

Cooperation Agreement for the protection of the coasts and waters of the north-east Atlantic against pollution

COOPERATION AGREEMENT for the protection of the coasts and waters of the north-east Atlantic against pollution

THE GOVERNMENT OF THE KINGDOM OF SPAIN,
THE GOVERNMENT OF THE FRENCH REPUBLIC,
THE GOVERNMENT OF THE KINGDOM OF MOROCCO,
THE GOVERNMENT OF THE PORTUGUESE REPUBLIC,
THE EUROPEAN ECONOMIC COMMUNITY,

meeting in the Conference for the protection of the coasts and waters of the north-east Atlantic against pollution due to hydrocarbons and other harmful substances, held in Lisbon on 17 October 1990,

AWARE of the need to protect the human environment in general and the marine environment in particular;

RECOGNIZING that pollution of the north-east Atlantic Ocean by hydrocarbons and other harmful substances may threaten the marine environment in general and the interests of coastal States in particular;

NOTING that such pollution has many origins, but RECOGNIZING that special measures are necessary in the event of accidents and other pollution incidents caused by ships and fixed and floating platforms ;

CONCERNED to act promptly and effectively in the event of a pollution incident at sea which would endanger the coasts or the related interests of a coastal State, with a view to reducing the damage caused by such an incident;

STRESSING the importance of genuine preparation at national level to combat pollution incidents at sea;

RECOGNIZING MOREOVER that it is important that reciprocal assistance and international cooperation be instituted amongst States in order to protect their coasts and their related interests;

EMPHASIZING also the importance of measures taken individually and jointly in order to minimize the risks of pollution incidents at sea;

MINDFUL of the success of current regional agreements, and in particular of the action plan of the European Communities, the aim of which is to provide aid in the event of major marine pollution by hydrocarbons or other dangerous substances,

have designated their Plenipotentiaries, who, having exchanged their full powers, found in good and due form, HAVE AGREED AS FOLLOWS:

Article 1

The Contracting Parties to this Agreement (hereinafter referred to as 'the Parties') undertake, individually or jointly as the case may be, to take all appropriate measures under this Agreement in order to be prepared to deal with an incident of pollution at sea such as pollution caused by hydrocarbons or other harmful substances.

Article 2

For the purposes of this Agreement:

'pollution incident' means an event or series of events having the same origin and resulting in a discharge or a danger of a discharge of hydrocarbons or other harmful substances which has occasioned or may occasion damage to the marine environment, the coast or the related interests of one or more of the Parties, and requiring emergency action or an immediate reaction of some other kind;

'hydrocarbons' means oil in all its forms in particular crude oil, fuel oil, muds, hydrocarbon residues and other refined products;

'other harmful substances' means all substances other than hydrocarbons, including hazardous waste, the release of which into the marine environment may be harmful to human health, ecosystems or living resources, coasts or the related interests of the Parties.

Article 3

The geographical scope of this Agreement shall be the north-east Atlantic region bounded by the outer limit of the exclusive economic zones of each of the contracting States and:

- (a) to the north by a line drawn from east to west as follows: starting from the southernmost point of the island of Quessant (Ushant) and following the parallel 48° 27' N as far as its intersection with the south-west limit of the Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances (Bonn Agreement); thence following the south-west limit of the said Bonn Agreement as far as its intersection with the line marking the limit of the continental shelf between France and the United Kingdom of Great Britain and Northern Ireland defined by the arbitration decision of 30 June 1977; thence following the said line as far as its western extremity situated at point N with the coordinates 48° 06' 00" N and 9° 36' 30" W;
- (b) to the east by the western limit of the Convention for the protection of the Mediterranean Sea against pollution (Barcelona Convention) of 16 February 1976;
- (c) to the south by the southern limit of the waters covered by the sovereignty or jurisdiction of the Kingdom of Morocco.

Article 4

1. 'Each of the States' Parties to this Agreement shall set up within its territory, if necessary in collaboration with the industries concerned, including the shipping industry, and other bodies, and shall maintain in operational condition a minimum amount of equipment at predetermined points in order to be able to deal with discharges of hydrocarbons or other harmful substances.
2. Each of the Parties shall set up a national system to prevent and combat incidents of pollution at sea. This system shall encompass:
 - (a) a description of the administrative organization and of the responsibility of each of its components for the preparation and implementation of measures to prevent and combat pollution, and in particular of the national authority responsible for dealing with questions of mutual assistance with the other Parties;
 - (b) the particulars of a national operational contact point to be responsible for receiving and issuing reports on pollution incidents at sea, as mentioned in Article 8 (3) of this Agreement;
 - (c) a national plan of action to prevent or to deal with such pollution incidents. The said plan of action shall comprise, inter alia:
 - (i) identifying likely sources of discharge of hydrocarbons or other harmful substances;
 - (ii) identifying endangered sensitive areas and vulnerable resources in danger, and priorities for their protection;
 - (iii) itemizing the equipment and human resources available;
 - (iv) specifying the means for storing and disposing of the hydrocarbons or other harmful substances recovered.
3. Furthermore, each of the Parties shall, individually or within the framework of bilateral or multilateral cooperation, set up staff training programmes to improve the state of readiness of the bodies responsible for dealing with pollution.

