

ANNEX IV TO THE PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY

PREVENTION OF MARINE POLLUTION

ARTICLE 1

DEFINITIONS

For the purposes of this Annex:

- (a) “discharge” means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;
- (b) “garbage” means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship, except those substances which are covered by Articles 3 and 4;
- (c) “MARPOL 73/78” means the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto and by any other amendment in force thereafter;
- (d) “noxious liquid substance” means any noxious liquid substance as defined in Annex II of MARPOL 73/78;
- (e) “oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined oil products (other than petrochemicals which are subject to the provisions of Article 4);
- (f) “oily mixture” means a mixture with any oil content; and
- (g) “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.

ARTICLE 2

APPLICATION

This Annex applies, with respect to each Party, to ships entitled to fly its flag and to any other ship engaged in or supporting its Antarctic operations, while operating in the Antarctic Treaty area.

ARTICLE 3

DISCHARGE OF OIL

1. Any discharge into the sea of oil or oily mixture shall be prohibited, except in cases permitted under Annex I of MARPOL 73/78. While operating in the Antarctic Treaty area, ships shall retain on board all sludge, dirty ballast, tank washing waters and other oily residues and mixtures which may not be discharged into the sea. Ships shall discharge these residues only outside the Antarctic Treaty area, at reception facilities or as otherwise permitted under Annex I of MARPOL 73/78.
2. This Article shall not apply to:
 - (a) the discharge into the sea of oil or oily mixture resulting from damage to a ship or its equipment:
 - (i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge; and
 - (ii) except if the owner or the Master acted either with intent to cause damage, or recklessly and with the knowledge that damage would probably result; or
 - (b) the discharge into the sea of substances containing oil which are being used for the purpose of combating specific pollution incidents in order to minimise the damage from pollution.

ARTICLE 4

DISCHARGE OF NOXIOUS LIQUID SUBSTANCES

The discharge into the sea of any noxious liquid substance, and any other chemical or other substances, in quantities or concentrations that are harmful to the marine environment, shall be prohibited.

ARTICLE 5

DISPOSAL OF GARBAGE

1. The disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets, and plastic garbage bags, shall be prohibited.
2. The disposal into the sea of all other garbage, including paper products, rags, glass, metal, bottles, crockery, incineration ash, dunnage, lining and packing materials, shall be prohibited.

3. The disposal into the sea of food wastes may be permitted when they have been passed through a comminuter or grinder, provided that such disposal shall, except in cases permitted under Annex V of MARPOL 73/78, be made as far as practicable from land and ice shelves but in any case not less than 12 nautical miles from the nearest land or ice shelf. Such comminuted or ground food wastes shall be capable of passing through a screen with openings no greater than 25 millimeters.
4. When a substance or material covered by this article is mixed with other such substance or material for discharge or disposal, having different disposal or discharge requirements, the most stringent disposal or discharge requirements shall apply.
5. The provisions of paragraphs 1 and 2 above shall not apply to:
 - (a) the escape of garbage resulting from damage to a ship or its equipment provided all reasonable precautions have been taken, before and after the occurrence of the damage, for the purpose of preventing or minimising the escape; or
 - (b) the accidental loss of synthetic fishing nets, provided all reasonable precautions have been taken to prevent such loss.
6. The Parties shall, where appropriate, require the use of garbage record books.

ARTICLE 6

DISCHARGE OF SEWAGE

1. Except where it would unduly impair Antarctic operations:
 - (a) each Party shall eliminate all discharge into the sea of untreated sewage ("sewage" being defined in Annex IV of MARPOL 73/78) within 12 nautical miles of land or ice shelves;
 - (b) beyond such distance, sewage stored in a holding tank shall not be discharged instantaneously but at a moderate rate and, where practicable, while the ship is en route at a speed of no less than 4 knots.

This paragraph does not apply to ships certified to carry not more than 10 persons.

2. The Parties shall, where appropriate, require the use of sewage record books.

ARTICLE 7

CASES OF EMERGENCY

1. Articles 3, 4, 5 and 6 of this Annex shall not apply in cases of emergency relating to the safety of a ship and those on board or saving life at sea.
2. Notice of activities undertaken in cases of emergency shall be circulated immediately to all Parties and to the Committee.

