

# **MARINE POLLUTION ACT, 2013**

## Arrangement of Sections

### **PART I - PRELIMINARY**

1. Short title
2. Commencement
3. Application
4. Interpretation

### **PART II - POWERS AND JURISDICTION UNDER UNCLOS**

5. Interpretation of Part II
6. Pollution prevention measures
7. Notification of imminent or actual damage
8. Measures relating to seaworthiness of vessels to avoid pollution
9. Violation of the Act by vessels navigating in territorial sea or exclusive economic zone
10. Monitoring of the risks of effects of pollution
11. Publication of reports
12. Assessment of potential effects of activities

### **PART III - INTERVENTION ON THE HIGH SEAS**

13. Interpretation
14. Minister to take measures regarding pollution
15. Duties of Minister
16. Nomination of experts
17. Limitations on measures
18. Compensation
19. Rights, etc. preserved
20. Settlement of disputes

### **PART IV – PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER**

21. Interpretation
22. Application of Part
23. Administration of Part
24. Obligations of authorized person
25. Administration may take more stringent measures
26. Prohibition on dumping of wastes
27. Dumping permits

28. Duty to notify Organisation
29. Prohibition of incineration at sea
30. Prohibition of export of wastes
31. Exceptions in cases of *force majeure*
32. Exceptions in cases of other emergencies
33. Offences
34. Record keeping and reporting
35. Co-operation regarding enforcement
36. Liability for damage arising out of dumping at sea
37. Settlement of disputes

## **PART V - PREVENTION OF POLLUTION FROM SHIPS**

### **Sub-Part 1 - General provisions**

38. Interpretation
39. Scope and Application of Part and Exemptions
40. Description of Special Areas
41. Violations of this Part
42. Certificates and Special Rules on Inspection of ships
43. Detection of violations and enforcement of the Part
44. Undue delay to ships
45. Reports on incidents involving harmful substances
46. Communication of information
47. Casualties to ships
48. Promotion of Technical Cooperation
- 48.A. Settlement of disputes

### **Sub-Part 2 - Prevention of pollution by oil**

49. Interpretation
50. Application of Sub-Part
51. Equivalents
52. Initial, renewal and intermediate surveys
53. Annual surveys and additional surveys
54. Nominated Surveyors and recognized Organisations
55. Corrective action
56. Withdrawal of IOPP Certificate and Detention
57. Assistance to other countries where MARPOL is in force
58. Maintenance requirements
59. Report of accidents and defects
60. IOPP Certificate
61. Issue of IOPP Certificate upon request by a state where MARPOL is in force
62. Form of IOPP Certificate
63. Duration and validity of IOPP Certificate

64. Transfer of flag
65. Control of Discharge of Oil
66. Ships of less than 400 Gross Tonnage
67. Special Areas
68. Control of Discharge of Oil in Special Areas
69. Voyage partly through a Special Area
70. Special provision for Antarctic Area
71. Discharges containing Chemicals, etc. Prohibited
72. Investigations
73. Retention of Oil Residues on Board
74. Tanks for Oil Residues (Sludge)
75. Exceptions
76. Provision of Reception Facilities
77. Location of Reception Facilities
78. Capacities of Reception Facilities
79. Notice of Inadequate Reception Facilities
80. Oil Record Book
81. Special requirements for Drilling Rigs and other platforms
82. Shipboard Oil Pollution Emergency Plan
83. Offences
84. Regulations

**Sub-Part 3 - Prevention of pollution by noxious liquid substances in bulk**

85. Interpretation
86. Application
87. Conversion of a ship to a chemical tanker
88. Modification or Delay of Application of Amendments
89. Equivalents
90. Categorization and listing of Noxious Liquid Substances
91. Other Liquid Substances
92. Provisional Assessment and Categorization of Substances
93. Clean or Segregated Ballast
94. Procedure and Arrangement Manual
95. Discharge into the sea of residues assigned to Category X, Y or Z
96. Discharge standards
97. Ventilation of cargo residues
98. Exemption for a prewash
99. Use of cleaning agents or additives
100. Discharge of residues of Category X
101. Discharge of residues of Category Y or Z

- 102 Special provision for Antarctic Area
- 103 Operational requirements for ballasting and deballasting
- 104 Pumping, Piping and Unloading Arrangements
- 105 Exceptions
- 106 Reception facilities for Noxious Liquid Substances
- 107 Arrangements at Cargo unloading Terminals
- 108 Notification to Organisation regarding Reception Facilities
- 109 Measures of Control
- 110 Cargo Record Book
- 111 Surveys
- 112 Nominated Surveyors and Recognized Organisations
- 113 Corrective action
- 114 Withdrawal of NLS Certificate and Detention
- 115 Assistance to other countries where MARPOL is in force
- 116 Maintenance of condition of ship
- 117 Report of accidents and defects
- 118 NLS Certificate
- 119 Issue of NLS Certificate upon request by a state where MARPOL is in force
- 120 Form of NLS Certificate
- 121 Duration of NLS Certificate
- 122 Transfer of Flag
- 123 Survey and Certification of Chemical Tankers
- 124 Requirements for minimizing accidental pollution
- 125 Shipboard Marine pollution emergency plan for noxious liquid substances
- 126 Offences
- 127 Regulations

**Sub-Part 4 - Prevention of pollution by harmful substances carried by sea in packaged form**

- 128 Interpretation
- 129 Application
- 130 Prohibitions on carriage, shipment and jettisoning of harmful substances
- 131 Packing
- 132 Marking and labelling
- 133 Documentation
- 134 Stowage
- 135 Quantity limitations
- 136 Regulations
- 137 Exceptions
- 138 Offences

## **Sub-Part 5 - Prevention of pollution by sewage**

- 139 Interpretation
- 140 Application
- 141 Surveys
- 142 Regulations
- 143 Issue of International Sewage Pollution Prevention Certificate
- 144 Issue or endorsement of International Sewage Pollution Prevention Certificate by a state where MARPOL is in force
- 145 Form of SPPC
- 146 Duration of SPPC
- 147 Discharge controls
- 148 Public Notice of standards
- 149 Exceptions
- 150 Sewage Reception Facilities and Standard Discharge Conventions
- 151 Inspection of Sewage Reception Facilities
- 152 Notice of Inadequate Sewage Reception Facilities
- 153 Offences

## **Sub-Part 6 - Prevention of pollution by garbage**

- 154 Interpretation
- 155 Application
- 156 Special Areas
- 157 Disposal of Garbage outside Special Areas
- 158 Disposal of Garbage from Fixed or Floating Platforms
- 159 Disposal of Garbage within Special Areas
- 160 Special Provision for Wider Caribbean Region
- 161 Mixed Wastes
- 162 Special Provision for Antarctic Area
- 163 Exceptions
- 164 Garbage Reception Facilities
- 165 Inspection of Reception Facilities and Notice of Inadequate Facilities
- 166 Placards
- 167 Garbage Management Plans
- 168 Garbage Record Book
- 169 Regulations
- 170 Regional Co-operation
- 171 Notification of Garbage Disposal Prohibitions
- 172 Offences

## **Sub-Part 7 – Prevention of air pollution from ships**

- 173 Interpretation
- 174 Application of Sub-Part
- 175 Exceptions
- 176 Equivalent
- 177 Surveys and inspection
- 178 Corrective action
- 179 Maintenance of equipment of ship and notice of change of condition
- 180 Issues of International Air Pollution Certificate
- 181 Issue of International Air Pollution Certificate by the Authority at the request of a Government
- 182 Form of International Air Pollution Certificate
- 183 Duration and validity of International Air Pollution Certificate
- 184 Provision of Reception facilities
- 185 Inspection of reception facility and notice of inadequate facility
- 186 Offences
- 187 Regulations by Minister

## **PART VI - OIL POLLUTION PREPAREDNESS AND RESPONSE**

- 188 Interpretation
- 189 Application of Part
- 190 Oil pollution emergency plans
- 191 Oil pollution reporting procedures
- 192 Action on receiving an oil pollution report
- 193 National and regional systems for preparedness and response
- 194 International co-operation in pollution
- 195 Research and development
- 196 Technical co-operation
- 197 Bilateral and multilateral co-operation in preparedness and response
- 198 Relation to other Parts

## **PART VII - LIABILITY AND COMPENSATION FOR POLLUTION DAMAGE**

### **Sub-Part 1 - Liability for oil pollution**

- 199 Interpretation
- 200 Liability for oil pollution in case of tankers
- 201 Liability for oil pollution in case of other ships
- 202 Exceptions from liability under sections 200 and 201

- 203 Restriction of liability for oil pollution
- 204 Limitation of Liability under section 200
- 205 Limitation actions
- 206 Restriction on enforcement after establishment of limitation fund
- 207 Concurrent liabilities of owners and others
- 208 Establishment of limitation fund outside The Gambia
- 209 Extinguishment of claims
- 210 Compulsory insurance against liability for pollution
- 211 Issue of certificate by Administration
- 212 Rights of third parties against insurers
- 213 Jurisdiction of The Gambian Court and registration of foreign judgments
- 214. Government ships
- 215. Limitation of liability under section 201
- 216. Saving for recourse actions

#### **Sub-Part 2 - International oil pollution compensation fund**

- 217. Interpretation
- 218. Contributions by importers of oil and others
- 219. Power to obtain information
- 220. Liability of the Fund
- 221. Limitations of Funds liability under section 220
- 222. Jurisdiction and effect of judgments
- 223. Extinguishment of claims
- 224. Subrogation
- 225. Supplementary provisions as to proceedings involving the Fund

#### **Sub-Part 3 - Carriage of hazardous and noxious substances**

- 226. Interpretation
- 227. Application
- 228. Liability of the owner
- 229. Incidents involving two or more ships
- 230. Limitation of Liability
- 231. Limitation fund
- 232. Limitation fund to be constituted in dollars
- 233 Bar to other actions
- 234. Death and injury
- 235. Compulsory insurance of the owner
- 236. HNS Fund and miscellaneous matters relating to the convention
- 237. Regulations

## **PART VIII– ENFORCEMENT**

- 238. Enforcement
- 239. Restriction on jurisdiction over offences outside  
The Gambia's limits
- 240. Suspension of proceedings at flag State's request

## **PART IX - MISCELLANEOUS**

- 241. Duty to report discharge of oil in waters of harbour
- 242. Discharge of oil into internal waters of The Gambia  
other than waters of a harbour.
- 243. Restrictions on transfer of oil at night
- 244. Amendment of Schedules
- 245. Modification of existing law
- 246. Minister to make Regulations





(b) ships and aircrafts of any foreign visiting Armed Forces.

(4) This Act shall be administered by The Gambia Maritime Administration.

#### **4. Interpretation**

In this Act, unless the context otherwise requires-

"Act" means The Gambia Maritime Administration Act;

"Administration" means The Gambia Maritime Administration;

"Agency" means the National Environment Agency established under section 9 of the National Environment Management Act;

"Gambia protected waters" means any waters in which The Gambia has jurisdiction in respect of the protection and preservation of the marine environment under international law;

"court" means a court of competent jurisdiction;

"Director-General" means the Director General of the Administration;

"Executive Director" means the Executive Director of the National Environment Agency;

"exclusive economic zone" means the zone which does not extend beyond two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured in The Gambia;

"Government" means the Government of The Gambia;

"high seas" means all parts of the sea that are not included in the exclusive economic zone, territorial sea, internal waters or archipelagic waters of The Gambia;

‘ internal waters’ means the waters on the landward side of the baseline of the territorial sea of The Gambia;

“master” has the meaning given by section 3 of the Merchant Shipping Act 2013;

“Minister” has the meaning given by section 3 of the Merchant Shipping Act 2013;

"Organisation" means the International Maritime Organisation;

“owner” has the meaning given by section 3 of the Merchant Shipping Act, 2013;

"territorial sea" means the territorial sea of The Gambia as provided by section 2 of the Territorial Sea and Contiguous Zone Act; and

“tonnage regulations” means the tonnage regulations made under section 36 of the Merchant Shipping Act 2013.

## **PART II - POWERS AND JURISDICTION UNDER THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)**

### **5. Interpretation of Part II**

In this Part –

“Convention” means the United Nations Convention on the Law of the Sea 1982; and

"MARPOL" means International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto and Protocols and Annexes thereto, and any amendments that may be in effect for The Gambia.

## **6. Pollution prevention measures**

(1) The Government through the Administration and the Agency shall take all measures necessary to ensure that activities under the jurisdiction or control of The Gambia are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from such activities does not spread beyond the areas where The Gambia exercises rights and jurisdiction in accordance with the Convention.

(2) In taking measures to prevent, reduce or control pollution of the marine environment, the Administration and the Agency shall refrain from unjustifiable interference with activities carried out by the other states in the exercise of their rights and in pursuance of their duties under the Convention.

(3) Measures taken to prevent, reduce or control pollution of the marine environment shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

(4) In taking measures to prevent, reduce and control pollution of the marine environment, the Administration and Agency shall not transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another.

## **7. Notification of imminent or actual damage**

Where the Administration becomes aware of cases in which the marine environment is in imminent danger or has been damaged by pollution, it shall immediately notify other States likely to be affected by such damage, as well as the Organisation.

## **8. Measures relating to Seaworthiness of Vessels to avoid Pollution**

(1) Subject to subsection (2), where the Administration has ascertained that a vessel within a port or offshore terminal in The Gambia is in viola-

tion of any law of The Gambia relating to seaworthiness of vessels and thereby threatens damage to the marine environment shall, as far as practicable, prevent the vessel from sailing.

(2) The Administration may, where it deems appropriate, permit the vessel to proceed only to the nearest repair yard.

### **9. Violation of the Act by Vessels Navigating in Territorial Sea or Exclusive Economic Zone**

(1) Where there are clear grounds for believing that a vessel navigating in the territorial sea of The Gambia has, during its passage therein, been in violation of this Act, the Administration may, without prejudice to the vessel's right of innocent passage under the Convention, undertake physical inspection of the vessel relating to the violation and may, where the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with this Act.

(2) Where there are clear grounds for believing that a vessel has committed a violation of this Act in The Gambia's Exclusive Economic Zone, the Administration may require the vessel to give information regarding its identity and port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred.

(3) Gambian ships shall comply with requests for similar information as referred to in subsection (2) made by the relevant authorities of countries where the MARPOL is in force.

(4) Where there are clear grounds for believing that a vessel has committed a violation referred to in subsection (2), resulting in a substantial discharge causing or threatening significant pollution of the marine environment, the Administration may undertake physical inspection of the vessel for matters relating to the violation if the vessel has refused to give information or if the information supplied by the vessel is manifestly at variance with the factual situation and if the circumstances of the case justify

such inspection.

- (4) Where there is clear evidence that a vessel has committed a violation referred to in sub-section (2) resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of The Gambia or to any resources of The Gambia, the Administration may institute proceedings, including detention of the vessel, in accordance with this Act.

## **10. Monitoring of effects of pollution**

The Administration in collaboration with the Agency shall-

- (a) endeavour, as far as practicable; directly or through the Organisation, observe, measure, evaluate and analyse, by recognised scientific methods the risks or effects of pollution of the marine environment; and
- (b) in particular, keep under surveillance, the effects of any activities which it permits or in which it engages in order to determine whether these activities are likely to pollute the marine environment.

## **11. Publication of Reports by the Authority**

The Administration shall provide reports of the results obtained pursuant to section 9 at appropriate intervals to the Organisation

## **12. Assessment of Potential effects of Activities**

Where the Administration after due consultation with the Agency, has reasonable grounds for believing that planned activities under the jurisdiction or control of The Gambia may cause substantial pollution of or significant and harmful changes to the marine environment, it shall, as far as practicable, cause to be assessed the potential effects of such activities on the marine environment and communicate reports of the results of such assessments in the manner provided in section 11.

## **PART III - INTERVENTION ON THE HIGH SEAS**

### **13. Interpretation**

(1) For the purposes of this Part-

“Convention” means the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969), and the Protocol of 1973 relating thereto as applicable to The Gambia;

“maritime casualty” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo;

“oil” means crude oil, fuel oil, diesel oil and lubricating oil;

“related interests” means the interests of The Gambia directly affected or threatened by the maritime casualty, such as-

- (a) maritime coastal, port or estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
- (b) tourist attractions of the area con-

cerned; and

- (c) the health of the coastal population and the well-being of the area concerned, including conservation of living marine resources and of wild-life;

“ship” means-

- (a) any seagoing vessel of any type whatsoever, and
- (b) any floating craft, with the exception of an installation or device engaged in the exploration and exploitation of the resources of the sea-bed and the ocean floor and the subsoil thereof; and

“substances other than oil” means-

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

#### **14. Minister to Take Measures Regarding Pollution**

(1) Subject to subsection (2), the Minister may take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to the coastline or related interests from pollution or threat of pollution of the sea by oil or substances other than oil, following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences.

(2) No measures shall be taken under this Part against-



- (a) any Gambia Government ship on Government non-commercial service; and
- (b) any warship or other ship owned or operated by a state and used for the time being, only on Government non commercial service.

(3) Whenever the Minister takes action with regard to a substance referred to in section 12(1), he or she shall have the burden of establishing that the substance, under the circumstances present at the time of the intervention, could reasonably pose a grave and imminent danger analogous to that posed by any of the substances enumerated in the First Schedule.

### **15. Duties of minister**

(1) In taking measures under section 14, the Minister-

- (a) shall consult beforehand with other states affected by the maritime casualty, particularly with the state where the vessel is registered;
- (b) shall notify without delay the proposed measures to any person, organisation, authority or body known to it, or made known to it during the consultations, to have an interest which can reasonably be expected to be affected by those measures, and shall take into account their views, if any;
- (c) may consult with independent experts, experts, whose names shall be chosen from a list maintained by the Organisation;
- (d) in cases of extreme urgency requiring immediate action, may take measures rendered necessary by such urgency, without prior notification or consultation or without continuing consultations

already begun;

- (e) shall, before taking such measures and during their course, use its best endeavours to avoid risk to human life, and to afford persons in distress any assistance which they may need, and in appropriate cases to facilitate the repatriation of ships' crews;
- (f) shall, in case of measures taken pursuant to section 14(1) notify without delay, the states and the known physical or corporate persons concerned as well as the Secretary General of the Organisation.

## **16. Nomination of experts**

The Minister may submit nominations to the list of experts referred to in section 15 (1) (c).

## **17. Limitation on measures by Minister**

(1) Measures taken by the Minister in accordance with section 14 shall-

- (a) be proportionate to the damage, actual or threatened, to The Gambia;
- (b) not go beyond what is reasonably necessary to prevent, mitigate or eliminate the danger referred to in section 14 and shall cease as soon as that has been achieved;
- (c) not unnecessarily interfere with the rights and interests of the State where the ship is registered, third States or of any entity concerned.

(2) In considering whether the measures are proportionate to the damage, the Minister shall take into account-

- (a) the extent and probability of imminent damage if those measures are not

taken;

- (b) the likelihood of those measures being effective; and
- (c) the extent of the damage which may be caused by such measures.

### **18. Compensation**

A person who suffers damage caused by measures taken by the Minister which exceed those reasonably necessary to prevent, mitigate or eliminate the danger referred to in section 14 shall be entitled to compensation to the extent of such damage.

### **19. Rights, etc. preserved**

Except as specifically provided, nothing in this Part shall prejudice any applicable right, duty, privilege or immunity or deprive any State Party to the Convention or any interested entity of any remedy otherwise applicable.

### **20. Settlement of disputes**

A dispute between The Gambia and a state party to the Convention as to -

- (a) whether measures taken under section 14 were in contravention of the Convention;
- (b) whether compensation is payable under section 18; or
- (c) the amount of such compensation,

shall be settled through negotiation, conciliation or arbitration, as set out in the Second Schedule, notwithstanding that any remedies under the laws of The Gambia have not been exhausted.

## **PART IV – THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER**

### **21. Interpretation**

For the purposes of this Part-

“Convention” means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended-

“dumping” means-

- (a) any deliberate disposal into the sea of-
  - (i) wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea, or
  - (ii) vessels, aircraft, platforms or other man-made structures at sea;
- (b) any storage of wastes or other matter in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea, and
- (c) any abandonment or toppling at the site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal;

but does not include-

- (i) the disposal into the sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes on such vessels, aircraft, platforms or other man-made structures,

- (ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to this Part, and
- (iii) abandonment at sea of things such as cables, pipelines and marine research devices placed for a purpose other than the mere disposal thereof;

“incineration at sea” means the combustion on board a vessel, platform or other man-made structure at sea, of wastes for the purpose of their deliberate disposal by thermal destruction, but does not include the incineration of wastes or other matter on board a vessel, platform, or other man-made structure at sea if such wastes or other matter were generated during the normal operation of that vessel, platform or other man-made structure at sea;

“Organisation” means International Maritime Organisation;

“permit” means permission granted in advance and in accordance with relevant measures adopted pursuant to sections 27 or 32;

“pollution” means the introduction, directly or indirectly, by human activity, of wastes or other matter into the sea which results or is likely to result in such deleterious effects as harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

“sea” means all marine waters other than the internal waters of The Gambia, as well as the seabed and the subsoil thereof but does not include sub-seabed repositories accessed only from land;

Secretary-General” means the Secretary General of the Organisation;

“vessels and aircraft” means waterborne or air-borne craft of any type whatsoever including air-cushioned craft and floating craft, whether self-propelled or not;

“wastes or other matter” means material and substance of any kind, form or description.

## **22. Application of Part IV**

(1) This Part shall apply to the sea and the internal waters of The Gambia.

(2) The Agency shall provide the Director-General with information on the application of this Part to the internal waters of The Gambia, including the type and nature of the materials dumped in those waters, and the Director General shall communicate that information to the Organisation.

(3) This Part shall apply to all-

- (a) vessels and aircraft which are Registered in The Gambia or are otherwise entitled to fly the flag of The Gambia;
- (b) vessels and aircraft loading in the territory of The Gambia, wastes or other matter which are to be dumped or incinerated at sea; and
- (c) vessels, aircraft and platforms or other man-made structures believed to be engaged in dumping or incineration at sea in areas in which The Gambia is entitled to exercise jurisdiction in accordance with international law.

(4) This Part shall not apply to the disposal or storage of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of seabed mineral resources.

(5) This Part shall not apply to vessels and aircrafts entitled to sovereign immunity under international law.

(6) This Part shall apply to The Gambian Government ships.

### **23. Administration of this Part**

In administering this Part, the Agency shall apply a precautionary approach to environmental protection from dumping of waste or other matter whereby appropriate prevention measures are taken when there is reason to believe that waste introduced into the marine environment is likely to cause harm; even where there is no conclusive evidence to prove causal relation between inputs and their effects.

### **24. Obligation of authorised person**

A person authorised to engage in dumping or incineration at sea under this Part shall-

- (a) bear the cost of meeting the pollution prevention and control requirements for the authorised activities, having due regard to the public interest; and
- (b) not cause, directly or indirectly, damage or likelihood of damage to the environment or transform one type of pollution into another.

### **25. Person responsible for environmental matter may take more stringent measures**

Nothing in this Part shall prevent the Administration in collaboration with the Agency from adopting more stringent measures than is provided for in this Part with respect to the prevention, reduction and where practicable, elimination of pollution in accordance with this Act.

## **26. Prohibition on dumping of waste**

Subject to section 27, the dumping of any wastes or other matter is hereby prohibited except in accordance with this Part.

## **27. Dumping permit**

(1) The dumping of wastes or other matter listed in the Third Schedule may be permitted subject to the issuing of a permit by the Agency.

(2) The Agency may issue permits in accordance with this Part in respect of wastes intended for dumping or as provided for in section 32 (1), for incineration at sea where it is-

- (a) loaded in The Gambia; or
- (b) loaded onto a vessel or aircraft registered in The Gambia or flying a Gambian flag, when the loading occurs in the territory of a State which is not a Party to the Convention.

(3) In issuing a permit referred to in subsection (1), the Agency shall impose the conditions set out in the Third Schedule and may impose such additional criteria, measures and requirements as it may consider relevant.

(4) The Agency shall not issue a dumping permit where an environmentally preferable alternative is available.

## **28. Duty to notify Organisation**

Where the dumping of waste or other matter listed in the Third Schedule is permitted, the Agency shall inform the Administration and the Administration shall in turn notify the Organisation.



### **29. Prohibition of incineration at sea**

As from the commencement of this Act, a person shall not incinerate waste or other matter at sea.

### **30. Prohibition of export of waste**

A person shall not export waste or other matter to other countries for dumping or incineration at sea.

### **31. Exception in cases of force majeure prohibition of export of waste**

(1) Sections 26 and 29 shall not apply to circumstances where it is necessary to secure the safety of human life, vessels, aircraft, platforms or other man-made structures at sea in cases-

- (a) of force majeure caused by stress of weather;
- (b) which constitute a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea;
- (c) where dumping or incineration at sea appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping or incineration at sea will be less than would otherwise occur.

(2) The dumping or incineration at sea referred to in subsection (1) shall be conducted in such a way as to minimise the likelihood of damage to human or marine life.

(3) The Agency shall communicate to the Director-General details of any dumping or incineration at sea carried out under this section, and the Director-General shall, as soon as practicable, relay the information to the Organisation.

### **32. Exceptions in cases of other emergencies**

(1) Sections 26 and 29 shall not apply in case of an emergency posing an unacceptable threat to human health, safety or the marine environment and admitting of no other feasible solution.

(2) In case of an emergency referred to in subsection (1)-

(a) the Agency may issue a permit excluding the application of sections 26 and 29 after consulting the Administration and any other state or countries that are likely to be affected; and

(b) the Administration shall inform the Organisation.

(3) The recommendations of the Organisation shall be followed, taking into account the time within which action must be taken and avoiding damage to the marine environment.

(4) The Administration shall inform the Organisation of any action taken under subsection (3).

### **33. Offences**

A person who contravenes the provisions of sections 26, 29 or 30 commits an offence and is liable on conviction to a fine not exceeding thirty million dalasis or to imprisonment not exceeding two years, or to both the fine and imprisonment.

### **34. Record keeping and reporting**

(1) The Agency shall-

(a) keep records of the nature and quantities of all wastes or other matter for which dumping permits have been issued and, where practicable, the quantities actually dumped, and the location, time and method of dumping; and

- (b) cause to be monitored, where appropriate, in collaboration with other State Parties to the Convention and competent international organisations, the condition of the sea for the purposes of this Part.

(2) The Agency shall communicate to the Director-General and, where appropriate, to other State Parties to the Convention-

- (a) the information referred to in subsection (1) (a) and (b);
- (b) the measures taken to implement this Part including a summary of enforcement measures; and
- (c) the effectiveness of the measures referred to in paragraph (b) and any problems encountered in their application; and the Director-General shall report that information to the Organisation.
- (d) the information referred to in subsection (2) (a) shall be submitted on an annual basis and that referred to in subsection (2) (b) and (c) shall be submitted on a regular basis.

### **35. Cooperation regarding enforcement**

The Agency and Administration shall co-operate in the development of procedures for the effective application of the Convention in areas beyond the jurisdiction of any State, including procedures for the reporting of vessels and aircraft observed dumping or incinerating at sea in contra-vention of the Convention.

### **36. Liability damage arising out of dumping at sea**

The principles (legal and equitable) applicable under the law to liability and compensation for marine pollution damage, and the principles of international law regarding state responsibility for damage to the environment shall apply in cases of liability arising from the dumping or incineration at sea of waste or other matter.

### **37. Settlement of disputes**

(1) In the event of a dispute between The Gambia and another State Party to the Convention, the provisions of Article 16 of the Convention shall apply with regard to the settlement of such dispute.

(2) The provisions of Article 16 and Annex 3 of the Convention relating to the arbitral procedure are set out in the Fourth Schedule.

## **PART V – PREVENTION OF POLLUTION FROM SHIPS**

### **Sub-Part I – General Provisions**

#### **38. Interpretation**

In this Part, unless the context otherwise requires-

“discharge” in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying but does not include-

(a) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matter, 1972, as amended;

(b) release of harmful substances directly

arising from the exploration, exploitation and associated offshore processing of seabed mineral resources; or

- (c) release of harmful substances for purposes of legitimate scientific research into pollution abatement or control.

“existing ship” in the context of each Part, means a ship which is not a new ship as defined in that Part;

“from the nearest land” means-

- (d) in respect of The Gambia, from the baseline of the territorial sea of The Gambia;
- (e) in respect of other States and territories, except off the north-eastern coast of Australia, from the baseline of the territorial sea established in accordance with international law;
- (f) in respect of the north-eastern coast of Australia, from a line drawn from a point on the coast of Australia in latitude 11 degrees South, longitude 142 degrees 8 minutes East to a point in latitude 10 degrees 35 minutes South, longitude 141 degrees 55 minutes East, thence to a point in latitude 10 degrees South, longitude 142 degrees East, thence to a point in latitude 9 degrees 10 minutes South, longitude 143 degrees 52 minutes East, thence to a point in latitude 9 degrees South, longitude 144 degrees 30 minutes East, thence to the point in latitude 10 degrees 41 minutes South, longitude 145 degrees East, thence to a point in latitude 13 degrees South, longitude 145 degrees East, thence to a point in latitude 15 degrees South, longitude 146 degrees East, thence to a point in latitude 17 degrees 30 minutes South, longitude 147 degrees East, thence to a point in latitude 21 degrees South, longitude 152 55 minutes East

degrees East, thence to a point on the coast of Australia in latitude 24 degrees 42 minutes South, longitude 153 degrees 15 minutes East;

“Government ship” has the meaning given in section 3 of The Merchant Shipping Act 2013;

“harmful substance” means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control under this Part;

“incident” means an event involving the factual or probable discharge into the sea of a harmful substance, or effluents containing such a substance;

“Convention” has the meaning given to “Convention” in section 21;

“MARPOL” means International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto and Protocols and Annexes thereto, and any amendments that may be in effect for The Gambia;

“MARPOL in force” means a state, the Government of which is a party to MARPOL;

“Organisation” means International Maritime Organisation;

"reception facility" means any facility which is used for the reception of oil, noxious liquid substances, sewage or garbage at a port or terminal;

“Safety Convention” has the meaning given in section 253 of the Merchant Shipping Act, 2013;

"ship" means a vessel of any type whatsoever operating in the marine environment and includes, without limitation, pleasure vessels, fishing vessels, hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms;

"special area" means a sea area where for recognised technical reasons in relation to its oceanographic and ecological condition and to the particular character of its traffic, the adoption of special mandatory methods for the prevention of sea pollution by oil is required;

"undue delay" means a delay that is unreasonable and unnecessary in light of the particular conditions of a ship's cargo, destination and schedule, and in light of the purpose and scope of the investigation, inspection or other cause for detaining a ship.

### **39. Scope and application of Part and exemptions**

(1) Unless otherwise specified, this Part shall apply to-

- (a) all Gambian ships; and
- (b) all other territorial sea, or exclusive economic zone of The Gambia.

(2) This Act shall not apply to –

- (a) ships belonging to the Government which are engaged in government, non-commercial service; and
- (b) warships, naval auxiliary or other ships owned or operated by a state and used for the time being only on government non-commercial service.

### **40. Description of Special Areas**

For the purposes of this Part, unless otherwise specifically provided, Special Areas are as follows-

- (a) the "Mediterranean Sea area" means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the parallel of 41 degrees North parallel and

bounded to the west by the Straits of Gibraltar at the meridian of 5 degrees 36 minutes West.

