a scale to be determined by agreement among the Contracting Governments, and the sums so allocated to any Contracting Government shall be paid to the Commission by that Government.

6. Contributions shall be payable in the currency of the country in which the seat of the Commission is located, except that the Commission may accept payment in the currencies in which it may be anticipated that expenditures of the Commission will be made from time to time, up to an amount established each year by the Commission in connection with the preparation of the annual budgets.

7. At its first meeting the Commission shall approve an administrative budget for the balance of the first financial year in which the Commission functions and shall transmit to the Contracting Governments copies of that budget together with notices of their respective allocations.

8. In subsequent financial years, the Commission shall submit to each Contracting Government drafts of the annual budgets together with a schedule of allocations, not less than six weeks before the annual meeting of the Commission at which the budgets are to be considered.

Article XII

The Contracting Governments agree to take such action as may be necessary to make effective the provisions of this Convention and to implement any proposals which become effective under paragraph 8 of Article VIII. Each Contracting Government shall transmit to the Commission a statement of the action taken by it for these purposes.

Article XIII

The Contracting Governments agree to invite the attention of any Government not a party to this Convention to any matter relating to the fishing activities in the Convention area of the national or vessels of that Government which appear to affect adversely the operations of the Commission or the carrying out of the objectives of this Convention.

Article XIV

The Annex, as attached to this Convention and as modified from time to time, forms an integral part of this Convention.

Article XV

1. This Convention shall be ratified by the signatory Governments and the instruments of ratification shall be deposited with the Government of the United States of America, referred to in this Convention as the " Depository Government ".

2. This Convention shall enter into force upon the deposit of instruments of ratification by four signatory Governments, and shall enter into force with respect to each Government which subsequently ratifies on the date of the deposit of its instrument of ratification.

3. Any Government which has not signed this Convention may adhere thereto by a notification in writing to the Depository Government. Adherences received by the Depository Government prior to the date of entry into force of this Convention shall become effective on the date this Convention enters into force. Adherences received by the Depository Government after the date of entry into force of this Convention shall become effective on the date of receipt by the Depository Government.

4. The Depository Government shall inform all signatory Governments and all adhering Governments of all ratifications deposited and adherences received.

5. The Depositary Government shall inform all Governments concerned of the date this Convention enters into force.

Article XVI

1. At any time after the expiration of ten years from the date of entry into force of this Convention, any Contracting Government may withdraw from the Convention on December thirty-first of any year by giving notice on or before the preceding June thirtieth to the Depositary Government which shall communicate copies of such notice to the other Contracting Governments.

2. Any other Contracting Government may thereupon withdraw from this Convention on the same December thirty-first by giving notice to the Depositary Government within one month of the receipt of a copy of a notice of withdrawal given pursuant to paragraph 1 of this Article.

Article XVII

1. The original of this Convention shall be deposited with the Government of the United States of America, which Government shall communicate certified copies thereof to all the signatory Governments and all the adhering Governments.

2. The Depositary Government shall register this Convention with the Secretariat of the United Nations.

3. This Convention shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter.

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed this Convention.

DONE in Washington this eighth day of February 1949 in the English language.

For Canada :

Pour le Canada :

Stewart BATES

For Denmark :

Pour le Danemark :

B. DINESEN

For France :

Pour la France :

With a reservation excluding paragraph 2 of Article I¹

M. TERRIN

For Iceland :

Pour l'Islande :

Thor THORS

For Italy :

Pour l'Italie :

Alberto TARCHIANI

*For His Majesty's Government in the
United Kingdom and the Government
of Newfoundland in respect of New-
foundland :*

*Pour le Gouvernement de Sa Majesté
dans le Royaume-Uni et le Gouver-
nement de Terre-Neuve agissant pour
Terre-Neuve :*

R. GUSHUE
W. TEMPLEMAN

[TRADUCTION — TRANSLATION]

¹ Avec une réserve excluant le paragraphe 2 de l'article premier.

ANNEX

1. The sub-areas provided for by Article I of this Convention shall be as follows :

Sub-area 1—That portion of the Convention area which lies to the north and east of a rhumb line from a point in 75° 00' north latitude and 73° 30' west longitude to a point in 69° 00' north latitude and 59° 00' west longitude; east of 59° 00' west longitude; and to the north and east of a rhumb line from a point in 61° 00' north latitude and 59° 00' west longitude to a point in 52° 15' north latitude and 42° 00' west longitude.

Sub-area 2—That portion of the Convention area lying to the south and west of sub-area 1 defined above and to the north of the parallel of 52° 15' north latitude.

Sub-area 3—That portion of the Convention area lying south of the parallel of 52° 15' north latitude; and to the east of a line extending due north from Cape Bauld on the north coast of Newfoundland to 52° 15' north latitude; to the north of the parallel of 39° 00' north latitude; and to the east and north of a rhumb line extending in a north-westerly direction which passes through a point in 43° 30' north latitude, 55° 00' west longitude, in the direction of a point in 47° 50' north latitude, 60° 00' west longitude, until it intersects a straight line connecting Cape Ray, on the coast of Newfoundland, with Cape North on Cape Breton Island; thence in a northeasterly direction along said line to Cape Ray.

Sub-area 4—That portion of the Convention area lying to the west of sub-area 3 defined above, and to the east of a line described as follows : beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel, at a point in 44° 46' 35.34" north latitude, 66° 54' 11.23" west longitude; thence due south to the parallel of 43° 50' north latitude; thence due west to the meridian of 67° 40' west longitude; thence due south to the parallel of 42° 20' north latitude; thence due east to a point in 66° 00' west longitude; thence along a rhumb line in a southeasterly direction to a point in 42° 00' north latitude, 65° 40' west longitude; thence due south to the parallel of 39° 00' north latitude.

Sub-area 5—That portion of the Convention area lying west of the western boundary of sub-area 4 defined above.

2. For a period of two years from the date of entry into force of this Convention, Panel representation for each sub-area shall be as follows :

(a) *Sub-area 1*—Denmark, France, Italy, Norway, Portugal, Spain, United Kingdom;

(b) *Sub-area 2*—Denmark, France, Italy, Newfoundland;

(c) *Sub-area 3*—Canada, Denmark, France, Italy, Newfoundland, Portugal, Spain, United Kingdom;

(d) *Sub-area 4*—Canada, France, Italy, Newfoundland, Portugal, Spain, United States;

(e) *Sub-area 5*—Canada, United States;

it being understood that during the period between the signing of this Convention and the date of its entry into force, any signatory or adhering Government may, by notification to the Depositary Government, withdraw from the list of members of a Panel for any sub-area or be added to the list of members of the Panel for any sub-area on which it is not named. The Depositary Government shall inform all the other Governments concerned of all such notifications received and the memberships of the Panels shall be altered accordingly.

Agreement for the Establishment of a General
Fisheries Council for the Mediterranean,
September 24, 1949*

* 126 U.N.T.S. 239.

[TRANSLATION¹ — TRADUCTION²]

No. 1691. AGREEMENT³ FOR THE ESTABLISHMENT OF A
GENERAL FISHERIES COUNCIL FOR THE MEDITER-
RANEAN. DRAWN UP AT ROME, ON 24 SEPTEMBER
1949

Preamble

The Governments of France, Greece, Italy, Lebanon, Turkey, United Kingdom, Yugoslavia, Members of the Food and Agriculture Organization of the United Nations, having a mutual interest in the development and proper utilization of the resources of the Mediterranean and contiguous waters, and desiring to further the attainment of their objectives through international cooperation which would be furthered by the establishment of a General Fisheries Council for the Mediterranean agree, as follows :

ARTICLE I

The Council

1. The contracting Governments agree to establish a Council to be known as the General Fisheries Council for the Mediterranean, hereinafter referred to as the Council, for the purpose of exercising the functions and discharging the responsibilities set forth in Article III below.
2. The Members of the Council shall be the Governments which accept this Agreement in accordance with the provisions of Article VIII below.

ARTICLE II

Organization

1. Each Member Government shall be represented at sessions of the Council by one delegate, who may be accompanied by an alternate and by experts and advisers. Participation in meetings of the Council by alternates, experts and

¹ Translation communicated by the Food and Agriculture Organization of the United Nations.

² Traduction transmise par l'Organisation des Nations Unies pour l'alimentation et l'agriculture.

³ In accordance with article IX, the Agreement came into force on 20 February 1952, the date of receipt by the Director-General of the Food and Agriculture Organization of the United Nations of the fifth notification of acceptance, in respect of the following States, on behalf of which the notifications of acceptance were deposited on the dates indicated :

Italy	29 May 1950	Egypt	19 February 1951
United Kingdom of Great Britain and Northern Ireland	20 November 1950	Yugoslavia	12 October 1951
		Israel	20 February 1952

advisers shall not entail the right to vote, except in the case of an alternate who is acting in the place of a delegate during his absence.

2. Each Member Government shall have one vote. Decisions of the Council shall be taken by a simple majority of the votes cast, except as otherwise provided by this Agreement. A majority of the total membership of the Council shall constitute a quorum.

3. The Council shall elect a Chairman and two Vice-Chairmen.

4. The Council shall determine the frequency, dates and place of its sessions, form such committees as it deems desirable, and establish rules governing its procedure.

5. The Chairman shall call a session of the Council at least once a year, unless directed otherwise by a majority of the Member Governments. The initial session shall be called by the Food and Agriculture Organization of the United Nations within six months after the entry into force of this Agreement and at such place as it may designate.

6. The seat of the Council shall be at the seat of the European Regional Office of the Food and Agriculture Organization of the United Nations now at Rome, Italy.

7. The Food and Agriculture Organization of the United Nations shall provide the Secretariat for the Council.

ARTICLE III

Functions

The Council shall have the following functions and responsibilities :

- a. To formulate all oceanographical and technical aspects of the problems of development and proper utilization of aquatic resources;
- b. To encourage and coordinate research and the application of improved methods employed in fishery and allied industries with a view to the utilization of aquatic resources;
- c. To assemble, publish or otherwise disseminate all oceanographical and technical information relating to aquatic resources;
- d. To recommend to Member Governments such national and international research and development projects as may appear necessary or desirable to fill gaps in such knowledge;
- e. To undertake, where appropriate, cooperative research and development projects directed to this end;
- f. To propose, and where necessary to adopt, measures to bring about the standardization of scientific equipment, techniques and nomenclature;

- g. To make comparative studies of the fishery legislation of different countries with a view to making recommendations to its Member Governments respecting the greatest possible coordination;
- h. To encourage research into the hygiene and prevention of the diseases peculiar to the calling of fishermen;
- i. To extend its good offices in assisting Member Governments to secure essential materials and equipments;
- j. To report upon such questions relating to all oceanographical and technical problems as may be recommended to it by Member Governments or by the Food and Agriculture Organization of the United Nations and, if it thinks proper to do so, by other international, national or private organisations, with related interests;
- k. To report annually upon its activities to Member Governments and to the Conference of the Food and Agriculture Organization of the United Nations; and to make such other reports to the Food and Agriculture Organization of the United Nations on matters falling within the competence of the Council as may seem to it necessary and desirable.

ARTICLE IV

Area

The Council shall carry out the functions and responsibilities set forth in Article III in the Mediterranean waters as they are geographically described. If, however, the Council contemplates studies outside this area, it shall make the necessary arrangements with the Governments and Organizations concerned, in conformity with paragraph (j) of Article III.

ARTICLE V

Cooperation with International Organisations

1. The Council shall cooperate closely with other international organizations in matters of mutual interest.
2. The Council shall, if it so deems opportune and useful, entrust to the international bodies referred to above, those responsibilities set forth in Article III which are of a scientific nature.

ARTICLE VI

Expenses

1. The expenses of delegates and their alternates, experts and advisers occasioned by attendance at meetings of the Council shall be determined and paid by their respective Governments.

2. The expenses of the Secretariat, including publications, and communications and the expenses incurred by the Chairman and Vice-Chairmen of the Council, when performing duties on behalf of the Council between Council sessions, shall be determined and paid by the Food and Agriculture Organization of the United Nations within the limits of an annual budget prepared and approved in accordance with the current regulations of that Organization.
3. The expenses of research and development projects undertaken by individual members of the Council, whether independently or upon recommendation of the Council, shall be determined and paid by the Governments concerned.
4. The expenses incurred in connection with cooperative research or development projects undertaken in accordance with the provisions of Article III, paragraphs (d) and (e) unless otherwise available shall be determined and paid by the Member Governments in the form and proportion to which they shall mutually agree.

ARTICLE VII

Amendments

Any amendment to this Agreement shall require the approval of a two-thirds majority of all the Members of the Council. An exception to this rule is made in the following cases :

- (1) Amendments to the Agreement enlarging the functions of the Council require the approval of the Conference of the Food and Agriculture Organization of the United Nations in addition to approval by a two-thirds majority of all the Members of the Council;
- (2) Amendments to the Agreement enlarging the powers of the Council to incur expenses to be borne by the Food and Agriculture Organization of the United Nations, shall require the approval of a two-thirds majority of all the Members of the Council and of the Director-General of the Food and Agriculture Organization of the United Nations.

ARTICLE VIII

Acceptance

1. This Agreement shall be open to acceptance by Governments which are members of the Food and Agriculture Organization of the United Nations.
2. This Agreement shall also be open to acceptance by Governments which are not members of the Food and Agriculture Organization of the United Nations.

Nations with the approval of its Conference and of two-thirds of the Members of the Council. Participation by such Governments in the activities of the Council shall be contingent upon the assumption of a proportionate share in the expenses of the Secretariat, as determined by the Council and approved by the Food and Agriculture Organization Conference.

3. The notifications of acceptance of this Agreement shall be deposited with the Director-General of the Food and Agriculture Organization of the Nations, who shall immediately inform all the Governments concerned of their receipt.

ARTICLE IX

Entry into Force

1. This Agreement shall enter into force as from the date of receipt of the fifth notification of acceptance.
2. Notifications of acceptance received after the entry into force of this Agreement shall take effect on the date of their receipt by the Director-General of the Food and Agriculture Organization of the United Nations who shall immediately inform all the Governments concerned and the Council of their receipt.

ARTICLE X

Withdrawal

Any Member Government may denounce this Agreement after the expiration of two years from the date upon which the Agreement entered into force with respect to that Government by giving written notice of its withdrawal to the Director-General of the Food and Agriculture Organization of the United Nations who shall immediately inform all the Governments concerned and the Council of such withdrawal. Notices of withdrawal shall become effective three months from the date of its receipt by the Director-General.

Drafted at Rome this twenty-fourth day of September one thousand nine hundred and forty-nine, in the French language, in a single copy which shall be deposited in the archives of the Food and Agriculture Organization of the United Nations, which shall furnish certified copies thereof to the Member Governments of the Food and Agriculture Organization of the United Nations

Convention for the Preservation of the Halibut
Fishery of the Northern Pacific Ocean and Bering
Sea, (United States-Canada),
March 2, 1953*

* 5 U.S.T. 7; T.I.A.S. 2900; 222 U.N.T.S. 77.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE PRESERVATION OF THE HALIBUT FISHERY OF THE NORTHERN PACIFIC OCEAN AND BERING SEA

The Government of the United States of America and the Government of Canada, desiring to provide more effectively for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, have resolved to conclude a Convention replacing the Convention signed at Ottawa, January 29, 1937 [¹] and have named as their plenipotentiaries:

The Government of the United States of America:

THE HONOURABLE DON C. BLISS,
Chargé d'Affaires ad interim.

THE HONOURABLE WILLIAM C. HERRINGTON,
Special Assistant for Fisheries and Wildlife to the Under-Secretary
of State.

The Government of Canada:

THE HONOURABLE JAMES SINCLAIR,
Minister of Fisheries.

THE HONOURABLE HUGUES LAPOINTE,
Minister of Veterans Affairs.

who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

Article I

1. The nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, respectively, are hereby prohibited from fishing for halibut (*Hippoglossus*) in Convention waters as herein defined, except as provided by the International Pacific Halibut Commission in regulations designed to develop the stocks of halibut in the Convention waters to those levels which will permit the maximum sustained yield and to maintain the stocks at those levels pursuant to Article III of this Convention.

¹ Treaty Series 917; 50 Stat. 1351.

2. "Convention waters" means the territorial waters and the high seas off the western coasts of the United States of America and of Canada, including the southern as well as the western coasts of Alaska.

3. It is understood that nothing contained in this Convention shall prohibit the nationals or inhabitants or the fishing vessels or boats of the United States of America or of Canada from fishing in the Convention waters for other species of fish during any season when fishing for halibut in the Convention waters is prohibited by this Convention or any regulations adopted pursuant to this Convention. It is further understood that nothing contained in this Convention shall prohibit the International Pacific Halibut Commission from conducting or authorizing fishing operations for investigation purposes at any time.

Article II

1. Every national or inhabitant, vessel or boat of the United States of America or of Canada engaged in fishing on the high seas in violation of this Convention or of any regulation adopted pursuant thereto may be seized by duly authorized officers of either Contracting Party and detained by the officers making such seizure and delivered as soon as practicable to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure or elsewhere as may be agreed upon. The authorities of the country to which such person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of the provisions of this Convention or any regulations which may be adopted in pursuance thereof and to impose penalties for such violation, and the witnesses and proof necessary for such prosecutions, so far as any witnesses or proofs are under the control of the other Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

2. Each Contracting Party shall be responsible for the proper observance of this Convention and of any regulations adopted under the provisions thereof in the portion of its waters covered thereby.

Article III

1. The Contracting Parties agree to continue under this Convention the Commission known as the International Fisheries Commission established by the Convention for the preservation of the halibut fishery signed at Washington, March 2, 1923,^[1] continued by the Convention signed at Ottawa, May 9, 1930^[2] and further continued by the Con-

¹ Treaty Series 701; 43 Stat. 1841.

² TS 837; 47 Stat. 1872.

vention, signed at Ottawa, January 29, 1937, except that after the date of entry into force of this Convention it shall consist of six members, three appointed by each Contracting Party, and shall be known as the International Pacific Halibut Commission. This Commission shall make such investigations as are necessary into the life history of the halibut in the Convention waters and shall publish a report of its activities and investigations from time to time. Each Contracting Party shall have power to fill, and shall fill from time to time, vacancies which may occur in its representation on the Commission. Each Contracting Party shall pay the salaries and expenses of its own members. Joint expenses incurred by the Commission shall be paid by the two Contracting Parties in equal moieties. All decisions of the Commission shall be made by a concurring vote of at least two of the Commissioners of each Contracting Party.

2. The Contracting Parties agree that for the purpose of developing the stocks of halibut of the Northern Pacific Ocean and Bering Sea to levels which will permit the maximum sustained yield from that fishery and for maintaining the stocks at those levels, the International Pacific Halibut Commission, with the approval of the President of the United States of America and of the Governor General in Council of Canada, may, after investigation has indicated such action to be necessary, in respect of the nationals and inhabitants and fishing vessels and boats of the United States of America and of Canada, and in respect of halibut:

- (a) divide the Convention waters into areas;
- (b) establish one or more open or closed seasons, as to each area;
- (c) limit the size of the fish and the quantity of the catch to be taken from each area within any season during which fishing is allowed;
- (d) during both open and closed seasons, permit, limit, regulate or prohibit, the incidental catch of halibut that may be taken, retained, possessed, or landed from each area or portion of an area, by vessels fishing for other species of fish;
- (e) prohibit departure of vessels from any port or place, or from any receiving vessel or station, to any area for halibut fishing, after any date when in the judgment of the International Pacific Halibut Commission the vessels which have departed for that area prior to that date or which are known to be fishing in that area shall suffice to catch the limit which shall have been set for that area under section (c) of this paragraph;
- (f) fix the size and character of halibut fishing appliances to be used in any area;

- (g) make such regulations for the licencing and departure of vessels and for the collection of statistics of the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this Convention;
- (h) close to all taking of halibut such portion or portions of an area or areas as the International Pacific Halibut Commission finds to be populated by small, immature halibut and designates as nursery grounds.

Article IV

The Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and any regulation adopted thereunder, with appropriate penalties for violations thereof.

Article V

1. This Convention shall be ratified and the instruments of ratification exchanged at Washington as soon as possible.

2. This Convention shall enter into force on the date of exchange of ratifications and shall remain in force for a period of five years and thereafter until two years from the date on which either Contracting Party shall have given notice to the other of its desire to terminate it.

3. This Convention shall, from the date of the exchange of ratifications, replace and terminate the Convention for the preservation of the halibut fishery signed at Ottawa, January 29, 1937.

IN WITNESS WHEREOF the respective plenipotentiaries have signed and sealed this Convention.

DONE at Ottawa in duplicate, in the English language, this Second day of March 1953.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

[SEAL]

DON C. BLISS

WILLIAM C HERRINGTON

FOR THE GOVERNMENT OF CANADA:

[SEAL]

JAMES SINCLAIR

HUGUES LAPOINTE

Protocol Amending the Halibut Fishery Convention
(with annex) (United States-Canada),
March 29, 1979*

* T.I.A.S. 9855.

PROTOCOL AMENDING THE CONVENTION BETWEEN
THE UNITED STATES OF AMERICA AND CANADA FOR
THE PRESERVATION OF THE HALIBUT FISHERY OF
THE NORTHERN PACIFIC OCEAN AND BERING SEA

The Government of The United States of America and
the Government of Canada,

Having regard to the Convention between the United
States of America and Canada for the Preservation of the
Halibut Fishery of the Northern Pacific Ocean and Bering
Sea, signed at Ottawa, March 2, 1953^[1] (hereinafter "the
Convention"),

Sharing the view that the Convention has served to
promote and coordinate scientific studies relating to
the halibut fishery of the Northern Pacific Ocean and
the Bering Sea, and has aided in the conservation of
these fishery resources,

Taking into account that each of the Parties has
established exclusive jurisdiction over fisheries within
200 nautical miles of its coasts, and that portions of
the Convention area are within the areas of such exclu-
sive fisheries jurisdiction,

Recognizing that the Convention does not take fully
into account developments in fishery conservation and
management and,

Desirous of amending the Convention,

¹ TIAS 2900; 5 UST 5.

Have agreed as follows:

ARTICLE I

The Convention shall be amended to read as follows:

"The Government of the United States of America and the Government of Canada have agreed as follows:

Article I

1. All fishing for halibut (Hippoglossus) in Convention waters as herein defined is hereby prohibited except as expressly provided in paragraphs 2 and 5 of this Article.

2. Nationals and fishing vessels of, and fishing vessels licensed by, the United States or Canada may fish for halibut in Convention waters only in accordance with this Convention, including its Annex, and as provided by the International Pacific Halibut Commission in regulations promulgated pursuant to Article III of the Convention and designed to develop the stocks of halibut in the Convention waters to those levels which will permit the optimum yield from the fishery and to maintain the stocks at those levels. However, it is understood that nothing contained in this Convention shall prohibit either Party from establishing additional regulations, applicable to its own nationals and fishing vessels, and

to fishing vessels licensed by that Party, governing the taking of halibut which are more restrictive than those adopted by the International Pacific Halibut Commission.

3. "Convention waters" means the waters off the west coasts of the United States and Canada, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which either Party exercises exclusive fisheries jurisdiction. For purposes of this Convention, the "maritime area" in which a Party exercises exclusive fisheries jurisdiction includes without distinction areas within and seaward of the territorial sea or internal waters of that Party.

4. Nothing contained in this Convention shall prohibit the nationals or fishing vessels of the United States, of Canada, or of any third country from fishing in the Convention waters for other species of fish during any season when fishing for halibut in the Convention waters is prohibited by this Convention or by any regulations adopted pursuant to this Convention.

5. Subject to and in accordance with International Pacific Halibut Commission and other applicable regulations and permit and licensing requirements including the payment of fees, sport fishing for halibut and other species by nationals and vessels of each Party may be conducted in

Convention waters, except that licensing or permit requirements directed specifically at foreign fishing vessels pursuant to the Fishery Conservation and Management Act of 1976 ^[1] of the United States and the Coastal Fisheries Protection Act of Canada, as amended from time to time, or pursuant to any statute replacing such Acts, shall not apply. All provisions of this Convention except this paragraph, refer to commercial halibut fishing.

Article II

1. Each Party shall have the right to enforce this Convention and any regulations adopted pursuant thereto:

- (a) in all Convention waters, against its own nationals and fishing vessels;
- (b) in that portion of the Convention waters in which it exercises exclusive fisheries jurisdiction, against nationals or fishing vessels of either Party or of third parties.

2. Each Party may, to the extent of its enforcement authority under this Convention, conduct prosecutions or take other action under its domestic law for the violation of this Convention or of any regulations adopted pursuant thereto. The witnesses and evidence

¹ 90 Stat. 881; 16 U.S.C. § 1801.

necessary for such prosecutions or other legal actions, so far as any witnesses or evidence are under the control of the other Party, shall be furnished promptly to the authorities of the Party having jurisdiction to conduct such prosecutions or other legal actions.

3. Each Party shall take appropriate measures to ensure that its nationals and fishing vessels allow and assist boardings and inspections of such vessels in accordance with paragraph 1 by duly authorized officials of the other Party.

Article III

1. The Parties agree to continue under this Convention the Commission known as the International Fisheries Commission established by the Convention for the Preservation of the Halibut Fishery, signed at Washington, March 2, 1923,^[1] continued by the Convention signed at Ottawa, May 9, 1930,^[2] and further continued by the Convention, signed at Ottawa, January 29, 1937.^[3] The Commission shall consist of six members, three appointed by each Party, and shall be known as the International Pacific Halibut Commission (hereinafter "the Commission"). Each Commissioner shall serve at the pleasure of the appointing Party, and each Party shall fill vacancies in its representation on the Commission as they occur. Each Party shall pay the salaries and expenses of its own members.

¹ TS 701; 43 Stat. 1841.

² TS 837; 47 Stat. 1872.

³ TS 917; 50 Stat. 1351.

Joint expenses incurred by the Commission shall be paid by the two Parties in equal shares. However, upon recommendation of the Commission, the Parties may agree to vary the proportion of such joint expenses to be paid by each Party after March 31, 1981. All decisions of the Commission shall be made by a concurring vote of at least two of the Commissioners of each Party.

2. The Commission shall make such investigations as are necessary into the life history of the halibut and may conduct or authorize fishing operations to carry out such investigations.

3. For the purpose of developing the stocks of halibut of the Northern Pacific Ocean and Bering Sea to levels which will permit the optimum yield from that fishery, and of maintaining the stocks at those levels, the Commission, with the approval of the Parties and consistent with the Annex to this Convention, may, after investigation has indicated such action to be necessary, with respect to the nationals and fishing vessels of, and fishing vessels licensed by, the United States or Canada, and with respect to halibut:

- (a) divide the Convention waters into areas;
- (b) establish one or more open or closed seasons as to each area;
- (c) limit the size of the fish and the

- quantity of the catch to be taken from each area within any season during which fishing is allowed;
- (d) during both open and closed seasons, permit, limit, regulate or prohibit the incidental catch of halibut that may be taken, retained, possessed, or landed from each area or portion of an area, by vessels fishing for other species of fish;
- (e) fix the size and character of halibut fishing appliances to be used in any area;
- (f) make such regulations for the licensing of vessels and for the collection of statistics on the catch of halibut as it shall find necessary to determine the condition and trend of the halibut fishery and to carry out the other provisions of this Convention;
- (g) close to all taking of halibut any area or portion of an area that the Commission finds to be populated by small, immature halibut and designates as nursery grounds.

4. The Commission shall periodically publish reports of its activities, including its investigations.

Article IV

The Parties shall take any action, including enactment of legislation and enforcement, as may be necessary to make effective the provisions of this Convention and any regulations adopted thereunder.

Article V

1. The Annex to this Convention shall constitute an integral part of the Convention, and all references to the Convention shall be considered to refer to the Annex as well.

2. The Parties may, by mutual agreement, amend any provision of the Annex.

Article VI

Nothing in this Agreement shall be construed to affect or prejudice any position or claim which has been or may subsequently be adopted by either Party in the course of consultations, negotiations or third party settlement procedures respecting the maritime jurisdiction, including the limits thereof, of the United States or of Canada.

Article VII

This Convention shall remain in force until March 31, 1981, and thereafter until one year from the date on which either Party shall have given notice to the other of its desire to terminate it.

ANNEX

1. Nationals and fishing vessels of, and fishing vessels licensed by, either Party shall not fish for halibut in Convention waters in which the other exercises exclusive fisheries jurisdiction except as provided in Article I of the Convention and as stated in this Annex.

2. In the maritime area outside the Bering Sea in which the United States exercises exclusive fisheries jurisdiction, beyond three miles from the baseline from which the territorial sea of the United States is measured, nationals and fishing vessels of Canada issued registration permits by the United States may catch three million pounds of halibut during the period beginning April 1, 1979, and ending March 31, 1981, subject to the following limits:

- (a) during the period beginning April 1, 1979, and ending March 31, 1980, they may catch two million pounds of halibut;
- (b) during the period beginning April 1, 1980, and ending March 31, 1981, they may catch one million pounds of halibut, except that this catch limit shall be adjusted such that the catch by nationals and vessels of Canada under sub-paragraphs (a) and (b) shall total three million pounds.

3. After April 1, 1979, the annual total allowable catch set by the Commission for halibut fishing in Area 2 shall be divided as follows:

- (a) Forty percent of the annual total allowable catch may be caught in the maritime area in which the United States exercises exclusive fisheries jurisdiction as of March 29, 1979;
- (b) Sixty percent of the annual total allowable catch may be caught in the maritime area in which Canada exercises exclusive fisheries jurisdiction as of March 29, 1979.

4. Fishing effort by nationals and vessels of Canada in that portion of Area 2 in which the United States exercises exclusive fisheries jurisdiction and in Area 3 shall be in the same general proportion as the historical level of Canadian effort in those areas.

5. Nationals and fishing vessels of Canada may not retain incidental catches of species other than halibut, except for immediate on-board use as bait, when conducting fishing operations pursuant to the Convention in the maritime area in which the United States exercises exclusive fisheries jurisdiction.

6. Vessels of Canada engaged in fishing for halibut in the maritime area in which the United States exercises

exclusive fisheries jurisdiction shall have on board a registration permit issued by the Government of the United States. No fees shall be required for such permits. Applications for such permits shall be prepared and processed in accordance with paragraphs 7 and 8 of this Annex.

7. Applications for registration permits under paragraph 6 of this Annex shall be made on forms provided by the Government of the United States for that purpose. Such applications shall specify:

- (a) the name and official number or other identification of each fishing vessel for which a registration permit is sought, together with the name and address of the owner and operator thereof;
- (b) the tonnage, capacity, length and home port of each fishing vessel for which a registration permit is sought.

8. The appropriate officials of the Government of the United States shall review each application for a registration permit and shall notify appropriate officials of the Government of Canada upon acceptance of the application. Upon acceptance of the application, the Government of the United States shall issue a registration permit to that fishing vessel, which shall thereupon be authorized to fish in accordance with the Convention. Each such regis-

tration permit shall be issued for a specific vessel, shall be applicable for the annual period beginning April 1, 1979, and ending March 31, 1980, or for the annual period beginning April 1, 1980, and ending March 31, 1981, and shall not be transferable.

9. Nationals and fishing vessels of Canada intending to fish for halibut in the maritime area in which the United States exercises exclusive fisheries jurisdiction shall report to appropriate United States officials, at least 24 hours prior to entering the area:

- (a) the vessel name and registration permit number;
- (b) the anticipated date fishing will begin;
- (c) the sub-area, as described in paragraph 13 of this Annex, in which fishing will initially take place.

10. Nationals and fishing vessels of Canada shall have no fish on board at the time of entry into the maritime area in which the United States exercises exclusive fisheries jurisdiction, except for immediate on-board use as bait.

11. Nationals and fishing vessels of Canada, while operating within the maritime area in which the United States exercises exclusive fisheries jurisdiction, shall:

- (a) have the name and port of registration clearly visible on the stern and fly the flag of Canada at all times;

(b) prior to moving between sub-areas, as described in paragraph 13 of this Annex, report to appropriate United States officials:

- (i) the vessel name and registration permit number;
- (ii) the sub-area in which fishing will cease;
- (iii) the sub-area in which fishing will take place;
- (iv) the date upon which the move will take place.

12. Nationals and fishing vessels of Canada, prior to departure from the maritime area in which the United States exercises exclusive fisheries jurisdiction, shall report to appropriate United States officials:

- (a) the vessel name and registration permit number;
- (b) the date fishing in such area ceases;
- (c) the estimated amount (in pounds) of halibut on board upon departure from such area;
- (d) the anticipated port of delivery.

13. The sub-areas of the maritime area in which the United States exercises exclusive fisheries jurisdiction, referred to in paragraphs 9 and 11 are:

- (a) Southeast: adjacent to Alaska, south and east of a line running south one-

- quarter east (177° magnetic) from Cape Spencer Light (58° 11' 57" North latitude, 136° 38' 18" West longitude);
- (b) Yakutat: adjacent to Alaska, north and west of a line running south one-quarter east (177° magnetic) from Cape Spencer Light to 147° 00' West longitude;
- (c) Kodiak: adjacent to Alaska, west of 147° 00' West longitude to 159° 00' West longitude, not including the Bering Sea;
- (d) Shumagin: adjacent to Alaska, west of 159° 00' West longitude to 173° 00' West longitude, not including the Bering Sea;
- (e) Aleutian: adjacent to Alaska, west of 173° 00' West longitude, not including the Bering Sea;
- (f) Washington/Oregon/California: adjacent to Washington, Oregon and California.

14. By January 1, 1981, and thereafter as it considers appropriate, the Commission shall, on the basis of a review of pertinent information, recommend for the approval of the Parties any appropriate changes in the division of the annual total allowable catch set forth in paragraph 3 of this Annex. No such changes may take effect before April 1, 1981.

15. Each year the Commission shall report to the Parties as soon as 75 percent has been taken of that portion of the annual total allowable catch authorized under paragraph 3(a) or 3(b) of this Annex. Upon making this report, the Commission may recommend to the Parties reallocation of the annual total allowable catch in Area 2 between the areas described in paragraphs 3(a) and 3(b) of this Annex. Any such recommendation shall include a date upon which the reallocation, if approved by the Parties, shall take effect. Such reallocation may, notwithstanding the terms of paragraph 14, take effect at any time, and shall remain in effect until March 31 following the date on which it takes effect.

16. Pending delimitation of maritime boundaries between the United States and Canada in the Convention area, the following principles shall be applied as interim measures in the boundary regions:

- (a) as between the Parties, enforcement of the Convention shall be carried out by the flag state;
- (b) neither Party shall authorize fishing for halibut by vessels of third parties;
- (c) either Party may enforce the Convention with respect to fishing for halibut, or related activities, by vessels of third parties.

17. For purposes of this Annex, "Area 2" means that portion of the Convention waters east of a line running northwest one-quarter west (312° magnetic) from Cape Spencer Light (latitude 58°11'57"North, longitude 136°38'18"West) and south and east of a line running south one-quarter east (177°magnetic) from said light."

ARTICLE II

This Protocol shall be ratified by the Parties and the instruments of ratification exchanged at Ottawa as soon as possible. This Protocol shall enter into force on the date of exchange of ratifications.^[1]

¹Oct. 15, 1880.

Amendment to the Agreement for the Establishment of
the Indo-Pacific Fisheries Council,
November 23, 1961*

* 13 U.S.T. 2511; T.I.A.S. 5218; 418 U.N.T.S. 348.

MULTILATERAL

Indo-Pacific Fisheries Council

Agreement as amended at the Ninth Session of the Council, Karachi, January 6-23, 1961.

Adopted January 20, 1961, by the Council at the Ninth Session, Karachi;

Approved November 23, 1961, by the Eleventh Session of the Food and Agriculture Organization of the United Nations, held at Rome;

Entered into force November 23, 1961.

And amendments adopted December 17, 1958, by the Council at the Eighth Session, Colombo;

Entered into force December 17, 1958.

AGREEMENT FOR THE ESTABLISHMENT OF THE INDO-PACIFIC FISHERIES COUNCIL^[1]

as amended by the Ninth Session of
the Indo-Pacific Fisheries Council
Karachi, Pakistan (6-23 January 1961)

and

approved by the Eleventh Session of the
Conference of the Food and Agriculture
Organization of the United Nations
Rome, Italy (4-24 November 1961)

PREAMBLE

The Governments of Burma, China,^[2] France, India, the Netherlands, the Republic of the Philippines, the United Kingdom and the United States of America, Members of the Food and Agriculture Organization of the United Nations, having a mutual interest in the

¹The amended text printed herein replaces the text of the agreement of Feb. 26, 1948 (TIAS 1895; 62 Stat. (pt. 3) 8711), and also the composite text of the agreement as revised at the Sixth Session of the Council, Tokyo (TIAS 3074; 7 UST 2927), and the amendments to the agreement which were adopted Dec. 17, 1958, at the Eighth Session of the Council, Colombo (*post*, p. 2527).

²The Government of China having withdrawn from the FAO is deemed to have withdrawn also from the Indo-Pacific Fisheries Council. (Source: FAO document 59/10/7287, Oct. 5, 1959.)

development and proper utilization of the living aquatic resources of the Indo-Pacific Areas, and desiring to further the attainment of these ends through international co-operation by the establishment of an Indo-Pacific Fisheries Council, agree as follows:

ARTICLE I

The Council

1. The contracting Governments agree to establish, within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as "the Organization"), a Council to be known as the Indo-Pacific Fisheries Council, for the purpose of carrying out the functions and duties hereinafter set forth in Article IV.

2. The Members of the Council^[1] shall be such Member Nations and Associate Members of the Organization and such Non-Member Nations of the Organization which are Members of the United Nations, that accept this Agreement in accordance with the provisions of Article IX thereof. As regards Associate Members, this Agreement shall, in accordance with the provisions of Article XIV-5 of the Constitution^[2] and Rule XXXI-3 of the General Rules of the Organization, be submitted by the Organization to the authority having responsibility for the international relations of such Associate Members.

ARTICLE II

Organization

1. Each Member shall be represented at sessions of the Council by a single delegate, who may be accompanied by an alternate and by experts and advisers. Participation in sessions of the Council by alternates, experts and advisers shall not entail the right to vote, except in the case of an alternate who is acting in the place of a delegate during his absence.

2. Each Member shall have one vote. Decisions of the Council shall be taken by a majority of the votes cast, except when a greater majority is required by this Agreement or by the Rules governing the procedure of the Council. A majority of the total membership of the Council shall constitute a quorum.

3. The Council shall at each regular session elect a Chairman and a Vice-Chairman who shall serve until the end of the next regular session.

¹ At the time of this publication, the Member Nations were as follows: United States of America, Australia, Burma, Cambodia, Ceylon, France, India, Indonesia, Japan, Republic of Korea, Malaya, Netherlands, Pakistan, Philippines, Thailand, United Kingdom, and Viet-Nam.

² TIAS 4803; 12 UST 995.

4. The Chairman of the Council in consultation with the Director-General of the Organization shall convene a regular session of the Council at least once in every two years unless otherwise directed by a majority of the Members. The site and date of all sessions shall be determined by the Council in consultation with the Director-General of the Organization.
5. The seat of the Council shall be at the seat of the Regional Office of the Organization most conveniently situated within the area defined in Article V. Pending the establishment of such a Regional Office, the Council shall select a temporary seat within that area.
6. The Organization shall provide the Secretariat for the Council and the Director-General shall appoint its Secretary, who shall be administratively responsible to him.
7. The Council may, by a two-thirds majority of its membership, adopt and amend its own Rules of Procedure which shall be consistent with the General Rules of the Organization. The Rules of the Council and any amendments thereto shall come into force as from the date of approval by the Director-General of the Organization, subject to confirmation by the Council of the Organization.

ARTICLE III

Committees and Working Parties

1. There shall be an Executive Committee consisting of the Chairman, the Vice-Chairman and the immediately retired Chairman. In the unavoidable absence of one or two members of the Executive Committee from a Committee session, the Chairman shall have the power to co-opt the chairman of one or two of the Technical Committees which may from time to time be established in accordance with the Rules governing the procedure of the Council, at his discretion, to substitute the absent Committee member or members for that Committee session only, provided that one permanent member of the Executive Committee shall always be present and that the number of voting members attending the Committee session shall in no case exceed three.
2. The Council may in addition establish temporary, special or standing committees to study and report on matters pertaining to the purpose of the Council.
3. The Council may establish working parties to study and recommend on specific technical problems. These working parties shall be convened by the Director-General of the Organization at such times and places as are in accordance with the objectives for which they were established.
4. The establishment of committees and working parties referred to in paragraphs 2 and 3 above shall be subject to the availability of

the necessary funds in the relevant chapter of the approved budget of the Organization; the determination of such availability shall be made by the Director-General. Before taking any decision involving expenditures in connection with the establishment of committees and working parties the Council shall have before it a report from the Director-General on the administrative and financial implications thereof.

ARTICLE IV

Functions

The Council shall have the following functions and duties:

- a. To formulate the oceanographical, biological and other technical aspects of the problems of development and proper utilization of living aquatic resources;
- b. To encourage and co-ordinate research and application of improved methods in every day practice;
- c. To assemble, publish or otherwise disseminate oceanographical, biological and other technical information relating to living aquatic resources;
- d. To recommend to Members such national or co-operative research and development projects as may appear necessary or desirable to fill gaps in such knowledge;
- e. To undertake, where appropriate, co-operative research and development projects directed to this end;
- f. To propose, and where necessary to adopt, measures to bring about the standardization of scientific equipment, techniques and nomenclature;
- g. To extend its good offices in assisting its Members to secure essential material and equipment;
- h. To report upon such questions relating to oceanographical, biological and other technical problems as may be recommended to it by Members or by the Organization and other international, national or private organizations with related interests;
- i. To transmit biennially to the Director-General of the Organization a report embodying its views, recommendations and decisions, and make such other reports to the Director-General of the Organization as may seem to it necessary or desirable. Reports of the committees and working parties of the Council provided for in Article III of this Agreement shall be transmitted to the Director-General through the Council.

ARTICLE V

Area

The Council shall carry out the functions and duties set forth in Article IV in the Indo-Pacific area.

ARTICLE VI

Cooperation with International Bodies

The Council shall cooperate closely with other international bodies in matters of mutual interest.

ARTICLE VII

Expenses

1. The expenses of delegates and their alternates, experts and advisers occasioned by attendance at sessions of the Council and the expenses of representatives on committees or working parties established in accordance with Article III of this Agreement shall be determined and paid by their respective governments.
2. The expenses of the Secretariat, including publications and communications, and of the Chairman, Vice-Chairman and the immediately retired Chairman of the Council, when performing duties connected with its work during intervals between its sessions, shall be determined and paid by the Organization within the limits of a biennial budget prepared and approved in accordance with the Constitution, the General Rules and Financial Regulations of the Organization.
3. The expenses of research or development projects undertaken by individual Members of the Council, whether independently or upon the recommendation of the Council, shall be determined and paid by their respective Governments.
4. The expenses incurred in connection with cooperative research or development projects undertaken in accordance with the provisions of Article IV, paragraphs (d) and (e) unless otherwise available shall be determined and paid by the Members in the form and proportion to which they shall mutually agree. Cooperative projects shall be submitted to the Council of the Organization prior to implementation. Contributions for cooperative projects shall be paid into a trust fund to be established by the Organization and shall be administered by the Organization in accordance with the Financial Regulations and Rules of the Organization.
5. The expenses of experts invited, with the concurrence of the Director-General, to attend meetings of the Council, committees or working parties in their individual capacity shall be borne by the budget of the Organization.

ARTICLE VIII

Amendments

The Indo-Pacific Fisheries Council may amend this Agreement by a two-thirds majority of all the Members of this Council, any amendment becoming effective only after concurrence of the Council of the Organization unless the latter considers it desirable to refer the amendment to the Conference of the Organization for approval. An amendment shall become effective as from the date of the decision of the Council or Conference of the Organization as appropriate. However, any amendment involving new obligations for Members shall come into force with respect to each Member only on acceptance of it by that Member. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of the Organization who shall inform all the Members of the Indo-Pacific Fisheries Council as well as the Secretary-General of the United Nations of the receipt of acceptances and the entry into force of such amendments. The rights and obligations of any member of the Indo-Pacific Fisheries Council that has not accepted an amendment involving additional obligations shall continue to be governed by the provisions of this Agreement as they stood prior to the amendment.

ARTICLE IX

Acceptance

1. This agreement shall be open to acceptance by Member Nations and Associate Members of the Organization.
2. The Council may, by a two-thirds majority of its membership, admit to membership such other nations that are Members of the United Nations as have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of admission. Participation by such nations in the activities of the Council shall be contingent upon the assumption of a proportionate share in the expenses of the Secretariat, as determined by the Organization.
3. Acceptance of this Agreement by any Member Nation or Associate Member of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization and shall take effect on receipt of such instrument by the Director-General.
4. Acceptance of this Agreement by Non-Member Nations of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization. Membership shall become effective on the date on which the Council approves

the application for membership, in conformity with the provisions of paragraph 2 of this Article.

5. The Director-General of the Organization shall inform all Members of the Council, all Member Nations of the Organization and the Secretary-General of the United Nations of all acceptances that have become effective.

6. Acceptance of this Agreement may be made subject to reservations which shall become effective only upon unanimous approval by the Members of the Council. The Director-General of the Organization shall notify forthwith all Members of the Council of any reservations. Members of the Council not having replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such approval the Nation making the reservation shall not become a party to this Agreement.

ARTICLE X

Entry into Force

This Agreement shall enter into force upon the date of receipt of the fifth instrument of acceptance.

ARTICLE XI

Territorial Application

The Members of the Council shall, when accepting this Agreement, state explicitly to which territories their participation shall extend. In the absence of such a declaration, participation shall be deemed to apply to all the territories for the international relations of which the Member is responsible. Subject to the provisions of Article XII below, the scope of the territorial application may be modified by a subsequent declaration.

ARTICLE XII

Withdrawal

1. Any Member may withdraw from this Agreement at any time after the expiration of two years from the date upon which the Agreement entered into force with respect to that Member by giving written notice of such withdrawal to the Director-General of the Organization who shall immediately inform of such withdrawal all the Members of the Council and the Member Nations of the Organization as well as the Secretary-General of the United Nations. Notice of withdrawal shall become effective three months from the date of its receipt by the Director-General.

2. A Member of the Council may give notice of withdrawal with respect to one or more of the territories for the international relations of which it is responsible. When a Member gives notice of its own withdrawal from the Council it shall state to which territory or territories the withdrawal is to apply. In the absence of such a declaration, the withdrawal shall be deemed to apply to all the territories for the international relations of which the Member of the Council is responsible except that such withdrawal shall not be deemed to apply to an Associate Member.

3. Any Member of the Council that gives notice of withdrawal from the Organization shall be deemed to have simultaneously withdrawn from the Council, and this withdrawal shall be deemed to apply to all the territories for the international relations of which the Member concerned is responsible, except that such withdrawal shall not be deemed to apply to an Associate Member.

ARTICLE XIII

Interpretation and Settlement of Disputes

Any dispute regarding the interpretation or application of this Agreement if not settled by the Council shall be referred to a committee composed of one member appointed by each of the parties to the dispute, and in addition an independent chairman chosen by the members of the committee. The recommendations of such a committee, while not binding in character, shall become the basis for renewed consideration by the parties concerned of the matter out of which the disagreement arose. If as the result of this procedure the dispute is not settled, it shall be referred to the International Court of Justice in accordance with the Statute of the Court,^[1] unless the parties to the dispute agree to another method of settlement.

ARTICLE XIV

Termination

This Agreement shall be considered terminated if and when the number of Members of the Council drops below five unless the remaining Members of the Council unanimously decide otherwise.

ARTICLE XV

Certification and Registration

The text of this Agreement was originally formulated at Baguio the 26th day of February, one thousand nine hundred and forty eight in the English language. Two copies in the English and French languages of this Agreement as amended shall after approval by the

¹ TS 993 ; 59 Stat. 1055.

Council or Conference of the Organization, as appropriate, be certified by the Chairman of the Conference or Council of the Organization and by the Director-General of the Organization. One of these copies shall be deposited in the archives of the Organization. The other copy shall be transmitted to the Secretary-General of the United Nations for registration. In addition, the Director-General shall certify copies of this Agreement and transmit one copy to each Member Nation of the Organization and to such Non-Member Nations of the Organization that may become parties to this Agreement.

AMENDMENTS¹ TO THE COUNCIL AGREEMENT

At the 8th Session of the Indo-Pacific Fisheries Council held in Colombo, Ceylon, December 6-22, 1958, the Agreement constituting the IPFC was amended to permit re-programming of the Council's activities to conform with the view expressed at the 7th Session of the Council.

The Amendments of the Agreement were as follows:

- ARTICLE II, par. 5, To delete the word "year" and insert the words "two years" after the word "every".
- ARTICLE III, clause "i" To delete the word "annually" and substitute the word "biennially" after "to report".
- ARTICLE VI, par. 2, To delete the words "an annual" and substitute the words "a biennial" before the word "budget".

¹Source: Enclosure to FAO circular letter of June 3, 1959, reference IPFC/Circ.59/12 (FEFI 301).

These amendments, which entered into force Dec. 17, 1958, are embodied in the amended text of the agreement adopted at the Ninth Session of the Council; *ante*, p. 2511 ff. See Art. II, par. 4; Art. III, clause (i); Art. VII, par. 2.

Convention on Conduct of Fishing Operations in the
North Atlantic (with annexes), March 17, 1967*

* 6 I.L.M. 760 (1967).

CONVENTION
ON CONDUCT OF FISHING OPERATIONS IN
THE NORTH ATLANTIC*

[Opened for signature at London, June 1, 1967]

The Governments of Belgium, Canada, Denmark, the French Republic, the Federal Republic of Germany, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, the Polish People's Republic, Portugal, Spain, Sweden, the United States of America, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland,

Desiring to ensure good order and conduct on the fishing grounds in the North Atlantic area;

Have agreed as follows:

ARTICLE 1

(1) The present Convention applies to the waters of the Atlantic and Arctic Oceans and their dependent seas which are more specifically defined in Annex I to this Convention.

(2) In this Convention

“fishing vessel” means any vessel engaged in the business of catching fish;

“vessel” means any fishing vessel and any vessel engaged in the business of processing fish or providing supplies or services to fishing vessels.

ARTICLE 2

Nothing in this Convention shall be deemed to affect the rights, claims or views of any Contracting Party in regard to the limits of territorial waters or national fishery limits, or of the jurisdiction of a coastal State over fisheries.

ARTICLE 3

(1) The fishing vessels of each Contracting Party shall be registered and marked in accordance with the regulations of that Party in order to ensure their identification at sea.

(2) The competent authority of each Contracting Party shall specify one or more letters and a series of numbers for each port or district.

(3) Each Contracting Party shall draw up a list showing these letters.

(4) This list, and all modifications which may subsequently be made in it, shall be notified to the other Contracting Parties.

(5) The provisions of Annex II to this Convention shall apply to fishing vessels and their small boats and fishing implements.

*[Reproduced from the Annex to the Final Act of the Fisheries Policing Conference, done at London, March 17, 1967.]

ARTICLE 4

(1) In addition to complying with the rules relating to signals as prescribed in the International Regulations for Preventing Collisions at Sea, the fishing vessels of each Contracting Party shall comply with the provisions of Annex III to this Convention.

(2) No other additional light and sound signals than those provided in the Annex shall be used.

ARTICLE 5

Nets, lines and other gear anchored in the sea and nets or lines which drift in the sea shall be marked in order to indicate their position and extent. The marking shall be in accordance with the provisions of Annex IV to this Convention.

ARTICLE 6

(1) Subject to compliance with the International Regulations for Preventing Collisions at Sea all vessels shall conduct their operations so as not to interfere with the operations of fishing vessels or fishing gear and shall conform to the provisions of Annex V to this Convention.

(2) For the better implementation of these provisions the competent authorities of Contracting Parties may at their discretion notify the competent authorities of other Contracting Parties likely to be concerned of concentrations or probable concentrations known to them of fishing vessels or fishing gear, and Contracting Parties receiving such notification shall take such steps as are practicable to inform their vessels thereof. The authorised officers appointed in accordance with Article 9 of this Convention may also draw the attention of vessels to fishing gear placed in the sea.

ARTICLE 7

(1) In any dispute that arises between the nationals of different Contracting Parties concerning damaged gear or damage to vessels resulting from entanglement of gear, the following procedure will apply in the absence of agreement among the Contracting Parties concerning the resolution of such disputes:

At the request of the Contracting Party of a complainant each Contracting Party concerned will appoint a review board or other appropriate authority for handling the claim. These boards or other authorities will examine the facts and endeavour to bring about a settlement.

(2) These arrangements are without prejudice to the rights of complainants to prosecute their claims by way of ordinary legal procedure.

ARTICLE 8

(1) Each Contracting Party undertakes to take such measures as may be appropriate to implement and enforce the provisions of this Convention with respect to its vessels and gear.

(2) Within the area where a coastal State has jurisdiction over fisheries, the implementation and enforcement of the provisions of this Convention shall be the responsibility of the coastal State.

(3) Within that area the coastal State may make special rules and exemptions from any of the Rules in Annexes II to V to this Convention for vessels or gear which by reason of their size or type operate or are set only in coastal waters, provided that there shall be no discrimination in form or in fact against vessels of other Contracting Parties entitled to fish in those waters. Before making special rules and exemptions under this paragraph in respect of areas in which foreign fishing vessels operate a Contracting Party shall inform the Contracting Parties concerned of their intentions and consult them if they so wish.

ARTICLE 9

(1) To facilitate the implementation of the provisions of the Convention the arrangements set out in this Article and in Annex VI to this Convention shall apply outside national fishery limits.

(2) Authorised officers means officers who may be appointed by the Contracting Parties for the purpose of these arrangements.

(3) Any Contracting Party shall, upon the request of another Contracting Party, notify the latter of the names of the authorised officers who have been appointed or of the ships in which such officers are carried.

(4) Authorised officers shall observe whether the provisions of the Convention are being carried out, enquire and report on infringements of the provisions of the Convention, seek information in cases of damage, where desirable draw the attention of vessels of Contracting Parties to the provisions of the Convention, and shall co-operate for these purposes with the authorised officers of other Contracting Parties.

(5) If an authorised officer has reason to believe that a vessel of any Contracting Party is not complying with the provisions of the Convention, he may identify the vessel, seek to obtain the necessary information from the vessel and report. If the matter is sufficiently serious, he may order the vessel to stop and, if it is necessary in order to verify the facts of the case, he may board the vessel for enquiry and report.

(6) If an authorised officer has reason to believe that a vessel or its gear has caused damage to a vessel or fishing gear and that this may be due to a breach of the Convention, he may, under the same conditions as in the preceding paragraph, order any vessel concerned to stop and board it for enquiry and report.

(7) An authorised officer shall not order a fishing vessel to stop while it is actually fishing or engaged in shooting or hauling gear except in an emergency to avoid damage to vessels or gear.

(8) An authorised officer shall not pursue his enquiries further than is necessary to satisfy him either that there has been no breach of the Convention, or, where it appears to him that a breach has occurred, to secure information about the relevant facts, always acting in such a manner that vessels suffer the minimum interference and inconvenience.

(9) An authorised officer may, in case of damage to a vessel or fishing gear, offer to conciliate at sea, and if the parties concerned agree to this, assist them in reaching a settlement. At the request of the parties concerned the authorised officer shall draw up a protocol recording the settlement reached.

(10) Resistance by a vessel to the directions of an authorised officer shall be deemed as resistance to the authority of the flag State of that vessel.

(11) The Contracting Parties shall consider and act on reports of foreign authorised officers under these arrangements on the same basis as reports of national officers. The provisions of this paragraph shall not impose any obligation on a Contracting Party to give the report of a foreign authorised officer a higher evidential value than it would possess in the authorised officer's own country. Contracting Parties shall collaborate in order to facilitate judicial or other proceedings arising from a report of an authorised officer under this Convention.

(12) An authorised officer shall not exercise his powers to board a vessel of another Contracting Party if an authorised officer of that Contracting Party is available and in a position to do so himself.

ARTICLE 10

(1) Any Contracting Party may propose amendments to the Articles of this Convention. The text of any proposed amendment shall be sent to the depositary Government, which shall transmit copies thereof to all Contracting Parties and signatory Governments. Any amendment shall take effect on the thirtieth day after its acceptance by all Contracting Parties.

(2) When requested by one-fourth of the Contracting Parties, the depositary Government shall convene a meeting of Contracting Parties to consider the need for amending the Articles of this Convention. Amendments shall be adopted unanimously at such a meeting and shall be notified by the depositary Government to all Contracting Parties and shall take effect on the thirtieth day after they have been accepted by all Contracting Parties.

(3) Notifications of acceptance of amendments shall be sent to the depositary Government.

ARTICLE 11

(1) Any Contracting Party may propose amendments to the Annexes to this Convention. The text of any proposed amendment shall be sent to the depositary Government, which shall transmit copies thereof to all Contracting Parties and signatory Governments. The depositary Government shall inform all Contracting Parties of the date on which notices of acceptance of an amendment by two-thirds of the Contracting Parties have been received. The amendment shall take effect with respect to all Contracting Parties on the one hundred and fiftieth day after that date, unless within a period of one hundred and twenty days from the same date any Contracting Party notifies the depositary Government of its objection to the amendment, in which case the amendment will have no effect.

(2) When requested by three Contracting Parties the depositary Government shall convene a meeting of Contracting Parties to consider the need for amending the Annexes to this Convention. An amendment adopted at such a meeting by a two-thirds majority of the Contracting Parties represented shall be notified by the depositary Government to all Contracting Parties and shall take effect with respect to all Contracting Parties on the two hundred and tenth day after the date of notification, unless within one hundred and eighty days from the date of notification any Contracting Party notifies the depositary Government of its objection to the amendment, in which case the amendment will have no effect.

ARTICLE 12

The Contracting Parties shall notify the depositary Government of the competent authorities they have designated for the purposes of each of the relevant provisions of this Convention. The depositary Government shall inform the Contracting Parties of any such notification.

ARTICLE 13

(1) Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration.

(2) The request for arbitration shall include a description of the claim to be submitted and a summary statement of the grounds on which the claim is based.

(3) Unless the parties agree otherwise, the arbitration commission shall be composed of one member appointed by each party to the dispute and an additional member, who shall be the chairman, chosen in common agreement between the parties. The arbitration commission shall decide on the matters placed before it by simple majority and its decisions shall be binding on the parties. Other details of procedure shall be determined by special agreement between the parties.

(4) Notwithstanding the provisions of paragraph (3), the parties may agree to submit the dispute to arbitration in accordance with another arrangement operating between the parties.

(5) If within six months from the date of the request for arbitration the parties are unable to agree on the organisation of the arbitration, any one of those parties may refer the dispute (as referred to in paragraph (1)) to the International Court of Justice by request in conformity with the Statute of the Court.

(6) Notwithstanding the provision of paragraph (1), the parties may agree to submit the dispute to the International Court of Justice.

ARTICLE 14

(1) Except as provided in paragraphs (2) and (3) below and paragraph (3) of Article 17, no reservations may be made to the present Convention without the agreement of the Contracting Parties and signatory Governments. When one year has elapsed after the entry into force of the Convention, the agreement of the Contracting Parties only shall be required.

(2) At the time of signature, ratification, approval or accession any State may make a reservation to Article 13 of the present Convention.

(3) Any State may, at the time of signature, ratification, approval or accession, make a reservation to paragraphs (5) and (6) of Article 9 with respect to one or more of the other Contracting Parties or signatory Governments.

(4) Any State which has made a reservation in accordance with the preceding paragraphs or paragraph (3) of Article 17 may at any time withdraw the reservation by a communication to that effect addressed to the depositary Government.

ARTICLE 15

The present Convention shall be open for signature at London from 1st June to 30th November, 1967. It is subject to ratification or approval. The instruments of ratification or approval shall be deposited as soon as possible with the Government of the United Kingdom of Great Britain and Northern Ireland.

ARTICLE 16

(1) The present Convention shall enter into force on the ninetieth day following the date of deposit of the tenth instrument of ratification or approval.

(2) Thereafter the Convention shall enter into force for each State on the ninetieth day after deposit of its instrument of ratification or approval.

ARTICLE 17

(1) Any State which has not signed the Convention may accede thereto at any time after the Convention has entered into force, provided that three-fourths of the Contracting Parties and signatory Governments agree to the proposed accession. When one year has elapsed after the entry into force of the Convention, the agreement of three-fourths of the Contracting Parties only shall be required.

(2) Accession shall be effected by the deposit of an instrument of accession with the Government of the United Kingdom of Great Britain and Northern Ireland. The Convention shall enter into force for each acceding State on the ninetieth day after the deposit of its instrument of accession.

(3) At any time up to the entry into force of the Convention for a State which accedes under this Article, a Contracting Party may make a reservation to paragraphs (5) and (6) of Article 9 with respect to that State.

ARTICLE 18

(1) Any Contracting Party may, when depositing its instrument of ratification, approval or accession, or at any later date, by declaration addressed to the depositary Government, extend this Convention to any territory or territories for whose international relations it is responsible. The provisions of this Convention shall enter into force for such territory or territories on the ninetieth day after receipt of such declaration, or on the date on which the Convention enters into force in accordance with paragraph (1) of Article 16, whichever is the later.

(2) Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 19.

ARTICLE 19

At any time after four years from the date on which this Convention has entered into force in accordance with paragraph (1) of Article 16, any Contracting Party may denounce the Convention by means of a notice in writing addressed to the depositary Government. Any such notice shall take effect twelve months after the date of its receipt. The Convention shall remain in force as between the other Parties.

ARTICLE 20

When the present Convention has entered into force, it shall be registered by the depositary Government with the Secretariat of the United Nations in accordance with Article 102 of its Charter.

ANNEX I

AREA OF APPLICATION OF CONVENTION

The waters of the Atlantic and Arctic Oceans and dependent seas to which this Convention applies are the waters seaward of the baselines of the territorial sea within the area bounded:

- (a) in the south by a line drawn due west along 36° north latitude to 42° west longitude, thence due south to 35° north latitude, thence due west along 35° north latitude;
- (b) in the west by a line drawn southward from a point on the coast of Greenland at 78° 10' north latitude to a point in 75° north latitude and 73° 30' west longitude, thence along a rhumb line to a point in 69° north latitude and 59° west longitude, thence due south to 61° north latitude, thence due west to 64° 30' west longitude, thence due south to the coast of Labrador, and thence south along the coast of North America;
- (c) in the east by 51° east longitude, but excluding—
 - (i) the Baltic Sea and Belts lying to the south and east of lines drawn from Hasenore Head to Griben Point and from Gilbiorg Head to the Kullen; and
 - (ii) the Mediterranean Sea and its dependent seas as far as the meridian of 5° 36' west longitude.

ANNEX II

IDENTIFICATION AND MARKING OF FISHING VESSELS AND GEAR

Rule 1

(1) The letter or letters of the port or district in which each fishing vessel is registered and the number under which it is registered shall be painted on the bow of the fishing vessel at both sides, and may also be painted on the upper part of the fishing vessel so as to be clearly visible from the air.

(2) The name of the fishing vessel, if any, and the name of the port or district in which it is registered shall be painted on the fishing vessel so as to be clearly visible.

(3) The names, letters and numbers placed on a fishing vessel shall be large enough to be easily recognised and shall not be effaced, altered, made illegible, covered or concealed.

(4) Small boats and, where practicable, all fishing implements shall be marked with the letter or letters and number of the fishing vessel to which they belong. The ownership of nets or other fishing implements may be distinguished by private marks.

Rule 2

(1) Each fishing vessel shall carry on board an official document, issued by the competent authority of its country, showing the name, if any, and description of the vessel, its nationality, its registration letter or letters and number, and the name of the owner or of the firm or association to which it belongs.

(2) Each fishing vessel shall carry a national flag in good condition to be shown at the request of the competent authorities.

(3) The nationality of a fishing vessel shall not be concealed in any manner whatsoever.

ANNEX III

ADDITIONAL SIGNALS TO BE USED BY FISHING VESSELS

Rule 1

General

(1) Subject to compliance with the International Regulations for Preventing Collisions at Sea, the Rules herein are intended to prevent damage to fishing gear or accidents in the course of fishing operations.

(2) The Rules herein concerning lights shall apply in all weathers from sunset to sunrise when fishing vessels are engaged in fishing as a fleet and during such times no other lights shall be exhibited, except the lights prescribed in the International Regulations for Preventing Collisions at Sea and such lights as cannot be mistaken for the prescribed lights or do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out. These lights may also be exhibited from sunrise to sunset in restricted visibility and in all other circumstances when it is deemed necessary.

(3) For the purpose of these Rules the words employed shall have the meaning set down in the International Regulations for Preventing Collisions at Sea except that the term "fishing vessel" shall have the meaning assigned to it in Article 1 (2) of this Convention.

(4) The lights mentioned herein shall be placed where they can best be seen. They should be at least 3 feet (0.92 m.) apart but at a lower level than the lights prescribed in Rule 9 (c) (i) and (d) of the International Regulations for Preventing Collisions at Sea 1960. They shall be visible

at a distance of at least 1 mile, all round the horizon as nearly as possible and their visibility shall be less than the visibility of lights exhibited in accordance with Rule 9 (b) of the above Regulations.

Rule 2

Signals for Trawling and Drift netting

(1) Fishing vessels, when engaged in trawling, whether using demersal or pelagic gear shall exhibit:

- (i) when shooting their nets:
two white lights in a vertical line one over the other;
- (ii) when hauling their nets:
one white light over one red light in a vertical line one over the other;
- (iii) when the net has come fast upon an obstruction:
two red lights in a vertical line one over the other.

(2) Fishing vessels engaged in drift netting may exhibit the lights prescribed in (1) above.

(3) Each fishing vessel engaged in pair trawling shall exhibit:

- (i) by day: the "T" flag—"Keep clear of me. I am engaged in pair trawling", hoisted at the foremast;
- (ii) by night: a searchlight shone forward and in the direction of the other fishing vessel of the pair;
- (iii) when shooting or hauling the net or when the net has come fast upon an obstruction: the lights prescribed in (1) above.

(4) This rule need not be applied to fishing vessels of less than 65 feet (19.80 m.) in length. Any such exception and the areas in which fishing vessels so excepted are likely to be numerous shall be notified to the competent authorities of the other Contracting Parties likely to be concerned.

Rule 3

Light signals for Purse Seining

(1) Fishing vessels engaged in fishing with purse seines shall show two amber coloured lights, in a vertical line one over the other. These lights shall be flashing intermittently about once a second in such a way that when the lower is out the upper is on and vice versa. These lights shall only be shown while the fishing vessel's free movement is hampered by its fishing gear, warning other vessels to keep clear of it.

(2) This rule need not be applied to fishing vessels of less than 85 feet (25.90 m.) in length. Any such exception and areas in which fishing vessels so excepted are likely to be numerous shall be notified to the competent authorities of the other Contracting Parties likely to be concerned.

Rule 4

Sound signals

No sound signals shall be used other than those prescribed by the International Regulations for Preventing Collisions at Sea and the International Code of Signals.

ANNEX IV

MARKING OF NETS, LINES AND OTHER GEAR

Rule 1

Anchored gear

(1) The ends of nets, lines and other gear anchored in the sea shall be fitted with flag or radar reflector buoys by day and light buoys by night sufficient to indicate their position and extent. Such lights should be visible at a distance of at least 2 miles in good visibility.

(2) By day the westernmost (meaning the half compass circle from south through west to and including north) end buoy of such gear extending horizontally in the sea shall be fitted with two flags one above the other or one flag and a radar reflector, and the easternmost (meaning the half compass circle from north through east to and including south) end buoy shall be fitted with one flag or a radar reflector. By night the westernmost end buoy shall be fitted with two white lights and the easternmost end buoy with one white light. In addition a buoy fitted with one flag or a radar reflector by day and one white light by night may be set 70-100 metres from each end buoy to indicate the direction of the gear.

(3) On such gear extending more than 1 mile additional buoys shall be placed at distances of not more than 1 mile so that no part of the gear extending 1 mile or more shall be left unmarked. By day every buoy shall be fitted with a flag or a radar reflector and by night as many buoys as possible with one white light. In no case shall the distance between two lights on the same gear exceed 2 miles.

(4) On such gear which is attached to a fishing vessel a buoy shall not be required at the end attached to the fishing vessel.

(5) The flagpole of each buoy shall have a height of at least 2 metres above the buoy.

Rule 2

Drift gear

(1) Nets or lines which drift in the sea shall be marked at each end and at distances of not more than 2 miles by a buoy with a pole not less than 2 metres above the buoy. The pole shall carry a flag or a radar reflector by day and a white light by night visible at a distance of at least 2 miles in good visibility.

(2) On gear which is attached to a fishing vessel a buoy shall not be required at the end attached to the fishing vessel.

ANNEX V

RULES GOVERNING THE OPERATIONS OF VESSELS

Rule 1

Subject to compliance with the International Regulations for Preventing Collisions at Sea all vessels shall conduct their operations so as not to interfere with the operations of fishing vessels, or fishing gear.

Rule 2

Vessels arriving on fishing grounds where fishing vessels are already fishing or have set their gear for that purpose shall inform themselves of the position and extent of gear already placed in the sea and shall not place themselves or their fishing gear so as to interfere with or obstruct fishing operations already in progress.

Rule 3

No vessel shall anchor or remain on a fishing ground where fishing is in progress if it would interfere with such fishing unless required for the purpose of its own fishing operations or in consequence of accident or other circumstances beyond its control.

Rule 4

Except in cases of *force majeure* no vessel shall dump in the sea any article or substance which may interfere with fishing or obstruct or cause damage to fish, fishing gear or fishing vessels.

Rule 5

No vessel shall use or have on board explosives intended for the catching of fish.

Rule 6

In order to prevent damage, fishing vessels engaged in trawling and other fishing vessels with gear in motion shall take all practicable steps to avoid nets and lines or other gear which is not being towed.

Rule 7

(1) When nets belonging to different fishing vessels get foul of each other, they shall not be severed without the consent of the parties concerned unless it is impossible to disengage them by other means.

(2) When fishing vessels fishing with lines entangle their lines, the fishing vessel which hauls up the lines shall not sever them unless they cannot be disengaged in any other way, in which case any lines which may be severed shall where possible be immediately joined together again.

(3) Except in cases of salvage and the cases to which the two preceding paragraphs relate, nets, lines or other gear shall not under any pretext whatever, be cut, hooked, held on to or lifted up except by the fishing vessel to which they belong.

(4) When a vessel fouls or otherwise interferes with gear not belonging to it, it shall take all necessary measures for reducing to a minimum the injury which may result to such gear. The fishing vessel to which the gear belongs shall, at the same time, avoid any action tending to aggravate such damage.

ANNEX VI

RULES APPLYING TO AUTHORISED OFFICERS

(1) An authorised officer shall carry a document of identity written in English, French and the language of the authorised officer (if different) in a form agreed by the Contracting Parties on the request of the depositary Government.

(2) Any orders to stop given by an authorised officer shall be given by the appropriate signal in the International Code of Signals.

(3) On boarding a vessel an authorised officer shall exhibit his document of identity.

(4) On boarding a vessel an authorised officer may require the master of the vessel to exhibit the document specified in Annex II Rule 2 (1) and the fact of such document having been exhibited shall immediately be endorsed upon it by the authorised officer or on some other official document of the vessel.

(5) On each occasion on which an authorised officer boards a vessel, he shall draw up a report in the form set out in the Appendix indicating the circumstances of the boarding and the information he secures.

(6) This report shall be drawn up in the language of the authorised officer and shown to the master of the vessel boarded, who shall be given an opportunity of adding in his own language any remarks he or any member of his crew may wish to make. The authorised officer shall sign the report in the presence of the master and give him a copy. A copy of the report shall be sent to the competent authority of the country of the vessel boarded. In cases of damage copies of the report shall also be sent to the competent authorities in the countries to which the other parties concerned belong.

(7) Whenever an authorised officer observes a vessel infringing the provisions of the Convention, he may report the occurrence to the competent authority of the country of the vessel, having first made every effort to communicate to the vessel in question by signal or otherwise his intention to report the infringement. If he orders the vessel to stop but does not board it, he shall report the circumstances to the competent authority of the country of the vessel.

(8) Ships carrying authorised officers, which may be vessels as defined in Article I (2), shall fly a special flag or pennant. The special flag or pennant shall be in a form agreed by the Contracting Parties on the request of the depositary Government. Authorised officers shall exercise their powers under paragraphs (5) or (6) of Article 9, and communicate with vessels, only from surface craft.

APPENDIX

REPORT IN ACCORDANCE WITH PARAGRAPH (5) OF ANNEX VI TO THE CONVENTION

(Strike out what does not apply)

AUTHORISED OFFICER

(To be filled in block letters)

1. Name and nationality.
2. Name of ship carrying him.

POSITION, DATE AND TIME OF OCCURRENCE

3.

PROVISIONS OF THE CONVENTION IN QUESTION

4.

INFORMATION ON EACH VESSEL INVOLVED

General

- 5. Nationality.
 - 6. Vessel's name and registration.
 - 7. Skipper's name.
 - 8. Owner's name and address.
 - 9. Position, date and time of boarding.
- } *To be filled in
block letters*

At the Time of Occurrence

- 10. Fishing gear in use.
- 11. Stopped, anchored or estimated course and speed.
- 12. Signals or lights displayed and sound signals made.
- 13. Warnings given to other vessel(s).
- 14. Direction in which gear was shot or lying.
- 15. The horizontal distance gear extended from the vessel.

CONDITIONS AT THE TIME OF OCCURRENCE

- 16. Visibility.
- 17. Wind force and direction.
- 18. State of sea and tide and direction and strength of currents.
- 19. Other relevant conditions.
- 20. Describe, with the help of diagrams if necessary, the relative positions of vessels and gear.
- 21. Marking of any anchored or drifting gear involved.

ADDITIONAL INFORMATION

- 22. Full particulars of loss or damage, giving condition of any gear involved.
- 23. Narrative description of occurrence.
- 24. Comments by Authorised Officer.
- 25. Statements by Witnesses.
- 26. Statements by Skippers of vessels involved.
- 27. Statements of photographs taken, with description of subjects (photographs to be attached to copy of report submitted to flag State).

Signature of Authorised Officer

The above report was prepared and signed by the Authorised Officer in our presence.

Signatures of Skippers

Signatures of Witnesses

Agreement Concerning Shrimp (United States-Brazil)
May 9, 1972*

* 24 U.S.T. 925; T.I.A.S. 7603; 894 U.N.T.S. 29.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL CONCERNING SHRIMP

The Parties to this Agreement,

Note the position of the Government of the Federative Republic of Brazil,

that it considers its territorial sea to extend to a distance of 200 nautical miles from Brazil's coast,

that the exploitation of crustaceans and other living resources, which are closely dependent on the seabed under the Brazilian territorial sea, is reserved to Brazilian fishing vessels, and

that exceptions to this provision can only be granted through international agreements,

Note also the position of the Government of the United States of America that it does not consider itself obligated under international law to recognize territorial sea claims of more than 3 nautical miles nor fisheries jurisdiction of more than 12 nautical miles, beyond which zone of jurisdiction all nations have the right to fish freely, and that it does not consider that all crustaceans are living organisms belonging to sedentary species as defined in the 1958 Geneva Convention on the Continental Shelf, [1] and further

Recognizing that the difference in the respective juridical positions of the Parties has given rise to certain problems relating to the conduct of shrimp fisheries,

Considering the tradition of both Parties for resolving international differences by having recourse to negotiation,

Believing it is desirable to arrive at an interim solution for the conduct of shrimp fisheries without prejudice to either Party's juridical position concerning the extent of territorial seas or fisheries jurisdiction under international law,

Concluding that, while general international solutions to issues of maritime jurisdiction are being sought and until more adequate information regarding the shrimp fisheries is available, it is desirable to conclude an interim agreement which takes into account their mutual interest in the conservation of the shrimp resources of the area of this Agreement,

Have Agreed as Follows:

ARTICLE I

This Agreement shall apply to the fishery for shrimp (*Penaeus* (M.) *duorarum* *notialis*, *Penaeus* *braziliensis* and *Penaeus* (M.) *aztecus* *subtilis*) in an area of the broader region in which the shrimp fisheries of the Parties are conducted, hereinafter referred to as the "area of agreement" and defined as follows: the waters off the coast

¹TIAS 5578; 15 UST 471.

of Brazil having the isobath of thirty (30) meters as the south-west limit and the latitude 1° north as the southern limit and 47° 30' west longitude as the eastern limit.

ARTICLE II

1. Taking into account their common concern with preventing the depletion of the shrimp stocks in the area of agreement and the substantial difference in the stages of development of their respective fishing fleets, which results correspondingly in different kinds of impact on the resources, the two Parties agree that, during the term of this Agreement, the Government of the Federative Republic of Brazil is to apply the measures set forth in Annex I to this Agreement and the Government of the United States of America is to apply the measures set forth in Annex II to this Agreement.

2. The measures set forth in Annexes may be changed by agreement of the Parties through consultation pursuant to Article X.

ARTICLE III

1. Information on catch and effort and biological data relating to shrimp fisheries in the area of agreement shall be collected and exchanged, as appropriate, by the Parties. Unless the Parties decide otherwise, such exchange of information shall be made in accordance with the procedure described in this Article.

2. Each vessel fishing under this Agreement shall maintain a fishing log, according to a commonly agreed model. Such fishing logs shall be delivered quarterly to the appropriate Party which shall use the data therein contained, and other information it obtains about the area of agreement, to prepare reports on the fishing conditions in that area, which shall be transmitted periodically to the other Party as appropriate.

3. Duly appointed organizations from both Parties shall meet in due time to exchange scientific data, publications and knowledge acquired on the shrimp fisheries in the area of agreement.

ARTICLE IV

1. The Party which under Article V has the responsibility for enforcing observance of the terms of the Agreement by vessels of the other Party's flag shall receive from the latter Party the information necessary for identification and other enforcement functions, including name, port of registry, port where operations are usually based, general description with photograph in profile, radio-frequencies by which communications may be established, main engine horsepower and speed, length, and fishing method and gear employed.

2. Such information shall be assembled and organized by the flag Government and communications relating to such information shall be carried out each year between the appropriate authorities of the Parties.

3. The Party which receives such information shall verify whether it is complete and in good order, and shall inform the other Party about the vessels found to comply with the requirements of paragraph 1 of this Article, as well as about those which would, for some reason, require further consultation among the Parties.

4. Each of those vessels found in order shall receive and display an identification sign, agreed between the Parties.

ARTICLE V

1. In view of the fact that Brazilian authorities can carry out an effective enforcement presence in the area of agreement, it shall be incumbent on the Government of Brazil to ensure that the conduct of shrimp fisheries conforms with the provisions of this Agreement.

2. A duly authorized official of Brazil, in exercising the responsibility described in paragraph 1 of this Article may, if he has reasonable cause to believe that any provision of this Agreement has been violated, board and search a shrimp fishing vessel. Such action shall not unduly hinder fishing operations. When, after boarding or boarding and searching a vessel, the official continues to have reasonable cause to believe that any provision of this Agreement has been violated, he may seize and detain such vessel. In the case of a boarding or seizure and detention of a United States vessel, the Government of Brazil shall promptly inform the Government of the United States of its action.

3. After satisfaction of the terms of Article VI as referred to in paragraph 4 of this Article, a United States vessel seized and detained under the terms of this Agreement shall, as soon as practicable, be delivered to an authorized official of the United States at the nearest port to the place of seizure, or any other place which is mutually acceptable to the competent authorities of both Parties. The Government of Brazil shall, after delivering such vessel to an authorized official of the United States, provide a certified copy of the full report of the violation and the circumstances of the seizure and detention.

4. If the reason for seizure and detention falls within the terms of Article II or Article IV, paragraph 4 of this Agreement, a United States vessel seized and detained shall be delivered to an authorized official of the United States, after satisfaction of the terms of Article VI relating to unusual expenses.

5. If the nature of the violation warrants it, and after carrying out the provision of Article X, vessels may also suffer forfeiture of that part of the catch determined to be taken illegally and forfeiture of the fishing gear.

6. In the case of vessels delivered to an authorized official of the United States under paragraphs 3 or 4 of this Article, the Government of Brazil will be informed of the institution and disposition of any case by the United States.

ARTICLE VI

In connection with the enforcement arrangements specified in Article V, including in particular any unusual expenses incurred in carrying out the seizure and detention of a United States vessel under the terms of paragraph 4 of Article V, and taking into account Brazil's regulation of its flag vessels in the area of agreement, the Government of Brazil will be compensated in an amount determined and confirmed in an exchange of notes between the Parties. The amount of compensation shall be related to the level of fishing by United States nationals in the area of agreement and to the total enforcement activities to be undertaken by the Government of Brazil pursuant to the terms of this Agreement.

ARTICLE VII

The implementation of this Agreement may be reviewed at the request of either Party six months after the date on which this Agreement becomes effective, in order to deal with administrative issues arising in connection with this Agreement.

ARTICLE VIII

The Parties shall examine the possibilities of cooperating in the development of their fishing industries; the expansion of the international trade of fishery products; the improvement of storage, transportation and marketing of fishery products; and the encouragement of joint ventures between the fishing industries of the two Parties.

ARTICLE IX

Nothing contained in this Agreement shall be interpreted as prejudicing the position of either Party regarding the matter of territorial seas or fisheries jurisdiction under international law.

ARTICLE X

Problems concerning the interpretation and implementation of this Agreement shall be resolved through diplomatic channels.

ARTICLE XI

This Agreement shall enter into force on a date to be mutually agreed by exchange of notes, upon completion of the internal procedures of both Parties, and shall remain in force until January 1, 1974, unless the Parties agree to extend it.

IN WITNESS WHEREOF the undersigned Representatives have signed the present Agreement and affixed thereto their seals.

DONE in duplicate, this ninth day of May, 1972, in the English and Portuguese languages, both texts being equally authoritative.

FOR THE UNITED STATES OF
AMERICA:

WILLIAM M. ROUNTREE

[SEAL]

FOR THE FEDERATIVE REPUB-
LIC OF BRAZIL:

MARIO GIBSON BARROZA

[SEAL]

Annex I

- a) Prohibition of shrimp fishing activities, for conservation purposes, in spawning and breeding areas;
- b) Prohibition of the use of chemical, toxic or explosive substances in or near fishing areas;
- c) Registry of all fishing vessels with the Maritime Port Authority (Capitania dos Portos) and with SUDEPE;
- d) Payment of fees and taxes for periodical inspections;
- e) Use of the SUDEPE fishing logs to be returned after each trip or weekly;
- f) Prohibition of the use of fishing gear and of other equipment considered by SUDEPE to have destructive effects on the stocks;
- g) Prohibition of discharging oil and organic waste.

Annex II

- a) Not more than 325 vessels flying the United States flag shall fish for shrimp in the area of agreement and the United States Government undertakes to maintain a presence of no more than 160 of those vessels in the area at any one time. Such vessels shall be of the same type and have the same gear as those commonly employed in this fishery in the past, noting that electric equipment for fishing purposes has not been commonly employed by boats in this fishery in the past.
- b) Shrimp fishing in the area of agreement shall be limited to the period from March 1 to November 30.
- c) Shrimp fishing in that part of the area of agreement southeast of a bearing of 240° from Ponta do Ceu radio-beacon shall be limited to the period March 1 to July 1.
- d) Transshipment of catch may be made only between vessels authorized under this Agreement to fish in the area of agreement.

Agreed Minute Relating to the Agreement Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Shrimp

The Delegations of the Government of the United States of America and the Government of the Federative Republic of Brazil consider it desirable to record the points set out below relating to the Agreement between the two Governments concerning shrimp signed on this ninth day of May, 1972:

The Brazilian Delegation informed the United States Delegation that the portion of the area of agreement between the true bearing of 240° and 225°, drawn from the Ponta do Ceu radio-beacon, has a special interest to the Brazilian shrimp vessels, in view of its vicinity to both the port and the industries existing in Belem, State of Para. Under these circumstances, the Brazilian Delegation informed the United States Delegation that it was not the intention of the Brazilian Government to re-include such region in agreements it might conclude after 1973.

The United States Delegation stated its view to the Brazilian Delegation that the area of the Agreement between the true bearing of 240° and 225°, drawn from the Ponta do Ceu radio-beacon, lies on the high seas and is thus open to fishing by all nations.

Both the United States and the Brazilian Delegations agreed that, based on the available information, the expression "of the same type", included in item a of Annex II in relation to United States vessels that have in the past fished in the area of the Agreement, means vessels having a length up to approximately eighty-five feet.

With respect to item a of Annex II, both Delegations agreed that an excess of up to 15 vessels in the area of agreement over the figure of 160 shall constitute, during the first fishing season of the Agreement, a situation requiring consultations between the Parties within the scope of Article X with a view toward arriving at as promptly as possible the agreed figure. In view of the special nature of the arrangements contained in item a of Annex II, both Delegations understand that consultations referred to in paragraph 2, Article II will be held as soon after the close of the current fishing season as possible, to examine the operation of this provision with a view toward revising, if necessary, the measures outlined in item a of Annex II or revising the procedures necessary to achieve better compliance with them.

DONE in duplicate, this ninth day of May, 1972, in the English and Portuguese languages, both texts being equally authoritative.

FOR THE UNITED STATES
OF AMERICA:

WILLIAM M. ROUNTREE

FOR THE FEDERATIVE REPUBLIC
OF BRAZIL:

MARIO GIBSON BARBOZA

**Convention on Fishing and Conservation of the
Living Resources in the Baltic Sea and the Belts,
September 13, 1973***

* 28 U.N. GAOR, U.N. Doc. A/C.1/1035 (1973); 12 I.L.M. 1291, U.N. Regist. No. 16710.

DENMARK-FINLAND-GERMAN DEMOCRATIC REPUBLIC-FEDERAL REPUBLIC OF
 GERMANY-POLAND-SWEDEN-UNION OF SOVIET SOCIALIST REPUBLICS:
 CONVENTION ON FISHING AND CONSERVATION OF THE LIVING RESOURCES
 IN THE BALTIC SEA AND THE BELTS*
 [Done at Gdansk, September 13, 1973]

CONVENTION ON FISHING AND CONSERVATION OF THE LIVING RESOURCES
 IN THE BALTIC SEA AND THE BELTS

The States Parties to this Convention

- bearing in mind that maximum and stable productivity of the living resources of the Baltic Sea and the Belts is of great importance to the States of the Baltic Sea basin,
- recognizing their joint responsibility for the conservation of the living resources and their national exploitation,
- being convinced that the conservation of the living resources of the Baltic Sea and the Belts calls for closer and more expanded co-operation in this region,

have agreed as follows:

ARTICLE I

The Contracting States shall:

- Co-operate closely with a view to preserving and increasing the living resources of the Baltic Sea and the Belts and obtaining the optimum yield, and, in particular to expanding and co-ordinating studies towards these ends,
- Prepare and put into effect organizational and technical projects on conservation and growth of the living resources, including measures of artificial reproduction of valuable fish species and/or contribute financially to such measures, on a just and equitable basis, as well as take other steps towards rational and effective exploitation of the living resources.

ARTICLE II

1. The area to which this Convention applies, hereinafter referred to as "the Convention area", shall be all waters of the Baltic Sea and the Belts, excluding internal waters, bounded in the west by a line as from Hasenore Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to the Kullen.
2. This Convention shall apply to all fish species and other living marine resources in the Convention Area.

*[Reproduced from United Nations Document A/C.1/1035 of October 15, 1973.]

ARTICLE III

Nothing in this Convention shall be deemed to affect the rights, claims or views of any Contracting State in regard to the limits of territorial waters and to the extent of jurisdiction over fisheries, according to international law.

ARTICLE IV

For the purpose of this Convention the term "vessel" means any vessel or boat employed in catching or treating fish or other living marine organisms and which is registered or owned in the territory of, or which flies the flag of, any Contracting State.

ARTICLE V

1. An International Baltic Sea Fishery Commission, hereinafter referred to as "the Commission", is hereby established for the purposes of this Convention.
2. Each Contracting State may appoint not more than two representatives as members of the Commission and such experts and advisers to assist them as that State may determine.
3. The Commission shall elect a Chairman and a Vice-Chairman from amongst its members who shall serve for a period of four years and who shall be eligible for re-election, but not for two consecutive terms of office.

The Chairman and the Vice-Chairman shall be elected from the representatives of different Contracting States.

4. A member of the Commission elected as its Chairman shall forthwith cease to act as a representative of a State and shall not vote. The State concerned shall have the right to appoint another representative to serve in the Chairman's place.

ARTICLE VI

1. The Office of the Commission shall be in Warsaw.
2. The Commission shall appoint its Secretary and as it may require appropriate staff to assist him.
3. The Commission shall adopt its rules of procedure and other provisions which the Commission shall consider necessary for its work.

ARTICLE VII

1. The Commission shall adopt its financial rules.
2. The Commission shall adopt a two years budget of proposed expenditures and budget estimates for the fiscal period following thereafter.

3. The total amount of the budget including any supplementary budget shall be contributed by the Contracting States in equal parts.
4. Each Contracting State shall pay the expenses related to the participation in the Commission of its representatives, experts and advisers.

ARTICLE VIII

1. Except where the Commission decides otherwise, it shall hold its sessions every two years in Warsaw at such time as it shall deem suitable. Upon the request of a representative of a Contracting State in the Commission, provided it is endorsed by a representative of another Contracting State, the Chairman of the Commission shall, as soon as possible, summon an extraordinary session at such time and place as he determines, however not later than three months from the date of the submission of the request.
2. The first session of the Commission shall be called by the Depositary Government of this Convention and shall take place within a period of ninety days from the date following the entry into force of this Convention.
3. Each Contracting State shall have one vote in the Commission. Decisions and recommendations of the Commission shall be taken by a two-thirds majority of votes of the Contracting States, present and voting at the meeting.
4. English shall be the working language of the Commission. The languages of the Signatory States are the official languages of the Commission. Only recommendations, decisions and resolutions of the Commission shall be made in these languages.

At meetings of the Commission any Contracting State has the right to have all the proceedings translated into its own language. All the costs related to such translations shall be borne by that State.

ARTICLE IX

1. It shall be the duty of the Commission:
 - a) to keep under review the living resources and the fisheries in the Convention area by collecting, aggregating, analysing and disseminating statistical data, for example concerning catch, fishing effort, and other information,
 - b) to work out proposals with regard to co-ordination of scientific research in the Convention area,
 - c) to prepare and submit recommendations based as far as practicable on results of the scientific research and concerning measures referred to in Article X for consideration of the Contracting States.
2. In implementing its functions, the Commission shall, when appropriate, seek the services of the International Council for the Exploration of the Sea (ICES) and of other international technical and scientific organizations and shall make use of information provided by the official bodies of the Contracting States.
3. To perform its functions the Commission may set up working groups or other subsidiary bodies and determine their composition and terms of reference.

ARTICLE X

Measures relating to the purposes of this Convention which the Commission may consider and in regard of which it may make recommendations to the Contracting States are:

- a) any measures for the regulation of fishing gear, appliances and catching methods,
- b) any measures regulating the size limits of fish that may be retained on board vessels or landed, exposed or offered for sale,
- c) any measures establishing closed seasons,
- d) any measures establishing closed areas,
- e) any measures improving and increasing the living marine resources, including artificial reproduction and transplantation of fish and other organisms,
- f) any measures regulating and/or allocating between the Contracting States the amount of total catch or the amount of fishing effort according to objects, kinds, regions and fishing periods,
- g) any measures of control over the implementation of recommendations binding on the Contracting States,
- h) any other measures related to the conservation and rational exploitation of the living marine resources,

ARTICLE XI

1. Subject to the provisions of this Article, the Contracting States undertake to give effect to any recommendation made by the Commission under Article X of this Convention from the date determined by the Commission, which shall not be before the period for objection provided for in this Article has elapsed.
2. Any Contracting State may within ninety days from the date of notification of a recommendation object to it, and in that event shall not be under obligation to give effect to that recommendation.

A Contracting State may also at any time withdraw its objection and give effect to a recommendation.

In the event of an objection being made within the ninety-days period, any other Contracting State may similarly object at any time within a further period of sixty days.
3. If objections to a recommendation are made by three or more Contracting States, the other Contracting States shall be relieved forthwith of any obligation to give effect to that recommendation.
4. The Commission shall notify each Contracting State immediately upon receipt of each objection or withdrawal.

ARTICLE XII

1. Each Contracting State shall take in regard to its nationals and its vessels appropriate measures to ensure the application of the provisions of this Convention and of the recommendations of the Commission which have become binding for the Contracting State and in case of their infringement shall take appropriate action.
2. Without prejudice to the sovereign rights of the Contracting States in regard to their territorial sea and to the rights in their fishing zones, each Contracting State shall implement recommendations of the Commission binding on that State through its national authorities, within its territorial sea and in the waters under its fisheries jurisdiction.
3. Each Contracting State shall furnish to the Commission at such time and in such form as may be required by the Commission, the available statistical data and information referred to in Article IX paragraph 1 (a), as well as information on all actions taken by it in accordance with paragraphs 1 and 2 of this Article.

ARTICLE XIII

The Commission shall draw the attention of any State which is not a party to this Convention to such fishing operations, undertaken by its nationals or vessels in the Convention area, which might affect negatively the activities of the Commission or the implementation of the purposes of this Convention.

ARTICLE XIV

The provisions of this Convention shall not apply to operations conducted solely for the purpose of scientific investigations by vessels authorized by a Contracting State for that purpose, or to fish and other marine organisms taken in the course of such operations. Catch so taken shall not be sold, exposed or offered for sale.

ARTICLE XV

1. The Commission shall co-operate with other international organizations having related objectives.
2. The Commission may extend an invitation to any international organization concerned or to the Government of any State, not a party to this Convention, to participate as an observer in the sessions of the Commission or meetings of its subsidiary bodies.

ARTICLE XVI

1. Each Contracting State may propose amendments to this Convention. Any such proposed amendment shall be submitted to the Depositary Government and communicated by it to all Contracting States, which shall inform the Depositary Government about either their acceptance or rejection of the amendment as soon as possible after the receipt of the communication.

The amendment shall enter into force ninety days after the Depositary Government has received notifications of acceptance of that amendment from all Contracting States.

2. Each State which shall become a party to this Convention after the entry into force of an amendment in accordance with the provisions of paragraph 1 of this Article, is obliged to apply the Convention as amended.

ARTICLE XVII

1. This Convention shall be subject to ratification or approval by the Signatory States. Instruments of ratification or instruments of approval shall be deposited with the Government of the Polish People's Republic which shall perform the functions of the Depositary Government.

2. This Convention shall be open for accession to any State interested in preservation and rational exploitation of living resources in the Baltic Sea and the Belts, provided that this State is invited by the Contracting States. Instruments of accession shall be deposited with the Depositary Government.

ARTICLE XVIII

1. This Convention shall enter into force on the ninetieth day following the date of the deposit of the fourth instrument of ratification or approval.

2. After entry into force of this Convention in accordance with paragraph 1 of this Article, the Convention shall enter into force for any other State, the Government of which has deposited an instrument of ratification, approval or accession, on the thirtieth day following the date of deposit of such instrument with the Depositary Government.

ARTICLE XIX

At any time after the expiration of five years from the date of entry into force of this Convention any Contracting State may, by giving written notice to Depositary Government, withdraw from this Convention.

The withdrawal shall take effect for such Contracting State on the thirty-1 of December of the year which follows the year in which the Depositary Government was notified of the withdrawal.

ARTICLE XX

1. The Depositary Government shall inform all Signatory and Acceding States:
 - a) of signatures of this Convention and deposit of each instrument of ratification, approval or accession, as well as of submitted declarations,
 - b) of the date of entry into force of this Convention,

c) of proposals relating to amendments to the Convention, notifications of acceptance and of the entry into force of such amendments,

d) of notifications of withdrawal.

2. The original of this Convention shall be deposited with the Government of the Polish People's Republic, which shall transmit certified copies thereof to the Government of all Signatory States and of all States which accede to this Convention.

3. The Depositary Government shall register this Convention with the Secretariat of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Convention.

DONE at Gdansk this thirteenth day of September, one thousand nine hundred and seventy three, in a single copy drawn up in the Danish, Finnish, German, Polish, Russian, Swedish and English languages, each text being equally authentic.

For the Kingdom of Denmark

For the Republic of Finland

For the German Democratic Republic

For the Federal Republic of Germany

For the Polish People's Republic

For the Kingdom of Sweden

For the Union of the Soviet Socialist Republics

**Agreement Concerning Fisheries Off the Coast of
The United States (with agreed minutes)
(United States-U.S.S.R.),
November 26, 1976***

* 28 U.S.T. 1848; T.I.A.S. 8528.

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS
CONCERNING FISHERIES OFF THE COASTS
OF THE UNITED STATES

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Considering their common concern for the rational management, conservation and optimum utilization of fish stocks off the coasts of the United States;

Acknowledging the fishery management authority of the United States of America as set forth in the Fishery Conservation and Management Act of 1976; [1]

Having regard for the discussions of the Third United Nations Conference on the Law of the Sea regarding coastal state rights over fisheries off its coasts;

Taking into account the traditional fishing of the fleet of the Soviet Union off the coast of the United States, the level of the Soviet Union cooperation with the United States in fishery research, assessment of fishery resources and enforcement with respect to the conservation and management of fishery resources, as well as existing agreements between the Governments of the United States of America and the Union of Soviet Socialist Republics; and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States of America exercises fishery management authority;

Have agreed as follows:

¹90 Stat. 331; 16 U.S.C. § 1801 note.

ARTICLE I

The purpose of this Agreement is to ensure effective conservation, optimum utilization and rational management of the fisheries of mutual interest off the coasts of the United States of America and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of the Soviet Union for the living resources over which the United States exercises fishery management authority as provided by United States law.

ARTICLE II

As used in this Agreement, the term

1. "living resources over which the United States exercises fishery management authority" means all fish within the fishery conservation zone of the United States except highly migratory species, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters and all living resources of the continental shelf appertaining to the United States;

2. "fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3. "fishery" means

a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

b. any fishing for such stocks;

4. "fishery conservation zone" means a zone contiguous to the territorial sea of the United States of America, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States of America is measured;

5. "fishing" means

- a. the catching, taking or harvesting of fish;
- b. the attempted catching, taking or harvesting of fish;
- c. any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish; or
- d. any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs a. through c. above, provided that such term does not include other legitimate uses of the high seas, including any scientific research activity conducted by a scientific research vessel;

6. "fishing vessel" means any vessel, boat, ship or other craft that is used for, equipped to be used for, or of a type that is normally used for

- a. fishing; or
- b. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7. "highly migratory species" means species of tuna which in the course of their life cycle, spawn and migrate over great distances in waters of the ocean; and

8. "marine mammals" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or mainly inhabits the marine environment.

ARTICLE III

1. The Government of the United States of America shall determine each year, subject to such adjustments as may be necessitated by unforeseen circumstances affecting the stocks;

- a. the total allowable catch for each fishery on the basis of the best available scientific evidence, taking into account the interdependence of stocks, internationally accepted criteria, and all other relevant factors;
- b. the harvesting capacity of United States fishing vessels in respect of each fishery;
- c. the portion of the total allowable catch for a specific fishery that, on an annual basis, will not be harvested by United States fishing vessels; and
- d. the allocation of such portion that can be made available to fishing vessels of the Soviet Union.

2. The United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

3. In determining the portion of the surplus that may be made available to vessels of the Soviet Union, the Government of the United States of America will promote the objective of optimum

utilization, taking into account, *inter alia*, traditional fishing of the Soviet Union, contributions by the Soviet Union to fishery research and the identification of stocks, previous cooperation by the Soviet Union in enforcement with respect to conservation and management of fishery resources of mutual concern, and the need to minimize economic dislocation in cases where vessels of the Soviet Union have habitually fished for living resources over which the United States now exercises fishery management authority.

4. The Government of the United States of America shall notify the Government of the Union of Soviet Socialist Republics of the determinations provided for by this Article on a timely basis.

ARTICLE IV

The Government of the Union of Soviet Socialist Republics shall take all necessary measures to ensure:

1. that nationals and vessels of the Soviet Union refrain from fishing for living resources over which the United States exercises fishery management authority except as authorized pursuant to this Agreement;
2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and
3. that the total allocation assigned to the fishing fleet of the Soviet Union referred to in Article III, paragraph 1. d. of this Agreement is not exceeded for any fishery.

ARTICLE V

The competent authorities of the Government of the Union of Soviet Socialist Republics may submit an application to the competent authorities of the Government of the United States of America for a permit for each fishing vessel of the Soviet Union that wishes to engage in fishing in the fishery conservation zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with Annex I to this Agreement, which shall constitute an integral part of this Agreement. The Government of the United States of America may require the payment of reasonable fees for such permits.

ARTICLE VI

The Government of the Union of Soviet Socialist Republics shall ensure that nationals and vessels of the Soviet Union refrain from harassing, hunting, capturing, or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the United States fishery conservation zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States of America.

ARTICLE VII

The Government of the Union of Soviet Socialist Republics shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each fishing vessel of the Soviet Union is prominently displayed in the wheelhouse of such vessel;

2. appropriate position-fixing and identification equipment is installed and maintained in working order on each such vessel;
3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be treated as a ship's officer while aboard such vessel, and, further, the Government of the United States of America shall be reimbursed for the costs incurred in the utilization of observers;
4. agents are appointed and maintained within the United States possessing the authority to represent a vessel owner or operator in any legal proceeding arising out of the conduct of fishing activities under this Agreement, in accordance with applicable laws of the United States; and
5. all necessary measures are taken to ensure the prompt and adequate compensation of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear or catch that is caused by any fishing vessel of the Soviet Union as determined by applicable United States procedures.

ARTICLE VIII

1. The Government of the Union of Soviet Socialist Republics shall take such measures as may be necessary to ensure that each fishing vessel of the Soviet Union authorized to fish pursuant to this Agreement, and any other fishing vessel of the Soviet Union that engages in fishing for living resources subject to the fishery management authority of the United States, shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement official of the United States, and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

2. In cases where a fishing vessel of the Soviet Union has violated a provision of this Agreement or a provision of a permit issued pursuant thereto, the Government of the United States of America shall immediately notify the Government of the Union of Soviet Socialist Republics through diplomatic channels of the facts and the action taken.

3. In order to facilitate the prompt and adequate compensation of the citizens of one country for any loss of, or damage to, their fishing vessels, fishing gear or catch which is caused by any fishing vessel of the other country, the two Governments established the American-Soviet Fisheries Claims Boards as set forth in the Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts signed at Moscow, February 21, 1973. [1]

ARTICLE IX

1. The Government of the United States of America will impose appropriate penalties, in accordance with the laws of the United States, on fishing vessels of the Soviet Union or their owners or operators that violate the requirements of this Agreement or of any permit issued hereunder.

2. In cases of an enforcement action undertaken by authorities of the Government of the United States of America, the economic loss encountered by the vessel and crew because of lost fishing time shall be minimized through prompt release of the vessel and crew upon the posting of reasonable bond or other security.

¹TIAS 7575, 7683, 8022; 24 UST 639, 1588; 26 UST 167.

ARTICLE X

The Government of the Union of Soviet Socialist Republics undertakes to cooperate with the Government of the United States of America in the conduct of scientific research required for the purpose of managing and conserving living resources subject to the fishery management authority of the United States, including the compilation of best available scientific information for the management and conservation of stocks of mutual concern. The competent agencies of the two Governments shall enter into such arrangements as may be necessary to facilitate such cooperation, including the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and the implementation and maintenance of a standardized system for the collection and archiving of relevant statistical and biological information in accordance with the procedures set forth in Annex II, which shall constitute an integral part of this Agreement.

ARTICLE XI

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including the establishment of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

ARTICLE XII

The Government of the United States of America undertakes to authorize fishing vessels of the Soviet Union allowed to fish pursuant to this Agreement to enter designated ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, or for such other purposes as may be authorized in accordance with the procedures set forth in Annex III, which shall constitute an integral part of this Agreement.

ARTICLE XIII

Should the Government of the United States of America indicate to the Government of the Union of Soviet Socialist Republics that its nationals and vessels wish to engage in fishing in the fishery conservation zone of the Soviet Union or its equivalent, the Government of the Union of Soviet Socialist Republics will allow such fishing on the basis of reciprocity and on terms not more restrictive than those established in accordance with this Agreement.

ARTICLE XIV

Nothing contained in the present Agreement shall prejudice the views of either contracting Government with respect to the existing territorial or other jurisdiction of the coastal state for all purposes other than the conservation and management of fisheries.

ARTICLE XV

1. This Agreement shall enter into force on a date to be mutually agreed by exchange of notes, [1] following the completion of the internal procedures of both Parties, and shall remain in force until July 1, 1982, unless terminated sooner by either Party after giving written notification of such termination one year in advance.

2. This Agreement shall be subject to review by the two Governments two years after its entry into force or upon the conclusion of a multilateral treaty resulting from the third United Nations Conference on the Law of the Sea.

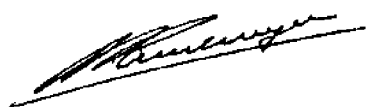
IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington, on the twenty-sixth day of November, 1976, in duplicate, in the English and Russian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

 [2]

FOR THE GOVERNMENT OF THE UNION
OF SOVIET SOCIALIST REPUBLICS:

 [2]

¹ Feb. 28, 1977.

² Thomas A. Clingan, Jr.

³ V. M. Kamentsev

AGREED MINUTES

The representatives of the Government of the United States and the Government of the Union of Soviet Socialist Republics have agreed to record the following in connection with the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Concerning Fisheries off the Coasts of the United States signed today:

1. The two Governments agreed to take note that the administration of the Agreement during the first year of its operation would be in some respects transitional in nature.
2. With regard to the existing Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Fisheries in the Northeastern Pacific Ocean off the Coast of the United States of America which entered into force on August 1, 1975, and expires on December 31, 1976,^[1] the Government of the United States of America is prepared to continue measures to minimize gear conflicts between fishing vessels of the two countries in accordance with paragraphs 4 and 5 of that Agreement, and facilitate the entry of Soviet fishing, fishery research and fishery support vessels into designated United States ports in accordance with paragraph 13 of that Agreement.
3. The commitment in paragraph 2 above by the Government of the United States shall be assured during the transitional period following December 31, 1976 and prior to the entry into force of the Agreement signed today, upon the understanding that the Government of the Union of Soviet Socialist Republics during the transitional period prior to entry into force of the Agreement signed today intends to abide by the fishing restrictions and conservation measures of the former Agreement.

¹ TIAS 8207; 26 UST 2979.

4. It is understood by the representatives of both Governments that it would be mutually advantageous to continue their coordinated research, conduct their fishing with due regard for the conservation of the stocks of fish, facilitate entry into appropriate ports and protect the marine environment in accordance with the former Agreement during the transitional period prior to the entry into force of the Agreement signed today.

5. With respect to Article II, paragraph 6. b. of the Agreement, representatives of the two Governments agreed that vessels used exclusively for medical, sanitary or patrol purposes should not be considered as fishing vessels for purposes of this Agreement.

6. The Soviet representative agreed that his Government would ensure that any vessels which are capable of undertaking fishing activity and do not have on board a U.S. permit which are used for emergency medical or sanitary purposes or for rescue of persons or vessels in distress or in cases of force majeure shall notify the U.S. upon their entry into the U.S. fishery conservation zone. The Soviet representative further agreed that all fishing gear on or near the working deck of such vessels shall not be rigged so as to be readily available for use.



