

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

1973

Part Two. Legal activities of the United Nations and related intergovernmental organizations

Chapter IV. Treaties concerning international law concluded under the auspices of the United Nations and related intergovernmental organizations



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## Chapter IV

### TREATIES CONCERNING INTERNATIONAL LAW INCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

#### A. Treaties concerning international law concluded under the auspices of the United Nations

##### 1. PROTOCOL OF ENTRY INTO FORCE OF THE AMENDMENT TO ARTICLE 61 OF THE CHARTER OF THE UNITED NATIONS ADOPTED BY THE GENERAL ASSEMBLY IN RESOLUTION 2847 (XXVI) OF 20 DECEMBER 1971

WHEREAS Article 108 of the Charter of the United Nations provides as follows:

###### *“Article 108*

“Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.”

WHEREAS, pursuant to the said Article 108, the General Assembly of the United Nations adopted on 20 December 1971 an amendment to Article 61 of the Charter of the United Nations as set forth in resolution 2847 (XXVI),

WHEREAS the requirements of the said Article 108 with respect to the ratification of the above-mentioned amendment were fulfilled by 24 September 1973 as shown in the Annex to this Protocol, and the said amendment entered into force on that day for all Members of the United Nations,

AND WHEREAS the text of Article 61, paragraphs 1, 2 and 3, of the Charter of the United Nations, as amended, reads as follows:

###### *“Article 61*

“1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.

“2. Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

“3. At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.”

NOW, THEREFORE, I, KURT WALDHEIM, Secretary-General of the United Nations, sign this Protocol in two original copies in the Chinese, English, French, Russian and Spanish

languages, of which one shall be deposited in the archives of the Secretariat of the United Nations and the other transmitted to the Government of the United States of America as the depositary of the Charter of the United Nations. Copies of this Protocol shall be communicated to all Members of the United Nations.

DONE AT THE HEADQUARTERS OF THE UNITED NATIONS, NEW YORK, this twenty-fourth day of September, one thousand nine hundred and seventy-three.

KURT WALDHEIM

*Secretary-General*

#### ANNEX

TO THE PROTOCOL OF ENTRY INTO FORCE OF THE AMENDMENT TO ARTICLE 61 OF THE CHARTER OF THE UNITED NATIONS, ADOPTED BY THE GENERAL ASSEMBLY IN RESOLUTION 2847 (XXVI) OF 20 DECEMBER 1971

List of Members having deposited instruments of ratification of the above-mentioned amendment with the Secretary-General as at 24 September 1973:

<i>Member</i>	<i>Date of deposit</i>
Finland . . . . .	30 March 1972
Singapore . . . . .	18 April 1972
Jordan . . . . .	2 June 1972
Barbados . . . . .	12 June 1972
Fiji . . . . .	12 June 1972
Uganda . . . . .	12 June 1972
Qatar . . . . .	15 June 1972
Democratic Yemen . . . . .	15 June 1972
Malaysia . . . . .	16 June 1972
Kuwait . . . . .	20 June 1972
Algeria . . . . .	21 June 1972
Oman . . . . .	23 June 1972
Cyprus . . . . .	26 June 1972
Yemen . . . . .	7 July 1972
New Zealand . . . . .	19 July 1972
Thailand . . . . .	19 July 1972
Iraq . . . . .	9 August 1972
Niger . . . . .	22 August 1972
Bahrain . . . . .	22 August 1972
Brazil . . . . .	7 September 1972
Trinidad and Tobago . . . . .	11 September 1972
Bhutan . . . . .	13 September 1972
Malawi . . . . .	15 September 1972
China . . . . .	15 September 1972
Morocco . . . . .	26 September 1972
Panama . . . . .	26 September 1972
Canada . . . . .	28 September 1972
United Arab Emirates . . . . .	29 September 1972
Guatemala . . . . .	3 October 1972
Sudan . . . . .	4 October 1972
Kenya . . . . .	5 October 1972
Jamaica . . . . .	6 October 1972
Ireland . . . . .	6 October 1972
Zambia . . . . .	13 October 1972
Yugoslavia . . . . .	23 October 1972

Netherlands	31 October	1972
Tunisia	8 November	1972
Philippines	14 November	1972
Australia	16 November	1972
Nepal	24 November	1972
Dominican Republic	29 November	1972
Liberia	4 December	1972
Sri Lanka	6 December	1972
Cameroon	12 December	1972
Sweden	22 December	1972
Egypt	28 December	1972
India	5 January	1973
Ghana	8 January	1973
Austria	12 January	1973
Denmark	23 January	1973
Senegal	25 January	1973
Dahomey	5 February	1973
Botswana	12 February	1973
Malta	22 February	1973
Romania	26 February	1973
Ivory Coast	28 February	1973
Iceland	6 March	1973
Norway	14 March	1973
Iran	15 March	1973
Argentina	19 March	1973
Belgium	26 March	1973
Indonesia	30 March	1973
United Republic of Tanzania	4 April	1973
Mexico	11 April	1973
Libyan Arab Republic	12 April	1973
Ecuador	20 April	1973
Chad	11 May	1973
Ukrainian Soviet Socialist Republic	16 May	1973
Mongolia	18 May	1973
Guyana	22 May	1973
Lesotho	30 May	1973
France	1 June	1973
Union of Soviet Socialist Republics	1 June	1973
Bulgaria	5 June	1973
Luxembourg	5 June	1973
Byelorussian Soviet Socialist Republic	15 June	1973
Japan	15 June	1973
United Kingdom of Great Britain and Northern Ireland	19 June	1973
Peru	26 June	1973
Guinea	27 June	1973
Mauritius	29 June	1973
Bolivia	29 June	1973
Lebanon	2 July	1973
Hungary	12 July	1973
Nicaragua	17 July	1973
Madagascar	19 July	1973
Italy	25 July	1973
Spain	26 July	1973
Costa Rica	14 August	1973
Zaire	16 August	1973
Pakistan	21 August	1973
Mali	30 August	1973
Poland	19 September	1973
Afghanistan	20 September	1973
United States of America	24 September	1973

Total number of instruments deposited:	95
Membership in the United Nations as at 24 September 1973:	135
Number of ratifications required under Article 108 of the Charter of the United Nations to bring the amendment into force (two thirds of the Members of the United Nations, including all the permanent members of the Security Council):	90
The last instrument of ratification fulfilling the above-mentioned requirements was deposited on:	24 September 1973
Date of entry into force of the amendment for all the Members of the United Nations:	24 September 1973

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## 2. INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF *APARTHEID*. ADOPTED AND OPENED FOR SIGNATURE AND RATIFICATION BY GENERAL ASSEMBLY RESOLUTION 3068 (XXVIII) OF 30 NOVEMBER 1973<sup>1</sup>

### *The States Parties to the present Convention,*

*Recalling* the provisions of the Charter of the United Nations, in which all Members pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

*Considering* the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour or national origin.