- (b) the "Baltic Sea area" means the Baltic Sea proper with the Gulf of Bothnia, the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57 degrees 44.8 minutes North;
- (c) the "Black Sea area" means the Black Sea proper with the boundary between the Mediterranean Sea and the Black Sea constituted by the parallel 41 degrees North;
- (d) the "Red Sea area" means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12 degrees 28.5 minutes North, 43 degrees 19.6 minutes East) and Husn Murad (12 degrees 40.4 minutes North, 43 degrees 30.2 minutes East) and Husn Murad (12 degrees 40.4 minutes North, 43 degrees 30.2 minutes East);
- (e) the "Gulfs area" means the sea area located north-west of the rhumb line between Ras al Hadd (22 degrees 30 minutes North, 59 degrees 48 minutes East) and Ras al Fasteh (25 degrees 04 minutes North, 61 degrees 25 minutes East);
- (f) the "Gulf of Aden area" means that part of the Gulf of Aden between the Red Sea and the Arabian Sea bounded to the west by the rhumb line between Ras si Ane (12 degrees 28.5 minutes North, 43 degrees 19.6 minutes East) and Husn Murad (12 degrees 40.4 minutes North, 43 degrees 30.2 minutes East) and to the east by the rhumb line between Ras Asir (11 degrees 50



minutes North, 51 degrees 16.9 minutes East) and the Ras Fartak (15 degrees 35 minutes North, 52 degrees 13.8 minutes East);

(g) the "Antarctic area" means the sea area south of latitude 60 degrees South;

(h) the "North–West European waters" include the North Sea and its approaches, the Irish Sea and its approaches, the Celtic Sea, the English Channel and its approaches and part of the North–East Atlantic immediately to the west of Ireland. The area is bounded by lines joining the following points-

(i) 48 degrees 27 minutes North on the French coast,

(ii) 48 degrees 27 minutes North, 6 degrees 25 minutes West,

(iii) 49 degrees 52 minutes North 7 degrees 44 minutes West,

(iv) 50 degrees 30 minutes North, 12 degrees West,

(v) 56 degrees 30 minutes North, 12 degrees West,

(vi) 62 degrees North 3 degrees West,

(vii) 62 degrees North on the Norwegian Coast,

(viii) 57 degrees 44.8 minutes North on the Danish and Swedish coasts,

(i) "the Oman area of the Arabian sea" means the sea area enclosed by the following coordinates-

22°30'.00 N; 059° 48'.00 E  
23°47'.27 N; 060° 35'.73 E  
22°40'.62 N; 062° 25'.29 E  
21°47'.40 N; 063° 22'.22 E  
20°30'.37 N; 062° 52'.41 E  
19°45'.90 N; 062° 25'.97 E  
18°49'.92 N; 062° 02'.94 E  
17°44'.36 N; 061°05'.53 E  
16°43'.71 N; 060°25'.62 E  
16°03'.90 N; 059°32'.24 E  
15°15'.20 N; 058°58'.52 E  
14°36'.93 N; 058°10'.23 E  
14°18'.93 N; 057°27'.03 E  
14°11'.53 N; 056°53'.75 E  
13°53'.80 N; 056°19'.24 E  
13°45'.86 N; 055°54'.53 E  
4°27'.38 N; 054°51'.42 E  
14°40'.10 N; 054°27'.35 E  
14°46'.21 N; 054°08'.56 E  
15°20'.74 N; 053°38'.33 E  
15°48'.69 N; 053°32'.07 E  
16°23'.02 N; 053°14'.82 E  
16°39'.06 N; 053°06'.52 E

- (j) the Southern South African waters means the sea area enclosed by the following coordinates-

22°30'.00 N; 059° 48'.00 E  
23°47'.27 N; 060° 35'.73 E  
22°40'.62 N; 062° 25'.29 E  
21°47'.40 N; 063° 22'.22 E  
20°30'.37 N; 062° 52'.41 E  
19°45'.90 N; 062° 25'.97 E  
18°49'.92 N; 062° 02'.94 E  
17°44'.36 N; 061°05'.53 E  
16°43'.71 N; 060°25'.62 E  
16°03'.90 N; 059°32'.24 E  
15°15'.20 N; 058°58'.52 E  
14°36'.93 N; 058°10'.23 E  
14°18'.93 N; 057°27'.03 E

#### **41. Violations of this Part**

(1) The Administration shall cause legal proceedings to be taken or sanctions imposed in respect of any violation under this Part, as soon as possible after it is informed of such a violation and is satisfied that sufficient evidence is available for such action or proceedings to be taken or such sanction to be imposed.

(2) In respect of ships other than Gambian ships, the Administration may furnish to the Government of the state where the ship is registered, such information and evidence as may be in its possession in respect of the violation.

(2) Where such information and evidence as referred to in sub-section (2) is received by the Administration from the Government of a state where MARPOL is in force in respect of a violation by a Gambian ship, it shall promptly inform such Government and the Organisation of the action taken by it.

(4) Where the Administration has reason to believe that a ship proposing to enter a Gambian Port or offshore terminal does not comply with the requirements of this Part, and it is satisfied that the ship presents an unreasonable threat of harm to the marine environment, it may deny entry of such ship to any Gambian Port or offshore terminal.

(5) In any case where a ship to which this Part applies is suspected of being in violation of the requirements of this Part, the ship is liable to be detained.

#### **42. Certificate and special rules on inspection on inspection of ships**

(1) Subject to sub-section (2), a certificate issued by or under the authority of a state where the MARPOL is in force in accordance with the

provisions of MARPOL shall be accepted by the Administration and be regarded for all purposes of this Part as having the same validity as a corresponding certificate issued under this Act.

(2) A ship holding a certificate referred to in sub-section (1) shall, while in a port or offshore terminal of The Gambia, be subject to inspection by officers duly authorised by the Administration for that purpose.

(3) An inspection referred to in sub-section (1) shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate or if the ship does not carry a valid certificate, in which case the Administration subject to sub-section (4), may cause the ship to be detained and prevent it from sailing until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(4) The Administration may grant a ship subject to a detention order referred to in sub-section (3), permission to leave the port or offshore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

(5) Where a ship which is registered in a state where the MARPOL is in force, is found not to be in compliance with this Part, the Administration may request consultation with the Government of the state concerned before denying the ship entry to a Gambian Port or offshore terminal or taking any other action against the ship.

(6) Where the Administration denies entry to, or takes any action against a ship referred to in sub-section (5), it shall immediately inform the consular or diplomatic representative of the state concerned, or if such is not possible, the Government of that state.

(7) Where a ship referred to in this section does not carry a valid certificate as required by this Part or by MARPOL, the Administration shall inform the Government of the state concerned of such fact.

(8) Notwithstanding sub-section (1), and without prejudice to any specific provisions relating to control over operational procedures which may be contained in Regulations made under the Merchant Shipping Act or elsewhere in this Part, an inspection referred to in subsection (2), may include an investigation of any operation regulated by this Part if there are clear grounds for believing that the master or crew are not familiar with essential ship board procedures for preventing pollution, and if such inspection reveals any deficiencies, the Administration shall take such steps as may be necessary to ensure that the ship does not sail until the situation has been brought to order in accordance with the requirements of this Part.

(9) Inspections under this Part shall be carried out in accordance with the Merchant Shipping (Port State Control) Regulations.

#### **43. Detection of violations and enforcement of the part**

(1) The Administration shall co-operate with Governments of countries where the MARPOL is in force in the detection of violations and enforcement of this Part, using all appropriate and practicable means of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

(2) A ship to which this Part applies may, in any port or offshore terminal of The Gambia, be subject to inspection by officers appointed or authorised by the Administration for the purpose of verifying whether the ship has discharged any harmful

substances in violation of this Part, and if such inspection indicates a violation by a ship registered in a state where the MARPOL is in force, a report shall be forwarded to the Government of the State concerned for any appropriate action.

(3) (1) Where it is alleged that a ship registered in a state where the MARPOL is in force has discharged harmful substances or effluents containing such substances in violation of this Part, the Administration shall furnish to the Government of the state concerned, evidence, if any, of the alleged violation, and if it is practicable, notify the master of the ship concerned-

(a) where the Administration receives from state where the MARPOL is in force evidence as is referred to in paragraph (a) in respect of a Gambian ship, it may request the Government of such State to furnish further or better evidence of the alleged violation;

(b) where the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, and shall promptly inform the Government of the state which has reported the alleged violation, and the Organization of the action taken.

(4) Where the Government of a state where the MARPOL is in force furnishes sufficient evidence that a ship to which MARPOL applies has discharged harmful substances or effluents containing such substances in any place and requests an investigation, the Administration may cause such ship to be inspected when she enters a port or offshore terminal of The Gambia, and shall send the report of such investigation to the Government of the State where the ship is registered so that appropriate action may be taken under MARPOL.

#### **44. Undue delay to ship**

(1) The Authority shall make every possible effort to avoid undue detention or delay of a ship under sections 41, 42 and 43.

(2) Any ship that is unduly detained or delayed under sections 41, 42 and 43 shall be entitled to compensation for any loss or damage suffered.

#### **45. Reports on incidents involving harmful substances**

(1) For the purposes of this section -

"oil" has the meaning given in Sub-Part 2;

"noxious liquid substance" has the meaning given in Sub-Part 3;

"harmful substances" has the meaning given in Sub-Part 4;

"packaged form" has the meaning given in Sub-Part 4.

(2) Where an incident involves-

- (a) a discharge above the permitted level or a probable discharge of oil or noxious liquid substances for what-ever reason including those for the purpose of securing the safety of a ship or saving life at sea;
- (b) a discharge or probable discharge of harmful substances in packaged form including those in freight containers, portable tanks, road and rail vehicles and ship borne barges;
- (c) damage, failure or breakdown of a ship of fifteen metres in length or above which affects the safety of the ship; including but not limited to collision, grounding, fire, explosion, structural failure, flooding and cargo shifting ;

- (d) impairment of the safety of navigation; including but not limited to, failure or breakdown of steering gear, propulsion plant, electrical generating system, and essential ship borne navigational aids;
- (e) a discharge during the operation of the ship of oil or noxious liquid substances in excess of the quantity or instantaneous rate permitted under this Act;
- (f) the master or other person having charge of the ship shall report the particulars of such incident without delay and to the fullest extent possible in accordance with this section to the Administration.

(3) Where a ship referred to in subsection (2) is abandoned, or where a report from such a ship is incomplete or unobtainable, the owner, charterer, manager or operator of the ship or his or her agent shall to the fullest extent possible, assume the obligations of the master under this section.

(4) The contents of a report referred to in subsection (2) shall include-

- (a) the identity of the ships involved;
- (b) the time, type and location of the incident;
- (c) the quantity and type of harmful substance involved; and
- (d) the assistance received and salvage measures taken.

(5) The Administration shall-

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



- (b) notify the Organisation with complete details of such arrangements for circulation to other state parties to MARPOL and member States of the Organisation.

(6) Whenever the Administration receives a report referred to in this section, it shall relay the report without delay to the Government of the state where the ship involved is registered and to the Government of any other concerned state where MARPOL is in force.

(7) The Administration shall issue instructions to its officers and personnel to report any incident referred to in this section and shall, if it considers it appropriate, report to any concerned Organisation and Government of a state where MARPOL is in force.

(8) A person who is obliged to send a report under this section shall, when possible-

- (a) supplement the initial report as necessary and provide information concerning further developments; and
- (b) comply as fully as possible with requests from affected states where MARPOL is in force for additional information.

(9) Reports shall be communicated by the fastest telecommunications channels available with the highest possible priority to the nearest coastal state.

(10) A person who does not comply with the provisions of this section commits an offence and is liable on conviction to a fine of five million Dalasis or to a term of imprisonment for three years or both the fine and imprisonment.

(11) The Minister may make regulations for procedures to be followed in reporting incidents involving harmful substances based on guidelines developed by the Organisation.

#### **46. Communication of information**

The Administration shall communicate to the Organisation-

- (a) the texts of this Part and any subsidiary legislation promulgated pursuant to this Part;
- (b) a list of nominated surveyors or recognised organisations authorised to act on its behalf in the administration of matters relating to the design, construction, equipment and operation of ships carrying harmful substances in accordance with this Part for circulation to countries where MARPOL is in force for information of their officers;
- (c) the specific responsibilities and conditions of the authority delegated to nominated surveyors or recognised organisations;
- (d) a sufficient number of specimens of certificates issued under this Part;
- (e) a list of reception facilities including their location, capacity and available facilities and other characteristics;
- (f) official reports or summaries of official reports in so far as they show the results of the application of this Part; and
- (g) an annual statistical report, in a form standardised by the Organisation, of penalties actually imposed for violations of this Part.

#### **47. Casualties to ships**

(1) The Administration shall conduct or cause to be conducted an investigation of any casualty occurring to any Gambian ship to which this Part applies if such casualty produces a major deleterious effect on the marine environment.

(2) The Administration shall provide the Organisation with information concerning the findings of such investigation, if it considers such information to be of assistance in determining what changes to MARPOL might be desirable.

#### **48. Promotion of technical co-operation**

(1) The Administration shall promote, in consultation with the Organisation and other international bodies, and with assistance and co-ordination by the Executive Director of the United Nations Environment Programme, support for those countries where MARPOL is in force who request technical assistance for-

- (a) training of scientific and technical personnel;
- (b) the supply of necessary equipment and facilities for reception and monitoring;
- (c) facilitation of other measures and arrangements to prevent or mitigate pollution of the marine environment by ships; and
- (d) the encouragement of research, preferably within the States concerned.

#### **48A. Settlement of disputes**

(1) Any dispute arising between The Gambia and any other state where MARPOL is in force may unless otherwise decided by the parties, be submitted to arbitration.

(2) The arbitration procedure shall be in accordance with Twenty Third Schedule.

## **Sub-Part 2 – Prevention of pollution by oil**

### **49. Interpretation**

In this Sub-Part, unless the context otherwise requires-

"clean ballast" means the ballast in a tank which since oil was last carried therein, has been so cleaned that effluent there from, if it were discharged from a ship which is stationary, into clean calm water on a clear day would not produce visible traces of oil on the surface of the water or on adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines, except that, if the ballast is discharged through an oil discharge monitoring and control system approved by the Administration, evidence based on such a system to the effect that the oil content of the effluent did not exceed fifteen parts per million shall be determinative that the ballast was clean, notwithstanding the presence of visible traces;

"combination carrier" means a ship designed to carry either oil or solid cargoes in bulk;

"crude oil" means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and includes-

"crude oil tanker" means an oil tanker engaged in the trade of carrying crude oil;

"instantaneous rate of discharge of oil content" means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant;

"IOPP Certificate" means an International Oil Pollution Prevention Certificate issued under this Sub-Part or under MARPOL;

"new ship" means a ship-

- (a) for which the building contract is

placed after 31 December 1975;

- (b) in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction after 30 June 1976;
- (c) the delivery of which is on or before 31 December 1979; or
- (d) which has undergone a major conversion-
  - (i) for which the contract is placed after 31 December 1975,
  - (i) in the absence of a contract, the construction work of which is begun after 30 June 1976, or
  - (iii) which is completed after 31 December 1979.

"oil" means petroleum in any form including crude oil, fuel oil, sludge, oil residue and refined products (other than petrochemicals which are subject to Sub-Part 3) and without limiting the generality of the foregoing, includes the substances listed in the Fifth Schedule.

"oil fuel" means any oil used as fuel in connection with the propulsion and auxiliary machinery of the ship in which such oil is carried.

"oily mixture" means a mixture with any oil content;

"oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes –

- (a) a combination carrier;
- (b) any NLS tanker as defined in Sub-Part 3;
- (c) any gas carrier when carrying a cargo or part cargo of oil in bulk.

“existing ship” means a ship, which is not new ship;

"segregated ballast" means the ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious substances as variously defined in other Sub-Parts;

"slop tank" means a tank specifically designated for the collection of tank draining, tank washings and other oily mixtures.

“major conversions” means a conversion of an existing ship-

- (i) which substantially alters the dimensions or carrying capacity of the ship,
- (ii) which changes the type of its ship,
- (iii) the intent of which in the opinion of the Administration is substantially to prolong its life, or
- (iv) which otherwise so alters the ship that if it were a new ship it would be subject to the relevant provisions of this Part not applicable to it as existing ship.

“product carrier” means an oil tanker engaged in the trade of carrying oil other than crude oil;

“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the International Oil Pollution Prevention Certificate.

## **50. Application of Sub-Part**

(1) Unless expressly provided otherwise, the provisions of this Sub-Part shall apply to all Gambian ships.

(2) In ships other than oil tankers fitted with cargo spaces which are constructed and utilised to carry oil in bulk of an aggregate capacity of 200 cubic metres or more, sections 65 and 66, sections 68 to 72 inclusive, section 80 and regulations relating to the matters referred to in paragraphs (g), (s) and (o) of section 84, shall also apply to the construction and operation of those spaces.

(5) Where a cargo subject to Sub-Part 3 is carried in a cargo space of an oil tanker, the appropriate requirements of Sub-Part 3 shall also apply-

(a) the regulations made pursuant to section 84 shall not apply to oil tankers carrying asphalt; or

(b) other products subject to the provision of this Sub-Part which through their physical properties inhibit effective product or water separation and monitoring for which the control of discharge under section 65 shall be effected by the retention of residues on board the discharge of all contaminated washings into reception facilities.

(4) Any hydrofoil, air-cushion vehicle and other new type of vessel such as near-surface craft and submarine craft whose constructional features are such as to render the application of provisions of this Sub-Part and related regulations made pursuant to section 84 relating to construction and equipment unreasonable or impracticable may be exempted by the Administration from such provisions, provided that the construction and equipment of that ship provides equivalent protection against pollution by oil, having regard to the service for which it is intended.

(5) The particulars of the exemptions referred to in sub-section (4) shall be indicated in the IOPP Certificate;

(6) Where the Administration allows any exemption referred to in sub-section (4), he or she shall, as soon as possible, but not more than ninety days thereafter, communicate to the Organisation particulars of such exemption and the reasons thereof.

## **51. Equivalents**

(1) Subject to sub-section (2), the Administration may allow any fitting, material, appliance or apparatus as an alternative to that required by this Sub-Part including type approval of pollution prevention equipment equivalent to that specified in MARPOL resolution A.393(X), if such fitting, material, appliance or apparatus is at least as effective as that required by this Sub-Part.

(2) The Administration shall not allow substitution of operational methods to affect the control of discharge of oil as equivalent to those design and construction features which are provided for in this Sub-Part.

(3) Where the Administration allows an alternative equivalent referred to in sub-section (1), it shall communicate to the Organisation for circulation to countries where MARPOL is in force particulars thereof, for their information and appropriate action, if any.

(4) Where the Administration is informed of an alternative equivalent as referred to in this section, allowed and submitted by any state where MARPOL is in force, and the Administration has an objection, it shall communicate such objection to the Organisation and to other concerned countries where MARPOL is in force within one year after the Organisation circulates the alternative equivalency information as referred to in sub-section (3).

## **52. Initial, renewal and intermediate surveys**

(1) Every Gambian oil tanker of one hundred and fifty (150) gross tonnage and above, and every other Gambian ship of four hundred (400) gross tonnage and above shall be subject to the surveys



specified below-

- (a) an initial survey before the ship is put in service or before the IOPP Certificate required under section 60 is issued for the first time, which shall include a complete survey of its structure, equipment, systems, fittings, arrangements and material, and such survey shall ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Sub-Part.
- (b) a renewal survey at intervals of five years and such renewal survey shall ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with applicable requirements of this Sub-Part.
- (c) an intermediate survey within three months before or after the second anniversary date or within three months of before or after the third anniversary date of the IOPP Certificate. Such survey shall take the place of one of the annual survey specified in section 53 (1).

(2) The intermediate survey shall be such as to ensure that the equipment and associated pumps and piping systems, including oil discharge monitoring and control systems, crude oil washing systems, oily-water separating equipment and oil filtering systems, fully comply with the requirements of this Sub-Part and are in good working order. Such intermediate surveys shall be endorsed on the Certificate issued under sections 60 or 61 of this Act.

(3) The Administration shall establish appropriate measures for Gambian ships which are not subject to sub-section (1) in order to ensure that the appropriate provisions of this Sub-Part are complied with.

### **53. Annual surveys and additional survey**

(1) In addition to the surveys mentioned in section 52, an annual survey within three months before or after each anniversary date of the IOPP Certificate including a general inspection of the structure equipment, systems, fittings, arrangements and materials referred to in section 52 (1a) to ensure that they have been maintained in good condition in accordance with the provisions of this Act and they remain satisfactory for the service for which the ship is intended. Such annual surveys shall be endorsed on the IOPP certificate issued under section 60 or 61.

(2) An additional survey either general or partial shall be made after a repair resulting from an accident causes a defect, which substantially affects the integrity of the ship.

(3) The survey shall be such as to ensure that-

- (a) the necessary repairs or renewals have been effectively made;
- (b) the materials and workmanship of such repairs and renewals are in all respects satisfactory; and

the ship complies in all respects with the requirements of this Sub-Part.

### **54. Norminated Surveyors and recognised organisations**

(1) Subject to sub-section (2), surveys under sections 52 and 53 shall be carried out by officers of the Administration.

(2) The Administration may entrust the surveys either to surveyors nominated for the purpose or organisations recognised by it and such organisations shall comply with the guidelines adopted by the Organisation by resolution A.739(18) as may be amended by the Organisation and the specifications adopted by the Organisation by resolution

789(19) as may be amended by the Organisation.

(3) Nominated Surveyors or recognised organisations to whom surveys are entrusted shall as a minimum be empowered by the Administration to-

- (a) carry out repairs to a ship;
- (b) carry out surveys and inspections if requested by the appropriate authorities of a port state.

(3) The Administration shall notify the Organisation of the specific responsibilities and conditions of the authority delegated to nominated surveyors or recognised organisations for circulation to countries where MARPOL is in force for the information of their officers.

#### **55. Corrective action**

(1) When a nominated surveyor or recognised organisation determines that the condition of a ship or its equipment does not correspond substantially with the particulars in the IOPP Certificate or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, the surveyor or organisation shall immediately ensure that corrective action is taken and shall in due course notify the Administration.

(2) When the Administration decides that a ship is in a condition referred to in sub-section (1), it shall require that ship to take corrective action immediately.

#### **56. Withdrawal of IOPP certificate and detention**

Where corrective action as required by section 55 is not taken-

- (a) the IOPP Certificate of the ship shall be withdrawn and the Administration shall take such steps as will ensure that the ship shall not sail until it can proceed

to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment; and

- (b) if the ship is in the port of another state where MARPOL is in force, the appropriate authorities shall be notified immediately.

#### **57. Assistance to other states where MARPOL is in force**

(1) Where the Government of a state where MARPOL is in force or its nominated surveyor or recognised organisation has notified the Administration that a ship certified by that State is in a port or at offshore terminal in The Gambia and has failed to take corrective action following an inspection, the Administration shall give such Government, surveyor or organisation any necessary assistance.

(2) Where it appears that the ship, if permitted to sail would present an unreasonable threat of harm to the marine environment, the Administration shall take such steps as will ensure that the ship does not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment.

#### **58. Maintenance of conditions of ship**

(1) The condition of a ship in respect of which IOPP Certificate issued under this Act is in force including the equipment of such ship shall be maintained at all times after survey to comply in all respects with the provisions of MARPOL and regulations made under this Part

(2) After a survey of the ship under section 52 has been completed, no change shall be made to the structure, equipment, systems, fittings arrangements or materials covered by the survey without

the prior approval of the Administration, except the direct replacement of such equipment and fitting.

## **59. Report of accidents and defects**

(1) Where-

- (a) an accident occurs to a ship;
- (b) a defect is discovered in a ship which substantially affects the integrity of the ship or the efficiency or completeness of its equipment covered by this Sub-Part, the owner, or master shall as soon as practicable following the accident or discovery of defect, give written notice to the Administration, the recognised organisation or the nominated surveyor responsible for issuing the IOPP Certificate, who shall cause an investigation to be made to determine whether a survey required under section 52 would be necessary.

(2) If the ship is in a port of a state where MARPOL is in force, the master or owner shall report the accident or defect immediately to the appropriate authorities of the state and the nominated surveyor or recognised organisation shall ascertain that such report has been made.

(3) Where it is determined from an investigation made pursuant to subsection (1)(a) that a survey is necessary, it shall be carried out in accordance with this Sub-Part, and if the survey reveals that the ship is no longer in conformity with the requirements of this Sub-Part, or that it is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, the Administration shall require corrective action to be taken by the ship and, if necessary, may cause the ship to be detained.

## **60. IOPP certificate**

(1) An IOPP certificate shall be issued, after an initial or renewal survey in accordance with the provisions of section 52 and after the applicable requirements of the appropriate regulations referred to in section 84 have been complied with by any Gambian oil tanker of one hundred and fifty (150) gross tonnage and above and any other ship of four hundred (400) gross tonnage and above which are engaged in voyages to ports or offshore terminals under the jurisdiction of countries where MARPOL is in force.

(2) The IOPP certificate shall be issued or endorsed either by the Administration or by any person or organisation duly authorised by it, and in every case the Administration shall assume full responsibility for the certificate.

## **61. Issue or endorsement of IOPP certificate at the request of Government of a state where MARPOL is in force**

(1) The Administration may at the request of the Government of a state where MARPOL is in force cause a ship to be surveyed and if satisfied that the provisions of this Sub-Part have been complied with, issue or authorise the issue of an IOPP certificate to the ship, and where appropriate endorse or authorise the endorsement of that certificate on the ship in accordance with this Sub-Part.

(2) A copy of the certificate and a copy of the survey report shall be transmitted as soon as possible to the competent authority of the Government which made the request.

(3) An IOPP certificate so issued shall contain a statement to the effect that it has been issued at the request of the Government of a state where MARPOL is in force.

(4) An IOPP Certificate issued by another state where MARPOL is in force in respect of a Gambian ship at the request of the Administration, shall have

the same force and receive the same recognition in The Gambia as an IOPP certificate issued under this Sub-Part.

(5) An IOPP certificate shall not be issued to a ship which is not registered in a state where MARPOL is in force.

## **62. Form of IOPP certificate**

An IOPP certificate shall be in the form prescribed in the Sixth Schedule.

## **63. Duration and validity of IOPP certificate**

(1) Subject to this section, an IOPP certificate shall be in force for a period not exceeding five years but the certificate shall not remain in force after notice is given by the Administration to the owner, the master or agent of the ship in respect of which it has been issued that it has cancelled the Certificate.

(2) In the case of an oil tanker operating with dedicated clean ballast tanks for a limited period specified in the appropriate regulations referred to in section 84, the period of validity of the certificate shall not exceed such specified period.

(3) Notwithstanding subsection (1) when a renewal survey is completed within three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of the completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.

(4) When a renewal survey is completed after the expiry date of the existing certificate, the new certificate shall be valid from the date of the completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.

(5) When a renewal survey is completed more than three months before the expiry of the existing certificate, the new certificate shall be valid from

the date of completion of the renewal survey to a date not exceeding five years from the date of completion of renewal survey.

(6) Where a certificate is issued for a period less than five years, the Administration may extend the validity of the certificate beyond the expiry date to the maximum of five years, provided that intermediate surveys required under section 52 (1)(1) and annual surveys under section 53 (1) are carried out as appropriate.

(7) Where a renewal survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the person or organisation authorised by the Administration may endorse the existing certificate and such certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.

(8) Where a Gambian ship is not in a port in which it is to be surveyed on the date of expiry of the IOPP certificate issued to that ship under this Sub-Part, the Administration or any such person as it may authorise for the purpose, may extend the validity of that certificate in the first instance by a period not exceeding one month in its initial date of expiry up to a maximum of three months in the aggregate.

(9) An extension referred to in subsection (7) shall be granted only for the purpose of enabling the ship to complete its voyage to the port in which it to be surveyed and only in the case where it appears proper and reasonable to grant extension.

(10) A ship to which an extension is granted shall not on its arrival in the port in which it is to be surveyed be entitled by virtue of such extension to leave port without having a new certificate.

(11) When the renewal survey is completed, the new certificate shall be valid to a date not exceeding five years from the date of the expiry of the existing certificate before the extension was



granted.

(12) A certificate issued to a ship engaged on short voyage which has not been extended under the foregoing provisions of this section may be extended by the Administration for a period of up to one month from the expiry date stated on it.

(13) When a renewal survey is completed of a ship referred to in subsection (11), the certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

(14) In special circumstances which may be determined by the Administration-

- (a) a new certificate need not be dated from the date of expiry of the existing certificate as required by subsections (4), (8) and (12); and
- (b) the new certificate shall be valid to a date not exceeding five years from the date of completion of the renewal survey.

(15) If an annual or intermediate survey is completed before the period specified in sections 52 and 53 of this Act-

- (a) the anniversary date shown on the certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;
- (b) the subsequent annual or intermediate survey required by sections 52 and 53 of this Act shall be completed at intervals prescribed by these sections using the new anniversary date;
- (c) the expiry date may remain unchanged provided one or more annual or intermediate surveys, as appropriate are

carried out so that the maximum intervals between the surveys as set out in sections 52 and 53 are not exceeded.

- (16) An IOPP certificate shall cease to be valid-
- (a) if the surveys required under section 52 are not completed within the periods specified;
  - (b) if a certificate is not endorsed in accordance with section 53; or
  - (c) upon transfer of such ship to the flag of another state.

#### **64. Transfer of flag**

(1) Upon transfer of a Gambian ship to the flag of a state where MARPOL is in force, and that state makes a request within ninety days after the transfer has taken place, the Administration shall transmit as soon as possible to the Government of the state concerned, a copy of the IOPP certificate carried by the ship before the transfer and, if available, a copy of the ship's most recent survey report.

(2) Where a ship is transferred to The Gambian flag, a new IOPP certificate shall only be issued when the Administration is fully satisfied that the ship is in complete compliance with the requirements of section 58.

#### **65. Control discharge of oil**

(1) Subject to sub-section (2) and sections 68 and 75, a person shall not discharge into the sea, oil or oily mixtures from the cargo area of an oil tanker registered in The Gambia.

(2) Subject to subsection (3)-

- (a) discharges of oil and oily mixtures are permitted from an oil tanker registered in The Gambia provided all of the following conditions are satisfied; namely-

- (i) the tanker is not within a Special Area,
  - (ii) the tanker is more than fifty nautical miles from the nearest land,
  - (ii) the tanker is proceeding on a voyage,
  - (iv) the instantaneous rate of discharge of oil content does not exceed thirty litres per nautical mile,
  - (v) the total quantity of oil discharged into the sea does not exceed for existing tankers, 1/15,000 of the total quantity of the particular cargo of which the residue formed a part; and for new tankers, 1/30,000 of the total quantity of the particular cargo of which the residue formed a part,
  - (vi) the tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by the regulations made pursuant to section 84;
- (b) paragraph (a) applies to discharges of oil or oily mixtures from-
- (i) machinery space bilges of oil tankers where such oil or oily mixture is mixed with cargo oil residue, or when it is transferred to slop tanks, and
  - (ii) cargo pump-room bilges of oil tankers.

