

PROTOCOL FOR THE PROTECTION OF THE SOUTH-EAST PACIFIC
AGAINST POLLUTION FROM LAND-BASED SOURCES

Quito, 23 July 1983

Article I

AREA OF APPLICATION

The sphere of application of this Protocol shall be the area of the South-East Pacific* within the 200-mile maritime area of sovereignty and jurisdiction of the High Contracting Parties and waters on the landward side up to the freshwater limit.

* The geographical coverage of this Protocol comprises the 200-mile maritime area of sovereignty and jurisdiction of the High Contracting Parties.

The fresh-water limit will be determined by each State Party, in accordance with the relevant technical and scientific criteria.

Article II

SOURCES OF POLLUTION

Marine pollution from land-based sources comprises:

- (a) Coastal outfalls or disposal and discharges;
- (b) Discharges through rivers, canals and other watercourses, including underground watercourses; and
- (c) In general, any other land-based source situated within the territories of the High Contracting Parties, whether through water, through the atmosphere or directly from the coast.

Article III

GENERAL OBLIGATIONS

The High Contracting Parties shall, either individually or through bilateral or multilateral cooperation, endeavour to adopt appropriate measures in accordance with the provisions of this Protocol to prevent, reduce and control pollution of the marine environment from land-based sources, which results or is

likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for the use of sea water and reduction of amenities.

The High Contracting Parties shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.

The High Contracting Parties shall endeavour to harmonize their policies in this connection at the regional level.

Article IV

OBLIGATIONS IN RESPECT OF ANNEX I

The High Contracting Parties shall endeavour to prevent, reduce, control and eliminate in their respective zones within the sphere of application of this Protocol pollution from land-based sources caused by the substances listed in annex I to this Protocol. To this end they shall, jointly or individually, elaborate and implement suitable programmes and measures.

Such programmes and measures shall take into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

Without prejudice to the aim of eliminating discharges of the substances listed in annex I, to the extent that such substances occur, they shall be subject to a system of self-monitoring and control. Authorization by the competent national authorities shall depend upon the levels of such substances, taking into account the harm or deleterious effects which may result in the marine environment.

Article V

OBLIGATIONS IN RESPECT OF ANNEX II

The High Contracting Parties shall endeavour progressively to reduce in their respective zone within the sphere of application of this Protocol pollution from land-based sources caused by the substances or sources listed in annex II to this Protocol. To this end they shall, jointly or individually, elaborate and implement suitable programmes and measures.

Such programmes and measures shall take into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

Discharges of the substances listed in annex II to this Protocol shall be subject to a system of self-monitoring and control. Authorization by the competent national authorities shall depend on the levels of such substances, taking into account the harm or deleterious effects which may result in the marine environment.

Article VI

PRACTICES AND PROCEDURES

The High Contracting Parties shall endeavour to formulate and progressively adopt, acting individually or jointly as appropriate, in co-operation with the Executive Secretariat or another competent international organization, as the case may be, rules, standards and common practices and procedures dealing with:

- (a) Studies to determine the length, depth and position of coastal outfalls;
- (b) Special requirements for effluents necessitating separate treatment;
- (c) The quality of sea water necessary to guarantee the preservation of human health, living resources and ecosystems;
- (d) The control of products, installations and industrial and other processes causing significant pollution from land-based sources;
- (e) Special studies concerning the quantities discharged with a view to controlling the concentration of substances in effluents and the method of discharging the substances listed in annexes I and II, in order to comply with the provisions of subparagraph (c) of this article.

Such rules, standards, practices and procedures shall take into account local ecological, geographical and physical characteristics, the economic capacity of the Parties and their need for development, the level of existing pollution and the real absorptive capacity of the marine environment.

Article VII

CO-OPERATION AMONG THE PARTIES

High Contracting Parties requiring assistance in combating pollution from land-based sources may, either directly or through the Executive Secretariat, request the co-operation of other Parties, especially those which may be affected by the pollution.

Such co-operation may include expert advice and the provision of equipment and materials necessary to combat the pollution.

The High Contracting Parties to which a request has been addressed shall, as soon as possible, consider the request and shall meet it to the extent of their capabilities and shall immediately inform the requesting Party of the form, extent and conditions of the co-operation they are in a position to provide.

Article VIII

MONITORING PROGRAMMES

The High Contracting Parties shall, directly or in co-operation with the Executive Secretariat or another competent international organization, progressively establish individual or joint programmes involving two or more Parties for monitoring pollution from land-based sources in order to:

- (a) Make an assessment of the nature and extent of the pollution;
- (b) Adopt appropriate measures to avoid or reduce the effects of the pollution;
- (c) Assess the effects of the measures taken under this Protocol to reduce the pollution of the marine environment;
- (d) Report to the other High Contracting Parties and the Executive Secretariat on the measures to be adopted and any activity which they are undertaking or intend to undertake in order to combat the pollution.

