



Transport and Communications Legislation Amendment Act (No. 2) 1992

No. 71 of 1992

TABLE OF PROVISIONS

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement

PART 2—AMENDMENTS OF THE AIR NAVIGATION ACT 1920

3. Principal Act
4. Approval of ratification of Chicago Convention etc.
5. Texts of Chicago Convention etc.
6. New Schedules

PART 3—AMENDMENTS OF THE AUSTRALIAN MARITIME SAFETY AUTHORITY ACT 1990

7. Principal Act
8. Functions of Authority

PART 4—AMENDMENTS OF THE AUSTRALIAN POSTAL CORPORATION ACT 1989

9. Principal Act
10. Extension of Act to certain external Territories
11. Extension of Act to adjacent areas
12. Community service obligations

PART 5—AMENDMENTS OF THE CIVIL AVIATION ACT 1988

13. Principal Act
14. Flying unregistered aircraft etc.
15. Offence related warrants
16. Reimbursement of cost of complying with directions
17. Cessation of lien
18. Insertion of new Division:

TABLE OF PROVISIONS—*continued*

Section

Division 3—Provisions relating to the Authority's liability to pay income tax

- 83A. Interpretation
- 83B. Commencement of the Authority's liability to pay income tax
- 83C. Value of trading stock for income tax purposes
- 83D. Accelerated depreciation not available for income tax purposes
- 83E. Transitional provisions for capital gains tax

PART 6—AMENDMENTS OF THE FEDERAL AIRPORTS CORPORATION ACT 1986

- 19. Principal Act
- 20. Interpretation
- 21. Reimbursement of cost of complying with directions
- 22. Insertion of new section:
 - 54B. Hedging through currency contracts etc.
- 23. Insertion of new Part:

PART VIA—PROVISIONS RELATING TO THE CORPORATION'S LIABILITY TO PAY INCOME TAX

- 57A. Interpretation
- 57B. Commencement of the Corporation's liability to pay income tax
- 57C. Accelerated depreciation not available for income tax purposes
- 57D. Capital gains tax
- 57E. Land and buildings etc.
- 57F. Superannuation payments

PART 7—AMENDMENT OF THE NAVIGATION ACT 1912

- 24. Principal Act
- 25. Regulations relating to accommodation

PART 8—AMENDMENTS OF THE PROTECTION OF THE SEA (POWERS OF INTERVENTION) ACT 1981

- 26. Principal Act
- 27. Interpretation
- 28. New Schedule

PART 9—AMENDMENTS OF THE PROTECTION OF THE SEA (PREVENTION OF POLLUTION FROM SHIPS) ACT 1983

- 29. Principal Act
- 30. Interpretation
- 31. Prohibition of discharge of oil or oily mixtures into sea
- 32. Insertion of new section:
 - 11A. Shipboard oil pollution emergency plan
- 33. Interpretation
- 34. Repeal
- 35. Prohibition of discharge by jettisoning of harmful substances into the sea
- 36. Insertion of new Division:

Division 1—Discharge of sewage in the Antarctic Area

- 26BA. Interpretation
- 26BB. Object of Division
- 26BC. Prohibition of discharge of sewage
- 37. Interpretation
- 38. Insertion of new section:
 - 26CA. Object of Division
- 39. Operation of Division
- 40. Interpretation

TABLE OF PROVISIONS—*continued*

Section

- 41. Insertion of new section:
26EA. Object of Part
- 42. Prohibition of disposal of garbage into the sea
- 43. Application of certain provisions to foreign ships
- 44. Schedules

PART 10—AMENDMENTS OF THE TELECOMMUNICATIONS ACT 1991

- 45. Principal Act
- 46. Applications for general telecommunications licences and certain public mobile licences
- 47. Insertion of new section:
57A. Allocation system for certain public mobile licences
- 48. Agreement with carrier about licences
- 49. Insertion of new Division:

Division 5A—Collection and recovery of public mobile licence charge

- 87A. Definition
- 87B. When charge is payable
- 87C. Unpaid charge is a debt due to Commonwealth
- 50. A general carrier may replace, repair and maintain facilities etc.
- 51. Dominant carrier not to discriminate between acquirers of telecommunications services
- 52. Basic carriage service must be tariffed if supplied to a person other than a carrier
- 53. Insertion of new section:
402A. Person not to use protected name or protected symbol

PART 11—AMENDMENT OF THE TRANSPORT AND COMMUNICATIONS LEGISLATION AMENDMENT ACT 1990

- 54. Principal Act
- 55. Interpretation

SCHEDULE 1

ADDITIONAL SCHEDULES TO THE AIR NAVIGATION ACT 1920

SCHEDULE 2

SCHEDULE TO BE ADDED AT THE END OF THE PROTECTION OF THE SEA (POWERS OF INTERVENTION) ACT 1981

SCHEDULE 3

ANNEX TO BE SUBSTITUTED FOR ANNEX III TO THE CONVENTION SET OUT IN SCHEDULE 1 TO THE PROTECTION OF THE SEA (PREVENTION OF POLLUTION FROM SHIPS) ACT 1983

SCHEDULE 4

SCHEDULE TO BE ADDED AT THE END OF THE PROTECTION OF THE SEA (PREVENTION OF POLLUTION FROM SHIPS) ACT 1983

SCHEDULE 5

SCHEDULES TO BE INSERTED IN THE PROTECTION OF THE SEA (PREVENTION OF POLLUTION FROM SHIPS) ACT 1983

SCHEDULE 6

SCHEDULE TO BE ADDED AT THE END OF THE PROTECTION OF THE SEA (PREVENTION OF POLLUTION FROM SHIPS) ACT 1983



Transport and Communications Legislation Amendment Act (No. 2) 1992

No. 71 of 1992

**An Act to amend various Acts relating to matters dealt
with by the Department of Transport and Communications**

[Assented to 26 June 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Transport and Communications
5 Legislation Amendment Act (No. 2) 1992*.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

Commencement

2.(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Sections 18 and 23 are taken to have commenced on 1 July 1991. 5

(3) Sections 20 and 22 are taken to have commenced immediately after the commencement of the *Federal Airports Corporation Act 1986*.

(4) Part 7 is taken to have commenced immediately after the commencement of Part 5 of the *Industrial Relations Legislation Amendment Act (No. 3) 1991*. 10

(5) Subsection 30(2), sections 32 and 43 and subsection 44(3) commence on 4 April 1993.

(6) Subsection 30(3), sections 36 to 42 (inclusive) and subsection 44(4) commence on a day to be fixed by Proclamation, being the day on which the Protocol on Environmental Protection to the Antarctic Treaty (being the Protocol a copy of the English text of which, apart from Annexes I, II, III and V to it, is set out in the Schedule set out in Schedule 6) enters into force. 15

(7) Sections 33, 34 and 35 commence immediately after the commencement of section 26 of the *Protection of the Sea Legislation Amendment Act 1986*. 20

(8) Subsection 44(1) commences on 1 July 1992.

(9) Part 11 is taken to have commenced immediately after the commencement of section 26 of the *Transport and Communications Legislation Amendment Act 1990*. 25

PART 2—AMENDMENTS OF THE AIR NAVIGATION ACT 1920

Principal Act

3. In this Part, “Principal Act” means the *Air Navigation Act 1920*.

Approval of ratification of Chicago Convention etc.

4. Section 3A of the Principal Act is amended: 30

(a) by adding at the end of each of paragraphs (2)(a) to (g) (inclusive) “and”;

(b) by adding at the end of subsection (2) the following word and paragraphs:

“; and (k) the Protocol amending Article 56 of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 6 October 1989; and 35

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

- (l) the Protocol amending Article 50(a) of the Chicago Convention, approved by the Assembly of the International Civil Aviation Organization on 26 October 1990.”.

5 Texts of Chicago Convention etc.

5. Section 4 of the Principal Act is amended by omitting “and 10” and substituting “, 10, 11 and 12”.

New Schedules

6. The Principal Act is amended by adding at the end the Schedules set out in Schedule 1 to this Act.

**PART 3—AMENDMENTS OF THE AUSTRALIAN MARITIME
SAFETY AUTHORITY ACT 1990**

Principal Act

7. In this Part, “**Principal Act**” means the *Australian Maritime Safety Authority Act 1990*².

Functions of Authority

8. Section 6 of the Principal Act is amended:
- (a) by inserting after paragraph (1)(c) the following paragraph:
- “(ca) to provide on request services of a maritime nature, on a commercial basis, to:
- (i) the Commonwealth, a State, the Australian Capital Territory or the Northern Territory; or
- (ii) an authority or agency of the Commonwealth, a State or either of those Territories; and”;
- (b) by adding at the end the following subsection:
- “(4) The Authority must not perform any of its functions otherwise than for a purpose in respect of which the Parliament has the power to make laws.”.

**PART 4—AMENDMENTS OF THE AUSTRALIAN POSTAL
CORPORATION ACT 1989**

Principal Act

9. In this Part, “**Principal Act**” means the *Australian Postal Corporation Act 1989*³.

Extension of Act to certain external Territories

10. Section 8 of the Principal Act is amended by omitting “, Christmas Island and Cocos (Keeling) Islands”.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

Extension of Act to adjacent areas

11. Section 9 of the Principal Act is amended by omitting from the definition of "Territory" in subsection (4) " , Christmas Island or Cocos (Keeling) Islands".

Community service obligations

5

12. Section 27 of the Principal Act is amended by omitting subsection (5) and substituting the following subsection:

“(5) In this section:

‘Australia’ includes Christmas Island and Cocos (Keeling) Islands, but does not include any other external Territory to which this Act extends.”.

10

PART 5—AMENDMENTS OF THE CIVIL AVIATION ACT 1988

Principal Act

13. In this Part, "Principal Act" means the *Civil Aviation Act 1988*⁴.

Flying unregistered aircraft etc.

14. Section 20AA of the Principal Act is amended:

15

- (a) by omitting from paragraph (1)(a) "regulations" and substituting "Regulations";
- (b) by inserting in paragraph (4)(a) "that covers the duration of the flight" after "Regulations".

Offence related warrants

20

15. Section 32AF of the Principal Act is amended by inserting in paragraph (4)(b) "or" after "night" (first occurring).

Reimbursement of cost of complying with directions

16. Section 48 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:

25

“(3) This section does not apply to a direction of the Minister:

- (a) requiring the Authority to perform a function mentioned in subsection 9AA(2); or
- (b) made under section 47 or 56.”.

Cessation of lien

30

17. Section 75 of the Principal Act is amended by inserting in subsection (1) " , and only if" after "If".

18. Part VI of the Principal Act is amended by adding at the end the following Division:

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

**“Division 3—Provisions relating to the Authority’s liability to pay
income tax**

Interpretation

“83A. In this Division:

- 5 ‘Assessment Act’ means the *Income Tax Assessment Act 1936*.

Commencement of the Authority’s liability to pay income tax

“83B. Income derived by the Authority in a year of income commencing before 1 July 1991 is exempt income for the purposes of the Assessment Act.

10 **Value of trading stock for income tax purposes**

- “83C.(1) For the purpose of ascertaining under Subdivision B of Division 2 of Part III of the Assessment Act the value to be taken into account at the beginning of the year of income commencing on 1 July 1991 in relation to the Authority’s trading stock on hand at that time,
15 the Authority may, in accordance with subsection (2), exercise any option, and give any notice, in relation to the value of its trading stock on hand at the end of the preceding year of income.

- “2) The option or notice is to be exercised or given in accordance with the requirements of Subdivision B of Division 2 of Part III of the
20 Assessment Act on or before the day of lodgment of the Authority’s return of income for the year of income commencing on 1 July 1991 or before such later day as the Commissioner of Taxation allows.

- “3) If the Authority does not exercise an option under subsection (1) in relation to particular trading stock, the value to be taken into
25 account in accordance with that subsection in relation to that trading stock is to be the cost price.

- “4) If the Authority, under Subdivision B of Division 2 of Part III of the Assessment Act, adopts cost price as the basis of valuation in
30 relation to any of its trading stock on hand at the end of the year of income commencing on 1 July 1991 that was on hand at the end of the preceding year of income, the cost price of that trading stock is to be taken to be equal to the value at which the trading stock was taken into account in accordance with subsection (1).

Accelerated depreciation not available for income tax purposes

- 35 “83D. Section 57AL of the Assessment Act, as in force immediately after the commencement of section 38 of the *Taxation Laws Amendment Act (No. 4) 1988*, does not apply in relation to any unit of property of the Authority.

Transitional provisions for capital gains tax

“83E.(1) If:

- (a) the Authority owned an asset at the end of 30 June 1991 (“the changeover time”); and
- (b) the market value of the asset at the changeover time was greater than the amount that would have been the indexed cost base to the Authority in relation to the asset if the Authority had disposed of the asset at that time; 5

the following provisions have effect for the purpose of working out under Part IIIA of the Assessment Act whether a capital gain accrues in the event of a subsequent disposal of the asset by it: 10

- (c) the Authority is taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that indexed cost base;
- (d) the Authority is taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time; 15
- (e) the reference in subsection 160Z(3) of the Assessment Act to the day on which the asset was acquired by the taxpayer is taken to be a reference to the day on which the asset was actually acquired by the Authority. 20

“(2) If the asset is disposed of within 12 months of its acquisition by the Authority, subsection (1) has effect as if the references in that subsection to the indexed cost base to the Authority in relation to the asset were references to the cost base to the Authority in relation to the asset. 25

“(3) If:

- (a) the Authority owned an asset at the changeover time; and
- (b) the market value of the asset at the changeover time was less than the amount that would have been the reduced cost base to the Authority in relation to the asset if the Authority had disposed of the asset at that time; 30

the following provisions have effect for the purpose of working out under Part IIIA of the Assessment Act whether the Authority incurred a capital loss in the event of a subsequent disposal of the asset by it: 35

- (c) the Authority is taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that reduced cost base;
- (d) the Authority is taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time. 40

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

“(4) For the purposes of this section, in the case of an asset that was acquired by the Commonwealth and transferred to the Authority for no consideration:

- 5 (a) the cost base to the Authority in relation to the asset; and
(b) the indexed cost base to the Authority in relation to the asset;
and
(c) the reduced cost base to the Authority in relation to the asset;
are to be worked out as if the asset had at all relevant times been an
asset of the Authority and anything done by the Commonwealth in
10 relation to the asset had been done by the Authority.

“(5) An asset of the Authority that was acquired by the Commonwealth before 20 September 1985 and transferred to the Authority is taken, for the purposes of Part IIIA of the Assessment Act, to have been acquired by the Authority before that date.

- 15 “(6) Unless the contrary intention appears, expressions used in this section, and in Part IIIA of the Assessment Act, have the same respective meanings as in that Part.”.

**PART 6—AMENDMENTS OF THE FEDERAL AIRPORTS
CORPORATION ACT 1986**

20 **Principal Act**

19. In this Part, “**Principal Act**” means the *Federal Airports Corporation Act 1986*⁵.

Interpretation

- 25 20. Section 3 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“ ‘**currency contract**’ means:

- (a) a forward exchange rate contract; or
(b) a contract with respect to currency futures;

‘**futures contract**’ means:

- 30 (a) a deferred delivery contract; or
(b) a contract with respect to financial futures; or
(c) a contract with respect to commodity futures;”.

Reimbursement of cost of complying with directions

- 35 21. Section 42 of the Principal Act is amended:
(a) by omitting from subsection (1) “Where” and substituting “Subject to section (1A), if”;
(b) by omitting from subsection (1) “, other than a direction the notice of which stated that the direction is in accordance with the general policy of the Commonwealth Government”;

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

(c) by inserting after subsection (1) the following subsection:

“(1A) Subsection (1) does not apply to a direction given under subsection 41(2) if:

(a) the notice of that direction stated that the direction is in accordance with the general policy of the Commonwealth Government; or 5

(b) it is a direction requiring the Corporation:

(i) to carry out activities to protect the environment from the effects of, or the effects associated with, the operation and use of aircraft operating to or from Federal airports; or 10

(ii) to perform any of its functions in a manner referred to in paragraph 7(2)(ca).”.

22. After section 54A of the Principal Act the following section is inserted: 15

Hedging through currency contracts etc.

“54AB.(1) Subject to subsection (4), the Corporation may enter into and deal with contracts to which this section applies for hedging purposes in relation to:

(a) a borrowing, or a proposed borrowing, of money by the Corporation; or 20

(b) an investment of money by the Corporation; or

(c) commodity purchases by the Corporation.

Note: For ‘contracts to which this section applies’, see subsection (6).

“(2) The Minister may, by written determination, set guidelines for the exercise by the Corporation of its power under subsection (1) and must give the Corporation a copy of each determination made. 25

“(3) Without limiting subsection (2), the guidelines may provide that:

(a) the Corporation is not to enter into or deal with contracts of a particular kind; or 30

(b) the Corporation is to enter into or deal with contracts of a particular kind only if the contract relates to specified matters.

“(4) The Corporation must not enter into or deal with a contract to which this section applies contrary to any guidelines in force under subsection (2). 35

“(5) A contract is taken to be entered into or dealt with for hedging purposes only if the contract is entered into or dealt with for the purposes of:

(a) reducing the risk of adverse variations in:

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

- (i) the costs of a borrowing, or a proposed borrowing, of money by the Corporation; or
- (ii) the revenue obtainable by the Corporation from the investment of money of the Corporation; or
- 5 (iii) the cost of commodities purchased by the Corporation; or

(b) maintaining the value of:

- (i) investments made by the Corporation; or
- 10 (ii) property used as security for a borrowing, or a proposed borrowing by the Corporation.

“(6) This section applies to contracts of the following kinds:

- (a) currency contracts;
- (b) interest rate contracts;
- (c) futures contracts;
- 15 (d) contracts relating to:
 - (i) dealings known as currency swaps; or
 - (ii) dealings known as interest rate swaps; or
 - (iii) dealings known as commodity swaps;
- 20 (e) contracts relating to two or more of the dealings referred to in paragraph (d);
- (f) options (including futures options);
- (g) contracts of a kind approved in writing by the Minister.”