**Convention on Future Multilateral Cooperation in the
Northwest Atlantic Fisheries, October 24, 1978***

* Exec. Doc. T. 96-1.

CONVENTION ON FUTURE MULTILATERAL
COOPERATION IN THE NORTHWEST
ATLANTIC FISHERIES

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION ON FUTURE MULTILATERAL COOPERATION
IN THE NORTHWEST ATLANTIC FISHERIES (THE NAFO CON-
VENTION), SIGNED IN OTTAWA ON OCTOBER 24, 1978, BY
NINE PARTIES, NOT INCLUDING THE UNITED STATES, AND
SUBSEQUENTLY ENTERED INTO FORCE ON JANUARY 1, 1979



MAY 3, 1979.—Treaty was read the first time and, together with the
accompanying papers, referred to the Committee on Foreign Relations
and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

The Contracting Parties,

Noting that the coastal States of the Northwest Atlantic have, in accordance with relevant principles of international law, extended their jurisdiction over the living resources of their adjacent waters to limits of up to two hundred nautical miles from the baselines from which the breadth of the territorial sea is measured, and exercise within these areas sovereign rights for the purpose of exploring and exploiting, conserving and managing these resources;

Taking into account the work of the Third United Nations Conference on the Law of the Sea in the field of fisheries;

Desiring to promote the conservation and optimum utilization of the fishery resources of the Northwest Atlantic area within a framework appropriate to the regime of extended coastal State jurisdiction over fisheries, and accordingly to encourage international cooperation and consultation with respect to these resources;

Have agreed as follows:

ARTICLE I

1. The area to which this Convention applies, hereinafter referred to as "the Convention Area", shall be the waters of the Northwest Atlantic Ocean north of 35°00' north latitude and west of a line extending due north from 35°00' north latitude and 42°00' west longitude to 59°00' north latitude, thence due west to 44°00' west longitude, and thence due north to the coast of Greenland, and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10' north latitude.

2. The area referred to in this Convention as "the Regulatory Area" is that part of the Convention Area which lies beyond the areas in which coastal States exercise fisheries jurisdiction.

3. For the purposes of this Convention, "coastal State" shall hereinafter mean a Contracting Party exercising fisheries jurisdiction in waters forming part of the Convention Area.

4. This Convention applies to all fishery resources of the Convention Area, with the following exceptions: salmon, tunas and marlins, cetacean stocks managed by the International Whaling Commission or any successor organization, and sedentary species of the Continental Shelf, i.e., organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

5. Nothing in this Convention shall be deemed to affect or prejudice the positions or claims of any Contracting Party in regard to internal waters, the territorial sea, or the limits or extent of the jurisdiction of any Party over fisheries; or to affect or prejudice the views or positions of any Contracting Party with respect to the law of the sea.

ARTICLE II

1. The Contracting Parties agree to establish and maintain an international organization whose object shall be to contribute through consultation and cooperation to the optimum utilization, rational management and conservation of the fishery resources of the Convention Area. This organization shall be known as the Northwest Atlantic Fisheries Organization, hereinafter referred to as "the Organization", and shall carry out the functions set forth in this Convention.

2. The Organization shall consist of:

- (a) a General Council;
- (b) a Scientific Council;
- (c) a Fisheries Commission; and
- (d) a Secretariat.

3. The Organization shall have legal personality and shall enjoy in its relations with other international organizations and in the territories of the Contracting Parties such legal capacity as may be necessary to perform its functions and achieve its ends. The immunities and privileges which the Organization and its officers shall enjoy in the territory of a Contracting Party shall be subject to agreement between the Organization and the Contracting Party concerned.

4. The headquarters of the Organization shall be at Dartmouth, Nova Scotia, Canada, or at such other place as may be decided by the General Council.

ARTICLE III

The functions of the General Council shall be:

- (a) to supervise and coordinate the organizational, administrative, financial and other internal affairs of the Organization, including the relations among its constituent bodies;
- (b) to coordinate the external relations of the Organization;
- (c) to review and determine the membership of the Fisheries Commission pursuant to Article XIII; and
- (d) to exercise such other authority as is conferred upon it by this Convention.

ARTICLE IV

1. Each Contracting Party shall be a member of the General Council and shall appoint to the Council not more than three representatives who may be accompanied at any of its meetings by alternates, experts and advisers.

2. The General Council shall elect a Chairman and a Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election but shall not serve for more than four years in succession. The Chairman shall be a representative of a Contracting Party that is a member of the Fisheries Commission and the Chairman and Vice-Chairman shall be representatives of different Contracting Parties.

3. The Chairman shall be the President of the Organization and shall be its principal representative.

4. The Chairman of the General Council shall convene a regular annual meeting of the Organization at a place decided upon by the General Council and which shall normally be in North America.

5. Any meeting of the General Council, other than the annual meeting, may be called by the Chairman at such time and place as the Chairman may determine, upon the request of a Contracting Party with the concurrence of another Contracting Party.

6. The General Council may establish such Committees and Subcommittees as it considers desirable for the exercise of its duties and functions.

ARTICLE V

1. Each Contracting Party shall have one vote in proceedings of the General Council.

2. Except where otherwise provided, decisions of the General Council shall be taken by a majority of the votes of all Contracting Parties present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two-thirds of the Contracting Parties.

3. The General Council shall adopt, and amend as occasion may require, rules for the conduct of its meetings and for the exercise of its functions.

4. The General Council shall submit to the Contracting Parties an annual report of the activities of the Organization.

ARTICLE VI

1. The functions of the Scientific Council shall be:

(a) to provide a forum for consultation and cooperation among the Contracting Parties with respect to the study, appraisal and exchange of scientific information and views relating to the fisheries of the Convention Area, including environmental and ecological factors affecting these fisheries, and to encourage and promote cooperation among the Contracting Parties in scientific research designed to fill gaps in knowledge pertaining to these matters;

(b) to compile and maintain statistics and records and to publish or disseminate reports, information and materials pertaining to the fisheries of the Convention Area, including environmental and ecological factors affecting these fisheries;

(c) to provide scientific advice to coastal States, where requested to do so pursuant to Article VII; and

(d) to provide scientific advice to the Fisheries Commission, pursuant to Article VIII or on its own initiative as required for the purposes of the Commission.

2. The functions of the Scientific Council may, where appropriate, be carried out in cooperation with other public or private organizations having related objectives.

3. The Contracting Parties shall furnish to the Scientific Council any available statistical and scientific information requested by the Council for the purpose of this Article.

ARTICLE VII

1. The Scientific Council shall, at the request of a coastal State, consider and report on any question pertaining to the scientific basis for the management and conservation of fishery resources in waters

under the fisheries jurisdiction of that coastal State within the Convention Area.

2. The coastal State shall, in consultation with the Scientific Council, specify terms of reference for the consideration of any question referred to the Council pursuant to paragraph 1. These terms of reference shall include, along with any other matters deemed appropriate, such of the following as are applicable:

- (a) a statement of the question referred, including a description of the fisheries and area to be considered;
- (b) where scientific estimates or predictions are sought, a description of any relevant factors or assumptions to be taken into account; and
- (c) where applicable, a description of any objectives the coastal State is seeking to attain and an indication of whether specific advice or a range of options should be provided.

ARTICLE VIII

The Scientific Council shall consider and report on any question referred to it by the Fisheries Commission pertaining to the scientific basis for the management and conservation of fishery resources within the Regulatory Area and shall take into account the terms of reference specified by the Fisheries Commission in respect of that question.

ARTICLE IX

1. Each Contracting Party shall be a member of the Scientific Council and shall appoint to the Council its own representatives who may be accompanied at any of its meetings by alternates, experts and advisers.

2. The Scientific Council shall elect a Chairman and a Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election but shall not serve for more than four years in succession. The Chairman and Vice-Chairman shall be representatives of different Contracting Parties.

3. Any meeting of the Scientific Council, other than the annual meeting convened pursuant to Article IV, may be called by the Chairman at such time and place as the Chairman may determine, upon the request of a coastal State or upon the request of a Contracting Party with the concurrence of another Contracting Party.

4. The Scientific Council may establish such Committees and Subcommittees as it considers desirable for the exercise of its duties and functions.

ARTICLE X

1. Scientific advice to be provided by the Scientific Council pursuant to this Convention shall be determined by consensus. Where consensus cannot be achieved, the Council shall set out in its report all views advanced on the matter under consideration.

2. Decisions of the Scientific Council with respect to the election of officers, the adoption and the amendment of rules and other matters pertaining to the organization of its work shall be taken by a majority of votes of all Contracting Parties present and casting affirmative or negative votes, and for these purposes each Contracting Party shall

have one vote. No vote shall be taken unless there is a quorum of at least two-thirds of the Contracting Parties.

3. The Scientific Council shall adopt, and amend as occasion may require, rules for the conduct of its meetings and for the exercise of its functions.

ARTICLE XI

1. The Fisheries Commission, hereinafter referred to as "the Commission", shall be responsible for the management and conservation of the fishery resources of the Regulatory Area in accordance with the provision of this Article.

2. The Commission may adopt proposals for joint action by the Contracting Parties designed to achieve the optimum utilization of the fishery resources of the Regulatory Area. In considering such proposals, the Commission shall take into account any relevant information or advice provided to it by the Scientific Council.

3. In the exercise of its functions under paragraph 2, the Commission shall seek to ensure consistency between:

(a) any proposal that applies to a stock or group of stocks occurring both within the Regulatory Area and within an area under the fisheries jurisdiction of a coastal State, or any proposal that would have an effect through species interrelationships on a stock or group of stocks occurring in whole or in part within an area under the fisheries jurisdiction of a coastal State, and

(b) any measures or decisions taken by the coastal State for the management and conservation of that stock or group of stocks with respect to fishing activities conducted within the area under its fisheries jurisdiction.

The appropriate coastal State and the Commission shall accordingly promote the coordination of such proposals, measures and decisions. Each coastal State shall keep the Commission informed of its measures and decisions for the purpose of this Article.

4. Proposals adopted by the Commission for the allocation of catches in the Regulatory Area shall take into account the interests of Commission members whose vessels have traditionally fished within that Area, and, in the allocation of catches from the Grand Banks and Flemish Cap, Commission members shall give special consideration to the Contracting Party whose coastal communities are primarily dependent on fishing for stocks related to these fishing banks and which has undertaken extensive efforts to ensure the conservation of such stocks through international action, in particular, by providing surveillance and inspection of international fisheries on these banks under an international scheme of joint enforcement.

5. The Commission may also adopt proposals for international measures of control and enforcement within the Regulatory Area for the purpose of ensuring within that Area the application of this Convention and the measures in force thereunder.

6. Each proposal adopted by the Commission shall be transmitted by the Executive Secretary to all Contracting Parties, specifying the date of transmittal for the purposes of paragraph 1 of Article XII.

7. Subject to the provisions of Article XII, each proposal adopted by the Commission under this Article shall become a measure binding

on all Contracting Parties to enter into force on a date determined by the Commission.

8. The Commission may refer to the Scientific Council any question pertaining to the scientific basis for the management and conservation of fishery resources within the Regulatory Area and shall specify terms of reference for the consideration of that question.

9. The Commission may invite the attention of any or all Commission members to any matters which relate to the objectives and purposes of this Convention within the Regulatory Area.

ARTICLE XII

1. If any Commission member presents to the Executive Secretary an objection to a proposal within sixty days of the date of transmittal specified in the notification of the proposal by the Executive Secretary, the proposal shall not become a binding measure until the expiration of forty days following the date of transmittal specified in the notification of that objection to the Contracting Parties. Thereupon any other Commission member may similarly object prior to the expiration of the additional forty-day period, or within thirty days after the date of transmittal specified in the notification to the Contracting Parties of any objection presented within that additional forty-day period, whichever shall be the later. The proposal shall then become a measure binding on all Contracting Parties, except those which have presented objections, at the end of the extended period or periods for objecting. If, however, at the end of such extended period or periods, objections have been presented and maintained by a majority of Commission members, the proposal shall not become a binding measure, unless any or all of the Commission members nevertheless agree as among themselves to be bound by it on an agreed date.

2. Any Commission member which has objected to a proposal may at any time withdraw that objection and the proposal immediately shall become a measure binding on such a member, subject to the objection procedure provided for in this Article.

3. At any time after the expiration of one year from the date on which a measure enters into force, any Commission member may give to the Executive Secretary notice of its intention not to be bound by the measure, and, if that notice is not withdrawn, the measure shall cease to be binding on that member at the end of one year from the date of receipt of the notice by the Executive Secretary. At any time after a measure has ceased to be binding on a Commission member under this paragraph, the measure shall cease to be binding on any other Commission member upon the date a notice of its intention not to be bound is received by the Executive Secretary.

4. The Executive Secretary shall immediately notify each Contracting Party of:

- (a) the receipt of each objection and withdrawal of objection under paragraphs 1 and 2;
- (b) the date on which any proposal becomes a binding measure under the provisions of paragraph 1; and
- (c) the receipt of each notice under paragraph 3.

ARTICLE XIII

1. The membership of the Commission shall be reviewed and determined by the General Council at its annual meeting and shall consist of:

(a) each Contracting Party which participates in the fisheries of the Regulatory Area; and

(b) any Contracting Party which has provided evidence satisfactory to the General Council that it expects to participate in the fisheries of the Regulatory Area during the year of that annual meeting or during the following calendar year.

2. Each Commission member shall appoint to the Commission not more than three representatives who may be accompanied at any of its meetings by alternates, experts and advisers.

3. Any Contracting Party that is not a Commission member may attend meetings of the Commission as an observer.

4. The Commission shall elect a Chairman and a Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election but shall not serve for more than four years in succession. The Chairman and Vice-Chairman shall be representatives of different Commission members.

5. Any meeting of the Commission, other than the annual meeting convened pursuant to Article IV, may be called by the Chairman at such time and place as the Chairman may determine, upon the request of any Commission member.

6. The Commission may establish such Committees and Subcommittees as it considers desirable for the exercise of its duties and functions.

ARTICLE XIV

1. Each Commission member shall have one vote in proceedings of the Commission.

2. Decisions of the Commission shall be taken by a majority of the votes of all Commission members present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two-thirds of the Commission members.

3. The Commission shall adopt, and amend as occasion may require, rules for the conduct of its meetings and for the exercise of its functions.

ARTICLE XV

1. The Secretariat shall provide services to the Organization in the exercise of its duties and functions.

2. The chief administrative officer of the Secretariat shall be the Executive Secretary, who shall be appointed by the General Council according to such procedures and on such terms as it may determine.

3. The staff of the Secretariat shall be appointed by the Executive Secretary in accordance with such rules and procedures as may be determined by the General Council.

4. The Executive Secretary shall, subject to the general supervision of the General Council, have full power and authority over staff of the Secretariat and shall perform such other functions as the General Council shall prescribe.

ARTICLE XVI

1. Each Contracting Party shall pay the expenses of its own delegation to all meetings held pursuant to this Convention.

2. The General Council shall adopt an annual budget for the Organization.

3. The General Council shall establish the contributions due from each Contracting Party under the annual budget on the following basis:

(a) 10% of the budget shall be divided among the coastal States in proportion to their nominal catches in the Convention Area in the year ending two years before the beginning of the budget year;

(b) 30% of the budget shall be divided equally among all the Contracting Parties; and

(c) 60% of the budget shall be divided among all Contracting Parties in proportion to their nominal catches in the Conventional Area in the year ending two years before the beginning of the budget year.

The nominal catches referred to above shall be the reported catches of the species listed in Annex I, which forms an integral part of this Convention.

4. The Executive Secretary shall notify each Contracting Party of the contribution due from that Party as calculated under paragraph 3, and as soon as possible thereafter each Contracting Party shall pay to the Organization its contribution.

5. Contributions shall be payable in the currency of the country in which the headquarters of the Organization is located, except if otherwise authorized by the General Council.

6. Subject to paragraph 11, the General Council shall, at its first meeting, approve a budget for the balance of the first financial year in which the Organization functions and the Executive Secretary shall transmit to the Contracting Parties copies of that budget together with notices of their respective contributions.

7. For subsequent financial years, drafts of the annual budget shall be submitted by the Executive Secretary to each Contracting Party together with a schedule of contributions, not less than sixty days before the annual meeting of the Organization at which the budgets are to be considered.

8. A Contracting Party acceding to this Convention during the course of a financial year shall contribute in respect of that year a part of the contribution calculated in accordance with the provisions of this Article that is proportional to the number of complete months remaining in the year.

9. A Contracting Party which has not paid its contributions for two consecutive years shall not enjoy any right of casting votes and presenting objections under this Convention until it has fulfilled its obligations, unless the General Council decides otherwise.

10. The financial affairs of the Organization shall be audited annually by external auditors to be selected by the General Council.

11. If the Convention enters into force on 1 January 1979, the provisions of Annex II, which forms an integral part of this Convention, shall apply in place of the provisions of paragraph 6.

ARTICLE XVII

The Contracting Parties agree to take such action, including the imposition of adequate sanctions for violations, as may be necessary to make effective the provisions of the Convention and to implement any measures which become binding under paragraph 7 of Article XI and any measures which are in force under Article XXIII. Each Contracting Party shall transmit to the Commission an annual statement of the actions taken by it for these purposes.

ARTICLE XVIII

The Contracting Parties agree to maintain in force and to implement within the Regulatory Area a scheme of joint international enforcement as applicable pursuant to Article XXIII or as modified by measures referred to in paragraph 5 of Article XI. This scheme shall include provision for reciprocal rights of boarding and inspection by the Contracting Parties and for flag State prosecution and sanctions on the basis of evidence resulting from such boardings and inspections. A report of such prosecutions and sanctions imposed shall be included in the annual statement referred to in Article XVII.

ARTICLE XIX

The Contracting Parties agree to invite the attention of any State not a Party to this Convention to any matter relating to the fishing activities in the Regulatory Area of the nationals or vessels of that State which appear to affect adversely the attainment of the objectives of this Convention. The Contracting Parties further agree to confer when appropriate upon the steps to be taken towards obviating such adverse effects.

ARTICLE XX

1. The Convention Area shall be divided into scientific and statistical subareas, divisions and subdivisions, the boundaries of which shall be those defined in Annex III to this Convention.

2. On the request of the Scientific Council, the General Council may by a two-thirds majority vote of all Contracting Parties, if deemed necessary for scientific or statistical purposes, modify the boundaries of the scientific and statistical sub-areas, divisions and subdivisions set out in Annex III, provided that each Coastal State exercising fisheries jurisdiction in any part of the area affected concurs in such action.

3. On the request of the Fisheries Commission and after having consulted the Scientific Council, the General Council may by a two-thirds majority vote of all Contracting Parties, if deemed necessary for management purposes, divide the Regulatory Area into appropriate regulatory divisions and subdivisions. These may subsequently be modified in accordance with the same procedure. The boundaries of any such divisions and subdivisions shall be defined in Annex III.

4. Annex III to this Convention, either in its present terms or as modified from time to time pursuant to this Article, forms an integral part of this Convention.

ARTICLE XXI

1. Any Contracting Party may propose amendments to this Convention to be considered and acted upon by the General Council at an annual or a special meeting. Any such proposed amendment shall be sent to the Executive Secretary at least ninety days prior to the meeting at which it is proposed to be acted upon, and the Executive Secretary shall immediately transmit the proposal to all Contracting Parties.

2. The adoption of a proposed amendment to the Convention by the General Council shall require a three-fourths majority of the votes of all Contracting Parties. The text of any proposed amendments so adopted shall be transmitted by the Depositary to all Contracting Parties.

3. An amendment shall take effect for all Contracting Parties one hundred and twenty days following the date of transmittal specified in the notification by the Depositary of receipt of written notification of approval by three-fourths of all Contracting Parties unless any other Contracting Party notifies the Depositary that it objects to the amendment within ninety days of the date of transmittal specified in the notification by the Depositary of such receipt, in which case the amendment shall not take effect for any Contracting Party. Any Contracting Party which has objected to an amendment may at any time withdraw that objection. If all objections to an amendment are withdrawn, the amendment shall take effect for all Contracting Parties one hundred and twenty days following the date of transmittal specified in the notification by the Depositary of receipt of the last withdrawal.

4. Any Party which becomes a Contracting Party to the Convention after an amendment has been adopted in accordance with paragraph 2 shall be deemed to have approved the said amendment.

5. The Depositary shall promptly notify all Contracting Parties of the receipt of notifications of approval of amendments, the receipt of notifications of objection or withdrawal of objections, and the entry into force of amendments.

ARTICLE XXII

1. This Convention shall be open for signature at Ottawa until 31 December 1978, by the Parties represented at the Diplomatic Conference on the Future of Multilateral Cooperation in the Northwest Atlantic Fisheries, held at Ottawa from 11 to 21 October 1977. It shall thereafter be open for accession.

2. The Convention shall be subject to ratification, acceptance or approval by the Signatories and the instruments of ratification, acceptance or approval shall be deposited with the Government of Canada, referred to in this Convention as "the Depositary".

3. This Convention shall enter into force upon the first day of January following the deposit of instruments of ratification, acceptance or approval by not less than six Signatories, at least one of which exercises fisheries jurisdiction in waters forming part of the Convention Area.

4. Any party which has not signed this Convention may accede thereto by a notification in writing to the Depositary. Accessions received by the Depositary prior to the date of entry into force of this Convention shall become effective on the date this Convention enters into force. Accessions received by the Depositary after the date of entry into force of this Convention shall become effective on the date of receipt by the Depositary.

5. The Depositary shall inform all Signatories and all Contracting Parties of all ratifications, acceptances or approvals deposited and accessions received.

6. The Depositary shall convene the initial meeting of the Organization to be held not more than six months after the coming into force of the Convention, and shall communicate the provisional agenda to each Contracting Party not less than one month before the date of the meeting.

ARTICLE XXIII

Upon the entry into force of this Convention, each proposal that has been transmitted or is effective at that time under Article VIII of the International Convention for the Northwest Atlantic Fisheries, 1949, ("the ICNAF Convention") shall, subject to the provisions of the ICNAF Convention, become a measure binding on each Contracting Party with respect to the Regulatory Area immediately, if the proposal has become effective under the ICNAF Convention, or at such time as it becomes effective thereunder. Subject to paragraph 3 of Article XII of this Convention, each such measure shall remain binding on each Contracting Party, until such time as it expires or is replaced by a measure which has become binding pursuant to Article XI of this Convention; provided that no such replacement shall take effect before this Convention has been in force for one year.

ARTICLE XXIV

1. Any Contracting Party may withdraw from the Convention on 31 December of any year by giving notice on or before the preceding 30 June to the Depositary, which shall communicate copies of such notice to other Contracting Parties.

2. Any other Contracting Party may thereupon withdraw from the Convention on the same 31 December by giving notice to the Depositary within one month of the receipt of a copy of a notice of withdrawal given pursuant to paragraph 1.

ARTICLE XXV

1. The original of the present Convention shall be deposited with the Government of Canada, which shall communicate certified copies thereof to all the Signatories and to all the Contracting Parties.

2. The Depositary shall register the present Convention with the Secretariat of the United Nations.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Ottawa, this 24th day of October 1978, in a single original, in the English and French languages, each text being equally authentic.

For Bulgaria :

For Canada :

For Cuba :

For Denmark (in respect of the Faroe Islands) :

For the European Economic Community :

For the German Democratic Republic :

For Iceland :

For Japan :

For Norway :

For Poland :

For Portugal :

For Romania :

For Spain :

For the Union of Soviet Socialist Republics :

For the United States of America :

2. Anadromous Species

**Convention for the Protection, Preservation and
Extension of the Sockeye Salmon Fishery of the
Fraser River System (United States-Canada),
May 26, 1930***

* 50 Stat. 1355; T.S. 918; 184 L.N.T.S. 306.

No. 4255. — CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR THE PROTECTION, PRESERVATION AND EXTENSION OF THE SOCKEYE SALMON FISHERIES OF THE FRASER RIVER SYSTEM. SIGNED AT WASHINGTON, MAY 26TH, 1930.

English official text communicated by the Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Berne and by the Canadian Advisory Officer to the League of Nations. The registration of this Convention took place January 7th, 1938.

THE PRESIDENT OF THE UNITED STATES OF AMERICA and HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, in respect of THE DOMINION OF CANADA, recognizing that the protection, preservation and extension of the sockeye salmon fisheries in the Fraser River system are of common concern to the United States of America and the Dominion of Canada; that the supply of this fish in recent years has been greatly depleted and that it is of importance in the mutual interest of both countries that this source of wealth should be restored and maintained, have resolved to conclude a Convention and to that end have named as their respective Plenipotentiaries:

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

Mr. Henry L. STIMSON, Secretary of State of the United States of America; and

HIS MAJESTY, FOR THE DOMINION OF CANADA:

The Honorable Vincent MASSEY, a member of His Majesty's Privy Council for Canada and His Envoy Extraordinary and Minister Plenipotentiary for Canada at Washington;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following Articles:

Article I.

The provisions of this Convention and the orders and regulations issued under the authority thereof shall apply, in the manner and to the extent hereinafter provided in this Convention, to the following waters:

1. The territorial waters and the high seas westward from the western coast of the United States of America and the Dominion of Canada and from a direct line drawn from Bonilla Point, Vancouver Island, to the lighthouse on Tatoosh Island, Washington, — which line marks the entrance to Juan de Fuca Strait — and embraced between

¹ The exchange of ratifications took place at Washington, July 28th, 1937.

48 and 49 degrees north latitude, excepting therefrom, however, all the waters of Barkley Sound, eastward of a straight line drawn from Amphitrite Point to Cape Beale and all the waters of Nitinat Lake and the entrance thereto.

2. The waters included within the following boundaries :

Beginning at Bonilla Point, Vancouver Island, thence along the aforesaid direct line drawn from Bonilla Point to Tatoosh Lighthouse, Washington, described in paragraph numbered 1 of this Article, thence to the nearest point of Cape Flattery, thence following the southerly shore of Juan de Fuca Strait to Point Wilson, on Quimper Peninsula, thence in a straight line to Point Partridge on Whidbey Island, thence following the western shore of the said Whidbey Island, to the entrance to Deception Pass, thence across said entrance to the southern side of Reservation Bay, on Fidalgo Island, thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough, in line with the track of the Great Northern Railway, thence northerly following the shore line of the mainland to Atkinson Point at the northerly entrance to Burrard Inlet, British Columbia, thence in a straight line to the southern end of Bowen Island, thence westerly following the southern shore of Bowen Island to Cape Roger Curtis, thence in a straight line to Gower Point, thence westerly following the shore line to Welcome Point on Secebelt Peninsula, thence in a straight line to Point Young on Lasqueti Island, thence in a straight line to Dorcas Point on Vancouver Island, thence following the eastern and southern shores of the said Vancouver Island to the starting point at Bonilla Point, as shown on the United States Coast and Geodetic Survey Chart Number 6300, as corrected to March 14, 1930, and on the British Admiralty Chart Number 579, copies of which are annexed¹ to this Convention and made a part thereof.

3. The Fraser River and the streams and lakes tributary thereto.

The High Contracting Parties engage to have prepared as soon as practicable charts of the waters described in this Article, with the above described boundaries thereof and the international boundary indicated thereon. Such charts, when approved by the appropriate authorities of the Governments of the United States of America and the Dominion of Canada, shall be considered to have been substituted for the charts annexed¹ to this Convention and shall be authentic for the purposes of the Convention.

The High Contracting Parties further agree to establish within the territory of the United States of America and the territory of the Dominion of Canada such buoys and marks for the purposes of this Convention as may be recommended by the Commission hereinafter authorized to be established, and to refer such recommendations as the Commission may make as relate to the establishment of buoys or marks at points on the international boundary to the International Boundary Commission, United States-Alaska and Canada, for action pursuant to the provisions of the Treaty² between the United States of America and His Majesty, in respect of Canada, respecting the boundary between the United States of America and the Dominion of Canada, signed February 24, 1925.

Article II.

The High Contracting Parties agree to establish and maintain a Commission to be known as the International Pacific Salmon Fisheries Commission, hereinafter called the Commission, consisting of six members, three on the part of the United States of America and three on the part of the Dominion of Canada.

The Commissioners on the part of the United States of America shall be appointed by the President of the United States of America. The Commissioners on the part of the Dominion of Canada shall be appointed by His Majesty on the recommendation of the Governor General in Council.

The Commissioners appointed by each of the High Contracting Parties shall hold office during the pleasure of the High Contracting Party by which they were appointed.

¹ Not reproduced.

² Vol. XLIII, page 239, and Vol. CIV, page 502, of this Series.

The Commission shall continue in existence so long as this Convention shall continue in force, and each High Contracting Party shall have power to fill and shall fill from time to time vacancies which may occur in its representation on the Commission in the same manner as the original appointments are made. Each High Contracting Party shall pay the salaries and expenses of its own Commissioners, and joint expenses incurred by the Commission shall be paid by the two High Contracting Parties in equal moieties.

Article III.

The Commission shall make a thorough investigation into the natural history of the Fraser River sockeye salmon, into hatchery methods, spawning ground conditions and other related matters. It shall conduct the sockeye salmon fish cultural operations in the waters described in paragraphs numbered 2 and 3 of Article I of this Convention, and to that end it shall have power to improve spawning grounds, construct, and maintain hatcheries, rearing ponds and other such facilities as it may determine to be necessary for the propagation of sockeye salmon in any of the waters covered by this Convention, and to stock any such waters with sockeye salmon by such methods as it may determine to be most advisable. The Commission shall also have authority to recommend to the Governments of the High Contracting Parties removing or otherwise overcoming obstructions to the ascent of sockeye salmon, that may now exist or may from time to time occur, in any of the waters covered by this Convention, where investigation may show such removal or other action to overcome obstructions to be desirable. The Commission shall make an annual report to the two Governments as to the investigations which it has made and other action which it has taken in execution of the provisions of this Article, or of other Articles of this Convention.

The cost of all work done pursuant to the provisions of this Article, or of other Articles of this Convention, including removing or otherwise overcoming obstructions that may be approved, shall be borne equally by the two Governments, and the said Governments agree to appropriate annually such money as each may deem desirable for such work in the light of the reports of the Commission.

Article IV.

The Commission is hereby empowered to limit or prohibit taking sockeye salmon in respect of all or any of the waters described in Article I of this Convention, provided that when any order is adopted by the Commission limiting or prohibiting taking sockeye salmon in any of the territorial waters or on the High Seas described in paragraph numbered 1 of Article I, such order shall extend to all such territorial waters and High Seas, and, similarly, when in any of the waters of the United States of America embraced in paragraph numbered 2 of Article I, such order shall extend to all such waters of the United States of America, and when in any of the Canadian waters embraced in paragraphs numbered 2 and 3 of Article I, such order shall extend to all such Canadian waters, and provided further, that no order limiting or prohibiting taking sockeye salmon adopted by the Commission shall be construed to suspend or otherwise affect the requirements of the laws of the State of Washington or of the Dominion of Canada as to the procuring of a license to fish in the waters on their respective sides of the boundary, or in their respective territorial waters embraced in paragraph numbered 1 of Article I of this Convention, and provided further that any order adopted by the Commission limiting or prohibiting taking sockeye salmon on the High Seas embraced in paragraph numbered 1 of Article I of this Convention shall apply only to nationals and inhabitants and vessels and boats of the United States of America and the Dominion of Canada.

Any order adopted by the Commission limiting or prohibiting taking sockeye salmon in the waters covered by this Convention, or any part thereof, shall remain in full force and effect unless and until the same be modified or set aside by the Commission. Taking sockeye salmon in said waters in violation of an order of the Commission shall be prohibited.

Article V.

In order to secure a proper escapement of sockeye salmon during the spring or chinook salmon fishing season, the Commission may prescribe the size of the meshes in all fishing gear and appliances that may be operated during said season in the waters of the United States of America and of the Canadian waters described in Article I of this Convention. At all seasons of the year the Commission may prescribe the size of the meshes in all salmon fishing gear and appliances that may be operated on the High Seas embraced in paragraph numbered 1 of Article I of this Convention, provided, however, that in so far as concerns the High Seas, requirements prescribed by the Commission under the authority of this paragraph shall apply only to nationals and inhabitants and vessels and boats of the United States of America and the Dominion of Canada.

Whenever, at any other time than the spring or chinook salmon fishing season, the taking of sockeye salmon in waters of the United States of America or in Canadian waters is not prohibited under an order adopted by the Commission, any fishing gear or appliance authorized by the State of Washington may be used in waters of the United States of America by any person thereunto authorized by the State of Washington, and any fishing gear or appliance authorized by the laws of the Dominion of Canada may be used in Canadian waters by any person thereunto duly authorized. Whenever the taking of sockeye salmon on the High Seas embraced in paragraph numbered 1 of Article I of this Convention is not prohibited, under an order adopted by the Commission, to the nationals or inhabitants or vessels or boats of the United States of America or the Dominion of Canada, only such salmon fishing gear and appliances as may have been approved by the Commission may be used on such High Seas by said nationals, inhabitants, vessels or boats.

Article VI.

No action taken by the Commission under the authority of this Convention shall be effective unless it is affirmatively voted for by at least two of the Commissioners of each High Contracting Party.

Article VII.

Inasmuch as the purpose of this Convention is to establish for the High Contracting Parties, by their joint effort and expense, a fishery that is now largely nonexistent, it is agreed by the High Contracting Parties that they should share equally in the fishery. The Commission shall, consequently, regulate the fishery with a view to allowing, as nearly as may be practicable, an equal portion of the fish that may be caught each year to be taken by the fishermen of each High Contracting Party.

Article VIII.

Each High Contracting Party shall be responsible for the enforcement of the orders and regulations adopted by the Commission under the authority of this Convention, in the portion of its waters covered by the Convention.

Except as hereinafter provided in Article IX of this Convention, each High Contracting Party shall be responsible, in respect of its own nationals and inhabitants and vessels and boats, for the enforcement of the orders and regulations adopted by the Commission, under the authority of this Convention, on the High Seas embraced in paragraph numbered 1 of Article I of the Convention.

Each High Contracting Party shall acquire and place at the disposition of the Commission any land within its territory required for the construction and maintenance of hatcheries, rearing ponds, and other such facilities as set forth in Article III.

Article IX.

Every national or inhabitant, vessel or boat of the United States of America or of the Dominion of Canada, that engages in sockeye salmon fishing on the High Seas embraced in paragraph numbered 1 of Article I of this Convention, in violation of an order or regulation adopted by the Commission, under the authority of this Convention, may be seized and detained by the duly authorized officers of either High Contracting Party, and when so seized and detained shall be delivered by the said officers, as soon as practicable, to an authorized official of the country to which such person, vessel or boat belongs, at the nearest point to the place of seizure, or elsewhere, as may be agreed upon with the competent authorities. The authorities of the country to which a person, vessel or boat belongs alone shall have jurisdiction to conduct prosecutions for the violation of any order or regulation, adopted by the Commission in respect of fishing for sockeye salmon on the High Seas embraced in paragraph numbered 1 of Article I of this Convention, or of any law or regulation which either High Contracting Party may have made to carry such order or regulation of the Commission into effect, and to impose penalties for such violations; and the witnesses and proofs necessary for such prosecutions, so far as such witnesses or proofs are under the control of the other High Contracting Party, shall be furnished with all reasonable promptitude to the authorities having jurisdiction to conduct the prosecutions.

Article X.

The High Contracting Parties agree to enact and enforce such legislation as may be necessary to make effective the provisions of this Convention and the orders and regulations adopted by the Commission under the authority thereof, with appropriate penalties for violations.

Article XI.

The present Convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty in accordance with constitutional practice, and it shall become effective upon the date of the exchange of ratifications which shall take place at Washington as soon as possible and shall continue in force for a period of sixteen years, and thereafter until one year from the day on which either of the High Contracting Parties shall give notice to the other of its desire to terminate it.

In witness whereof, the respective Plenipotentiaries have signed the present Convention, and have affixed their seals thereto.

Done in duplicate at Washington on the twenty-sixth day of May, one thousand nine hundred and thirty.

(Seal) Henry L. STIMSON.

(Seal) Vincent MASSEY.

Certified to be a true and complete textual copy of the original Convention in the sole language in which it was signed, as well as true reproductions of the Charts annexed thereto.

For the Secretary of State
of the United States of America :

Edward Yardley,

Chief Clerk

and Administrative Assistant.

Certified to be a true copy of the Convention between Canada and the United States for the protection, preservation and extension of the Sockeye Salmon Fisheries in the Fraser River System, signed at Washington on the 26th day of May, 1930.

Dated this 16th day of February, A. D. 1938.

O. D. Skelton,

Under-Secretary of State for External Affairs.

**Pink Salmon Protocol to the Sockeye Salmon
Convention (United States-Canada),
December 28, 1956***

* 8 U.S.T. 1058; T.I.A.S. 3867; 290 U.N.T.S. 103.

PROTOCOL

between

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

and

THE GOVERNMENT OF CANADA

to the

Convention for the Protection, Preservation and Extension

of the

Sockeye Salmon Fisheries in the Fraser River System

signed at

Washington on the 26th day of May 1930.

The Government of the United States of America and the Government of Canada, desiring to coordinate the programs for the conservation of the sockeye and pink salmon stocks of common concern by amendment of the Convention between the United States of America and Canada for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed at Washington on the 26th day of May, 1930, hereinafter referred to as the Convention,

Have agreed as follows:

TS 918.
50 Stat. 1355.

Article I

The Convention as amended by the present Protocol shall apply to pink salmon with the following exception:

The understanding stipulated in the Protocol of Exchange of Ratifications signed at Washington on the 28th day of July, 1937, which provides that "the Commission shall not promulgate or enforce regulations until the scientific investigations provided for in the Convention have been made, covering two cycles of sockeye salmon runs, or eight years;" shall not apply to pink salmon.

TS 918.
50 Stat. 1361.

Article II

The following words shall be deleted from the first sentence of Article IV of the Convention:

“. . . that when any order is adopted by the Commission limiting or prohibiting taking sockeye salmon in any of the territorial waters or on the High Seas described in paragraph numbered 1 of Article I, such order shall extend to all such territorial waters and High Seas, and, similarly, when in any of the waters of the United States of America embraced in paragraph numbered 2 of Article I, such order shall extend to all such waters of the United States of America, and when in any of the Canadian waters embraced in paragraphs numbered 2 and 3 of Article I, such order shall extend to all such Canadian waters, and provided further. . . .”

Article III

The following paragraph shall be added to Article VI of the Convention:

"All regulations made by the Commission shall be subject to approval of the two Governments with the exception of orders for the adjustment of closing or opening of fishing periods and areas in any fishing season and of emergency orders required to carry out the provisions of the Convention."

Article IV

Article VII of the Convention shall be replaced by the following Article:

"The Commission shall regulate the fisheries for sockeye and for pink salmon with a view to allowing, as nearly as practicable, an equal portion of such sockeye salmon as may be caught each year and an equal portion of such pink salmon as may be caught each year to be taken by the fishermen of each Party."

Article V

Paragraph (3) of the understandings stipulated in the Protocol of Exchange of Ratifications signed at Washington on the 28th day of July, 1937, shall be amended to read as follows:

"That the Commission shall set up an Advisory Committee composed of six persons from each country who shall be representatives of the various branches of the industry including, but not limited to, purse seine, gill net, troll, sport fishing and processing, which Advisory Committee shall be invited to all non-executive meetings of the Commission and shall be given full opportunity to examine and to be heard on all proposed orders, regulations or recommendations."

Article VI

1. The Parties shall conduct a coordinated investigation of pink salmon stocks which enter the waters described in Article I of the Convention for the purpose of determining the migratory movements of such stocks. That part of the investigation to be carried out in the waters described in Article I of the Convention shall be carried out by the Commission.

2. Except with regard to that part of the investigation to be carried out by the Commission, the provisions of Article III of the Convention with respect to the sharing of cost shall not apply to the investigation referred to in this Article.

3. The Parties shall meet in the seventh year after the entry into force of this Protocol to examine the results of the investiga-

tion referred to in this Article and to determine what further arrangements for the conservation of pink salmon stocks of common concern may be desirable.

Article VII

Nothing in the Convention or this Protocol shall preclude the Commission from recording such information on stocks of salmon other than sockeye or pink salmon as it may acquire incidental to its activities with respect to sockeye and pink salmon.

Article VIII

The present Protocol shall be ratified and the exchange of the instruments of ratification shall take place in Ottawa as soon as possible. It shall come into force on the day of the exchange of the instruments of ratification.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed this Protocol and have affixed thereto their seals.

Done in duplicate at Ottawa this 28th day of December, 1956.

[SEAL]

For the Government of the
United States of America:
LIVINGSTON T. MERCHANT
WM C HERRINGTON

[SEAL]

For the Government of Canada:
JAMES SINCLAIR

WHEREAS the Senate of the United States of America by their resolution of June 6, 1957, two-thirds of the Senators present concurring therein, did advise and consent to the ratification of the said protocol;

WHEREAS the said protocol was duly ratified by the President of the United States of America on June 18, 1957, in pursuance of the aforesaid advice and consent of the Senate, and was duly ratified on the part of Canada;

WHEREAS the respective instruments of ratification of the said protocol were duly exchanged at Ottawa on July 3, 1957;

AND WHEREAS it is provided in Article VIII of the said protocol that the protocol shall come into force on the day of the exchange of the instruments of ratification;

NOW, THEREFORE, be it known that I, Dwight D. Eisenhower, President of the United States of America, do hereby proclaim and make public the said protocol to the end that the same and each and every article and clause thereof may be observed and fulfilled with good faith, on and after July 3, 1957, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-fourth day of July in the year of our Lord one thousand nine hundred [SEAL] fifty-seven and of the Independence of the United States of America the one hundred eighty-second.

DWIGHT D EISENHOWER

By the President:

CHRISTIAN A. HERTER

Acting Secretary of State

Protocol to the Sockeye Salmon Convention (as
amended) (United States-Canada),
February 24, 1977*

* T.I.A.S. 9854.

PROTOCOL BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF CANADA
TO AMEND THE CONVENTION FOR THE PROTECTION,
PRESERVATION AND EXTENSION OF
THE SOCKEYE SALMON FISHERIES IN
THE FRASER RIVER SYSTEM, AS AMENDED

The Government of the United States of America and the Government of Canada, parties to the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System signed at Washington on May 26, 1930, and to the Protocol signed at Ottawa, December 28, 1956,^[1] amending the aforesaid Convention,

Have agreed as follows:

¹ TS 918, TIAS 3867; 50 Stat. 1355; 8 UST 1067.

ARTICLE I

Paragraph 3 of the understandings stipulated in the Protocol of Exchange of Ratifications signed at Washington on July 28, 1937, and amended by the Protocol signed at Ottawa on December 28, 1956, amending the Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fisheries in the Fraser River System, signed at Washington on May 26, 1930, shall be further amended to read as follows:

"That the Commission shall set up an Advisory Committee composed of seven persons from each country who shall be representatives of the various branches of the industry, including, but not limited to, purse seine, gill net, troll, sport fishing and processing, which Advisory Committee shall be invited to all non-executive meetings of the Commission and shall be given full opportunity to examine and to be heard on all proposed orders, regulations, or recommendations."

ARTICLE II

The present Protocol shall be subject to ratification and the exchange of the instruments of ratification shall take place in Ottawa as soon as possible. This Protocol shall come into force on the day of the exchange of instruments of ratification.^[1]

¹ Oct. 15, 1980.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed this Protocol.

DONE in duplicate, in the English and French languages, both equally authentic, at Washington this twenty-fourth day of February, 1977.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Frederick Irving ^[1]

FOR THE GOVERNMENT OF CANADA:

J. Russell McKloney ^[2]

¹ Frederick Irving.
² J. Russell McKloney.

Convention on the High Seas Fisheries of the North
Pacific Ocean (United States-Canada-Japan),
May 9, 1952*

* 4 U.S.T. 382; T.I.A.S. 2786; 205 U.N.T.S. 65.

INTERNATIONAL CONVENTION FOR THE HIGH SEAS FISHERIES OF THE NORTH PACIFIC OCEAN

The Governments of the United States of America, Canada and Japan, whose respective duly accredited representatives have subscribed hereto,

Acting as sovereign nations in the light of their rights under the principles of international law and custom to exploit the fishery resources of the high seas, and

Believing that it will best serve the common interest of mankind, as well as the interests of the Contracting Parties, to ensure the maximum sustained productivity of the fishery resources of the North Pacific Ocean, and that each of the Parties should assume an obligation, on a free and equal footing, to encourage the conservation of such resources, and

Recognizing that in view of these considerations it is highly desirable (1) to establish an International Commission, representing the three Parties hereto, to promote and coordinate the scientific studies necessary to ascertain the conservation measures required to secure the maximum sustained productivity of fisheries of joint interest to the Contracting Parties and to recommend such measures to such Parties and (2) that each Party carry out such conservation recommendations, and provide for necessary restraints on its own nationals and fishing vessels,

Therefore agree as follows:

ARTICLE I

1. The area to which this Convention applies, hereinafter referred to as "the Convention area", shall be all waters, other than territorial waters, of the North Pacific Ocean which for the purposes hereof shall include the adjacent seas.

2. Nothing in this Convention shall be deemed to affect adversely (prejudice) the claims of any Contracting Party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

3. For the purposes of this Convention the term "fishing vessel" shall mean any vessel engaged in catching fish or processing or transshipping fish loaded on the high seas, or any vessel outfitted for such activities.

ARTICLE II

1. In order to realize the objectives of this Convention, the Contracting Parties shall establish and maintain the International North Pacific Fisheries Commission, hereinafter referred to as "the Commission."

2. The Commission shall be composed of three national sections, each consisting of not more than four members appointed by the governments of the respective Contracting Parties.

3. Each national section shall have one vote. All resolutions, recommendations and other decisions of the Commission shall be made only by a unanimous vote of the three national sections except when under the provisions of Article III, Section 1 (c) (ii) only two participate.

4. The Commission may decide upon and amend, as occasion may require, by-laws or rules for the conduct of its meetings.

5. The Commission shall meet at least once each year and at such other times as may be requested by a majority of the national sections. The date and place of the first meeting shall be determined by agreement between the Contracting Parties.

6. At its first meeting the Commission shall select a Chairman, Vice-Chairman and Secretary from different national sections. The Chairman, Vice-Chairman and Secretary shall hold office for a period of one year. During succeeding years selection of a Chairman, Vice-Chairman and Secretary from the national sections shall be made in such a manner as will provide each Contracting Party in turn with representation in those offices.

7. The Commission shall decide on a convenient place for the establishment of the Commission's headquarters.

8. Each Contracting Party may establish an Advisory Committee for its national section, to be composed of persons who shall be well informed concerning North Pacific fishery problems of common concern. Each such Advisory Committee shall be invited to attend all sessions of the Commission except those which the Commission decides to be *in camera*.

9. The Commission may hold public hearings. Each national section may also hold public hearings within its own country.

10. The official languages of the Commission shall be Japanese and English. Proposals and data may be submitted to the Commission in either language.

11. Each Contracting Party shall determine and pay the expenses incurred by its national section. Joint expenses incurred by the Commission shall be paid by the Commission through contributions made by the Contracting Parties in the form and proportion recommended by the Commission and approved by the Contracting Parties.

12. An annual budget of joint expenses shall be recommended by the Commission and submitted to the Contracting Parties for approval.

13. The Commission shall authorize the disbursement of funds for the joint expenses of the Commission and may employ personnel and acquire facilities necessary for the performance of its functions.

ARTICLE III

1. The Commission shall perform the following functions:

- (a) In regard to any stock of fish specified in the Annex, study for the purpose of determining annually whether such stock continues to qualify for abstention under the provisions of Article IV. If the Commission determines that such stock no longer meets the conditions of Article IV, the Commission shall recommend that it be removed from the Annex. Provided, however, that with respect to the stocks of fish originally specified in the Annex, no determination or recommendation as to whether such stock continues to qualify for abstention shall be made for five years after the entry into force of this Convention.
- (b) To permit later additions to the Annex, study, on request of a Contracting Party, any stock of fish of the Convention area, the greater part of which is harvested by one or more of the Contracting Parties, for the purpose of determining whether such stock qualifies for abstention under the provisions of Article IV. If the Commission decides that the particular stock fulfills the conditions of Article IV it shall recommend, (1) that such stock be added to the Annex, (2) that the appropriate Party or Parties abstain from fishing such stock and (3) that the Party or Parties participating in the fishing of such stock continue to carry out necessary conservation measures.
- (c) In regard to any stock of fish in the Convention area;
 - (i) Study, on request of any Contracting Party concerned, any stock of fish which is under substantial exploitation by two or more of the Contracting Parties, and which is not covered by a conservation agreement between such Parties existing at the time of the conclusion of this Convention, for the purpose of determining need for joint conservation measures;
 - (ii) Decide and recommend necessary joint conservation measures including any relaxation thereof to be taken as a result of such study. Provided, however, that only the national sections of the Contracting Parties engaged in substantial exploitation of such stock of fish may participate in such decision and recommendation. The decisions and recommendations shall be reported regularly to all the Contracting Parties,

but shall apply only to the Contracting Parties the national sections of which participated in the decisions and recommendations.

- (iii) Request the Contracting Party or Parties concerned to report regularly the conservation measures adopted from time to time with regard to the stocks of fish specified in the Annex, whether or not covered by conservation agreements between the Contracting Parties, and transmit such information to the other Contracting Party or Parties.
- (d) Consider and make recommendations to the Contracting Parties concerning the enactment of schedules of equivalent penalties for violations of this Convention.
- (e) Compile and study the records provided by the Contracting Parties pursuant to Article VIII.
- (f) Submit annually to each Contracting Party a report on the Commission's operations, investigations and findings, with appropriate recommendations, and inform each Contracting Party, whenever it is deemed advisable, on any matter relating to the objectives of this Convention.

2. The Commission may take such steps, in agreement with the Parties concerned, as will enable it to determine the extent to which the undertakings agreed to by the Parties under the provisions of Article V, Section 2 and the measures recommended by the Commission under the provisions of this Article and accepted by the Parties concerned have been effective.

3. In the performance of its functions, the Commission shall, insofar as feasible, utilize the technical and scientific services of, and information from, official agencies of the Contracting Parties and their political sub-divisions and may, when desirable and if available, utilize the services of, and information from, any public or private institution or organization or any private individual.

ARTICLE IV

1. In making its recommendations the Commission shall be guided by the spirit and intent of this Convention and by the considerations below mentioned.

- (a) Any conservation measures for any stock of fish decided upon under the provisions of this Convention shall be recommended for equal application to all Parties engaged in substantial exploitation of such stock.
- (b) With regard to any stock of fish which the Commission determines reasonably satisfies all the following conditions, a

recommendation shall be made as provided for in Article III, Section 1, (b).

(i) Evidence based upon scientific research indicates that more intensive exploitation of the stock will not provide a substantial increase in yield which can be sustained year after year,

(ii) The exploitation of the stock is limited or otherwise regulated through legal measures by each Party which is substantially engaged in its exploitation, for the purpose of maintaining or increasing its maximum sustained productivity; such limitations and regulations being in accordance with conservation programs based upon scientific research, and

(iii) The stock is the subject of extensive scientific study designed to discover whether the stock is being fully utilized and the conditions necessary for maintaining its maximum sustained productivity.

Provided, however, that no recommendation shall be made for abstention by a Contracting Party concerned with regard to: (1) any stock of fish which at any time during the twenty-five years next preceding the entry into force of this Convention has been under substantial exploitation by that Party having regard to the conditions referred to in Section 2 of this Article; (2) any stock of fish which is harvested in greater part by a country or countries not party to this Convention; (3) waters in which there is historic intermingling of fishing operations of the Parties concerned, intermingling of the stocks of fish exploited by these operations, and a long-established history of joint conservation and regulation among the Parties concerned so that there is consequent impracticability of segregating the operations and administering control. It is recognized that the conditions specified in subdivision (3) of this proviso apply to Canada and the United States of America in the waters off the Pacific Coasts of the United States of America and Canada from and including the waters of the Gulf of Alaska southward and, therefore, no recommendation shall be made for abstention by either the United States of America or Canada in such waters.

2. In any decision or recommendation allowances shall be made for the effect of strikes, wars, or exceptional economic or biological conditions which may have introduced temporary declines in or suspension of productivity, exploitation, or management of the stock of fish concerned.

ARTICLE V

1. The Annex attached hereto forms an integral part of this Convention. All references to "Convention" shall be understood as

including the said Annex either in its present terms or as amended in accordance with the provisions of Article VII.

2. The Contracting Parties recognize that any stock of fish originally specified in the Annex to this Convention fulfills the conditions prescribed in Article IV and accordingly agree that the appropriate Party or Parties shall abstain from fishing such stock and the Party or Parties participating in the fishing of such stock shall continue to carry out necessary conservation measures.

ARTICLE VI

In the event that it shall come to the attention of any of the Contracting Parties that the nationals or fishing vessels of any country which is not a Party to this Convention appear to affect adversely the operations of the Commission or the carrying out of the objectives of this Convention, such Party shall call the matter to the attention of other Contracting Parties. All the Contracting Parties agree upon the request of such Party to confer upon the steps to be taken towards obviating such adverse effects or relieving any Contracting Party from such adverse effects.

ARTICLE VII

1. The Annex to this Convention shall be considered amended from the date upon which the Commission receives notification from all the Contracting Parties of acceptance of a recommendation to amend the Annex made by the Commission in accordance with the provisions of Article III, Section 1 or of the Protocol to this Convention.

2. The Commission shall notify all the Contracting Parties of the date of receipt of each notification of acceptance of an amendment to the Annex.

ARTICLE VIII

The Contracting Parties agree to keep as far as practicable all records requested by the Commission and to furnish compilations of such records and other information upon request of the Commission. No Contracting Party shall be required hereunder to provide the records of individual operations.

ARTICLE IX

1. The Contracting Parties agree as follows:

- (a) With regard to a stock of fish from the exploitation of which any Contracting Party has agreed to abstain, the nationals and fishing vessels of such Contracting Party are prohibited from engaging in the exploitation of such stock of fish in waters specified in the Annex, and from loading, processing, possessing, or transporting such fish in such waters.

- (b) With regard to a stock of fish for which a Contracting Party has agreed to continue to carry out conservation measures, the nationals and fishing vessels of such Party are prohibited from engaging in fishing activities in waters specified in the Annex in violation of regulations established under such conservation measures.

2. Each Contracting Party agrees, for the purpose of rendering effective the provisions of this Convention, to enact and enforce necessary laws and regulations, with regard to its nationals and fishing vessels, with appropriate penalties against violations thereof and to transmit to the Commission a report on any action taken by it with regard thereto.

ARTICLE X

1. The Contracting Parties agree, in order to carry out faithfully the provisions of this Convention, to cooperate with each other in taking appropriate and effective measures and accordingly agree as follows:

- (a) When a fishing vessel of a Contracting Party has been found in waters in which that Party has agreed to abstain from exploitation in accordance with the provisions of this Convention, the duly authorized officials of any Contracting Party may board such vessel to inspect its equipment, books, documents, and other articles and question the persons on board.

Such officials shall present credentials issued by their respective Governments if requested by the master of the vessel.

- (b) When any such person or fishing vessel is actually engaged in operations in violation of the provisions of this Convention, or there is reasonable ground to believe was obviously so engaged immediately prior to boarding of such vessel by any such official, the latter may arrest or seize such person or vessel. In that case, the Contracting Party to which the official belongs shall notify the Contracting Party to which such person or vessel belongs of such arrest or seizure, and shall deliver such vessel or persons as promptly as practicable to the authorized officials of the Contracting Party to which such vessel or person belongs at a place to be agreed upon by both Parties. Provided, however, that when the Contracting Party which receives such notification cannot immediately accept delivery and makes request, the Contracting Party which gives such notification may keep such person or vessel under surveillance within its own territory, under the conditions agreed upon by both of the Contracting Parties.

(c) Only the authorities of the Party to which the above-mentioned person or fishing vessel belongs may try the offense and impose penalties therefor. The witnesses and evidence necessary for establishing the offense, so far as they are under the control of any of the Parties to this Convention, shall be furnished as promptly as possible to the Contracting Party having jurisdiction to try the offense.

2. With regard to the nationals or fishing vessels of one or more Contracting Parties in waters with respect to which they have agreed to continue to carry out conservation measures for certain stocks of fish in accordance with the provisions of this Convention, the Contracting Parties concerned shall carry out enforcement severally or jointly. In that case, the Contracting Parties concerned agree to report periodically through the Commission to the Contracting Party which has agreed to abstain from the exploitation of such stocks of fish on the enforcement conditions, and also, if requested, to provide opportunity for observation of the conduct of enforcement.

3. The Contracting Parties agree to meet, during the sixth year of the operation of this Convention, to review the effectiveness of the enforcement provisions of this Article and, if desirable, to consider means by which they may more effectively be carried out.

ARTICLE XI

1. This Convention shall be ratified by the Contracting Parties in accordance with their respective constitutional processes and the instruments of ratification shall be exchanged as soon as possible at Tokyo.

2. This Convention shall enter into force on the date of the exchange of ratifications.¹ It shall continue in force for a period of ten years and thereafter until one year from the day on which a Contracting Party shall give notice to the other Contracting Parties of an intention of terminating the Convention, whereupon it shall terminate as to all Contracting Parties.

IN WITNESS WHEREOF, the respective Plenipotentiaries, duly authorized, have signed the present Convention.

¹ June 12, 1953.

DONE in triplicate, in the English and Japanese languages, both equally authentic, at Tokyo this ninth day of May, one thousand nine hundred fifty-two.

UNITED STATES OF AMERICA:

ROBERT MURPHY

CANADA:

A R MENZIES

JAPAN:

K. OKAZAKI

K HIROKAWA.

[SEAL]

[SEAL]

[SEAL]

Annex

1. With regard to the stocks of fish in the respective waters named below, Japan agrees to abstain from fishing, and Canada and the United States of America agree to continue to carry out necessary conservation measures, in accordance with the provisions of Article V, Section 2 of this Convention:

(a) Halibut (*Hippoglossus stenolepis*)

The Convention area off the coasts of Canada and the United States of America in which commercial fishing for halibut is being or can be prosecuted. Halibut referred to herein shall be those originating along the coast of North America.

(b) Herring (*Clupea pallasii*)

The Convention area off the coasts of Canada and the United States of America, exclusive of the Bering Sea and of the waters of the North Pacific Ocean west of the meridian passing through the extremity of the Alaskan Peninsula, in which commercial fishing for herring of North America origin is being or can be prosecuted.

(c) Salmon (*Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus kisutch*, *Oncorhynchus nerka*, *Oncorhynchus tshawytscha*)

The Convention area off the coasts of Canada and the United States of America, exclusive of the Bering Sea and of the waters of the North Pacific Ocean west of a provisional line following the meridian passing through the western extremity of Atka Island; in which commercial fishing for salmon originating in the rivers of Canada and the United States of America is being or can be prosecuted.

2. With regard to the stocks of fish in the waters named below, Canada and Japan agree to abstain from fishing, and the United States of America agrees to continue to carry out necessary conservation measures, in accordance with the provisions of Article V, Section 2 of this Convention:

Salmon (*Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus kisutch*, *Oncorhynchus nerka* and *Oncorhynchus tshawytscha*)

The Convention area of the Bering Sea east of the line starting from Cape Prince of Wales on the west coast of Alaska, running westward to 168°58'22.59" West Longitude; thence due south to a point 65°15'00" North Latitude; thence along the great circle course which passes through 51° North Latitude and 167° East Longitude, to its intersection with meridian 175° West Longitude; thence south along a provisional line which follows this meridian to the territorial waters limit of Atka Island; in which commercial fishing for salmon originating in the rivers of the United States of America is being or can be prosecuted.

PROTOCOL TO THE INTERNATIONAL CONVENTION FOR
THE HIGH SEAS FISHERIES OF THE NORTH PACIFIC
OCEAN

The Governments of the United States of America, Canada and Japan, through their respective Plenipotentiaries, agree upon the following stipulation in regard to the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo on this ninth day of May, nineteen hundred fifty-two.

The Governments of the United States of America, Canada and Japan agree that the line of meridian 175° West Longitude and the line following the meridian passing through the western extremity of Atka Island, which have been adopted for determining the areas in which the exploitation of salmon is abstained or the conservation measures for salmon continue to be enforced in accordance with the provisions of the Annex to this Convention, shall be considered as provisional lines which shall continue in effect subject to confirmation or readjustment in accordance with the procedure mentioned below.

The Commission to be established under the Convention shall, as expeditiously as practicable, investigate the waters of the Convention area to determine if there are areas in which salmon originating in the rivers of Canada and of the United States of America intermingle with salmon originating in the rivers of Asia. If such areas are found the Commission shall conduct suitable studies to determine a line or lines which best divide salmon of Asiatic origin and salmon of Canadian and United States of America origin, from which certain Contracting Parties have agreed to abstain in accordance with the provisions of Article V, Section 2, and whether it can be shown beyond a reasonable doubt that this line or lines more equitably divide such salmon than the provisional lines specified in sections 1(c) and 2 of the Annex. In accordance with these determinations the Commission shall recommend that such provisional lines be confirmed or that they be changed in accordance with these results, giving due consideration to adjustments required to simplify administration.

In the event, however, the Commission fails within a reasonable period of time to recommend unanimously such line or lines, it is agreed that the matter shall be referred to a special committee of scientists consisting of three competent and disinterested persons, no one of whom shall be a national of a Contracting Party, selected by mutual agreement of all Parties for the determination of this matter.

It is further agreed that when a determination has been made by a majority of such special committee, the Commission shall make a recommendation in accordance therewith.

The Governments of the United States of America, Canada and Japan, in signing this Protocol, desire to make it clear that the procedure set forth herein is designed to cover a special situation. It is not, therefore, to be considered a precedent for the final resolution of any matters which may, in the future, come before the Commission.

This Protocol shall become effective from the date of entry into force of the said Convention. [1]

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed this Protocol.

DONE in triplicate at Tokyo this ninth day of May, one thousand nine hundred fifty-two.

UNITED STATES OF AMERICA:

ROBERT MURPHY

CANADA:

A R MENZIES

JAPAN:

K. OKAZAKI

K. HIROKAWA.

¹ June 12, 1953.

**Protocol Amending the North Pacific Fisheries
Convention (United States-Canada-Japan),
November 17, 1962***

* 14 U.S.T. 953; T.I.A.S. 5385.

MULTILATERAL

High Seas Fisheries of the North Pacific Ocean

*Amendments to the Annex to the Convention of May 9, 1952.
Recommendations relating to halibut and to herring adopted at
the Ninth Annual Meeting of the International North Pacific
Fisheries Commission, at Seattle, November 17, 1962, and
amended, with respect to herring, January 25, 1963;
Notifications of acceptance received by the Commission from Japan
on February 26, 1963, from the United States of America on
March 23, 1963, and from Canada on May 8, 1963;
Entered into force May 8, 1963.*

SECRETARIAT:
ROY I. JACKSON
Executive Director
HIROSHI KASAHARA
Assistant Director

OFFICES:
6840 NORTHWEST MARINE DRIVE
VANCOUVER 8, B. C.
Phone Castle 4-0722
Cable Address:
"NORTHECOM"

INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION

ESTABLISHED BY CONVENTION BETWEEN
CANADA, JAPAN AND THE UNITED STATES
FOR THE CONSERVATION OF THE FISHERIES
RESOURCES OF THE NORTH PACIFIC OCEAN

JUNE 24, 1963.

The Honourable DEAN RUSK,
*Secretary of State,
Washington 25, D. C.*

DEAR SIR:

On November 17, 1962, at its Ninth Annual Meeting, at Seattle, the International North Pacific Fisheries Commission determined that the herring stocks off the west coast of the Queen Charlotte Islands and that the halibut stock of the eastern Bering Sea no longer meet the conditions of Article IV of the Convention [1] and adopted recommendations for the removal of such stocks of herring and halibut from the Annex to the International Convention for the High Seas Fisheries of the North Pacific Ocean. [1] It was subsequently noted that some ambiguity might arise from the language of the recommen-

¹ TIAS 2786; 4 UST 385, 391.

dation with respect to herring. Therefore, the Commission on January 25, 1963 formally amended that recommendation.

The Commission, having transmitted the recommendations to the Contracting Parties for their consideration, has now received notifications of acceptance of the recommendation relating to halibut and the recommendation, as amended, relating to herring, as follows: from Japan on February 26, 1963, from the United States of America on March 23, 1963, and from Canada on May 8, 1963.

In accordance with the provisions of Article VII, paragraph 1, of the Convention, sections (a) and (b) of paragraph 1 of the Annex are considered amended from May 8, 1963 to read in the English language as follows:

“(a) Halibut (*Hippoglossus stenolepis*)

The Convention area off the coast of Canada and the United States of America, exclusive of the Bering Sea, in which commercial fishing for halibut is being or can be prosecuted. Halibut referred to herein shall be those originating along the coast of North America.

“(b) Herring (*Clupea pallasii*)

The Convention area off the coast of Canada in which commercial fishing for herring of Canadian origin is being or can be prosecuted, exclusive of the waters of the high seas north of 51°56' North Latitude and west of the Queen Charlotte Islands and west of a line drawn between Langara Point on Langara Island, Queen Charlotte Islands, and Cape Muzon on Dall Island in Southeast Alaska.”

Copies are attached to this letter of the amended section (a) in the Japanese language, which I transmitted with my letter of December 6, 1962,^[1] and of the amended section (b) in the Japanese language, which I transmitted with my letter of January 25, 1963.^[1]

With assurances of our highest esteem,

Yours very truly,

INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION

ROY I JACKSON

Roy I. Jackson,
Executive Director

Att.

¹ Not printed.

**Protocol Amending the North Pacific Fisheries
Convention (United States-Canada-Japan),
April 25, 1978***

* 30 U.S.T. 1095; T.I.A.S. 9242.

PROTOCOL AMENDING
THE INTERNATIONAL CONVENTION FOR THE
HIGH SEAS FISHERIES OF THE NORTH PACIFIC OCEAN

The Governments of the United States of America,
Canada and Japan,

Having regard to the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo on the ninth day of May, nineteen hundred and fifty-two, its Annex and the Protocol thereto^[1] (hereinafter referred to as "the Convention"),

Sharing the view that the Convention has served to promote and coordinate scientific studies relating to the fishery resources of the North Pacific Ocean and its adjacent seas, and has aided in the conservation of these fishery resources,

Taking into account that each of the Contracting Parties has established new fishery jurisdiction in the Convention area,

Acknowledging that certain provisions of the Convention are not compatible with such jurisdiction, and

Desirous of amending the Convention,

Have agreed as follows:

¹ TIAS 2786, 4493, 4992, 5365; 4 UST 380; 11 UST 1503; 13 UST 372; 14 UST 953.

ARTICLE I

The Convention shall be amended to read as follows:

"The Governments of the United States of America, Canada and Japan have agreed as follows:

Article I

1. The area to which this Convention applies, hereinafter referred to as "the Convention area", shall be all waters, other than territorial waters, of the North Pacific Ocean which for the purposes hereof shall include the adjacent seas.

2. Nothing in this Convention shall be deemed to affect adversely (prejudice) the claims or position of any Contracting Party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

3. For the purposes of this Convention the term "fishing vessel" shall mean any vessel engaged in catching fish or processing or transporting fish loaded in the Convention area, or any vessel outfitted for such activities, or any vessel in normal support of another vessel as described above.

Article II

1. The Contracting Parties shall maintain the International North Pacific Fisheries Commission, hereinafter referred to as "the Commission".

2. The Commission shall be composed of three national sections, each consisting of not more than four members appointed by the Governments of the respective Contracting Parties.

3. Each national section shall have one vote. All proposals, recommendations and other decisions of the Commission shall be made only by a unanimous vote of the three national sections.

4. The Commission may decide upon and amend, as occasion may require, by-laws or rules for the conduct of its meetings.

5. The Commission shall meet at least once each year and at such other times as may be requested by a majority of the national sections.

6. The Commission shall select a Chairman, Vice-Chairman and Secretary from different national sections. The Chairman, Vice-Chairman and Secretary shall hold office for a period of one year. During succeeding years selection of a Chairman, Vice-Chairman and Secretary from the national sections shall be made in such a manner as will provide each Contracting Party in turn with representation in those offices.

7. The location of the Commission's headquarters shall be determined by the Commission.

8. Each Contracting Party may establish an Advisory Committee for its national section, to be composed of persons who shall be well informed concerning North Pacific fishery problems of common concern. Each such Advisory Committee shall be invited to attend all sessions of the Commission except those which the Commission decides to be in camera.

9. The Commission may hold public hearings. Each national section may also hold public hearings within its own country.

10. The official languages of the Commission shall be Japanese and English. Proposals and data may be submitted to the Commission in either language.

11. Each Contracting Party shall determine and pay the expenses incurred by its national section. Joint expenses incurred by the Commission shall be paid by the Commission through contributions made by the Contracting Parties in the form and proportion recommended by the Commission and approved by the Contracting Parties.

12. An annual budget of joint expenses shall be recommended by the Commission and submitted to the Contracting Parties for approval.

13. The Commission shall authorize the disbursement of funds for the joint expenses of the Commission and may employ personnel and acquire facilities necessary for the performance of its functions.

Article III

1. The Commission shall perform the following functions:

- (a) provide for scientific studies and for coordinating the collection, exchange and analysis of scientific data regarding anadromous species, including data regarding the continent of origin of these species, and provide a forum for cooperation among the Contracting Parties with respect to these species;
- (b) pending the establishment of an international organization as referred to in Article IV, provide a forum for cooperation among the Contracting Parties with respect to the study, analysis and exchange of scientific information and views relating to the stocks of non-anadromous species of the Convention area, including information and views relating to all relevant factors affecting these stocks, the promotion of scientific research designed to fill gaps in knowledge and the compilation and dissemination of statistics and records;

- (c) recommend, when necessary, amendment of the Annex to this Convention;
- (d) coordinate scientific studies to determine the continent of origin of anadromous species migrating in the waters south of 46° North Latitude, and following three years of such studies make recommendations if appropriate in accordance with sub-paragraph (c) above relating to the conservation of salmon of North American origin;
- (e) consider and make proposals to the Contracting Parties concerning the enactment of schedules of equivalent penalties for violations of this Convention which occur outside the 200 nautical mile fishery zone of any Contracting Party;
- (f) compile and study the records provided by the Contracting Parties pursuant to Article VIII;
- (g) submit annually to each Contracting Party a report on the Commission's operations, investigations and findings, with appropriate proposals, and inform each Contracting Party, whenever it is deemed advisable, on any matter relating to the implementation of this Convention;

- (h) consider the results of reviews undertaken by the Contracting Parties pursuant to Article XI and make proposals as appropriate.

2. In the performance of its functions, the Commission shall, insofar as feasible, utilize the technical and scientific services of, and information from, official agencies of the Contracting Parties and their political sub-divisions and may, when desirable and if available, utilize the services of, and information from, any public or private institution or organization or any private individual.

Article IV

The Contracting Parties shall work towards the establishment of an international organization with broader membership dealing with species of the Convention area other than anadromous species. Progress towards this end shall be reviewed during the consultations provided for in Article XI. When such an international organization becomes functional, the functions of the Commission under the provisions of Article III, paragraph 1., sub-paragraph (b) shall be terminated and transferred to the new organization.

Article V

1. The Annex attached hereto forms an integral part of this Convention. All references to the Convention shall be understood as including the said Annex

either in its present terms or as amended in accordance with the provisions of Article VII.

2. The Contracting Parties agree that in fishing for anadromous species in the Convention area, they shall respect the conservation measures specified in the Annex to this Convention and that any infringement of these measures shall be deemed to be in violation of the terms of this Convention.

3. The nationals and fishing vessels of the Contracting Parties shall abide by the conservation measures specified in the Annex to this Convention.

Article VI

In the event that it shall come to the attention of any of the Contracting Parties that the nationals or fishing vessels of any country which is not a Party to this Convention appear to affect adversely the operations of the Commission or the implementation of this Convention, such Party shall call the matter to the attention of other Contracting Parties. All the Contracting Parties agree upon the request of such Party to confer upon the steps to be taken towards obviating such adverse effects or relieving any Contracting Party from such adverse effects.

Article VII

1. The Annex to this Convention shall be considered amended from the date upon which the Commission receives notification from all the Contracting Parties of acceptance of a recommendation to amend the Annex made by the Commission in accordance with the provisions of Article III, paragraph 1., sub-paragraph (c).

2. The Commission shall notify all the Contracting Parties of the date of receipt of each notification of acceptance of an amendment to the Annex.

Article VIII

The Contracting Parties agree to keep as far as practicable all records requested by the Commission and to furnish compilations of such records and other information upon request of the Commission. No Contracting Party shall be required hereunder to provide the records of individual operations.

Article IX

1. The Contracting Parties agree that within the Convention area:

- (a) each Contracting Party shall enforce the provisions of this Convention within its 200 nautical mile fishery zone in accordance with its domestic law;
- (b) outside the 200 nautical mile fishery zone of any Contracting Party, any Contracting Party may enforce the provisions of this Convention in accordance with the following:
 - (i) The duly authorized officials of any Contracting Party may

board vessels fishing for anadromous species of the other Contracting Parties to inspect equipment, logs, documents, catch and other articles and question the persons on board for the purpose of carrying out the provisions of this Convention. Such inspections and questioning shall be made so that the vessels suffer the minimum interference and inconvenience. Such officials shall present credentials issued by their respective Governments if requested by the master of the vessel.

- (ii) When any such person or fishing vessel is actually engaged in operations in violation of the provisions of this Convention, or there is reasonable ground to believe was obviously so engaged prior to boarding of such vessel by any such official, the latter may arrest or seize such person or vessel and further investigate the circumstances if necessary. The Contracting Party to which the official belongs shall

notify promptly the Contracting Party to which such person or vessel belongs of such arrest or seizure, and shall deliver such person or vessel as promptly as practicable to the authorized officials of the Contracting Party to which such person or vessel belongs at a place to be agreed upon by both Parties. Provided, however, that when the Contracting Party which receives such notification cannot immediately accept delivery, the Contracting Party which gives such notification may keep such person or vessel under surveillance within the waters of the Convention area or within its own territory under the conditions agreed upon by both the Contracting Parties.

- (iii) Only the authorities of the Contracting Party to which the above-mentioned person or fishing vessel belongs may try the offense and impose penalties therefor. The witnesses and evidence necessary for establishing the offense, so far as they are under the control

of any of the Contracting Parties to this Convention, shall be furnished as promptly as possible to the Contracting Party having jurisdiction to try the offense and shall be taken into account, and utilized as appropriate, by the executive authority of that Contracting Party having jurisdiction to try the offense.

(c) the Contracting Parties shall take appropriate measures to ensure that their fishing vessels allow and assist boardings and inspections carried out in accordance with this Convention of such vessels by the duly authorized officials of any Contracting Party, and cooperate in such enforcement action as may be undertaken.

2. Each Contracting Party agrees, for the purpose of rendering effective the provisions of this Convention, to enact and enforce necessary laws and regulations, with appropriate penalties against violations thereof, and to transmit to the Commission a report on any action taken by it in regard thereto.

Article X

The Contracting Parties agree that a scientific program is necessary to carry out the provisions of this Convention. To this end the Contracting Parties agree to establish such a program to coordinate their scientific research activities with respect to anadromous species in the Convention area as well as species of marine mammals incidentally caught in fishing for anadromous species. In this regard, the Contracting Parties agree to exchange scientists in order to carry out scientific observations with respect to the catches and methods of operation. The Contracting parties shall establish procedures to facilitate such observations.

Article XI

1. The Contracting Parties agree to hold consultations whenever necessary, or not later than sixty days following the request of any of them, in order to review the implementation of this Convention.
2. The Contracting Parties agree to hold consultations, at a time and place to be mutually agreed upon, not later than ninety days following notice by any Contracting Party of its intention to terminate the Convention in accordance with the provisions of Article XII, paragraph 1. of this Convention.

Article XII

1. This Convention shall continue in force until one year from the day on which a Contracting Party shall give notice to the other Contracting Parties of an intention of terminating the Convention, whereupon it shall terminate as to all Contracting Parties.

2. This Convention shall be subject to review by the Contracting Parties upon the conclusion of a multilateral treaty resulting from the Third United Nations Conference on the Law of the sea.

ANNEX

1. The following measures shall apply to salmon fishery operations conducted by Japanese nationals and fishing vessels in the waters of the Convention area:

- (a) North of 56° North Latitude, east of 175° East Longitude and outside the United States fishery conservation zone, beginning on June 26 (Japan Standard Time) (1500 June 25 GMT) of each year, the Japanese mothership fishery shall conduct no more than 22 mothership fleet days in the area between 175° East Longitude and 180° Longitude and no more than 31 mothership fleet days in the area between 180° Longitude and 175° West Longitude.

- (b) North of 46° North Latitude, between 175° East Longitude and 170° East Longitude, and outside the United States fishery conservation zone, salmon fishery operations shall not begin before June 1 (Japan Standard Time) (1500 May 31 GMT) of each year.
- (c) West of 175° East Longitude, and within the United States fishery conservation zone, salmon fishery operations shall not begin before June 10 (Japan Standard Time) (1500 June 9 GMT) of each year. Fishing vessels engaged in this fishery shall be required to have on board a registration permit which shall be issued by the Government of the United States. Such vessels may be required by the Government of the United States to accept on board scientific observers and to bear the expenses incurred in such boarding. The requirement of the Government of the United States that Japanese fishing vessels engaged in this fishery have on board a Certificate of Inclusion relating to the incidental taking of marine mammals shall be suspended for the period ending June 9, 1981 during which period the

Governments of Japan and the United States shall conduct joint research, shall cooperate to determine the effect of the Japanese salmon fishery on marine mammal populations, and shall work to reduce or eliminate the incidental catch of marine mammals in the fishery.

- (d) Except for the areas specified in (a) above, there shall be no salmon fishery operations east of 175° East Longitude, unless such fishery operations are agreed to for a temporary period among the three Contracting Parties.

2. For the purposes of this Annex, a mothership fleet day is defined as one mothership with no more than forty-one catcher-boats present during a portion of any one calendar day in the areas specified in paragraph 1. (a) of this Annex. Any increase in the number of catcher-boats assigned to a mothership will be reflected in a proportional reduction in the number of authorized fleet days. Modifications to gear or fishing procedures which might affect current fishing efficiency shall be undertaken only after consultations among the three Contracting Parties. In such consultations the Contracting Parties shall examine the necessity of change in the number of authorized fleet days to take account of any increase in fishing efficiency.

(37)

3. East of 170° East Longitude the southern limit of the Japanese mothership fishery and the northern limit of the Japanese landbased fishery shall remain at 46° North Latitude. West of 170° East Longitude the southern limit of the Japanese mothership fishery shall not extend south of 46° North Latitude, and the northern limit of the Japanese landbased fishery shall not extend north of 48° North Latitude."

ARTICLE II

This Protocol shall be ratified or approved by the Contracting Parties to the Convention in accordance with their respective constitutional processes, and the instruments of ratification or approval shall be exchanged as soon as possible at Tokyo. This Protocol shall come into force on the date of the exchange by all the Contracting Parties of instruments of ratification or approval.

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

DONE, in triplicate, in the English, French and Japanese languages, all texts being equally authentic. at Tokyo this twenty-fifth day of April, nineteen hundred and seventy-eight.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: [1] (SEAL)
Michael J. Mansfield
FOR THE GOVERNMENT OF CANADA: [2] (SEAL)
Bruce Rankin
FOR THE GOVERNMENT OF JAPAN: [3] (SEAL)
Sunao Sonoda

¹Michael J. Mansfield.
²Bruce Rankin.
³Sunao Sonoda.

3. Highly Migratory Species

Convention for the Establishment of an Inter-
American Tropical Tuna Commission (IATTC),
May 31, 1949*

* 1 U.S.T. 231; T.I.A.S. 2044; 80 U.N.T.S. 3.

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF COSTA RICA FOR THE ESTABLISHMENT OF AN INTER-AMERICAN TROPICAL TUNA COMMISSION

CONVENCION ENTRE LOS ESTADOS UNIDOS DE AMERICA Y LA REPUBLICA DE COSTA RICA PARA EL ESTABLECIMIENTO DE UNA COMISION INTERAMERICANA DEL ATUN TROPICAL

The United States of America and the Republic of Costa Rica, considering their mutual interest in maintaining the populations of yellowfin and skipjack tuna and of other kinds of fish taken by tuna fishing vessels in the eastern Pacific Ocean which by reason of continued use have come to be of common concern, and desiring to cooperate in the gathering and interpretation of factual information to facilitate maintaining the populations of these fishes at a level which will permit maximum sustained catches year after year, have agreed to conclude a Convention for these purposes and to that end have named as their Plenipotentiaries:

The President of the United States of America:

James E. Webb, Acting Secretary of State

Wilbert M. Chapman, Special Assistant to the Under Secretary of State

Los Estados Unidos de América y la República de Costa Rica, teniendo en consideración su interés común en mantener la población de atunes de aletas amarillas y bonitos y otras especies de peces que pescan las embarcaciones atuneras en el Pacífico Oriental, que con motivo de explotación constante se han convertido en materia de interés común, y deseosos de cooperar en la compilación e interpretación de datos fidedignos que faciliten el mantenimiento de las poblaciones de estos peces en un nivel que permita un continuo aprovechamiento máximo año tras año, han convenido en concertar una convención para estos fines y con este objeto han nombrado los siguientes Plenipotenciarios:

El Presidente de los Estados Unidos de América:

James E. Webb, Secretario Interino de Estado

Wilbert M. Chapman, Ayudante Especial del Vicesecretario de Estado

Plenipotenciarios.

The President of the Government of Costa Rica:

Mario A. Esquivel, Ambassador Extraordinary and Plenipotentiary of Costa Rica

Jorge Hazera, Counselor of the Embassy of Costa Rica

El Presidente del Gobierno de Costa Rica:

Mario A. Esquivel, Embajador Extraordinario y Plenipotenciario de Costa Rica

Jorge Hazera, Consejero de la Embajada de Costa Rica

who, having communicated to each other their full powers, found to be in good and due form, have agreed as follows:

quienes, habiendo canjeado sus respectivos plenos poderes, que fueron hallados en debida forma, han convenido en lo siguiente:

ARTICLE I

ARTICULO I

The Commission.

1. The High Contracting Parties agree to establish and operate a joint Commission, to be known as the Inter-American Tropical Tuna Commission, hereinafter referred to as the Commission, which shall carry out the objectives of this Convention. The Commission shall be composed of national sections, each consisting of from one to four members, appointed by the Governments of the respective High Contracting Parties.

1. Las Altas Partes Contratantes convienen en establecer y mantener una Comisión mixta que se denominará Comisión Interamericana del Atún Tropical, que en adelante se llamará la Comisión, la cual llevará a efecto los objetivos de esta Convención. La Comisión estará integrada de secciones nacionales formada cada una por uno y hasta cuatro miembros nombrados por los gobiernos de las respectivas Altas Partes Contratantes.

Annual report.

2. The Commission shall submit annually to the Government of each High Contracting Party a report on its investigations and findings, with appropriate recommendations, and shall also inform such Governments, whenever it is deemed advisable, on any matter relating to the objectives of this Convention.

2. La Comisión rendirá anualmente al gobierno de cada una de las Altas Partes Contratantes un informe sobre sus investigaciones y conclusiones con las recomendaciones que sean del caso y también informará a los gobiernos, siempre que lo considere conveniente, respecto a cualquier asunto relacionado con las finalidades de esta Convención.

Expenses.

3. Each High Contracting Party shall determine and pay the expenses incurred by its section. Joint expenses incurred by the Commission shall be paid by the

3. Cada una de las Altas Partes Contratantes determinará y pagará los gastos en que incurra su respectiva sección. Los gastos conjuntos en que incurra la Comi-

High Contracting Parties through contributions in the form and proportion recommended by the Commission and approved by the High Contracting Parties. The proportion of joint expenses to be paid by each High Contracting Party shall be related to the proportion of the total catch from the fisheries covered by this Convention utilized by that High Contracting Party.

4. Both the general annual program of activities and the budget of joint expenses shall be recommended by the Commission and submitted for approval to the High Contracting Parties.

5. The Commission shall decide on the most convenient place or places for its headquarters.

6. The Commission shall meet at least once each year, and at such other times as may be requested by a national section. The date and place of the first meeting shall be determined by agreement between the High Contracting Parties.

7. At its first meeting the Commission shall select a chairman and a secretary from different national sections. The chairman and the secretary shall hold office for a period of one year. During succeeding years, selection of the chairman and the secretary from the national sections shall be in such a manner that the chairman and the secretary will be of different nationalities, and as will provide each High Contracting Party,

sión serán cubiertos por las Altas Partes Contratantes mediante contribuciones en la forma y proporción que recomiende la Comisión y aprueben las Altas Partes Contratantes. La proporción de gastos conjuntos que pagará cada una de las Altas Partes Contratantes se relacionará con la proporción de la pesca total procedente de las pesquerías que abarque esta Convención y que utilice cada una de las Altas Partes Contratantes.

4. Tanto el plan general de actividades anuales como el presupuesto de gastos conjuntos, serán recomendados por la Comisión y se someterán a la aprobación de las Altas Partes Contratantes.

5. La Comisión acordará el lugar o los lugares más convenientes para su sede.

6. La Comisión se reunirá por lo menos una vez al año y siempre que lo solicite una u otra de las secciones nacionales. La fecha y el lugar de la primera sesión se fijarán por acuerdo de las Altas Partes Contratantes.

7. En su primera sesión la Comisión elegirá, del seno de las distintas secciones nacionales, un presidente y un secretario. El presidente y el secretario desempeñarán sus cargos por el término de un año. En los años subsiguientes, la elección del presidente y del secretario, del seno de las secciones nacionales, se efectuará de modo que el presidente y el secretario sean de distinta nacionalidad y de manera que alter-

Headquarters.

Meetings.

Chairman: Secretary.

in turn, with an opportunity to be represented in those offices.

nadamente se proporcione a cada una de las Altas Partes Contratantes la oportunidad de estar representada en estos cargos.

Votes.

8. Each national section shall have one vote. Decisions, resolutions, recommendations, and publications of the Commission shall be made only by a unanimous vote.

8. Cada una de las secciones nacionales tendrá derecho a un voto. Los acuerdos, resoluciones, recomendaciones y publicaciones de la Comisión tendrán que ser aprobados por unanimidad de votos.

By-laws, etc.

9. The Commission shall be entitled to adopt and to amend subsequently, as occasion may require, by-laws or rules for the conduct of its meetings.

9. La Comisión podrá adoptar los estatutos o reglamentos para celebrar sus sesiones y, según lo requieran las circunstancias, podrá enmendarlos.

Personnel.

10. The Commission shall be entitled to employ necessary personnel for the performance of its functions and duties.

10. La Comisión podrá tomar el personal que sea necesario para el desempeño de sus funciones y obligaciones.

Advisory Committee.

11. Each High Contracting Party shall be entitled to establish an Advisory Committee for its section, to be composed of persons who shall be well informed concerning tuna fishery problems of common concern. Each such Advisory Committee shall be invited to attend the non-executive sessions of the Commission.

11. Cada una de las Altas Partes Contratantes podrá establecer un comité consultivo para su respectiva sección que estará integrado por personas bien versadas en los problemas comunes de la pesca del atún. Cada uno de los comités consultivos será invitado para asistir a las sesiones públicas de la Comisión.

Public hearings.

12. The Commission may hold public hearings. Each national section also may hold public hearings within its own country.

12. La Comisión podrá celebrar audiencias públicas y cada sección nacional podrá también celebrar audiencias públicas en su propio país.

Director of Investigations.

13. The Commission shall designate a Director of Investigations who shall be technically competent and who shall be responsible to the Commission and may be freely removed by it. Subject to the instruction of the Commission and with its approval,

13. La Comisión nombrará un Director de Investigaciones, que deberá ser un técnico competente, el cual será responsable ante la Comisión y podrá ser retirado por ésta a su discreción. Con sujeción a las instrucciones de la Comisión y con la aprobación de ésta, el

the Director of Investigations shall have charge of:

- (a) the drafting of programs of investigations, and the preparation of budget estimates for the Commission;
- (b) authorizing the disbursement of the funds for the joint expenses of the Commission;
- (c) the accounting of the funds for the joint expenses of the Commission;
- (d) the appointment and immediate direction of technical and other personnel required for the functions of the Commission;
- (e) arrangements for the cooperation with other organizations or individuals in accordance with paragraph 16 of this Article;
- (f) the coordination of the work of the Commission with that of organizations and individuals whose cooperation has been arranged for;
- (g) the drafting of administrative, scientific and other reports for the Commission;
- (h) the performance of such other duties as the Commission may require.

14. The official languages of the Commission shall be English and Spanish, and members of the Commission may use either language during meetings. When requested, translation shall be made to the other language. The minutes, official documents, and publications of the Commission shall be

Director de Investigaciones se encargará de:

- (a) preparar planes de investigación y presupuestos para la Comisión;
- (b) autorizar el desembolso de fondos para los gastos conjuntos de la Comisión;
- (c) llevar cuentas de los fondos para los gastos conjuntos de la Comisión;
- (d) nombrar y dirigir el personal técnico así como los demás empleados necesarios para el desempeño de las funciones de la Comisión;
- (e) concertar la cooperación con otros organismos o personas de conformidad con el inciso 16 de este Artículo;
- (f) coordinar las labores de la Comisión con las de los organismos y personas cuya cooperación se haya concertado;
- (g) preparar informes administrativos, científicos y de otra clase para la Comisión;
- (h) desempeñar toda otra función que la Comisión le encomiende.

14. Los idiomas oficiales de la Comisión serán el inglés y el español y los miembros de la Comisión podrán usar uno u otro de estos idiomas en el curso de las sesiones. Siempre que se pida, se traducirá de un idioma a otro. Las actas, documentos oficiales y publicaciones de la Comisión se

Responsibility.

Languages.

in both languages, but official correspondence of the Commission may be written, at the discretion of the secretary, in either language.

Documents and records.

15. Each national section shall be entitled to obtain certified copies of any documents pertaining to the Commission except that the Commission will adopt and may amend subsequently rules to ensure the confidential character of records of statistics of individual catches and individual company operations.

15. Cada sección nacional tendrá derecho a obtener copias certificadas de cualesquiera documentos pertenecientes a la Comisión; excepto que la Comisión adoptará reglamentos, que podrá enmendar posteriormente, para proteger el carácter confidencial de las estadísticas de cada una de las operaciones de pesca y de las operaciones de cada una de las empresas.

Technical and scientific services.

16. In the performance of its duties and functions the Commission may request the technical and scientific services of, and information from, official agencies of the High Contracting Parties, and any international, public, or private institution or organization, or any private individual.

16. En el desempeño de sus funciones y obligaciones la Comisión podrá solicitar los servicios técnicos y científicos e información de las entidades oficiales de las Altas Partes Contratantes, los de cualquiera institución u organización internacional, pública o privada, o los de cualquier particular.

ARTICLE II

ARTICULO II

Functions and duties.

The Commission shall perform the following functions and duties:

La Comisión desempeñará las funciones y obligaciones siguientes:

Investigations.

1. Make investigations concerning the abundance, biology, biometry, and ecology of yellowfin (*Neothunnus*) and skipjack (*Katsuwonus*) tuna in the waters of the eastern Pacific Ocean fished by the nationals of the High Contracting Parties, and the kinds of fishes commonly used as bait in the tuna fisheries, especially the anchovetta, and of other kinds of fish taken by tuna fishing vessels; and the effects of natural factors

1. Llevar a cabo investigaciones sobre la abundancia, biología, biometría y ecología de los atunes de aletas amarillas (*Neothunnus*) y bonitos (*Katsuwonus*) de las aguas del Pacífico Oriental que pesquen los nacionales de las Altas Partes Contratantes, como también de las clases de pescado que generalmente se usan como carnada en la pesca del atún, especialmente la sardina, y otras clases de peces que pescan las embarcaciones

and human activities on the abundance of the populations of fishes supporting all these fisheries.

2. Collect and analyze information relating to current and past conditions and trends of the populations of fishes covered by this Convention.

3. Study and appraise information concerning methods and procedures for maintaining and increasing the populations of fishes covered by this Convention.

4. Conduct such fishing and other activities, on the high seas and in waters which are under the jurisdiction of the High Contracting Parties, as may be necessary to attain the ends referred to in subparagraphs 1, 2, and 3 of this Article.

5. Recommend from time to time, on the basis of scientific investigations, proposals for joint action by the High Contracting Parties designed to keep the populations of fishes covered by this Convention at those levels of abundance which will permit the maximum sustained catch.

6. Collect statistics and all kinds of reports concerning catches and the operations of fishing boats, and other information concerning the fishing for fishes covered by this Convention, from vessels or persons engaged in these fisheries.

atuneras; y asimismo sobre los efectos de los factores naturales y de la acción del hombre en la abundancia de las poblaciones de peces que sostengan a todas estas pesquerías.

2. Compilar y analizar informes relacionados con las condiciones presentes y pasadas y de las tendencias que se observen en las poblaciones de peces que abarca esta Convención.

3. Estudiar y analizar informes relativos a los sistemas y maneras de mantener y de aumentar las poblaciones de los peces que abarca esta Convención.

4. Llevar a cabo la pesca y desarrollar otras actividades tanto en alta mar como en las aguas que estén bajo la jurisdicción de las Altas Partes Contratantes, según se requiera para lograr los fines a que se refieren los incisos 1, 2 y 3 de este Artículo.

5. Recomendar en su oportunidad, a base de investigaciones científicas, la acción conjunta necesaria de las Altas Partes Contratantes para fines de mantener las poblaciones de peces que abarca esta Convención en el nivel de abundancia que permita la pesca máxima constante.

6. Compilar estadísticas y toda clase de informes relativos a la pesca y a las operaciones de las embarcaciones pesqueras y demás informes relativos a la pesca de los peces que abarca esta Convención, sea de las embarcaciones o de las personas dedicadas a esta clase de pesca.

F Collection and analysis of information.

Studies.

Recommendations for maintenance of populations of fishes.

G Collection of statistics.

Publication of reports, etc.

7. Publish or otherwise disseminate reports relative to the results of its findings and such other reports as fall within the scope of this Convention, as well as scientific, statistical, and other data relating to the fisheries maintained by the nationals of the High Contracting Parties for the fishes covered by this Convention.

7. Publicar o diseminar por otro medio informes sobre los resultados de sus investigaciones y cualesquiera otros informes que queden dentro del radio de acción de esta Convención, así como datos científicos, estadísticos o de otra clase que se relacionen con las pesquerías mantenidas por los nacionales de las Altas Partes Contratantes para los peces que abarca esta Convención.

ARTICLE III

ARTICULO III

Legislation.

The High Contracting Parties agree to enact such legislation as may be necessary to carry out the purposes of this Convention.

Las Altas Partes Contratantes convienen en promulgar las leyes que sean necesarias para lograr las finalidades de esta Convención.

ARTICLE IV

ARTICULO IV

Nothing in this Convention shall be construed to modify any existing treaty or convention with regard to the fisheries of the eastern Pacific Ocean previously concluded by a High Contracting Party, nor to preclude a High Contracting Party from entering into treaties or conventions with other States regarding these fisheries, the terms of which are not incompatible with the present Convention.

Nada de lo estipulado en esta Convención se interpretará como modificación de ningún tratado o convención existente referente a las pesquerías del Pacífico Oriental anteriormente suscrito por una de las Altas Partes Contratantes ni como exclusión de una Alta Parte Contratante para concertar tratados o convenciones con otros Estados en relación con estas pesquerías, siempre que sus términos no sean incompatibles con esta Convención.

ARTICLE V

ARTICULO V

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

1. Esta Convención será ratificada y los instrumentos de ratificación se canjearán en Washington a la mayor brevedad posible.

2. The present Convention shall enter into force on the date of exchange of ratifications.

2. Esta Convención entrará en vigor en la fecha del canje de ratificaciones.

Post, p. 241.

3. Any government, whose nationals participate in the fisheries covered by this Convention, desiring to adhere to the present Convention, shall address a communication to that effect to each of the High Contracting Parties. Upon receiving the unanimous consent of the High Contracting Parties to adherence, such government shall deposit with the Government of the United States of America an instrument of adherence which shall stipulate the effective date thereof. The Government of the United States of America shall furnish a certified copy of the Convention to each government desiring to adhere thereto. Each adhering government shall have all the rights and obligations under the Convention as if it had been an original signatory thereof.

4. At any time after the expiration of ten years from the date of entry into force of this Convention any High Contracting Party may give notice of its intention of denouncing the Convention. Such notification shall become effective with respect to such notifying government one year after its receipt by the Government of the United States of America. After the expiration of the said one year period the Convention shall be effective only with respect to the remaining High Contracting Parties.

5. The Government of the United States of America shall inform the other High Contracting

3. Todo gobierno cuyos nacionales tomen parte en las operaciones de pesca que abarca esta Convención y que desee adherirse a ella dirigirá una comunicación a tal efecto a cada una de las Altas Partes Contratantes. Al recibir el consentimiento unánime de las Altas Partes Contratantes a tal adhesión, el gobierno interesado depositará con el Gobierno de los Estados Unidos de América, un instrumento de adhesión en el que se estipulará la fecha de su vigencia. El Gobierno de los Estados Unidos de América transmitirá una copia certificada de la Convención a cada uno de los gobiernos que desee adherirse a ella. Cada uno de los gobiernos adherentes tendrá todos los derechos y obligaciones que otorgue e imponga esta Convención tal como si fuera uno de sus signatarios originales.

4. En cualquier momento después de la expiración de diez años a contar de la fecha en que entre en vigor esta Convención, cualquiera de las Altas Partes Contratantes podrá dar aviso de su intención de denunciarla. Tal notificación tendrá efecto, en relación con el gobierno que la transmite, un año después de ser recibida por el Gobierno de los Estados Unidos de América. Después de que expire dicho período de un año, la Convención continuará en vigor solamente en relación con las Altas Partes Contratantes restantes.

5. El Gobierno de los Estados Unidos de América informará a las otras Altas Partes Contratantes

Adherence.

Denunciation.

Parties of all instruments of adherence and of notifications of denunciation received. de todo instrumento de adhesión y de toda notificación de denuncia que reciba.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Convention. EN FE DE LO CUAL los respectivos Plenipotenciarios firman la presente Convención.

DONE at Washington, in duplicate, in the English and Spanish languages, both texts being equally authentic, this 31st day of May, 1949. HECHO en Washington, en duplicado, en los idiomas inglés y español, ambos textos de igual autenticidad, el día 31 de mayo de 1949.

FOR THE UNITED STATES OF AMERICA:
POR LOS ESTADOS UNIDOS DE AMERICA:

JAMES E. WEBB
W. M. CHAPMAN

FOR THE REPUBLIC OF COSTA RICA:
POR LA REPUBLICA DE COSTA RICA:

MARIO A. ESQUIVEL.
JORGE HAZERA

International convention for the Conservation of
Atlantic Tunas, May 14, 1966*

* 20 U.S.T. 2888; T.I.A.S. 6767; 673 U.N.T.S. 63.

INTERNATIONAL CONVENTION FOR THE CONSERVATION OF
ATLANTIC TUNAS

PREAMBLE

The Governments whose duly authorized representatives have subscribed hereto, considering their mutual interest in the populations of tuna and tuna-like fishes found in the Atlantic Ocean, and desiring to co-operate in maintaining the populations of these fishes at levels which will permit the maximum sustainable catch for food and other purposes, resolve to conclude a Convention for the conservation of the resources of tuna and tuna-like fishes of the Atlantic Ocean, and to that end agree as follows:

ARTICLE I .

The area to which this Convention shall apply, hereinafter referred to as the "Convention area", shall be all waters of the Atlantic Ocean, including the adjacent Seas.

ARTICLE II

Nothing in this Convention shall be considered as affecting the rights, claims or views of any Contracting Party in regard to the limits of territorial waters or the extent of jurisdiction over fisheries under international law.

ARTICLE III

1. The Contracting Parties hereby agree to establish and maintain a Commission to be known as the International Commission for the Conservation of Atlantic Tunas, hereinafter referred to as "the Commission", which shall carry out the objectives set forth in this Convention.
2. Each of the Contracting Parties shall be represented on the Commission by not more than three Delegates. Such Delegates may be assisted by experts and advisors.
3. Except as may otherwise be provided in this Convention, decisions of the Commission shall be taken by a majority of the Contracting Parties, each Contracting Party having one vote. Two-thirds of the Contracting Parties shall constitute a quorum.
4. The Commission shall hold a regular meeting once every two years. A special meeting may be called at any time at the request of a majority of the Contracting Parties or by decision of the Council as constituted in Article V.
5. At its first meeting, and thereafter at each regular meeting, the Commission shall elect from among its Members a Chairman, a first Vice-Chairman and a second Vice-Chairman who shall not be re-elected for more than one term.

6. The meetings of the Commission and its subsidiary bodies shall be public unless the Commission otherwise decides.
7. The official languages of the Commission shall be English, French and Spanish.
8. The Commission shall have authority to adopt such rules of procedure and financial regulations as are necessary to carry out its functions.
9. The Commission shall submit a report to the Contracting Parties every two years on its work and findings and shall also inform any Contracting Party, whenever requested, on any matter relating to the objectives of the Convention.

ARTICLE IV

1. In order to carry out the objectives of this Convention the Commission shall be responsible for the study of the populations of tuna and tuna-like fishes (the Scombriformes with the exception of the families Trichiuridae and Gempylidae and the genus *Scomber*) and such other species of fishes exploited in tuna fishing in the Convention area as are not under investigation by another international fishery organization. Such study shall include research on the abundance, biometry and ecology of the fishes; the oceanography of their environment; and the effects of natural and human factors upon their abundance. The Commission, in

carrying out these responsibilities shall, insofar as feasible, utilize the technical and scientific services of, and information from, official agencies of the Contracting Parties and their political sub-divisions and may, when desirable, utilize the available services and information of any public or private institution, organization or individual, and may undertake within the limits of its budget independent research to supplement the research work being done by governments, national institutions or other international organizations.

2. The carrying out of the provisions in paragraph 1 of this Article shall include:
 - (a) collecting and analysing statistical information relating to the current conditions and trends of the tuna fishery resources of the Convention area;
 - (b) studying and appraising information concerning measures and methods to ensure maintenance of the populations of tuna and tuna-like fishes in the Convention area at levels which will permit the maximum sustainable catch and which will ensure the effective exploitation of these fishes in a manner consistent with this catch;
 - (c) recommending studies and investigations to the Contracting Parties;
 - (d) publishing and otherwise disseminating reports of its findings and statistical, biological and other scientific information relative to the tuna fisheries of the Convention area.

ARTICLE V

1. There is established within the Commission a Council which shall consist of the Chairman and the Vice-Chairmen of the Commission together with the representatives of not less than four and not more than eight Contracting Parties. The Contracting Parties represented on the Council shall be elected at each regular meeting of the Commission. However, if at any time the number of the Contracting Parties exceeds forty, the Commission may elect an additional two Contracting Parties to be represented on the Council. The Contracting Parties of which the Chairman and Vice-Chairmen are nationals shall not be elected to the Council. In elections to the Council the Commission shall give due consideration to the geographic, tuna fishing and tuna processing interests of the Contracting Parties, as well as to the equal right of the Contracting Parties to be represented on the Council.
2. The Council shall perform such functions as are assigned to it by this Convention or are designated by the Commission, and shall meet at least once in the interim between regular meetings of the Commission. Between meetings of the Commission the Council shall make necessary decisions on the duties to be carried out by the staff and shall issue necessary instructions to the Executive Secretary. Decisions of the Council shall be made in accordance with rules to be established by the Commission.

ARTICLE VI

To carry out the objectives of this Convention the Commission may establish Panels on the basis of species, group of species, or of geographic areas. Each Panel in such case:

- (a) shall be responsible for keeping under review the species, group of species, or geographic area under its purview, and for collecting scientific and other information relating thereto;
- (b) may propose to the Commission, upon the basis of scientific investigations, recommendations for joint action by the Contracting Parties;
- (c) may recommend to the Commission studies and investigations necessary for obtaining information relating to its species, group of species, or geographic area, as well as the co-ordination of programmes of investigations by the Contracting Parties.

ARTICLE VII

The Commission shall appoint an Executive Secretary who shall serve at the pleasure of the Commission. The Executive Secretary, subject to such rules and procedures as may be determined by the Commission, shall have authority with respect to the selection and administration of the staff of the Commission. He shall also perform, inter alia, the following functions as the Commission may prescribe:

- (a) co-ordinating the programmes of investigation by the Contracting Parties;
- (b) preparing budget estimates for review by the Commission;
- (c) authorising the disbursement of funds in accordance with the Commission's budget;
- (d) accounting for the funds of the Commission;
- (e) arranging for co-operation with the organizations referred to in Article XI of this Convention;
- (f) preparing the collection and analysis of data necessary to accomplish the purposes of the Convention particularly those data relating to the current and maximum sustainable catch of tuna stocks;
- (g) preparing for approval by the Commission scientific, administrative and other reports of the Commission and its subsidiary bodies.

ARTICLE VIII

- 1 (a) The Commission may, on the basis of scientific evidence make recommendations designed to maintain the populations of tuna and tuna-like fishes that may be taken in the Convention area at levels which will permit the maximum sustainable catch. These recommendations shall be applicable to the Contracting Parties under the conditions laid down in paragraphs 2 and 3 of this Article.

- (b) The recommendations referred to above shall be made:
- (i) at the initiative of the Commission if an appropriate Panel has not been established or with the approval of at least two-thirds of all the Contracting Parties if an appropriate Panel has been established;
 - (ii) on the proposal of an appropriate Panel if such a Panel has been established;
 - (iii) on the proposal of the appropriate Panels if the recommendation in question relates to more than one geographic area, species or group of species.
2. Each recommendation made under paragraph 1 of this Article shall become effective for all Contracting Parties six months after the date of the notification from the Commission transmitting the recommendation to the Contracting Parties, except as provided in paragraph 3 of this Article.
- 3 (a) If any Contracting Party in the case of a recommendation made under paragraph 1 (b) (i) above, or any Contracting Party member of a Panel concerned in the case of a recommendation made under paragraph 1 (b) (ii) or (iii) above, presents to the Commission an objection to such recommendation within the six months period provided for in paragraph 2 above, the recommendation shall not become effective for an additional sixty days.

- (b) Thereupon any other Contracting Party may present an objection prior to the expiration of the additional sixty days period, or within forty-five days of the date of the notification of an objection made by another Contracting Party within such additional sixty days, whichever date shall be the later.
- (c) The recommendation shall become effective at the end of the extended period or periods for objection, except for those Contracting Parties that have presented an objection.
- (d) However, if a recommendation has met with an objection presented by only one or less than one-fourth of the Contracting Parties, in accordance with sub-paragraphs (a) and (b) above, the Commission shall immediately notify the Contracting Party or Parties having presented such objection that it is to be considered as having no effect.
- (e) In the case referred to in sub-paragraph (d) above the Contracting Party or Parties concerned shall have an additional period of sixty days from the date of said notification in which to reaffirm their objection. On the expiry of this period the recommendation shall become effective, except with respect to any Contracting Party having presented an objection and reaffirmed it within the delay provided for.