*Considering* the Declaration on the Granting of Independence to Colonial Countries and Peoples,<sup>2</sup> in which the General Assembly stated that the process of liberation is irresistible and irreversible and that, in the interests of human dignity, progress and justice, an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

*Observing* that, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination,<sup>3</sup> States particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction,

*Observing* that, in the Convention on the Prevention and Punishment of the Crime of Genocide,<sup>4</sup> certain acts which may also be qualified as acts of *apartheid* constitute a crime under international law,

*Observing* that, in the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity,<sup>5</sup> "inhuman acts resulting from the policy of *apartheid*" are qualified as crimes against humanity.

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<sup>1</sup>By its resolution 3068 (XXVIII), the General Assembly *inter alia* appealed to all States to sign and ratify the Convention as soon as possible, requested all Governments and intergovernmental and non-governmental organizations to acquaint the public as widely as possible with the text of the Convention using all the information media at their disposal, requested the Secretary-General to ensure the urgent and wide dissemination of the Convention and, for that purpose, to publish and circulate its text and requested the Economic and Social Council to invite the Commission on Human Rights to undertake the functions set out under article X of the Convention.

<sup>2</sup>General Assembly resolution 1514 (XV).

<sup>3</sup>Reproduced in the *Juridical Yearbook*, 1965, p. 63.

<sup>4</sup>See General Assembly resolution 260 A (III), annex.

<sup>5</sup>Reproduced in the *Juridical Yearbook*, 1968, p. 160.

*Observing* that the General Assembly of the United Nations has adopted a number of resolutions in which the policies and practices of *apartheid* are condemned as a crime against humanity,

*Observing* that the Security Council has emphasized that *apartheid*, its continued intensification and expansion, seriously disturbs and threatens international peace and security,

*Convinced* that an International Convention on the Suppression and Punishment of the Crime of *Apartheid* would make it possible to take more effective measures at the international and national levels with a view to the suppression and punishment of the crime of *apartheid*,

*Have agreed* as follows:

#### *Article I*

1. The States Parties to the present Convention declare that *apartheid* is a crime against humanity and that inhuman acts resulting from the policies and practices of *apartheid* and similar policies and practices of racial segregation and discrimination, as defined in article II of the Convention, are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.

2. The States Parties to the present Convention declare criminal those organizations, institutions and individuals committing the crime of *apartheid*.

#### *Article II*

For the purpose of the present Convention, the term "the crime of *apartheid*", which shall include similar policies and practices of racial segregation and discrimination as practised in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them:

(a) Denial to a member or members of a racial group or groups of the right to life and liberty of person:

- (i) By murder of members of a racial group or groups;
- (ii) By the infliction upon the members of a racial group or groups of serious bodily or mental harm by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;
- (iii) By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;

(b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;

(c) Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;

(d) Any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;

(e) Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;

(f) Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose *apartheid*.

#### *Article III*

International criminal responsibility shall apply, irrespective of the motive involved, to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they:

(a) Commit, participate in, directly incite or conspire in the commission of the acts mentioned in article II of the present Convention;

(b) Directly abet, encourage or co-operate in the commission of the crime of *apartheid*.

#### *Article IV*

The States Parties to the present Convention undertake:

(a) To adopt any legislative or other measures necessary to suppress as well as to prevent any encouragement of the crime of *apartheid* and similar segregationist policies or their manifestations and to punish persons guilty of that crime;

(b) To adopt legislative, judicial and administrative measures to prosecute, bring to trial and punish in accordance with their jurisdiction persons responsible for, or accused of, the acts defined in article II of the present Convention, whether or not such persons reside in the territory of the State in which the acts are committed or are nationals of that State or of some other State or are stateless persons.

#### *Article V*

Persons charged with the acts enumerated in article II of the present Convention may be tried by a competent tribunal of any State Party to the Convention which may acquire jurisdiction over the person of the accused or by an international penal tribunal having jurisdiction with respect to those States Parties which shall have accepted its jurisdiction.

#### *Article VI*

The States Parties to the present Convention undertake to accept and carry out in accordance with the Charter of the United Nations the decisions taken by the Security Council aimed at the prevention, suppression and punishment of the crime of *apartheid*, and to co-operate in the implementation of decisions adopted by other competent organs of the United Nations with a view to achieving the purposes of the Convention.

#### *Article VII*

1. The States Parties to the present Convention undertake to submit periodic reports to the group established under article IX on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention.

2. Copies of the reports shall be transmitted through the Secretary-General of the United Nations to the Special Committee on *Apartheid*.

#### *Article VIII*

Any State Party to the present Convention may call upon any competent organ of the United Nations to take such action under the Charter of the United Nations as it considers appropriate for the prevention and suppression of the crime of *apartheid*.

#### *Article IX*

1. The Chairman of the Commission on Human Rights shall appoint a group consisting of three members of the Commission on Human Rights, who are also representatives of States

Parties to the present Convention, to consider reports submitted by States Parties in accordance with article VII.

2. If, among the members of the Commission on Human Rights, there are no representatives of States Parties to the present Convention or if there are fewer than three such representatives, the Secretary-General of the United Nations shall, after consulting all States Parties to the Convention, designate a representative of the State Party or representatives of the States Parties which are not members of the Commission on Human Rights to take part in the work of the group established in accordance with paragraph 1 of this article, until such time as representatives of the States Parties to the Convention are elected to the Commission on Human Rights.

3. The group may meet for a period of not more than five days, either before the opening or after the closing of the session of the Commission on Human Rights, to consider the reports submitted in accordance with article VII.