23. After Part VI of the Principal Act the following Part is inserted:

**“PART VIA—PROVISIONS RELATING TO THE
CORPORATION’S LIABILITY TO PAY INCOME TAX**

Interpretation

“57A. In this Part:

‘Assessment Act’ means the *Income Tax Assessment Act 1936*.

Commencement of the Corporation’s liability to pay income tax

30 “57B. Income derived by the Corporation in a year of income commencing before 1 July 1991 is exempt income for the purposes of the Assessment Act.

Accelerated depreciation not available for income tax purposes

35 “57C. Section 57AL of the Assessment Act, as in force immediately after the commencement of section 38 of the *Taxation Laws Amendment Act (No. 4) 1988*, does not apply in relation to any unit of property of the Corporation.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

Capital gains tax

“57D.(1) If:

- (a) the Corporation owned an asset at the end of 30 June 1991 (**‘the changeover time’**); and
- (b) the market value of the asset at the changeover time was greater than the amount that would have been the indexed cost base to the Corporation in relation to the asset if the Corporation had disposed of the asset at that time; 5

the following provisions have effect for the purpose of working out under Part IIIA of the Assessment Act whether a capital gain accrues in the event of a subsequent disposal of the asset by it: 10

- (c) the Corporation is taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that indexed cost base;
- (d) the Corporation is taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time; 15
- (e) the reference in subsection 160Z(3) of the Assessment Act to the day on which the asset was acquired by the taxpayer is taken to be a reference to the day on which the asset was actually acquired by the Corporation. 20

“(2) If the asset is disposed of within 12 months of its actual acquisition by the Corporation, subsection (1) has effect as if the references in that subsection to the indexed cost base to the Corporation in relation to the asset were references to the cost base to the Corporation in relation to the asset. 25

“(3) If:

- (a) the Corporation owned an asset at the changeover time; and
- (b) the market value of the asset at the changeover time was less than the amount that would have been the reduced cost base to the Corporation in relation to the asset if the Corporation had disposed of the asset at that time; 30

the following provisions have effect for the purpose of working out under Part IIIA of the Assessment Act whether the Corporation incurred a capital loss in the event of a subsequent disposal of the asset by it: 35

- (c) the Corporation is taken to have disposed of the asset at the changeover time for a consideration equal to the amount of that reduced cost base;
- (d) the Corporation is taken to have immediately re-acquired the asset for a consideration equal to the market value of the asset at the changeover time. 40

“(4) Part IIIA of the Assessment Act does not apply in relation to:

- (a) the disposal of an asset of the Corporation that was acquired

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

by the Commonwealth before 20 September 1985 and transferred to, or vested in, the Corporation; or

- (b) the disposal of an asset of the Corporation if the Commonwealth and not the Corporation is entitled to the consideration in respect of the disposal.

“(5) Unless the contrary intention appears, expressions used in this section, and in Part IIIA of the Assessment Act, have the same respective meanings as in that Part.

Land and buildings etc.

- “57E.(1) For the avoidance of doubt, land that under section 28 is vested in the Corporation is taken, for the purposes of the Assessment Act, to be owned by the Corporation.

“(2) If:

- (a) a Federal airport development site consists of or includes land that is owned by the Commonwealth; and
(b) any of that land is leased by the Commonwealth to the Corporation;

buildings and any other fixtures on the land so leased are taken, for the purposes of the Assessment Act, to be owned by the Corporation.

Superannuation payments

- “57F. For the purposes of section 82AAC of the Assessment Act, a payment made by the Corporation to the Commonwealth under arrangements made for the purposes of paragraph 87J(8)(b) of the *Public Service Act 1922* is taken to be a contribution to a fund for the purpose mentioned in paragraph 82AAC(1)(a) of the Assessment Act, being a fund that is an eligible superannuation fund, within the meaning of Part IX of the Assessment Act, in relation to the year of income of the fund in which the payment is made.”.

PART 7—AMENDMENT OF THE NAVIGATION ACT 1912

Principal Act

24. In this Part, “**Principal Act**” means the *Navigation Act 1912*⁶.

Regulations relating to accommodation

25. Section 136 of the Principal Act is amended by omitting from paragraph (2)(b) “Industrial” and substituting “International”.

PART 8—AMENDMENTS OF THE PROTECTION OF THE SEA (POWERS OF INTERVENTION) ACT 1981

Principal Act

26. In this Part, “**Principal Act**” means the *Protection of the Sea (Powers of Intervention) Act 1981*⁷.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

Interpretation

27. Section 3 of the Principal Act is amended by adding at the end of the definition of "Protocol" in subsection (1) "as affected by the resolution of the Marine Environment Protection Committee (adopted on 4 July 1991) revising the list of substances to be annexed to the Protocol (a copy of the English text of which is set out in Schedule 3). 5

New Schedule

28. The Principal Act is amended by adding at the end the Schedule set out in Schedule 2 to this Act.

**PART 9—AMENDMENTS OF THE PROTECTION OF THE SEA 10
(PREVENTION OF POLLUTION FROM SHIPS) ACT 1983**

Principal Act

29. In this Part, "Principal Act" means the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*⁸.

Interpretation

30.(1) Section 3 of the Principal Act is amended by inserting after paragraph (ad) of the definition of "the 1978 Protocol" in subsection (1) the following paragraph: 15

"(ae) the amendments to the annex of the Protocol adopted on 16 November 1990 (a copy of the English text of which is set out in Schedule 9); and" 20

(2) Section 3 of the Principal Act is amended by inserting after paragraph (ae) of the definition of "the 1978 Protocol" in subsection (1) the following paragraphs:

"(af) the amendments to the annex of the Protocol adopted on 4 July 1991 (a copy of the English text of which is set out in Schedule 10); and 25

(ag) the amendments to the annex of the Protocol adopted on 4 July 1991 (a copy of the English text of which is set out in Schedule 11); and" 30

(3) Section 3 of the Principal Act is amended by inserting in subsection (1) the following definitions:

" 'Antarctic Area' means the sea area south of 60° south latitude;

'Antarctic Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty (a copy of the English text of which, apart from Annexes I, II, III and V to it, is set out in Schedule 12); 35

Note: For a copy of the English text of the Antarctic Treaty, see the Schedule to the *Antarctic Treaty Act 1960*."

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

Prohibition of discharge of oil or oily mixtures into sea

31. Section 9 of the Principal Act is amended by inserting in paragraph (4)(h) “(other than the Antarctic Area)” after “special area”.

5 32. After section 11 of the Principal Act the following section is inserted:

Shipboard oil pollution emergency plan

“11A.(1) This section applies to:

- (a) an Australian ship (whether an oil tanker or not) that has a gross tonnage of 400 or more; and
- 10 (b) an Australian ship that is an oil tanker with a gross tonnage of less than 400 but not less than 150.

“(2) In this section:

‘prescribed incident’, in relation to a ship, has the same meaning as in section 11.

15 “(3) There must be kept on board a ship to which this section applies a shipboard oil pollution emergency plan written in the working language of the master of, and the officers on board, the ship.

“(4) A shipboard oil pollution emergency plan must be in accordance with the prescribed form and set out the following particulars:

- 20 (a) the procedure to be followed by the master, or any other person having charge, of the ship in notifying a prescribed incident in relation to the ship;
- (b) a list of the authorities or persons that are to be notified by persons on the ship if a prescribed incident occurs in relation to the ship;
- 25 (c) a detailed description of the action to be taken, immediately after a prescribed incident, by persons on board the ship to reduce or control any discharge from the ship resulting from the incident;
- 30 (d) the procedures to be followed for co-ordinating with the authorities or persons that have been contacted (whether in Australia or in a country near to the place where the incident occurred) any action taken in combating the pollution caused by the incident and, in particular, the person on board the ship
- 35 through whom all communications are to be made.

“(5) The procedure referred to in paragraph (4)(a) must be in accordance with the regulations prescribing, for the purposes of subsection 11(1), the manner in which a prescribed incident is to be notified.

40 “(6) Subsection (4) does not prevent other relevant particulars from being included in the shipboard oil pollution emergency plan.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

“(7) If a ship to which this section applies does not have on board a shipboard oil pollution emergency plan, the master of the ship and the owner of the ship are each guilty of an offence punishable on conviction by a fine not exceeding \$50,000.”.

Interpretation

5

33. Section 26A of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) In this Part:

‘**harmful substance**’ means a substance which is identified as a marine pollutant in the International Maritime Dangerous Goods (IMDG) Code; 10

‘**packaged form**’ means a form of containment specified for harmful substances in the International Maritime Dangerous Goods (IMDG) Code.”.

Repeal

15

34. Section 26AA of the Principal Act is repealed.

Prohibition of discharge by jettisoning of harmful substances into the sea

35. Section 26AB of the Principal Act is amended by omitting from subsection (1) “or in a freight container, portable tank or road and rail tank wagon”. 20

36. After section 26B of the Principal Act the following Division and heading are inserted in Part IIIB:

“Division 1—Discharge of sewage in the Antarctic Area

Interpretation

25

“26BA. Unless the contrary intention appears, an expression that is used in this Division and in Annex IV of the Antarctic Protocol (whether or not a particular meaning is given to it by that Annex) has, in this Division, the same meaning as in that Annex.

Object of Division

30

“26BB. The object of this Division is to give effect to Australia’s obligations regarding the discharge of sewage in the Antarctic Area under Annex IV of the Antarctic Protocol.

Prohibition of discharge of sewage

“26BC.(1) Subject to subsections (2) to (4) (inclusive), if any discharge of untreated sewage occurs from a ship (other than a ship certified to carry not more than 10 persons) into the sea in the Antarctic Area, the master of the ship and the owner of the ship are each guilty 35

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

of an offence punishable, upon conviction, by a fine not exceeding \$200,000.

5 “(2) Subsection (1) does not apply to the discharge of sewage from a foreign ship unless the discharge occurs in the sea near the Australian Antarctic Territory.

“(3) Subsection (1) does not apply if the sewage was discharged for the purpose of:

- (a) securing the safety of the ship and persons on board the ship; or
- 10 (b) saving life at sea.

“(4) Without limiting the generality of subsection (3), subsection (1) does not apply to the discharge of sewage from a ship if:

- (a) the sewage was stored in a holding tank; and
- 15 (b) the sewage is not discharged instantaneously but is discharged from the holding tank at a prescribed rate when the ship is proceeding *en route* at a speed of not less than 4 knots; and
- (c) the discharge is made when the ship is at a distance of not less than 12 nautical miles from the nearest land or ice shelf.

20 “(5) In proceedings for an offence against subsection (1) in relation to a ship, it is sufficient for the prosecution to allege and prove that a discharge of sewage occurred from the ship into the sea in the Antarctic Area, but it is a defence if it is proved that, because of subsection (2), (3) or (4), subsection (1) does not apply in relation to the discharge.

“Division 2—Discharge of sewage in other sea areas”.

25 **Interpretation**

37. Section 26C of the Principal Act is amended:

- (a) by omitting “Part” (wherever occurring) and substituting “Division”;
- (b) by adding at the end the following subsection:

30 “(2) In this Division:
‘sea’ does not include the sea in the Antarctic Area.”.

38. After section 26C of the Principal Act the following section is inserted:

Object of Division

35 “26CA. The object of this Division is to give effect to Australia’s obligations regarding the discharge of sewage into the sea under Annex IV of the Convention.”.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

Operation of Division

39. Section 26DA is amended by omitting “Part” and substituting “Division”.

Interpretation

40. Section 26E of the Principal Act is amended by adding at the end the following subsection: 5

“(2) Unless the contrary intention appears, an expression that is used in subsection 26F(8A) and in Annex IV to the Antarctic Protocol (whether or not a particular meaning is given by that Protocol) has, in that subsection, the same meaning as in that Annex.”. 10

41. After section 26E of the Principal Act the following section is inserted:

Object of Part

“26EA. The object of this Part is to give effect to Australia’s obligations: 15

- (a) regarding the prevention of pollution by garbage from ships under Annex V to the Convention; and
- (b) regarding the disposal of garbage from ships under Annex IV to the Antarctic Protocol.”.

Prohibition of disposal of garbage into the sea 20

42. Section 26F of the Principal Act is amended:

- (a) by inserting in subsection (8) “outside the Antarctic Area” after “sea”;
- (b) by inserting after subsection (8) the following subsection:

“(8A) Without limiting the generality of subsection (5), subsection (1) does not apply to the disposal of garbage, being food wastes, from a ship into the sea in the Antarctic Area if: 25

- (a) the garbage has been passed through a comminuter or grinder so that it is capable of passing through a screen with no opening wider than 25 millimetres; and 30
- (b) the disposal occurs when the ship is as far as practicable from, and is at a distance of not less than 12 nautical miles from, the nearest land or ice shelf.”;

- (c) by inserting in subsection (12) “, (8A)” after “(8)”.

Application of certain provisions to foreign ships 35

43. Section 32 of the Principal Act is amended:

- (a) by inserting after subsection (1) the following subsection:

“(1A) Subject to subsection (2), the regulations may provide that any of the provisions of this Act relating to the keeping of

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

a shipboard oil pollution emergency plan on board of Australian ships apply, with any modifications or exceptions that are prescribed, to foreign ships:

- 5 (a) in a port in Australia; or
 (b) in the territorial sea of Australia; or
 (c) in the sea on the landward side of the territorial sea of Australia.”;
- (b) by omitting from subsection (2) “made under subsection (1) shall” and substituting “under this section does”.

10 **Schedules**

44.(1) Schedule 1 to the Principal Act is amended by omitting from the text of the convention set out in that Schedule the text of Annex III to that convention and substituting the Annex set out in Schedule 3 to this Act.

15 (2) The Principal Act is amended by adding at the end the Schedule set out in Schedule 4 to this Act.

(3) The Principal Act is amended by inserting after Schedule 9 the Schedules set out in Schedule 5 to this Act.

20 (4) The Principal Act is amended by adding at the end the Schedule set out in Schedule 6 to this Act.

**PART 10—AMENDMENTS OF THE TELECOMMUNICATIONS
ACT 1991**

Principal Act

25 **45.** In this Part, “Principal Act” means the *Telecommunications Act 1991*⁹.

Applications for general telecommunications licences and certain public mobile licences

46. Section 56 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:

30 “(1) An eligible corporation may apply to the Minister, in a manner and form approved by the Minister, for a general telecommunications licence.

 “(1A) An eligible corporation:

- 35 (a) that is the holder of a public mobile licence that the corporation proposes to replace when the licence ceases to have effect; or
 (b) to whom it is sought to transfer such a licence under section 59;

may apply to the Minister, in a manner and form approved by the Minister, for a public mobile licence.”.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

47. After section 57 of the Principal Act the following section is inserted:

Allocation system for certain public mobile licences

“57A.(1) The Minister is to determine, in writing, an allocation system for the purpose of granting public mobile licences to eligible corporations, other than eligible corporations to which subsection 56(1A) applies. 5

“(2) Without limiting the operation of subsection (1), an allocation system may:

- (a) provide, whether by means of a tendering process or otherwise, for the grantee of a licence under the allocation system to pay for the grant of the licence; and 10
- (b) specify criteria to which the Minister is to have regard in considering whether or not to grant a licence under the allocation system. 15

“(3) The Minister may vary or revoke a determination made under subsection (1).

“(4) The Minister may grant, or refuse to grant, a public mobile licence to an eligible corporation, other than an eligible corporation to which subsection 56(1A) applies, in accordance with a system determined under subsection (1). 20

“(5) The Minister must cause a copy of each licence to be laid before each House of the Parliament within 15 sitting days of that House after the licence is granted, but failure to do so does not affect the validity of a licence.”. 25

Agreement with carrier about licences

48. Section 70 of the Principal Act is amended by inserting in paragraph (1)(a) “or 57A” after “57”.

49. After Division 5 of Part 5 of the Principal Act, the following Division is inserted: 30

“Division 5A—Collection and recovery of public mobile licence charge

Definition

“87A. In this Division:

‘charge’ means the charge imposed by section 4 of the *Telecommunications (Public Mobile Licence Charge) Act 1992*. 35

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

When charge is payable

“87B.(1) Subject to subsection (2), charge is to be paid at the time a public mobile licence is granted under section 57A.

5 “(2) The Minister may determine, in writing, that charge is to be paid:

- (a) on a day determined by the Minister; or
- (b) in instalments of such amounts, payable at such times, as the Minister determines.

10 “(3) The Minister may vary a determination made under subsection (2).

Unpaid charge is a debt due to Commonwealth

“87C. An amount of charge that is payable but has not been paid may be recovered in a court of competent jurisdiction as a debt due to the Commonwealth.”.

15 **A general carrier may replace, repair and maintain facilities etc.**

50. Section 131 of the Principal Act is amended by omitting from subsection (3) “power” and substituting “owner”.

Dominant carrier not to discriminate between acquirers of telecommunications services

20 51. Section 183 of the Principal Act is amended by adding at the end the following subsection:

“(3) Subsection (1) does not apply in relation to discrimination by a carrier in favour of:

- 25 (a) a person who is a concessional beneficiary within the meaning of Part VII of the *National Health Act 1953*; or
- (b) a person to whom, or in respect of whom, a pension or allowance is being paid under the *Veterans’ Entitlements Act 1986* or the *Seamen’s War Pensions and Allowances Act 1940*; or
- 30 (c) any other person that the carrier reasonably believes is disadvantaged on financial or health grounds.”.

Basic carriage service must be tariffed if supplied to a person other than a carrier

52. Section 194 of the Principal Act is amended by adding at the end the following subsection:

35 “(3) Subsection (1) does not apply in relation to such basic carriage services, or in such circumstances, (if any) as are prescribed.”.

53. After section 402 of the Principal Act the following section is inserted:

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

Person not to use protected name or protected symbol

“402A.(1) A person must not, unless AUSTEL consents in writing:

(a) use in relation to a business, trade, profession or occupation;
or

(b) use as the name, or as part of the name, of any firm, body 5
corporate, institution, premises, vehicle, ship or craft (including
aircraft); or

(c) apply, as a trade mark or otherwise, to goods imported,
manufactured, produced, sold, offered for sale or let or hire; or

(d) use in relation to: 10
(i) goods or services; or
(ii) the promotion, by any means, of supply or use of goods
or services;

either:

(e) a protected name, or a name so closely resembling a protected 15
name as to be likely to be mistaken for it; or

(f) the protected symbol, or a symbol so closely resembling the
protected symbol as to be likely to be mistaken for it.

