

2013 AGREEMENT ON COOPERATION ON MARINE OIL POLLUTION PREPAREDNESS AND RESPONSE IN THE ARCTIC

Adopted in Kiruna, Sweden on 15 May 2013

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The Government of Canada, the Government of the Kingdom of Denmark, the Government of the Republic of Finland, the Government of Iceland, the Government of the Kingdom of Norway, the Government of the Russian Federation, the Government of the Kingdom of Sweden, and the Government of the United States of America, hereinafter referred to as “the Parties”,

Taking into account the relevant provisions of the 1982 United Nations Convention on the Law of the Sea, Being Parties to the 1990 International Convention on Oil Pollution Preparedness, Response and Co-operation,

Taking also into account the 1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties,

Taking further into account the “polluter pays” principle as a general principle to be applied,

Recalling the 1996 Ottawa Declaration on the Establishment of the Arctic Council,

Highlighting that in the 2011 Nuuk Declaration on the occasion of the Seventh Ministerial Meeting of the Arctic Council, ministers representing the eight Arctic States decided to establish a Task Force to develop an international instrument on Arctic marine oil pollution preparedness and response,

Acknowledging the role of the International Maritime Organization, in particular in the development and adoption of additional rules and standards to address risks specific for operations in the Arctic environment,

Conscious of the threat from marine oil pollution to the vulnerable Arctic marine environment and to the livelihoods of local and indigenous communities,

Mindful that in the event of an oil pollution incident, prompt and effective action and cooperation among the Parties is essential in order to minimize damage that may result from such an incident,

Recognizing the challenges posed by harsh and remote Arctic conditions on oil pollution preparedness and response operations,

Mindful also of the increase in maritime traffic and other human activities in the Arctic region, including activity of Arctic residents and of people coming to the Arctic,

Mindful further that indigenous peoples, local communities, local and regional governments, and individual Arctic residents can provide valuable resources and knowledge regarding the Arctic marine environment in support of oil pollution preparedness and response,

Recognizing also the expertise and roles of various stakeholders relating to oil pollution preparedness and response,

Aware of the Parties' obligation to protect the Arctic marine environment and mindful of the importance of precautionary measures to avoid oil pollution in the first instance,

Recognizing further the importance of the Arctic marine ecosystem and of cooperation to promote and encourage the conservation and sustainable use of the marine and coastal environment and its natural resources,

Emphasizing the importance of exchanging information, data and experience in the field of marine oil pollution preparedness and response, especially regarding the Arctic environment, and on the effects of pollution on the environment, and of regularly conducting joint training and exercises, as well as joint research and development,

Have agreed as follows:

ARTICLE 1

OBJECTIVE OF THIS AGREEMENT

The objective of this Agreement is to strengthen cooperation, coordination and mutual assistance among the Parties on oil pollution preparedness and response in the Arctic in order to protect the marine environment from pollution by oil.

ARTICLE 2

TERMS AND DEFINITIONS

For the purposes of this Agreement:

1. "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products.
2. "Oil pollution incident" means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of one or more states, and which requires emergency action or other immediate response.
3. "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, and floating craft of any type.

ARTICLE 3

SCOPE OF APPLICATION OF THIS AGREEMENT

1. This Agreement shall apply with respect to oil pollution incidents that occur in or may pose a threat to any marine area over which a State whose government is a Party to this Agreement exercises sovereignty, sovereign rights or jurisdiction, including its internal waters, territorial sea, exclusive economic zone and continental shelf, consistent with international law and above a southern limit as follows:

Canada – marine areas above 60 degrees North;

The Kingdom of Denmark, including Greenland and the Faroes – marine areas above the southern limit of the Greenland exclusive economic zone and the Faroese fisheries zone;

Finland – marine areas above 63 degrees 30 minutes North;

Iceland – marine areas above the southern limit of the exclusive economic zone of Iceland;

Norway – marine areas above the Arctic Circle;

The Russian Federation – marine areas above the coastlines of the White Sea, the Barents Sea, the Kara Sea, the Laptev Sea, the East Siberian Sea and the Chukchi Sea, and the mouths of the rivers flowing into these seas seaward of the baselines from which the breadth of the territorial sea is measured;

Sweden – marine areas above 63 degrees 30 minutes North; and

The United States of America – Marine areas seaward of the coastal baseline from the border between the United States and Canada at the Beaufort Sea along the north side of the mainland of Alaska to the Aleutian Islands, above 24 nautical miles south of the Aleutian Islands, and, in the Bering Sea, east of the limits of the exclusive economic zone of the United States.