(3) Discharges of oil and oily mixtures are permitted from a Gambian ship of four hundred (400) gross tonnage and above, provided all the following conditions are satisfied-

- (a) the ship is not within a Special Area;

- (b) the ship is proceeding on voyage;
- (c) the oily mixture is processed through an oil filtering equipment as required by the regulations referred to in section 84;
- (d) the oil content of the effluent without dilution does not exceed fifteen parts per million; and
- (e) the oily mixture does not originate from cargo pump-room bilges or oil tankers;
- (f) the oily mixture in the case of oil tankers is not mixed with cargo residues.

#### **66. Ships less than 400 gross tonnage**

In the case of a ship of less than four hundred (400) gross tonnage in all areas except the Antarctic area, oil and all oily mixtures shall either be retained on board for subsequent discharge to reception facilities or discharged into the sea in accordance with the following conditions-

- (a) the ship is proceeding on voyage;
- (b) the ship has in operation equipment of a design approved by the Administration which ensures that the oil content of the effluent without dilution does not exceed fifteen parts per million;
- (c) the oily mixture does not originate from the pump-room bilges on oil tankers; and
- (d) the oily mixture, in the case of oil tankers, is not mixed with oil cargo residues.

## **67. Special Areas**

For the purposes of this Sub-Part, the Special Areas are-

- (a) the Mediterranean Sea area;
- (b) the Baltic Sea area;
- (c) the Black Sea area;
- (d) the Red Sea area;
- (e) the Gulfs area;
- (f) the Gulf of Aden area;
- (g) Antarctic area; and
- (h) the North-West European waters and Oman Areas of the Arabic Sea.

## **68. Control of discharge of oil in Special Areas**

(1) Subject to section 75, a person shall not discharge into the sea, oil or oily mixtures within a special area from the cargo area of any Gambian oil tanker.

(2) Any discharge into the sea of oil or oily mixtures from Gambian ships of four hundred (400) gross tonnage and above is prohibited in a special area except when all of the following conditions are satisfied-

- (a) the ship is proceeding on voyage;
- (b) the oily mixture is processed through an oil filtering equipment meeting the requirement of the regulations made pursuant to section 84;
- (c) the oil content of the effluent without dilution does not exceed fifteen parts per million;
- (d) the oily mixture does not originate from

cargo pump-room bilges on oil tankers;  
and

- (e) the oily mixture, in the case of tankers, is not mixed with cargo residues.

(3) Subject to section 75, a person shall not discharge into the sea, oil or oily mixtures from any ship registered in The Gambia within the Antarctic area.

### **69. Voyage partly through a Special Area**

When a ship registered in The Gambia is on a voyage only part of which is in a Special Area, she may discharge outside the special area in accordance with the provisions of section 65.

### **70. Special provision for Antarctic Area**

Every Gambian ship shall, before entering the Antarctic Area, be 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.

### **71. Discharges containing chemicals, etc. prohibited**

A discharge into the sea shall not contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Sub-Part.

### **72. Investigation**

Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, the Administration shall promptly carry out an investigation of the facts bearing on the issue of whether there has been a violation of section 65 or 66 which shall include, in

particular, an investigation of the wind and sea conditions, the track and speed of the ship, other possible sources of the visible traces in the vicinity, and any relevant oil discharge records.

### **73. Retention of oil residue on board**

The oil residues which cannot be discharged into the sea in accordance with sections 65, 66 and 68 shall be retained on board and discharged to reception facilities.

### **74. Tanks for oil residues sludge**

(1) Every Gambian ship of four hundred (400) gross tonnage and above shall be provided with a tank or tanks of adequate capacity, having regard to the type of machinery and length of voyage, to receive the oil residues (sludge) which cannot be dealt with otherwise in accordance with the requirements of this Sub-Part, such as those resulting from the purification of fuel and lubricating oils and oil leakages in the machinery spaces.

(2) In new Gambian ships, such tanks shall be designed and constructed so as to facilitate their cleaning and the discharge of residues to reception facilities.

(3) Existing Gambian ships shall comply with the requirements of sub-section (2) as far as is reasonable and practicable.

(4) Piping to and from sludge tanks shall have no direct connection overboard other than the standard discharge connection as provided for by regulations referred to in section 84.

### **75. Exceptions**

(1) Sections 65, 66 and 68 shall not apply to-

- (a) the discharge into the sea of oil or oily mixture necessary for the purpose of securing the safety of a Gambian ship or saving life at sea; or

- (b) the discharge into the sea of oil or oily mixture resulting from damage to a ship or its equipment provided that-
  - (i) all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge, and
  - (ii) the owner or the master did not act either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or
- (c) the discharge into the sea of substances containing oil, approved by the Administration and the Agency, when being used for the purpose of combating specific pollution incidents in order to minimise the damage from pollution.

(2) Where any such discharge as is referred to in subsection (1) is contemplated in waters within the jurisdiction of another State, the discharge shall be subject to the approval of the Government of such State.

## **76. Provision of reception facilities**

The Administration shall ensure that at oil loading terminals, repair ports, and in other ports in which ships have oily residues to discharge, facilities for the reception of such residues and oily mixtures as remain from oil tankers and other ships, adequate to meet the needs of the ships using them without causing undue delay to ships.

## **77. Location of reception facilities**

Reception facilities described in section 76 shall be provided by the Gambia Ports Authority in-

- (a) any port and terminal in which crude



oil is loaded into oil tankers where such tankers have immediately prior to arrival completed a ballast voyage of not more than seventy two hours or not more than one thousand two hundred (1,200) nautical miles;

- (b) any port and terminal in which oil other than crude oil in bulk is loaded at an average quantity of more than one thousand (1,000) tonnes per day;
- (c) any port having ship repair yard or tank cleaning facilities;
- (d) any port and terminal that handle ships provided with sludge tank(s) required by section 74(1);
- (e) any port in respect of oil bilge waters and other residues which cannot be discharged in accordance with sections 65 and 66;
- (f) any loading port for bulk cargoes in respect of oil residues from combination carriers which cannot be discharged in accordance with sections 65 and 66.

#### **78. Regulations in respect of capacities of reception facilities**

The Minister may make regulations regarding the capacities of reception facilities provided under section 77.

## **79. Notice of inadequate reception facilities**

The Administration shall notify the Organisation of all cases where reception facilities provided under this Sub-Part in the Gambia or in any other state where MARPOL is in force are alleged to be inadequate.

## **80. Oil record book**

(1) Every Gambian oil tanker of one hundred and fifty (150) gross tonnage and above shall be provided with an Oil Record Book, Part I of which shall contain entries on Machinery space operations and Part II of which shall contain entries on cargo and ballast operations.

(2) Every Gambian ship of four hundred (400) gross tonnage and above other than an oil tanker shall be provided with an Oil Record Book which shall contain entries on cargo and ballast operations as required in Part I of the Oil Record Book referred to in subsection (1).

(3) The Oil Record Book whether maintained as part of the ship's official log book or otherwise shall be in the form prescribed herein as the Seventh Schedule.

(4) The Oil Record Book shall be completed on each occasion, on a tank-to-tank basis if appropriate, whenever any of the following operations takes place in the ship-

- (a) for machinery space operations (all ships)-
  - (i) ballasting or cleaning of oil fuel tanks,
  - (ii) discharge of dirty ballast or cleaning water from tanks referred to in sub-paragraph (i),
  - (iii) collection and disposal of oily residues (sludge and other oil residues);

- (iv) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces;
- (v) bunkering of fuel or bulk lubricating oil

(b) for Cargo/ballast operations (oil tankers)-

- (i) loading of oil cargo,
- (ii) internal transfer of oil cargo during voyage,
- (iii) unloading of oil cargo,
- (iv) ballasting of cargo tanks and dedicated clean ballast tanks,
- (iv) cleaning of cargo tanks including crude oil washing,
- (v) discharge of ballast except from segregated ballast tanks,
- (vi) discharge of water from slop tanks,
- (vii) closing of all applicable valves or similar devices after slop tank discharge operations,
- (ix) closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations,
- (x) disposal of residues.

(5) In the event of such discharge of oil or oily mixture as is referred to in section 75 or in the event of accidental or other exceptional discharge of oil not excepted by that section, a statement

shall be made in the Oil Record Book of the circumstances of, and the reasons for, the discharge.

(6) Each operation described in sub-section (4) shall be fully recorded without delay in the Oil Record Book so that all entries in the book appropriate to that operation are completed.

(7) Each entry shall be signed by the officer or officers in charge of the operations concerned and each completed page shall be signed by the master of the ship.

(8) An entry in the Oil Record Book of Gambian ships shall be in the English language and for other ships holding an IOPPC such entry, shall be made in either English or French.

(9) Entries made in English in the Oil Record Book of Gambian ships shall prevail in the event of any dispute or discrepancy.

(10) The Oil Record Book shall be –

- (a) kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship; and
- (b) preserved for a period of three years after the last entry has been made.

(11) The Administration or a person authorised by it may inspect the Oil Record Book on board-

- (a) any Gambian ship to which this Sub-Part applies; and
- (b) any other ship to which this Sub-Part applies while the ship is in the Port of The Gambia or offshore terminal.

(12) The competent authority of the Government of a state where MARPOL is in force may inspect the

Oil Record Book on board any Gambian ship to which this Part applies while the ship is in a port or offshore terminal of that state.

(13) The Administration or the competent authority may make a copy of any entry in the Oil Record Book and may require the master of the ship to certify that the copy is a true copy of such entry.

(14) Any copy so made which has been certified by the master of the ship as a true copy of an entry in the ship's Oil Record Book shall be admissible in any judicial proceedings in The Gambia as evidence of the facts stated in the entry.

(15) The inspection of an Oil Record Book and the taking of a certified copy as provided for in this subsection shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

(16) Gambian oil tankers of less than one hundred and fifty (150) gross tonnage shall be provided with an appropriate Oil Record Book as prescribed by the Administration.

### **81. Special requirements for drilling rigs and other platform**

(1) This section applies to fixed or floating platforms including drilling rigs, floating production storage and off loading facilities (FPSOs) used for offshore production and storage of oil, and floating storage units (FSUs) used for the offshore storage of produced oil.

(2) A fixed or floating platform when engaged in the exploration, exploitation and associated off-shore processing of sea-bed mineral resources and other platforms shall, in respect of the discharge of platform drainage, comply with the requirements of this Sub-Part applicable to ships of four hundred (400) gross tonnage and above, except that-

- (a) they shall be equipped, as far as practicable, with the installations required under section 74 and the regulations

referred to in section 84;

- (b) they shall keep a record of all operations involving oil or oily mixture discharges, in a form approved by the Administration; and
- (c) in any area and subject to section 75, the discharge into the sea of oil or oily mixture shall be prohibited except when the oil content of the discharge without dilution does not exceed fifteen parts per million.

(3) In verifying compliance with this Sub-Part in relation to platforms configured as FPSOs or FSOs in addition to the requirements of sub-section (2), the Administration shall take account of the Guide-lines developed by the Organisation.

## **82. Shipboard oil pollution emergency plan**

A Gambian oil tanker of one hundred and fifty (150) gross tonnage and above and every Gambian ship other than an oil tanker of four hundred (400) gross tonnage and above shall carry on board a shipboard oil pollution emergency plan as prescribed by regulations made under section 84 and approved by the Administration.

## **83. Offences**

(1) Where any ship, or the master or owner thereof, fails to comply with any requirement of this Sub-Part or the Schedules related thereto or any Regulations made pursuant to section 84, the owner and the master of the ship commits an offence and is liable on conviction to a fine not exceeding four million Dalasis.

(2) It shall be a defence for a person charged under subsection (1) to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed, or would have been committed save for the

operation of subsection (2), due to the act or default of some other person, that other person is commits the offence, and he or she may be charged with and convicted of the offence by virtue of this sub-section whether or not proceedings are taken against the first mentioned per-son.

#### **84. Regulations**

The Minister shall make regulations for *inter alia*, the following-

- (a) surveying of Gambian ships not subject to surveys under sections 52 and 53 and the issue of Gambian Oil Pollution Prevention Certificate;
- (b) designation of types of oil tankers;
- (c) segregated ballast tanks;
- (d) crude oil washing operations;
- (e) standard discharge connection;
- (f) oil filtering equipment;
- (g) segregation of oil and water ballast and carriage of oil in forepeak tanks;
- (h) Oil Record Book;
- (i) double hull and double bottom requirements;
- (j) prevention of oil pollution from oil tankers carrying heavy grade oil as cargo;
- (k) pump-room bottom protection;
- (l) accidental oil outflow performance;
- (m) damage assumptions;
- (n) hypothetical outflow of oil;
- (o) limitations of size and arrangement of cargo

- tanks;
- (p) intact stability;
- (q) sub-part and damage stability;
- (r) slop tanks;
- (s) pumping, piping and discharge arrangement;
- (t) oil discharge monitoring and control system;
- (u) oil/water interface detector; crude oil washing requirements; and
- (v) Shipboard oil pollution emergency plan.

### **Sub-Part 3 – Prevention of pollution by noxious liquid substances in bulk**

#### **85. Interpretation**

For the purposes of this Sub-Part -

“anniversary date” means the day and the month of each year which shall correspond to the date of expiry of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;

“associated piping” means the pipeline from the section point in a cargo tank to the shore connection used for unloading the cargo and includes all ship’s piping, pumps and filters which are in open connection with the cargo unloading line;

"Bulk Chemical Code" means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organisation by resolution MEPC. 20 (22)), as may be amended by the Organisation, provided that such amendments are adopted and brought into force in accordance with the amended procedures in MARPOL applicable to an appendix to an Annex



("BHC Code");

"chemical tanker" means a ship constructed or adapted primarily for the carriage in bulk any liquid product listed in Chapter 17 of the IBC Code;

"clean ballast" means ballast water in a tank which, since it was last used to carry cargo containing a substance in Category X, Y, Z has been thoroughly cleaned and the residues resulting there from have been discharged and the tank emptied in accordance with the appropriate requirements of this Sub-Part;

"depth of water" means the chartered depth;

"en route" means that the ship is under way at sea on a course or courses including deviation from the shortest direct route which as far as practicable for navigation purposes will cause any discharge to be spread over as great an area of the sea as is reasonable and practicable;

"International Bulk Chemical Code " means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organisation by resolution MEPC 19 (22) as may be amended and adopted by the Organisation and brought into force in accordance with the amendment procedures in Marpol applicable to an appendix to an Annex.("IBC Code");

"International Code for the Construction and Equipment of ships carrying Liquefied Gases in Bulk" means the International Code for Construction and Equipment of ships Carrying Liquefied Gases in Bulk, 1983 as amended.("IGC Code");

"International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk" means the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued under section 118;

“high viscosity substance” means a noxious liquid substance in category X or Y with a viscosity equal to or greater than 50 m Pa’s at the unloading temperature;

"liquid substances" means those substances having a vapour pressure not exceeding 0.28 at a temperature of 37.8 degrees Celsius;

“low viscosity” means a noxious liquid substance which is not a high viscosity substance;

“manual” means the Procedures and Arrangements Manual in accordance with the model given in Schedule..;

“NLS tanker” means a ship constructed or adapted to carry a cargo of noxious liquid sub-stances in bulk;

“non solidifying substance” means a noxious liquid substance which is not a solidifying sub-stance;

"noxious liquid substance" means any substance referred to in the Eighth Schedule or provisionally assessed under section 92 as falling into Category X, Y, Z,;

“ppm” means ml/m;

“residue” means any noxious liquid substance which remains for disposal;

“residue/water mixture” means residue to which water has been added for any purpose (e.g. tank cleaning, ballasting, bilge slops);

"segregated ballast" means ballast water introduced into a tank permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious liquid sub-stances as variously defined in other Sub-Parts and which is completely separated from the cargo and oil fuel system;

“ship constructed” means, subject to section 87, a ship the keel of which is laid or which is at a similar

stage of construction;

“similar stage of construction” means the stage at which-

- (a) construction identifiable with a specific ship begins; and
- (b) assembly of that ship has commenced comprising at least fifty tonnes or one per cent (1%) of the estimated mass of all structural material, whichever is less applicable; and

“solidifying substance” means a noxious liquid substance which-

- (a) in the case of a substance with a melting point of less than 15°C is at a temperature of less than 5°C above its melting point at the time of unloading; or
- (b) in the case of a substance with a melting point of equal to or greater than 15°C is at a temperature of less than 10°C above the melting point.

### **86. Application of Sub-Part 3**

(1) Unless expressly provided otherwise, this Sub-Part shall apply to all Gambian ships certified to carry noxious liquid substances in bulk.

(2) Where a cargo subject to Sub-Part 2, is carried in a cargo space of a NLS tanker, the appropriate requirements of Sub-Part 2 shall also apply.

### **87. Conversion of a ship to a chemical tanker**

(1) Subject to sub-section (2), a ship converted into a chemical tanker, irrespective of the date of construction, shall be treated as a chemical tanker constructed on the date on which such conversion commenced.

(2) For the purposes of this section-

- (a) an oil tanker or a chemical tanker previously not certified to carry safety hazard chemicals but which changes to a service of carrying these cargoes shall be considered as having under-gone a conversion;
- (b) safety hazard cargoes are those identified in Sub-Part 6 of the Bulk Chemical Code or Sub-Part 17 of the International Bulk Chemical Code.

(3) Sub-section (1) shall not apply to the modification of a ship which is-

- (a) constructed before 1st July 1986;
- (b) certified under the Bulk Chemical Code to carry only those products identified by the Bulk Chemical Code as sub-stances with pollution hazards only.

(4) Sub-section (3), shall apply only to modifications made on oil tankers and chemical tankers and the expression "modification" referred thereto shall generally be those changes necessary to comply with this Part and include the fitting of improved stripping systems and under-water discharge arrangements but does not include major structural changes such as those which might be necessary to comply with ship type requirements.

### **88. Modification or delay of application of amendments**

(1) Where an amendment to this Sub-Part and the International Bulk Chemical Code and Bulk Chemical Code involves changes to the structure or equipment and fittings due to the upgrading of the requirements for the carriage of certain substances-

- (a) the Administration may modify or delay for a specified period, the application of such an amendment to ships constructed before the date of entry into force of that amendment,

if the immediate application of such an amendment is considered unreasonable or impracticable;

- (b) the modification or delay of application of an amendment referred to in paragraph (a) shall be determined with respect to each substance.

(2) Where the Administration allows a modification or delay of application of an amendment as referred to in this section, it shall submit to the Organisation a report giving details of the ship or ships concerned, the cargo carried, the trade in which each ship is engaged and the justification for the modification or delay of application of the amendment, for circulation to other countries where MARPOL is in force for their information and appropriate action, if any.

(3) Such a modification or delay of application shall be reflected in the Certificate issued under this Sub-Part.

(4) Notwithstanding the above, the Administration may exempt ships from the carriage requirements of section 124 for ships certified to carry individually identified vegetable oils identified by the relevant footnote of chapter 17 of the IBC Code, provided the ship complies with the following conditions-

- (a) subject to this section, the NLS tanker shall meet all the requirements for ship type 3 as identified in the IBC Code except for cargo tank location;
- (b) under this section, cargo tanks shall be located at the following distances in board;
- (c) the entire cargo tank length shall be protected by ballast tanks or spaces other than tanks that carry oil as follows-
- (d) wing tanks or spaces shall be arranged in such a way that cargo tanks are located in board of the moulded line of the side

shell plating nowhere less than 760mm,

- (ii) double bottom tanks or spaces shall be arranged in such a way that the distance between the bottom of the cargo tanks and the moulded line of the bottom shell plating measured at right angles to the bottom shell plating is not less than  $B/15$  (m) or 210m at the centre line, whichever is the lesser,
- (iii) the minimum shall be 1.0 m, the relevant certificate shall indicate the exception granted.

(5) Subject to subsection (3), the provisions of regulations made pursuant to section 127 shall not apply to a ship constructed before 1st July 1986 which is engaged in restricted voyages as determined by Administration between-

- (a) a port or terminal within The Gambia; or
- (b) a port or terminal in countries where MARPOL is in force.

(6) The provisions of subsection (2) shall apply to a ship constructed before 1st July 1986 if-

- (a) each time a tank containing sub-stances referred to in section 90(1) or mixtures thereof is to be washed or ballasted the tank is washed in accordance with the pre-wash procedure approved by the Administration in compliance with schedule thirteen "C" and the tank washings are discharged to a reception facility 1;
- (b) any subsequent washing or ballast water is discharged to a reception facility or sea in accordance with other provisions of this Sub-Part;
- (c) the adequacy of the reception facilities at

the ports or terminals referred to above for the purpose of this sub-section is approved by the Administration;

- (d) with regard to ships engaged on voyages to ports or terminals where MARPOL is in force, the competent Authority shall communicate to the Organisation the particulars of exemption granted to such ships for their information and appropriate action, if any;
- (e) the certificate required under this Sub-Part shall be endorsed to the effect that the ship is solely engaged on such restricted voyages.

(7) A ship whose constructional and operational features are such that ballasting of cargo tank and cargo washing is only required for repair or dry docking, the Administration may allow exemption from the provisions of the regulations made pursuant to section 124 provided the following conditions are complied with-

- (a) the design, construction and equipment of the ship are approved by the Administration having regard to the service for which it is intended;
- (b) any effluent from tank washings which may be carried out before a repair or dry docking is discharged to a reception facility, the adequacy of which is ascertained by the Administration;
- (c) the certificate required under this Sub-Part indicates-
  - (i) that each cargo tank is certified for the carriage of a restricted number of substances which are compatible and can be carried alternatively in the same tank without intermediate cleaning, and

- (ii) the particulars of the exemption;
- (d) the ship carries a Manual approved by the Administration; and
- (e) in case of ships engaged in voyages to ports or terminals located in countries where MARPOL is in force, the competent authority shall communicate to the Organisation particulars of any exemption granted for circulation to such countries for their information and appropriate action, if any.

### **89. Equivalents**

(1) The Administration may allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by this Sub-Part if such fitting, material, appliance or apparatus is at least as effective as that required by this Sub-Part.

(2) The Administration shall not allow substitution of operational methods to affect the control of discharge of noxious liquid substances as equivalent to those design and construction features which are provided for in this Sub-Part.

(3) Where the Administration allows a fitting material or apparatus in accordance with sub-section (1) it shall communicate same to the Organisation for circulation to countries where the MARPOL is in force for their information and appropriate action, if any.

(4) With respect to liquefied gas carriers carrying noxious liquid substances listed in the Gas Carrier Code, equivalency may be permitted under this section on construction and equipment requirements contained in this Sub-Part and in regulations made under section 127 (b), when a gas carrier –

- (a) holds a certificate of fitness in accordance with the appropriate provisions of the International Code for the Con-



struction and Equipment of Ships Carrying liquefied Gases in Bulk, 1983 as amended-

- (b) holds an International Pollution Prevention certificate for the carriage of Noxious Liquid Substances in Bulk in which it is certified that the gas carrier may only carry those noxious liquid substances identified and listed in the appropriate Gas Carrier Code;
- (c) is provided with segregated ballast arrangements;
- (d) is provided with pumping and piping arrangements which, to the satisfaction of the Administration ensure that the quantity of cargo residue remaining in the tank and its associated piping after unloading does not exceed the applicable quantity of residue required by regulations made under section 127; and
- (e) is provided with a Manual, approved by the Administration ensuring that no operational mixing of cargo residues and water shall occur and that no cargo residues shall remain in the tank after applying ventilation procedures pre-scribed in the Manual.

#### **90. Categorisation and listing of noxious liquid substances**

(1) For the purposes of this Sub-Part, noxious liquid substances shall be categorised as follows-

- (a) category X- Noxious liquid substances which if discharged into the sea from tank cleaning or deballasting operations are deemed to present a major hazard to either marine resources or human health and, therefore justify the prohibition of the discharge into the marine environment;

- (b) category Y- Noxious liquid substances which, if discharged into the sea from tank cleaning or deballasting operations, are deemed to present a hazard to either marine resources or human health or cause harm to amenities or other legitimate uses of the sea and therefore justify a limitation on the quality and quantity of the discharge into marine environment;
- (c) category Z- Noxious liquid substances which, if discharged into the sea from tank cleaning or deballasting operations, are deemed to present a minor hazard to either marine resources or human health and therefore justify less stringent restrictions on the quality and quantity of the discharge into the marine environment.

(2) For the categorisation of noxious liquid substances, reference shall be made to –

- (a) guidelines in the Ninth Schedule; and
- (b) noxious liquid substances carried in bulk which are subject to this Sub-Part and presently categorised as Category X, Y Z as set out in the Eighth Schedule.

## **92. Other liquids**

(1) Where it is proposed to carry a liquid substance in bulk which has not been categorised under section 90, the Administration shall in co-operation with Government of other states where MARPOL is in force involved in such proposed operation establish and agree on the provisional assessment for the proposed operation on the basis of the Guidelines referred to in Section 90(2).

(2) Until full agreement, as referred to in subsection (1), is reached between the Administration and the Governments concerned, the substance shall be not

be carried.

(3) As soon as possible, but not later than thirty days after the first carriage of the substance, the Administration shall notify the Organisation and provide details of the substance and the provisional assessment for annual circulation to all countries where MARPOL is in force for their information and consideration. (4)

(4) The Organisation shall maintain a register of all such substances and their provisional assessment until such time as the substances are formally included.

### **93. Clean or segregated ballast**

The discharge into the sea of clean or segregated ballast shall not be subject to any requirements under this Sub-Part.

### **94. Procedures and arrangement manual**

(1) Every Gambian ship certified to carry substances of category X, Y, Z shall have on board a Manual approved by the Administration.

(2) Such Manual shall be in the standard format set out in Schedule Thirteen "A"

(3) The purpose of the Manual is to identify for the ship's officers the physical arrangements and all operational procedures with respect to cargo handling, trade cleaning, slop handling and cargo tank ballasting and deballasting which must be followed in order to comply with the requirements of this Sub-Part.

### **95. Discharge into the sea of residue assigned to category X, Y or Z**

(1) Subject to sections 100 and 105, the discharge into the sea of residues of substances as provided in section 90 or of those provisionally assessed as such under section 92, or ballast water, tank washings, or other residues or mixtures containing such substances shall be prohibited except when the

following conditions are satisfied -

- (a) before a pre-wash or discharge procedure is carried out the relevant tank shall be emptied in accordance with the procedure set out in the Schedule Thirteen "C";
- (b) the carriage of substances which have not been categorised, provisionally assessed or evaluated under section 92(1) or of ballast water, tank washings or other mixtures containing such residues shall be prohibited along with any consequential discharge of such substances into the sea.

#### **96. Discharge standard**

(1) Subject to sections 100 and 105, the discharge into the sea of residues of substances under section 90 or section 92 (1), or ballast water, tank washings, or other mixtures containing such substances shall be allowed if the following conditions are satisfied –

- (a) the ship is proceeding en route at a speed of at least seven (7) knots in the case of self-propelled ships or at least four (4) knots in the case of ships which are not self-propelled;
- (b) the discharge is made below the water-line through the underwater discharge outlet(s) not exceeding the maximum rate for which the under-water discharge outlet(s) is (are) designed; and
- (c) the discharge is made at a distance of not less than twelve (12) nautical miles from the nearest land in a depth of water of not less than twenty five metres.

(2) For a ship constructed before 1st January 2007, the discharge into the sea of residues of substances in category Z or those provisionally assessed under Section 92(1) or ballast water, tank washings or other mixtures containing such substances below the waterline shall not be mandatory.

(3) The Administration may waive the requirements of section (1)(c) for substances in Category Z with regard to the distance of not less than twelve (12) nautical miles from the nearest land for Gambian ships operating within the waters of The Gambia.

(4) The Administration may waive the requirements of section (1)(c) for substances in Category Z with regard to the distance of not less than twelve (12) nautical miles from the nearest land for Gambian ships operating within the waters of The Gambia.

(5) In addition to the above, the Administration may waive the same requirements with regard to the discharge distance of not less than twelve (12) nautical miles from the nearest land for a Gambian ship when engaged in voyages within the waters of a coastal state.

(6) Such waiver shall only be granted following an agreement in writing between the two coastal states provided no third state is involved.

(7) The contents of such agreement referred to above shall be communicated to the Organisation within thirty days for circulation to countries where MARPOL is in force for their information and appropriate action, if any.

#### **97. Ventilation of cargo residue**

(1) A ventilation procedure approved by the Administration may be used to remove cargo residues from a tank.

(2) Such a procedure shall be in accordance with Schedule Thirteen "D".

(3) Any water subsequently introduced into the tank after the cargo residues have been removed in accordance with subsection (1) shall be regarded as clean and shall not be subject to discharge requirements of this Sub-Part.

## **98. Exemption for a pre-wash**

At the request of a ship's master, an exemption for a pre-wash may be granted by the Administration if the cargo is unloaded in The Gambia where it is satisfied that -

- (a) the unloaded tank is to be reloaded with the same substance or another substance compatible with the previous one and that the tank shall not be washed as ballasted prior to loading;
- (b) the unloaded tank is neither washed or ballasted at sea;
- (c) the pre-wash is in accordance with Section 95 and it shall take place in another port provided that it has been confirmed in writing that a reception facility at that port is available and is adequate for such a purpose; or
- (d) the cargo residue shall be removed in accordance with section 97(2).

## **99. Use of cleaning agents or additives**

(1) Whenever a washing medium other than water (such as mineral oil or chlorinated solvent), is used to wash a tank, its discharge shall be governed by the provisions of Sub-Part 2 or 3 as if the mineral oil or the chlorinated solvent had been carried as cargo.

(2) The procedure for tank washing when such mineral oil or chlorinated solvent is used shall be set out in the Manual referred to in Schedule Thirteen "A".

(3) Whenever small amounts of additives (deter-gent products) are added to water in order to facilitate tank washing, no additives containing pollution category X components shall be used except those components that are readily biodegradable and present in a total concentration of less than 100% of the cleaning additive.

(4) No restrictions additional to those applicable to the tank due to the previous cargo shall apply.

#### **100. Discharge of residues of category X**

(1) Subject to section 105, when residues of Category X substances are discharged, the following shall apply-

- (a) before the ship leaves the port where the substance has been unloaded in The Gambia, a tank from which such a substance has been unloaded shall be pre-washed;
- (b) any residue left in the tank after it has been pre-washed shall be discharged to a reception facility until such time that the concentration of the substance in the effluent to such facility as indicated by analyses of samples of the effluent taken by the surveyor is at or below 0.1% by weight;
- (c) after the requisite concentration level has been achieved, any remaining tank washings shall continue to be discharged to the reception facility until the tank is empty;
- (d) an entry shall be made of these operations in the Cargo Record Book and such an entry shall be endorsed by the surveyor referred to in section 109.

(2) Any water introduced into the empty tank thereafter may be discharged into the sea in accordance with the provisions of section 96(1).

(3) Whenever the Administration is satisfied, with regard to a cargo unloaded in The Gambia, that it is impracticable to measure the concentration of the substance in the effluent without causing undue delay to the ship, it may accept an alternative procedure as equivalent to the required concentration in subsection (1), provided that-

- (a) the tank is pre-washed in accordance with a procedure approved by the Administra-

tion in compliance with Schedule Thirteen "C"; and

- (b) an appropriate entry is made in the Cargo Record Book and endorsed by the surveyor referred to in section 109.