Penalty: \$3,000.

“(2) Nothing in subsection (1) limits anything else in that subsection. 20

“(3) Nothing in subsection (1), so far as it applies in relation to a
protected name or in relation to the protected symbol, affects rights
conferred by law on a person in relation to:

(a) a trade mark that is registered under the *Trade Marks Act 1955*;
or 25

(b) a design that is registered under the *Designs Act 1906*;
and was so registered immediately before the commencement of Part 10
of the *Transport and Communications Legislation Amendment Act*
(No. 2) 1992 in relation to the name or symbol.

“(4) Nothing in this section, so far as it applies to a protected name 30
or in relation to the protected symbol, affects the use, or rights conferred
by law relating to the use, of the name or symbol by a person in a
particular manner if, immediately before the commencement of Part 10
of the *Transport and Communications Legislation Amendment Act*
(No. 2) 1992, the person: 35

(a) was using the name or the symbol in good faith in that manner;
or

(b) would have been entitled to prevent another person from passing 40
off, by means of the use of the name or the symbol or a similar
name or symbol, goods or services as the goods or services of
the first-mentioned person.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

“(5) This section does not apply to a person who uses or applies a protected name or the protected symbol for the purpose of labelling customer equipment in accordance with a permit in force under subsection 258(1).

5 “(6) In this section:

‘protected name’ means:

(a) ‘AUSTEL’; or

(b) ‘Australian Telecommunications Authority’;

10 ‘protected symbol’ means the official symbol of AUSTEL, the design of which is set out in the regulations.”.

**PART 11—AMENDMENT OF THE TRANSPORT AND
COMMUNICATIONS LEGISLATION AMENDMENT ACT 1990**

Principal Act

15 54. In this Part, “Principal Act” means the *Transport and Communications Legislation Amendment Act 1990*¹⁰.

Interpretation

55. Section 26 of the Principal Act is amended by omitting “Section 3” and substituting “Section 5”.

SCHEDULE 1

Section 6

**ADDITIONAL SCHEDULES TO THE AIR NAVIGATION ACT
1920**

SCHEDULE 11

Section 4

PROTOCOL

**relating to an amendment
to Article 56
of the Convention
on International Civil Aviation**

Signed at Montreal on 6 October 1989

**THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION
ORGANIZATION**

HAVING MET in its Twenty-seventh Session at Montreal on 6 October 1989,

HAVING NOTED that it is the general desire of Contracting States to enlarge the membership of the Air Navigation Commission,

HAVING CONSIDERED it proper to increase the membership of that body from fifteen to nineteen, and

HAVING CONSIDERED it necessary to amend, for the purpose aforesaid, the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944,

1. **APPROVES**, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention:
“In Article 56 of the Convention the expression ‘fifteen members’ shall be replaced by ‘nineteen members’.”
2. **SPECIFIES**, pursuant to the provisions of the said Article 94(a) of the said Convention, one hundred and eight as the number of Contracting States upon whose ratification the aforesaid amendment shall come into force; and
3. **RESOLVES** that the Secretary General of the International Civil Aviation Organization shall draw up a Protocol, in the English, French, Russian and Spanish languages, each of which shall be of equal authenticity, embodying the amendment above-mentioned and the matters hereinafter appearing:
 - a) The Protocol shall be signed by the President of the Assembly and its Secretary General.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 1—continued

- b) The Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation.
- c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
- d) The Protocol shall come into force in respect of the States that have ratified it on the date on which the one hundred and eighth instrument of ratification is so deposited.
- e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.
- f) The Secretary General shall immediately notify all States parties to the said Convention of the date on which the Protocol comes into force.
- g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the aforesaid Twenty-seventh Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the sixth day of October of the year one thousand nine hundred and eighty-nine, in a single document in the English, French, Russian and Spanish languages, each text being equally authentic. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

SCHEDULE 1—continued

SCHEDULE 12

Section 4

PROTOCOL

**relating to an amendment
to Article 50(a)
of the Convention
on International Civil Aviation**

Signed at Montreal on 26 October 1990

**THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION
ORGANIZATION**

HAVING MET in its Twenty-eighth Session (Extraordinary) at Montreal
on 25 October 1990;

HAVING NOTED that it is the desire of a large number of Contracting
States to enlarge the membership of the Council in order to ensure
better balance by means of an increased representation of Contracting
States;

HAVING CONSIDERED it appropriate to increase the membership of
that body from thirty-three to thirty-six;

HAVING CONSIDERED it necessary to amend, for the purpose
aforesaid, the Convention on International Civil Aviation done at
Chicago on the seventh day of December 1944;

1. **APPROVES**, in accordance with the provisions of Article 94(a)
of the Convention aforesaid, the following proposed amendment
to the said Convention:
“In Article 50(a) of the Convention the second sentence shall be
amended by replacing ‘thirty-three’ by ‘thirty-six.’”;
2. **SPECIFIES**, pursuant to the provisions of the said Article 94(a)
of the said Convention, one hundred and eight as the number
of Contracting States upon whose ratification the proposed
amendment aforesaid shall come into force;
3. **RESOLVES** that the Secretary General of the International Civil
Aviation Organization draw up a Protocol, in the English, French,
Russian and Spanish languages, each of which shall be of equal
authenticity, embodying the amendment above-mentioned and
the matter hereinafter appearing:
 - a) The Protocol shall be signed by the President of the Assembly
and its Secretary General.
 - b) The Protocol shall be open to ratification by any State which

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 1—continued

has ratified or adhered to the said Convention on International Civil Aviation.

- c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.
- d) The Protocol shall come into force in respect of the States which have ratified it on the date on which the one hundred and eighth instrument of ratification is so deposited.
- e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.
- f) The Secretary General shall immediately notify all States parties to the said Convention of the date on which the Protocol comes into force.
- g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

CONSEQUENTLY, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary General of the Organization.

IN WITNESS WHEREOF, the President and the Secretary General of the aforesaid Twenty-eighth Session (Extraordinary) of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

DONE at Montreal on the twenty-sixth day of October of the year one thousand nine hundred and ninety, in a single document in the English, French, Russian and Spanish languages, each text being equally authentic. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

SCHEDULE 2

Section 28

**SCHEDULE TO BE ADDED AT THE END OF THE
PROTECTION OF THE SEA (POWERS OF INTERVENTION) ACT
1981**

SCHEDULE 3

Subsection 3(1)

RESOLUTION MEPC.49(31)

adopted on 4 July 1991

**REVISION OF THE LIST OF SUBSTANCES TO BE ANNEXED
TO THE PROTOCOL RELATING TO INTERVENTION ON THE
HIGH SEAS IN CASES OF MARINE POLLUTION BY
SUBSTANCES OTHER THAN OIL**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

NOTING Resolution 26 of the International Conference on Marine Pollution, 1973 which requested the appropriate body designated by the Organization to establish, not later than 30 November 1974, the list of substances to be annexed to the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, 1973, (the 1973 Protocol),

NOTING FURTHER Resolution A.296(VIII) by which the Assembly designated the Committee as the appropriate body referred to in articles I and III of the above-mentioned Protocol,

RECALLING Resolution MEPC.1(II) by which the Committee established on 21 November 1974 a list of substances to be annexed to the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, in accordance with Resolution 26 of the International Conference on Marine Pollution, 1973, and Resolution A.296(VIII),

HAVING CONSIDERED proposals by governments for revising the list,

HAVING taken account of scientific advice provided by the Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) with regard to evaluation of the hazards of harmful substances in the marine environment and by the International Atomic Energy Agency in respect of radioactive materials,

HAVING taken account of technical advice provided by the Sub-Committee on Bulk Chemicals and by the Sub-Committee on the Carriage of Dangerous Goods,

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 2—continued

1. **ADOPTS** by the required two-thirds majority of the Parties to the 1973 Protocol present and voting in the Committee the amended list which appears in the Annex to this Resolution;
2. **REQUESTS** the Secretary-General to communicate the amended list to all Parties to the 1973 Protocol in accordance with article III, paragraph 5, for acceptance, and to inform them that the amended list shall be deemed to have been accepted at the end of the period of six months after it has been communicated, unless within that period an objection to these amendments has been communicated to the Organization by not less than one third of the Parties, and that the amended list shall enter into force three months after it has been deemed to have been accepted;
3. **REQUESTS FURTHER** the Secretary-General to annex copies thereof to the authentic text of the Protocol in accordance with article I, paragraph 2(a), once the amended list has been accepted in accordance with article III, paragraph 6, to replace the existing list;
4. **DECIDES** that the list should be kept under review, in consultation and co-operation with competent international organizations, in particular the International Atomic Energy Agency in respect of radioactive materials.

ANNEX

LIST OF SUBSTANCES

Appendix 1

Oil carried in bulk as listed in appendix I to Annex I of MARPOL 73/78 other than those covered by the 1969 Intervention Convention

Asphalt solutions

Blending stocks

Roofers flux

Straight run residue

Oils

Clarified

Road oil

Transformer oil

Gasolines blending stocks

Alkylates—fuel

Reformats

Polymer—fuel

Gasolines

Casinghead (natural)

Automotive

Aviation

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 2—continued

Aromatic oil (excluding vegetable oil)	Straight run
Mineral oil	Fuel oil No.1 (Kerosene)
Motor oil	Fuel oil No.1-D
Penetrating oil	Fuel oil No.2
Spindle oil	Fuel oil No.2-D
Turbine oil	<u>Jet fuels</u>
<u>Distillates</u>	JP-1 (Kerosene)
Straight run	JP-3
Flashed feed stocks	JP-5 (Kerosene, heavy)
<u>Gas oil</u>	Turbo fuel
Cracked	Kerosene
<u>Naphtha</u>	Mineral spirit
Solvent	
Petroleum	
Heartcut distillate oil	

Appendix 2

Noxious liquid substances carried in bulk

Acetone cyanohydrin
Acetic anhydride
Acrylonitrile
Alcohol (C12-C15) poly(1-3) ethoxylates
Alcohol (C12-C15) poly(3-11) ethoxylates
Alcohol (C6-C17) (secondary) poly(3-6) ethoxylates
Alcohol (C6-C17) (secondary) poly(7-12) ethoxylates
Allyl alcohol
Allyl chloride
Ammonium sulphide solution (45% or less)
Aniline
Benzene and mixtures having 10% benzene or more
Benzyl chloride
Butene oligomer
n-Butyl acrylate
Butylbenzenes (all isomers)
Butyl benzyl phthalate
n-Butyraldehyde
Calcium hypochlorite solution (more than 15%)
Calcium naphthenate in mineral oil
Camphor oil

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 2—continued

Carbolic oil
Carbon disulphide
Carbon tetrachloride
Chlorinated paraffins (C10-C13)
Chlorobenzene
Chloroform
o-Chloronitrobenzene
m-Chlorotoluene
o-Chlorotoluene
p-Chlorotoluene
Chlorotoluenes (mixed isomers)
Coal tar
Coal tar naphtha solvent
Cobalt naphthenate in solvent naphtha
Creosote (coal tar)
Creosote (wood)
Cresols (all isomers)
Cresylic acid, sodium salt solution
Crotonaldehyde
Cyclohexyl acetate
1,3-Cyclopentadiene dimer (molten)
Cyclopentene
Decene
Decyl acrylate
Decyl alcohol (all isomers)
Dibutyl phthalate
Dichlorobenzenes (all isomers)
1,1-Dichloroethane
Dichloroethyl ether
1,6-Dichlorohexene
2,4-Dichlorophenol
2,4-Dichlorophenoxyacetic acid, diethanolamine salt solution
2,4-Dichlorophenoxyacetic acid, dimethylamine salt solution (70% or less)
2,4-Dichlorophenoxyacetic acid, triisopropanolamine salt solution
1,1-Dichloropropane
1,2-Dichloropropane
1,3-Dichloropropane
1,3-Dichloropropene
Dichloropropene/Dichloropropane mixtures
Diethyl sulphate
Diglycidyl ether of bisphenol A
Diglycidyl ether of bisphenol F
Di-n-hexyl adipate
Diisobutylene

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 2—continued

Diisobutyl phthalate
Diisopropylbenzene (all isomers)
Dimethyl adipate
Dimethylamine solution (45% or less)
Dimethylamine solution (greater than 45% but not greater than 55%)
Dimethylamine solution (greater than 55% but not greater than 65%)
Dinitrotoluene (molten)
Diphenyl
Diphenyl/Diphenyl ether mixtures
Diphenyl ether
Diphenyl ether/Diphenyl phenyl ether mixture
Diphenylmethane diisocyanate
Diphenylol propane-epichlorohydrin resins
Dodecene (all isomers)
Dodecyl alcohol
Dodecyl diphenyl ether disulphonate solution
Dodecyl phenol
Drilling brines, containing Zinc salts
Epichlorohydrin
Ethyl acrylate
Ethylene chlorohydrin
Ethylene dibromide
Ethylene dichloride
2-Ethylhexyl acrylate
2-Ethylhexylamine
Ethylidene norbornene
o-Ethylphenol
2-Ethyl-3-propylacrolein
Ethyltoluene
Fluorosilicic acid
Fumaric adduct of rosin, water dispersion
Glycidyl ester of C10 trialkylacetic acid
Heptyl acetate
Hexyl acetate
2-Hydroxyethyl acrylate
Isobutyl acrylate
Isophorone diisocyanate
Isopropylbenzene
Lactonitrile solution (80% or less)
Lauric acid
Mercaptobenzothiazol, sodium salt solution
Metam sodium solution
Methacrylic resin in 1,2-Dichloroethane solution
Methacrylonitrile
Methyl acrylate

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 2—continued

Methylcyclopentadiene dimer
2-Methyl-5-ethyl pyridine
Methyl heptyl ketone
Methylnaphthalene
2-Methylpyridine
4-Methylpyridine
N-Methyl-2-pyrrolidone
Methyl salicylate
alpha-Methylstyrene
Motor fuel anti-knock compounds
Naphthalene (molten)
Naphthenic acids
Nitrobenzene
o-Nitrophenol (molten)
Nonene
Nonylphenol
Nonylphenol poly (4-12) ethoxylates
Octane (all isomers)
Octene (all isomers)
Octyl aldehydes
Octyl nitrates (all isomers)
Olefin mixtures (C5-C15)
Oleum
alpha-Olefins (C6-C18) mixtures
Pentachloroethane
Perchloroethylene
Phenol
Phosphorus, yellow or white
Pinene
n-Propyl chloride
Propylene tetramer
Propylene trimer
Rosin
Rosin soap (disproportionated) solution
Sodium hydrosulphide/Ammonium sulphide solution
Sodium hydrosulphide solution (45% or less)
Sodium sulphide solution
Sodium nitrite solution
Sodium thiocyanate solution (56% or less)
Styrene monomer
Tall oil (crude and distilled)
Tall oil soap (disproportionated) solution
Tetrachloroethane
Toluene
Toluene diisocyanate

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 2—continued

Tributyl phosphate
1,2,4-Trichlorobenzene
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Trichloroethylene
1,2,3-Trichloropropane
Tricresyl phosphate (containing less than 1% ortho-isomer)
Tricresyl phosphate (containing 1% or more ortho-isomer)
Triethylbenzene
Trimethyl benzenes (all isomers)
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-isomers)
Trixylyl phosphate
Turpentine
1-Undecene
Undecyl alcohol
Vinylidene chloride
Vinyl neodecanoate
Vinyltoluene
White spirit, low (15-20%) aromatic
Xylenol

Appendix 3

Harmful substances carried in packaged form

Substances

Binapacryl
Cadmium compounds, except Cadmium selenide and Cadmium sulphide
Chlorined paraffins (C10-C13)
Chlorophenates
Copper cyanide
Coumarin derivative pesticides as follows:
 Brodifacoum
 Coumaphos
Cresyl diphenyl phosphate
Cypermethrin
Diphenylamine chloroarsine
Diphenylchloroarsine
Dodecylphenol
Ethyldichloroarsine
Fenprothrin
Hexachlorobutadiene
Mercuric arsenate
Mercuric chloride
Mercuric nitrate

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 2—continued

Mercuric potassium cyanide
Mercurous nitrate
Mercury acetates
Mercury ammonium chloride
Mercury based pesticides
Mercury benzoate
Mercury bromides
Mercury compounds except Mercuric sulphide and Mercury iodide
Mercury cyanide
Mercury gluconate
Mercury nucleate
Mercury oleate
Mercury oxide
Mercury oxycyanide desensitized
Mercury potassium iodide
Mercury salicylate
Mercury sulphates
Mercury thiocyanate
Nickel cyanide
Nickel carbonyl
Organochlorine pesticides as follows:
Aldrin
Camphechlor
Chlordane
DDT
Dieldrin
Endosulfan
Endrin
Heptachlor
Lindane (gamma-BCH)
Organophosphorus pesticides as follows:
Azinphos-methyl
Azinphos-ethyl
Bromophos-ethyl
Carbophenothion
Chlorpyrifos
Chlorthiophos
Dialifos
Diazinon
Dichlofenthion
Dichlorvos
Dimethoate
EPN Ethion
Fenitrothion

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 2—continued

Fenthion
Fonofos
Isoxathion
Mevinphos
Parathion
Parathion-methyl
Pirimiphos ethyl
Phenthoate
Phorate
Phosalone
Phosphamidon
Pyrazophos
Sulprophos
Terbufos
Organotin compounds
Organotin pesticides
Osmium tetroxide
Pentachlorophenol
Phenylmercuric acetate
Phenylmercuric compounds
Phenylmercuric nitrate
Phosphorus, white or yellow
Polychlorinated biphenyls or terphenyls
Polyhalogenated biphenyls or terphenyls
Potassium cuprocyanide
Silver arsenite
Sodium cuprocyanide
Sodium pentachlorophenate
Triaryl phosphates
Tricresyl phosphates, more than 1% ortho-isomer
Zinc cyanide

Appendix 4

Radioactive materials

Radioactive materials which are transported in type B packages, or as fissile materials, or under special arrangement, as covered by the provisions of schedules 10 to 13 of class 7 of the International Maritime Dangerous Goods Code.