- (f) If a recommendation has met with objection from more than one-fourth but less than the majority of the Contracting Parties, in accordance with sub-paragraphs (a) and (b) above, the recommendation shall become effective for the Contracting Parties that have not presented an objection thereto.
- (g) If objections have been presented by a majority of the Contracting Parties the recommendation shall not become effective.
4. Any Contracting Party objecting to a recommendation may at any time withdraw that objection, and the recommendation shall become effective with respect to such Contracting Party immediately if the recommendation is already in effect, or at such time as it may become effective under the terms of this Article.
5. The Commission shall notify each Contracting Party immediately upon receipt of each objection and of each withdrawal of an objection, and of the entry into force of any recommendation.

ARTICLE IX

1. The Contracting Parties agree to take all action necessary to ensure the enforcement of this Convention. Each Contracting Party shall transmit to the Commission, biennially or at such other times as may be required by the Commission, a statement of the action taken by it for these purposes.

2. The Contracting Parties agree:
 - (a) to furnish, on the request of the Commission, any available statistical, biological and other scientific information the Commission may need for the purposes of this Convention;
 - (b) when their official agencies are unable to obtain and furnish the said information, to allow the Commission, through the Contracting Parties, to obtain it on a voluntary basis direct from companies and individual fishermen.
3. The Contracting Parties undertake to collaborate with each other with a view to the adoption of suitable effective measures to ensure the application of the provisions of this Convention and in particular to set up a system of international enforcement to be applied to the Convention area except the territorial sea and other waters, if any, in which a state is entitled under international law to exercise jurisdiction over fisheries.

ARTICLE X

1. The Commission shall adopt a budget for the joint expenses of the Commission for the biennium following each regular meeting.

2. Each Contracting Party shall contribute annually to the budget of the Commission an amount equal to:
- (a) U.S. \$ 1,000 (one thousand United States dollars) for Commission membership.
 - (b) U.S. \$ 1,000 (one thousand United States dollars) for each Panel membership.
 - (c) If the proposed budget for joint expenses for any biennium should exceed the whole amount of contributions to be made by the Contracting Parties under (a) and (b) of this paragraph, one-third of the amount of such excess shall be contributed by the Contracting Parties in proportion to their contributions made under (a) and (b) of this paragraph. For the remaining two-thirds the Commission shall determine on the basis of the latest available information:
 - (i) the total of the round weight of catch of Atlantic tuna and tuna-like fishes and the net weight of canned products of such fishes for each Contracting Party;
 - (ii) the total of (i) for all Contracting Parties.

Each Contracting Party shall contribute its share of the remaining two thirds in the same ratio that its total in (i) bears to the total in (ii). That part of the budget referred to in this sub-paragraph shall be set by agreement of all the Contracting Parties present and voting.

3. The Council shall review the second half of the biennial budget at its regular meeting between Commission meetings and, on the basis of current and anticipated developments, may authorize re-apportionment of amounts in the Commission budget for the second year within the total budget approved by the Commission.
4. The Executive Secretary of the Commission shall notify each Contracting Party of its yearly assessment. The contributions shall be payable on January first of the year for which the assessment was levied. Contributions not received before January first of the succeeding year shall be considered as in arrears.
5. Contributions to the biennial budget shall be payable in such currencies as the Commission may decide.
6. At its first meeting the Commission shall approve a budget for the balance of the first year the Commission functions and for the following biennium. It shall immediately transmit to the Contracting Parties copies of these budgets together with notices of the respective assessments for the first annual contribution.
7. Thereafter, within a period not less than sixty days before the regular meeting of the Commission which precedes the biennium, the Executive Secretary shall submit to each Contracting Party a draft biennial budget together with a schedule of proposed assessments.

8. The Commission may suspend the voting rights of any Contracting Party when its arrears of contributions equal or exceed the amount due from it for the two preceding years.
9. The Commission shall establish a Working Capital Fund to finance operations of the Commission prior to receiving annual contributions, and for such other purposes as the Commission may determine. The Commission shall determine the level of the Fund, assess advances necessary for its establishment, and adopt regulations governing the use of the Fund.
10. The Commission shall arrange an annual independent audit of the Commission's accounts. The reports of such audits shall be reviewed and approved by the Commission, or by the Council in years when there is no regular Commission meeting.
11. The Commission may accept contributions, other than provided for in paragraph 2 of this Article, for the prosecution of its work.

ARTICLE XI

1. The Contracting Parties agree that there should be a working relationship between the Commission and the Food and Agriculture Organization of the United Nations. To this end the Commission shall enter into negotiations with the Food and Agriculture Organization of the United Nations with a view to concluding an agreement pursuant to Article XIII of the Organization's Constitution. [1] Such agreement should provide, inter alia, for

the Director-General of the Food and Agriculture Organization of the United Nations to appoint a Representative who would participate in all meetings of the Commission and its subsidiary bodies, but without the right to vote.

2. The Contracting Parties agree that there should be co-operation between the Commission and other international fisheries commissions and scientific organizations which might contribute to the work of the Commission. The Commission may enter into agreements with such commissions and organizations.
3. The Commission may invite any appropriate international organization and any Government which is a member of the United Nations or of any Specialized Agency of the United Nations and which is not a member of the Commission, to send observers to meetings of the Commission and its subsidiary bodies.

ARTICLE XII

1. This Convention shall remain in force for ten years and thereafter until a majority of Contracting Parties agree to terminate it.
2. At any time after ten years from the date of entry into force of this Convention, any Contracting Party may withdraw from the Convention on December thirty-first of any year including the tenth year by written notification of withdrawal given on or before December thirty-first of the preceding year to the Director-General of the Food and Agriculture Organization of the United Nations.

3. Any other Contracting Party may thereupon withdraw from this Convention with effect from the same December thirty-first by giving written notification of withdrawal to the Director-General of the Food and Agriculture Organization of the United Nations not later than one month from the date of receipt of information from the Director-General of the Food and Agriculture Organization of the United Nations concerning any withdrawal, but not later than April first of that year.

ARTICLE XIII

1. Any Contracting Party or the Commission may propose amendments to this Convention. The Director-General of the Food and Agriculture Organization of the United Nations shall transmit a certified copy of the text of any proposed amendment to all the Contracting Parties. Any amendment not involving new obligations shall take effect for all Contracting Parties on the thirtieth day after its acceptance by three-fourths of the Contracting Parties. Any amendment involving new obligations shall take effect for each Contracting Party accepting the amendment on the ninetieth day after its acceptance by three-fourths of the Contracting Parties and thereafter for each remaining Contracting Party upon acceptance by it. Any amendment considered by one or more Contracting Parties to involve new obligations shall be deemed to involve new obligations and shall take effect accordingly. A government which becomes a Contracting Party after an amendment to this Convention has been opened for accep-

tance pursuant to the provisions of this Article shall be bound by the Convention as amended when the said amendment comes into force.

2. Proposed amendments shall be deposited with the Director-General of the Food and Agriculture Organization of the United Nations. Notifications of acceptance of amendments shall be deposited with the Director-General of the Food and Agriculture Organization of the United Nations.

ARTICLE XIV

1. This Convention shall be open for signature by any Government which is a member of the United Nations or of any Specialized Agency of the United Nations. Any such Government which does not sign this Convention may adhere to it at any time.
2. This Convention shall be subject to ratification or approval by signatory countries in accordance with their constitutions. Instruments of ratification, approval, or adherence shall be deposited with the Director-General of the Food and Agriculture Organization of the United Nations.
3. This Convention shall enter into force upon the deposit of instruments of ratification, approval, or adherence by seven Governments and shall enter into force with respect to each Government which subsequently deposits an instrument of ratification, approval or adherence on the date of such deposit.

ARTICLE XV

The Director-General of the Food and Agriculture Organization of the United Nations shall inform all Governments referred to in paragraph 1 of Article XIV of deposits of instruments of ratification, approval or adherence, the entry into force of this Convention, proposals for amendments, notifications of acceptance of amendments, entry into force of amendments, and notifications of withdrawal.

ARTICLE XVI

The original of this Convention shall be deposited with the Director-General of the Food and Agriculture Organization of the United Nations who shall send certified copies to the Governments referred to in paragraph 1 of Article XIV.

IN WITNESS WHEREOF the representatives duly authorized by their respective Governments have signed the present Convention. Done at Rio de Janeiro this fourteenth day of May 1966 in a single copy in the English, French and Spanish languages, each version being equally authoritative.

4. Marine Mammals
a. Cetaceans

**International Convention for the Regulation of
Whaling, December 2, 1946***

* 62 Stat. 1716; T.I.A.S. 1849; 161 U.N.T.S. 74.

No. 2124. INTERNATIONAL CONVENTION¹ FOR THE
REGULATION OF WHALING. SIGNED AT WASHINGTON,
ON 2 DECEMBER 1946

The Governments whose duly authorized representatives have subscribed hereto,

Recognizing the interest of the nations of the world in safeguarding for future generations the great natural resources represented by the whale stocks;

Considering that the history of whaling has seen overfishing of one area after another and of one species of whale after another to such a degree that it is essential to protect all species of whales from further overfishing;

Recognizing that the whale stocks are susceptible of natural increases if whaling is properly regulated, and that increases in the size of whale stocks will permit increases in the numbers of whales which may be captured without endangering these natural resources;

Recognizing that it is in the common interest to achieve the optimum level of whale stocks as rapidly as possible without causing wide-spread economic and nutritional distress;

Recognizing that in the course of achieving these objectives, whaling operations should be confined to those species best able to sustain exploitation in order to give an interval for recovery to certain species of whales now depleted in numbers;

Desiring to establish a system of international regulation for the whale fisheries to ensure proper and effective conservation and development of whale

¹ In accordance with article X, the Convention came into force on 10 November 1948 in respect of the following States on behalf of which the instruments of ratification or notifications of adherence (a) were received by the Government of the United States of America on the dates indicated:

Iceland	10 March	1947 (a)	Norway	3 March	1948
Australia	1 December	1947	Union of South Africa	5 May	1948
United Kingdom of Great Britain and Northern Ireland	17 June	1947	Union of Soviet Socialist Republics	11 September	1948
United States of America	18 July	1947	Panama	30 September	1948 (a)
			Netherlands	10 November	1948

It subsequently came into force on the dates indicated in respect of the following States upon the receipt by the Government of the United States of America of the respective instrument of ratification or notification of adherence (a):

France	3 December	1948	New Zealand	2 August	1949
Sweden	28 January	1949 (a)	Brazil	9 May	1950
Canada	25 February	1949	Denmark	23 May	1950
Mexico	30 June	1949 (a)	Japan	21 April	1951 (a)

stocks on the basis of the principles embodied in the provisions of the International Agreement for the Regulation of Whaling signed in London on June 8, 1937¹ and the protocols to that Agreement signed in London on June 24, 1938² and November 26, 1945;³ and

Having decided to conclude a convention to provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry;

Have agreed as follows :

Article I

1. This Convention includes the Schedule attached thereto which forms an integral part thereof. All references to " Convention " shall be understood as including the said Schedule either in its present terms or as amended in accordance with the provisions of Article V.

2. This Convention applies to factory ships, land stations, and whale catchers under the jurisdiction of the Contracting Governments, and to all waters in which whaling is prosecuted by such factory ships, land stations, and whale catchers.

Article II

As used in this Convention

1. " factory ship " means a ship in which or on which whales are treated whether wholly or in part;

2. " land station " means a factory on the land at which whales are treated whether wholly or in part;

3. " whale catcher " means a ship used for the purpose of hunting, taking, towing, holding on to, or scouting for whales;

4. " Contracting Government " means any Government which has deposited an instrument of ratification or has given notice of adherence to this Convention.

Article III

1. The Contracting Governments agree to establish an International Whaling Commission, hereinafter referred to as the Commission, to be composed

¹ League of Nations, *Treaty Series*, Vol. CXC, p. 79; United Nations, *Treaty Series*, Vol. 32, p. 404, and Vol. 91, p. 388.

² League of Nations, *Treaty Series*, Vol. CXCVI, p. 131; United Nations, *Treaty Series*, Vol. 32, p. 405, and Vol. 92, p. 435.

³ United Nations, *Treaty Series*, Vol. 11, p. 43, and Vol. 32, p. 396.

of one member from each Contracting Government. Each member shall have one vote and may be accompanied by one or more experts and advisers.

2. The Commission shall elect from its own members a Chairman and Vice Chairman and shall determine its own Rules of Procedure. Decisions of the Commission shall be taken by a simple majority of those members voting except that a three-fourths majority of those members voting shall be required for action in pursuance of Article V. The Rules of Procedure may provide for decisions otherwise than at meetings of the Commission.

3. The Commission may appoint its own Secretary and staff.

4. The Commission may set up, from among its own members and experts or advisers, such committees as it considers desirable to perform such functions as it may authorize.

5. The expenses of each member of the Commission and of his experts and advisers shall be determined and paid by his own Government.

6. Recognizing that specialized agencies related to the United Nations will be concerned with the conservation and development of whale fisheries and the products arising therefrom and desiring to avoid duplication of functions, the Contracting Governments will consult among themselves within two years after the coming into force of this Convention to decide whether the Commission shall be brought within the framework of a specialized agency related to the United Nations.

7. In the meantime the Government of the United Kingdom of Great Britain and Northern Ireland shall arrange, in consultation with the other Contracting Governments, to convene the first meeting of the Commission, and shall initiate the consultation referred to in paragraph 6 above.

8. Subsequent meetings of the Commission shall be convened as the Commission may determine.

Article IV

1. The Commission may either in collaboration with or through independent agencies of the Contracting Governments or other public or private agencies, establishments, or organizations, or independently

(a) encourage, recommend, or if necessary, organize studies and investigations relating to whales and whaling;

- (b) collect and analyze statistical information concerning the current condition and trend of the whale stocks and the effects of whaling activities thereon;
- (c) study, appraise, and disseminate information concerning methods of maintaining and increasing the populations of whale stocks.

2. The Commission shall arrange for the publication of reports of its activities, and it may publish independently or in collaboration with the International Bureau for Whaling Statistics at Sandefjord in Norway and other organizations and agencies such reports as it deems appropriate, as well as statistical, scientific, and other pertinent information relating to whales and whaling.

Article V

1. The Commission may amend from time to time the provisions of the Schedule by adopting regulations with respect to the conservation and utilization of whale resources, fixing (a) protected and unprotected species; (b) open and closed seasons; (c) open and closed waters, including the designation of sanctuary areas; (d) size limits for each species; (e) time, methods, and intensity of whaling (including the maximum catch of whales to be taken in any one season); (f) types and specifications of gear and apparatus and appliances which may be used; (g) methods of measurement; and (h) catch returns and other statistical and biological records.

2. These amendments of the Schedule (a) shall be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilization of the whale resources; (b) shall be based on scientific findings; (c) shall not involve restrictions on the number or nationality of factory ships or land stations, nor allocate specific quotas to any factory ship or land station or to any group of factory ships or land stations; and (d) shall take into consideration the interests of the consumers of whale products and the whaling industry.

3. Each of such amendments shall become effective with respect to the Contracting Governments ninety days following notification of the amendment by the Commission to each of the Contracting Governments, except that (a) if any Government presents to the Commission objection to any amendment prior to the expiration of this ninety-day period, the amendment shall not become effective with respect to any of the Governments for an additional ninety days; (b) thereupon, any other Contracting Government may present objection to the amendment at any time prior to the expiration of the additional ninety-day period, or before the expiration of thirty days from the date of

receipt of the last objection received during such additional ninety-day period, whichever date shall be the later; and (c) thereafter, the amendment shall become effective with respect to all Contracting Governments which have not presented objection but shall not become effective with respect to any Government which has so objected until such date as the objection is withdrawn. The Commission shall notify each Contracting Government immediately upon receipt of each objection and withdrawal and each Contracting Government shall acknowledge receipt of all notifications of amendments, objections, and withdrawals.

4. No amendments shall become effective before July 1, 1949.

Article VI

The Commission may from time to time make recommendations to any or all Contracting Governments on any matters which relate to whales or whaling and to the objectives and purposes of this Convention.

Article VII

The Contracting Governments shall ensure prompt transmission to the International Bureau for Whaling Statistics at Sandefjord in Norway, or to such other body as the Commission may designate, of notifications and statistical and other information required by this Convention in such form and manner as may be prescribed by the Commission.

Article VIII

1. Notwithstanding anything contained in this Convention, any Contracting Government may grant to any of its nationals a special permit authorizing that national to kill, take, and treat whales for purposes of scientific research subject to such restrictions as to number and subject to such other conditions as the Contracting Government thinks fit, and the killing, taking, and treating of whales in accordance with the provisions of this Article shall be exempt from the operation of this Convention. Each Contracting Government shall report at once to the Commission all such authorizations which it has granted. Each Contracting Government may at any time revoke any such special permit which it has granted.

2. Any whales taken under these special permits shall so far as practicable be processed and the proceeds shall be dealt with in accordance with directions issued by the Government by which the permit was granted.

3. Each Contracting Government shall transmit to such body as may be designated by the Commission, in so far as practicable, and at intervals of not more than one year, scientific information available to that Government with respect to whales and whaling, including the results of research conducted pursuant to paragraph 1 of this Article and to Article IV.

4. Recognizing that continuous collection and analysis of biological data in connection with the operations of factory ships and land stations are indispensable to sound and constructive management of the whale fisheries, the Contracting Governments will take all practicable measures to obtain such data.

Article IX

1. Each Contracting Government shall take appropriate measures to ensure the application of the provisions of this Convention and the punishment of infractions against the said provisions in operations carried out by persons or by vessels under its jurisdiction.

2. No bonus or other remuneration calculated with relation to the results of their work shall be paid to the gunners and crews of whale catchers in respect of any whales the taking of which is forbidden by this Convention.

3. Prosecution for infractions against or contraventions of this Convention shall be instituted by the Government having jurisdiction over the offense.

4. Each Contracting Government shall transmit to the Commission full details of each infraction of the provisions of this Convention by persons or vessels under the jurisdiction of that Government as reported by its inspectors. This information shall include a statement of measures taken for dealing with the infraction and of penalties imposed.

Article X

1. This Convention shall be ratified and the instruments of ratification shall be deposited with the Government of the United States of America.

2. Any Government which has not signed this Convention may adhere thereto after it enters into force by a notification in writing to the Government of the United States of America.

3. The Government of the United States of America shall inform all other signatory Governments and all adhering Governments of all ratifications deposited and adherences received.

4. This Convention shall, when instruments of ratification have been deposited by at least six signatory Governments, which shall include the Governments of the Netherlands, Norway, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, enter into force with respect to those Governments and shall enter into force with respect to each Government which subsequently ratifies or adheres on the date of the deposit of its instrument of ratification or the receipt of its notification of adherence.

5. The provisions of the Schedule shall not apply prior to July 1, 1948. Amendments to the Schedule adopted pursuant to Article V shall not apply prior to July 1, 1949.

Article XI

Any Contracting Government may withdraw from this Convention on June thirtieth of any year by giving notice on or before January first of the same year to the depositary Government, which upon receipt of such a notice shall at once communicate it to the other Contracting Governments. Any other Contracting Government may, in like manner, within one month of the receipt of a copy of such a notice from the depositary Government, give notice of withdrawal, so that the Convention shall cease to be in force on June thirtieth of the same year with respect to the Government giving such notice of withdrawal.

This Convention shall bear the date on which it is opened for signature and shall remain open for signature for a period of fourteen days thereafter.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention.

DONE in Washington this second day of December 1946, in the English language, the original of which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the other signatory and adhering Governments.

For Argentina :

Pour l'Argentine :

O. IVANISSEVICH
J. M. MONETA
G. BROWN
Pedro H. BRUNO VIDELA

For Australia :

Pour l'Australie :

F. F. ANDERSON

For Brazil :

Pour le Brésil :

Paulo FRÓES DA CRUZ

For Canada :

Pour le Canada :

H. H. WRONG
Harry A. SCOTT

For Chile :

Pour le Chili :

Agustín R. EDWARDS

For Denmark :

Pour le Danemark :

P. F. ERICHSEN

For France :

Pour la France :

Francis LACOSTE

For the Netherlands :

Pour les Pays-Bas :

D. J. VAN DIJK

SCHEDULE

1. (a) There shall be maintained on each factory ship at least two inspectors of whaling for the purpose of maintaining twenty-four hour inspection. These inspectors shall be appointed and paid by the Government having jurisdiction over the factory ship.

(b) Adequate inspection shall be maintained at each land station. The inspectors serving at each land station shall be appointed and paid by the Government having jurisdiction over the land station.

2. It is forbidden to take or kill gray whales or right whales, except when the meat and products of such whales are to be used exclusively for local consumption by the aborigines.

3. It is forbidden to take or kill calves or suckling whales or female whales which are accompanied by calves or suckling whales.

4. It is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating baleen whales in any of the following areas :

(a) in the waters north of 66° North Latitude except that from 150° East Longitude eastward as far as 140° West Longitude the taking or killing of baleen whales by a factory ship or whale catcher shall be permitted between 66° North Latitude and 72° North Latitude;

(b) in the Atlantic Ocean and its dependent waters north of 40° South Latitude;

(c) in the Pacific Ocean and its dependent waters east of 150° West Longitude between 40° South Latitude and 35° North Latitude;

(d) in the Pacific Ocean and its dependent waters west of 150° West Longitude between 40° South Latitude and 20° North Latitude;

(e) in the Indian Ocean and its dependent waters north of 40° South Latitude.

5. It is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating baleen whales in the waters south of 40° South Latitude from 70° West Longitude westward as far as 160° West Longitude.

6. It is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating humpback whales in any waters south of 40° South Latitude.

7. (a) It is forbidden to use a factory ship or a whale catcher attached thereto for the purpose of taking or treating baleen whales in any waters south of 40° South Latitude, except during the period from December 15 to April 1 following, both days inclusive.

(b) Notwithstanding the above prohibition of treatment during a closed season, the treatment of whales which have been taken during the open season may be completed after the end of the open season.

8. (a) The number of baleen whales taken during the open season caught in any waters south of 40° South Latitude by whale catchers attached to factory ships under the jurisdiction of the Contracting Governments shall not exceed sixteen thousand blue-whale units.

(b) For the purposes of subparagraph (a) of this paragraph, blue-whale units shall be calculated on the basis that one blue whale equals :

- (1) two fin whales or
- (2) two and a half humpback whales or
- (3) six sei whales.

(c) Notification shall be given in accordance with the provisions of Article VII of the Convention, within two days after the end of each calendar week, of data on the number of blue-whale units taken in any waters south of 40° South Latitude by all whale catchers attached to factory ships under the jurisdiction of each Contracting Government.

(d) If it should appear that the maximum catch of whales permitted by subparagraph (a) of this paragraph may be reached before April 1 of any year, the Commission, or such other body as the Commission may designate, shall determine, on the basis of the data provided, the date on which the maximum catch of whales shall be deemed to have been reached and shall notify each Contracting Government of that date not less than two weeks in advance thereof. The taking of baleen whales by whale catchers attached to factory ships shall be illegal in any waters south of 40° South Latitude after the date so determined.

(e) Notification shall be given in accordance with the provisions of Article VII of the Convention of each factory ship intending to engage in whaling operations in any waters south of 40° South Latitude.

9. It is forbidden to take or kill any blue, fin, sei, humpback, or sperm whales below the following lengths :

(a) blue whales	70 feet (21.3 meters)
(b) fin whales	55 feet (16.8 meters)
(c) sei whales	40 feet (12.2 meters)
(d) humpback whales	35 feet (10.7 meters)
(e) sperm whales	35 feet (10.7 meters)

except that blue whales of not less than 65 feet (19.8 meters), fin whales of not less than 50 feet (15.2 meters), and sei whales of not less than 35 feet (10.7 meters) in length may be taken for delivery to land stations provided that the meat of such whales is to be used for local consumption as human or animal food.

Whales must be measured when at rest on deck or platform, as accurately as possible by means of a steel tape measure fitted at the zero end with a spiked handle which can be stuck into the deck planking abreast of one end of the whale. The tape measure shall be stretched in a straight line parallel with the whale's body and read abreast the other end of the whale. The ends of the whale, for measurement purposes, shall be the point of the upper jaw and the notch between the tail flukes. Measurements, after being accurately read on the tape measure, shall be logged to the nearest foot : that is

to say, any whale between 75'6" and 76'6" shall be logged as 76', and any whale between 76'6" and 77'6" shall be logged as 77'. The measurement of any whale which falls on an exact half foot shall be logged at the next half foot, *e.g.* 76'6" precisely, shall be logged as 77'.

10. It is forbidden to use a land station or a whale catcher attached thereto for the purpose of taking or treating baleen whales in any area or in any waters for more than six months in any period of twelve months, such period of six months to be continuous.

11. It is forbidden to use a factory ship, which has been used during a season in any waters south of 40° South Latitude for the purpose of treating baleen whales, in any other area for the same purpose within a period of one year from the termination of that season.

12. (a) All whales taken shall be delivered to the factory ship or land station and all parts of such whales shall be processed by boiling or otherwise, except the internal organs, whale bone and flippers of all whales, the meat of sperm whales and of parts of whales intended for human food or feeding animals.

(b) Complete treatment of the carcasses of "Dauhval" and of whales used as fenders will not be required in cases where the meat or bone of such whales is in bad condition.

13. The taking of whales for delivery to a factory ship shall be so regulated or restricted by the master or person in charge of the factory ship that no whale carcass (except of a whale used as a fender) shall remain in the sea for a longer period than thirty-three hours from the time of killing to the time when it is taken up on to the deck of the factory ship for treatment. All whale catchers engaged in taking whales must report by radio to the factory ship the time when each whale is caught.

14. Gunners and crews of factory ships, land stations, and whale catchers shall be engaged on such terms that their remuneration shall depend to a considerable extent upon such factors as the species, size, and yield of whales taken, and not merely upon the number of the whales taken. No bonus or other remuneration shall be paid to the gunners or crews of whale catchers in respect of the taking of milk-filled or lactating whales.

15. Copies of all official laws and regulations relating to whales and whaling and changes in such laws and regulations shall be transmitted to the Commission.

16. Notification shall be given in accordance with the provisions of Article VII of the Convention with regard to all factory ships and land stations of statistical information (a) concerning the number of whales of each species taken, the number thereof

lost, and the number treated at each factory ship or land station, and (b) as to the aggregate amounts of oil of each grade and quantities of meal, fertilizer (guano), and other products derived from them, together with (c) particulars with respect to each whale treated in the factory ship or land station as to the date and approximate latitude and longitude of taking, the species and sex of the whale, its length and, if it contains a foetus, the length and sex, if ascertainable, of the foetus. The data referred to in (a) and (c) above shall be verified at the time of the tally and there shall also be notification to the Commission of any information which may be collected or obtained concerning the calving grounds and migration routes of whales.

In communicating this information there shall be specified :

- (a) the name and gross tonnage of each factory ship;
- (b) the number and aggregate gross tonnage of the whale catchers;
- (c) a list of the land stations which were in operation during the period concerned.

17. Notwithstanding the definition of land station contained in Article II of the Convention, a factory ship operating under the jurisdiction of a Contracting Government, and the movements of which are confined solely to the territorial waters of that Government, shall be subject to the regulations governing the operation of land stations within the following areas :

- (a) on the coast of Madagascar and its dependencies, and on the west coasts of French Africa;
- (b) on the west coast of Australia in the area known as Shark Bay and northward to Northwest Cape and including Exmouth Gulf and King George's Sound, including the port of Albany; and on the east coast of Australia, in Twofold Bay and Jervis Bay.

18. The following expressions have the meanings respectively assigned to them, that is to say :

- " baleen whale " means any whale other than a toothed whale;
- " blue whale " means any whale known by the name of blue whale, Sibbald's rorqual, or sulphur bottom;
- " fin whale " means any whale known by the name of common finback, common rorqual, finback, finner, fin whale, herring whale, razorback, or true fin whale;
- " sei whale " means any whale known by the name of *Balaenoptera borealis*, sei whale, Rudolphi's rorqual, pollack whale, or coalfish whale, and shall be taken to include *Balaenoptera brydei*, Bryde's whale;
- " gray whale " means any whale known by the name of gray whale, California gray, devil fish, hard head, mussel digger, gray back, rip sack;
- " humpback whale " means any whale known by the name of bunch, humpback, humpback whale, humbacked whale, hump whale, or hunchbacked whale;

“right whale” means any whale known by the name of Atlantic right whale, Arctic right whale, Biscayan right whale, bowhead, great polar whale, Greenland right whale, Greenland whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, pigmy right whale, Southern pigmy right whale, or Southern right whale;

“sperm whale” means any whale known by the name of sperm whale, spermacet whale, cachalot, or pot whale;

“Dauhval” means any unclaimed dead whale found floating.

**34th Report of the International Whaling
Commission, July 1983***

* 35th Annual Meeting of the IWC, July 1983, 13-14.

Chairman's Report of the Thirty-Fifth Annual Meeting

1. DATE AND PLACE

The thirty-fifth Annual Meeting of the Commission was held at the Metropole Hotel, Brighton, UK, 18-23 July 1983. The proceedings were presided over by the Chairman of the Commission, Mr E. H. Iglesias (Argentina).

2. REPRESENTATION

Commissioners and delegates attended from thirty-six member governments, including Finland which had joined the Commission since the previous Annual Meeting. The government of Mauritius which had newly adhered to the Convention was not represented, and neither were Jamaica, Kenya or Uruguay.

Observers were present from four non-member governments:

Belgium, Canada, Colombia and Portugal.

Observers were also present from seven intergovernmental organisations:

Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)

Commission of the European Communities (CEC)

Food and Agriculture Organisation of the United Nations (FAO)

Inter-American Tropical Tuna Commission (IATTC)

International Council for the Exploration of the Sea (ICES)

International Commission for the Southeast Atlantic Fisheries (ICSEAF)

United Nations Environment Programme (UNEP)

from the International Union for the Conservation of Nature and Natural Resources (IUCN)

and from fifty-four international non-governmental organisations listed in Appendix 1.

3. ADDRESS OF WELCOME

An address of welcome was given on behalf of the Government of the United Kingdom by the Right Honourable, the Lord Belstead, Minister of State, Ministry of Agriculture, Fisheries and Food. In welcoming the delegates, Lord Belstead commented that the continuing growth in the Commission's membership and the important issues included in the agenda reflected not only the world-wide concern over the conservation of resources generally but also recognition of the Commission's achievements with which more and more governments wished to be involved and identified. He congratulated the Commission on the way important and difficult decisions had been reached in recent years and stressed the need for reliable stock assessments especially where subsistence whaling was concerned.

4. OPENING STATEMENTS

Following the Commission's usual practice, opening statements by Commissioners and Observers were distributed in written form. The Commissioner from India took the floor to convey the text of a letter from his Prime Minister, Mrs Indira Gandhi, and the Commissioner from the new member, Finland, also addressed the meeting verbally.

5. ADOPTION OF AGENDA

In adopting the Provisional Annotated Agenda circulated 60 days in advance of the meeting, the Commission noted the preambular wording inserted by the USA indicating that every agenda item reading 'Action Arising' which may involve Schedule amendments is interpreted in this way even if not specifically so referenced. Japan stated its reservation, believing that due notice of action which may affect its basic interests should be given.

The Commission also agreed, in order to expedite its work, that Rule of Procedure C.1(b) (which automatically suspends the right to vote of representatives of any Contracting Government whose annual payments have not been received by the Commission within 18 months of the due date until payment is received, unless the Commission decides otherwise) be suspended for the duration of the 35th Annual Meeting. This proposal was put forward by St Lucia, seconded by Oman and approved by consensus.

6. COMPREHENSIVE ASSESSMENT OF WHALE STOCKS

Japan had proposed this item and introduced a draft resolution to the Technical Committee establishing a framework for a comprehensive assessment of whale stocks. It had lodged an objection to the pause in commercial whaling on the grounds that it was not justified by scientific evidence. It considered that preparations should be made before the pause comes into effect to undertake the assessment of the effect of this action on the stocks and offered the proposal which was based on wording developed by the Scientific Committee.

The Seychelles agreed with the thrust of the proposal since research and consideration of management procedures must be developed during the pause in commercial whaling but it identified a number of problems with the proposed text. There was general consensus in the Technical Committee on the operative parts of the resolution and after consultation between interested governments a revised draft was submitted to the Plenary session.

The revised Resolution, to establish a joint Working Group of the Scientific and Technical Committees and its

terms of reference as shown in Appendix 2, was proposed by Japan, seconded by Peru and the Seychelles and adopted by consensus. The Commission agreed that Japan should convene the Working Group, which is open to all members of the Commission.

7. REVISION OF PRESENT MANAGEMENT PROCEDURE

Last year a small group started to study the proposals available and the Commission had urged the continuation of its consultations.

Norway indicated that it had not been possible to reconvene the group but there is still a great deal which could usefully be discussed and suggested that the Technical Committee recommend further endorsement and continuation of the discussions. This was agreed and approved by the Commission.

8. REVIEW OF REGULATORY MEASURES OTHER THAN CATCH LIMITS

A joint Working Group of members drawn from the Technical and Scientific Committees, convened by the Seychelles prior to the meeting of the Scientific Committee, analysed provisions of the Schedule to identify the regulatory measures employed under the Convention, excluding catch limits. Particular attention was paid to historical antecedents and the scientific or other bases for all the measures, especially those with management implications, and special emphasis was placed on a study of size limits. It was found that certain provisions are inoperative because of later decisions, but these inoperative measures were thought to be important in the situation where catch limits may not be effective (for example through lack of agreement or use of the objection procedure). Present size limits for fin, sei and Bryde's whales bear no consistent relationship with biological characteristics such as sizes at sexual maturity, nor are they based on assessments of the dynamics of populations of these species.

The Working Group made four recommendations concerning illumination of the intentions of Convention and Schedule provisions, the contribution of relevant current national regulatory measures, the establishment of a joint Working Group of the Scientific and Technical Committees to examine the contribution to conservation of regulatory measures other than catch limits and the need for appropriate future action and the retention of all existing Schedule regulations.

The Scientific Committee agreed that the joint Working Group would be useful, commenting that the assessment of work required would be extremely large, although it could be focused on situations where modifications to existing regulations other than catch limits were desirable for administrative or legal reasons. The Scientific Committee also supported the retention of the existing Schedule regulations and noted that there could be advantages in a dual system involving effort regulations as well as catch limits, and agreed that it would be necessary as a first step for it to carry out a review of this question.

The Commission noted the report of the Working Group and the comments by the Scientific Committee, and approved the four recommendations as endorsed by the Technical Committee, shown in Appendix 3. Action on the Working Group was deferred to next year while the

Convention, Schedule and national regulatory materials are developed and received, and the Scientific Committee was asked to review the possible advantages of a dual regulatory system.

9. CONSIDERATION OF PROTECTED SPECIES

In this context the Scientific Committee reviewed the results of the IWC Workshop on the Status of Right Whales, held in Boston, USA, 17-23 June 1983.

It noted that recent measurable increases in stock size had been observed for two populations (South West Atlantic and South Africa) and that there were indications of apparent recent increases elsewhere in the Southern Hemisphere. There was surprise at the generally low numbers estimated for known populations of right whales, where evidence for recovery was found, this had occurred only within the last 10-15 years. This might be the result of several factors: a very slow recovery from very low numbers in a species with a low net reproductive rate, competition with other baleen whale species, continued small takes of this species, recent considerable increase in public interest.

Commercial whaling has been banned on this species since the mid-1930s and the conclusion drawn is that there has been some recent recovery as a result. The Scientific Committee had explored the problems involved in quantifying effort for incidental sightings, but had been unable to establish an exact rate of increase from such data. It recommended that standardised surveys e.g. using spotter aircraft be continued and expanded to provide quantifiable data. The Technical Committee endorsed this recommendation, which was approved by the Commission.

10. WHALE SANCTUARIES

10.1 Scientific research in the Indian Ocean

At its 34th Meeting the Commission agreed that a Scientific Meeting should be held in the sanctuary area before the 5 year review period expires. The Scientific Committee developed a draft agenda and agreed that it would be appropriate for the meeting to consist of members of the Scientific Committee nominated by their Governments together with representatives of non-member countries in the Indian Ocean region, and selected individuals invited by the Scientific Committee. It recommended that the IWC should send formal invitations to such non-member governments to send representatives and that FAO, UNEP and IOC should be invited to co-sponsor the meeting. The Scientific Committee also recommended (USSR reserving its position) that the meeting should consider the full range of species, including small cetaceans, which are normally reviewed in its deliberations. Argentina recorded its reservation on this matter in Technical Committee, and Japan in the Plenary session.

There was considerable discussion in the Technical Committee on the date and place of the meeting, which the Seychelles indicated it was prepared to host. The financial implications at a time of severe constraint within the Commission caused some countries to suggest that the meeting should be delayed until the next financial year, although there was general agreement that a venue in the Indian Ocean area would be particularly appropriate.

The Commission accepted the suggestions by the

Seychelles that the meeting should be held in the early months of 1985, and the arrangements and financial aspects will be decided next year.

10.2 Protected areas for whales within national jurisdiction

At its last meeting the Commission instructed the Secretary to write to Contracting Governments for information on their national legislation within waters in which they exercise jurisdiction concerning areas where whale species populations are protected from whaling. Replies were received from Australia, Denmark, Mexico, Norway, Seychelles, South Africa, the USSR, the UK, and the USA. In addition, the Secretariat abstracted whaling material from a paper prepared under direction of the FAO Legislation Branch for the FAO/UNEP Consultation on the Global Plan of Action for the Conservation, Management and Utilisation of Marine Mammals.

The Commission had been looking for those areas under national jurisdiction which were equivalent to sanctuaries under IWC regulations, i.e. where whales are protected from catching. In the absence of any further information the Technical Committee assumed that no other areas existed apart from those identified by the eight Governments which had responded, and the Commission took note of this.

Mexico commented on the distinction between a refuge—a place where special protection for activities such as breeding occurs—and other areas designated as sanctuaries.

11. INFRACTIONS AND REPORTS FROM INTERNATIONAL OBSERVERS

The Technical Committee set up an Infractions sub-committee, chaired by Dr A. Reich (Federal Republic of Germany) in which fifteen member Governments had taken part. The Commission noted the comments and endorsed its recommendations as follows:

11.1 Infractions reports from contracting governments

The infractions reported for the 1982/83 Antarctic season, the 1982 season outside the Antarctic and the 1982 aboriginal subsistence whaling season were reviewed and it was noted that infractions reports had not been received from Chile for the 1980, 1981 and 1982 seasons. The Government of Chile was urged to submit infractions reports for these seasons.

After a discussion of the best way to deal with the issue of whales lost in aboriginal subsistence fisheries it was agreed that the Secretary should write to Contracting Governments asking for their comments and this matter should be considered at the next meeting of the Infractions sub-committee.

Noting the take of two whales designated as sei whales which were probably fin whales off Greenland, the Commission agreed to ask the Scientific Committee to comment on the likely distribution of sei whales in Greenland waters.

11.2 Reports from international observers

The summaries of observers' reports on North Pacific land stations, North Atlantic land stations and Southern Hemisphere pelagic whaling operations were reviewed and the Commission noted that no differences were found between these and the infractions reports.

The Commission noted the extent of surveillance of whaling operations and recognised that full surveillance is very difficult in remote areas on land as well as on the numerous small Norwegian vessels.

11.3 Check list of information

The Commission noted that the check list of information distributed by the Secretariat had proved very helpful.

11.4 Observer schemes

Peru and Brazil reported that they are examining the possibility of exchanging observers beginning next season. Norway noted that current schemes for exchange of observers only cover land based and pelagic whaling and that a number of logistical difficulties were associated with placing observers at sea, but expressed its willingness to discuss such arrangements with any interested Contracting Government. The Republic of Korea expressed a similar willingness. Japan indicated that it would welcome increased observer coverage by US observers pursuant to its agreement with the USA.

11.5 Other matters

11.5.1 Sperm whale catches, Division 9

The Infractions sub-committee examined in detail the problems which had arisen over the catches of sperm whales from Division 9 of the Southern Hemisphere in 1981. There had been a confusion in the statistics and the Netherlands noted that the incorrect information had been used in calculations by the Scientific Committee. The Commission recognised the critical importance of validated catch statistics to its work and noted that Peru would provide written clarification of corrections of the catch records for 1981 and 1981/82.

The Seychelles commented that there were still some problems concerning the Chilean catches at this time and requested the Secretary to seek clarification of the monthly catches by Chile in 1981. This was agreed.

11.5.2 Catches by St Vincent and the Grenadines

It was agreed that the catch of two humpback whales from St Vincent and the Grenadines in March/April 1983 constituted infractions and the Commission endorsed the following recommendation:

'The Commission urges that the Government of St Vincent and the Grenadines submit copies of applicable laws and regulations pursuant to Section 31 of the Schedule and outstanding infractions reports for its whaling activities.'

The Commissioner for St Vincent indicated that he thought there were no laws on whaling but he will confirm this and indicated that he will request an additional subsistence quota this year. He described the nature of the whaling operation in which one vessel with an outboard motor had now been replaced by two boats with inboard diesel engines. The small number of whales seen each year was decreasing and the whalers cannot find more whales to kill. The Infractions sub-committee recommended that the Technical Committee reflect on the fact that there has been a continuing small scale whaling operation for humpback whales in St Vincent and the Grenadines and that the sub-committee regards this whaling as involving infractions.

11.5.3 Special permits by Faroese

Arising from the fact that three fin whales had been taken

in 1982 under a special permit issued by the Faroese Home Rule Authority, the Commission urges Denmark to conclude discussions with the Faroese Home Rule Authority as soon as possible so that this issue can be resolved.

11.5.4 Peruvian whaling

The Commission was informed that Peru had misunderstood the requirement of Paragraph 15(a) of the Schedule and its national legislation had not prohibited the export of meat from Bryde's whales between 35 and 40 feet in length. Since the 1982/83 whaling season the national legislation had been brought into line with the Schedule requirements.

11.5.5 Chilean whaling

The Seychelles commented that a Chilean Government investigation had revealed irregularities in the 1981 season when up to 10 baleen whales were taken when only 75 sperm whales were authorised. It was unclear if the whaling vessel involved was acting as a pelagic factory ship in contravention of the Schedule, and imports by Japan from Chile showed shipments totalling over 1,000 tons of whale meat in 1980 and 1981.

The Commission agreed to the proposal, Japan recording its reservations, that the Secretary should write to Chile to ask that its Government should investigate these matters further to try and identify more precisely the take of baleen whales. Japan noted that a certificate of origin of meat is required to be attached in case of import of whale meat and confirmed that chemical analysis of the meat identified the origin as Bryde's whales. The Seychelles emphasised the point that the data on the catches are needed by the Scientific Committee to carry out stock assessment, and wrong data had been used in recent assessments.

11.5.6 Submission of laws and regulations

The Secretariat had prepared a preliminary table indicating the date of the most recent laws received from members pursuant to Paragraph 31 of the Schedule. The Commission endorsed the recommendation that the Secretary be requested to prepare and distribute a final table, and to remind those members who have not submitted copies of their most recent laws and regulations of their obligation to do so.

The Commission noted that Denmark had submitted an infractions report for its whaling activities in 1979 but the copies were not available at the time of the Infractions sub-committee meeting. It agreed that this report should be reviewed at the 1984 meeting.

Norway gave a detailed account of the inspection arrangements and legislation in its small-type whaling operations.

12. COMMISSION'S COMPETENCE TO SET CATCH LIMITS FOR THE BAIRD'S BEAKED WHALE IN THE NORTH PACIFIC

The Steering Committee established at the last Annual Meeting to report on material received from Contracting Governments concerning the Commission's competence under the 1946 Convention to set catch limits for the Baird's beaked whale in the North Pacific met under the Chairmanship of Mr F. C. M. van Rijckevorsel (Netherlands). Discussion was confined to the preliminary

legal issue. The broader question of the Commission's competence with respect to all cetaceans was deemed to be outside the scope of the Committee's mandate.

Submissions were received from Australia, Denmark, Japan, Netherlands, Oman, Seychelles and the UK and were considered under four headings derived from the Treaty interpretation as contained in the Vienna Convention on the Law of Treaties.

The text of the Convention including the Schedule

Two viewpoints were identified. One, that there is nothing in the text of the Convention (including the Schedule) which would prevent the Commission from setting catch limits for the Baird's beaked whale but rather that the Convention authorises and in fact gives a positive basis for such action. An alternative viewpoint was that the text of the Convention does not confer on the Commission the competence to set catch limits for Baird's beaked whales and that such action would be outside the scope of the Convention.

Object and purpose of the Convention

The view was expressed that the object and purpose of the Convention set forth in the preamble can hardly be achieved by inserting in Section I of the Schedule a number of species without the substantive provisions in the Schedule being applicable to them.

Context of the Convention, in particular the Chart of Nomenclature

There were divergent views on the implications of the Annex (titled 'Nomenclature of Whales') to the Final Act of the 1946 International Whaling Conference, for the scope of the Commission's regulatory powers.

On the one hand, it was stated that the chart's inclusion is to be regarded as an attempt to secure consistency of terminology in references to whales which were, at the time, the subject of particular attention. No legally binding character should be attributed to the chart, acceptance of which was merely recommended by the Conference as a guide. Therefore, the chart should not be interpreted as restricting the Convention and thereby the Commission's competence with regard to the species for which it can adopt regulations.

On the other hand, the point was made that the reference in the Final Act to the acceptance of the chart as a guide only means that the names therein are to be taken as a guide, whereas the list of species which the Conference regarded as whales is exhaustive and the Commission's competence to adopt regulatory measures is restricted to those species listed. Since the chart was adopted unanimously, the only way in which the Commission's competence to adopt regulatory measures can be extended to additional species is if there is unanimous agreement among Contracting Governments to do so.

Reference was made to the Verbatim Record of the 1946 Conference, which was said to show clearly that the only intent of the chart was to achieve consistency on nomenclature with respect to vernacular names, without prejudice as to whale taxonomy. It was suggested that a full examination of that Verbatim Record would be useful in confirming this.

Subsequent Practice of the Commission

The Steering Committee noted that the killer whale is an example of the execution of regulatory powers by the

Commission on a species not included in the chart of nomenclature. It could not reach consensus on whether this constituted a precedent.

The Commission noted that the implications of the Law of the Sea and 200-mile zones are of general importance and do not apply only to the question of its competence to set catch limits for Baird's beaked whales. It adopted the recommendation of the Technical Committee proposed by St Lucia and seconded by the Seychelles and Oman that the Scientific Committee review the status of this stock as a matter of priority which it will decide.

Japan stated that it would continue to limit under its national regulations the catch of this species to no more than 40.

13. WHALE STOCKS AND CATCH LIMITS

13.1 Report of Scientific Committee

The Chairman of the Scientific Committee presented a number of general matters concerning the work of the stock assessment and analysis carried out this year.

(1) *Criteria for the stability of stocks*

Although a procedure for classifying Sustained Management Stocks on the evidence that they had remained at a stable level for a considerable period under a regime of approximately constant catches was agreed to at the last Scientific Committee meeting, it was subsequently found to contain substantial problems and the matter was discussed again this year. The Scientific Committee agreed that its advice on classifying stocks under this definition should make specific statements on the probability that a certain CPUE time series is compatible with a particular level of change in stock abundance. Similar considerations could apply to time series of indices or measures of stock abundance such as from sightings or mark recapture analysis. This procedure was followed in the meeting and the approach was considered useful and easy to implement. However, some problems in the interpretation of the results were apparent due to the lack of any appropriate guidelines for acceptable risk levels. It was agreed that the matter will be addressed early in next year's meeting.

(2) *Estimates of natural mortality rate and the CPUE/abundance relationship*

Stock assessments carried out by various sub-committees used these relationships although the former may be biased and the latter non-linear. On reviewing all of the sub-committee reports, this resulted in the rejection of a stock assessment that had been previously agreed by a sub-committee. It was a matter of regret that major changes were made during later sessions of the Scientific Committee but it was the only scientifically acceptable course of action to take.

(3) *Stocks not assessed*

Because only certain priority stocks were assessed at the present meeting, the Scientific Committee drew up a table indicating the information on recent assessments for each of the stocks not assessed and last year's recommendations.

(4) *The Commissioner for St Lucia* asked the question 'For each stock of whales presently exploited, is there satisfactory scientific evidence to establish that catches of whales are within the productive capacity of the stock and are indefinitely sustainable?'. It was not possible to

consider this within the time available and the question will be thoroughly examined during the next meeting.

Seychelles congratulated the Scientific Committee on the improvement in the nature of its report. It believes the Commission is in a better position due to the statements of uncertainties and the exact basis of the recommendations.

St Lucia explained the reason for posing its question, which arose from the fact that it believed the FAO statement last year had been used by three governments to justify lodging objections to the pause in commercial whaling. It found the FAO terminology vague and imprecise and thus sought further evidence from the Scientific Committee.

Japan emphasised that the FAO statement was not the basis of its objection but rather that the pause was not based on scientific evidence.

13.2 Sperm whales

Western North Pacific

The Scientific Committee had not assessed any sperm whale stocks this year but instead attention was focused on planning work for the coming year in order that an assessment of the Western North Pacific stock could be carried out in time for the Commission to be provided with advice on catch limits prior to the start of the 1984 coastal season.

In reviewing progress towards this end the Scientific Committee made a number of recommendations concerning collection of biological data in the Japanese coastal fishery; computing requirements; an IDCR research cruise; provision of USSR marking data (part of the USSR national programme and therefore not required to be made available).

The Scientific Committee agreed that interim advice on catch limits could be developed at the next Annual Meeting using the two available length-specific estimation procedures.

There was some discussion of the present Schedule provisions for this stock and the statement by Japan that its 1984 season will not start until September. The Commission noted that footnote 1 in Table 3 of the Schedule remains in effect for the 1984 and following season, subject to the objection lodged by the Government of Japan. The financial implications related to carrying out the assessments were also recognised.

Japan requested that the Scientific Committee should consider if the present size of catch has any significant effect on the population, and this was agreed. The Commission also agreed that footnote 2 of Table 3 in the Schedule, setting the catch limits for the 1983 season which will start in September, should be retained.

Other stocks

The Commission agreed, on the recommendation of the Technical Committee, that all other sperm whale stocks should have zero catch limits.

13.3 Minke whales

13.3.1 Southern Hemisphere

The Scientific Committee made no recommendations for changes in the present management Areas. It recommended that a review be undertaken of all data that contribute to the inter-specific regressions for mortality rate values. Trends in age at maturity with time were considered and it was noted that the workshop on this

subject had been unable to reach any conclusion because lack of suitable data and models prevented a thorough investigation. Because of uncertainties surrounding the reproductive cycle, Brazil was asked to make every effort to obtain minimum biological collections. Brazil indicated that ovaries have been collected since 1976 but lack of technical capacity prevented other necessary collections.

The Scientific Committee made two recommendations concerning work on data and models which were adopted by the Commission. It has been found that the IDCR sighting surveys do not cover the entire range of the minke whale distribution in the Antarctic and there were three recommendations on sightings data analyses. Mark recapture estimates are also available in some Areas and it was proposed that a review should be undertaken for next year.

By combining available sighting and marking estimates, the Scientific Committee arrived at estimates of the present stocks. The increases in stock estimates this year arose from three factors and the Scientific Committee considered that the latest estimates are an improvement over those of last year. Using suggested corrections to take account of the unbalanced sex ratios in catches, the Scientific Committee recommended that the six stocks remain unclassified and put forward two positions as possible bases for setting catch limits.

In the Technical Committee, Sweden noted that one option was very much bigger than the present catch limits and proposed the lower position put forward by the Scientific Committee; this was seconded by the UK.

Japan spoke of its continuing research surveys of the last five years under the IDCR programme, and noted the improvement in the analyses which had resulted, leading to increased stock estimates. These are still underestimates and even if the stocks are not increasing they must still be close to their initial levels with a large available catch. The species has a large fecundity and therefore Japan questioned the reductions in catches proposed.

New Zealand recognised this as the last major whale resource and said that although these stocks were not facing extinction, caution was necessary because of the uncertainties. Seychelles also supported the proposal and whilst recognising the larger estimates and greater precision believed that the proposal was not unduly conservative since the appropriate catch limits are now smaller.

The USSR called for objective assessments rather than conservative estimates.

Brazil stressed that the Scientific Committee had no reliable basis for recommending catch limits because of uncertainty in all stages of the calculation. The proposed catch limit for Area II is the most reduced compared with last year. It is phasing out its whaling operations and such reduction at this time will bring about financial and economic problems. It therefore proposed an amendment to the catch limit for Area II of 625 which was seconded by Chile.

Japan, Argentina, the Seychelles and St Lucia explained their positions, including their sympathy with the Brazilian situation, before the amended figure of 625 for Area II was put to the vote and defeated.

The original proposal by Sweden for the following catch limits:

Area I	594	Area IV	1,995
Area II	454	Area V	1,245
Area III	1,349	Area VI	741

was then adopted in the Technical Committee by majority vote. It was also agreed that there should be 5% allowances between Areas as in previous years, but that the total catch should not exceed 6,378. The Technical Committee endorsed three research recommendations concerning the next IDCR survey in Area VI and analyses of the IDCR data and that these stocks be priority for assessment next year.

In the Plenary, the Seychelles expressed its concern that the results from the Scientific Committee involve considerable increases in catch limits for those stocks which breed in the Indian Ocean Sanctuary. Whilst not happy about continued minke whaling in tropical breeding areas, it recognised that this will soon stop, although the proposed reduced catch permitted in Area II will have serious consequences for Brazil. There is evidence that some of the whales off Brazil, in fact, come from the western part of Area III, and although a recalculation could not be done at this time it was not unreasonable in these special circumstances to propose a catch limit for Area II somewhat higher than the figure from the Scientific Committee, of 600. This was seconded by Australia, Peru, Oman and St Lucia.

As the result of an arithmetic error discovered in the calculation of the stock size in Area V, the Scientific Committee reconsidered the basis for its estimate and reported to the Plenary that there were two equal views, for catch limits of 1,299 and 1,453. The Commission discussed how best to resolve this problem, and there was considerable support for the idea that a corrected figure should be taken into account. Japan suggested the figure of 1,453, but the UK proposed 1,376, the mean of the two, which was seconded by the Seychelles, St Lucia, Oman and Japan.

The Commission then adopted by consensus the amended figures as follows, including the 5% allowance between Areas:

Area I	624	Area IV	2,095
Area II	630	Area V	1,445
Area III	1,416	Area VI	778

Total catch not to exceed 6,655.

The Seychelles recorded its dissatisfaction with the method used to resolve the problem. Japan commented on the need for the Scientific Committee to check its calculations carefully, and expressed its view that a reduction in the permitted catch is not indicated by the evidence from the IDCR research cruises of the numbers and productivity of the stock.

13.3.2 North Pacific

The Scientific Committee continued with previous stock boundaries on the basis of the separation by electrophoretic techniques between the Sea of Japan - Yellow Sea - East China Sea stock and that in the Okhotsk Sea.

Sea of Japan - Yellow Sea - East China Sea

New Korean data requested had been analysed indicating a decline in stock size of 40-50% or more from the 1970 level. The majority of the Scientific Committee therefore recommended the stock be classified Protection Stock with zero catch limit, though reservations were noted.

In the Technical Committee the Republic of Korea indicated factors which may have affected the analyses performed, which themselves could bear a different interpretation since CPUE do not show a significant trend.

It appealed for maintenance of the block quota established in 1979 because of the economic consequences. It should be taken into account that the Republic of Korea had not lodged an objection to the pause in commercial whaling. It therefore proposed to maintain the block quota and indicated that it would set national catch limits of 700 in 1983 and 306 in 1984. Japan seconded this proposal, expressing the view that caution is required for any drastic change.

The People's Republic of China indicated that its attitude to whaling since it stopped catching itself in the 1970s when the local stocks were depleted is that it favoured conservation of all aquatic resources including cetaceans but does not exclude responsible utilisation on stocks able to sustain this. It believes that this stock should have a zero catch limit to allow the most rapid recovery and proposed this amendment which was seconded by St Lucia.

After discussion, the amendment for classification as PS with zero catch limit was adopted by majority vote, but in Plenary the Republic of Korea appealed for time to convert its industry to other uses and the USA proposed that there should be a gradual reduction rather than a precipitous end. It proposed an amendment in the form of a footnote to read:

'Provided that the remainder from the previous block quota of 3,634 for the five years 1980 to 1984 inclusive may be taken in the years 1984 and 1985.'

The Seychelles seconded this as a reasonable proposal, in spite of its support in Technical Committee for protection status because of the highly significant decline in the CPUE data.

Following clarification of the fact that 1,006 whales from the original block quota still remained available at the start of the 1983 season, the Commission discussed and agreed by consensus that the stock should be unclassified with the footnote as proposed.

The Commission also endorsed the Scientific Committee's recommendation through the Technical Committee that catch and effort data should continue to be collected and analysed.

Okhotsk Sea - West Pacific

This stock was not assessed this year and the Technical Committee and the Commission agreed to continue the block quota and classification as SMS.

Remainder

The Commission agreed that this stock should continue as IMS with zero catch limit, pending a satisfactory estimate of the stock size.

13.3.3 North Atlantic

Northeast Atlantic

Since last year there has been a careful in-depth examination of the available catch and effort data and of the theoretical relationship between observed CPUE and effort. As a result, the reliability of the information on changes in stock abundance has been increased. There is some evidence for a decreasing trend in the CPUE series but no estimate of the relative size of present stock is available. The Scientific Committee therefore recommended that the stock be unclassified pending the results of a Norwegian study. Estimates of the replacement yield led to a recommended catch limit of not more than 635. It was noted that the imbalance in the sex ratio had been reduced to some extent by Norwegian measures.

Norway spoke of the constructive cooperation between scientists in a wide ranging review of data and analyses. These led to a lower proposed catch limit which would have serious consequences for the coastal fishermen and local economy. It sought an orderly arrangement for the industry as indicated in the Convention and looked for a transition to the lower level proposed. For that purpose, Norway asked the Technical Committee to seek the advice of the Scientific Committee on the possible effect on the stock of such a transition.

After some discussion, Australia, seconded by St Lucia, proposed that the stock should be unclassified with a catch limit of 635 and the Technical Committee recommended this to Plenary.

In the Plenary, Norway emphasised its commitment to follow the Commission's management decisions, but appealed as an exceptional measure for a delay in adopting the Scientific Committee's recommendation to ease the transition. It therefore proposed, seconded by Iceland and Japan, a catch of 885 in 1984.

India, Oman and the Seychelles sympathised with the Norwegian request but indicated that they could not go beyond the Scientific Committee's recommendation, while the UK, Finland, Sweden, the Federal Republic of Germany, Spain and France expressed support for the Norwegian position, and Egypt voiced some reservations. Finally, on the call for a vote from Antigua and Barbuda, the Norwegian amendment received 15 votes in favour, 7 against, with 13 abstentions, which was not the three-quarters majority necessary to amend the Schedule.

The Technical Committee recommendation of 635 was then approved by consensus, Norway stating that this in no way affected its rights under the Convention.

Central

Revised CPUE data suggest that it is more probable than not that this stock is declining, though the magnitude of the decline is unlikely to be large. The Scientific Committee recommended this stock remain unclassified and catches should not exceed the 1976-82 average of 291.

Iceland stated that the catch by its eight vessels comes from only a small part of the stock area and considered this a sound recommendation which it therefore proposed in Technical Committee; Norway seconded, and it was agreed by the Technical Committee and adopted by the Commission.

Canadian East Coast

This stock was not analysed and it was agreed by the Technical Committee and the Commission that it should remain unclassified with a zero catch limit pending a satisfactory estimate of stock size.

13.4 Fin whales

13.4.1 North Atlantic

East Greenland - Iceland

New information was available to the Scientific Committee from an IDCR cruise and aerial survey, together with new mark-recapture estimates and a calculation of the replacement yield. As a result it recommended that the stocks should remain SMS with a catch limit of 151.

Iceland indicated its concern for proper management to avoid over-catching of the marine resources which are the basis of its society. It noted with concern that some parameters which the sub-committee on other baleen

whales had agreed to be changed by the full Scientific Committee. It questioned the basis of the Scientific Committee's conclusion for a catch limit since a number of elements were derived from other species and areas.

Following clarification of the method of calculation, Seychelles, recognising that the present value has a scientific basis compared with the previous more arbitrary figure, proposed that the stock should be classified SMS with a catch limit of 151. This was seconded by St Lucia and adopted by the Technical Committee.

In the Plenary, Iceland spoke again of the scientific assessments and emphasised the conservatism of the recommendation. It proposed an amendment to 167 whales, the same as the present figure, and this was seconded by the Seychelles, the Netherlands, Egypt and the USA and approved by consensus.

Spain - Portugal - British Isles

The sighting and marking cruise in 1982 led to a population estimate of 1,601, considered to be an under-estimate of the total stock. The Scientific Committee recommended that the stock should be unclassified and had insufficient evidence to advise on catch limits but recommended caution because the stock may be at a relatively low level.

The Federal Republic of Germany commented that there was little new information this year on the status of the stock. France also expressed concern over the status of the stock and asked for clarification from Spain of the progressive reduction in catches it offered last year.

Spain was not able to provide firm figures and did not think that the present block quota should be revised. Following a procedural discussion on the question of whether block quotas need to be confirmed annually, it was agreed that, at least in this specific case, when an amendment to an existing block quota is defeated, the block quota provision remains without further decision.

The Federal Republic of Germany, seconded by France, proposed that this stock should be unclassified with a block quota of 150 for 1984 and 1985 and that the 1984 catch should not exceed 90.

Seychelles believed that the stock may be in a serious condition but saw little gain in this proposal while last year's block quota allows some flexibility. Mexico, Argentina and the Philippines expressed similar views in explaining their votes.

The proposal was then put to the vote and defeated in Technical Committee, and the Commission took no further action to change the existing block quota.

North Norway

Newfoundland - Labrador

These stocks were not assessed this year and the Technical Committee agreed and the Commission endorsed that they should remain unclassified with zero catch limits.

13.4.2 Southern Hemisphere and North Pacific

These stocks were not assessed this year and the Technical Committee agreed and the Commission endorsed continuation of classification as PS with zero catch limits.

13.5 Sei whales

The Scientific Committee did not assess any of these stocks this year. The Technical Committee therefore agreed that the Iceland-Denmark Strait stock should continue to be classified as SMS with a block quota of 504 in the six years 1980-85 inclusive with a maximum catch of 100. All other

stocks should continue as PS with zero catch limits except the eastern stock of the North Atlantic which is unclassified with a zero catch limit. This was accepted by the Commission.

13.6 Bryde's whales

13.6.1 Peruvian Stock

An IWC/DCR research cruise led to a best estimate of 15,638 whales over 35 ft. There is uncertainty over the existing stock boundaries and new data requested had been analysed leading to two views in the Scientific Committee: that the stock should be classified as IMS with a catch limit of 313; or PS with a zero catch limit.

In the Technical Committee Peru noted that the catch limit set last year was a compromise. The latest cruise results had led to a doubling of previous stock estimates and it emphasised the economic consequences of closing the fishery.

Seychelles stated that it believes the stock is seriously depleted and commented on the latest analyses and the arbitrary stock boundary. Japan questioned the De Lury method of analysis which led to the zero quota recommendation, and there was further discussion on the technical details of the scientific analysis and the divergence of views in the Scientific Committee.

Finally, St Lucia, seconded by the Netherlands, proposed that the stock should be PS with a zero catch limit, and this was agreed by a majority vote.

In the Plenary session, Mexico noted that Peru intends to phase out its whaling industry and therefore proposed that the catch limit for this stock in the 1984 season should be 165 whales, with a footnote stating that the catch limit for the 1986 season will be lower than 165 and thereafter shall be zero until the Commission decides otherwise. This was seconded by Peru, which confirmed that its government is withdrawing its objection to Schedule paragraph 10(e), concerning the pause in commercial whaling.

The Seychelles expressed its appreciation of the consequences of Peru's action, especially in conjunction with the problems caused by the climatic changes it is experiencing. There was discussion and agreement that the 1984 season would start in November 1983, recorded in a footnote, and the Commission adopted by consensus the catch limit of 165 with the two accompanying footnotes.

13.6.2 East China Sea

There has been no catch since the single animal in 1980 and no new information is available. The Scientific Committee agreed that this stock should remain unclassified. Most members considered there was no scientific basis on which to recommend a catch limit, some believing there should be no recommendation and others a zero catch limit.

The Technical Committee agreed that the stock should be unclassified.

After the Republic of Korea, seconded by Japan, proposed a catch limit of 10, the People's Republic of China commented that this is a small stock from which any catch poses a threat in an area where some fish stocks are also seriously depleted. It wished to see it protected and therefore proposed a zero limit. This was seconded by the UK and adopted by a majority vote in Technical Committee.

In the Plenary, the Republic of Korea proposed an amendment for a catch limit of 10, which was seconded by Japan, but defeated with 3 votes in favour, 19 against and 13 abstentions.

The Commission agreed that the stock should be unclassified, and then by consensus that the catch limit should be zero. Japan, the Republic of Korea and the USSR recording their reservations.

13.6.3 All other Bryde's whale stocks

The Technical Committee agreed and the Commission approved that the existing classifications and catch limits should be continued.

The Philippines spoke of its position as a developing nation with strong maritime interests and a growing human population. It has joined the IWC as part of its policy of rational management of marine resources and last year voted for moderate catches and conservation measures based on scientific evidence. It intends to limit its catches to 200 Bryde's whales from the Western Pacific stock under national regulations in conformity with IWC provisions. It requested that the Scientific Committee make new assessments of this stock as soon as possible in accordance with data which the Philippines hope to provide for the upward revision of the catch limit of this stock. The Chairman of the Scientific Committee indicated that this will be a priority stock at the next meeting.

In response to a question from the Seychelles on whether Philippines whaling will stop in 1986, the Philippines stated that it will fully honour its commitments. Japan noted that this stock is already fully utilised but will consult with the Philippines on this subject, and emphasised that processing of this species at sea is prohibited by the IWC.

13.7 Bottlenose whales

The Atlantic bottlenose stock was not assessed this year and the Technical Committee agreed and the Commission accepted that it should continue to be provisionally listed as PS pending the accumulation of sufficient information for classification.

13.8 Protected species

The Technical Committee and the Commission endorsed four recommendations of the Scientific Committee from the Right Whale Workshop concerning their continued protection from killing; requesting information from Brazil; proposing environmental protection; and continuing research.

Argentina stated its reservation on the third recommendation in Technical Committee because of its large scope and with respect to areas of national jurisdiction. Brazil stated in the Plenary session that the catches mentioned were intermittent from 1953 to 1973, and reported to the Commission in 1977. It also recorded its reservation on the third recommendation because it falls within the boundaries of national jurisdiction, and similar reservations were stated by Peru and Costa Rica.

14. ABORIGINAL/SUBSISTENCE WHALING

14.1 Report of the aboriginal/subsistence whaling sub-committee of the Technical Committee

Professor J. D. Ovington (Australia) introduced the report of the first meeting of this sub-committee which was established at the last Annual Meeting to consider documentation on nutritional, subsistence and cultural needs relating to aboriginal subsistence whaling, and the uses of whales taken for such purposes and to provide advice to the Technical Committee for its consideration and determination of appropriate management measures.

The Governments of Denmark and the USA provided detailed documentation prepared in consultation with the indigenous peoples concerned, which gave a valuable insight into the complexity of inter-related factors that must be considered. The USSR agreed to make its best efforts to provide equivalent documented information for the next meeting relating to gray whales taken by its indigenous population.

The sub-committee reported the Danish belief that maintaining a catch limit of 10 humpback whales would be appropriate in meeting the needs of Greenlanders; while the USA delegation presented documentation which showed, in its view, that the Alaskan Eskimos' need would be met by 26 landed bowhead whales per year, which could be satisfied by 35 strikes.

The sub-committee agreed that it should examine the methods used for estimating need with a view to refining the methods and providing guidance on the acceptable form of presentations to be made in the future. A procedure has been initiated to this end. Attention was also drawn to small scale coastal operations with similar characteristics to those which are currently referred to in Schedule paragraph 13.

It also recommended changes to its terms of reference as follows (new wording in bold):

'to consider relevant information and documentation on nutritional, subsistence and cultural needs relating to aboriginal subsistence whaling and the uses of whales taken for such purposes, and to provide advice on the dependence of aboriginal communities on specific whale stocks to the Technical Committee for its consideration and determination of appropriate management measures.'

This was endorsed by the Technical Committee and approved by the Commission. It was noted that whaling at Bequia was not reviewed and the work of the sub-committee had resulted in a fruitful exchange of views leading to more definitive advice.

The Netherlands, Mexico and Oman emphasised the request for documentation from the USSR and mentioned their concern over the question of the utilisation since very little information has been received, although catches now are greater than they were in the 1940s. The USSR commented that it is a large task to accumulate the necessary data, as was amply demonstrated in the Danish and USA documents. There are 7-9 dispersed settlements along the coast at which gray whales are landed, and in fact the people prefer bowheads although these are now prohibited from capture since 1975 and are substituted by gray whales. This has affected the assessment of the need and dependence of the people on the gray whales. It is also attempting to increase the output of products for human consumption from the carcasses.

14.2 Report of the Scientific Committee

The Scientific Committee found that consideration of the minimum level required for Schedule paragraph 13 cannot be adequately addressed given the present state of knowledge. Questions of genetic diversity and past population levels cannot be answered currently.

A concept useful in principle was agreed for giving advice on rates of increase where values of the necessary biological parameters are available. The Technical Committee endorsed and the Commission accepted the research recommendations in the following sections and

noted stock classification and catch limit recommendations for consideration under the item Action Arising.

14.2.1 Bowhead whales: Bering - Chukchi - Beaufort Sea

The Scientific Committee noted the continuing high struck and lost rate. The problem of estimating natural mortality using the inter-specific relationship with length, the interpretation of total mortality rates and the estimate of juvenile mortality rate require a thorough review.

Current stock size estimates from ice camp census with a new method of analysis to correct biases led to a best estimate of 3,871. The Scientific Committee strongly recommended that aerial surveys should be implemented as a matter of urgency to obtain information on whales that may be missed by observers particularly beyond 4,000 metres.

Estimates of initial population size by modelling range from 14,000 to 20,000, with more likely values towards the upper end of that range.

There is no evidence of a western Chukchi Sea substock. The Scientific Committee was unable to advise on minimum stock level but, since the stock is now between 19% and 28% of its initial size, recommends that it continues to be classified as a Protection Stock. It also recommended extreme caution in setting catch limits which should be for one year only; the number of struck animals for 1984 should be less than 22 with any removals restricted to sexually immature animals of either sex (less than 13 metres) to maximise population growth.

The Scientific Committee also recommended that research be continued to define migration routes and critical habitats precisely; and the effects of offshore oil and gas activities in the Bering, Chukchi and Beaufort Seas especially be investigated.

14.2.2 Humpback whales: western North Atlantic

A suggestion that two stocks exist in the North Atlantic will be reviewed at the next meeting.

Tail fluke photographs have identified some 2,500 whales and indicate no inter-mixing on the feeding areas although individuals may occur in any breeding area. Separate feeding aggregations off West Greenland and in at least three other feeding areas seem to occur, and whales removed from one may not be replaced from the stock as a whole, with consequent implications for management.

The Greenland catch in 1982 was 12 which together with the catch from Bequia and an incidental kill of 4 off Newfoundland gave a total removal of 21 compared with 23 in 1981.

Estimates of population size using photo-identification data give a best estimate of 5,773 which is larger than the estimate of initial population size of 4,700 (known to be undoubtedly conservative). Given the uncertainties in current and initial stock sizes most members of the Scientific Committee believed that the stock should be unclassified or remain PS with a zero catch limit, and no catch should be permitted.

It was recommended that photo-identification of animals off Bequia be undertaken, and St Vincent indicated that it would be happy to cooperate given financial assistance. Antigua stated that evidence of vocalisations indicated a single stock in the North Atlantic and commented that sightings off Bermuda are fewer than in earlier years. It was requested to submit this evidence to the Scientific Committee.

14.2.3 Gray whales: Eastern Pacific

No assessment was carried out this year by the Scientific Committee.

14.2.4 Minke whales: West Greenland

Estimates of CPUE over the period 1974-1982 do not give sufficient evidence to make a definite classification. Catches should be reduced and the Scientific Committee recommended that the total catch in the remaining two years 1984-85 of the current block quota should not exceed 588.

14.2.5 Fin whales: West Greenland

The reported catch in 1982 was of 6 confirmed and 2 probable animals (originally reported as sei whales). Sightings suggest the stock can be measured in hundreds at least. There is no scientific basis for classification or catch limit but the Scientific Committee recommended a catch limit no greater than 6 as set last year.

14.3 Action arising

14.3.1 Bowhead whales: Bering - Chukchi - Beaufort Sea

The USA identified this as an important issue both for Alaskan Eskimos and the Commission, since what is done now will set the course for future action under the aboriginal subsistence management scheme. This includes consideration of the cultural and subsistence needs, as well as the stock status. It believes that the Alaskan aboriginal needs would be satisfied by 26 landed whales and that such a limit is within the proposal of the protected species sub-committee, which was subsequently reduced by the full Scientific Committee. Since what is decided this year will be reviewed in the following years in the light of new information as it becomes available, it felt justified in proposing a catch limit at this level which could be achieved with 35 strikes in 1984. This proposal was seconded by Denmark which recognised the vital importance of the issue to the Inuit. Mexico congratulated the USA on its research efforts but believes that all non-commercial whaling on protected stocks should end too. It noted that the Scientific Committee recommended extreme caution since this involved the possible survival of the stock.

The Netherlands also congratulated the USA on its documentation and research undertaken, which allows for better evaluation of the matter by the IWC now. It also congratulated the Eskimo people in keeping to the earlier quotas. Its general policy is to follow Scientific Committee advice but it recognises the special aboriginal needs. It reviewed the Scientific Committee evidence on stock levels and any trends and concluded that the stock may now be less than before due to the recent removals, which have been greater than those earlier this century, averaging 22 removals per year. It proposed the following amendment to Schedule paragraph 13(b)(2)(i):

For the years 1984 through 1986 inclusive the total number of whales struck shall not exceed 42 provided, however, that in any one year the number of whales landed shall not exceed 10.

This was seconded by the Federal Republic of Germany. The UK spoke of its broad support for this proposal as did the Seychelles. The latter mentioned the inadequacies of the aboriginal subsistence management scheme and the scientific uncertainties but emphasised that aboriginal

needs must not be allowed to exceed the capacity of the stocks and ultimately harm the indigenous people themselves.

New Zealand spoke of its difficulty with the United States' proposal to increase significantly this quota, although it recognised the different considerations applying to isolated aboriginal communities. It cited, however, the example of Tonga, which had abandoned whaling. It also voiced concern at the relatively inefficient and inhumane killing methods employed. Norway referred to the Scientific Committee recommendation for a catch limit for one year only, and Oman while recognising aboriginal need does not support the killing of the bowhead whale. The amendment was then adopted by a majority vote in the Technical Committee.

The Seychelles and the UK asked that removals should be restricted to sexually immature animals less than 13 metres in length, as recommended by the Scientific Committee, and the USA confirmed that its cooperative agreement with the Alaskan Eskimo Whaling Commission does contain size limits.

In the Plenary session the Federal Republic of Germany, seconded by the UK, proposed an amendment to try and meet to a large extent the needs of the Inuit and to encourage efficiency in the hunt, whilst heeding the advice of the Scientific Committee:

For the years 1984 through 1986 inclusive, the total number of whales struck shall not exceed 63 provided, however, that in any one year the number of whales struck shall not exceed 23.

The People's Republic of China recognised the nutritional and cultural requirements, but stressed that any quota must guarantee the conservation and recovery of the stock, and called for improvement in the killing methods.

The USA re-emphasised that aboriginal needs must be considered separately and differently from commercial interests. The Eskimos have played a responsible role in the aboriginal management scheme, and the Executive Director of the Alaska Eskimo Whaling Commission spoke of her people's sacrifices and their perception of the present situation. The USA indicated that both the Technical Committee proposal and the amendment were inadequate to meet the Eskimo need.

The amendment was then put to the vote, receiving 17 votes in favour, 10 against, with 7 abstentions. Since this failed to receive a three-quarters majority the Technical Committee recommendation was voted on, and received 8 votes in favour, 10 against and 16 abstentions.

Following a recess for private discussions, the USA proposed a one-year limit for 1984 of 30 struck or 22 landed, whichever comes first, which was seconded by Denmark. This failed with 8 votes for, 15 against and 11 abstentions.

Australia then proposed a 1984 limit of 18 struck, in an attempt to achieve a balance between the aboriginal needs and the rare or endangered status of the species. This was seconded by St Lucia and Belize, but failed to gain a three-quarters majority, with 16 votes in favour, 10 against and 8 abstentions.

As an attempt for a more acceptable compromise, the UK then proposed a 1984 limit of 21 struck, which was seconded by the Federal Republic of Germany, but this again failed to receive a three-quarters majority, with 18 votes for, 10 against and 6 abstentions.

Following further adjournments for discussions between

delegations and Commissioners, the following proposal was put to the meeting and adopted by consensus:

For the years 1984 and 1985, the total number of whales struck shall not exceed 45* provided that in either year the number of whales struck shall not exceed 27.

14.3.2 *Gray whales: Eastern Pacific*

Mexico reiterated that this entire stock winters in Baja California waters. Although the stock has recovered Mexico is disturbed by the large Soviet take without documentation of aboriginal or subsistence need.

Oman asked the USSR to accept an international observer in this fishery.

The Technical Committee and the Commission agreed to continue the present classification of SMS and catch limit of 179 available to be taken by aboriginals or a Contracting Government on their behalf pursuant to paragraph 13(b)(3) of the Schedule.

14.3.3 *Humpback whales: western North Atlantic*

Denmark considered that maintaining the present quota of 10 humpbacks was appropriate for meeting the needs of the Greenlanders. It noted that the stock estimate had been revised upwards, and though there is a problem of feeding aggregations, there is no satisfactory scientific evidence to justify a change in its view. It is ready to review the position later as necessary.

The Seychelles found the scientific advice unsatisfactory and proposed a minority recommendation from the Scientific Committee of 4, which was seconded by Antigua, and adopted by a majority vote in the Technical Committee.

In the Commission, Denmark proposed an amendment for a 10% decrease on the present catch limit, that is 9, which was seconded by the UK, the USA and France. The Seychelles indicated that it could accept this figure, which was then adopted by consensus.

St Vincent recognised the decline in humpback whales in its area and stated that it is exploring the possibility of converting its whaling activity to other fisheries.

14.3.4 *Other stocks*

Minke whales: West Greenland

Denmark proposed, and Seychelles seconded, a catch limit in line with the Scientific Committee recommendation that the total catch of minke whales shall not exceed 568 in the two years 1984 and 1985 with a maximum catch of 300 in any one year. This will allow for some variation in catch over the two years and the Technical Committee and the Commission agreed to this by consensus.

Fin whales: West Greenland

Denmark proposed, seconded by Norway, a continuation of the existing catch limit of 6 which was also agreed by consensus.

14.4 *Proposal for the suspension of non-commercial whaling on protected species*

Mexico introduced a proposal calling upon members to consider the need for establishing zero catch limits on non-commercial whaling for protected species and stocks. This was seconded by St Lucia, the Seychelles and Belize.

* At the end of the first year this figure will be reviewed and, if necessary, amended on the basis of the advice of the Scientific Committee.

After considerable discussion of the procedural aspects, the substance of the proposal and its precise drafting, the proposal was put to the vote but failed to receive a majority, with 11 votes in favour, 11 against and 12 abstentions.

15. SMALL CETACEANS

The Scientific Committee sub-committee on small cetaceans reviewed exploited phocoena populations, live capture fisheries, new analyses concerning Baird's beaked whales, and the status of the Black Sea dolphin and porpoise fishery.

As a result the Scientific Committee offered certain advice which the Technical Committee noted with some amendments for clarification, and which was then noted by the Commission, and is shown in Appendix 4.

During the course of discussion on this item, a number of governments expressed their reservations on the general question of the Commission's competence to regulate and manage small cetaceans. These included Argentina, Brazil, Chile, Denmark, France, Japan, Mexico, Peru and the USSR.

The Commission noted the information given by the Federal Republic of Germany that the Council of Ministers of the European Economic Community has decided on regulations interdicting the import of all cetaceans for commercial purposes live or dead, listed in Appendix 2 of CITES from 1 January 1984.

The Seychelles commented on the very important Black Sea dolphin and porpoise fishery which had caused disastrous reductions in their populations. It proposed (i) that a Turkish scientist be invited to the next meeting of the Scientific Committee, (ii) his participation should be assisted, and FAO and UNEP should be asked for their good offices and any help they could give. This was agreed by the Commission after amendment of the precise wording submitted to the Technical Committee.

Since at present also some large cetaceans are included in this item, the Netherlands suggested a change of the name 'Small Cetaceans' with respect to both the sub-committee concerned of the Scientific Committee and the item concerned on next year's agenda of the Commission. The Commission agreed to ask the Scientific Committee to consider the terminology employed in this respect, and to report to the Commission thereon. Argentina pointed out that this is not purely a scientific matter and the Commission will make any decision. This view was supported by Brazil, Japan and Peru.

The Commission noted that next year the sub-committee on small cetaceans proposes to review new or expanding fisheries catching small cetaceans incidentally, with particular attention to gillnet fisheries, and to review the biology and populations of the four species of *Cephalorhynchus*.

16. MEASURES TO DISCOURAGE WHALING OPERATIONS OUTSIDE IWC REGULATIONS

16.1 Register of whaling vessels

The Secretary introduced the latest amendments to the Register issued at last year's meeting. Recent information from Norway had still to be verified.

The Commission agreed that the Register should continue to be updated annually and requested all Governments to respond to the request for information.

16.2 Insurance carried by whaling vessels operating outside IWC

The Secretary reported that no vessels had been identified operating outside IWC regulations other than the special case of Portugal and so there were no further developments from last year. The Commission agreed that this matter should only be taken up again if there was evidence of whaling by non-IWC vessels.

17. INTERNATIONAL DECADE OF CETACEAN RESEARCH

17.1 Report of the Scientific Committee

The Scientific Committee reviewed the results of 12 projects from 1982-1983 reported on at its meeting.

Because of the Commission's financial constraints, only one item was being put forward for 1983-1984, the sixth Southern Hemisphere Minke Whale Assessment Cruise in Area VI and the related data analysis.

The Commission noted the question raised in Technical Committee by the Seychelles over the priority given to this programme by the Scientific Committee.

17.2 Whale habitats

The Scientific Committee had asked that relevant information on changes in fish stocks which are the food of whales should be submitted by member nations, but none had been received. It was noted that the work involved in responding to this request was too wide in scope to be included in Progress Reports.

A review of the state of world fishery resources submitted by FAO indicated that fisheries had adversely affected the stocks of three important food species for cetaceans—capelin in the northwest Atlantic, pilchards in the southeast Atlantic, anchoveta and other pelagic species in the southeast Pacific. The potential large scale harvesting of krill in the Antarctic has also attracted considerable public interest as a possible threat to the recovery of the great whales. It was suggested that the feeding strategies of cetaceans and the effect of prey reduction might form part of a scientific workshop on whales and their ecosystems.

In consideration of the effect of pollution on whale populations several countries had indicated in their Progress Reports that collections of materials were being made from cetaceans to study the levels of pollutants including potential prey species of cetaceans, but no information was presented on possible effects of high pollutant levels on cetaceans.

Denmark spoke of its serious concern over plans for transporting oil and liquefied natural gas from Arctic sites in ice-breaking super-tankers because of the risk of devastating oil pollution of the waters *en route*, the effect on marine life and thus the livelihood of the people of Greenland. It urged that plans for year round shipping in the Arctic should not be implemented before solutions have been found that take account of the special environmental, social and economic interests of the populations of the areas concerned.

The Netherlands and Sweden shared this concern and Norway expressed its sympathy but noted the limit of responsibilities of this Commission.

There was extended discussion over a proposal by Mexico dealing with compilation of sources of data, provision of data by member governments, and the encouragement of an ecosystem approach to management.

Norway noted the connection with revision of the present management procedures, and Seychelles the need for the Scientific Committee to start to ask what data will be available to it in future. The UK and Sweden also expressed general support while the Federal Republic of Germany drew attention to the transfer of competence for fisheries management to the EEC by its members. The Commission finally decided that it could not develop a satisfactory form of wording to encompass all these considerations and Mexico withdrew its proposal.

18. COLLATION AND DISTRIBUTION OF ANNUAL SUMMARY OF INTERNATIONAL RESEARCH ON CETACEANS BY THE COMMISSION

The Scientific Committee noted that most of the information requested is already included in national progress reports, and that the Secretariat had received very few requests for the collation. The Commission accepted the recommendation endorsed by the Technical Committee that the procedure be discontinued.

19. ADOPTION OF REPORT OF THE SCIENTIFIC COMMITTEE

In adopting the Scientific Committee report the Technical Committee and the Commission noted the following points:

1. A large number of member nations had not submitted national progress reports.
2. Member nations are reminded of the need for prompt provision of catch information to the Bureau of International Whaling Statistics, if the Scientific Committee is to carry out its stock assessment work satisfactorily.
3. A procedure to assist in developing activities under the FAO/UNEP Global Plan of Action for the Conservation, Management and Utilisation of Marine Mammals including a Scientific Committee working group.
4. The Scientific Committee sought guidance on the best procedure to provide advice to CITES since the present procedure is unsatisfactory.
- Four options were considered. The Technical Committee discussion identified that the Scientific Committee should deal only with specific proposals and not attempt to interpret the CITES criteria for listing species on its Appendices. It was finally agreed to leave the matter with the understanding that any Contracting Government can put the item in next year's Commission Agenda, in which case the Scientific Committee would also review the issue further.
5. The Scientific Committee recommended that its Rules of Procedure be amended to accord the CCAMLR scientific observer the same status as that of the scientific observers from FAO and UNEP.
- The matter of data availability to organisations such as CCAMLR will be examined and discussed at the next meeting of the Scientific Committee.
6. A workshop on the feeding ecology and distribution of whales is proposed for late 1984.
7. The current size limits for Bryde's whales should be retained since no new information is available.

8. Japanese North Pacific effort data are available to be encoded. This would require financing.

9. The Secretariat regarded all information provided under Article 7 of the 1946 Convention as being in the public domain.

10. The time of election of Scientific Officers should be changed by amendment of the first sentence of Rule C5 of the Committee's Rules of Procedure.

'The Committee shall annually elect from amongst its members a Chairman and Vice-Chairman at the end of its pre-Commission session.'

11. Rule E7 of the Rules of Procedure of the Scientific Committee should be amended to clarify when the Report of the Scientific Committee becomes a public document as follows:

'And except that the Report of the Annual Meeting of the Scientific Committee shall be available at the time of the opening Plenary of the Commission, to which the Press is admitted, it being considered strictly confidential prior to that time'.

Japan stated that it took a serious view of violations of confidentiality and suggested that it may be necessary to impose punitive sanctions in future.

12. Under the new procedure of (10) above, Dr M. F. Tillman (USA) and Dr G. P. Kirkwood (Australia) were elected Chairman and Vice-Chairman respectively.

13. Certain unofficial documents had been distributed to the Commission concerning the Scientific Committee's deliberations. Attention was drawn to the fact that these are unofficial and the Scientific Committee urged that they be treated with caution since they may contain statements which are not reflected in the Report of the Scientific Committee report itself. It also urged the publishers of such unofficial documents to ensure that they are factually correct and do not misrepresent the views of the Committee or its members.

20. HUMANE KILLING

The Secretary had been instructed last year to convene a meeting of experts to review available papers and evaluate the results of experimental programmes on alternatives to the cold grenade harpoon for killing minke whales. The papers describing the programmes and results from Japan, Norway and the USSR were reviewed in detail by the Working Group, and a series of recommendations were put forward.

The new model penthrite harpoon is expected to be fully employed by Japan in the 1983/84 Antarctic whaling season, and the 1984 coastal season. Japan intends to continue research and development of further improvements, and its objection to the Schedule amendment prohibiting use of the cold grenade harpoon will be withdrawn as soon as safety considerations are certain.

Many governments congratulated Japan on the success of its programme to replace the cold grenade harpoon, including Australia, the Netherlands, St Lucia, Seychelles, USA and Argentina.

Norway outlined the way in which the research programmes had been developed since 1979. Japan had investigated the development of the penthrite grenade whilst Norway had undertaken to look for novel alternatives. This review was now completed although no potential alternatives were found. The Japanese penthrite grenade is not suited to its coastal and small scale whaling

operations, and it is now looking for further developments. Norway's objection will be withdrawn when a safe alternative is freely available and this should be soon after ordinance factory tests of a new model are completed. It is hoped that the new model explosive harpoon will be ready in sufficient numbers to be used in whaling operations during the 1984 season.

The USSR commented that its experiments had not been so successful as those of Japan and Norway, and it expected to utilise their experience.

India indicated that it was saddened by the apparent complacency and looked forward to vastly improved techniques to be involved, considering that if the times to death cannot be significantly improved then whaling should cease altogether. Belize supported India and St Lucia shared these views, whilst recognising that some progress had been achieved.

There was an extensive technical discussion in the Technical Committee, including possible drugs which might be considered, electrical harpooning and details of the Norwegian experimental programme. All those with such information were asked to submit it through the Secretariat and should also participate in any further meetings of the Working Group.

The recommendations were then accepted by the Technical Committee and endorsed by the Commission as follows:

- (1) That electrical harpooning, the use of drugs and of high-pressure gases are not at present suitable methods for killing minke whales and the Commission recommends that they continue not to be used at this time.
- (2) The whaling operations using electrical lances to kill harpooned whales should provide the Commission with information on the time elapsing between application of the electric current and death, together with information on the pathways of the current through the animal's body.
- (3) The Commission invites Contracting Governments to submit the relevant information from their legislation which they think may be helpful as a guide to the Working Group in setting goals for the humane killing of whales.
- (4) The Commission draws attention to the fact that it is desirable that appropriate experts be brought by Contracting Governments to such Working Group meetings and that provision be made for invited experts also to attend.
- (5) The Commission draws attention to the advantages of penthrite grenades in reducing the time to death and loss of meat, and suggests that the USSR whaling operations consider their use.
- (6) The Commission noted that there are possibilities for improvements in both the training of gunners as well as research on new improved sighting mechanisms and encourages their development.

Discussion on the continuation of the Working Group resulted in agreement that the Group should meet again prior to the next Annual Meeting to continue to discuss matters under its original terms of reference: these should be extended to include humane killing in aboriginal subsistence whaling (for which the Secretary should request relevant data); as well as to review the programme of work in Iceland of the humane killing of the larger whale species which it is at present supporting.

The Commission noted the comment of St Vincent concerning the difficulties of obtaining data from primitive and remote subsistence whaling operations.

21. CONFERENCE ON THE NON-CONSUMPTIVE UTILISATION OF CETACEAN RESOURCES

St Lucia introduced the Report of the Conference on the Non-Consumptive Utilisation of Cetacean Resources, held in Boston, Mass. 7-11 June 1983. It spoke of a significant change which it detected in the relationships between man and cetaceans so that our dealings may be other than killing them for their products. As an island state it particularly recognised the value of the main subject areas considered under the Conference—benign research, protected areas, the ecosystem approach, recreational/tourist potential, captive and display aspects, and the educational values. It therefore warmly commended the Report of the Conference. The Commission noted that the Chairman and Secretary of the Commission who attended the Conference took no part in the formulation of the recommendations, many of which were directed to the IWC.

A number of governments, including India, Antigua and Barbuda, Argentina, the Netherlands, Belize, Australia, Oman and the USA congratulated the organisers of the Conference on its achievements.

Since there are many recommendations relevant to the Commission in the Report, India and the Seychelles proposed that a Technical Committee Working Group should be established to examine the recommendations which relate directly to the IWC. This should meet before the next Annual Meeting and it was emphasised that the establishment of such a Working Group does not imply any position *vis à vis* the objectives of the Convention.

St Lucia prepared terms of reference for this Working Group, and after a number of proposed amendments were discussed, the revised terms of reference were agreed as follows:

- (1) To examine the recommendations contained in the Conference report.
- (2) On the basis of this review, to report to the Technical Committee at the 36th Annual Meeting on such matters as may fall within the competence of the IWC.
- (3) To identify the financial implications of any actions.

There was agreement that the proceedings of the Working Group and its report would in no way prejudice the views of the Commission and the member Governments with regard to the question of its competence. St Lucia agreed to act as convener.

The Netherlands drew attention to the proposed expedition by the research vessel *Planctus* in the Indian Ocean Sanctuary, to conduct benign research on cetaceans and increase local awareness for the need for conservation of the marine environment. India welcomed this proposal and emphasised the need for local participation. St Lucia also stressed consideration of the ecosystem approach to cetacean research.

22. REVISION OF THE SCHEDULE

Last year the Commission agreed that whaling nations be requested to provide available information on the percentage of their total catch which is taken under the local consumption exemptions of Schedule paragraphs 15(a) and (b). No arrangements had been made to handle this information when received and it was agreed that these data should be considered by the Infractions sub-committee at its meeting next year.

23. FINANCE AND ADMINISTRATION

The Commission established a Finance and Administration Committee which was chaired by Mr F. Fontoura (Brazil) and attended by Australia, Brazil, the Federal Republic of Germany, Iceland, India, Japan, the Netherlands, New Zealand, Norway, the USSR, the UK and the USA.

23.1 Review of provisional financial statement 1982/83

The Committee examined the income and expenditure figures and explanatory notes prepared by the Secretariat. It appears that at the end of the financial year there will be a shortfall of income of £66,000 on the budget figure, mainly attributable to the late or non-payment of annual contributions. The Committee expressed serious concern at this situation. In spite of savings on expenditure the Income and Expenditure Account will show a deficit in excess of £30,000, and the General Fund will stand at about £112,000, which is less than the amount normally considered to provide a viable reserve. The Committee shared the grave concern of the Secretariat, and recommended the Commission to accept the Provisional Statement, subject to audit, which was agreed.

23.2 Estimated budget for 1983/84

It was recognised that because of the shortfall of income in the current year as a result of arrears in payment, it will be necessary to make provision against possible non- or late payments. The resulting injustice for those governments who pay on time was recognised.

Some members pointed out the substantial increase in the basic budget over the previous year and the consequences this would have on the national contributions, although it was noted that over the past five years the minimum contribution has only increased by an average of 5% per year. As it was considered indispensable to find considerable savings in expenditure, the Committee examined with utmost care all budget items in order to determine where reductions were possible. As a result, the following items were identified as offering scope for reduction: office furniture and equipment, computing (excluding staff costs), travel and subsistence, attendance by IWC observers at other meetings, Annual Meeting costs, other meetings, publications and research.

The Commission adopted all these proposals, the total effect of which is to reduce the estimated expenditure by £89,570, and require minimum contributions amounting to £358,047. It noted the objection recorded by the Federal Republic of Germany to the IWC sending an observer to the CCAMLR meeting in Hobart, on the grounds that delegates from member states could prepare a report and get all the documents in which the outcome of the meeting will be fully reflected.

Consideration was given to a proposal to charge NGO observers a registration fee as is done by CITES. It was agreed that a lump sum of £50 per organisation should be levied, and that present arrangements regarding attendance of observers (one set of documents per organisation, only one named representative of an organisation permitted into the meeting room) will remain the same.

23.3 Supplementary budget

Because of the Commission's financial difficulties, the Scientific Committee had reconsidered its original supplementary budget proposals for research which had

amounted to £106,000 and had selected two projects which it considered indispensable and amounted to only £43,000. These were for the 6th IWC/IDCR Southern Hemisphere minke whale assessment cruise in Area VI, and the validation and routine processing of sightings data from this series of cruises. Because £23,375 were already available in the IWC Research Fund for these purposes, the additional funding required from the 1983/84 budget therefore amounted to £19,625.

This was approved by the Commission.

23.4 Advance budget estimates for 1984/85

Forecast estimates for 1984/85 reflect the expected rate of inflation, at 5% for most items. The Commission accepted this forecast and endorsed the strong recommendation of the Finance and Administration Committee that an expensive venue should be avoided for the Annual Meeting, so that the Scientific Committee meeting in 1985 should take place in New Hall, Cambridge.

23.5 Amendment of Rules of Procedure

The Secretariat had drawn attention to the fact that as a result of a number of amendments to the Rules of Procedure and, more precisely, the Financial Regulations, which were designed to encourage Contracting Governments to pay their annual contributions in a timely fashion, some inconsistencies in wording had arisen. In order to eliminate these discrepancies some amendments of an editorial nature were proposed in order to standardise the use of language by using the same terminology wherever the same concept occurs. The change to the Rules of Procedure would be in Rule C.1(b) to delete the words 'within 18 months of the due date, prescribed in Rule D.2 of the Financial Regulations' and to insert in their place 'within 21 months of the date of the request referred to in Regulation E.1 of the Financial Regulations'. The Finance and Administration Committee, noting that this is not a change of a substantive nature, recommended to the Commission to adopt this amendment, which was agreed.

The main proposed change to the Financial Regulations was the addition of a new section F (Arrears of Contributions) which contains elements of the former section D. Most amendments aim at reaching consistency in wording. A substantive proposed change is to bring the duration of the period after which the non-payment of annual contributions causes the penalties of addition of interest charges and withholding of documentation, into line with the prescribed period for the entry into force of the suspension of voting rights.

The Committee agreed to the need for both editorial changes and the need to apply all sanctions on a common date, 21 months after the date of request. Therefore, it recommended and the Commission adopted the proposed amendments to give effect to these changes, as well as the adoption of paragraph 3 of section F which codifies existing practice. The amended and revised paragraphs are shown in Appendix 5.

Some members raised the point of whether partial payment of a contribution would entail the restoration of voting rights. However, it was considered that full contribution of arrears should be made in order to regain the right to vote. It was recognised that in certain circumstances (e.g. if bank charges had been deducted) the Commission may—in conformity with the present Rule concerned—decide otherwise.

23.6 Other matters

23.6.1 Borrowing

The Secretariat had explored the possibility of establishing short-term borrowing facilities and it appeared that in principle there would be no difficulty in arranging a loan of up to £100,000 and that interest would be charged at 1% over Base Rate (10% at 1 June) plus commission charges. The reserves, though being at a seriously low level, were not yet at the stage that a drastic measure of borrowing would have to be taken in the immediately forthcoming months. It was recognised that borrowing could start the Commission on a downward spiral and could lead to continuing interest charges.

The Committee agreed and the Commission endorsed the recommendation that a decision to establish borrowing facilities would not be suitable for the moment and to review the matter in the future if necessary.

23.6.2 Admission of the Press

The Secretary had pointed out that despite the Rules of Conduct for Observers of NGOs, information from meetings to which the Press does not have direct access is none the less being rapidly relayed and interpreted to them, which makes the IWC's present arrangements meaningless. Therefore, the Secretary proposed either to close the meetings totally, by the exclusion of all except accredited delegates from member governments and IGOs or to make the meeting of the Technical Committee more accessible to the Press by relaying the broadcast of all its sessions into the Press Room and, in any case, to continue the arrangements whereby the Commission's officers meet with the Press at the end of each day.

Several differing views were expressed in the Committee, and it was agreed after some discussion that this matter might be best decided upon at the informal Commissioner's Meeting and this in fact happened, where it was agreed to continue the present arrangements.

23.6.3 Bureau of International Whaling Statistics

Norway drew attention to the fact that the person responsible in Norway for administering the Bureau of International Whaling Statistics is about to retire, but is prepared to continue his work for one more year. Norway suggested that the task of administering these statistics should be transferred to the IWC Secretariat, which would involve certain costs. It was agreed, on the recommendation of the Finance and Administration Committee, that in accordance with Article VII of the Convention, the Commission designates the Secretary to perform these functions.

24. THE SETTING UP OF A CREDENTIALS COMMITTEE AND AMENDMENT OF THE RELEVANT RULES OF PROCEDURE

At the 34th Annual Meeting the Commission had agreed that the question of the establishment of a Credentials Committee would be considered again by the Finance and Administration Committee at the present meeting.

Japan spoke in favour of the establishment of a Credentials Committee to secure that all delegates to IWC meetings represent the official viewpoints of the governments represented, and made a detailed analysis of the modalities of the amendments to the Rules of Procedure which would be required. The Netherlands stressed the

technical nature of the task of examining credentials and believed that the present practice of an *ad hoc* Group of Commissioners appointed by the Chairman could be continued. Other members were also in favour of maintaining the *status quo* (i.e. in case of doubts about the trustworthiness of credentials of delegations the Secretary informs the Chairman and Vice-Chairman who then appoint an *ad hoc* Group to look into the matter). The Committee was not able to reach a consensus and therefore referred the matter to the Plenary.

There the Chairman announced at the first session that the present arrangement would be continued, since it had proved to be a sufficiently flexible system.

An extensive discussion took place on the interpretation of the agreement which was reached at the 34th Annual Meeting on the form of accreditation—namely written communications (either sent before the meeting or in confirmation of earlier telexes or cables) of the composition of delegations by governments. It was agreed that for this purpose by the term 'governments' is meant the Minister of Foreign Affairs (including: on behalf of the Minister of Foreign Affairs), the Minister responsible for whaling or whale conservation (including: on behalf of this Minister), the Commissioner, the Diplomatic Mission.

It was noted that for the present meeting the Secretary had followed the procedure agreed by the Commission last year, whereby telex and cable messages are accepted subject to written confirmation from an appropriate authority in accordance with the interpretation of this procedure set out above.

25. DATE AND PLACE OF ANNUAL MEETINGS, 1984 AND 1985

The Commission gratefully accepted the invitation of the Government of Argentina to hold the 1984 Annual Meeting in its country, and adopted the recommendations of the Finance and Administration Committee that in 1984 the Scientific Committee meeting should take place from 26 May to 6 June (of necessity in Eastbourne) and the Annual Meeting of the Commission from 25–30 June (in Buenos Aires). In view of the number of proposed Technical Committee Working Group meetings, this date was preferred to the week of 18–23 June. It was, however, noted that the overall duration of the 36th Annual Meeting (including the interval between the Scientific Committee meeting and the Technical Committee meetings) would be one week longer than in the present year.

It was agreed that for reasons of cost, the 1985 meeting of the Scientific Committee should be held in Cambridge from 22 June, and the Annual Meeting of the Commission in Brighton, from 15 July.

Denmark indicated its preference for the Annual Meeting to be held in June rather than in July.

26. CO-OPERATION WITH OTHER ORGANISATIONS

26.1 Co-operation with the Commission for the Conservation of Antarctic Marine Living Resources

At last year's meeting the Secretary was authorised to discuss possible co-operative arrangements with the Executive Secretary of CCAMLR. As a result of these consultations the Secretary had circulated to all Contracting Governments the IWC position with respect to attendance at annual meetings, meetings of working

groups, submission of documents, notification of relevant decisions and exchange of data, together with expected reciprocal arrangements and liaison. The IWC policy is to welcome and extend every facility to organisations such as CCAMLR, and hopes for similar treatment in return.

The Federal Republic of Germany stated that it is convinced that it would be sufficient for co-operation with CCAMLR if reciprocal representation at meetings could be by a delegate of a member country who would be attending anyway, together with exchange of documents made available through the Secretariats.

The Commission took note of the proposed arrangements and remarks of the Federal Republic of Germany, and approved them as guidelines for the future.

26.2 Reports from other meetings

The Commission received reports from its observers or representatives at meetings of ICES, IATTC, ICCAT, ICSEAF, the FAO/UNEP Global Plan of Action for the Conservation, Management and Utilisation of Marine Mammals, AEWC, IOC and an Indian Ocean Marine Mammals Symposium.

27. THIRTY-FOURTH ANNUAL REPORT

The Commission adopted the 34th Annual Report, subject to addition of infractions data and other information made available at the meeting.

28. ANY OTHER BUSINESS

Under this item the USSR made the following statement.

IWC regulatory measures on whaling shall be without prejudice to the sovereign rights of a coastal state, for the purpose of exploring and exploiting, conserving and managing whale resources in the areas of national fisheries jurisdiction.

Norway, Japan, Peru and Iceland associated themselves with this opinion.

29. AMENDMENTS TO THE SCHEDULE

The amendments to the Schedule adopted by the Commission at the 35th Annual Meeting are shown in Appendix 6.

Appendix 1

INTERNATIONAL NON-GOVERNMENTAL ORGANISATION OBSERVERS

American Cetacean Society	Inuit Circumpolar Conference
American Friends Service Committee	Inuit Circumpolar Whaling Commission
Animal Protection Institute of America	Marine Action Centre
Antarctic and Southern Ocean Coalition	Monitor
Assembly of Rabbis	Monitor International
Associated Fisheries Conference	Nature 2000 International
Campaign Whale	Natur og Ungdom
Centre for Environmental Education	Noah's Ark International
Connecticut Cetacean Society	PCAP International
Earth Coexistence Organisation	People's Trust for Endangered Species
Environment Liaison Centre	Project Jonah
European Environmental Bureau	Royal Society for the Prevention of Cruelty to Animals
Fauna and Flora Preservation Society	Save the Whales—Hawaii
Friends of the Earth	Sea Shepherd Conservation
Greenpeace International	Survival International
Human Dolphin Foundation	Threshold Foundation
Institute for Delphinid Research	Waterlife Association
Institute for the Study of Animal Problems	Werkgroep Zeehond
International Dolphin Watch	Whale Centres International
International Environment Advisers	Whale Coalition
International Fund for Animal Welfare	Whaling Problem Discussion Group
International Institute for Environment and Development	Windstar Foundation
International League for Animal Rights	World Association of World Federalists
International League for the Protection of Cetaceans	World Council of Indigenous Peoples
International Ocean Institute	World Society for the Protection of Animals
International Primate Protection League	World Wildlife Fund International
International Transport Workers Federation	
International Youth Federation for Environmental Studies and Conservation	

Appendix 2

RESOLUTION ON THE FRAMEWORK OF A COMPREHENSIVE ASSESSMENT OF WHALE STOCKS

The International Whaling Commission

RECALLING that the Commission adopted at its 34th Annual Meeting the Schedule amendment calling for the suspension of commercial whaling, on the understanding that this amendment was to be kept under review based upon the best scientific advice and that by 1990 at the latest the Commission would undertake a comprehensive assessment of its effect on whale stocks and consider modification of this amendment and the establishment of other catch limits.

RECOGNISING that four nations have lodged objections to this Schedule amendment.

RECOGNISING, therefore, that there is an urgent need to develop common understandings on the stock assessment of the individual whale stocks currently exploited.

DECIDES that a joint Working Group of the Scientific Committee and the Technical Committee be established with the terms of reference set out below and with a view to reporting its progress and findings to the 36th Annual Meeting and the Meetings thereafter:

- (a) to consider, in the light of the current information on whale stocks and the degrees of uncertainty that exist concerning some of the data and methods used, what conceptual approaches might be used to provide the Commission with more effective scientific advice and recommendations for management and
- (b) to determine the studies required to implement these approaches and
- (c) to establish a time-table for the in-depth assessment of whale stocks which should be completed for major stocks currently exploited as soon as practicable.

