

**PROTOCOL CONCERNING CO-OPERATION
IN COMBATING MARINE POLLUTION IN CASES OF
EMERGENCY IN THE EASTERN AFRICAN REGION**

The Contracting Parties to the present Protocol,

Being Contracting parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African region, done at Nairobi on 21 June 1985,

Conscious that the use of the Eastern African region and adjacent areas for vessel traffic, oil production and refining activities poses the risk of major spillages of oil and other harmful substances and the subsequent serious threat to the marine and coastal environment and related interests of the States of the region,

Noting the International Maritime Organization's Assembly Resolution A.448(XI) which recognizes that regional anti-pollution arrangements are a valuable and economical way of supplementing national arrangements for the effective combating of major spillages of oil and other harmful substances in cases of emergency,

Recognizing that in the event of major spillages of oil and other harmful substances or threat thereof, prompt and effective action should be taken, initially at the local level, to mitigate the effects or eliminate the threat,

Further recognizing that for major spillages mutual assistance, and in some cases, assistance from the international community at large will be required, and that such assistance should be organized in advance so as to be timely and effective,

Aware of existing agreements and arrangements which have already been concluded in other regions for co-operation in dealing with spillages of oil and other harmful substances,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Protocol:

(a) "Eastern African region" means the Convention area as defined in paragraph (a) of article 2 of the Convention. It shall also include the coastal areas of the Contracting Parties and their internal waters related to the marine and coastal environment;

(b) "Convention" means the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region;

(c) "Organization" means the body referred to in paragraph (c) of article 2 of the Convention;

(d) "Marine pollution incident" means a discharge or spillage of oil or other harmful substance into the marine environment, or a significant threat of such a discharge or spillage, however caused, of a magnitude that requires emergency action or other immediate response for the purpose of minimizing its effects or eliminating the threat;

(e) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

(f) "Harmful substances" means any substance other than oil which, if introduced into the sea creates hazards to human health, harms living resources and marine life, damages amenities or interferes with other legitimate uses of the sea;

(g) "Related interests" means the interests of a Contracting Party directly affected or threatened by oil or other harmful substances and concerning, among others:

- (i) The health of the coastal population;
- (ii) Maritime, coastal, port or estuarine activities;
- (iii) Fishing activities and the conservation of natural resources;
- (iv) The historical and tourist appeal of the area in question, including water sports and recreation.

Article 2

APPLICATION

This Protocol applies to marine pollution incidents which have resulted in or which pose a significant threat of, pollution to the marine and coastal environment of the Eastern African region or which adversely affect the related interests of one or more of the Contracting Parties.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties shall, within their capabilities, co-operate in taking all necessary measures, both preventive and remedial, for the protection of the marine and coastal environment of the Eastern African region from marine pollution incidents.

2. The Contracting Parties shall, within their capabilities, establish and maintain the means of responding to marine pollution incidents and shall endeavour to reduce the risk thereof. Such means shall include the

enactment, as necessary, of relevant legislation, the preparation of contingency plans, the identification and development of the capability to respond to marine pollution incidents and the designation of a national authority with overall responsibility for the implementation of this Protocol.

Article 4

EXCHANGE OF INFORMATION

Each Contracting Party shall periodically exchange with the other Contracting Parties up-to-date information relating to the implementation of this Protocol, including the identity of the authorities responsible for such implementation, and information on their laws, regulations, institutions and operational procedures relating to the prevention of a marine pollution incident and to the means of reducing and combating the harmful effects of such incidents.

Article 5

COMMUNICATION OF INFORMATION CONCERNING, AND REPORTING OF, MARINE POLLUTION INCIDENTS

1. Each Contracting Party shall establish appropriate procedures to ensure that information regarding marine pollution incidents is reported as rapidly as possible, and shall, *inter alia*:

(a) Require its appropriate officials, masters of ships flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it any marine pollution incident involving their ships or facilities;

(b) Request masters of all ships and pilots of all aircraft operating in the vicinity of its coasts to report to it any marine pollution incident of which they are aware.

2. Guidelines to be followed in preparing the report to be made pursuant to paragraph 1 are given in the annex to this Protocol.

3. In the event of receiving a report regarding a marine pollution incident, a Contracting Party shall immediately notify all other Contracting Parties whose interests are likely to be affected by such an incident, as well as the flag State of any ship involved in it. The Contracting Party shall also inform the Organization and the competent international organizations. Furthermore, as soon as feasible, it shall inform such Contracting Parties, the Organization and competent international organizations of measures it has taken to minimize or reduce marine pollution or the threat thereof.

Article 6

MUTUAL ASSISTANCE

1. Each Contracting Party shall render assistance, within its available capabilities, to other Contracting Parties which request assistance of it in the event of a marine pollution incident, as appropriate, within the

framework of joint response action agreed between or among the requesting and assisting Contracting Parties and taking into account, in the event of a marine pollution incident involving harmful substances other than oil, the available technology.