Appendix 5

Liquefied gases carried in bulk

Acetaldehyde
Anhydrous Ammonia
Chlorine

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 2—continued

Dimethylamine
Ethyl chloride
Ethylene oxide
Hydrogen chloride, anhydrous
Hydrogen fluoride, anhydrous
Methyl bromide
Methyl chloride
Sulphur dioxide
Vinyl chloride monomer

SCHEDULE 3

Subsection 44(1)

**ANNEX TO BE SUBSTITUTED FOR ANNEX III TO THE
CONVENTION SET OUT IN SCHEDULE 1 TO THE
PROTECTION OF THE SEA (PREVENTION OF POLLUTION
FROM SHIPS) ACT 1983**

ANNEX III

**Regulations for the Prevention of Pollution by Harmful Substances
Carried by Sea in Packaged Form**

Regulation 1

Application

1 Unless expressly provided otherwise, the regulations of this Annex apply to all ships carrying harmful substances in packaged form.

1.1 For the purposes of this Annex, *harmful substances* are those substances which are identified as marine pollutants in the International Maritime Dangerous Goods Code (IMDG Code).*

1.2 Guidelines for the identification of harmful substances in packaged form are given in the appendix to this Annex.

1.3 For the purposes of this Annex, *packaged form* is defined as the forms of containment specified for harmful substances in the IMDG Code.*

2 Such carriage of harmful substances is prohibited except in accordance with the provisions of this Annex.

3 To supplement the provisions of this Annex, the Government of each Party to the Convention shall issue, or cause to be issued detailed requirements on packing, marking, labelling, documentation stowage, quantity limitations and exceptions for preventing or minimizing pollution of the marine environment by harmful substances.

4 For the purposes of this Annex, empty packagings which have been used previously for the carriage of harmful substances shall themselves be treated as harmful substances unless adequate precautions have been taken to ensure that they contain no residue that is harmful to the marine environment.

5 The requirements of this Annex do not apply to ships stores and equipment.

* Reference is made to the International Maritime Dangerous Goods Code (IMDG Code) adopted by Organisation resolution A.81(IV) as it has been or may be amended by the Maritime Safety Committee.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 3—continued

Regulation 2

Packing

Packages shall be adequate to minimize the hazard to the marine environment having regard to their specific contents.

Regulation 3

Marking and labelling

1 Packages containing a harmful substance shall be durably marked with the correct technical name (trade names alone shall not be used) and, further, shall be durably marked or labelled to indicate that the substance is a marine pollutant. Such identification shall be supplemented where possible by any other means, for example by the use of the relevant United Nations number.

2 The method of marking the correct technical name and of affixing labels on packages containing a harmful substance shall be such that this information will still be identifiable on packages surviving at least three months' immersion in the sea. In considering suitable marking and labelling, account shall be taken of the durability of the materials used and of the surface of the package.

3 Packages containing small quantities of harmful substances may be exempted from the marking requirements.*

* Reference is made to the specific exemptions provided for in the International Maritime Dangerous Goods Code (IMDS Code).

SCHEDULE 3—continued

Regulation 4

*Documentation***

1 In all documents relating to the carriage of harmful substances by sea where such substances are named, the correct technical name of each such substance shall be used (trade names alone shall not be used) and the substance further identified by the addition of the words “MARINE POLLUTANT”.

2 The shipping documents supplied by the shipper shall include, or be accompanied by, a signed certificate or declaration that the shipment offered for carriage is properly packaged and marked or labelled and in proper condition for carriage to minimise the hazard to the marine environment.

3 Each ship carrying harmful substances shall have a special list or manifest setting forth the harmful substances on board and the location thereof. A detailed stowage plan which sets out the location of the harmful substances on board may be used in place of such a special list or manifest. Copies of such documents shall also be retained on shore by the owner of the ship or his representative until the harmful substances are unloaded. A copy of one of these documents shall be presented before departure to the person or organization designated by the port State authority.

4 When the ship carries a special list or manifest or a detailed stowage plan, required for the carriage of dangerous goods by the International Convention for the Safety of Life at Sea, 1974, as amended, the documents required by this regulation may be combined with those for dangerous goods. Where documents are combined, a clear distinction shall be made between dangerous goods and harmful substances covered by this Annex.

** Reference to “documents” in this regulation does not preclude the use of electronic data processing (EDP) and electronic data interchange (EDI) transmission techniques as an aid to paper documentation.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 3—continued

Regulation 5

Stowage

Harmful substances shall be properly stowed and secured so as to minimise the hazards to the marine environment without impairing the safety of the ship and persons on board.

Regulation 6

Quantity limitations

Certain harmful substances may, for sound scientific and technical reasons, need to be prohibited for carriage or be limited as to the quantity which may be carried aboard any one ship. In limiting the quantity, due consideration shall be given to size, construction and equipment of the ship as well as packaging and the inherent nature of the substances.

Regulation 7

Exceptions

1 Jettisoning of harmful substances carried in packaged form shall be prohibited except where necessary for the purpose of securing the safety of the ship or saving life at sea.

2 Subject to the provisions of the present Convention, appropriate measures based on the physical, chemical and biological properties of harmful substances shall be taken to regulate the washing of leakages overboard provided that compliance with such measures would not impair the safety of the ship and persons on board.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 3—continued

Appendix

**GUIDELINES FOR THE IDENTIFICATION OF HARMFUL
SUBSTANCES IN PACKAGED FORM**

For the purposes of this Annex, substances identified by any one of the following criteria are harmful substances

- bioaccumulated to a significant extent and known to produce a hazard to aquatic life or to human health (Hazard Rating “+” in column A*); or
- bioaccumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one week or less (Hazard Rating “Z” in column A*); or
- liable to produce tainting of seafood (Hazard Rating “T” in column A*); or
- highly toxic to aquatic life, defined by an $LC_{50}/96^{**}$ hour less than 1 ppm (Hazard rating “4” in column B*).

Annex III—MARPOL 73/78				
GESAMP Hazard Profiles				
A	B	C	D	E
+				
Z				
T				
	4			

* Reference is made to the Composite List of Hazard Profiles, prepared by the IMO/FAO/UNESCO/WMO/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) which is circulated annually by the Organization by means of BCH circulars to all IMO Member States.

** The concentration of a substance which will, within the specified time (generally 96 hours) kill 50% of the exposed group of test organisms. LC_{50} is often specified in mg/l (parts per million (ppm)).

SCHEDULE 4

Subsection 44(2)

**SCHEDULE TO BE ADDED AT THE END OF THE
PROTECTION OF THE SEA (PREVENTION OF POLLUTION
FROM SHIPS) ACT 1983**

SCHEDULE 9

Section 3

RESOLUTION MEPC.42(30)

adopted by the Marine Environment Protection Committee
on 16 November 1990

**ADOPTION OF AMENDMENTS TO THE ANNEX OF THE
PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL
CONVENTION FOR THE PREVENTION OF POLLUTION FROM
SHIPS, 1973**

(Designation of Antarctic area as a special area under
Annexes I and V of MARPOL 73/78)

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International
Maritime Organization concerning the functions of the Committee,

NOTING article 16 of the International Convention for the
Prevention of Pollution from Ships, 1973 (hereinafter referred to as the
“1973 Convention”) and article VI of the Protocol of 1978 relating to
the International Convention for the Prevention of Pollution from
Ships, 1973 (hereinafter referred to as the “1978 Protocol”) which
confer upon the appropriate body of the Organization the function of
considering and adopting amendments to the 1973 Convention, as
modified by the 1978 Protocol (MARPOL 73/78),

HAVING CONSIDERED, at its thirtieth session, amendments to
the 1978 Protocol proposed and circulated in accordance with article
16(2)(a) of the 1973 Convention,

HAVING CONSIDERED ALSO the objective that all wastes are to
be removed from the Antarctic area due to the ecological importance
of the fragile ecosystems of the area,

1. **ADOPTS**, in accordance with article 16(2)(d) of the 1973
Convention, amendments to the Annex of the 1978 Protocol, the text
of which is set out in the Annex to the present resolution;
2. **DETERMINES**, in accordance with article 16(2)(f)(iii) of the 1973
Convention, that the amendments shall be deemed to have been
accepted on 16 September 1991 unless, prior to this date, one third or

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 4—continued

more of the Parties, or the Parties the combined merchant fleets of which constitute fifty per cent or more of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. INVITES the Parties to note that, in accordance with article 16(2)(g)(ii) of 1973 Convention, the amendments shall enter into force on 17 March 1992 upon their acceptance in accordance with paragraph 2 above;

4. DECIDES that the requirements of regulation 10 of Annex I and regulation 5 of Annex V of MARPOL 73/78 in respect of the Antarctic area shall take effect on the day the amendments thereto adopted under this resolution enter into force, which is expected to be 17 March 1992;

5. REQUESTS the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to Annexes I and V of MARPOL 73/78 certified copies of the present resolution and the text of the amendments contained in Annexes 1 and 2 respectively;

6. FURTHER REQUESTS the Secretary-General to transmit to the Members of the Organization which are not Parties to Annexes I or V of MARPOL 73/78 copies of the resolution and its Annexes.

ANNEX 1

**ADOPTION OF AMENDMENTS TO THE ANNEX OF THE
PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL
CONVENTION FOR THE PREVENTION OF POLLUTION FROM
SHIPS, 1973**

ANNEX I

**REGULATIONS FOR THE PREVENTION OF POLLUTION BY
OIL**

Regulation 10 is amended to read as follows:

Regulation 10

**Methods for the Prevention of Oil Pollution from
Ships While Operating in Special Areas**

(1) For the purposes of this Annex, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the "Gulfs area", the Gulf of Aden and the Antarctic area, which are defined as follows:

(a)–(f) No change.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 4—continued

- (g) “The Antarctic area means the sea area south of 60° south latitude”.
- (2) Subject to the provisions of regulation 11 of this Annex:
- (a) Any discharge into the sea of oil or oily mixture from any oil tanker, or any ship of 400 tons gross tonnage and above other than an oil tanker, shall be prohibited, while in a special area. In respect of the Antarctic area, any discharge into the sea of oil or oily mixture from any ship shall be prohibited.
 - (b) Except as provided for in respect of the Antarctic area under paragraph 2(a) of this Regulation, any discharge into the sea of oil or oily mixture from a ship of less than 400 tons gross tonnage, other than an oil tanker, shall be prohibited while in a special area, except when the oil content of the effluent without dilution does not exceed 15 parts per million or alternatively when all of the following conditions are satisfied:
 - (2)(b)(i), (ii), (iii) No change.
 - (3)–(7) No change.
- (8) Notwithstanding paragraph (7) of this regulation, the following rules apply to the Antarctic area:
- (a) The Government of each Party to the Convention whose ports are used by ships departing en route to or arriving from the Antarctic area undertakes to ensure that as soon as practicable adequate facilities are provided for the reception of all sludge, dirty ballast, tank washing water, and other oily residues and mixtures from all ships, without causing undue delay, and according to the needs of the ships using them.
 - (b) The Government of each Party to the Convention shall ensure that all ships entitled to fly its flag, before entering the Antarctic 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 while operating in the area and have concluded arrangements to discharge such oily residues at a reception facility after leaving the area.

SCHEDULE 4—continued

ANNEX 2

**ADOPTION OF AMENDMENTS TO THE ANNEX OF THE
PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL
CONVENTION FOR THE PREVENTION OF POLLUTION FROM
SHIPS, 1973**

ANNEX V

**REGULATIONS FOR THE PREVENTION OF POLLUTION BY
GARBAGE FROM SHIPS**

Regulation 5 is amended to read as follows:

Regulation 5

Disposal of Garbage within Special Areas

(1) For the purposes of this Annex, the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the “Gulfs area”, the North Sea area and the Antarctic area, which are defined as follows:

(a)–(f) No change.

(g) The Antarctic area means the sea area south of 60° south latitude.

(2)–(4) No change.

(5) Notwithstanding paragraph 4 of this Regulation, the following rules apply to the Antarctic area:

(a) The Government of each Party to the Convention whose ports are used by ships departing en route to or arriving from the Antarctic area undertakes to ensure that as soon as practicable adequate facilities are provided for the reception of all garbage from all ships, without causing undue delay, and according to the needs of the ships using them.

(b) The Government of each Party to the Convention shall ensure that all ships entitled to fly its flag, before entering the Antarctic area, have sufficient capacity on board for the retention of all garbage while operating in the area and have concluded arrangements to discharge such garbage at a reception facility after leaving the area.

SCHEDULE 5

Subsection 44(3)

**SCHEDULES TO BE INSERTED IN THE PROTECTION OF THE
SEA (PREVENTION OF POLLUTION FROM SHIPS) ACT 1983**

SCHEDULE 10

Section 3

RESOLUTION MEPC.48(31)

adopted on 4 July 1991

**AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978 RELATING
TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF
POLLUTION FROM SHIPS, 1973**

(Designation of the Wider Caribbean area as a special area under Annex V of
MARPOL 73/78)

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime
Organization concerning the functions of the Committee,

NOTING article 16 of the International Convention for the Prevention of
Pollution from Ships, 1973 (hereinafter referred to as the "1973 Convention") and
article VI of the Protocol of 1978 relating to the International Convention for the
Prevention of Pollution from Ships, 1973 (hereinafter referred to as the "1978
Protocol") which confer upon the appropriate body of the Organization the function
of considering and adopting amendments to the 1973 Convention, as modified by
the 1978 Protocol (MARPOL 73/78),

HAVING CONSIDERED, at its thirty-first session, amendments to the 1978
Protocol proposed and circulated in accordance with article 16(2)(a) of the 1973
Convention,

1. **ADOPTS**, in accordance with article 16(2)(d) of the 1973 Convention,
amendments to the Annex of the 1978 Protocol, the text of which is set out in the
Annex to the present resolution;
2. **DETERMINES**, in accordance with article 16(2)(f)(iii) of the 1973 Convention,
that the amendments shall be deemed to have been accepted on 4 October 1992,
unless prior to this date one third or more of the Parties, or the Parties the
combined merchant fleets of which constitute fifty per cent or more of the gross
tonnage of the world's merchant fleet, have communicated to the Organization
their objections to the amendments;
3. **INVITES** the Parties to note that, in accordance with article 16(2)(g)(ii) of the
1973 Convention, the amendments shall enter into force on 4 April 1993 upon
their acceptance in accordance with paragraph 2 above;
4. **REQUESTS** the Secretary-General, in conformity with article 16(2)(e) of the
1973 Convention, to transmit to all Parties to Annex V of the 1978 Protocol
certified copies of the present resolution and the text of the amendments contained
in the Annex;
5. **FURTHER REQUESTS** the Secretary-General to transmit to the Members of
the Organization which are not Parties to Annex V of the 1978 Protocol copies of
the resolution and its annex.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

ANNEX

**AMENDMENTS TO REGULATION 5 OF ANNEX V OF MARPOL 73/78
(DESIGNATION OF THE WIDER CARIBBEAN AREA AS A SPECIAL AREA)**

Regulation 5—Disposal of Garbage within Special Areas

The introductory sentence in paragraph (1) is amended to read as follows:

“(1) For the purposes of this Annex the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the ‘Gulfs area’, the North Sea area, the Antarctic area and the Wider Caribbean Region, including the Gulf of Mexico and the Caribbean Sea, which are defined as follows:”

New subparagraph (h) is added to paragraph (1) as follows:

“(h) The Wider Caribbean Region, as defined in article 2, paragraph 1 of the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean region (Cartagena de Indias, 1983), means the Gulf of Mexico and Caribbean Sea proper including the bays and seas therein and that portion of the Atlantic Ocean within the boundary constituted by the 30°N parallel from Florida eastward to 77°30'W meridian, thence a rhumb line to the intersection of 20°N parallel and 59°W meridian, thence a rhumb line to the intersection of 7°20'N parallel and 50°W meridian, thence a rhumb line drawn southwesterly to the eastern boundary of French Guiana.”

New subparagraph (b) of paragraph (2) is amended to read as follows:

“(b) except as provided in subparagraph (c) of this paragraph, disposal into the sea of food wastes shall be made as far as practicable from land, but in any case not less than 12 nautical miles from the nearest land,”

New subparagraph (c) is added to paragraph (2) as follows:

“(c) disposal into the Wider Caribbean Region of food wastes which have been passed through a comminuter or grinder shall be made as far as practicable from land, but in any case not subject to regulation 4 not less than 3 nautical miles from the nearest land. Such comminuted or ground food wastes shall be capable of passing through a screen with openings no greater than 25 millimetres.”

SCHEDULE 11

Section 3

RESOLUTION MEPC.47(31)

adopted on 4 July 1991

**AMENDMENTS TO THE ANNEX OF THE PROTOCOL OF 1978
RELATING TO THE INTERNATIONAL CONVENTION FOR THE
PREVENTION OF POLLUTION FROM SHIPS, 1973**

(New regulation 26 and other amendments to Annex 1 of
MARPOL 73/78)

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

**RECALLING Article 38(a) of the Convention on the International
Maritime Organization concerning the functions of the Committee,**

SCHEDULE 5—continued

NOTING article 16 of the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the “1973 Convention”) and article VI of the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter referred to as the “1978 Protocol”) which confer upon the appropriate body of the Organization the function of considering and adopting amendments to the 1973 Convention, as modified by the 1978 Protocol (MARPOL 73/78),

NOTING ALSO that the International Conference on Oil Pollution Preparedness and Response convened by the Organization in November 1990, has adopted the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 which required, inter alia, all ships to have a shipboard oil pollution emergency plan,

HAVING CONSIDERED, at its thirty-first session, amendments to the 1978 Protocol proposed and circulated in accordance with article 16(2)(a) of the 1973 Convention,

1. **ADOPTS**, in accordance with article 16(2)(d) of the 1973 Convention, amendments to the Annex of the 1978 Protocol, the text of which is set out in the Annex to the present resolution;
2. **DETERMINES**, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 4 October 1992, unless prior to this date one third or more of the Parties, or the Parties the combined merchant fleets of which constitute fifty per cent or more of the gross tonnage of the world’s merchant fleet, have communicated to the Organization their objections to the amendments;
3. **INVITES** the Parties to note that, in accordance with article 16(2)(g)(ii) of the 1973 Convention, the amendments shall enter into force on 4 April 1993 upon their acceptance in accordance with paragraph 2 above;
4. **REQUESTS** the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to MARPOL 73/78 certified copies of the present resolution and the text of the amendments contained in the Annex;
5. **FURTHER REQUESTS** the Secretary-General to transmit copies of the resolution and its Annex to the Members of the Organization which are not Parties to MARPOL 73/78.