#### **101. Discharge of residue of category Y and Z**

(1) Subject to section 105, with regard to the discharge of residues of substances in category Y or Z, the discharge standards laid down in section 96(1) shall apply.

(2) Whenever the unloading of a substance of Category Y or Z is not carried out in accordance with the Manual referred to in section 94, a pre-wash shall be carried out before the ship leaves the port where it was unloaded unless alternative measures are taken to the satisfaction of the surveyor referred to in section 109 to remove the cargo residues from the ship to quantities specified in this Sub-Part.

(3) Any residue left in tank after it had been pre-washed shall be discharged to a reception facility at the port where the cargo was unloaded or another port with a suitable reception facility provided there is a confirmation in writing that a reception facility at that port is available and is adequate for such a purpose.

(4) For high viscosity or solidifying substances in category Y, the following provisions shall apply-

- (a) a pre-wash procedure as specified in Schedule Thirteen "C" shall be applied by the master of the ship;
- (b) any residue or water mixture generated during the pre-wash shall be discharged to a reception facility until the tank is empty; and
- (c) any water introduced into the tank after the pre-wash may be discharged into the sea in accordance with section 96(1).



## **102. Special provision for Antarctic Area**

(1) Subject to sections 105, any discharge into the sea of noxious substances or mixtures containing such substances shall be prohibited in the Antarctic area.

(2) For the purposes of this section, Antarctic Area means the sea area south of latitude 60°S.

## **103. Operation requirements for ballasting and deballasting**

(1) After unloading in a port or terminal in The Gambia, and if required, after a pre-wash, a cargo tank may be ballasted.

(2) The procedure for the discharge of such ballast is set out in section 96.

(3) Any ballast introduced into a cargo tank which has been washed to such an extent that the ballast contains less than 1 ppm of the substance previously carried may be discharged into the sea without regard to the discharge rate, ship's speed and discharge outlet location provided that-

- (a) the ship is not less than twelve (12) nautical miles from the nearest land and in water that is not less than twenty five metres deep;
- (b) the required degree of cleanliness has been achieved when a pre-wash specified in Schedule Thirteen "C" has been carried out and the tank has been subsequently washed with a complete cycle of the cleaning machine in respect of a ship built before 1st July 1994 or with a water quantity not less than that calculated with  $k = 1.0$ ;
- (c) any water subsequently introduced into the tank may be discharged into the sea in accordance with the dis-

charge standard set out in section 95 (3).

(4) This section is subject to section 105.

#### **104. Pumping, piping and unloading arrangements**

Every Gambian ship to which this Sub-Part applies shall comply with the pumping, piping and unloading arrangements prescribed in the regulations referred to in section 127.

#### **105. Exceptions**

(1) Sections 95 to 96, 100, 102 shall not apply to-

- (a) the discharge into the sea of noxious liquid substances or mixtures containing such substances necessary for the purpose of securing the safety of a ship or saving life at sea; or
- (b) the discharge into the sea of noxious liquid substances or mixtures containing such substances resulting from damage to a ship or its equipment-
  - (i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimising the discharge,
  - (ii) except if the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; and
- (c) the discharge into the sea of noxious liquid substances or mixtures containing such substances, approved by the Administration, when being used for the purpose of combating

specific pollution incidents in order to minimise the damage from pollution;

(2) Where any such discharge as is referred to in subsection (1) is contemplated in waters within the jurisdiction of another state, the discharge shall be subject to the approval of the Government of such state.

#### **106. Reception facilities for noxious liquid substances**

(1) The Gambia Ports Authority in collaboration with the Administration shall provide at ports and terminals or repair ports of The Gambia, facilities for reception of such residues and mixtures containing noxious liquid substances as would remain for disposal from ships carrying them as a consequence of application of this Sub-Part.

(2) The reception facilities referred to in subsection (1) shall be –

- (a) adequate to meet the needs of ships using the ports and terminals without causing them undue delay; and
- (b) located at cargo loading and unloading ports and terminals, and ship repair ports undertaking repairs to chemical tankers.

#### **107. Arrangements at cargo unloading terminal**

Persons in charge of ports and terminals shall ensure that-

- (a) arrangements in accordance with the regulations referred to in section 127 are provided in cargo unloading terminals to facilitate stripping of cargo tanks of ships unloading noxious liquid substances at such terminals; and
- (b) cargo hoses and piping systems of such terminals, containing noxious liquid substances received from ships unloading

these substances at such terminals, are not drained back to the ship.

### **108. Notification to organisation regarding reception facilities**

The Administration shall notify the Organisation of-

- (a) the location, type and capacity of every reception facility in The Gambia provided by the Gambia Ports Authority under this Sub-Part; and
- (b) all cases where reception facilities provided for under this Sub-Part in The Gambia or in any other state where MARPOL is in force are alleged to be inadequate.

### **109. Measures of control**

(1) The Minister may, on the recommendation of the Administration by notice published in the Gazette appoint or authorise surveyors for executing measures of control with respect to noxious liquid substances in accordance with the applicable regulations referred to in section 127.

(2) Whenever a surveyor appointed or authorised by the Minister has verified that an operation has been carried out in accordance with the requirements of the Manual or has been granted an exemption for a pre-wash, then that surveyor shall make appropriate entry in the Cargo Record Book.

(3) The master of a ship certified to carry noxious liquid substances in bulk shall ensure that the discharge provisions of this Sub-Part and this section are complied with and that the Cargo Record Book is completed in accordance with section 110 whenever operations referred to in that section take place.

(4) A tank which has carried a Category X substance shall be pre-washed in accordance with section 100 and an appropriate entry of this operation shall be made in the Cargo Record Book and endorsed by the

surveyor referred to in subsection (1).

(5) Whenever the Administration is satisfied that it is impracticable after the substance has been unloaded to measure the concentration of such substance in the effluent without causing undue delay to the ship, it may accept the alternative procedure referred to in section 99 subsection (3) provided that the surveyor referred to in subsection (1) certifies in the Cargo Record Book that-

- (a) the tank, its pump and piping system have been emptied;
- (b) the pre-wash has been carried out in accordance with the provisions of Schedule Thirteen "C";
- (c) the tank washings resulting from such pre-wash have been discharged to a reception facility and the tank is empty.

(6) At the request of the ship's master, where the cargo is unloaded in The Gambia, the Administration may exempt the ship from the requirements for pre-wash referred to in appropriate subsections of section 96 when one of the conditions of section 98 is met.

(7) The exemption referred in subsection (6) may only be granted by the Administration to a ship engaged in a voyage to a port or terminal where the MARPOL is in force and when such an exemption has been granted, an appropriate entry made in the Cargo Record Book shall be endorsed by the surveyor referred to in subsection (1).

(8) Whenever an unloading is not carried out in accordance with the pumping conditions for the tank approved by the Administration, and based on Schedule Thirteen "C", an alternative measure may be adopted to the satisfaction of the surveyor referred to in subsection (1) to remove the cargo residues from the ship to quantities specified in the regulations made under section 127, as applicable.

(9) An appropriate entry shall be made in the Cargo Record Book.

### **110. Cargo record book**

(1) Every ship to which this Sub-Part applies shall be provided with a Cargo Record Book whether as part of the ship's official log-book or otherwise, in the form specified in the Eleventh Schedule.

(2) The Cargo Record Book shall be completed, on a tank-to-tank basis, whenever any of the following operations with respect to a noxious liquid substance takes place in the ship-

- (a) loading of cargo;
- (b) internal transfer of cargo;
- (c) unloading of cargo;
- (d) mandatory pre-wash in accordance with the ship's Procedures and Arrangements Manual;
- (e) cleaning of cargo tanks except mandatory pre-wash (other pre-wash operations, final wash, ventilation, etc.);
- (f) discharge into the sea of tank washing;
- (g) ballasting of cargo tanks;
- (h) discharge of ballast water from cargo tanks;
- (i) accidental or other exceptional discharge;
- (s) additional operational procedures and remarks.

(3) In the event of any discharge of the kind referred to in section 105 of any noxious liquid substance or mixture containing such substance, whether intentional or accidental, an entry shall be made in the

Cargo Record Book stating the circumstances of, and the reason for, the discharge.

(4) When a surveyor appointed or authorised by the Administration to supervise any operations under this Sub-Part has inspected a ship, he or she shall make an appropriate entry in the Cargo Record Book.

(5) Each operation referred to in subsections (2) and (3) shall -

(a) be fully recorded without delay in the Cargo Record Book so that all the entries in the book appropriate to that operation are completed;

(b) have each entry signed by the officer or officers in charge of the operation concerned and each page shall be signed by the master of the ship;

(c) have any entry in the Cargo Record Book of Gambian ships made in English and for other ships holding an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in English or French;

(d) have an entry made in English prevail in the event of a dispute or discrepancy.

(6) The Cargo Record Book shall-

(a) be kept in such a place as to be readily available for inspection and except in the case of unmanned ships under tow, shall be kept on board the ship; and

(b) be retained for a period of three years after the last entry has been made.

(7) The Administration may authorise the inspection of the Cargo Record Book on board-

(a) any Gambian ship to which this Sub-Part applies; and

(b) any other ship to which this Sub-Part applies while the ship is in a Gambian port or offshore terminal.

(8) The competent authority of the Government of any state where MARPOL is in force may inspect the Cargo Record Book on board any Gambian ship to which this Sub-Part applies while the ship is in a port or offshore terminal of that state.

(9) The Administration or such person authorised by it, or the competent authority may make a copy of any entry in the Cargo Record Book and may require the master of the ship to certify that the copy is a true copy of such entry.

(10) Any copy so made which has been certified by the master of the ship as a true copy of an entry in the ship's Cargo Record Book shall be admissible in any judicial proceedings in The Gambia as evidence of the facts stated in the entry.

(11) The inspection of a Cargo Record Book and the taking of a certified copy as provided for in this subsection shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

## **111. Surveys**

A Gambian ship to which this Sub-Part applies shall be subject to the surveys specified below-

(a) an initial survey before the ship is put in service or before the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk required under section 118 is issued for the first time, which shall include a complete survey of its structure, equipment, systems, fittings, arrangements and material, and such survey shall ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this



Sub-Part.

- (b) a renewal survey at intervals of five years. The renewal survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Sub-Part.
- (c) an intermediate survey within three months before or after the second anniversary date or within three months before or after the third anniversary date of the Certificate which shall take the place of one of the annual surveys specified in paragraph (11)(d) of this section.
- (d) the intermediate survey shall be such as to ensure that the equipment and associated pump and piping systems fully comply with the applicable requirements of this Sub-Part and are in good working order.
- (e) an annual survey within three months before or after each anniversary date of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk and which shall include a general inspection of the structure, equipment, systems fittings, arrangements and materials referred to in paragraph (1) (a) of this section to ensure that they have been maintained and they remain satisfactory for the service for which the ship is intended.
- (f) such intermediate and annual surveys as are provided for in paragraphs (c) and (d) shall be endorsed on the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.
- (g) an additional survey either general or

partial according to the circumstances shall be made whenever any important repairs or renewals are made and it shall ensure that the necessary repairs or renewals have been effectively made, the material and workmanship of such repairs or renewals are in respect satisfactory and that the ship complies in all respects with the requirements of this Sub-Part.

## **112. Nominated Surveyors and recognised Organisations**

(1) Subject to subsection (2), surveys under section 111 shall be carried out by surveyors appointed under section 259 (2) of The Merchant Shipping Act.

(2) The Administration may entrust the surveys under section 111 to surveyors nominated for the purpose or to a recognised organisation or society for this survey and classification of shipping authorised by it and in every such case, the Administration shall fully guarantee the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(3) Surveyors or organisations to whom surveys are entrusted under sub-section (2) shall as a minimum be empowered by the Administration to –

- (a) require corrective action or repairs to a ship; and
- (b) carry out surveys and inspections if requested by the appropriate authorities of a state where MARPOL is in force or a port state.

(4) The Administration shall notify the Organisation of the specific responsibilities and conditions of the authority delegated to such nominated surveyors or recognised organisations for circulation to state where MARPOL is in force for the information of their officers.

### **113. Corrective action**

(1) When a nominated Surveyor or recognised Organisation determines that the condition of the ship or its equipment does not correspond substantially with the particulars in the International Pollution Prevention Certificate for the carriage of Noxious Liquid Substances in Bulk or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, such Surveyor or Organisation shall immediately ensure that corrective action is taken and shall in due course notify the Administration.

(2) When the Administration through its own officers, determines that a ship is in a condition referred to in subsection (1), it shall require that ship to take corrective action immediately.

### **114. Withdrawal of international pollution prevention certificate for the carriage of noxious liquid substances in bulk**

Where corrective action as required by section 113 is not taken-

- (a) the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk of the ship shall be withdrawn and the Administration shall take such steps that will ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment; and
- (b) if the ship is in the port of another state where the MARPOL is in force, the port state authorities shall be notified immediately.

#### **115. Assistance to a state where MARPOL is in force**

(1) Where the Government of a state where MARPOL is in force or its nominated Surveyor or recognised Organisation, has notified the Administration that a ship certified by that member state is in a port or at an offshore terminal in The Gambia and has failed to take corrective action in accordance with section 113, the Administration shall give such Government, surveyor or organisation any necessary assistance.

(2) Where it appears that the ship, if permitted to sail would present an unreasonable threat of harm to the marine environment, the Administration shall take such steps as will ensure that the ship does not sail until it can proceed to sea, or leave the port for the purpose of proceeding to the nearest appropriate repair yard available, without presenting an unreasonable threat of harm to the marine environment.

#### **116. Maintenance of condition of ship**

The owner, master or agent of any ship to which this Sub-Part applies shall ensure that-

- (a) the condition of the ship and its equipment is maintained to conform with the requirements

of this Sub-Part, as applicable, to ensure that the ship in all respects remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment; and

- (b) after any survey of the ship under section 111 has been completed, no change is made to the structure, equipment, systems, fittings, arrangements or material covered by the survey, without the prior approval of the Administration, except the direct replacement of such equipment and fittings

### **117. Report of accidents and defects**

(1) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the integrity of the ship or the efficiency or completeness of its equipment, fittings, arrangements or material as required by this Sub-Part-

- (a) the owner, master or agent of the ship shall report such accident or defect to the Administration at the earliest opportunity, the recognised organisation or the nominated surveyor responsible for issuing the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk who shall cause an investigation to be made to determine whether a survey would be necessary; and
- (b) if the ship is in a port of state where MARPOL is in force, the owner, master or agent shall also report the accident or defect immediately to the appropriate authorities of the port state and the nominated surveyor or recognised organisation shall ascertain that such report has been made.

(2) Where it is determined from an investigation made pursuant to subsection (1)(a) that a survey is necessary, it shall be carried out in accordance with

this Sub-Part and if the survey reveals that the ship is no longer in conformity with the requirements of this Sub-Part, or that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, the Administration shall require corrective action to be taken by the ship and, if necessary, may cause the ship to be detained.

#### **118. NLS certificate**

(1) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be issued, after an initial or renewal survey and after the requirement of the appropriate regulations referred to in section 127 have been complied with to any Gambian ship to which this Sub-Part applies and which is engaged in voyages to ports or offshore terminals under the jurisdiction of states where MARPOL is in force.

(2) The International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be issued either or endorsed by the Administration or by any person or organisation duly authorised by it and in every such case the Administration shall assume full responsibility for the Certificate.

#### **119. Issuing endorsement of international pollution prevention certificate for the carriage of noxious liquid substances in bulk upon request where MARPOL is in force**

(1) The Administration may at the request of the Government of a state where MARPOL is in force cause a ship to be surveyed and, if satisfied that the provisions of this Sub-Part have been complied with, issue or authorise the issue of an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk to the ship and, where appropriate, endorse or authorise the endorsement of that Certificate on the ship.

(2) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in

Bulk so issued or endorsed shall contain a statement to the effect that it has been issued at the request of a state where the MARPOL is in force and a copy of it together with a copy of the survey report shall be transmitted as early as possible to requesting Government.

(3) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued by a state where the MARPOL is in force at the request of the Administration shall have the same force and receive the same recognition in The Gambia as an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk issued under this Sub-Part.

(4) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall not be issued to a ship registered in a state where MARPOL is not in force.

#### **120. Form of international pollution prevention certificate for the carriage of noxious liquid substances in bulk**

An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be in the form prescribed in the Twelfth Schedule.

#### **121. Duration and validity of international pollution prevention certificate for the carriage of noxious liquid substances in bulk**

(1) Subject to the provisions of this section, an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall be valid for five years from the date of its issue.

(2) Notwithstanding the provisions of sub-section (1), where a renewal survey is completed within three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of the completion of the renewal survey to a date not five years from the date of expiry of the existing certificate.

(4) When the renewal survey is completed after the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not five years from the date of completion of the renewal survey.

(5) When the renewal survey is completed more than three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding 5 years from the date of completion of the renewal survey.

(6) If a renewal survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the person or organisation authorised by the Administration may endorse the existing certificate and such a certificate shall be accepted as valid for a further period which shall not exceed 5 months from the expiry date.

(7) Where a Gambian ship is not in a port in which it is to be surveyed on the date of expiry of the certificate issued to that ship under this Sub-Part, the Administration or any such person as it may authorise for the purpose, may extend the validity of that certificate in the first instance by a period not exceeding one month from its initial date of expiry up to a maximum of three months in the aggregate.

(8) An extension referred to in sub-section (6) shall be granted only for the purpose of enabling the ship to complete its voyage to the port in which it is to be surveyed and only in case where it appears proper and reasonable to grant the extension.

(9) A ship to which an extension is granted shall not on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new certificate.

(10) When the renewal survey is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing



certificate before the extension was granted.

(11) An International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall cease to be valid-

- (a) If the certificate is not endorsed in accordance with section 111 (e);
- (b) if the relevant surveys specified by the Administration under section 111 have not been carried out; or
- (c) upon the transfer of such ship to the flag of another state.

## **122. Transfer of flag**

(1) Upon transfer of a Gambian ship to the flag of another state where MARPOL is in force and that state makes a request within ninety days after the transfer has taken place, the Administration shall transmit as soon as possible to the Government of the state concerned, a copy of the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk carried by the ship before the transfer and, if available, a copy of the ship's most recent survey report.

(2) Where a ship is transferred to a Gambian flag, a new International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk shall only be issued when the Administration is fully satisfied that the ship is in full compliance with the requirements of section 116.

## **123. Survey and certificate of chemical tankers**

Notwithstanding sections 111 to 122 inclusive, chemical tankers which have been surveyed and certified by countries where MARPOL is in force in accordance with the provisions of the International Bulk Chemical Code or the Bulk Chemical Code, as applicable, shall be deemed to have complied with sections 111 to 122 inclusive, and the Certificate issued under the International Chemical Code or the

Bulk Chemical Code shall have the same force and receive the same recognition as an International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk under section 118.

#### **124. Requirements for minimising accidental pollution**

(1) This section applies only to Gambian ships certified to carry noxious liquid substances in bulk as identified in chapter 17 of the International Bulk Chemical Code.

(2) The design, construction, equipment and operation of ships referred to in sub-section (1), shall be such as to minimise the uncontrolled discharge into the sea of such substances.

(3) Chemical tankers constructed on or after 1st July 1986 shall comply with the requirements of the International Bulk Chemical Code.

(4) Chemical tankers constructed before 1st July 1986-

(a) for which the building contract is placed on or after 2nd November 1973 and which are engaged on voyages to ports or terminals under the jurisdiction of countries where MARPOL is in force other than The Gambia;

(b) but on or after 1st July 1983 which are engaged solely on voyages between ports or terminals within The Gambia,

shall comply with the requirements of the Bulk Chemical Code as applicable to ships referred to in paragraph 1.7.2 of that Code;

(5) Chemical tankers constructed-

(a) before 1st July, 1986 for which the building contract is placed before 2nd November, 1973 and which are engaged on voyages to ports or terminals under the jurisdiction of

states where MARPOL is in force other than The Gambia; and

- (b) before 1st July, 1983 which are engaged on voyages between ports or terminals within The Gambia,

shall comply with the requirements of the Bulk Chemical Code as applicable to ships referred to in paragraph 1.7.3 of that Code.

(6) In respect of ships other than chemical tankers carrying Category X, Y or Z substances or liquefied gas carriers certified to carry noxious liquid substances in bulk as identified in Chapter 17 of the International Bulk Chemical Code, the Administration shall establish appropriate measures based on the Guidelines developed by the Organisation in order to ensure that sub-section (2) is complied with.

#### **125. Shipboard marine pollution emergency plan for noxious liquid substances**

(1) Every Gambian ship of one hundred and fifty (150) gross tonnage and above certified to carry noxious liquid substances in bulk shall carry on board a ship marine pollution emergency plan for noxious liquid substances approved by the Administration.

(2) Such plan shall be based on guidelines developed by the Organisation and written in English.

(3) The plan shall consist of-

- (a) procedure to be followed by the master or other persons having charge of the ship to report a noxious liquid substances pollution incident as required by section 45 of this Act;
- (b) list of authorities or persons to be contacted in the event of noxious liquid substances pollution incident;
- (c) a detailed description of the action to be

taken immediately by the persons on board to reduce or control the discharge of noxious liquid substances following the incident; and

- (c) the procedures and point of contact on the ship for co-ordinating shipboard action with national and local authorities in combating the pollution.

(4) In the case of a ship which section 82 of this Act applies, such a plan may be combined with the shipboard oil pollution emergency plan required under that section.

### **126. Offences**

(1) Where any ship or the owner or master thereof, fails to comply with any requirement of this Sub-Part or the Schedule related thereto or any Regulations made pursuant to section 127, the owner and the master of the ship commits an offence, and is liable on conviction to a fine not exceeding five million dalasis.

(2) It shall be a defence for a person charged under subsection (1) to show that he or she took all reason-able precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed or would have been committed save for the operation of subsection (2), due to the act or default of some other person, he or she commits an offence and may be charged with and convicted of the offence by virtue of this sub-section whether or not proceedings are taken against the first mentioned person.

## **127. Regulations**

The Minister shall make regulations for the following-

- (a) provisional categorisation of substances not included in the Eighth or Tenth Schedule;
- (b) equivalency provisions for gas carriers, pumping, piping and unloading arrangements for ships to which this Sub-Part applies as provided in section 104;
- (c) types of reception facilities and arrangements in cargo unloading terminals as provided in section 107;
- (d) cargo Record Book;
- (e) survey and certification of ships not required to hold an International Oil Pollution Prevention Certificate for the carriage of noxious liquid substances in bulk;
- (f) survey and certification of chemical tankers; and
- (g) categorisation of oil-like substances.

### **SUB-PART 4 - PREVENTION OF POLLUTION BY HARMFUL SUBSTANCES CARRIED BY SEA IN PACKAGED FORM**

## **128. Interpretation**

For the purposes of this Sub-Part –

"harmful substances" means those substances which are identified as marine pollutants in the IMDG Code and includes empty packaging which has been used previously for the carriage of harmful substances unless adequate precautions have been taken to ensure that they contain no residue that is harmful to the marine environment;

"IMDG Code" means the International Maritime Dangerous Goods Code adopted by the Organisation by Resolution A.716(17) as amended from time to time by the Maritime Safety Committee of the

Organisation;

"packaged form" means the forms of containment specified for harmful substances in the IMDG Code; and

"Safety Convention" means the International Convention for the Safety of Life at Sea 1974 as amended.

### **129. Application of this Sub-Part**

(1) Unless expressly provided otherwise, this Sub-Part applies to all Gambian ships carrying harmful substances in packaged form but not to ship's stores and equipment.

(2) For the purpose of this Sub-Part, empty packaging which has 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.

(3) For the purposes of identifying harmful substances in packaged form, reference shall be made to the guidelines contained in the Fourteenth Schedule "A".

### **130. Prohibition carriage, shipment and-jettisoning of harmful substances**

(1) Every Gambian ship to which this Sub-Part applies shall be prohibited from-

- (a) carrying harmful substances in packaged form except in accordance with this Sub-Part;
- (b) jettisoning harmful substances in packaged form;

(2) A person shall not ship or offer for shipment from The Gambia port, harmful substances in packaged form except in accordance with this Sub-Part.

### **131. Packing**

All packages shall be adequate to minimise the hazard to the marine environment having regard to their specific contents.

### **132. Marking and labelling**

(1) Packages containing a harmful substance shall be marked with the correct technical name and marked or labelled to indicate that the substance is a marine pollutant.

(2) Trade names alone shall not be used to identify a harmful substance by its technical name.

(3) The identification of packages containing a harmful substance as referred to in this section shall be supplemented where possible by any other means, such as by the use of the United Nations number.

(4) The method of marking the correct technical name and of affixing labels on packages containing a harmful substance shall be such that this information shall be identifiable on packages surviving at least three months' immersion in the sea.

(5) In considering suitable marking and labelling, account shall be taken of the durability of the materials used and of the surface of the package.

(6) Packages containing small quantities of harmful substances may be exempted from the marking requirements in accordance with the specific exemptions provided for in the IMDG Code.

### **133. 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 and the substance shall be 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, labelled or placarded as appropriate and in proper condition for carriage to minimise hazard to the marine environment.

(3) Every ship carrying harmful substances shall have-

- (a) a special list or manifest setting forth the harmful substances on board and the location thereof; and
- (b) a detailed stowage plan setting out the location of all harmful substances on board may be used in lieu of the special list or manifest referred to in paragraph (a);

(4) The owner of the ship or his or her representative shall also retain on shore copies of the documents referred to in sub-section (3) until the harmful substances are unloaded and a copy of one of these documents shall be made available before departure to the Administration.

(5) Where the ship carries a special list or manifest or a detailed stowage plan required for the carriage of dangerous goods by the Safety Convention, the documents required by this section may be combined with those for dangerous goods; and where documents are so combined, a clear distinction shall be made between dangerous goods and harmful substances covered by this Sub-Part.

(6) In this section, "documents" includes information available through the use of electronic data processing (EDP) and electronic data interchange (EDI) transmission techniques as an aid to paper documentation.

#### **134. 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.

### **135. Quantity limitations**

(1) Certain harmful substances may, for sound scientific and technical reasons, be prohibited for carriage or be limited as to the quantity which may be carried aboard any one ship.

(2) In limiting the quantity, the Administration shall give due consideration to the size, construction and equipment of the ship as well as the packaging and the inherent nature of the substance.

### **136. Regulations**

The Minister shall make regulations pre-scribing-

- (a) detailed requirements on packing, marking, labelling, documentation, stowage, quantity limitations and exceptions for preventing or minimising pollution of the marine environment, in conformity with the IMDG Code;
- (b) terms and conditions under which ships to which this Sub-Part applies may carry, or persons may ship or offer for shipment harmful substances in packaged form;
- (c) measures to be taken to regulate the washing of leakages overboard based on the physical, chemical and biological properties of harmful substances; and
- (d) inspections to be made by the Administration or such person authorised by it, of all ships to which this Sub-Part applies to ensure compliance with this Sub-Part.

### **137. Exceptions**

(1) Section 130 (1) (b) shall not apply where jettisoning of harmful substances in packaged form may be necessary for the purpose of securing the safety of the ship or saving life at sea.

(2) All ships to which this Sub-Part applies shall comply with the measures referred to in section 136 (c) provided that such compliance will not impair the safety of the ship and persons on board.

### **138. Offences**

(1) An owner, agent or a master of a ship that accepts goods for carriage by sea in contravention of section 130 (1) (a) commits an offence and is liable on conviction to a fine not exceeding five million dalasis.

(2) Subject to section 137(1), a person who contravenes section 130 (1)(b) commits an offence and is liable on conviction to a fine not exceeding five million dalasis and shall in addition pay any cost which may be incurred in connection with the recovery of such substances.

(3) A person who fails to take the measures prescribed pursuant to section 136 (c) commits an offence and is liable on conviction to a fine not exceeding five million dalasis unless he or she can show that compliance with such measures would have impaired the safety of the ship and persons on board.

(4) It shall be a defence for a person charged with an offence under this section to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) Where an offence under this section is committed or would have been committed save for the operation of subsection (4), due to the act or default of some other person, he or she commits the offence, and may be charged with and convicted of the offence by virtue of this sub-section whether or not proceedings are taken against the first mentioned person.

## **Sub-Part 5 – Prevention of pollution by sewage from ships**

### **139. Interpretation**

For the purposes of this Sub-Part-

“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the International Sewage Pollution Prevention Certificate;

“existing ship” means a ship which is not a new ship;

“from the nearest land” has the same meaning as defined in Sub-Part 1;

"holding tank" means a tank used for the collection and storage of sewage;

“international voyage” means a voyage from The Gambia to a port outside The Gambia or conversely;

"new ship" means a ship –

- (a) for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction, on or after the date of entry into force of this Sub-Part; or
- (b) the delivery of which is three years or more after the date of entry into force of this Sub-Part;

“person” means member of the crew and passengers;

"sewage" means-

- (a) drainage and other wastes from any form of toilets, urinals;

- (b) drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;
- (a) drainage from spaces containing living animals; or
- (d) other waste waters when mixed with the drainages defined above.

#### **141. Surveys**

(1) Every Gambian ship which is required to comply with this Sub-Part shall be subject to the surveys specified below –

- (a) an initial survey before the ship is put in service or before the certificate required under section 143 is issued for the first time;
- (b) such survey shall include a complete survey of the ship's structure, equipment, systems, fittings, arrangements and materials-
- (c) the survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of this Sub-Part;
- (d) a renewal survey at a five-year interval or such lesser intervals as the Administration may specify;
- (e) the renewal survey shall be such as to ensure that the structure, equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of this Sub-Part;
- (d) an additional survey either general or partial whenever an accident occurs to a

ship or a defect is discovered which substantially affect the integrity of the ship or the efficiency or completeness of its equipment covered by this Sub-Part with the requirements of this Sub-Part;

(e) the survey shall be such as to ensure that the necessary repairs and renewals have been effectively made, that the materials and workmanship of such repairs or renewals are in all respects satisfactory and that the ship complies with the requirements of this Sub-Part;

(2) The Administration shall establish appropriate measures for ships which are not subject to subsection (1) in order to ensure that this Sub-Part is complied with.

(3) Subject to subsection (4), surveys of the ship as regards the enforcement of this Sub-Part shall be carried out by surveyors appointed under section 259(2) of The Merchant Shipping Act.

## **142. Regulations**

(1) The Minister shall make regulations prescribing-

- (a) requirements on board Gambian ships that are existing ships to comply with this Sub-Part, including the issue of Sewage Pollution Prevention Certificate to such ships; and
- (b) the rate of discharge of sewage from holding tanks; and shall prescribe such other standards, conditions and requirements regulating or prohibiting discharges of sewage of ships as may be deemed appropriate for the preservation of human health, and for the marine environment including the conservation of natural resources therein.

(2) The regulations referred to in subsection (1) shall be made in accordance with standards and guidelines developed by the Organisation.

### **143. Issue of International Sewage Pollution Prevention Certificate**

(1) An International Sewage Pollution Prevention Certificate shall be issued to a ship after survey in accordance with section 141(1) (a) and (b) which is engaged in voyage to ports or offshore terminals of countries where MARPOL is in force.

(2) The issuance of Certificate shall be conditioned on the a ship complying with the applicable requirements of the regulations referred in section 142.