Article 5

1. The Parties shall jointly draw up and determine guidelines covering the practical, operational and technical aspects of joint action.

2. To facilitate active cooperation, each of the Parties shall undertake to provide the other Parties with the information referred to in Article 4 (2) (a) and (b), and information on:

(a) its national resources (equipment and staff) intended for preventing and dealing with such pollution, of which, at the time of a pollution incident, some could be made available within the framework of international assistance under conditions to be determined between the Parties concerned;

(b) new methods to avoid such pollution and effective new techniques for dealing with it;

(c) the main pollution incidents on which it has had to take action.

Article 6

The cooperation provided for in the preceding Articles shall also apply in the event of loss at sea of harmful substances placed in packages, freight containers, portable containers or in lorry, trailer or rail tankers.

Article 7

1. Each of the Parties shall require its officials with powers in this context, and captains and others responsible for vessels flying its flag or for marine platforms operated in areas falling within its jurisdiction, to report forthwith the occurrence of any incident on their vessels or platforms involving the discharge or danger of discharge of hydrocarbons or other harmful substances. In the case of vessels, these reports shall comply with the provisions drawn up by the Intergovernmental Maritime Consultative Organization.

2. Each of the Parties shall issue instructions to the vessels and aircraft of its maritime inspectorate and other departments that they are to report, without delay, any incident of pollution due to hydrocarbons or other harmful substances which they have observed.

3. Each of the Parties shall request the captains of all vessels flying its flag and the pilots of all aircraft registered in its territory to report without delay the presence, nature and extent of the hydrocarbons or other harmful substances observed which may constitute a danger for the coast or related interests of one or more of the Parties.

Article 8

1. For the sole purposes of this Agreement, the north-east Atlantic region shall be divided into areas as defined in Annex 1 to this Agreement.

2. A Party in whose area a pollution incident occurs shall conduct the requisite evaluations as to its nature, magnitude and possible consequences.

3. Where the magnitude of the pollution incident so warrants, the Party concerned shall immediately inform all other Parties through their operational contact points of any action taken to combat the hydrocarbons or other harmful substances. It shall keep these substances under observation for as long as they are present in its area and shall keep the other Parties informed of developments concerning the pollution incident and of the measures taken or planned.

4. When oil slicks or floating substances drift into an adjacent area, the responsibility for the evaluation and for the notification of the other Parties, as stipulated above, shall be transferred to the Party in whose area the hydrocarbons or substances are now located, unless otherwise agreed by the Parties concerned.

Article 9

1. The Parties may designate areas of joint interest.

2. If pollution occurs in an area of joint interest, the Party in whose area of responsibility the incident occurs shall not merely inform the neighbouring Party immediately as required by Article 8 (3) but shall also invite that Party to take part in the evaluation of the nature of the incident and to decide whether the incident must be regarded as being of sufficient gravity and magnitude to warrant joint action by both Parties in combating it.

3. Subject to the provisions of paragraph 4 of this Article, the responsibility for initiating such joint action shall lie with the Party in whose area of responsibility the incident occurs. This Party shall designate an authority and instruct it to coordinate action; the said authority shall then assume responsibility for action, request any aid which may be needed and coordinate all available resources. The neighbouring Party shall provide such appropriate support as its resources permit and shall likewise appoint an authority for the liaison of action.

4. The neighbouring Party may assume responsibility for coordinating action subject to an agreement with the Party in whose area of responsibility the incident occurs where:

- (a) the neighbouring Party is directly threatened by the incident; or
- (b) the vessel or vessels in question flies or fly the flag of the neighbouring Party; or
- (c) the greater part of the resources likely to be used in the operation to combat pollution belong to the neighbouring Party.

If this paragraph is invoked, the Party in whose area of responsibility of incident occurs shall give the Party assuming responsibility for the coordination of action all requisite assistance.

Article 10

A Party requiring assistance to deal with pollution or a threat of pollution at sea or off its coast may request help from the other Parties. The Party requesting assistance shall specify the type of assistance which it requires, if need be by seeking the opinion of other Parties. Parties from whom help is requested under this Article shall make every endeavour to provide such help in so far as their resources permit, taking into consideration, particularly in the event of pollution by harmful substances other than hydrocarbons, the technical resources at their disposal.

