

# 1986 PROTOCOL CONCERNING CO-OPERATION IN COMBATING POLLUTION EMERGENCIES IN THE SOUTH PACIFIC REGION

*Adopted in Noumea, New Caledonia on 25 November 1986*

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The Parties to this Protocol,

Being Parties to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

Conscious that the exploration, development and use of offshore and near shore minerals and the use of hazardous substances, as well as related vessel traffic, pose the threat of significant pollution emergencies in the South Pacific Region;

Aware that the islands of the region are particularly vulnerable to damage resulting from significant pollution due to the sensitivity of their ecosystems and their economic reliance on the continuous utilization of their coastal areas;

Recognizing that in the event of a pollution emergency or threat thereof, prompt and effective action should be taken initially at the national level to organise and co-ordinate prevention, mitigation and cleanup activities;

Recognizing further the importance of rational preparation and mutual co-operation and assistance in responding effectively to pollution emergencies or the threat thereof;

Determined to avert ecological damage to the marine environment and coastal areas of the South Pacific Region through the adoption of national contingency plans to be co-ordinated with appropriate bilateral and sub-regional contingency plans;

Have agreed as follows:

## ARTICLE 1 DEFINITIONS

For the purposes of this Protocol:

- (a) "Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on twenty-fourth day of November in the year one thousand nine hundred and eighty-six;
- (b) "South Pacific Region" means the Convention Area as defined in Article 2 of the Convention and adjacent coastal areas;
- (c) "related interests" of a Party refer, inter alia, to:
  - (i) maritime, coastal, port, or estuarine activities;
  - (ii) fishing activities and the management and conservation of living and non-living marine resources, including coastal ecosystems;

- (iii) the cultural value of the area concerned and the exercise of traditional customary rights therein;
  - (iv) the health of the coastal population;
  - (v) tourist and recreational activities;
- (d) "pollution incident" means a discharge or significant threat of a discharge of oil or other hazardous substance, however caused, resulting in pollution or an imminent threat of pollution to the marine and coastal environment or which adversely affects the related interests of one or more of the Parties and of a magnitude that requires emergency action or other immediate response for the purpose of minimizing its effects or eliminating its threat.

## **ARTICLE 2 APPLICATION**

This Protocol applies to pollution incidents in the South Pacific Region.

## **ARTICLE 3 GENERAL PROVISIONS**

1. The Parties to this Protocol shall, within their respective capabilities, co-operate in taking all necessary measures for the protection of the South Pacific Region from the threat and effects of pollution incidents.
2. The Parties shall, within their respective capabilities, establish and maintain, or ensure the establishment and maintenance of, the means of preventing and combating pollution incidents, and reducing the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the development or strengthening of the capability to respond to a pollution incident and the designation of a national authority responsible for the implementation of this Protocol.

## **ARTICLE 4 EXCHANGE OF INFORMATION**

Each Party shall periodically exchange with other Parties, either directly or through the Organisation, current information relating to the implementation of this Protocol, including the identification of the officials charged with carrying out the activities covered by it, and information on its laws, regulations, institutions and operational procedures relating to the prevention and the means of reducing and combating the harmful effects of pollution incidents.

## **ARTICLE 5 COMMUNICATION OF INFORMATION CONCERNING, AND REPORTING OF, POLLUTION INCIDENTS**

1. Each Party shall establish appropriate procedures to ensure that information regarding pollution incidents is reported as rapidly as possible and shall, inter alia:
  - (a) require appropriate officials of its government to report to it the occurrence of any pollution incident which comes to their attention;

- (b) require masters of vessels flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it the existence of any pollution incident involving their vessel or facilities;
  - (c) establish procedures to encourage masters of vessels flying its flag or of its registry to report, to the extent practicable, the existence of any pollution incident involving their vessel to any coastal State in the South Pacific Region which they deem likely to be seriously affected;
  - (d) request masters of all vessels and pilots of all aircraft operating in the vicinity of its coasts to report to it any pollution incident of which they are aware.
2. In the event of receiving a report regarding a pollution incident, each Party shall promptly inform all other Parties whose interests are likely to be affected by such incident as well as the flag State of any vessel involved in it. Each Party shall also inform the Organisation and, directly or through the Organisation, the competent international organisations. Furthermore, it shall inform, as soon as feasible, such other Parties and organisations of any measures it has itself taken to minimize or reduce pollution or the threat thereof.