#### *Article X*

1. The States Parties to the present Convention empower the Commission on Human Rights:

(a) To request United Nations organs, when transmitting copies of petitions under article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination, to draw its attention to complaints concerning acts which are enumerated in article II of the present Convention;

(b) To prepare, on the basis of reports from competent organs of the United Nations and periodic reports from States Parties to the present Convention, a list of individuals, organizations, institutions and representatives of States which are alleged to be responsible for the crimes enumerated in article II of the Convention, as well as those against whom legal proceedings have been undertaken by States Parties to the Convention;

(c) To request information from the competent United Nations organs concerning measures taken by the authorities responsible for the administration of Trust and Non-Self-Governing Territories, and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies, with regard to such individuals alleged to be responsible for crimes under article II of the Convention who are believed to be under their territorial and administrative jurisdiction.

2. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV), the provisions of the present Convention shall in no way limit the right of petition granted to those peoples by other international instruments or by the United Nations and its specialized agencies.

#### *Article XI*

1. Acts enumerated in article II of the present Convention shall not be considered political crimes for the purpose of extradition.

2. The States Parties to the present Convention undertake in such cases to grant extradition in accordance with their legislation and with the treaties in force.

#### *Article XII*

Disputes between States Parties arising out of the interpretation, application or implementation of the present Convention which have not been settled by negotiation shall, at the request of the States Parties to the dispute, be brought before the International Court of Justice, save where the parties to the dispute have agreed on some other form of settlement.

#### *Article XIII*

The present Convention is open for signature by all States. Any State which does not sign the Convention before its entry into force may accede to it.

*Article XIV*

1. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

*Article XV*

1. The present Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

*Article XVI*

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

*Article XVII*

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

*Article XVIII*

The Secretary-General of the United Nations shall inform all States of the following particulars:

- (a) Signatures, ratifications and accessions under articles XIII and XIV;
- (b) The date of entry into force of the present Convention under article XV;
- (c) Denunciations under article XVI;
- (d) Notifications under article XVII.

*Article XIX*

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

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3. CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS. ADOPTED BY GENERAL ASSEMBLY RESOLUTION 3166 (XXVIII) OF 14 DECEMBER 1973

3166 (XXVIII). CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS

*The General Assembly,*

*Considering* that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

*Recalling* that in response to the request made in General Assembly resolution 2780 (XXVI) of 3 December 1971, the International Law Commission, at its twenty-fourth session, studied the question of the protection and inviolability of diplomatic agents and other persons entitled to special protection under international law and prepared draft articles<sup>6</sup> on the prevention and punishment of crimes against such persons,

*Having considered* the draft articles and also the comments and observations thereon submitted by States, specialized agencies and other intergovernmental organizations<sup>7</sup> in response to the invitation extended by the General Assembly in its resolution 2926 (XXVII) of 28 November 1972,

*Convinced* of the importance of securing international agreement on appropriate and effective measures for the prevention and punishment of crimes against diplomatic agents and other internationally protected persons in view of the serious threat to the maintenance and promotion of friendly relations and co-operation among States created by the commission of such crimes,

*Having elaborated* for that purpose the provisions contained in the Convention annexed hereto,

1. *Adopts* the Convention on the Prevention of Crimes against Internationally Protected Persons, including Diplomatic Agents, annexed to the present resolution;

2. *Re-emphasizes* the great importance of the rules of international law concerning the inviolability of and special protection to be afforded to internationally protected persons and the obligations of States in relation thereto;

3. *Considers* that the annexed Convention will enable States to carry out their obligations more effectively;

4. *Recognizes also* that the provisions of the annexed Convention could not in any way prejudice the exercise of the legitimate right to self-determination and independence, in accordance with the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,<sup>8</sup> by peoples struggling against colonialism, alien domination, foreign occupation, racial discrimination and apartheid;

5. *Invites* States to become parties to the annexed Convention;

6. *Decides* that the present resolution, whose provisions are related to the annexed Convention, shall always be published together with it.

*2202nd plenary meeting  
14 December 1973*

ANNEX

CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES  
AGAINST INTERNATIONALLY PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS

*The States Parties to this Convention,*

*Having in mind* the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and the promotion of friendly relations and co-operation among States,

<sup>6</sup> *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 10 (A/8710/Rev.1), chap. III, sect. B.*

<sup>7</sup> A/9127 and Add.I.

<sup>8</sup> Reproduced in the *Juridical Yearbook*, 1970, p. 104.

Considering that crimes against diplomatic agents and other internationally protected persons jeopardizing the safety of these persons create a serious threat to the maintenance of normal international relations which are necessary for co-operation among States,

Believing that the commission of such crimes is a matter of grave concern to the international community,

Convinced that there is an urgent need to adopt appropriate and effective measures for the prevention and punishment of such crimes,

Have agreed as follows:

#### Article 1

For the purposes of this Convention:

1. "internationally protected person" means:

(a) a Head of State, including any member of a collegial body performing the functions of a Head of State under the constitution of the State concerned, a Head of Government or a Minister for Foreign Affairs, whenever any such person is in a foreign State, as well as members of his family who accompany him;

(b) any representative or official of a State or any official or other agent of an international organization of an intergovernmental character who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity, as well as members of his family forming part of his household;

2. "alleged offender" means a person as to whom there is sufficient evidence to determine *prima facie* that he has committed or participated in one or more of the crimes set forth in article 2.

#### Article 2

1. The intentional commission of:

(a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty;

(c) a threat to commit any such attack;

(d) an attempt to commit any such attack; and

(e) an act constituting participation as an accomplice in any such attack shall be made by each State Party a crime under its internal law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Paragraphs 1 and 2 of this article in no way derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of an internationally protected person.

#### Article 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set forth in article 2 in the following cases:

(a) when the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) when the alleged offender is a national of that State;

(c) when the crime is committed against an internationally protected person as defined in article 1 who enjoys his status as such by virtue of functions which he exercises on behalf of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these crimes in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

#### *Article 4*

States Parties shall co-operate in the prevention of the crimes set forth in article 2, particularly by:

- (a) taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;
- (b) exchanging information and co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

#### *Article 5*

1. The State Party in which any of the crimes set forth in article 2 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to all other States concerned, directly or through the Secretary-General of the United Nations, all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever any of the crimes set forth in article 2 has been committed against an internationally protected person, any State Party which has information concerning the victim and the circumstances of the crime shall endeavour to transmit it, under the conditions provided for in its internal law, fully and promptly to the State Party on whose behalf he was exercising his functions.