ANNEX

AMENDMENTS TO ANNEX I OF MARPOL 73/78

1 The seventh sentence of regulation 15(3)(a) is replaced with the following two sentences:

“A manually operated alternative method shall be provided and may be used in the event of such failure, but the defective unit shall

SCHEDULE 5—continued

be made operable as soon as possible. The port State authority may allow the tanker with a defective unit to undertake one ballast voyage before proceeding to a repair port”.

2 New paragraph (3) is added to regulation 17 as follows:

“(3) Piping to and from sludge tanks shall have no direct connection overboard, other than the standard discharge connection referred to in regulation 19”.

3 The following new chapter IV is added to the existing text:

“CHAPTER IV— PREVENTION OF POLLUTION ARISING
FROM AN OIL POLLUTION INCIDENT

Regulation 26

Shipboard Oil Pollution Emergency Plan

- (1) Every oil tanker of 150 tons gross tonnage and above and every ship other than an oil tanker of 400 tons gross tonnage and above shall carry on board a shipboard oil pollution emergency plan approved by the Administration. In the case of ships built before 4 April 1993 this requirement shall apply 24 months after that date.
- (2) Such a plan shall be in accordance with Guidelines* developed by the Organization and written in the working language of the master and officers. The plan shall consist at least of:
 - (a) the procedure to be followed by the master or other persons having charge of the ship to report an oil pollution incident, as required in article 8 and Protocol I of the present Convention, based on the guidelines developed by the Organization**;
 - (b) the list of authorities or persons to be contacted in the event of an oil pollution incident;
 - (c) a detailed description of the action to be taken immediately by persons on board to reduce or control the discharge of oil following the incident; and
 - (d) the procedures and point of contact on the ship for co-ordinating shipboard action with national and local authorities in combating the pollution”.

* Reference is made to “Guidelines for the development of the shipboard oil pollution emergency plans” to be developed by the Organization.

** Reference is made to “General principles for ship reporting system and ship reporting requirements, including Guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants” adopted by the Organization by resolution A.648(16).

SCHEDULE 5—continued

Revised Forms of Supplements to the IOPP Certificate

Forms A and B of Supplements to the IOPP Certificate are replaced by those reproduced in the following pages.

**FORM A
(Revised 1991)**

**SUPPLEMENT TO THE INTERNATIONAL OIL POLLUTION
PREVENTION CERTIFICATE (IOPP CERTIFICATE)**

**RECORD OF CONSTRUCTION AND EQUIPMENT FOR SHIPS
OTHER THAN OIL TANKERS**

In respect of the provisions of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as “the Convention”).

Notes:

- 1 This form is to be used for the third type of ships as categorized in the IOPP Certificate, i.e. “ships other than any of the above”. For oil tankers and ships other than oil tankers with cargo tanks coming under regulation 2(2) of Annex I of the Convention, Form B shall be used.
- 2 This Record shall be permanently attached to the IOPP Certificate. The IOPP Certificate shall be available on board the ship at all times.
- 3 If the language of the original Record is neither English nor French, the text shall include a translation into one of these languages.
- 4 Entries in boxes shall be made by inserting either a cross (×) for the answers “yes” and “applicable” or a dash (—) for the answers “no” and “not applicable” as appropriate.
- 5 Regulations mentioned in this Record refer to regulations of Annex I of the Convention and resolutions refer to those adopted by the International Maritime Organization.

1 PARTICULARS OF SHIP

- 1.1 Name of ship
- 1.2 Distinctive number or letters
- 1.3 Port of registry
- 1.4 Gross tonnage
- 1.5 Date of build:

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

- 1.5.1 Date of building contract
- 1.5.2 Date on which keel was laid or ship was at a similar stage of construction
- 1.5.3 Date of delivery
- 1.6 Major conversion (if applicable):
 - 1.6.1 Date of conversion contract
 - 1.6.2 Date on which conversion was commenced
 - 1.6.3 Date of completion of conversion
- 1.7 Status of ship:
 - 1.7.1 New ship in accordance with regulation 1(6)
 - 1.7.2 Existing ship in accordance with regulation 1(7)
 - 1.7.3 The ship has been accepted by the Administration as an “existing ship” under regulation 1(7) due to unforeseen delay in delivery
- 2 **EQUIPMENT FOR THE CONTROL OF OIL DISCHARGE FROM MACHINERY SPACE BILGES AND OIL FUEL TANKS**
(regulations 10 and 16)
 - 2.1 Carriage of ballast water in oil fuel tanks:
 - 2.1.1 The ship may under normal conditions carry ballast water in oil fuel tanks
 - 2.2 Type of separating/filtering equipment fitted:
 - 2.2.1 Oily-water separating equipment (100 ppm equipment)
 - 2.2.2 Oil filtering equipment (15 ppm equipment)
 - 2.3 Type of control system:
 - 2.3.1 Discharge monitoring and control system (regulation 16(5))
 - .1 with automatic stopping device
 - .2 with manual stopping device
 - 2.3.2 15 ppm alarm (regulation 16(7))
 - 2.3.3 Automatic stopping device for discharges in special areas (regulation 10(3)(b)(vi))
 - 2.3.4 Oil content meter (resolution A.444(XI))
 - .1 with recording device
 - .2 without recording device
 - 2.4 Approval standards:
 - 2.4.1 The separating/filtering equipment:
 - .1 has been approved in accordance with resolution A.393(X)
 - .2 has been approved in accordance with resolution A.233(VII)

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

- .3 has been approved in accordance with national standards not based upon resolution A.393(X) or A.233(VII)
 - .4 has not been approved
 - 2.4.2 The process unit has been approved in accordance with resolution A.444(XI)
 - 2.4.3 The oil content meter has been approved in accordance with resolution A.393(X)
 - 2.5 Maximum throughput of the system is m³/h
 - 2.6 Waiver of regulation 16
 - 2.6.1 The requirements of regulation 16(1) or (2) are waived in respect of the ship in accordance with regulation 16(3)(a). The ship is engaged exclusively on:
 - .1 Voyages within special area(s):
 -
 -
 - .2 Voyages within 12 miles of the nearest land outside special area(s) restricted to:
 -
 -
 - 2.6.2 The ship is fitted with holding tank(s) having a volume ofm³ for the total retention on board of all oily bilge water
- 3 MEANS FOR RETENTION AND DISPOSAL OF OIL RESIDUES (SLUDGE) (regulation 17)**
- 3.1 The ship is provided with oil residue (sludge) tanks as follows:

Tank identification	Tank	Location	Volume m ³
	Frames (from) – (to)	Lateral Position	
			Total volumem ³

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

3.2 Means for the disposal of residues in addition to the provisions of sludge tanks:

- 3.2.1 incinerator for oil residues;
capacity 1/h
- 3.2.2 auxiliary boiler suitable for burning oil residues
- 3.2.3 tank for mixing oil residues with fuel oil;
capacity m³
- 3.2.4 other acceptable means:
.....

4 STANDARD DISCHARGE CONNECTION (regulation 19)

- 4.1 The ship is provided with a pipeline for the discharge of residues from machinery bilges to reception facilities, fitted with a standard discharge connection in accordance with regulation 19

5 SHIPBOARD OIL POLLUTION EMERGENCY PLAN (regulation 26)

- 5.1 The ship is provided with a shipboard oil pollution emergency plan in compliance with regulation 26

6 EXEMPTION

- 6.1 Exemptions have been granted by the Administration from the requirements of chapter II of Annex I of the Convention in accordance with regulation 2(4)(a) on those items listed under paragraph(s)
.....of this Record

7 EQUIVALENTS (regulation 3)

- 7.1 Equivalents have been approved by the Administration for certain requirements of Annex I listed under paragraph(s)
.....of this Record

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued at

(Place of issue of the Record)

.....19.....

.....
(Signature of duly authorized
officer issuing the Record)

(Seal or stamp of the issuing authority, as appropriate)

SCHEDULE 5—continued

**FORM B
(Revised 1991)**

**SUPPLEMENT TO INTERNATIONAL OIL POLLUTION
PREVENTION CERTIFICATE (IOPP CERTIFICATE)**

**RECORD OF CONSTRUCTION AND EQUIPMENT FOR OIL
TANKERS**

In respect of the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as “the Convention”).

Notes:

- 1 This form is to be used for the first two types of ships as categorized in the IOPP Certificate, i.e. oil tankers and ships other than oil tankers with cargo tanks coming under regulation 2(2) of Annex I of the Convention. For the third type of ships as categorized in the IOPP Certificate, Form A shall be used.
- 2 This Record shall be permanently attached to the IOPP Certificate. The IOPP Certificate shall be available on board the ship at all times.
- 3 If the language of the original Record is neither English nor French, the text shall include a translation into one of these languages.
- 4 Entries in boxes shall be made by inserting either a cross (×) for the answers “yes” and “applicable” or a dash (–) for the answers “no” and “not applicable” as appropriate.
- 5 Unless otherwise stated, regulations mentioned in this Record refer to regulations of Annex I of the Convention and resolutions refer to those adopted by the International Maritime Organization.

1 PARTICULARS OF SHIP

- 1.1 Name of ship.....
- 1.2 Distinctive number of letters.....
- 1.3 Port of registry
- 1.4 Gross tonnage.....
- 1.5 Carrying capacity of ship..... (m³)
- 1.6 Deadweight of ship..... (metric tons) (regulation 1(22))
- 1.7 Length of ship..... (m) (regulation 1(18))

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

- 1.8 Date of build:
- 1.8.1 Date of building contract.....
- 1.8.2 Date on which keel was laid or ship was at a similar stage of construction
- 1.8.3 Date of delivery.....
- 1.9 Major conversion (if applicable):
- 1.9.1 Date of conversion contract
- 1.9.2 Date on which conversion was commenced
- 1.9.3 Date of completion of conversion.....
- 1.10 Status of ship:
- 1.10.1 New ship in accordance with regulation 1(6)
- 1.10.2 Existing ship in accordance with regulation 1(7)
- 1.10.3 New oil tanker in accordance with regulation 1(26)
- 1.10.4 Existing oil tanker in accordance with regulation 1(27)
- 1.10.5 The ship has been accepted by the Administration as an “existing ship” under regulation 1(7) due to unforeseen delay in delivery
- 1.10.6 The ship has been accepted by the Administration as an “existing oil tanker” under regulation 1(27) due to unforeseen delay in delivery
- 1.10.7 The ship is not required to comply with the provisions of regulation 24 due to the unforeseen delay in delivery
- 1.11 Type of ship:
- 1.11.1 Crude oil tanker
- 1.11.2 Product carrier
- 1.11.3 Crude oil/product carrier
- 1.11.4 Combination carrier
- 1.11.5 Ship, other than an oil tanker, with cargo tanks coming under regulation 2(2) of Annex I of the Convention
- 1.11.6 Oil tanker dedicated to the carriage of products referred to in regulation 15(7)
- 1.11.7 The ship, being designated as a “crude oil tanker” operating with COW, is also designated as a “product carrier” operating with CBT, for which a separate IOPP Certificate has also been issued

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

- 1.11.8 The ship, being designated as a “product carrier” operating with CBT, is also designated as a “crude oil tanker” operating with COW, for which a separate IOPP Certificate has also been issued
- 1.11.9 Chemical tanker carrying oil
- 2 EQUIPMENT FOR THE CONTROL OF OIL DISCHARGE FROM MACHINERY SPACE BILGES AND OIL FUEL TANKS (regulations 10 and 16)**
- 2.1 Carriage of ballast water in oil fuel tanks
The ship may under normal conditions carry ballast water in oil fuel tanks
- 2.2 Type of separating/filtering equipment fitted:
- 2.2.1 Oily-water separating equipment (100 ppm equipment)
- 2.2.2 Oil filtering equipment (15 ppm equipment)
- 2.3 Type of control system
- 2.3.1 Discharge monitoring and control system (regulation 16(5))
- .1 with automatic stopping device
- .2 with manual stopping device
- 2.3.2 15 ppm alarm (regulation 16(7))
- 2.3.3 Automatic stopping device for discharges in special areas (regulation 10(3)(b)(vi))
- 2.3.4 Oil content meter (resolution A.444(XI))
- .1 with recording device
- .2 without recording device
- 2.4 Approval standards:
- 2.4.1 The separating/filtering system:
- .1 has been approved in accordance with resolution A.393(X)
- .2 has been approved in accordance with resolution A.233(VII)
- .3 has been approved in accordance with national standards not based upon resolution A.393(X) or A.233(VII)
- .4 has not been approved
- 2.4.2 The process unit has been approved in accordance with resolution A.444(XI)
- 2.4.3 The oil content meter has been approved in accordance with resolution A.393(X)
- 2.5 Maximum throughput of the system is.....m³/h

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

2.6 Waiver of regulation 16

2.6.1 The requirements of regulation 16(1) or (2) are waived
in respect of the ship in accordance with regulation
16(3)(a). The ship is engaged exclusively on:

.1 Voyages within special area(s):
.....

.2 Voyages within 12 miles of the nearest land outside
special area(s) restricted to:
.....

2.6.2 The ship is fitted with holding tank(s) having a volume
ofm³ for the total retention on board of all oily
bilge water

2.6.3 In lieu of the holding tank the ship is provided with
arrangements to transfer bilge water to the slop tank

3 MEANS FOR RETENTION AND DISPOSAL OF OIL RESIDUES (SLUDGE) (regulation 17)

3.1 The ship is provided with oil residue (sludge) tanks as follows:

Tank identification	Tank	Location	Volume m ³
	Frames (from) - (to)	Lateral Position	
Total volumem ³			

3.2 Means for the disposal of residues in addition to the provisions of sludge tanks:

3.2.1 incinerator for oil residues;
capacity l/h

3.2.2 auxilliary boiler suitable for burning oil residues

3.2.3 tank for mixing oil residues with fuel oil;
capacitym³

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

- 3.2.4 other acceptable means:

- 4 **STANDARD DISCHARGE CONNECTION (regulation 19)**
- 4.1 The ship is provided with a pipeline for the discharge of residues from machinery bilges to reception facilities, fitted with a standard discharge connection in compliance with regulation 19
- 5 **CONSTRUCTION (regulations 13, 24 and 25)**
- 5.1 In accordance with the requirements of regulation 13, the ship is
- 5.1.1 Required to be provided with SBT, PL and COW
- 5.1.2 Required to be provided with SBT and PL
- 5.1.3 Required to be provided with SBT
- 5.1.4 Required to be provided with SBT or COW
- 5.1.5 Required to be provided with SBT or CBT
- 5.1.6 Not required to comply with the requirements of regulation 13
- 5.2 Segregated ballast tanks (SBT)
- 5.2.1 The ship is provided with SBT in compliance with regulation 13
- 5.2.2 The ship is provided with SBT, in compliance with regulation 13, which are arranged in protective locations (PL) in compliance with regulation 13E
- 5.2.3 SBT are distributed as follows:

Tank Volume (m ³)	Tank Volume (m ³)
	Total

- 5.3 **Dedicated clean ballast tanks (CBT)**
- 5.3.1 The ship is provided with CBT in compliance with regulation 13A, and may operate as a product carrier

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

5.3.2 CBT are distributed as follows:

Tank Volume (m ³)	Tank Volume (m ³)
	Total

- 5.3.3 The ship has been supplied with a valid Dedicated Clean Ballast Tank Operation Manual, which is dated
- 5.3.4 The ship has common piping and pump arrangements for ballasting the CBT and handling cargo oil
- 5.3.5 The ship has separate independent piping and pumping arrangements for ballasting the CBT
- 5.4 Crude oil washing (COW)
- 5.4.1 The ship is equipped with a COW system in compliance with regulation 13B
- 5.4.2 The ship is equipped with a COW system in compliance with regulation 13B except that the effectiveness of the system has not been confirmed in accordance with regulation 13(6) and paragraph 4.2.10 of the Revised COW specifications (resolution A.446(XI))
- 5.4.3 The ship has been supplied with a valid Crude Oil Washing Operations and Equipment Manual, which is dated
- 5.4.4 The ship is not required to be but is equipped with COW in compliance with the safety aspects of Revised COW specifications (resolution A.446(XI))
- 5.5 Exemption from regulation 13:
- 5.5.1 The ship is solely engaged in trade between.....
.....
in accordance with regulation 13C and is therefore exempted from the requirements of regulation 13
- 5.5.2 The ship is operating with special ballast arrangements in accordance with regulation 13D and is therefore exempted from the requirements of regulation 13

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

- 5.6 Limitation of size and arrangements of cargo tanks (regulation 24)
- 5.6.1 The ship is required to be constructed according to, and complies with, the requirements of regulation 24
- 5.6.2 The ship is required to be constructed according to, and complies with, the requirements of regulation 24(4) (see regulation 2(2))
- 5.7 Subdivision and stability (regulation 25)
- 5.7.1 The ship is required to be constructed according to, and complies with, the requirements of regulation 25
- 5.7.2 Information and data required under regulation 25(5) have been supplied to the ship in an approved form
- 6 RETENTION OF OIL ON BOARD (regulation 15)
- 6.1 Oil discharge monitoring and control system
- 6.1.1 The ship comes under category oil tanker as defined in resolution A.496(XII) or A.586(14)* (delete as appropriate)
- Footnote: *Oil tankers the keels of which are laid, or which are at a similar stage of construction, on or after 2 October 1986 should be fitted with a system approved under resolution A.586(14)
- 6.1.2 The system comprises:
- .1 control unit
- .2 computing unit
- .3 calculating unit
- 6.1.3 The system is:
- .1 fitted with a starting interlock
- .2 fitted with automatic stopping device
- 6.1.4 The oil content meter is approved under the terms of resolution A.393(X) or A.586(14) (delete as appropriate) suitable for:
- .1 crude oil
- .2 black products
- .3 white products
- .4 oil-like noxious liquid substances as listed in the attachment to the Certificate
- 6.1.5 The ship has been supplied with an operations manual for the oil discharge monitoring and control system
- 6.2 Slop tanks

