

**PROTOCOL CONCERNING REGIONAL CO-OPERATION
IN COMBATING POLLUTION BY OIL AND OTHER HARMFUL
SUBSTANCES IN CASES OF EMERGENCY**

The Contracting States

Being Parties to the Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (hereinafter referred to as "the Convention"),

Conscious of the particular urgency to realize the ever present potentiality of emergencies which may result in substantial pollution by oil and other harmful substances and to provide co-operative and effective measures to deal with them,

Being aware that existing measures for responding to pollution emergencies need to be enhanced on a national and regional basis to deal with this problem in a comprehensive manner for the benefit of the Region,

Have agreed as follows:

ARTICLE I

For the purposes of this Protocol:

- (1) "Appropriate Authority" means either the National Authority defined in Article I of the Convention, or the authority or authorities within the Government of a Contracting State, designated by the National Authority and responsible for:
 - (a) Combating and otherwise operationally responding to marine emergencies;
 - (b) Receiving and co-ordinating information of particular marine emergencies;
 - (c) Co-ordinating available national capabilities for dealing with marine emergencies in general within its own Government and with other Contracting States;
- (2) "Marine Emergency" means any casualty, incident, occurrence or situation, however caused, resulting in substantial pollution or imminent threat of substantial pollution to the marine environment by oil or other

harmful substances and includes, *inter alia*, collisions, strandings and other incident involving ships, including tankers, blow-outs arising from petroleum drilling and production activities, and the presence of oil or other harmful substances arising from the failure of industrial installations;

- (3) "Marine Emergency Contingency Plan" means a plan or plans, prepared on a national, bilateral or multilateral basis, designed to co-ordinate the deployment, allocation and use of personnel, material and equipment for the purpose of responding to marine emergencies;
- (4) "Marine Emergency Response" means any activity intended to prevent, mitigate or eliminate pollution by oil or other harmful substances or threat of such pollution resulting from marine emergencies;
- (5) "Related Interests" means the interests of a Contracting State directly or indirectly affected or threatened by a marine emergency, such as:
 - (a) Maritime, coastal, port or estuary activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
 - (b) Historic and 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;
 - (d) Industrial activities which rely upon intake of water, including distillation plants, and industrial plants using circulating water;
- (6) "Convention" means the Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution;
- (7) "Sea Area" means the area specified in paragraph (a) of Article II of the Convention;
- (8) "Council" means the organ of the Regional Organization for the Protection of the Marine Environment established under Article XVI of the Convention;
- (9) "Centre" means the Marine Emergency Mutual Aid Centre established under Article III, paragraph 1 of the present Protocol;

ARTICLE II

1. The Contracting States shall co-operate in taking the necessary and effective measures to protect the coastline and related interests of one or more of the States from the threat and effects of pollution due to the presence of oil or other harmful substances in the marine environment resulting from marine emergencies.
2. The Contracting States shall endeavour to maintain and promote, either individually or through bilateral or multilateral co-operation, their contingency plans and means for combating pollution in the Sea Area by oil and other harmful substances. These means shall include, in particular, available equipment, ships, aircraft and manpower prepared for operations in cases of emergency.

ARTICLE III

1. The Contracting States hereby establish the Marine Emergency Mutual Aid Centre.
2. The objectives of the Centre shall be:
 - (a) To strengthen the capacities of the Contracting States and to facilitate co-operation among them in order to combat pollution by oil and other harmful substances in cases of marine emergencies;
 - (b) To assist Contracting States, which so request, in the development of their own national capabilities to combat pollution by oil and other harmful substances and to co-ordinate and facilitate information exchange, technological co-operation and training;
 - (c) A later objective, namely the possibility of initiating operations to combat pollution by oil and other harmful substances at the regional level, may be considered. This possibility should be submitted for approval by the Council after evaluating the results achieved in the fulfillment of the previous objectives and in the light of financial resources which could be made available for this purpose;
3. The function of the Centre shall be:
 - (a) To collect and disseminate to the Contracting States information concerning matters covered by this Protocol, including:

- (i) Laws, regulations and information concerning appropriate authorities of the Contracting States and marine emergency contingency plans referred to in Article V of this Protocol;
 - (ii) Information concerning methods, techniques and research relating to marine emergency response referred to in Article VI of this Protocol; and
 - (iii) List of experts, equipment and materials available for marine emergency responses by the Contracting States;
- (b) To assist the Contracting States, as requested:
- (i) In the preparation of laws and regulations concerning matters covered by this Protocol and in the establishment of appropriate authorities;
 - (ii) In the preparation of marine emergency contingency plans;
 - (iii) In the establishment of procedures under which personnel, equipment and materials involved in marine emergency responses may be expeditiously transported into, out of, and through their respective countries;
 - (iv) In the transmission of reports concerning marine emergencies; and
 - (v) In promoting and developing training programmes for combating pollution;
- (c) To coordinate training programmes for combating pollution and prepare comprehensive anti-pollution manuals;
- (d) To develop and maintain a communication/information system appropriate to the needs of the Contracting States and the Centre for the prompt exchange of information concerning marine emergencies required by this Protocol;
- (e) To prepare inventories of the available personnel, material, vessels, aircraft, and other specialized equipment for marine emergency responses;
- (f) To establish and maintain liaison with competent regional and international organizations, particularly the Inter-Governmental Maritime Consultative Organization, for the purposes of obtaining

and exchanging scientific and technological information and data, particularly in regard of any new innovation which may assist the Centre in the performance of its functions;

(g) To prepare periodic reports on marine emergencies for submission to the Council; and

(h) To perform any other functions assigned to it either by this Protocol or by the Council.

4. The Centre may fulfill additional functions necessary for initiating operations to combat pollution by oil and other harmful substances on a regional level, when authorized by the council, in accordance with paragraph 2 (c) above.

ARTICLE IV

1. The present Protocol shall apply to the Sea Area specified in paragraph (a) of Article II of the Convention.
2. For the purposes of dealing with a marine emergency, ports, harbours, estuaries, bays and lagoons may be treated as part of the Sea Area if the concerned Contracting State so decides.

ARTICLE V

Each Contracting State shall provide the Centre and the other Contracting States with information concerning:

- (a) Its appropriate authority;
- (b) Its laws, regulations, and other legal instruments relating generally to matters addressed in this Protocol, including those concerning the structure and operation of the authority referred to in paragraph (a) above;
- (c) Its national marine emergency contingency plans.

ARTICLE VI

Each Contracting State shall provide to other Contracting States and the Centre information concerning:

- (a) Existing and new methods, techniques, materials, and procedures relating to marine emergency response;

- (b) Existing and planned research and developments in the areas referred to in paragraph (a) above; and
- (c) Results of research and developments referred to in paragraph (b) above.

ARTICLE VII

1. Each Contracting State shall direct its appropriate officials to require masters of ships, pilots of aircraft and persons in charge of offshore platforms and other similar structures operating in the marine environment and under its jurisdiction to report the existence of any marine emergency in the Sea Area to the appropriate national authority and to the Centre.
2. Any Contracting State receiving a report pursuant to paragraph 1 above shall promptly inform the following of the marine emergency:
 - (a) The Centre;
 - (b) All other Contracting States;
 - (c) The flag state of any foreign ship involved in the marine emergency concerned.
3. The content of the reports, including supplementary reports where appropriate, referred to in paragraph 1 above should conform to Appendix A to this Protocol.
4. Any Contracting State which submits a report pursuant to paragraphs 2 (a) and (b) above, shall be exempted from the obligations specified in paragraph (b) of Article IX of the Convention.

ARTICLE VIII

The Centre shall promptly transmit information and reports which it receives from a Contracting State pursuant to Articles V, VI and paragraph 2 of Article VII of this Protocol to all other Contracting States.

ARTICLE IX

Any Contracting State which transmits information pursuant to this Protocol may specifically restrict its dissemination. In such a case, any Contracting State or the Centre to whom this information has been transmitted shall not divulge it

to any other person, Government, or to any public or private organization without the specific authorization of the former Contracting State.