#### *Article 6*

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its internal law so as to ensure his presence for the purpose of prosecution or extradition. Such measures shall be notified without delay directly or through the Secretary-General of the United Nations to:

- (a) the State where the crime was committed;
- (b) the State or States of which the alleged offender is a national or, if he is a stateless person, in whose territory he permanently resides;
- (c) the State or States of which the internationally protected person concerned is a national or on whose behalf he was exercising his functions;
- (d) all other States concerned; and
- (e) the international organization of which the internationally protected person concerned is an official or an agent.

2. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

- (a) to communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, which he requests and which is willing to protect his rights; and
- (b) to be visited by a representative of that State.

#### *Article 7*

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

#### *Article 8*

1. To the extent that the crimes set forth in article 2 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may, if it decides to extradite, consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the procedural provisions and the other conditions of the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the procedural provisions and the other conditions of the law of the requested State.

4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 3.

#### *Article 9*

Any person regarding whom proceedings are being carried out in connexion with any of the crimes set forth in article 2 shall be guaranteed fair treatment at all stages of the proceedings.

#### *Article 10*

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of the crimes set forth in article 2, including the supply of all evidence at their disposal necessary for the proceedings.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

#### *Article 11*

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

#### *Article 12*

The provisions of this Convention shall not affect the application of the Treaties on Asylum, in force at the date of the adoption of this Convention, as between the States which are parties to those Treaties; but a State Party to this Convention may not invoke those Treaties with respect to another State Party to this Convention which is not a party to those Treaties.

#### *Article 13*

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

#### *Article 14*

This Convention shall be open for signature by all States, until 31 December 1974 at United Nations Headquarters in New York.

#### *Article 15*

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### *Article 16*

This Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### *Article 17*

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

#### *Article 18*

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect six months following the date on which notification is received by the Secretary-General of the United Nations.

#### *Article 19*

The Secretary-General of the United Nations shall inform all States, *inter alia*:

(a) of signatures of this Convention, of the deposit of instruments of ratification or accession in accordance with articles 14, 15 and 16 and of notifications made under article 18;

(b) of the date on which this Convention will enter into force in accordance with article 17.

#### *Article 20*

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on 14 December 1973.<sup>9</sup>

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## **B. Treaties concerning international law concluded under the auspices of intergovernmental organizations related to the United Nations**

### **1. WORLD HEALTH ORGANIZATION**

#### **RESOLUTION<sup>10</sup> OF THE TWENTY-SIXTH WORLD HEALTH ASSEMBLY AMENDING THE CONSTITUTION OF THE WORLD HEALTH ORGANIZATION<sup>11</sup>**

*(Articles 34 and 55)*

The Twenty-sixth World Health Assembly,

Having examined the desirability of introducing a biennial programme and budget as set out in Resolution WHA25.24 and in the Report of the Director-General to the Twenty-fifth World Health Assembly on this subject;

Considering the recommendation made to the Twenty-sixth Health Assembly by the Executive Board at its Fifty-first session in Resolution EB51.R51 that a programme and budget for a biennial period be introduced as soon as possible and to adopt the proposed amendments to Articles 34 and 55 of the Constitution;

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<sup>9</sup>At its 2202nd plenary meeting, on 14 December 1973, the General Assembly adopted the following text as representing an understanding by the members of the Assembly:

“In accordance with its terms, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, will be open to participation by all States and the Secretary-General of the United Nations will act as depositary. It is the understanding of the General Assembly that the Secretary-General, in discharging his functions as depositary of a convention with an ‘all States’ clause, will follow the practice of the Assembly in implementing such a clause and, whenever advisable, will request the opinion of the Assembly before receiving a signature or an instrument of ratification or accession.”

<sup>10</sup>Resolution WHA 26.37 adopted at the fifteenth plenary meeting, on 22 May 1973.

<sup>11</sup>United Nations, *Treaty Series*, vol. 14, p. 185.

Noting that the provision of Article 73 of the Constitution, which requires that the texts of proposed amendments to the Constitution shall be communicated to Members at least six months before consideration by the Health Assembly, has been duly complied with,

## I

1. *Adopts* the amendments to the Constitution set forth in the Annexes to this resolution, and which shall form an integral part of this resolution, the texts in the Chinese, English, French, Russian and Spanish languages being equally authentic;

2. *Decides* that two copies of this resolution shall be authenticated by the signatures of the President of the Twenty-sixth World Health Assembly, and the Director-General of the World Health Organization, of which one copy shall be transmitted to the Secretary-General of the United Nations, depositary of the Constitution, and one copy retained in the archives of the World Health Organization.

## II

Considering that the aforesaid amendments to the Constitution shall come into force for all Members when accepted by two-thirds of the Members in accordance with their respective constitutional processes, as provided for in Article 73 of the Constitution,

*Decides* that the notification of such acceptance shall be effected by the deposit of a formal instrument with the Secretary-General of the United Nations, as required for acceptance of the Constitution by Article 79(b) of the Constitution.

IN FAITH WHEREOF we have appended our signatures hereto.

DONE AT GENEVA this twenty-fourth day of May 1973 in two copies.

*(Signed)*

J. SULIANTI

*President of the Twenty-sixth  
World Health Assembly*

*(Signed)*

M. G. CANDAU

*Director-General of the  
World Health Organization*

## ANNEX B<sup>12</sup>

In *Article 34* delete the word "annually",

In *Article 55* delete the word "annual";

the amended Articles reading as follows:

### *Article 34*

The Director-General shall prepare and submit to the Board the financial statements and budget estimates of the Organization.

### *Article 55*

The Director-General shall prepare and submit to the Board the budget estimates of the Organization. The Board shall consider and submit to the Health Assembly such budget estimates, together with any recommendations the Board may deem advisable.

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<sup>12</sup>Annexes A, C, D and E contain the text of the amendments in Chinese, French, Russian and Spanish respectively.

## 2. INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

### INTERNATIONAL CONFERENCE ON MARINE POLLUTION 1973

#### (a) *International Convention for the Prevention of Pollution from Ships, 1973. Done at London on 2 November 1973*

##### *The Parties to the Convention.*

*Being* conscious of the need to preserve the human environment in general and the marine environment in particular,

*Recognizing* that deliberate, negligent or accidental release of oil and other harmful substances from ships constitutes a serious source of pollution.