(3) The International Sewage Pollution Prevention Certificate shall be issued or endorsed by either the Administration or by any persons or organisation duly authorised by it.

(4) In every such case the Administration shall assume full responsibility for the Certificate.

### **144. Issue or endorsement of International Sewage Pollution Prevention Certificate by a state where MARPOL is in force**

(1) The Administration may at the request of the Government of a state where MARPOL is in force cause a ship to be surveyed, and if satisfied that the provisions of this Sub-Part have been complied with, issue or authorise the issue of an International Sewage Pollution Prevention Certificate to the ship and where appropriate endorse or authorise the endorsement of that Certificate.

(2) An International Sewage Pollution Prevention Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Government of a state where MARPOL is in force and a copy of it together with a copy of the survey report shall be transmitted as early as possible to the Government requesting the survey.

(3) An International Sewage Pollution Prevention Certificate issued by another state where MARPOL is in force in respect of a Gambian ship at the request of the Administration, shall have the same force and receive the same recognition in The Gambia as an International Sewage Pollution Prevention Certificate issued under this Sub-Part.

(4) An International Sewage Pollution Prevention Certificate shall not be issued to a ship which is not registered in state where MARPOL is in force.

#### **145. Form of International Sewage Pollution Prevention Certificate**

An International Sewage Pollution Prevention Certificate shall be in the form prescribed in the Fourteenth Schedule.

#### **146. Duration of International Sewage Pollution Prevention Certificate**

(1) An International Sewage Pollution Prevention Certificate shall be valid for five years from the date of issue.

(2) Notwithstanding subsection (1), when a renewal survey is completed within three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing Certificate.

(3) Where the renewal survey is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from date of expiry of the existing Certificate.

(4) Where a renewal survey is completed more than three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.



(5) If a renewal survey has been completed and new a Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the person or organisation authorised by the Administration may endorse the existing Certificate and such a Certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.

(6) Where a Gambian ship is not in a port in which it is to be surveyed on the date of the expiry of the Certificate issued to that ship under this Sub-Part, the Administration or any person it authorises for the purpose may extend the validity of that Certificate in the first instance by a period not exceeding one month from its initial date of expiry up to a maximum of three months in the aggregate.

(7) An extension referred to in sub-section (6) shall be granted only for the purpose of enabling the ship to complete its voyage to the port in which it is to be surveyed and only in case where it appears proper and reasonable to grant the extension.

(8) A ship to which an extension is granted shall not on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension, to be allowed to leave that port without having a new Certificate.

(9) Where a renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.

(10) A Certificate issued to a ship engaged on short voyage which has not been extended under the foregoing provision of this section may be extended by the Administration for a period of grace up to one month from the date of expiry stated on it;

(11) When the renewal survey is completed, the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted;

(12) An International Sewage Pollution Prevention Certificate shall cease to be valid-

- (a) if the surveys required under section 141 are not completed within the periods specified;
- (b) upon the transfer of such ship to the flag of another state except as provided in subsection (8).

(13) A new certificate may be issued upon the transfer of the ship to the flag of another state only when the competent authority issuing the new certificate is fully satisfied that the ship fully meets the requirements of section 141 and that no change has been made in the structure, equipments, systems, fittings, arrangements or materials.

(14) Following the transfer of a Gambian ship to another state where MARPOL is in force, the Administration shall within three months, if required, transmit to the Government of the state concerned where MARPOL is in force, a copy of the International Sewage Pollution Prevention Certificate carried by the ship before the transfer and, if available, a copy of the relevant survey reports.

#### **147. Discharge controls**

(1) Subject to this section, the discharge of sewage into the sea is prohibited unless-

- (a) the sewage has been comminuted and disinfected using a system approved by the Administration in accordance with the regulations referred to in section 142 (1) (b) at a distance of more than three nautical miles from the nearest land;
- (b) where the sewage has not been comminuted and disinfected, it is discharged periodically into the sea at a distance of more than twelve nautical miles from the nearest land; provided that, in any case the sewage that has been stored in holding

tanks shall not be discharged instantaneously but at a moderate rate when the ship is on voyage and proceeding at not less than four knots;

- (c) the rate of discharge is approved by the Administration based upon standards developed by the Organisation;
- (d) the ship has in operation an approved sewage treatment plant which has been certified by the Administration as meeting the operational requirements referred to in section 141 (1)(a)(i), and the test results of the plant are set out in the ship's International Sewage Pollution Prevention Certificate; and
- (e) where the effluent does not produce visible floating solids nor cause discoloration of, the surrounding water.

(2) The provision of sub-section (1) shall not apply to a ship operating in Gambian waters and visiting ships of other states while they are in Gambian waters and are discharging sewage in accordance with such less stringent requirements as may be imposed by the Administration.

(3) Where sewage is mixed with wastes or waste water covered by other Sub-Parts of this Act, the requirements of those Sub-Parts shall be complied with in addition to the requirements of this Sub-Part.

#### **148. Public notice of standards**

The sewage discharge standards set out in section 147 and the applicable regulations referred to in section 142, shall be posted in a conspicuous place on board on all Gambian ships to which this Sub-Part applies and the crew of such ships shall be trained to comply with such standards.

#### **149. Exception**

The discharge standards set out in section 147 and the applicable regulations referred to in section 142,

shall not apply-

- (a) if discharge of sewage from a ship is necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or
- (b) where damage to the ship or its equipment has occurred and reasonable steps have been taken before and after the damage to prevent or minimise the discharge.

#### **150. Sewage reception facilities and standard discharge connection**

(1) The Gambia Ports Authority shall provide accessible and adequate sewage reception facilities at port and terminals in The Gambia.

(2) To enable pipes of reception facilities to be connected with the ship's discharge pipeline, both lines shall be fitted with a standard discharge connection in accordance with the table in the Fifteenth Schedule.

#### **151. Inspection of sewage reception facilities**

(1) Sewage reception facilities shall be inspected periodically by the Administration or a person designated by it for such purpose, to ensure that the requirements of this Sub-Part are complied with.

(2) Where there has been a failure to comply with the requirements of subsection (1), the Administration may serve a notice on the owner, occupier or operator of such facilities requiring him or her to comply with such requirements within such period as the Administration may specify.

(3) A person who fails to comply with a notice issued under subsection (2) commits an offence and is liable on conviction to a fine not exceeding two million dalasis.

(4) It shall be a defence for a person charged under subsection (3) to show that he or she took all

reasonable steps and exercised due diligence to comply with the requirements of subsection (1).

### **152. Notice of inadequate sewage reception facilities**

The Administration shall notify the Organisation of all cases where the sewage reception facilities in The Gambia, or facilities provided by other countries where MARPOL is in force are alleged to be inadequate.

### **153. Offences**

(1) Where any ship, or the owner or master thereof, fails to comply with any requirement of this Sub-Part, or any Schedule related thereto or any Regulations made pursuant to section 142, the owner and the master of the ship commits an offence and is liable on conviction to a fine not exceeding five million dalasis.

(2) It is a defence for a person charged under subsection (1) to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of subsection (2), due to the act or default of some other person, that other person commits the offence, he or she may be charged with and convicted of an offence by virtue of this sub-section whether or not proceedings are taken against the first mentioned person.

## **Sub-Part 6 – Prevention of pollution by garbage from ships**

### **154. Interpretation**

For the purposes of this Sub-Part-

"cargo-associated waste" means all materials which have become waste as a result of use on board a ship for cargo stowage and handling and

includes, (but is not limited to), dunnage, shoring pallets, lining and packing materials, ply-wood, paper, cardboard, wire and steel strapping;

"cargo residues" means remnants in small quantities of any cargo material on board that cannot be placed in proper cargo holds, that is, loading excess and spillage or which remains in cargo holds and elsewhere after unloading procedures are completed, that is, unloading residual and spillage;

"contaminated waste" includes all wastes that contain foods or agricultural products the importation of which is restricted under the laws of The Gambia;

"domestic waste" means all types of food wastes, sewage and wastes generated in the living spaces on board the ship;

"food waste" means any spoiled or unspoiled victual substances, such as fruits, vegetables, dairy products, poultry, meat products, food scraps, food particles, and all other materials contaminated by such wastes, generated aboard ship, principally in the galley and dining areas;

"garbage" means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically but does not include-

- (a) substances which are defined or listed in other Sub-Parts; and
- (b) small quantities of food wastes for the specific purpose of fish feeding in connection with fishing or tourist operations;

"from the nearest land" has the meaning assigned to it under Sub-Part 1;

"maintenance waste" means materials collected by the engine department and the deck department

while maintaining and operating the vessel, such as soot, machinery deposits, scraped paint, deck sweeping, wiping wastes and oily rags;

"oily rags" means rags which have been saturated with oil as controlled under Sub-Part II;

"operational waste" means all cargo-associated wastes and maintenance waste including ash and clinkers, and cargo residues; and

"waste" means useless, unneeded or superfluous matter which is to be discarded.

### **155. Application of this Sub-Part**

Unless expressly provided otherwise, the provisions of this Sub-Part shall apply to-

- (a) Gambian ships wherever they may be;
- (b) other ships while they are in Gambian waters; and
- (c) fixed and floating platforms.

### **156. Special Areas**

For the purposes of this Sub-Part-

- (a) the "Mediterranean Sea area" means the Mediterranean Sea proper including the Gulf's and Seas therein with the boundaries between the Mediterranean and the Black sea constituted by the 41° N parallel and bounded to the West by straits of Gibraltar at the Meridian 5° 36 "W;
- (b) the "Baltic Sea area" means the Baltic sea proper with the Gulf of Bothnia and the Gulf of Finland and the entrance of the Baltic sea bounded by the parallel of the skaw in the Skagerrak at 57° 44' N;
- (c) the "Black sea area" means the Black

Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41° N;

- (d) the “Red Sea area” means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by rhumb line between Ras Si Ane (12° 28, 5’ N, 43° 19.6’ E) and Husn Murad (12° 40.4N, 43° 30.2 E);
- (e) the “ Gulf area” means the sea area located north-west of the rhumb line between Ras al Hadd (22°30’N, 59° 48’ E) and Ras al Fasteh (25° 04’ N, 61 25’ E)
- (f) the “North Sea area” means the North Sea proper including seas therein with the boundary between-
  - (i) the North Sea southwards of latitude 62° N and eastwards of longitude 4° W,
    1. the Skagerrak, the southern limit which is determined east of the Skaw by latitude 57° 44.8” N, and
    2. the English Channel and its approaches eastwards of longitude 5°W and the northwards of latitude 48° 30 N :
- (g) the “Antarctic area “ means the Sea area south of latitude 60° S; and
- (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 consti-



tuted 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 south- westerly to the eastern boundary of French Guiana.

#### **157. Disposal of garbage outside special areas**

Subject to sections 158, 159 and 160 –

- (a) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags, and incinerator ashes from plastic products which contain toxic or heavy metal residue is prohibited;
- (b) the disposal into the sea of the following garbage shall be made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than-
  - (i) twenty five (25) nautical miles for dunnage, lining and packing materials, which will float,
  - (ii) twelve (12) nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse;
- (c) such comminuted or ground garbage as are referred to in sub-paragraph (i) shall be capable of passing through a screen with openings no greater than twenty five millimetres;
- (d) disposal into the sea of garbage specified in sub-paragraph (ii) may be permitted when it has passed through a comminuter or grinder and made as far as practicable from the nearest land, but

in any case is prohibited if the distance from the nearest land is less than three nautical miles.

### **158. Disposal of garbage from fixed or floating platforms**

(1) Subject to sub-section (2), disposal of garbage is prohibited from fixed or floating platforms engaged in the exploration, exploitation, and associated offshore processing of sea-bed mineral resources, and from all ships when along-side or within five hundred metres of such platforms.

(2) Disposal of food wastes is permitted provided they are first passed through a comminuter or grinder and discharged from fixed or floating platforms more than twelve nautical miles from land and all other ships when alongside or within five hundred metres of such platforms.

(3) Such comminuted or ground food wastes as are referred to in sub-section (2) shall be capable of passing through a screen with openings no greater than twenty five millimetres.

### **159. Disposal of garbage within special areas**

Subject to section 163 –

- (a) disposal into the sea of the following items is prohibited within special areas-
  - (i) all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags; and incinerator ashes from plastic products which may contain toxic or heavy metal residues, and
  - (ii) all other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials;
- (b) within special areas, except as provided in

section 160, disposal into the sea of food wastes shall be made as far as practicable from land, but in any case not less than twelve nautical miles from the nearest land.

#### **160. Special provision for wider Caribbean region**

(1) Subject to section 161, disposal into the Wider Caribbean Region of food wastes which have been passed through a comminute or grinder shall be made as far as practicable from land, but in any case, subject to section 158, not less than three nautical miles from the nearest land.

(2) Such comminuted or ground food wastes as are referred to in sub-section (1) shall be capable of passing through a screen with openings no greater than twenty five millimetres.

(3) Disposal into the sea within the Wider Caribbean Region of contaminated waste is prohibited or limited to the same extent that importation of the relevant foods or agricultural products is prohibited or limited under the laws of The Gambia.

#### **161. Mixed waste**

When garbage is mixed with other discharges having different disposal or discharge requirements, more stringent requirements shall be applied by the Administration.

#### **162. Special provision for Antarctic Area**

A Gambian ship shall, 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.

### **163. Exceptions**

Sections 157 to 161 shall not apply to-

- (a) the disposal of garbage from a ship where such disposal is necessary to secure the safety of a ship and those on board or for saving life at sea;
- (b) the escape of garbage resulting from damage to a ship or its equipment, provided all reasonable precautions have been taken before and after the damage to prevent or minimise the escape; or
- (c) the accidental loss of synthetic fishing devices, provided all reasonable precautions have been taken to prevent such loss.

### **164. Garbage reception facilities**

The Gambia Ports Authority shall provide adequate and accessible garbage reception facilities in accordance with the Regulations made pursuant to section 169.

### **165. Inspection of reception facilities and notice of inadequate facilities**

(1) Reception facilities shall be periodically inspected by the Administration or a person designated by it for the purpose to ensure that they meet the requirements of this Sub-Part;

(2) The Administration shall notify the Organisation of all cases where reception facilities in The Gambia or in other state where MARPOL is in force are alleged to be inadequate.

### **166. Placards**

(1) Every ship of twelve metres or more in length overall shall display placards which notify the crew and passengers of the disposal requirements of sections 157, 159 and 160 as applicable;

(2) The placards shall be written in English, and for ships engaged in voyages to ports or off-shore terminals in countries where MARPOL is in force, in English, French or Spanish.

### **167. Garbage management plans**

(1) Every Gambian ship of four hundred (400) gross tonnage and above, and every ship which is certified to carry fifteen persons or more, shall carry a garbage management plan which the crew shall follow.

(2) The garbage management plan referred to in subsection (1) shall-

- (a) provide written procedures for collecting, storing, processing and disposing of garbage, including the use of the equipment on board;
- (b) designate the person in charge of carrying out the plan;
- (c) be in accordance with the guidelines developed by the Organisation and written in English.

### **168. Garbage Record book**

(1) Every ship of four hundred (400) gross tonnage and above and every ship which is certified to carry fifteen persons or more engaged in voyages to ports or offshore terminals of countries where MARPOL is in force, and every fixed and floating platform engaged in exploration and exploitation of the seabed shall be provided with a Garbage Record Book.

(2) The Garbage Record Book, whether as a part of the ship's official log book or otherwise, shall be in the form specified in the Sixteenth Schedule.

(3) Each discharge operation, or completed incineration, shall be recorded in the Garbage Record

Book and signed for on the date of the incineration or discharge by the officer in charge, and each completed page of the Garbage Record Book shall be signed by the master of the ship.

(4) An entry in the Garbage Record Book of a state where MARPOL is in force made in an official national language of that State shall prevail in case of a dispute or discrepancy.

(5) The entry for each incineration or discharge shall include the date and time, position of the ship, description of the garbage and the estimated amount incinerated or discharged.

(6) The Garbage Record Book shall be kept on board the ship and in such a place as to be available for inspection at a reasonable time and shall be preserved for a period of two years after the last entry is made on the record.

(7) In the event of discharge, escape or accidental loss referred to in section 163, an entry shall be made in the Garbage Record Book of the circumstances of, and the reasons for, the loss.

(8) The Administration may waive the requirements for Garbage Record Books for -

(a) any ship engaged on voyages of one hour or less in duration which is certified to carry fifteen persons or more;

(b) fixed or floating platforms while engaged in exploration and exploitation of the sea;

(9) The Administration or such person authorised by it may inspect the Garbage Record Book on board any Gambian ship to which this Sub-Part applies or any other ship to which this Sub-Part applies while the ship is in a Gambian port or off-shore terminal.

(10) The competent authority of a state where MARPOL is in force may inspect the Garbage Record Book on board any Gambian ship to which

this Sub-Part applies while the ship is in its ports or offshore terminals and may make a copy of any entry in that book, and may require the master of the ship to certify that the copy is a true copy of such an entry.

(11) Any copy so made, which has been certified by the master of the ship as a true copy of an entry in the Garbage Record Book, shall be admissible in any judicial proceedings as evidence of the facts stated in the entry;

(12) The inspection of a Garbage Record Book and the taking of a certified copy by the competent authority under this subsection shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

### **169. Regulations**

The Minister shall make regulations prescribing criteria for determining the adequacy of garbage reception facilities at ports and terminals and measures to be adopted to ensure adequacy and accessibility without causing undue delay to ships.

### **170. Regional co-operation**

Wherever possible, the Administration may pursue ways and means for regional co-operation with other States of the West African sub-region with respect to land disposal sites and facilities including-

- (a) establishing consistent waste handling, waste recycling and minimisation, waste disposal and treatment standards and procedures;
- (b) promoting the development of sub regional waste disposal and treatment standards and procedures.

### **171. Notification of garbage disposal prohibitions**

Within thirty days after the commencement of this Act, the Administration shall notify all owners and agents of Gambian ships to which this Sub-Part applies, of the garbage discharge prohibitions and restrictions provided for in this Sub-Part.

### **172. Offences**

(1) Where any ship, or the owner or master thereof fails to comply with any requirement of this Sub-Part, the owner and the master of the ship each commits an offence and is liable on conviction to a fine not exceeding five million dalasis.

(2) It shall be a defence for a person charged under subsection (1) to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

(3) Where an offence under this section is committed or would have been committed save for the operation of subsection (2), due to the act or default of some other person, he or she commits an offence, and may be charged with and convicted of an offence by virtue of this sub-section whether or not proceedings are taken against the first mentioned person.

## **Sub-Part 7 – Prevention of air pollution from ships**

### **173. Interpretation**

For the purposes of this Sub-Part Interpretation-

“a similar stage of construction” means the stage at which-

- (a) construction identifiable with a specific ship begins; and
- (c) assembly of that ship has commenced comprising at least fifty tonnes or one per cent of the estimated mass of all structural



material whichever is less;

“anniversary date” means the day and month of each year which will correspond to the date of expiry of the International Air Pollution Prevention Certificate;

“auxiliary control device” means a system, function or control strategy installed on a marine diesel engine that is used to protect the engine and its ancillary equipment against operating conditions that could result in damage or failure, or that is used to facilitate the starting of the engine. An auxiliary control device may also be a strategy or measure that has been satisfactorily demonstrated not to be a defeat device;

“continuous feeding” means the process whereby waste is fed into a combustion chamber without human assistance while the incinerator is in normal operating conditions with the combustion chamber operative temperature between 850<sup>0</sup>C and 1200<sup>0</sup>C;

“defeat device” means a device that measures, senses or responds to operating variables (e.g., engine speed, temperature, intake pressure or any other parameter) for the purpose of activating, modulating, delaying or deactivating the operation of any component or the function of the emission control system such that the effectiveness of the emission control system is reduced under conditions encountered during normal operation, unless the use of such a device is substantially included in the applied emission certification test procedures;

“emission” means any release of substances subject to control by this Sub-Part from ships into the atmosphere or sea;

“emission control area” means an area where the adoption of special mandatory measure for emissions from ships is required to prevent, reduce and control air pollution from NO<sub>x</sub> or SO<sub>x</sub> and particulate matter or all three types of emissions and their attendant adverse impacts on human health and the environment. Emission control areas shall include those listed in, or designated under,

regulations 13 and 14 of this Annex;

“fuel oil” means any fuel delivered to and intended for combustion purposes for propulsion or operation on board a ship, including distillate and residual fuels;

“gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurements of Ships, 1969, or any successor Convention;

“installations” in relation to section 187(1)(a) means the installation of systems, equipment including new portable fire-extinguishing units, insulation, or other material on a ship after the date on which this Sub-Part enters into force, but excludes repair or recharge of previously installed systems, equipment, insulation, or other material, or recharge of portable fire extinguishing units;

“installed” means a marine diesel engine that is or is intended to be fitted on a ship, including a portable auxiliary marine diesel engine, only if its fuelling, cooling or exhaust system is an integral part of the ship. A fuelling system is considered integral to the ship only if it is permanently affixed to the ship. This definition includes a marine diesel engine that is used to supplement or augment the installed power capacity of the ship and is intended to be an integral part of the ship;

“irrational emission control strategy” means any strategy or measure that, when the ship is operated under normal conditions of use, reduces the effectiveness of an emission control system to a level below that expected on the applicable emission test procedures;

“marine diesel engine” means any reciprocating internal combustion engine operating on liquid or dual fuel, to which regulation 13 of this Annex applies, including booster/compound systems if applied;

“Nox Technical Code” means the Technical Code on control of Emission of Nitrogen Oxides from Marine Diesel Engines adopted by Conference Resolution 2 as may be amended by the Organisation;

“Oxone-depleting substances” means controlled substances defined in paragraph 4 of article 1 of the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 listed in Annexes A, B, C or E to the said Protocol in force at the time of application or interpretation of this Sub-Part;

“Ozone depleting substances” that may be found on board ships include but are not limited to-

- (i) Halon 12111 Bromochlorodifluoromethane,
- (ii) Halon 1301 Bromotrifluoromethane,
- (iii) Halon 2402 1, 2 – D: bromo – 1,1,2,2 tetrafluoroethane (also known as Halon 114B2),
- (iv) CFC - 11 Trichlorofluoromethane,
- (v) CFC - 12 Dichlorodifluoromethane,
- (vi) CFC - 113 1,1,2 – Trichlor – 1,2,2 trifluoroethane,
- (vii) CFC - 114 1,2 – Dichloro – 1,1,2,2 – tetrafluoroethane,
- (viii) CFC - 115 Chloropentafluoroethane;

“shipboard incineration” means the incineration of wastes or other matter on board a ship, if such wastes or other matter were generated during the normal operation of that ship;

“shipboard incinerator” means a shipboard facility designed for the primary purpose of incineration;

“ships constructed” means ships the keels of which are laid or which are at a similar stage of construction;

“sludge oil” means sludge from the fuel or lubricating oil separators, waste lubricating oil from main or auxiliary machinery or waste oil from bilge water separators, oil filtering equipment or drip trays;

“sulphur oxides emission control area” means an area where the adoption of special mandatory measures for sulphur oxides emissions from ships is required to prevent, reduce and control air pollution from sulphur oxide and its attendant adverse impacts on land and sea areas;

“tanker” means an oil tanker as defined in Sub-Part 2 or a chemical tanker as defined in Sub-Part 3;

“the Protocol of 1997” means the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships 1973 as amended by the Protocol of 1978 relating thereto.

#### **174. APPLICATION Sub-Part**

This Sub-Part shall apply to every Gambian ship except where expressly provided otherwise in a particular section.

#### **175. General exceptions**

The provisions of this Sub-Part shall not apply to-

- (a) any emission necessary for the purpose of securing the safety of a ship or saving life at sea; or
- (b) any emission 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 emission for the purpose of preventing or minimising the emission; and
  - (ii) except if the owner or the master acted either with intent to cause damage or recklessly and with know-

ledge that damage would probably result.

### **176. Equivalent**

(1) The Administration may allow any fitting, material, appliance or apparatus to be fitted in a ship or other procedures, alternative fuel oils, or compliance methods used as an alternative to that required by this Sub-Part if such fitting, material, appliance or apparatus or other procedures, alternative fuel oils, or compliance methods are at least as effective in terms of emissions reductions as required by this Sub-Part including any standards provided in the Regulation made under section 187.

(2) Where the Administration allows a fitting, material, appliance or apparatus to be fitted in a ship or other procedures, alternative fuel oils or compliance methods to be used as an alternative to that required by this Sub-Part, it shall communicate to the Organisation for circulation to countries where MARPOL is in force, the particulars for their information and appropriate action, if any.

(3) In making any decision to provide for equivalents, the Administration shall take into account any relevant guidelines which have been developed by the Organisation.

(4) Whenever the Administration allows the use of an equivalent as set out in subsection (1), it shall endeavour not to impair or damage its environment, human health, property or resources including those of other States.

### **177. Surveys and inspection**

(1) A Gambian ship of four hundred (400) gross tonnage or above and a fixed and floating drilling rig and other platforms shall be subject to the survey specified below-

- (a) an initial survey before the ship is put into service or before the certificate required under section 181 of this Act is issued for the first time, and it shall be such as to

ensure that the equipment, systems, fittings, arrangements and material fully comply with the applicable requirements of this Sub-Part;

- (b) a renewal survey at five year intervals or such lesser intervals as the Administration may specify and the survey shall be such as to ensure that the equipment, systems, fittings, arrangements and material fully comply with applicable requirements of this Sub-Part.
- (c) an intermediate survey within three months before or after the second anniversary date or within three months before or after the third anniversary date of the certificate, which shall take the place of one of the annual surveys specified in paragraph (d) below-
  - (i) the survey shall be such as to ensure that the equipment and arrangements fully comply with the applicable requirements of this Sub-Part and are in good working order,
  - (ii) such survey shall be endorsed on the certificate issued under section 180(1) or section 180 (1);
- (d) an annual survey within three months before or after each anniversary date of the certificate including general inspection of the equipment, systems fittings arrangements and materials referred to in subsection (1)(a) above to ensure that they have been maintained in good condition to conform to provisions of this Sub-Part and that they remain satisfactory for the service for which the ship is intended. Such annual survey shall be endorsed in the certificate issued under section 180(1) or section 181(1);

(f) an additional survey (either general or partial) whenever an accident occurs to a ship or a defect is discovered which substantially affect the integrity of the ship or efficiency or completeness of its equipment recovered by this Sub-Part, and it shall be such as to ensure that the necessary repairs and renewals have been effectively made, that the materials and workmanship of such repairs or renewals are in all respects satisfactory and that the ship complies with the requirements of this Sub-Part.

(2) The Administration shall establish appropriate measures for ships which are not subject to subsection (1) in order to ensure that the provisions of this Sub-Part are complied with.

(3) Subject to subsection (4), surveys of ships as regards the enforcement of this Sub-Part shall be carried out by surveyors appointed under section 259 (2) of The Merchant Shipping Act 2010.

(4) The Administration may entrust the surveys under this section to surveyors nominated for the purpose or to organisations recognised by it and in every such case the Administration shall fully guarantee the completeness and efficiency of the surveys and shall undertake to ensure the necessary arrangements satisfy this obligation.

(5) Surveyors or organisations to whom surveys are entrusted under subsection (4) shall as a minimum, be empowered by the Administration-

(a) to require corrective action or repairs to a ship;

(b) carry out surveys and inspection if requested by the appropriate authority of the state where MARPOL is in force.

(6) The Administration shall notify the Organisation of the specific responsibilities and conditions of the authority delegated to such nominated surveyors or

recognised organisation for circulation to countries where MARPOL is in force.

(7) The survey of marine diesel engines and equipment for compliance with the regulations made by the Minister under section 187 shall be in accordance with the revised Nitrogen Oxide Technical Code 2008.

#### **178. Corrective actions**

(1) When a nominated Surveyor or a recognised Organisation determines that the condition of a ship or its equipment does not correspond substantially with the particulars in the International Air Pollution Prevention Certificate and as such the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, the surveyor or organisation shall immediately ensure that corrective action is taken and shall in due course notify the Administration.

(2) If such corrective action is not taken as required under subsection (1), the International Air Pollution Prevention Certificate shall be withdrawn and the Administration shall ensure that the ship shall not sail until it can proceed to sea or leave its port for the purpose of proceeding to the nearest appropriate repair yard without presenting an unreasonable threat of harm to the marine environment.

(3) If the ship is in a port of another state where MARPOL is in force, its port state authority shall be notified immediately and the port state authorities shall give such officer, surveyor or organisation any necessary assistance to carry out the obligation under this section.

(4) In every case, the Administration shall fully guarantee the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.



### **179. Maintenance of equipment of ship and notice or change of condition**

(1) The equipment of a ship shall be maintained at all times to comply in all respects with the provisions of this Sub-Part and no changes shall be made in the equipment, systems, fittings arrangements, or material covered by the survey under section 177 without the express approval of the Administration.

(2) Whenever an accident occurs to a ship or a defect is discovered which substantially affects the efficiency or completeness of its equipment covered by this Sub-Part, the owner or master thereof shall as soon as practicable following such an accident or discovery of a defect, give a written notice to the Administration describing full particulars of the accident or the defect.

(3) Copies of such written notice referred to in subsection (2) shall be also given to a nominated surveyor or recognised organisation responsible for issuing the International Air Pollution Prevention Certificate.

### **180. Issue of International Air Pollution Prevention Certificate**

(1) An International Air Pollution Prevention Certificate shall be issued by the Administration after survey in accordance with the provisions of section 177 of this Act, to-

- (a) a Gambian ship of four hundred (400) gross tonnage or above engaged in voyages to ports or offshore terminal of countries where MARPOL is in force;
- (b) platforms and drilling rigs engaged in voyages to waters under the sovereignty or jurisdiction of parties to countries where MARPOL is in force;

(2) A ship which was constructed before the 1<sup>st</sup> July, 2010 for The Gambia shall be issued with an International Air Pollution Prevention Certificate in accordance with subsection (1) not later than the first

scheduled dry docking after 1<sup>st</sup> July, 2010 but in no case later than three years after this date.

**181. Issue of International Air Pollution Prevention Certificate by the Authority at the request of a Government**

(1) The Administration may at the request of a Government of a state where MARPOL is in force cause a ship to be surveyed and, if satisfied that the provisions of this Sub-Part have been complied with, issue or authorise the issue of an International Air Pollution Prevention Certificate to that ship and where appropriate endorse or authorise the endorsement of that certificate on the ship in accordance with this Sub-Part.

(2) An International Air Pollution Prevention Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Government of a state where MARPOL is in force and a copy of it together with a copy of the survey report shall be transmitted as early as possible to the Government requesting the survey.

(3) An International Air Pollution Prevention Certificate issued by another state where MARPOL is in force in respect of a Gambian ship at the request of the Administration shall have the same force and receive the same recognition in The Gambia as an International Air Pollution Prevention Certificate issued under this Sub-Part.

(4) An International Air Pollution Prevention Certificate shall not be issued to a ship which is not registered in a state where MARPOL is in force.

**182. Forms of International Air Pollution Prevention Certificate**

An International Air Pollution Prevention Certificate shall be in the form prescribed in the Seventeenth Schedule.

### **183. Duration and validity of International Air Pollution Certificate**

(1) An International Air Pollution Prevention Certificate shall be valid for five years from the date of issue.

(2) Notwithstanding the requirement of subsection (1), when the renewal survey is completed within three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.

