

# 1978 KUWAIT REGIONAL CONVENTION FOR CO-OPERATION ON THE PROTECTION OF THE MARINE ENVIRONMENT FROM POLLUTION

*Adopted in Kuwait on 24 April 1978*

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## **1978 KUWAIT REGIONAL CONVENTION FOR CO-OPERATION ON THE PROTECTION OF THE MARINE ENVIRONMENT FROM POLLUTION**

*Adopted in Kuwait on 24 April 1978*

The Government of the State of Bahrain,

The Imperial Government of Iran, (since 1979 – Islamic Republic 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-water 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 Dharbat Ali (16° 39' N, 53° 3' 30" E) to a position 16° 00' N, 53° 25' E; thence through the following positions: 17° 00' N, 56° 30' E and 20° 30' N, 60° 00' E to Ras Al-Fasteh (25° 04' N, 61° 02' 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 harmonize their national policies in this regard and for this purpose appoint the National Authority.
- (d) The Contracting States shall co-operate with the competent international, regional and subregional 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 intentional 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 SUBSOIL 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 subsoil 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 coordinate 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 on 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 coordination 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 Organization 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 XXX. 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 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 a 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 III 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 XXX 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 subparagraph;
  - (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 subparagraph.
- (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 XXII**

### **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 XXIII**

### **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 practical 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 Depositary.

## **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 Depositary.
- (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 the 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 State 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.