Article IX

EXCHANGE OF INFORMATION

The High Contracting Parties undertake to exchange among themselves and to transmit to the Executive Secretariat information on the following:

(a) The competent national authorities and bodies responsible for receiving information about pollution from land-based sources and for carrying out assistance programmes or measures among the Parties;

(b) The competent national organization or authorities responsible for combating pollution from land-based sources;

(c) The research programmes which they are conducting in order to develop new methods and techniques for preventing pollution from land-based sources, as well as the results of such programmes; and

(d) The measures taken, the results achieved and the difficulties encountered in the application of this Protocol. Such information shall include inter alia:

- (i) Statistical data on the authorizations granted under articles IV and V of this Protocol;
- (ii) Data resulting from monitoring as provided for in article VIII of this Protocol;
- (iii) Quantities of pollutants discharged from their territories;
- (iv) Measures taken in accordance with articles IV and V of this Protocol.

The High Contracting Parties shall co-ordinate use of the available means of communication in order to ensure timely reception, transmittal and dissemination of the information to be exchanged.

Article X

SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION

The High Contracting Parties shall, to the extent possible, co-operate directly, through the Executive Secretariat or another competent international organization, when appropriate, in the fields of science and technology and shall exchange data and any other scientific information for the purposes of this Protocol.

Article XI

OBLIGATION IN RESPECT OF THE OTHER HIGH CONTRACTING PARTIES

The High Contracting Parties shall take the necessary measures to ensure to the extent possible that activities under their jurisdiction or control are so conducted that they do not cause damage by pollution to the other Parties or to their environment and that pollution rising from accidents or from activities under their jurisdiction or control does not spread beyond the areas in which the High Contracting Parties exercise sovereignty and jurisdiction.

Article XII

CONSULTATIONS BETWEEN THE PARTIES

When pollution from land-based sources of one of the High Contracting Parties is likely to affect adversely the interests of one or more of the Contracting Parties to this Protocol, the Parties affected shall, at the request of one or more of them, enter into consultation with a view to seeking a satisfactory solution.

At the sessions held by the High Contracting Parties in accordance with article XV, recommendations may be made with a view to reaching a satisfactory solution.

Article XIII

PUNITIVE MEASURES

Each High Contracting Party undertakes to ensure compliance with the provisions of this Protocol and to adopt measures available to it that it deems pertinent in order to prevent and penalize any act which infringes these provisions.

The High Contracting Parties shall report to the Executive Secretariat on the legislative measures and regulations they have adopted for the application of the provisions of the foregoing paragraph.

Article XIV

APPLICATION OF OTHER MEASURES

Nothing in this Protocol shall prevent the High Contracting Parties from adopting for application, either individually or by two or more of them, stricter measures to combat pollution from land-based sources.

Article XV

ORDINARY AND EXTRAORDINARY SESSIONS

The High Contracting Parties shall hold ordinary sessions every two years and extraordinary sessions at any time, whenever two or more of them so request.

Ordinary sessions shall be held at the same time as the sessions of the Co-ordinating Committee for Scientific Research or the Legal Commission of the Permanent Commission of the South Pacific.

At ordinary sessions, the High Contracting Parties shall examine, inter alia, the following:

- (a) The extent to which this Protocol is being implemented, the effectiveness of the measures taken and the need to develop other kinds of activities in furtherance of the objectives of this Protocol;
- (b) The need to amend or revise this Protocol and its annexes and to adopt additional protocols and the desirability of expanding or amending the resolutions adopted in pursuance of this Protocol and its annexes;
- (c) The formulation and adoption of programmes and measures, in accordance with articles IV and V;
- (d) The drafting and adoption of rules and standards, practices and procedures, in accordance with article VI;
- (e) The need to make recommendations, in accordance with the provisions of article XII;
- (f) The performance of any other function which may assist in achieving the aims of this Protocol.

Article XVI

EXECUTIVE SECRETARIAT

For the purposes of the administration and the application of this Protocol, the High Contracting Parties hereby designate the Permanent Commission of the South Pacific to discharge the functions of Executive Secretariat under the Protocol. At their first meeting, the High Contracting Parties shall establish the procedure and financing for the performance of this function.

Article XVII

ENTRY INTO FORCE

This Protocol shall enter into force 60 days after the third instrument of ratification has been deposited with the General Secretariat of the Permanent Commission of the South Pacific.

Article XVIII

DENUNCIATION

This Protocol may be denounced by any of the High Contracting Parties after it has been in force for two years for the High Contracting Party denouncing it.

Such denunciation shall be effected by means of written notification to the Executive Secretariat, which shall communicate it forthwith to the High Contracting Parties.

The denunciation shall take effect 180 days after the date of such notification.

Article XIX

AMENDMENTS

This Protocol may be amended only with the unanimous agreement of the High Contracting Parties. Amendments shall be subject to ratification and shall enter into force after the third instrument of ratification has been deposited with the Executive Secretariat.

Article XX

ACCESSION

This Protocol shall be open for accession by any coastal State in the South-East Pacific, on the unanimous invitation of the High Contracting Parties.

Accession shall be effected by deposit of the relevant instrument with the Executive Secretariat, which shall communicate it to the High Contracting Parties.

This Protocol shall, for the State acceding to it, enter into force 60 days after the deposit of the relevant instrument.

Article XXI

RESERVATIONS

No reservations concerning this Protocol may be entered.