(3) When the renewal survey is completed after the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.

(4) When the renewal survey is completed more than three months before the expiry date of existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.

(5) If a renewal survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the person or authority authorised by the Administration may endorse the existing certificate and such certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.

(6) Where a Gambian ship is not in a port in which it is to be surveyed on the date of expiry of the Certificate issued to that ship under this Sub-Part, the Administration may extend the period of validity of the certificate.

(7) The extension referred to in sub-section (6) shall be granted only for the purpose of enabling the ship

to complete its voyage to a Port in The Gambia or to the port in which it is to be surveyed, and then only in cases where it appears proper and reason-able to grant the extension.

(8) The extension shall not exceed three months and a ship to which an extension is granted shall not on arrival in The Gambia or the port in which it is surveyed be entitled without having obtained a new International Air Pollution Prevention Certificate.

(9) When the renewal survey is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

(10) A certificate issued to a ship engaged on short voyages which has not been extended under subsection (6) above may be extended by the Administration for a period of up to one month.

(11) When an extension is granted by the Administration, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

#### **184. Provision of reception facilities**

The Gambia Ports Authority shall provide adequate reception facilities in accordance with the regulations made pursuant to section 187.

#### **185. Inspection of the reception facility and notice**

(1) Reception facilities shall be periodically inspected by the Administration or a person designated by it for the purpose, to ensure that they meet the requirements of this Sub-Part.

(2) The Administration shall notify the Organisation of all cases where the reception facilities in The Gambia or in other states where MARPOL is in force are alleged to be inadequate or unusable.

## **186. Offences**

(1) Where any ship, or the owner or master thereof fails to comply with any requirement of this Sub-Part and the regulations made by the Minister, the owner and master of the ship each commit an offence and are liable on conviction to a fine not exceeding five million dalasis.

(2) It shall be a defence for a person charged under subsection (1) to show that he or she took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

## **187. Regulations**

The Minister shall make regulations for the following regulations for control of emissions from ship covering the following-

- (b) Ozone-depleting substances;
- (c) Nitrogen Oxides (NO<sub>x</sub>);
- (d) Sulphur oxides (SO<sub>x</sub>); and particulate matter;
- (e) Volatile organic compounds; (VOCs)
- (f) Shipboard incineration;
- (g) Fuel oil; availability and quality
- (h) Trials for ship emission reduction and control technology;
- (i) Emission from seabed mineral active-ties;
- (j) provision of reception facilities.

## **PART VI - OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION**

### **188. Interpretation**

In this Part-

“Convention” means International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990;

“National Coordinator” means the person responsible for the Gambian National Oil Spill Contingency Plan;

“offshore unit” means any fixed or floating offshore installation or structure engaged in gas or oil exploration, exploitation or production activities, or loading or unloading of oil;

“oil pollution emergency plan” means a contingency plan (other than the National Oil Spill Contingency Plan) setting out arrangements for responding to incidents which cause or may cause marine pollution by oil, with a view to preventing such pollution reducing or minimising its effect;

“oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

“oil pollution incident” means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of one or more States, and which requires emergency action or other immediate response;

“operator” means, in relation to an oil handling facility, a person having, for the time being, the management of such facility in The Gambia, and in relation to an offshore installation, includes any person having the management of the installation;

“Organisation” means the International Maritime Organisation;

“sea ports and oil handling facilities” means those facilities which present a risk of an oil pollution incident and includes, *inter alia*, sea ports, oil terminals, pipelines and other oil handling facilities;

“ship” means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air cushion vehicles, submersibles, and floating craft of any type; and

“Secretary-General” means the Secretary-General of the Organisation.

### **189. Application of Part VI to Government ships and naval vessels**

(1) This Part shall not apply to-

- (a) any Gambian Government ship on Government non-commercial service; and
- (b) 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.

(2) A ship referred to in subsection (1) (a) shall, so far as is reasonable and practicable act in a manner consistent with this Part.

## **190. Oil pollution emergency plan**

(1) A ship registered in The Gambia shall have on board an oil pollution emergency plan which is co-ordinated with the system established in accordance with section 193 and approved in accordance with procedures established by the National Co-ordinator.

(2) An operator of offshore unit under the jurisdiction of The Gambia shall have an oil pollution emergency plan, which is co-ordinated with the system established in accordance with section 193 and approved in accordance with procedures established by the National Coordinator.

(3) An Authority or an operator in charge of a sea port and an oil handling facility under the jurisdiction of The Gambia shall have an oil pollution emergency plan or similar arrangement which is co-ordinated with the system established in accordance with section 193 and approved in accordance with procedures established by the National Coordinator.

(4) Any ship owner or master, operator of offshore unit, an authority or operator in charge of seaport and an oil handling facility who does not have in place oil pollution emergency plan commits an offence and, shall be liable on conviction to a fine of not exceeding five million dalasis.

## **191. Oil pollution reporting procedures**

(1) A master or any other person having charge of a ship registered in The Gambia and any person having charge of offshore unit under the jurisdiction of The Gambia shall report to the National Co-ordinator without delay-

(a) any event on his ship or any event on his offshore unit involving a discharge or probable discharge of oil; and

(b) any observed event at sea involving a discharge of oil or the presence of oil.



(2) A person having charge of a sea port and an oil handling facility under the jurisdiction of The Gambia shall report without delay any event involving a discharge or probable discharge of oil or the presence of oil to the National Coordinator.

(3) The following officials shall report without delay any observed event at sea or at a sea port or oil handling facility involving a discharge of oil or the presence of oil to the National Co-ordinator-

- (a) officers of the Administration, Police Service, Customs or Immigration Services; and
- (b) any other officials designated by the Minister for the purposes of this sub-section.

(4) A report under this section shall be made in accordance with section 45 as appropriate.

(5) A person who fails without reasonable cause, to report a discharge or probable discharge of oil commits an offence and is liable on conviction to a fine of not exceeding two million dalasis

## **192. Action on receiving an oil pollution report**

(1) When the National Coordinator receives a report referred to in section 191 or pollution information provided by other sources, he or she shall-

- (a) assess the event to determine whether it is an oil pollution incident;
- (b) assess the nature, extent and possible consequences of the oil pollution incident; and
- (c) without delay, inform all states whose interests are affected or likely to be affected by such oil pollution incident, together with
  - (i) details of its assessments and any action it has taken, or intends to take, to deal with the incident, and

- (ii) further information as appropriate, until the action taken to respond to the incident has been concluded or until joint action has been decided by such states.

(2) In the event of a serious oil pollution incident, the National Coordinator shall forthwith inform the Administration, and if the Administration deems it appropriate, it shall provide the Organisation directly or through the relevant regional organisation or arrangement with the information referred to in subsection (1)(b) and (c).

(3) When exchanging information and communicating with other states and with the Organisation, the National Coordinator shall, in so far as it is practicable, comply with the reporting system contained in the Manual on Oil Pollution, Section II - Contingency Planning, appendix 2, developed by the Marine Environment Protection Committee of the Organisation.

(4) The National Coordinator shall, within his or her capabilities either individually or through bilateral or multi-lateral co-operation, and as appropriate, in co-operation with the oil and shipping industries, port authorities and other relevant entities establish-

- (a) a minimum level of pre-positioned oil spill combating equipment commensurate with the risk involved and programmes for its use;
- (b) a programme of exercises for oil pollution response organisations and training of relevant personnel;
- (c) detailed plans and communication capabilities which are continuously available to an oil pollution incident; and
- (d) mechanism or arrangement to co-ordinate the response to an oil pollution incident with, if appropriate, the capabilities to mobilise the necessary resources.

(5) The National Coordinator shall provide the Administration with current information concerning-

(a) the location, telecommunication data and, where applicable, area of his or her responsibility;

(b) information concerning pollution response equipment and expertise in disciplines related to oil pollution responses and marine salvage which may be made available to other States, upon request; and

(c) the national contingency plan.

(6) The Administration shall ensure that information referred to in sub-section (5) is provided to the Organisation, directly or through the relevant regional organisation or arrangements.

### **193. National and Regional systems for preparedness and response**

(1) There shall be established a national system for responding promptly and effectively to oil pollution incidents.

(2) The National Coordinator shall be-

(a) the competent national authority with responsibility for pollution preparedness and response;

(b) the national operational contact point responsible for the receipt and transmission of oil pollution reports as referred to in section 191; and

(c) responsible for acting on behalf of the Government to request assistance or to decide to render the assistance requested.

(3) A national contingency plan for preparedness and response (which shall include the organisational relationship of the various bodies involved, whether

public or private) shall be prepared, taking into account the guidelines contained in the Manual on Oil Pollution, Section II - Contingency Planning, developed by the Marine Environment Protection Committee of the Organisation.

#### **194. International co-operation in pollution response**

(1) The National Coordinator shall co-operate and provide advisory services, technical support and equipment for the purpose of responding to a serious oil pollution incident, upon the request of any state Party to the Convention affected or likely to be affected.

(2) The financing of the costs for such assistance shall be based on the provisions set out in the Annex to the Convention, appearing herein in the Eighteenth Schedule.

(3) In appropriate circumstances, the Administration may seek assistance from the Organisation in identifying sources of provisional financing of the costs referred to in subsection (2).

(4) In accordance with applicable international agreements, the National Coordinator shall take necessary measures to facilitate-

(a) the arrival and utilisation in, and departure from his or her territory, of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and

(b) the expeditious movement into, through, and out of The Gambia of personnel, cargoes, materials and equipment referred to in paragraph (a).

## **195. Research and development**

- (1) The National Coordinator shall co-operate directly or through relevant regional organisations or arrangements, in the promotion and exchange of results of research and development programmes relating to the enhancement of the state-of-the-art oil pollution preparedness and response, including technologies and techniques for surveillance, containment, recovery, dispersion, clean-up and otherwise minimising or mitigating the effects of oil pollution, and for restoration.
- (2) The National Coordinator shall, where appropriate, establish directly or through relevant regional organisations or arrangements, the necessary links between research institutions within The Gambia and those of other state parties to the Convention.
- (3) The National Coordinator shall, where appropriate, co-operate directly or through relevant regional organisations or arrangements, to promote the holding on a regular basis of international symposia on relevant subjects, including technological advances in oil pollution combating techniques and equipment.
- (4) The National Coordinator shall, where appropriate, co-operate directly or through other competent international organisations, the development of standards for compatible oil pollution combating techniques and equipment.
- (5) The activities referred to in this section may be carried out through the Organisation and for such purposes, the Administration shall liaise with the Organisation.

## **196. Technical Cooperation**

(1) The National Coordinator shall, where appropriate, directly or through international bodies, in respect of oil pollution preparedness and response, provide support for those state parties to the Convention which request technical assistance to-

- (a) train personnel;
- (b) ensure the availability of relevant technology, equipment and facilities;
- (c) facilitate other measures and arrangements to prepare for and respond to oil pollution incidents; and
- (d) initiate joint research and development programmes.

(2) The National Coordinator shall, where appropriate, co-operate in the transfer of technology in respect of oil pollution preparedness and response.

(3) The support and transfer of technology referred to in this section may be provided through the Organisation, and for such purposes the Administration shall liaise with the Organisation.

## **197. Bilateral and multilateral co-operation in preparedness and response**

The National Coordinator may enter into bilateral or multilateral arrangements for oil pollution preparedness and response, and in such circumstances, the Administration shall send to the Organisation, copies of relevant instruments or documents relating to such arrangements.

## **198. Relation to other parts**

Nothing in this Part shall be construed as altering the rights or obligations provided under any other Part of this Act.

## **PART VII - LIABILITY AND COMPENSATION FOR POLLUTION DAMAGE**

### **Sub-Part 1 - Liability for oil pollution**

#### **200. Liability for oil pollution in case of tankers**

(1) Where as a result of any occurrence, oil is discharged or escapes from a ship to which this Sub-Part applies, except as otherwise provided by this Sub-Part, the owner of the ship shall be liable-

- (a) for any damage caused outside the ship in the territory of The Gambia by contamination resulting from the discharge or escape;
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of The Gambia by contamination resulting from the discharge or escape; and
- (c) for any damage caused in the territory of The Gambia by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this Sub-Part applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Sub-Part) the owner of the ship shall be liable-

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of The Gambia; and
- (b) for any damage caused outside the ship in the territory of The Gambia by any measures taken, and in this Sub-Part any such threat is referred to as a "relevant threat of contamination."

(3) Subject to subsection (4), this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargo besides oil, this Sub-Part shall apply to any other ship while it is carrying oil in bulk as cargo; unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil, but not otherwise.

(5) Where a person incurs a liability under subsection (1) or (2) he or she shall also be liable for any damage or cost for which he or she would be liable under that subsection if the references in it to the territory of The Gambia includes the territory of any other Liability Convention State.

(6) Where-

- (a) as a result of any occurrence, a liability is incurred under this section by separate owners of two or more ships; and
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be jointly liable for the whole of the damage or cost for which the owners together would be liable under this section.

(7) For the purposes of this Sub-Part-

- (a) references to a discharge or escape of oil from a ship means references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences



having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and

- (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

### **201. Liability for oil pollution in case of other ships**

(1) Where as a result of any occurrence, oil is discharged or escapes from a ship other than a ship to which section 200 applies, then except as otherwise provided by this Sub-Part, the owner of the ship shall be liable-

- (a) for any damage caused outside the ship in the territory of The Gambia by contamination resulting from the discharge or escape;
- (d) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of The Gambia by contamination resulting from the discharge or escape; and
- (c) for any damage so caused in the territory of The Gambia by any measures so taken.

(2) Where as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 199 applies by the contamination which might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Sub-Part) the owner of the ship shall be liable-

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the

territory of The Gambia and

- (b) for any damage caused outside the ship in the territory of The Gambia by any measures so taken, and in the subsequent provisions of this Sub-Part any such threat is referred to as a “relevant threat of contamination.”

(3) Where-

- (a) as a result of any occurrence, a liability is incurred under this section by separate owners of two or more ships; and
- (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be jointly liable for the whole of the damage or cost for which the owners together would be liable under this section.

(4) In this section “ship” includes a vessel which is not seagoing.

## **202. Exceptions from liability under sections 200 and 201**

Liability shall not be incurred by the owner of a ship under section 200 or 201 by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he she proves that the discharge or escape, or the threat of contamination-

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or

- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other aids to navigation for the maintenance of which it was responsible.

### **203. Restriction of liability for oil pollution**

(1) Where as a result of any occurrence, oil is discharged or escapes from a ship (whether one to which section 200 or one to which section 201 applies) or there arises a relevant threat of contamination, whether or not the owner of the ship in question incurs a liability under section 200 or 201-

- (a) the owner of the ship shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and
- (b) no person to whom this section applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him or her either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Sub-section (1) (b)(ii) applies to-

- (a) a servant or agent of the owner of the ship;
- (b) a person not falling within sub-section (1) but employed or engaged in any capacity on board the ship or to perform any service for the ship;
- (c) a charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;

- (d) a person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (e) a person taking such measures as are mentioned in subsection (1)(b) or (2)(a) of section 200 or 201; or
- (f) a servant or agent of a person falling within paragraph (c), (d) or (e).

(3) The liability of the owner of a ship under section 200 or 201 for any impairment of the environment shall be taken to be a liability only in respect of-

- (a) any resulting loss of profits; and
- (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

#### **204. Limitation of liability under section 200**

(1) Where as a result of any occurrence, the owner of a ship incurs liability under section 200 by reason of a discharge or escape or by reason of any relevant threat of contamination, subject to sub-section (3)-

- (a) he or she may limit that liability in accordance with the provisions of this Sub-Part; and
- (b) if he or she does so, his or her liability (being the aggregate of his liabilities under section 200 resulting from the occurrence) shall not exceed the relevant amount.

(2) In subsection (1), "the relevant amount" means-

- (a) in relation to a ship not exceeding five thousand (5,000) tons, 4,510,000 special drawing rights; or
- (b) in relation to a ship exceeding five thousand (5,000) tons, 4,510,000 special drawing

rights together with an additional 621 special drawing rights for each ton of its tonnage in excess of five thousand (5,000) tons up to a maximum amount of 89,770,000 special drawing rights.

(4) The Minister may by Order published in the Gazette make such amendments to sub-section (2) as may be appropriate for the purpose of implementing any amendment in force for The Gambia of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.

(5) Subsection (1) shall not apply in a case where it is proved that the discharge or escape, or the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 200 or recklessly and in the knowledge that any such damage or cost would probably result.

(6) For the purposes of this section, a ship's tonnage shall be its gross tonnage calculated in accordance with the Tonnage Regulations made under the Merchant Shipping Act 2010.

## **205. Limitation actions**

(1) Where the owner of a ship has or is alleged to have incurred a liability under section 200, he or she may apply to the Court for the limitation of that liability to an amount determined in accordance with section 204.

(2) Where on such an application the Court finds that the applicant has incurred such a liability and is entitled to limit it, the Court shall, after determining the limit of the liability and directing payment into Court of the amount of that limit-

(a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and

- (b) direct the distribution of the amount paid into Court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

(3) Where-

- (a) a distribution is made under sub-section (2)(b) without the Court having found that the applicant is entitled to limit his liability; and
- (b) the Court subsequently finds that the applicant is not so entitled;
- (c) the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.

(4) A payment into Court of the amount of a limit determined in pursuance of this section shall be made in United States dollars and-

- (a) for the purpose of converting such an amount from special drawing rights into United States dollars, one special drawing right shall be treated as equal to such sum in United States dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right for-
  - (i) the day on which the determination is made, or
  - (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
- (b) a certificate given by or on behalf of the Minister stating-
  - (i) that a particular sum in United States dollars has been so fixed for the day on which the determination was made, or

(ii) that no sum has been fixed for that day and that a particular sum in United States dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made, shall not be conclusive evidence of those matters for the purposes of this Sub-Part; and

(c) a document purporting to be such a certificate shall in any proceedings, be received in evidence and unless the contrary is proved, be deemed to be such a certificate;

(5) A claim shall not be admitted in proceedings under this section unless it is made within such time as the Court may direct or such further time as the Court may allow.

(6) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends-

(a) by the owner or the persons referred to in section 212 as "the insurer"; or

(b) by a person who has or is alleged to have incurred a liability, otherwise than under section 200, for the damage or cost and who is entitled to limit his or her liability with the ship by virtue of section 421 of the Merchant Shipping Act;

(d) the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(7) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have

extended, he or she shall be in the same position with respect to any distribution made in proceedings under this section as if he or she had a claim in respect of the liability equal to the cost of the sacrifice or claim.

(8) The Court may if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any state outside The Gambia.

(9) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b).

#### **206. Restriction on enforcement after establishment of limitation fund**

Where the Court has found that a person who has incurred a liability under section 200 is entitled to limit that liability to any amount and he or she has paid into Court a sum not less than that amount-

- (a) the Court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
- (b) no judgement or decree for any such claim shall be enforced, except so far as it is for costs, if the sum paid into Court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 205 had been taken.

#### **207. Concurrent liabilities of owners and others**

Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 200 and any other person incurs a liability otherwise than under that section, for any



such damage or cost as is mentioned under subsection (1) or (2) of that section, and-

- (a) the owner has been found in proceedings under section 205 to be entitled to limit his or her liability to any amount and has paid into Court a sum not less than that amount; and
- (b) the other person is entitled to limit his or her liability in connection with the other ship by virtue of section 421 of the Merchant Shipping Act,
- (c) no proceedings shall be taken against the other person in respect of his or her liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

#### **208. Establishment of limitation fund outside The Gambia**

Where the events resulting in the liability of a person under section 200 also resulted in a corresponding liability under the law of another Liability Convention State, sections 206 and 207 shall apply as if the references to sections 200 and 201 included references to the corresponding provisions of that law and the references to sums paid into Court included references to any sums secured under those provisions in respect of the liability.

#### **209. Extinguishment of claims**

An action to enforce a claim in respect of a liability incurred under section 200 or 201 shall not be entertained by a Court in The Gambia unless the action is commenced not later than three years after the claim arose or later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or, as the case may be, in the relevant threat of contamination, by reason of which the liability was incurred.

## **210. Compulsory insurance against liability for pollution**

(1) Subject to the provisions of this Sub-Part relating to Government ships, subsection (2) shall apply to any ship carrying in bulk a cargo of more than two thousand (2,000) tons of oil of a description specified in regulations made by the Minister.

(2) A ship shall not enter or leave a port in The Gambia or arrive at or leave a terminal in the territorial sea of The Gambia or, if the ship is a Gambian ship, a port in any other State or a terminal in the territorial sea of any other State, unless there is in force a certificate complying with the provisions of subsection (3) and showing that there is in force in respect of the ship a contract of insurance or other financial security satisfying the requirements of Article VII of the Liability Convention.

(3) The certificate shall -

- (a) in the case of a Gambian ship, be a certificate issued by the Administration;
- (b) if the ship is registered in a Liability Convention state other than The Gambia be a certificate issued by or under the authority of the Government of the other Liability Convention state;
- (c) if the ship is registered in a state which is not a Liability Convention state, be a certificate issued by the competent authority of any Liability Convention state other than The Gambia;
- (d) be in English.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried on the ship and shall, on demand, be produced by the master to any officer of Customs and Excise or any surveyor authorised by the Administration for the purpose and, if the ship is a Gambian ship, to any proper officer.

(5) Where a ship enters, leaves, or attempts to enter or leave a port, or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2), the master or owner commits an offence and is liable on conviction to a fine not exceeding five million dalasis.

(6) Where a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection subsection (4), the master commits an offence and is be liable on conviction to a fine not exceeding five million dalasis.

(7) Where a ship attempts to leave a port or terminal in The Gambia in contravention of this section the ship may be detained.

#### **211. Issue of certificate by the Administration**

(1) Subject to subsection (2), if the Administration is satisfied, on the application for such a certificate as is mentioned in section 210 in respect of a Gambian ship or a ship registered in any *state* which is not a Liability Convention state, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Administration shall issue such a certificate to the owner.

(2) Where the Administration has any doubt whether the person providing the insurance or other security shall be able to meet his obligations thereunder, or whether the insurance or other security shall cover the owner's liability under section 200 in all circumstances, it may refuse the certificate.

(3) The Minister may make regulations providing for the cancellation and surrender of a certificate under this section in such circumstances as may be prescribed by the regulations.

(4) Where a person required by regulations under subsection (3) to surrender a certificate fails to do so, he or she commits an offence and is liable on

conviction to a fine not exceeding two million dalasis.

(5) The Administration shall make available for public inspection a copy of any certificate issued by it under this section in respect of a Gambian ship.

## **212. Rights of third parties against insurers**

(1) Where it is alleged that the owner of a ship has incurred a liability under section 200 as a result of any discharge or escape of oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 210 related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as “the insurer”).

(2) In any proceedings brought against the insurer by virtue of this section, it shall be a defence in addition to any defence affecting the owner’s liability to prove that the discharge or escape, or as the case may be, the threat of contamination was due to the wilful misconduct of the owner.

(3) The insurer may limit his or her liability in respect of claims made against him or her by virtue of this section in like manner and to the same extent as the owner may limit his or her liability but the insurer may do so whether or not the discharge or escape, or, as the case may be, the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 214(3).

(4) Where the owner and the insurer each apply to the Court for the limitation of his or her liability, any sum paid into Court in pursuance of either application shall be treated as paid also in pursuance of the other.

## **213. Jurisdiction of The Gambia court and registration of foreign judgements**

(1) Where-

- (a) oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the territory of The Gambia and no measures are reasonably taken to prevent or minimise such damage in that territory; or

- (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in the territory of The Gambia,

no Court in The Gambia shall entertain any action, whether *in rem* or *in personam*, to enforce a claim arising from any relevant damage or cost against the owner of the ship, or a person to whom section 203(1)(b)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(2) In subsection (1), “relevant damage or cost” means-

- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention state by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention state;
- (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention state; or

(3) Any damage caused by any measures taken as mentioned in paragraph (a) or (b), and section 203(2)(e) shall have effect for the purpose of subsection (1) as if it referred to a person taking any such measures as are mentioned in paragraphs (a) or (b).

(4) Any judgement given by a court in a Liability Convention state in respect of a liability incurred under any provision corresponding to section 200 shall be enforceable by the Court.

## **214. Government ships**

(1) Nothing in the preceding provisions of this Sub-Part applies in relation to any warship or any ship for the time being used by the Government of any state for non commercial purposes.

(2) In relation to a ship owned by a state and for the time being used for commercial purposes, it shall be a sufficient compliance with section 210(2) if there is in force a certificate issued by the Government of that state showing that the ship is owned by that state and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Convention.

(3) Every Liability Convention State shall, for the purposes of any proceedings brought in Court in The Gambia to enforce a claim in respect of a liability incurred under section 200, be deemed to have submitted to the jurisdiction of the Court and accordingly rules of Court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution against the property of any state.

## **215. Limitation of liability under section 201**

For the purposes of Part XVII of the Merchant Shipping Act, any liability incurred under section 201 shall be deemed to be a liability to damages in respect of such damage to property as is referred to in subsection 1(a) of section 422 of that Act.

## **216. Saving for recourse actions**

Nothing in this Sub-Part shall prejudice any claim or the enforcement of any claim a person incurring any liability under this Sub-Part may have against another person in respect of that liability.

## **Sub-Part 2 - International Oil Pollution Compensation Fund**

### **217. Interpretation**

(1) For the purposes of this Sub-Part –

“damage” includes loss;

“Director” means the Director of the Fund who is recognised by the Laws of The Gambia as the legal representative of the Fund;

“discharge or escape”, in relation to pollution damage, means the discharge or escape of oil from the ship;

“Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;

“Fund” means the Fund established by the Fund Convention which is recognised as a legal person under the Laws of The Gambia;

“Fund Convention state” means a state in respect of which the Fund Convention is in force;

“guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 210;

“incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

“Liability Convention” has the same meaning as in Sub-Part 1 of this Part;

“oil”, except in sections 218 and 219, means persistent hydrocarbon mineral oil;



“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“pollution damage” means-

- (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship;
- (b) the cost of preventive measures; and
- (c) further damage caused by preventive measures,

but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of-

- (i) any loss of profits, or
- (ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;

“preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken-

- (a) after an incident has occurred, or
- (b) in the case of an incident consisting of a series of occurrences after the first of those occurrences;

“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship; and

“ship” means any ship (within the meaning of Sub-Part 1 of this Part) to which section 200 applies.



(2) For the purposes of this Sub-Part –

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

(3) References in this Sub-Part to the territory of any state shall be construed in accordance with section 199(3) reading the reference to a Liability Convention state as a reference to a Fund Convention state.

(4) A declaration by the Minister by Order published in the Gazette that any state specified in the Gazette is a party to the Convention shall for the purposes of this Part, be conclusive evidence that that state is a party to that Convention in respect of that state.

### **218. Contributions by importers of oil and others**

(1) A contribution shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in The Gambia otherwise than on a voyage only within Gambian waters.

(2) Subsection (1) applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) A contribution shall also be payable to the Fund in respect of oil when first received in any installation in The Gambia after having been carried by sea and discharged in a port or terminal

installation in a state which is not a Fund Convention state.

(4) The person liable to pay contributions is-

- (a) in the case of oil which is being imported into The Gambia, the importer; or
- (b) the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of the oil imported or received by him or her in any year if the oil so imported or received in the year does not exceed one hundred and fifty thousand (150,000) tons.

(6) For the purpose of subsection (5)-

- (a) all the members of a group of companies shall be treated as a single person; and
- (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall-

- (a) be of such amount as may be determined by the Executive Director of the Fund under Article 12 subject to Article 36 of the Fund Convention and notified to that person by the Fund; and
- (b) be payable in such instalments, becoming due at such times, as may be so notified to him or her,

and if any amount due from him or her remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Minister may make regulations imposing on persons who are or may be liable to pay contributions under this section an obligation to give security for payment to the Minister or the Fund.

(9) Regulations made under subsection (8)-

- (a) may contain such supplemental or incidental provisions as the Minister deems expedient; and
- (b) may impose penalties for contravention of the regulations.

(10) In this section and in section 219, unless the context otherwise requires-

“company” means a body incorporated under the laws of The Gambia or of any other state;

“crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes-

- (i) crude oils from which distillate fractions have been removed; and
- (ii) crude oils to which distillate fractions have been added; and

“fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D396-96)”, or heavier;

“group” in relation to companies, means a holding company and its subsidiaries as defined by the Companies Act, subject, in the case of a company incorporated outside The Gambia to any necessary modifications of those definitions;

“importer” means the person by whom or on whose

behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;

“oil” means crude oil and fuel oil; and

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

### **219. Power to obtain information**

(1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 218 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Administration may by notice require a person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 218(6).

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against a person to recover any amount due under section 218, particulars contained in any list transmitted by the Administration to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) Where a person discloses any information which has been furnished to or obtained by him or her under this section or in connection with the

execution of this section, unless the disclosure is made-

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the execution of this section; or
- (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

he or she commits an offence and is liable on conviction to a fine not exceeding two million dalasis.

(6) A person who-

- (a) refuses or wilfully neglects to comply with a notice under this section; or
- (b) in furnishing any information in compliance with a notice under this section makes a statement which he or she knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, commits an offence and is liable-
  - (i) on summary conviction to a fine not exceeding one million dalasis in the case of an offence under paragraph (a) and not exceeding five million dalasis in the case of an offence under paragraph (b), and
  - (ii) on conviction on indictment, to a fine not exceeding five million Dalasis or imprisonment for a term not exceeding twelve months, or both.

## **220. Liability of the fund**

(1) The Fund shall be liable for pollution damage in the territory of The Gambia if the person suffering the damage has been unable to obtain full compensation under section 200 due to the fact that-

- (a) the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused-
  - (i) resulted from an exceptional, inevitable and irresistible phenomenon;
  - (ii) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
  - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other aids of navigation for the maintenance of which it was responsible,
- (b) liability is wholly displaced by section 202;
- (c) the owner or guarantor liable for the damage cannot meet his or her obligations in full; or
- (d) the damage exceeds the liability under section 200 as limited by section 204.

(2) Subsection (1) shall apply with the substitution of the words "The Gambia" with the words "a Fund Convention state" where the incident has caused pollution damage in the territory of The Gambia and of another Fund Convention state, and proceedings under the Liability Convention for compensation for the pollution damage have been



brought in a state which is not a Fund Convention state or in The Gambia.

(3) Where the incident has caused pollution damage in the territory of The Gambia and of another state in respect of which the Liability Convention is in force, references in this section to the provisions of Sub-Part 1 of this Part shall include references to the corresponding provisions of the law of any state giving effect to the Liability Convention.

(4) For the purposes of this section, an owner or guarantor shall be treated as incapable of meeting his or her obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(5) Expenses reasonably incurred and sacrifices reasonably made by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he or she shall be in the same position with respect to claims against the Fund under this section as if he or she had a claim in respect of liability under section 200.

(6) The Fund shall incur no obligation under this section if-

- (a) it proves that the pollution damage-
  - (i) resulted from an act of war, hostilities, civil war or insurrection;  
or
  - (ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service; or
- (b) the claimant cannot prove that the damage resulted from an occurrence

involving a ship identified by him or her, or involving two or more ships one of which is identified by him or her.