Appendix 3

RECOMMENDATIONS ADOPTED FROM THE WORKING GROUP ON REGULATORY MEASURES OTHER THAN CATCH LIMITS

1. That the Commission arrange for a study of its records, and of such records of preceding agreements for the regulation of whaling as may be available, in order to illuminate the intentions of Contracting Governments in establishing particular regulatory provisions in the 1946 Convention and in the Schedules and to clarify the past practice of the Commission in determining and from time to time amending regulations other than catch limits.
2. That Contracting Governments be requested to inform the Commission of national regulatory measures, other than national catch limits, that they each have enacted and which are intended to contribute to any of the objectives of the measures detailed in Article V.1.
3. That a Joint Working Group of the Scientific and Technical Committees be established with the following terms of reference: (1) to examine and report to the Commission on the contributions to conservation of whale stocks and orderly development of the whaling industry that are made by existing regulations under Article V.1 other than catch limits, singly and in combination with

others (including catch limits); (2) on the basis of this examination to recommend to the Commission actions that may be needed to make such measures more effective, including harmonising existing measures, adopting new measures or abolishing existing measures where it appears they will no longer serve their original purposes.

The Joint Working Group should take into account the report of the study proposed in Recommendation 1, the response of Governments in implementation of Recommendation 2, and the work by the Commission to revise the New Management Procedure. Scientific and Technical contributions to the Group should be solicited from experts on specific matters to be defined by the Scientific and Technical Committees.

4. That, because of the interactions among the regulations under Article V.1 included in the current Schedule, and for other reasons indicated in the Working Group report, the Commission for the time being maintain in the Schedule all existing regulations including those that are at present apparently inoperative.

Appendix 4

ADVICE NOTED FROM SCIENTIFIC COMMITTEE SUB-COMMITTEE ON SMALL CETACEANS

EXPLOITED PHOCOENID POPULATIONS

Harbour porpoise

- (1) *Population identity.* Member governments should sponsor comparative studies of morphology, parasite faunas, biochemistry/cytology and reproductive parameters and seasonality. Collection of osteological specimens (with life-history information) from localities poorly represented in study collections such as Iceland, should be encouraged.

- (2) *Catch statistics.* More accurate and complete reporting of incidental catches is needed and member governments should upgrade reporting systems. This is especially important for members bordering the Baltic and North Seas (UK, Denmark, France, Norway, Finland, Federal Republic of Germany, Netherlands, Sweden and USSR).
- (3) *Anti-entanglement devices.* Member nations taking harbour porpoise incidentally in gillnets, e.g. Denmark, are advised of favourable preliminary

results of experiments with anti-entanglement acoustical warning devices presently being tested for Dall's porpoise, *Phocoenoides dalli* in the salmon gillnet fishery of the North Pacific.

- (4) *West Greenland*. Although there is a long history of relatively stable catches of harbour porpoise at West Greenland, Denmark should undertake research that will eventually allow assessment of the population(s).

Cochito

High priority should be given to an abundance estimate based on ship survey. Also, other, still extant fisheries should be surveyed to determine if the animal is still being taken incidentally.

Dall's porpoise

- (1) *Salmon gillnet fishery*. The USA and Japan should broaden and give higher priority to research on population identity and the problem of attraction of porpoise to survey vessels.
- (2) *Japanese harpoon fishery*. Considering the large and increasing take by harpoon, Japan should institute a system for collection of effort data and to carry out a sighting survey to estimate size of this population.
- (3) *Soviet data*. Because the porpoise involved in the harpoon fishery spends part of the year in Soviet waters, the USSR should analyse and make available to the Scientific Committee sightings data from the Kurile Islands area of the Sea of Okhotsk.

Finless porpoise

Member nations, particularly India and the People's Republic of China, are encouraged to collect statistics of incidental catches and make them available to the Committee.

The People's Republic of China stated that, since it does not have the specialised fishing fleets or processing facilities, it does not conduct catching for finless porpoises. It therefore has no statistics available.

LIVE-CAPTURE FISHERIES

The sub-committee on small cetaceans identified five species for which concern may be justified for at least one population.

Killer whale

Live-captures planned by the USA, Iceland and Japan be preceded by assessments of size and composition of the populations to be affected. If a guideline for rate of removals is adopted pending stock assessment, it should be lower than the guideline of 2% that has been used by the USA in interim management of bottlenose dolphins.

Iceland noted the 2% removal advice and stated that only 4-6 killer whales are taken each year, which is far below this level.

Short-finned pilot whale

- (1) *Japanese fisheries*. Because of the aggregate catch of the small form in Japanese waters, Japan is advised to assemble available information and data relevant to a possible assessment and make the material available to the Scientific Committee for review.
- (2) *Californian fisheries*. The USA is encouraged to make a progress report of its assessment of eastern North Pacific population(s) available to the Scientific Committee.

Bottlenose dolphin

- (1) *USA*. The guideline of 2% per year pending assessment is believed to be prudent and can be safely followed while assessment research is underway. The USA is encouraged to continue research on stock identity and status.
- (2) *Interim Management*. Other members with live-capture fisheries should initiate population census and interim management procedures.
- (3) *Japan*. Because of the aggregate take of this species in Japanese waters, Japan should at least determine stock identity and abundance of the affected population(s).
- (4) *Australia*. Australia should identify as to species the dolphins in anti-shark nets and include the data in its Progress Report.

Tucuxi

Brazil should collect and include in its Progress Report statistics on incidental catch and should salvage carcasses for studies of basic life history.

Commerson's dolphin

Argentina should monitor removals by capture area and review coastal fisheries to determine if there is an incidental take. Carcasses should be salvaged to provide basic life-history data and specimens.

Baird's beaked whale

Japan should continue the research on effort measures and stock identity, and the available effort and catch data by boat and by month (or week) are requested to be made available to next year's meeting.

Black Sea dolphins and porpoises

- (1) Since the series of Soviet sighting surveys from 1967 to the present still provides a possible basis for population monitoring, the USSR should make available data from these surveys for analysis.
- (2) Since the small cetaceans feed on anchovies, the Chairman of the Scientific Committee should consult FAO for information on the status and history of the fishery.

Appendix 5

AMENDMENTS TO RULES OF PROCEDURE AND FINANCIAL REGULATIONS
(New or changed wording in bold type)

RULES OF PROCEDURE

Rule C.1.(h) The right to vote of representatives of any Contracting Government whose annual payments have not been received by the Commission within 21 months of the date of the request referred to in Regulation E.1 of the Financial Regulations, shall be automatically suspended until payment is received by the Commission, unless the Commission decides otherwise.

FINANCIAL REGULATIONS

F. Arrears of Contributions

1. If a Contracting Government's annual payments have not been received by the Commission within 21 months of the date of the request referred to under Regulation E.1:

- (a) the right to vote of the Contracting Government concerned shall be suspended as provided under Rule C.1 (b) of the Rules of Procedure;
- (b) compound interest shall be added to the outstanding annual payment at a rate of 10% per annum with effect

from the 90th day after the date of the request referred to under Regulation E.1 and thereafter on the anniversary of that day. The interest, calculated to the nearest pound, shall be payable in respect of complete years and continue to be payable in respect of any outstanding balance until such time as the amount in arrears, including interest, is settled in full;

(c) the Secretary shall not make available any Commission documentation, excluding individual correspondence, to the Contracting Government concerned, such documentation to be reserved for provision at such time as the amount in arrears, including interest, is settled in full.

2. Any interest paid by a Contracting Government to the Commission in respect of late annual payments shall be credited to the Research Fund.

3. Any payment made to the Commission by a Contracting Government in arrears with annual payments shall be used to pay off debts to the Commission, including interest due, in the order in which they were incurred.

Appendix 6

AMENDMENTS TO THE SCHEDULE ADOPTED AT THE 35TH ANNUAL MEETING
(Changes and new wording in bold type)

1. Revise paragraph 11 as follows:

'The number of baleen whales taken in the Southern Hemisphere in the 1983/84 pelagic season and the 1984 coastal season shall not exceed the limits shown in Tables 1 and 2. However, in no circumstances shall the sum of the Area catches exceed the total catch limit for each species.'

2. Revise paragraph 12 as follows:

'The number of baleen whales taken in the North Pacific Ocean and dependent waters in 1984 and in the North Atlantic Ocean in 1984 shall not exceed the limits shown in Tables 1 and 2.'

3. Amend Tables 1 and 2 as shown.

4. Amend paragraph 13(h) to read:

(b) Catch limits for aboriginal subsistence whaling are as follows:

(1) the taking of 9 humpback whales not below 35 feet (10.7 metres) in length, per year is permitted in Greenland waters provided that whale catchers of less than 50 gross register tonnage are used for this purpose.

(2) the taking of bowhead whales from the Bering Sea stock by aborigines is permitted, but only when the

meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that:

(i) for the years 1984 and 1985 the total number of whales struck shall not exceed 43², provided that in either year the number of whales struck shall not exceed 27.

(ii) it is forbidden to strike, take or kill calves or any bowhead whale accompanied by a calf.

(3) The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines or a Contracting Government on behalf of aborigines, and then only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines. The number of gray whales taken in accordance with this sub-paragraph in 1984 shall not exceed the limit shown in Table 1.

5. Amend Table 3 as shown.

² At the end of the first year this figure will be reviewed and if necessary amended on the basis of the advice of the Scientific Committee.

TABLE 1. BALEEN WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS (excluding Bryde's whales)

AREA	SEI Classi- fication	Catch limit	MINKE Classi- fication	Catch limit	FIN Classi- fication	Catch limit	BLUE Classi- fication	HUMP- BACK Classi- fication	RIGHT PYGMY RIGHT Classi- fication	GRAY Classi- fication	Catch limit	
												PS
SOUTHERN HEMISPHERE—1983/84												
pelagic season and 1984 coastal season												
LONGITUDES												
120°W-60°W	PS	0	—	624	PS	0	PS	PS	PS	—	—	
60°W-0°	PS	0	—	630	PS	0	PS	PS	PS	—	—	
0°-70°E	PS	0	—	1,416	PS	0	PS	PS	PS	—	—	
70°E-130°E	PS	0	—	2,095	PS	0	PS	PS	PS	—	—	
130°E-170°W	PS	0	—	1,445	PS	0	PS	PS	PS	—	—	
170°W-120°W	PS	0	—	778	PS	0	PS	PS	PS	—	—	
Total catch not to exceed:				6,655								
NORTHERN HEMISPHERE—1984 season												
ARCTIC												
NORTH PACIFIC												
Whole region	PS	0	SMS	4211	PS	0	PS	PS	PS	—	—	
Okhotsk Sea—West Pacific Stock												
Sea of Japan—Yellow Sea—East												
China Sea Stock				0 ^a								
Remainder				0 ^b								
Eastern Stock										SMS	170 ^c	
Western Stock										PS	0	
NORTH ATLANTIC												
Whole region				3005 ^d			PS	PS	PS			
West Greenland Stock												
Newfoundland—Labrador Stock												
Canadian East Coast Stock				0 ^e								
Nova Scotia Stock	PS	0	—	291	SMS	167						
Central Stock												
East Greenland—Fceland Stock												
Iceland—Denmark Strait Stock												
Spain—Portugal—British Isles												
Stock												
Northwestern Stock				635		120 ^f						
West Norway—Farne Islands Stock												
North Norway Stock												
Eastern Stock												
NORTHERN INDIAN OCEAN												
				0 ^g			PS	PS	PS			

1 The total catch of minke whales shall not exceed 1,678 in the five years 1980 to 1984 inclusive.
 2 Provided that the remainder from the previous block quota of 3,634 for the five years 1980 to 1984 inclusive may be taken in the years 1984 and 1985.
 3 Pending a satisfactory estimate of stock size.
 4 Available to be taken by aborigines in a Contracting Government on behalf of aborigines pursuant to paragraph 13(b)(3).
 5 The total catch of minke whales shall not exceed 588 in the two years 1984 and 1985 inclusive.
 6 Of the total numbers shown, a proportion corresponding to needs may be taken by aborigines pursuant to paragraph 13(b)(4).
 7 Available to be taken by aborigines pursuant to paragraph 13(b)(4).
 8 The total catch of sei whales shall not exceed 504 in the six years 1980 to 1985 inclusive.
 9 The total catch of fin whales shall not exceed 270 in the three years 1983 to 1985 inclusive.

CHAIRMAN'S REPORT OF THE THIRTY-FIFTH ANNUAL MEETING

TABLE 2. BRYDE'S WHALE STOCK CLASSIFICATION AND CATCH LIMITS

	Classification	Catch limit
SOUTHERN HEMISPHERE—1983/84 pelagic season and 1984 coastal season		
South Atlantic Stock	—	0
Southern Indian Ocean Stock	IMS	0 ¹
South African Inshore Stock	—	0
Solomon Islands Stock	IMS	0 ¹
Western South Pacific Stock	IMS	0 ¹
Eastern South Pacific Stock	IMS	0 ¹
Peruvian Stock	—	1652.3
NORTH PACIFIC—1984 season		
Eastern Stock	IMS	0 ¹
Western Stock	IMS	536
East China Sea Stock	—	0
NORTH ATLANTIC—1984 season		
	IMS	0 ¹
NORTHERN INDIAN OCEAN—1984 season		
	—	0

¹ Pending a satisfactory estimate of stock size.

² Available to be taken in a six month period starting in November 1983.

³ The catch limits for this stock for the 1985 season will be lower than 165 and thereafter shall be zero until the Commission decides otherwise.

TABLE 3. TOOTHED WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

SOUTHERN HEMISPHERE 1983/84 pelagic season and 1984 coastal season

Divisions	Longitudes	SPERM		BOTTLENOSE Classi- fication
		Classi- fication	Catch limit	
1	60°W-30°W	—	0	.
2	30°W-20°E	—	0	.
3	20°E-60°E	—	0	.
4	60°E-90°E	—	0	.
5	90°E-130°E	—	0	.
6	130°E-160°E	—	0	.
7	160°E-170°W	—	0	.
8	170°W-100°W	—	0	.
9	100°W-60°W	—	0	.

NORTHERN HEMISPHERE—1984 season

NORTH PACIFIC				
Western Division		—	1.2	.
Eastern Division		—	0	.
NORTH ATLANTIC				
		—	0	PS ³
NORTHERN INDIAN OCEAN				
		—	0	.

¹ No whales may be taken from this stock until catch limits including any limitations on size and sex are established by the Commission.*

² Notwithstanding footnote 1 catch limits for the 1982 and 1983 coastal seasons are 450 and 400 whales respectively, provided that included within each of these catch limits there may be a by-catch of females not to exceed 11.5% and all whaling operations for this species shall cease for the rest of each season when the by-catch is reached.

³ Provisionally listed as PS for 1984 pending the accumulation of sufficient information for classification.

* The Government of Japan lodged an objection to footnote 1 of Table 3 within the prescribed period. This footnote came into force on 8 February 1982 but is not binding on Japan.

b. Seals

**Convention for the Preservation and Protection of
Fur Seals, July 7, 1911***

* 37 Stat. 1542; T.S. 504.

July 7, 1911.

Convention between the United States and other Powers providing for the preservation and protection of fur seals. Signed at Washington, July 7, 1911; ratification advised by the Senate, July 24, 1911; ratified by the President, November 24, 1911; ratified by Great Britain, August 25, 1911; ratified by Japan, November 6, 1911; ratified by Russia, October 22, 1911, ratifications exchanged at Washington, December 4, 1911; proclaimed, December 14, 1911.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

International pro-
tection of fur seals.
Preamble.

Whereas a Convention between the United States of America, Great Britain, Japan and Russia providing for the preservation and protection of the fur seals which frequent the waters of the North Pacific Ocean, was concluded and signed by their respective Plenipotentiaries at Washington, on the 7th day of July, one thousand nine hundred and eleven, the original of which Convention, being in the English language, is word for word as follows:

Contracting Powers.

The United States of America, His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India, His Majesty the Emperor of Japan, and His Majesty the Emperor of all the Russias, being desirous of adopting effective means for the preservation and protection of the fur seals which frequent the waters of the North Pacific Ocean, have resolved to conclude a Convention for the purpose, and to that end have named as their Plenipotentiaries:

Plenipotentiaries.

The President of the United States of America, the Honorable Charles Nagel, Secretary of Commerce and Labor of the United States, and the Honorable Chandler P. Anderson, Counselor of the Department of State of the United States;

His Britannic Majesty, the Right Honorable James Bryce, of the Order of Merit, his Ambassador Extraordinary and Plenipotentiary at Washington, and Joseph Pope, Esquire, Commander of the Royal Victorian Order and Companion of the Order of St. Michael and St. George, Under Secretary of State of Canada for External Affairs;

His Majesty the Emperor of Japan, Baron Yasuya Uchida, Jusammi, Grand Cordon of the Imperial Order of the Rising Sun, his Ambassador Extraordinary and Plenipotentiary at Washington; and the Honorable Hitoshi Dauke, Shoahii, Third Class of the Imperial Order of the Rising Sun, Director of the Bureau of Fisheries, Department of Agriculture and Commerce;

His Majesty the Emperor of all the Russias, the Honorable Pierre Botkina, Chamberlain of His Majesty's Court, Envoy Extraordinary and Minister Plenipotentiary to Morocco, and Baron Boris Nolde, of the Foreign Office;

Who, after having communicated to one another their respective full powers, which were found to be in due and proper form, have agreed upon the following articles:

ARTICLE I.

Pelagic sealing in
North Pacific Ocean,
etc., mutually pro-
hibited.

The High Contracting Parties mutually and reciprocally agree that their citizens and subjects respectively, and all persons subject to their laws and treaties, and their vessels, shall be prohibited, while

this Convention remains in force, from engaging in pelagic sealing in the waters of the North Pacific Ocean, north of the thirtieth parallel of north latitude and including the Seas of Bering, Kamchatka, Okhotsk and Japan, and that every such person and vessel offending against such prohibition may be seized, except within the territorial jurisdiction of one of the other Powers, and detained by the naval or other duly commissioned officers of any of the Parties to this Convention, to be delivered as soon as practicable to an authorized official of their own nation at the nearest point to the place of seizure, or elsewhere as may be mutually agreed upon; and that the authorities of the nation to which such person or vessel belongs alone shall have jurisdiction to try the offense and impose the penalties for the same; and that the witnesses and proofs necessary to establish the offense, so far as they are under the control of any of the Parties to this Convention, shall also be furnished with all reasonable promptitude to the proper authorities having jurisdiction to try the offense.

Enforced
at
it

ARTICLE II.

Each of the High Contracting Parties further agrees that no person or vessel shall be permitted to use any of its ports or harbors or any part of its territory for any purposes whatsoever connected with the operations of pelagic sealing in the waters within the protected area mentioned in Article I.

Use of ports prohib-
ited.

ARTICLE III.

Each of the High Contracting Parties further agrees that no seal-skins taken in the waters of the North Pacific Ocean within the protected area mentioned in Article I, and no seal-skins identified as the species known as *Callorhinus alascanus*, *Callorhinus ursinus*, and *Callorhinus kurilensis*, and belonging to the American, Russian or Japanese herds, except such as are taken under the authority of the respective Powers to which the breeding grounds of such herds belong and have been officially marked and certified as having been so taken, shall be permitted to be imported or brought into the territory of any of the Parties to this Convention.

Landing of seal-
skins unlawfully
taken not permitted.

ARTICLE IV.

It is further agreed that the provisions of this Convention shall not apply to Indians, Ainos, Aleuts, or other aborigines dwelling on the coast of the waters mentioned in Article I, who carry on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practiced and without the use of firearms; provided that such aborigines are not in the employment of other persons or under contract to deliver the skins to any person.

Aborigines exempt
from prohibitions.

ARTICLE V.

Each of the High Contracting Parties agrees that it will not permit its citizens or subjects or their vessels to kill, capture or pursue beyond the distance of three miles from the shore line of its territories sea otters in any part of the waters mentioned in Article I of this Convention.

Killing sea otters
restricted.

ARTICLE VI.

Each of the High Contracting Parties agrees to enact and enforce such legislation as may be necessary to make effective the foregoing provisions with appropriate penalties for violations thereof.

Legislation to be en-
acted.
Art. p. 222.

ARTICLE VII.

Guard to be maintained.

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It is agreed on the part of the United States, Japan, and Russia that each respectively will maintain a guard or patrol in the waters frequented by the seal herd in the protection of which it is especially interested, so far as may be necessary for the enforcement of the foregoing provisions.

ARTICLE VIII.

Mutual cooperation to prevent pelagic sealing.

Art. p. 154.

All of the High Contracting Parties agree to cooperate with each other in taking such measures as may be appropriate and available for the purpose of preventing pelagic sealing in the prohibited area mentioned in Article I.

ARTICLE IX.

Pelagic sealing defined.

The term pelagic sealing is hereby defined for the purposes of this Convention as meaning the killing, capturing or pursuing in any manner whatsoever of fur seals at sea.

ARTICLE X.

Distribution of catches in Pribilof Islands.

Art. p. 154.

The United States agrees that of the total number of sealskins taken annually under the authority of the United States upon the Pribilof Islands or any other islands or shores of the waters mentioned in Article I subject to the jurisdiction of the United States to which any seal herds hereafter resort, there shall be delivered at the Pribilof Islands at the end of each season fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Canadian Government and fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Japanese Government; provided, however, that nothing herein contained shall restrict the right of the United States at any time and from time to time to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose such restrictions and regulations upon the total number of skins to be taken in any season and the manner and times and places of taking them as may seem necessary to protect and preserve the seal herd or to increase its number.

ARTICLE XI.

Advance payment by United States to Great Britain and Japan.

Art. p. 152.

The United States further agrees to pay the sum of two hundred thousand dollars (\$200,000) to Great Britain and the sum of two hundred thousand dollars (\$200,000) to Japan when this Convention goes into effect, as an advance payment in each case in lieu of such number of fur-seal skins to which Great Britain and Japan respectively would be entitled under the provisions of this Convention as would be equivalent in each case to two hundred thousand dollars (\$200,000) reckoned at their market value at London at the date of their delivery before dressing and curing and less cost of transportation from the Pribilof Islands, such market value in case of dispute to be determined by an umpire to be agreed upon by the United States and Great Britain, or by the United States and Japan, as the case may be, which skins shall be retained by the United States in satisfaction of such payments.

Minimum share of catch from American herd to Great Britain and Japan.

The United States further agrees that the British and Japanese share respectively of the sealskins taken from the American herd under the terms of this Convention shall be not less than one thousand (1,000) each in any year even if such number is more than

fifteen per cent (15%) of the number to which the authorized killing is restricted in such year, unless the killing of seals in such year or years shall have been absolutely prohibited by the United States for all purposes except to supply food, clothing, and boat skins for the natives on the islands, in which case the United States agrees to pay to Great Britain and to Japan each the sum of ten thousand dollars (\$10,000) annually in lieu of any share of skins during the years when no killing is allowed; and Great Britain agrees, and Japan agrees, that after deducting the skins of their respective shares, which are to be retained by the United States as above provided to reimburse itself for the advance payment aforesaid, the United States shall be entitled to reimburse itself for any annual payments made as herein required, by retaining an additional number of sealskins from the British and Japanese shares respectively over and above the specified minimum allowance of one thousand (1,000) skins in any subsequent year or years when killing is again resumed, until the whole number of skins retained shall equal, reckoned at their market value determined as above provided for, the entire amount so paid, with interest at the rate of four per cent (4%) per annum.

Payment when killing prohibited.

If, however, the total number of seals frequenting the United States islands in any year falls below one hundred thousand (100,000), enumerated by official count, then all killing, excepting the inconsiderable supply necessary for the support of the natives as above noted, may be suspended without allowance of skins or payment of money equivalent until the number of such seals again exceeds one hundred thousand (100,000), enumerated in like manner.

Suspension when herd less than 100,000.

ARTICLE XII.

It is agreed on the part of Russia that of the total number of sealskins taken annually upon the Commander Islands, or any other island or shores of the waters defined in Article I subject to the jurisdiction of Russia to which any seal herds hereafter resort, there shall be delivered at the Commander Islands at the end of each season fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Canadian Government, and fifteen per cent (15%) gross in number and value thereof to an authorized agent of the Japanese Government; provided, however, that nothing herein contained shall restrict the right of Russia at any time and from time to time during the first five years of the term of this Convention to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose during the term of this Convention such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them as may seem necessary to preserve and protect the Russian seal herd, or to increase its number; but it is agreed, nevertheless, on the part of Russia that during the last ten years of the term of this Convention not less than five per cent (5%) of the total number of seals on the Russian rookeries and hauling grounds will be killed annually, provided that said five per cent (5%) does not exceed eighty-five per cent (85%) of the three-year-old male seals hauling in such year.

Minimum share of catch from Russian herd to Great Britain and Japan.
Annex, p. 154a.

If, however, the total number of seals frequenting the Russian islands in any year falls below eighteen thousand (18,000) enumerated by official count, then the allowance of skins mentioned above and all killing of seals except such as may be necessary for the support of the natives on the islands may be suspended until the number of such seals again exceeds eighteen thousand (18,000) enumerated in like manner.

Suspension when herd less than 18,000.

ARTICLE XIII.

Minimum share of
catch from Japanese
herd to United States,
Great Britain, and
Russia.
Date, p. 1542.

Agreement for first
five years.

for last ten years.

Suspension when
herd less than 6,500.

It is agreed on the part of Japan that of the total number of seal-skins taken annually upon Robben Island, or any other islands or shores of the waters defined in Article I subject to the jurisdiction of Japan to which any seal herds hereafter resort, there shall be delivered at Robben Island at the end of each season ten per cent (10%) gross in number and value thereof to an authorized agent of the United States Government, ten per cent (10%) gross in number and value thereof to an authorized agent of the Canadian Government, and ten per cent (10%) gross in number and value thereof to an authorized agent of the Russian Government; provided, however, that nothing herein contained shall restrict the right of Japan at any time and from time to time during the first five years of the term of this Convention to suspend altogether the taking of sealskins on such islands or shores subject to its jurisdiction, and to impose during the term of this Convention such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them as may seem necessary to preserve and protect the Japanese herd, or to increase its number; but it is agreed, nevertheless, on the part of Japan that during the last ten years of the term of this Convention not less than five per cent (5%) of the total number of seals on the Japanese rookeries and hauling grounds will be killed annually, provided that said five per cent (5%) does not exceed eight-five per cent (85%) of the three-year-old male seals hauling in such year.

If, however, the total number of seals frequenting the Japanese islands in any year falls below six thousand five hundred (6,500) enumerated by official count, then the allowance of skins mentioned above and all killing of seals except such as may be necessary for the support of the natives on the islands may be suspended until the number of such seals again exceeds six thousand five hundred (6,500) enumerated in like manner.

ARTICLE XIV.

Share of herd re-
serving to British pos-
sessions.
Date, p. 1542.

It is agreed on the part of Great Britain that in case any seal herd hereafter resorts to any islands or shores of the waters defined in Article I subject to the jurisdiction of Great Britain, there shall be delivered at the end of each season during the term of this Convention ten per cent (10%) gross in number and value of the total number of sealskins annually taken from such herd to an authorized agent of the United States Government, ten per cent (10%) gross in number and value of the total number of sealskins annually taken from such herd to an authorized agent of the Japanese Government, and ten per cent (10%) gross in number and value of the total number of sealskins annually taken from such herd to an authorized agent of the Russian Government.

ARTICLE XV.

Effect on former
treaty.
Date, p. 1542.

It is further agreed between the United States and Great Britain that the provisions of this Convention shall supersede, in so far as they are inconsistent therewith or in duplication thereof, the provisions of the treaty relating to the fur seals, entered into between the United States and Great Britain on the 7th day of February, 1911.

ARTICLE XVI.

Effect, duration,
and termination.

This Convention shall go into effect upon the 15th day of December, 1911, and shall continue in force for a period of fifteen (15)

years from that date, and thereafter until terminated by twelve (12) months' written notice given by one or more of the Parties to all of the others, which notice may be given at the expiration of fourteen years or at any time afterwards, and it is agreed that at any time prior to the termination of this Convention, upon the request of any one of the High Contracting Parties, a conference shall be held forthwith between representatives of all the Parties hereto, to consider and if possible agree upon a further extension of this Convention with such additions and modifications, if any, as may be found desirable.

ARTICLE XVII.

This Convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, by His Britannic Majesty, by His Majesty the Emperor of Japan, and by His Majesty the Emperor of all the Russias; and ratifications shall be exchanged at Washington as soon as practicable.

In faith whereof, the respective Plenipotentiaries have signed this Convention in quadruplicate and have hereunto affixed their seals.

Done at Washington the 7th day of July, in the year one thousand nine hundred and eleven.

CHARLES NAGEL	[SEAL]
CHANDLER P. ANDERSON	[SEAL]
JAMES BRYCE	[SEAL]
JOSEPH POPE	[SEAL]
Y. UCHIDA	[SEAL]
H. DAUKE	[SEAL]
P. BOTKIN	[SEAL]
NOLAN	[SEAL]

Exchange of ratifications.

Signatures.

And whereas the said Convention has been duly ratified on the part of each of the High Contracting Parties, and the ratifications of the four Governments were exchanged in the City of Washington, on the twelfth day of December, one thousand nine hundred and eleven;

Ratifications exchanged.

Now, therefore, be it known that I, William Howard Taft, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

Proclamation.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this fourteenth day of December in the year of our Lord one thousand nine hundred and eleven, and of the Independence of the United States of America the one hundred and thirty-sixth.

By the President:
P C KNOX
Secretary of State.

WM H TAFT

**Interim Convention on Conservation of North Pacific
Fur Seals, February 9, 1957***

* 8 U.S.T. 2285; T.I.A.S. 3948; 314 U.N.T.S. 105.

INTERIM CONVENTION
ON CONSERVATION OF NORTH PACIFIC FUR SEALS

The Governments of Canada, Japan, the Union of Soviet Socialist Republics, and the United States of America,

Desiring to take effective measures towards achieving the maximum sustainable productivity of the fur seal resources of the North Pacific Ocean so that the fur seal populations can be brought to and maintained at the levels which will provide the greatest harvest year after year, with due regard to their relation to the productivity of other living marine resources of the area,

Recognizing that in order to determine such measures it is necessary to conduct adequate scientific research on the said resources, and

Desiring to provide for international cooperation in achieving these objectives,

Agree as follows:

Article I

1. The term "pelagic sealing" is hereby defined for the purposes of this Convention as meaning the killing, taking, or hunting in any manner whatsoever of fur seals at sea.

2. The words "each year", "annual" and "annually" as used hereinafter refer to Convention year, that is, the year beginning on the date of entry into force of the Convention.

3. Nothing in this Convention shall be deemed to affect in any way the position of the Parties in regard to the limits of territorial waters or to the jurisdiction over fisheries.

Article II

1. In order to realize the objectives of this Convention, the Parties agree to coordinate necessary scientific research programs and to cooperate in investigating the fur seal resources of the North Pacific Ocean to determine:

- (a) what measures may be necessary to make possible the maximum sustainable productivity of the fur seal resources so that the fur seal populations can be brought to and maintained at the levels which will provide the greatest harvest year after year; and

- (b) what the relationship is between fur seals and other living marine resources and whether fur seals have detrimental effects on other living marine resources substantially exploited by any of the Parties and, if so, to what extent.

2. The research referred to in the preceding paragraph shall include studies of the following subjects:

- (a) size of each fur seal herd and its age and sex composition;
- (b) natural mortality of the different age groups and recruitment of young to each age or size class at present and subsequent population levels;
- (c) with regard to each of the herds, the effect upon the magnitude of recruitment of variations in the size and the age and sex composition of the annual kill;
- (d) migration routes of fur seals and their wintering areas;
- (e) numbers of seals from each herd found on the migration routes and in wintering areas and their ages and sexes;
- (f) extent to which the food habits of fur seals affect commercial fish catches and the damage fur seals inflict on fishing gear; and
- (g) other subjects involved in achieving the objectives of the Convention, as determined by the Commission established under Article V, paragraph 1.

3. In furtherance of the research referred to in this Article, each of the Parties agrees to carry out, each year after the entry into force of the Convention, the programs set forth in the Schedule annexed to the Convention with any modifications thereof made pursuant to Article V, paragraph 3. The said Schedule, together with any such modifications, shall be considered an integral part of this Convention.

Post, p. 2335.

4. Each Party agrees to provide the Commission annually with information on:

- (a) number of black pups tagged for each breeding area;
- (b) number of fur seals, by sex and estimated age, taken at sea and on each breeding area; and
- (c) tagged seals recovered on land and at sea;

and, so far as is practicable, other information pertinent to scientific research which the Commission may request.

5. The Parties further agree to provide for the exchange of scientific personnel; each such exchange shall be subject to mutual consent of the Parties directly concerned.

6. The Parties agree to use for the scientific pelagic research provided for in this Article only government-owned or government-chartered vessels operating under strict control of their respective authorities. Each Party shall communicate to the other Parties the names and descriptions of vessels which are to be used for pelagic research.

Article III

In order to realize the purposes of the Convention, including the carrying out of the coordinated and cooperative research, each Party agrees to prohibit pelagic sealing, except as provided in Article II, paragraph 3 and the Schedule, in the Pacific Ocean north of the 30th parallel of north latitude including the seas of Bering, Okhotsk, and Japan by any person or vessel subject to its jurisdiction.

Article IV

1. Each Party shall bear the expense of its own research. Title to sealskins taken during the research shall vest in the Party conducting such research.

2. If the total number of seals of the Commander Islands breeding grounds decreases and falls below 50,000 head, according to data in official records, then commercial killing of seals and apportionment of skins may be suspended by the Union of Soviet Socialist Republics until the number of seals exceeds 50,000 head. This provision also applies to the fur seal herd of Robben Island, if the population of that herd becomes less than 50,000 head.

3. The Government of the Union of Soviet Socialist Republics upon suspending such sealing shall so inform the other Parties. In this case the Commission shall determine whether or not to reduce the level of or to suspend completely the pelagic sealing for scientific purposes in the Western Pacific Ocean during the period of the said suspension.

4. The Commission may, subsequent to the second year of operation of the Convention, modify the floor figure set forth in paragraph 2 of this Article in accordance with its findings based upon scientific data received by it; and if any such modifications are made, paragraph 2 of this Article shall be considered amended accordingly. The Commission shall notify each Party of every such amendment and of the effective date thereof.

Article V

1. The Parties agree to establish the North Pacific Fur Seal Commission to be composed of one member from each Party.

2. The duties of the Commission shall be to:
 - (a) formulate and coordinate research programs designed to achieve the objectives set forth in Article II, paragraph 1;
 - (b) recommend these coordinated research programs to the respective Parties for implementation;
 - (c) study the data obtained from the implementation of such coordinated research programs;
 - (d) recommend appropriate measures to the Parties on the basis of the findings obtained from the implementation of such coordinated research programs, including measures regarding the size and the sex and age composition of the seasonal commercial kill from a herd; and
 - (e) recommend to the Parties at the end of the fifth year after entry into force of this Convention and, if the Convention is continued under the provisions of Article XIII, paragraph 4, at a later year, the methods of sealing best suited to achieve the objectives of this Convention; the above-mentioned later year shall be fixed by the Parties at the meeting early in the sixth year provided for in Article XI.

3. The Commission may, subsequent to the first year of operation of the Convention, modify in accordance with its scientific findings the research programs set forth in the Schedule and, if any such modifications are made, the Schedule shall be considered amended accordingly. The Commission shall notify each Party of every such amendment and of the effective date thereof.

4. Each Party shall have one vote. Decisions and recommendations shall be made by unanimous vote. With respect to any recommendations regarding the size and the sex and age composition of the seasonal commercial kill from a herd, only those Parties sharing in the sealskins from that herd under the provisions of Article IX, paragraph 1 shall vote.

5. The Commission shall elect from its members a Chairman and other necessary officials and shall adopt rules of procedure for the conduct of its work.

6. The Commission shall hold an annual meeting at such time and place as it may decide. Additional meetings shall be held when requested by two or more members of the Commission. The time and place of the first meeting shall be determined by agreement among the Parties.

7. The expenses of each member of the Commission shall be paid by his own Government. Such joint expenses as may be

incurred by the Commission shall be defrayed by the Parties by equal contributions. Each Party shall also contribute to the Commission annually an amount equivalent to the value of the sealskins it confiscates under the provisions of Article VI, paragraph 5.

8. The Commission shall submit an annual report of its activities to the Parties.

9. The Commission may from time to time make recommendations to the Parties on any matter which relates to the fur seal resources or to the administration of the Commission.

Article VI

In order to implement the provisions of Article III, the Parties agree as follows:

1. When a duly authorized official of any of the Parties has reasonable cause to believe that any vessel outfitted for the harvesting of living marine resources and subject to the jurisdiction of any of the Parties is offending against the prohibition of pelagic sealing as provided for by Article III, he may, except within the territorial waters of another State, board and search such vessel. Such official shall carry a special certificate issued by the competent authorities of his Government and drawn up in the English, Japanese, and Russian languages which shall be exhibited to the master of the vessel upon request.

2. When the official after searching a vessel continues to have reasonable cause to believe that the vessel or any person on board thereof is offending against the prohibition, he may seize or arrest such vessel or person. In that case, the Party to which the official belongs shall as soon as possible notify the Party having jurisdiction over the vessel or person of such arrest or seizure and shall deliver the vessel or person as promptly as practicable to the authorized officials of the Party having jurisdiction over the vessel or person at a place to be agreed upon by both Parties; provided, however, that when the Party receiving notification cannot immediately accept delivery of the vessel or person, the Party which gives such notification may, upon request of the other Party, keep the vessel or person under surveillance within its own territory, under the conditions agreed upon by both Parties.

3. The authorities of the Party to which such person or vessel belongs alone shall have jurisdiction to try any case arising under

Article III and this Article and to impose penalties in connection therewith.

4. The witnesses or their testimony and other proofs necessary to establish the offense, so far as they are under the control of any of the Parties, shall be furnished with all reasonable promptness to the authorities of the Party having jurisdiction to try the case.

5. Sealskins discovered on seized vessels shall be subject to confiscation on the decision of the court or other authorities of the Party under whose jurisdiction the trial of a case takes place.

6. Full details of punitive measures applied to offenders against the prohibition shall be communicated to the other Parties not later than three months after the application of the penalty.

Article VII

The provisions of this Convention shall not apply to Indians, Ainos, Aleuts, or Eskimos dwelling on the coast of the waters mentioned in Article III, who carry on pelagic sealing in canoes not transported by or used in connection with other vessels, and propelled entirely by oars, paddles, or sails, and manned by not more than five persons each, in the way hitherto practiced and without the use of firearms; provided that such hunters are not in the employment of other persons or under contract to deliver the skins to any person.

Article VIII

1. Each Party agrees that no person or vessel shall be permitted to use any of its ports or harbors or any part of its territory for any purpose designed to violate the prohibition set forth in Article III.

2. Each Party also agrees to prohibit the importation and delivery into and the traffic within its territories of skins of fur seals taken in the area of the North Pacific Ocean mentioned in Article III, except only those taken by the Union of Soviet Socialist Republics or the United States of America on rookeries, those taken at sea for research purposes in accordance with the Schedule, those taken under the provisions of Article VII, those confiscated under the provisions of Article VI, paragraph 5, and those inadvertently captured which are taken possession of by a Party; provided, however, that all such excepted skins shall be officially marked and duly certified by the authorities of the Party concerned.

Article IX

1. The respective Parties agree that, of the total number of sealskins taken commercially each season on land, there shall at the end of the season be delivered a percentage of the gross in number and value thereof as follows:

By the Union of Soviet Socialist Republics	to Canada	15 per cent
	to Japan	15 per cent
By the United States of America	to Canada	15 per cent
	to Japan	15 per cent

2. Each Party agrees to deliver such sealskins to an authorized agent of the recipient Party at the place of taking, or at some other place mutually agreed upon by such Parties.

3. In order more equitably to divide the direct and indirect costs of pelagic research in the Western Pacific Ocean, it is agreed:

- (a) that in any year in which commercial killing is carried out for both the Commander and Robben Islands herds and pelagic research in that area is carried on at a level of 2,000 or more seals:
 - (1) Canada and Japan will forego the delivery of the sealskins by the Union of Soviet Socialist Republics as set forth in paragraph 1 of this Article; and
 - (2) the United States of America will increase its delivery to Canada and Japan as set forth in paragraph 1 of this Article by a total of 375 sealskins to each of these Parties;
- (b) that in any year in which commercial killing is carried out for one only of the Commander or Robben Islands herds and pelagic research in that area is carried on at a level of 1,000 or more seals:
 - (1) Canada and Japan will forego the delivery of the sealskins by the Union of Soviet Socialist Republics as set forth in paragraph 1 of this Article; and
 - (2) the United States of America will increase its delivery to Canada and Japan as set forth in paragraph 1 of this Article by a total of 188 sealskins to each of these Parties.

Article X

1. Each Party agrees to enact and enforce such legislation as may be necessary to guarantee the observance of this Convention

and to make effective its provisions with appropriate penalties for violation thereof.

2. The Parties further agree to cooperate with each other in taking such measures as may be appropriate to carry out the purposes of this Convention, including the prohibition of pelagic sealing as provided for by Article III.

Article XI

The Parties agree to meet early in the sixth year of this Convention and, if the Convention is continued under the provisions of Article XIII, paragraph 4, to meet again at a later year, to consider the recommendations of the Commission made in accordance with Article V, paragraph 2 (e) and to determine what further agreements may be desirable in order to achieve the maximum sustainable productivity of the North Pacific fur seal herds. The above-mentioned later year shall be fixed by the Parties at the meeting early in the sixth year.

Article XII

Should any Party consider that the obligations of Article II, paragraphs 3, 4, or 5 or any other obligation undertaken by the Parties is not being carried out and notify the other Parties to that effect, all the Parties shall, within three months of the receipt of such notification, meet to consult together on the need for and nature of remedial measures. In the event that such consultation shall not lead to agreement as to the need for and nature of remedial measures, any Party may give written notice to the other Parties of intention to terminate the Convention and, notwithstanding the provisions of Article XIII, paragraph 4, the Convention shall thereupon terminate as to all the Parties nine months from the date of such notice.

Article XIII

1. This Convention shall be ratified and the instruments of ratification deposited with the Government of the United States of America as soon as practicable.

2. The Government of the United States of America shall notify the other signatory Governments of ratifications deposited.

3. This Convention shall enter into force on the date of the deposit of the fourth instrument of ratification, and upon such entry into force Article IX, paragraphs 1 and 2, shall be deemed to have been operative from June 1, 1956, provided that the Parties shall have, from the date of signing, maintained under their internal law the prohibition and effective prevention of pelagic

sealing by all persons and vessels subject to their respective jurisdictions.

4. The present Convention shall continue in force for six years and thereafter until the entry into force of a new or revised fur seal convention between the Parties, or until the expiration of one year after such period of six years, whichever may be the earlier; provided, however, that it may continue in force for a further period if the Parties so decide at the meeting early in the sixth year provided for in Article XI.

5. The original of this Convention shall be deposited with the Government of the United States of America, which shall communicate certified copies thereof to each of the Governments signatory to the Convention.

**Protocol Amending the Interim Convention
on Conservation of North Pacific Fur Seals,
May 7, 1976***

* 27 U.S.T. 3373; T.I.A.S. 8368.

1976 PROTOCOL AMENDING
THE INTERIM CONVENTION ON CONSERVATION
OF NORTH PACIFIC FUR SEALS

The Governments of Canada, Japan, the Union of Soviet Socialist Republics and the United States of America, Parties to the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, as amended,^[1] hereinafter referred to as the Convention,

Having given due consideration to the recommendations adopted by the North Pacific Fur Seal Commission on March 28, 1974, and to the exchange of views expressed at the North Pacific Fur Seal Conference in March and December 1975, and

Desiring to amend the Convention,

Have agreed as follows:

¹ TIAS 3948, 5558, 6774; 8 UST 2283; 15 USE 316; 20 UST 2992.

ARTICLE I

The Convention shall be amended by this Protocol as from the date of its entry into force.

ARTICLE II

Article II, paragraph 2(f) of the Convention shall be replaced by the following:

"(f) relationship between fur seals and other living marine resources, including the extent to which fur seals affect commercial fish catches, the damage fur seals inflict on fishing gear, and the effect of commercial fisheries on the fur seals;"

ARTICLE III

1. In Article II, paragraph 2 of the Convention, "and" at the end of subparagraph (h) shall be deleted and "(i)" shall be replaced by "(j)".

2. After Article II, paragraph 2(h) of the Convention, the following shall be inserted:

"(i) effects of man-caused environmental changes on the fur seal populations; and"

ARTICLE IV

Article II, paragraph 3(b) of the Convention shall be replaced by the following:

"(b) to devote to pelagic research an effort which, to the greatest extent possible, should be similar in extent to that expended in recent years, provided that this shall not involve the annual taking by all the Parties combined of more than 2,500 seals in the Eastern and more than 2,200 seals in the Western Pacific Oceans, unless the Commission, pursuant to Article V, paragraph 3, shall decide otherwise; and".

ARTICLE V

Article IV of the Convention shall be replaced by the following:

"Article IV

Each Party shall bear the expense of its own research. Title to sealskins taken during the research shall vest in the Party conducting such research."

ARTICLE VI

Article V, paragraph 2(d) of the Convention shall be replaced by the following:

"(d) recommend appropriate measures to the Parties on the basis of the findings obtained from the implementation

of such coordinated research programs, including measures regarding the size and the sex and age composition of the seasonal commercial kill from a herd and regarding a reduction or suspension of the harvest of seals on any island or group of islands in case the total number of seals on that island or group of islands falls below the level of maximum sustainable productivity; provided, however, that due consideration be given to the subsistence needs of Indians, Ainos, Aleuts, or Eskimos who live on the islands where fur seals breed, when it is not possible to provide sufficient seal meat for such persons from the seasonal commercial harvest or research activities; and".

ARTICLE VII

Article V, paragraph 2(e) of the Convention shall be replaced by the following:

"(e) study whether or not pelagic sealing in conjunction with land sealing could be permitted in certain circumstances without adversely affecting achievement of the objectives of the Convention, and make recommendations thereon to the Parties at the end of the twenty-first year after entry into force of the Convention."

ARTICLE VIII

Article V, paragraph 3 of the Convention shall be replaced by the following:

"3. In addition to the duties specified in paragraph 2 of this Article, the Commission shall, subject to Article II, paragraph 3, determine from time to time the number of seals to be marked on the rookery islands, and the total number of seals which shall be taken at sea for research purposes, the times at which such seals shall be taken and the areas in which they shall be taken, as well as the number to be taken by each Party, taking into account any recommendations made pursuant to Article V, paragraph 2(d)."

ARTICLE IX

Article V, paragraph 6 of the Convention shall be replaced by the following:

"6. The Commission shall hold an annual meeting at such time and place as it may decide. Additional meetings shall be held when requested by two or more members of the Commission."

ARTICLE X

Article IX, paragraph 3 of the Convention shall be replaced by the following:

"3. The respective Parties will seek to ensure the utilization of those methods for the capture and killing and marking of fur seals on land or at sea which will spare the fur seals pain and suffering to the greatest extent practicable."

ARTICLE XI

Article XI of the Convention shall be replaced by the following:

"Article XI

The Parties agree to meet in the twenty-second year after entry into force of the Convention to consider the recommendations in accordance with Article V, paragraph 2(e) and to determine what further agreements may be desirable in order to achieve the maximum sustainable productivity of the North Pacific fur seal herds."

ARTICLE XII

Article XIII, paragraph 3 of the Convention shall be replaced by the following:

"3. The Convention shall enter into force on the date of the deposit of the fourth instrument of ratification."

ARTICLE XIII

Article XIII, paragraph 4, of the Convention shall be replaced by the following:

"4. The Convention shall continue in force for twenty-two years and thereafter until the entry into force of a new or revised fur seal convention between the Parties, or until the expiration of one year after such period of twenty-two years, whichever may be the earlier; provided, however, that the Convention shall terminate one year from the day on which a Party gives written notice to the other Parties of an intention of terminating the Convention."

ARTICLE XIV

1. In Article XIII of the Convention, paragraph "5" shall be redesignated as "6".

2. After Article XIII, paragraph 4, of the Convention, the following shall be inserted:

"5. At the request of any Party, representatives of the Parties will meet at a mutually convenient time within ninety days of such request to consider the desirability of modifications of the Convention."

ARTICLE XV

1. This Protocol shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Government of the United States of America as soon as practicable.

2. The Government of the United States of America shall notify the other signatory Governments of ratifications or acceptances deposited.

3. This Protocol shall enter into force on the date on which the fourth instrument of ratification or acceptance is deposited with the Government of the United States of America. ^[1]

4. The original of this Protocol shall be deposited with the Government of the United States of America, which shall communicate certified copies thereof to each of the Governments signatory to this Protocol.

¹Oct. 12, 1976.

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

DONE at Washington this seventh day of May, 1976, in the English, Japanese, and Russian languages, each text equally authentic.

以上の証拠として、下名は、各自の政府から正当に委任を受けて、この議定書に署名した。

千九百七十六年五月七日にワシントンで、ひとしく正文である英語、日本語及びロシア語により本書を作成した。

**Protocol Amending the Interim Convention on
Conservation of North Pacific Fur Seals, 1984***

* North Pacific Fur Seals: Current Problems and Opportunities
Concerning Conservation and Management, National Advisory Committee
on Oceans and Atmosphere, March 1985.

1984 PROTOCOL AMENDING THE INTERIM CONVENTION ON
CONSERVATION OF NORTH PACIFIC FUR SEALS

The Governments of Canada, Japan, the Union of Soviet Socialist Republics, and the United States of America, Parties to the Interim Convention on Conservation of North Pacific Fur Seals, signed at Washington on February 9, 1957, as amended and applied, hereinafter referred to as the Convention,

Desiring to amend the Convention,

Have agreed as follows:

Article I

The Convention shall be applied as amended by this Protocol as from the date of its entry into force.

Article II

In Article V, paragraph 2(e) of the Convention, "at the end of the twenty-fifth year after entry into force of the Convention" is replaced by "by October 13, 1986."

Article III

In Article XI of the Convention, "in the twenty-sixth year after entry into force of the Convention" is replaced by "within the one year period prior to October 14, 1987."

Article IV

In Article XIII of the Convention, paragraph 4 is replaced by the following: "4. The Convention shall continue in force until October 13, 1987 and thereafter until the entry into force of a new or revised fur seal convention between the Parties, or until October 13, 1988, whichever may be the earlier; provided, however, that the Convention shall terminate one year from the day on which a Party gives written notice to the other Parties of an intention of terminating the Convention."

Article V

1. This Protocol shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Government of the United States of America as soon as possible.

2. A signatory Government which intends to ratify or accept is Protocol may notify the Government of the United States of

America that it will apply this Protocol provisionally in accordance with its laws and regulations pending the fulfillment of domestic constitutional requirements for ratification or acceptance.

3. The Government of the United States of America shall notify the other signatory Governments of ratifications or acceptances deposited and of notifications of provisional application made.

4. This Protocol shall enter into force provisionally on the date on which instruments of ratification or acceptance have been deposited with or the notifications of provisional application as referred to in paragraph 2 above have been made to the Government of the United States of America by all the signatory Governments. It shall continue in force provisionally until the date on which it enters into force definitively in accordance with the provisions of paragraph 5.

5. This Protocol shall enter into force definitively on the date on which instruments of ratification or acceptance have been deposited with the Government of the United States of America by all the signatory Governments.

6. The original of this Protocol shall be deposited with the Government of the United States of America, which shall communicate certified copies thereof to each of the Governments signatory to this Protocol.

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

DONE at Washington this day of October, 1984, in the English, French, Japanese, and Russian languages, each text being equally authentic.

H. ENVIRONMENTAL PROTECTION

1. General Principles

**Declaration of the United Nations Conference on the
Human Environment, June 16, 1972***

* U.N. Doc. A/CONF.48/14 and Corr.1 (1972), Section I, 11 I.L.M. 1416

Chapter I
DECLARATION OF THE UNITED NATIONS CONFERENCE
ON THE HUMAN ENVIRONMENT

The United Nations Conference on the Human Environment.

Having met at Stockholm from 5 to 16 June 1972,

Having considered the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment,

I

Proclaims that:

1. Man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights—even the right to life itself.

2. The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments.

3. Man has constantly to sum up experience and go on discovering, inventing, creating and advancing. In our time, man's capability to transform his surroundings, if used wisely, can bring to all peoples the benefits of development and the opportunity to enhance the quality of life. Wrongly or heedlessly applied, the same power can do incalculable harm to human beings and the human environment. We see around us growing evidence of man-made harm in many regions of the earth: dangerous levels of pollution in water, air, earth and living beings; major and undesirable disturbances to the ecological balance of the biosphere; destruction and depletion of irreplaceable resources; and gross deficiencies, harmful to the physical, mental and social health of man, in the man-made environment, particularly in the living and working environment.

4. In the developing countries most of the environmental problems are caused by under-development. Millions continue to live far below the minimum levels required for a decent human existence, deprived of adequate food and clothing, shelter and education, health and sanitation. Therefore, the developing coun-

tries must direct their efforts to development, bearing in mind their priorities and the need to safeguard and improve the environment. For the same purpose, the industrialized countries should make efforts to reduce the gap themselves and the developing countries. In the industrialized countries, environmental problems are generally related to industrialization and technological development.

5. The natural growth of population continuously presents problems for the preservation of the environment, and adequate policies and measures should be adopted, as appropriate, to face these problems. Of all things in the world, people are the most precious. It is the people that propel social progress, create social wealth, develop science and technology and, through their hard work, continuously transform the human environment. Along with social progress and the advance of production, science and technology, the capability of man to improve the environment increases with each passing day.

6. A point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences. Through ignorance or indifference we can do massive and irreversible harm to the earthly environment on which our life and well-being depend. Conversely, through fuller knowledge and wiser action, we can achieve for ourselves and our posterity a better life in an environment more in keeping with human needs and hopes. There are broad vistas for the enhancement of environmental quality and the creation of a good life. What is needed is an enthusiastic but calm state of mind and intense but orderly work. For the purpose of attaining freedom in the world of nature, man must use knowledge to build, in collaboration with nature, a better environment. To defend and improve the human environment for present and future generations has become an imperative goal for mankind—a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of worldwide economic and social development.

7. To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future. Local and national governments will bear the greatest burden for

large-scale environmental policy and action within their jurisdictions. International co-operation is also needed in order to raise resources to support the developing countries in carrying out their responsibilities in this field. A growing class of environmental problems, because they are regional or global in extent or because they affect the common international realm, will require extensive co-operation among nations and action by international organizations in the common interest. The Conference calls upon Governments and peoples to exert common efforts for the preservation and improvement of the human environment, for the benefit of all the people and for their posterity.

II

Principles

States the common conviction that:

Principle 1

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating *apartheid*, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.

Principle 2

The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

Principle 3

The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved.

Principle 4

Man has a special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat, which are now gravely imperilled by a combination of adverse factors. Nature conservation, including wildlife, must therefore receive importance in planning for economic development.

Principle 5

The non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that benefits from such employment are shared by all mankind.

Principle 6

The discharge of toxic substances or of other substances and the release of heat, in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order

to ensure that serious or irreversible damage is not inflicted upon ecosystems. The just struggle of the peoples of all countries against pollution should be supported.

Principle 7

States shall take all possible steps to prevent pollution of the seas by substances that 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.

Principle 8

Economic and social development is essential for ensuring a favourable living and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life.

Principle 9

Environmental deficiencies generated by the conditions of under-development and natural disasters pose grave problems and can best be remedied by accelerated development through the transfer of substantial quantities of financial and technological assistance as a supplement to the domestic effort of the developing countries and such timely assistance as may be required.

Principle 10

For the developing countries, stability of prices and adequate earnings for primary commodities and raw materials are essential to environmental management since economic factors as well as ecological processes must be taken into account.

Principle 11

The environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries, nor should they hamper the attainment of better living conditions for all, and appropriate steps should be taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures.

Principle 12

Resources should be made available to preserve and improve the environment, taking into account the circumstances and particular requirements of developing countries and any costs which may emanate from their incorporating environmental safeguards into their development planning and the need for making available to them, upon their request, additional international technical and financial assistance for this purpose.

Principle 13

In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and co-ordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment for the benefit of their population.

Principle 14

Rational planning constitutes an essential tool for reconciling any conflict between the needs of development and the need to protect and improve the environment.

Principle 15

Planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and obtaining maximum social, economic and environmental benefits for all. In this respect, projects which are designed for colonialist and racist domination must be abandoned.

Principle 16

Demographic policies which are without prejudice to basic human rights and which are deemed appropriate by Governments concerned should be applied in those regions where the rate of population growth or excessive population concentrations are likely to have adverse effects on the environment of the human environment and impede development.

Principle 17

Appropriate national institutions must be entrusted with the task of planning, managing or controlling the environmental resources of States with a view to enhancing environmental quality.

Principle 18

Science and technology, as part of their contribution to economic and social development, must be applied to the identification, avoidance and control of environmental risks and the solution of environmental problems and for the common good of mankind.

Principle 19

Education in environmental matters, for the younger generation as well as adults, giving due consideration to the underprivileged, is essential in order to broaden the basis for an enlightened opinion and responsible conduct by individuals, enterprises and communities in protecting and improving the environment in its full human dimension. It is also essential that mass media of communications avoid contributing to the deterioration of the environment, but, on the contrary, disseminate information of an educational nature on the need to protect and improve the environment in order to enable man to develop in every respect.

Principle 20

Scientific research and development in the context of environmental problems, both national and multinational, must be promoted in all countries, especially the developing countries. In this connexion, the free flow of up-to-date scientific information and transfer of experience must be supported and assisted, to facilitate the solution of environmental problems; environmental

technologies should be made available to developing countries on terms which would encourage their wide dissemination without constituting an economic burden on the developing countries.

Principle 21

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.

Principle 22

States shall co-operate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction.

Principle 23

Without prejudice to such criteria as may be agreed upon by the international community, or to standards which will have to be determined nationally, it will be essential in all cases to consider the systems of values prevailing in each country, and the extent of the applicability of standards which are valid for the most advanced countries but which may be inappropriate and of unwarranted social cost for the developing countries.

Principle 24

International matters concerning the protection and improvement of the environment should be handled in a co-operative spirit by all countries, big and small, on an equal footing. Co-operation through multilateral or bilateral arrangements or other appropriate means is essential to effectively control, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres, in such a way that due account is taken of the sovereignty and interests of all States.

Principle 25

States shall ensure that international organizations play a co-ordinated, efficient and dynamic role for the protection and improvement of the environment.

Principle 26

Man and his environment must be spared the effects of nuclear weapons and all other means of mass destruction. States must strive to reach prompt agreement, in the relevant international organs, on the elimination and complete destruction of such weapons.

*21st plenary meeting
16 June 1972*

**Action Plan of the United Nations Conference on the
Human Environment (Recommendations 86-94),
June 16, 1972***

* U.N.Doc.A/CONF.48/14 and Corr.1 (1972), Section II, 11 I.L.M. 1421.

on Maritime Pollution and the Conference on the Law of the Sea scheduled to begin in 1973, as well as in regional efforts, with a view to bringing all significant sources of pollution within the marine environment, including radioactive pollution from nuclear surface ships and submarines, and in particular in enclosed and semi-enclosed seas, under appropriate controls and particularly to complete elimination of deliberate pollution by oil from ships, with the goal of achieving this by the middle of the present decade;

(f) Strengthen national controls over land-based sources of marine pollution, in particular in enclosed and semi-enclosed seas, and recognize that, in some circumstances, the discharge of residual heat from nuclear and other power-stations may constitute a potential hazard to marine ecosystems.

Recommendation 87

It is recommended that Governments:

(a) Support national research and monitoring efforts that contribute to agreed international programmes for research and monitoring in the marine environment, in particular the Global Investigation of Pollution in the Marine Environment (GIPME) and the Integrated Global Ocean Station System (IGOSS);

(b) Provide to the United Nations, the Food and Agriculture Organization of the United Nations and the United Nations Conference on Trade and Development, as appropriate to the data-gathering activities of each, statistics on the production and use of toxic or dangerous substances that are potential marine pollutants, especially if they are persistent;

(c) Expand their support to components of the United Nations system concerned with research and monitoring in the marine environment and adopt the measures required to improve the constitutional, financial and operational basis under which the Intergovernmental Oceanographic Commission is at present operating so as to make it an effective joint mechanism for the Governments and United Nations organizations concerned (United Nations Educational, Scientific and Cultural Organization, Food and Agriculture Organization of the United Nations, World Meteorological Organization, Inter-Governmental Maritime Consultative Organization, United Nations) and in order that it may be able to take on additional responsibilities for the promotion and co-ordination of scientific programmes and services.

Recommendation 88

It is recommended that the Secretary-General, together with the sponsoring agencies, make it possible for the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP):

(a) To re-examine annually, and revise as required, its "Review of Harmful Chemical Substances", with a view to elaborating further its assessment of sources, pathways and resulting risks of marine pollutants;

(b) To assemble, having regard to other work in progress, scientific data and to provide advice on scientific aspects of marine pollution, especially those of an interdisciplinary nature.

B. MARINE POLLUTION

Recommendation 86

It is recommended that Governments, with the assistance and guidance of appropriate United Nations bodies, in particular the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP):

(a) Accept and implement available instruments on the control of the maritime sources of marine pollution;

(b) Ensure that the provisions of such instruments are compiled with by ships flying their flags and by ships operating in areas under their jurisdiction and that adequate provisions are made for reviewing the effectiveness of, and revising, existing and proposed international measures for control of marine pollution;

(c) Ensure that ocean dumping by their nationals anywhere, or by any person in areas under their jurisdiction, is controlled and that Governments shall continue to work towards the completion of, and bringing into force as soon as possible of, an over-all instrument for the control of ocean dumping as well as needed regional agreements within the framework of this instrument, in particular for enclosed and semi-enclosed seas, which are more at risk from pollution;

(d) Refer the draft articles and annexes contained in the report of the intergovernmental meetings at Reykjavik, Iceland, in April 1972 and in London in May 1972 to the United Nations Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the Limits of National Jurisdiction at its session in July/August 1972 for information and comments and to a conference of Governments to be convened by the Government of the United Kingdom of Great Britain and Northern Ireland in consultation with the Secretary-General of the United Nations before November 1972 for further consideration, with a view to opening the proposed convention for signature at a place to be decided by that Conference, preferably before the end of 1972;

(e) Participate fully in the 1973 Intergovernmental Maritime Consultative Organization (IMCO) Conference

Recommendation 89

It is recommended that the Secretary-General ensure:

(a) That mechanisms for combining world statistics on mining, production, processing, transport and use of potential marine pollutants shall be developed along with methods for identifying high-priority marine pollutants based in part on such data;

(b) That the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP), in consultation with other expert groups, propose guidelines for test programmes to evaluate toxicity of potential marine pollutants;

(c) That the Food and Agriculture Organization of the United Nations, the World Health Organization, the Intergovernmental Oceanographic Commission and the International Atomic Energy Agency encourage studies of the effects of high-priority marine pollutants on man and other organisms, with appropriate emphasis on chronic, low-level exposures;

(d) That the Intergovernmental Oceanographic Commission, with the Food and Agriculture Organization of the United Nations and the World Health Organization, explore the possibility of establishing an international institute for tropical marine studies, which would undertake training as well as research.

Recommendation 90

It is recommended that the Intergovernmental Oceanographic Commission, jointly with the World Meteorological Organization and, as appropriate, in co-operation with other interested intergovernmental bodies, promote the monitoring of marine pollution, preferably within the framework of the Integrated Global Ocean Station System (IGOSS), as well as the development of methods for monitoring high-priority marine pollutants in the water, sediments and organisms, with advice from the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) on intercomparability of methodologies.

Recommendation 91

It is recommended that the Intergovernmental Oceanographic Commission:

(a) Ensure that provision shall be made in international marine research, monitoring and related activities for the exchange, dissemination, and referral to sources of data and information on baselines and on marine pollution and that attention shall be paid to the special needs of developing countries;

(b) Give full consideration, with the Food and Agriculture Organization of the United Nations, the World Meteorological Organization, the Inter-Governmental Maritime Consultative Organization, the World Health Organization, the International Atomic Energy Agency, the International Hydrographic Organization and the International Council for the Exploration of the Sea and other interested and relevant organizations, to the strengthening of on-going marine and related data and information exchange and dissemination activities;

(c) Support the concept of development of an interdisciplinary and interorganizational system primarily involving centres already in existence;

(d) Initiate an interdisciplinary marine pollution data and scientific information referral capability.

Recommendation 92

It is recommended:

(a) That Governments collectively endorse the principles set forth in paragraph 197 of Conference document A/CONF.48/8⁴ as guiding concepts for the Conference on the Law of the Sea and the Inter-Governmental Maritime Consultative Organization (IMCO) Marine Pollution Conference scheduled to be held in 1973 and also the statement of objectives agreed on at the second session of the Intergovernmental Working Group on Marine Pollution, which reads as follows:

"The marine environment and all the living organisms which it supports are of vital importance to humanity, and all people have an interest in assuring that this environment is so managed that its quality and resources are not impaired. This applies especially to coastal nations, which have a particular interest in the management of coastal area resources. The capacity of the sea to assimilate wastes and render them harmless and its ability to regenerate natural resources are not unlimited. Proper management is required and measures to prevent and control marine pollution must be regarded as an essential element in this management of the oceans and seas and their natural resources";

and that, in respect of the particular interest of coastal States in the marine environment and recognizing that the resolution of this question is a matter for consideration at the Conference on the Law of the Sea, they take note of the principles on the rights of coastal States discussed but neither endorsed nor rejected at the second session of the Intergovernmental Working Group on Marine Pollution and refer those principles to the 1973 Inter-Governmental Maritime Consultative Organization Conference for information and to the 1973 Conference on the Law of the Sea for such action as may be appropriate;

(b) That Governments take early action to adopt effective national measures for the control of all significant sources of marine pollution, including land-based sources, and concert and co-ordinate their actions regionally and where appropriate on a wider international basis;

(c) That the Secretary-General, in co-operation with appropriate international organizations, endeavour to provide guidelines which Governments might wish to take into account when developing such measures.

Recommendation 93

It is recommended that any mechanism for co-ordinating and stimulating the actions of the different United Nations

⁴ See annex III.

organs in connexion with environmental problems include among its functions over-all responsibility for ensuring that needed advice on marine pollution problems shall be provided to Governments.

Recommendation 94

It is recommended that the Secretary-General, with the co-operation of United Nations bodies, take steps to secure additional financial support to those training and other programmes of assistance that contribute to increasing the capacity of developing countries to participate in international research, monitoring and pollution-control programmes.

**Decisions of the Governing Council of the United
Nations Environment Programme Concerning Policy
Objectives, Programme Development and Priorities
for the Human Environment (Section I, II,
June 22, 1973***

* 28 U.N. GAOR Supp. (No. 25) at 36, U.N. Doc. A/9025 (1973); 12 I.L.M. 1183.

Decisions of the Governing Council of the
United Nations Environment Programme at
its first session

- 1 (I) Action Plan for the Human Environment: programme development
and priorities
(agenda item 6)

Report of the Environment Co-ordination Board
(agenda item 8)

The Governing Council of the United Nations Environment Programme,

Having considered the report of the Executive Director entitled "Action Plan for the Human Environment: programme development and priorities", a/ the report of the Environment Co-ordination Board on its first session b/ and the policy statement made by the Executive Director at the opening meeting of the first session of the Governing Council, c/

Taking into account the views expressed by its members and on the basis of its consideration of the above-mentioned reports:

I. GENERAL POLICY OBJECTIVES

1. Reiterates that, in accordance with General Assembly resolution 2997 (XXVII) of 15 December 1972 and the Action Plan of the United Nations Conference on the Human Environment, the general policy objectives of the United Nations Environment Programme shall be:

(a) To provide, through interdisciplinary study of natural and man-made ecological systems, improved knowledge for an integrated and rational management of the resources of the biosphere, and for safeguarding human well-being as well as ecosystems;

(b) To encourage and support an integrated approach to the planning and management of development, including that of natural resources, so as to take account of environmental consequences, to achieve maximum social, economic and environmental benefits;

(c) To assist all countries, especially developing countries, to deal with their environmental problems and to help mobilize additional financial resources for the purpose of providing the required technical assistance, education, training and free flow of information and exchange of experience, with a view to promoting the full participation of developing countries in the national and international efforts for the preservation and enhancement of the environment;

a/ UNEP/GC/5.

b/ UNEP/GC/7.

c/ UNEP/GC/L.10.

II. PARTICULAR POLICY OBJECTIVES

2. Notes, as guidelines for the United Nations Environment Programme, the following detailed objectives, which, however, have not been fully discussed, and are not exhaustive:

(a) To anticipate and prevent threats to human health and well-being posed by contamination of food, air or water;

(b) To detect and prevent serious threats to the health of the oceans through controlling both ocean-based and land-based sources of pollution, and to assure the continuing vitality of marine stocks;

(c) To improve the quality of water for human use, in order that all persons may have access to water of a quality compatible with requirements of human health;

(d) To help Governments in improving the quality of life in rural and urban settlements;

(e) To prevent the loss of productive soil through erosion, salination or contamination; to arrest the process of desertification and to restore the productivity of desiccated soil;

(f) To help Governments in managing forest resources so as to meet present and future needs;

(g) To anticipate natural disasters and to help Governments in mitigating their consequences;

(h) To assist Governments in anticipating and in preventing adverse effects of man-induced modifications of climate and weather;

(i) To encourage and support the development of sources and uses of energy which assure future levels of energy adequate to the needs of economic and social development while minimizing deleterious effects on the environment;

(j) To help to ensure that environmental measures taken by industrialized countries do not have adverse effects on international trade, especially the economic trade or other interests of developing countries, and to help developing countries maximize opportunities which may arise for them as a result of changes in comparative advantages induced by environmental concerns;

(k) To preserve threatened species of plant and animal life, particularly those which are important to human life and well-being;

(l) To help Governments identify and preserve natural and cultural areas which are significant to their countries and which form part of the natural and cultural heritage of all mankind;

(m) To help Governments take into account in development planning the relationship between population growth, density and distribution and available resources and environmental effects;

(n) To help Governments increase public awareness through better education and knowledge of environmental concerns and facilitate wide participation in and support for environmental action;

III. PROGRAMME PRIORITIES FOR ACTION BY THE UNITED NATIONS ENVIRONMENT PROGRAMME

(e) Oceans

- (i) To carry out objective assessments of problems affecting the marine environment and its living resources in specific bodies of water;
- (ii) To prepare a survey of the activities of international and regional organizations dealing with conservation and management of the living resources of the oceans;
- (iii) To assist nations in identifying and controlling land-based sources of pollution, particularly those which reach the oceans through rivers;
- (iv) To stimulate international and regional agreements for the control of all forms of pollution of the marine environment, and especially agreements relating to particular bodies of water;
- (v) To urge the Inter-Governmental Maritime Consultative Organization to set a time-limit for the complete prohibition of international oil discharge in the seas, as well as to seek measures to minimize the probability of accidental discharges;
- (vi) To develop a programme for the monitoring of marine pollution and its effects on marine ecosystems, paying particular attention to the special problems of specific bodies of water including some semi-enclosed seas, if the nations concerned so agree;
- (vii) To urge the International Whaling Commission to adopt a 10-year moratorium on commercial whaling;

(f) Conservation of nature, wildlife and genetic resources

- (i) To promote the protection and conservation of plants and animals, especially rare or endangered species;
- (ii) To support ecological investigations on ecosystem processes in relation to the impact of human activities;
- (iii) To promote the identification and conservation of unique natural sites and especially representative samples of natural ecosystems;
- (iv) To initiate the preparation of a comprehensive catalogue of threatened species and varieties of crop plants, fish, domestic animals, and micro-organisms, and to co-operate with the Food and Agriculture Organization of the United Nations in its programmes for genetic resource conservation;

- (v) To support regional and national institutions in developing countries for promoting the collection, evaluation and conservation of gene pools of plants and animals for maintaining genetic diversity for the future use of mankind;
- (vi) To promote the development, on an entirely voluntary basis, of a register of clean rivers;

VIII. INTERNATIONAL CONVENTIONS

31. Authorizes the Executive Director to provide secretariat services for the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora in accordance with its article XII, and further asks the Executive Director to give assistance as appropriate in the preparation of other international conventions in the environmental field.

2. Regional Protection

Agreement for Cooperation on Dealing with Pollution
of the North Sea by Oil (with annex),
June 9, 1969*

* 704 U.N.T.S. 4.

AGREEMENT¹ FOR CO-OPERATION IN DEALING WITH POLLUTION OF THE NORTH SEA BY OIL

The Governments of the Kingdom of Belgium, the Kingdom of Denmark, the French Republic, the Federal Republic of Germany, the Kingdom of the Netherlands, the Kingdom of Norway, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland,

Recognizing that grave pollution of the sea by oil in the North Sea area involves a danger to the coastal states,

Noting that the Council of the Inter-Governmental Maritime Consultative Organization at its third extraordinary session in May, 1967, decided to include among the matters requiring study as a matter of urgency, *inter alia*:

“Procedures whereby States, regionally or interregionally where applicable, can co-operate at short notice to provide manpower, supplies, equipment and scientific advice to deal with discharge of oil or other noxious or hazardous substances including consideration of the possibility of patrols to ascertain the extent of the discharge and the manner of treating it both on sea and land”,

Have agreed on the following:

Article 1

This Agreement shall apply whenever the presence or the prospective presence of oil polluting the sea within the North Sea area, as defined in Article 2 of this Agreement, presents a grave and imminent danger to the coast or related interests of one or more Contracting Parties.

¹ Came into force on 9 August 1969 between Belgium, Denmark, the Federal Republic of Germany, France, Sweden and the United Kingdom of Great Britain and Northern Ireland, i.e., two months after they had signed it (all of them on 9 June 1969) without reservation as to ratification or approval, in accordance with article 9.

Article 2

For the purposes of this Agreement the North Sea area means the North Sea proper southwards of latitude 61° N together with

- (a) the Skagerrak, the southern limit of which is determined by a line joining Skagen and Pater Noster Skären,
- (b) the English Channel and its approaches eastwards of a line drawn fifty nautical miles to the west of a line joining the Scilly Isles and Ushant.

Article 3

The Contracting Parties consider that protection against pollution of the kind referred to in Article 1 of this Agreement is a matter which calls for active co-operation between the Contracting Parties.

Article 4

Contracting Parties undertake to inform the other Contracting Parties about

- (a) their national organisation for dealing with oil pollution;
- (b) the competent authority responsible for receiving reports of oil pollution and for dealing with questions concerning measures of mutual assistance between Contracting Parties;
- (c) new ways in which oil pollution may be avoided and about new effective measures to deal with oil pollution.

Article 5

(1) Whenever a Contracting Party is aware of a casualty or the presence of oil slicks in the North Sea area likely to constitute a serious threat to the coast or related interests of any other Contracting Party, it shall inform that other Party without delay through its competent authority.

(2) The Contracting Parties undertake to request the masters of all ships flying their flags and pilots of aircraft registered in their countries to report without delay through the channels which may be most practicable and adequate in the circumstances:

- (a) all casualties causing or likely to cause oil pollution of the sea;
- (b) the presence, nature and extent of oil slicks on the sea likely to constitute a serious threat to the coast or related interests of one or more Contracting Parties.

Article 6

(1) For the sole purposes of this Agreement the North Sea area is divided into the zones described in the Annex to this Agreement.

(2) The Contracting Party within whose zone a situation of the kind described in Article 1 occurs, shall make the necessary assessments of the nature and extent of any casualty or, as the case may be, of the type and approximate quantity of oil floating on the sea, and the direction and speed of movement of the oil.

(3) The Contracting Party concerned shall immediately inform all the other Contracting Parties through their competent authorities of its assessments and of any action which it has taken to deal with the floating oil and shall keep the oil under observation as long as it is drifting in its zone.

(4) The obligations of the Contracting Parties under the provisions of this Article with respect to the zones of joint responsibility shall be the subject of special technical arrangements to be concluded between the Parties concerned. These arrangements shall be communicated to the other Contracting Parties.

(5) In no case shall the division into zones referred to in this Article be invoked as a precedent or argument in any matter concerning sovereignty or jurisdiction.

Article 7

A Contracting Party requiring assistance to dispose of oil floating on the sea or polluting its coast may call on the help of the other Contracting Parties, starting with those which also seem likely to be affected by the floating oil. Contracting Parties called upon for help in accordance with this Article shall use their best endeavours to bring such assistance as is within their power.

Article 8

Any Contracting Party which has taken action in accordance with Article 7 of this Agreement shall submit a report thereon to the other Contracting Parties and to the Inter-Governmental Maritime Consultative Organization.¹

Article 9

(1) This Agreement shall be open for signature by the Governments mentioned in the preamble from 9 June 1969.

(2) These Governments may become parties to this Agreement either by signature without reservation as to ratification or approval or by signature subject to ratification or approval followed by ratification or approval.

(3) Instruments of ratification or approval shall be deposited with the Government of the Federal Republic of Germany.

(4) This Agreement shall enter into force two months after the date on which six Governments have signed the Agreement without reservation as to ratification or approval or have deposited an instrument of ratification or approval.

(5) For each Government which subsequently signs the Agreement without reservation as to ratification or approval, or ratifies or approves it, it shall enter into force two months after the date of its signature or of the deposit of its instrument of ratification or approval.

Article 10

(1) After this Agreement has been in force for five years it may be denounced by any Contracting Party.

(2) Denunciation shall be effected by a notification in writing addressed to the Government of the Federal Republic of Germany which shall notify all the other Contracting Parties of any denunciation received and of the date of its receipt.

(3) A denunciation shall take effect one year after its receipt by the Government of the Federal Republic of Germany.

¹ See Convention on the Intergovernmental Maritime Consultative Organization in United Nations, *Treaty Series*, vol. 289, p. 3.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments have signed this Agreement.

DONE at Bonn on this ninth day of June, 1969, in the English and French languages, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the Federal Republic of Germany which shall transmit a duly certified copy to each of the other signatory Governments. This Agreement shall be registered with the United Nations in conformity with Article 102 of the Charter of the United Nations.

For the Government of the Kingdom of Belgium:
Walter LORIDAN

For the Government of the Kingdom of Denmark:
K. KNUTH-WINTERFELT

For the Government of the French Republic:
François SEYDOUX

For the Government of the Federal Republic of Germany:
Willy BRANDT

For the Government of the Kingdom of the Netherlands:
Subject to ratification
J. G. DE BEUS

For the Government of the Kingdom of Norway:
Subject to ratification
S. Chr. SOMMERFELT

For the Government of the Kingdom of Sweden:
O. K. THYBERG

For the Government of the United Kingdom of Great Britain
and Northern Ireland:
R. W. JACKLING

ANNEX

DESCRIPTION OF THE ZONES REFERRED TO IN ARTICLE 6 OF THIS AGREEMENT

The zones, with the exception of the zones of joint responsibility, are limited by lines joining the following points:

Denmark

55°03' N 8°22' E
 55°10' N 7°30' E
 55°10' N 2°15' E
 57°00' N 1°30' E
 57°00' N 6°40' E
 58°10' N 10°00' E
 57°48' N 10°57' E
 57°44' N 10°38' E (Skagen)

Germany

53°34' N 6°38' E
 54°00' N 5°30' E
 54°00' N 2°40' E
 55°10' N 2°15' E
 55°10' N 7°30' E
 55°03' N 8°22' E

Netherlands

51°32' N 3°18' E
 51°32' N 2°06' E
 52°30' N 3°10' E
 54°00' N 2°40' E
 54°00' N 5°30' E
 53°34' N 6°38' E

Norway

61°00' N 4°30' E
 61°00' N 2°00' E
 57°00' N 1°30' E
 57°00' N 6°40' E
 58°10' N 10°00' E
 58°54,5' N 10°43' E

(To be continued along the
 Norwegian-Swedish border.)

Sweden

57°54' N 11°28' E
 (Pater Noster lighthouse)
 57°48' N 10°57' E
 58°10' N 10°00' E
 58°54,5' N 10°43' E
 (To be continued along the
 Norwegian-Swedish border.)

United Kingdom

61°00' N 0°50' W
 61°00' N 2°00' E
 57°00' N 1°30' E
 52°30' N 3°10' E
 51°32' N 2°06' E

The zones of joint responsibility are as follows:

1. *Belgium, France and United Kingdom*

Sea area between parallels 51°32' N and 51°06' N.

2. *France and United Kingdom*

The English Channel south-west of parallel 51°06' N to a line drawn between the points 49°52' N 07°44' W and 48°27' N 06°25' W.

**Resolution 3 on the Problem of the Contamination of
the Marine Environment (Caribbean Sea),
August 8, 1970***

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/16 at 590 (1974).

on 23 April 1970 by the Union of Soviet Socialist Republics and the United States of America (CCDi/269/Rev.2).

Considering that at present, general and complete disarmament is an objective of fundamental importance for the international community;

Reaffirming its belief that the sea-bed and ocean floor and the subsoil thereof should be used for exclusively peaceful purposes; and

Considering that the draft should not prejudice the maritime sovereignty and jurisdiction of the Latin American States, or affect the regional agreements on disarmament to which they are parties;

Takes note with interest of the work done so far in this connexion by the Latin American countries represented in the Conference of the Committee on Disarmament in an attempt to ensure that due account is taken of Latin American rights and interests in the instrument to be elaborated; and

Recommends to the Governments of States participating in this Meeting that when the General Assembly of the United Nations considers the Draft treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil thereof, they endeavour to harmonize their efforts with a view to preventing any infringement of their maritime sovereignty and jurisdiction or of the existing regional régime among the Latin American countries on the subject of disarmament.

(f) RESOLUTION 5 ON THE LEGAL ASPECTS OF SCIENTIFIC OCEANOGRAPHIC RESEARCH

The Latin American Meeting on Aspects of the Law of the Sea:

Recalling the resolutions adopted by the General Assembly of the United Nations at its twenty-fourth session on the legal aspects of scientific oceanographic research;

Considering the desirability of a careful study of resolution VI-13 of the Intergovernmental Oceanographic Commission on the promotion of basic scientific research;

Bearing in mind, in particular, the action at present being taken by the said Intergovernmental Oceanographic Commission with a view to the preparation of a draft Convention on the legal status of systems for the acquisition of oceanographic data (SADO);

Considering the importance from the standpoint of basic legal issues such as the sovereignty and jurisdiction of the coastal States, of any criteria that are adopted on this matter.

Decides:

(1) To recommend that the Governments participating in this Meeting undertake a continuing exchange of views with a view to co-ordinating and harmonizing their positions in the various forums dealing with the legal problems of scientific oceanographic research;

(2) To recommend also that these Governments adopt a common stand on the question of the desirability of those matters being considered jointly in the United Nations, so that the developing States, and particularly the Latin American countries, may participate actively in the formulation of any rules it is desired to adopt.

(3) To reaffirm:

(a) That any scientific research carried out within the maritime jurisdiction of a State shall be subject to prior authorization by that State and shall comply with the conditions laid down by that authority;

(b) That the coastal State has the right to participate in any research that may be carried out within its jurisdiction and to benefit from the results of that research;

(c) That all the samples obtained in research of this kind shall be the property of the State in whose jurisdiction the research is carried out and that they may be appropriated by those conducting the research only with the express consent of that State;

(d) That any scientific research which is authorized as such shall continue to be of a strictly and exclusively scientific character.

(d) RESOLUTION 3 ON THE PROBLEM OF THE CONTAMINATION OF THE MARINE ENVIRONMENT

The Latin American Meeting on Aspects of the Law of the Sea:

Recognizing that the exploration, exploitation and use of the oceans and the soil and subsoil thereof and other activities carried out in non-marine environments have recently been creating a serious danger of contamination of waters and disturbance of the ecological balance of the marine environment:

Considering, consequently, the urgent need to take appropriate measures to prevent, control, reduce or eliminate contamination and any other dangerous and harmful effects that may result from the said activities:

Considering further that such measures must include not only rules to govern the exploration, exploitation and utilization of the oceans and the soil and subsoil thereof, and other activities which may affect the marine environment, but also rules relating to the system of liability for the resulting damages:

Recalling the progress made in these matters by various governmental bodies and by the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and its Intergovernmental Oceanographic Commission, the Inter-Governmental Maritime Consultative Organization and the International Atomic Energy Agency.

Recalling also resolution 2467 B (XXIII) of the United Nations General Assembly of the United Nations;

Noting with concern that, notwithstanding the repeated protests of many States, nuclear weapons tests continue to be carried out in the marine environment, destroying important living resources, contaminating the waters by their radioactive effects and disturbing the existing biological, chemical and physical processes and balances:

Considering that, for all these reasons, and without prejudice to any international agreements that have been concluded or which may be concluded on these matters, it is necessary to reaffirm the right of coastal States to take any steps and measures that they may deem necessary for the proper protection of the interests of their peoples against the dangers of contamination and other harmful effects that may result from the use, exploration and exploitation of the seas contiguous to their territories, or from other activities carried out in non-marine environments that may affect the said interests:

Recommends to the Governments participating in this Meeting:

(a) That they reaffirm their decision to take such steps and measures as they may deem appropriate to prevent, control and reduce or eliminate contamination and other dangerous and harmful effects resulting from the exploration, exploitation and use of the sea adjacent to their coasts and of the soil and subsoil thereof, and from any other activities carried out in non-marine environments that may affect the interests of their people, in exercise of the right of coastal States to protect its maritime heritage:

(b) That they reaffirm their opposition to the continuance of those nuclear weapons tests, mainly in the marine environment, which produce effects harmful to the resources of the sea, contamination of waters and disturbance of their existing biological, chemical and physical processes and balances:

(c) That they exchange views and information on appropriate measures for the above-mentioned purposes and on draft international agreements relating to these matters:

(d) That they agree on common positions so that when these matters are discussed in international organizations and at international conferences, their respective representatives may take due account of the rights and interests of coastal States.

(e) RESOLUTION 4 ON THE PROHIBITION OF THE EMPLACEMENT OF NUCLEAR AND OTHER WEAPONS ON THE SEA-BED AND THE OCEAN FLOOR AND IN THE SUBSOIL THEREOF

The Latin American Meeting on Aspects of the Law of the Sea:

Taking note of the Draft Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil thereof, submitted to the Conference of the Committee on Disarmament

**Declaration of the Council of the European
Communities and of Representatives of the
Governments of the Member States Meeting in the
Council on the Programme of Action of the European
Communities on the Environment (Part II, Title I,
Chapter 6, Section 1), November 22, 1973***

* 13 I.L.M. 186 (1974).

Chapter 6

ACTION SPECIFIC TO CERTAIN AREAS OF COMMON INTEREST

Section 1

MARINE POLLUTION

A. Reasons

Of all the different forms of pollution, marine pollution constitutes now, and to an even greater extent in the long term, one of the most dangerous, because of the effects it has on the fundamental biological and ecological balances governing life on our planet. This danger is even greater on account of the level of pollution which has already been reached, the diversity of pollution sources and the difficulty of ensuring that any measures adopted are complied with.

The sea is an essential source of products and proteins, which are extremely valuable in a world which is becoming increasingly overpopulated. In addition, the sea plays a vital role in maintaining the natural ecological balance by supplying a large proportion of the oxygen upon which life depends. The sea and coastal areas are also of tremendous importance for recreation and leisure.

The pollution of the sea has already reached a high level. For example, a disturbing accumulation of pollutants can be detected in plankton, other living organisms and sediments, and even now there is evidence of a considerable danger of eutrophication in certain estuaries and coastal areas.

Marine pollution affects the whole Community, both because of the essential role played by the sea in the preservation and development of species and on account of the importance of sea transport for the harmonious economic development of the Community.

Marine pollution can be broken down into four main sources:

- sea transport and navigation,
- deliberate dumping of waste at sea,
- exploitation of marine and submarine resources, especially exploitation of the sea bed,
- discharge of effluents from land.

The prevention or reduction of the first three sources and, to a certain extent of the fourth also, make it necessary to adopt international conventions on a world or regional level. These present particularly difficult problems of supervision and control.

Measures for the abatement of land-based marine pollution are to a large extent linked with those against fresh water pollution and often require a similar approach.

These measures do, however, have some special characteristics resulting from the particular nature of the marine environment, the many different uses to which the coastline is put and the concentration of a large number of economic and social activities in small areas.

B. Content

1. Introduction

The nature of the projects to be undertaken by the Community and its Member States and the institutional frameworks within which these projects must be conceived, drawn up and implemented will therefore differ according to whether it is the first three sources of marine pollution of the last type, mentioned in A.

Community action will consist in particular in:

- the approximation of rules on the application of International Conventions, as far as necessary to the proper functioning of the common market and the implementation of this programme,
- the carrying out of projects to help combat land-based marine pollution along the coastline of the Community (provided for in Chapter 6 Section 1 B, point 3 of this Title).

Whether dealing with schemes or positions to be adopted in the course of a project, Member States will endeavour to adopt a joint position within the international organizations and conferences concerned without prejudice to Community projects on subjects falling within its competence or joint projects undertaken by Member States within international organizations of an economic character on matters of particular interest to the common market.

2. Combating marine pollution from sources other than the land.

For the first three sources of pollution mentioned above (sea transport; deliberate dumping of waste at sea; exploitation of marine resources) the Commission will make suitable proposals in due course.

The following are examples of types of action which might be envisaged:

2.1. Combating pollution resulting from sea transport and Navigation

2.1.1. Pollution due to dumping of hydrocarbons is already the subject of various agreements usually adopted under the auspices of the Intergovernmental Maritime Consultative Organization (IMCO). Particular examples of these are:

- the Convention for the Prevention of the Pollution of Seawater by Hydrocarbons, signed in 1954 and administered by the IMCO from 1959 and revised in 1962, 1969 and 1971,
- the 1969 International Convention relating to intervention on the high seas in cases of Oil Pollution

Casualties and the 1969 International Convention on Civil Liability for Oil Pollution Damage,

- the 1971 International Convention on the Establishment of an International Fund for compensation for Oil Pollution Damage,
- the Bonn agreement of June 1969 on Cooperation in Dealing with Pollution of the North Sea by Oil,
- the agreement signed in 1969 setting out the list of noxious and dangerous substances transported by sea.

2.1.2. Marine pollution resulting from the transport by sea of harmful substances will be the subject of an agreement to be proposed in 1973 at the Inter-governmental conference on marine pollution organized by the IMCO. The aim of this conference will be to prepare international agreements aimed at the complete elimination, between 1975 and at the latest by 1980, of all deliberate pollution of seawater by hydrocarbons and other noxious substances and the reduction to a minimum of accidental discharges.

Many specialized international organizations, in particular the UN agencies (FAO, UNESCO, WHO, WMO, IAEA) are carrying out work in this field according to their various specialist activities.

Community action should obviously complement the measures taken by these specialist international agencies. However, Western Europe, because of its fragmented coastline and especially since it is the main crossroads for shipping, has a greater interest than any other area in the world in effective action being taken on a world scale against marine pollution and, more especially, against the dangers inherent in the transportation of oil, including the danger of serious coastal pollution resulting from accidents on the high seas.

Action by the Community or joint action by the Member States in international

organizations is the subject of Title III, Chapter 3 of the first part and Title III of the second part of this programme. This action should be backed up by the studies of improvements to be made in the context of international relations in order to protect the sea against pollution, and in particular by studying the structures and means to be provided for ensuring genuine compliance with international agreements concerning pollution resulting from sea transport. The setting up of an international body with powers of sanction and effective means of control will have to be studied.

2.2. Marine pollution resulting from deliberate dumping of waste

Two international agreements on this subject have been adopted: the Oslo Convention concerning the control of the deliberate discharge of particularly dangerous waste in the areas of the North-East Atlantic and the North Sea and their dependent seas and the London Convention concerning all the seas of the world. A third agreement affecting the Community, which covers the Western Mediterranean, is now in the course of preparation.

The application of these agreements will necessitate the implementation within the Community of legislation and rules which will have to be harmonized⁽¹⁾ so as to avoid creating distortions in trade and the distribution of investments. What will have to be aimed at in particular will be the application of a uniform system of licensing in the Community.

Finally, it will be necessary to harmonize the legislation and rules concerning the dumping of substances not included in the agreements and, if necessary, to put forward Community proposals amending the list of substances set out in the agreements.

2.3. Pollution resulting from exploitation of the sea bed

The prospects for the exploitation of the sea bed indicate a considerable development of activity; this development has already begun with the extraction of hydrocarbons, but is harder to predict: in the case of other mineral and fossil materials. For example, continental shelves and islands contain more than half the world's resources of hydrocarbons. Current technological developments entail such a demand for mineral resources (in particular titanium and manganese) that their extraction from the sea bed will soon be economic.

In view of the rapid growth of these activities it is doubtful whether the provisions now applying, particularly those relating to the exploitation of the sea bed, guarantee sufficient protection of the marine environment against the pollution likely to result from the various operations this exploitation involves. Additionally the International Conference on the Law of the Sea will study and attempt to make rules laying down the rights and above all the obligations of coastal States as regards waters and the sea bed outside their territorial waters.

The Commission has begun a comparative study of these provisions so as to examine the advisability of harmonizing and improving them and, if need be, of working out jointly preventive rules which could be proposed to the relevant international bodies.

3. Measures for reducing land-based marine pollution

This form of pollution results from direct discharges into the sea, from discharge via pipelines and from waste and pollutants carried by rivers.

As already pointed out above, the measures to be undertaken in this field are to a large extent related to those aimed at preventing the pollution of fresh water.

Therefore, the following action needs to be taken:

- assessment of the risks for the marine environment represented by the presence in various degrees of concentration of certain particularly dangerous pollutants (heavy metals and organic halogen compounds), selecting *inter alia* as targets certain species of

(¹) Such harmonization would be facilitated by the participation of the Commission in the work of the Commissions set up by these agreements with a view to ensuring their implementation.

fish and plants selected as indicators, and standardization or harmonization of the methods for measuring these pollutants,

- establishment of common methods for defining quality objectives for seawater,
- definition of these objectives ⁽¹⁾,
- study of the regulations (standards) or economic (tax) measures whereby the observance of these quality objectives may be ensured,
- setting of standards ⁽²⁾,
- establishment of a model for calculating the quantity of pollutants carried to the sea by rivers and by direct discharge from the coast.

The action indicated above will be supplemented by the following work which the Commission intends to undertake:

- (a) compiling an inventory of and making a comparative critical study of provisions envisaged or laid down by laws, regulations, regulatory and administrative provisions concerning the control and restriction of the direct discharges of industrial and domestic effluent into the sea, with a view to harmonizing these provisions and if necessary preparing Community measures;
- (b) study of the special problems posed by the handling of toxic substances on coastlines and the measures which can be taken in the event of accidents. This study will take into account the results of work carried out in other international organizations.

C. Procedure

The Commission will set up under its own authority a working party on the problems involved in the abatement of marine pollution.

This working party will be made up of representatives from the competent national authorities. Under the chairmanship of a representative of the Commission, it will assist the Commission in executing its programme and in preparing proposals.

⁽¹⁾ See definition No 2 in Annex I.

⁽²⁾ Community action in this field will be carried out along the lines of Chapter 2 of this Title.

D. Timetable

Action will have to be taken as soon as possible to enable the Commission to present to the Council any proposals arising from it by 31 December 1974 at the latest.

**Convention on the Protection of the Marine
Environment of the Baltic Sea Area (with annexes
II - VI), March 22, 1974***

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/18 at 518 (1976); 13 I.L.M. 544 (1974).

DENMARK-FINLAND-FEDERAL REPUBLIC OF GERMANY-GERMAN DEMOCRATIC REPUBLIC-
POLAND-SWEDEN-UNION OF SOVIET SOCIALIST REPUBLICS: CONVENTION ON THE
PROTECTION OF THE MARINE ENVIRONMENT OF THE BALTIC SEA AREA*
[Done at Helsinki, March 22, 1974]

FINAL ACT
OF THE DIPLOMATIC CONFERENCE ON THE PROTECTION OF THE
MARINE ENVIRONMENT OF THE BALTIC SEA AREA

Helsinki
18 to 22 March 1974

1. At the invitation of the Government of Finland, the Diplomatic Conference on the Protection of the Marine Environment of the Baltic Sea Area was held in Helsinki from 18 to 22 March 1974.
2. The following seven States were represented by delegations: Denmark, Finland, the German Democratic Republic, the Federal Republic of Germany, the Polish People's Republic, Sweden and the Union of Soviet Socialist Republics.
3. The Czechoslovak Socialist Republic and Norway were represented by observers.
4. The following organizations were represented by observers:
United Nations Environment Programme
United Nations Economic Commission for Europe
Food and Agriculture Organization of the United Nations
Inter-Governmental Maritime Consultative Organization
Inter-Governmental Oceanographic Commission of UNESCO
World Health Organization Regional Office for Europe
International Council for the Exploration of the Sea
The Nordic Council
The Nordic Council of Ministers
5. The Conference elected Mr. Jermu Laine, Minister of Foreign Trade, Finland, as President.
6. The Conference elected as Vice-Presidents:
Mr. Holger Hansen, Minister for Environment, Denmark
Dr. Hans Reichelt, Deputy Chairman of the Council of Ministers and Minister of Environmental Protection and Water Economy, German Democratic Republic
Dr. Hans-Georg Sachs, State Secretary, Federal Republic of Germany
Mr. Jerzy Kusiak, Minister of Local Economy and Environmental Protection, Polish People's Republic
Mr. Svante Lundkvist, Minister of Agriculture, Sweden
Mr. E. E. Alexeevsky, Minister for Reclamation and Water Management, The Union of Soviet Socialist Republics
7. The following Committees were set up:
COMMITTEE OF THE WHOLE
Chairman: Mr. Paul Gustafsson, Finland
DRAFTING COMMITTEE
Chairman: Mr. Jerzy Vonau, Polish People's Republic

*[Reproduced from the text provided to International Legal Materials by the Ministry for Foreign Affairs of Finland.

[The text of the Convention begins at I.L.M. page 546. Resolutions adopted by the Conference on the Protection of the Marine Environment of the Baltic Sea Area appear at I.L.M. page 585.]

8. The Conference had before it the Draft Convention on the Protection of the Marine Environment of the Baltic Sea Area prepared by the Working Group of Government Representatives for the Preparation of the Conference on the Protection of the Marine Environment of the Baltic Sea Area at its Meeting held in Helsinki from 5 to 16 November 1973, by the Meeting of Technical Experts on Ship Based Pollution held in Stockholm from 8 to 10 January 1974, and by the Meetings of Legal Experts held in Helsinki from 11 to 15 February and 11 to 13 March 1974.
9. On the basis of its deliberations the Conference adopted the text of the Convention on the Protection of the Marine Environment of the Baltic Sea Area, which is reproduced as Annex A hereto.
10. The Contracting States took note that at present none of them claims jurisdiction outside a limit of 12 (twelve) nautical miles from those lines from which the Contracting States measure the breadth of the territorial sea.
11. The Conference also adopted the Resolutions which are reproduced in Annex B hereto. It was noted that while Resolutions no. 3 and 4 deal only with commercial ships there was a general agreement that in accordance with customary international rules of navigation Paragraph 4 of Article 4 of the Convention shall apply also to the subject matter dealt with in those Resolutions.
The Convention was open for signature on 22 March 1974.

IN WITNESS WHEREOF the undersigned representatives have signed this Final Act.

DONE AT HELSINKI, this twenty-second day of March 1974, in a single copy in the English language, which shall be deposited with the Government of Finland, which will issue certified copies thereof together with the attached Convention on the Protection of the Marine Environment of the Baltic Sea Area and the Resolutions.

For Denmark:
Holger Hansen

For the Federal Republic of Germany:
Hans-Georg Sachs

For Finland:
Jermu Laine

For the Polish People's Republic:
Jerzy Kusiak

For the German Democratic Republic:
Hans Reichelt

For Sweden:
Svante Lundkvist

For the Union of Soviet Socialist Republics:
E.E. Alexeevsky

CONVENTION
ON THE PROTECTION OF THE MARINE ENVIRONMENT OF THE
BALTIC SEA AREA

THE STATES PARTIES TO THIS CONVENTION,

CONSCIOUS of the indispensable economic, social and cultural values of the marine environment of the Baltic Sea Area and its living resources for the peoples of the Contracting Parties;

BEARING in mind the exceptional hydrographic and ecological characteristics of the Baltic Sea Area and the sensitivity of its living resources to changes in the environment;

NOTING the rapid development of human activities at the Baltic Sea Area, the considerable population living within its catchment area and the highly urbanized and industrialized state of the Contracting Parties as well as their intensive agriculture and forestry;

NOTING with deep concern the increasing pollution of the Baltic Sea Area, originating from many sources such as discharges through rivers, estuaries, outfalls and pipelines, dumping and normal operations of vessels as well as through airborne pollutants;

CONSCIOUS of the responsibility of the Contracting Parties to protect and enhance the values of the marine environment of the Baltic Sea Area for the benefit of their peoples;

RECOGNIZING that the protection and enhancement of the marine environment of the Baltic Sea Area are tasks that cannot effectively be accomplished by national efforts only but that also close regional co-operation and other appropriate international measures aiming at fulfilling these tasks are urgently needed;

NOTING that the relevant recent international conventions even after having entered into force for the respective Contracting Parties do not cover all special requirements to protect and enhance the marine environment of the Baltic Sea Area;

NOTING the importance of scientific and technological co-operation in the protection and enhancement of the marine environment of the Baltic Sea Area, particularly between the Contracting Parties;

DESIRING to develop further regional co-operation in the Baltic Sea Area, the possibilities and requirements of which were confirmed by the signing of the Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts, Gdansk 1973;

CONSCIOUS of the importance of regional intergovernmental co-operation in the protection of the marine environment of the Baltic Sea Area as an integral part of the peaceful co-operation and mutual understanding between all European States;

HAVE AGREED as follows:

Article 1

Convention Area

For the purposes of the present Convention "the Baltic Sea Area" shall be 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 57° 44' 8" N. It does not include internal waters of the Contracting Parties.

Article 2

Definitions

For the purposes of the present Convention:

1. "Pollution" means introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, resulting in such deleterious effects as hazard to human health, harm to living resources and marine life, hindrance to legitimate uses of the sea including fishing, impairment of the quality for use of sea water, and reduction of amenities;

2. "Land-based pollution" means pollution of the sea caused by discharges from land reaching the sea waterborne, airborne or directly from the coast, including outfalls from pipelines;

3. 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;

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 the present Convention;

4. "Vessels and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms;

5. "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

6. "Harmful substance" means any hazardous, noxious, or other substance, which, if introduced into the sea, is liable to cause pollution;

7. "Incident" means an event involving the actual or probable discharge into the sea of a harmful substance, or effluents containing such a substance.

Article 3

Fundamental principles and obligations

1. The Contracting Parties shall individually or jointly take all appropriate legislative, administrative or other relevant measures in order to prevent and abate pollution and to protect and enhance the marine environment of the Baltic Sea Area.

2. The Contracting Parties shall use their best endeavours to ensure that the implementation of the present Convention shall not cause an increase in the pollution of sea areas outside the Baltic Sea Area.

Article 4

Application

1. The present Convention shall apply to the protection of the marine environment of the Baltic Sea Area which comprises the water-body and the sea-bed including their living resources and other forms of marine life.

2. Without prejudice to the sovereign rights in regard to their territorial sea, each Contracting Party shall implement the provisions of the present Convention within its territorial sea through its national authorities.

3. While the provisions of the present Convention do not apply to internal waters, which are under the sovereignty of each Contracting Party, the Contracting Parties undertake, without prejudice to their sovereign rights, to ensure that the purposes of the present Convention will be obtained in these waters.

4. The present Convention shall not apply to any warship, naval auxiliary, military aircraft or other ship and aircraft owned or operated by a State and used, for the time being, only on government non-commercial service.

However, each Contracting Party shall ensure, by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships and aircraft owned or operated by it, that such ships and aircraft act in a manner consistent, so far as is reasonable and practicable, with the present Convention.

Article 5

Hazardous substances

The Contracting Parties undertake to counteract the introduction, whether airborne, waterborne or otherwise, into the Baltic Sea Area of hazardous substances as specified in Annex I of the present Convention.

Article 6

Principles and obligations concerning land-based pollution

1. The Contracting Parties shall take all appropriate measures to control and minimize land-based pollution of the marine environment of the Baltic Sea Area.

2. In particular, the Contracting Parties shall take all appropriate measures to control and strictly limit pollution by noxious substances and materials in accordance with Annex II of the present Convention. To this end they shall, inter alia, as appropriate co-operate in the development and adoption of specific programmes, guidelines, standards or regulations concerning discharges, environmental quality, and products containing such substances and materials and their use.

3. The substances and materials listed in Annex II of the present Convention shall not be introduced into the marine environment of the Baltic Sea Area in significant quantities without a prior special permit, which may be periodically reviewed, by the appropriate national authority.

4. The appropriate national authority will inform the Commission referred to in Article 12 of the present Convention of the quantity, quality and way of discharge if it considers that significant quantities of substances and materials listed in Annex II of the present Convention were discharged.

5. The Contracting Parties shall endeavour to establish and adopt common criteria for issuing permits for discharges.

6. To control and minimize pollution of the Baltic Sea Area by harmful substances the Contracting Parties shall, in addition to the provisions of Article 5 of the present Convention, aim at attaining the goals and applying the criteria enumerated in Annex III of the present Convention.

7. If the discharge from a watercourse, flowing through the territories of two or more Contracting Parties or forming a boundary between them, is liable to cause pollution of the marine environment of the Baltic Sea Area, the Contracting Parties concerned shall in common take appropriate measures in order to prevent and abate such pollution.

8. The Contracting Parties shall endeavour to use best practicable means in order to minimize the airborne pollution of the Baltic Sea Area by noxious substances.

Article 7

Prevention of pollution from ships

1. In order to protect the Baltic Sea Area from pollution by deliberate, negligent or accidental release of oil, harmful substances other than oil, and by the discharge of sewage and garbage from ships, the Contracting Parties shall take measures as set out in Annex IV of the present Convention.

2. The Contracting Parties shall develop and apply uniform requirements for the capacity and location of facilities for the reception of residues of oil, harmful substances other than oil, including sewage and garbage, taking into account inter alia the special needs of passenger ships and combination carriers.

Article 8

Pleasure craft

The Contracting Parties shall, in addition to implementing those provisions of the present Convention which can appropriately be applied to pleasure craft, take special measures in order to abate harmful effects on the marine environment of the Baltic Sea Area of pleasure craft activities. The measures shall inter alia deal with adequate reception facilities for wastes from pleasure craft.

Article 9

Prevention of dumping

1. The Contracting Parties shall, subject to Paragraphs 2 and 4 of this Article, prohibit dumping in the Baltic Sea Area.

2. Dumping of dredged spoils shall be subject to a prior special permit by the appropriate national authority in accordance with the provisions of Annex V of the present Convention.

3. Each Contracting Party undertakes to ensure compliance with the provisions of this Article by vessels and aircraft:

- a) registered in its territory or flying its flag;
- b) loading, within its territory or territorial sea, matter which is to be dumped;

or

- c) believed to be engaged in dumping within its territorial sea.

4. The provisions of this Article shall not apply when the safety of human life or of a vessel or aircraft at sea is threatened by the complete destruction or total loss of the vessel or aircraft, or in any case which constitutes a danger to human life, 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.

5. Dumping made under the provisions of Paragraph 4 of this Article shall be reported and dealt with in accordance with Annex VI of the present Convention and

shall also be reported forthwith to the Commission referred to in Article 12 of the present Convention in accordance with the provisions of Regulation 4 of Annex V of the present Convention.