## **ARTICLE 6 MUTUAL ASSISTANCE**

1. Each Party requiring assistance to deal with a pollution incident may request, either directly or through the Organisation, the assistance of the other Parties. The Party requesting assistance shall specify the type of assistance it requires. The Parties whose assistance is requested under this article shall, within their capabilities, provide this assistance based on an agreement with the requesting Party or Parties and taking into account, in particular in the case of pollution by hazardous substances other than oil, the technological means available to them. If the Parties responding jointly within the framework of this article so request, the Organisation may co-ordinate the activities undertaken as a result.
2. Each Party shall facilitate the movement of technical personnel, equipment and material necessary for responding to a pollution incident, into, out of and through its territory.

## **ARTICLE 7 OPERATIONAL MEASURES**

Each Party shall, within its capabilities, take steps including those outlined below in responding to a pollution incident:

- (a) make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;
- (b) promptly communicate information concerning the situation to other Parties and the Organisation pursuant to article 5;
- (c) promptly determine its ability to take effective measures to respond to the pollution incident and the assistance that might be required and to communicate any request for such assistance to the Party or Parties concerned or the Organisation in accordance with article 6;

- (d) consult, as appropriate, with other affected or concerned Parties or the Organisation in determining the necessary response to a pollution incident;
- (e) carry out the necessary measures to prevent, eliminate or control the effects of the pollution incident, including surveillance and monitoring of the situation.

## **ARTICLE 8**

### **SUB-REGIONAL ARRANGEMENTS**

1. The Parties should develop and maintain appropriate sub-regional arrangements, bilateral or multilateral, in particular to facilitate the steps provided for in articles 6 and 7 and taking into account the general provisions of this Protocol.
2. The Parties to any arrangements shall notify the other Parties to this Protocol as well as the Organisation of the conclusion of such sub-regional arrangements and the provisions thereof.

## **ARTICLE 9**

### **INSTITUTIONAL ARRANGEMENTS**

The Parties designate the Organisation to carry out the following functions:

- (a) assisting Parties, upon request, in the communication of reports of pollution incidents in accordance with article 5;
- (b) assisting Parties, upon request, in the organisation of a response action to a pollution incident, in accordance with article 6;
- (c) assisting 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 Parties; and
  - (ii) the identification of training courses and programmes;
- (d) assisting the Parties upon request, on a regional or sub-regional basis, in the following areas:
  - (i) the co-ordination of emergency response activities; and
  - (ii) the provision of a forum for discussions concerning emergency response and other related topics;
- (e) establishing and maintaining liaison with:
  - (i) appropriate regional and international organisations; and
  - (ii) appropriate private organisations, including producers and transporters of substances which could give rise to a pollution incident in the South Pacific Region and clean-up contractors and cooperatives;
- (f) maintaining an appropriate current inventory of available emergency response equipment;

- (g) disseminating information related to the prevention and control of pollution incidents and the removal of pollutants resulting therefrom;
- (h) identifying or maintaining emergency response communications systems;
- (i) encouraging research by the Parties, as well as by appropriate international and private organisations, on the environmental effects of pollution incidents, the environmental effects of pollution incident control materials and other matters related to pollution incidents;
- (j) assisting Parties in the exchange of information pursuant to article 4; and
- (k) preparing reports and carrying out other duties assigned to it by the Parties.

## **ARTICLE 10 MEETINGS OF THE PARTIES**

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Parties to the Convention, held pursuant to article 22 of the Convention. The Parties to this Protocol may also hold extraordinary meetings as provided for in article 22 of the Convention.
2. It shall be the function of the meetings of the Parties:
  - (a) to review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness;
  - (b) to consider any measures to improve cooperation under this Protocol including, in accordance with article 24 of the Convention, amendments to this Protocol.

## **ARTICLE 11 RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION**

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present Protocol.
2. The rules of procedure and the financial rules adopted pursuant to article 22 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Noumea, New Caledonia on the twenty-fifth day of November in the year one thousand nine hundred and eighty-six, in a single copy in the English and French languages, the two texts being equally authentic.