*Recognizing also* the importance of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954,<sup>13</sup> as being the first multilateral instrument to be concluded with the prime objective of protecting the environment, and appreciating the significant contribution which that Convention has made in preserving the seas and coastal environment from pollution,

*Desiring* to achieve the complete elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimization of accidental discharge of such substances,

*Considering* that this object may best be achieved by establishing rules not limited to oil pollution having a universal purport,

*Have agreed* as follows:

#### Article I

##### *General Obligations under the Convention*

1. The Parties to the Convention undertake to give effect to the provisions of the present Convention and those Annexes thereto by which they are bound, in order to prevent the pollution of the marine environment by the discharge of harmful substances or effluents containing such substances in contravention of the Convention.

2. Unless expressly provided otherwise, a reference to the present Convention constitutes at the same time a reference to its Protocols and to the Annexes.

#### Article 2

##### *Definitions*

For the purposes of the present Convention, unless expressly provided otherwise:

1. "Regulations" means the Regulations contained in the Annexes to the present Convention.

2. "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by the present Convention.

3. (a) "Discharge", in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;

(b) "Discharge" does not include:

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<sup>13</sup>United Nations, *Treaty Series*, vol. 327, p. 3.

- (i) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13 November 1972; or
  - (ii) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or
  - (iii) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control.
4. "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.
5. "Administration" means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of any State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.
6. "Incident" means an event involving the actual or probable discharge into the sea of a harmful substance, or effluents containing such a substance.
7. "Organization" means the Inter-Governmental Maritime Consultative Organization.

### Article 3

#### *Application*

1. The present Convention shall apply to:
- (a) ships entitled to fly the flag of a Party to the Convention; and
  - (b) ships not entitled to fly the flag of a Party but which operate under the authority of a Party.
2. Nothing in the present Article shall be construed as derogating from or extending the sovereign rights of the Parties under international law over the sea-bed and subsoil thereof adjacent to their coasts for the purposes of exploration and exploitation of their natural resources.
3. The present Convention 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 the present Convention.

### Article 4

#### *Violation*

1. Any violation of the requirements of the present Convention shall be prohibited and sanctions shall be established therefor under the law of the Administration of the ship concerned wherever the violation occurs. If the Administration is informed of such a violation and is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, in accordance with its law.
2. Any violation of the requirements of the present Convention within the jurisdiction of any Party to the Convention shall be prohibited and sanctions shall be established therefor under the law of that Party. Whenever such a violation occurs, that Party shall either:
- (a) cause proceedings to be taken in accordance with its law; or

(b) furnish to the Administration of the ship such information and evidence as may be in its possession that a violation has occurred.

3. Where information or evidence with respect to any violation of the present Convention by a ship is furnished to the Administration of that ship, the Administration shall promptly inform the Party which has furnished the information or evidence, and the Organization, of the action taken.

4. The penalties specified under the law of a Party pursuant to the present Article shall be adequate in severity to discourage violations of the present Convention and shall be equally severe irrespective of where the violations occur.

## Article 5

### *Certificates and Special Rules on Inspection of Ships*

1. Subject to the provisions of paragraph 2 of the present Article a certificate issued under the authority of a Party to the Convention in accordance with the provisions of the Regulations shall be accepted by the other Parties and regarded for all purposes covered by the present Convention as having the same validity as a certificate issued by them.

2. A ship required to hold a certificate in accordance with the provisions of the Regulations is subject, while in the ports or off-shore terminals under the jurisdiction of a Party, to inspection by officers duly authorized by that Party. Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate. In that case, or if the ship does not carry a valid certificate, the Party carrying out the inspection shall take such steps as will ensure that the ship shall not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment. That Party may, however, grant such a ship permission to leave the port or off-shore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

3. If a Party denies a foreign ship entry to the ports or off-shore terminals under its jurisdiction or takes any action against such a ship for the reason that the ship does not comply with the provisions of the present Convention, the Party shall immediately inform the consul or diplomatic representative of the Party whose flag the ship is entitled to fly, or if this is not possible, the Administration of the ship concerned. Before denying entry or taking such action the Party may request consultation with the Administration of the ship concerned. Information shall also be given to the Administration when a ship does not carry a valid certificate in accordance with the provisions of the Regulations.

4. With respect to the ships of non-Parties to the Convention, Parties shall apply the requirements of the present Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

## Article 6

### *Detection of Violations and Enforcement of the Convention*

1. Parties to the Convention shall co-operate in the detection of violations and the enforcement of the provisions of the present Convention, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

2. A ship to which the present Convention applies may, in any port or off-shore terminal of a Party, be subject to inspection by officers appointed or authorized by that Party for the purpose of verifying whether the ship has discharged any harmful substances in violation of the provisions of the Regulations. If an inspection indicates a violation of the Convention, a report shall be forwarded to the Administration for any appropriate action.

3. Any Party shall furnish to the Administration evidence, if any, that the ship has discharged harmful substances or effluents containing such substances in violation of the

provisions of the Regulations. If it is practicable to do so, the competent authority of the former Party shall notify the Master of the ship of the alleged violation.

4. Upon receiving such evidence, the Administration so informed shall investigate the matter, and may request the other Party to furnish further or better evidence of the alleged contravention. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken in accordance with its law as soon as possible. The Administration shall promptly inform the Party which has reported the alleged violation, as well as the Organization, of the action taken.

5. A Party may also inspect a ship to which the present Convention applies when it enters the ports or off-shore terminals under its jurisdiction, if a request for an investigation is received from any Party together with sufficient evidence that the ship has discharged harmful substances or effluents containing such substances in any place. The report of such investigation shall be sent to the Party requesting it and to the Administration so that the appropriate action may be taken under the present Convention.

#### Article 7

##### *Undue Delay to Ships*

1. All possible efforts shall be made to avoid a ship being unduly detained or delayed under Article 4, 5 or 6 of the present Convention.

2. When a ship is unduly detained or delayed under Article 4, 5 or 6 of the present Convention, it shall be entitled to compensation for any loss or damage suffered.

#### Article 8

##### *Reports on Incidents Involving Harmful Substances*

1. A report of an incident shall be made without delay to the fullest extent possible in accordance with the provisions of Protocol I to the present Convention.

2. Each Party to the Convention shall:

(a) make all arrangements necessary for an appropriate officer or agency to receive and process all reports on incidents; and

(b) notify the Organization with complete details of such arrangements for circulation to other Parties and Member States of the Organization.

3. Whenever a Party receives a report under the provisions of the present Article, that Party shall relay the report without delay to:

(a) the Administration of the ship involved; and

(b) any other other State which may be affected.