Article 11

1. No provision in this Agreement shall prejudice in any manner whatsoever the sovereignty of States over their territorial waters, or the jurisdiction and sovereign rights which they exercise in their exclusive economic zones and over the continental shelf pursuant to international law, or the exercise by vessels and aircraft of all States of the rights and freedom of navigation as governed by international law and in accordance with the relevant international instruments.

2. Under no circumstances may the division into areas referred to in Articles 8 and 9 of this Agreement be invoked as a precedent or as an argument in respect of sovereignty or jurisdiction.

Article 12

Each of the Parties shall develop means for monitoring shipping by setting up departments dealing with shipping movements. The Parties shall, to that end, consult each other regularly and shall participate actively in the studies needed for such development within the competent international bodies, including studies into linking up national departments dealing with shipping movements.

Article 13

1. In the absence of any bilateral or multilateral agreement which may be concluded on the financial provisions governing action taken by the Parties to combat pollution at sea, the Parties shall bear the costs of their respective action to combat such pollution in accordance with the principles stated below:

- (a) if action is taken by one Party at the express request of another, the Party which had requested the help shall refund to the other Party the expenses entailed by its action;
- (b) if action is taken solely upon the initiative of one Party, that Party shall bear the costs entailed by its action;
- (c) if action is taken in an area of joint interest by the Parties concerned by that area, as defined in Article 9, each Party shall bear the costs entailed by its own action.

2. The Party which requested assistance shall be free to terminate its request at any time but shall, in that case, bear the expenses already disbursed or incurred by the assisting Contracting Party.
3. Unless otherwise agreed, expenses entailed by action undertaken by one Party at the express request of another shall be calculated by a responsible person or body, where appropriate on the basis of an expert report, in accordance with the legislation and current practice of the assisting country for the reimbursement of such expenditure.

Article 14

1. Article 13 of this Agreement may not in any circumstances be interpreted as prejudicing the rights of the Parties to recover from third parties the costs involved in actions undertaken to deal with pollution or a threat of pollution pursuant to other provisions and rules applicable under national and international law.
2. The Parties may cooperate and provide mutual assistance in recovering the costs involved in their actions.

Article 15

1. Meetings of the Parties to this Agreement shall be held at regular intervals or at any time when, owing to special circumstances, it shall be decided to do so pursuant to the rules of procedure.
2. In the course of their first meetings, the Parties shall draw up rules of procedure and financial regulations, which shall be adopted by a unanimous vote.
3. The depositary government shall convene the first meeting of the Parties as soon as possible following entry into force of this Agreement.

Article 16

In the areas falling within its jurisdiction, the European Economic Community shall exercise its voting right with a number of votes equal to the number of its Member States which are Parties to this Agreement. The European Economic Community shall not exercise its voting right in cases where Member States exercise theirs and vice versa.

Article 17

Meetings of the Parties shall be responsible for:

- (a) general monitoring of implementation of this Agreement;
- (b) regular examination of the effectiveness of measures taken pursuant to this Agreement;
- (c) endeavouring as soon as possible to identify and define those areas which, owing to their environmental characteristics, must be regarded as particularly sensitive;
- (d) carrying out any other functions which may be necessary in accordance with the provisions of this Agreement.

Article 18

1. An International Centre shall be set up with the aim of assisting those States which are Parties to react swiftly and effectively to pollution incidents.
2. This Centre, having its seat in the depositary State, shall cooperate with existing bodies in the other Parties in order to ensure the desired swiftness and effectiveness throughout the region covered by this Agreement and, where necessary, outside that region.
3. The meeting of the Parties shall define the functions of the Centre on the basis of the guidelines given in Annex 2.

Article 19

1. The International Centre shall prepare suitable proposals for the Parties with the aim of improving the mobility and complementary nature of the material facilities of the various Parties.

2. Recommendations shall be aimed in particular at operations to renew or increase national stocks.

Article 20

1. Without prejudice to the provisions of Annex 1.3 of this Agreement, any proposal from one of the Parties with a view to amendment of this Agreement or its Annexes shall be studied at a meeting of the Parties. Following adoption of the proposal by a unanimous vote, the Parties shall be notified of the amendment by the depositary government.
2. Such an amendment shall enter into force on the first day of the second month following the date on which the depositary government receives notification of its approval by all Contracting Parties.

Article 21

1. Each Contracting Party shall contribute 2,5 % of the expenditure involved in the secretariat function for this Agreement as referred to in Annex 2.7. Two-thirds of the balance of this expenditure shall be covered by the depositary government, and the remaining third by the other States as follows:
 - the Kingdom of Spain: 40 %,
 - the French Republic: 40 %,
 - the Kingdom of Morocco: 20 %.
2. The other functions of the Centre which are referred to in Annex 2 shall be covered as far as possible by voluntary contributions from the Parties, the amount of which shall be indicated at the meeting of the Contracting Parties.