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

- 6.2.1 The ship is provided with dedicated slop tank(s)
with the total capacity ofm³, which is%
of the oil carrying capacity, in accordance with:
 - .1 regulation 15(2)(c)
 - .2 regulation 15(2)(c)(i)
 - .3 regulation 15(2)(c)(ii)
 - .4 regulation 15(2)(c)(iii)
- 6.2.2 Cargo tanks have been designated as slop tanks
- 6.3 Oil/water interface detectors
 - 6.3.1 The ship is provided with oil/water interface detectors
approved under the terms of resolution MEPC.5(XIII)
- 6.4 Exemptions from regulation 15
 - 6.4.1 The ship is exempted from the requirements of
regulation 15(1), (2) and (3) in accordance with
regulation 15(7)
 - 6.4.2 The ship is exempted from the requirements of
regulation 15(1), (2) and (3) in accordance with
regulation 2(2)
- 6.5 Waiver of regulation 15
 - 6.5.1 The requirements of regulation 15(3) are waived in
respect of the ship in accordance with regulation
15(5)(b). The ship is engaged exclusively on:
 - .1 Specific trade under regulation 13C:
.....
.....
 - .2 Voyages within special area(s):
.....
.....
 - .3 Voyages within 50 miles of the nearest land
outside special area(s) of 72 hours or less in
duration restricted to:
.....
.....
- 7 PUMPING, PIPING AND DISCHARGE ARRANGEMENTS**
(regulation 18)
 - 7.1 The overboard discharge outlets for segregated ballast
are located:
 - 7.1.1 above the waterline
 - 7.1.2 below the waterline

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

- 7.2 The overboard discharge outlets, other than the discharge manifold, for clean ballast are located:*
* Only those outlets which can be monitored are to be indicated.
- 7.2.1 above the waterline
- 7.2.2 below the waterline
- 7.3 The overboard discharge outlets, other than the discharge manifold, for dirty ballast water or oil contaminated water from cargo tank areas are located*:
* Only those outlets which can be monitored are to be indicated.
- 7.3.1 above the waterline
- 7.3.2 below the waterline in conjunction with the part flow arrangements in compliance with regulation 18(6)(e)
- 7.3.3 below the waterline
- 7.4 Discharge of oil from cargo pumps and oil lines (regulation 18(4) and (5))
- 7.4.1 Means to drain all cargo pumps and oil lines at the completion of cargo discharge
- .1 drainings capable of being discharged to a cargo tank or slop tank
- .2 for discharge ashore a special small diameter line is provided
- 8 SHIPBOARD OIL POLLUTION EMERGENCY PLAN (regulation 26)**
- 8.1 The ship is provided with a shipboard oil pollution emergency plan in compliance with regulation 26
- 9 EQUIVALENT ARRANGEMENTS FOR CHEMICAL TANKERS CARRYING OIL**
- 9.1 As equivalent arrangements for the carriage of oil by a chemical tanker, the ship is fitted with the following equipment in lieu of slop tanks (paragraph 6.2 above) and oil/water interface detectors (paragraph 6.3 above):
- 9.1.1 oily-water separating equipment capable of producing effluent with oil content less than 100 ppm, with the capacity ofm³/h
- 9.1.2 a holding tank with the capacity of m³
- 9.1.3 a tank for collecting tank washings which is:
- .1 a dedicated tank
- .2 a cargo tank designated as a collecting tank

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

- 9.1.4 a permanently installed transfer pump for overboard discharge of effluent containing oil through the oily-water separating equipment
- 9.2 The oily-water separating equipment has been approved under the terms of resolution A.393(X) and is suitable for the full range of Annex I products
- 9.3 The ship holds a valid Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk

10 OIL-LIKE NOXIOUS LIQUID SUBSTANCES

The ship is permitted in accordance with regulation 14 of Annex II of the Convention to carry the oil-like noxious liquid substances specified in the list* attached.

* The list of oil-like noxious substances permitted for carriage, signed, dated and certified by a seal or a stamp of the issuing authority shall be attached.

11 EXEMPTION

Exemptions have been granted by the Administration from the requirements of chapters II and III of Annex I of the Convention in accordance with regulation 2(4)(a) on those items listed under paragraph(s)
.....of this Record

12 EQUIVALENTS (regulation 3)

Equivalents have been approved by the Administration for certain requirements of Annex I on those items listed under paragraph(s).....
..... of this Record

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5.—continued

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued at.....
(Place of issue of the Record)

.....19....
(Signature of duly authorized officer issuing the Record)

(Seal or stamp of the issuing authority, as appropriate)

Appendix III of Annex I of MARPOL 73/78 is replaced by the following:

“Appendix III

FORM OF OIL RECORD BOOK

OIL RECORD BOOK

Part I—Machinery space operations

(All ships)

Name of ship:

Distinctive number
or letters:

Gross tonnage:

Period from: to:

Note: Oil Record Book Part I shall be provided to every oil tanker of 150 tons gross tonnage and above and every ship of 400 tons gross tonnage and above, other than oil tankers, to record relevant machinery space operations. For oil tankers, Oil Record Book Part II shall also be provided to record relevant cargo ballast operations.

SCHEDULE 5—continued

INTRODUCTION

The following pages of this section show a comprehensive list of items of machinery space operations which are, when appropriate, to be recorded in the Oil Record Book in accordance with regulation 20 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78). The items have been grouped into operational sections, each of which is denoted by a letter code.

When making entries in the Oil Record Book, the date, operational code and item number shall be inserted in the appropriate columns and the required particulars shall be recorded chronologically in the blank spaces.

Each completed operation shall be signed for and dated by the officer or officers in charge. Each completed page shall be signed by the master of the ship.

The Oil Record Book contains many references to oil quantity. The limited accuracy of tank measurement devices, temperature variations and clingage will affect the accuracy of these readings. The entries in the Oil Record Book should be considered accordingly.

LIST OF ITEMS TO BE RECORDED

(A) BALLASTING OR CLEANING OF OIL FUEL TANKS

1. Identity of tank(s) ballasted.
2. Whether cleaned since they last contained oil and, if not, type of oil previously carried.
3. Cleaning process:
 - .1 position of ship and time at the start and completion of cleaning;
 - .2 identify tank(s) in which one or another method has been employed (rinsing through, steaming, cleaning with chemicals; type and quantity of chemicals used);
 - .3 identity of tank(s) into which cleaning water was transferred.
4. Ballasting:
 - .1 position of ship and time at start and end of ballasting;
 - .2 quantity of ballast if tanks are not cleaned;
 - .3 position of ship at start of cleaning;
 - .4 position of ship at start of ballasting.

(B) DISCHARGE OF DIRTY BALLAST OR CLEANING WATER FROM OIL FUEL TANKS REFERRED TO UNDER SECTION (A)

5. Identity of tank(s).

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

6. Position of ship at start of discharge.
7. Position of ship on completion of discharge.
8. Ship's speed(s) during discharge.
9. Method of discharge:
 - .1 through 100 ppm equipment;
 - .2 through 15 ppm equipment;
 - .3 to reception facilities.
10. Quantity discharged.

(C) COLLECTION AND DISPOSAL OF OIL RESIDUES (SLUDGE)

11. Collection of oil residues

Quantity of oil residues (sludge) retained on board at the end of a voyage, but not more frequently than once a week. When ships are on short voyages, the quantity should be recorded weekly^{1/}:

- .1 separated sludge (sludge resulting from purification of fuel and lubricating oils) and other residues, if applicable:
 - identity of tank(s).....
 - capacity of tank(s)..... m³
 - total quantity of retention m³;
- .2 other residues (such as oil residues resulting from drainages, leakages, exhausted oil, etc., in the machinery spaces), if applicable due to tank arrangement in addition to .1:
 - identity of tank(s).....
 - capacity of tank(s)..... m³
 - total quantity of retention m³.

12. Methods of disposal of residue

State quantity of oil residues disposed of, the tank(s) emptied and the quantity of contents retained:

- .1 to reception facilities (identify port)^{2/};
- .2 transferred to another (other) tank(s) (indicate tank(s) and the total content of tank(s));
- .3 incinerated (indicate total time of operation);
- .4 other method (state which).

1/ Only in tanks listed in item 3 of Form A and B of the Supplement to the IOPP Certificate.

2/ Ship' masters should obtain from the operator of the reception facilities which include barges and tank trucks a receipt or certificate detailing the quantity of tank washings, dirty ballast, residues or oily mixtures transferred, together with the time and date of the transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

(D) NON-AUTOMATIC DISCHARGE OVERBOARD OR DISPOSAL OTHERWISE OF BILGE WATER WHICH HAS ACCUMULATED IN MACHINERY SPACES

13. Quantity discharged or disposed of.
14. Time of discharge or disposal (start and stop).
15. Method of discharge or disposal:
 - .1 through 100 ppm equipment (state position at start and end);
 - .2 through 15 ppm equipment (state position at start and end);
 - .3 to reception facilities (identify port)^{2/};
 - .4 transfer to slop tank or holding tank (indicate tank(s); state quantity transferred and the total quantity retained in tank(s)).

(E) AUTOMATIC DISCHARGE OVERBOARD OR DISPOSAL OTHERWISE OF BILGE WATER WHICH HAS ACCUMULATED IN MACHINERY SPACES

16. Time and position of ship at which the system has been put into automatic mode of operation for discharge overboard.
17. Time when the system has been put into automatic mode of operation for transfer of bilge water to holding tank (identify tank).
18. Time when the system has been put to manual operation.
19. Method of discharge overboard:
 - .1 through 100 ppm equipment;
 - .2 through 15 ppm equipment.

(F) CONDITION OF OIL DISCHARGE MONITORING AND CONTROL SYSTEM

20. Time of system failure.
21. Time when system has been made operational.
22. Reasons for failure.

(G) ACCIDENTAL OR OTHER EXCEPTIONAL DISCHARGES OF OIL

23. Time of occurrence.
24. Place or position of ship at time of occurrence.

^{2/} Ships' masters should obtain from the operator of the reception facilities which include barges and tank trucks a receipt or certificate detailing the quantity of tank washings, dirty ballast, residues or oily mixtures transferred, together with the time and date of the transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

25. Approximate quantity and type of oil.
 26. Circumstances of discharge or escape, the reasons therefor and general remarks.
- (H) BUNKERING OF FUEL OR BULK LUBRICATING OIL**
27. Bunkering.
 - .1 Place of bunkering.
 - .2 Time of bunkering.
 - .3 Type and quantity of fuel oil and identity of tank(s) (state quantity added and total quantity of tank(s)).
 - .4 Type and quantity of lubricating oil and identity of tank(s) (state quantity added and total content of tank(s)).

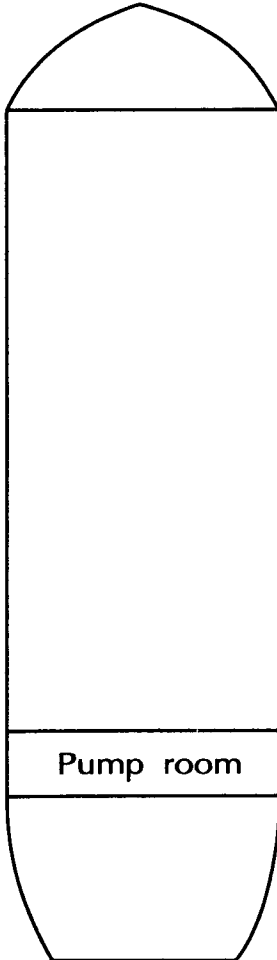
*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

NAME OF SHIP

DISTINCTIVE NUMBER
OR LETTERS

**PLAN VIEW OF CARGO AND SLOP TANKS
(to be completed on board)**



Identification of the tanks	Capacity
Depth of slop tank(s):	

(Give the capacity of each tank and the depth of slop tank(s)).

OIL RECORD BOOK—PART II

INTRODUCTION

The following pages of this section show a comprehensive list of items of cargo and ballast operations which are, when appropriate, to be recorded in the Oil Record Book in accordance with regulation 20 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

relating thereto (MARPOL 73/78). The items have been grouped into operational sections, each of which is denoted by a code letter.

When making entries in the Oil Record Book, the date, operational code and item number shall be inserted in the appropriate columns and the required particulars shall be recorded chronologically in the blank spaces.

Each completed operation shall be signed for and dated by the officer or officers in charge. Each completed page shall be countersigned by the master of the ship. In respect of the oil tankers engaged in specific trades in accordance with regulation 13C of Annex I of MARPOL 73/78, appropriate entry in the Oil Record Book shall be endorsed by the competent Port State authority*.

The Oil Record Book contains many references to oil quantity. The limited accuracy of tank measurement devices, temperature variations and clingage will affect the accuracy of these readings. The entries in the Oil Record Book should be considered accordingly.

LIST OF ITEMS TO BE RECORDED

(A) LOADING OF OIL CARGO

1. Place of loading.
2. Type of oil loaded and identity of tank(s).
3. Total quantity of oil loaded (state quantity added and the total content of tank(s)).

(B) INTERNAL TRANSFER OF OIL CARGO DURING VOYAGE

4. Identity of the tank(s)
 - .1 From:
 - .2 To: (state quantity transferred and total quantity of tank(s)).
5. Was (were) the tank(s) in 4.1 emptied? (If not, state the quantity retained)

(C) UNLOADING OF OIL CARGO

6. Place of unloading.
7. Identity of tank(s) unloaded.
8. Was (were) the tank(s) emptied? (If not, state quantity retained)

(D) CRUDE OIL WASHING (COW TANKERS ONLY)

(To be completed for each tank being crude oil washed)

9. Port where crude oil washing was carried out or ship's position if carried out between two discharge ports.

* This sentence should only be inserted for the Oil Record Book of a tanker engaged in a specific trade.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

10. Identity of tank(s) washed^{1/}.
11. Number of machines in use.
12. Time of start of washing.
13. Washing pattern employed^{2/}.
14. Washing line pressure.
15. Time washing was completed or stopped.
16. State method of establishing that tank(s) was (were) dry.
17. Remarks^{3/}.

(E) BALLASTING OF CARGO TANKS

18. Position of ship at start and end of ballasting.
19. Ballasting process:
 - .1 identity of tank(s) ballasted;
 - .2 time of start and end;
 - .3 quantity of ballast received. Indicate total quantity of ballast for each tank involved in the operation.

**(F) BALLASTING OF DEDICATED CLEAN BALLAST TANKS
(CBT TANKERS ONLY)**

20. Identity of tank(s) ballasted.
21. Position of ship when water intended for flushing, or port ballast was taken to dedicated clean ballast tank(s).
22. Position of ship when pump(s) and lines were flushed to slop tank.
23. Quantity of the oily water which, after line flushing, is transferred to the slop tank(s) or cargo tank(s) in which slop is preliminarily stored (identify tank(s)). State the total quantity.
24. Position of ship when additional ballast water was taken to dedicated clean ballast tank(s).
25. Time and position of ship when valves separating the dedicated clean ballast tanks from cargo and stripping lines were closed.
26. Quantity of clean ballast taken on board.

(G) CLEANING OF CARGO TANKS

27. Identity of tank(s) cleaned.

1/ When an individual tank has more machines than can be operated simultaneously, as described in the Operations and Equipment Manual, then the section being crude oil washed should be identified, e.g. No. 2 centre, forward section.

2/ In accordance with the Operations and Equipment Manual, enter whether single-stage or multi-stage method of washing is employed. If multi-stage method is used, give the vertical arc covered by the machines and the number of times that arc is covered for that particular stage of the programme.

3/ If the programmes given in the Operations and Equipment Manual are not followed, then the reasons must be given under Remarks.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

28. Port or ship's position.
29. Duration of cleaning.
30. Method of cleaning^{4/}.
31. Tank washings transferred to:
 - .1 reception facilities (state port and quantity)^{5/};
 - .2 slop tank(s) or cargo tank(s) designated as slop tank(s) (identify tank(s); state quantity transferred and total quantity).

(H) DISCHARGE OF DIRTY BALLAST

32. Identity of tank(s).
33. Position of ship at start of discharge into the sea.
34. Position of ship on completion of discharge into the sea.
35. Quantity discharged into the sea.
36. Ship's speed(s) during discharge.
37. Was the discharge monitoring and control system in operation during the discharge?
38. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?
39. Quantity of oily water transferred to slop tank(s) (identify slop tank(s). State total quantity).
40. Discharged to shore reception facilities (identify port and quantity involved)^{5/}.

(I) DISCHARGE OF WATER FROM SLOP TANKS INTO THE SEA

41. Identity of slop tank(s).
42. Time of settling from last entry of residues; or
43. Time of settling from last discharge.
44. Time and position of ship at start of discharge.
45. Ullage of total contents at start of discharge.
46. Ullage of oil/water interface at start of discharge.
47. Bulk quantity discharged and rate of discharge.
48. Final quantity discharged and rate of discharge.

^{4/} Hand-hosing, machine washing and/or chemical cleaning. Where chemically cleaned, the chemical concerned and amount used should be stated.

^{5/} Ships' masters should obtain from the operator of the reception facilities which include barges and tank trucks a receipt or certificate detailing the quantity of tank washings, dirty ballast, residues or oily mixtures transferred, together with the time and date of the transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

49. Time and position of ship on completion of discharge.
50. Was the discharge monitoring and control system in operation during the discharge?
51. Ullage of oil/water interface on completion of discharge.
52. Ship's speed(s) during discharge.
53. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?
54. Confirm that all applicable valves in the ship's piping system have been closed on completion of discharge from the slop tanks.

(J) DISPOSAL OF RESIDUES AND OILY MIXTURES NOT OTHERWISE DEALT WITH

55. Identity of tank(s).
56. Quantity disposed of from each tank. (State the quantity retained.)
57. Method of the disposal:
 - .1 to reception facilities (identify port and quantity involved)^{5/}
 - .2 mixed with cargo (state quantity);
 - .3 transferred to (an)other tank(s): identify tank(s); state quantity transferred and total quantity in tank(s);
 - .4 other method (state which); state quantity disposed of.
58. Position of ship at start of discharge of clean ballast.
59. Identity of tank(s) discharged.
60. Was (were) the tank(s) empty on completion?
61. Position of ship on completion if different from 58.
62. Was a regular check kept on the effluent and the surface of the water in the locality of the discharge?