Done in six identical copies, one of which shall be deposited with the General Secretariat of the Permanent Commission of the South Pacific, all being equally authentic for the purposes of implementation and interpretation.

In witness whereof, the Plenipotentiaries, being duly authorized by their respective Governments, have signed this Protocol in the city of Quito on the twenty-second day of July, one thousand nine hundred and eighty-three.

Annex I

A. The following substances, families and groups of substances are listed, not in order of priority, for the purposes of article IV of this Protocol. They have been selected mainly on the basis of their:

Toxicity;
Persistence;
Bioaccumulation.

1. Organohalogen compounds and substances which may form such compounds in the marine environment.**

** With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless

substances.

2. Organophosphorous compounds and substances which may form such compounds in the marine environment.**

3. Organotin compounds and substances which may form such compounds in the marine environment.**

4. Mercury and mercury compounds.

5. Cadmium and cadmium compounds.

6. Used lubricating oils.

7. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea.

8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment.

9. Radioactive substances, including their wastes, when their discharges do not comply with the principles of radiation protection as defined by the competent international organizations, taking into account the protection of the marine environment.

B. The present annex does not apply to discharges which contain substances listed in section A that are below the limits defined jointly by the Parties.

Annex II

A. The following substances, families and groups of substances, or sources of pollution, listed not in order of priority for the purposes of article V of this Protocol, have been selected mainly on the basis of criteria used for annex I, while taking into account the fact that they are generally less noxious or are more readily rendered harmless by natural processes and therefore generally affect more limited coastal areas.

1. The following elements and their compounds:

Zinc

Copper

Nickel

Chromium

Lead

Selenium
Arsenic
Antimony
Molybdenum
Titanium
Tin
Barium
Beryllium
Boron
Uranium
Vanadium
Cobalt
Thallium
Tellurium
Silver

2. Biocides and their derivatives not covered in annex I.
3. Organosilicon compounds and substances which may form such compounds in the marine environment, excluding those which are biologically harmless or are rapidly converted into biologically harmless substances.
4. Crude oils and hydrocarbons of any origin.
5. Cyanides and fluorides.
6. Non-biodegradable detergents and other surface-active substances.
7. Inorganic compounds of phosphorus and elemental phosphorus.
8. Pathogenic micro-organisms.
9. Thermal discharges.
10. Substances which have a deleterious effect on the taste and/or smell of products for human consumption derived from the aquatic environment, and compounds liable to give rise to such substances in the marine environment.
11. Substances which have, directly or indirectly, an adverse effect on the oxygen content of the marine environment, especially those which may cause eutrophication.
12. Acid or alkaline compounds of such composition and in such quantity that they may impair the quality of sea water.

13. Substances which, though of a non-toxic nature, may become harmful to the marine environment or may interfere with any legitimate use of the sea owing to the quantities in which they are discharged.

B. The control and strict limitation of the discharge of substances referred to in section A above must be implemented in accordance with annex III.

Annex III

With a view to the issue of an authorization for the discharge of wastes containing substances referred to in annexes I and II of this Protocol, particular account will be taken, as the case may be, of the following factors:

A. CHARACTERISTICS AND COMPOSITION OF THE WASTE

1. Type and size of waste source (e.g. industrial process).
2. Type of waste (origin, average composition).
3. Form of waste (solid, liquid, sludge, slurry).
4. Total amount (volume discharged, e.g. per year).
5. Discharge pattern (continuous, intermittent, seasonally variable, etc.)
6. Concentrations with respect to major constituents, substances listed in annex I, substances listed in annex II, and other substances as appropriate.
7. Physical, technical and biochemical properties of the waste.

B. CHARACTERISTICS OF WASTE CONSTITUENTS WITH RESPECT TO THEIR HARMFULNESS

1. Persistence (physical, chemical, biological) in the marine environment.
2. Toxicity and other harmful effects.
3. Accumulation in biological materials or sediments.
4. Biochemical transformation producing harmful compounds.
5. Adverse effects on the oxygen content and balance.

6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea-water constituents which may produce harmful biological or other effects on any of the uses listed in section E below.

C. CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING MARINE ENVIRONMENT

1. Hydrographic, meteorological, geological and topographic characteristics of the coastal area.
2. Location and type of discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery, and fishing areas, shellfish grounds) and other discharges.
3. Initial dilution achieved at the point of discharge into the receiving marine environment.
4. Dispersion characteristics such as effect of currents, tides and wind on horizontal transport and vertical mixing.
5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area.
6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. AVAILABILITY OF WASTE TECHNOLOGIES

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

- (a) Alternative treatment processes;
- (b) Re-use or elimination methods;
- (c) On-land disposal alternatives; and
- (d) Appropriate low-waste technologies.

E. POTENTIAL IMPAIRMENT OF MARINE ECOSYSTEMS AND SEA-WATER USES

1. Effects on human health through pollution impact on:

(a) Edible marine organisms;

(b) Bathing waters;

(c) Aesthetics.

Discharges of waste containing substances listed in annexes I and II shall be subject to a system of self-monitoring and control by the competent national authorities.

2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.

3. Effects on other legitimate uses of the sea.