Article 22

1. The signatory States and the European Economic Community become Parties to this Agreement either by signature without reservation as to ratification, acceptance or approval followed by ratification, acceptance or approval.
2. The instruments of ratification, acceptance or approval shall be deposited with the Government of Portugal.
3. This Agreement shall enter into force on the first day of the second month following the date on which all the States referred to in this Article and the European Economic Community sign without reservation as to ratification, acceptance or approval or deposit an instrument of ratification, acceptance or approval.

Article 23

1. The Parties may unanimously invite any other State having a north-east Atlantic coast to accede to this Agreement.
2. If they do so, Articles 3 and 21 of this Agreement and Annex 1 hereto shall be amended accordingly. Any amendments shall be adopted by a unanimous vote at a meeting of the Contracting Parties and shall take effect at the time of entry into force of this Agreement for the acceding State.

Article 24

1. For each State acceding to this Agreement, the latter shall enter into force on the first day of the second month following the date on which the State concerned deposits its instrument of accession.
2. Instruments of accession shall be deposited with the Government of Portugal.

Article 25

1. After five years this Agreement may be denounced by any Party.

2. Denunciation shall be effected by a notification in writing addressed to the depositary government, which shall notify all the other Parties of any denunciation received and of the date of its receipt.
3. A denunciation shall take effect one year after its receipt by the depositary government.

Article 26

The depositary government shall inform those States which have signed this Agreement or acceded thereto, and the European Economic Community, of:

- (a) any signing of this Agreement;
- (b) the depositing of instruments of ratification, acceptance, approval or accession and the receipt of notice of denunciation;
- (c) the date of entry into force of this Agreement;
- (d) the receipt of notifications of approval concerning amendments made to this Agreement or its Annexes and the date of entry into force of those amendments.

Article 27

The original of this Agreement, drawn up in the Arabic, Spanish, French and Portuguese languages, the French text being authentic in case of divergence, shall be deposited with the Government of Portugal, which shall communicate certified copies to the Contracting Parties and which shall transmit a certified copy to the Secretary-General of the United Nations Organization for registration and publication, in application of Article 102 of the Charter of the United Nations. In witness whereof, the undersigned Plenipotentiaries have hereunto set their hands and affixed their seals.

Done at Lisbon, 17 October 1990.

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC

Minister for the Sea (Ministry of Infrastructure, Housing, Transport and the Sea),
Jacques Mellick.

FOR THE GOVERNMENT OF THE KINGDOM OF SPAIN,

Minister for Public Works and Town Planning,
Javier Sáenz Cosculluela.

FOR THE GOVERNMENT OF THE KINGDOM OF MOROCCO,

Minister for the Interior and for Information,
Driss Basri.

FOR THE GOVERNMENT OF THE PORTUGUESE REPUBLIC,

Minister for the Environment and Natural Resources,
Fernando Real.

FOR THE EUROPEAN ECONOMIC COMMUNITY,

Member of the Commission of the European Communities with special responsibility for environmental protection,
Carlo Ripa di Meana.

ANNEX 1

1. Subject to bilateral agreements concluded between the contracting States, the areas provided for in Article 8 (1) of this Agreement shall correspond to the exclusive economic zones of each of the contracting States.
2. Any bilateral agreements which may be concluded in accordance with the previous paragraph shall be communicated to the depositary government, which shall transmit them to the Contracting Parties. They shall enter into force for all Contracting Parties on the first day of the

sixth month following such transmission, unless, within a period of three months following that transmission, one of the Contracting Parties raises an objection or asks for consultations on the matter.

3. Two or more States which are Parties may alter the common limits of their zones as defined in this Annex. Any such alteration shall enter into force for all Parties on the first day of the sixth month following the date of its communication by the depositary government, unless, within a period of three months following that communication, one of the Parties raises an objection or asks for consultations on the matter.

ANNEX 2

Guidelines for defining the functions of the International Action Centre

1. Establishing close working relationships with other national and international centres in the region covered by the Agreement and, where necessary, outside that region.
2. On the basis of the above principle and using all existing powers in the region, coordinating national and regional action with regard to training, technical cooperation and expertise in cases of emergency.
3. Collecting and disseminating information on pollution incidents (inventories, expert opinions, reports on incidents, technical progress for improving action plans, etc.).
4. Preparing systems for transmitting information, in particular to be exchanged in cases of emergency.
5. Place for exchanges of information on techniques for monitoring marine pollution.
6. Role of the Centre in cases of emergency.
7. Secretariat for this Agreement.
8. Management of that part of the Portuguese stock which may be made available to other Parties in other States outside the region. Also, where appropriate, coordination of the management of other similar national stocks (in particular, this function could be envisaged in the case of additional stocks for which there has been a Community or international financial contribution).