6. In case of dumping suspected to be in contravention of the provisions of this Article the Contracting Parties shall co-operate in investigating the matter in accordance with Regulation 2 of Annex IV of the present Convention.

Article 10

Exploration and exploitation of the sea-bed and its subsoil

Each Contracting Party shall take all appropriate measures in order to prevent pollution of the marine environment of the Baltic Sea Area resulting from exploration or exploitation of its part of the sea-bed and its subsoil or from any associated activities thereon. It shall also ensure that adequate equipment is at hand to start an immediate abatement of pollution in that area.

Article 11

Co-operation in combatting marine pollution

The Contracting Parties shall take measures and co-operate as set out in Annex VI of the present Convention in order to eliminate or minimize pollution of the Baltic Sea Area by oil or other harmful substances.

Article 12

Institutional and organizational framework

1. The Baltic Marine Environment Protection Commission, hereinafter referred to as "the Commission", is hereby established for the purposes of the present Convention.

2. The chairmanship of the Commission shall be given to each Contracting Party in turn in alphabetical order of the names of the States in the English language.

The Chairman shall serve for a period of two years, and cannot during the period of his chairmanship serve as representative of his country.

Should the chairmanship fall vacant, the Contracting Party chairing the Commission shall nominate a successor to remain in office until the term of chairmanship of that Contracting Party expires.

3. Meetings of the Commission shall be held at least once a year upon convocation by the Chairman. Upon the request of a Contracting Party, provided it is endorsed by another Contracting Party, the Chairman shall, as soon as possible, summon an extraordinary meeting at such time and place as the Chairman determines, however, not later than ninety days from the date of the submission of the request.

4. The first meeting of the Commission shall be called by the Depositary Government and shall take place within a period of ninety days from the date following the entry into force of the present Convention.

5. Each Contracting Party shall have one vote in the Commission. Unless otherwise provided under the present Convention, the Commission shall take its decisions unanimously.

Article 13

The duties of the Commission

The duties of the Commission shall be:

- a) To keep the implementation of the present Convention under continuous observation;
- b) To make recommendations on measures relating to the purposes of the present Convention;
- c) To keep under review the contents of the present Convention including its Annexes and to recommend to the Contracting Parties such amendments to the present Convention including its Annexes as may be required including changes in the lists of substances and materials as well as the adoption of new Annexes;
- d) To define pollution control criteria, objectives for the reduction of pollution, and objectives concerning measures, particularly according to Annex III of the present Convention;
- e) To promote in close co-operation with appropriate governmental bodies, taking into consideration Sub-Paragraph f) of this Article, additional measures to protect the marine environment of the Baltic Sea Area and for this purpose:
 - (i) to receive, process, summarize and disseminate from available sources relevant scientific, technological and statistical information; and
 - (ii) to promote scientific and technological research;
- f) To seek, when appropriate, the services of competent regional and other international organizations to collaborate in scientific and technological research as well as other relevant activities pertinent to the objectives of the present Convention;
- g) To assume such other functions as may be appropriate under the terms of the present Convention.

Article 14

Administrative provisions for the Commission

1. The working language of the Commission shall be English.
2. The Commission shall adopt its Rules of Procedure.
3. The office of the Commission, hereafter referred to as the "Secretariat", shall be in Helsinki.
4. The Commission shall appoint an Executive Secretary and make provisions for the appointment of such other personnel as may be necessary, and determine the duties, terms and conditions of the Executive Secretary.
5. The Executive Secretary shall be the chief administrative official of the Commission and shall perform the functions that are necessary for the administration of the present Convention, the work of the Commission and other tasks entrusted to the Executive Secretary by the Commission and its Rules of Procedure.

Article 15

Financial provisions for the Commission

1. The Commission shall adopt its Financial Rules.
2. The Commission shall adopt an annual or biennial budget of proposed expenditures and budget estimates for the fiscal period following thereafter.
3. The total amount of the budget, including any supplementary budget adopted by the Commission, shall be contributed by the Contracting Parties in equal parts, unless the Commission unanimously decides otherwise.
4. Each Contracting Party shall pay the expenses related to the participation in the Commission of its representatives, experts and advisers.

Article 16

Scientific and technological co-operation

1. The Contracting Parties undertake directly, or when appropriate through competent regional or other international organizations, to co-operate in the fields of science, technology and other research, and to exchange data as well as other scientific information for the purposes of the present Convention.

2. Without prejudice to Paragraphs 1, 2 and 3 of Article 4 of the present Convention the Contracting Parties undertake directly, or when appropriate through competent regional or other international organizations, to promote studies, undertake, support or contribute to programmes aimed at developing ways and means for the assessment of the nature and extent of pollution, pathways, exposures, risks and remedies in the Baltic Sea Area, and particularly to develop alternative methods of treatment, disposal and elimination of such matter and substances that are likely to cause pollution of the marine environment of the Baltic Sea Area.

3. The Contracting Parties undertake directly, or when appropriate through competent regional or other international organizations, and, on the basis of the information and data acquired pursuant to Paragraphs 1 and 2 of this Article, to co-operate in developing inter-comparable observation methods, in performing baseline studies and in establishing complementary or joint programmes for monitoring.

4. The organization and scope of work connected with the implementation of tasks referred to in the preceding Paragraphs should primarily be outlined by the Commission.

Article 17

Responsibility for damage

The Contracting Parties undertake, as soon as possible, jointly to develop and accept rules concerning responsibility for damage resulting from acts or omissions in contravention of the present Convention, including, inter alia, limits of responsibility, criteria and procedures for the determination of liability and available remedies.

Article 18

Settlement of disputes

1. In case of a dispute between Contracting Parties as to the interpretation or application of the present Convention, they should seek a solution by negotiation. If the Parties concerned cannot reach agreement they should seek the good offices of or jointly request the mediation by a third Contracting Party, a qualified international organization or a qualified person.

2. If the Parties concerned have not been able to resolve their dispute through negotiation or have been unable to agree on measures as described above, such disputes shall be, upon common agreement, submitted to an ad-hoc arbitration tribunal, to a permanent arbitration tribunal, or to the International Court of Justice.

Article 19

Safeguard of certain freedoms

Nothing in the present Convention shall be construed as infringing upon the freedom of navigation, fishing, marine scientific research and other legitimate uses of the high seas, as well as upon the right of innocent passage through the territorial sea.

Article 20

Status of Annexes

The Annexes attached to the present Convention form an integral part of the Convention.

Article 21

Relation to other Conventions

The provisions of the present Convention shall be without prejudice to the rights and obligations of the Contracting Parties under treaties concluded previously as well as under treaties which may be concluded in the future, furthering and developing the general principles of the Law of the Sea that the present Convention is based upon and in particular provisions concerning the prevention of pollution of the marine environment.

Article 22

Revision of the Convention

A conference for the purpose of a general revision of the present Convention may be convened with the consent of the Contracting Parties or at the request of the Commission.

Article 23

Amendments to the Articles of the Convention

1. Each Contracting Party may propose amendments to the Articles of the present Convention. Any such proposed amendment shall be submitted to the Depositary Government and communicated by it to all Contracting Parties, which shall inform the Depositary Government of either their acceptance or rejection of the amendment as soon as possible after the receipt of the communication.

The amendment shall enter into force ninety days after the Depositary Government has received notifications of acceptance of that amendment from all Contracting Parties.

2. With the consent of the Contracting Parties or at the request of the Commission a conference may be convened for the purpose of amending the present Convention.

Article 24

Amendments to the Annexes and the adoption of Annexes

1. Any amendment to the Annexes proposed by a Contracting Party shall be communicated to the other Contracting Parties by the Depositary Government and considered in the Commission. If adopted by the Commission, the amendment shall be communicated to the Contracting Parties and recommended for acceptance.

2. Such amendment shall be deemed to have been accepted at the end of a period determined by the Commission unless within that period any one of the Contracting Parties has objected to the amendment. The accepted amendment shall enter into force on a date determined by the Commission.

The period determined by the Commission shall be prolonged for an additional period of six months and the date of entry into force of the amendment postponed accordingly, if, in exceptional cases, any Contracting Party before the expiring of the

period determined by the Commission informs the Depositary Government, that, although it intends to accept the proposal, the constitutional requirements for such an acceptance are not yet fulfilled in its State.

3. An Annex to the present Convention may be adopted in accordance with the provisions of this Article.

4. The Depositary Government shall inform all Contracting Parties of any amendments or the adoption of a new Annex which enter into force under this Article and of the date on which such amendment or new Annex enters into force.

5. Any objection under this Article shall be made by notification in writing to the Depositary Government which shall notify all Contracting Parties and the Executive Secretary of any such notification and the date of its receipt.

Article 25

Reservations

1. The provisions of the present Convention shall not be subject to reservations.

2. The provision of Paragraph 1 of this Article does not prevent a Contracting Party from suspending for a period not exceeding one year the application of an Annex of the present Convention or part thereof or an amendment thereto after the Annex in question or the amendment thereto has entered into force.

3. If after the entry into force of the present Convention a Contracting Party invokes the provisions of Paragraph 2 of this Article it shall inform the other Contracting Parties, at the time of the adoption by the Commission of an amendment to an Annex or a new Annex, of those provisions which will be suspended in accordance with Paragraph 2 of this Article.

Article 26

Signature, ratification, approval, and accession

1. The present Convention shall be open for signature in Helsinki on 22 March 1974 by the Baltic Sea States participating in the Diplomatic Conference on the Protection of the Marine Environment of the Baltic Sea Area, held in Helsinki from 18 to 22 March 1974. The present Convention shall be open for accession to any other State interested in fulfilling the aims and purposes of the present Convention, provided that this State is invited by all the Contracting Parties.

2. The present Convention shall be subject to ratification or approval by the States which have signed it.

3. The instruments of ratification, approval, or accession shall be deposited with the Government of Finland, which will perform the duties of the Depositary Government.

Article 27

Entry into force

The present Convention shall enter into force two months after the deposit of the seventh instrument of ratification or approval.

Article 28

Withdrawal

1. At any time after the expiry of five years from the date of entry into force of the present Convention any Contracting Party may, by giving written notification to the Depositary Government, withdraw from the present Convention. The withdrawal

shall take effect for such Contracting Party on the thirty-first day of December of the year which follows the year in which the Depositary Government was notified of the withdrawal.

2. In case of notification of withdrawal by a Contracting Party the Depositary Government shall convene a meeting of the Contracting Parties for the purpose of considering the effect of the withdrawal.

Article 29

Language

The present Convention has been drawn up in a single copy in the English language. Official translations into the Danish, Finnish, German, Polish, Russian, and Swedish languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto, have signed the present Convention.

DONE AT HELSINKI, this twenty-second day of March one thousand nine hundred and seventy-four.

For Denmark:
Holger Hansen

For the Federal Republic of Germany:
Hans-Georg Sachs

For Finland:
Jermu Laine

For the Polish People's Republic:
Jerzy Kusiak

For the German Democratic Republic:
Hans Reichelt

For Sweden:
Svante Lundkvist

For the Union of Soviet Socialist Republics:
E.E. Alexeevsky

ANNEX I

HAZARDOUS SUBSTANCES

The protection of the Baltic Sea Area from pollution by the substances listed below can involve the use of appropriate technical means, prohibitions and regulations of the transport, trade, handling, application, and final deposition of products containing such substances.

1. DDT (1,1,1-trichloro-2,2-bis-(chlorophenyl)-ethane) and its derivatives DDE and DDD.
2. PCB's (polychlorinated biphenyls).

ANNEX II NOXIOUS SUBSTANCES AND MATERIALS

The following substances and materials are listed for the purposes of Article 6 of the present Convention.

The list is valid for substances and materials introduced as waterborne into the marine environment. The Contracting Parties shall also endeavour to use best practicable means to prevent harmful substances and materials from being introduced as airborne into the Baltic Sea Area.

A For urgent consideration

1. Mercury, cadmium, and their compounds.

B

2. Antimony, arsenic, beryllium, chromium, copper, lead, molybdenum, nickel, selenium, tin, vanadium, zinc, and their compounds, as well as elemental phosphorus.
3. Phenols and their derivatives.
4. Phthalic acid and its derivatives.
5. Cyanides.
6. Persistent halogenated hydrocarbons.
7. Polycyclic aromatic hydrocarbons and their derivatives.
8. Persistent toxic organosilicic compounds.
9. Persistent pesticides, including organophosphoric and organostannic pesticides, herbicides, slimicides and chemicals used for the preservation of wood, timber, wood pulp, cellulose, paper, hides and textiles, not covered by the provisions of Annex I of the present Convention.
10. Radioactive materials.
11. Acids, alkalis and surface active agents in high concentrations or big quantities.
12. Oil and wastes of petrochemical and other industries containing lipid-soluble substances.
13. Substances having adverse effects on the taste and/or smell of products for human consumption from the sea, or effects on taste, smell, colour, transparency or other characteristics of the water seriously reducing its amenity values.
14. Materials and substances which may float, remain in suspension or sink, and which may seriously interfere with any legitimate use of the sea.
15. Lignin substances contained in industrial waste waters.
16. The chelators EDTA (ethylenedinitrilotetraacetic acid or ethylenediaminetetraacetic acid) and DTPA (diethylenetriaminopentaacetic acid).

ANNEX III

GOALS, CRITERIA AND MEASURES CONCERNING THE PREVENTION OF LAND-BASED POLLUTION

In accordance with the provisions of Article 6 of the present Convention the Contracting Parties shall endeavour to attain the goals and apply the criteria and measures enumerated in this Annex in order to control and minimize land-based pollution of the marine environment of the Baltic Sea Area.

1. Municipal sewage shall be treated in an appropriate way so that the amount of organic matter does not cause harmful changes in the oxygen content of the Baltic Sea Area and the amount of nutrients does not cause harmful eutrophication of the Baltic Sea Area.

2. Municipal sewage shall also be treated in an appropriate way to ensure that the hygienic quality, and in particular epidemiological and toxicological safety, of the receiving sea area is maintained at a level which does not cause harm to human health, and in a way that under the given composition of the sewage no significant amount of such harmful substances as are listed in Annexes I and II of the present Convention is formed.

3. The polluting load of industrial wastes shall be minimized in an appropriate way in order to reduce the amount of harmful substances, organic matter and nutrients.

4. The means referred to in Paragraph 3 of this Annex shall in particular include minimization of production of wastes by processing techniques, re-circulation and re-use of processing water, developing of water economy and improvement of qualifications for water treatment. In the treatment of waste water mechanical, chemical, biological and other measures, according to the quality of the waste water, and as required to maintain or improve the quality of the recipient water, shall be applied.

5. The discharge of cooling water from nuclear power plants or other kinds of industries using large amounts of water shall be effected in a way which minimizes the pollution of the marine environment of the Baltic Sea Area.

6. The Commission will define pollution control criteria, objectives for reduction of pollution and objectives concerning measures, including processing techniques and waste treatment, to reduce pollution of the Baltic Sea Area.

PREVENTION OF POLLUTION FROM SHIPS

REGULATION 1

The Contracting Parties shall as appropriate co-operate and assist each other in initiating action by the Inter-Governmental Maritime Consultative Organization to develop:

a) international rules for navigation of deep draught ships in narrow and shallow waters in international waters of the Baltic Sea Area and in the entrances to the Baltic Sea for the prevention of collisions, strandings and groundings;

b) an international radio reporting system for large ships en route within the Baltic Sea Area as well as for ships carrying a significant amount of a harmful substance.

REGULATION 2

The Contracting Parties shall, without prejudice to Paragraph 4 of Article 4 of the present Convention, as appropriate assist each other in investigating violations of the existing legislation on antipollution measures, which have occurred or are suspected to have occurred within the Baltic Sea Area. This assistance may include but is not limited to inspection by the competent authorities of oil record books, cargo record books, log books and engine log books and taking oil samples for analytical identification purposes and in respect of the system of tagging oil residues.

REGULATION 3

DEFINITIONS

For the purposes of this Annex:

1. "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.

2. "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.

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 29 December 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. "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.

5. The term "jurisdiction" shall be interpreted in accordance with international law in force at the time of application or interpretation of this Annex.

REGULATION 4

OIL

The Contracting Parties shall as soon as possible but not later than 1 January 1977 or on the date of entry into force of the present Convention, whichever occurs later, apply the provisions of Paragraphs A to D of this Regulation on methods for the prevention of pollution by oil from ships while operating in the Baltic Sea Area.

A Definitions

For the purposes of this Regulation:

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 Regulation 5 of this Annex) 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 connection 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 Regulation 5 of this Annex 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. "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 shore lines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shore lines. 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.

7. "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 Regulations of this Annex.

B Control of Discharge of Oil

1. a) Subject to the provisions of Paragraph C of this Regulation, any discharge into the sea of oil or oily mixtures from any oil tanker and any ship of 400 tons gross tonnage and above other than an oil tanker shall be prohibited, while in the Baltic Sea Area;

b) such ships while in the Baltic Sea Area shall retain on board all oil drainage and sludge, dirty ballast and tank washing waters and discharge them only to reception facilities.

2. a) Subject to the provisions of Paragraph C of this Regulation, any discharge into the sea of oil or oily mixtures from a ship of less than 400 tons gross tonnage, other than an oil tanker, shall be prohibited while in the Baltic Sea 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 2 a) of this Paragraph shall be retained on board or discharged to reception facilities.

3. The provisions of this Paragraph shall not apply to the discharge of clean or segregated ballast.

4. 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 Contracting Parties 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. 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.

C Exceptions

Paragraph B of this Regulation shall not apply to:

a) the discharge into the sea of oil or oily mixtures 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 mixtures 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 combatting specific pollution incidents in order to minimize the damage from pollution. Any such discharge shall be subject to the approval of any Contracting Party in whose jurisdiction it is contemplated the discharge will occur.

D Special Requirements for Drilling Rigs and other Platforms

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

- a) they shall keep a record of all operations involving oil or oily mixture discharges, in a form approved by the Administration; and
- b) subject to the provisions of Paragraph C of this Regulation, the discharge into the sea of oil or oily mixtures shall be prohibited except when the oil content of the discharge without dilution does not exceed 15 parts per million.

E Reception Facilities of the Baltic Sea Area

The Contracting Parties undertake to ensure that not later than 1 January 1977 all oil loading terminals and repair ports of the Baltic Sea Area are provided with facilities adequate for the reception and treatment of all the dirty ballast and tank washing waters from oil tankers. In addition all ports of the 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.

REGULATION 5

NOXIOUS LIQUID SUBSTANCES IN BULK

The Contracting Parties shall as soon as possible, but not later than 1 January 1977 or at a date not later than one year after the date of the entry into force of the present Convention, whichever occurs later, decide upon a date from which the provisions of Paragraphs A to D of this Regulation on the discharge of noxious liquid substances in bulk from ships while operating in the Baltic Sea Area shall apply.

A Definitions

For the purposes of this Regulation:

1. "Chemical tanker" means a ship constructed or adapted primarily to carry cargo of noxious liquid substances in bulk and includes an "oil tanker" as defined in Regulation 4 of this Annex 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 empty in accordance with the appropriate requirements of this Regulation.

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 Regulations of this Annex, and which is completely separated from the cargo and oil fuel system.

4. "Liquid substances" are those having a vapour pressure not exceeding 2.8 kp/cm² at a temperature of 37.8° C.

5. "Noxious liquid substance" means any substance designated in Appendix III to this Annex or provisionally assessed under the provisions of Sub-Paragraph 4 of Paragraph B of this Regulation as falling into Category A, B, C, or D.

B Categorization and Listing of Noxious Liquid Substances

1. For the purposes of this Regulation 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 II to this Annex.

3. The list of noxious liquid substances carried in bulk and presently categorized which are subject to the provisions of this Regulation is set out in Appendix III to this Annex.

4. Where it is proposed to carry a liquid substance in bulk which has not been categorized under Sub-Paragraph 1 of this Paragraph or evaluated as referred to in Sub-Paragraph 1 of Paragraph C of this Regulation the Contracting Parties 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 Sub-Paragraph 2 of this Paragraph. Until full agreement between the Governments involved has been reached, the substance shall be carried under the most severe conditions proposed.

C Other Liquid Substances

1. The substances listed in Appendix IV to this Annex have been evaluated and found to fall outside the Categories A, B, C, and D, as defined in Sub-Paragraph 1 of Paragraph B of this Regulation 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 IV to this Annex shall not be subject to any requirement of this Regulation.

3. The discharge into the sea of clean ballast or segregated ballast shall not be subject to any requirement of this Regulation.

D Discharge of Noxious Liquid Substances

Subject to the provisions of Paragraph E of this Regulation:

1. The discharge into the sea of substances in Category A as defined in Sub-Paragraph 1 a) of Paragraph B of this Regulation, 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 Contracting Parties shall provide in accordance with Paragraph H of this Regulation, 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 III 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 per cent 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 Sub-Paragraph 1 b) of Paragraph B of this Regulation 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 per cent 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 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.

3. The discharge into the sea of substances in Category C as defined in Sub-Paragraph 1 c) of Paragraph B of this Regulation 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 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 3 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.

4. The discharge into the sea of substances in Category D as defined in Sub-Paragraph 1 d) of Paragraph B of this Regulation, 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. If subsequent washing of the tank is necessary, the discharge into the sea of the resulting tank washings shall be made in accordance with Sub-Paragraphs 1, 2, 3, or 4 of this Paragraph, whichever is applicable.

6. The discharge into the sea of substances which have not been categorized, provisionally assessed, or evaluated as referred to in Sub-Paragraph 1 of Paragraph C of this Regulation, or of ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited.

E Exceptions

Paragraph D of this Regulation 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 combatting specific pollution incidents in order to minimize the damage from pollution. Any such discharge shall be subject to the approval of any Contracting Party in whose jurisdiction it is contemplated the discharge will occur.

F Measures of Control

1. The Contracting Parties shall appoint or authorize surveyors for the purpose of implementing this Paragraph.

Category A Substances

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 connection 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 III 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 per cent 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) of Paragraph D of this Regulation. 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) of this Paragraph provided that:

a) a precleaning procedure for that tank and that substance is approved by the Administration and that Party is satisfied that such procedure will fulfil the requirements of Sub-Paragraph 1 of Paragraph D of this Regulation 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 Sub-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 Sub-Paragraph 3 b) of this Paragraph and an appropriate entry is made in the Cargo Record Book.

Category B Substances

5. Subject to such surveillance and approval by the authorized or appointed surveyor as may be deemed necessary by the Contracting Party, the Master of a ship shall, with respect to a Category B 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) until that tank is cleaned every subsequent pumping or transfer operation carried out in connection 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 per cent 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 Sub-Paragraph 2 c) of Paragraph D of this Regulation 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 Sub-Paragraph 2 of Paragraph D of this Regulation and an appropriate entry is made in the Cargo Record Book;
- e) if after unloading a Category B substance, any residues of tank washings are to be retained on board until the ship is outside the Baltic Sea Area, the Master shall so indicate by an appropriate entry in the Cargo Record Book.

Category C Substances

6. Subject to such surveillance and approval by the authorized or appointed surveyor as may be deemed necessary by the Contracting Party, the Master of a ship shall, with respect to a Category C 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) 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 Sub-Paragraph 3 c) of Paragraph D of this Regulation. 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 Sub-Paragraph 3 of Paragraph D of this Regulation;
- 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 the Baltic Sea Area, any residues or tank washings are to be retained on board until the ship is outside the area, the Master shall so indicate by an appropriate entry in the Cargo Record Book.

Category D Substances

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;
 - (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 Sub-Paragraph 4 of Paragraph D of this Regulation;
- 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 or a Category B substance, shall be discharged to a reception facility in accordance with the provisions of Sub-Paragraph 1 or 2 of Paragraph D of this Regulation, 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 Category C substance in excess of the aggregate of the maximum quantities specified in Sub-Paragraph 3 c) of Paragraph D of this Regulation shall be discharged to a reception facility. An appropriate entry shall be made in the Cargo Record Book.

G Cargo Record Book

1. Every ship to which this Regulation 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 V 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 takes 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 Paragraph D of this Regulation.

3. In the event of any discharge of the kind referred to in Annex VI of the present Convention and Paragraph E of this Regulation 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 a Contracting Party to supervise any operations under this Regulation has inspected a ship, then that surveyor shall make an appropriate entry in the Cargo Record Book.

5. Each operation referred to in Sub-Paragraphs 2 and 3 of this Paragraph 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, except when the ship is engaged in domestic voyages, 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 a Contracting Party may inspect the Cargo Record Book on board any ship to which this Regulation 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.

II Reception Facilities

1. The Contracting Parties undertake to ensure the provision of reception facilities according to the needs of ships using their ports, terminals or repair ports of the Baltic Sea Area 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 Regulation; 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. Each Contracting Party shall determine the types of facilities provided for the purpose of Sub-Paragraph 1 of this Paragraph at its cargo loading and unloading ports, terminals and ship repair ports of the Baltic Sea Area.

REGULATION 6

HARMFUL SUBSTANCES IN PACKAGED FORMS

A. The Contracting Parties shall as soon as possible apply suitable uniform rules for the carriage of harmful substances in packaged forms or in freight containers, portable tanks or road and rail tank wagons.

B. With respect to certain harmful substances, as may be designated by the Commission, 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.

C. A report of an incident involving harmful substances shall be made in accordance with the provisions of Annex VI of the present Convention.

REGULATION 7

SEWAGE

The Contracting Parties shall apply the provisions of Paragraphs A to D of this Regulation on discharge of sewage from ships while operating in the Baltic Sea Area.

A Definitions

For the purposes of this Regulation:

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 the present Convention; or

b) the delivery of which is three years or more after the date of entry into force of the present Convention.

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.

B Application

1. The provisions of this Regulation shall apply to:

a) new ships certified to carry more than 100 persons from a date not later than 1 January 1977;

b) existing ships certified to carry more than 400 persons from a date not later than 1 January 1978; and

c) other ships, as specified in Sub-Paragraphs (i), (ii), and (iii), from dates decided by the Contracting Parties on recommendation by the Commission:

(i) ships of 200 tons gross tonnage and above;

(ii) ships of less than 200 tons gross tonnage which are certified to carry more than 10 persons;

(iii) ships which do not have a measured gross tonnage and are certified to carry more than 10 persons.

In the case of new such ships the date shall be not later than 1 January 1979. In the case of existing such ships the date shall be not later than ten years after the date decided for new ships.

2. A Contracting Party may, if it is satisfied that the application of the provisions of Sub-Paragraph 1 b) of this Paragraph with respect to a certain ship would necessitate constructional alterations which would be unreasonable, exempt the ship from the application until a date not later than ten years after the date of entry into force of the present Convention.

C Discharge of Sewage

1. Subject to the provisions of Paragraph D of this Regulation, the discharge of sewage into the sea is prohibited, except when:

- a) the ship is discharging comminuted and disinfected sewage using a system approved by the Administration at a distance of more than 4 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; or
- b) the ship has in operation a sewage treatment plant which has been approved by the Administration, and
- (i) the test results of the plant are laid down in a document carried by the ship;
 - (ii) additionally, the effluent shall not produce visible floating solids in, nor cause discolouration of the surrounding water; or
- c) the ship is situated in the waters under the jurisdiction of a State and is discharging 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.

D Exceptions

Paragraph C of this Regulation shall not apply to:

- 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.

E Reception Facilities

1. Each Contracting Party undertakes to ensure the provision of facilities at its ports and terminals of the Baltic Sea Area for the reception of sewage, without causing undue delay to ships, adequate to meet the needs of the ships using them.

2. 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

Description	Dimension
Outside diameter	210 mm
Inner diameter	According to pipe outside diameter
Bolt circle diameter	170 mm
Slots in flange	4 holes 18 mm in 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.

REGULATION 8

GARBAGE

The Contracting Parties shall as soon as possible but not later than 1 January 1976 or on the date of entry into force of the present Convention, whichever occurs later, apply the provisions of Paragraphs A to D of this Regulation on the disposal of garbage from ships while operating in the Baltic Sea Area.

A Definition

For the purposes of this Regulation:

"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 Regulations of this Annex.

B Disposal of Garbage

1. Subject to the provisions of Paragraphs C and D of this Regulation:

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.

2. When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

C Special Requirements for Fixed and Floating Platforms

1. Subject to the provisions of Sub-Paragraph 2 of this Paragraph, the disposal of any materials regulated by this Regulation is prohibited from fixed or floating platforms engaged in the exploration, exploitation and associated offshore processing of sea-bed mineral resources, and 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 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.

D Exceptions

Paragraphs B and C of this Regulation shall not apply to:

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 nets or synthetic material incidental to the repair of such nets, provided that all reasonable precautions have been taken to prevent such loss.

E Reception Facilities

Each Contracting Party undertakes to ensure the provision of facilities at its ports and terminals of the Baltic Sea Area for the reception of garbage, without causing undue delay to ships, and according to the needs of the ships using them.

ANNEX IV 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

Gasolene Blending Stocks

Alkylates — fuel
Reformates
Polymer — fuel

Gasolenes

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

Naphtba

Solvent
Petroleum
Heartcut Distillate Oil

* The list of oils shall not necessarily be considered as comprehensive.

ANNEX IV
APPENDIX IIGUIDELINES 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 Paragraph C of Regulation 5)

Substances other than those categorized in Categories A, B, C, and D above.

ANNEX IV
APPENDIX III

APPENDIX III

LIST OF NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK

Substance	UN Number	Pollution Category for operational discharge		Residual concentration (per cent by weight)	
		(Para-graph B of Regulation 5)		(Para-graph D(1) of Regulation 5)	
		I	II	III	IV <i>Within the Baltic Sea Area</i>
Acetaldehyde	1089	C			
Acetic acid	1842	C			
Acetic anhydride	1715	C			
Acetone	1090	D			
Acetone cyanohydrin	1541	A			0.05
Acetyl chloride	1717	C			
Acrolein	1092	A			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-ethyl- enediamine) *	—	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			

* 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.

Substance	I	II	III	IV
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		0.005
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 (10--25 %)	—	D		
Creosote	1334	A		0.05
Cresols	2076	A		0.05
Cresylic acid	2022	A		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		0.05
Dichloroethyl ether	1916	B		
Dichloropropene — 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 monoethyl ether	—	C		
Diethylketone (3-Pentanone)	1156	D		
Diisobutylene *	2050	D		
Diisobutyl ketone	1157	D		
Diisopropanolamine	—	C		
Diisopropylamine	1158	C		
Diisopropyl ether *	1159	D		

* 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.

Substance	I	II	III	IV
Dimethylamine (40 % aqueous)	1160	C		
Dimethylethanolamine (2-Dimethylaminoethanol) *	2051	C		
Dimethylformamide *	—	D		
1, 4-Dioxane *	1165	C		
Diphenyl/Diphenyloxide mixtures *	—	D		
Dodecylbenzene	—	C		
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 cellosolve)	1171	D		
2-Ethylhexyl acrylate *	—	D		
2-Ethylhexyl alcohol	—	C		
Ethyl lactate *	1192	D		
2-Ethyl 3-propylacrolein *	—	B		
Formaldehyde (37—50 % 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		
Mesityl oxide *	1229	C		
Methyl acetate	1231	D		
Methyl acrylate	1919	C		
Methylamyl alcohol	—	D		

* 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.

Substance	I	II	III	IV
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		0.05
Naphthenic acids *	—	A		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—25 %)	—	D		
Pentachloroethane	1669	B		
n-Pentane	1265	C		
Perchloroethylene (Tetrachloroethylene)	1897	B		
Phenol	1671	B		
Phosphoric acid	1805	D		
Phosphorus (elemental)	1338	A		0.005
Phthalic Anhydride (molten)	—	C		
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		0.05
Styrene monomer	2055	C		
Sulphuric acid	1830/1831/ 1832	C		
Tallow	—	D		
Tetraethyllead	1649	A		0.05
Tetrahydrofuran	2056	D		
Tetrahydronaphthalene	1540	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.

Substance	I	II	III	IV
Tetramethylbenzene	—	D		
Tetramethyllead	1649	A		0.05
Titanium tetrachloride	—	D		
Toluene	1294	C		
Toluene diisocyanate *	2078	B		
Trichloroethane	—	C		
Trichloroethylene	1710	B		
Triethanolamine	—	D		
Triethylamine	1296	C		
Trimethylbenzene *	—	C		
Trityl 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.

ANNEX IV APPENDIX IV

LIST OF OTHER LIQUID SUBSTANCES CARRIED IN BULK

Acetonitrile (Methyl cyanide)	n-Hexane
tert-Amyl alcohol	Ligroin
n-Butyl alcohol	Methyl alcohol
Butyrolactone	Methylamyl acetate
Calcium chloride (solution)	Methyl ethyl ketone (2-butanone)
Castor oil	Milk
Citric juices	Molasses
Coconut oil	Olive Oil
Cod liver oil	Polypropylene glycol
iso-Decyl alcohol	iso-Propyl acetate
n-Decyl alcohol	iso-Propyl alcohol
Decyl octyl alcohol	Propylene glycol
Dibutyl ether	Propylene oxide
Diethanolamine	Propylene tetramer
Diethylene glycol	Propylene trimer
Dipentene	Sorbitol
Dipropylene glycol	Sulphur (liquid)
Ethyl alcohol	Tridecanol
Ethylene glycol	Triethylene glycol
Fatty alcohols (C ₁₂ —C ₂₀)	Triethylenetetramine
Glycerine	Tripropylene glycol
n-Heptane	Water
Heptene (mixed isomers)	Wine

ANNEX IV
APPENDIX V

CARGO RECORD BOOK FOR SHIPS CARRYING NOXIOUS LIQUID
SUBSTANCES IN BULK

Name of ship

Cargo carrying capacity of each tank in cubic metres

Voyage fromto

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 the 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 the 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 the sea
32. Date and position of ship at finish of discharge into the sea
33. Ship's speed(s) during discharge
34. Quantity discharged into the sea
35. Quantity of polluted water transferred to slop tank(s) (identify slop tank(s))
36. Date and port of discharge to 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

ANNEX V

EXCEPTIONS FROM THE GENERAL PROHIBITION OF DUMPING OF
WASTE AND OTHER MATTER IN THE BALTIC SEA AREA*Regulation 1*

In accordance with Paragraph 2 of Article 9 of the present Convention the prohibition of dumping shall not apply to the disposal at sea of dredged spoils provided that:

1. they do not contain significant quantities and concentrations of substances to be defined by the Commission and listed in Annexes I and II of the present Convention; and
2. the dumping is carried out under a prior special permit given by the appropriate national authority, either
 - a) within the area of the territorial sea of the Contracting Party; or
 - b) outside the area of the territorial sea, whenever necessary, after prior consultations in the Commission.

When issuing such permits the Contracting Party shall comply with the provisions in Regulation 3 of this Annex.

Regulation 2

1. The appropriate national authority referred to in Paragraph 2 of Article 9 of the present Convention shall:

- a) issue special permits provided for in Regulation 1 of this Annex;
- b) keep records of the nature and quantities of matter permitted to be dumped and the location, time and method of dumping;
- c) collect available information concerning the nature and quantities of matter that has been dumped in the Baltic Sea Area recently and up to the coming into force of the present Convention, provided that the dumped matter in question could be liable to contaminate water or organisms in the Baltic Sea Area, to be caught by fishing equipment, or otherwise to give rise to harm, and the location, time and method of such dumping.

2. The appropriate national authority shall issue special permits in accordance with Regulation 1 of this Annex in respect of matter intended for dumping in the Baltic Sea Area:

- 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 the present Convention.

3. When issuing permits under Sub-Paragraph 1 a) above, the appropriate national authority shall comply with Regulation 3 of this Annex, together with such additional criteria, measures and requirements as they may consider relevant.

4. Each Contracting Party shall report to the Commission, and where appropriate to other Contracting Parties, the information specified in Sub-Paragraph 1 c) of Regulation 2 of this Annex. The procedure to be followed and the nature of such reports shall be determined by the Commission.

Regulation 3

When issuing special permits according to Regulation 1 of this Annex the appropriate national authority shall take into account:

- 1. Quantity of dredged spoils to be dumped.
- 2. The content of the matter referred to in Annexes I and II of the present Convention.
- 3. Location (e.g. co-ordinates of the dumping area, depth and distance from coast) and its relation to areas of special interest (e.g. amenity areas, spawning, nursery and fishing areas, etc.).
- 4. Water characteristics, if dumping is carried out outside the territorial sea, consisting of:
 - a) hydrographic properties (e.g. temperature, salinity, density, profile);
 - b) chemical properties (e.g. pH, dissolved oxygen, nutrients);
 - c) biological properties (e.g. primary production and benthic animals).

The data should include sufficient information on the annual mean levels and the seasonal variation of the properties mentioned in this Paragraph.

5. The existence and effects of other dumping which may have been carried out in the dumping area.

Regulation 4

Reports made in accordance with Paragraph 5 of Article 9 of the present Convention shall include the following information:

1. Location of dumping, characteristics of dumped material, and counter measures taken:

- a) location (e.g. co-ordinates of the accidental dumping site, depth and distance from the coast);
- b) method of deposit;
- c) quantity and composition of dumped matter as well as its physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients), and biological properties (e.g. presence of viruses, bacteria, yeasts, parasites);
- d) toxicity;
- e) content of the substances referred to in Annexes I and II of the present Convention;
- f) dispersal characteristics (e.g. effects of currents and wind, and horizontal transport and vertical mixing);
- g) water characteristics (e.g. temperature, pH, redox conditions, salinity and stratification);
- h) bottom characteristics (e.g. topography, geological characteristics and redox conditions);
- i) counter measures taken and follow-up operations carried out or planned.

2. General considerations and conditions:

- a) possible effects on amenities (e.g. floating or stranded material, turbidity, objectionable odour, discolouration and foaming);
- b) possible effect on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and cultures; and
- c) 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 from floating materials, interference with fishing or navigation and protection of areas of special importance for scientific or conservation purposes).

ANNEX VI

CO-OPERATION IN COMBATTING MARINE POLLUTION

Regulation 1

For the purposes of this Annex:

1. "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.

2. "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.

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 29 December 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.

Regulation 2

The Contracting Parties undertake to maintain ability to combat spillages of oil and other harmful substances on the sea. This ability shall include adequate equipment, ships and manpower prepared for operations in coastal waters as well as on the high sea.

Regulation 3

The Contracting Parties shall, without prejudice to Paragraph 4 of Article 4 of the present Convention, develop and apply, individually or in co-operation, surveillance activities covering the Baltic Sea Area, in order to spot and monitor oil and other harmful substances released into the sea.

Regulation 4

In the case of loss overboard of harmful substances in packages, freight containers, portable tanks, or road and rail tank wagons, the Contracting Parties shall co-operate in the salvage and recovery of such packages, containers or tanks so as to minimize the danger to the environment.

Regulation 5

1. The Contracting Parties shall develop and apply a system for receiving, channeling and dispatching reports on significant spillages of oil or other harmful substances observed at sea, as well as any incident causing or likely to cause any kind of significant pollution.

2. The Contracting Parties shall request masters of ships and pilots of aircraft to report without delay in accordance with this system on significant spillages of oil or other harmful substances observed at sea. Such reports should as far as possible contain the following data: time, position, wind and sea conditions, and kind, extent and probable source of the spill observed.

3. The master of a ship involved in an incident referred to in Paragraph 1 of this Regulation, or other person having charge of the ship, shall without delay and to the fullest extent possible report in accordance with this system and with the provisions of the Appendix to the present Annex.

4. Each Contracting Party undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services, to report to its authorities any observation or incident referred to in Paragraph 1 of this Regulation. Such reports shall as far as possible contain the data referred to in Paragraphs 2 or 3 of this Regulation respectively, as well as possible indications on the spreading or drifting tendencies of the spill in question.

5. Whenever a Contracting Party is aware of a casualty or the presence of spillages of oil or other harmful substances in the Baltic Sea Area likely to constitute a serious threat to the marine environment of the Baltic Sea Area or the coast or

related interests of any other Contracting Party, it shall without delay transmit all relevant information thereon to the Contracting Party which may be affected by the pollutant and, as regards ship casualty incidents, to the Administration of the ship involved.

Regulation 6

Each Contracting Party shall request masters of ships flying its flag to provide, in case of an incident, on request by the proper authorities, such detailed information about the ship and its cargo which is relevant to actions for preventing or combatting pollution of the sea, and to co-operate with these authorities.

Regulation 7

1. a) The Contracting Parties shall as soon as possible agree bilaterally or multilaterally on those regions of the Baltic Sea Area in which they will take action for combatting or salvage activities whenever a significant spillage of oil or other harmful substances or any incidents causing or likely to cause pollution within the Baltic Sea Area have occurred or are likely to occur. Such agreements shall not prejudice any other agreements concluded between Contracting Parties concerning the same subject. The neighbouring States shall ensure the harmonization of the different agreements. The Contracting Parties shall inform each other about such agreements.

The Contracting Parties may ask the Commission for assistance to reach agreement, if needed.

b) The Contracting Party within whose region a situation as described in Regulation 1 of this Annex occurs shall make the necessary assessments of the situation and take adequate action in order to avoid or minimize subsequent pollution effects and shall keep drifting parts of the spillage under observation until no further action is called for.

2. In the case that such a spillage is drifting or is likely to drift into a region, where another Contracting Party should take action for purposes as defined in Sub-Paragraph 1 a) of this Regulation, that Party shall without delay be informed of the situation and the actions that have been taken.

Regulation 8

A Contracting Party requiring assistance for combatting spillages of oil or other harmful substances at sea is entitled to call for assistance by other Contracting Parties, starting with those who seem likely also to be affected by the spillage. Contracting Parties called upon for assistance in accordance with this Regulation shall use their best endeavours to bring such assistance.

Regulation 9

1. The Contracting Parties shall provide information to the other Contracting Parties and the Commission about

- a) their national organization for dealing with spillages at sea of oil and other harmful substances;
- b) national regulations and other matters which have a direct bearing on combatting pollution at sea by oil and other harmful substances;
- c) the competent authority responsible for receiving and dispatching reports of pollution at sea by oil and other harmful substances;
- d) the competent authorities for dealing with questions concerning measures of mutual assistance, information and co-operation between the Contracting Parties according to this Annex;

e) actions taken in accordance with Regulation 8 of this Annex.

2. The Contracting Parties shall exchange information of research and development programs and results concerning ways in which pollution by oil and other harmful substances at sea may be dealt with and experiences in combatting such pollution.

Regulation 10

The authorities referred to in Sub-Paragraph 1 d) of Regulation 9 of this Annex shall establish direct contact and co-operate in operational matters.

ANNEX VI
APPENDIX

PROVISIONS CONCERNING REPORTS ON INCIDENTS INVOLVING
HARMFUL SUBSTANCES

Regulation 1

Duty to Report

1. The Master of a ship involved in an incident referred to in Regulation 3 of this Appendix, or other person having charge of the ship, shall report the particulars of such incident without delay and to the fullest extent possible in accordance with the provisions of this Appendix.

2. In the event of the ship referred to in Paragraph 1 of this Regulation being abandoned, or in the event of a report from such ship being incomplete or unobtainable, the owner, charterer, manager or operator of the ship, or their agents shall, to the fullest extent possible assume the obligations placed upon the Master under the provisions of this Appendix.

Regulation 2

Methods of Reporting

1. Each report shall be made by radio whenever possible, but in any case by the fastest channels available at the time the report is made. Reports made by radio shall be given the highest possible priority.

2. Reports shall be directed to the appropriate officer or agency referred to in Sub-Paragraph 1 c) of Regulation 9 of Annex VI of the present Convention.

Regulation 3

When to Make Reports

The report shall be made whenever an incident involves:

- a) a discharge other than as permitted under the present Convention; or
- b) a discharge permitted under the present Convention by virtue of the fact that:
 - (i) it is for the purpose of securing the safety of a ship or saving life at sea; or
 - (ii) it results from damage to the ship or its equipment; or
- c) a discharge of a harmful substance for the purpose of combatting a specific pollution incident or for purposes of legitimate scientific research into pollution abatement or control; or
- d) the probability of a discharge referred to in Sub-Paragraph a), b), or c) of this Regulation.

Regulation 4

Contents of Report

1. Each report shall contain in general:
 - a) the identity of ship;
 - b) the time and date of the occurrence of the incident;
 - c) the geographic position of the ship when the incident occurred;
 - d) the wind and sea conditions prevailing at the time of the incident; and
 - e) relevant details respecting the condition of the ship.
2. Each report shall contain, in particular:
 - a) a clear indication or description of the harmful substances involved, including, if possible, the correct technical names of such substances (trade names should not be used in place of the correct technical names);
 - b) a statement or estimate of the quantities, concentrations and likely conditions of harmful substances discharged or likely to be discharged into the sea;
 - c) where relevant, a description of the packaging and identifying marks; and
 - d) if possible the name of the consignor, consignee or manufacturer.
3. Each report shall clearly indicate whether the harmful substance discharged, or likely to be discharged is oil, a noxious liquid substance, a noxious solid substance, or a noxious gaseous substance and whether such substance was or is carried in bulk or contained in packaged form, freight containers, portable tanks, or road and rail tank wagons.
4. Each report shall be supplemented as necessary by any other relevant information requested by a recipient of the report or which the person sending the report deems appropriate.

Regulation 5

Supplementary Report

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

- a) supplement the initial report, as necessary, with information concerning further developments; and
- b) comply as fully as possible with requests from affected States for additional information concerning the incident.

**Agreement Effected by Exchange of Notes Concerning
Contingency Plans for Spills of Oil and Other
Noxious Substances (United States-Canada),
June 19, 1974***

* 25 U.S.T. 1280; T.I.A.S. 7861; U.N. Regist. No. 13585.

CANADA

Pollution: Contingency Plans for Spills of Oil and Other Noxious Substances

*Agreement effected by exchange of notes
Signed at Ottawa June 19, 1974;
Entered into force June 19, 1974.*

*The Canadian Secretary of State for External Affairs to the American
Ambassador*

DEPARTMENT OF EXTERNAL
AFFAIRS

MINISTÈRE DES AFFAIRES
EXTÉRIEURES

CANADA

No. FLA-382

OTTAWA, June 19, 1974

EXCELLENCY,

I have the honour to refer to the discussions between representatives of our Governments in Washington, D.C. and in Ottawa concerning the establishment of joint pollution contingency plans for waters of mutual interest, leading to the development of a joint Canada-United States Marine Contingency Plan for spills of oil and other noxious substances.

I have the honour to propose that the joint Canada-United States Marine Contingency Plan for spills of oil and other noxious substances, shall be promulgated by the Canadian Ministry of Transport and the United States Coast Guard and shall be maintained in force, as amended from time to time, to coordinate responses to significant pollution threats to the waters covered by the provisions of the Plan.

It would be the responsibility of the Canadian Ministry of Transport and the United States Coast Guard to administer and maintain the Plan as promulgated, or as amended from time to time.

Maintenance of the Plan and actions thereunder would be without prejudice to the positions of the Governments of the United States and of Canada, with respect to coastal state jurisdiction over pollution, and without prejudice to any other positions of the two Governments regarding the extent of territorial or maritime jurisdiction.

If the foregoing proposals are acceptable to the Government of the United States, I have the honour to propose that this Note, which is

equally authentic in English and French, and Your Excellency's reply shall constitute an Agreement between Canada and the United States which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

MITCHELL SHARP
*Secretary of State
for External Affairs*

His Excellency
The Honourable WILLIAM J. PORTER,
*Ambassador of the United States of America,
Ottawa.*

*The American Ambassador to the Canadian Secretary of State for External
Affairs*

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 106

OTTAWA, *June 19, 1974*

SIR:

I have the honor to acknowledge receipt of your note No. FLA-362 of June 19, 1974 which reads as follows:

"EXCELLENCY,

I have the honour to refer to the discussions between representatives of our Governments in Washington, D.C. and in Ottawa concerning the establishment of joint pollution contingency plans for waters of mutual interest, leading to the development of a joint Canada-United States Marine Contingency Plan for spills of oil and other noxious substances.

I have the honour to propose that the joint Canada-United States Marine Contingency Plan for spills of oil and other noxious substances, shall be promulgated by the Canadian Ministry of Transport and the United States Coast Guard and shall be maintained in force, as amended from time to time, to coordinate responses to significant pollution threats to the waters covered by the provisions of the Plan.

It would be the responsibility of the Canadian Ministry of Transport and the United States Coast Guard to administer and maintain the Plan as promulgated, or as amended from time to time.

Maintenance of the Plan and actions thereunder would be without prejudice to the positions of the Government of the United States and of Canada, with respect to coastal state jurisdiction over pollution, and without prejudice to any other positions of the two Governments regarding the extent of territorial or maritime jurisdiction.

If the foregoing proposals are acceptable to the Government of the United States, I have the honour to propose that this Note, which is equally authentic in English and French, and Your Excellency's reply shall constitute an Agreement between Canada and the United States which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration."

I have the honor to inform you that the foregoing proposals are acceptable to the Government of the United States of America and to confirm that your Note, which is equally authentic in English and French, and this reply shall constitute an Agreement between our two Governments which shall enter into force on the date of this reply.

Accept, Sir, the renewed assurances of my highest consideration.

WILLIAM J. PORTER

The Honourable
MITCHELL SHARP, P.C.,
*Secretary of State
for External Affairs,
Ottawa.*

**Convention for the Protection of the Mediterranean
Sea Against Pollution, February 16, 1976***

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/19 at 459 (1980); 15 I.L.M. 290 (1976).

CONVENTION FOR THE PROTECTION OF THE MEDITERRANEAN SEA
AGAINST POLLUTION

THE CONTRACTING PARTIES,

Conscious of the economic, social, health and cultural value of the marine environment of the Mediterranean Sea Area,

Fully aware of their responsibility to preserve this common heritage for the benefit and enjoyment of present and future generations,

Recognizing the threat posed by pollution to the marine environment, its ecological equilibrium, resources and legitimate uses,

Mindful of the special hydrographic and ecological characteristics of the Mediterranean Sea Area and its particular vulnerability to pollution,

Noting that existing international conventions on the subject do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and do not entirely meet the special requirements of the Mediterranean Sea Area,

Realizing fully the need for close co-operation among the States and international organizations concerned in a co-ordinated and comprehensive regional approach for the protection and enhancement of the marine environment in the Mediterranean Sea Area,

HAVE AGREED AS FOLLOWS:

Article 1

Geographical coverage

1. For the purposes of this Convention, the Mediterranean Sea Area shall mean the maritime waters of the -

Mediterranean Sea proper, including its gulfs and seas bounded to the west by the meridian passing through - - - Cape Spartel lighthouse, at the entrance of the - - - Straits of Gibraltar, and to the East by the southern-limits of the Straits of the Dardanelles between - - - Mehmetcik and Kumkale lighthouses.

2. Except as may be otherwise provided in any protocol to this Convention the Mediterranean Sea Area - - shall not include internal waters of the Contracting - Parties.

Article 2

Definitions

For the purposes of this Convention:

a) "pollution" means the introduction by man, directly or indirectly, of substances or energy into - the marine environment resulting in such deleterious-effects as harm to living resources, hazards to human health, hindrance to marine activities including fish-ing, impairment of quality for use of sea water and - reduction of amenities.

b) "organization " means the body designated as - responsible for carrying out secretariat functions - pursuant to article_13 of this Convention.

Article 3

General provisions

1. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or - sub-regional agreements, for the protection of the - marine environment of the Mediterranean Sea against-pollution, provided that such agreements are con- -

sistent with this Convention and conform to international law. Copies of such agreements between Contracting Parties to this Convention shall be communicated to the Organization.

2. 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.

Article 4

General undertakings

1. The Contracting Parties shall individually or jointly take all appropriate measures in accordance with the provisions of this Convention and those protocols in force to which they are party, to prevent, abate and combat pollution of the Mediterranean Sea Area and to protect and enhance the marine environment in that Area.

2. The Contracting Parties shall co-operate in the formulation and adoption of protocols, in addition to the protocols opened for signature at the same time as this Convention, prescribing agreed measures, procedures and standards for the implementation of this Convention.

3. The Contracting Parties further pledge themselves to promote, within the international bodies considered to be competent by the Contracting Parties, measures concerning the protection of the marine environment in the Mediterranean Sea Area from all types and sources of pollution.

Article 5

Pollution caused by dumping from ships and aircraft

The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area caused by dumping from ships and aircraft.

Article 6

Pollution from ships

The Contracting Parties shall take all measures in conformity with international law to prevent, abate and combat pollution of the Mediterranean Sea Area caused by discharges from ships and to ensure the effective implementation in that Area of the rules which are generally recognized at the international level relating to the control of this type of pollution.

Article 7

Pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil

The Contracting Parties shall take all appropriate measures to prevent, abate and combat pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil.

Article 8

Pollution from land-based sources

The Contracting Parties shall take all appropriate measures to prevent, abate and combat pol-

lution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or out falls, or emanating from any other land-based sources within their territories.

Article 9

Co-operation in dealing with pollution emergencies

1. The Contracting Parties shall co-operate in -- taking the necessary measures for dealing with pol- - lution emergencies in the Mediterranean Sea Area, - whatever the causes of such emergencies, and re- - ducing or eliminating damage resulting therefrom.

2. Any Contracting Party which becomes aware of - any pollution emergency in the Mediterranean Sea -- Area shall without delay notify, the Organization - and, either through the Organization or directly, - any Contracting Party likely to be affected by such emergency.

Article 10

Monitoring

1. The Contracting Parties shall endeavour to es- - tablish, in close co-operation with the interna- - tional bodies which they consider competent, comple- - mentary or joint programmes including, as appro- - priate, programmes at the bilateral or multilateral levels, for pollution monitoring in the Mediter- - ranean Sea Area and shall endeavour to establish - a pollution monitoring system for that Area.

2. For this purpose, the Contracting Parties shall designate the competent authorities responsible for

pollution monitoring within areas under their national jurisdiction and participate as far as practicable in international arrangements for pollution monitoring in areas beyond national jurisdiction.

3. The Contracting Parties undertake to co-operate in the formulation, adoption and implementation of such annexes to this Convention as may be required to prescribe common procedures and standards for pollution monitoring.

Article 11

Scientific and technological co-operation

1. The Contracting Parties undertake as far as possible to co-operate directly, or when appropriate through competent regional or other international organizations, in the fields of science and technology, and to exchange data as well as other scientific information for the purpose of this Convention.

2. The Contracting Parties undertake as far as possible to develop and co-ordinate their national research programmes relating to all types of marine pollution in the Mediterranean Sea Area and to co-operate in the establishment and implementation of regional and other international research programmes for the purposes of this Convention

3. The Contracting Parties undertake to co-operate in the provision of technical and other possible assistance in fields relating to marine pollution, with priority to be given to the special needs of developing countries in the Mediterranean region.

Article 12

Liability and compensation

The Contracting Parties undertake to cooperate as soon as possible in the formulation and adoption of appropriate procedures for the determination of liability and compensation for damage resulting from the pollution of the marine environment deriving from violations of the provisions of this Convention and applicable protocols.

Article 13

Institutional arrangements

The Contracting Parties designate the United Nations Environment Programme as responsible for carrying out the following secretariat functions:

- (i) To convene and prepare the meetings of Contracting Parties and conferences provided for in articles 14, 15, and 16;
- (ii) To transmit to the Contracting Parties notifications, reports and other information received in accordance with articles 3, 9, and 20 - - - - -
- (iii) To consider inquiries by, and information from, the Contracting Parties, and to consult with them on questions relating to this Convention and the protocols and annexes thereto;
- (iv) To perform the functions assigned to it by the protocols to this Convention;
- (v) To perform such other functions as may be assigned to it by the Contracting Parties;
- (vi) To ensure the necessary co-ordination with other international bodies which the Contracting Parties consider competent, and in particular to enter into such administrative arrangements as may

be required for the effective discharge of the - -
secretariat functions.

Article 14

Meetings of the Contracting Parties

1. The Contracting Parties shall hold ordinary --
meetings once every two years, and extraordinary -
meetings at any other time deemed necessary, upon-
the request of the Organization or at the request-
of any Contracting Party, provided that such re -
quests are supported by at least two Contracting -
Parties.

2. It shall be the function of the meetings of -
the Contracting Parties to keep under review the -
implementation of this Convention and the proto- -
cols and, in particular:

(i) To review generally the inventories car- -
ried out by Contracting Parties and competent - -
international organizations on the state of marine
pollution and its effects in the Mediterranean Sea
Area;

(ii) To consider reports submitted by the Con-
tracting Parties under article 20;

(iii) To adopt, review and amend as required the
annexes to this Convention and to the protocols, -
in accordance with the procedure established in ar
ticle 7;

(iv) To make recommendations regarding the adop-
tion of any additional protocols or any amendmen-
ts to this Convention or the protocols in accordance -
with the provisions of articles 15 and 16;

(v) To establish working groups as required to consider any matters related to this Convention and the protocols and annexes;

(vi) To consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and the protocols.

Article 15

Adoption of additional protocols

1. The Contracting Parties, at a diplomatic conference, may adopt additional protocols to this Convention pursuant to paragraph 2 of article 4.
2. A diplomatic conference for the purpose of adopting additional protocols shall be convened by the Organization at the request of two thirds of the Contracting Parties.
3. Pending the entry into force of this Convention the Organization may, after consulting with the signatories to this Convention, convene a diplomatic conference for the purpose of adopting additional protocols.

Article 16

Amendment of the Convention or Protocols

1. Any Contracting Party to this Convention may propose amendments to the Convention. Amendments shall be adopted by a diplomatic conference which shall be convened by the Organization at the request of two thirds of the Contracting Parties.
2. Any Contracting Party to this Convention may propose amendments to any protocol. Such amendments shall be adopted by a diplomatic conference which --

shall be convened by the Organization at the request of two thirds of the Contracting Parties to the protocol concerned.

3. Amendments to this Convention shall be adopted - by a three-fourths majority vote of the Contracting-Parties to the Convention which are represented at - the diplomatic conference, and shall be submitted - by the Depositary for acceptance by all Contracting-Parties to the Convention. Amendments to any pro- - tocol shall be adopted by a three-fourths majority--vote of the Contracting Parties to such protocol - - which are represented at the diplomatic conference, - and shall be submitted by the Depositary for accep- - tance by all Contracting Parties to such protocol.

4. Acceptance of amendments shall be notified to - the Depositary in writing. Amendments adopted in - accordance with paragraph 3 of this article shall - enter into force between Contracting Parties having-accepted such amendments on the thirtieth day follow the receipt by the Depositary of notification of - - their acceptance by at least three fourths of the - Contracting Parties to this Convention or to the pro- - tocol concerned, as the case may be.

5. After the entry into force of an amendment to - this Convention or to a protocol, any new Contrac- - ting Party to this Convention or such protocol shall become a Contracting Party to the instrument as amen- - ded.

Article 17

Annexes and amendments to Annexes

1. Annexes to this Convention or to any protocol -- shall form an integral part of the Convention or such protocol, as the case may be.

2. Except as may be otherwise provided in any protocol, the following procedure shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to any Protocol, with the exception of amendments to the Annex on Arbitration:

(i) Any Contracting Party may propose amendments to the annexes to this Convention or to protocols at the meetings referred to in article 14:

(ii) Such amendments shall be adopted by a three-fourths majority vote of the Contracting Parties to the instrument in question;

(iii) The Depositary shall without delay communicate the amendments so adopted to all Contracting Parties;

(iv) Any Contracting Party that is unable to approve an amendment to the annexes to this Convention or to any protocol shall so notify in writing the Depositary within a period determined by the Contracting Parties concerned when adopting the amendment;

(v) The Depositary shall without delay notify all Contracting Parties of any notification received pursuant to the preceding sub-paragraph;

(vi) On expiry of the period referred to in sub-paragraph (iv) above, the amendment to the annex shall become effective for all Contracting Parties to this Convention or to the protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph.

3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as for the adoption and entry into force 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 the amendment to the Convention or the pro -
tocol concerned enters into force.

4. Amendments to the annex on arbitration shall be -
considered to be amendments to this Convention and -
shall be proposed and adopted in accordance with the
procedures set out in article 16 above.

Article 18

Rules of procedure and financial rules

1. The Contracting Parties shall adopt rules of pro -
cedure for their meetings and conferences envisaged -
in articles 14, 15, and 16 above.

2. The Contracting Parties shall adopt financial -
rules, prepared in consultation with the Organiza -
tion, to determine, in particular, their financial -
participation.

Article 19

Special exercise of voting right

Within the areas of their competence, the Euro -
pean Economic Community and any regional economic -
grouping referred to in article 24 of this Convention
shall exercise their right to vote with a number of -
votes equal to the number of their member States which
are Contracting Parties to this Convention and to one -
or more Protocols; the European Economic Community and
any grouping as referred to above shall not exercise -
their right to vote in cases where the member States -
concerned exercise theirs, and conversely.

Article 20

Reports

The Contracting Parties shall transmit to the - - Organization reports on the measures adopted in imple- mentation of this Convention and of Protocols to - - which they are Parties, in such form and at such in- - tervals as the meetings of Contracting Parties may de- termine.

Article 21

Compliance control

The Contracting Parties undertake to co-operate - in the development of procedures enabling them to con- trol the application of this Convention and the Proto- cols.

Article 22

Settlement of disputes

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Con- vention or the Protocols, they shall seek a settle- ment of the dispute through negotiation or any other peaceful means of their own choice.
2. If the parties concerned cannot settle their dis- pute through the means mentioned in the preceding - paragraph, the dispute shall upon common agreement - be submitted to arbitration under the conditions - laid down in Annex A to this Convention.
3. Nevertheless, the Contracting Parties may at any time declare that they recognize as compulsory ipso- facto and without special agreement, in relation to- any other Party accepting the same obligation, the -

application of the arbitration procedure in conformity with the provisions of Annex A. Such declaration shall be notified in writing to the Depositary, who shall communicate it to the other Parties.

Article 23

Relationship between the Convention and protocols

1. No one may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one of the protocols. No one may become a Contracting Party to a protocol unless it is, or becomes at the same time a Contracting Party to this Convention.
2. Any protocol to this Convention shall be binding only on the Contracting Parties to the protocol in question.
3. Decisions concerning any protocol pursuant to articles 14, 16 and 17 of this Convention shall be taken only by the Parties to the protocol concerned.

Article 24

Signature

This Convention, the Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft and the Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency shall be open for signature in Barcelona on 16 February 1976 and in Madrid from 17 February 1976 to 16 February 1977 by any State invited as a participant in the Conference of Plenipotentiaries of the Coastal States of the Mediterra-

nean Region on the Protection of the Mediterranean - Sea, held in Barcelona from 2 to 16 February 1976,-- and by any State entitled to sign any protocol in accordance with the provisions of such Protocol. They shall also be open until the same date for signature by the European Economic Community and by any similar regional economic grouping at least one member of which is a coastal State of the Mediterranean Sea -- Area and which exercise competences in fields covered by this Convention, as well as by any protocol affecting them.

Article 25

Ratification, acceptance or approval

This Convention and any protocol thereto shall be subject to ratification, acceptance, or approval. - Instruments of ratification, acceptance or approval - shall be deposited with the Government of Spain, which will assume the functions of Depositary.

Article 26

Accession

1. As from 17 February 1977, the present Convention, - the Protocol for the Prevention of Pollution of the - Mediterranean Sea by Dumping from Ships and Aircraft, - and the Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and other - Harmful Substances in Cases of Emergency shall be - open for accession by the States, by the European - Economic Community and by any grouping as referred to in article 24.
2. After the entry into force of the Convention and of any protocol, any State not referred to in article

24 may accede to this Convention and to any proto- -
col, subject to prior approval by three-fourths of -
the Contracting Parties to the protocol concerned. -
3. Instruments of accession shall be deposited with-
the Depositary.

Article 27

Entry into force

1. This Convention shall enter into force on the -
same date as the protocol first entering into force.-
2. The Convention shall also enter into force with -
regard to the States, the European Economic Community
and any regional economic grouping referred to in -
article 24 if they have complied with the formal re--
quirements for becoming Contracting Parties to any -
other protocol not yet entered into force.
3. Any protocol to this Convention, except as other-
wise provided in such protocol, shall enter into - -
force on the thirtieth day following the date of de -
posit of at least six instruments of ratification, ac-
ceptance, or approval of, or accession to such proto-
col by the Parties referred to in article 24.
4. Thereafter, this Convention and any protocol - -
shall enter into force with respect to any State, the
European Economic Community and any regional economic
grouping referred to in article 24 on the thirtieth -
day following the date of deposit of the instruments-
of ratification, acceptance, approval or accession. -

Article 28

Withdrawal

1. At any time after three years from the date of entry into force of this Convention, any Contracting Party may withdraw from this Convention by giving written notification of withdrawal.
2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party may, at any time after three years from the date of entry into force of such protocol, withdraw from such protocol by giving written notification of withdrawal.
3. Withdrawal shall take effect 90 days after the date on which notification of withdrawal is received by the Depository.
4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Party.
5. Any Contracting Party which, upon its withdrawal from a protocol, is no longer a Party to any protocol to this Convention, shall be considered as also having withdrawn from this Convention.

Article 29

Responsibilities of the Depository

1. The Depository shall inform the Contracting Parties, any other Party referred in article 24, and the Organizations:
 - (i) 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 24, 25 and 26;

(ii) Of the date on which the Convention and any -
protocol will come into force in accordance with the -
provisions of article 27;

(iii) Of notifications of withdrawal made in accor -
dance with article 28;

(iv) Of the amendments adopted with respect to the -
Convention and to any protocol, their acceptance by -
the Contracting Parties and the date of entry into -
force of those amendments in accordance with the provi -
sions of article 16;

(v) Of the adoption of new annexes and of the -
amendment of any annex in accordance with article 17.-

(vi) Of declarations recognizing as compulsory the -
application of the arbitration procedure mentioned in -
paragraph 3 of article 22.

2. The original of this Convention and of any proto -
col thereto shall be deposited with the Depositary, -
the Government of Spain, which shall send certified -
copies thereof to the Contracting Parties, to the -
Organization, and to the Secretary-General of the Uni -
ted Nations for registration and publication in ac - -
cordance with Article 102 of the United Nations - - -
Charter.

IN WITNESS WHEREOF the undersigned, being duly au -
thorized by their respective Governments, have signed -
this Convention.

DONE at Barcelona on 16 February 1976 in a single -
copy in the Arabic, English, French and Spanish lang -
uages, the four texts being equally authoritative.

ANNEX A

Arbitration

Article 1

Unless the Parties to the dispute otherwise agree, the arbitration procedure shall be conducted in accordance with the provisions of this Annex.

Article 2

1. At the request addressed by one Contracting Party to another Contracting Party in accordance with the provisions of paragraph 2 or paragraph 3 of article 22 of the Convention, an arbitral tribunal shall be constituted. The request for arbitration shall state the subject matter of the application including, in particular, the articles of the Convention or the Protocols, the interpretation or application of which is in dispute.

2. The claimant party shall inform the Organization that it has requested the setting up of an arbitral tribunal, stating the name of the other party to the dispute and articles of the Convention or the Protocols the interpretation or application of which is in its opinion in dispute. The Organization shall forward the information thus received to all Contracting Parties to the Convention.

Article 3

The arbitral tribunal shall consist of three members: each of the parties to the dispute shall appoint an arbitrator; the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The

latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of the most diligent party, designate him within a further two months' period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall decide according to the rules of international law and, in particular, those of this Convention and the protocols concerned.

2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal, both on - procedure and on substance, shall be taken by majori- ty vote of its members.
2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim - measures of protection.
3. If two or more arbitral tribunals constituted - under the provisions of this Annex are seized of re- quests with identical or similar subjects, they may inform themselves of the procedures for establish-- ing the facts and take them into account as far as possible.
4. The parties to the dispute shall provide all - facilities necessary for the effective conduct of- the proceedings.
5. The absence or default of a party to the dis-- pute shall not constitute an impediment to the pro- ceedings.

Article 7

1. The award of the arbitral tribunal shall be ac- companied by a statement of reasons. It shall be- final and binding upon the parties to the dispute.
2. Any dispute which may arise between the par--- ties concerning the interpretation or execution of the award may be submitted by the most diligent -- party to the arbitral tribunal which made the - -- award or, if the latter cannot be seized thereof,- to another arbitral tribunal constituted for this- purpose in the same manner as the first.

Article 8

The European Economic Community and any regional economic grouping referred to in article 24 of the Convention, like any Contracting Party to the Convention, are empowered to appear as complainants or as respondents before the arbitral tribunal.

PROTOCOL FOR THE PREVENTION OF POLLUTION
OF THE MEDITERRANEAN SEA BY DUMPING
FROM SHIPS AND AIRCRAFT

THE CONTRACTING PARTIES TO THE PRESENT PROTOCOL,
Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution,

Recognizing the danger posed to the marine environment by pollution caused by the dumping of wastes or other matter from ships and aircraft,

Considering that the coastal States of the Mediterranean Sea have a common interest in protecting the marine environment from this danger,

Bearing in mind the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, adopted in London in 1972.

**Action Plan for the Protection and Development of
the Marine Environment and the Coastal Areas of
Bahrain, Iran, Iraq, Kuwait, Oman, Qatar, Saudi
Arabia and the United Arab Emirates,
April 24, 1978***

* 17 I.L.M. 501 (1978).

BAHRAIN-IRAN-IRAQ-KUWAIT-OMAN-QATAR-SAUDI ARABIA-UNITED ARAB EMIRATES:
 AGREEMENTS FROM THE KUWAIT REGIONAL CONFERENCE ON THE PROTECTION
 AND DEVELOPMENT OF THE MARINE ENVIRONMENT AND THE COASTAL AREAS*
 [Held in Kuwait, April 15-23, 1978]

ACTION PLAN FOR THE PROTECTION AND DEVELOPMENT OF THE
 MARINE ENVIRONMENT AND THE COASTAL AREAS OF
 BAHRAIN, IRAN, IRAQ, KUWAIT, OMAN, QATAR, SAUDI ARABIA AND
 THE UNITED ARAB EMIRATES

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INTRODUCTION

1. The Region has been recognized by the Governments concerned and by the Governing Council of the United Nations Environment Programme (UNEP) as a "concentration area" in which UNEP, in close collaboration with the relevant components of the United Nations system, will attempt to fulfill its catalytic role in assisting States of the Region to develop and implement, in a consistent manner, an Action Plan commonly agreed upon.

2. The protection and development of the marine environment and the coastal areas of the Region for the benefit of present and future generations will be the central objective of the

*[Reproduced from the text provided to International Legal Materials by the United Nations Environment Programme.

[On the initiative of the States of the Region, the Kuwait Regional Conference of Plenipotentiaries on the Protection and Development of the Marine Environment and the Coastal Areas was convened by the Executive Director of the U.N. Environment Programme in pursuance of Decision 58 (IV) of the Governing Council of U.N.E.P. On April 23, 1978, the Conference adopted the Action Plan, reproduced above, the Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution, at I.L.M. page 511, the Protocol concerning Regional Co-operation in Combatting Pollution by Oil and Other Harmful Substances in Cases of Emergency, at I.L.M. page 526, and the Resolutions which appear at I.L.M. page 536.

[On April 24, 1978, the Convention and the Protocol were signed by Bahrain, Iran, Iraq, Kuwait, Qatar, Saudi Arabia, and the United Arab Emirates.]

Action Plan. This Action Plan sets forth a framework for an environmentally sound and comprehensive approach to coastal area development, particularly appropriate for this rapidly developing Region.

3. Recognizing the complexity of the problem and the numerous ongoing activities, the Action Plan has been based upon:

- 3.1 findings of an interagency mission^{1/} organized by UNEP in co-operation with UN/ESA which visited Bahrain, Iran, Iraq, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates from 15 March to 25 May 1976;
- 3.2 Consultative Meeting on Marine Sciences in the Region convened by UNESCO in Paris, 11-14 November 1975;
- 3.3 recommendations for a marine science project endorsed by the Conference of Ministers of Arab States Responsible for the Application of Science and Technology for Development, CASTARAB, convened by UNESCO in Rabat, 16-25 August 1976;
- 3.4 Meeting of a Group of Experts on Coastal Area Development convened by UN/ESA in New York, November 1974;
- 3.5 recommendations of the Kuwait Technical Meeting on Coastal Area Development and Protection of the Marine Environment co-sponsored by UNEP and UN/ESA in Kuwait, 6-9 December 1976;
- 3.6 a feasibility study for a co-ordinated applied marine science and basic marine science programme conducted by UNEP and UNESCO in co-operation with the Intergovernmental Oceanographic Commission (IOC) and FAO;
- 3.7 Regional Meeting of Legal Experts on the Protection of the Marine Environment held by UNEP in Bahrain, 24-28 January 1977;
- 3.8 Experts Meeting on the Protection of the Marine Environment, Nairobi, 13-18 June 1977;
- 3.9 additional suggestions and proposals received from the United Nations system.

^{1/} UNEP, United Nations Department of Economic and Social Affairs (UN/ESA), Inter-Governmental Maritime Consultative Organization (IMCO), Food and Agriculture Organization of the United Nations (FAO) and United Nations Educational, Scientific and Cultural Organization (UNESCO)

4. The Action Plan aims to achieve the following:

- 4.1 assessment of the state of the environment including socio-economic development activities related to environmental quality and of the needs of the Region in order to assist Governments to cope properly with environmental problems, particularly those concerning the marine environment;
- 4.2 development of guidelines for the management of those activities which have an impact on environmental quality or on the protection and use of renewable marine resources on a sustainable basis;
- 4.3 development of legal instruments providing the legal basis for co-operative efforts to protect and develop the Region on a sustainable basis;
- 4.4 supporting measures including national and regional institutional mechanisms and structure needed for the successful implementation of the Action Plan.

5. For this document, it is assumed that the Region includes the marine area bounded in the south by the following rhumb-lines:

From Ras Dharbat Ali			
Lat. 16° 39'N	Long. 53° 3'30"E;	then	
to a position in:			
Lat. 16° 00'N	Long. 55° 25'E;	then	
to a position in:			
Lat. 17° 00'N	Long. 56° 30'E;	then	
to a position in:			
Lat. 20° 30'N	Long. 60° 00'E;	then	
to Ras Al-Fasteh in:			
Lat. 25° 04'N	Long. 61° 25'E		

The coastal area to be considered as part of the Region will be identified by the relevant Governments of the Region on an ad hoc basis depending on the type of activities to be carried out within the framework of the Action Plan. Nevertheless, coastal areas not included in the Region as defined above, should not be a source of marine pollution.

6. All components of the Action Plan are interdependent and provide a framework for comprehensive action to contribute to

both the protection and the continued development of the ecoregion. No component will be an end in itself. Each activity is intended to assist the Governments of the Region to improve the quality of the information on which environmental management policies are based.

7. The protection of the marine environment is considered as the first priority of the Action Plan, and it is intended that measures for marine and coastal environmental protection and development should lead to the promotion of human health and well-being as the ultimate goal of the Action Plan.

8. The Action Plan is intended to meet the environmental needs and enhance the environmental capabilities of the Region and is aimed primarily toward implementation by way of co-ordinated national and regional activities. To achieve this goal, an intensive training programme should be formulated in the early phases of the implementation of the Action Plan.

9. A general description of the various components of the Action Plan is given in the following paragraphs.

I. ENVIRONMENTAL ASSESSMENT

10. Environmental assessment is one of the basic activities which will underlie and facilitate the implementation of the other components of the Action Plan.

11. The identification of the present quality of the marine environment and the factors currently influencing its quality and having an impact on human health will be given priority together with an assessment of future trends.

12. Due to the lack or inadequacy of available basic data on the marine environment, a co-ordinated basic and applied regional marine science programme and marine meteorological programme will be formulated as a basis for the protection of the marine environment of the Region. In formulating the operational details of these programmes, planned and ongoing national and regional programmes will be taken into account.

13. The following programmes are recognized as components of the co-ordinated regional environmental assessment programme:

13.1 survey of national capabilities of the Region in the field of marine sciences including marine meteorology covering:

(a) scientific and administrative institutions;

- (b) information centres and data sources;
 - (c) research facilities and equipment;
 - (d) manpower;
 - (e) existing environmental laws and regulations;
 - (f) ongoing and planned activities;
 - (g) publications.
- 13.2 assessment of the origin and magnitude of oil pollution in the Region comprising:
- (a) baseline studies on the sources, transport and distribution of oil and petroleum hydrocarbon pollution in the Region;
 - (b) physical, chemical and biological oceanography of the Region relevant to the transport, distribution and fate of oil as a pollutant;
 - (c) marine meteorology relevant to the transport and distribution of oil as a pollutant.
- 13.3 assessment of the magnitude of pollutants affecting human health and marine ecosystems of the Region consisting of:
- (a) survey of land-based sources of industrial and municipal wastes discharged directly or indirectly into the sea or reaching it through the atmosphere;
 - (b) studies on the impact of industrial and municipal waste, including microbiological agents, on human health;
 - (c) research on effects of pollutants and other human activities, such as dredging and land reclamation on important marine species, communities and ecosystems;
 - (d) baseline studies and monitoring of the levels of selected pollutants, in particular heavy metals, in marine organisms.
- 13.4 assessment of factors relevant to the ecology of the Region and to the exploitation of its living resources including:

(a) biology of commercially important species of crustaceans, mollusca and fish in the Region, including their stock assessment;

(b) plankton productivity and distribution in the Region;

(c) ecological studies of important natural habitats in the intertidal and subtidal zones, including creeks (khores) in the Region.

13.5 assessment of geological processes such as sedimentation contributing to, or modifying, the fate of pollutants in the Region, and their impact on human health, marine ecosystems and human activities, as well as effects of coastal engineering and mining.

14. The programmes listed in paragraph 13 are interdisciplinary and interrelated in nature. Therefore, while preparing the operational details of each programme, due attention should be paid to their close co-ordination in order to avoid duplication.

15. The priorities to be assigned to the activities listed in paragraph 13 will be determined by the Governments of the Region taking into account the present level of development in the Region and the pressing need to provide reliable and comparable data on which sound management decisions can rest.

16. The agreed programme will be executed primarily through existing national institutions within the framework of regional co-operation keeping in mind that for some projects a training programme should be formulated and that the assistance of experts from outside the Region might be required in the initial phase of some projects.

17. Operational details of each programme will be developed primarily by experts nominated by the Governments of the Region. The documents describing the operational details of the approved programmes as well as the national institutions participating in the programmes will be approved by the Governments before the implementation of the programmes.

II. ENVIRONMENTAL MANAGEMENT

18. The countries of the Region have experienced unprecedented rates of growth during recent years, particularly in areas such as urbanization, industrialisation, agriculture, transport, trade, and exploration and exploitation of the Region's resources.

Continuous socio-economic development can be achieved on a sustainable basis if environmental considerations are taken into account.

19. To achieve the objectives of the development and environmental management component of the Action Plan the following preparatory activities should be undertaken:

- 19.1 preparation and up-dating of a directory of Government-designated institutions available in the Region and active in fields related to the environmental management components of the Action Plan;
- 19.2 assessment of present and future development activities and their major environmental impact in order to evaluate the degree of their influence on the environment and to find appropriate measures to either eliminate or reduce any damaging effects which they may have;
- 19.3 identification of the most relevant ongoing national, regional or internationally supported development projects which have beneficial environmental effects such as the various fisheries projects of FAO, the environmental sanitation activities of the World Health Organization, and the assistance in industrial waste treatment provided through the United Nations Industrial Development Organization. The most significant of these projects should be strengthened and expanded to serve as demonstrations and training sites on a regional basis.

20. Furthermore, in view of the priorities and needs of the Region, the following co-operative programmes relevant to the management of regional environmental problems stemming from national development activities will be undertaken:

- 20.1 formulation of regional contingency plans for accidents involving oil exploration, exploitation and transport, and strengthening the meteorological services contributing to the development of contingency plans and to their execution in co-ordination with existing or future marine regional meteorological programmes;

- 20.2 assistance in development of national capabilities in engineering knowledge needed for regional environmental protection;
- 20.3 strengthening the national public health services and their co-ordination whenever transboundary interests require it;
- 20.4 rational exploitation and management of marine living resources, including aquaculture, on a sustainable basis, and the establishment of protected aquatic and terrestrial areas, such as marine parks, wetlands and others;
- 20.5 co-ordination of marine and land transport activities and the creation of a regional transport co-ordinated programme with special emphasis on port-generated pollution;
- 20.6 development of principles and guidelines for coastal area development and management through workshops;
- 20.7 co-ordination of national water management policies including community water supply and water quality control, whenever they may have impact on the marine environment of the Region;
- 20.8 upkeep of records of oil pollution incidents in the Region with relevant information on the impact of such pollution on the marine environment.

21. As part of the activities and regional co-operative programmes mentioned in paragraphs 19 and 20 a vast training programme should be developed for personnel from the Region. Such a programme may be executed through training at existing national, regional or international institutions ready to offer their facilities.

22. Marine and coastal area environmental protection and enhancement cannot be achieved without the full support and co-operation of all those concerned. Therefore, adequate resources should be devoted to systematic and regular campaigns for public awareness of environmental issues in the Region.

III. LEGAL COMPONENT

23. Regional legal agreements provide a fundamental basis for regional co-operation to protect the marine environment in the Region. Recognizing the importance of sound environmental

development of the Region, the Governments agree to the need for early ratification of the Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution, and the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency, which are adopted by the Kuwait Regional Conference of Plenipotentiaries on the Protection and Development of the Marine Environment and the Coastal Areas.

24. It is recommended that UNEP should, in co-operation with the Governments and United Nations bodies concerned, convene intergovernmental groups to prepare additional protocols which will include:

- 24.1 scientific and technical co-operation;
- 24.2 pollution resulting from exploration and exploitation of the continental shelf and the sea bed and its subsoil;
- 24.3 development, conservation, protection and harmonious utilization of the marine living resources of the Region;
- 24.4 liability and compensation for damage resulting from pollution of the marine environment;
- 24.5 pollution from land-based sources.

25. Aware of the need to give special protection to the Region against pollution from ships through normal operations or dumping activities, an appeal is made to Governments of the Region to strengthen the measures for the protection of the Region through ratification and implementation of the relevant international conventions, particularly:

- 25.1 1954 International Convention for the Prevention of Pollution of the Sea by Oil, and its amendments;
- 25.2 1972 Convention on Prevention of Marine Pollution by Dumping of Wastes and Other Matter;
- 25.3 1973 International Convention for the Prevention of Pollution from Ships as modified by Protocol of 1978.

IV. INSTITUTIONAL AND FINANCIAL ARRANGEMENTS

26. In establishing institutional arrangements for carrying out the Action Plan, a mechanism should be established which

uses, to the greatest possible extent, the national capabilities available in the Region and the capabilities of existing international organizations and co-ordinating bodies and which would deal with national institutions through the appropriate national authorities of the States concerned. Where necessary, national institutions should be strengthened so that they may participate actively and efficiently in the various programmes.

27. Subject to the approval of the Governments of the Region and in close co-operation with the international bodies concerned, UNEP should make such interim arrangements as may be required for the achievement of the objectives of the Action Plan, including the establishment of an interim secretariat, until the permanent Regional Organization for the Protection of the Marine Environment is established. In order to fulfill this task the interim secretariat should have adequate professional and supporting staff recruited mainly from the signatory States in consultation, as far as possible, with the Governments of the Region. The interim secretariat shall be responsible for the overall co-ordination of the Action Plan and of matters arising out of the Convention and any protocol thereto. The interim secretariat should convene annual meetings of the States of the Region and, as necessary, working groups of regional experts to review progress achieved pursuant to recommendations set forth in the Action Plan and to advise the Executive Director of UNEP on the development of additional activities.

28. In addition to the functions assigned to it by the States of the Region, the interim secretariat or the secretariat should establish and maintain liaison with competent bodies responsible for similar activities in the Region and in other regions of the world so that each region may benefit from the experience of others and data generated in all regions may be compatible and may contribute to an overall view of the marine environment.

29. The Governments of the Region agree to the necessity of establishing a Marine Emergency Mutual Aid Centre. The Centre should have primarily a co-ordinating role in exchange of information, training programmes and monitoring. The possibility of the Centre initiating operations to combat pollution by oil and other harmful substances may be considered at a later stage in accordance with Article III of the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency.

30. Responsibilities should be transferred from the interim secretariat to the Regional Organization for the

Protection of the Marine Environment as soon as this Organization is established.

31. It is proposed that the programme be financed by proportional contributions by the Governments to be assessed on the basis of a mutually agreed scale of contributions and supplemented especially in the initial stages by assistance that could be available from international bodies. The ultimate aim should be to make the programme self-supporting within the regional context, not only by developing institutional capabilities to perform the required tasks, but also by supporting training, provision of equipment and other forms of assistance from within the Region.

**Kuwait Regional Convention for Co-operation on the
Protection of the Marine Environment from
Pollution; April 24, 1978***

* 17 I.L.M. 511 (1978).

KUWAIT REGIONAL CONVENTION FOR CO-OPERATION
ON THE PROTECTION OF THE MARINE
ENVIRONMENT FROM POLLUTION

The Government of the STATE OF BAHRAIN,
The Imperial Government of IRAN,
The Government of the REPUBLIC OF IRAQ,
The Government of the STATE OF KUWAIT,
The Government of the SULTANATE OF OMAN,
The Government of the STATE OF QATAR,
The Government of the KINGDOM OF SAUDI ARABIA,
The Government of the UNITED ARAB EMIRATES,

REALIZING that pollution of the marine environment in the Region shared by Bahrain, Iran, Iraq, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates, by oil and other harmful or noxious materials arising from human activities on land or at sea, especially through indiscriminate and uncontrolled discharge of these substances, presents a growing threat to marine life, fisheries, human health, recreational uses of beaches and other amenities,

MINDFUL of the special hydrographic and ecological characteristics of the marine environment of the Region and its particular vulnerability to pollution,

CONSCIOUS of the need to ensure that the processes of urban and rural development and resultant land use should be carried out in such a manner as to preserve, as far as possible, marine resources and coastal amenities, and that such development should not lead to deterioration of the marine environment,

CONVINCED of the need to ensure that the processes of industrial development should not, in any way, cause damage to the marine environment of the Region, jeopardize its living resources or create hazards to human health,

RECOGNIZING the need to develop an integrated management approach to the use of the marine environment and the coastal areas which will allow the achievement of environmental and development goals in a harmonious manner,

RECOGNIZING ALSO the need for a carefully planned research, monitoring and assessment programme in view of the scarcity of scientific information on marine pollution in the Region,

CONSIDERING that the States sharing the Region have a special responsibility to protect its marine environment,

AWARE of the importance of co-operation and co-ordination of action on a regional basis with the aim of protecting the marine environment of the Region for the benefit of all concerned, including future generations,

BEARING in mind the existing international conventions relevant to the present Convention,

HAVE AGREED as follows:

ARTICLE I

Definitions

For the purpose of the present Convention:

- (a) marine pollution means the introduction by man, directly or indirectly, of substances or energy into the marine environment resulting or likely to result in such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities including fishing, impairment of quality for use of sea and reduction of amenities;
- (b) "National Authority" means the authority designated by each Contracting State as responsible for the co-ordination of national efforts for implementing the Convention and its protocols;
- (c) "Organization" means the organization established by the Contracting States in accordance with Article XVI;
- (d) "secretariat" means the organ of the Organization established in accordance with Article XVI;

(e) "Action Plan" means the Action Plan for the Development and Protection of the Marine Environment and the Coastal Areas of Bahrain, Iran, Iraq, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates adopted at the Kuwait Regional Conference of Plenipotentiaries on the Protection and Development of the Marine Environment and the Coastal Areas, convened from 15 to 23 April 1978.

ARTICLE II

Geographical coverage

(a) The present Convention shall apply to the sea area in the Region bounded in the south by the following rhumb lines: from Ras Bharbat Ali in (16° 39'N, 53° 3'30"E) then to a position in (16° 00'N, 53° 25'E) then to a position in (17° 00'N, 56° 30'E) then to a position in (20° 30'N, 60° 00'E) then to Ras Al-Faeteh in (25° 04'N, 61° 25'E). (Hereinafter referred to as the "Sea Area");

(b) The Sea Area shall not include internal waters of the Contracting States unless it is otherwise stated in the present Convention or in any of its protocols.

ARTICLE III

General obligations

(a) The Contracting States shall, individually and/or jointly, take all appropriate measures in accordance with the present Convention and those protocols in force to which they are party to prevent, abate and combat pollution of the marine environment in the Sea Area;

(b) In addition to the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency opened for signature at the same time as the present Convention, the Contracting States shall co-operate in the formulation and adoption of other protocols prescribing agreed measures, procedures and standards for the implementation of the Convention;

(c) The Contracting States shall establish national standards, laws and regulations as required for the effective discharge of the obligation prescribed in paragraph (a) of this article, and shall endeavour to harmonise their national policies in this regard and for this purpose appoint the Appropriate Authority;

(d) The Contracting States shall co-operate with the competent international, regional and sub-regional organizations to establish and adopt regional standards, recommended practices and procedures to prevent, abate and combat pollution from all sources in conformity with the objectives of the present Convention, and to assist each other in fulfilling their obligations under the present Convention;

(e) The Contracting States shall use their best endeavour to ensure that the implementation of the present Convention shall not cause transformation of one type of pollution to another which could be more detrimental to the environment.

ARTICLE IV

Pollution from ships

The Contracting States shall take all appropriate measures in conformity with the present Convention and the applicable rules of international law to prevent, abate and combat pollution in the Sea Area caused by international or accidental discharges from ships, and shall ensure effective compliance in the Sea Area with applicable international rules relating to the control of this type of pollution, including load-on-top, segregated ballast and crude oil washing procedures for tankers.

ARTICLE V

Pollution caused by dumping from ships and aircraft

The Contracting States shall take all appropriate measures to prevent, abate and combat pollution in the Sea Area caused by dumping of wastes and other matter from ships and aircraft, and shall ensure effective compliance in the Sea Area with applicable international rules relating to the control of this type of pollution as provided for in relevant international conventions.

ARTICLE VI

Pollution from land-based sources

The Contracting States shall take all appropriate measures to prevent, abate and combat pollution caused by discharges from land reaching the Sea Area whether water-borne, air-borne, or directly from the coast including outfalls and pipelines.

ARTICLE VII

Pollution resulting from exploration and exploitation
of the bed of the territorial sea and its sub-soil
and the continental shelf

The Contracting States shall take all appropriate measures to prevent, abate and combat pollution in the Sea Area resulting from exploration and exploitation of the bed of the territorial sea and its sub-soil and the continental shelf, including the prevention of accidents and the combating of pollution emergencies resulting in damage to the marine environment.

ARTICLE VIII

Pollution from other human activities

The Contracting States shall take all appropriate measures to prevent, abate and combat pollution of the Sea Area resulting from land reclamation and associated suction dredging and coastal dredging.

ARTICLE IX

Co-operation in dealing with pollution emergencies

(a) The Contracting States shall, individually and/or jointly, take all necessary measures, including those to ensure that adequate equipment and qualified personnel are readily available, to deal with pollution emergencies in the Sea Area, whatever the cause of such emergencies, and to reduce or eliminate damage resulting therefrom;

(b) Any Contracting State which becomes aware of any pollution emergency in the Sea Area shall, without delay, notify the Organization referred to under Article XVI and, through the secretariat, any Contracting State likely to be affected by such emergency.

ARTICLE X

Scientific and technological co-operation

(a) The Contracting States shall co-operate directly, or, where appropriate, through competent international and regional organizations, in the field of scientific research, monitoring and assessment concerning pollution in the Sea Area, and shall exchange data as well as other scientific information for the purpose of the present Convention and any of its protocols;

(b) The Contracting States shall co-operate further to develop and co-ordinate national research and monitoring programmes relating to all types of pollution in the Sea Area and to establish in co-operation with competent regional or international organizations, a regional network of such programmes to ensure compatible results. For this purpose, each Contracting State shall designate the National Authority responsible for pollution research and monitoring within the areas under its national jurisdiction. The Contracting States shall participate in international arrangements for pollution research and monitoring in areas beyond their national jurisdiction.

ARTICLE XI

Environmental assessment

(a) Each Contracting State shall endeavour to include an assessment of the potential environmental effects in any planning activity entailing projects within its territory, particularly in the coastal areas, which may cause significant risks of pollution in the Sea Area;

(b) The Contracting States may, in consultation with the secretariat, develop procedures for dissemination of information of the assessment of the activities referred to in paragraph (a) above;

(c) The Contracting States undertake to develop, individually or jointly, technical and other guidelines in accordance with standard scientific practice to assist the planning of their development projects in such a way as to minimize their harmful impact on the marine environment. In this regard international standards may be used where appropriate.

ARTICLE XII

Technical and other assistance

The Contracting States shall co-operate directly or through competent regional or international organizations in the development of programmes of technical and other assistance in fields relating to marine pollution in co-ordination with the Organization referred to in Article XVI.

ARTICLE XIII

Liability and compensation

The Contracting States undertake to co-operate in the formulation and adoption of appropriate rules and procedures for the determination of:

(a) civil liability and compensation for damage resulting from pollution of the marine environment, bearing in mind applicable international rules and procedures relating to those matters; and

(b) liability and compensation for damage resulting from violation of obligations under the present Convention and its protocols.

ARTICLE XIV

Sovereign immunity

Warships or other ships owned or operated by a State, and used only on Government non-commercial service, shall be exempted from the application of the provisions of the present convention. Each Contracting State shall, as far as possible, ensure that its warships or other ships owned or operated by that State, and used only on Government non-commercial service, shall comply with the present Convention in the prevention of pollution to the marine environment.

ARTICLE XV

Disclaimer

Nothing in the present Convention shall prejudice or affect the rights or claims of any Contracting State in regard to the nature or extent of its maritime jurisdiction which may be established in conformity with international law.

ARTICLE XVI

Regional Organization for the Protection of the Marine Environment

- (a) The Contracting States hereby establish a Regional Organisation for the Protection of the Marine Environment, the permanent headquarters of which shall be located in Kuwait.
- (b) The Organization shall consist of the following organs:
- (i) a Council which shall be comprised of the Contracting States and shall perform the functions set forth in paragraph (d) of Article XVII;
 - (ii) a secretariat which shall perform the functions set forth in paragraph (a) of Article XVIII; and
 - (iii) a Judicial Commission for the Settlement of Disputes whose composition, terms of reference

and rules of procedure shall be established at the first meeting of the Council.

ARTICLE XVII

Council

- (a) The meetings of the Council shall be convened in accordance with paragraph (a) of Article XVIII and paragraph (b) of Article XIX. The Council shall hold ordinary meetings once a year. Extraordinary meetings of the Council shall be held upon the request of at least one Contracting State endorsed by at least one other Contracting State, or upon the request of the Executive Secretary endorsed by at least two Contracting States. Meetings of the Council shall be convened at the headquarters of the Organization or at any other place agreed upon by consultation amongst the Contracting States. Three-fourths of the Contracting States shall constitute a quorum.
- (b) The Chairmanship of the Council shall be given to each Contracting State in turn in alphabetical order of the names of the States in the English language. The Chairman shall serve for a period of one year and cannot during the period of chairmanship serve as a representative of his State. Should the chairmanship fall vacant, the Contracting State chairing the Council shall designate a successor to remain in office until the term of chairmanship of that Contracting State expires.
- (c) The voting procedure in the Council shall be as follows:
- (i) each Contracting State shall have one vote;
 - (ii) decisions on substantive matters shall be taken by a unanimous vote of the Contracting States present and voting;
 - (iii) decisions on procedural matters shall be taken by three-fourths majority vote of the Contracting States present and voting.
- (d) The functions of the Council shall be:
- (i) to keep under review the implementation of the Convention and its protocols, and the Action Plan referred to in paragraph (e) of Article I;
 - (ii) to review and evaluate the state of marine pollution and its effects on the Sea Area on the basis of reports provided by the Contracting States and the competent international or regional organizations;

- (iii) to adopt, review and amend as required in accordance with procedures established in Article XXI, the annexes to the Convention and to its protocols;
- (iv) to receive and to consider reports submitted by the Contracting States under Articles IX and XXIII;
- (v) to consider reports prepared by the secretariat on questions relating to the Convention and to matters relevant to the administration of the Organization;
- (vi) to make recommendations regarding the adoption of any additional protocols or any amendments to the Convention or to its protocols in accordance with Articles XIX and XX;
- (vii) to establish subsidiary bodies and ad hoc working groups as required to consider any matters related to the Convention and its protocols and annexes to the Convention and its protocols;
- (viii) to appoint an Executive Secretary and to make provision for the appointment by the Executive Secretary of such other personnel as may be necessary;
- (ix) to review periodically the functions of the secretariat;
- (x) to consider and to undertake any additional action that may be required for the achievement of the purposes of the Convention and its protocols.

ARTICLE XVIII

Secretariat

- (a) The secretariat shall be comprised of an Executive Secretary and the personnel necessary to perform the following functions:
 - (i) to convene and to prepare the meetings of the Council and its subsidiary bodies and ad hoc working groups as referred to in Article XVII, and conferences as referred to in Articles XIX and XX;
 - (ii) to transmit to the Contracting States notifications, reports and other information received in accordance with Articles IX and XXIII;

- (iii) to consider enquiries by, and information from, the Contracting States and to consult with them on questions relating to the Convention and its protocols and annexes thereto;
- (iv) to prepare reports on matters relating to the Convention and to the administration of the Organization;
- (v) to establish, maintain and disseminate an up-to-date collection of national laws of all States concerned relevant to the protection of the marine environment;
- (vi) to arrange, upon request, for the provision of technical assistance and advice for the drafting of appropriate national legislation for the effective implementation of the Convention and its protocols;
- (vii) to arrange for training programmes in areas related to the implementation of the Convention and its protocols;
- (viii) to carry out its assignments under the protocols to the Convention;
- (ix) to perform such other functions as may be assigned to it by the Council for the implementation of the Convention and its protocols.

(b) The Executive Secretary shall be the chief administrative official of the Organization and shall perform the functions that are necessary for the administration of the present Convention, the work of the secretariat and other tasks entrusted to the Executive Secretary by the Council and as provided for in its rules of procedure and financial rules.

ARTICLE XIX

Adoption of additional protocols

Any Contracting State may propose additional protocols to the present Convention pursuant to paragraph (b) of Article XIX at a diplomatic conference of the Contracting States to be convened by the secretariat at the request of at least three Contracting States. Additional protocols shall be adopted by a unanimous vote of the Contracting States present and voting.

ARTICLE XX

Amendments to the Convention and
its protocols

- (a) Any Contracting State to the present Convention or to any of its protocols may propose amendments to the Convention or to the protocol concerned at a diplomatic conference to be convened by the secretariat at the request of at least three Contracting States. Amendments to the Convention and its protocols shall be adopted by a unanimous vote of the Contracting States present and voting.
- (b) Amendments to the Convention or any protocol adopted by a diplomatic conference shall be submitted by the Depositary for acceptance by all Contracting States. Acceptance of amendments to the Convention or to any protocol shall be notified to the Depositary in writing. Amendments adopted in accordance with this article shall enter into force for all Contracting States, except those which have notified the Depositary of a different intention, on the thirtieth day following the receipt by the Depositary of notification of their acceptance by at least three-fourths of the Contracting States to the Convention or any protocol concerned as the case may be.
- (c) After the entry into force of an amendment to the Convention or to a protocol, any new Contracting State to the Convention or such protocol shall become a Contracting State to the instrument as amended.

ARTICLE XXI

Annexes and amendments to annexes

- (a) Annexes to the Convention or to any protocol shall form an integral part of the Convention or such protocol.
- (b) Except as may be otherwise provided in any protocol, the following procedure shall apply to the adoption and entry into force of any amendments to annexes to the Convention or to any protocol:
- (i) any Contracting State to the Convention or to a protocol may propose amendments to the annexes to the instrument in question at the meetings of the Council referred to in Article XVII;
 - (ii) such amendments shall be adopted at such meetings by a unanimous vote;

- (iii) the Depositary referred to in Article XIII shall communicate amendments so adopted to all Contracting States without delay;
 - (iv) any Contracting State which has a different intention with respect to an amendment to the annexes to the Convention or to any protocol shall notify the Depositary in writing within a period determined by the Contracting States concerned when adopting the amendment;
 - (v) the Depositary shall notify all Contracting States without delay of any notification received pursuant to the preceding sub-paragraph;
 - (vi) on the expiry of the period referred to in sub-paragraph (iv) above, the amendment to the annex shall become effective for all Contracting States to the Convention or to the protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph.
- (c) The adoption and entry into force of a new annex to the Convention or to any protocol shall be subject to the same procedure as for the adoption and entry into force of an amendment to an annex in accordance with the provisions of this article, 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 the amendment to the Convention or the protocol concerned enters into force.

ARTICLE XIII

Rules of procedure and financial rules

- (a) The Council shall, at its first meeting, adopt its own rules.
- (b) The Council shall adopt financial rules to determine, in particular, the financial participation of the Contracting States.

ARTICLE XIV

Reports

Each Contracting State shall submit to the secretariat reports on measures adopted in implementation of the provisions of the Convention and its protocols in such form and at such intervals as may be determined by the Council.

ARTICLE XXIV

Compliance control

The Contracting States shall co-operate in the development of procedures for the effective application of the Convention and its protocols, including detection of violations, using all appropriate and practicable measures of detection and environmental monitoring, including adequate procedures for reporting and accumulation of evidence.

ARTICLE XXV

Settlement of disputes

(a) In case of a dispute as to the interpretation or application of this Convention or its protocols, the Contracting States concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

(b) If the Contracting States concerned cannot settle the dispute through the means mentioned in paragraph (a) of this article, the dispute shall be submitted to the Judicial Commission for the Settlement of Disputes referred to in paragraph (b) (iii) of Article XVI.

ARTICLE XXVI

Signature

The present Convention together with the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency shall be open for signature in Kuwait from 24 April to 23 July 1978 by any State invited as a participant in the Kuwait Regional Conference of Plenipotentiaries on the Protection and Development of the Marine Environment and the Coastal Areas, convened from 15 to 23 April 1978 for the purpose of adopting the Convention and the Protocol.

ARTICLE XXVII

Ratification, acceptance, approval or accession

(a) The present Convention together with the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency and any other protocol thereto shall be subject to ratification, acceptance, or approval by the States referred to in Article XXVI.

(b) As from 24 July 1978, this Convention together with the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency shall be open for accession by the States referred to in Article XXVI.

(c) Any State which has ratified, accepted, approved or acceded to the present Convention shall be considered as having ratified, accepted, approved or acceded to the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency;

(d) Instruments of ratification, acceptance, approval or accession shall be deposited with the Government of Kuwait which will assume the functions of Depository.

ARTICLE XXVIII

Entry into force

(a) The present Convention together with the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency shall enter into force on the ninetieth day following the date of deposit of at least five instruments of ratification, acceptance or approval of, or accession to, the Convention;

(b) Any other protocol to this Convention, except as otherwise provided in such protocol, shall enter into force on the ninetieth day following the date of deposit of at least five instruments of ratification, acceptance or approval of, or accession to, such protocol;

(c) After the date of deposit of five instruments of ratification, acceptance or approval of, or accession to, this Convention or any other protocol, this Convention or any such protocol shall enter into force with respect to any State on the ninetieth day following the date of deposit by that State of the instrument of ratification, acceptance, approval or accession.

ARTICLE XXIX

Withdrawal

(a) At any time after five years from the date of entry into force of this Convention, any Contracting State may withdraw from this Convention by giving written notification of withdrawal to the Depository;

(b) Except as may be otherwise provided in any other protocol to the Convention, any Contracting State may, at any time after five years from the date of entry into force of such protocol, withdraw from such protocol by giving written notification of withdrawal to the Depositary;

(c) Withdrawal shall take effect ninety days after the date on which notification of withdrawal is received by the Depositary;

(d) Any Contracting State which withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it was a party;

(e) Any Contracting State which withdraws from the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Pollution Emergency shall be considered as also having withdrawn from the Convention.

ARTICLE XXX

Responsibilities of the Depositary

(a) The Depositary shall inform the Contracting States and the secretariat of the following:

- (i) signature of this Convention and of any protocol thereto, and of the deposit of the instruments of ratification, acceptance, approval or accession in accordance with Article XXVII;
- (ii) date on which Convention and any protocol will enter into force in accordance with the provision of Article XXVIII;
- (iii) notification of a different intention made in accordance with Articles XX and XXI;
- (iv) notification of withdrawal made in accordance with Article XXIX;
- (v) amendments adopted with respect to the Convention and to any protocol, their acceptance by the Contracting States and the date of entry into force of those amendments in accordance with the provisions of Article XX;

(vi) adoption of new annexes and of the amendment of any annex in accordance with Article XXI;

(b) The Depositary shall call the first meeting of the Council within six months of the date on which the Convention enters into force.

The original of this Convention, of any protocol thereto, of any annex to the Convention or to a protocol, or of any amendment to the Convention, to a protocol or to an annex of the Convention or of a protocol shall be deposited with the Depositary, the Government of Kuwait who shall send copies thereof to all States concerned and shall register all such instruments and all subsequent actions in respect of them with the Secretariat of the United Nations in accordance with article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized by their respective Governments, have signed the present Convention.

DONE AT KUWAIT this twenty-fourth day of April, in the year one thousand nine hundred and seventy-eight in the Arabic, English and Persian languages, the three texts being equally authentic. In case of a dispute as to the interpretation or application of the Convention or its protocols, the English text shall be dispositively authoritative.

**Agreement of Cooperation Regarding Pollution of the
Marine Environment by Discharges of Hydrocarbons
and Other Hazardous Substances (with annexes I-VI)
(United States-Mexico),
July 24, 1980***

* 20 I.L.M. 696 (1981).

MEXICO-UNITED STATES: AGREEMENT OF COOPERATION REGARDING
 POLLUTION OF THE MARINE ENVIRONMENT*
 [Done at Mexico City, July 24, 1980]

AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES
 OF AMERICA AND THE UNITED MEXICAN STATES REGARDING
 POLLUTION OF THE MARINE ENVIRONMENT BY DISCHARGES
 OF HYDROCARBONS AND OTHER HAZARDOUS SUBSTANCES

The Government of the United States of America and the Govern-
 ment of the United Mexican States,

Aware of the importance of preserving the marine environment
 and conserving the living organisms which inhabit it,

Recognizing that the pollution of the marine environment by
 hydrocarbons or other hazardous substances causes or may cause damage
 to the ecological conditions of the sea by affecting the natural
 resources therein and may constitute a threat to the public health
 and welfare,

Have agreed to the following:

ARTICLE I

The Parties agree to establish a United States-Mexico joint
 contingency plan regarding pollution of the marine environment by
 discharges of hydrocarbons and other hazardous substances (here-
 after, "the Plan"), with the object of developing measures to deal
 with such polluting incidents and ensuring an adequate response in
 each case that may affect in a significant manner the areas set forth
 in Article VII.

*[Reproduced from the text provided by the U.S. Department of
 State.]

[The Agreement entered into force on March 30, 1981, with the
 exchange of notes in accordance with Article XI.]

[The United States and Canada also entered into an agreement
 relating to the establishment of joint pollution contingency plans
 for spills of oil and other noxious substances, done at Ottawa,
 June 19, 1974, and expanded by agreement of August 30, 1977. These
 agreements are contained in U.S. Treaties and Other International
 Acts Series 7861 and 8957.]