4. Each Party to the Convention undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services, to report to its authorities any incident referred to in Protocol I to the present Convention. That Party shall, if it considers it appropriate, report accordingly to the Organization and to any other party concerned.

#### Article 9

##### *Other Treaties and Interpretation*

1. Upon its entry into force, the present Convention supersedes the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, as between Parties to that Convention.

2. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C(XXV) of the General Assembly of the United Nations nor the

present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

3. The term "jurisdiction" in the present Convention shall be construed in the light of international law in force at the time of application or interpretation of the present Convention.

## Article 10

### *Settlement of Disputes*

Any dispute between two or more Parties to the Convention concerning the interpretation or application of the present Convention shall, if settlement by negotiation between the Parties involved has not been possible, and if these Parties do not otherwise agree, be submitted upon request of any of them to arbitration as set out in Protocol II to the present Convention.

## Article 11

### *Communication of Information*

1. The Parties to the Convention undertake to communicate to the Organization:

(a) the text of laws, orders, decrees and regulations and other instruments which have been promulgated on the various matters within the scope of the present Convention;

(b) a list of non-governmental agencies which are authorized to act on their behalf in matters relating to the design, construction and equipment of ships carrying harmful substances in accordance with the provisions of the Regulations;

(c) a sufficient number of specimens of their certificates issued under the provisions of the Regulations;

(d) a list of reception facilities including their location, capacity and available facilities and other characteristics;

(e) official reports or summaries of official reports in so far as they show the results of the application of the present Convention; and

(f) an annual statistical report, in a form standardized by the Organization, of penalties actually imposed for infringement of the present Convention.

2. The Organization shall notify Parties of the receipt of any communications under the present Article and circulate to all Parties any information communicated to it under subparagraphs 1 (b) to (f) of the present Article.

## Article 12

### *Casualties to Ships*

1. Each Administration undertakes to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the Regulations if such casualty has produced a major deleterious effect upon the marine environment.

2. Each Party to the Convention undertakes to supply the Organization with information concerning the findings of such investigation, when it judges that such information may assist in determining what changes in the present Convention might be desirable.

## Article 13

### *Signature, Ratification, Acceptance, Approval and Accession*

1. The present Convention shall remain open for signature at the Headquarters of the Organization from 15 January 1974 until 31 December 1974 and shall thereafter remain open for accession. States may become Parties to the present Convention by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

2. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

3. The Secretary-General of the Organization shall inform all States which have signed the present Convention or acceded to it of any signature or of the deposit of any new instrument of ratification, acceptance, approval or accession and the date of its deposit.

#### Article 14

##### *Optional Annexes*

1. A State may at the time of signing, ratifying, accepting, approving or acceding to the present Convention declare that it does not accept any one or all of Annexes III, IV and V (hereinafter referred to as "Optional Annexes") of the present Convention. Subject to the above, Parties to the Convention shall be bound by any Annex in its entirety.

2. A State which has declared that it is not bound by an Optional Annex may at any time accept such Annex by depositing with the Organization an instrument of the kind referred to in Article 13(2).

3. A State which makes a declaration under paragraph 1 of the present Article in respect of an Optional Annex and which has not subsequently accepted that Annex in accordance with paragraph 2 of the present Article shall not be under any obligation nor entitled to claim any privileges under the present Convention in respect of matters related to such Annex and all references to Parties in the present Convention shall not include that State in so far as matters related to such Annex are concerned.

4. The Organization shall inform the States which have signed or acceded to the present Convention of any declaration under the present Article as well as the receipt of any instrument deposited in accordance with the provisions of paragraph 2 of the present Article.

#### Article 15

##### *Entry into Force*

1. The present Convention shall enter into force twelve months after the date on which not less than fifteen States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become parties to it in accordance with Article 13.

2. An Optional Annex shall enter into force twelve months after the date on which the conditions stipulated in paragraph 1 of the present Article have been satisfied in relation to that Annex.

3. The Organization shall inform the States which have signed the present Convention or acceded to it of the date on which it enters into force and of the date on which an Optional Annex enters into force in accordance with paragraph (2) of the present Article.

4. For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the present Convention or any Optional Annex after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of the Convention or such Annex or three months after the date of deposit of the instrument whichever is the later date.

5. For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the Convention or an Optional Annex entered into force, the Convention or the Optional Annex shall become effective three months after the date of deposit of the instrument.

6. After the date on which all the conditions required under Article 16 to bring an amendment to the present Convention or an Optional Annex into force have been fulfilled, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention or Annex as amended.

## Article 16

### *Amendments*

1. The present Convention may be amended by any of the procedures specified in the following paragraphs.

2. Amendments after consideration by the Organization:

(a) any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by its Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration;

(b) any amendment proposed and circulated as above shall be submitted to an appropriate body by the Organization for consideration;

(c) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the appropriate body;

(d) amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting;

(e) if adopted in accordance with sub-paragraph (d) above, amendments shall be communicated by the Secretary-General of the Organization to all the Parties to the Convention for acceptance;

(f) an amendment shall be deemed to have been accepted in the following circumstances:

(i) an amendment to an Article of the Convention shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet;

(ii) an amendment to an Annex to the Convention shall be deemed to have been accepted in accordance with the procedure specified in subparagraph (f)(iii) above unless the appropriate body, at the time of its adoption, determines that the amendment shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet. Nevertheless, at any time before the entry into force of an amendment to an Annex to the Convention, a Party may notify the Secretary-General of the Organization that its express approval will be necessary before the amendment enters into force for it. The latter shall bring such notification and the date of its receipt to the notice of Parties;

(iii) an amendment to an Appendix to an Annex to the Convention shall be deemed to have been accepted at the end of a period to be determined by the appropriate body at the time of its adoption, which period shall be not less than ten months, unless within that period an objection is communicated to the Organization by not less than one third of the Parties or by the Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet whichever condition is fulfilled;

(iv) an amendment to Protocol I to the Convention shall be subject to the same procedures as for the amendments to the Annexes to the Convention, as provided for in subparagraphs (f)(ii) or (f)(iii) above;

(v) an amendment to Protocol II to the Convention shall be subject to the same procedures as for the amendments to an Article of the Convention, as provided for in subparagraph (f)(i) above;

(g) the amendment shall enter into force under the following conditions:

- (i) in the case of an amendment to an Article of the Convention, to Protocol II, or to Protocol I or to an Annex to the Convention not under the procedure specified in subparagraph (f)(iii), the amendment accepted in conformity with the foregoing provisions shall enter into force six months after the date of its acceptance with respect to the Parties which have declared that they have accepted it;
- (ii) in the case of an amendment to Protocol I, to an Appendix to an Annex or to an Annex to the Convention under the procedure specified in subparagraph (f) (iii), the amendment deemed to have been accepted in accordance with the foregoing conditions shall enter into force six months after its acceptance for all the Parties with the exception of those which, before that date, have made a declaration that they do not accept it or a declaration under subparagraph (f)(ii) of this paragraph, that their express approval is necessary.