(7) Where the Fund proves that the pollution damage resulted wholly or partly-

(a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage; or

(b) from the negligence of that person,

the Fund may, subject to subsection (9), be exonerated wholly or partly from its obligations to pay compensation to that person.

(8) Where the liability under section 200 in respect of the pollution damage is limited to any extent by subsection (8) of that section, the Fund shall, subject to subsection (9), be exonerated to the same extent.

(9) Subsections (7) and (8) shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

## **221. Limitations of Fund's liability under section 220**

(1) The Fund's liability under section 220 shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention which impose an overall limit on the liabilities of the Fund and the text of which is set out in Part I of the Nineteenth Schedule, and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Sub-Part.

(2) A certificate given by the Director of the Fund stating that subparagraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 220 shall be conclusive evidence for the purposes of this Sub-Part that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention, the Court giving judgement against the Fund in proceedings under section 220 shall notify the Fund, and-

(a) no steps shall be taken to enforce the judgement unless and until the Court gives leave to enforce it;

(b) leave shall not be given unless and until the Fund notifies the Court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount; and

(c) in the latter case, the judgement shall be enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgement as is mentioned in subsection (3) shall be steps to obtain payment in United States dollars.

(5) For the purpose of converting such an amount from special drawing rights into United States dollars, one special drawing right shall be treated as equal to such a sum in United States dollars as the International Monetary Fund has fixed as being the equivalent of one special drawing right -

(a) for the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident; and

(b) if no sum has been fixed for the relevant day, the last day before that day for which a sum has been so fixed; and

(6) A certificate given by or on behalf of the Minister stating-

- (a) that a particular sum in dollars has been so fixed for the relevant day, or
- (b) that no sum has been so fixed for the relevant day and that a particular sum in dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant day,

shall be conclusive evidence of those matters for the purposes of this Sub-Part.

(7) A document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) shall, in any legal proceedings, be received in evidence and unless the contrary is proved, be deemed to be such a certificate.

## **222. Jurisdiction and effect of judgements**

(4) No steps shall be taken to enforce such a judgement unless and until the Fund notifies the Court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the Fund Convention (as set out in Part I of the Nineteenth Schedule) or that it is to be reduced to a specified amount; and in the latter case, the judgement shall be enforceable only for the reduced amount.

## **223. Extinguishment of claims**

(1) An action to enforce a claim against the Fund under this Sub-Part shall not be entertained by a court in The Gambia unless-

- (a) the action is commenced; or
- (b) a third party notice of an action to enforce a claim against the owner or his guarantor in respect of the same

damage is given to the Fund,

not later than three years after the claim against the Fund arose.

(2) In subsection (1), “third party notice” means a notice of the kind described in section 222 (1) and (2).

(3) No action to enforce a claim against the Fund under this Sub-Part shall be entertained by a Court in The Gambia unless the action is commenced not later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or as the case may be, in the relevant threat of contamination, by reason of which the claim against the Fund arose.

#### **224. Subrogation**

(1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has or, but for the payment would have had against any other person.

(2) In respect of any sum paid by a public authority in The Gambia as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Sub-Part.

#### **225. Supplementary provisions as to proceedings involving the fund**

(1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund’s representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall, in any such

proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

### **SUB-PART 3 - Carriage of hazardous and noxious substances**

#### **226. Interpretation**

(1) For the purposes of this Sub-Part-

“carriage by sea” means the time from when the hazardous and noxious substances enter any part of the ship’s equipment, on loading, to the time they cease to be present in any part of the ship’s equipment, on discharge; and if no ship’s equipment is used, the period begins and ends respectively when the hazardous and noxious substances cross the ship’s rail;

“contributing cargo” means any hazardous and noxious substances which are carried by sea as cargo to a port or terminal in The Gambia and discharged in The Gambia. Cargo in transit which is transferred directly or through a port or terminal, from one ship to another, either wholly or in part, in the course of carriage from the port or terminal of original loading to the port or terminal of final destination shall be considered as contributing cargo only in respect of receipt at the final destination;

“Convention” means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996;

“damage” includes-

- (a) loss of life or personal injury on board or outside the ship carrying the hazardous and noxious substances caused by those substances,
- (b) loss of or damage to property outside the ship carrying the hazardous and

noxious substances caused by those substances,

- (c) loss or damage by contamination of the environment caused by the hazardous and noxious substances, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken,
- (d) the costs of preventive measures and further loss or damage caused by preventive measures; or
- (e) where it is not reasonably possible to separate damage caused by the hazardous and noxious substances from that caused by other factors, all such damage shall be deemed to be caused by the hazardous and noxious substances except if, and to the extent that, the damage caused by other factors is damage of a type referred to in section 227 (3), and
- (f) in paragraphs (a) and (b), “caused by those substances” means caused by the hazardous or noxious nature of the substances;

“hazardous and noxious substances” (HNS)  
means-

- (a) any substance, material and article carried on board a ship as cargo, namely-
  - (i) oils carried in bulk listed in the Fifth Schedule,
  - (ii) noxious liquid substances carried in bulk referred to in the Eighth Schedule and those substances

and mixtures provisionally categorised in accordance with section 92 as falling in pollution category X, Y, Z or other substances as set out in section 90,

- (iii) dangerous liquid substances carried in bulk listed in Sub-Part 17 of the IBC Code and the dangerous products for which the preliminary suitable conditions for the carriage have been prescribed by the Administration in accordance with paragraph 1.1.3 of the Code,
  - (iv) dangerous, hazardous and harmful substances, materials and articles in packaged form covered by the IMDG Code, as amended,
  - (iv) liquefied gases as listed in chapter 19 of the IGC Code and the products for which preliminary suitable conditions for the carriage have been prescribed by the Administration in accordance with paragraph 1.1.6 of the Code;
  - (vi) liquid substances carried in bulk with a flashpoint not exceeding 60 degrees C (measured by a closed cup test);
  - (vii) solid bulk materials possessing chemical hazards covered by appendix 3 of the International Mari-time Solid Bulk Cargoes Code, to the extent that these substances are also subject to the provisions of the IMDG Code when carried in packaged form; and
- (b) residues from the previous carriage in bulk of substances referred to in subparagraphs (a) (i) to (iii) and (v) to (vii);



“HNS Fund” means the International Hazardous and Noxious Substances Fund established under article 13 of the Convention;

“IBC Code” and “IGC Code” have the meanings given in section 85;

“IMDG Code” has the meaning given in section 128;

“incident” means any occurrence or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage;

“MARPOL” has the meaning given in section 38;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, and in the case of a ship owned by a State and operated by a company which is registered as the ship’s operator, “owner” shall mean such company;

“person” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent Sub-Parts;

“preventive measures” means any reasonable measures taken by a person after an incident has occurred to prevent or minimise damage;

“receiver” means-

- (a) the person who physically receives contributing cargo discharged in the ports and terminals of The Gambia provided that if at the time of receipt the person who physically receives the cargo acts as an agent for another who is subject to the jurisdiction of The Gambia then the principal shall be deemed to be the receiver, if the agent discloses the principal to the HNS Fund; or

- (b) the person in The Gambia who in accordance with the laws of The Gambia is deemed to be the receiver of contributing cargo discharged in the ports and terminals of The Gambia provided that the total contributing cargo received according to such law is substantially the same as that which would have been received under paragraph (a);

“ship” means any seagoing vessel and seaborne craft, of any type whatsoever;

“State of the ship’s registry” means in relation to a registered ship the state of registration of the ship, and in relation to an unregistered ship the state whose flag the ship is entitled to fly;

“state party” means a state which is a party to the Convention;

“terminal” means any site for the storage of hazardous and noxious substances received from waterborne transportation, including any facility situated off-shore and linked by pipeline or otherwise to such site; and

“Unit of account” means the Special Drawing Right as defined by the International Monetary Fund.

(2) In interpreting the definition of “hazardous and noxious substances”, any reference in that definition to a particular Convention or Code shall be taken to be a reference to that Convention or Code as amended from time to time (whether before or after the commencement of this Act).

## 227. Application

(1) This Sub-Part shall apply exclusively to-

- (a) any damage caused in the territory, including the territorial sea of The Gambia;
- (b) damage by contamination of the environment caused in the area adjacent to the territorial sea of The Gambia, and extending not more than two hundred (200) nautical miles from the baselines from which the breadth of that sea is measured;
- (c) damage, other than damage by contamination of the environment, caused out-side the territory, including the territorial sea, of The Gambia, if this damage has been caused by a substance carried on board a Gambian ship, or a ship registered in a State Party, or in the case of an unregistered ship, on board a ship entitled to fly the flag of a state party;
- (d) preventive measures, wherever taken.

(2) This Sub-Part shall apply to claims, other than claims arising out of any contract for the carriage of goods and passengers for damage arising from the carriage of hazardous and noxious substances by sea.

(3) This Sub-Part shall not apply to-

- (a) pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1992, whether or not compensation is payable in respect of it under that Convention; and
- (b) damage caused by a radioactive material of class 7 either in the IMDG Code, as amended, or in Appendix 2 of

the International Maritime Solid Bulk Cargoes Code.

(4) This Sub-Part shall not apply to warships, naval auxiliary or other ships owned or operated by a state and used for the time being, only on Government non-commercial service.

(5) Where a ship owned by a state party is used for commercial purposes, the state shall be subject to suit in The Gambia if such a ship has caused such damage as is referred to paragraphs (a) or (b) or both paragraphs (a) and (b) of subsection (1), and preventive measures have been taken; and in such a case, the state shall waive its sovereign immunity.

## **228. Liability of the owner**

(1) Except as provided in subsections (2) and (3), the owner at the time of an incident shall be liable for damage caused by any hazardous and noxious substances on board the ship in connection with their carriage by sea, provided that if an incident consists of a series of occurrences having the same origin, the liability shall attach to the owner at the time of the first of such occurrences.

(2) Liability shall not attach to the owner if he or she proves that-

- (a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;
- (b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party;
- (c) the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other aids to navigation in the exercise of that function; or

- (d) the failure of the shipper or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either-
  - (i) has caused damage, wholly or partly, or
  - (ii) has led the owner not to obtain insurance in accordance with section 235,

and neither the owner nor its servants or agents knew or ought reasonably to have known of the hazardous and noxious nature of the substances shipped.

(3) Where the owner proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from liability to such person.

(4) A claim for compensation for damage shall not be made against the owner otherwise than in accordance with this Sub-Part.

(5) Subject to subsection (6), no claim for compensation for damage under this Sub-Part or otherwise may be made against-

- (a) the servants or agents of the owner or the members of the crew;
- (b) the pilot or any other person who, without being a member of the crew, performs services for the ship;
- (c) any charterer (howsoever described, including a demise or bareboat charterer), manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner or on

the instructions of a competent public authority;

- (e) any person taking preventive measures; and
- (f) the servants or agents of persons mentioned in paragraphs (c), (d) and (e),

unless the damage resulted from their personal act or omission, and committed with intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(6) Nothing in this Sub-Part shall prejudice any existing right of recourse of the owner against any third party, including, but not limited to, the shipper or the receiver of the substance causing the damage or the persons indicated in sub-section (5).

#### **228. Incidents involving two or more ships**

(1) Whenever damage has resulted from an incident involving two or more ships each of which is carrying hazardous and noxious substances, each owner unless exonerated under section 228, shall be liable for the damage.

(2) The owners referred to in subsection (1) shall be jointly and severally liable for all such damage which is not reasonably separable; and shall be entitled to the limits of liability applicable to each of them under section 230.

(3) Nothing in this section shall prejudice any right of recourse of an owner against any other owner.

#### **230. Limitation of liability**

(1) The owner of a ship shall be entitled to limit liability under this Sub-Part in respect of any one incident to an aggregate amount calculated as follows-

- (a) ten million special drawing rights for a ship not exceeding two thousand (2,000) units of tonnage; and

- (b) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in paragraph (a)-
  - (i) for each unit of tonnage from two thousand and one (2,001) to fifty thousand (50,000) units of tonnage, 1,500 special drawing rights, and
  - (ii) for each unit of tonnage in excess of fifty thousand (50,000) units of tonnage, 360 special drawing rights provided, that this aggregate amount shall not in any event exceed 100 million special drawing rights.

(2) The owner shall not be entitled to limit liability under this Sub-Part if it is proved that the damage resulted from the personal act or omission of the owner, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

(3) For the purposes of this section the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage regulations made under section 36 of the Merchant Shipping Act.

### **231. Limitation fund**

(1) The owner shall for the purpose of benefiting from the limitation provided for in section 230, constitute a fund for the total sum representing the limit of liability established in accordance with section 230 with the Court if the incident occurred in any place referred to in section 227(1), whether or not preventive measures were taken; and if the incident occurred in any other place, the court or other competent authority of any one of the states Parties in which action is brought under Article 38 of the Convention or, if no action is brought, with any court or other competent authority in any one of the state parties in which an action can be brought under that Article.

(2) The Fund may be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the law of the State Party where the fund is constituted, and considered to be adequate by the court or other competent authority.

(3) Subject to section 234, the fund shall be distributed among the claimants in proportion to the amounts of their established claims.

(4) Where before the fund is distributed, the owner or any person providing to the owner insurance or other financial security has as a result of the incident in question, paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends, such owner or person shall, up to the amount that he or she has paid, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(5) Where the owner or other person referred to in subsection (4), establishes that he or she may be compelled to pay at a later date in whole or in part any such amount as is referred to in subsection (4), with regard to which the position referred to in that subsection would have subsisted had the amount been paid before the fund was distributed, the Court may order that a sufficient sum shall be previously set aside to enable such owner or person at such later date to enforce the claim against the fund.

(6) The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this section on the same conditions and having the same effect as if it were constituted by the owner.

(7) Such a fund may be constituted even if, under the provisions of section 230 (2), the owner is not entitled to limitation of liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.



(8) Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise damage shall rank equally with other claims against the fund.

### **232. Limitation fund to be constituted in dollars**

A payment into Court for the constitution of a fund under section 231 shall be made in United States dollars and-

(a) for the purpose of converting such an amount from special drawing rights into United States dollars, one special drawing right shall be treated as equal to such a sum in dollars as the International Monetary Fund have fixed as being the equivalent of one special drawing right -

(i) for the day on which the amount of the limit is determined, and

(i) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

(b) a certificate given by or on behalf of the Minister stating-

(i) that a particular sum in United States dollars has been so fixed for the day on which the amount of the limit was determined, or

(ii) that no sum has been fixed for that day and that a particular sum in United States dollars has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the amount of the limit was determined,

shall be conclusive evidence of those matters for the purposes of this Sub-Part; and

- (c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

### **233. Bar to other actions**

(1) Subject to subsection (2), where the owner, after an incident, has constituted a fund in accordance with section 231 and is entitled to limit liability-

- (a) a person having a claim for damage arising out of that incident shall not be entitled to exercise any right against any other assets of the owner in respect of such claim; and
- (b) the court shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.

(2) Subsection (1) shall only apply if the claimant brings a claim before the Court and the fund.

### **234. Death and injury**

Claims in respect of death or personal injury shall have priority over other claims, save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with section 230 (1).

### **235. Compulsory insurance of the owner**

(1) The owner of-

- (a) a Gambian ship operating anywhere; and
- (b) a ship registered in a State Party opera-

ting in the waters referred to in section 231 (1);

actually carrying hazardous and noxious substances, shall be required to maintain insurance or other financial security such as a bank guarantee or similar instrument, in the amounts fixed by applying the limits of liability prescribed in section 230 (1), to cover liability for damage under this Sub-Part.

(2) A compulsory insurance certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Sub-Part shall be issued to each Gambian ship after the Administration has determined that the requirements of subsection (1) have been complied with.

(3) With respect to a ship registered in a state party, such compulsory insurance certificate shall be accepted by the Administration if it is issued or certified by the appropriate authority of the state where the ship is registered.

(4) With respect to a ship not registered in a state party, the compulsory insurance certificate may be accepted by the Administration if it is issued or certified by the appropriate authority of any state party.

(5) The compulsory insurance certificate shall be in the form set out in the Twentieth Schedule and shall contain the following particulars-

- (a) the name of the ship, distinctive number or letters and port of registry;
- (b) the name and principal place of business of the owner;
- (c) IMO ship identification number;
- (d) type and duration of security;
- (e) name and principal place of business of insurer or other person giving

security and, where appropriate, place of business where the insurance or security is established; and

- (f) the period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.

(3) The compulsory insurance certificate shall-

- (a) be in English for Gambian ships, and for other ships, in the official language or languages of the issuing state; and
- (b) if the language used is not English include an English translation.

(4) The compulsory insurance certificate shall be carried on board every Gambian ship to which this Sub-Part applies and a copy shall be deposited with the Administration.

(5) An insurance or other financial security shall not satisfy the requirements of this section if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under subsection (2), before three months have elapsed from the date on which notice of its termination is given to the Administration; unless the compulsory insurance certificate has been issued within the said period.

(6) Subsection (5) shall apply to any modification which results in the insurance or security no longer satisfying the requirements of this section;

(7) The Administration may at any time request consultation with an issuing or certifying state where it considers that the insurer or guarantor named in the compulsory insurance certificate is not financially capable of meeting the obligations imposed by this Sub-Part.

(8) A compensation claim for damage may be brought directly against the insurer or other person providing financial security for the owner's liability for damage and in such a case the defendant-

- (a) may, even if the owner is not entitled to limitation of liability, benefit from the limit of liability referred to in subsection (1);
- (b) may further invoke defences other than the bankruptcy or winding up of the owner which the owner would have been entitled to invoke and may further invoke the defence that the damage resulted from the wilful misconduct of the owner;
- (c) shall in any event have the right to require the owner to be joined in the proceedings;
- (d) shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the owner against the defendant;

(8) Any sums provided by insurance or by other financial security maintained in accordance with subsection (1) shall be available exclusively for the satisfaction of claims under this Sub-Part.

(9) A Gambian ship to which this Sub-Part applies shall not trade unless a certificate has been issued under subsection (2).

(10) A ship to which this Sub-Part applies shall not enter or leave a port or offshore facility in The Gambia unless there is in force in respect of that ship insurance or other security in the amounts specified in subsection (1).

(11) Where insurance or other financial security is not maintained in respect of a ship owned by the Government, the provisions of this section relating thereto shall not be applicable to such ship, but the

ship shall carry a compulsory insurance certificate issued by the Administration stating that the ship is owned by the Government and that the ship's liability is covered within the limit prescribed in accordance with subsection (1) and such certificate shall follow as closely as possible the form set out in the Twentieth Schedule.

### **236. HNS fund and miscellaneous matters relating to the convention**

(1) All matters relating to the HNS Fund shall be governed by the provisions of Chapter III, the relevant provision of Chapter IV and Article 52 in chapter VI of the Convention.

(2) Matters relating to claims and actions in respect of this Division and any other provisions of the Convention shall be governed by chapter IV of the Convention.

(3) The texts of chapters and Articles of the Convention referred to in this section are set out in the Twenty First Schedule.

(4) In the Twenty First Schedule, "Director" means the Director of the HNS Fund.

### **237. Regulations**

(1) The Minister may make regulations-

- (a) requiring contributions to be paid to the HNS Fund in accordance with the Twenty first Schedule;
- (b) for the purpose of giving effect to any instrument relating to the pollution of the sea or other waters (including provisions creating offences) with such modifications, if any, as may be prescribed by the Regulations;
- (c) with respect to the application of the regulations to the Government;
- (d) for detaining any ship in respect of

which a contravention of a provision made by or under the regulations is suspected to have occurred and, in relation to such a ship, for applying section 502 of the Merchant Shipping Act with such modifications, if any, as are prescribed by the regulations;

- (e) for a certificate issued by or on behalf of the Administration and stating that at a particular time, a particular substance was, or was not, a hazardous or noxious substance for the purposes of this Sub-Part to be conclusive evidence of that matter.

(2) The regulations may-

- (a) make different provisions for different circumstances;
- (b) make provision for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time;
- (c) provide for the delegation of functions exercisable by virtue of the regulations;
- (d) include such incidental, supplemental and transitional provisions as appear to the Minister to be expedient for the purposes of the regulations.

(3) The regulations may give effect to any amendment of a relevant limit which is adopted in accordance with Article 48 of the Convention, the text of which is set out in the Twenty-Second Schedule.

(4) In subsection (3), "a relevant limit" means any of the limits for the time being specified in section 230 (1) and article 14, paragraph 5 of the Convention.

## **PART VIII - ENFORCEMENT**

### **238. Enforcement**

Parts XXI and XXIII of the Merchant Shipping Act shall apply mutatis mutandis to all matters falling within the scope of this Act in so far as the application of any provision of those Parts is appropriate.

### **239. Restriction on jurisdiction over offences outside The Gambia's limits**

**239.** (1) No proceedings for an offence under this Act by a non Gambian ship, which relates to a discharge in the internal waters, territorial seas or exclusive economic zone of another state shall be instituted unless-

- (a) that state, the flag state or a state damaged or threatened by the discharge requests that proceedings be taken; or
- (b) the discharge has caused or is likely to cause pollution in the internal waters, territorial sea, or exclusive economic zone, if any, of The Gambia.

(2) Where proceedings for an offence under this Act by a non Gambian ship which relates to a discharge in the internal waters, territorial seas or exclusive economic zone, if any, of another state have been instituted but not concluded, and that state requests suspension of the proceedings-

- (a) the proceedings shall be suspended; and
- (b) the Administration shall transmit all the evidence and court records and documents relating to the case, together with any sum paid or given security to that state.

(3) It shall be a defence to a person charged with contravening any provision of this Act to show-



- (a) that the ship is not a Gambian ship;
- (b) the discharge took place outside The Gambia, its internal waters, and territorial sea or the exclusive economic zone, if any;
- (c) the ship was in a port in The Gambia at the time of institution of proceedings by reason only of stress of weather or other reason beyond the control of the master or owner or charterer

**240. Suspension of proceedings at flag state request**

(1) This section relates to an alleged contravention of any provision of this Act by a ship which is not a Gambian ship in real Gambia or its territorial sea or exclusive economic zone, if any.

(2) Any proceedings for such an offence shall be stayed if the Court is satisfied that the flag state has instituted proceedings corresponding to the proceedings in The Gambia in respect of the discharge, within six months of the institution of proceedings in The Gambia-

(3) Sub-section (2) above does not apply where-

(a) where the discharge resulted in major damage to The Gambia, or

(b) the Administration has certified that the flag state has repeatedly disregarded its obligation to enforce effectively the requirements of any Convention referred to in this Act in respect of its ship.

(4) Where proceedings instituted by the flag state have been brought to a conclusion, the suspended proceedings shall be terminated.

(5) Where the costs of the Administration incurred in respect of proceedings suspended under subsection (2) have been paid, any money paid or security given shall be released.

## **PART IX - MISCELLANEOUS**

### **241. Duty to report discharge of oil into waters of a harbour**

(1) If any oil or mixture containing oil –

- (a) is discharged from a ship into the waters of a harbour in The Gambia;
- (b) is found to be escaping or to have escaped from a ship into any such waters; or
- (c) is found to be escaping or to have escaped into any such waters from a place on land;

the owner or master of the ship or the occupier of the place on land, as the case may be, shall forthwith report the occurrence to the Harbour Master of the Gambia Ports Authority.

(2) A report made under subsection (1) by the owner or master of the ship shall state whether the occurrence falls within paragraph (a) or paragraph (b) of that subsection.

(3) If a person fails to make a report as required by this section he or she is liable on conviction to a fine not exceeding two million dalasis.

## **242. Discharge of oil into internal waters of Gambia other than waters of a harbour**

(1) If oil or a mixture containing oil is discharged into the internal waters of The Gambia other than waters of a harbour, from any ship or from any place on land or from any apparatus used for transferring oil from or to any ship (whether to or from a place or land or to or from another ship) then subject to the provisions of this Act-

- (a) if the discharge is from a ship, the owner or master of the ship;
- (b) if the discharge is from a place on land, the occupier of that place; or
- (c) if the discharge is from apparatus used for transferring oil from or to a ship, the person in-charge of that apparatus,

commits an offence and is liable on conviction to a fine not exceeding two million dalasis.

(2) For the purposes of this section, "internal waters" means the waters on the landward side of the baseline of the territorial sea of The Gambia.

## **243. Restrictions on transfer of oil at night**

(1) Oil shall be transferred between sunset and sunrise to or from a ship in any port of The Gambia unless the requisite notice has been given in accordance with this section:

(2) Subsection (1) shall not apply to the transfer of oil for purposes of saving life or property.

(3) For the purposes of this section, a general notice may be given to the harbour master of a port that transfers of oil between sunset and sunrise shall be frequently carried out at a place in the port within a period specified in the notice; and if such a notice is given it shall be the requisite notice for the purposes of this section as regards transfers of oil

at that place within the period specified in the notice:

(4) The period specified in a notice under subsection (3) shall not extend beyond the end of the period of twelve months beginning with the date on which the notice is given.

(5) Subject to subsection (4), the requisite notice for the purposes of this section shall be a notice given to the harbour master not less than three hours nor more than ninety six hours before the transfer of oil begins.

(6) In the case of a port which has no harbour master, references in subsections (3) and (5) to the harbour master shall be construed as references to the Port Authority.

(7) If oil is transferred to or from a ship in contravention of this section, the master of the ship and if the oil is transferred from or to a place on land, the occupier of that place commits an offence and is liable on conviction to a fine not exceeding two million Dalasis.

#### **244. Amendment of schedules**

The Minister may by order published in the Gazette and, amend or repeal a Schedule.

#### **245. Modification of existing law**

Any enactment in existence upon the coming into operation of this Act shall apply with such modifications as are necessary to give effect to the provisions of Act.

#### **MINISTER TO MAKE REGULATION**

**246.** The Minister may make regulations to give effect to any Convention adopted by the International Maritime Organisation on Marine Pollution.

## **FIRST SCHEDULE** (section 13)

LIST OF SUBSTANCES ESTABLISHED BY THE MARINE ENVIRONMENT PROTECTION COMMITTEE OF THE ORGANISATION IN ACCORDANCE WITH PARAGRAPH 2(a) OF ARTICLE 1 OF THE PROTOCOL OF 1973 TO THE INTERVENTION CONVENTION

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

### **Asphalt Solutions**

Blending stocks  
Roofers flux  
Straight Run residue

### **Gasolines**

Casinghead (natural)  
Automotive  
Aviation  
Straight run  
Fuel oil no. 1 (kerosene)  
Fuel oil no. 1-D  
Fuel oil no. 2  
Fuel oil no. 2-D

### **Oils**

Clarified  
Mixtures containing Crude Oil  
Road Oil  
Transformer Oil  
Aromatic Oil (excluding vegetable oil)  
Blending Stocks  
Mineral Oil  
Motor Oil  
Penetrating Oil  
Spindle Oil  
Turbine Oil

## **Jet Fuels**

JP-1 (kerosene)  
JP-3  
JP-4  
JP-5 (kerosene, heavy)  
Turbo fuel  
Kerosene  
Mineral spirit

## ***Distillates***

Straight run  
Flashed feed stocks

## ***Gas Oil***

### **Naphtha**

Solvent  
Petroleum  
Heartcut distillate oil

## ***Gas Oil***

Cracked

## **Gasoline blending stocks**

Alkylates – fuel  
Reformats  
Polymer – fuel

## **2. Noxious liquid substances carried in bulk**

Acetone cyanohydrin  
Acrylonitrile  
Alachlor technical (90% or more)  
Alcohol (C<sub>12</sub> – C<sub>15</sub>) poly(1-6)ethoxylates  
Alcohol (C<sub>12</sub> – C<sub>15</sub>) poly(7-19)ethoxylates  
Alcohol (C<sub>6</sub> – C<sub>17</sub>) (secondary) poly(3-6)ethoxylates  
Alcohol (C<sub>6</sub> – C<sub>17</sub>) (secondary) poly(7-12)ethoxylates

Alkaryl polyethers (C<sub>9</sub>-C<sub>20</sub>)  
 Alkyl acrylate-vinylpyridine copolymer in toluene  
 Alkylbenzene, alkylindane, alkylindene mixture  
 (each C<sub>12</sub>- C<sub>17</sub>)  
 Alkyl (C<sub>3</sub>-C<sub>4</sub>) benzenes  
 Alkyl (C<sub>5</sub>-C<sub>8</sub>) benzenes  
 Alkyl (C<sub>7</sub>-C<sub>9</sub>) nitrates  
 Allyl alcohol  
 Allyl chloride  
 Ammonium sulphide solution (45% or less)  
 Aniline  
 Benzene and mixtures having 10% benzene or  
 more  
 Benzyl alcohol  
 Benzyl chloride  
 Butene oligomer  
 Butyl acrylate (all isomers)  
 Butylamine (all isomers)  
 Butyl benzyl phthalate  
 Butyl butyrate (all isomers)  
 Butyraldehyde (all isomers)  
 Calcium alkyl (C<sub>9</sub>) phenol sulphide/polyolefin  
 phosphorusulphide  
 mixture  
 Calcium hypochlorite solution (more than 15%)  
 Calcium long-chain alkyl phenate sulphide (C<sub>8</sub>-  
 C<sub>40</sub>)  
 Camphor oil  
 Carbolic oil  
 Carbon disulphide  
 Carbon tetrachloride  
 Chlorinated paraffins (C<sub>10</sub>-C<sub>13</sub>)  
 Chloroacetic acid (80% or less)  
 Chlorobenzene  
 Chloroform  
 Chlorohydrins (crude)  
*o*-Chloronitrobenzene  
 2- or 3 – Chloronitrobenzene  
*m*-Chlorotoluene  
*o*- Chlorotoluene

*p*-Chlorotoluene  
Chlorotoluenes (mixed isomers)  
Coal tar  
Coal tar naphtha solvent  
Coal tar pitch (molten)  
Cobalt naphthenate in solvent naphtha  
Cresols (all isomers)  
Creosote (coal tar)  
Creosote (wood)  
Cresylic acid, dephenolized  
Cresylic acid, sodium salt solution  
Crotonaldehyde  
1,5,9 - Cyclododecatriene  
Cyclohexyl acetate  
Cyclohexylamine  
1,3 – Cyclopentadiene dimer (molten)  
Cyclopentene  
Decanoic acid  
Decene  
Decyl acetate  
Decyl acrylate  
Decyl alcohol (all isomers)  
Decyloxytetrahydrothiophene dioxide  
Dibutylamine  
Dibutyl hydrogen phosphonate  
Dibutyl phthalate  
Dichlorobenzenes (all isomers)  
Dichloroethyl ether  
1,6-Dichlorohexane  
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  
1,2 – Dichloropropane  
1,3 – Dichloropropene  
Dichloropropene/dichloropropane mixtures  
Diethylamine



Diethylaminoethanol  
Diethylbenzene  
Diethyl sulphate  
Diglycidyl ether of bisphenol A  
Diglycidyl ether of bisphenol F  
Di-n-hexyl adipate  
Diisobutylamine  
Diisobutylene  
Diisobutyl phthalate  
Diisopropylamine  
Diisopropylbenzene (all isomers)  
Dimethyl adipate  
Dimethyl amine (40% aqueous)  
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%)  
*N,N*-Dimethylcyclohexylamine  
Dimethyl hydrogen phosphite  
Dimethyloctanoic acid  
Dinitrotoluene (molten)  
1,4-Dioxane  
Dinitrophenols  
Diphenyl  
Diphenylamine, reaction product with 2,2,4 – trimethylpentene  
Diphenylamines, alkylated  
Diphenyl/diphenyl ether mixtures  
Diphenyl ether  
Diphenyl ether/diphenyl phenyl ether mixture  
Diphenylmethane diisocyanate  
Diphenylol propane  
Diphenylol propane – epichlorohydrin resins  
Di-n-propylamine  
Dodecene (all isomers)  
Dedecyl alcohol  
Dodecylamine/tetradecylamine mixture  
  