ARTICLE II

For the purpose of this Agreement:

(a) A polluting incident means a discharge or the threat of an imminent discharge of hydrocarbons or of any hazardous substance in the sea, of a magnitude or significance that requires an immediate response in order to contain, recover or destroy the substance for the purpose of eliminating the threat or of minimizing its effects on the marine flora and fauna and on the public health and welfare.

(b) Hydrocarbons means petroleum in all its forms, including crude oil, fuel oil, sludge, oil wastes, and refined products.

(c) Hazardous substances means elements and compounds which when discharged into the marine environment present an imminent and substantial danger to the public health or welfare, or which may affect natural resources, including, among others, fish, shellfish, wildlife, shorelines and beaches.

ARTICLE III

The Parties, consistent with their means, commit themselves to the development of nationally operative systems, applicable within their respective areas, as set forth in Article VII, that permit detection of the existence or the imminent possibility of the occurrence of polluting incidents, as well as providing adequate means within their power to eliminate the threat posed by such incidents and to minimize the adverse effects to the marine environment and the public health and welfare.

ARTICLE IV

The Parties will cooperate, in accordance with this Agreement, including its Annexes, to avoid and combat the adverse effects on the marine environment of polluting incidents, the Parties undertake to exchange up-to-date information and consult to guarantee adequate

cooperation between the competent authorities of each Party, with regard to matters falling within the scope of this Agreement, including its Annexes.

ARTICLE V

The coordination of the plan, with respect to the United States of America, is the primary responsibility of the United States Coast Guard and the United States National Response Team; with respect to the United Mexican States, the Secretariat of the Navy and of another agency or agencies of the Mexican Government, depending upon the nature of the polluting incident. The agencies of both Governments that will, when concerned, assist the coordinating authorities in their duties are enumerated in an Annex to this Agreement.

ARTICLE VI

In the case of the occurrence of a polluting incident, only the coordinating authorities of the Party in whose area, as set forth in Article VII, the incident or its effects occurred will have executive power under the Plan within its area. The coordinating authorities will recommend to their respective Governments the measures necessary to control the polluting incident.

ARTICLE VII

This Agreement and its Annexes shall be applicable in accordance with its terms to polluting incidents which may affect the marine environment of one or both Parties. For purposes of this Agreement, the marine environment of a Party is the area of the sea, including the adjoining shoreline, on its side of the maritime boundaries established with the other Party and other States and within 200 nautical miles of the baselines from which the breadth of its territorial sea is measured.

ARTICLE VIII

The joint response envisaged by this Agreement can only be applied when the Parties agree. The Parties will determine in the same manner the magnitude of the response action required by each polluting incident.

ARTICLE IX

None of the provisions of the present Agreement shall be interpreted as affecting the rights and obligations of the Parties under the treaties to which they are party and their respective positions with regard to the Law of the Sea.

ARTICLE X

By agreement of the Parties, technical Annexes that they consider necessary will be added to this Agreement and shall form an integral part thereof. Those Annexes, including those existing on the date of signature of this Agreement, will have as their purpose the development of cooperative mechanisms envisaged in this Agreement.

ARTICLE XI

(1) The present agreement will be applied provisionally from the date of signature. This Agreement shall enter into force upon exchange of notes informing each Party that the other Party has completed its necessary internal procedures. Amendments to this Agreement shall enter into force in the same manner.

(2) Amendments to the Annexes and adoption of new Annexes shall be effected by exchange of notes.

(3) This Agreement shall remain in force for five years and shall continue in force thereafter until one Party notifies the other, in

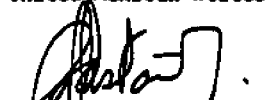
writing, six months in advance, of its intention to terminate the Agreement.

Done in Mexico City on the 24th of July 1980, in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the
United States of America


Julian Nava

For the
United Mexican States


Jorge Castañeda

ANNEX I

1. On-Scene Coordinator

1.1. As soon as the Agreement enters into force the Parties will designate, without waiting for an incident to occur, federal officials responsible for exercising in their respective areas the authority to which Article VI of the Agreement refers. Said officials will have the title of "On-Scene Coordinator" (OSC). The Parties will also designate officials who will have advisory and liaison functions between the Parties, in the areas of the other Party; said officials will have the title of "On-Scene Advisory and Liaison Coordinator" (ALC).

1.2. The functions and responsibilities of the "On-Scene Coordinator" will be:

a) To coordinate and direct matters related to the detection and response operations to the incident.

b) To authorize the use of dispersants and other chemical products in accordance with respective national policy, provided that such use:

(i) prevents or substantially reduces the risk to human life and health or the risk of fire;

(ii) prevents or reduces a threat for an important segment of the population of a vulnerable species of aquatic bird, or

(iii) appears to be the most efficient method to reduce the overall adverse effects of a spill.

c) To determine the facts including: the nature, quantity and location of the pollutant, the direction and probable time of travel of same, the available resources and those required; and to obtain the necessary information to determine potential impacts on human health and welfare, and on natural resources including fish and wildlife and their habitats, and the areas which could be adversely affected;

d) To determine priorities and to decide when to initiate the phases described in Annex IV;

e) To permanently and in a detailed way inform the Joint Response Team (JRT) (see Annex II) about all aspects of the incident and of the response operation;

f) To recommend to the Chairman of the JRT of his country that he formally propose to the Chairman of the JRT of the other Party the initiation of the joint responses envisaged in Article VIII, for a specific pollution incident;

g) To decide on the termination of response action;

h) To prepare with the advice of the ALC a final report and recommendations for future incidents, in view of the experience obtained. Said report and recommendations shall be submitted to the JRT;

i) To coordinate, in consultation with the JRT, the official information to the information media.

1.3. If the response action is required in areas of the two Parties, the OSC's of both Parties will coordinate the measures to be adopted through the collaboration of both ALC's.

1.4. The OSC will notify by the most rapid means the two Chairmen of the JRT about every polluting incident which has occurred, or which is in imminent danger of occurring, which could have adverse effects in the marine environment of both Parties, or which is of such magnitude as in the judgment of the OSC would require the initiation of the joint response envisaged in Article VIII to the Agreement. This notification does not constitute a formal proposal for the initiation

of the joint response. The authorities so notified will immediately acknowledge receipt and meet for the purpose of consultation.

1.5. The OSC will keep a journal of the events which occur during the application of the Plan to an incident; said journal will be placed at the disposal of the JRT.

1.6. The Parties will unilaterally divide their respective areas for purposes of the designation of an OSC and of a Joint Response Center (see Annex III) for each of those divisions.

1.7. In accordance with respective national legislation, upon initiation of a joint response special customs and immigration clearances will be sought by each Party for response resources including personnel and equipment. Prior arrangements will be sought by each Party to ensure that the clearance process can be accomplished in a timely manner and that it can be initiated by a communication between the ALC and the OSC as appropriate.

ANNEX II

2. Joint Response Team (JRT).

2.1. The Parties will designate, under the responsibility of the authorities mentioned in Article V of the Agreement, authorities and other persons who will constitute the JRT. That designation will be made as soon as the Agreement enters into force, without waiting for an incident to occur, and communicated to the other Party for the information of the authorities mentioned in Annex VI.

2.2. The United States authorities mentioned in Article V of the Agreement will designate the U.S. Chairman of the JRT. The Mexican authorities mentioned in Article V of the Agreement will designate the Mexican Chairman of the JRT.

2.3. When the JRT meets in the United States of America, the U.S. Chairman will preside. When the JRT meets in Mexico, the Mexican Chairman will preside.

2.4. Upon being informed of a specific polluting incident the two Chairmen of the JRT shall consult and may decide to formally propose to their Governments the initiation of the joint response envisaged

in Article VIII. Agreement to initiate the joint response shall be communicated through diplomatic channels.

2.5. As soon as the U.S. and Mexican sections of the JRT are designated, the Chairmen will communicate and decide the place and date for the first meeting of the JRT to develop procedures to anticipate matters relative to a coordinated response to the eventual polluting incidents by all the competent agencies and persons. The JRT will meet as many times as necessary, both in periodic planning meetings and in emergency meetings, as decided by the Chairmen.

2.6. The functions and responsibilities of the JRT will be the following:

(a) Based on the report of the OSC, advise him about the response needs and inform him about available resources for each particular situation.

(b) Evaluate the measures taken by the OSC and make recommendations in this regard, once the agreement for the initiation of the joint response to a specific polluting incident is perfected.

(c) Consider the reports of the OSC and recommend improvements needed in the Plan through proposed amendments to existing Annexes or for new Annexes.

(d) Based on the reports of the OSC, to identify the possible impacts of a specific polluting incident and therefore to recommend the necessary actions to assess the adverse effects of such incident.

(e) Provide advice to the OSC. The JRT will have no control over the functions and responsibilities of the OSC.

(f) Take measures to coordinate and use to the maximum the resources which agencies or persons of the United States of America, of Mexico, or of a third country can contribute.

2.7. In order for the JRT to make decisions, the agreement of both Chairmen is required.

ANNEX III

3. Joint Response Centers.

3.1. As soon as the Agreement enters into force, and without waiting for an incident to occur, the Authorities mentioned in Article V will designate Joint Response Centers, preferably utilizing already existing installations, destined to serve as headquarters for the meetings of the JRT, unless the Chairman of the JRT decides to convoke the JRT in another place, in view of the circumstances.

ANNEX IV

4. Operational Phases.

- Phase I. Discovery, notification and alarm.
- Phase II. Evaluation of the incident, consultations and agreement on joint response.
- Phase III. Containment and measures against the spread of the pollutant.
- Phase IV. Cleanup and recovery.

PHASE I

Discovery, notification and alarm.

A pollution incident may be discovered and notification made; as a result of the regular surveillance activities of the national anti-pollution forces; by the local and regional authorities; by the general public; or as a result of reporting by the persons who caused the incident.

If there is an indication of a threat to the marine environment of the other Party, a speedy notification shall be given to the other Party in accordance with the procedures established in the Annexes.

PHASE II

Evaluation of the incident, consultations and agreement on joint response.

Evaluation of the incident, consultation and agreement on joint response will be made in conformity with the Agreement and its Annexes.

The level of anti-pollution response required will be determined by severity of the incident, the nature and quantity of the pollutant and the location of the specific polluting incident.

PHASE III

Containment and measures against the spread of the pollutant.

The containment is whatever physical or chemical measures are adopted to control or restrict the spread of a pollutant; the measures against the spread of the pollutant are those activities, different from containment, which are adopted to reduce the adverse impact of the pollutant.

PHASE IV

Cleanup and recovery.

The cleanup and recovery of pollutants are operations intended to reduce the effect of an incident to the minimum and include the elimination of the pollutant from the marine environment.

The pollutants which are recovered as a result of cleanup actions should be disposed of in conformity with the national procedures of the place where they are found.

ANNEX V

5. Response and Communication

5.1. System of Rapid Notification

The existence of any polluting incident which is affecting or threatens the other Party will be communicated, without delay, to the appropriate OSC, and if deemed necessary to the Chairman of the JRT, of that Party. A prompt reaction is vital to achieve satisfactory results from an operation. Examples of various message formats are enumerated within this Annex. Each message should be identified with a Date-Time Group (DTG) in Greenwich Mean Time. The first two digits of the DTG represent the day of the month; the second two digits, hours; and the final two digits, minutes.

5.2. Even though some type of evaluation is necessary to make a decision with respect to whether or not to initiate a joint response, it is essential that a notification be given indicating that a joint response may be necessary. This notification by itself will not require a joint response. Nevertheless, it will permit the alerting of the Parties to the possibility of a joint response. The message of notification is specified in the following format.

FORMAT

DATE (DTG)

FROM (FM)

TO (TO)

INFORMATION (INFO)

MEXUS SPILL (OR POTENTIAL SPILL) (Identify the Incident)

1. Geographic situation
2. Any other details
3. Request for acknowledgement of receipt

Note: The message normally will come from a pre-designated On-Scene Coordinator (OSC). The addressees should acknowledge receipt as soon as possible.

5.3. Initiation of a Joint Response

A proposal for a joint response will only be made by a formal request. If both Chairmen of the JRT agree to propose to their Governments the initiation of a joint response the United States Chairman shall report the recommendation thus agreed to the United States Department of State and the Mexican Chairman shall report the same recommendation to the Mexican Secretariat of Foreign Relations. The message should be in the following format:

FORMAT

DATE (DTG)

FROM (FM)

TO (TO)

BOTH CHAIRMEN OF THE JRT PROPOSE INITIATION OF JOINT RESPONSE OSC
(Name of responsible person)

OSC CENTER ESTABLISHED AT (Location of Center) (Address and
telephone numbers).

The message should also contain the information outlined in paragraph 5.2 of this Annex.

5.4. Situation Reports (SITREPS)

5.4.1 Up-to-date information on the situation of a polluting incident which has justified the joint response activity is essential for the efficient administration and the satisfactory outcome of an incident. This information should be sent by the On-Scene Coordinator in the format specified below. The situation reports (SITREPS) should be prepared with the frequency believed necessary with the objective of providing all interested authorities with a complete and up-to-date description of the problem and of informing them about what action has been taken, future plans, recommendations and requests for assistance.

5.4.2 The normal format of the message will be the following:

FORMAT**DATE (DTG)****FROM (FM)****TO (TO)****INFORMATION (INFO)****MEKUS SITREP (Number of SITREP)****POLLUTION INCIDENT (Identify the incident)**

1. Situation
2. Action taken
3. Future plans
4. Recommendations
5. Status of case: (Pends, Closed or Participation Terminated)

5.4.3 **SITUATION:** The section on situation should provide complete details on the polluting incident including what happened, the type and quantity of pollutant involved, the participating agencies, the areas covered and/or threatened the success of the control efforts, the prognosis and any other pertinent data.

5.4.4 **ACTION TAKEN:** The action section should include a summary of all actions taken up to the present by the discharger, local forces, governmental and non-governmental agencies.

5.4.5 **FUTURE PLANS:** The section on future plans should include all actions projected for the immediate future.

5.4.6 **RECOMMENDATIONS:** Any recommendations made by the On-Scene Coordinator (OSC) relative to the response shall be included in the recommendations section. This would include requests for assistance if necessary.

5.4.7 **STATUS OF THE CASE:** The section on status should indicate "Case Closed", "Case Pends", or "Participation Terminated", according to which is pertinent.

5.5 **TERMINATION**

5.5.1 A recommendation to terminate the joint response to a particular incident will be made after consultations between the

On-Scene Coordinator (OSC) and the On-Scene Advisory and Liaison Coordinator (ALC) and will then be forwarded to the Joint Response Team (JRT). Following consultations, the Chairmen of the JRT may by joint decision or unilaterally terminate the joint response and will so advise the OSC(s), the ALC(s), the JRT, the United States Department of State and the Mexican Secretariat of Foreign Relations. The notification shall include date and time (in GMT) of the termination.

5.5.2 Normal Format for the Termination Message:

FORMAT

DATE (DTG)

FROM (FM)

TO (TO)

INFORMATION (INFO)

JOINT MEXUS CONTINGENCY PLAN TERMINATED AT (GMT)

5.6. INCIDENT REPORTS

The reports of the OSC to the JRT, to which clauses (e) and (h) of paragraph 1.2 of Annex I refer will have the following format.

- (a) Description of the cause and initial situation;
- (b) Organization of response action and resources committed;
- (c) Effectiveness of response and removal actions by:
 - the discharger
 - State and local forces
 - Federal agencies and special teams.
- (d) Unique problems encountered.
- (e) - Means to prevent reoccurrence
 - Improvement of response actions
 - Changes to the joint plan.

ANNEX VI

6. Coordinating and auxiliary agencies to which Article V refers.

6.1. For the Government of the United States of America

Department of Transportation

United States Coast Guard (USCG)

Department of the Interior

Department of Commerce

Department of Defense

Environmental Protection Agency (EPA)

Department of Agriculture

Department of Health and Human Services

Department of Justice

Department of State

Department of Energy

Department of Labor

Federal Emergency Management Agency

6.2. For the Government of the United Mexican States

Coordinating Authority;

Secretariat of the Navy

Auxiliary Agencies;

- (a) Secretariat of Government
- (b) Secretariat of Foreign Relations
- (c) Secretariat of Agriculture and Hydraulic Resources
- (d) Secretariat of Programming and Budget
- (e) Secretariat of Communications and Transport
- (f) Secretariat of Human Settlements and Public Works
- (g) Secretariat of Health and Assistance
- (h) Secretariat of Patrimony and Industrial Development
- (i) Department of Fisheries
- (j) Petroleos Mexicanos (PEMEX)

**Convention for Co-operation in the Protection and
Development of the Marine Coastal Environment
of the West and Central African Region,
March 23, 1981***

* 20 I.L.M. 746 (1981).

CONVENTION FOR CO-OPERATION IN THE PROTECTION AND
DEVELOPMENT OF THE MARINE AND COASTAL ENVIRONMENT OF THE
WEST AND CENTRAL AFRICAN REGION

The Contracting Parties,

Conscious of the economic, social and health value of the marine environment and coastal areas of the West and Central African Region,

Fully aware of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations,

Recognizing the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the absence of an integration of an environmental dimension into the development process,

Realizing fully the need for co-operation among the Contracting Parties in order to ensure sustainable, environmentally-sound development through a co-ordinated and comprehensive approach,

Realizing also the need for a carefully planned research, monitoring and assessment programme in view of the scarcity of scientific information on marine pollution in the West and Central African Region,

Noting that existing conventions concerning marine pollution do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and do not entirely meet the special requirements of the West and Central African Region,

have agreed as follows:

Article 1

GEOGRAPHICAL COVERAGE

This Convention shall cover the marine environment, coastal zones and related inland waters falling within the jurisdiction of the States of the West and Central African Region, from Mauritania to Namibia inclusive, which have become Contracting Parties to this Convention under conditions set forth in articles 27 and 28 (1) (hereinafter referred to as the Convention area).

Article 2

DEFINITIONS

For the purposes of this Convention:

1. "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, coastal zones, and related inland waters resulting in such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities, including fishing, impairment of quality for use of sea water and reduction of amenities.
2. "Organization" means the body designated as the secretariat of the Convention and its related protocols according to article 16 of the Convention.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or subregional agreements, for the protection of the marine and coastal environment of the West and Central African Region, provided that such agreements are consistent with this Convention and conform to international law. Copies of such agreements shall be deposited with the Organization and, through the Organization, communicated to all Contracting Parties.
2. Nothing in this Convention or related protocols shall be deemed to affect obligations assumed by a Contracting Party under agreements previously concluded.
3. 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 Contracting Party concerning the nature and extent of its maritime jurisdiction.

Article 4

GENERAL OBLIGATIONS

1. The Contracting Parties shall, individually or jointly as the case may be, take all appropriate measures in accordance with the provisions of this Convention and its protocols in force to which they are parties to prevent, reduce, combat and control pollution of the Convention area and to ensure sound environmental management of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities.

2. In addition to the Protocol concerning co-operation in combating pollution in cases of emergency opened for signature on the same date as this Convention, the Contracting Parties shall co-operate in the formulation and adoption of other protocols prescribing agreed measures, procedures, and standards to prevent, reduce, combat and control pollution from all sources or promoting environmental management in conformity with the objectives of this Convention.

3. The Contracting Parties shall establish national laws and regulations for the effective discharge of the obligations prescribed in this Convention, and shall endeavour to harmonize their national policies in this regard.

4. The Contracting Parties shall co-operate with the competent international, regional and subregional organizations to establish and adopt recommended practices, procedures and measures to prevent, reduce, combat and control pollution from all sources in conformity with the objectives of this Convention and its related protocols, and to assist each other in fulfilling their obligations under this Convention and its related protocols.

5. In taking measures to prevent, reduce, combat and control pollution of the Convention area or to promote environmental management, the Contracting Parties 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 5

POLLUTION FROM SHIPS

The Contracting Parties shall take all appropriate measures in conformity with international law to prevent, reduce, combat and control pollution in the Convention area caused by normal or accidental discharges from ships, and shall ensure the effective application in the Convention area of the internationally recognized rules and standards relating to the control of this type of pollution.

Article 6

POLLUTION CAUSED BY DUMPING FROM SHIPS AND AIRCRAFT

The Contracting Parties shall take all appropriate measures to prevent, reduce, combat and control pollution in the Convention area caused by dumping from ships and aircraft, and shall ensure the effective application in the Convention area of the internationally recognized rules and standards relating to the control of this type of pollution.

Article 7

POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall take all appropriate measures to prevent, reduce, combat and control pollution of the Convention area caused by discharges from rivers, estuaries, coastal establishments and outfalls, coastal dumping or emanating from any other sources on their territories.

Article 8

POLLUTION FROM ACTIVITIES RELATING TO EXPLORATION AND
EXPLOITATION OF THE SEA-BED

The Contracting Parties shall take all appropriate measures to prevent, reduce, combat and control pollution resulting from or in connexion with activities relating to the exploration and exploitation of the sea-bed and its subsoil subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction.

Article 9

POLLUTION FROM OR THROUGH THE ATMOSPHERE

The Contracting Parties shall take all appropriate measures to prevent, reduce combat and control pollution in the Convention area resulting from or transported through the atmosphere.

Article 10

COASTAL EROSION

The Contracting Parties shall take all appropriate measures to prevent, reduce, combat and control coastal erosion in the Convention area resulting from man's activities, such as land reclamation and coastal engineering.

Article 11

SPECIALLY PROTECTED AREAS

The Contracting Parties shall, individually or jointly as the case may be, take all appropriate measures to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other marine life. To this end, the Contracting Parties shall endeavour to establish protected areas, such as parks and reserves, and to prohibit or control any activity likely to have adverse effects on the species, ecosystems or biological processes in such areas.

Article 12

CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Contracting 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 reduce or eliminate damage resulting therefrom.
2. Any Contracting Party which becomes aware of a pollution emergency in the Convention area should, without delay, notify the Organization and, either through this Organization or directly, any other Contracting Party likely to be affected by such emergency.

Article 13

ENVIRONMENTAL IMPACT ASSESSMENT

1. As part of their environmental management policies, the Contracting Parties shall develop technical and other guidelines to assist the planning of their development projects in such a way as to minimize their harmful impact on the Convention area.
2. Each Contracting Party shall endeavour to include an assessment of the potential environmental effects in any planning activity entailing projects within its territory, particularly in the coastal areas, that may cause substantial pollution of, or significant and harmful changes to, the Convention area.
3. The Contracting Parties shall, in consultation with the Organization, develop procedures for the dissemination of information concerning the assessment of the activities referred to in paragraph 2 of this article.

Article 14

SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION

1. The Contracting Parties shall co-operate, with the assistance of competent international and regional organizations, in the field of scientific research, monitoring and assessment of pollution in the Convention area, and shall exchange data and other scientific information for the purpose of this Convention and its related protocols.
2. In addition, the Contracting Parties shall develop and co-ordinate national research and monitoring programmes concerning all types of pollution in the Convention area and shall establish, in co-operation with competent international and regional organizations, a regional network of national research centres and institutions to ensure compatible results. The Contracting Parties shall endeavour to participate in international arrangements for pollution research and monitoring in areas beyond their national jurisdiction.
3. The Contracting Parties shall co-operate, directly or through competent international or regional organizations, in the development of programmes for technical and other assistance in fields related to marine pollution and sound environmental management of the Convention area.

Article 15

LIABILITY AND COMPENSATION

The Contracting Parties shall co-operate in the formulation and adoption of appropriate rules and procedures for the determination of liability and the payment of adequate and prompt compensation for damage resulting from pollution of the Convention area.

Article 16

INSTITUTIONAL ARRANGEMENTS

1. The Contracting Parties designate the United Nations Environment Programme as the secretariat of the Convention to carry out the following functions:

- (i) To prepare and convene the meetings of Contracting Parties and conferences provided for in articles 17 and 18;
- (ii) To transmit to the Contracting Parties notifications, reports and other information received in accordance with articles 3, 12, and 22;
- (iii) To perform the functions assigned to it by the protocols to this Convention;
- (iv) To consider enquiries by, and information from, the Contracting Parties and to consult with them on questions relating to this Convention and its related protocols and annexes thereto;
- (v) To co-ordinate the implementation of co-operative activities agreed upon by the meetings of Contracting Parties and conferences provided for in article 17;
- (vi) To enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions.

2. Each Contracting Party shall designate an appropriate national authority as responsible for the co-ordination of national efforts for implementing this Convention and its related protocols. The appropriate national authority shall serve as the channel of communication between the Contracting Party and the Organization.

Article 17

MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings once every two years and extraordinary meetings at any other time deemed necessary, upon the request of the Organization or at the request of any Contracting Party, supported by at least three other Contracting Parties.

2. It shall be the function of the meetings of the Contracting Parties to keep under review the implementation of this Convention and its related protocols and, in particular:

- (i) To consider reports submitted by the Contracting Parties under article 22;
- (ii) To adopt, review and amend as required annexes to this Convention and to its related protocols, in accordance with the provisions of article 21;
- (iii) To make recommendations regarding the adoption of any additional protocols or amendments to this Convention or its related protocols in accordance with the provisions of articles 18 and 19;
- (iv) To establish working groups as required to consider any matters concerning this Convention and its related protocols and annexes;
- (v) To review the state of pollution in the Convention area;
- (vi) To consider and to adopt decisions concerning co-operative activities to be undertaken within the framework of this Convention and its related protocols, including their financial and institutional implications;
- (vii) To consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its related protocols.

Article 18

ADOPTION OF ADDITIONAL PROTOCOLS

1. The Contracting Parties, at a conference of plenipotentiaries, may adopt additional protocols to this Convention pursuant to paragraph 2 of article 4.
2. A conference of plenipotentiaries shall be convened for the purpose of adopting additional protocols by the Organization at the request of not less than two-thirds of the Contracting Parties.
3. Pending the entry into force of this Convention, the Organization may, after consulting with the signatories to this Convention, convene a conference of plenipotentiaries for the purpose of adopting additional protocols.

Article 19

AMENDMENT OF THE CONVENTION OR PROTOCOLS

1. Any Contracting Party to this Convention may propose amendments to the Convention or to any of the protocols. The texts of any such draft amendments shall be communicated to the Contracting Parties by the Organization six months before their submission to an ordinary meeting of the Contracting Parties for examination.
2. Any amendment shall be adopted by a two-thirds majority of the Contracting Parties and shall enter into force twelve months after its approval.

Article 20

ANNEXES AND AMENDMENTS TO ANNEXES

1. Annexes to this Convention or to any of its protocols shall form an integral part of the Convention or such protocol.
2. Except as may be otherwise provided in any protocol, the procedure foreseen in article 19 shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to any protocol.
3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as the adoption and entry into force of an amendment to an annex in accordance with the provisions of paragraph 2 of this article, 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 the amendment to the Convention or the protocol concerned enters into force.

Article 21

RULES OF PROCEDURE AND FINANCIAL RULES

1. The Contracting Parties shall adopt rules of procedure for their meetings and conferences envisaged in articles 17 and 18 above.
2. The Contracting Parties shall adopt financial rules, prepared in consultation with the Organization, to determine, in particular, their financial participation.

Article 22

REPORTS

The Contracting Parties shall transmit to the Organization reports on the measures adopted in the implementation of this Convention and of Protocols to which they are Parties, in such form and at such intervals as the meetings of Contracting Parties may determine.

Article 23

COMPLIANCE CONTROL

The Contracting Parties undertake to co-operate in the development of procedures enabling them to control the application of this Convention and its related protocols.

Article 24

SETTLEMENT OF DISPUTES

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or its related protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.
2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute shall be submitted to arbitration under conditions to be adopted by the Contracting Parties in an annex to this Convention.

Article 25

RELATIONSHIP BETWEEN THE CONVENTION AND ITS RELATED PROTOCOLS

1. No State may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one protocol. No State may become a Contracting Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.
2. Any protocol to this Convention shall be binding only on the Contracting Parties to the protocol in question.
3. Decisions concerning any protocol pursuant to articles 17, 19 and 20 of this Convention shall be taken only by the Parties to the protocol concerned.

Article 26

SIGNATURE

This Convention and the Protocol on Co-operation in Combating Pollution in Cases of Emergency shall be in Abidjan from 23 March to 22 June 1961 for signature by any coastal or island State, from Mauritania to Namibia inclusive.

Article 27

RATIFICATION, ACCEPTANCE AND APPROVAL

This Convention and any protocol thereto shall be subject to ratification, acceptance, or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Ivory Coast, which will assume the functions of Depositary.

Article 25

ACCESSION

1. As from 23 June 1981, the present Convention and the Protocol concerning Co-operation in Combating Pollution in Cases of Emergency shall be open for accession by the States referred to in article 26.
2. After the entry into force of this Convention and any protocol thereto, any African State not referred to in article 26 may accede to them.
3. This Convention and any protocol thereto shall also remain open after the entry into force for accession by any other State, subject to the prior approval of three quarters of the States referred to in article 26 which have become Contracting Parties.
4. Instruments of accession shall be deposited with the Depositary.

Article 29

ENTRY INTO FORCE

1. This Convention and the first of its protocols shall enter into force on the same date, in accordance with the following paragraph two.
2. The Convention, and any of its protocols shall enter into force on the sixtieth day following the date of deposit of at least six instruments of ratification, acceptance or approval of, or accession to, such Convention and protocol by the Parties referred to in article 26.
3. Thereafter, this Convention and any protocol thereto shall enter into force with respect to any State referred to in article 26 on the sixtieth day following the date of deposit of the instruments of ratification, acceptance, approval or accession.

Article 30

WITHDRAWAL

1. At any time after five years from the date of entry into force of this Convention, any Contracting Party may withdraw from this Convention by giving written notification of withdrawal.
2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party may, at any time after five years from the date of entry into force of such protocol, withdraw from such protocol by giving written notification of withdrawal.
3. Withdrawal shall take effect ninety days after the date on which notification of withdrawal is received by the Depositary.
4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Party.

5. Any Contracting Party which, upon its withdrawal from a protocol, is no longer a Party to any protocol to this Convention, shall be considered as also having withdrawn from this Convention.

Article 31

RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the Contracting Parties, any other Party referred to in article 26, and the Organization:

- (i) Of the signature of this Convention and any protocol thereto, and of the deposit of instruments of ratification, acceptance, approval or accession in accordance with articles 26, 27 and 28;
- (ii) Of the date on which the Convention and any protocol will come into force in accordance with the provisions of article 25;
- (iii) Of notifications of withdrawal made in accordance with article 30;
- (iv) Of the amendments adopted with respect to the Convention and to any protocol, their acceptance by the Contracting Parties and the date of entry into force of these amendments in accordance with the provisions of article 19;
- (v) Of the adoption of new annexes and of the amendment of any annex in accordance with article 26.

2. The original of this Convention and of any protocol thereto shall be deposited with the Depositary, the Government of the Ivory Coast, which shall send certified copies thereof to the Contracting Parties, to the Organization of African Unity, to the Organization, 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 authorized by their respective Governments, have signed this Convention.

DONE at ABIDJAN on this twenty-third day of March one thousand nine hundred and eight-one in a single copy in the English, French and Spanish languages, the three texts being equally authentic.

3. Vessel Source Pollution

International Convention for the Prevention of
Pollution of the Sea by Oil (OILPOL 1954) (with
annexes A and B), May 12, 1954*

* 12 U.S.T. 2990; T.I.A.S. 4900; 327 U.N.T.S. 3.

**THE INTERNATIONAL CONVENTION FOR THE PREVENTION
OF POLLUTION OF THE SEA BY OIL, 1954**

The Governments represented at the International Conference on Pollution of the Sea by Oil held in London from 26th April, 1954, to 12th May, 1954,

Desiring to take action by common agreement to prevent pollution of the sea by oil discharged from ships, and considering that this end may best be achieved by the conclusion of a Convention,

Have accordingly appointed the undersigned plenipotentiaries, who, having communicated their full powers, found in good and due form, have agreed as follows:-

ARTICLE I

(1) For the purposes of the present Convention, the following expressions shall (unless the context otherwise requires) have the meanings hereby respectively assigned to them, that is to say:-

“The Bureau” has the meaning assigned to it by Article XXI;

“Discharge” in relation to oil or to an oily mixture means any discharge or escape howsoever caused;

“Heavy diesel oil” means marine diesel oil, other than those distillates of which more than 50 per cent. by volume distils at a temperature not exceeding 340° C. when tested by A.S.T.M. Standard Method D.158/53;

“Mile” means a nautical mile of 6080 feet or 1852 metres;

“Oil” means crude oil, fuel oil, heavy diesel oil and lubricating oil, and “oily” shall be construed accordingly.

(2) For the purposes of the present Convention the territories of a Contracting Government mean the territory of the country of which it is the Government and any other territory for the international relations of which the Government is responsible and to which the Convention shall have been extended under Article XVIII.

ARTICLE II

The present Convention shall apply to sea-going ships registered in any of the territories of a Contracting Government, except

- (i) ships for the time being used as naval auxiliaries;
- (ii) ships of under 500 tons gross tonnage;
- (iii) ships for the time being engaged in the whaling industry;
- (iv) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the Lachine Canal at Montreal in the Province of Quebec, Canada.

ARTICLE III

(1) Subject to the provisions of Articles IV and V, the discharge from any tanker, being a ship to which the Convention applies, within any of the prohibited zones referred to in Annex A to the Convention in relation to tankers of—

- (a) oil;
- (b) any oily mixture the oil in which fouls the surface of the sea, shall be prohibited.

For the purposes of this paragraph the oil in an oily mixture of less than 100 parts of oil in 1,000,000 parts of the mixture shall not be deemed to foul the surface of the sea.

(2) Subject to the provisions of Articles IV and V, any discharge into the sea from a ship, being a ship to which the Convention applies and not being a tanker, of oily ballast water or tank washings shall be made as far as practicable from land. As from a date three years after the date on which the Convention comes into force, paragraph (1) of this Article shall apply to ships other than tankers as it applies to tankers, except that:—

- (a) the prohibited zones in relation to ships other than tankers shall be those referred to as such in Annex A to the Convention: and
- (b) the discharge of oil or of an oily mixture from such a ship shall not be prohibited when the ship is proceeding to a port not provided with such reception facilities as are referred to in Article VIII.

(3) Any contravention of paragraphs (1) and (2) of this Article shall be an offence punishable under the laws of the territory in which the ship is registered.

ARTICLE IV

(1) Article III shall not apply to:-

- (a) the discharge of oil or of an oily mixture from a ship for the purpose of securing the safety of the ship, preventing damage to the ship or cargo, or saving life at sea; or
- (b) the escape of oil, or of an oily mixture, resulting from damage to the ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimising the escape;
- (c) the discharge of sediment:-
 - (i) which cannot be pumped from the cargo tanks of tankers by reason of its solidity; or
 - (ii) which is residue arising from the purification or clarification of oil fuel or lubricating oil,

provided that such discharge is made as far from land as is practicable.

(2) In the event of such discharge or escape as is referred to in this Article a statement shall be made in the oil record book required by Article IX of the circumstances of and reason for the discharge.

ARTICLE V

Article III shall not apply to the discharge from the bilges of a ship:-

- (a) of any oily mixture during the period of twelve months following the date on which the Convention comes into force in respect of the territory in which the ship is registered;
- (b) after the expiration of such period, of an oily mixture containing no oil other than lubricating oil.

ARTICLE VI

The penalties which may be imposed in pursuance of Article III under the law of any of the territories of a Contracting Government in respect of the unlawful discharge from a ship of oil or of an oily mixture into waters outside the territorial waters of that territory

shall not be less than the penalties which may be imposed under the law of that territory in respect of the unlawful discharge of oil or of an oily mixture from a ship into such territorial waters.

ARTICLE VII

As from a date twelve months after the present Convention comes into force in respect of any of the territories of a Contracting Government all ships registered in that territory shall be required to be so fitted as to prevent the escape of fuel oil or heavy diesel oil into bilges the contents of which are discharged into the sea without being passed through an oily-water separator.

ARTICLE VIII

As from a date three years after the present Convention comes into force in respect of any of the territories of a Contracting Government, that Government shall ensure the provision in each main port in that territory of facilities adequate for the reception, without causing undue delay to ships, of such residues from oily ballast water and tank washings as would remain for disposal by ships, other than tankers, using the port, if the water had been separated by the use of an oily-water separator, a settling tank or otherwise. Each Contracting Government shall from time to time determine which ports are the main ports in its territories for the purposes of this Article, and shall notify the Bureau in writing accordingly indicating whether adequate reception facilities have been installed.

ARTICLE IX

(1) There shall be carried in every ship to which the Convention applies an oil record book (whether as part of the ship's official log-book or otherwise) in the form specified in Annex B to the present Convention. The appropriate entries shall be made in that book, and each page of the book, including any statement under paragraph (2) of Article IV, shall be signed by the officer or officers in charge of the operations concerned and by the master of the ship. The written entries in the oil record book shall be in an official language of the territory in which the ship is registered, or in English or French.

(2) The competent authorities of any of the territories of a Contracting Government may inspect on board any such ship while within a port in that territory the oil record book required to be carried in the ship in compliance with the provisions of the Convention, and may make a true 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 purports to have 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. Any action by the competent authorities under this paragraph shall be taken as expeditiously as possible and the ship shall not be delayed.

ARTICLE X

(1) Any Contracting Government may furnish to the Contracting Government in the territory of which a ship is registered particulars in writing of evidence that any provision of the Convention has been contravened in respect of that ship, wheresoever the alleged contravention may have taken place. If it is practicable to do so, the competent authorities of the former Government shall notify the master of the ship of the alleged contravention.

(2) Upon receiving such particulars the latter Government shall investigate the matter, and may request the former Government to furnish further or better particulars of the alleged contravention. If the Government in the territory of which the ship is registered is satisfied that sufficient evidence is available in the form required by law to enable proceedings against the owner or master of the ship to be taken in respect of the alleged contravention, it shall cause such proceedings to be taken as soon as possible, and shall inform the other Contracting Government and the Bureau of the result of such proceedings.

ARTICLE XI

Nothing in the present Convention shall be construed as derogating from the powers of any Contracting Government to take measures within its jurisdiction in respect of any matter to which the Convention relates or as extending the jurisdiction of any Contracting Government.

ARTICLE XII

Each Contracting Government shall send to the Bureau and to the appropriate organ of the United Nations:—

- (a) the text of laws, decrees, orders and regulations in force in its territories which give effect to the present Convention;
- (b) all official reports or summaries of official reports in so far as they show the results of the application of the provisions of the Convention, provided always that such reports or summaries are not, in the opinion of that Government, of a confidential nature.

ARTICLE XIII

Any dispute between Contracting Governments relating to the interpretation or application of the present Convention which can-

not be settled by negotiation shall be referred at the request of either party to the International Court of Justice for decision unless the parties in dispute agree to submit it to arbitration.

ARTICLE XIV

(1) The present Convention shall remain open for signature for three months from this day's date and shall thereafter remain open for acceptance.

(2) Governments may become parties to the Convention by—

- (i) signature without reservation as to acceptance;
- (ii) signature subject to acceptance followed by acceptance; or
- (iii) acceptance.

(3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Bureau, which shall inform all Governments that have already signed or accepted the Convention of each signature and deposit of an acceptance and of the date of such signature or deposit.

ARTICLE XV

(1) The present Convention shall come into force twelve months after the date on which not less than ten Governments have become parties to the Convention, including five Governments of countries each with not less than 500,000 gross tons of tanker tonnage.

(2)—(a) For each Government which signs the Convention without reservation as to acceptance or accepts the Convention before the date on which the Convention comes into force in accordance with paragraph (1) of this Article it shall come into force on that date. For each Government which accepts the Convention on or after that date, it shall come into force three months after the date of the deposit of that Government's acceptance.

(b) The Bureau shall, as soon as possible, inform all Governments which have signed or accepted the Convention of the date on which it will come into force.

ARTICLE XVI

(1) Upon the request of any Contracting Government a proposed amendment of the present Convention shall be communicated by the Bureau to all Contracting Governments for consideration.

(2) Any amendment communicated to Contracting Governments for consideration under paragraph (1) of this Article shall be deemed to have been accepted by all Contracting Governments and shall come

into force on the expiration of a period of six months after it has been so communicated, unless any one of the Contracting Governments shall have made a declaration not less than two months before the expiration of that period that it does not accept the amendment.

(3)—(a) A conference of Contracting Governments to consider amendments of the Convention proposed by any Contracting Government shall be convened by the Bureau upon the request of one-third of the Contracting Governments.

(b) Every amendment adopted by such a conference by a two-thirds majority vote of the Contracting Governments represented shall be communicated by the Bureau to all Contracting Governments for their acceptance.

(4) Any amendment communicated to Contracting Governments for their acceptance under paragraph (3) of this Article shall come into force for all Contracting Governments, except those which before it comes into force make a declaration that they do not accept the amendment, twelve months after the date on which the amendment is accepted by two-thirds of the Contracting Governments.

(5) Any declaration under this Article shall be made by a notification in writing to the Bureau which shall notify all Contracting Governments of the receipt of the declaration.

(6) The Bureau shall inform all signatory and Contracting Governments of any amendments which come into force under this Article, together with the date on which such amendments shall come into force.

ARTICLE XVII

(1) The present Convention may be denounced by any Contracting Government at any time after the expiration of a period of five years from the date on which the Convention comes into force for that Government.

(2) Denunciation shall be effected by a notification in writing addressed to the Bureau, which shall notify all the Contracting Governments of any denunciation received and of the date of its receipt.

(3) A denunciation shall take effect twelve months, or such longer period as may be specified in the notification, after its receipt by the Bureau.

ARTICLE XVIII

(1)—(a) Any Government may, at the time of signature or acceptance of the present Convention, or at any time thereafter, declare by notification in writing given to the Bureau that the Convention shall extend to any of the territories for whose international relations it is responsible.

(b) The Convention shall, from the date of the receipt of the notification, or from such other date as may be specified in the notification, extend to the territories named therein.

(2)—(a) Any Contracting Government which has made a declaration under paragraph (1) of this Article may, at any time after the expiration of a period of five years from the date on which the Convention has been so extended to any territory, give notification in writing to the Bureau, declaring that the Convention shall cease to extend to any such territory named in the notification.

(b) The Convention shall cease to extend to any territory mentioned in such notification twelve months, or such longer period as may be specified therein, after the date of receipt of the notification by the Bureau.

(3) The Bureau shall inform all Contracting Governments of the extension of the Convention to any territories under paragraph (1) of this Article, and of the termination of any such extension under paragraph (2) of this Article, stating in each case the date from which the Convention has been, or will cease to be, so extended.

ARTICLE XIX

(1) In case of war or other hostilities, a Contracting Government which considers that it is affected, whether as a belligerent or as a neutral, may suspend the operation of the whole or any part of the present Convention in respect of all or any of its territories. The suspending Government shall immediately give notice of any such suspension to the Bureau.

(2) The suspending Government may at any time terminate such suspension and shall in any event terminate it as soon as it ceases to be justified under paragraph (1) of this Article. Notice of such termination shall be given immediately to the Bureau by the Government concerned.

(3) The Bureau shall notify all Contracting Governments of any suspension or termination of suspension under this Article.

ARTICLE XX

As soon as the present Convention comes into force it shall be registered by the Bureau with the Secretary-General of the United Nations.

ARTICLE XXI

The duties of the Bureau shall be carried out by the Government of the United Kingdom of Great Britain and Northern Ireland unless and until the Inter-Governmental Maritime Consultative Organisation comes into being and takes over the duties assigned to it under the Convention signed at Geneva on the 6th day of March, 1948,¹ and thereafter the duties of the Bureau shall be carried out by the said Organisation.

¹ TIAS 4044; 9 UST 621.

In witness whereof the undersigned plenipotentiaries have signed the present Convention.

Done in London this twelfth day of May, 1954, in English and French, both texts being equally authoritative, in a single copy, which shall be deposited with the Bureau and of which the Bureau shall transmit certified copies to all signatory and Contracting Governments.

En foi de quoi les Plénipotentiaires ont signé la présente Convention.

Fait à Londres, ce douzième jour de mai 1954, en anglais et en français, les deux textes faisant également foi, en un seul exemplaire qui sera déposé au Bureau et dont celui-ci donnera copies conformes à tous les Gouvernements Contractants.

For the Government of Australia :
Pour le Gouvernement de l'Australie :

For the Government of Belgium :
Pour le Gouvernement de la Belgique :

Subject to acceptance,
M. A. VAN BOECKEL.

For the Government of Brazil :
Pour le Gouvernement du Brésil :

For the Government of Canada :
Pour le Gouvernement du Canada :

ALAN CUMYN.
Subject to ratification.

For the Government of Ceylon :
Pour le Gouvernement de Ceylan :

T. D. PERERA.
Subject to acceptance.

For the Government of Chile :
Pour le Gouvernement du Chili :

For the Government of Denmark :
Pour le Gouvernement du Danemark :

Subject to acceptance,
MOGENS BLACH.

For the Government of Finland :
Pour le Gouvernement de Finlande :

Subject to acceptance,
S. SUNDMAN.

ANNEX A

PROHIBITED ZONES

(1) Subject to paragraph (3) of this Annex, the prohibited zones in relation to tankers shall be all sea areas within 50 miles from land, with the following exceptions:—

(a) *The Adriatic Zones*

Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively shall each extend for a distance of 30 miles from land, excepting only the island of Vis. When the present Convention has been in force for a period of three years the said zones shall each be extended by a further 20 miles in width unless the two Governments agree to postpone such extension. In the event of such an agreement the said Governments shall notify the Bureau accordingly not less than three months before the expiration of such period of three years and the Bureau shall notify all Contracting Governments of such agreement.

(b) *The North Sea Zone*

The North Sea Zone shall extend for a distance of 100 miles from the coasts of the following countries:—

Belgium
Denmark
the Federal Republic of Germany
the Netherlands
the United Kingdom of Great Britain and Northern Ireland,

but not beyond the point where the limit of a 100-mile zone off the west coast of Jutland intersects the limit of the 50-mile zone off the coast of Norway.

(c) *The Atlantic Zone*

The Atlantic Zone shall be within a line drawn from a point on the Greenwich meridian 100 miles in a north-north-easterly direction from the Shetland Islands; thence northwards along the Greenwich meridian to latitude 61° north; thence westwards along the 61st parallel to longitude 10° west; thence to latitude 60° north, longitude 14° west; thence to latitude 54° 30' north, longitude 30° west; thence to latitude 44° 20' north, longitude 30° west; thence to latitude 48° north, longitude 14° west; thence eastwards along the 48th parallel to a point of intersection with the 50-mile zone off the coast of France. Provided that in relation to voyages which do not extend seawards beyond the Atlantic Zone as defined above, and

which are to ports not provided with adequate facilities for the reception of oily residue, the Atlantic Zone shall be deemed to terminate at a distance of 100 miles from land.

(d) The Australian Zone

The Australian Zone shall extend for a distance of 150 miles from the coasts of Australia, except off the north and west coasts of the Australian mainland between the point opposite Thursday Island and the point on the west coast at 20° south latitude.

(2) Subject to paragraph (3) of this Annex the prohibited zones in relation to ships other than tankers shall be all sea areas within 50 miles from land with the following exceptions:—

(a) The Adriatic Zones

Within the Adriatic Sea the prohibited zones off the coasts of Italy and Yugoslavia respectively shall each extend for a distance of 20 miles from land, excepting only the island of Vis. After the expiration of a period of three years following the application of prohibited zones to ships other than tankers in accordance with paragraph (2) of Article III the said zones shall each be extended by a further 30 miles in width unless the two Governments agree to postpone such extension. In the event of such an agreement the said Governments shall notify the Bureau accordingly not less than three months before the expiration of such period of three years, and the Bureau shall notify all Contracting Governments of such agreement.

(b) The North Sea and Atlantic Zones

The North Sea and Atlantic Zones shall extend for a distance of 100 miles from the coasts of the following countries:—

Belgium
Denmark
the Federal Republic of Germany
Ireland
the Netherlands
the United Kingdom of Great Britain and Northern Ireland,

but not beyond the point where the limit of a 100-mile zone off the west coast of Jutland intersects the limit of the 50-mile zone off the coast of Norway.

(3)—(a) Any Contracting Government may propose:—

- (i) the reduction of any zone off the coast of any of its territories;
- (ii) the extension of any such zone to a maximum of 100 miles from any such coast,

by making a declaration to that effect and the reduction or extension shall come into force after the expiration of a period of six months after the declaration has been made, unless any one of the Contracting Governments shall have made a declaration not less than two months before the expiration of that period that its interests are affected either by reason of the proximity of its coasts or by reason of its ships trading in the area, and that it does not accept the reduction or extension, as the case may be.

(b) Any declaration under this paragraph shall be made by a notification in writing to the Bureau which shall notify all Contracting Governments of the receipt of the declaration.

ANNEX B
Form of Oil Record Book
I.—For Tankers

DATE OF ENTRY				
<i>(a) Ballasting of and discharge of ballast from cargo tanks</i>				
1. Identity numbers of tank(s).....				
2. Type of oil previously contained in tank(s).....				
3. Date and place of ballasting.....				
4. Date and time of discharge of ballast water.....				
5. Place or position of ship.....				
6. Approximate amount of oil-contaminated water transferred to slop tank(s).....				
7. Identity numbers of slop tank(s).....				
<i>(b) Cleaning of cargo tanks</i>				
8. Identity numbers of tank(s) cleaned.....				
9. Type of oil previously contained in tank(s).....				
10. Identity numbers of slop tank(s) to which washings transferred.....				
11. Dates and times of cleaning.....				

ANNEX B—continued
Form of Oil Record Book—continued
I.—For Tankers—continued

DATE OF ENTRY					
	(c) <i>Settling in slop tank(s) and discharge of water</i>				
	12. Identity numbers of slop tank(s).....				
	13. Period of settling (in hours).....				
	14. Date and time of discharge of water.....				
	15. Place or position of ship.....				
	16. Approximate quantities of residue.....				
	(d) <i>Disposal from ship of oily residues from slop tank(s) and other sources</i>				
	17. Date and method of disposal.....				
	18. Place or position of ship.....				
	19. Sources and approximate quantities.....				

Signature of Officer or Officers
in charge of the operations concerned
.....
Signature of Master

ANNEX B—continued
Form of Oil Record Book—continued
II.—For Ships Other Than Tankers

DATE OF ENTRY				
<p>(a) <i>Ballasting, or cleaning during voyage, of bunker fuel tanks</i></p> <p>1. Identity number of tank(s).....</p> <p>2. Type of oil previously contained in tank(s).....</p> <p>3. Date and place of ballasting.....</p> <p>4. Date and time of discharge of ballast or washing water.....</p> <p>5. Place or position of ship.....</p> <p>6. Whether separator used: if so, give period of use.....</p> <p>7. Disposal of oily residue retained on board.....</p>				
<p>(b) <i>Disposal from ship of oily residues from bunker fuel tanks and other sources</i></p> <p>8. Date and method of disposal.....</p> <p>9. Place or position of ship.....</p> <p>10. Sources and approximate quantities.....</p>				

Signature of Officer or Officers
in charge of the operations concerned
Signature of Master

ANNEX B—continued
Form of Oil Record Book—continued
III.—For All Ships

DATE OF ENTRY				
<p style="text-align: center;"><i>Accidental and other exceptional discharges or escapes of oil</i></p> <p>1. Date and time of occurrence.....</p> <p>2. Place or position of ship.....</p> <p>3. Approximate quantity and type of oil.....</p> <p>4. Circumstances of discharge or escape and general remarks.....</p>				

Signature of Officer or Officers
 in charge of the operations concerned
 Signature of Muster

Amendments to OILPOL 1954, April 11, 1962*

* 17 U.S.T. 1524; T.I.A.S. 6109; 600 U.N.T.S. 332.

ANNEX [1]

The following are the amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954:

1. The existing text of Article I of the Convention is replaced by the following:

Article I

- (1) For the purposes of the present Convention, the following expressions shall (unless the context otherwise requires) have the meanings hereby respectively assigned to them, that is to say:

'The Bureau' has the meaning assigned to it by Article XXI;

'Discharge' in relation to oil or to oily mixture means any discharge or escape howsoever caused;

'Heavy diesel oil' means marine diesel oil, other than those distillates of which more than 50 per cent by volume distils at a temperature not exceeding 340° C. when tested by A.S.T.M. Standard Method D.86/59;

'Mile' means a nautical mile of 6,080 feet or 1,852 metres;

'Oil' means crude oil, fuel oil, heavy diesel oil and lubricating oil, and 'oily' shall be construed accordingly;

'Oily mixture' means a mixture with an oil content of 100 parts or more in 1,000,000 parts of the mixture;

'Organization' means the Inter-Governmental Maritime Consultative Organization;

'Ship' means any sea-going vessel of any type whatsoever, including floating craft, whether self-propelled or towed by another vessel, making a sea voyage; and 'tanker' means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

- (2) For the purposes of the present Convention, the territories of a Contracting Government mean the territory of the country of which it is the Government and any other territory for the international relations of which it is responsible and to which the Convention shall have been extended under Article XVIII.

¹ The text of the amendments constituted the Annex to the Final Act of the Conference of Contracting Governments.

2. The existing text of Article II of the Convention is replaced by the following:

Article II

(1) The present Convention shall apply to ships registered in any of the territories of a Contracting Government and to unregistered ships having the nationality of a Contracting Party, except:

- (a) tankers of under 150 tons gross tonnage and other ships of under 500 tons gross tonnage, provided that each Contracting Government will take the necessary steps, so far as is reasonable and practicable, to apply the requirements of the Convention to such ships also, having regard to their size, service and the type of fuel used for their propulsion;
- (b) ships for the time being engaged in the whaling industry when actually employed on whaling operations;
- (c) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of St. Lambert Lock at Montreal in the Province of Quebec, Canada;
- (d) naval ships and ships for the time being used as naval auxiliaries.

(2) Each Contracting Government undertakes to adopt appropriate measures ensuring that requirements equivalent to those of the present Convention are, so far as is reasonable and practicable, applied to the ships referred to in subparagraph (d) of paragraph (1) of this Article.

3. The existing text of Article III of the Convention is replaced by the following:

Article III

Subject to the provisions of Articles IV and V:

- (a) the discharge from a tanker to which the present Convention applies, within any of the prohibited zones referred to in Annex A to the Convention, of oil or oily mixture shall be prohibited;
- (b) the discharge from a ship to which the present Convention applies, other than a tanker, of oil or oily mixture shall be made as far as practicable from land. As from a date three years after that on which the Convention comes into force for the relevant territory in respect of the ship in accordance with paragraph (1) of Article II, sub-paragraph (a) of this Article shall apply to a ship other than a tanker, except that the discharge of oil or of oily mixture from such a ship shall

not be prohibited when the ship is proceeding to a port not provided with such facilities for ships other than tankers as are referred to in Article VIII;

- (c) the discharge from a ship of 20,000 tons gross tonnage or more, to which the present Convention applies and for which the building contract is placed on or after the date on which this provision comes into force, of oil or oily mixture shall be prohibited. However, if, in the opinion of the master, special circumstances make it neither reasonable nor practicable to retain the oil or oily mixture on board, it may be discharged outside the prohibited zones referred to in Annex A to the Convention. The reasons for such discharge shall be reported to the Contracting Government of the relevant territory in respect of the ship in accordance with paragraph (1) of Article II. Full details of such discharges shall be reported to the Organization at least every twelve months by Contracting Governments.

4. The existing text of Article IV of the Convention is replaced by the following:

Article IV

Article III shall not apply to:

- (a) the discharge of oil or of oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea;
 - (b) the escape of oil or of oily mixture resulting from damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;
 - (c) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil, provided that such discharge is made as far from land as is practicable.
5. The existing text of Article V of the Convention is replaced by the following:

Article V

Article III shall not apply to the discharge from the bilges of a ship:

- (a) during the period of twelve months following the date on which the present Convention comes into force for the relevant

territory in respect of the ship in accordance with paragraph (1) of Article II, of oily mixture;

- (b) after the expiration of such period, of oily mixture containing no oil other than lubricating oil which has drained or leaked from machinery spaces.

6. The existing text of Article VI of the Convention is replaced by the following:

Article VI

(1) Any contravention of Articles III and IX shall be an offence punishable under the law of the relevant territory in respect of the ship in accordance with paragraph (1) of Article II.

(2) The penalties which may be imposed under the law of any of the territories of a Contracting Government in respect of the unlawful discharge from a ship of oil or oily mixture outside the territorial sea of that territory shall be adequate in severity to discourage any such unlawful discharge and shall not be less than the penalties which may be imposed under the law of that territory in respect of the same infringements within the territorial sea.

(3) Each Contracting Government shall report to the Organization the penalties actually imposed for each infringement.

7. The existing text of Article VII of the Convention is replaced by the following:

Article VII

(1) As from a date twelve months after the present Convention comes into force for the relevant territory in respect of a ship in accordance with paragraph (1) of Article II, such a ship shall be required to be so fitted as to prevent, so far as reasonable and practicable, the escape of fuel oil or heavy diesel oil into bilges, unless effective means are provided to ensure that the oil in the bilges is not discharged in contravention of this Convention.

(2) Carrying water ballast in oil fuel tanks shall be avoided if possible.

8. The existing text of Article VIII of the Convention is replaced by the following:

Article VIII

(1) Each Contracting Government shall take all appropriate steps to promote the provision of facilities as follows:

- (a) according to the needs of ships using them, ports shall be provided with facilities adequate for the reception, without causing

undue delay to ships, of such residues and oily mixtures as would remain for disposal from ships other than tankers if the bulk of the water had been separated from the mixture;

- (b) oil loading terminals shall be provided with facilities adequate for the reception of such residues and oily mixtures as would similarly remain for disposal by tankers;
- (c) ship repair ports shall be provided with facilities adequate for the reception of such residues and oily mixtures as would similarly remain for disposal by all ships entering for repairs.

(2) Each Contracting Government shall determine which are the ports and oil loading terminals in its territories suitable for the purposes of sub-paragraphs (a), (b) and (c) of paragraph (1) of this Article.

(3) As regards paragraph (1) of this Article, each Contracting Government shall report to the Organization, for transmission to the Contracting Government concerned, all cases where the facilities are alleged to be inadequate.

9. The existing text of Article IX of the Convention is replaced by the following:

Article IX

(1) Of the ships to which the present Convention applies, every ship which uses oil fuel and every 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 Annex B to the Convention.

(2) The oil record book shall be completed on each occasion, whenever any of the following operations takes place in the ship:

- (a) ballasting of and discharge of ballast from cargo tanks of tankers;
- (b) cleaning of cargo tanks of tankers;
- (c) settling in slop tanks and discharge of water from tankers;
- (d) disposal from tankers of oily residues from slop tanks or other sources;
- (e) ballasting, or cleaning during voyage, of bunker fuel tanks of ships other than tankers;
- (f) disposal from ships other than tankers of oily residues from bunker fuel tanks or other sources;

- (g) accidental or other exceptional discharges or escapes of oil from tankers or ships other than tankers.

In the event of such discharge or escape of oil or oily mixture as is referred to in sub-paragraph (c) of Article III or in Article IV, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

(3) Each operation described in paragraph (2) of this Article 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 page of the book shall be signed by the officer or officers in charge of the operations concerned and, when the ship is manned, by the master of the ship. The written entries in the oil record book shall be in an official language of the relevant territory in respect of the ship in accordance with paragraph (1) of Article II, or in English or French.

(4) Oil record books 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. They shall be preserved for a period of two years after the last entry has been made.

(5) The competent authorities of any of the territories of a Contracting Government may inspect on board any ship to which the present Convention applies, while within a port in that territory, the oil record book required to be carried in the ship in compliance with the provisions of this Article, and may make a true 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 purports to have 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. Any action by the competent authorities under this paragraph shall be taken as expeditiously as possible and the ship shall not be delayed.

10. The existing text of Article X of the Convention is replaced by the following:

Article X

(1) Any Contracting Government may furnish to the Government of the relevant territory in respect of the ship in accordance with paragraph (1) of Article II particulars in writing of evidence that any provision of the present Convention has been contravened in respect of that ship, wheresoever the alleged contravention may have taken place. If it is practicable to do so, the competent authorities of the former Government shall notify the master of the ship of the alleged contravention.

(2) Upon receiving such particulars, the Government so informed shall investigate the matter, and may request the other Government

to furnish further or better particulars of the alleged contravention. If the Government so informed is satisfied that sufficient evidence is available in the form required by its law to enable proceedings against the owner or master of the ship to be taken in respect of the alleged contravention, it shall cause such proceedings to be taken as soon as possible, and shall inform the other Government and the Organization of the result of such proceedings.

11. The existing text of Article XIV of the Convention is replaced by the following:

Article XIV

(1) The present Convention shall remain open for signature for three months from this day's date and shall thereafter remain open for acceptance.

(2) Subject to Article XV, the Governments of States Members of the United Nations or of any of the Specialized Agencies or parties to the Statute of the International Court of Justice may become parties to the present Convention by:

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

(3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Bureau, which shall inform all Governments that have already signed or accepted the present Convention of each signature and deposit of an acceptance and of the date of such signature or deposit.

12. The existing text of Article XVI of the Convention is replaced by the following:

Article XVI

(1) (a) The present Convention may be amended by unanimous agreement between the Contracting Governments.

(b) Upon request of any Contracting Government a proposed amendment shall be communicated by the Organization to all Contracting Governments for consideration and acceptance under this paragraph.

(2) (a) An amendment to the present Convention may be proposed to the Organization at any time by any Contracting Government, and such proposal if adopted by a two-thirds majority of the Assembly of the Organization upon recommendation adopted by a two-thirds majority of the Maritime Safety Committee of the Organization shall be communicated by the Organization to all Contracting Governments for their acceptance.

(b) Any such recommendation by the Maritime Safety Committee shall be communicated by the Organization to all

Contracting Governments for their consideration at least six months before it is considered by the Assembly.

- (3) (a) A conference of Governments to consider amendments to the present Convention proposed by any Contracting Government shall at any time be convened by the Organization upon the request of one-third of the Contracting Governments.
- (b) Every amendment adopted by such conference by a two-thirds majority of the Contracting Governments shall be communicated by the Organization to all Contracting Governments for their acceptance.
- (4) Any amendment communicated to Contracting Governments for their acceptance under paragraph (2) or (3) of this Article shall come into force for all Contracting Governments, except those which before it comes into force make a declaration that they do not accept the amendment, twelve months after the date on which the amendment is accepted by two-thirds of the Contracting Governments.
- (5) The Assembly, by a two-thirds majority vote, including two-thirds of the Governments represented on the Maritime Safety Committee, and subject to the concurrence of two-thirds of the Contracting Governments to the present Convention, or a conference convened under paragraph (3) of this Article by a two-thirds majority vote, may determine at the time of its adoption that the amendment is of such an important nature that any Contracting Government which makes a declaration under paragraph (4) of this Article and which does not accept the amendment within a period of twelve months after the amendment comes into force, shall, upon the expiry of this period, cease to be a party to the present Convention.
- (6) The Organization shall inform all Contracting Governments of any amendments which come into force under this Article, together with the date on which such amendments shall come into force.
- (7) Any acceptance or declaration under this Article shall be made by a notification in writing to the Organization which shall notify all Contracting Governments of the receipt of the acceptance or declaration.

13. The existing text of Article XVIII of the Convention is replaced by the following:

Article XVIII

- (1) (a) The United Nations in cases where they are the administering authority for a territory or any Contracting Government responsible for the international relations of a territory shall as soon as possible consult with such territory in an endeavour to extend the present Convention to that territory and may at any time by notification in writing

- given to the Bureau declare that the Convention shall extend to such territory.
- (b) The present Convention shall from the date of the receipt of the notification or from such other date as may be specified in the notification extend to the territory named therein.
- (2) (a) The United Nations in cases where they are the administering authority for a territory or any Contracting Government which has made a declaration under paragraph (1) of this Article, at any time after the expiry of a period of five years from the date on which the present Convention has been so extended to any territory, may by a notification in writing given to the Bureau after consultation with such territory declare that the Convention shall cease to extend to any such territory named in the notification.
- (b) 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 Bureau.
- (3) The Bureau shall inform all the Contracting Governments of the extension of the present Convention to any territory under paragraph (1) of this Article, and of the termination of any such extension under the provisions of paragraph (2) stating in each case the date from which the Convention has been or will cease to be so extended.

14. The existing text of Annex A to the Convention is replaced by the following:

ANNEX A
PROHIBITED ZONES

- (1) All sea areas within 50 miles from the nearest land shall be prohibited zones.

For the purposes of this Annex, the term 'from the nearest land' means 'from the base-line from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958'. [1]

- (2) The following sea areas, insofar as they extend more than 50 miles from the nearest land, shall also be prohibited zones:

- (a) *Pacific Ocean*
The Canadian Western Zone
The Canadian Western Zone shall extend for a distance of 100 miles from the nearest land along the west coast of Canada.

¹ TIAS 5639; 15 UST 1606.

(b) *North Atlantic Ocean, North Sea and Baltic Sea*(i) *The North-West Atlantic Zone*

The North-West Atlantic Zone shall comprise the sea areas within a line drawn from latitude 38° 47' north, longitude 73° 43' west to latitude 39° 58' north, longitude 68° 34' west thence to latitude 42° 05' north, longitude 64° 37' west thence along the east coast of Canada at a distance of 100 miles from the nearest land.

(ii) *The Icelandic Zone*

The Icelandic Zone shall extend for a distance of 100 miles from the nearest land along the coast of Iceland.

(iii) *The Norwegian, North Sea and Baltic Sea Zone*

The Norwegian, North Sea and Baltic Sea Zone shall extend for a distance of 100 miles from the nearest land along the coast of Norway and shall include the whole of the North Sea and of the Baltic Sea and its Gulfs.

(iv) *The North-East Atlantic Zone*

The North-East Atlantic Zone shall include the sea areas within a line drawn between the following positions:

<i>Latitude</i>	<i>Longitude</i>
62° north	2° east,
64° north	00°
64° north	10° west,
60° north	14° west;
54° 30' north	30° west,
53° north	40° west;
44° 20' north	40° west,
44° 20' north	30° west;
46° north	20° west, thence towards Cape Finisterre at the intersection of the 50-mile limit.

(v) *The Spanish Zone*

The Spanish Zone shall comprise the areas of the Atlantic Ocean within a distance of 100 miles from the nearest land along the coast of Spain and shall come into operation on the date on which the present Convention shall have come into force in respect of Spain.

(vi) *The Portuguese Zone*

The Portuguese Zone shall comprise the area of the Atlantic Ocean within a distance of 100 miles from

the nearest land along the coast of Portugal and shall come into operation on the date on which the present Convention shall have come into force in respect of Portugal.

(c) *Mediterranean and Adriatic Seas*

The Mediterranean and Adriatic Zone

The Mediterranean and Adriatic Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Mediterranean and Adriatic Seas and shall come into operation in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory.

(d) *Black Sea and Sea of Azov*

The Black Sea and Sea of Azov Zone

The Black Sea and Sea of Azov Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Black Sea and Sea of Azov and shall come into operation in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory.

Provided that the whole of the Black Sea and the Sea of Azov shall become a prohibited zone on the date on which the present Convention shall have come into force in respect of Roumania and the Union of Soviet Socialist Republics.

(e) *Red Sea*

The Red Sea Zone

The Red Sea Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Red Sea and shall come into operation in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory.

(f) *Persian Gulf*

(i) *The Kuwait Zone*

The Kuwait Zone shall comprise the sea area within a distance of 100 miles from the nearest land along the coast of Kuwait.

(ii) *The Saudi Arabian Zone*

The Saudi Arabian Zone shall comprise the sea area within a distance of 100 miles from the nearest land along the coast of Saudi Arabia and shall come into operation on the date on which the present Convention shall have come into force in respect of Saudi Arabia.

(g) *Arabian Sea, Bay of Bengal and Indian Ocean*(i) *The Arabian Sea Zone*

The Arabian Sea Zone shall comprise the sea areas within a line drawn between the following positions:

<i>Latitude</i>	<i>Longitude</i>
23° 33' north	68° 20' east,
23° 33' north	67° 30' east;
22° north	68° east,
20° north	70° east;
18° 55' north	72° east,
15° 40' north	72° 42' east;
8° 30' north	75° 48' east,
7° 10' north	76° 50' east;
7° 10' north	78° 14' east,
9° 06' north	79° 32' east,

and shall come into operation on the date on which the present Convention shall have come into force in respect of India.

(ii) *The Bay of Bengal Coastal Zone*

The Bay of Bengal Coastal Zone shall comprise the sea areas between the nearest land and a line drawn between the following positions:

<i>Latitude</i>	<i>Longitude</i>
10° 15' north	80° 50' east,
14° 30' north	81° 38' east;
20° 20' north	88° 10' east,
20° 20' north	89° east,

and shall come into operation on the date on which the present Convention shall have come into force in respect of India.

(iii) *The Malagasy Zone*

The Malagasy Zone shall comprise the sea area within a distance of 100 miles from the nearest land along the coast of Madagascar west of the meridians of Cape d'Ambre in the north and of Cape Ste. Marie in the south and within a distance of 150 miles from the nearest land along the coast of Madagascar east of these meridians, and shall come into operation when the present Convention shall have come into force in respect of Madagascar.

(h) *Australia**The Australian Zone*

The Australian Zone shall comprise the sea area within a distance of 150 miles from the nearest land along the coasts of Australia, except off the north and west coasts of the

Australian mainland between the point opposite Thursday Island and the point on the west coast at 20° south latitude.

- (3) (a) Any Contracting Government may propose:
- (i) the reduction of any zone off the coast of any of its territories;
 - (ii) the extension of any such zone to a maximum of 100 miles from the nearest land along any such coast, by making a declaration to that effect and the reduction or extension shall come into force after the expiration of a period of six months after the declaration has been made, unless any one of the Contracting Governments shall have made a declaration not less than two months before the expiration of that period to the effect that it considers that the destruction of birds and adverse effects on fish and the marine organisms on which they feed would be likely to occur or that its interests are affected either by reason of the proximity of its coasts or by reason of its ships trading in the area, and that it does not accept the reduction or extension, as the case may be.
- (b) Any declaration under this paragraph shall be made by a notification in writing to the Organization which shall notify all Contracting Governments of the receipt of the declaration.

(4) The Organization shall prepare a set of charts indicating the extent of the prohibited zones in force in accordance with paragraph (2) of this Annex and shall issue amendments thereto as may be necessary.

15. The following changes to be made in Annex B to the Convention:

1. Throughout the Annex replace the words 'Identity numbers of tank(s)' by 'Identity numbers of tank(s) concerned'.
2. In Form I(a) replace the words 'Place or position of ship' by 'Place or position of ship at time of discharge'.
3. In Form I(d) and Form II(a) and (b) replace the words 'Place or position of ship' by 'Place or position of ship at time of disposal'.
4. In Form I(c) add a new line 17 as follows: '17. Approximate quantities of water discharged' and re-number lines in (d) 18 to 20.
5. Delete the words 'from ship' in the headings of Forms I(d) and II(b).
6. In Form III replace the words 'Place or position of ship' by 'Place or position of ship at time of occurrence'.

Amendments to OILPOL 1954, October 21, 1969*

* 28 U.S.T. 1207; T.I.A.S. 8505.

INTER-GOVERNMENTAL MARITIME
CONSULTATIVE ORGANIZATION

DISTR.
GENERAL
A VI/RES. 175
16 JANUARY 1970
ORIGINAL: ENGLISH

IMCO

ASSEMBLY—6TH SESSION
AGENDA ITEM 10

AMENDMENTS TO THE INTERNATIONAL
CONVENTION FOR THE PREVENTION OF
POLLUTION OF THE SEA BY OIL, 1954

Resolution A.175(VI)

adopted on 21 October 1969

THE ASSEMBLY,

RECALLING its Resolution A.142(V) adopted on 26 October 1967 which it approved the work programme of the Organization in particular with respect to the possible need for amending the International Convention for the Prevention of Pollution of the Sea by Oil, 1954 [1] in accordance with the conclusions of the third extraordinary session of the Council,

RECALLING FURTHER its Resolution A.151(ES.IV) concerning proposals for amending Article X, Resolution A.153(ES.IV) concerning proposals for amending Articles IX and X, and Resolution A.155(ES.IV) concerning proposals for amending Article III of the Convention in sufficient time to permit their consideration by the Assembly at its next regular session,

NOTING Article 16(i) of the Convention on the Inter-Governmental Maritime Consultative Organization, concerning the functions of the Assembly,

NOTING FURTHER that Article XVI of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, provides for procedures of amendment involving participation by the Organization,

HAVING CONSIDERED certain amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, and the Annexes thereto, forming the subject of a recommendation adopted by the Maritime Safety Committee at its nineteenth session in accordance with Article XVI of that Convention with a view to preventing and controlling deliberate pollution of the sea by oil,

RECALLING Resolution 1 of the International Conference on Prevention of Pollution of the Sea by Oil, 1962, concerning the complete

¹ TIAS 4900, 6109; 12 UST 2989; 17 UST 1523. [Footnote added by the Department of State.]

avoidance, as soon as practicable, of the discharge of persistent oils into the sea and considering that the amendments to the Convention, as recommended by the Maritime Safety Committee, will enable significant progress to be made towards the ultimate achievement of complete avoidance of discharge,

ADOPTS the following Amendments to the Articles and the Annexes to the Convention the texts of which are attached to this Resolution:

- (a) The replacement of paragraph (1) of Article I by a new paragraph;
- (b) the replacement of Article III, by a new Article;
- (c) the deletion of paragraph (c) of Article IV;
- (d) the replacement of Article V by a new Article;
- (e) the replacement of Article VII by a new Article;
- (f) the replacement of paragraphs (1) and (2) of Article IX by new paragraphs;
- (g) the replacement of paragraph (2) of Article X by a new paragraph;
- (h) the deletion of Annex A;
- (i) the replacement of Annex B by a new Annex;

REQUESTS the Secretary-General of the Organization, in conformity with Article XVI(2)(a), to communicate, for consideration and acceptance, certified copies of this Resolution and its attachment, to all Contracting Governments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, together with copies to all Members of the Organization, and

INVITES all Governments concerned to accept the Amendments at the earliest possible date.

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION OF THE SEA BY OIL, 1954 AND ITS ANNEXES

Article I

The existing text of paragraph (1) is replaced by the following:

(1) For the purposes of the present Convention, the following expressions shall (unless the context otherwise requires) have the meanings hereby respectively assigned to them that is to say:

‘The Bureau’ has the meaning assigned to it by Article XXI;

‘Discharge’ in relation to oil or to oily mixture means any discharge or escape howsoever caused;

‘Heavy diesel oil’ means diesel oil, other than those distillates of which more than 50 per cent by volume distils at a tempera-

ture not exceeding 340° C. when tested by A.S.T.M. Standard Method D.86/59;

'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;

'Mile' means a nautical mile of 6,080 feet or 1,852 metres;

'Nearest land'. The term 'from the nearest land' means 'from the base-line from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958';^[1]

'Oil' means crude oil, fuel oil, heavy diesel oil and lubricating oil, and 'oily' shall be construed accordingly;

'Oily mixture' means a mixture with any oil content;

'Organization' means the Inter-Governmental Maritime Consultative Organization;

'Ship' means any sea-going vessel of any type whatsoever, including floating craft, whether self-propelled or towed by another vessel, making a sea voyage; and 'tanker' means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

Article III

The existing text of Article III is replaced by the following:

Subject to the provisions of Articles IV and V:

- (a) the discharge from a ship to which the present Convention applies, other than a tanker, of oil or oily mixture shall be prohibited except when the following conditions are all satisfied:
 - (i) the ship is proceeding en route;
 - (ii) the instantaneous rate of discharge of oil content does not exceed 60 litres per mile;
 - (iii) the oil content of the discharge is less than 100 parts per 1,000,000 parts of the mixture;
 - (iv) the discharge is made as far as practicable from land;
- (b) the discharge from a tanker to which the present Convention applies of oil or oily mixture shall be prohibited except when the following conditions are all satisfied:
 - (i) the tanker is proceeding en route;
 - (ii) the instantaneous rate of discharge of oil content does not exceed 60 litres per mile;
 - (iii) the total quantity of oil discharged on a ballast voyage does not exceed 1/15,000 of the total cargo-carrying capacity;
 - (iv) the tanker is more than 50 miles from the nearest land;

¹ TIAS 5639; 15 UST 1606. [Footnote added by the Department of State.]

- (c) the provisions of sub-paragraph (b) of this Article shall not apply to:
- (i) the discharge of ballast from a cargo tank which, since the cargo was last carried therein, has been so cleaned that any effluent therefrom, if it were discharged from a stationary tanker into clean calm water on a clear day, would produce no visible traces of oil on the surface of the water; or
 - (ii) the discharge of oil or oily mixture from machinery space bilges, which shall be governed by the provisions of sub-paragraph (a) of this Article.

Article IV

Paragraph (c) is deleted.

Article V

The existing text of Article V is replaced by the following:

Article III shall not apply to the discharge of oily mixture from the bilges of a ship during the period of twelve months following the date on which the present Convention comes into force for the relevant territory in accordance with paragraph (1) of Article II.

Article VII

The existing text of Article VII is replaced by the following:

(1) As from a date twelve months after the present Convention comes into force for the relevant territory in respect of a ship in accordance with paragraph (1) of Article II, such a ship shall be required to be so fitted as to prevent, as far as reasonable and practicable, the escape of oil into bilges, unless effective means are provided to ensure that the oil in the bilges is not discharged in contravention of this Convention.

(2) Carrying water ballast in oil fuel tanks shall be avoided if possible.

Article IX

The existing texts of paragraphs (1) and (2) are replaced by the following:

(1) Of the ships to which the present Convention applies, every ship which uses oil fuel and every 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 the Annex to this Convention.

(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 tankers:

- (i) loading of oil cargo;
- (ii) transfer of oil cargo during voyage;

- (iii) discharge of oil cargo;
 - (iv) ballasting of cargo tanks;
 - (v) cleaning of cargo tanks;
 - (vi) discharge of dirty ballast;
 - (vii) discharge of water from slop-tanks;
 - (viii) disposal of residues;
 - (ix) discharge overboard of bilge water containing oil which has accumulated in machinery spaces whilst in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate log book;
- (b) for ships other than tankers:
- (i) ballasting or cleaning of bunker fuel tanks;
 - (ii) discharge of dirty ballast or cleaning water from tanks referred to under (i) of this sub-paragraph;
 - (iii) disposal of residues;
 - (iv) discharge overboard of bilge water containing oil which has accumulated in machinery spaces whilst in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate log book.

In the event of such discharge or escape of oil or oily mixture as is referred to in Article IV, a statement shall be made in the oil record book of the circumstances of, and the reason for, the discharge or escape.

Article X

The existing text of paragraph (2) is replaced by the following:

(2) Upon receiving such particulars, the Government so informed shall investigate the matter, and may request the other Government to furnish further or better particulars of the alleged contravention. If the Government so informed is satisfied that sufficient evidence is available in the form required by its law to enable proceedings against the owner or master of the ship to be taken in respect of the alleged contravention, it shall cause such proceedings to be taken as soon as possible. That Government shall promptly inform the Government whose official has reported the alleged contravention, as well as the Organization, of the action taken as a consequence of the information communicated.

ANNEX A

Annex A is deleted.

ANNEX B

Annex B is deleted and replaced by the following:

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ANNEX
FORM OF OIL RECORD BOOK

I - FOR TANKERS

Name of ship.....

Total cargo carrying capacity of ship in cubic metres.....

(a) Loading of oil cargo

1. Date and place of Loading			
2. Types of oil loaded			
3. Identity of tank(s) loaded			

(b) Transfer of oil cargo during voyage

4. Date of transfer			
5. Identity of tank(s)	i	From	
	ii	To	
6. Was(were) tank(s) in 5(i) emptied?			

(c) Discharge of oil cargo

7. Date and place of discharge			
8. Identity of tank(s) discharged			
9. Was(were) tank(s) emptied?			

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(d) Ballasting of cargo tanks

10. Identity of tank(s) ballasted			
11. Date and position of ship at start of ballasting			

(e) Cleaning of cargo tanks

12. Identity of tank(s) cleaned			
13. Date and duration of cleaning			
14. Methods of cleaning*			

(f) Discharge of dirty ballast

15. Identity of tank(s)			
16. Date and position of ship at start of discharge to sea			
17. Date and position of ship at finish of discharge to sea			
18. Ship's speed(s) during discharge			
19. Quantity discharged to sea			
20. Quantity of polluted water transferred to slop tank(s) (identify slop tank(s))			
21. Date and port of discharge into shore reception facilities (if applicable)			

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

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(g) Discharge of water from slop tanks

22. Identity of slop tank(s)	
23. Time of settling from last entry of residues, or	
24. Time of settling from last discharge	
25. Date, time and position of ship at start of discharge	
26. Sounding of total contents at start of discharge	
27. Sounding of interface at start of discharge	
28. Bulk quantity discharged and rate of discharge	
29. Final quantity discharged and rate of discharge	
30. Date, time and position of ship at end of discharge	
31. Ship's speed(s) during discharge	
32. Sounding of interface at end of discharge	

(h) Disposal of residues

33. Identity of tank(s)	
34. Quantity disposed from each tank	
35. 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	
36. Date and port of disposal of residue	

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- (i) Discharge overboard of bilge water containing oil which has accumulated in machinery spaces (including pump rooms) whilst in port.*

37. Port			
38. Duration of stay			
39. Quantity disposed			
40. Date and place of disposal			
41. Method of disposal (state whether a separator was used)			

- (j) Accidental or other exceptional discharges of oil

42. Date and time of occurrence			
43. Place or position of ship at time of occurrence			
44. Approximate quantity and type of oil			
45. Circumstances of discharge or escape and general remarks			

..... Signature of Officer or Officers in charge of operation concerned

..... Signature of Master

* The routine discharge at sea of bilge water containing any oil from machinery spaces including pump room bilges need not be entered in the oil record book but, if not, it must be entered in the appropriate log book, stating whether or not the discharge was made through a separator. 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 separator".

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II - FOR SHIPS OTHER THAN TANKERS

Name of ship.....

(a) Ballasting or cleaning of bunker 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			

(b) Discharge of dirty ballast or cleaning water from tanks referred to under (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 separator used)			
10. Quantity discharged			

A VI/Res.175

(c) Disposal of residues

11. Quantity of residue retained on board			
12. Methods of disposal of residues: (a) reception facilities (b) mixed with next bunkering (c) transferred to another (other) tank(s)			
13. Date and port of disposal of residue			

(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 disposed			
17. Date and place of disposal			
18. Method of disposal (state whether separator was used)			

* The route discharge at sea of bilge water containing any oil from machinery spaces need not be entered in the oil record book but if not, it must be entered in the appropriate log book, stating whether or not the discharge was made through a separator. 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".

A VI/Res.175

(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 and general remarks			

..... Signature of Officer or Officers
in charge of operations concerned

..... Signature of Master

**International Convention Relating to Intervention
on the High Seas in Cases of Oil Pollution
Casualties (INTERVENTION 1969) (with annex),
November 29, 1969***

* 16 U.S.T. 767; T.I.A.S. 8068; U.N. Regist. No. 14049.

INTERNATIONAL CONVENTION RELATING TO
INTERVENTION ON THE HIGH SEAS IN
CASES OF OIL POLLUTION CASUALTIES

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 purposes 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^[1] may become Parties to this Convention by:

- (a) signature without reservation as to ratification, acceptance or approval;

¹ TS 993; 59 Stat. 1055.

- (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 to 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.^[1]

¹ TS 993; 50 Stat. 1062.

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.

TIAS 8068

ANNEX

CHAPTER I

CONCILIATION

ARTICLE 1

Provided the Parties concerned do not decide otherwise, the procedure for conciliation shall be in accordance with the rules set out in this Chapter.

ARTICLE 2

1. A Conciliation Commission shall be established upon the request of one Party addressed to another in application of Article VIII of the Convention.

2. The request for conciliation submitted by a Party shall consist of a statement of the case together with any supporting documents.

3. If a procedure has been initiated between two Parties, any other Party the nationals or property of which have been affected by the same measures, or which is a coastal State having taken similar measures, may join in the conciliation procedure by giving written notice to the Parties which have originally initiated the procedure unless either of the latter Parties object to such joinder.

ARTICLE 3

1. The Conciliation Commission shall be composed of three members: one nominated by the coastal State which took the measures, one nominated by the State the nationals or property of which have been affected by those measures and a third, who shall preside over the Commission and shall be nominated by agreement between the two original members.

2. The Conciliators shall be selected from a list previously drawn up in accordance with the procedure set out in Article 4 below.

3. If within a period of 60 days from the date of receipt of the request for conciliation, the Party to which such request is made has not given notice to the other Party to the controversy of the nomination of the Conciliator for whose selection it is responsible, or if, within a period of 30 days from the date of nomination of the second of the members of the Commission to be designated by the Parties, the first two Conciliators have not been able to designate by common agreement the Chairmen of the Commission, the Secretary-General of the Organization shall upon request of either Party and within a period of 30 days, proceed to the required nomination. The members of the Commission thus nominated shall be selected from the list prescribed in the preceding paragraph.

4. In no case shall the Chairman of the Commission be or have been a national of one of the original Parties to the procedure, whatever the method of his nomination.

ARTICLE 4

1. The list prescribed in Article 3 above shall consist of qualified persons designated by the Parties and shall be kept up to date by the Organization. Each Party may designate for inclusion on the list four persons, who shall not necessarily be its nationals. The nominations shall be for periods of six years each and shall be renewable.

2. In the case of the decease or resignation of a person whose name appears on the list, the Party which nominated such person shall be permitted to nominate a replacement for the remainder of the term of office.

ARTICLE 5

1. Provided the Parties do not agree otherwise, the Conciliation Commission shall establish its own procedures, which shall in all cases permit a fair hearing. As regards examination, the Commission, unless it unanimously decides otherwise, shall conform with the provisions of Chapter III of The Hague Convention for the Peaceful Settlement of International Disputes of 18 October 1907.^[1]

2. The Parties shall be represented before the Conciliation Commission by agents whose duty shall be to act as intermediaries between the Parties and the Commission. Each of the Parties may seek also the assistance of advisers and experts nominated by it for this purpose and may request the hearing of all persons whose evidence the Party considers useful.

3. The Commission shall have the right to request explanations from agents, advisers and experts of the Parties as well as from any persons whom, with the consent of their Governments, it may deem useful to call.

ARTICLE 6

Provided the Parties do not agree otherwise, decisions of the Conciliation Commission shall be taken by a majority vote and the Commission shall not pronounce on the substance of the controversy unless all its members are present.

¹ TS 586; 36 Stat. 2214.

ARTICLE 7

The Parties shall facilitate the work of the Conciliation Commission and in particular, in accordance with their legislation, and using all means at their disposal:

- (a) provide the Commission with the necessary documents and information;
- (b) enable the Commission to enter their territory, to hear witnesses or experts, and to visit the scene.

ARTICLE 8

The task of the Conciliation Commission will be to clarify the matters under dispute, to assemble for this purpose all relevant information by means of examination or other means, and to endeavour to reconcile the Parties. After examining the case, the Commission shall communicate to the Parties a recommendation which appears to the Commission to be appropriate to the matter and shall fix a period of not more than 90 days within which the Parties are called upon to state whether or not they accept the recommendation.

ARTICLE 9

The recommendation shall be accompanied by a statement of reasons. If the recommendation does not represent in whole or in part the unanimous opinion of the Commission, any Conciliator shall be entitled to deliver a separate opinion.

ARTICLE 10

A conciliation shall be deemed unsuccessful if, 90 days after the Parties have been notified of the recommendation, either Party shall not have notified the other Party of its acceptance of the

recommendation. Conciliation shall likewise be deemed unsuccessful if the Commission shall not have been established within the period prescribed in the third paragraph of Article 3 above, or provided the Parties have not agreed otherwise, if the Commission shall not have issued its recommendation within one year from the date on which the Chairman of the Commission was nominated.

ARTICLE 11

1. Each member of the Commission shall receive remuneration for his work, such remuneration to be fixed by agreement between the Parties which shall each contribute an equal proportion.
2. Contributions for miscellaneous expenditure incurred by the work of the Commission shall be apportioned in the same manner.

ARTICLE 12

The parties to the controversy may at any time during the conciliation procedure decide in agreement to have recourse to a different procedure for settlement of disputes.

CHAPTER II

ARBITRATION

ARTICLE 13

1. Arbitration procedure, unless the Parties decide otherwise, shall be in accordance with the rules set out in this Chapter.
2. Where conciliation is unsuccessful, a request for arbitration may only be made within a period of 180 days following the failure of conciliation.

ARTICLE 14

The Arbitration Tribunal shall consist of three members: one Arbitrator nominated by the coastal State which took the measures, one Arbitrator nominated by the State the nationals or property of which have been affected by those measures, and another Arbitrator who shall be nominated by agreement between the two first-named, and shall act as its Chairman.

ARTICLE 15

1. If, at the end of a period of 60 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 60 days proceed to such nomination, selecting from a list of qualified persons previously drawn up in accordance with the provisions of Article 4 above. This list shall be separate from the list of experts prescribed in Article IV of the Convention and from the list of Conciliators prescribed in Article 4 of the present Annex; the name of the same person may, however, appear both on the list of Conciliators and on the list of Arbitrators. A person who has acted as Conciliator in a dispute may not, however, be chosen to act as Arbitrator in the same matter.
2. If, within a period of 60 days from the date of the 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 60 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 or Parties.

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 60 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 the case of decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article 14 above, or in the absence of agreement between the members of the Tribunal within a period of 60 days of the decease or default, according to the provisions of the present Article.

ARTICLE 16

If a procedure has been initiated between two Parties, any other Party, the nationals or property of which have been affected by the same measures or which is a coastal State having taken similar measures, may join in the arbitration procedure by

giving written notice to the Parties which have originally initiated the procedure unless either of the latter Parties object to such joinder.

ARTICLE 17

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

ARTICLE 18

1. Decisions of the Tribunal both as to its procedure and its place of meeting and as to any controversy laid before it, shall be taken by majority vote 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 Chairman shall cast the deciding vote.

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 19

1. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal. The Parties shall immediately comply with the award.

2. Any controversy which may arise between the Parties as regards interpretation and 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.

Certified true copy of the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, done at Brussels on 29 November 1969, the original of which is deposited with the Inter-Governmental Maritime Consultative Organization.

Copie certifiée conforme de la Convention internationale de 1969 sur l'intervention en haute mer en cas d'accident entraînant ou pouvant entraîner une pollution par les hydrocarbures, en date, à Bruxelles, du 29 novembre 1969, dont l'original a été déposé auprès de l'Organisation intergouvernementale consultative de la navigation maritime.

James C. ...

For the Secretary-General
of the Inter-Governmental Maritime
Consultative Organization.

Pour le Secrétaire général
de l'Organisation intergouvernementale
consultative de la navigation maritime.

London, 17 June 1970
Londres

{SEAL}

**International Convention for the Prevention of
Pollution from Ships (MARPOL 1973) (with annexes I-V,
and Protocols I and II), November 2, 1973***

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/18 at 461 (1976); 12 I.L.M. 1319 (1973).

INTERNATIONAL CONFERENCE ON MARINE POLLUTION: INTERNATIONAL CONVENTION
FOR THE PREVENTION OF POLLUTION FROM SHIPS*
[Done at London, November 2, 1973]

INTERNATIONAL CONVENTION FOR THE PREVENTION
OF POLLUTION FROM SHIPS, 1973

Text of the Articles of the Convention
as adopted by the Conference

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 multi-lateral 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:

*[Reproduced from I.M.C.O. Document MP/CONF/WP.35 of November 2, 1973. [The Convention will be opened for signature from January 15, 1974 through December 31, 1974. The Convention includes five annexes and two protocols. Annexes III, IV, and V are so-called "optional annexes", and a state may declare that it does not accept any one or all of these. Annex I (p. 1335) concerns the regulations for oil pollution prevention; Annex II (p. 1386) deals with the control of pollution by noxious liquid substances; Annex III (p. 1421) contains the regulations for the prevention of pollution by harmful substances carried in packaged forms; Annex IV (p. 1424), the regulations for the prevention of pollution by sewage from ships; Annex V (p. 1434), the regulations for the prevention of pollution by garbage from ships. Protocol I contains the provisions for reports on incidents involving harmful substances, and Protocol II concerns arbitration. These protocols appear respectively at pages 1439 and 1441.]

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 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 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 reason 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 Articles 4, 5 and 6 of the present Convention.
- (2) When a ship is unduly detained or delayed under Articles 4, 5 and 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.

*[Protocol I appears at page 1439.]

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 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.
- (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 non-governmental agencies which are authorized to act on their behalf in matters relating

*[Protocol II appears at page 1441.]

to the design, construction and equipment of ships carrying harmful substances in accordance with the provisions of the Regulations;

- (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 standardised 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 14

Optional Annexes [see I.L.M. pages 1421-38]

(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") of 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).

(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 15

Entry into Force

(1) The present Convention shall enter into force twelve months after the date on which not less than 15 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.

(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 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) above, 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 procedure specified in sub-paragraph (f)(iii) 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 be not 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 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 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) above;
 - (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) above;
- (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), 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), 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), that their express approval is necessary.
- (j) 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 paragraph (2)(f) and (g) above.
- (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 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 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 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.

INTERNATIONAL CONVENTION FOR THE PREVENTION
OF POLLUTION FROM SHIPS, 1973

Text of Annex I of the Convention adopted by the Conference *

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.

*[Reproduced from I.M.C.O. Document MP/CONF/WP.21 of October 31, 1973.]

- (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 11° South, longitude $142^{\circ}08'$ East to a point in latitude $10^{\circ}35'$ South, longitude $141^{\circ}55'$ East - thence to a point latitude $10^{\circ}00'$ South, longitude $142^{\circ}00'$ East, thence to a point latitude $9^{\circ}10'$ South, longitude $143^{\circ}52'$ East, thence to a point latitude $9^{\circ}00'$ South, longitude $144^{\circ}30'$ East, thence to a point latitude $13^{\circ}00'$ South, longitude $144^{\circ}00'$ East, thence to a point latitude $15^{\circ}00'$ South, longitude $146^{\circ}00'$ East, thence to a point latitude $18^{\circ}00'$ South, longitude $147^{\circ}00'$ East, thence to a point latitude $21^{\circ}00'$ South, longitude $153^{\circ}00'$ East, thence to a point on the coast of Australia in latitude $24^{\circ}42'$ South, longitude $153^{\circ}15'$ 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 shore lines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shore lines. 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 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the top of the keel, or the length from the fore side 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 water line 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, 11, 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

fittings, 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 100 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 insofar 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 offshore 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 the official language or languages 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 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 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 tanker has in operation, except as provided for in Regulation 15(3) of this Annex, an oil discharge monitoring and control system and a slop tank arrangement as required by Regulation 15 of this Annex;
- (v) 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 on 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 purpose 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 "Gulf 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°N parallel and bounded to the west by the Straits of Gibraltar at the meridian of 5°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 57°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 41°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 (12°08.5'N, 43°19.6'E) and Husn Murad (12°40.4'N, 43°30.2'E).
- (e) The "Gulf area" means the sea area located north west of the rhumb line between Ras al Madd (22°30'N, 59°48'E) and Ras Al Fasch (25°04'N, 61°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 on 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 "Gulf 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

Exception

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 oil 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 (1) 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 (d_m) in metres (without taking into account any ship's deformation) shall not be less than:

$$d_m = 2.0 + 0.02 L,$$

- (b) the draughts at the forward and after perpendiculars shall correspond to those determined by the draught amidships (d_m), as specified in sub-paragraph (a) of this paragraph, in association with the trim by the stern of not greater than 0.015 L, 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 referred to in Regulation 20 of this Annex.

(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 per cent 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 per cent. New oil tankers over 70,000 tons dead-weight 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.* 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.

* Reference is made to Recommendations on International Performance Specifications for Oily-Water Separating Equipment and Oil Content Meters adopted by the Organization by Resolution A.235(VII).

- (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.*
- (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

* Reference is made to "Clean Seas Guide for Oil Tankers", published by the International Chamber of Shipping and the Oil Companies International Marine Forum.

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.* 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 not more than 100 parts per million. In considering the design of such equipment, the Administration shall have regard to the specification recommended by the Organization.*

(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

* 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).

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 19Standard Discharge Connection

To enable pipes of reception facilities to be connected with the ship's discharge pipe line 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	215 mm
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, diameter	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 oilproof material, shall be suitable for a service pressure of 6 kg/cm ² .	

Regulation 20Oil 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, (1975) 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.

[sic - there was no paragraph (6)]

(7) 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 sea-bed 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

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

(b) Bottom Damage

	For 0.3L from the forward perpendicular of ship	Any other part of ship
(i) Longitudinal extent (e_s)	$\frac{L}{10}$	$\frac{L}{10}$ or 5 metres, whichever is less
(ii) Transverse extent (t_s)	$\frac{B}{6}$ or 10 metres, whichever is less but not less than 5 metres	5 metres
(iii) Vertical extent from the base line (v_s):	$\frac{B}{15}$ 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 23Hypothetical 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:

$$O_c = \sum W_i + \sum K_i C_i \quad (I)$$

(b) for bottom damages:

$$O_s = \frac{1}{3} (\sum Z_i W_i + \sum Z_i C_i) \quad (II)$$

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,

$K_i = 1 - \frac{b_i}{t_c}$; when b_i is equal to or greater than t_c , K_i shall be taken equal to zero,

$Z_i = 1 - \frac{h_i}{s}$ when h_i is equal to or greater than 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 ℓ_c as defined in Regulation 22 of this Annex is located between wing oil tanks, Q_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.

$$S_i = 1 - \frac{\ell_i}{\ell_c}$$

where: ℓ_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_1 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_1 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_g may be calculated according to the formula

$$O_g = \frac{1}{4} (\sum V_i + \sum C_i) \quad \text{(III)}$$

- (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_g according to formula (III). The pipes for such suction shall be installed at least at a height not less than the vertical extent of the bottom damage v_g . 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 provisions 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:

(1) 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_g 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 $400\sqrt[3]{D^3}$, 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 per cent 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 l_c in length, may be increased to the maximum limit of hypothetical oil outflow provided that the width of the wing tanks exceeds t_c .

(4) The length of each cargo tank shall not exceed 19 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 $\frac{b_1}{B}$ is equal to or greater than $1/5$:

$$0.2L$$

(2) if $\frac{b_1}{B}$ is less than $1/5$:

- where no centreline longitudinal bulkhead is provided:

$$\left(0.5 \frac{b_1}{B} + 0.1\right) L$$

- where a centreline longitudinal bulkhead is provided:

$$\left(0.25 \frac{b_1}{B} + 0.15\right) L$$

(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 interconnects 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 oily 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)(1) 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 pipos, 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:
- | <u>Spaces</u> | <u>Permeability</u> |
|---------------------------------|---------------------|
| 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.
 - (c) 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 centre line 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.

(c) 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

INTERNATIONAL CONVENTION FOR THE PREVENTION OF
 POLLUTION FROM SHIPS, 1973

Text of Annex II of the Convention adopted *
by the Conference

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.

*[Reproduced from I.M.C.O. Document MP/CONF/WP.21/Add.1 of October 31, 1973.]

- (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/cm^2 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 10 of Annex I of the present Convention.
- (9) "Black Sea Area" is as defined in Regulation 10 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 5Discharge of Noxious Liquid SubstancesCategories 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 per cent of the volume of the tank, it may be discharged into the sea when all the following conditions are also satisfied:

- (a) the ship is proceeding on 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 on 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 sea water 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.

(2) 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 sea water 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 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 per cent 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 on 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.

(5) 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 per cent 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 on 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 on 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 subparagraph (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 paragraphs (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 sub-paragraph (a) of this paragraph, the requirements of paragraphs (1), (2) and (3) of this Regulation shall apply during the interim period.

Regulation 6

Exception

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 to 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 connection 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;
 - (b) After diluting the residue then remaining in the tank with at least 5 per cent 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 pre-cleaning procedure referred to in sub-paragraph (ii) of this paragraph has been based:

- (ii) pre-cleaning has been carried out in accordance with the pre-cleaning procedure approved by the Administration for that tank and that substance; and
 - (iii) the tank washings resulting from such pre-cleaning 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 connection 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 per cent 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;
 - (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

(3) 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 (9) 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 7 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 the Convention 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 (1977) 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 insofar 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 pumps 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 survey.

(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 those 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 17 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

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)

INTERNATIONAL CONVENTION FOR THE PREVENTION OF
POLLUTION FROM SHIPS, 1973

Text of Annex III of the Convention adopted *
by the Conference

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.

*[Reproduced from I.M.C.O. Document MP/CONF/WP.21/Add.2 of October 31, 1973.]

(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, 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 or 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.

(1) 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 8Notification

With respect to 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.

INTERNATIONAL CONVENTION FOR THE
PREVENTION OF POLLUTION
FROM SHIPS, 1973

Text of Annex IV of the Convention
adopted by the Conference *

ANNEX IV

REGULATIONS FOR THE PREVENTION OF
POLLUTION BY SEWAGE FROM SHIPS

Regulation 1Definitions

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.

*[Reproduced from I.M.C.O. Document MP/CONF/WP.21/Add.3 of October 31, 1973.]

- (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° South, longitude $142^{\circ}08'$ East to a point in latitude $10^{\circ}35'$ South, longitude $141^{\circ}55'$ East - thence to a point latitude $10^{\circ}00'$ South, longitude $142^{\circ}00'$ East, thence to a point latitude $9^{\circ}10'$ South, longitude $143^{\circ}52'$ East, thence to a point latitude $9^{\circ}00'$ South, longitude $144^{\circ}30'$ East, thence to a point latitude $13^{\circ}00'$ South, longitude $144^{\circ}00'$ East, thence to a point latitude $15^{\circ}00'$ South, longitude $146^{\circ}00'$ East, thence to a point latitude $18^{\circ}00'$ South, longitude $147^{\circ}00'$ East, thence to a point latitude $21^{\circ}00'$ South, longitude $153^{\circ}00'$ East, thence to a point on the coast of Australia in latitude $24^{\circ}42'$ South, longitude $153^{\circ}15'$ East

Regulation 2

Application

The provisions of this Annex shall apply to:

- (a) (i) new ships of more than 200 tons gross tonnage;
- (ii) new ships of not more 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 more than 200 tons gross tonnage, 10 years after the date of entry into force of this Annex;
- (ii) existing ships of not more 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 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 (1) 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 Prevention 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 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 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 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 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 equipment, fittings, arrangement 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 discharging 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 on 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 discolouration of, the surrounding water; or
 - (c) the ship is situated in the waters under the jurisdiction of a State and is discharging sewage in accordance with such less severe 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 severe requirements shall apply.

Regulation 9

Exceptions

Regulation 8 of this Annex shall not apply to:

- (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;
- (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 all cases where the facilities provided under this Regulation are alleged to be inadequate.

Regulation 11

Standard Discharge Connection

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

Standard Dimensions of Flanges for Discharge Connections

Description	Dimension
Outside diameter	210 mm
Inner diameter	According to pipe outside diameter
Bolt circle diameter	170 mm
Slots in flange	4 holes 18 mm in 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/cm ² .	

For ships having a moulded depth of 5 metres and less, the inner diameter of the discharge connection may be 38 millimetres.

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)

INTERNATIONAL CONVENTION FOR THE PREVENTION
OF POLLUTION FROM SHIPS, 1973

Text of Annex V adopted by the Conference *

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

* [Reproduced from I.M.C.O. Document MP/CONF/WP.21/Add.4 of October 31, 1973.]

latitude 11°South, longitude 142°08' East to a point in latitude 10°35' South, longitude 141°55' East - thence to a point latitude 10°00' South, longitude 142°00' East, thence to a point latitude 9°10' South, longitude 143°52' East, thence to a point latitude 9°00' South, longitude 144°30' East, thence to a point latitude 13°00' South, longitude 144°00' East, thence to a point latitude 15°00' South, longitude 146°00' East, thence to a point latitude 18°00' South, longitude 147°00' East, thence to a point latitude 21°00' South, longitude 153°00' East, thence to a point on the coast of Australia in latitude 24°42' South, longitude 153°15' East.

(5) "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 materials 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 is 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 severe requirements shall apply.

Regulation 4

Disposals from Drilling Rigs

- (1) Fixed or floating platforms engaged in the exploration, exploitation and associated offshore processing of sea-bed mineral resources, and all other ships when alongside such platforms or within 500 metres of such platforms, are forbidden to dispose of any materials regulated by this Annex, except as permitted by paragraph (2) of this Regulation.
- (2) The disposal into the sea of food wastes when passed through a comminuter or grinder from such fixed or floating drilling rigs located more than 12 nautical miles from land and all other ships when positioned as above. 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 purpose 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°N parallel and bounded to the west by the Straits of Gibraltar at the meridian of 5°36'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°44.0'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°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 Anz (12°08.5'N, 43°19.6'E) and Hism Mirad (12°40.4'N, 45°30.2'E).
 - (e) The "Gulfs area" means the sea area located north west of the rhumb line between Ras al Badd (22°30'N, 59°48'E) and Ras al Fastah (25°04'N, 61°25'E).
- (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;
 - (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 severe requirements shall apply.
- (c) Reception facilities within special areas.
- (a) The Government of each party to the Convention, the coast line 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 sub-paragraph (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 all parties of the date so established no less than twelve months in advance of that date.

- (a) After 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

Exception

Regulations 3, 4 and 5 of this Annex shall not apply to:

- (a) the disposal of garbage from a ship necessary for the purpose of securing the safety of a ship, the health of its personnel, or saving life at sea;
- (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;
- (c) the accidental loss of synthetic fishing nets 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 provisions 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 concerned of all cases where the facilities provided under this Regulation are alleged to be inadequate.
-

INTERNATIONAL CONVENTION FOR THE PREVENTION OF
POLLUTION FROM SHIPS, 1973

Text of Protocols to the Convention adopted by the Conference *

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 of a ship involved in an incident referred to in Article III of this Protocol, or other person having charge of the ship, 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 ship being incomplete or unobtainable, the owner, charterer, manager or operator of the ship, or their agents shall, to the fullest extent possible assume the obligations placed upon the Master under the provisions of this Protocol.

Article II

Methods of Reporting

- (1) Each report shall be made by radio whenever possible, but in any case by the fastest channels available at the time the report is made. Reports made by radio shall be given the highest possible priority.
- (2) Reports shall be directed to the appropriate officer or agency specified in paragraph (3) of Article 8 of the Convention.

Article III

When to Make Reports

The report shall be made whenever an incident involves:

- (a) a discharge other than as permitted under the present Convention; or

[Reproduced from I.M.C.O. Document MP/CONF/WP.35/Add.1 of November 2, 1973.]

- (b) a discharge permitted under the present Convention by virtue of the fact that:
 - (i) it is for the purpose of securing the safety of a ship or saving life at sea; or
 - (ii) it results from damage to the ship or its equipment; or
- (c) a discharge of a harmful substance for the purpose of combating a specific pollution incident or for purposes of legitimate scientific research into pollution abatement or control; or
- (d) the probability of a discharge referred to in sub-paragraphs (a), (b) or (c) of this Article.