2. Each Contracting Party shall, subject to its laws and regulations, facilitate the movement into, through and out of its territory of technical personnel, equipment and material necessary for responding to a marine pollution incident.

Article 7

OPERATIONAL MEASURES

Each Contracting Party shall, within its capabilities, take all necessary steps, including those outlined below, to respond to a marine pollution incident:

(a) Make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;

(b) Promptly communicate notification of the incident pursuant to article 5;

(c) Promptly determine its ability to take effective measures to respond to the incident and the assistance that might be required;

(d) Consult, as appropriate, with other Contracting Parties concerned in the process of determining the necessary response to the incident;

(e) Take the measures necessary to prevent, reduce or eliminate the effects of the incident, including monitoring of the situation.

Article 8

SUBREGIONAL ARRANGEMENTS

1. With a view to facilitating the implementation of the provisions of this Protocol, and in particular articles 6 and 7, the Contracting Parties shall conclude appropriate bilateral or multilateral subregional arrangements.

2. Contracting Parties to this Protocol which enter into such subregional arrangements shall notify the other Contracting Parties, as well as the Organization, of the conclusion and the content of such arrangements.

Article 9

INSTITUTIONAL ARRANGEMENTS

The Contracting Parties designate the Organization to carry out, in co-operation with the International Maritime Organization, the following functions:

(a) Assisting Contracting Parties, upon request, in the following areas:

(i) The preparation, periodic review and updating of the contingency plans referred to in paragraph 2 of article 3, with a view, *inter alia*, to promoting the compatibility of the plans of the Contracting Parties; and

(ii) Publicizing training courses, programmes and material.

(b) Assisting the Contracting Parties, upon request, on a regional basis, in the following areas:

(i) The co-ordination of regional emergency response activities; and

(ii) The provision of a forum for discussion of such activities and related topics.

(c) Establishing and maintaining liaison with:

(i) Competent regional and international organizations; and

(ii) Appropriate entities conducting activities in the Eastern African region including major oil producers, refiners, clean-up contractors and co-operatives for marine pollution incidents, and transporters of oil and other harmful substances.

(d) Maintaining a current inventory of equipment, materials and expertise readily available in the Eastern African region to deal with a marine pollution incident;

(e) Disseminating information on the prevention and combating of marine pollution incidents;

(f) Identifying or maintaining means for marine emergency response communications;

(g) Encouraging research by the Contracting Parties, competent international organizations and appropriate entities on marine pollution-related matters, including the environmental impacts of spillages of oil and other harmful substances and materials and techniques used for combating such spillages;

(h) Assisting the Contracting Parties in the exchange of information pursuant to article 4; and

(i) Preparing reports and carrying out other duties assigned to it by the Contracting Parties.

Article 10

MEETINGS OF THE CONTRACTING PARTIES

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 17 of the Convention. The Contracting Parties to this Protocol may hold extraordinary meetings as provided for in article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties:

(a) To review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness; and

(b) To consider measures to improve co-operation under this Protocol including, in accordance with article 19 of the Convention, possible amendments to this Protocol.

Article 11

RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to its protocols shall apply to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 21 of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

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

DONE AT Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in a single copy in the English and French languages, the two texts being equally authentic.

ANNEX

Guidelines for the report to be made pursuant to article 5, paragraph 1, of this Protocol

1. Each report shall, as far as possible, contain:

(a) The identification of the source of pollution (e.g. identity of the ship, fixed or floating platform or any other structure), where appropriate;

(b) The geographic position, time and date of the observation or of the occurrence of the incident;

(c) The marine meteorological conditions prevailing in the area.

2. Each report shall contain, whenever possible, in particular:

(a) A clear indication or description of oil or other harmful substances involved;

(b) A statement or estimate of the quantities, concentrations, nature (oil or a noxious liquid, solid or gaseous substance) and likely conditions of oil or other harmful substances discharged or likely to be discharged into the sea.

3. 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.

4. Any of the persons referred to in article 5, 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.

APPENDIX

**Status as at 22 June 1985 of the Convention for the Protection, Management and Development
of the Marine and Coastal Environment of the Eastern African Region and related protocols**

<i>Parties</i>	<i>Convention</i>		<i>Protocol on Protected Areas^a</i>		<i>Protocol on Pollution Emergencies^b</i>	
	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>	<i>Signature</i>	<i>Ratification</i>
Comoros	—	—	—	—	—	—
France.....	22 June 85	—	22 June 85	—	22 June 85	—
Kenya	—	—	—	—	—	—
Madagascar.....	22 June 85	—	22 June 85	—	22 June 85	—
Mauritius.....	—	—	—	—	—	—
Mozambique	—	—	—	—	—	—
Seychelles	22 June 85	—	22 June 85	—	22 June 85	—
Somalia	22 June 85	—	22 June 85	—	22 June 85	—
United Republic of Tanzania	—	—	—	—	—	—
European Economic Community	—	—	—	—	—	—

^a Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region.

^b Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region.