3. Amendment by a Conference:

(a) Upon the request of a Party, concurred in by at least one third of the Parties, the Organization shall convene a Conference of Parties to the Convention to consider amendments to the present Convention.

(b) Every amendment adopted by such a Conference by a two-thirds majority of those present and voting of the Parties shall be communicated by the Secretary-General of the Organization to all Contracting Parties for their acceptance.

(c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and to have entered into force in accordance with the procedures specified for that purpose in paragraphs 2 (f) and (g) above.

4. (a) In the case of an amendment to an Optional Annex, a reference in the present Article to a "Party to the Convention" shall be deemed to mean a reference to a Party bound by that Annex.

(b) Any Party which has declined to accept an amendment to an Annex shall be treated as a non-Party only for the purpose of application of that Amendment.

5. The adoption and entry into force of a new Annex shall be subject to the same procedures as for the adoption and entry into force of an amendment to an Article of the Convention.

6. Unless expressly provided otherwise, any amendment to the present Convention made under this Article, which relates to the structure of a ship, shall apply only to ships for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, on or after the date on which the amendment comes into force.

7. Any amendment to a Protocol or to an Annex shall relate to the substance of that Protocol or Annex and shall be consistent with the Articles of the present Convention.

8. The Secretary-General of the Organization shall inform all Parties of any amendments which enter into force under the present Article, together with the date on which each such amendment enters into force.

9. Any declaration of acceptance or of objection to an amendment under the present Article shall be notified in writing to the Secretary-General of the Organization. The latter shall bring such notification and the date of its receipt to the notice of the Parties to the Convention.

#### Article 17

##### *Promotion of Technical Co-operation*

The Parties to the Convention shall promote, in consultation with the Organization and other international bodies, with assistance and co-ordination by the Executive Director of the United Nations Environment Programme, support for those Parties which request technical assistance for:

- (a) the training of scientific and technical personnel;
- (b) the supply of necessary equipment and facilities for reception and monitoring;

(c) the facilitation of other measures and arrangements to prevent or mitigate pollution of the marine environment by ships; and

(d) the encouragement of research;

preferably within the countries concerned, so furthering the aims and purposes of the present Convention.

#### Article 18

##### *Denunciation*

1. The present Convention or any Optional Annex may be denounced by any Parties to the Convention at any time after the expiry of five years from the date on which the Convention or such Annex enters into force for that Party.

2. Denunciation shall be effected by notification in writing to the Secretary-General of the Organization who shall inform all the other Parties of any such notification received and of the date of its receipt as well as the date on which such denunciation takes effect.

3. A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General of the Organization or after the expiry of any other longer period which may be indicated in the notification.

#### Article 19

##### *Deposit and Registration*

1. The present Convention shall be deposited with the Secretary-General of the Organization who shall transmit certified true copies thereof to all States which have signed the present Convention or acceded to it.

2. As soon as the present Convention enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

#### Article 20

##### *Languages*

The present Convention is established in a single copy in the English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German, Italian and Japanese languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned \* being duly authorized by their respective Governments for that purpose have signed the present Convention.

DONE AT LONDON this second day of November, one thousand nine hundred and seventy-three.

PROTOCOL I. PROVISIONS CONCERNING REPORTS ON INCIDENTS INVOLVING  
HARMFUL SUBSTANCES  
(in accordance with Article 8 of the Convention)

[ *Not reproduced* ]

PROTOCOL II. ARBITRATION  
(in accordance with Article 10 of the Convention)

#### Article I

Arbitration procedure, unless the Parties to the dispute decide otherwise, shall be in accordance with the rules set out in this Protocol.

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\* *Signatures omitted.*

## Article II

1. An Arbitration Tribunal shall be established upon the request of one Party to the Convention addressed to another in application of Article 10 of the present Convention. The request for arbitration shall consist of a statement of the case together with any supporting documents.

2. The requesting Party shall inform the Secretary-General of the Organization of the fact that it has applied for the establishment of a Tribunal, of the names of the Parties to the dispute, and of the Articles of the Convention or Regulations over which there is in its opinion disagreement concerning their interpretation or application. The Secretary-General shall transmit this information to all Parties.

## Article III

The Tribunal shall consist of three members: one Arbitrator nominated by each Party to the dispute and a third Arbitrator who shall be nominated by agreement between the two first named, and shall act as its Chairman.

## Article IV

1. If, at the end of a period of sixty days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organization upon request of either Party shall within a further period of sixty days proceed to such nomination, selecting him from a list of qualified persons previously drawn up by the Council of the Organization.

2. If, within a period of sixty days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly inform the Secretary-General of the Organization who shall nominate the Chairman of the Tribunal within a period of sixty days, selecting him from the list prescribed in paragraph 1 of the present Article.

3. The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organization to make the nomination in the form and conditions prescribed in the preceding paragraph.

4. The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party.

5. In the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of sixty days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In case of the decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article III above, or in the absence of agreement between the members of the Tribunal within a period of sixty days of the decease or default, according to the provisions of the present Article.

## Article V

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

## Article VI

Each Party shall be responsible for the remuneration of its Arbitrator and connected costs and for the costs entailed by the preparation of its own case. The remuneration of the

Chairman of the Tribunal and of all general expenses incurred by the Arbitration shall be borne equally by the Parties. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof.

#### Article VII

Any Party to the Convention which has an interest of a legal nature and which may be affected by the decision in the case may, after giving written notice to the Parties which have originally initiated the procedure, join in the arbitration procedure with the consent of the Tribunal.

#### Article VIII

Any Arbitration Tribunal established under the provisions of the present Protocol shall decide its own rules of procedure.

#### Article IX

1. Decisions of the Tribunal both as to its procedure and its place of meeting and as to any question laid before it, shall be taken by majority votes of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible, shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the vote of the Chairman shall be decisive.