Article IV

Contents of Report

- (1) Each report shall contain in general:
 - (a) identity of ship;
 - (b) the time and date of the occurrence of the incident;
 - (c) the geographic position of the ship when the incident occurred;
 - (d) the wind and sea conditions prevailing at the time of the incident; and
 - (e) relevant details respecting the condition of the ship.
- (2) Each report shall contain, in particular:
 - (a) a clear indication or description of the harmful substances involved, including if possible the correct technical names of such substances (trade names should not be used in place of the correct technical names);
 - (b) a statement or estimate of the quantities, concentrations and likely conditions of harmful substances discharged or likely to be discharged into the sea, and where relevant
 - (c) a description of the packaging and identifying marks; and if possible
 - (d) the name of the consignor, consignee or manufacturer.

- (3) Each report shall clearly indicate whether the harmful substance discharged, or likely to be discharged is oil, a noxious liquid substance, a noxious solid substance or a noxious gaseous substance and whether such substance was or is carried in bulk or contained in packaged form, freight containers, portable tanks, or road and rail tank wagons.
- (4) Each report shall be supplemented as necessary by any other relevant information requested by a recipient of the report or which the person sending the report deems appropriate.

Article V

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, with information concerning further development; and
- (b) comply as fully as possible with requests from affected States for additional information concerning the incident.

PROTOCOL II

Arbitration

(in accordance with Article 10 of the Convention)[I.L.M. page 1326]

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 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 the 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 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 vote 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 judgement 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.

**Protocol Relating to Intervention on the High Seas
in Cases of Marine Pollution by Substances Other
than Oil (INTERVENTION PROT.), November 2, 1973***

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/18 at 457 (1976).

Division III
THE HIGH SEAS¹

Subdivision A. Multilateral Treaties

1. PROTOCOL RELATING TO INTERVENTION ON THE HIGH SEAS IN CASES OF MARINE POLLUTION BY SUBSTANCES OTHER THAN OIL, DONE AT LONDON ON 2 NOVEMBER 1973²

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 1969,³

Taking into account the resolution on International Co-operation concerning Pollutants other than oil adopted by the International Legal Conference on Marine Pollution Damage, 1969,⁴

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.

¹ Some of the texts reproduced under Divisions II and IV may also cover questions concerning the high seas.

² Text provided by the Permanent Representative of the United Kingdom to the United Nations in a note verbale of 12 December 1974 as well as by the Ministry of Foreign Affairs of Denmark in a note verbale of 20 December 1974.

³ Reproduced in ST/LEG/SER.B/16, pp. 439-447.

⁴ Official Records of the International Legal Conference on Marine Pollution Damage, 1969. London, IMCO, Publication No. 1973.7 (E), page 184.

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

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

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

3. Whenever an intervening Party takes action with regard to a substance referred to in paragraph 2 (b) 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 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, 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, provided however that the present Protocol shall not enter into force before the Convention referred to in Article II has entered into force.

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

Article VII

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

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

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

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

Article VIII

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

4. Ocean Dumping

**Convention for the Prevention of Marine Pollution
By Dumping from Ships and Aircraft (with annexes
I-III), February 15, 1972***

* 932 U.N.T.S. 5.

CONVENTION¹ FOR THE PREVENTION OF MARINE POLLUTION BY DUMPING FROM SHIPS AND AIRCRAFT

The Contracting Parties,

Recognizing that the marine environment and the living resources which it supports are of vital importance to all nations;

Mindful that the ecological equilibrium and the legitimate uses of the sea are increasingly threatened by pollution;

Recognizing that concerted action by Governments at national, regional and global levels is essential to prevent and combat marine pollution;

Noting that this pollution has many sources, including dumping from ships and aircraft and discharges through rivers, estuaries, outfalls and pipelines within national jurisdiction, that it is important that States use the best practicable means to prevent such pollution, and that products and processes which will minimize the amount of harmful waste requiring disposal should be developed;

Being convinced that international action to control the pollution of the sea by the dumping of harmful substances from ships and aircraft can and should 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;

Considering that the States bordering the North-East Atlantic have a particular responsibility to protect the waters of this region;

Have agreed as follows:

Article 1. The Contracting Parties pledge themselves to take all possible steps to prevent the pollution of the sea by substances that 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.

Article 2. The area to which this Convention applies shall be the high seas and the territorial sea which are situated

a) within those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding

¹ Came into force on 7 April 1974, i.e. the thirtieth day following the deposit of the seventh instrument of ratification or accession with the Government of Norway, in respect of the States listed below, on whose behalf the instruments had been deposited on the dates indicated, in accordance with article 23(1):

State	Date of deposit of the instrument of ratification or accession (a)
Norway	2 June 1972
Denmark	28 July 1972
Sweden	13 September 1972
Portugal	30 January 1973
Spain	14 June 1973
Iceland	27 June 1973
France	8 March 1974

Subsequently, the following State deposited its instrument of ratification with the Government of Norway on the date indicated, to take effect on the thirtieth day after such deposit, in accordance with article 23(2):

United Kingdom of Great Britain and Northern Ireland	30 June 1975
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(With effect from 30 July 1975.)

- (i) the Baltic Sea and Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to the Kullen, and
 - (ii) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° north latitude and the meridian of 5°36' west longitude.
- b) within that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.

Article 3. The Contracting Parties agree to apply the measures which they adopt in such a way as to prevent the diversion of dumping of harmful substances into seas outside the area to which this Convention applies.

Article 4. The Contracting Parties shall harmonize their policies and introduce, individually and in common, measures to prevent the pollution of the sea by dumping by or from ships and aircraft.

Article 5. The dumping of the substances listed in annex I to this Convention is prohibited.

Article 6. No waste containing such quantities of the substances and materials listed in annex II to this Convention as the Commission established under the provisions of article 16, hereinafter referred to as "the Commission", shall define as significant, shall be dumped without a specific permit in each case from the appropriate national authority or authorities. When such permits are issued, the provisions of annexes II and III to this Convention shall be applied.

Article 7. No substance or material shall be dumped without the approval of the appropriate national authority or authorities. When such approval is granted, the provisions of annex III to this Convention shall be applied.

Article 8. 1) The provisions of articles 5, 6 and 7 shall not apply in case of force majeure due to stress of weather or any other cause when the safety of human life or of a ship or aircraft is threatened. Such dumping shall immediately be reported to the Commission, together with full details of the circumstances and of the nature and quantities of the substances and materials dumped.

2) The provisions of article 5 shall not apply where these substances occur as trace contaminants in waste to which they have not been added for the purpose of being dumped. However, such dumping shall remain subject to articles 6 and 7.

Article 9. If a Contracting Party in an emergency considers that a substance listed in annex I to this Convention cannot be disposed of on land without unacceptable danger or damage, the Contracting Party concerned shall forthwith consult the Commission. The Commission shall recommend methods of storage or the most satisfactory means of destruction or disposal under the prevailing circumstances. The Contracting Party shall inform the Commission of the steps adopted in pursuance of its recommendation. The Contracting Parties pledge themselves to assist one another in such situations.

Article 10. The composition of the waste shall be ascertained by the appropriate national authority or authorities in accordance with the provisions of annex III to this Convention before any permit or approval for the dumping of waste at sea is issued.

Article 11. Each Contracting Party shall keep, and transmit to the Commission, according to a standard procedure, records of the nature and the quantities of the substances and materials dumped under permits or approvals issued by that Contracting Party, and of the dates, places and methods of dumping.

Article 12. The Contracting Parties agree to establish complementary or joint programmes of scientific and technical research, including research on alternative methods of disposal of harmful substances, and to transmit to each other the information so obtained. In doing so they will have regard to the work carried out by the appropriate international organizations and agencies.

Article 13. The Contracting Parties agree to institute, in co-operation with appropriate international organizations and agencies, complementary or joint programmes for monitoring the distribution and effects of pollutants in the area to which this Convention applies.

Article 14. The Contracting Parties pledge themselves to promote, within the competent specialized agencies and other international bodies, measures concerning the protection of the marine environment against pollution caused by oil and oily wastes, other noxious or hazardous cargoes, and radioactive materials.

Article 15. 1) Each Contracting Party undertakes to ensure compliance with the provisions of this Convention:

- a) by ships and aircraft registered in its territory;
- b) by ships and aircraft loading in its territory the substances and materials which are to be dumped;
- c) by ships and aircraft believed to be engaged in dumping within its territorial sea.

2) Each Contracting 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 on the high seas which give rise to suspicions that dumping in contravention of the provisions of the present Convention has occurred or is about to occur. That Contracting Party shall, if it considers it appropriate, report accordingly to any other Contracting Party concerned.

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

4) The Contracting Parties undertake to assist one another as appropriate in dealing with pollution incidents involving dumping at sea, and to exchange information on methods of dealing with such incidents.

5) The Contracting Parties further agree to work together in the development of co-operative procedures for the application of the Convention, particularly on the high seas.

6) Nothing in this Convention shall abridge sovereign immunity to which certain vessels are entitled under international law.

Article 16. A Commission, made up of representatives of each of the Contracting Parties, is hereby established. The Commission shall meet at regular intervals and at any time when, due to special circumstances, it is so decided in accordance with the rules of procedure.

Article 17. It shall be the duty of the Commission:

- a) To exercise overall supervision over the implementation of this Convention;
- b) To receive and consider the records of permits and approvals issued and of dumping which has taken place, as provided for in articles 8, 9 and 11 of this Convention, and to define the standard procedure to be adopted for this purpose;
- c) To review generally the condition of the seas within the area to which this Convention applies, the efficacy of the control measures being adopted, and the need for any additional or different measures;
- d) To keep under review the contents of the annexes to this Convention, and to recommend such amendments, additions or deletions as may be agreed;
- e) To discharge such other functions as may be appropriate under the terms of this Convention.

Article 18. 1) The Commission shall draw up its own rules of procedure which shall be adopted by unanimous vote. The Government of Norway shall call the first meeting of the Commission as soon as practicable after the coming into force of this Convention.

2) Recommendations for modification of the annexes to this Convention in accordance with article 17 (d) shall be adopted by a unanimous vote in the Commission, and the modifications contained therein shall enter into force after unanimous approval by the Governments of the Contracting Parties.

Article 19. For the purpose of this Convention:

- 1) "Dumping" means any deliberate disposal of substances and materials into the sea by or from ships or aircraft other than:
 - a) any discharge incidental to or derived from the normal operation of ships and aircraft and their equipment;
 - b) the placing of substances and materials for a purpose other than the mere disposal thereof, if not contrary to the aim of this Convention.
- 2) "Ships and aircraft" means sea-going vessels and air-borne craft of any type whatsoever. This expression includes air-cushion craft, floating craft whether self-propelled or not, and fixed or floating platforms.

Article 20. This Convention shall be open for signature at Oslo until 15th August 1972 by the States invited to participate in the Conference on Marine Pollution, held there from 19th to 22nd October 1971.

Article 21. This Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Government of Norway.

Article 22. This Convention shall be open for accession by any State referred to in article 20. The Contracting Parties may unanimously invite other States to accede to the Convention. The instruments of accession shall be deposited with the Government of Norway.

Article 23. 1) This Convention shall enter into force on the thirtieth day following the date of deposit of the seventh instrument of ratification or accession.

2) For each State ratifying or acceding to the Convention after the deposit of the seventh instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 24. At any time after two years from the date on which this Convention has come into force with respect to a Contracting Party, that Party may withdraw from the Convention by means of a notice in writing addressed to the depositary Government. Any such withdrawal shall take effect twelve months after the date of its receipt.

Article 25. A Conference for the purpose of revising or amending this Convention may be convened by the depositary Government at the request of the Commission adopted by a two-thirds majority.

Article 26. The depositary Government shall inform the Contracting Parties and the States referred to in article 20:

- a) of signatures to this Convention, of the deposit of instruments of ratification or accession, and of the receipt of a notice of withdrawal, in accordance with articles 20, 21, 22 and 24;
- b) of the date on which this Convention will come into force in accordance with article 23;
- c) of the receipt of notification of approval relating to modifications of the annexes to this Convention and of the entry into force of such modifications in accordance with article 18.

Article 27. The original of this Convention, of which the English and French texts are equally authentic, shall be deposited with the Government of Norway, which shall send certified copies thereof to the Contracting Parties and to the States referred to in article 20, and which shall transmit a certified copy to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Convention.

DONE at Oslo, this fifteenth day of February 1972.

ANNEX I

The following substances are listed for the purposes of article 5 of the Convention:

1. Organohalogen compounds and compounds which may form such substances in the marine environment, excluding those which are non-toxic, or which are rapidly converted in the sea into substances which are biologically harmless;
2. Organosilicon compounds and compounds which may form such substances in the marine environment, excluding those which are non-toxic, or which are rapidly converted in the sea into substances which are biologically harmless;
3. Substances which have been agreed between the Contracting Parties as likely to be carcinogenic under the conditions of disposal;
4. Mercury and mercury compounds;
5. Cadmium and cadmium compounds;
6. Persistent plastics and other persistent synthetic materials which may float or remain in suspension in the sea, and which may seriously interfere with fishing or navigation, reduce amenities, or interfere with other legitimate uses of the sea.

ANNEX II

1. The following substances and materials requiring special care are listed for the purposes of article 6:

- a) Arsenic, lead, copper, zinc and their compounds, cyanides and fluorides, and pesticides and their by-products not covered by the provisions of annex I;
- b) Containers, scrap metal, tar-like substances liable to sink to the sea bottom and other bulky wastes which may present a serious obstacle to fishing or navigation;
- c) 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.

2. The substances and materials listed under paragraph 1 (b) above should always be deposited in deep water.

3. In the issuance of permits or approvals for the dumping of large quantities of acids and alkalis, consideration should be given to the possible presence in such wastes of the substances listed in paragraph 1. above.

4. When, in the application of the provisions of annexes II and III, it is considered necessary to deposit waste in deep water, this should be done only when the following two conditions are both fulfilled:

- a) that the depth is not less than 2000 metres,
- b) that the distance from the nearest land is not less than 150 nautical miles.

ANNEX III

Provisions governing the issue of permits and approvals for the dumping of wastes at sea.

1. *Characteristics of the waste*
 - a) Amount and composition;
 - b) Amount of substances and materials to be deposited per day (per week, per month);
 - c) Form in which it is presented for dumping, i.e. whether as a solid, sludge or liquid;
 - d) Physical (especially solubility and specific gravity), chemical, biochemical (oxygen demand, nutrient production) and biological properties (presence of viruses, bacteria, yeasts, parasites, etc.);
 - e) Toxicity;
 - f) Persistence;

- g) Accumulation in biological materials or sediments;
 - h) Chemical and physical changes of the waste after release, including possible formation of new compounds;
 - i) Probability of production of taints reducing marketability of resources (fish, shellfish, etc.).
2. *Characteristics of dumping site and method of deposit*
- a) Geographical position, depth and distance from coast;
 - b) Location in relation to living resources in adult or juvenile phases;
 - c) Location in relation to amenity areas;
 - d) Methods of packing, if any;
 - e) Initial dilution achieved by proposed method of release;
 - f) Dispersal, horizontal transport and vertical mixing characteristics;
 - g) Existence and effects of current and previous discharges and dumping in the area (including accumulative effects).
3. *General considerations and conditions*
- a) Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate use of the sea;
 - b) In applying these principles the practical availability of alternative means of disposal or elimination will be taken into consideration.
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**Convention on the Prevention of Marine Pollution by
Dumping of Wastes and Other Matter (with annexes
I-III), December 29, 1972***

* 26 U.S.T. 2406; T.I.A.S. 8165; U.N. Regist. No. 15749.

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

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 sea-bed 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 I

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 II

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 III

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.

(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.

(c) The disposal of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed 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 XIV (2).

ARTICLE IV

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 V

1. The provisions of Article IV 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 and shall be reported forthwith to the Organisation.

2. A Contracting Party may issue a special permit as an exception to Article IV (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 organisations as appropriate, shall, in accordance with Article XIV 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 VI

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 V (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 VII

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 VIII

In order to further the objectives of this Convention, the Contracting Parties with common interests to protect in 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 IX

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 X

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 XI

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 XII

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 XIII

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 XIV

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 enquiries 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 Organisation in accordance with Articles IV (3), V (1) and (2), VI (4), XV, XX and XXI.

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 XV;
- (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 VI (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 V (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 XV

1. (a) At meetings of the Contracting Parties called in accordance with Article XIV 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 request made for a special meeting under Article XIV 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 XIV 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 Secretarial 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 XVI

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 XVII

This Convention shall be subject to ratification. The instruments of ratification 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 XVIII

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 XIX

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 XX

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 XVI, XVII, XVIII and XXI, and
- (b) of the date on which this Convention will enter into force, in accordance with Article XIX.

ARTICLE XXI

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 XXII

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.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments have signed the present Convention.

DONE in quadruplicate at London, Mexico City, Moscow and Washington, this twenty-ninth day of December, 1972.

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	}	and their compounds
lead		
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 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	}	and their compounds
chromium		
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. 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. 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 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 and 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 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 for 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.

**Decision of the Council of the Organization for
Economic Co-operation and Development on
Establishing a Multi-lateral Consultation and
Surveillance Mechanism for Sea Dumping of
Radioactive Waste (with appendix),
July 22, 1977***

* 17 I.L.M. 445 (1978).

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT: COUNCIL
 DECISION ON ESTABLISHING A MULTILATERAL CONSULTATION AND
 SURVEILLANCE MECHANISM FOR SEA DUMPING OF RADIOACTIVE WASTE*

ORGANISATION FOR ECONOMIC
 CO-OPERATION AND DEVELOPMENT

GENERAL DISTRIBUTION
 Paris, 4th August, 1977
 C(77)115(Final)

COUNCIL

DECISION OF THE COUNCIL

ESTABLISHING A MULTILATERAL CONSULTATION AND
 SURVEILLANCE MECHANISM FOR SEA DUMPING OF
 RADIOACTIVE WASTE

Adopted by the Council at its 449th Meeting
 on 22nd July, 1977(1)

[The Representatives for Australia, Austria,
 Japan and New Zealand abstained]

The Council,

Having regard to Articles 5(a), 6 and 20 of the Convention
 on the Organisation for Economic Co-operation and Development
 (hereinafter referred to as the "Organisation") of 14th December,
 1960;

Having regard to the Decision of the OEEC Council of
 20th December, 1957 approved by the Council of the Organisation
 on 30th September, 1961 as amended /C(57)255; OECD/C(61)5;
 C(72)106(Final); C(75)68(Final); C(76)172(Final)7, relating to
 the Statute of the OECD Nuclear Energy Agency (hereinafter
 referred to as "NEA");

(1) Acceptance of this Decision by Finland, Germany and Norway is
 contingent upon the requirements of their constitutional
 procedure or of other internal administrative provisions.

*[Reproduced from O.E.C.D. Document C(77)115(Final) of August 4,
 1977.

[The Convention on the Prevention of Marine Pollution by Dumping
 of Wastes and Other Matter, approved by the Intergovernmental Confer-
 ence on the Convention on the Dumping of Wastes at Sea on November 13,
 1972, appears at 11 I.L.M. 1291 (1972).

[Interpretations concerning this Decision appear in the Appendix
 at I.L.M. page 451.]

Having regard to the entry into force of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (hereinafter referred to as the "London Convention") to which a number of Member countries are already party or intend to become party;

Taking into account of the responsibilities entrusted to the International Atomic Energy Agency (hereinafter referred to as "IAEA") under the London Convention with respect to radioactive waste and other radioactive matter and to the provisional Definition and Recommendations established by the IAEA thereunder and as may be revised from time to time (hereinafter referred to as "the IAEA Definition and Recommendations");

Having regard to the Agreement of 30th September, 1960 between the Organisation and the IAEA providing for close co-operation and consultation between NEA and IAEA in regard to matters of common interest with a view to harmonizing their efforts as far as is appropriate in the light of their respective responsibilities;

Considering that the London Convention encourages international and regional co-operation in the development of procedures for its effective application and the promotion, within appropriate international bodies, of measures to protect the marine environment against pollution caused by radioactive pollutants from all sources;

Considering that the Member countries are desirous of pursuing the objectives of the London Convention and of maintaining and strengthening the co-operation already established within the NEA for the purpose of protecting the marine environment and public health in relation to sea dumping of radioactive waste, through the setting up of a multilateral consultation and surveillance mechanism;

Considering that the purpose of the present Decision is consistent with the objectives of the London Convention and the IAEA Definition and Recommendations, that several Member countries object in principle to sea dumping operations, and that nothing in this Decision shall be interpreted as encouraging the sea dumping of radioactive waste;

Having regard to the Report by the Secretary-General on the Recommendation by the Steering Committee for Nuclear Energy of 29th April, 1977, concerning the establishment of a multilateral consultation and surveillance mechanism for sea dumping of radioactive waste [C(77)115];

DECIDES:

ARTICLE 1

(a) The purpose of the present Decision is to set up within NEA a multilateral consultation and surveillance mechanism for sea dumping of radioactive waste, in order to further the objectives of the London Convention.

(b) The Member countries which take part in the present Decision are hereinafter referred to as "Participating Countries".

ARTICLE 2

(a) Without prejudice to the responsibilities of IAEA under the London Convention, NEA shall, in consultation with the Environment Committee with respect to all environmental policy aspects:

- (1) establish and keep under review, in the light of the experience gained, standards, guidelines, recommended practices and procedures for the safe dumping of radioactive waste at sea, in particular:

- guidelines for the identification of suitable dumping sites, taking account of Annex III.B to the London Convention and of the IAEA Definition and Recommendations;
 - its Guidelines for Sea Disposal Packages of Radioactive Waste, with special attention to improvements intended to facilitate their proper application;
 - operating procedures, including those relating to the preparation of material to be dumped, and criteria for the suitability of ships; with special attention to improvements intended to facilitate their proper application;
- (ii) assess and keep under review studies made of the environmental, ecological and radiological protection aspects of sea dumping of radioactive waste;
- (iii) assess the suitability of sites proposed by national authorities and keep under review those previously considered suitable for dumping radioactive waste; such a review should take place no later than five years after the relevant assessment or the previous review and shall include the results of appropriate monitoring.
- (b) Participating Countries carrying out a radioactive waste sea dumping operation, either individually or collectively, undertake to apply, taking into account the provisions of the London Convention and the IAEA Definition and Recommendations, the standards, guidelines, recommended practices and procedures adopted within the Organisation, in force at the time of the operation.

ARTICLE 3

- (a) Participating Countries shall notify NEA of the legal and administrative measures which they have taken for applying, as appropriate, the London Convention, the IAEA Definition and Recommendations and the NEA standards, guidelines, recommended practices and procedures.
- (b) Participating Countries shall notify NEA as soon as they have determined to carry out, either individually or collectively, a radioactive waste sea dumping operation, and in any case no later than six months before the operation is scheduled to take place. If a new dumping site is proposed, notification thereof shall be given no later than twelve months before the operation is scheduled to take place. Notification of an operation shall include the following:
- (i) the characteristics and composition of the wastes, including estimates of the quantities, types of nuclides and activities, in accordance with Annex III.A to the London Convention;
 - (ii) the dumping site selected;
 - (iii) reasons for the selection of the site, including an environmental and ecological assessment in accordance with the IAEA Definition and Recommendations or a reference to the relevant assessment;
 - (iv) the operational procedures envisaged, including measures to be taken in the event of incidents such as the release of radioactive material from the containers.
- (c) In addition to the notifications made pursuant to paragraph (b) of this Article, the Participating Country or Countries intending to carry out an operation shall, no later

than three months before the operation is scheduled to take place, provide NEA with:

- (i) the number and specifications of the containers to be used and a statement that the containers as a minimum conform to the current NEA guidelines;
 - (ii) a description of the relevant characteristics of the ship proposed to be used for the operation, together with a statement that as a minimum it meets the requirements of the IAEA Definition and Recommendations and any NEA criteria for the suitability of ships;
 - (iii) the name, qualifications and other relevant particulars of the Escorting Officer to be appointed in accordance with Article 5(a) below, or a request to NEA to propose an Escorting Officer; and
 - (iv) any other relevant information such as the timetable envisaged, etc.
- (d) All information referred to in paragraphs (b) and (c) of this Article shall be supplied as soon as it is available and must be sufficient to enable the consultation provided for by Article 4 below to take place.
- (e) The Participating Country or Countries carrying out an operation shall provide NEA with a certificate that the materials to be dumped have been prepared in accordance with NEA standards, guidelines, recommended practices and procedures, as soon as such preparations are completed.

ARTICLE 4

(a) Upon receipt of the notification referred to in Article 3 above, the NEA Secretariat shall circulate the information so provided to all Participating Countries, together with comments and observations relating a proposed radioactive waste sea dumping operation to the provisions of the London Convention, the IAEA Definition and Recommendations and NEA standards, guidelines, recommended practices and procedures.

(b) In accordance with arrangements to be determined by the Steering Committee for Nuclear Energy, the NEA Secretariat may, on its own initiative, or shall, upon request by any Participating Country, seek the advice on the proposed operation, as appropriate:

- (i) of the competent Committee of NEA, or
- (ii) as regards environmental and ecological assessments, in consultation with the Environment Directorate, of an ad hoc international group of specialists in these fields, or
- (iii) of an hoc international group of specialists on other aspects of the operation.

This procedure shall be initiated in sufficient time to enable the advice to be formulated no later than two months before the operation is scheduled to take place.

- (c) Such advice shall be sought in the event that:
- (i) a new site is proposed or the proposed site is not or is no longer considered suitable by NEA;
 - (ii) it is planned to use new waste conditioning methods or types of containers not previously recognised by NEA as suitable for sea dumping;
 - (iii) it is planned to use a ship having characteristics not previously recognised by NEA as suitable for sea

dumping and of relevance to the safety of the operation;

or in such other cases as may be determined by the Steering Committee for Nuclear Energy in the light of the experience gained.

(d) The NEA Secretariat shall inform all Participating Countries of the advice obtained in accordance with paragraphs (b) and (c) of this Article.

(e) The Participating Country or Countries intending to carry out the operation shall take account of any advice obtained in accordance with this Article and shall inform NEA of the decision taken, giving the reasons therefore, which shall be reported accordingly to the Steering Committee for Nuclear Energy.

(f) Following completion of the procedure laid down in this Article, the Participating Country or Countries intending to carry out the operation shall inform NEA of the final conditions adopted.

ARTICLE 5

(a) The competent authorities of the Participating Country or Countries carrying out a radioactive waste sea dumping operation shall appoint an Escorting Officer or Escorting Officers to supervise the operation. At the request of these authorities, NEA may provide assistance by proposing qualified candidates to perform the functions of Escorting Officers.

(b) Escorting Officers shall have the duties and responsibilities, powers and qualifications specified in the IAEA Definition and Recommendations and in relevant NEA guidelines and recommended practices and procedures.

ARTICLE 6

(a) For each radioactive waste sea dumping operation carried out by one or more Participating Countries, the Director General of NEA shall appoint a Representative and shall inform such Participating Country or Countries of his name, qualifications, nationality and other relevant particulars. The NEA Representative shall act in accordance with the instructions of the Director General of NEA and shall report to him.

(b) The NEA Representative shall have the duty and right to verify insofar as reasonably practicable by visual inspection and by the use of the instruments required for a proper radiological control of the operation, that the latter is being carried out in accordance with the final conditions adopted in pursuance of the present Decision and, in particular, that the materials to be dumped are in conformity with the certificate provided pursuant to paragraph (e) of Article 3 above. For this purpose he shall have the right to require that all necessary information is provided by the Escorting Officer or Officers, and may make suggestions and representations as to the conduct of the operation. The verification by the NEA Representative shall begin when the materials to be dumped arrive at the dockside and shall end when the contamination clearance certificate for the ship has been issued.

(c) In case of inability of the NEA Representative to fulfil the functions described in paragraph (b) of this Article, the Director General of NEA shall be informed immediately and shall consult the competent national authority or authorities as appropriate.

(d) In the event of the NEA Representative making suggestions or representations to the Escorting Officer or Officers in respect of the conduct of the operation, the NEA Representative and the Escorting Officer or Officers shall seek to reach agreement as to the action to be taken.

(e) In case of disagreement between the NEA Representative and the Escorting Officer or Officers on the action to be taken in regard to the following matters:

- the ship not appearing to be in the designated area,
- containers not appearing to be in conformity with the approved specifications,
- no adequate observation of the dumping being possible,
- occurrence of significant radiation hazard to the crew or significant contamination of the ship,

or to any other significant matter which has been determined in advance by the Steering Committee for Nuclear Energy in the light of the experience gained, the Escorting Officer or Officers shall immediately suspend the operation or particular action in question and report to the competent national authority or authorities and the NEA Representative shall report immediately to the Director General of NEA. The competent national authority or authorities and the Director General of NEA shall consult together with a view to finding a mutually acceptable solution. If no mutually acceptable solution is found and the competent national authority or authorities decide to authorise continuation of the operation or particular action in question, the circumstances shall be reported by the NEA Secretariat to the Steering Committee for Nuclear Energy, at the earliest convenient opportunity.

ARTICLE 7

(a) In conformity with the IAEA Definition and Recommendations, the NEA Secretariat shall maintain records of the nature and quantities of all wastes dumped during radioactive waste sea dumping operations carried out in accordance with the present Decision and of the location, time and method of the dumping.

(b) The NEA Secretariat shall provide reports regularly on all operations to the Steering Committee for Nuclear Energy and to the Environment Committee.

(c) With the approval of the Participating Country or Countries having carried out an operation NEA shall report to the Inter-Governmental Maritime Consultative Organisation the information recorded pursuant to paragraph (a) of this Article.

ARTICLE 8

The Organisation and its officials shall, to the extent provided for in Article 19 of the Convention on the OECD and in Supplementary Protocol No. 2 to the Convention, be immune from every form of legal process in respect of any action or claim arising out of an operation of sea dumping of radioactive waste carried out by one or more Participating Countries in accordance with the provisions of this Decision. Each such Participating Country shall ensure that any protection against third party liability in respect of nuclear damage including any insurance or other financial security which may be available under its laws or regulations shall apply to the Organisation and its officials, in respect of any claim or action arising out of such operations of sea dumping of radioactive waste, in the same way as that protection applies to nationals of that Participating Country.

ARTICLE 9

No expenditure other than the cost of providing the necessary Secretariat support and the NEA Representative shall be borne by the budget of the Organisation.

ARTICLE 10

- (a) The present Decision shall apply as from 22nd July, 1977, to all Member countries taking part in this Decision.
- (b) Other Member countries may subsequently take part in the present Decision by notification to the Secretary-General of the Organisation to that effect and this Decision shall apply to them as from the date of receipt of such notification.
- (c) Any Participating Country may terminate the application of the present Decision to itself by giving six months' notice to that effect to the Secretary-General.

APPENDIX

Interpretations concerning the Decision of the Council
Establishing a Multilateral Consultation and Surveillance
Mechanism for Sea Dumping of Radioactive Waste

Article 2

The consultation with the Environment Committee will relate to all environmental policy aspects in the broadest sense, as distinct from purely operational matters.

The requirement to review the suitability of dumping sites after five years was inserted in Article 2(a)(iii), on the understanding that this would not necessarily imply conducting a full scale review (i.e. including a complete environmental impact statement every five years). It was further agreed that this review should include results or appropriate monitoring undertaken in dumping sites. While it was pointed out that in the present state of technology monitoring was not likely to yield significant results, several Delegations were in favour of considering its feasibility. It was agreed that this question will remain under review by NEA.

Regarding Article 2(b), it was understood that the obligation to apply standards, etc., does not prevent a Participating Country from applying, in its own respect, more stringent rules or from advising that more stringent rules should apply. This interpretation is in accordance with the spirit of the London Convention.

Article 3

The list of items to be notified according to Article 3(b) do not derogate from Annex III C.4 of the London Convention which requires Contracting Parties to consider, in establishing criteria governing the issue of permits for the dumping of matter at sea, inter alia, "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".

Article 4

In connection with the advice of an ad hoc international group of specialists on environmental and ecological assessments, in consultation with the Environment Directorate, provided for in Article 4(b)(ii), it will be for the Environment Directorate to consult, if necessary, the Chairman of the Environment Committee or the Committee itself.

Article 6

In relation to Article 6(a), several Delegations suggested that, in selecting the NEA Representative, the Director General should give due consideration to the special interest of the coastal countries concerned by the operation; and others expressed the wish that the NEA Representative should not be a national of dumping countries. The following interpretation by the Secretariat was noted:

The Director General would establish and maintain a list of qualified experts proposed by all interested Participating Countries. It would then be his responsibility to select from this list an NEA Representative, for each operation, taking into account the desirability of a certain rotation amongst nationalities, and the special interest of the coastal countries concerned by the operation. According to normal international practice, the Representative would not be a national of the country(ies) actually carrying out an operation; however, it could not be excluded that he would be a national of a country which has in the past undertaken such operations. As only one Representative would serve for each operation, the interest of coastal countries could only be taken into account to the extent that this would not impede suitable rotation of nationalities. Furthermore, the NEA Representative would act as an international official reporting only to the Director General and would not be in charge of the interest of a given country.

As regards Article 6(b), it was agreed that its wording represented a compromise between the requirement of verification and what is achievable in practice, taking into account the limited resources available at international level, and that NEA would, in due course, establish guidelines for such verification in accordance with Article 2(a)(i).

5. Land-Based Pollution

**Convention for the Prevention of Marine Pollution
from Land-Based Sources (with annexes A and B),
June 4, 1974***

* U.N. Legislative Series, U.N. Doc. ST/LEG/SER.B/18 at 547 (1976); 13 I.L.M. 352 (1974).

CONFERENCE ON THE PREVENTION OF MARINE POLLUTION FROM LAND-BASED SOURCES:
 CONVENTION FOR THE PREVENTION OF MARINE POLLUTION FROM LAND-BASED SOURCES*
 [Adopted by the Conference, February 21, 1974]

C O N V E N T I O N

FOR THE PREVENTION OF MARINE POLLUTION

FROM LAND-BASED SOURCES

THE CONTRACTING PARTIES :

RECOGNIZING that the marine environment and the living resources which it supports are of vital importance to all nations ;

MINDFUL that the ecological equilibrium and the legitimate uses of the sea are increasingly threatened by pollution ;

CONSIDERING the recommendations of the United Nations Conference on the Human Environment, held in Stockholm in June 1972 ;

RECOGNIZING that concerted action at national, regional and global levels is essential to prevent and combat marine pollution ;

CONVINCED that international action to control the pollution of the sea from land-based sources can and should be taken without delay, as part of progressive and coherent measures to protect the marine environment from pollution, whatever its origin, including current efforts to combat the pollution of international waterways ;

*[Reproduced from Document No. 220 (February 21, 1974) of the Conference on the Prevention of Marine Pollution from Land-based Sources (Paris).

[Austria, Belgium, Denmark, France, the Federal Republic of Germany, Iceland, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom participated in the Conference. Finland and Italy attended as observers.

[The Convention will be opened for signature at Paris on June 4, 1974. The Resolutions adopted by the Conference appear at I.L.M. page 373. The Oslo Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft appears at 11 I.L.M. 262 (1972).]

CONSIDERING that the common interests of States concerned with the same marine area should induce them to cooperate at regional or sub-regional levels ;

RECALLING the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft concluded in Oslo on 15 February 1972 ;

Have agreed as follows :

ARTICLE I

1. The Contracting Parties pledge themselves to take all possible steps to prevent pollution of the sea, by which is meant the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) resulting in such deleterious effects as hazards to human health, harm to living resources and to marine eco-systems, damage to amenities or interference with other legitimate uses of the sea.
2. The Contracting Parties shall adopt individually and jointly measures to combat marine pollution from land-based sources in accordance with the provisions of the present convention and shall harmonize their policies in this regard.

ARTICLE 2

The present Convention shall apply to the maritime area within the following limits :

- a) those parts of the Atlantic and Arctic Oceans and the dependent seas which lies North of 36° north latitude and between 42° west longitude and 51°

east longitude, but excluding :

- i) the Baltic Sea and Belts lying to the south and east of lines drawn from Hasenore Head to Griben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to Kulien, and
 - ii) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° north latitude and the meridian of 5°36' west longitude ;
- b) that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.

ARTICLE 3

For the purpose of the present Convention :

- a) "Maritime area" - means the high seas, the territorial seas of Contracting Parties and waters on the landward side of the base lines from which the breadth of the territorial sea is measured, extending, in the case of watercourses up to the freshwater limit unless otherwise decided under Article 16 of the present Convention;
- b) "Freshwater limit" - means the place in the watercourse where, at low tide and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea-water;
- c) "Pollution from land-based sources" - means the pollution of the maritime area :
 - i) through watercourses,

- ii) from the coast, including introduction through underwater or other pipelines,
- iii) from man-made structures placed under the jurisdiction of a Contracting Party within the limits of the area to which the present Convention applies.

ARTICLE 4

1. The Contracting Parties undertake :
 - a) to eliminate, if necessary by stages, pollution of the maritime area from land-based sources of substances listed in Part I of Annex A to the present Convention.
 - b) to limit strictly pollution of the maritime area from land-based sources of the substances listed in Part II of Annex A to the present Convention.

2. In order to carry out the undertakings in paragraph 1 of this Article, the Contracting Parties, jointly or individually as appropriate, shall implement programmes and measures :
 - a) for the elimination, as a matter of urgency, of pollution of the maritime area from land-based sources by substances listed in Part I of Annex A to the present Convention;
 - b) for the reduction or, as appropriate, elimination of pollution of the maritime area from land-based sources by substances listed in Part II of Annex A to the ^{present} Convention. These substances shall be discharged only after approval has been granted by the appropriate Authorities within each contracting State. Such approval shall be periodically reviewed.

3. The programmes and measures adopted under paragraph 2 above shall include, as appropriate, specific regulations or standards governing the quality of the environment, discharges into the maritime area, such discharges into watercourses as affect the maritime area, and the composition and use of substances and products and shall take into account the latest technical developments.

The programmes shall contain time-limits for their completion.

4. Furthermore, the Contracting Parties may, jointly or individually as appropriate, implement programmes or measures to forestall, reduce or eliminate pollution of the maritime area from land-based sources by a substance not then listed in Annex A to the ^{present} Convention, if scientific evidence has established that a serious hazard may be created in the maritime area by that substance and if urgent action is necessary.

ARTICLE 5

1. The Contracting Parties undertake to adopt measures to forestall and, as appropriate, eliminate pollution of the maritime area from land-based sources by radio-active substances referred to in Part III of Annex A of the present Convention.
2. Without prejudice to their obligations under other Treaties and Conventions, in implementing this undertaking the Contracting Parties shall:
 - a) take full account of the recommendations of the appropriate international Organisations and Agencies.

- b) take account of the monitoring procedures recommended by these international Organisations and Agencies.
- c) coordinate their monitoring and study of radio-active substances in accordance with Article 10 and 11 of the present Convention.

ARTICLE 6

1. With a view to preserving and enhancing the quality of the marine environment, the Contracting Parties, without prejudice to the provisions of Article 4, shall endeavour:
 - a) to reduce existing pollution from land-based sources;
 - b) to forestall any new pollution from land-based sources, including that which derives from new substances.
2. In implementing this undertaking, the Contracting Parties shall take account of:
 - a) the nature and quantities of the pollutants under consideration;
 - b) the level of existing pollution;
 - c) the quality and absorptive capacity of the receiving waters of the maritime area;
 - d) the need for an integrated planning policy,¹ consistent with the requirement of environmental protection.

ARTICLE 7

The Contracting Parties agree to apply the measures they adopt in such a way as to avoid increasing pollution:

- in the seas outside the area to which the present Convention applies;

- in the maritime area covered by the present Convention, originating otherwise than from land-based sources.

ARTICLE 8

No provision of the present Convention may be interpreted as preventing ^{the} Contracting Parties from taking more stringent measures to combat marine pollution from land-based sources.

ARTICLE 9

1. When pollution from land-based sources originating from the territory of a Contracting Party by substances not listed in Part 1 of Annex A of the present Convention is likely to prejudice the interests of one or more of the other Parties to the Convention, the Contracting Parties concerned undertake to enter into consultation, at the request of any one of them, with a view to negotiating a co-operation agreement.
2. At the request of any Contracting Party concerned, the Commission referred to in Article 15 of the present Convention shall consider the question and may make recommendations with a view to reaching a satisfactory solution.
3. The special agreements specified in Paragraph 1 of this Article may, among other things, define the areas to which they shall apply, the quality objectives to be achieved, and the methods for achieving these objectives including methods for the application of appropriate standards, and the scientific and technical information to be collected.
4. The Contracting Parties signatory to these agreements shall, through the medium of the Commission, inform the other

Contracting Parties of their purport and of the progress made in putting them into effect.

ARTICLE 10

The Contracting Parties agree to establish complementary or joint programmes of scientific and technical research, including research into the best methods of eliminating or replacing noxious substances so as to reduce marine pollution from land-based sources, and to transmit to each other the information so obtained. In doing so they will have regard to the work carried out, in these fields, by the appropriate international Organizations and Agencies.

ARTICLE 11

The Contracting Parties agree to set up progressively, and to operate within the area covered by the present Convention, a permanent monitoring system allowing of :-

- the earliest possible assessment of the existing level of marine pollution;
- the assessment of the effectiveness of measures for the reduction of marine pollution from land-based sources taken under the terms of the present Convention.

For this purpose the Contracting Parties shall lay down the ways and means of pursuing individually or jointly systematic and ad hoc monitoring programmes. These programmes shall take into account the deployment of research vessels and other facilities in the monitoring area.

The programmes will take into account similar programmes pursued in accordance with Conventions already in force and by the appropriate international organisations and Agencies.

ARTICLE 12

1. Each Contracting Party undertakes to ensure compliance with the provisions of this Convention and to take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of the present Convention.
2. The Contracting Parties shall inform the Commission of the legislative and administrative measures they have taken to implement the provisions of the above paragraph.

ARTICLE 13

The Contracting Parties undertake to assist one another as appropriate to prevent incidents which may result in pollution from land-based sources, to minimize and eliminate the consequences of such incidents, and to exchange information to that end.

ARTICLE 14

1. The provisions of the present Convention may not be invoked against a Contracting Party to the extent that the latter is prevented, as a result of pollution having its origin in the territory of a non-Contracting State, from ensuring their full application.

2. However, the said Contracting Party shall endeavour to co-operate with the non-Contracting State so as to make possible the full application of the present Convention.

ARTICLE 15

A Commission made of representatives of each of the Contracting Parties is hereby established. The Commission shall meet at regular intervals and at any time, when due to special circumstances it is so decided in accordance with the rules of procedure.

ARTICLE 16

It shall be the duty of the Commission:

- a) to exercise overall supervision over the implementation of the present Convention ;
- b) to review generally the condition of the seas within the area to which the present Convention applies, the effectiveness of the control measures being adopted and the need for any additional or different measures ;
- c) to fix, if necessary, in accordance with Article 3(a), on the proposal of the Contracting Party or Parties bordering on the same watercourse and following a standard procedure, the limit to which the maritime area shall extend in this watercourse ;
- d) to draw up, in accordance with Article 4 of the present Convention, programmes and measures for the elimination or reduction of pollution from land-based sources ;
- e) to make recommendations in accordance with the provisions of Article 9 ;

- f) to receive and review information and distribute it to the Contracting Parties in accordance with the provisions of Article 11, 12 and 17 of the present Convention ;
- g) to make, in accordance with Article 13, recommendations regarding any amendment to the lists of substances included in Annex A of the present Convention ;
- h) to discharge such other functions, as may be appropriate, under the terms of the present Convention.

ARTICLE 17

The Contracting Parties, in accordance with a standard procedure, shall transmit to the Commission :

- a) the results of monitoring pursuant to Article (11).
- b) the most detailed information available on the substances listed in the Annexes to the ^{present} /Convention and liable to find their way into the maritime area.

The Contracting Parties shall endeavour to improve progressively techniques for gathering such information which can contribute to the revision of the pollution reduction programmes adopted in accordance with Article 4.

ARTICLE 18

1. The Commission shall draw up its own Rules of Procedure which shall be adopted by unanimous vote.
2. The Commission shall draw up its own Financial Regulations which shall be adopted by unanimous vote.
3. The Commission shall adopt, by unanimous vote, programmes and

measures for the reduction or elimination of pollution from land-based sources as provided for in Article 4, and for scientific research and monitoring as provided for in Articles 10 and 11 and the decisions under Article 16 c).

Such programmes and measures shall commence for, and be applied by, all Contracting Parties two hundred days after adoption, unless the Commission specifies another date.

Should unanimity not be attainable, the Commission may nonetheless adopt a programme or measures by a three quarters majority vote of its members. Such programmes or measures shall commence for those Contracting Parties which voted for them two hundred days after their adoption, unless the Commission specifies another date, and for any other Contracting Party after it has explicitly accepted the programme or measures which it may do at any time.

4. The Commission may adopt, in accordance with Article 16 g), recommendations for amendments to Annex A to the present Convention by a three quarters majority vote of its members and shall submit them for the approval of the Governments of the Contracting Parties. Any Government of a Contracting Party that is unable to approve an amendment shall notify the Depositary Government in writing within a period of two hundred days after the adoption of the Recommendation of amendment in the Commission. Should no such notification be received, the amendment shall enter into force for all Contracting Parties two hundred and thirty days after the vote in the Commission. The Depositary Government shall notify

the Contracting Parties as soon as possible of the receipt of any notification.

ARTICLE 19

Within its competences, the European Economic Community is entitled to a number of votes equal to the number of its member States which are Contracting Parties to the present Convention.

The European Economic Community shall not exercise its right to vote in cases where its member States exercise theirs and conversely.

ARTICLE 20

The depositary Government shall convene the first meeting of the Commission as soon as possible after the coming into force of the present Convention.

ARTICLE 21

Any dispute between Contracting Parties relating to the interpretation or application of the present Convention, which cannot be settled otherwise by the parties concerned, for instance by means of inquiry or conciliation within the Commission, shall, at the request of any of those Parties be submitted to arbitration under the conditions laid down in Annex B to the Convention.

ARTICLE 22

The present Convention shall be open at Paris, from 4th June

1974 to 30th June 1975, for signature by the States invited to the Diplomatic Conference on the Convention for the prevention of Marine Pollution from Land-Based Sources held at Paris and by the European Economic Community.

ARTICLE 23

The present Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the French Republic.

ARTICLE 24

1. After 30th June 1975, the present Convention shall be open for accession by States referred to in Article (22¹) and by the European Economic Community.
2. The present Convention shall also be open for accession from the same date by any other Contracting Party to the Convention for the prevention of Marine Pollution by Dumping from Ships and Aircraft opened for signature at Oslo on 15th February 1972.
3. From the date of its entry into force, the present Convention shall be open for accession by any State not referred to in Article (22) located upstream on watercourses crossing the territory of one or more Contracting Parties to the present Convention and reaching the maritime area defined in Article 2.
4. The Contracting Parties may, by unanimous vote, invite other States to accede to the present Convention. In that case the maritime area defined in Article (2) may, if necessary, be

amended in accordance with Article (27) of the present Convention.

5. The instruments of accession shall be deposited with the Government of the French Republic.

ARTICLE 25

1. The present Convention shall come into force on the thirtieth day following the date of deposit of the seventh instrument of ratification, approval, acceptance or accession.
2. For each Party ratifying, accepting or approving the present Convention or acceding to it after the deposit of the seventh instrument of ratification, approval, acceptance or accession, the present Convention shall enter into force on the thirtieth day after deposit by that Party of its instrument of ratification, acceptance, approval or accession.

ARTICLE 26

At any time after the expiry of two years from the date of coming into force of the ^{present} Convention in relation to any Contracting Party such Party may withdraw from the Convention by notice in writing to the depositary Government. Such notice shall take effect one year after the date on which it is received.

ARTICLE 27

1. The depositary Government shall, at the request of the Commission on a decision taken by a two-thirds majority of its members,

call a Conference for the purpose of revising or amending the present Convention.

2. Upon accession by a State as provided for in paragraphs 2, 3 and 4 of Article 2~~4~~, the maritime area defined in Article 2 may be amended upon a proposal by the Commission adopted by a unanimous vote. Such amendments shall enter into force after unanimous approval by the Contracting Parties.

ARTICLE 28

The depositary Government shall inform the Contracting Parties and those referred to in Article 22:

- (a) of signatures to the present Convention, of the deposit of instruments of ratification, acceptance, approval or accession, and of notices of withdrawal in accordance with Articles 22, 25, 24 and 26;
- (b) of the date on which the present Convention comes into force in accordance with Article 25;
- (c) of the receipt of notifications of approval or of objection to the present Convention and its annexes, and of the entry into force of amendments thereto, in accordance with Articles 18 and 27 of the present Convention.

ARTICLE 29

The original of the ^{present} Convention of which the French and English texts shall be equally authentic, shall be deposited with the Government of the French Republic which shall send certified copies thereof to the Contracting Parties and the States referred

to in Article 22 and shall deposit a certified copy with the Secretary General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

In witness thereof, the undersigned, duly authorized by their respective Governments, have signed this Convention.

Done at Paris, this 4th June 1974.

ANNEX A

The allocation of substances to Parts I, II and III below takes account of the following criteria :

- a) persistence
- b) toxicity or other noxious properties
- c) tendency to bio-accumulation

These criteria are not necessarily of equal importance for a particular substance or group of substances, and other factors such as the location and quantities of the discharge may need to be considered.

Part I

Substances are included in this Part

- (i) because they are not readily degradable or rendered harmless by natural processes ; and
- (ii) because they may either
 - (a) give rise to dangerous accumulation of harmful material in the food chain, or

- (b) endanger the welfare of living organisms causing undesirable changes in the marine eco-systems,
 - (c) interfere seriously with the harvest of sea foods or with other legitimate uses of the sea ; and
- (iii) because it is considered that pollution by these substances necessitates urgent action.
1. Organohalogen compounds and substances which may form such compounds in the marine environment, excluding those which are biologically harmless, or which are rapidly converted in the sea into substances which are biological harmless.
 2. Mercury and mercury compounds.
 3. Cadmium and cadmium compounds.
 4. Persistent synthetic materials which may float, remain in suspension or sink, and which may seriously interfere with any legitimate uses of the sea.
 5. Persistent oils and hydrocarbons of petroleum origin.

Part II

Substances are included in this Part because, although exhibiting similar characteristics to the substances in Part I and requiring strict control, they seem less noxious or are more readily rendered harmless by natural processes.

1. Organic compounds of phosphorous, silicon, and tin and substances which may form such compounds in the marine environment, excluding those which are biologically harmless, or which are rapidly converted in the sea into substances which are biologically harmless.
2. Elemental phosphorus
3. Non-persistent oils and hydrocarbons of petroleum origin.

4. The following elements and their compounds.

Arsenic	Lead
Chromium	Nickel
Copper	Zinc

5. Substances which have been agreed by the Commission as having a deleterious effect on the taste and/or smell of products derived from the marine environment for human consumption.

Part III

Substances are included in this Part because, although they display characteristics similar to those of substances listed in Part I and should be subject to stringent controls with the aim of preventing and, as appropriate, eliminating the pollution which they cause, they are already the subject of research, recommendations and, in some cases, measures under the auspices of several International Organisations and Institutions.

Those substances are subject to the provisions of

Article (14) :

- Radioactive substances, including wastes.

ANNEX B

Article 1

Unless the parties to the dispute decide otherwise, the arbitral procedure shall be in accordance with the provisions of this Annex.

Article 2

1. At the request addressed by one Contracting Party to another Contracting Party in accordance with Article 21 of the Convention, an arbitral tribunal shall be constituted. The request for arbitration shall state the subject matter of the application including in particular the articles of the Convention, the interpretation or application of which is in dispute.

2. The claimant shall inform the Commission that he has requested the setting up of an arbitral tribunal, stating the name of the other party to the dispute and the articles of the Convention the interpretation or application of which is in his opinion in dispute. The Commission will forward the information thus received to all Contracting Parties to the Convention.

Article 3

The arbitral tribunal shall consist of three members : each of the parties to the dispute shall appoint an arbitrator ; the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in another capacity.

Article 4 (1)

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary General of the United Nations shall, at the request of either party, designate him within a further two months' period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary General of the United Nations who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall decide according to the rules of international law and, in particular, those of this Convention.

(1) Reserve d'attente of the Delegation of Portugal

2. Any arbitral tribunal constituted under the provisions of this Appendix shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal, both on the procedure and on the substance, shall be taken by majority voting of its members.

2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the Parties, recommend indispensable interim measures of protection.

3. If two or more arbitral tribunals constituted under the provisions of this Appendix are seized of requests with identical or analogous subjects, they may inform themselves of the procedures for establishing the facts and take them into account as far as possible.

4. The parties to the dispute shall provide all facilities necessary for the effective running of the procedure.

5. The absence or default of a party to the dispute shall not constitute an impediment to the procedure.

Article 7

1. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

2. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another arbitral tribunal constituted for this purpose in the same manner as the first.

Article 8

The European Economic Community, like any other Contracting Party to the present Convention, has the right to appear as applicant or respondent before the arbitral tribunal.

**Protocol for the Protection of the Mediterranean
Sea Against Pollution from Land-Based Sources (with
annexes I-III), May 17, 1980***

* 19 I.L.M. 869.

PROTOCOL

FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976,

Desirous of implementing article 4, paragraph 2, and articles 8 and 15 of the said Convention,

Noting the rapid increase of human activities in the Mediterranean Sea Area, particularly in the fields of industrialization and urbanization, as well as the seasonal increase in the coastal population due to tourism,

Recognizing the danger posed to the marine environment and to human health by pollution from land-based sources and the serious problems resulting therefrom in many coastal waters and river estuaries of the Mediterranean Sea, primarily due to the release of untreated, insufficiently treated or inadequately disposed domestic or industrial discharges,

Recognizing the differences in levels of development between the coastal States, and taking account of the economic and social imperatives of the developing countries,

Determined to take in close co-operation the necessary measures to protect the Mediterranean Sea against pollution from land-based sources,

Have agreed as follows:

Article 1

The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures to prevent, abate, combat and control pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources within their territories.

Article 2

For the purposes of this Protocol:

- (a) "The Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976;
- (b) "Organization" means the body referred to in article 13 of the Convention;
- (c) "Freshwater limit" means the place in watercourses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea water.

Article 3

The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be:

- (a) the Mediterranean Sea Area as defined in article 1 of the Convention;
- (b) waters on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit;
- (c) saltwater marshes communicating with the sea.

Article 4

1. This Protocol shall apply:

- (a) to polluting discharges reaching the Protocol Area from land-based sources within the territories of the Parties, in particular:
 - directly, from outfalls discharging into the sea or through coastal disposal;
 - indirectly, through rivers, canals or other watercourses, including underground watercourses, or through run-off;
- (b) to pollution from land-based sources transported by the atmosphere, under conditions to be defined in an additional annex to this Protocol and accepted by the Parties in conformity with the provisions of article 17 of the Convention.

2. This Protocol shall also apply to polluting discharges from fixed man-made off-shore structures which are under the jurisdiction of a Party and which serve purposes other than exploration and exploitation of mineral resources of the continental shelf and the sea-bed and its sub-soil.

Article 5

1. The Parties undertake to eliminate pollution of the Protocol Area

from land-based sources by substances listed in annex I to this Protocol.

2. To this end they shall elaborate and implement, jointly or individually, as appropriate, the necessary programmes and measures.

3. These programmes and measures shall include, in particular, common emission standards and standards for use.

4. The standards and the time-tables for the implementation of the programmes and measures aimed at eliminating pollution from land-based sources shall be fixed by the Parties and periodically reviewed, if necessary every two years, for each of the substances listed in annex I, in accordance with the provisions of article 15 of this Protocol.

Article 6

1. The Parties shall strictly limit pollution from land-based sources in the Protocol Area by substances or sources listed in annex II to this Protocol.

2. To this end they shall elaborate and implement, jointly or individually, as appropriate, suitable programmes and measures.

3. Discharges shall be strictly subject to the issue, by the competent national authorities, of an authorization taking due account of the provisions of annex III to this Protocol.

Article 7

1. The Parties shall progressively formulate and adopt, in co-operation with the competent international organizations, common guidelines and, as appropriate, standards or criteria dealing in particular with:

(a) the length, depth and position of pipelines for coastal outfalls, taking into account, in particular, the methods used for pretreatment of effluents;

(b) special requirements for effluents necessitating separate treatment;

(c) the quality of sea water used for specific purposes that is necessary for the protection of human health, living resources and ecosystems;

(d) the control and progressive replacement of products, installations and industrial and other processes causing significant pollution of the marine environment;

(e) specific requirements concerning the quantities of the substances listed in annexes I and II discharged, their concentration in effluents and methods of discharging them.

2. Without prejudice to the provisions of article 5 of this Protocol, such common guidelines, standards or criteria shall take into account local

ecological, geographical and physical characteristics, the economic capacity of the Parties and their need for development, the level of existing pollution and the real absorptive capacity of the marine environment.

3. The programmes and measures referred to in articles 5 and 6 shall be adopted by taking into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

Article 8

Within the framework of the provisions of, and the monitoring programmes provided for in, article 10 of the Convention, and if necessary in co-operation with the competent international organizations, the Parties shall carry out at the earliest possible date monitoring activities in order:

(a) systematically to assess, as far as possible, the levels of pollution along their coasts, in particular with regard to the substances or sources listed in annexes I and II, and periodically to provide information in this respect;

(b) to evaluate the effects of measures taken under this Protocol to reduce pollution of the marine environment.

Article 9

In conformity with article 11 of the Convention, the Parties shall co-operate as far as possible in scientific and technological fields related to pollution from land-based sources, particularly research on inputs, pathways and effects of pollutants and on the development of new methods for their treatment, reduction or elimination. To this end the Parties shall, in particular, endeavour to:

(a) exchange scientific and technical information;

(b) co-ordinate their research programmes.

Article 10

1. The Parties shall, directly or with the assistance of competent regional or other international organizations or bilaterally, co-operate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, education and technology, with a view to preventing pollution from land-based sources and its harmful effects in the marine environment.

2. Technical assistance would include, in particular, the training of

scientific and technical personnel, as well as the acquisition, utilization and production by those countries of appropriate equipment on advantageous terms to be agreed upon among the Parties concerned.

Article 11

1. If discharges from a watercourse which flows through the territories of two or more Parties or forms a boundary between them are likely to cause pollution of the marine environment of the Protocol Area, the Parties in question, respecting the provisions of this Protocol in so far as each of them is concerned, are called upon to co-operate with a view to ensuring its full application.

2. A Party shall not be responsible for any pollution originating on the territory of a non-contracting State. However, the said Party shall endeavour to co-operate with the said State so as to make possible full application of the Protocol.

Article 12

1. Taking into account article 22, paragraph 1, of the Convention, when land-based pollution originating from the territory of one Party is likely to prejudice directly the interests of one or more of the other Parties, the Parties concerned shall, at the request of one or more of them, undertake to enter into consultation with a view to seeking a satisfactory solution.

2. At the request of any Party concerned, the matter shall be placed on the agenda of the next meeting of the Parties held in accordance with article 14 of this Protocol; the meeting may make recommendations with a view to reaching a satisfactory solution.

Article 13

1. The Parties shall inform one another through the Organization of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and submission of such information shall be determined at the meetings of the Parties.

2. Such information shall include, inter alia:

(a) statistical data on the authorizations granted in accordance with article 6 of this Protocol;

(b) data resulting from monitoring as provided for in article 8 of this Protocol;

- (c) quantities of pollutants discharged from their territories;
- (d) measures taken in accordance with articles 5 and 6 of this Protocol.

Article 14

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 14 of the Convention. The Parties may also hold extraordinary meetings in accordance with article 14 of the Convention.

2. The functions of the meetings of the Parties to this Protocol shall be, inter alia:

- (a) to keep under review the implementation of this Protocol and to consider the efficacy of the measures adopted and the advisability of any other measures, in particular in the form of annexes;
- (b) to revise and amend any annex to this Protocol, as appropriate;
- (c) to formulate and adopt programmes and measures in accordance with articles 5, 6 and 15 of this Protocol;
- (d) to adopt, in accordance with article 7 of this Protocol, common guidelines, standards or criteria, in any form decided upon by the Parties;
- (e) to make recommendations in accordance with article 12, paragraph 2, of this Protocol;
- (f) to consider the information submitted by the Parties under article 13 of this Protocol;
- (g) to discharge such other functions as may be appropriate for the application of this Protocol.

Article 15

1. The meeting of the Parties shall adopt, by a two-thirds majority, the programmes and measures for the abatement or the elimination of pollution from land-based sources which are provided for in articles 5 and 6 of this Protocol.

2. The Parties which are not able to accept a programme or measures shall inform the meeting of the Parties of the action they intend to take as regards the programme or measures concerned, it being understood that these Parties may, at any time, give their consent to the programme or measures that have been adopted.

Article 16

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 18 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

3. This Protocol shall be open for signature, at Athens from 17 May 1980 to 16 June 1980, and at Madrid from 17 June 1980 to 16 May 1981, by any State invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources held at Athens from 12 May to 17 May 1980. It shall also be open until the same dates for signature by the European Economic Community and by any similar regional economic grouping of which at least one member is a coastal State of the Mediterranean Sea Area and which exercises competence in fields covered by this Protocol.

4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

5. As from 17 May 1981, this Protocol shall be open for accession by the States referred to in paragraph 3 above, by the European Economic Community and by any grouping referred to in that paragraph.

6. This Protocol shall enter into force on the thirtieth day following the deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this article.

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

DONE at Athens on this seventeenth day of May one thousand nine hundred and eighty in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.

Annex I

1. The following substances, families and groups of substances are listed, not in order of priority, for the purposes of article 5 of this Protocol. They have been selected mainly on the basis of their

- toxicity
- persistence
- bioaccumulation.

1. Organohalogen compounds and substances which may form such compounds in the marine environment.^{1/}
 2. Organophosphorus compounds and substances which may form such compounds in the marine environment.^{1/}
 3. Organotin compounds and substances which may form such compounds in the marine environment.^{1/}
 4. Mercury and mercury compounds.
 5. Cadmium and cadmium compounds.
 6. Used lubricating oils.
 7. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea.
 8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment.
 9. Radioactive substances, including their wastes, when their discharges do not comply with the principles of radiation protection as defined by the competent international organizations, taking into account the protection of the marine environment.
- B. The present annex does not apply to discharges which contain substances listed in section A that are below the limits defined jointly by the Parties.

Annex II

A. The following substances, families and groups of substances, or sources of pollution, listed not in order of priority for the purposes of article 6 of this Protocol, have been selected mainly on the basis of criteria used for annex I, while taking into account the fact that they are generally less noxious or are more readily rendered harmless by natural processes and therefore generally affect more limited coastal areas.

1. The following elements and their compounds:

1. zinc	6. selenium	11. tin	16. vanadium
2. copper	7. arsenic	12. barium	17. cobalt
3. nickel	8. antimony	13. beryllium	18. thallium
4. chromium	9. molybdenum	14. boron	19. tellurium
5. lead	10. titanium	15. uranium	20. silver
2. Biocides and their derivatives not covered in annex I.
3. Organosilicon compounds and substances which may form such compounds in the marine environment, excluding those which are biologically harmless or are rapidly converted into biologically harmless substances.

^{1/} With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless substances.

4. Crude oils and hydrocarbons of any origin.
 5. Cyanides and fluorides.
 6. Non-biodegradable detergents and other surface-active substances.
 7. Inorganic compounds of phosphorus and elemental phosphorus.
 8. Pathogenic micro-organisms.
 9. Thermal discharges.
 10. Substances which have a deleterious effect on the taste and/or smell of products for human consumption derived from the aquatic environment, and compounds liable to give rise to such substances in the marine environment.
 11. Substances which have, directly or indirectly, an adverse effect on the oxygen content of the marine environment, especially those which may cause eutrophication.
 12. Acid or alkaline compounds of such composition and in such quantity that they may impair the quality of sea water.
 13. Substances which, though of a non-toxic nature, may become harmful to the marine environment or may interfere with any legitimate use of the sea owing to the quantities in which they are discharged.
- B. The control and strict limitation of the discharge of substances referred to in section A above must be implemented in accordance with annex III.

Annex III

With a view to the issue of an authorization for the discharge of wastes containing substances referred to in annex II or in section B of annex I of this Protocol, particular account will be taken, as the case may be, of the following factors:

- A. Characteristics and composition of the waste
 1. Type and size of waste source (e.g. industrial process).
 2. Type of waste (origin, average composition).
 3. Form of waste (solid, liquid, sludge, slurry).
 4. Total amount (volume discharged, e.g. per year).
 5. Discharge pattern (continuous, intermittent, seasonally variable, etc.).
 6. Concentrations with respect to major constituents, substances listed in annex I, substances listed in annex II, and other substances as appropriate.
 7. Physical, chemical and biochemical properties of the waste.
- B. Characteristics of waste constituents with respect to their harmfulness
 1. Persistence (physical, chemical, biological) in the marine environment.

2. Toxicity and other harmful effects.
3. Accumulation in biological materials or sediments.
4. Biochemical transformation producing harmful compounds.
5. Adverse effects on the oxygen content and balance.
6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea water constituents which may produce harmful biological or other effects on any of the uses listed in section E below.

C. Characteristics of discharge site and receiving marine environment

1. Hydrographic, meteorological, geological and topographical characteristics of the coastal area.
2. Location and type of the discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery, and fishing areas, shellfish grounds) and other discharges.
3. Initial dilution achieved at the point of discharge into the receiving marine environment.
4. Dispersion characteristics such as effects of currents, tides and wind on horizontal transport and vertical mixing.
5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area.
6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. Availability of waste technologies

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

- (a) Alternative treatment processes;
- (b) Re-use or elimination methods;
- (c) On-land disposal alternatives; and
- (d) Appropriate low-waste technologies.

E. Potential impairment of marine ecosystems and sea water uses

1. Effects on human health through pollution impact on:
 - (a) Edible marine organisms;
 - (b) Bathing waters;
 - (c) Aesthetics.
2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.
3. Effects on other legitimate uses of the sea.

6. Civil Liability and Compensation

**Tanker Owners Voluntary Agreement Concerning
Liability for Oil Pollution (TOVALOP),
January 7, 1969***

* 8 I.L.M. 497.

**TANKER OWNERS VOLUNTARY AGREEMENT
CONCERNING LIABILITY FOR OIL POLLUTION***

[Signed January 7, 1969]

**EXPLANATION OF THE TANKER OWNERS
VOLUNTARY AGREEMENT CONCERNING LIABILITY
FOR OIL POLLUTION ("TOVALOP")**

This memorandum is designed to serve as a brief summary of the principal points of the Tanker Owners Voluntary Agreement Concerning Liability for Oil Pollution, which, for the sake of convenience, is called "TOVALOP". As a word of caution, this explanation should not be considered as a substitute for the TOVALOP and its related documents and nothing contained herein should be construed as modifying or amending them.

TOVALOP originated from the determination of certain tanker owners to take constructive action with respect to oil pollution. These owners recognized that marine casualties may, on occasion, lead to pollution of coast lines, at least when crude oil, fuel oil, heavy diesel oil or lubricating oil is discharged. (For convenience these materials will be referred to simply as "oil"). These owners were aware of the fact that traditional maritime laws and practice do not always provide an adequate means for reimbursing national governments who incur expenditures to avoid or mitigate damage from such pollution, as well as tanker owners who, on their own initiative incur this kind of expenditure. They recognized also that traditional maritime law and practice do not encourage voluntary action by tanker owners, or joint measures by governments and tanker owners, against such pollution.

In an effort to establish responsibility to national governments with respect to these matters, to assure that there will be financial capability to fulfill this responsibility and otherwise to alleviate this situation, these tanker owners have developed an Agreement called "TOVALOP" which is available to all tanker owners throughout the world.

TOVALOP provides that a Participating Tanker Owner will reimburse national governments for expenses reasonably incurred by them to prevent or clean up pollution of coast lines as the result of the negligent discharge of oil from one of his tankers. The tanker causing the discharge is presumed to be negligent unless the owner can establish that discharge occurred without the tanker's fault. The Participating Owner would not, under TOVALOP, reimburse prevention or clean-up costs incurred by private parties. However, if a national government spends monies to remove oil from privately owned coast lines, it could, in the case of negligence of the discharging tanker, recover these expenses from the tanker owner.

In the event of a negligent discharge of oil, where the oil pollutes or causes grave and imminent danger of pollution to coast lines within the jurisdiction of a national government, the tanker owner involved is obligated to reimburse the national government concerned for oil removal costs reasonably incurred by it up to a maximum of \$100.00 (U.S.) per gross registered ton of the tanker discharging the oil, or \$10,000,000 (U.S.), whichever is lesser. If the owner himself also helps remove the oil, his costs in effect result in reducing the government's claim where the combined costs exceed these limits.

TOVALOP also contains provisions for reimbursing a tanker owner for any expenses reasonably incurred by him to prevent or clean up pollution from a discharge of oil. These provisions are designed to encourage a tanker owner to take prompt action to remove or mitigate pollution damage.

TOVALOP applies only to physical contamination to land adjoining waters navigated by tankers including structures built on this land. It doesn't cover fire or explosion damage, consequential damage, or ecological damage.

TOVALOP will be administered by a limited company registered in England, and headquartered in London, which will be called The International Tanker Owners Pollution Federation Limited and each tanker owner who becomes a party to TOVALOP would be a member of this Federation. TOVALOP requires each tanker owner who becomes a party to establish and maintain financial capability to fulfill his contractual obligations described above. The parties to TOVALOP have made provision to establish their financial capability by forming another limited company registered in Bermuda called International Tanker

*[Reproduced from TOVALOP, a booklet published by The International Tanker Owners Pollution Federation Limited in London.

[The original signatories to the agreement are B.P. Tanker Company Limited, Esso Transport Company, Inc., Gulf Oil Corporation, Mobil Oil Corporation, Shell International Petroleum Company Limited, Standard Oil Company of California, and Texaco Inc.

[The Inter-Governmental Maritime Consultative Organization draft conventions dealing with the private and public law aspects of oil pollution appear at pages 453 and 466.]

Indemnity Association Limited. This Association will provide insurance coverage for all tankers owned by the Parties to TOVALOP, and thus assure that they would be capable of fulfilling their financial commitments. Alternative coverage may be provided should the Association consider this necessary.

TOVALOP is structured so that all tanker owners of the world can at any time become participants. Tanker owners owning at least 50 per cent. of the tankers of the world (excluding tankers owned by a government or government agency and tankers of under 5,000 d.w.t.) as measured by deadweight tonnage must become parties before the principal obligations of an owner under TOVALOP come into existence and TOVALOP itself becomes fully effective, and TOVALOP will lapse if 80 per cent. (with the same exclusions just mentioned) do not become parties at the end of two years after its effective date.

In the case of any disputes, a national government can enforce the liability of a tanker owner who is a party to TOVALOP through arbitration under the Rules of the International Chamber of Commerce. This latter feature should avoid the problems of establishing jurisdiction and effecting collection which exist at present in maritime law and practice.

When a tanker owner becomes a party to TOVALOP he continues in the Agreement for an initial period of five years from its effective date and for successive two-year periods, unless he elects to withdraw at the end of one of these periods. All tanker tonnage (including barges capable of seagoing service) owned or bareboat chartered by a party to the Agreement will be covered, excluding LNG and LPG carriers.

In summary, TOVALOP does the following:—

- (1) Encourages immediate remedial action by Participating Tanker Owners in the event of a discharge of oil.
- (2) Assures financial capability of Participating Tanker Owners to fulfil their obligations under TOVALOP through insurance coverage.
- (3) Avoids jurisdictional problems under existing maritime law and practice.
- (4) Places on tanker owner the burden of disproving negligence.
- (5) Provides a national government with machinery for making valid claims notwithstanding the fact that such government might not, under international or local law, have a legal obligation to remove oil discharged from a tanker or a legal right to recover removal expenses.

TANKER OWNERS VOLUNTARY AGREEMENT CONCERNING LIABILITY FOR OIL POLLUTION

Preamble

The Parties to this Agreement are Tanker Owners whose vessels are engaged in the transportation of Oil in bulk by sea, and who recognize that Coast Lines may on occasion sustain Damage by Pollution as a result of Oil discharged when marine casualties occur. They are furthermore aware of the fact that traditional maritime laws and practice do not always provide an adequate means for re-imbursing Governments which incur expenditures to avoid or mitigate such damage, as well as Tanker Owners who, on their own initiative, incur such expenditures. They recognize also that traditional legal regimes do not encourage joint measures by Governments and Tanker Owners against such damage.

In a voluntary effort to establish their responsibility to Governments with respect to these matters, to assure that they will be capable of fulfilling this responsibility, and otherwise to alleviate this situation, the Parties who as of the Seventh day of January, 1969, have executed this Agreement and such other parties who may, as is herein provided, subsequently become Parties to this Agreement, in consideration of their mutual promises herein, have agreed with one another, and do hereby agree as follows:

1. Definitions

Whenever the following words and phrases appear in the Preamble and other Clauses hereof, they shall have the meaning indicated below:

- (a) "Tanker" means any tank vessel (whether or not self-propelled) designed and constructed for the carriage by sea in bulk of crude petroleum and hydrocarbon fuels and oils derived therefrom (excluding however, liquefied petroleum gas and liquefied natural gas), whether or not such vessel is operated in sea-going service.
- (b) To "own" a Tanker means to hold title thereto, except that in the case of a Tanker under bareboat charter (that is, a Tanker chartered upon terms providing that the Charterer shall man, victual, and navigate the Tanker at his own expense or by his own procurement) to "own" a Tanker means to be such Charterer, to the exclusion of the holder of title to said Tanker. The term "Tanker Owner" means any individual, partnership, corporate body, or Government who so owns a Tanker.

- (c) "Participating Owner" means a Tanker Owner who has become a Party to this Agreement.
- (d) "Participating Tankers" means all Tankers owned by a Participating Owner.
- (e) "Oil" means crude oil, fuel oil, heavy diesel oil, and lubricating oil, whether or not carried as cargo.
- (f) "Discharge of Oil" means any discharge of Oil from a Tanker, including any spilling, leaking, pumping, emitting, emptying or dumping of Oil.
- (g) "Coast Lines" means land (including structural improvements thereon) adjoining the sea, inland waterways, lakes, bays, harbours, and estuaries.
- (h) "Damage by Pollution" means physical contamination damage to Coast Lines resulting directly from a Discharge of Oil, and does not include damage from fire or explosion, consequential damage, or ecological impairment.
- (i) "Government" means a National Government recognized as such under international law or custom.
- (j) "Incident" means any occurrence or series of occurrences having the same origin which causes, or creates a grave and imminent danger of causing Damage by Pollution to Coast Lines from a Discharge of Oil.
- (k) "Remove" means to take all reasonable measures to prevent potential Damage by Pollution and to mitigate Damage by Pollution from a Discharge of Oil, and "Removal" means the taking of such measures.

II. General Conditions

- (A) Any Tanker Owner in the world may become a Party to this Agreement.
- (B) The Parties to this Agreement will form, or cause to be formed, under and pursuant to the laws of England, a company limited by guarantee to be named "The International Tanker Owners Pollution Federation Limited" (hereinafter called the "Federation"), which will administer this Agreement.
- (C) Each Party to the Agreement will (i) from and after the date of this Agreement or as of the later date on which he becomes a Party hereto, as the case may be, abide by the Memorandum and Articles of Association of the Federation and all rules or directives of the Federation, and (ii) upon the "Effective Date" hereof as provided in Clause III, or as soon thereafter as he becomes a Party to this Agreement, establish and maintain his financial capability to fulfil his obligations under this Agreement as prescribed in said Memorandum, Articles, Rules and directives.
- (D) A Tanker Owner who is not one of the original signatories to this Agreement will become a Party to this Agreement upon acceptance by the Federation of an application in the form annexed hereto as Exhibit "A", wherein the applicant shall indicate his commitment to be bound by this Agreement and to become a member of the Federation.
- (E) The rights and obligations of each Party to this Agreement under this Clause II, except as otherwise stated herein, shall come into effect upon the date said Party becomes a Party hereto.

III. Duration and Coverage

- (A) This Agreement shall come into effect (except as otherwise specified in Clause II) upon a date selected and announced by the Federation which shall be as early as is practicable after a determination by the Federation that fifty per cent. of the Tankers of the world (excluding Tankers owned by a Government or Government agency and Tankers of under 5,000 deadweight tonnage) as measured by deadweight tonnage have become Participating Tankers. The date so selected and announced shall be known as "Effective Date".
- (B) Each Participating Owner shall be a Party to this Agreement for the interval indicated below:—
 - (i) A Participating Owner who becomes a Party prior to the expiration of five years from the Effective Date shall be a Party until the expiration of said five year interval and for successive intervals of two years each, unless he gives written notice of withdrawal to the Federation prior to the commencement of the last year of said five year interval or prior to the last year of any subsequent two-year interval, said withdrawal being effective at the end of the interval during which notice has been so given. Notwithstanding the foregoing, however, this Agreement shall terminate earlier if the deadweight tonnage of Participating Tankers, as determined by the Federation, fails to include at least 80 per cent. of the Tankers of the world, (with the exclusions mentioned in the preceding paragraph), as measured by deadweight tonnage at the end of two years from the Effective Date.
 - (ii) A Participating Owner who becomes a Party during any successive two year interval as referred to in sub-paragraph (B) (i) above, shall be a Party until the expiration of the two year successive interval during the first year of which he gives written notice of withdrawal to the Federation.
- (C) The rights and obligations of each Party to this Agreement shall apply with respect to all Tankers at any time owned by him while he is a Party to this Agreement.

(D) Termination of this Agreement or withdrawal therefrom under this Clause III, or otherwise, shall not terminate the rights and obligations of any Participating Owner then accrued hereunder. Upon termination of this Agreement the Federation shall continue in existence for such reasonable period as is necessary to wind up its affairs.

IV. Liability and Responsibility to Governments

(A) If a discharge of Oil occurs from a Participating Tanker through the negligence of that Tanker (and regardless of the degree of its fault), and if the Oil causes Damage by Pollution to Coast Lines within the jurisdiction of a Government, or creates a grave and imminent danger of Damage by Pollution thereto, then the Participating Owner of that Tanker shall Remove the Oil so discharged, or pay the costs reasonably incurred by the Government concerned to Remove the said Oil, subject to the maximum liability set forth in Clause VI.

(B) The Participating Owner shall be liable under Paragraph (A) hereof unless he can prove that the Discharge of Oil from his Participating Tanker occurred without fault on the part of said Tanker.

V. Removal by Participating Owner

The Federation, in connection with prescribing steps whereby each Participating Owner shall establish financial capability as provided in Clause II (C) (ii), and to encourage Participating Owners to take prompt Removal action (such Removal not constituting an admission of negligence), shall make arrangements whereby a Participating Owner who incurs reasonable expenditures for Removal of Oil discharged from a Participating Tanker owned by him shall be entitled to reimbursement therefor, without regard to negligence, subject to the terms of such arrangements.

VI. Maximum Liability

(A) The liability of a Participating Owner, pursuant to Clause IV, shall, with respect to each of his Participating Tankers involved in any one incident, in no event exceed U.S. \$100,000 per gross registered ton of each such Participating Tanker, subject to a maximum of U.S. \$10,000,000.00 in respect of each such Participating Tanker.

(B) In the event that a Participating Owner incurs liability hereunder to several Governments with respect to any one incident and that the amounts reasonably spent by these Governments for Removal of Oil exceeds the limit referred to in Paragraph (A) hereof, then the Participating Owner's maximum liability to a particular Government shall be that portion of said limit that such Government's Removal expenses bear to the aggregate of the several Governments' Removal expenses.

(C) If, however, a Participating Owner and a Government (or Governments) incur Removal expenses as a result of the same incident, then the Participating Owner's liability shall in no event exceed that part of the limit prescribed in Paragraph (A) hereof which the Government's (or Governments') Removal expenses bear to the aggregate of the Government's (or Governments') Removal expenses and the Participating Owner's Removal expenses.

VII. Procedure and Miscellaneous

(A) In the event of a Discharge of Oil from a Participating Tanker, the Participating Owner of said Tanker shall notify the Federation of such Discharge and the action (if any) taken and intended to be taken by him to Remove the Oil, and whether a claim has been filed against said Owner by any Government (or Governments).

(B) The Federation shall, on behalf of the Participating Owner concerned, send the Government or Governments concerned a copy of this Agreement and a confirmation that the owner of the Participating Tanker is, or was, at the time of such Discharge, a Participating Owner.

(C) The Government or Governments concerned should then, if they believe they have a valid claim hereunder and if they have not already done so, file notice of claim on the Participating Owner, sending a copy to the Federation.

(D) A Participating Owner shall have no liability hereunder to a Government unless that Government's claim hereunder, including the amount thereof and supporting data, is filed with said Owner, with a copy to the Federation, within one year of the date of the commencement of the alleged Discharge of Oil involved.

(E) The Government or Governments concerned may, in the event of a dispute under this Agreement with a Participating Owner, commence arbitration proceedings, in accordance with Paragraph (K) hereof, within two years from the date of the commencement of the alleged Discharge of Oil involving said Owner and said proceedings shall be the exclusive means for enforcing a Participating Owner's liability hereunder. Each Participating Owner by becoming a Party to this Agreement, and for so long as he remains bound thereby, shall be deemed irrevocably to have offered to any such Government to submit all such disputes to arbitration as provided in said Paragraph (K).

(F) Any payment hereunder to a Government by or on behalf of a Participating Owner shall be in full settlement of all said Government's claims against said Owner, the Participating Tanker involved, their officers, agents, employees and underwriters, which arise out of or are connected with the Discharge of Oil involved.

(G) With the exception of Governments who take advantage of this Agreement, this Agreement shall not affect any other rights of claim or suit which may be legally available to other claimants. This Agreement does not create any rights in persons, partnerships, corporations, or other entities other than Governments.

(H) This Agreement does not create any rights against the Federation and the Federation shall have no liability hereunder or otherwise to any Government, person, partnership, corporation or other entity.

(I) No rights or obligations created hereunder or connected herewith may be assigned or transferred.

(J) No Party to this Agreement shall be subject to any liability to a Government hereunder with respect to a Discharge of Oil from a Participating Tanker owned by another Participating Owner.

(K) All claims by a Government or Governments against a Participating Owner under this Agreement shall, if not otherwise disposed of, be finally settled under the rules of conciliation and arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the rules. In any such proceeding, the Government or Governments shall have the burden of proving the Oil was discharged from the Participating Tanker.

(L) No Removal by a Participating Owner, or making of a settlement payment with respect to any claim under this Agreement, shall be deemed (i) an admission of, or evidence of, liability on the part of the Participating Owner involved to any Government or any other claimant in any proceeding, or (ii) submission to any jurisdiction on the part of said Participating Owner for any purpose whatsoever.

(M) No arbitration award against a Participating Owner under this Agreement shall be deemed (i) an admission of, or evidence of, liability on the part of said Participating Owner in any other proceeding or to any other claimant, or (ii) submission to any jurisdiction on the part of said Participating Owner for any purpose whatsoever other than as provided in this Clause VII.

VIII. Amendments

This Agreement may be amended by Special Resolution adopted at an Extraordinary General Meeting of the members of the Federation upon a poll vote in which at least 75 per cent. of the votes cast are in favour of said Resolution. A Participating Owner who votes against such Resolution shall thereupon have the option to withdraw from this Agreement within 60 days of the date of said Special Resolution by written notice to the Federation, without, however affecting his rights and liabilities accrued at the time of his withdrawal.

IX. Law Governing

This Agreement shall be governed by the laws of England. However, anything herein to the contrary notwithstanding, a Participating Owner shall not be required:—

- (a) To incur any obligation or take any action, with respect to any incident in which a Participating Tanker owned by him is involved, which would violate the laws or government regulations of the flag of said Participating Tanker, or
- (b) To incur any obligation or take any action which would violate any other laws or government regulations as may apply to said Participating Owner, or
- (c) To incur any obligation or take any action which would, if a majority of the stock of said Participating Owner is owned, directly or indirectly by another corporation, partnership or individual, violate any laws or government regulations which may apply to said other corporation, partnership or individual.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date indicated in the Preamble hereto, or upon the date on which their application is accepted by the Federation as provided in Clause I (D).

**International Convention on Civil Liability for Oil
Pollution Damage (CLC 1969) (with annex and
resolutions), November 29, 1969***

* U.N. Legislative Series, U.N. Doc.
ST/LEG/SER.B/16 at 447 (1974); 9 I.L.M. 45 (1970); U.N. Regist.
No.14097.

Attachment 2

INTERNATIONAL CONVENTION
ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE*
[Done at Brussels, November 29, 1969]

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:

ARTICLE I

For the purposes of this Convention:

1. "Ship" means any sea-going vessel and any
seaborne craft of any type whatsoever, actually
carrying oil in bulk as cargo.
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.

*[States signatories to the Convention, as of November 29,
1969, are indicated by double asterisks in paragraph 3 on I.L.M.
pages 20 and 21.]

[The March 1969 draft of the Convention appears at 8 Inter-
national Legal Materials 453 (1969). A later draft, not repro-
duced in I.L.M., appears as the annex to I.M.C.O. Document
LEG VI/6 of May 6, 1969. The Conference Resolutions on Estab-
lishment of an International Compensation Fund for Oil Pollution
Damage appear at I.L.M. page 66.]

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 oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil and whale oil, whether carried on board a ship as cargo or in the bunkers of such a ship.

6. "Pollution damage" means loss or damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, and includes 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.

9. "Organization" means the Inter-Governmental Maritime Consultative Organization.

ARTICLE II

This Convention shall apply exclusively to pollution damage caused on the territory including the territorial sea of a Contracting State and to preventive measures 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 oil which has escaped or been discharged from 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 shall be made against the owner otherwise than in accordance with this Convention. No claim for pollution damage under this Convention or otherwise may be made against the servants or agents of the owner.

5. Nothing in this Convention shall prejudice any right of recourse of the owner against third parties.

ARTICLE IV

When oil has escaped or has been discharged from two or more ships, 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 of 2,000 francs for each ton of the ship's tonnage. However, this aggregate amount shall not in any event exceed 210 million francs.

2. If the incident occurred as a result of the actual fault or privity of the owner, he shall not be entitled to avail himself of the limitation provided in paragraph 1 of this Article.

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. 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 another 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. The franc mentioned in this Article shall be a unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred. The amount mentioned in paragraph 1 of this Article shall be converted into the national currency of the State in which the fund is being constituted on the basis of the value of that currency by reference to the unit defined above on the date of the constitution of the fund.

10. For the purpose of this Article the ship's tonnage shall be the net tonnage of the ship with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage. In the case of a ship which cannot be measured in accordance with the normal rules of tonnage measurement, the ship's tonnage shall be deemed to be 40 per cent of the weight in tons (of 2240 lbs) of oil which the ship is capable of carrying.

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 in the event of the actual fault or privity of the owner 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. It shall be issued or certified by the appropriate authority of the State of the ship's registry after determining that the requirements of paragraph 1 of this Article have been complied with. 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.
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 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. A Contracting State may at any time request

consultation with the State of a ship's registry 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, irrespective of the actual fault or privity of the owner, 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 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, 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 1 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 a 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

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 XIV

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 Contracting States, or after the completion of all measures required for the entry into force of the amendment with respect to those Contracting States shall be deemed to apply to the Convention as modified by the amendment.

ARTICLE XV

1. The present Convention shall enter into force on the ninetieth day following the date on which Governments of eight States including five States each with not less than 1,000,000 gross tons of

tanker tonnage 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 XVI

1. The present Convention may be denounced by any Contracting State 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 XVII

1. The United Nations, where it is the administering authority for a territory, or any Contracting State responsible for the international relations of a territory, shall as soon as possible consult with the appropriate authorities of such territory 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 to the territory named therein.

3. The United Nations, or any Contracting State 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 XVIII

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 Contracting States for revising or amending the present Convention at the request of not less than one-third of the Contracting States.

ARTICLE XIX

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 XVII 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 XX

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 XXI

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

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT
OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

Issued in accordance with the provisions of Article III of the International Convention on Civil Liability for Oil Pollution Damage, 1969.

NAME OF SHIP	DISTINCTIVE NUMBER OR LETTERS	PORT OF REGISTRY	NAME AND ADDRESS OF OWNER

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 III of the International Convention on Civil Liability for Oil Pollution Damage, 1969.

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.

RESOLUTION ON INTERNATIONAL CO-OPERATION
CONCERNING POLLUTANTS OTHER THAN OIL

The States represented at the Conference,

IN ADOPTING the International Convention
Relating to Intervention on the High Seas in
Cases of Oil Pollution Casualties (hereinafter
referred to as "the Convention");

NOTING that pollution may be caused by
agents other than oil;

RECOGNIZING that the limitation of the
Convention to oil is not intended to abridge any
right of a coastal State to protect itself against
pollution by any other agent;

PENDING the entry into force of an
international Instrument concerning pollution by
such other agents or that there should be an
extension of the Convention to such pollution;

RECOMMEND that the Inter-Governmental
Maritime Consultative Organization should intensify
its work, in collaboration with all interested
international organizations, on all aspects of
pollution by agents other than oil;

FURTHER RECOMMEND that Contracting States
which become involved in a case of pollution danger
by agents other than oil co-operate as appropriate
in applying wholly or partially the provisions of
the Convention.

RESOLUTION ON ESTABLISHMENT OF AN INTERNATIONAL
COMPENSATION FUND FOR OIL POLLUTION DAMAGE

The International Legal Conference on Marine
Pollution Damage, 1969,

NOTING that the International Convention on
Civil Liability for Oil Pollution Damage 1969,
although it lays down the principle of strict
liability and provides for a system of compulsory
insurance or other financial guarantee for ships
carrying oil in bulk as cargo, does not afford full
protection for victims in all cases,

RECOGNIZING the view having emerged during the
Conference that some form of supplementary scheme in
the nature of an international fund is necessary to
ensure that adequate compensation will be available
for victims of large scale oil pollution incidents,

TAKING ACCOUNT of the report submitted by the
working party set up by the Committee of the Whole II
to study the problems relating to the constitution of
an international compensation fund,

REALISING, however, that the time available for
the Conference has not made it possible to give full
consideration to all aspects of such a compensation
scheme,

REQUESTS the Inter-Governmental Maritime
Consultative Organization to elaborate as soon as
possible, through its Legal Committee and other
appropriate legal bodies, a draft for a compensation
scheme based upon the existence of an International
Fund,

CONSIDERS that such a compensation scheme should be elaborated taking into account as a foundation the following principles:

1. Victims should be fully and adequately compensated under a system based upon the principle of strict liability.
2. The fund should in principle relieve the shipowner of the additional financial burden imposed by the present Convention.

REQUESTS IMCO to convene, not later than the year 1971, an International Legal Conference for the consideration and adoption of such a new compensation scheme.

RESOLUTION ON REPORT OF THE WORKING GROUP
ON THE FUND

The Conference,

HAVING TAKEN note of the report of the Working Group on the "Fund", LEG/CONF/C.2/WP.45,

REQUESTS the Inter-Governmental Maritime Consultative Organization to consider this report in connexion with further work with regard to the "Fund".

**Convention Relating to Civil Liability in the Field
of Maritime Carriage of Nuclear Material (NUCLEAR
1971), December 17, 1971***

* 11 I.L.M. 277 (1972); U.N. Regist. No. 14120.

INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION: CONVENTION
RELATING TO CIVIL LIABILITY IN THE FIELD OF MARITIME CARRIAGE
OF NUCLEAR MATERIAL*

[Done at Brussels, December 17, 1971]

The High Contracting Parties,

CONSIDERING that the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy and its Additional Protocol of 28 January 1964 (hereinafter referred to as "the Paris Convention") and the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage (hereinafter referred to as "the Vienna Convention") provide that, in the case of damage caused by a nuclear incident occurring in the course of maritime carriage of nuclear material covered by such Conventions, the operator of a nuclear installation is the person liable for such damage,

CONSIDERING that similar provisions exist in the national law in force in certain States,

CONSIDERING that the application of any preceding international Convention in the field of maritime transport is however maintained,

DESIROUS of ensuring that the operator of a nuclear installation will be exclusively liable for damage caused by a nuclear incident occurring in the course of maritime carriage of nuclear material,

HAVE AGREED as follows:

*[Reproduced from the text provided to International Legal Materials by the Inter-Governmental Maritime Consultative Organization.

[The convention was the result of the Conference on Maritime Carriage of Nuclear Substances, held in Brussels from November 29 to December 2, 1971. The conference was called on the basis of decisions and cooperative measures taken in the Inter-Governmental Maritime Consultative Organization, the International Atomic Energy Agency, and the European Nuclear Energy Agency of the Organization for Economic Co-operation and Development.

[The following countries became signatories to the convention on December 17, 1971: Brazil, France, Federal Republic of Germany, Italy, Portugal, Sweden, United Kingdom, and Yugoslavia.]

ARTICLE 1

Any person who by virtue of an international convention or national law applicable in the field of maritime transport might be held liable for damage caused by a nuclear incident shall be exonerated from such liability:

- (a) if the operator of a nuclear installation is liable for such damage under either the Paris or the Vienna Convention, or
- (b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as either the Paris or the Vienna Convention.

ARTICLE 2

1. The exoneration provided for in Article 1 shall also apply in respect of damage caused by a nuclear incident:

- (a) to the nuclear installation itself or to any property on the site of that installation which is used or to be used in connexion with that installation, or
- (b) to the means of transport upon which the nuclear material involved was at the time of the nuclear incident,

for which the operator of the nuclear installation is not liable because his liability for such damage has been excluded pursuant to the provisions of either the Paris or the Vienna Convention, or, in cases referred to in Article 1(b), by equivalent provisions of the national law referred to therein.

2. The provisions of paragraph 1 shall not, however, affect the liability of any individual who

has caused the damage by an act or omission done with intent to cause damage.

ARTICLE 3

No provision of the present Convention shall affect the liability of the operator of a nuclear ship in respect of damage caused by a nuclear incident involving the nuclear fuel of or radioactive products or waste produced in such ship.

ARTICLE 4

The present Convention shall supersede any international Conventions in the field of maritime transport which, at the date on which the present Convention is opened for signature, are in force or open for signature, ratification or accession but only to the extent that such Conventions would be in conflict with it; however, nothing in this Article shall affect the obligations of the Contracting Parties to the present Convention to non-Contracting States arising under such international Conventions.

ARTICLE 5

1. The present Convention shall be opened for signature in Brussels and shall remain open for signature in London at the Headquarters of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the Organization") until 31 December 1972 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 the present 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.

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.

ARTICLE 6

1. The present Convention shall enter into force on the ninetieth day following the date on which five 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 any State which subsequently signs the present Convention without reservation as to ratification, acceptance or approval, or deposits its instrument of ratification, acceptance, approval or accession, the Convention shall come into force on the ninetieth day after the date of such signature or deposit.

ARTICLE 7

1. The present Convention may be denounced by any Contracting Party to it at any time after the date on which the Convention comes into force for that State.

2. Denunciation shall be effected by a notification in writing delivered to the Secretary-General of the Organization.

3. A denunciation shall take effect one year, or such longer period as may be specified in the notification, after its receipt by the Secretary-General of the Organization.

4. Notwithstanding a denunciation by a Contracting Party pursuant to this Article the provisions of the present Convention shall continue to apply to any damage caused by a nuclear incident occurring before the denunciation takes effect.

ARTICLE 8

1. The United Nations where it is the administering authority for a territory, or any Contracting Party to the present Convention responsible for the international relations of a territory, 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 to the territory named therein.

3. The United Nations, or any Contracting Party which had 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 9

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 Contracting Parties to the present Convention for revising or amending it at the request of not less than one-third of the Contracting Parties.

ARTICLE 10

A Contracting Party may make reservations corresponding to those which it has validly made to the Paris or Vienna Convention. A reservation may be made at the time of signature, ratification, acceptance, approval or accession.

ARTICLE 11

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 present Convention of:
 - (i) each new signature and each deposit of an instrument together with the date thereof;
 - (ii) any reservation made in conformity with the present Convention;
 - (iii) the date of entry into force of the present Convention;
 - (iv) any denunciation of the present Convention and the date on which it takes effect;
 - (v) the extension of the present Convention to any territory under paragraph 1 of Article 8 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 have acceded to the present Convention.

3. As soon as the present Convention comes 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 12

The present Convention is established in a single original in the English and French languages, both texts being equally authentic. Official translations in the Russian and Spanish languages shall be prepared by the Secretariat of the Organization 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 seventeenth day of December 1971.

**International Convention on the Establishment of an
International Fund for Compensation for Oil
Pollution Damage (FUND 1971), December 18, 1971***

* 11 I.L.M. 284 (1972); U.N. Regist. No. 17146.

INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION: CONVENTION
ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND
FOR COMPENSATION FOR OIL POLLUTION DAMAGE*
[Done at Brussels, December 18, 1971]

INTERNATIONAL CONVENTION
ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND
FOR COMPENSATION FOR OIL POLLUTION DAMAGE

(Supplementary to the International Convention on
Civil Liability for Oil Pollution Damage, 1969)

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 régime for compen-
sation for pollution damage in Contracting States and for the costs of mea-
sures, wherever taken, to prevent or minimize such damage, represents a
considerable progress towards the achievement of this aim,

CONSIDERING HOWEVER that this régime does not afford full compensation
for victims of oil pollution damage in all cases while it imposes an addi-
tional financial burden on shipowners,

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

*[Reprinted from the text provided to International Legal Materials by the
Inter-Governmental Maritime Consultative Organization.

[As of January 25, 1972, the convention had been signed on behalf of the
following states: Algeria, Belgium, Brazil, Federal Republic of Germany,
Ghana, Poland, Portugal, Sweden, Switzerland, United Kingdom, United States,
and Yugoslavia.]

[The convention is the result of the International Conference on the Estab-
lishment of an International Compensation Fund for Oil Pollution Damage, held
in Brussels from November 29 to December 18, 1971. The resolution of the con-
ference appears at I.L.M. page 303. The conference was convened by IMCO, pur-
suant to a resolution of the International Legal Conference on Marine Pollution
Damage, held in Brussels in November 1969 (see 9 ILM 66 (1970)).

[The International Convention on Civil Liability for Oil Pollution Damage,
adopted at Brussels on November 29, 1969, appears at 9 ILM 45 (1970).]

available to victims of oil pollution incidents and that the shipowners 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:

General Provisions

Article 1

For the purposes of this Convention -

1. "Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, adopted at Brussels on 29 November 1969.
2. "Ship", "Person", "Owner", "Oil", "Pollution Damage", "Preventive Measures", "Incident" and "Organization", have the same meaning as in Article I of the Liability Convention, provided however that, for the purposes of these terms, "oil" shall be confined to persistent hydrocarbon mineral oils.
3. "Contributing Oil" means crude oil and fuel oil as defined in subparagraphs (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 "American Society for Testing Materials Specification for Number Four Fuel Oil" (Designation D 396-69) or heavier.
4. "Franc" means the unit referred to in Article V, paragraph 9 of the Liability Convention.
5. "Ship's tonnage" has the same meaning as in Article V, paragraph 10 of the 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 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. For the purposes of ascertaining the date of an incident where that incident consists of a series of occurrences, the incident 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" 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 Liability Convention is inadequate;
- (b) to give relief to shipowners in respect of the additional financial burden imposed on them by the Liability Convention, such relief being subject to conditions designed to insure compliance with safety at sea and other conventions;
- (c) 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: -

- 1. with regard to compensation according to Article 4, exclusively to pollution damage caused on the territory including the territorial sea of a Contracting State, and to preventive measures taken to prevent or minimize such damage.
- 2. with regard to indemnification of shipowners and their guarantors according to Article 5, exclusively in respect of pollution damage caused on the territory including the territorial sea of a State party to the Liability Convention, by a ship registered in or flying the flag of a Contracting State and in respect of preventive measures taken to prevent or minimize such damage.

Compensation and Indemnification

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 Liability Convention,
 - (a) because no liability for the damage arises under the Liability Convention;
 - (b) because the owner liable for the damage under the Liability Convention is financially incapable of meeting his obligations if 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 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 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 noncommercial 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 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 provided, however, that there shall be no such exoneration with regard to such preventive measures which are compensated under paragraph 1. 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 Liability Convention.
4. (a) Except as otherwise provided in sub-paragraph (b) 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 Liability Convention for pollution damage caused in the territory of the Contracting States, including any sums in respect of which the Fund is under an obligation to indemnify the owner pursuant to Article 5, paragraph 1, of this Convention, shall not exceed 450 million francs.
 - (b) 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 450 million francs.
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 the Liability Convention and this Convention shall be the same for all claimants.
6. The Assembly of the Fund (hereinafter referred to as "the Assembly") may, having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to changes in the monetary values, decide that the amount of 450 million francs referred to in paragraph 4, sub-paragraphs (a) and (b), shall be changed, provided however, that this amount shall in no case exceed 900 million francs or be lower than 450 million francs. The changed amount shall apply to incidents which occur after the date of the decision effecting the change.
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

1. For the purpose of fulfilling its function under Article 2, paragraph 1(b), the Fund shall indemnify the owner and his guarantor, for that portion of the aggregate amount of liability under the Liability Convention which:

- (a) is in excess of an amount equivalent to 1,500 francs for each ton of the ship's tonnage or of an amount of 125 million francs, whichever is the less,
- (b) is not in excess of an amount equivalent to 2,000 francs for each ton of the said tonnage or an amount of 210 million francs whichever is the less,

provided, however, that the Fund shall incur no obligation under this paragraph where the pollution damage resulted from the wilful misconduct of the owner himself.

2. The Assembly may decide that the Fund shall, on conditions to be laid down in the Internal Regulations, assume the obligations of a guarantor in respect of ships referred to in Article 3, paragraph 2, with regard to the portion of liability referred to in paragraph 1 of this Article. However, the Fund shall assume such obligations only if the owner so requests and if he maintains adequate insurance or other financial security covering the owner's liability under the Liability Convention up to an amount equivalent to 1,500 francs for each ton of the ship's tonnage or an amount of 125 million francs, whichever is the less. If the Fund assumes such obligations, the owner shall in each Contracting State be considered to have complied with Article VII of the Liability Convention in respect of the portion of his liability mentioned above.

3. The Fund may be exonerated wholly or partially from its obligations under paragraph 1 towards the owner and his guarantor, if the Fund proves that as a result of the actual fault or privity of the owner:

- (a) the ship from which the oil causing the pollution damage escaped, did not comply with the requirements laid down in:
 - (i) the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended in 1962; or
 - (ii) the International Convention for the Safety of Life at Sea, 1960; or
 - (iii) the International Convention on Load Lines, 1966; or
 - (iv) the International Regulations for Preventing Collisions at Sea, 1960; or
 - (v) any amendments to the above-mentioned Conventions which have been determined as being of an important nature in accordance with Article XVI(5) of the Convention mentioned under (i), Article IX(a) of the Convention mentioned under (ii) or Article 29(3)(d) or (4)(d) of the Convention mentioned under (iii), provided, however, that such amendments had been in force for at least twelve months at the time of the incident;
- and
- (b) the incident or damage was caused wholly or partially by such non-compliance.

The provisions of this paragraph shall apply irrespective of whether the Contracting State in which the ship was registered or whose flag it was flying, is a Party to the relevant Instrument.

4. Upon the entry into force of a new Convention designed to replace, in whole or in part, any of the Instruments specified in paragraph 3, the Assem-

bly may decide at least six months in advance a date on which the new Convention will replace such Instrument or part thereof for the purpose of paragraph 3. However, any State Party to this Convention may declare to the Director of the Fund before that date that it does not accept such replacement; in which case the decision of the Assembly shall have no effect in respect of a ship registered in, or flying the flag of, that State at the time of the incident. Such a declaration may be withdrawn at any later date and shall in any event cease to have effect when the State in question becomes a party to such new Convention.

5. A ship complying with the requirements in an amendment to an Instrument, specified in paragraph 3, or with requirements in a new Convention, where the amendment or Convention is designed to replace in whole or in part such Instrument, shall be considered as complying with the requirements in the said Instrument for the purposes of paragraph 3.

6. Where the Fund, acting as a guarantor, by virtue of paragraph 2, has paid compensation for pollution damage in accordance with the Liability Convention, it shall have a right of recovery from the owner, if and to the extent that the Fund would have been exonerated pursuant to paragraph 3 from its obligations under paragraph 1 to indemnify the owner.

7. Expenses reasonably incurred and sacrifices reasonably made by the owner voluntarily to prevent or minimize pollution damage shall be treated as included in the owner's liability for the purposes of this Article.

Article 6

1. Rights to compensation under Article 4 or indemnification under Article 5 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.

2. Notwithstanding paragraph 1, the right of the owner or his guarantor to seek indemnification from the Fund pursuant to Article 5, paragraph 1, shall in no case be extinguished before the expiry of a period of six months as from the date on which the owner or his guarantor acquired knowledge of the bringing of an action against him under the Liability Convention.

Article 7

1. Subject to the subsequent provisions of this Article, any action against the Fund for compensation under Article 4 or indemnification under Article 5 of this Convention shall be brought only before a court competent under Article IX of the 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 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 or indemnification under the provisions of Article 4 or 5 of this Convention in respect of the same damage. However, where an action for compensation for pollution damage under the Liability Convention has been brought before a court in a State Party to the Liability Convention but not to this Convention, any action against the Fund under Article 4 or Article 5, paragraph 1, of

this Convention shall at the option of the claimant be brought either before a court of 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 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 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 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 been in fact 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 Liability Convention.

Article 9

1. Subject to the provisions of Article 5, 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 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 be not less favourable than that of an insurer of the person to whom compensation or indemnification 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. 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 11, par-

agraph 1, as regards initial contributions and in Article 12, paragraphs 2(a) or (b), as regards annual contributions, 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

1. In respect of each Contracting State initial contributions shall be made of an amount which shall for each person referred to in Article 10 be calculated on the basis of a fixed sum for each ton of contributing oil received by him during the calendar year preceding that in which this Convention entered into force for that State.
2. The sum referred to in paragraph 1 shall be determined by the Assembly within two months after the entry into force of this Convention. In performing this function the Assembly shall, to the extent possible, fix the sum in such a way that the total amount of initial contributions would, if contributions were to be made in respect of 90 per cent of the quantities of contributing oil carried by sea in the world, equal 75 million francs.
3. The initial contributions shall in respect of each Contracting State be paid within three months following the date at which the Convention entered into force for that State.

Article 12

1. With a view to assessing for each person referred to in Article 10 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 or 5, including repayment on loans previously taken by the Fund for the satisfaction of such claims, to the extent that the aggregate amount of such claim in respect of any one incident does not exceed 15 million francs;

- (c) payments to be made by the Fund in the relevant year for the satisfaction of claims against the Fund due under Article 4 or 5, 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 15 million francs;

(ii) Income

- (a) surplus funds from operations in preceding years, including any interest;
- (b) initial contributions to be paid in the course of the year;
- (c) annual contributions, if required to balance the budget;
- (d) any other income.

2. For each person referred to in Article 10 the amount of his annual contribution shall be determined by the Assembly and shall be calculated in respect of each Contracting State:

- (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 Assembly shall decide the portion of the annual contribution which shall be immediately paid in cash and decide on the date of payment. The remaining part of each annual contribution shall be paid upon notification by the Director.

5. The Director may in cases and in accordance with conditions to be laid down in the Internal Regulations of the Fund, require a contributor to provide financial security for the sums due from him.

6. Any demand for payments made under paragraph 4 shall be called rateably from all individual contributors.

Article 13

1. The amount of any contribution due under Article 12 and which is in arrear shall bear interest at a rate which shall be determined by the Assembly for each calendar year 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 11 to make contributions to the Fund does not fulfil his obligations in respect of any such contribution or any part thereof and is in arrears for a period exceeding three months, 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 of the Fund 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.