(L) DISCHARGE OF BALLAST FROM DEDICATED CLEAN BALLAST TANKS (CBT TANKERS ONLY)

63. Identity of tank(s) discharged.
64. Time and position of ship at start of discharge of clean ballast into the sea.
65. Time and position of ship on completion of discharge into the sea.

^{5/} Ships' masters should obtain from the operator of the reception facilities which include barges and tank trucks a receipt or certificate detailing the quantity of tank washings, dirty ballast, residues or oily mixtures transferred, together with the time and date of the transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 5—continued

66. Quantity discharged:
 .1 into the sea; or
 .2 to reception facility (identify port).
67. Was there any indication of oil contamination of the ballast water before or during discharge into the sea?
68. Was the discharge monitored by an oil content meter?
69. Time and position of ship when valves separating dedicated clean ballast tanks from the cargo and stripping lines were closed on completion of deballasting.
- (M) CONDITION OF OIL DISCHARGE MONITORING AND CONTROL SYSTEM**
70. Time of system failure.
71. Time when system has been made operational.
72. Reasons for failure.
- (N) ACCIDENTAL OR OTHER EXCEPTIONAL DISCHARGES OF OIL**
73. Time of occurrence.
74. Port or ship's position at time of occurrence.
75. Approximate quantity and type of oil.
76. Circumstances of discharge or escape, the reasons therefor and general remarks.
- (O) ADDITIONAL OPERATIONAL PROCEDURES AND GENERAL REMARKS**
- TANKERS ENGAGED IN SPECIFIC TRADES**
- (P) LOADING OF BALLAST WATER**
77. Identity of tank(s) ballasted.
78. Position of ship when ballasted.
79. Total quantity of ballast loaded in cubic metres.
80. Remarks.
- (Q) RE-ALLOCATION OF BALLAST WATER WITHIN THE SHIP**
81. Reasons for re-allocation.
- (R) BALLAST WATER DISCHARGE TO RECEPTION FACILITY**
82. Port(s) where ballast water was discharged.
83. Name or designation of reception facility.
84. Total quantity of ballast water discharged in cubic metres.
85. Date, signature and stamp of port authority official.

SCHEDULE 6

Subsection 44(4)

**SCHEDULE TO BE ADDED AT THE END OF THE
PROTECTION OF THE SEA (PREVENTION OF POLLUTION
FROM SHIPS) ACT 1983**

SCHEDULE 12

Section 3

**PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE
ANTARCTIC TREATY.**

PREAMBLE

The States Parties to this Protocol to the Antarctic Treaty, hereinafter referred to as the Parties,

Convinced of the need to enhance the protection of the Antarctic environment and dependent and associated ecosystems;

Convinced of the need to strengthen the Antarctic Treaty system so as to ensure that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Bearing in mind the special legal and political status of Antarctica and the special responsibility of the Antarctic Treaty Consultative Parties to ensure that all activities in Antarctica are consistent with the purposes and principles of the Antarctic Treaty;

Recalling the designation of Antarctica as a Special Conservation Area and other measures adopted under the Antarctic Treaty system to protect the Antarctic environment and dependent and associated ecosystems;

Acknowledging further the unique opportunities Antarctica offers for scientific monitoring of and research on processes of global as well as regional importance;

Reaffirming the conservation principles of the Convention on the Conservation of Antarctic Marine Living Resources;

Convinced that the development of a comprehensive regime for the protection of the Antarctic environment and dependent and associated ecosystems is in the interest of mankind as a whole;

Desiring to supplement the Antarctic Treaty to this end;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of this Protocol:

- (a) "The Antarctic Treaty" means the Antarctic Treaty done at Washington on 1 December 1959;

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

- (b) “Antarctic Treaty area” means the area to which the provisions of the Antarctic Treaty apply in accordance with Article VI of that Treaty;
- (c) “Antarctic Treaty Consultative Meetings” means the meetings referred to in Article IX of the Antarctic Treaty;
- (d) “Antarctic Treaty Consultative Parties” means the Contracting Parties to the Antarctic Treaty entitled to appoint representatives to participate in the meetings referred to in Article IX of that Treaty;
- (e) “Antarctic Treaty system” means the Antarctic Treaty, the measures in effect under that Treaty, its associated separate international instruments in force and the measures in effect under those instruments;
- (f) “Arbitral Tribunal” means the Arbitral Tribunal established in accordance with the Schedule to this Protocol, which forms an integral part thereof;
- (g) “Committee” means the Committee for Environmental Protection established in accordance with Article 11.

ARTICLE 2

OBJECTIVE AND DESIGNATION

The Parties commit themselves to the comprehensive protection of the Antarctic environment and dependent and associated ecosystems and hereby designate Antarctica as a natural reserve, devoted to peace and science.

ARTICLE 3

ENVIRONMENTAL PRINCIPLES

1. The protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research, in particular research essential to understanding the global environment, shall be fundamental considerations in the planning and conduct of all activities in the Antarctic Treaty area.

2. To this end:

- (a) activities in the Antarctic Treaty area shall be planned and conducted so as to limit adverse impacts on the Antarctic environment and dependent and associated ecosystems;
- (b) activities in the Antarctic Treaty area shall be planned and conducted so as to avoid:
 - (i) adverse effects on climate or weather patterns;

SCHEDULE 6—continued

- (ii) significant adverse effects on air or water quality;
 - (iii) significant changes in the atmospheric, terrestrial (including aquatic), glacial or marine environments;
 - (iv) detrimental changes in the distribution, abundance or productivity of species or populations of species of fauna and flora;
 - (v) further jeopardy to endangered or threatened species or populations of such species; or
 - (vi) degradation of, or substantial risk to, areas of biological, scientific, historic, aesthetic or wilderness significance;
- (c) activities in the Antarctic Treaty area shall be planned and conducted on the basis of information sufficient to allow prior assessments of, and informed judgments about, their possible impacts on the Antarctic environment and dependent and associated ecosystems and on the value of Antarctica for the conduct of scientific research; such judgments shall take full account of:
- (i) the scope of the activity, including its area, duration and intensity;
 - (ii) the cumulative impacts of the activity, both by itself and in combination with other activities in the Antarctic Treaty area;
 - (iii) whether the activity will detrimentally affect any other activity in the Antarctic Treaty area;
 - (iv) whether technology and procedures are available to provide for environmentally safe operations;
 - (v) whether there exists the capacity to monitor key environmental parameters and ecosystem components so as to identify and provide early warning of any adverse effects of the activity and to provide for such modification of operating procedures as may be necessary in the light of the results of monitoring or increased knowledge of the Antarctic environment and dependent and associated ecosystems; and
 - (vi) whether there exists the capacity to respond promptly and effectively to accidents, particularly those with potential environmental effects;
- (d) regular and effective monitoring shall take place to allow assessment of the impacts of ongoing activities, including the verification of predicted impacts;
- (e) regular and effective monitoring shall take place to facilitate early detection of the possible unforeseen effects of activities carried on both within and outside the Antarctic Treaty area

SCHEDULE 6—continued

on the Antarctic environment and dependent and associated ecosystems.

3. Activities shall be planned and conducted in the Antarctic Treaty area so as to accord priority to scientific research and to preserve the value of Antarctica as an area for the conduct of such research, including research essential to understanding the global environment.

4. Activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required in accordance with Article VII(5) of the Antarctic Treaty, including associated logistic support activities, shall:

- (a) take place in a manner consistent with the principles in this Article; and
- (b) be modified, suspended or cancelled if they result in or threaten to result in impacts upon the Antarctic environment or dependent or associated ecosystems inconsistent with those principles.

ARTICLE 4

***RELATIONSHIP WITH THE OTHER COMPONENTS OF THE
ANTARCTIC TREATY SYSTEM***

1. This Protocol shall supplement the Antarctic Treaty and shall neither modify nor amend that Treaty.

2. Nothing in this Protocol shall derogate from the rights and obligations of the Parties to this Protocol under the other international instruments in force within the Antarctic Treaty system.

ARTICLE 5

***CONSISTENCY WITH THE OTHER COMPONENTS OF THE
ANTARCTIC TREATY SYSTEM***

The Parties shall consult and co-operate with the Contracting Parties to the other international instruments in force within the Antarctic Treaty system and their respective institutions with a view to ensuring the achievement of the objectives and principles of this Protocol and avoiding any interference with the achievement of the objectives and principles of those instruments or any inconsistency between the implementation of those instruments and of this Protocol.

ARTICLE 6

CO-OPERATION

1. The Parties shall co-operate in the planning and conduct of activities in the Antarctic Treaty area. To this end, each Party shall endeavour to:

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

- (a) promote co-operative programmes of scientific, technical and educational value, concerning the protection of the Antarctic environment and dependent and associated ecosystems;
 - (b) provide appropriate assistance to other Parties in the preparation of environmental impact assessments;
 - (c) provide to other Parties upon request information relevant to any potential environmental risk and assistance to minimize the effects of accidents which may damage the Antarctic environment or dependent and associated ecosystems;
 - (d) consult with other Parties with regard to the choice of sites for prospective stations and other facilities so as to avoid the cumulative impacts caused by their excessive concentration in any location;
 - (e) where appropriate, undertake joint expeditions and share the use of stations and other facilities; and
 - (f) carry out such steps as may be agreed upon at Antarctic Treaty Consultative Meetings.
2. Each Party undertakes, to the extent possible, to share information that may be helpful to other Parties in planning and conducting their activities in the Antarctic Treaty area, with a view to the protection of the Antarctic environment and dependent and associated ecosystems.
3. The Parties shall co-operate with those Parties which may exercise jurisdiction in areas adjacent to the Antarctic Treaty area with a view to ensuring that activities in the Antarctic Treaty area do not have adverse environmental impacts on those areas.

ARTICLE 7

PROHIBITION OF MINERAL RESOURCE ACTIVITIES

Any activity relating to mineral resources, other than scientific research, shall be prohibited.

ARTICLE 8

ENVIRONMENTAL IMPACT ASSESSMENT

1. Proposed activities referred to in paragraph 2 below shall be subject to the procedures set out in Annex I for prior assessment of the impacts of those activities on the Antarctic environment or on dependent or associated ecosystems according to whether those activities are identified as having:
- (a) less than a minor or transitory impact;
 - (b) a minor or transitory impact; or
 - (c) more than a minor or transitory impact.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

2. Each Party shall ensure that the assessment procedures set out in Annex I are applied in the planning processes leading to decisions about any activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required under Article VII(5) of the Antarctic Treaty, including associated logistic support activities.

3. The assessment procedures set out in Annex I shall apply to any change in an activity whether the change arises from an increase or decrease in the intensity of an existing activity, from the addition of an activity, the decommissioning of a facility, or otherwise.

4. Where activities are planned jointly by more than one Party, the Parties involved shall nominate one of their number to coordinate the implementation of the environmental impact assessment procedures set out in Annex I.

ARTICLE 9

ANNEXES

1. The Annexes to this Protocol shall form an integral part thereof.

2. Annexes, additional to Annexes I–IV, may be adopted and become effective in accordance with Article IX of the Antarctic Treaty.

3. Amendments and modifications to Annexes may be adopted and become effective in accordance with Article IX of the Antarctic Treaty, provided that any Annex may itself make provision for amendments and modifications to become effective on an accelerated basis.

4. Annexes and any amendments and modifications thereto which have become effective in accordance with paragraphs 2 and 3 above shall, unless an Annex itself provides otherwise in respect of the entry into effect of any amendment or modification thereto, become effective for a Contracting Party to the Antarctic Treaty which is not an Antarctic Treaty Consultative Party, or which was not an Antarctic Treaty Consultative Party at the time of the adoption, whether notice of approval of that Contracting Party has been received by the Depositary.

5. Annexes shall, except to the extent that an Annex provides otherwise, be subject to the procedures for dispute settlement set out in Articles 18 to 20.

ARTICLE 10

ANTARCTIC TREATY CONSULTATIVE MEETINGS

1. Antarctic Treaty Consultative Meetings shall, drawing upon the best scientific and technical advice available:

(a) define, in accordance with the provisions of this Protocol, the general policy for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems; and

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

(b) adopt measures under Article IX of the Antarctic Treaty for the implementation of this Protocol.

2. Antarctic Treaty Consultative Meetings shall review the work of the Committee and shall draw fully upon its advice and recommendations in carrying out the tasks referred to in paragraph 1 above, as well as upon the advice of the Scientific Committee on Antarctic Research.

ARTICLE 11

COMMITTEE FOR ENVIRONMENTAL PROTECTION

1. There is hereby established the Committee for Environmental Protection.

2. Each Party shall be entitled to be a member of the Committee and to appoint a representative who may be accompanied by experts and advisers.

3. Observer status in the Committee shall be open to any Contracting Party to the Antarctic Treaty which is not a Party to this Protocol.

4. The Committee shall invite the President of the Scientific Committee on Antarctic Research and the Chairman of the Scientific Committee for the Conservation of Antarctic Marine Living Resources to participate as observers at its sessions. The Committee may also, with the approval of the Antarctic Treaty Consultative Meeting, invite such other relevant scientific, environmental and technical organisations which can contribute to its work to participate as observers at its sessions.

5. The Committee shall present a report on each of its sessions to the Antarctic Treaty Consultative Meeting. The report shall cover all matters considered at the session and shall reflect the views expressed. The report shall be circulated to the Parties and to observers attending the session, and shall thereupon be made publicly available.

6. The Committee shall adopt its rules of procedure which shall be subject to approval by the Antarctic Treaty Consultative Meeting.

ARTICLE 12

FUNCTIONS OF THE COMMITTEE

1. The functions of the Committee shall be to provide advice and formulate recommendations to the Parties in connection with the implementation of this Protocol, including the operation of its Annexes, for consideration at Antarctic Treaty Consultative Meetings, and to perform such other functions as may be referred to it by the Antarctic Treaty Consultative Meetings. In particular, it shall provide advice on:

- (a) the effectiveness of measures taken pursuant to this Protocol;
- (b) the need to update, strengthen or otherwise improve such measures;

SCHEDULE 6—continued

- (c) the need for additional measures, including the need for additional Annexes, where appropriate;
 - (d) the application and implementation of the environmental impact assessment procedures set out in Article 8 and Annex I;
 - (e) means of minimising or mitigating environmental impacts of activities in the Antarctic Treaty area;
 - (f) procedures for situations requiring urgent action, including response action in environmental emergencies;
 - (g) the operation and further elaboration of the Antarctic Protected Area system;
 - (h) inspection procedures, including formats for inspection reports and checklists for the conduct of inspections;
 - (i) the collection, archiving, exchange and evaluation of information related to environmental protection;
 - (j) the state of the Antarctic environment; and
 - (k) the need for scientific research, including environmental monitoring, related to the implementation of this Protocol.
2. In carrying out its functions, the Committee shall, as appropriate, consult with the Scientific Committee on Antarctic Research, the Scientific Committee for the Conservation of Antarctic Marine Living Resources and other relevant scientific, environmental and technical organizations.

ARTICLE 13

COMPLIANCE WITH THIS PROTOCOL

1. Each Party shall take appropriate measures within its competence, including the adoption of laws and regulations, administrative actions and enforcement measures, to ensure compliance with this Protocol.
2. Each Party shall exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to this Protocol.
3. Each Party shall notify all other Parties of the measures it takes pursuant to paragraphs 1 and 2 above.
4. Each Party shall draw the attention of all other Parties to any activity which in its option affects the implementation of the objectives and principles of this Protocol.
5. The Antarctic Treaty Consultative Meetings shall draw the attention of any State which is not a Party to this Protocol to any activity undertaken by that State, its agencies, instrumentalities, natural or juridical persons, ships, aircraft or other means of transport which affects the implementation of the objectives and principles of this Protocol.

SCHEDULE 6—continued

ARTICLE 14

INSPECTION

1. In order to promote the protection of the Antarctic environment and dependent and associated ecosystems, and to ensure compliance with this Protocol, the Antarctic Treaty Consultative Parties shall arrange, individually or collectively, for inspections by observers to be made in accordance with Article VII of the Antarctic Treaty.
2. Observers are:
 - (a) observers designated by any Antarctic Treaty Consultative Party who shall be nationals of that Party; and
 - (b) any observers designated at Antarctic Treaty Consultative Meetings to carry out inspections under procedures to be established by an Antarctic Treaty Consultative Meeting.
3. Parties shall co-operate fully with observers undertaking inspections, and shall ensure that during inspections, observers are given access to all parts of stations, installations, equipment, ships and aircraft open to inspection under Article VII (3) of the Antarctic Treaty, as well as to all records maintained thereon which are called for pursuant to this Protocol.
4. Reports of inspections shall be sent to the Parties whose stations, installations, equipment, ships or aircraft are covered by the reports. After those Parties have been given the opportunity to comment, the reports and any comments thereon shall be circulated to all the Parties and to the Committee, considered at the next Antarctic Treaty Consultative Meeting, and thereafter made publicly available.

ARTICLE 15

EMERGENCY RESPONSE ACTION

1. In order to respond to environmental emergencies in the Antarctic Treaty area, each Party agrees to:
 - (a) provide for prompt and effective response action to such emergencies which might arise in the performance of scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities; and
 - (b) establish contingency plans for response to incidents with potential adverse effects on the Antarctic environment or dependent and associated ecosystems.
2. To this end, the Parties shall:
 - (a) co-operate in the formulation and implementation of such contingency plans; and

SCHEDULE 6—continued

- (b) establish procedures for immediate notification of, and co-operative response to, environmental emergencies.
3. In the implementation of this Article, the Parties shall draw upon the advice of the appropriate international organisations.

ARTICLE 16

LIABILITY

Consistent with the objectives of this Protocol for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems, the Parties undertake to elaborate rules and procedures relating to liability for damage arising from activities taking place in the Antarctic Treaty area and covered by this Protocol. Those rules and procedures shall be included in one or more Annexes to be adopted in accordance with Article 9 (2).