2. Each Party shall also apply Articles 6, 7, 8, 10, and 15 and other provisions of this Agreement as appropriate to areas beyond the jurisdiction of any State, above the southern limit set forth in paragraph 1 of this Article, to the extent consistent with international law.
3. This Agreement 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 this Agreement.

ARTICLE 4

SYSTEMS FOR OIL POLLUTION PREPAREDNESS AND RESPONSE

1. Each Party shall maintain a national system for responding promptly and effectively to oil pollution incidents. This system shall take into account particular activities and locales most likely to give rise to or suffer an oil pollution incident and anticipated risks to areas of special ecological significance, and shall include at a minimum a national contingency plan or plans for preparedness and response to oil pollution incidents. Such contingency plan or plans shall include the organizational relationship of the various bodies involved, whether public or private, taking into account guidelines developed pursuant to this Agreement and other relevant international agreements.
2. Each Party, as appropriate, in cooperation with other Parties and with the oil and shipping industries, port authorities and other relevant entities, shall establish:
 - a. a minimum level of pre-positioned oil spill combating equipment, commensurate with the risk involved, and programs for its use;

- b. a program of exercises for oil pollution response organizations and training of relevant personnel;
- c. plans and communications capabilities for responding to an oil pollution incident; and
- d. a mechanism or arrangement to coordinate the response to an oil pollution incident with, if appropriate, the capabilities to mobilize the necessary resources.

ARTICLE 5

AUTHORITIES AND CONTACT POINTS

1. Each Party's national system for responding promptly and effectively to oil pollution incidents shall include as a minimum the designation of:
 - a. the competent national authority or authorities with responsibility for oil pollution preparedness and response;
 - b. the national 24-hour operational contact point or points, which shall be responsible for the receipt and transmission of oil pollution reports; and
 - c. an authority or authorities entitled to act on behalf of the Party to request assistance or to decide to render the assistance requested.
2. The entities designated by each Party pursuant to paragraph 1 of this Article are specified in Appendices to this Agreement. Each Party shall promptly inform the other Parties in writing through its competent national authority or authorities and through diplomatic channels of any changes to those designations. The Appendices to this Agreement shall be modified accordingly.

ARTICLE 6

NOTIFICATION

1. Whenever a Party receives information on oil pollution, or possible oil pollution, it shall:
 - a. assess the event to determine whether it is an oil pollution incident;
 - b. assess the nature, extent and possible consequences of the oil pollution incident, including taking appropriate steps within available resources to identify possible sources; and
 - c. then, without delay, inform all States whose interests are affected or likely to be affected by such oil pollution incident, together with
 - (i) details of its assessments and any action it has taken, or intends to take, to deal with the incident, including mitigation measures, and
 - (ii) further information as appropriate, until the action taken to respond to the incident has been concluded or until joint action has been decided by such States.
2. When the severity of such oil pollution incident so justifies, the Party shall notify all the other Parties without unnecessary delay.

ARTICLE 7

MONITORING

1. Each Party shall endeavor to undertake appropriate monitoring activities in order to identify oil pollution incidents in areas under its jurisdiction and, to the extent feasible, in adjacent areas beyond the jurisdiction of any State.
2. In the event of an oil pollution incident, the Party or Parties affected shall, to the extent possible, monitor the incident to facilitate efficient and timely response operations and to minimize any adverse environmental impacts.
3. The Parties shall endeavor to cooperate in organizing and conducting monitoring, especially regarding transboundary oil pollution, inter alia, through conclusion of bilateral or multilateral agreements or arrangements.