Organization and Administration

Article 16

The Fund shall have an Assembly, a Secretariat headed by a Director and, in accordance with the provisions of Article 21, an Executive Committee.

Assembly

Article 17

The Assembly shall consist of all Contracting States to this Convention.

Article 18

The functions of the Assembly shall, subject to the provisions of Article 26, 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. to elect the members of the Assembly to be represented on the Executive Committee, as provided in Articles 21, 22 and 23;
9. to establish any temporary or permanent subsidiary body it may consider to be necessary;
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, the Executive Committee, and subsidiary bodies;
11. to give instructions concerning the administration of the Fund to the Director, the Executive Committee and subsidiary bodies;
12. to review and approve the reports and activities of the Executive Committee;
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, provided however that if the Assembly allocates to the Executive Committee the functions specified in Article 18, paragraph 5, regular sessions of the Assembly shall be held once every two years.

2. Extraordinary sessions of the Assembly shall be convened by the Director at the request of the Executive Committee or 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

1. The Executive Committee shall be established at the first regular session of the Assembly after the date on which the number of Contracting States reaches fifteen.

Article 22

1. The Executive Committee shall consist of one-third of the seven members of the Assembly but of not less than seven or more than fifteen members. Where the number of members of the Assembly is not divisible by three the one-third referred to shall be calculated on the next higher number which is divisible by three.

2. When electing the members of the Executive Committee the Assembly shall:

- (a) secure an equitable geographical distribution of the seats on the Committee on the basis of an adequate representation of Contracting States particularly exposed to the risks of oil pollution and of Contracting States having large tanker fleets; and
- (b) elect one half of the members of the Committee, or in case the total number of members to be elected is uneven, such number of the members as is equivalent to one half of the total number less one, among those Contracting States in the territory of which the largest quantities of oil to be taken into account under Article 10 were received during the preceding calendar year, provided that the number of States eligible under this sub-paragraph shall be limited as shown in the table below:

<u>Total number of Members on the Committee</u>	<u>Number of States eligible under sub-paragraph (b)</u>	<u>Number of States to be elected under sub-paragraph (b)</u>
7	5	3
8	6	4
9	6	4
10	8	5
11	8	5
12	9	6
13	9	6
14	11	7
15	11	7

3. Any member of the Assembly which was eligible but was not elected under sub-paragraph (b) shall not be eligible to be elected for any remaining seat on the Executive Committee.

Article 23

1. Members of the Executive Committee shall hold office until the end of the next regular session of the Assembly.

2. Except to the extent that may be necessary for complying with the requirements of Article 22 no State Member of the Assembly may serve on the Executive Committee for more than two consecutive terms.

Article 24

The Executive Committee shall meet at least once every calendar year at thirty days' notice upon convocation by the Director, either on his own initiative, or at the request of its Chairman or of at least one-third of its members. It shall meet at such places as may be convenient.

Article 25

At least two-thirds of the members of the Executive Committee shall constitute a quorum for its meetings.

Article 26

1. The functions of the Executive Committee shall be:
 - (a) to elect its Chairman and adopt its own rules of procedure, except as otherwise provided in this Convention;
 - (b) to assume and exercise in place of the Assembly the following functions:
 - (i) Making provision for the appointment of such personnel, other than the Director, as may be necessary and determining the terms and conditions of service of such personnel;
 - (ii) approving settlements of claims against the Fund and taking all other steps envisaged in relation to such claims in Article 18, paragraph 7;
 - (iii) giving instructions to the Director concerning the administration of the Fund and supervising the proper execution, by him of the Convention, of the decisions of the Assembly and of the Committee's own decisions; and
 - (c) to perform such other functions as are allocated to it by the Assembly.
2. The Executive Committee shall each year prepare and publish a report of the activities of the Fund during the previous calendar year.

Article 27

Members of the Assembly who are not members of the Executive Committee shall have the right to attend its meetings as observers.

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 and shall, subject to the instructions given to him by the Assembly and by the Executive Committee, perform those functions which are assigned to him by this Convention, the Internal Regulations, the Assembly and the Executive Committee.

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 or the Executive Committee where these Regulations so provide;
 - (f) prepare and submit to the Assembly or to the Executive Committee, as the case may be, the financial statements and budget estimates for each calendar year;
 - (g) assist the Executive Committee in the preparation of the report referred to in Article 26, paragraph 2;
 - (h) prepare, collect and circulate the papers, documents, agenda, minutes and information that may be required for the work of the Assembly, the Executive Committee 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.

Finances

Article 31

1. Each Contracting State shall bear the salary, travel and other expenses of its own delegation to the Assembly and of its representatives on the Executive Committee and 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 and the Executive Committee:

- (a) each member shall have one vote;
- (b) except as otherwise provided in Article 33, decisions of the Assembly and the Executive Committee 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

1. The following decisions of the Assembly shall require a three-fourths majority:
 - (a) an increase in accordance with Article 4, paragraph 6, in the maximum amount of compensation payable by the Fund;
 - (b) a determination, under Article 5, paragraph 4, relating to the replacement of the Instruments referred to in that paragraph;
 - (c) the allocation to the Executive Committee of the functions specified in Article 18, paragraph 5.
2. 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.

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

1. The Fund shall incur no obligation whatsoever under Article 4 or 5 in respect of incidents occurring within a period of one hundred and twenty days after the entry into force of this Convention.

2. Claims for compensation under Article 4 and claims for indemnification under Article 5, arising from incidents occurring later than one hundred and twenty days but not later than two hundred and forty days after the entry into force of this Convention may not be brought against the Fund prior to the elapse of the two hundred and fortieth day after the entry into force of this Convention.

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.

Final Clauses

Article 37

1. This Convention shall be open for signature by the States which have signed or which accede to the Liability Convention, and by any State represented at the Conference on the Establishment of an International Compensation Fund for Oil Pollution Damage, 1971. The Convention shall remain open for signature until 31 December 1972.

2. Subject to paragraph 4, this Convention shall be ratified, accepted or approved by the States which have signed it.

3. Subject to paragraph 4, this Convention is open for accession by States which did not sign it.

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

Article 38

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 Convention with respect to all existing Contracting States 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 39

Before this Convention comes into force, a State shall, when depositing an instrument referred to in Article 38, paragraph 1, and annually thereafter at a date to be determined by the Secretary-General of the Organization, com-

municate 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 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.

Article 40

1. This Convention shall enter into force on the ninetieth day 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 39 that those persons in such States who would be liable to contribute pursuant to Article 10 have received during the preceding calendar year a total quantity of at least 750 million tons of contributing oil.
2. This Convention shall, however, not enter into force before the Liability Convention has entered into force.
3. For each State which subsequently ratifies, accepts, approves or accedes to it, this Convention shall enter into force on the ninetieth day after deposit by such State of the appropriate instrument.

Article 41

1. This Convention may be denounced by any Contracting State 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.
4. Denunciation of the Liability Convention shall be deemed to be a denunciation of this Convention. Such denunciation shall take effect on the same date as the denunciation of the Liability Convention takes effect according to paragraph 3 or Article XVI of that Convention.
5. Notwithstanding a denunciation by a Contracting State pursuant to this Article, any provisions of this Convention relating to the obligations to make contributions under Article 10 with respect to an incident referred to in Article 12, paragraph 2(b) and occurring before the denunciation takes effect shall continue to apply.

Article 42

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 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 for 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 that denunciation takes effect, denounce this Convention with effect from the same date.

Article 43

1. This Convention shall cease to be in force on the date when the number of Contracting States falls below three.
2. Contracting States which are bound by this Convention on the date before the day it ceases to be in force, shall enable the Fund to exercise its functions as described under Article 44 and shall for that purpose only, remain bound by this Convention.

Article 44

1. If this Convention ceases to be in force, the Fund shall nevertheless
 - (a) meet its obligations in respect of any incident occurring before the Convention 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 sub-paragraph (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 45

1. A Conference for the purpose of revising or amending this Convention may be convened by the Organization.
2. The Organization shall convene a Conference of the Contracting States for the purpose of revising or amending this Convention at the request of not less than one-third of all Contracting States.

Article 46

1. This 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 this Convention of:
 - (i) each new signature or deposit of instrument and the date thereof;
 - (ii) the date of entry into force of the Convention;
 - (iii) any denunciation of the Convention and the date on which it takes effect;
 - (b) transmit certified true copies of this Convention to all Signatory States and to all States which accede to the Convention.

Article 47

As soon as this Convention 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 48

This Convention is established in a single original in the English and French languages, both texts being equally authentic. Official translations in the Russian and Spanish languages 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 Convention.

DONE at Brussels this eighteenth day of December one thousand nine hundred and seventy-one.

Protocol to FUND 1971 (FUND PROT. 1976),
November 19, 1976*

* 16 I.L.M. 621 (1977).

LEG/UL/CONF.2/4
19 November 1976

Original: ENGLISH

CONFERENCE TO REVISE THE TEXT
OF ACCOUNT PROVISIONS IN THE
INTERNATIONAL CONVENTION ON
THE ESTABLISHMENT OF AN
INTERNATIONAL FUND FOR
COMPENSATION FOR OIL POLLUTION
DAMAGE, 1971

PROTOCOL TO THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT
OF AN INTERNATIONAL FUND FOR COMPENSATION
FOR OIL POLLUTION DAMAGE, 1971

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention on the Establishment of an
International Fund for Compensation for Oil Pollution Damage, done at Brussels
on 17 December 1971;

HAVE AGREED AS FOLLOWS:

Article I

For the purpose of the present Protocol:

1. "Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.
2. "Liability Convention" has the same meaning as in the Convention.
3. "Organization" has the same meaning as in the Convention.
4. "Secretary-General" means the Secretary-General of the Organization.

Article II

Article 1, paragraph 4 of the Convention is replaced by the following text:

"Unit of Account" or "Monetary Unit" means the unit of account or monetary unit as the case may be, referred to in Article V of the Liability Convention, as amended by the Protocol thereto adopted on 19 November 1976.

Article III

The amounts referred to in the Convention shall wherever they appear be amended as follows:

- (a) Article 4:
 - (i) "450 million francs" is replaced by "30 million units of account or 450 million monetary units";
 - (ii) "900 million francs" is replaced by "60 million units of account or 900 million monetary units".
- (b) In Article 5:
 - (i) "1,500 francs" is replaced by "100 units of account or 1,500 monetary units";
 - (ii) "125 million francs" is replaced by "3,333,000 units of account or 125 million monetary units";
 - (iii) "2,000 francs" is replaced by "133 units of account or 2,000 monetary units";
 - (iv) "210 million francs" is replaced by "14 million units of account or 210 million monetary units".
- (c) In Article 11, "75 million francs" is replaced by "5 million units of account or 75 million monetary units".

- (d) In Article 12, "15 million francs" is replaced by "1 million units of account or 15 million monetary units".

Article IV

1. The present Protocol shall be open for signature by any State which has signed the Convention or acceded thereto and by any State invited to attend the Conference to Revise the Unit of Account Provisions in the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, held in London from 17 to 19 November 1976. The Protocol shall be open for signature from 1 February 1977 to 31 December 1977 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 of this Article, 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 by States Parties 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.
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 for the States which have ratified, accepted, approved or acceded to it on the ninetieth day 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, and
 - (b) the Secretary-General has received information in accordance with Article 39 of the Convention that those persons in such States who would be liable to contribute pursuant to Article 10 of the Convention

have received during the preceding calendar year a total quantity of at least 750 million tons of contributing oil.

2. However, the present Protocol shall not enter into force before the Convention has entered into force.
3. For each State which subsequently ratifies, accepts, approves or accedes to it, the present Protocol shall enter into force on the ninetieth day after 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 with the Secretary-General.
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.

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.
2. The Secretary-General 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;
- (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 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 XI

The present Protocol is established in a single original in the English and French languages, both texts being equally authentic. Official translations in the Russian and Spanish languages shall be prepared by the Secretariat of the Organization and deposited with the signed original.

DONE AT LONDON this nineteenth day of November one thousand nine hundred and seventy-six.

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

Convention on Civil Liability for Oil Pollution
Damage Resulting from Exploration and Exploitation
of Seabed Mineral Resources, May 1, 1977*

* 16 I.L.M. 1451 (1977).

CONVENTION
ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE
RESULTING FROM EXPLORATION FOR AND EXPLOITATION
OF SEABED MINERAL RESOURCES

The States Parties to this Convention,

Conscious of the dangers of oil pollution posed by the exploration for, and exploitation of, certain seabed mineral resources,

Convinced of the need to ensure that adequate compensation is available to persons who suffer damage caused by such pollution,

Desiring to adopt uniform rules and procedures for determining questions of liability and providing adequate compensation in such cases,

Have agreed as follows:

ARTICLE I

For the purposes of this Convention:

1. (a) "Oil" means crude oil and natural gas liquids, whether or not such oil or liquids are mixed with or present in other substances; and
(b) "crude oil" includes crude oil treated to render it suitable for transmission, for example, by adding or removing certain fractions.
2. "Installation" means:
 - (a) any well or other facility, whether fixed or mobile, which is used for the purpose of exploring for, producing, treating, storing, transmitting or regaining control of the flow of crude oil from the seabed or its subsoil;
 - (b) any well which has been used for the purpose of exploring for, producing or regaining control of the flow of crude oil from the seabed or its subsoil and which has been abandoned after the entry into force of this Convention for the Controlling State concerned;

- (c) any well which is used for the purpose of exploring for, producing or regaining control of the flow of gas or natural gas liquids from the seabed or its subsoil during the period that any such well is being drilled, including completion, or worked upon except for normal maintenance operations;
- (d) any well which is used for the purpose of exploring for any mineral resources other than crude oil, gas or natural gas liquids, where such exploration involves the deep penetration of the subsoil of the seabed; and
- (e) any facility which is normally used for storing crude oil from the seabed or its subsoil;

which, or a substantial part of which, is located seaward of the low-water line along the coast as marked on large-scale charts officially recognized by the Controlling State;

provided, however, that

- (i) where a well or a number of wells is directly connected to a platform or similar facility, the well or wells together with such platform or facility shall constitute one installation; and
- (ii) a ship as defined in the International Convention on Civil Liability for Oil Pollution Damage, done at Brussels on 29 November 1969^(*), shall not be considered to be an installation.

3. "Operator" means the person, whether licensee or not, designated as operator for the purposes of this Convention by the Controlling State, or, in the absence of such designation, the person who is in overall control of the activities carried on at the installation.

4. "Controlling State" means the State Party which exercises sovereign rights for the purpose of exploring for and exploiting the resources of the seabed and its subsoil in the area in or above which the installation is situated. In the case of an installation extending over areas in which two or more States Parties exercise such rights, these States may agree which of them shall be the Controlling State.

5. "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.

6. "Pollution damage" means loss or damage outside the installation caused by contamination resulting from the escape or discharge of oil from the installation and includes the cost of preventive measures and further loss or damage outside the installation caused by preventive measures.

7. "Preventive measures" means any reasonable measures taken by any person in relation to a particular incident to prevent or minimize pollution damage with the exception of well control measures and measures taken to protect, repair or replace an installation.

8. "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage.

9. "Special Drawing Right" means Special Drawing Right as defined by the International Monetary Fund and used for its own operations and transactions.

(*) Treaty Series No. 106 (1973), Cmd. 6183.

ARTICLE 2

This Convention shall apply exclusively to pollution damage:

- (a) resulting from an incident which occurred beyond the coastal low-water line at an installation under the jurisdiction of a Controlling State, and
- (b) suffered in the territory, including the internal waters and territorial sea, of a State Party or in the areas in which, in accordance with international law, it has sovereign rights over natural resources,

and to preventive measures, wherever taken, to prevent or minimize such pollution damage.

ARTICLE 3

1. Except as provided in paragraphs 3, 4 and 5 of this Article, the operator of the installation at the time of an incident shall be liable for any pollution damage resulting from the incident. When the incident consists of a series of occurrences, liability for pollution damage arising out of each occurrence shall attach to the operator of the installation at the time of that occurrence.

2. Where an installation has more than one operator they shall be jointly and severally liable.

3. No liability for pollution damage shall attach to the operator if he proves that the damage resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character.

4. No liability for pollution damage shall attach to the operator of an abandoned well if he proves that the incident which caused the damage occurred more than five years after the date on which the well was abandoned under the authority and in accordance with the requirements of the Controlling State. Where a well has been abandoned in other circumstances, the liability of the operator shall be governed by the applicable national law.

5. If the operator proves that the pollution 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 operator may be exonerated wholly or partly from his liability to such person.

ARTICLE 4

1. No claim for compensation for pollution damage shall be made against the operator otherwise than in accordance with this Convention.

2. No claim for compensation for pollution damage under this Convention or otherwise may be made against the servants or agents of the operator.

3. Nothing in this Convention shall prejudice the question whether the operator liable for damage in accordance with its provisions has a right of recourse.

ARTICLE 5

1. When oil has escaped or has been discharged from two or more installations, and pollution damage results therefrom, the operators of all the installations concerned, unless exonerated under Article 3, shall be jointly and severally liable for all such damage which is not reasonably separable.

2. When oil has escaped or has been discharged from one installation as a result of an incident, and pollution damage results therefrom, and during the course of the incident there is a change of operator, all operators of the installation, unless exonerated under Article 3, shall be jointly and severally liable for all such damage which is not reasonably separable.

ARTICLE 6

1. The operator shall be entitled to limit his liability under this Convention for each installation and each incident to the amount of 30 million Special Drawing Rights until five years have elapsed from the date on which the Convention is opened for signature and to the amount of 40 million Special Drawing Rights thereafter.

2. Where operators of different installations are liable in accordance with paragraph 1 of Article 5, the liability of the operator of any one installation shall not for any one incident exceed any limit which may be applicable to him in accordance with the provisions of this Article and of Article 15.

3. Where in the case of any one installation more than one operator is liable under this Convention, the aggregate liability of all of them in respect of any one incident shall not exceed the highest amount that could be awarded against any of them, but none of them shall be liable for an amount in excess of the limit applicable to him.

4. The operator shall not be entitled to limit his liability if it is proved that the pollution damage occurred as a result of an act or omission by the operator himself, done deliberately with actual knowledge that pollution damage would result.

5. For the purpose of availing himself of the benefit of limitation to which he may be entitled under paragraph 1 of this Article, the operator 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 States Parties in which action is brought under Article 11. A fund constituted by one of the operators mentioned in paragraph 2 of Article 3 shall be deemed to be constituted by all of them. 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 State Party where the fund is constituted, and considered to be adequate by the court or other competent authority.

6. The fund shall be distributed among the claimants in proportion to the amounts of their established claims.

7. If before the fund is distributed the operator or any of his servants or agents or any person providing him with 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.

8. The right of subrogation provided for in paragraph 7 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.

9. Where the operator 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 paragraph 7 or 8 of this Article, had the compensation been paid before the fund was distributed, the court or other competent authority of the State Party 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.

10. An operator who has taken preventive measures shall in respect of those measures have the same rights against the fund as any other claimant.

11. The amount referred to in paragraph 1 of this Article shall be converted into the national currency of the State Party in which the fund is constituted on the basis of the value of that currency by reference to the average, during the thirty days immediately preceding the date on which the fund is constituted, of the Special Drawing Rights as published by the International Monetary Fund.

12. The insurer or other person providing financial security shall be entitled, alone or together with the operator, 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 operator. Such a fund may be constituted even where the pollution damage occurred as a result of an act or omission by the operator himself, done deliberately with actual knowledge that pollution damage would result, but the constitution of the fund shall in that case not prejudice the rights of any claimant against the operator.

ARTICLE 7

1. Where the operator, after an incident, has constituted a fund in accordance with Article 6 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 operator in respect of such claim;
- (b) the court or other competent authority of any State Party shall order the release of any property belonging to the operator 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. Paragraph 1 of this Article 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 8

1. To cover his liability under this Convention, the operator shall be required to have and maintain insurance or other financial security to such amount, of such type and on such terms as the Controlling State shall specify, provided that that amount shall not be less than 22 million Special Drawing Rights until five years have elapsed from the date on which this Convention is opened for signature and not less than 35 million Special Drawing Rights thereafter. However the Controlling State may exempt the operator wholly or in part from the requirement to have and maintain such insurance or other financial security to cover his liability for pollution damage wholly caused by an act of sabotage or terrorism.

2. 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, before two months have elapsed from the date on which notice of its termination is given to the competent public authority of the Controlling State. The foregoing provision shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this Article.

3. Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the operator's liability for pollution damage. In such case the liability of the defendant shall be limited to the amount specified in accordance with paragraph 1 of this Article irrespective of the fact that the pollution damage occurred as a result of an act or omission by the operator himself, done deliberately with actual knowledge that pollution damage would result. The defendant may further avail himself of the defences, other than the bankruptcy or winding-up of the operator, which the operator 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 operator himself, but the defendant may not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the operator against him. The defendant shall in any event have the right to require the operator to be joined in the proceedings.

4. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 of this Article shall be available in the first place for the satisfaction of claims under this Convention.

5. Where the operator is a State Party, the operator shall not be required to maintain insurance or other financial security to cover its liability.

ARTICLE 9

1. A Committee composed of a representative of each State Party is hereby established.

2. If a State Party considers that any of the amounts currently applicable under Article 6 or 8 is no longer adequate, or is otherwise unrealistic, it may convene a meeting of the Committee to consider the matter. States which have signed this Convention but are not yet Parties will be invited to participate in the work of the Committee as observers. The Committee may recommend to the States Parties an amendment to any of the amounts if representatives of at least three-quarters of the States Parties to this Convention vote in favour of such a recommendation. In making such a recommendation, the Committee shall take into account:

- (a) any information concerning events causing or likely to cause pollution damage having a bearing on the objects of this Convention;
- (b) any information on increases and decreases occurring after the entry into force of this Convention in the costs of goods and services of the kinds involved in the treatment and remedying of marine oil spillages;
- (c) the availability of reliable insurance cover against the risk of liability for pollution damage.

3. Any amount recommended in accordance with paragraph 2 of this Article shall be notified by the depositary Government to all States Parties. It shall replace the amount currently applicable thirty days after its acceptance by all States Parties. A State Party which has not, within six months of such notification or such other period as has been specified in the recommendation, notified the depositary Government that it is unable to accept the recommended amount, shall be deemed to have accepted it.

4. If the recommended amount has not been accepted by all States Parties within six months, or such other period as has been specified in the recommendation, after it has been notified by the depositary Government it shall, thirty days thereafter, replace the amount currently applicable as between those States Parties which have accepted it. Any other State Party may subsequently accept the recommended amount which shall become applicable to it thirty days thereafter.

5. A State acceding to this Convention shall be bound by any recommendation of the Committee which has been unanimously accepted by States Parties. Where a recommendation has not been so accepted, an acceding State shall be deemed to have accepted it unless, at the time of its accession, that State notifies the depositary Government that it does not accept such a recommendation.

ARTICLE 10

Rights of compensation under this Convention shall be extinguished unless, within twelve months of the date on which the person suffering the damage knew or ought reasonably to have known of the damage, the claimant has in writing notified the operator of his claim or has brought an action in respect of it. However in no case shall an action be brought after four years from the date of the incident which caused the damage. Where the incident consists of a series of occurrences, the four years' period shall run from the date of the last occurrence.

ARTICLE 11

1. Actions for compensation under this Convention may be brought only in the courts of any State Party where pollution damage was suffered as a result of the incident or in the courts of the Controlling State. For the purpose of determining where the damage was suffered, damage suffered in an area in which, in accordance with international law, a State has sovereign rights over natural resources shall be deemed to have been suffered in that State.

2. Each State Party 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 6, the courts of the State Party in which the fund is constituted shall be exclusively competent to determine all matters relating to the apportionment and distribution of the fund.

ARTICLE 12

1. Any judgment given by a court with jurisdiction in accordance with Article 11, 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 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 1 of this Article 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, nor a reconsideration of the applicable law.

ARTICLE 13

Where a State Party is the operator, such State shall be subject to suit in the jurisdictions set forth in Article 11 and shall waive all defences based on its status as a sovereign State.

ARTICLE 14

No liability shall arise under this Convention for damage caused by a nuclear incident:

- (a) if the operator of a nuclear installation is liable for such damage under either the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy⁽¹⁾ or the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage⁽²⁾, or if the operator of a nuclear ship is liable for such damage under the Brussels Convention of 25 May 1962 on the Liability of Operators of Nuclear Ships⁽³⁾ or
- (b) if the operator of a nuclear installation or the operator of a nuclear ship is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as, in the case of the operator of a nuclear installation, either the Paris or the Vienna Convention or, in the case of the operator of a nuclear ship, the Brussels Convention.

ARTICLE 15

1. This Convention shall not prevent a State from providing for unlimited liability or a higher limit of liability than that currently applicable under Article 6 for pollution damage caused by installations for which it is the Controlling State and suffered in that State or in another State Party; provided however that in so doing it shall not discriminate on the basis of nationality. Such provision may be based on the principle of reciprocity.

2. The courts of each State Party shall apply the law of the Controlling State in order to determine whether the operator is entitled under the provisions of this Article and paragraph 1 of Article 6 to limit his liability and, if so, the amount of such liability.

3. Nothing in this Article shall affect the amount of compensation available for pollution damage suffered in States Parties in respect of which the provision made in accordance with paragraph 1 of this Article does not apply.

4. For the purposes of this Article, pollution damage suffered in a State Party means pollution damage suffered in the territory of that State or in the areas in which, in accordance with international law, it has sovereign rights over natural resources.

ARTICLE 16

This Convention shall be open for signature at London from 1 May 1977 until 30 April 1978 by the States invited to participate in the Inter-governmental Conference on the Convention on Civil Liability for Oil

(1) Treaty Series No. 69 (1968), Cmnd. 3755.

(2) Miscellaneous No. 9 (1964), Cmnd. 2333.

(3) Not published; the United Kingdom has not signed this Convention.

Pollution Damage from Offshore Operations, held there from 20 October to 31 October 1975 and from 13 December to 17 December 1976, and shall thereafter be open for accession by such States.

ARTICLE 17

This Convention shall be subject to ratification, acceptance or approval.

ARTICLE 18

The States Parties may unanimously invite to accede to this Convention other States which have coastlines on the North Sea, the Baltic Sea or that part of the Atlantic Ocean to the north of 36° North latitude.

ARTICLE 19

The instruments of ratification, acceptance, approval and accession shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland.

ARTICLE 20

1. This Convention shall enter into force on the ninetieth day following the date of deposit of the fourth instrument of ratification, acceptance, approval or accession.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the fourth instrument, the Convention shall enter into force on the ninetieth day after deposit by such State of its instrument.

ARTICLE 21

A State Party may denounce this Convention at any time by means of a notice in writing addressed to the depositary Government. Any such denunciation shall take effect twelve months after the date on which the depositary Government has received such notice, or at such later date as may be specified in the notice.

ARTICLE 22

1. Any State may, at the time of ratification, acceptance, approval or accession or at any later date, declare by means of a notice in writing addressed to the depositary Government that this Convention shall apply to all or any of the territories for whose international relations it is responsible, provided that they are situated within the area defined in Article 18.

2. Such declaration shall take effect on the ninetieth day after its receipt by the depositary Government or, if on such date the Convention has not yet entered into force, from the date of its entry into force.

3. Each State Party which has made a declaration in accordance with paragraph 1 of this Article may, in accordance with Article 21, denounce this Convention in relation to all or any of the territories concerned.

ARTICLE 23

Any State Party may, after having obtained the agreement of at least one-third of the States Parties, convene a Conference of States Parties for the revision or amendment of this Convention.

ARTICLE 24

No reservation may be made to this Convention.

ARTICLE 25

The depositary Government shall inform the States referred to in Article 16 and the acceding States:

- (a) of signatures to this Convention, of the deposit of instruments of ratification, acceptance, approval or accession, of the receipt of notices in accordance with Article 22, and of the receipt of notices of denunciation;
- (b) of the date on which the Convention will enter into force; and
- (c) of the recommendations of the Committee convened under Article 9, of the acceptances and non-acceptances of such recommendations, and of the dates on which these recommendations take effect.

ARTICLE 26

The original of this Convention, of which the English and French texts are equally authentic, shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland, which shall send certified copies thereof to the States referred to in Article 16 and the acceding States and which, upon its entry into force, shall transmit a certified copy to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

In witness whereof the undersigned,
being duly authorised thereto, have
signed this Convention.

Done at London this day of

7. Endangered Species

**Convention on International Trade in Endangered
Species of Wild Fauna and Flora, March 3, 1973***

* 27 U.S.T. 1090; T.I.A.S. 8249; U.N. Regist. No. 14537.

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA

The Contracting States,

RECOGNIZING that wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come;

CONSCIOUS of the ever-growing value of wild fauna and flora from aesthetic, scientific, cultural, recreational and economic points of view;

RECOGNIZING that peoples and States are and should be the best protectors of their own wild fauna and flora;

RECOGNIZING, in addition, that international cooperation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;

CONVINCED of the urgency of taking appropriate measures to this end;

HAVE AGREED as follows:

ARTICLE I

Definitions

For the purpose of the present Convention, unless the context otherwise requires:

(a) "Species" means any species, subspecies, or geographically separate population thereof;

(b) "Specimen" means:

(i) any animal or plant, whether alive or dead;

(ii) in the case of an animal: for species included in Appendices I and II, any readily recognizable part or

derivative thereof; and for species included in Appendix III,^[1] any readily recognizable part or derivative thereof specified in Appendix III in relation to the species; and

(iii) in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily recognizable part or derivative thereof specified in Appendices II and III in relation to the species;

(c) "Trade" means export, re-export, import and introduction from the sea;

(d) "Re-export" means export of any specimen that has previously been imported;

(e) "Introduction from the sea" means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State;

(f) "Scientific Authority" means a national scientific authority designated in accordance with Article IX;

(g) "Management Authority" means a national management authority designated in accordance with Article IX;

(h) "Party" means a State for which the present Convention has entered into force.

¹ See Articles V and XVI. As Appendix III is to be composed of species identified by any party to the Convention rather than by agreement of the parties as is the case for the other Appendices, the Conference which produced the Convention concluded that Appendix III could only be established after the Convention had entered into force and the "parties" were identified and even then it would be subject to nearly continuous revision. As of this printing the Secretariat has not promulgated an Appendix III. [Footnote added by the Department of State.]

ARTICLE II

Fundamental Principles

1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.
2. Appendix II shall include:
 - (a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and
 - (b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.
3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other parties in the control of trade.
4. The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.

ARTICLE III

Regulation of Trade in Specimens
of Species Included in Appendix I

1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;

(b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;

(c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and

(d) a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.

3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved;

(b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house

and care for it; and

(c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.

4. The re-export of any specimen of a species included in Appendix I shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:

(a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention;

(b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and

(c) a Management Authority of the State of re-export is satisfied that an import permit has been granted for any living specimen.

5. The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved;

(b) a Management Authority of the State of introduction is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and

(c) a Management Authority of the State of introduction is satisfied that the specimen is not to be used for primarily commercial purposes.

ARTICLE IV

Regulation of Trade in Specimens
of Species included in Appendix II

1. All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.
2. The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
 - (a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
 - (b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and
 - (c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.
3. A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the

appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.

4. The import of any specimen of a species included in Appendix II shall require the prior presentation of either an export permit or a re-export certificate.

5. The re-export of any specimen of a species included in Appendix II shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:

(a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention; and

(b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and

(b) a Management Authority of the State of introduction is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.

7. Certificates referred to in paragraph 6 of this Article may be granted on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.

ARTICLE V

Regulation of Trade in Specimens of Species included in Appendix III

1. All trade in specimens of species included in Appendix III shall be in accordance with the provisions of this Article.

2. The export of any specimen of a species included in Appendix III from any State which has included that species in Appendix III shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

(a) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and

(b) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

3. The import of any specimen of a species included in Appendix III shall require, except in circumstances to which paragraph 4 of this Article applies, the prior presentation of a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit.

4. In the case of re-export, a certificate granted by the Management Authority of the State of re-export that the specimen was processed in that State or is being re-exported shall be accepted by the State of Import as evidence that the provisions of the present Convention have been complied with in respect of the specimen concerned.

ARTICLE VI

Permits and Certificates

1. Permits and certificates granted under the provisions of Articles III, IV, and V shall be in accordance with the provisions of this Article.
2. An export permit shall contain the information specified in the model set forth in Appendix IV, and may only be used for export within a period of six months from the date on which it was granted.
3. Each permit or certificate shall contain the title of the present Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority.
4. Any copies of a permit or certificate issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed thereon.
5. A separate permit or certificate shall be required for each consignment of specimens.
6. A Management Authority of the State of import of any specimen shall cancel and retain the export permit or re-export certificate and any corresponding import permit presented in respect of the import of that specimen.

7. Where appropriate and feasible a Management Authority may affix a mark upon any specimen to assist in identifying the specimen. For these purposes "mark" means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorized persons as difficult as possible.

ARTICLE VII

Exemptions and Other Special Provisions Relating to Trade

1. The provisions of Articles III, IV and V shall not apply to the transit or trans-shipment of specimens through or in the territory of a Party while the specimens remain in Customs control.
2. Where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V shall not apply to that specimen where the Management Authority issues a certificate to that effect.
3. The provisions of Articles III, IV and v shall not apply to specimens that are personal or household effects. This exemption shall not apply where:
 - (a) in the case of specimens of a species included in Appendix I, they were acquired by the owner outside his State of usual residence, and are being imported into that State; or
 - (b) in the case of specimens of species included in Appendix II:
 - (i) they were acquired by the owner outside his State of usual residence and in a State where removal from the wild occurred;

(ii) they are being imported into the owner's State of usual residence; and

(iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens;

unless a Management Authority is satisfied that the specimens were acquired before the provisions of the present Convention applied to such specimens.

4. Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, shall be deemed to be specimens of species included in Appendix II.

5. Where a Management Authority of the State of export is satisfied that any specimen of an animal species was bred in captivity or any specimen of a plant species was artificially propagated, or is a part of such an animal or plant or was derived therefrom, a certificate by that Management Authority to that effect shall be accepted in lieu of any of the permits or certificates required under the provisions of Articles III, IV or V.

6. The provisions of Articles III, IV and V shall not apply to the non-commercial loan, donation or exchange between scientists or scientific institutions registered by a Management Authority of their State, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material which carry a label issued or approved by a Management Authority.

7. A Management Authority of any State may waive the requirements of Articles III, IV and V and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that:

- (a) the exporter or importer registers full details of such specimens with that Management Authority;
- (b) the specimens are in either of the categories specified in paragraphs 2 or 5 of this Article; and
- (c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.

ARTICLE VIII

Measures to be Taken by the Parties

1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:

- (a) to penalize trade in, or possession of, such specimens, or both; and
- (b) to provide for the confiscation or return to the State of export of such specimens.

2. In addition to the measures taken under paragraph 1 of this Article, a Party may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the present Convention.

3. As far as possible, the Parties shall ensure that specimens shall pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit and ports of entry at which specimens must be presented for clearance. The Parties shall ensure further that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.
4. Where a living specimen is confiscated as a result of measures referred to in paragraph 1 of this Article:
- (a) the specimen shall be entrusted to a Management Authority of the State of confiscation;
 - (b) the Management Authority shall, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the present Convention; and
 - (c) the Management Authority may obtain the advice of a Scientific Authority, or may, whenever it considers it desirable, consult the Secretariat in order to facilitate the decision under subparagraph (b) of this paragraph, including the choice of a rescue centre or other place.
5. A rescue centre as referred to in paragraph 4 of this Article means an institution designated by a Management Authority to look after the welfare of living specimens, particularly those that have been confiscated.
6. Each Party shall maintain records of trade in specimens of species included in Appendices I, II and III which shall cover:

(a) the names and addresses of exporters and importers; and
(b) the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.

7. Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:

(a) an annual report containing a summary of the information specified in sub-paragraph (b) of paragraph 6 of this Article; and
(b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.

8. The information referred to in paragraph 7 of this Article shall be available to the public where this is not inconsistent with the law of the Party concerned.

ARTICLE IX

Management and Scientific Authorities

1. Each Party shall designate for the purposes of the present Convention:

(a) one or more Management Authorities competent to grant permits or certificates on behalf of that Party; and
(b) one or more Scientific Authorities.

2. A State depositing an instrument of ratification, acceptance, approval or accession shall at that time inform the Depositary Government of the name and address of the Management Authority authorized to communicate with other Parties and with the Secretariat.

3. Any changes in the designations or authorizations under the provisions of this Article shall be communicated by the Party concerned to

the Secretariat for transmission to all other Parties.

4. Any Management Authority referred to in paragraph 2 of this Article shall if so requested by the Secretariat or the Management Authority of another Party, communicate to it impression of stamps, seals or other devices used to authenticate permits or certificates.

ARTICLE X

Trade with States not Party to the Convention

Where export or re-export is to, or import is from, a State not a party to the present Convention, comparable documentation issued by the competent authorities in that State which substantially conforms with the requirements of the present Convention for permits and certificates may be accepted in lieu thereof by any Party.

ARTICLE XI

Conference of the Parties

1. The Secretariat shall call a meeting of the Conference of the Parties not later than two years after the entry into force of the present Convention.

2. Thereafter the Secretariat shall convene regular meetings at least once every two years, unless the Conference decides otherwise, and extraordinary meetings at any time on the written request of at least one-third of the Parties.

3. At meetings, whether regular or extraordinary, the Parties shall review the implementation of the present Convention and may:

(a) make such provision as may be necessary to enable the Secretariat to carry out its duties;

(b) consider and adopt amendments to Appendices I and II in

accordance with Article XV;

(c) review the progress made towards the restoration and conservation of the species included in Appendices I, II and III;

(d) receive and consider any reports presented by the Secretariat or by any Party; and

(e) where appropriate, make recommendations for improving the effectiveness of the present Convention.

4. At each regular meeting, the Parties may determine the time and venue of the next regular meeting to be held in accordance with the provisions of paragraph 2 of this Article.

5. At any meeting, the Parties may determine and adopt rules of procedure for the meeting.

6. The United Nations, its Specialized Agencies and the International Atomic Energy Agency, as well as any State not a Party to the present Convention, may be represented at meetings of the Conference by observers, who shall have the right to participate but not to vote.

7. Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

(a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located.

Once admitted, these observers shall have the right to participate but not to vote.

ARTICLE XII

The Secretariat

1. Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable inter-governmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of wild fauna and flora.
2. The functions of the Secretariat shall be:
 - (a) to arrange for and service meetings of the Parties;
 - (b) to perform the functions entrusted to it under the provisions of Articles XV and XVI of the present Convention;
 - (c) to undertake scientific and technical studies in accordance with programmes authorized by the Conference of the Parties as will contribute to the implementation of the present Convention, including studies concerning standards for appropriate preparation and shipment of living specimens and the means of identifying specimens;
 - (d) to study the reports of Parties and to request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention;
 - (e) to invite the attention of the Parties to any matter pertaining to the aims of the present Convention;
 - (f) to publish periodically and distribute to the Parties current editions of Appendices I, II and III together with any information which will facilitate identification of specimens of species included in those Appendices.
 - (g) to prepare annual reports to the Parties on its work and on the

Implementation of the present Convention and such other reports as meetings of the Parties may request;

(h) to make recommendations for the implementation of the aims and provisions of the present Convention, including the exchange of information of a scientific or technical nature;

(i) to perform any other function as may be entrusted to it by the Parties.

ARTICLE XIII

International Measures

1. When the Secretariat in the light of information received is satisfied that any species included in Appendices I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.

2. When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.

3. The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next Conference of the Parties which may make whatever recommendations it deems appropriate.

ARTICLE XIV

Effect on Domestic Legislation and International Conventions

1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:
 - (a) stricter domestic measures regarding the conditions for trade, taking possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or
 - (b) domestic measures restricting or prohibiting trade, taking possession, or transport of species not included in Appendices I, II or III.
2. The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession, or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields.
3. The provisions of the present Convention shall in no way affect the provisions of, or the obligations deriving from, any treaty, convention or international agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external customs control and removing customs control between the parties thereto insofar as they relate to trade among the States members of that union or agreement.
4. A State party to the present Convention, which is also a party to any other treaty, convention or international agreement which is in force at the time of the coming into force of the present Convention and under the

provisions of which protection is afforded to marine species included in Appendix II, shall be relieved of the obligations imposed on it under the provisions of the present Convention with respect to trade in specimens of species included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement.

5. Notwithstanding the provisions of Articles III, IV and V, any export of a specimen taken in accordance with paragraph 4 of this Article shall only require a certificate from a Management Authority of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement in question.

6. 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 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.

ARTICLE XV

Amendments to Appendices I and II

1. The following provisions shall apply in relation to amendments to Appendices I and II at meetings of the Conference of the Parties:

(a) Any Party may propose an amendment to Appendix I or II for consideration at the next meeting. The text of the proposed amendment shall be communicated to the Secretariat at least 150 days before the meeting. The Secretariat shall consult the other Parties and interested bodies on the amendment in accordance with the provisions of sub-paragraphs (b) and (c) of paragraph 2 of this Article and shall communicate the response to all Parties not later than 30 days before the meeting.

(b) Amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.

(c) Amendments adopted at a meeting shall enter into force 90 days after that meeting for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

2. The following provisions shall apply in relation to amendments to Appendices I and II between meetings of the Conference of the Parties:

(a) Any Party may propose an amendment to Appendix I or II for consideration between meetings by the postal procedures set forth in this paragraph.

(b) For marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties. It shall also consult inter-governmental bodies having a

function in relation to those species especially with a view to obtaining scientific data these bodies may be able to provide and to ensuring coordination with any conservation measures enforced by such bodies. The Secretariat shall communicate the views expressed and data provided by these bodies and its own findings and recommendations to the Parties as soon as possible.

(c) For species other than marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties, and, as soon as possible thereafter, its own recommendations.

(d) Any Party may, within 60 days of the date on which the Secretariat communicated its recommendations to the Parties under subparagraphs (b) or (c) of this paragraph, transmit to the Secretariat any comments on the proposed amendment together with any relevant scientific data and information.

(e) The Secretariat shall communicate the replies received together with its own recommendations to the Parties as soon as possible.

(f) If no objection to the proposed amendment is received by the Secretariat within 30 days of the date the replies and recommendations were communicated under the provisions of subparagraph (e) of this paragraph, the amendment shall enter into force 90 days later for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

(g) If an objection by any Party is received by the Secretariat, the proposed amendment shall be submitted to a postal vote in accordance with the provisions of subparagraphs (h), (i) and (j) of this paragraph.

(h) The Secretariat shall notify the Parties that notification of

objection has been received.

(i) Unless the Secretariat receives the votes for, against or in abstention from at least one-half of the Parties within 60 days of the date of notification under sub-paragraph (h) of this paragraph, the proposed amendment shall be referred to the next meeting of the Conference for further consideration.

(j) Provided that votes are received from one-half of the Parties, the amendment shall be adopted by a two-thirds majority of Parties casting an affirmative or negative vote.

(k) The Secretariat shall notify all Parties of the result of the vote.

(l) If the proposed amendment is adopted it shall enter into force 90 days after the date of the notification by the Secretariat of its acceptance for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

3. During the period of 90 days provided for by sub-paragraph (c) of paragraph 1 or sub-paragraph (l) of paragraph 2 of this Article any Party may by notification in writing to the Depositary Government make a reservation with respect to the amendment. Until such reservation is withdrawn the Party shall be treated as a State not a party to the present Convention with respect to trade in the species concerned.

ARTICLE XVI

Appendix III and Amendments thereto

1. Any party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 of Article II. Appendix III shall include the names of the Parties submitting the species for inclusion therein, the scientific names of the species so submitted, and any parts or derivatives of the animals or plants concerned that are specified in relation to the species for the purposes of sub-paragraph (b) of Article I.
2. Each list submitted under the provisions of paragraph 1 of this Article shall be communicated to the Parties by the Secretariat as soon as possible after receiving it. The list shall take effect as part of Appendix III 90 days after the date of such communication. At any time after the communication of such list, any Party may by notification in writing to the Depository Government enter a reservation with respect to any species or any parts or derivatives, and until such reservation is withdrawn, the State shall be treated as a State not a Party to the present Convention with respect to trade in the species or part or derivative concerned.
3. A Party which has submitted a species for inclusion in Appendix III may withdraw it at any time by notification to the Secretariat which shall communicate the withdrawal to all Parties. The withdrawal shall take effect 30 days after the date of such communication.
4. Any Party submitting a list under the provisions of paragraph 1 of this Article shall submit to the Secretariat a copy of all domestic laws and regulations applicable to the protection of such species, together with any interpretations which the Party may deem appropriate or the Secretariat may request. The Party shall, for as long as the species in question is

included in Appendix III, submit any amendments of such laws and regulations or any new interpretations as they are adopted.

ARTICLE XVII

Amendment of the Convention

1. An extraordinary meeting of the Conference of the Parties shall be convened by the Secretariat on the written request of at least one-third of the Parties to consider and adopt amendments to the present Convention. Such amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.
2. The text of any proposed amendment shall be communicated by the Secretariat to all Parties at least 90 days before the meeting.
3. An amendment shall enter into force for the Parties which have accepted it 60 days after two-thirds of the Parties have deposited an instrument of acceptance of the amendment with the Depositary Government. Thereafter, the amendment shall enter into force for any other Party 60 days after that Party deposits its instrument of acceptance of the amendment.

ARTICLE XVIII

Resolution of Disputes

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of the present Convention shall be subject to negotiation between the Parties involved in the dispute.
2. If the dispute cannot be resolved in accordance with paragraph 1 of this

Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

ARTICLE XIX

Signature

The present Convention shall be open for signature at Washington until 30th April 1973 and thereafter at Bern until 31st December 1974.

ARTICLE XX

Ratification, Acceptance, Approval

The present Convention shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Swiss Confederation which shall be the Depositary Government.

ARTICLE XXI

Accession

The present Convention shall be open indefinitely for accession. Instruments of accession shall be deposited with the Depositary Government.

ARTICLE XXII

Entry into Force

1. The present Convention shall enter into force 90 days after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, with the Depositary Government. ^[1]
2. For each State which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the tenth instrument of

¹ July 1, 1975. [Footnote added by the Department of State.]

ratification, acceptance, approval or accession, the present Convention shall enter into force 90 days after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

ARTICLE XXIII

Reservations

1. The provisions of the present Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Articles XV and XVI.
2. Any State may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to:
 - (a) any species included in Appendix I, II or III; or
 - (b) any parts or derivatives specified in relation to a species included in Appendix III.
3. Until a Party withdraws its reservation entered under the provisions of this Article, it shall be treated as a State not a party to the present Convention with respect to trade in the particular species or parts or derivatives specified in such reservation.

ARTICLE XXIV

Denunciation

Any Party may denounce the present Convention by written notification to the Depositary Government at any time. The denunciation shall take effect twelve months after the Depositary Government has received the notification.

ARTICLE XXV

Depositary

1. The original of the present Convention, in the Chinese, English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Depositary Government, which shall transmit certified copies thereof to all States that have signed it or deposited instruments of accession to it.
2. The Depositary Government shall inform all signatory and acceding States and the Secretariat of signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of the present Convention, amendments thereto, entry and withdrawal of reservations and notifications of denunciation.
3. As soon as the present Convention enters into force, a certified copy thereof shall be transmitted by the Depositary Government to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations. [1]

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized to that effect, have signed the present Convention.

DONE at Washington this third day of March, One Thousand Nine Hundred and Seventy-three.

¹ TS 993; 59 Stat. 1052. [Footnote added by the Department of State.]

APPENDIX I

Interpretation:

1. Species included in this Appendix are referred to:
 - (a) by the name of the species; or
 - (b) as being all of the species included in a higher taxon or designated part thereof.
2. The abbreviation "spp." is used to denote all species of a higher taxon.
3. Other references to taxa higher than species are for the purposes of information or classification only.
4. An asterisk (*) placed against the name of a species or higher taxon indicates that one or more geographically separate populations, sub-species or species of that taxon are included in Appendix II and that these populations, sub-species or species are excluded from Appendix I.
5. The symbol (-) followed by a number placed against the name of a species or higher taxon indicates the exclusion from that species or taxon of designated geographically separate populations, sub-species or species as follows:
 - 101 Lemur catta
 - 102 Australian population
6. The symbol (+) followed by a number placed against the name of a species denotes that only a designated geographically separate population or sub-species of that species is included in this Appendix, as follows:
 - + 201 Italian population only
7. The symbol (/) placed against the name of a species or higher taxon indicates that the species concerned are protected in accordance with the International Whaling Commission's schedule of 1972.

FAUNAMAMMALIAMARSUPIALIAMacropodidae

Macropus parma
Onychogalea frenata
O. lunata
Lagorchestes hirsutus
Lagostrophus fasciatus
Caloprymnus campestris
Bettongia penicillata
B. lesueur
B. tropica

Phalangeridae

Wyulda squamicaudata

Burranyidae

Burranyx parvus

Vombatidae

Lasiorhinus gillespiei

Peramelidae

Perameles bougainville
Chaeropus ecaudatus
Macrotis lagotis
M. leucura

Dasyuridae

Planigale tenuirostris
P. subtilissima
Sminthopsis psammophila
S. longicaudata
Antechinus laniger
Myrmecobius fasciatus rufus

Thylacinidae

Thylacinus cynocephalus

PRIMATESLemuridae

Lemur spp. + -101
Lepilemur spp.
Haplemur spp.
Allocebus spp.
Cheirogaleus spp.
Microcebus spp.
Phaner spp.

Indriidae

Indri spp.
Propithecus spp.
Avahi spp.

Daubentonidae	<u>Daubentonia madagascariensis</u>
Callithricidae	<u>Leontopithecus (Leontideus) spp.</u> <u>Callimico goeldii</u>
Cebidae	<u>Saimiri oerstedii</u> <u>Chiropotes albinasus</u> <u>Cacajao spp.</u> <u>Alouatta palliata (villosa)</u> <u>Ateles geoffroyi frontatus</u> <u>A. g. panamensis</u> <u>Brachyteles arachnoides</u>
Cercopitheciidae	<u>Cercocebus galeritus galeritus</u> <u>Macaca silenus</u> <u>Colobus badius rufomitatus</u> <u>C. b. kirkii</u> <u>Presbytis geei</u> <u>P. pileatus</u> <u>P. entellus</u> <u>Nesalia larvatus</u> <u>Simias concolor</u> <u>Pygathrix nemaeus</u>
Hylotidae	<u>Hylobates spp.</u> <u>Symphalangus syndactylus</u>
Pongidae	<u>Pongo pygmaeus pygmaeus</u> <u>P. p. abelii</u> <u>Gorilla gorilla</u>
EDENTATA	
Dasyopodidae	<u>Priodontes giganteus (-maximus)</u>
PHOLIDOTA	
Manidae	<u>Manis temmincki</u>
LAGOMORPHA	
Leporidae	<u>Romerolagus diazi</u> <u>Caprolagus hispidus</u>
RODENTIA	
Sciuridae	<u>Cynomys mexicanus</u>
Castoridae	<u>Castor fiber birulaei</u> <u>Castor canadensis mexicanus</u>

Muridae	<u>Zyromys pedunculatus</u> <u>Leporillus conditor</u> <u>Pseudomys novaehollandiae</u> <u>P. praeconis</u> <u>P. shortridgei</u> <u>P. fumeus</u> <u>P. occidentalis</u> <u>P. fieldi</u> <u>Notomys aquilo</u> <u>Xeromys myoides</u>
Chinchillidae	<u>Chinchilla brevicaudata boliviana</u>
CETACEA	
Platanistidae	<u>Platanista gangetica</u>
Eschrichtidae	<u>Eschrichtius robustus (glaucus) †</u>
Balaenopteridae	<u>Balaenoptera musculus †</u> <u>Megaptera novaeangliae †</u>
Balaenidae	<u>Balaena mysticetus †</u> <u>Eubalaena spp. †</u>
CARNIVORA	
Canidae	<u>Canis lupus monstrabilis</u> <u>Vulpes velox hebes</u>
Viverridae	<u>Prionodon pardicolor</u>
Ursidae	<u>Ursus americanus emmonsii</u> <u>U. arctos pruinosus</u> <u>U. arctos * 1801</u> <u>U. a. nelsoni</u>
Mustelidae	<u>Mustela nigripes</u> <u>Lutra longicaudis (platensis/annectens)</u> <u>L. felina</u> <u>L. provocax</u> <u>Pteronura brasiliensis</u> <u>Aonyx micradon</u> <u>Enhydra lutris nereis</u>
Hyaenidae	<u>Hyaena brunnea</u>
Felidae	<u>Felis planiceps</u> <u>F. nigripes</u> <u>F. concolor coryi</u> <u>F. c. costaricensis</u> <u>F. c. cougar</u> <u>F. temmincki</u>

Felidae
continued

Felis bengalensis bengalensis
F. yagouaroundi cacomitli
F. y. fossata
F. y. panamensis
F. y. tolteca
F. pardalis mearnsi
F. p. mitis
F. wiedii nicaraguae
F. w. salvinia
F. tigrina oncella
F. marmorata
F. jacobita
F. (Lynx) rufa escuinapae
Neofelis nebulosa
Panthera tigris*
F. pardus
F. unca
F. onca
Acinonyx jubatus

PINNIPEDIA

Phocidae

Monachus spp.
Mirounga angustirostris

PROBOSCIDEA

Elephantidae

Elephas maximus

SIRENIA

Dugongidae

Dugong dugon * -102

Trichechidae

Trichechus manatus
T. inunguis

PERISSODACTYLA

Equidae

Equus przewalskii
E. hemionus hemionus
E. h. khur
E. zebra zebra

Tapiridae

Tapirus pinchaque
T. bairdii
T. indicus

Rhinocerotidae

Rhinoceros unicornis
R. sondaicus
Didermocerus sumatrensis
Ceratotherium simum cottoni

ARTIODACTYLA

Suidae	<u>Sus salvanus</u> <u>Babryoussa babyrussa</u>
Camelidae	<u>Vicugna vicugna</u> <u>Camelus bactrianus</u>
Cervidae	<u>Moschus moschiferus moschiferus</u> <u>Axis (Hyelaphus) porcinus annamiticus</u> <u>A. (Hyelaphus) culamianensis</u> <u>A. (Hyelaphus) kuhlii</u> <u>Cervus duvauceli</u> <u>C. eldi</u> <u>C. elaphus hanglu</u> <u>Hippocamelus bisulcus</u> <u>H. antisensis</u> <u>Elastoceros dichotomus</u> <u>Ozotoceros bezoarticus</u> <u>Pudu pudu</u>
Antilocapridae	<u>Antilocapra americana sonoriensis</u> <u>A. a. peninsularis</u>
Bovidae	<u>Bubalus (Anoa) mindorensis</u> <u>B. (Anoa) depressicornis</u> <u>B. (Anoa) quarlesi</u> <u>Bos gaurus</u> <u>B. (grunniens) mutus</u> <u>Novibos (Bos) sauveli</u> <u>Bison bison athabascae</u> <u>Kobus leche</u> <u>Hippotragus niger varians</u> <u>Oryx leucoryx</u> <u>Damaliscus dorcas dorcas</u> <u>Saiga tatarica mongolica</u> <u>Nemorhaedus goral</u> <u>Capricornis sumatraensis</u> <u>Rupicapra rupicapra ornata</u> <u>Capra falconeri jerdoni</u> <u>C. f. megaceros</u> <u>C. f. chiltanensis</u> <u>Ovis orientalis ophion</u> <u>O. ammon hodgsoni</u> <u>O. vignei</u>

AVES

TINAMIFORMES

Tinamidae	<u>Tinamus solitarius</u>
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PODICIPEDIFORMES

Podicipedidae Podilymbus gigas

PROCELLARIIFORMES

Diomedidae Diomedea albatrus

PELECANIFORMES

Sulidae Sula abbotti

Fregatidae Fregata andrewsi

CICONIIFORMES

Ciconiidae Ciconia ciconia boyciana

Threskiornithidae

Nipponia nippon

ANSERIFORMES

Anatidae Anas sucklandica nesiotis
Anas castaleti
Anas laysanensis
Anas diazi
Cairina scutulata
Rhodonessa caryophyllacea
Branta canadensis leucopareia
Branta sandvicensis

FALCONIFORMES

Cathartidae Vultur gryphus
Gymnogyps californianus

Accipitridae

Pithecopaga jefferyi
Harpia harpyja
Haliaeetus l. leucocephalus
Haliaeetus haliaea adalberti
Haliaeetus albicilla groenlandicus

Falconidae

Falco peregrinus anatum
Falco peregrinus tundrius
Falco peregrinus peregrinus
Falco peregrinus babylicus

GALLIFORMES

Megapodidae Macrocephala calce

Cracidae	<u>Crax blumenbachii</u> <u>Pipile p. pipile</u> <u>Pipile jacutinga</u> <u>Mitu mitu mitu</u> <u>Oreophasis derbianus</u>
Tetraonidae	<u>Tympanuchus cupido attwateri</u>
Phasianidae	<u>Colinus virginianus ridgwayi</u> <u>Tragopan bl. taii</u> <u>Tragopan caboti</u> <u>Tragopan melanocephalus</u> <u>Lophophorus sclateri</u> <u>Lophophorus ihuysii</u> <u>Lophophorus impejanus</u> <u>Crossoptilon manchuricum</u> <u>Crossoptilon crossoptilon</u> <u>Lophura swinhoii</u> <u>Lophura imperialis</u> <u>Lophura edwardsii</u> <u>Symaticus ellioti</u> <u>Symaticus lamiae</u> <u>Symaticus mikado</u> <u>Polyplectron emphanum</u> <u>Tetraogallus tibetanus</u> <u>Tetraogallus caspius</u> <u>Cyrtonyx montenuriae merriami</u>
GRUIFORMES	
Gruidae	<u>Grus japonensis</u> <u>Grus leucogeranus</u> <u>Grus americana</u> <u>Grus canadensis pulla</u> <u>Grus canadensis nesiotus</u> <u>Grus nigricollis</u> <u>Grus vipio</u> <u>Grus monacha</u>
Pallidae	<u>Tricholimnas sylvestris</u>
Rhynchotidae	<u>Rhynchotus jubatus</u>
Otididae	<u>Eupodotis bengalensis</u>
CHARADRIIFORMES	
Scolopacidae	<u>Numenius borealis</u> <u>Tringa guttifer</u>
Laridae	<u>Larus relictus</u>

COLUMBIFORMES	
Columbidae	<u>Ducula mindorensis</u>
PSITTACIFORMES	
Psittacidae	<u>Strigops habroptilus</u> <u>Rhynchopsitta pachyrhyncha</u> <u>Amazona leucocephala</u> <u>Amazona vittata</u> <u>Amazona guildingii</u> <u>Amazona versicolor</u> <u>Amazona imperialis</u> <u>Amazona rhodocorytha</u> <u>Amazona petrei petrei</u> <u>Amazona vinacea</u> <u>Eyrrhura cruentata</u> <u>Anodorhynchus glaucus</u> <u>Anodorhynchus leari</u> <u>Cyanopsitta spixii</u> <u>Plonopsitta pileata</u> <u>Aratinga guaruba</u> <u>Psittacula krameri echo</u> <u>Psephotus pulcherrimus</u> <u>Psephotus chrysopterygius</u> <u>Neophema chrysogaster</u> <u>Neophema splendida</u> <u>Cyanoramphus novaezelandiae</u> <u>Cyanoramphus auriceps forbesi</u> <u>Geopsittacus occidentalis</u> <u>Psittacus erithacus princeps</u>
APODIFORMES	
Trochilidae	<u>Ramphodon dohrnii</u>
TROGONIFORMES	
Trogonidae	<u>Pharomachus mocinno mocinno</u> <u>Pharomachus mocinno costaricensis</u>
STRIGIFORMES	
Strigidae	<u>Otus gurneyi</u>
CORACIIFORMES	
Bucerotidae	<u>Rhinoplax vigil</u>
PICIFORMES	
Picidae	<u>Dryocopus javensis richardsii</u> <u>Campephilus imperialis</u>

PASSERIFORMES

Cotingidae	<u>Cotinga maculata</u> <u>Xipholena atro-purpurea</u>
Pittidae	<u>Pitta kochi</u>
Atrichornithidae	<u>Atrichornis clamosa</u>
Muscicapidae	<u>Picathartes gymnocephalus</u> <u>Picathartes oreas</u> <u>Psophodes nigrogularis</u> <u>Amytornis goyderi</u> <u>Dasyornis brachypterus longirostris</u> <u>Dasyornis broadbenti littoralis</u>
Sturnidae	<u>Leucopsar rothschildi</u>
Meliphagidae	<u>Meliphaga cassidix</u>
Zosteropidae	<u>Zosterops albogularis</u>
Fringillidae	<u>Spinus cucullatus</u>

AMPHIBIA

URODELA

Cryptobranchidae	<u>Andrias (=Megalobatrachus) davidianus</u> <u>japonicus</u> <u>Andrias (=Megalobatrachus) davidianus</u> <u>davidianus</u>
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SALIENTIA

Bufo	<u>Bufo superciliaris</u> <u>Bufo periglenes</u> <u>Nectophrynoides spp.</u>
Atelopodidae	<u>Atelopus varius zeteki</u>

REPTILIA

CROCODYLIA

Alligatoridae	<u>Alligator mississippiensis</u> <u>Alligator sinensis</u> <u>Melanosuchus niger</u> <u>Caiman crocodilus apaporiensis</u> <u>Caiman latirostris</u>
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Crocodylidae	<u>Tomistoma schlegelii</u> <u>Osteolaemus tetraspis tetraspis</u> <u>Osteolaemus tetraspis osborni</u> <u>Crocodylus cataphractus</u> <u>Crocodylus siamensis</u> <u>Crocodylus palustris palustris</u> <u>Crocodylus palustris kimbula</u> <u>Crocodylus novaeguineae mindorensis</u> <u>Crocodylus intermedius</u> <u>Crocodylus rhombifer</u> <u>Crocodylus moreletii</u> <u>Crocodylus niloticus</u>
Gavialidae	<u>Gavialis gangeticus</u>
TESTUDINATA	
Emydidae	<u>Batagur baska</u> <u>Geoclemmys (=Damonia) hamiltonii</u> <u>Geomyda (=Micoria) tricarinata</u> <u>Kachuga tecta tecta</u> <u>Morenia ocellata</u> <u>Terrapene carolina</u>
Testudinidae	<u>Geochelone (=Testudo) elephantopus</u> <u>Geochelone (=Testudo) geometrica</u> <u>Geochelone (=Testudo) radiata</u> <u>Geochelone (=Testudo) yniphora</u>
Cheloniidae	<u>Eretmochelys imbricata imbricata</u> <u>Lepidochelys kempi</u>
Trionychidae	<u>Lissemys punctata punctata</u> <u>Trionyx ater</u> <u>Trionyx nigricans</u> <u>Trionyx gangeticus</u> <u>Trionyx hurum</u>
Chelidae	<u>Pseudemys umbrina</u>
LACERTILIA	
Varanidae	<u>Varanus komodoensis</u> <u>Varanus flavescens</u> <u>Varanus bengalensis</u> <u>Varanus griseus</u>
SERPENTES	
Boidae	<u>Epicrates inornatus inornatus</u> <u>Epicrates subflavus</u> <u>Python molurus molurus</u>

Unionidae
continued

Epioblasma (=Dysnomia) turgidula
Epioblasma (=Dysnomia) walkeri
Fusconala cuneolus
Fusconala edgariana
Lampsilis higginsi
Lampsilis orbiculata orbiculata
Lampsilis satura
Lampsilis virescens
Plethobasis cicatricosus
Plethobasis cooperianus
Pleurobema plemm
Potamilus (=Proptera) capax
Quadrula intermedia
Quadrula sparsa
Toxolasma (=Carunculina) cylindrella
Unio (Megalonaias/?/?) nickliniana
Unio (Lampsilis/?/?) tampicoensis
teconatensis
villosa (=Micronya) trabalis

FLORA

ARACEAE

Alocasia sanderiana
Alocasia zebrina

CARYOCARACEAE

Caryocar costaricense

CARYOPHYLLACEAE

Gymnocarpus przewalskii
Melandrium mongolicum
Silene mongolica
Stellaria pulvinata

CUPRESSACEAE

Pilgerodendron uviferum

CYCADACEAE

Encephalartos spp.
Microcycas calocoma
Stangeria eriopus

GENTIANACEAE

Prepusa hookeriana

HUMIRIACEAE

Vantanea barbourii

JUGLANDACEAE

Engelhardtia pterocarpa

LEGUMINOSAE

Ammopiptanthus mongolicum
Cynometra hemitomophylla
Platymiscium pleiostachyum

LILIACEAE

Aloe albida
Aloe pillansii
Aloe polyphylla
Aloe thornecroftii
Aloe vossii

MELASTOMATACEAE	<u>Lavoisiera itambana</u>
MELIACEAE	<u>Guarea longipetiolata</u> <u>Tachigalia versicolor</u>
MORACEAE	<u>Batocarpus costaricense</u>
ORCHIDACEAE	<u>Cattleya jongheana</u> <u>Cattleya skinneri</u> <u>Cattleya trianae</u> <u>Didickea cunninghamii</u> <u>Laelia lobata</u> <u>Lycaste virginialis</u> var. <u>alba</u> <u>Peristeria elata</u>
PINACEAE	<u>Abies guatemalensis</u> <u>Abies nebrodensis</u>
PODOCARPACEAE	<u>Podocarpus costalis</u> <u>Podocarpus parlatorei</u>
PROTEACEAE	<u>Orothamnus zeyheri</u> <u>Protea odorata</u>
RUBIACEAE	<u>Balmea stormae</u>
SAXIFRAGACEAE (GROSSULARIACEAE)	<u>Ribes sardoum</u>
TAXACEAE	<u>Fitzroya cupressoides</u>
ULMACEAE	<u>Celtis acutensis</u>
WELWITSCHIACEAE	<u>Welwitschia bainesii</u>
ZINGIBERACEAE	<u>Hedychium philippinense</u>

APPENDIX II

Interpretation:

1. Species included in this Appendix are referred to:
 - (a) by the name of the species; or
 - (b) as being all of the species included in a higher taxon or designated part thereof.
2. The abbreviation "spp." is used to denote all the species of a higher taxon.
3. Other references to taxa higher than species are for the purposes of information or classification only.
4. An asterisk (*) placed against the name of a species or higher taxon indicates that one or more geographically separate populations, sub-species or species of that taxon are included in Appendix I and that these populations, sub-species or species are excluded from Appendix II.
5. The symbol (#) followed by a number placed against the name of a species or higher taxon designates parts or derivatives which are specified in relation thereto for the purposes of the present Convention as follows:
 - # 1 designates root
 - # 2 designates timber
 - # 3 designates trunks
6. The symbol (-) followed by a number placed against the name of a species or higher taxon indicates the exclusion from that species or taxon of designated geographically separate populations, sub-species, species or groups of species as follows:
 - 101 Species which are not succulents

7. The symbol (*) followed by a number placed against the name of a species or higher taxon denotes that only designated geographically separate populations, sub-species or species of that species or taxon are included in this

Appendix as follows:

- + 201 All North American sub-species
- + 202 New Zealand species
- + 203 All species of the family in the Americas
- + 204 Australian population.

FAUNAMAMMALIA

MARSUPIALIA

Macropodidae

Dendrolagus inustus
Dendrolagus ursinus

INSECTIVORA

Erinaceidae

Erinaceus frontalis

PRIMATES

Lemuridae

Lemur catta *

Lorisidae

Nycticebus coucang
Loris tardigradus

Cebidae

Cebus capucinus

Cercopithecidae

Macaca sylvanus
Colobus badius gordonorum
Colobus verus
Rhinopithecus roxellanae
Presbytis johnii

Pongidae

Pan paniscus
Pan troglodytes

EDENTATA

Myrmecophagidae

Myrmecophaga tridactyla
Tamandua tetradactyla
chacabensis

Bradypodidae

Bradypus boliviensis

PHOLIDOTA

Manidae

Manis orassicaudata
Manis pentadactyla
Manis javanica

LAGOMORPHA

Leporidae

Nesolagus netscheri

RODENTIA

Heteromyidae

Dipodomys phillipsii phillipsii

Sciuridae	<u>Ratufa</u> spp. <u>Lariscus hosei</u>
Castoridae	<u>Castor canadensis frondator</u> <u>Castor canadensis repentinus</u>
Cricetidae	<u>Ondatra zibethicus bernardi</u>
CARNIVORA	
Canidae	<u>Canis lupus pallipes</u> <u>Canis lupus irremotus</u> <u>Canis lupus crassodon</u> <u>Chrysocyon brachyurus</u> <u>Cuon alpinus</u>
Ursidae	<u>Ursus (Thalarcos) maritimus</u> <u>Ursus arctos * +201</u> <u>Helarctos malayanus</u>
Procyonidae	<u>Ailurus fulgens</u>
Mustelidae	<u>Martes americana atrata</u>
Viveridae	<u>Prionodon linsang</u> <u>Cynogale bennetti</u> <u>Helogale derbianus</u>
Felidae	<u>Felis yagouaroundi*</u> <u>Felis colocolo paleros</u> <u>Felis colocolo crespoi</u> <u>Felis colocolo budini</u> <u>Felis concolor missoulensis</u> <u>Felis concolor mayensis</u> <u>Felis concolor azteca</u> <u>Felis serval</u> <u>Felis lynx isabellina</u> <u>Felis wiedii*</u> <u>Felis pardalis*</u> <u>Felis tigrina*</u> <u>Felis (=Caracal) caracal</u> <u>Panthera leo persica</u> <u>Panthera tigris altaica</u> <u>(=amurensis)</u>
PINNIPEDIA	
Otariidae	<u>Arctocephalus australis</u> <u>Arctocephalus galapagoensis</u> <u>Arctocephalus philippii</u> <u>Arctocephalus townsendi</u>
Phocidae	<u>Mitrounga australis</u> <u>Mitrounga leonina</u>

TUBULIDENTATA

Orycteropidae

Orycteropus afer

SIRENIA

Dugongidae

Dugong dugon * +204

Trichechidae

Trichechus senegalensis

PERISSODACTYLA

Equidae

Equus hemionus*

Tapiridae

Tapirus terrestris

Rhinocerotidae

Diceros bicornis

ARTIODACTYLA

Hippopotamidae

Choeropsis liberiensis

Cervidae

Cervus elaphus bactrianusPudu mephistophiles

Antilocapridae

Antilocapra americana mexicana

Bovidae

Cephalophus monticolaOryx (tao) dammahAddax nasomaculatusPantholops hodgsoniCapra falconeri*Ovis ammon*Ovis canadensisAVES

SPHENISCIFORMES

Spheniscidae

Spheniscus demersus

RHEIFORMES

Rheidae

Rhea americana albescensPterocnemia pennata pennataPterocnemia pennata garleppi

TINAMIFORMES

Tinamidae

Rhynchotus rufescens rufescensRhynchotus rufescens pallascensRhynchotus rufescens maculicollis

CICONIIFORMES	
Ciconiidae	<u>Ciconia nigra</u>
Threskiornithidae	<u>Geronticus calvus</u> <u>Platalea leucorodia</u>
Phoenicopteridae	<u>Phoenicopterus ruber chilensis</u> <u>Phoenicoparrus andinus</u> <u>Phoenicoparrus jamesi</u>
PELECANIFORMES	
Pelecanidae	<u>Pelecanus crispus</u>
ANSERIFORMES	
Anatidae	<u>Anas aucklandica aucklandica</u> <u>Anas aucklandica chlorotis</u> <u>Anas bernieri</u> <u>Dendrocygna arborea</u> <u>Sarkidiornis melanotos</u> <u>Anser albifrons gambelli</u> <u>Cygnus bewickii jankowskii</u> <u>Cygnus melancoryphus</u> <u>Coscoroba coscoroba</u> <u>Branta ruficollis</u>
FALCONIFORMES	
Accipitridae	<u>Gypaetus barbatus meridionalis</u> <u>Aquila chrysaetos</u>
Falconidae	Spp. *
GALLIFORMES	
Megapodiidae	<u>Megapodius freycinet nicobariensis</u> <u>Megapodius freycinet abbotti</u>
Tetraonidae	<u>Tympanuchus cupido pinnatus</u>
Phasianidae	<u>Francolinus ochropectus</u> <u>Francolinus swierstrai</u> <u>Gatreus wallichii</u> <u>Polyplectron malacense</u> <u>Polyplectron germaini</u> <u>Polyplectron bicalcaratum</u> <u>Gallus sonneratii</u> <u>Argusianus argus</u> <u>Ithaginis cruentus</u> <u>Cyrtonyx montezumae montezumae</u> <u>Cyrtonyx montezumae mearnsi</u>

GRUIFORMES

Gruidae	<u>Balearica regulorum</u> <u>Grus canadensis pratensis</u>
Rallidae	<u>Gallirallus australis hectori</u>
Otididae	<u>Chlamydotis undulata</u> <u>Choriotis nigriceps</u> <u>Otis tarda</u>

CHARADRIIFORMES

Scolopacidae	<u>Numenius tenuirostris</u> <u>Numenius minutus</u>
Laridae	<u>Larus brunneicephalus</u>

COLUMBIFORMES

Columbidae	<u>Gallicolumba lusonica</u> <u>Goura cristata</u> <u>Goura schesemakeri</u> <u>Goura victoria</u> <u>Caloenas nicobarica pelewensis</u>
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PSITTACIFORMES

Psittacidae	<u>Coracopsis nigra barklyi</u> <u>Proscopsia personata</u> <u>Eumyphicus cornutus</u> <u>Cyanoramphus unicolor</u> <u>Cyanoramphus novaezelandiae</u> <u>Cyanoramphus malherbi</u> <u>Poicephalus robustus</u> <u>Tanygnathus luzoniensis</u> <u>Probosciger aterrimus</u>
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CUCULIFORMES

Masophagidae	<u>Turaco corythaix</u> <u>Gallirex porphyreolophus</u>
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STRIGIFORMES

Strigidae	<u>Otus mdipes newtoni</u>
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CORACIIFORMES

Bucerotidae	<u>Buceros rhinoceros rhinoceros</u> <u>Buceros bicornis</u> <u>Buceros hydrocorax hydrocorax</u> <u>Acyrus narcondami</u>
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PICIFORMES

Picidae Picus squamatus flavirostris

PASSERIFORMES

Cotingidae Rupicola rupicola
Rupicola peruviana

Pittidae Pitta brachyura nympha

Hirundinidae Pseudochelidon sirintarae

Paradisaeidae Spp.

Muscicapidae Muscicapa ruecki

Fringillidae Spinus yarrellii

AMPHIBIA

URODELA

Ambystomidae Ambystoma mexicanum
Ambystoma dumerillii
Ambystoma lermaensis

SALIENTIA

Bufoidae Bufo retiformis

REPTILIA

CROCODYLLA

Alligatoridae Caiman crocodilus crocodilus
Caiman crocodilus yacare
Caiman crocodilus fuscus (chiapasius)
Paleosuchus palpebrosus
Paleosuchus trigonatus

Crocodylidae Crocodylus johnsoni
Crocodylus novaeguineae novaeguineae
Crocodylus porosus
Crocodylus acutus

TESTUDINATA

Emydidae Clemmys mühlenbergi

Testudinidae Chersine spp.
Geochelone spp.*
Gopherus spp.
Homonus spp.
Kinixys spp.

	<u>Malacochersus</u> spp.
	<u>Fyxis</u> spp.
	<u>Testudo</u> spp. *
Cheloniidae	<u>Caretta caretta</u> <u>Chelonia mydas</u> <u>Chelonia depressa</u> <u>Eretmochelys imbricata</u> <u>bissa</u> <u>Lepidochelys olivacea</u>
Dermochelidae	<u>Dermochelys coriacea</u>
Pelomedusidae	<u>Podocnemis</u> spp.
LACERTILIA	
Telidae	<u>Gnemidophorus hyperythrus</u>
Iguanidae	<u>Conolophus pallidus</u> <u>Cololophus subcristatus</u> <u>Amblyrhynchus cristatus</u> <u>Phrynosoma coronatum blainvillei</u>
Helodermatidae	<u>Heloderma suspectum</u> <u>Heloderma horridum</u>
Varanidae	<u>Varanus</u> spp. *
SERPENTES	
Boidae	<u>Epicrates cenchris cenchris</u> <u>Eumeces notaeus</u> <u>Constrictor constrictor</u> <u>Python</u> spp. *
Colubridae	<u>Cyclagras gigas</u> <u>Pseudoboa cloelia</u> <u>Elachistodon westermanni</u> <u>Thamnophis elegans hammondi</u>
	<u>FISCES</u>
ACIPENSERIFORMES	
Acipenseridae	<u>Acipenser fulvescens</u> <u>Acipenser sturio</u>
OSTEOGLOSSIFORMES	
Osteoglossidae	<u>Arapaima gigas</u>
SALMONIFORMES	
Salmonidae	<u>Stenodus leucichthys leucichthys</u>

	<u>Salmo chrysogaster</u>
CYPRINIFORMES	
Cyprinidae	<u>Plagopterus argentissimus</u> <u>Ptychocheilus lucius</u>
ATHERINIFORMES	
Cyprinodontidae	<u>Cynolebias constanciae</u> <u>Cynolebias marmoratus</u> <u>Cynolebias minimus</u> <u>Cynolebias opalescens</u> <u>Cynolebias splendens</u>
Poeciliidae	<u>Xiphophorus couchianus</u>
COELACANTHIFORMES	
Coelacanthidae	<u>Latimeria chalumnae</u>
CERATODIFORMES	
Ceratodidae	<u>Neoceratodus forsteri</u>
	<u>MOLLUSCA</u>
NAIADOCIDA	
Unionidae	<u>Cyprogenia aberti</u> <u>Epioblasma (=Dyenomia) torulosa</u> <u>rangiana</u> <u>Fusconala subrotunda</u> <u>Lampsilis brevicula</u> <u>Lexingtonia dolabelloides</u> <u>Pleurobema clava</u>
STYLOMMATOPHORA	
Camaenidae	<u>Papustyla (=Papuina) pulcherrima</u>
Paraphantidae	<u>Paraphanta</u> spp. +202
PROSOBRANCHIA	
Hydrobiidae	<u>Coahuilix hubbsi</u> <u>Cochliopina milleri</u> <u>Durangonella coahuilae</u> <u>Mexipyrgus carrancae</u> <u>Mexipyrgus churincanus</u> <u>Mexipyrgus escobeda</u> <u>Mexipyrgus lugoi</u>

Mexinyrgus polarralis
Mexinyrgus multilineatus
Mexithauma quadripaludium
Eymphophilus minckleyi
Paludiscala caramba

INSECTA

LEPIDOPTERA

Papilionidae

Parnassius apollo apolloFLORA

APOCYNACEAE

Pachypodium spp.

ARALIACEAE

Panax quinquefolium #1

ARAUCARIACEAE

Araucaria araucana #2

CACTACEAE

Cactaceae spp. +203
Rhipsalis spp.

COMPOSITAE

Saussurea lappa #1

CYATHACEAE

Cyathea (Hemitella) capensis #3
Cyathea Gredgei #3
Cyathea mexicana #3
Cyathea (Alsophila) salvinii #3

DIOSCOREACEAE

Dioscorea deltoidea #1

EUPHORBACEAE

Euphorbia spp. -101

FAGACEAE

Quercus copeyensis #2

LEGUMINOSAE

Thermopsis mongolica

LILIACEAE

Aloe spp. *

MELIACEAE

Swietenia humilis #2

ORCHIDACEAE

Spp. *

PALMAE

Arenga ipot
Phoenix hanceana var. philippinensis
Zalacca clemensiana

PORTULACACEAE

Anacampseros spp.

PRIMULACEAE

Cyclamen spp.

SOLANACEAE

Solanum sylvestris

STERCULIACEAE

Basiloxylon excelsum #2

VERBENACEAE

Caryopteris mongolica

ZYCOPHYLLACEAE

Guaiacum sanctum #2

**Convention on the Conservation of Migratory Species
of Wild Animals (with appendix), June 23, 1979***

* International Union for Conservation of Nature and Natural Resources
(I.U.C.N.) Bulletin (Special Supp. Jan. - Feb. 1980) 19-28.

CONVENTION ON THE CONSERVATION OF MIGRATORY SPECIES OF WILD ANIMALS

Signed at Bonn on 23 June 1979

THE CONTRACTING PARTIES,

RECOGNIZING that wild animals in their innumerable forms are an irreplaceable part of the earth's natural system which must be conserved for the good of mankind;

AWARE that each generation of man holds the resources of the earth for future generations and has an obligation to ensure that this legacy is conserved and, where utilized, is used wisely;

CONSCIOUS of the ever-growing value of wild animals from environmental, ecological, genetic, scientific, aesthetic, recreational, cultural, educational, social and economic points of view;

CONCERNED particularly with those species of wild animals that migrate across or outside national jurisdictional boundaries;

RECOGNIZING that the States are and must be the protectors of the migratory species of wild animals that live within or pass through their national jurisdictional boundaries;

CONVINCED that conservation and effective management of migratory species of wild animals require the concerted action of all States within the national jurisdictional boundaries of which such species spend any part of their life cycle;

RECALLING Recommendation 32 of the Action Plan adopted by the United Nations Conference on the Human Environment (Stockholm, 1972) and noted with satisfaction at the Twenty-seventh Session of the General Assembly of the United Nations,

HAVE AGREED as follows:

ARTICLE I

Interpretation

1. For the purpose of this Convention:
 - a) "Migratory species" means the entire population or any geographically separate part of the population of any species or lower taxon of wild animals, a significant proportion of whose members cyclically and predictably cross one or more national jurisdictional boundaries;
 - b) "Conservation status of a migratory species" means the sum of the influences acting on the migratory species that may affect its long-term distribution and abundance;
 - c) "Conservation status" will be taken as "favourable" when:
 - (1) population dynamics data indicate that the migratory species is maintaining itself on a long-term basis as a viable component of its ecosystems;
 - (2) the range of the migratory species is neither currently being reduced, nor is likely to be reduced, on a long-term basis;
 - (3) there is, and will be in the foreseeable future, sufficient habitat to maintain the population of the migratory species on a long-term basis; and
 - (4) the distribution and abundance of the migratory species approach historic coverage and levels to the extent that potentially suitable ecosystems exist and to the extent consistent with wise wildlife management;
 - d) "Conservation status" will be taken as "unfavourable" if any of the conditions set out in sub-paragraph (c) of this paragraph is not met;
 - e) "Endangered" in relation to a particular migratory species means that the migratory species is in danger of extinction throughout all or a significant portion of its range;
 - f) "Range" means all the areas of land or water that a migratory species inhabits, stays in temporarily, crosses or overflies at any time on its normal migration route;
 - g) "Habitat" means any area in the range of a migratory species which contains suitable living conditions for that species;
 - h) "Range State" in relation to a particular migratory species means any State (and where appropriate any other Party referred to under sub-paragraph (k) of this paragraph) that exercises jurisdiction over any part of the range of that migratory species, or a State, flag vessels of which are engaged outside national jurisdictional limits in taking that migratory species;
 - i) "Taking" means taking, hunting, fishing, capturing, harassing, deliberate killing, or attempting to engage in any such conduct;
 - j) "AGREEMENT" means an international agreement relating to the conservation of one or more migratory species as provided for in Articles IV and V of this Convention; and
 - k) "Party" means a State or any regional economic integration organization constituted by sovereign States which has competence in respect of the negotiation, conclusion and

application of international agreements in matters covered by this Convention for which this Convention is in force.

2. In matters within their competence, the regional economic integration organizations which are Parties to this Convention shall in their own name exercise the rights and fulfil the responsibilities which this Convention attributes to their member States. In such cases the member States of these organizations shall not be entitled to exercise such rights individually.
3. Where this Convention provides for a decision to be taken by either a two-thirds majority or a unanimous decision of "the Parties present and voting" this shall mean "the Parties present and casting an affirmative or negative vote". Those abstaining from voting shall not be counted amongst "the Parties present and voting" in determining the majority.

ARTICLE II

Fundamental Principles

1. The Parties acknowledge the importance of migratory species being conserved and of Range States agreeing to take action to this end whenever possible and appropriate, paying special attention to migratory species the conservation status of which is unfavourable, and taking individually or in co-operation appropriate and necessary steps to conserve such species and their habitat.
2. The Parties acknowledge the need to take action to avoid any migratory species becoming endangered.
3. In particular, the Parties:
 - a) should promote, co-operate in and support research relating to migratory species;
 - b) shall endeavour to provide immediate protection for migratory species included in Appendix I; and
 - c) shall endeavour to conclude AGREEMENTS covering the conservation and management of migratory species included in Appendix II.

ARTICLE III

Endangered Migratory Species: Appendix I

1. Appendix I shall list migratory species which are endangered.
2. A migratory species may be listed in Appendix I provided that reliable evidence, including the best scientific evidence available, indicates that the species is endangered.
3. A migratory species may be removed from Appendix I when the Conference of the Parties determines that:
 - a) reliable evidence, including the best scientific evidence available, indicates that the species is no longer endangered, and
 - b) the species is not likely to become endangered again because of loss of protection due to its removal from Appendix I.
4. Parties that are Range States of a migratory species listed in Appendix I shall endeavour:
 - a) to conserve and, where feasible and appropriate, restore those habitats of the species which are of importance in removing the species from danger of extinction;
 - b) to prevent, remove, compensate for or minimize, as appropriate, the adverse effects of activities or obstacles that seriously impede or prevent the migration of the species; and
 - c) to the extent feasible and appropriate, to prevent, reduce or control factors that are endangering or are likely to further endanger the species, including strictly controlling the introduction of, or controlling or eliminating, already introduced exotic species.
5. Parties that are Range States of a migratory species listed in Appendix I shall prohibit the taking of animals belonging to such species. Exceptions may be made to this prohibition only if:
 - a) the taking is for scientific purposes;
 - b) the taking is for the purpose of enhancing the propagation or survival of the affected species;
 - c) the taking is to accommodate the needs of traditional subsistence users of such species; or
 - d) extraordinary circumstances so require; provided that such exceptions are precise as to content and limited in space and time. Such taking should not operate to the disadvantage of the species.
6. The Conference of the Parties may recommend to the Parties that are Range States of a migratory species listed in Appendix I that they take further measures considered appropriate to benefit the species.

7. The Parties shall as soon as possible inform the Secretariat of any exceptions made pursuant to paragraph 3 of this Article.

ARTICLE IV

Migratory Species to be the Subject of AGREEMENTS: Appendix II

1. Appendix II shall list migratory species which have an unfavourable conservation status and which require international agreements for their conservation and management, as well as those which have a conservation status which would significantly benefit from the international co-operation that could be achieved by an international agreement.
2. If the circumstances so warrant, a migratory species may be listed both in Appendix I and Appendix II.
3. Parties that are Range States of migratory species listed in Appendix II shall endeavour to conclude AGREEMENTS where these would benefit the species and should give priority to those species in an unfavourable conservation status.
4. Parties are encouraged to take action with a view to concluding AGREEMENTS for any population or any geographically separate part of the population of any species or lower taxon of wild animals, members of which periodically cross one or more national jurisdictional boundaries.
5. The Secretariat shall be provided with a copy of each AGREEMENT concluded pursuant to the provisions of this Article.

ARTICLE V

Guidelines for AGREEMENTS

1. The object of each AGREEMENT shall be to restore the migratory species concerned to a favourable conservation status or to maintain it in such a status. Each AGREEMENT should deal with those aspects of the conservation and management of the migratory species concerned which serve to achieve that object.
2. Each AGREEMENT should cover the whole of the range of the migratory species concerned and should be open to accession by all Range States of that species, whether or not they are Parties to this Convention.
3. An AGREEMENT should, wherever possible, deal with more than one migratory species.
4. Each AGREEMENT should:
 - a) identify the migratory species covered;
 - b) describe the range and migration route of the migratory species;
 - c) provide for each Party to designate its national authority concerned with the implementation of the AGREEMENT;
 - d) establish, if necessary, appropriate machinery to assist in carrying out the aims of the AGREEMENT, to monitor its effectiveness, and to prepare reports for the Conference of the Parties;
 - e) provide for procedures for the settlement of disputes between Parties to the AGREEMENT; and
 - f) at a minimum, prohibit, in relation to a migratory species of the Order Cetacea, any taking that is not permitted for that migratory species under any other multilateral agreement and provide for accession to the AGREEMENT by States that are not Range States of that migratory species.
5. Where appropriate and feasible, each AGREEMENT should provide for but not be limited to:
 - a) periodic review of the conservation status of the migratory species concerned and the identification of the factors which may be harmful to that status;
 - b) co-ordinated conservation and management plans;
 - c) research into the ecology and population dynamics of the migratory species concerned, with special regard to migration;
 - d) the exchange of information on the migratory species concerned, special regard being paid to the exchange of the results of research and of relevant statistics;
 - e) conservation and, where required and feasible, restoration of the habitats of importance in maintaining a favourable conservation status, and protection of such habitats from disturbances, including strict control of the introduction of, or control of already introduced, exotic species detrimental to the migratory species;
 - f) maintenance of a network of suitable habitats appropriately disposed in relation to the migration routes;
 - g) where it appears desirable, the provision of new habitats favourable to the migratory species or reintroduction of the migratory species into favourable habitats;
 - h) elimination of, to the maximum extent possible, or compensation for activities and obstacles which hinder or impede migration;
 - i) prevention, reduction or control of the release into the habitat of the migratory species of substances harmful to that migratory species;
 - j) measures based on sound ecological principles to control and manage the taking of the migratory species;
 - k) procedures for co-ordinating action to suppress illegal taking;

- l) exchange of information on substantial threats to the migratory species;
- m) emergency procedures whereby conservation action would be considerably and rapidly strengthened when the conservation status of the migratory species is seriously affected; and
- n) making the general public aware of the contents and aims of the AGREEMENT.

ARTICLE VI

Range States

1. A list of the Range States of migratory species listed in Appendices I and II shall be kept up to date by the Secretariat using information it has received from the Parties.
2. The Parties shall keep the Secretariat informed in regard to which of the migratory species listed in Appendices I and II they consider themselves to be Range States, including provision of information on their flag vessels engaged outside national jurisdictional limits in taking the migratory species concerned and, where possible, future plans in respect of such taking.
3. The Parties which are Range States for migratory species listed in Appendix I or Appendix II should inform the Conference of the Parties through the Secretariat, at least six months prior to each ordinary meeting of the Conference, of measures that they are taking to implement the provisions of this Convention for these species.

ARTICLE VII

The Conference of the Parties

1. The Conference of the Parties shall be the decision-making organ of this Convention.
2. The Secretariat shall call a meeting of the Conference of the Parties not later than two years after the entry into force of this Convention.
3. Thereafter the Secretariat shall convene ordinary meetings of the Conference of the Parties at intervals of not more than three years, unless the Conference decides otherwise, and extraordinary meetings at any time on the written request of at least one-third of the Parties.
4. The Conference of the Parties shall establish and keep under review the financial regulations of this Convention. The Conference of the Parties shall, at each of its ordinary meetings, adopt the budget for the next financial period. Each Party shall contribute to this budget according to a scale to be agreed upon by the Conference. Financial regulations, including the provisions on the budget and the scale of contributions as well as their modifications, shall be adopted by unanimous vote of the Parties present and voting.
5. At each of its meetings the Conference of the Parties shall review the implementation of this Convention and may in particular:
 - a) review and assess the conservation status of migratory species;
 - b) review the progress made towards the conservation of migratory species, especially those listed in Appendices I and II;
 - c) make such provision and provide such guidance as may be necessary to enable the Scientific Council and the Secretariat to carry out their duties;
 - d) receive and consider any reports presented by the Scientific Council, the Secretariat, any Party or any standing body established pursuant to an AGREEMENT;
 - e) make recommendations to the Parties for improving the conservation status of migratory species and review the progress being made under AGREEMENTS;
 - f) in those cases where an AGREEMENT has not been concluded, make recommendations for the convening of meetings of the Parties that are Range States of a migratory species or group of migratory species to discuss measures to improve the conservation status of the species;
 - g) make recommendations to the Parties for improving the effectiveness of this Convention; and
 - h) decide on any additional measure that should be taken to implement the objectives of this Convention.
6. Each meeting of the Conference of the Parties should determine the time and venue of the next meeting.
7. Any meeting of the Conference of the Parties shall determine and adopt rules of procedure for that meeting. Decisions at a meeting of the Conference of the Parties shall require a two-thirds majority of the Parties present and voting, except where otherwise provided for by this Convention.
8. The United Nations, its Specialized Agencies, the International Atomic Energy Agency, as well as any State not a party to this Convention and, for each AGREEMENT, the body designated by the parties to that AGREEMENT, may be represented by observers at meetings of the Conference of the Parties.
9. Any agency or body technically qualified in protection, conservation and management of migratory species, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference of the Parties by observers, shall be

admitted unless at least one-third of the Parties present object:

- a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and
 - b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located.
- Once admitted, these observers shall have the right to participate but not to vote.

ARTICLE VIII

The Scientific Council

1. At its first meeting, the Conference of the Parties shall establish a Scientific Council to provide advice on scientific matters.
2. Any Party may appoint a qualified expert as a member of the Scientific Council. In addition, the Scientific Council shall include as members qualified experts selected and appointed by the Conference of the Parties; the number of these experts, the criteria for their selection and the terms of their appointments shall be as determined by the Conference of the Parties.
3. The Scientific Council shall meet at the request of the Secretariat as required by the Conference of the Parties.
4. Subject to the approval of the Conference of the Parties, the Scientific Council shall establish its own rules of procedure.
5. The Conference of the Parties shall determine the functions of the Scientific Council, which may include:
 - a) providing scientific advice to the Conference of the Parties, to the Secretariat, and, if approved by the Conference of the Parties, to any body set up under this Convention or an AGREEMENT or to any Party;
 - b) recommending research and the co-ordination of research on migratory species, evaluating the results of such research in order to ascertain the conservation status of migratory species and reporting to the Conference of the Parties on such status and measures for its improvement;
 - c) making recommendations to the Conference of the Parties as to the migratory species to be included in Appendices I or II, together with an indication of the range of such migratory species;
 - d) making recommendations to the Conference of the Parties as to specific conservation and management measures to be included in AGREEMENTS on migratory species; and
 - e) recommending to the Conference of the Parties solutions to problems relating to the scientific aspects of the implementation of this Convention, in particular with regard to the habitats of migratory species.

ARTICLE IX

The Secretariat

1. For the purposes of this Convention a Secretariat shall be established.
2. Upon entry into force of this Convention, the Secretariat is provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable intergovernmental or non-governmental, international or national agencies and bodies technically qualified in protection, conservation and management of wild animals.
3. If the United Nations Environment Programme is no longer able to provide the Secretariat, the Conference of the Parties shall make alternative arrangements for the Secretariat.
4. The functions of the Secretariat shall be:
 - a) to arrange for and service meetings:
 - i) of the Conference of the Parties, and
 - ii) of the Scientific Council;
 - b) to maintain liaison with and promote liaison between the Parties, the standing bodies set up under AGREEMENTS and other international organizations concerned with migratory species;
 - c) to obtain from any appropriate source reports and other information which will further the objectives and implementation of this Convention and to arrange for the appropriate dissemination of such information;
 - d) to invite the attention of the Conference of the Parties to any matter pertaining to the objectives of this Convention;
 - e) to prepare for the Conference of the Parties reports on the work of the Secretariat and on the implementation of this Convention;
 - f) to maintain and publish a list of Range States of all migratory species included in Appendices I and II;
 - g) to promote, under the direction of the Conference of the Parties, the conclusion of AGREEMENTS;
 - h) to maintain and make available to the Parties a list of AGREEMENTS and, if so required by the Conference of the Parties, to provide any information on such AGREEMENTS;
 - i) to maintain and publish a list of the recommendations made by the Conference of the Parties pursuant to sub-paragraphs (c), (f) and (g) of paragraph 5 of Article VII or of decisions made pursuant to sub-paragraph (h) of that paragraph;

- j) to provide for the general public information concerning this Convention and its objectives; and
- k) to perform any other function entrusted to it under this Convention or by the Conference of the Parties.

ARTICLE X

Amendment of the Convention

1. This Convention may be amended at any ordinary or extraordinary meeting of the Conference of the Parties.
2. Proposals for amendment may be made by any Party.
3. The text of any proposed amendment and the reasons for it shall be communicated to the Secretary at least one hundred and fifty days before the meeting at which it is to be considered and shall promptly be communicated by the Secretary to all Parties. Any comments on the text by the Parties shall be communicated to the Secretariat not less than sixty days before the meeting begins. The Secretariat shall, immediately after the last day for submission of comments, communicate to the Parties all comments submitted by that day.
4. Amendments shall be adopted by a two-thirds majority of Parties present and voting.
5. An amendment adopted shall enter into force for all Parties which have accepted it on the first day of the third month following the date on which two-thirds of the Parties have deposited an instrument of acceptance with the Depositary. For each Party which deposits an instrument of acceptance after the date on which two-thirds of the Parties have deposited an instrument of acceptance, the amendment shall enter into force for that Party on the first day of the third month following the deposit of its instrument of acceptance.

ARTICLE XI

Amendment of the Appendices

1. Appendices I and II may be amended at any ordinary or extraordinary meeting of the Conference of the Parties.
2. Proposals for amendment may be made by any Party.
3. The text of any proposed amendment and the reasons for it, based on the best scientific evidence available, shall be communicated to the Secretariat at least one hundred and fifty days before the meeting and shall promptly be communicated by the Secretariat to all Parties. Any comments on the text by the Parties shall be communicated to the Secretariat not less than sixty days before the meeting begins. The Secretariat shall, immediately after the last day for submission of comments, communicate to the Parties all comments submitted by that day.
4. Amendments shall be adopted by a two-thirds majority of Parties present and voting.
5. An amendment to the Appendices shall enter into force for all Parties ninety days after the meeting of the Conference of the Parties at which it was adopted, except for those Parties which make a reservation in accordance with paragraph 6 of this Article.
6. During the period of ninety days provided for in paragraph 5 of this Article, any Party may by notification in writing to the Depositary make a reservation with respect to the amendment. A reservation to an amendment may be withdrawn by written notification to the Depositary and thereupon the amendment shall enter into force for that Party ninety days after the reservation is withdrawn.

ARTICLE XII

Effect on International Conventions and Other Legislation

1. 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.
2. The provisions of this Convention shall in no way affect the rights or obligations of any Party deriving from any existing treaty, convention or agreement.
3. The provisions of this Convention shall in no way affect the right of Parties to adopt stricter domestic measures concerning the conservation of migratory species listed in Appendices I and II or to adopt domestic measures concerning the conservation of species not listed in Appendices I and II.

ARTICLE XIII

Settlement of Disputes

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of this Convention shall be subject to negotiation between the Parties involved in the dispute.
2. If the dispute cannot be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

ARTICLE XIV

Reservations

1. The provisions of this Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Article XI.
2. Any State or any regional economic integration organization may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to the presence on either Appendix I or Appendix II or both, of any migratory species and shall then not be regarded as a Party in regard to the subject of that reservation until ninety days after the Depositary has transmitted to the Parties notification that such reservation has been withdrawn.

ARTICLE XV

Signature

This Convention shall be open for signature at Bonn for all States and any regional economic integration organization until the twenty-second day of June 1980.

ARTICLE XVI

Ratification, Acceptance, Approval

This Convention shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Federal Republic of Germany, which shall be the Depositary.

ARTICLE XVII

Accession

After the twenty-second day of June 1980 this Convention shall be open for accession by all non-signatory States and any regional economic integration organization. Instruments of accession shall be deposited with the Depositary.

ARTICLE XVIII

Entry into Force

1. This Convention shall enter into force on the first day of the third month following the date of deposit of the fifteenth instrument of ratification, acceptance, approval or accession with the Depositary.
2. For each State or each regional economic integration organization which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fifteenth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the first day of the third month following the deposit by such State or such organization of its instrument of ratification, acceptance, approval or accession.

ARTICLE XIX

Denunciation

Any Party may denounce this Convention by written notification to the Depositary at any time. The denunciation shall take effect twelve months after the Depositary has received the notification.

ARTICLE XX

Depositary

1. The original of this Convention, in the English, French, German, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Depositary. The Depositary shall transmit certified copies of each of these versions to all States and all regional economic integration organizations that have signed the Convention or deposited instruments of accession to it.
2. The Depositary shall, after consultation with the Governments concerned, prepare official versions of the text of this Convention in the Arabic and Chinese languages.
3. The Depositary shall inform all signatory and acceding States and all signatory and acceding regional economic integration organizations and the Secretariat of signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of this Convention, amendments thereto, specific reservations and notifications of denunciation.
4. As soon as this Convention enters into force, a certified 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.

Resolution to include the Russian and the Spanish language

THE CONFERENCE,

NOTING that the Russian and Spanish texts of the Convention on the Conservation of Migratory Species of Wild Animals must be properly prepared and included as an authentic text of this Convention,

RESOLVES:

That the Government of the Federal Republic of Germany, as host to the Conference, shall be invited to arrange for the preparation of the

texts of the Convention on the Conservation of Migratory Species of Wild Animals in the Russian and Spanish languages, and communicate such Russian and Spanish texts to all States participating in this Conference with a statement that any comments or suggestions regarding the conformity of the texts with other authentic texts are to be communicated to the Government of the Federal Republic of Germany within one month after the date on which the texts are transmitted to the participating States. The Government of the Federal Republic of Germany shall thereupon take into account any comments and suggestions received during the said one-month period and after resolving any inconsistencies, shall transmit the Russian and Spanish texts to the Depositary which shall include those texts in the text of the Convention.

Resolution on financial matters

THE CONFERENCE,

REFERRING to Article VII and NOTING that Article IX of the Convention on the Conservation of Migratory Species of Wild Animals indicates that the United Nations Environment Programme shall provide a Secretariat upon the entry into force of the Convention;

RECOGNIZING that the Parties to the Convention shall bear responsibility for the financing of the administration of the Convention; WELCOMING the offer by the United Nations Environment Programme to provide a Secretariat and to make an initial contribution, as appropriate, in order to meet the expenses of the Secretariat during the first four years after the entry into force of the Convention;

EXPRESSING the view that it would be useful for the Secretariat to cooperate closely with the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora in order to benefit from the experience already gained by said Secretariat;

AWARE of the fact that a final decision on the catalytic role which may be conferred on the United Nations Environment Programme in starting up a Secretariat for the Convention has to be taken by the Governing Council at its eighth session in the spring of 1980,

1. REQUESTS the Depositary to fulfil interim Secretariat functions until the entry into force of the Convention;
2. REQUESTS the Executive Director of the United Nations Environment Programme to consider the inclusion within the frame of the limited initial contribution from the United Nations Environment Programme, and in line with its catalytic role, of the funds required to finance a first meeting of the Conference of the Parties;
3. DECIDES, in the event that the United Nations Environment Programme cannot provide a Secretariat:
 - a) to invite the Parties to the Convention to communicate to the Depositary alternative proposals for consideration at the first meeting of the Conference of the Parties;
 - b) to request the Depositary to transmit to the Parties such alternative proposals at least ninety days in advance of the first meeting of the Conference of the Parties;
 - c) to invite the Depositary to continue fulfilling interim Secretariat functions pending consideration of this matter at the first meeting of the Conference of the Parties;
4. DECIDES that the Depositary, in fulfilling interim Secretariat functions, may request the assistance of intergovernmental or non-governmental, international or national agencies and bodies technically qualified in the protection, conservation and management of wild animals.

Resolution on assistance to developing countries

THE CONFERENCE,

RECOGNIZING the sacrifices made by developing countries for the maintenance, restoration and improvement of the habitats of migratory species of wild animals;

RECOGNIZING also that implementation of the Convention on the Conservation of Migratory Species of Wild Animals and any Agreement made pursuant to the Convention regarding the conservation and management of species covered therein, depends on the collection and analysis of scientific data relating to the distribution, ecology, population dynamics and conservation status of migratory species;

CONSCIOUS that an important element of development lies in the conservation and management of living natural resources and that migratory species constitute a significant part of these resources; AWARE that implementation of the Convention in some developing countries will necessitate assistance in research on conservation and management of migratory species and their habitats and in the establishment or expansion of appropriate scientific and administrative institutions,

REQUESTS the Parties to the Convention to promote financial, technical and training assistance in support of the conservation efforts made by developing countries;

URGES international and national organizations to give priority to their aid programmes relating to the management and conservation of migratory species of wild animals and their habitats in developing countries, enabling these countries better to pursue efforts for the conservation of these species for the purpose of implementing the Convention.

Interpretation

- Migratory species included in this Appendix are referred to:
 - by the name of the species or subspecies; or
 - as being all of the migratory species included in a higher taxon or designated part thereof.
 Unless otherwise indicated, where reference is made to a taxon higher than species, it is understood that all the migratory species within that taxon could significantly benefit from the conclusion of AGREEMENTS
- The abbreviation "spp." following the name of a Family or Genus is used to denote all migratory species within that Family or Genus.
- Other references to taxa higher than species are for purposes of information or classification only.
- The abbreviation "(s.l.)" is used to denote that the scientific name is used in its extended meaning
- The symbol (+) followed by a number placed against the name of a species or higher taxon denotes that only designated geographically separate populations of that taxon are included in this Appendix as follows
+ 201 Asian populations
- An asterisk (*) placed against the name of a species or higher taxon indicates that the species or a separate population of that species or one or more species included in that higher taxon, are included in Appendix I.

	Mammalia	Galliformes	
Cetacea		Phasianidae	<i>Coturnix</i> + <i>Coturnix coturnix</i>
Monodontidae	<i>Delephinapterus leucas</i>	Grufiformes	
Proboscidae		Gruidae	<i>Grus</i> spp. *
Elephantidae	<i>Loxodonta africana</i>	Otididae	<i>Anthropoides virgo</i> <i>Chlamydohis undulata</i> * + 201
Sirenia		Charadriiformes	
Dugongidae	<i>Dugong dugon</i>	Charadriidae	spp.
Pinnipedia		Scolopacidae	spp. *
Phocidae	<i>Monachus monachus</i> *	Recurvirostridae	spp.
Artiodactyla		Phalaropodidae	spp.
Camelidae	<i>Lama vicugna</i> *	Passeriformes	
Bovidae	<i>Oryx dammah</i> <i>Gazella gazella</i> + 201	Muscicapidae (s.l.)	spp.
	Aves	Testudines	
Pelecaniformes		Cheloniidae	spp. *
Pelecanidae	<i>Pelecanus crispus</i>	Dermochelidae	spp. *
Ciconiiformes		Pelomedusidae	<i>Podocnemis expansa</i> *
Ciconiidae	<i>Ciconia ciconia</i> <i>Ciconia nigra</i>	Crocodylia	
Threskiornithidae	<i>Platalea leucorodia</i>	Crocodylidae	<i>Crocodilus porosus</i>
Phoenicopteridae	spp.		
Anseriformes			Pisces
Anatidae	spp. *	Acipenseriformes	
Falconiformes		Acipenseridae	<i>Acipenser fulvescens</i>
Cathartidae	spp.		
Pandionidae	<i>Pandion haliaetus</i>		Insecta
Accipitridae	spp. *	Lepidoptera	
Falconidae	spp.	Danadae	<i>Danaus plexippus</i>