ARTICLE X

Any Contracting State faced with a marine emergency situation as defined in Paragraph 2 of Article I of this Protocol shall:

- (a) Take every appropriate measure to combat pollution and/or to rectify the situation;
- (b) Immediately inform all other Contracting States, either directly or through the Centre, of any action which it has taken or intends to take to combat the pollution. The Centre shall promptly transmit any such information to all other Contracting States;
- (c) Make assessment of the nature and extent of the marine emergency, either directly or with the assistance of the Centre;
- (d) Determine the necessary and appropriate action to be taken with respect to the marine emergency, in consultation, where appropriate, with other Contracting States, affected States and the Centre.

ARTICLE XI

1. Any Contracting State requiring assistance in a marine emergency response may call for assistance directly from any other Contracting State or through the Centre. Where the services of the Centre are utilized, the Centre shall promptly transmit requests received to all other Contracting States. The Contracting States to whom a request is made pursuant to this paragraph shall use their best endeavours within their capabilities to render the assistance requested.
2. The assistance referred to in paragraph 1 above may include:
 - (a) Personnel, materials and equipment, including facilities or methods for the disposal of recovered pollutant;
 - (b) Surveillance and monitoring capacity;
 - (c) Facilitation of the transfer of personnel, material and equipment into, out of, and through the territories of the Contracting States.

3. The services of the Centre may be utilized by the Contracting States to co-ordinate any marine emergency response in which assistance is called for pursuant to paragraph 1 above.
4. Any Contracting State calling for assistance pursuant to paragraph 1 above shall report the activities undertaken with this assistance and its results to the Centre. The Centre shall promptly transmit any such report to all other Contracting States.
5. In cases of special emergencies, the Centre may call for the mobilization of resources made available by the Contracting States to combat pollution by oil and other harmful substances.

ARTICLE XII

1. Having due regard to the functions assigned to the Centre under this Protocol. Each Contracting State shall establish and maintain an appropriate authority to carry out fully its obligations under this Protocol. With the assistance of the Centre, where appropriate, the appropriate authority of each Contracting State shall co-operate and co-ordinate its activities with counterparts in the other Contracting States.
2. Among other matters with respect to which co-operation and co-ordination efforts shall be directed under paragraph 1 above are the following:
 - (a) Distribution and allocation of stocks of materials and equipment;
 - (b) Training of personnel for marine emergency response;
 - (c) Marine pollution surveillance and monitoring activities;
 - (d) Methods of communication in respect of marine emergencies;
 - (e) Facilitation of the transfer of personnel equipment and materials involved in marine emergency responses into, out of, and through the territories of the Contracting States;
 - (f) Other matters to which this Protocol applies.

ARTICLE XIII

The Council Shall:

- (a) Review periodically the activities of the Centre performed under this Protocol;
- (b) Decide on the degree to which, and stages by which, the functions of the Centre set out in Article III will be implemented; and
- (c) Determine the financial, administrative and other support to be provided by the Contracting States to the Centre for the performance of its functions.

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

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 this Protocol, the English text shall be dispositively authoritative.

APPENDIX A

Guidelines for the report to be made pursuant to Article VII of the Protocol

1. Each report shall, as far as possible, contain, in general:
 - (a) The identification of the source of pollution (e.g. identity of the ship), where appropriate;
 - (b) The geographic position, time and date of the occurrence of the incident or of the observation;
 - (c) The marine meteorological conditions prevailing in the area;
 - (d) Where the pollution originates from a ship, relevant details respecting the condition of the ship

2. Each report shall contain, whenever possible, in particular:
 - (a) A clear indication or description of the harmful substances involved, including 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 condition of harmful substance discharged or likely to be discharged into the Sea;
 - (c) Where relevant, a description of the packaging and identifying marks; and
 - (d) The name of the consignor, consignee or producer.

3. Each report shall clearly indicate, whenever possible, whether the harmful substance discharged or likely to be discharged is oil or a noxious liquid, solid or gaseous substance, and whether such substance was or is carried in bulk or contained packaged form, freight containers, portable tanks, or submarine pipelines.

4. Each report shall be supplemented, as necessary, by any relevant information requested by a recipient of the report or deemed appropriate by the person sending the report.

5. Any of the persons referred to in article VII, paragraph 1 of this Protocol shall:
 - (a) Supplement as far as possible 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.