ARTICLE 8

REQUESTS FOR ASSISTANCE AND COORDINATION AND COOPERATION IN RESPONSE OPERATIONS

1. The Parties may request assistance from any other Party or Parties to respond to an oil pollution incident.
2. The Parties requesting assistance shall endeavor to specify the type and extent of assistance requested.
3. The Parties shall cooperate and provide assistance, which may include advisory services, technical support, equipment or personnel, for the purpose of responding to an oil pollution incident upon the request of any Party affected or likely to be affected.

ARTICLE 9

MOVEMENT AND REMOVAL OF RESOURCES ACROSS BORDERS

In accordance with applicable national and international law, each Party shall take the necessary legal or administrative measures to facilitate:

- a. the arrival and utilization in, and departure from, its territory of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting personnel, cargoes, materials and equipment required to deal with an oil pollution incident;
- b. the expeditious movement into, through, and out of its territory of personnel, cargoes, materials, response supplies and other equipment referred to in subparagraph (a).

ARTICLE 10

REIMBURSEMENT OF COSTS OF ASSISTANCE

1. Unless an agreement concerning the financial arrangements governing actions of the Parties to deal with oil pollution incidents has been concluded on a bilateral or multilateral basis prior to an oil pollution incident, the Parties shall bear the costs of their respective actions in dealing with pollution in accordance with subparagraph (a) or subparagraph (b). The principles laid down in this paragraph apply unless the Parties concerned otherwise agree in any individual case.
 - a. If the action was taken by one Party at the express request of another Party, the requesting Party shall reimburse to the assisting Party the cost of its action. The requesting Party may cancel its request at any time, but in that case it shall bear the costs already incurred or committed by the assisting Party.
 - b. If the action was taken by a Party on its own initiative, this Party shall bear the costs of its action.
2. Unless otherwise agreed, the costs of action taken by a Party at the request of another Party shall be fairly calculated according to the law and current practice of the assisting Party concerning the reimbursement of such costs.
3. The assisting Party shall be prepared to provide upon request documentation and information to the requesting Party on the assisting Party's estimated costs for the assistance and on the assisting Party's actual costs following the provision of any assistance. The Party requesting assistance and the assisting Party shall, where appropriate, cooperate in concluding any action in response to a compensation claim.
4. The provisions of this Agreement shall not be interpreted as in any way prejudicing the rights of Parties to recover from third parties the costs of actions to deal with pollution or the threat of pollution under other applicable rules of national and international law. Special attention shall be paid to international instruments and national law on liability and compensation for oil pollution damage.

ARTICLE 11

JOINT REVIEW OF OIL POLLUTION INCIDENT RESPONSE OPERATIONS

After a joint response operation, the Parties shall make best efforts to conduct a joint review of the operation, led by the Party or Parties that coordinated the operation. Where appropriate, and subject to relevant national law, Parties involved in a joint review should document their findings and conclusions and make the results of such joint review publicly available.

ARTICLE 12

COOPERATION AND EXCHANGE OF INFORMATION

1. The Parties shall promote cooperation and exchange of information that may serve to improve the effectiveness of oil pollution preparedness and response operations. Such cooperation and information exchange may include, inter alia, the topics identified in the Appendices to this Agreement.

2. Each Party, subject to its national law and international law, should endeavor to make information provided to other Parties under paragraph 1 of this Article publicly available.

ARTICLE 13

JOINT EXERCISES AND TRAINING

1. The Parties shall promote cooperation and coordination by endeavoring to carry out joint exercises and training, including alerting or call-out exercises, table-top exercises, equipment deployment exercises, and other relevant activities.
2. Joint exercises and training should be designed to incorporate lessons learned.
3. Where appropriate, the Parties should include stakeholders in the planning and execution of joint exercises and training.
4. When conducting joint exercises and training, the Parties should apply the relevant provisions of this Agreement to the extent possible.