ARTICLE 17

ANNUAL REPORT BY PARTIES

1. Each Party shall report annually on the steps taken to implement this Protocol. Such reports shall include notifications made in accordance with Article 13 (3), contingency plans established in accordance with Article 15 and any other notifications and information called for pursuant to this Protocol for which there is no other provision concerning the circulation and exchange of information.
2. Reports made in accordance with paragraph 1 above shall be circulated to all Parties and to the Committee, considered at the next Antarctic Treaty Consultative Meeting, and made publicly available.

ARTICLE 18

DISPUTE SETTLEMENT

If a dispute arises concerning the interpretation or application of this Protocol, the parties to the dispute shall, at the request of any one of them, consult among themselves as soon as possible with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means to which the parties to the dispute agree.

ARTICLE 19

CHOICE OF DISPUTE SETTLEMENT PROCEDURE

1. Each Party, when signing, ratifying, accepting, approving or acceding to this Protocol, or at any time thereafter, may choose, by written declaration, one or both of the following means for the settlement of

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

disputes concerning the interpretation or application of Articles 7, 8 and 15 and, except to the extent that an Annex provides otherwise, the provisions of any Annex and, insofar as it relates to these Articles and provisions, Article 13:

- (a) the International Court of Justice;
- (b) the Arbitral Tribunal.

2. A declaration made under paragraph 1 above shall not affect the operation of Article 18 and Article 20 (2).

3. A Party which has not made a declaration under paragraph 1 above or in respect of which a declaration is no longer in force shall be deemed to have accepted the competence of the Arbitral Tribunal.

4. If the parties to a dispute have accepted the same means for the settlement of a dispute, the dispute may be submitted only to that procedure, unless the parties otherwise agree.

5. If the parties to a dispute have not accepted the same means for the settlement of a dispute, or if they have both accepted both means, the dispute may be submitted only to the Arbitral Tribunal, unless the parties otherwise agree.

6. A declaration made under paragraph 1 above shall remain in force until it expires in accordance with its terms or until three months after written notice of revocation has been deposited with the Depositary.

7. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the Arbitral Tribunal, unless the parties to the dispute otherwise agree.

8. Declarations and notices referred to in this Article shall be deposited with the Depositary who shall transmit copies thereof to all Parties.

ARTICLE 20

DISPUTE SETTLEMENT PROCEDURE

1. If the parties to a dispute concerning the interpretation or application of Articles 7, 8 or 15 or, except to the extent that an Annex provides otherwise, the provisions of any Annex or, insofar as it relates to these Articles and provisions, Article 13, have not agreed on a means for resolving it within 12 months of the request for consultation pursuant to Article 18, the dispute shall be referred, at the request of any party to the dispute, for settlement in accordance with the procedure determined by Article 19 (4) and (5).

2. The Arbitral Tribunal shall not be competent to decide or rule upon any matter within the scope of Article IV of the Antarctic Treaty. In addition, nothing in this Protocol shall be interpreted as conferring competence or jurisdiction on the International Court of Justice or any other tribunal established for the purpose of settling disputes between

SCHEDULE 6—continued

Parties to decide or otherwise rule upon any matter within the scope of Article IV of the Antarctic Treaty.

ARTICLE 21

SIGNATURE

This Protocol shall be open for signature at Madrid on the 4th of October 1991 and thereafter at Washington until the 3rd of October 1992 by any State which is a Contracting Party to the Antarctic Treaty.

ARTICLE 22

RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

1. This Protocol is subject to ratification, acceptance or approval by signatory States.
2. After the 3rd of October 1992 this Protocol shall be open for accession by any State which is a Contracting Party to the Antarctic Treaty.
3. Instruments of ratification, acceptance, approval or accession shall be deposited with the Government of the United States of America, hereby designated as the Depositary.
4. After the date on which this Protocol has entered into force, the Antarctic Treaty Consultative Parties shall not act upon a notification regarding the entitlement of a Contracting Party to the Antarctic Treaty to appoint representatives to participate in Antarctic Treaty Consultative Meetings in accordance with Article IX (2) of the Antarctic Treaty unless that Contracting Party has first ratified, accepted, approved or acceded to this Protocol.

ARTICLE 23

ENTRY INTO FORCE

1. This Protocol shall enter into force on the thirtieth day following the date of deposit of instruments of ratification, acceptance, approval or accession by all States which are Antarctic Treaty Consultative Parties at the date on which this Protocol is adopted.
2. For each Contracting Party to the Antarctic Treaty which, subsequent to the date of entry into force of this Protocol, deposits an instrument of ratification, acceptance, approval or accession, this Protocol shall enter into force on the thirtieth day following such deposit.

ARTICLE 24

RESERVATIONS

Reservations to this Protocol shall not be permitted.

SCHEDULE 6—continued

ARTICLE 25

MODIFICATION OR AMENDMENT

1. Without prejudice to the provisions of Article 9, this Protocol may be modified or amended at any time in accordance with the procedures set forth in Article XII (1) (a) and (b) of the Antarctic Treaty.
2. If, after the expiration of 50 years from the date of entry into force of this Protocol, any of the Antarctic Treaty Consultative Parties so requests by a communication addressed to the Depositary, a conference shall be held as soon as practicable to review the operation of this Protocol.
3. A modification or amendment proposed at any Review Conference called pursuant to paragraph 2 above shall be adopted by a majority of the Parties, including 3/4 of the States which are Antarctic Treaty Consultative Parties at the time of adoption of this Protocol.
4. A modification or amendment adopted pursuant to paragraph 3 above shall enter into force upon ratification, acceptance, approval or accession by 3/4 of the Antarctic Treaty Consultative Parties, including ratification, acceptance, approval or accession by all States which are Antarctic Treaty Consultative Parties at the time of adoption of this Protocol.
5. (a) With respect to Article 7, the prohibition on Antarctic mineral resource activities contained therein shall continue unless there is in force a binding legal regime on Antarctic mineral resource activities that includes an agreed means for determining whether, and, if so, under which conditions, any such activities would be acceptable. This regime shall fully safeguard the interests of all States referred to in Article IV of the Antarctic Treaty and apply the principles thereof. Therefore, if a modification or amendment to Article 7 is proposed at a Review Conference referred to in paragraph 2 above, it shall include such a binding legal regime.
(b) If any such modification or amendment has not entered into force within 3 years of the date of its adoption, any Party may at any time thereafter notify to the Depositary of its withdrawal from this Protocol, and such withdrawal shall take effect 2 years after receipt of the notification by the Depositary.

ARTICLE 26

NOTIFICATIONS BY THE DEPOSITARY

The Depositary shall notify all Contracting Parties to the Antarctic Treaty of the following:

- (a) signatures of this Protocol and the deposit of instruments of ratification, acceptance, approval or accession;

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

- (b) the date of entry into force of this Protocol and any additional Annex thereto;
- (c) the date of entry into force of any amendment or modification to this Protocol;
- (d) the deposit of declarations and notices pursuant to Article 19; and
- (e) any notification received pursuant to Article 25 (5) (b)

ARTICLE 27

AUTHENTIC TEXTS AND REGISTRATION WITH THE UNITED NATIONS

1. This Protocol, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to all Contracting Parties to the Antarctic Treaty.
2. This Protocol shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

SCHEDULE TO THE PROTOCOL

ARBITRATION

Article 1

1. The Arbitral Tribunal shall be constituted and shall function in accordance with the Protocol, including this Schedule.
2. The Secretary referred to in this Schedule is the Secretary General of the Permanent Court of Arbitration.

Article 2

1. Each Party shall be entitled to designate up to three Arbitrators, at least one of whom shall be designated within three months of the entry into force of the Protocol for that Party. Each Arbitrator shall be experienced in Antarctic affairs, have thorough knowledge of international law and enjoy the highest reputation for fairness, competence and integrity. The names of the persons so designated shall constitute the list of Arbitrators. Each Party shall at all times maintain the name of at least one Arbitrator on the list.
2. Subject to paragraph 3 below, an Arbitrator designated by a Party shall remain on the list for a period of five years and shall be eligible for redesignation by that Party for additional five year periods.
3. A Party which designated an Arbitrator may withdraw the name of that Arbitrator from the list. If an Arbitrator dies or if a Party for any

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

reason withdraws from the list the name of an Arbitrator designated by it, the Party which designated the Arbitrator in question shall notify the Secretary promptly. An Arbitrator whose name is withdrawn from the list shall continue to serve on any Arbitral Tribunal to which that Arbitrator has been appointed until the completion of proceedings before the Arbitral Tribunal.

4. The Secretary shall ensure that an up-to-date list is maintained of the Arbitrators designated pursuant to this Article.

Article 3

1. The Arbitral Tribunal shall be composed of three Arbitrators who shall be appointed as follows:

- (a) The party to the dispute commencing the proceedings shall appoint one Arbitrator, who may be its national, from the list referred to in Article 2. This appointment shall be included in the notification referred to in Article 4.
- (b) Within 40 days of the receipt of that notification, the other party to the dispute shall appoint the second Arbitrator, who may be its national, from the list referred to in Article 2.
- (c) Within 60 days of the appointment of the second Arbitrator, the parties to the dispute shall appoint by agreement the third Arbitrator from the list referred to in Article 2. The third Arbitrator shall not be either a national of a party to the dispute, or a person designated for the list referred to in Article 2 by a party to the dispute, or of the same nationality as either of the first two Arbitrators. The third Arbitrator shall be the Chairperson of the Arbitral Tribunal.
- (d) If the second Arbitrator has not been appointed within the prescribed period, or if the parties to the dispute have not reached agreement within the prescribed period on the appointment of the third Arbitrator, the Arbitrator or Arbitrators shall be appointed, at the request of any party to the dispute and within 30 days of the receipt of such request, by the President of the International Court of Justice from the list referred to in Article 2 and subject to the conditions prescribed in subparagraphs (b) and (c) above. In performing the functions accorded him or her in this subparagraph, the President of the Court shall consult the parties to the dispute.
- (e) If the President of the International Court of Justice is unable to perform the functions accorded him or her in subparagraph (d) above or is a national of a party to the dispute, the functions shall be performed by the Vice-President of the Court, except that if the Vice-President is unable to perform the functions or is a national of a party to the dispute the functions shall be

SCHEDULE 6—continued

performed by the next most senior member of the Court who is available and is not a national of a party to the dispute.

2. Any vacancy shall be filled in the manner prescribed for the initial appointment.
3. In any dispute involving more than two Parties, those Parties having the same interest shall appoint one Arbitrator by agreement within the period specified in paragraph 1 (b) above.

Article 4

The party to the dispute commencing proceedings shall so notify the other party or parties to the dispute and the Secretary in writing. Such notification shall include a statement of the claim and the grounds on which it is based. The notification shall be transmitted by the Secretary to all Parties.

Article 5

1. Unless the parties to the dispute agree otherwise, arbitration shall take place at The Hague, where the records of the Arbitral Tribunal shall be kept. The Arbitral Tribunal shall adopt its own rules of procedure. Such rules shall ensure that each party to the dispute has a full opportunity to be heard and to present its case and shall also ensure that the proceedings are conducted expeditiously.
2. The Arbitral Tribunal may hear and decide counterclaims arising out of the dispute.

Article 6

1. The Arbitral Tribunal, where it considers that *prima facie* it has jurisdiction under the Protocol, may:
 - (a) at the request of any party to a dispute, indicate such provisional measures as it considers necessary to preserve the respective rights of the parties to the dispute;
 - (b) prescribe any provisional measures which it considers appropriate under the circumstances to prevent serious harm to the Antarctic environment or dependent or associated ecosystems.
2. The parties to the dispute shall comply promptly with any provisional measures prescribed under paragraph 1 (b) above pending an award under Article 10.
3. Notwithstanding the time period in Article 20 of the Protocol, a party to a dispute may at any time, by notification to the other party or parties to the dispute and to the Secretary in accordance with Article 4, request that the Arbitral Tribunal be constituted as a matter of exceptional urgency to indicate or prescribe emergency provisional

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

measures in accordance with this Article. In such case, the Arbitral Tribunal shall be constituted as soon as possible in accordance with Article 3, except that the time periods in Article 3 (1) (b), (c) and (d) shall be reduced to 14 days in each case. The Arbitral Tribunal shall decide upon the request for emergency provisional measures within two months of the appointment of its Chairperson.

4. Following a decision by the Arbitral Tribunal upon a request for emergency provisional measures in accordance with paragraph 3 above, settlement of the dispute shall proceed in accordance with Articles 18, 19 and 20 of the Protocol.

Article 7

Any Party which believes it has a legal interest, whether general or individual, which may be substantially affected by the award of an Arbitral Tribunal, may, unless the Arbitral Tribunal decides otherwise, intervene in the proceedings.

Article 8

The parties to the dispute shall facilitate the work of the Arbitral Tribunal and, in particular, in accordance with their law and using all means at their disposal, shall provide it with all relevant documents and information, and enable it, when necessary, to call witnesses or experts and receive their evidence.

Article 9

If one of the parties to the dispute does not appear before the Arbitral Tribunal or fails to defend its case, any other party to the dispute may request the Arbitral Tribunal to continue the proceedings and make its award.

Article 10

1. The Arbitral Tribunal shall, on the basis of the provisions of the Protocol and other applicable rules and principles of international law that are not incompatible with such provisions, decide such disputes as are submitted to it.

2. The Arbitral Tribunal may decide, *ex aequo et bono*, a dispute submitted to it, if the parties to the dispute so agree.

Article 11

1. Before making its award, the Arbitral Tribunal shall satisfy itself that it has competence in respect of the dispute and that the claim or counterclaim is well founded in fact and law.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

2. The award shall be accompanied by a statement of reasons for the decision and shall be communicated to the Secretary who shall transmit it to all Parties.
3. The award shall be final and binding on the parties to the dispute and on any Party which intervened in the proceedings and shall be complied with without delay. The Arbitral Tribunal shall interpret the award at the request of a party to the dispute or of any intervening Party.
4. The award shall have no binding force except in respect of that particular case.
5. Unless the Arbitral Tribunal decides otherwise, the expenses of the Arbitral Tribunal, including the remuneration of the Arbitrators, shall be borne by the parties to the dispute in equal shares.

Article 12

All decisions of the Arbitral Tribunal, including those referred to in Articles 5, 6 and 11, shall be made by a majority of the Arbitrators who may not abstain from voting.

Article 13

This Schedule 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 Schedule 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.

**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

SCHEDULE 6—continued

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

SCHEDULE 6—continued

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.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

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

SCHEDULE 6—continued

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

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

SCHEDULE 6—continued

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 co-operative 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.

*Transport and Communications Legislation
Amendment (No. 2) No. 71, 1992*

NOTES

1. No. 50, 1920, as amended. For previous amendments, see No. 93, 1936; Nos. 6 and 89, 1947; No. 80, 1950; No. 39, 1960; No. 72, 1961; No. 8, 1963; No. 93, 1966; No. 79, 1971; Nos. 130 and 216, 1973; No. 124, 1974; No. 91, 1977; No. 19, 1979; No. 27, 1980; No. 80, 1982; No. 39, 1983; Nos. 69 and 108, 1984; No. 69, 1986; No. 63, 1988, Nos. 6 and 45, 1989; No. 23, 1990; No. 11, 1991; and No. 82, 1992.
2. No. 78, 1990, as amended. For previous amendments, see Nos. 41, 101 and 173, 1991.
3. No. 64, 1989, as amended. For previous amendments, see No. 23, 1990; and No. 99, 1991.
4. No. 63, 1988, as amended. For previous amendments, see No. 55, 1988; Nos. 6 and 21, 1989; No. 25, 1990; No. 11, 1991; and Nos. 101 and 173, 1991.
5. No. 4, 1986, as amended. For previous amendments, see Nos. 55, 57, 63, 99 and 150, 1988; Nos. 6 and 21, 1989; No. 26, 1990 (as amended by No. 11, 1991); No. 73, 1990; and Nos. 11, 101 and 173, 1991.
6. No. 4, 1913, as amended. For previous amendments, see No. 32, 1919; No. 1, 1921; No. 8, 1925; No. 8, 1926; No. 49, 1934; No. 30, 1935; No. 1, 1943; No. 80, 1950; No. 109, 1952; No. 96, 1953; No. 46, 1956; No. 36, 1958 (as amended by No. 96, 1961; No. 1, 1965 and No. 98, 1979); No. 96, 1961; No. 1, 1965; No. 93, 1966; No. 60, 1967; No. 62, 1968; Nos. 1 and 117, 1970; No. 28, 1972; No. 216, 1973 (as amended by No. 20, 1974; and No. 91, 1976); No. 157, 1976; Nos. 98 (as amended by No. 39, 1983) and 155, 1979; No. 70, 1980; No. 87, 1980 (as amended by Nos. 10 and 74, 1981; No. 84, 1983; No. 57, 1988; and No. 23, 1990); No. 10, 1981 (as amended by No. 74, 1981; and No. 57, 1988); No. 36, 1981 (as amended by No. 40, 1983); Nos. 61 and 74, 1981; No. 80, 1982 (as amended by No. 39, 1983); No. 40, 1984 (as amended by Nos. 84 and 91, 1983); No. 72, 1984 (as amended by No. 165, 1984); Nos. 65 and 193, 1985; Nos. 76, 132, 163, and 167, 1986; Nos. 141, 1987; Nos. 34, 57, 87, 99 and 127, 1988; Nos. 6, 63, 129 and 151, 1989; Nos. 23 and 78, 1990; No. 11, 1991; and No. 7, 1992.
7. No. 33, 1981, as amended. For previous amendments, see No. 99, 1988; and No. 78, 1990.
8. No. 41, 1983, as amended. For previous amendments, see No. 72, 1984; No. 65, 1985; Nos. 81 and 167, 1986; No. 141, 1987; Nos. 57 and 99, 1988; No. 6, 1989; Nos. 23 and 78, 1990; and No. 101, 1991.
9. No. 98, 1991, as amended. For previous amendments, see Nos. 145 and 173, 1991.
10. No. 11, 1991.

*[Minister's second reading speech made in—
House of Representatives on 7 May 1992
Senate on 1 June 1992]*