2. The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal:

(a) provide the Tribunal with the necessary documents and information;

(b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

3. Absence or default of one Party shall not constitute an impediment to the procedure.

#### Article X

1. The Tribunal shall render its award within a period of five months from the time it is established unless it decides, in the case of necessity, to extend the time limit for a further period not exceeding three months. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organization. The Parties shall immediately comply with the award.

2. Any controversy which may arise between the Parties as regards interpretation or execution of the award may be submitted by either Party for judgment to the Tribunal which made the award, or, if it is not available to another Tribunal constituted for this purpose, in the same manner as the original Tribunal.

#### *Annexes*

[*Not reproduced*]

(b) *Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil. Done at London on 2 November 1973*

*The Parties to the Present Protocol,*

*Being Parties to the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, done at Brussels on 29 November 1969,<sup>14</sup>*

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<sup>14</sup>Reproduced in the *Juridical Yearbook*, 1969, p. 166.

*Taking into account* the Resolution on International Co-operation Concerning Pollutants other than Oil adopted by the International Legal Conference on Marine Pollution Damage, 1969,<sup>15</sup>

*Further taking into account* that pursuant to the Resolution, the Inter-Governmental Maritime Consultative Organization has intensified its work, in collaboration with all interested international organizations, on all aspects of pollution by substances other than oil,

*Have agreed* as follows:

#### Article I

1. Parties to the present Protocol may take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution by substances other than oil following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.

2. "Substances other than oil" as referred to in paragraph 1 shall be:

(a) those substances enumerated in a list which shall be established by an appropriate body designated by the Organization and which shall be annexed to the present Protocol, and

(b) those other substances which are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

3. Whenever an intervening Party takes action with regard to a substance referred to in paragraph 2(b) above that Party shall have the burden of establishing that the substance, under the circumstances present at the time of the intervention, could reasonably pose a grave and imminent danger analogous to that posed by any of the substances enumerated in the list referred to in paragraph 2(a) above.

#### Article II

1. The provisions of paragraph 2 of Article I and of Articles II to VIII of the Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, and the Annex thereto as they relate to oil, shall be applicable with regard to the substances referred to in Article I of the present Protocol.

2. For the purpose of the present Protocol the list of experts referred to in Articles III (c) and IV of the Convention shall be extended to include experts qualified to give advice in relation to substances other than oil. Nominations to the list may be made by Member States of the Organization and by Parties to the present Protocol.

#### Article III

1. The list referred to in paragraph 2(a) of Article I shall be maintained by the appropriate body designated by the Organization.

2. Any amendment to the list proposed by a Party to the present Protocol shall be submitted to the Organization and circulated by it to all Members of the Organization and all Parties to the present Protocol at least three months prior to its consideration by the appropriate body.

3. Parties to the present Protocol whether or not Members of the Organization shall be entitled to participate in the proceedings of the appropriate body.

4. Amendments shall be adopted by a two-thirds majority of only the Parties to the present Protocol present and voting.

5. If adopted in accordance with paragraph 4 above, the amendment shall be communicated by the Organization to all Parties to the present Protocol for acceptance.

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<sup>15</sup> *Ibid.*, p. 181.

6. The amendment shall be deemed to have been accepted at the end of a period of six months after it has been communicated, unless within that period an objection to the amendment has been communicated to the Organization by not less than one-third of the Parties to the present Protocol.

7. An amendment deemed to have been accepted in accordance with paragraph 6 above shall enter into force three months after its acceptance for all Parties to the present Protocol, with the exception of those which before that date have made a declaration of non-acceptance of the said amendment.

#### Article IV

1. The present Protocol shall be open for signature by the States which have signed the Convention referred to in Article II or acceded thereto, and by any State invited to be represented at the International Conference on Marine Pollution, 1973. The Protocol shall remain open for signature from 15 January 1974 until 31 December 1974 at the Headquarters of the Organization.

2. Subject to paragraph 4 of this Article, the present Protocol shall be subject to ratification, acceptance or approval by the States which have signed it.

3. Subject to paragraph 4, this Protocol shall be open for accession by States which did not sign it.

4. The present Protocol may be ratified, accepted, approved or acceded to only by States which have ratified, accepted, approved or acceded to the Convention referred to in Article II.

#### Article V

1. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization.

2. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the present Protocol with respect to all existing Parties or after the completion of all measures required for the entry into force of the amendment with respect to all existing Parties shall be deemed to apply to the Protocol as modified by the amendment.

#### Article VI

1. The present Protocol shall enter into force on the ninetieth day following the date on which fifteen States have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization, provided however that the present Protocol shall not enter into force before the Convention referred to in Article II has entered into force.

2. For each State which subsequently ratifies, accepts, approves or accedes to it, the present Protocol shall enter into force on the ninetieth day after the deposit by such State of the appropriate instrument.

#### Article VII

1. The present Protocol may be denounced by any Party at any time after the date on which the Protocol enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

3. Denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.

4. Denunciation of the Convention referred to in Article II by a Party shall be deemed to be a denunciation of the present Protocol by that Party. Such denunciation shall take effect on

the same day as the denunciation of the Convention takes effect in accordance with paragraph 3 of Article XII of that Convention.

#### Article VIII

1. A conference for the purpose of revising or amending the present Protocol may be convened by the Organization.

2. The Organization shall convene a conference of Parties to the present Protocol for the purpose of revising or amending it at the request of not less than one third of the Parties.

#### Article IX

1. The present Protocol shall be deposited with the Secretary-General of the Organization.

2. The Secretary-General of the Organization shall:

(a) inform all States which have signed the present Protocol or acceded thereto of:

(i) each new signature or deposit of an instrument together with the date thereof;

(ii) the date of entry into force of the present Protocol;

(iii) the deposit of any instrument of denunciation of the present Protocol together with the date on which the denunciation takes effect;

(iv) any amendments to the present Protocol or its Annex and any objection or declaration of non-acceptance of the said amendment;

(b) transmit certified true copies of the present Protocol to all States which have signed the present Protocol or acceded thereto.

#### Article X

As soon as the present Protocol enters into force, a certified true copy thereof shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

#### Article XI

The present Protocol is established in a single original in the English, French, Russian and Spanish languages, all four texts being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized for that purpose have signed the present Protocol.

DONE AT LONDON this second day of November one thousand nine hundred and seventy-three.

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