ARTICLE 14

MEETINGS OF THE PARTIES

1. The Parties shall meet no later than one year after the entry into force of this Agreement, as convened by the depositary, and from then on as decided by the Parties. At these meetings, the Parties shall review issues related to the implementation of this Agreement, adopt Appendices to this Agreement or modifications to the Appendices as provided in Article 20 of this Agreement, as appropriate, and consider any other issues as decided by the Parties. Parties may elect to convene such meetings in conjunction with meetings of the Arctic Council.
2. On a regular basis the Parties through their competent national authorities shall discuss and review operational issues related to the implementation of this Agreement, in cooperation, as appropriate, with relevant bodies including but not limited to the Arctic Council. Operational issues include, but are not limited to, cooperation and exchange of available information.

ARTICLE 15

RESOURCES

1. Except as otherwise provided in Article 10 of this Agreement or otherwise agreed, each Party shall bear its own costs deriving from its implementation of this Agreement.
2. Implementation of this Agreement, except for Article 10, shall be subject to the capabilities of the Parties and the availability of relevant resources.

ARTICLE 16

RELATIONSHIP WITH OTHER INTERNATIONAL AGREEMENTS

Nothing in this Agreement shall be construed as altering the rights or obligations of any Party under other relevant international agreements or customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea.

ARTICLE 17

NON-PARTIES

Any Party may, where appropriate, seek cooperation with States not party to this Agreement that may be able to contribute to activities envisaged in this Agreement, consistent with international law.

ARTICLE 18

SETTLEMENT OF DISPUTES

The Parties shall resolve any disputes concerning the application or interpretation of this Agreement through direct consultations.

ARTICLE 19

AMENDMENTS TO THIS AGREEMENT

1. This Agreement may be amended by written agreement of all the Parties.
2. An amendment shall enter into force 120 days after the date on which the depositary has received the last written notification through diplomatic channels that the Parties have completed the internal procedures required for its entry into force.

ARTICLE 20

APPENDICES

1. The Appendices to this Agreement do not constitute an integral part of this Agreement and are not legally binding.
2. At meetings of the Parties referred to in Article 14 of this Agreement, the Parties may adopt additional Appendices or modifications to existing Appendices, except for those Appendices referred to in Article 5 of this Agreement, which may be modified as provided therein.

ARTICLE 21

OPERATIONAL GUIDELINES

1. The Parties shall develop and maintain a set of Operational Guidelines to assist in the implementation of this Agreement. The Operational Guidelines will be included among the Appendices to this Agreement and be modified as appropriate.
2. The Operational Guidelines shall address, inter alia, the following topics:
 - a. a system and formats for notification, requests for assistance, and other related information;
 - b. provision of assistance, as well as coordination and cooperation in response operations involving more than one Party, including in areas beyond the jurisdiction of any State;
 - c. movement and removal of resources across borders;
 - d. procedures for conducting joint reviews of oil pollution incident response operations;
 - e. procedures for conducting joint exercises and training; and
 - f. reimbursement of costs of assistance.
3. In developing and modifying the Operational Guidelines, the Parties shall seek input from relevant stakeholders as appropriate.

ARTICLE 22

PROVISIONAL APPLICATION, ENTRY INTO FORCE AND WITHDRAWAL

1. This Agreement may be applied provisionally by any signatory that provides a written statement to the depositary of its intention to do so. Any such signatory shall apply this Agreement provisionally from the date of its statement or from such other date as indicated in its statement.
2. This Agreement shall enter into force 30 days after the date of receipt by the depositary of the last written notification through diplomatic channels that the Parties have completed the internal procedures required for its entry into force.
3. Any Party may at any time withdraw from this Agreement by sending written notification thereof to the depositary through diplomatic channels at least six months in advance, specifying the effective date of its withdrawal. Withdrawal from this Agreement shall not affect its application among the remaining Parties.
4. Withdrawal from this Agreement by a Party shall not affect the obligations of that Party with regard to activities undertaken under this Agreement where those obligations have arisen prior to the effective date of withdrawal.

ARTICLE 23

DEPOSITARY

The Government of Norway shall be the depositary for this Agreement.

DONE at Kiruna this 15th day of May, 2013, in the English, French and Russian languages, all texts being equally authentic. The working language of this Agreement shall be English, the language in which this Agreement was negotiated.