ARTICLE 8

EFFECT ON DEPENDENT AND ASSOCIATED ECOSYSTEMS

In implementing the provisions of this Annex, due consideration shall be given to the need to avoid detrimental effects on dependent and associated ecosystems, outside the Antarctic Treaty area.

ARTICLE 9

SHIP RETENTION CAPACITY AND RECEPTION FACILITIES

1. Each Party shall undertake to ensure that all ships entitled to fly its flag and any other ship engaged in or supporting its Antarctic operations, before entering the Antarctic Treaty area, are fitted with a tank or tanks of sufficient capacity on board for the retention of all sludge, dirty ballast, tank washing water and other oily residues and mixtures, and have sufficient capacity on board for the retention of garbage, while operating in the Antarctic Treaty area and have concluded arrangements to discharge such oily residues and garbage at a reception facility after leaving that area. Ships shall also have sufficient capacity on board for the retention of noxious liquid substances.
2. Each Party at whose ports ships depart en route to or arrive from the Antarctic Treaty area undertakes to ensure that as soon as practicable adequate facilities are provided for the reception of all sludge, dirty ballast, tank washing water, other oily residues and mixtures, and garbage from ships, without causing undue delay, and according to the needs of the ships using them.
3. Parties operating ships which depart to or arrive from the Antarctic Treaty area at ports of other Parties shall consult with those Parties with a view to ensuring that the establishment of port reception facilities does not place an inequitable burden on Parties adjacent to the Antarctic Treaty area.

ARTICLE 10

DESIGN, CONSTRUCTION, MANNING AND EQUIPMENT OF SHIPS

In the design, construction, manning and equipment of ships engaged in or supporting Antarctic operations, each Party shall take into account the objectives of this Annex.

ARTICLE 11

SOVEREIGN IMMUNITY

1. This Annex shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-

commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with this Annex.

2. In applying paragraph 1 above, each Party shall take into account the importance of protecting the Antarctic environment.
3. Each Party shall inform the other Parties of how it implements this provision.
4. The dispute settlement procedure set out in Articles 18 to 20 of the Protocol shall not apply to this Article.

ARTICLE 12

PREVENTIVE MEASURES AND EMERGENCY PREPAREDNESS AND RESPONSE

1. In order to respond more effectively to marine pollution emergencies or the threat thereof in the Antarctic Treaty area, the Parties, in accordance with Article 15 of the Protocol, shall develop contingency plans for marine pollution response in the Antarctic Treaty area, including contingency plans for ships (other than small boats that are part of the operations of fixed sites or of ships) operating in the Antarctic Treaty area, particularly ships carrying oil as cargo, and for oil spills, originating from coastal installations, which enter into the marine environment. To this end they shall:

- (a) co-operate in the formulation and implementation of such plans; and
- (b) draw on the advice of the Committee, the International Maritime Organization and other international organizations.

2. The Parties shall also establish procedures for cooperative response to pollution emergencies and shall take appropriate response actions in accordance with such procedures.

ARTICLE 13

REVIEW

The Parties shall keep under continuous review the provisions of this Annex and other measures to prevent, reduce and respond to pollution of the Antarctic marine environment, including any amendments and new regulations adopted under MARPOL 73/78, with a view to achieving the objectives of this Annex.

ARTICLE 14

RELATIONSHIP WITH MARPOL 73/78

With respect to those Parties which are also Parties to MARPOL 73/78, nothing in this Annex shall derogate from the specific rights and obligations thereunder.

ARTICLE 15

AMENDMENT OR MODIFICATION

1. This Annex may be amended or modified by a measure adopted in accordance with Article IX (1) of the Antarctic Treaty. Unless the measure specifies otherwise, the amendment or modification shall be deemed to have been approved, and shall become effective, one year after the close of the Antarctic Treaty Consultative Meeting at which it was adopted, unless one or more of the Antarctic Treaty Consultative Parties notifies the Depositary, within that time period, that it wishes an extension of that period or that it is unable to approve the measure.

2. Any amendment or modification of this Annex which becomes effective in accordance with paragraph 1 above shall thereafter become effective as to any other Party when notice of approval by it has been received by the Depositary.