Dodecyldimethylamine/tetradecyldimethylamine

mixture

Dodecyl diphenyl ether disulphonate solution  
Dodecylphenol  
Drilling brines (containing zinc salts)  
Epichlorohydrin  
Ethyl acrylate  
Ethylamine  
Ethylamine solutions (72% or less)  
Ethylbenzene  
N-Ethylbutylamine  
Ethylene chlorohydrin  
Ethylenediamine  
Ethylene dibromide  
Ethylene dichloride  
Ethylene glycol methyl ether acetate  
Ethylene oxide/propylene oxide mixtures  
with an ethylene oxide content of not more  
than 30% in weight  
2-Ethylhexyl acrylate  
2-Ethylhexylamine  
Ethylidenenorbornene  
o-Ethylphenol  
2-Ethyl-3-propylacrolein  
Ethyltoluene  
Ethyl parathion  
Fentin acetate (dry)  
Fluorosilicic acid (20-30%) in water solution  
Formaldehyde solutions (45% or less)  
Fumaric adduct of rosin, water dispersion  
Furfural  
Glycidyl ester of C<sub>10</sub> trialkylacetic acid  
Heptyl acetate  
Hexamethylenediamine solution  
Hexyl acetate  
2-Hydroxyethyl acrylate  
2-Hydroxy-4-(methylthio) butanoic acid  
Isophoronediamine  
Isophorone diisocyanate  
Lactonitrile solution (80% or less)  
Lauric acid

Liquid chemical wastes  
 Long-chain alkaryl polyether (C<sub>11</sub>-C<sub>20</sub>)  
 Long-chain polyetheramine in alkyl (C<sub>2</sub>-C<sub>4</sub>)  
 benzenes  
 Long-chain polyetheramine in aromatic  
 solvent  
 Magnesium long-chain alkyl salicylate  
 (C<sub>11</sub>+)  
 Mercaptobenzothiazol, sodium salt solution  
 Mercuric compounds  
 Metam sodium solution  
 Methacrylic resin in ethylene dichloride  
 Methyl acrylate  
 Methyl butyl ketone  
 Methylene chloride  
 Methylcyclopentadiene dimer  
 2-Methyl-6-ethylaniline  
 Methyl heptyl ketone  
 Methyl methacrylate  
 Methyl naphthalene (molten)  
 3-Methylpyridine  
 Methyl salicylate  
*alpha*-Methylstyrene  
 Motor fuel anti-knock compounds (containing  
 lead alkyls)  
 Naphthalene (molten)  
 Naphthenic acids  
 Neodecanoic acid  
 Nitrating acid (mixture of sulphuric and nitric  
 acids)  
 Nitrobenzene  
 o-Nitrophenol (molten)  
 o-or p – Nitrotoluenes  
 Nonene (all isomers)  
 Nonylphenol  
 Nonylphenol poly (4-12) ethoxylates  
 Noxious liquid, N.F., (1) n.o.s. (trade name...,  
 contains...)S.T. 1, Cat.A\*  
 Noxious liquid, F., (2) n.o.s. (trade name...,  
 contains...) S.T. 1, Cat. A\*

Noxious liquid, N.F., (3) n.o.s. (trade name..., contains...) S.T.2, Cat. A\*

Noxious liquid, F., (4) n.o.s. (trade name..., contains...) S.T.2, Cat. B\*

Noxious liquid, N.F., (5) n.o.s. (trade name..., contains...) S.T. 2, Cat. B\*

Noxious liquid, N.F., (6) n.o.s. (trade name..., contains ...) S.T. 2, Cat. B, m.p. 15°C+\*

Noxious liquid, F., (7) n.o.s. (trade name..., contains ...) S.T. 2, Cat. B\*

Noxious liquid, F., (8) n.o.s. (trade name... contains ...) S.T. 2, Cat. B,M.P. 15°C+\*

Noxious liquid, N.F., (9) n.o.s. (trade name... contains...) S.T. 3, Cat. A\*

Noxious liquid, F., (10) n.o.s. (trade name..., contains...) S.T. 3, Cat. A\*

Noxious liquid, N.F., (11) n.o.s. (trade name..., contains...) S.T. 3, Cat. B\*

Noxious liquid, N.F., (12) n.o.s. (trade name..., contains ...) S.T. 3, Cat. B, M.P. 15°C+\*

Noxious liquid, F., (13) n.o.s. (trade name..., contains...) S.T. 3, Cat. B\*

Noxious liquid, F., (14) n.o.s. (trade name ...,contains...) S.T.3, Cat. B, m.p. 15°C+\*

Octene (all isomers)

Octyl aldehydes

Olefin mixtures (C<sub>5</sub>-C<sub>15</sub>)

*alpha*-Olefins (C<sub>6</sub>-C<sub>18</sub>) mixtures

Oleum

Oleylamine

Palm kernel acid oil

Pentachloroethane

Perchloroethylene

Phosphorus, yellow or white

Phthalic anhydride (molten)

*alpha*-Pinene

*beta*-Pinene

Poly(2+) cyclic aromatics  
Polyethylene polyamines  
Polyolefin amide alkeneamine (C<sub>28</sub> +)  
Polyolefin amide alkeneamine borate (C<sub>28</sub>-  
C<sub>250</sub>)  
Polyolefin amide alkeneamine polyol  
Polyolefinamine in alkyl (C<sub>2</sub>-C<sub>4</sub>) benzenes  
Polyolefinamine in aromatic solvent  
Polyolefin ester (C<sub>28</sub>-C<sub>250</sub>)  
*beta*-Propiolactone  
*n*-Propylamine  
Propionitrile  
*n*-Propylamine  
Propylbenzene (all isomers)  
Propylene oxide  
Propylene tetramer  
Propylene trimer  
Rosin  
Rosin soap (disproportionated) solution  
Sodium dichromate solution (70% or less)  
Sodium hydrogen sulphide (6% or  
less)/sodium carbonate (3% or less) solution  
Sodium hydrosulphide/ammonium sulphide  
solution  
Sodium hydrosulphide solution (45% or less)  
Sodium nitrite solution  
Sodium petroleum sulphonate  
Styrene monomer  
Sodium sulphide solution (15% or less)  
Sodium thiocyanate solution (56% or less)  
Styrene monomer  
Sulpho hydrocarbon long-chain (C<sub>18</sub> +)  
alkylamine mixture  
Sulphuric acid  
Sulphuric acid, spent  
Tall oil (crude and distilled)  
Tall oil fatty acid, barium salt  
Tall oil fatty acid (resin acids less than 20%)  
Tall oil soap (disproportionated) solution  
Tetrachloroethane

Tetramethylbenzene (all isomers)  
Toluene  
Toluenediamine  
Toluene diisocyanate  
o-Toluidine  
Tributyl phosphate  
1,2,4-Trichlorobenzene  
Trichloroethylene  
Tricresyl phosphate (containing less than 1% ortho-isomer)  
Tricresyl phosphate (containing 1% or more ortho-isomer)  
Triethylamine  
Triethylbenzene  
Triethylenetetramine  
Triethyl phosphite  
Triisopropylated phenyl phosphates  
Trimethylamine solution (30% or less)  
Trimethylbenzene (all isomers)  
Trinethylhexamethylene diisocyanate (2,2,4- and 2,4,4- isomers)  
Tritolyl phosphate (Tricresyl phosphate)  
Trixylyl phosphate  
Turpentine  
Undecanoic acid  
1-Undecene  
Undecyl alcohol  
Vinylidene chloride  
Vinyl neodecanoate  
Vinyltoluene  
White spirit, low (15 – 20%) aromatic  
Xylenes  
Xylenol  
Zinc alkaryl dithiophosphate (C<sub>7</sub>-C<sub>16</sub>)  
Zinc alkyl dithiophosphate (C<sub>3</sub>-C<sub>14</sub>)

### 3. Harmful substances in packaged form

Aldrin  
Azinphos-ethyl

Azinphos-methyl  
*gamma*-BHC  
Binapacryl  
Brodifacoum  
Bromophos-ethyl  
Cadmium compound  
Camphechlor  
Carbophenothion  
Chlordane  
Chlorinated paraffins (C<sub>10</sub>-C<sub>13</sub>)  
Chlorophenolates, liquid  
Chlorpyrifos  
Chlorthiophos  
Copper metal powder  
Coumaphos  
Cresyl diphenyl phosphate  
Cupric cyanide  
Cupric sulphate  
1,5,9-Cyclododecatriene  
Cyhexatin  
Cymenes (*ortho*-; *meta*-; *para*-)  
Cymol  
Cypermethin  
DDT  
Dialifos  
Diazinon  
Dichlofenthion  
Dichlorvos  
Dieldrin  
Dimethoate  
Diphenylamine chloroarsine  
Diphenylchloroarsine, liquid  
Diphenylchloroarsine, solid  
Dodecylphenol  
Endosulfan  
Endrin  
EPN  
Esfenvalerate  
Ethion  
Fenbutatin oxide

Fenitrothion  
Fenprothrin  
Fenthion  
Fentin acetate  
Fentin hydroxide  
Fonofos  
Heptachlor  
Hexachlorobutadiene  
Hexachloro-1,3-butadiene  
1,3-Hexachlorobutadiene  
Isopropyltoluene  
Isopropyltoluol  
Isoxathion  
Lindane  
Mercuric acetate  
Mercuric ammonium chloride  
Mercuric arsenate  
Mercuric benzoate  
Mercuric bisulphate  
Mercuric bromide  
Mercuric chloride  
Mercuric cyanide  
Mercuric gluconate  
Mercuric nitrate  
Mercuric oleate  
Mercuric oxide  
Mercuric oxycyanide, desensitized  
Mercuric potassium cyanide  
Mercuric sulphate  
Mercuric thiocyanate  
Mercuriol  
Mercurous acetate  
Mercurous bisulphate  
Mercurous bromide  
Mercurous chloride  
Mercurous nitrate  
Mercurous salicylate  
Mercurous sulphate  
Mercury acetate  
Mercury ammonium chloride



Mercury-based pesticide, liquid, flammable, toxic,  
flashpoint less than 23°C c.c  
Mercury-based pesticide, solid, toxic  
Mercury based pesticide liquid, toxic, flammable,  
flashpoint between 23 C and 61 C cc  
Mercury benzoate  
Mercury bichloride  
Mercury bisulphate  
Mercury bromides  
Mercury compound, liquid, n.o.s.  
Mercury compound, solid, n.o.s.  
Mercury (I) (mercurous) compounds  
Mercury (II) (mercuric) compounds  
Mercury cyanide  
Mercury gluconate  
Mercury nucleate  
Mercury oleate  
Mercury oxide  
Mercury oxycyanide, desensitized  
Mercury potassium cyanide  
Mercury potassium iodide  
Mercury salicylate  
Mercury thiocyanate  
Methylpropylbenzenes  
Mevinphos  
Nickel carbonyl  
Nickel cyanide  
Nickel tetracarbonyl  
Organotin compound, liquid, n.o.s.  
Organotin compound, solid, n.o.s.  
Organotin compounds (pesticides)  
Organotin pesticide, liquid, flammable, toxic,  
flashpoint less than 23°C c.c.  
Organotin pesticide, liquid, toxic  
Organotin pesticide, liquid, toxic, flammable,  
flashpoint between 23°C and 61°C c.c.  
Organotin pesticide, solid, toxic  
Osmium tetroxide  
Parathion  
Parathion-methyl

PCB's  
Pentachlorophenol  
Phenarsazine chloride  
Phenthoate  
Phenylmercuric acetate  
Phenylmercuric compound. n.o.s  
Phenylmercuric hydroxide  
Phenylmercuric nitrate  
Phorate  
Phosalone  
Phosphamidon  
Phosphorus, white, dry  
Phosphorus, white, molten  
Phosphorus, white, under water  
Phosphorus, yellow, dry  
Phosphorus, yellow, molten  
Phosphorus, yellow, under water  
Polychlorinated biphenyls  
Polyhalogenated biphenyls, liquid  
Polyhalogenated biphenyls, solid  
Polyhalogenated terphenyls, liquid  
Polyhalogenated terphenyls, solid  
Potassium cuprocyanide  
Potassium cyanocuprate (I)  
Potassium cyanomercurate  
Potassium mercuric iodide  
Pyrazophos  
Quizalofop  
Quizalofop-P-ethyl  
Sodium copper cyanide, solid  
Sodium copper cyanide, solution  
Sodium cuprocyanide, solid  
Sodium cuprocyanide solution  
Sodium pentachlorophenate  
Sulprophos  
White phosphorus, dry  
White phosphorus, wet  
Yellow phosphorus, dry  
Yellow phosphorus, wet  
Terbufos

Tetrachlorvinphos

4. **Liquefied Gases (when carried in bulk)**

Acetaldehyde  
Anhydrous Ammonia  
Anhydrous Hydrogen Chloride  
Anhydrous Hydrogen Fluoride  
Chlorine  
Dimethylamine  
Ethyl Chloride  
Ethylene oxide  
Methyl Bromide  
Methyl Chloride  
Sulphur Dioxide  
Vinyl Chloride Monomer

5. **Radioactive Substances**

Radioactive substances, including, but not limited to, elements and compounds the isotopes of which are subject to the requirements of Section 835 of the Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition, published by the International Atomic Energy Agency, and which may be found to be stored or transported as substances and/or materials in Type A packages, Type B packages, as fissile materials or materials transported under special arrangements, such as

$^{60}_{\text{Co}}$ ,  $^{137}_{\text{Cs}}$ ,  $^{226}_{\text{Ra}}$ ,  $^{239}_{\text{Pu}}$ ,  $^{235}_{\text{U}}$ .

6. **Radioactive materials**

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

## **SECOND SCHEDULE (section 20)**

### **CONCILIATION AND ARBITRATION UNDER THE INTERVENTION CONVENTION**

#### **ANNEX TO THE INTERVENTION CONVENTION**

##### **CHAPTER 1 – CONCILIATION**

###### ***Article 1***

Provided the Parties concerned do not decide otherwise, the procedure for conciliation shall be in accordance with the rules set out in this Chapter.

###### ***Article 2***

1. A Conciliation Commission shall be established upon the request of one Party addressed to another in application of Article VIII of the Convention.
2. The request for conciliation submitted by a Party shall consist of a statement of the case together with any supporting documents.
3. If a procedure has been initiated between two Parties, any other Party the nationals or property of which have been affected by the same measures, or which is a coastal State having taken similar measures, may join in the conciliation procedure by giving written notice to the Parties which have originally initiated the procedure unless either of the latter Parties object to such joinder.

###### ***Article 3***

1. The Conciliation Commission shall be composed of three members; one nominated by the coastal State which took the measures, one nominated by the State the nationals or property of which have been affected

by those measures and a third who shall preside over the Commission and shall be nominated by agreement between the two original members.

2. The Conciliators shall be selected from a list previously drawn up in accordance with the procedure set out in Article 4 below.
3. If within a period of 60 days from the date of receipt of the request for conciliation, the Party to which such request is made has not given notice to the other Party to the controversy of the nomination of the Conciliator for whose selection it is responsible, or if, within a period of 30 days from the date of nomination of the second of the members of the Commission to be designated by the Parties, the first two Conciliators have not been able to designate by common agreement the Chairmen of the Commission, the Secretary-General of the Organisation shall upon request of either Party and within a period of 30 days, proceed to the required nomination. The members of the Commission thus nominated shall be selected from the list prescribed in the preceding paragraph.
4. In no case shall the chairman of the Commission be or have been a national of one of the original Parties to the procedure, whatever the method of his nomination.

#### ***Article 4***

1. The list prescribed in Article 3 above shall consist of qualified persons designated by the Parties and shall be kept up to date by the Organisation. Each Party may designate for inclusion on the list four persons, who shall not necessarily be its nationals. The nominations shall be for periods of six years each and shall be renewable.
2. In the case of the decease or resignation of a person whose name appears on the list, the Party which

nominated such person shall be permitted to nominate a replacement for the remainder of the term of office.

### **Article 5**

1. Provided the Parties do not agree otherwise, the Conciliation Commission shall establish its own procedures, which shall in all cases permit a fair hearing. As regards examination, the Commission, unless it unanimously decides otherwise, shall conform with the provisions of Chapter III of the Hague Convention for the Peaceful Settlement of International Disputes of 18 October 1907.
2. The Parties shall be represented before the Conciliation Commission by agents whose duty shall be to act as intermediaries between the Parties and the Commission. Each of the Parties may seek also the assistance of advisers and experts nominated by it for this purpose and may request the hearing of all persons whose evidence the Party considers useful.
3. The Commission shall have the right to request explanations from agents, advisers and experts of the Parties as well as from any persons whom, with the consent of their Governments, it may deem useful to call.

### **Article 6**

Provided the Parties do not agree otherwise, decisions of the Conciliation Commission shall be taken by a majority vote and the Commission shall not pronounce on the substance of the controversy unless all its members are present.

### **Article 7**

The Parties shall facilitate the work of the Conciliation

Commission and in particular, in accordance with their legislation, and using all means at their disposal:

- (a) provide the Commission with the necessary documents and information;
- (b) enable the Commission to enter their territory, to hear witness or experts, and to visit the scene

### **Article 8**

The task of the Conciliation Commission will be to clarify the matters under dispute, to assemble for this purpose all relevant information by means of examination or other means, and to endeavour to reconcile the Parties. After examining the case, the Commission shall communicate to the Parties a recommendation which appears to the Commission to be appropriate to the matter and shall fix a period of not more than 90 days within which the Parties are called upon to state whether or not they accept the recommendation.

### **Article 9**

The recommendation shall be accompanied by a statement of reasons. If the recommendation does not represent in whole or in part the unanimous opinion of the Commission, any Conciliator shall be entitled to deliver a separate opinion.

### **Article 10**

A conciliation shall be deemed unsuccessful if, 90 days after the Parties have been notified of the recommendation, either Party shall not have notified the other Party of its acceptance of the recommendation. Conciliation shall likewise be deemed unsuccessful if the Commission shall not have been established within the period prescribed in the third paragraph of Article 3 above,

or provided the Parties have not agreed otherwise, if the Commission shall not have issued its recommendation within one year from the date on which the Chairman of the Commission was nominated.

#### **Article 11**

1. Each member of the Commission shall receive remuneration for his work, such remuneration to be fixed by agreement between the parties which shall each contribute an equal proportion.
2. Contributions for miscellaneous expenditure incurred by the work of the Commission shall be apportioned in the same manner.

#### **Article 12**

The parties to the controversy may at any time during the conciliation procedure decide in agreement to have recourse to a different procedure for settlement of disputes.

### **CHAPTER II -ARBITRATION**

#### **Article 13**

1. Arbitration procedure, unless the Parties decide otherwise, shall be in accordance with the rules set out in this Chapter.
2. Where conciliation is unsuccessful, a request for arbitration may only be made within a period of 180 days following the failure of conciliation.

#### **Article 14**

The Arbitration Tribunal shall consist of three members: one Arbitrator nominated by the coastal State which took the measures, one Arbitrator nominated by the State the



nationals or property of which have been affected by those measures, and another Arbitrator who shall be nominated by agreement between the two first-named, and shall act as its Chairman.

## **Article 15**

1. If, at the end of a period of 60 days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organisation upon request of either Party shall within a further period of 60 days proceed to such nomination, selecting from a list of qualified persons previously drawn up in accordance with the provisions of Article 4 above. This list shall be separate from the list of experts prescribed in Article IV of the Convention and from the list of Conciliators prescribed in Article 4 of the present Annex: the name of the same person may, however, appear both on the list of Arbitrators. A person who has acted as Conciliator in a dispute may not, however, be chosen to act as Arbitrator in the same matter.
2. If, within a period of 60 days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly inform the Secretary-General of the Organisation who shall nominate the Chairman of the Tribunal within a period of 60 days, selecting him from the list prescribed in paragraph 1 of the present Article.
3. The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organisation to make the nomination in the form and conditions prescribed in

the preceding paragraph.

4. The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party or Parties.
5. If the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of 60 days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In the case of decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article 14 above, or in the absence of agreement between the members of the Tribunal within a period of 60 days of the decease or default, according to the provisions of the present Article.

#### **Article 16**

If a procedure has been initiated between two Parties, any other Party, the nationals or property of which have been affected by the same measures or which is a coastal State having taken similar measures, may join in the arbitration procedure by giving written notice to the Parties which have originally initiated the procedure unless either of the latter Parties object to such joinder.

#### **Article 17**

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

## **Article 18**

1. Decisions of the Tribunal both as to its procedure and its place of meeting and as to any controversy laid before it, shall be taken by majority vote of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the Chairman shall cast the deciding vote.
2. The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal-
  - (a) provide the Tribunal with the necessary documents and information;
  - (b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.
3. Absence or default of one Party shall not constitute an impediment to the procedure.

## **Article 19**

1. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal. The Parties shall immediately comply with the award.
2. Any controversy which may arise between the Parties as regards interpretation and execution of the award may be submitted by either Party for judgement to the Tribunal which made the award, or, if it is not available, to another Tribunal constituted for this purpose in the same manner as the original Tribunal.

## **THIRD SCHEDULE (sections 27 and 28)**

### **DUMPING OF WASTES**

#### **WASTES OR OTHER MATTER THAT MAY BE CONSIDERED FOR DUMPING**

1. The following wastes or other matter are those that may be considered for dumping being mindful of the Objectives and General Obligations of the Convention set out in articles 2 and 3-
  - (a) dredged material;
  - (b) sewage sludge;
  - (c) fish waste, or material resulting from industrial fish processing operations;
  - (d) vessels and platforms or other man-made structures at sea;
  - (e) inert, inorganic geological material;
  - (f) organic material of natural origin; and
  - (g) bulky items primarily comprising iron, steel, concrete and similarly unharmed materials for which the concern is physical impact, and limited to those circumstances where such wastes are generated at locations, such as small islands with isolated communities, having no practicable access to disposal options other than dumping.
  
2. The wastes or other matter listed in paragraphs (d) and (g) of clause 1 may be considered for dumping, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent and provided that the material dumped poses no serious

obstacle to fishing or navigation.

3. Notwithstanding clause 2, materials listed in paragraphs (a) to (g) of clause 1 containing levels of radioactivity greater than *de minimis* (exempt) concentrations as defined by the IAEA and adopted by Contracting Parties, shall not be considered eligible for dumping; provided further that within 25 years of 20 February 1994, and at each 25 year interval thereafter, Contracting Parties shall complete a scientific study relating to all radioactive wastes and other radioactive matter other than high level wastes or matter, taking into account such other factors as Contracting Parties consider appropriate and shall review the prohibition on dumping of such substances in accordance with the procedures set forth in article 22.

**ASSESSMENT OF WASTES OR OTHER MATTER THAT MAY BE  
CONSIDERED FOR DUMPING**

**General**

1. The acceptance of dumping under certain circumstances shall not remove the obligations under this Annex to make further attempts to reduce the necessity for dumping.

**Waste Prevention Audit**

2. The initial stages in assessing alternative to dumping should, as appropriate, include an evaluation of-
- (a) types, amounts and relative hazard of waste generated;
  - (b) clean production technologies;
  - (c) details of the production process and the sources of wastes within that process; and

3. feasibility of the following waste reduction/prevention techniques-

- (a) product reformulation;
- (b) clean production technologies;
- (c) process modification;
- (d) input substitution; and
- (e) on-site, closed-loop recycling.

4. In general terms, if the required audit reveals that opportunities exist for waste prevention at source, an applicant is expected to formulate and implement a waste prevention strategy, in collaboration with relevant local and national agencies, which includes specific waste reduction targets and provision for further waste prevention audits to ensure that these targets are being met. Permit issuance or renewal decisions shall assure compliance with any resulting waste reduction and prevention requirements.

5. For dredged material and sewage sludge, the goal of waste management should be to identify and control the sources of contamination. This should be achieved through implementation of waste prevention strategies and requires collaboration between the relevant local and national agencies involved with the control of point and non-point sources of pollution. Until this objective is met, the problems of contaminated dredged material may be addressed by using management techniques at sea or on land.

### **Consideration of waste management options**

6. Applications to dump wastes or other matter shall demonstrate that appropriate consideration has been given to the following hierarchy of waste management options, which implies an order of increasing environ-

mental impact-

- (a) re-use;
- (b) off-site recycling;
- (c) destruction of hazardous constituents;
- (d) treatment to reduce or remove the hazardous constituents; and
- (e) disposal on land, into air and in water.

7. A permit to dump wastes or other matter shall be refused if the permitting authority determines that appropriate opportunities exist to re-use, recycle or treat the waste without undue risks to human health or the environment or disproportionate costs. The practical availability of other means of disposal should be considered in the light of a comparative risk assessment involving both dumping and the alternatives.

### **Chemical, physical and biological properties**

8. A detailed description and characterisation of the waste is an essential precondition for the consideration of alternatives and the basis for a decision as to whether a waste may be dumped. If a waste is so poorly characterised that proper assessment cannot be made of its potential impacts on human health and the environment, that waste shall not be dumped.

9. Characterisation of the wastes and their constituents shall take into account-

- (a) origin, total amount, form and average composition;
- (b) properties: physical, chemical, biochemical and

biological;

(c) toxicity;

(d) persistence: physical, chemical and biological; and

(e) accumulation and biotransformation in biological materials or sediments.

### **Action list**

10. Each Contracting Party shall develop a national Action list to provide a mechanism for screening candidate wastes and their constituents on the basis of their potential effects on human health and the marine environment. In selecting substances for consideration in an Action list, priority shall be given to toxic, persistent and bioaccumulative substances from anthropogenic sources (e.g., cadmium, mercury, organohalogenes, petroleum hydrocarbons, and, whenever relevant, arsenic, lead, copper, zinc, beryllium, chromium, nickel and vanadium, organosilicon compounds, cyanides, fluorides and pesticides or their by-products other than organohalogenes). An Action list can also be used as a trigger mechanism for further waste prevention considerations.

11. An Action list shall specify an upper level and may also specify a lower level. The upper level should be set so as to avoid acute or chronic effects on human health or on sensitive marine organisms representative of the marine ecosystem. Application of an Action list will result in three possible categories of waste viz-

(a) wastes which contain specified substances, or which cause biological responses, exceeding the relevant upper level shall not be dumped, unless made acceptable for dumping through the use of management techniques or processes;



- (b) wastes which contain specified substances, or which cause biological responses, below the relevant lower levels should be considered to be of little environmental concern in relation to dumping; and
- (c) wastes which contain specified substances, or which cause biological responses, below the upper level but above the lower level require more detailed assessment before their suitability for dumping can be determined.

### **Dump site selection**

12. Information required to select a dump site shall include-

- (a) physical, chemical and biological characteristics of the water-column and the seabed;
- (b) location of amenities, values and other uses of the sea in the area under consideration;
- (c) assessment of the constituent fluxes associated with dumping in relation to existing fluxes of substances in the marine environment; and
- (d) economic and operational feasibility.

### **Assessment of potential effects**

13. Assessment of potential effects should lead to a concise statement of the expected consequences of the sea or land disposal options, i.e., the "Impact Hypothesis". It provides a basis for deciding whether to approve or

reject the proposed disposal option and for defining environmental monitoring requirements.

14. The assessment for dumping should integrate information on waste characteristics, conditions at the proposed dump-site(s), fluxes and proposed disposal techniques and specify the potential effects on human health, living resources, amenities and other legitimate uses of the sea. It should define the nature, temporal and spatial scales and duration of expected impacts based on reasonably conservative assumptions.

15. An analysis of each disposal option should be considered in the light of a comparative assessment of the following concerns: human health risks, environmental costs, hazards, (including accidents), economics and exclusion of future uses. If this assessment reveals that adequate information is not available to determine the likely effects of the proposed disposal option then this option should not be considered further. In addition, if the interpretation of the comparative assessment shows the dumping option to be less preferable, a permit for dumping should not be given.

16. Each assessment should conclude with a statement supporting a decision to issue or refuse a permit for dumping.

### **Monitoring**

17. Monitoring is used to verify that permit conditions are met-compliance monitoring – and that the assumptions made during the permit review and site selection process were correct and sufficient to protect the environment and human health – field monitoring. It is essential that such monitoring programmes have clearly defined objectives.

### **Permit and permit conditions**

18. A decision to issue a permit should only be made if

all impact evaluations are completed and the monitoring requirements are determined. The provisions of the permit shall ensure, as far as practicable, that environmental disturbance and detriment are minimised and the benefits maximised. Any permit issued shall contain data and information specifying-

- (a) the types and sources of materials to be dumped;
- (b) the location of the dump site(s);
- (c) the method of dumping; and
- (e) monitoring and reporting requirements.

19. Permits should be reviewed at regular intervals, taking into account the results of monitoring and the objectives of monitoring programmes. Review of monitoring results will indicate whether field programmes need to be continued, revised or terminated and will contribute to informed decisions regarding the continuance, modification or revocation of permits. This provides an important feedback mechanism for the protection of human health and the marine environment.

#### **FOURTH SCHEDULE (section 37)**

### **1996 PROTOCOL TO THE LONDON CONVENTION**

#### **ARTICLE 16**

#### **SETTLEMENT OF DISPUTES**

1. Any disputes regarding the interpretation or application of this Protocol shall be resolved in the first instance through negotiation, mediation or conciliation, or other peaceful means chosen by parties to the dispute.
2. If no resolution is possible within twelve months after one Contracting Party has notified another that a dispute exists between them, the dispute shall be settled,

at the request of a party to the dispute, by means of the Arbitral Procedure set forth in Annex 3, unless the parties to the dispute agree to one of the procedures listed in paragraph 1 of Article 287 of the 1982 United Nations Convention on the Law of the Sea. The parties to the dispute may so agree, whether or not they are also States Parties to the 1982 United Nations Convention on the Law of the Sea.

3. In the event an agreement to use one of the procedures listed in paragraph 1 of Article 287 of the 1982 United Nations Convention on the Law of the Sea is reached, the provisions set forth in Part XV of that Convention that are related to the chosen procedure would also apply, *mutatis mutandis*.

4. The twelve month period referred to in paragraph 2 may be extended for another twelve months by mutual consent of the parties concerned.

5. Notwithstanding paragraph 2, any State may, at the time it expresses its consent to be bound by this Protocol, notify the Secretary-General that, when it is a party to a dispute about the interpretation or application of article 3.1 or 3.2, its consent will be required before the dispute may be settled by means of the Arbitral Procedure set forth in Annex 3.

## **ANNEX 3 TO 1996 PROTOCOL TO LONDON CONVENTION**

### **ARBITRAL PROCEDURE**

#### **ARTICLE 1**

1. An Arbitral Tribunal (hereinafter referred to as the "Tribunal") shall be established upon the request of a contracting Party addressed to another Contracting Party in application of article 16 of this Protocol. The request for arbitration shall consist of a statement of the case together with any supporting documents.

2. the requesting Contracting Party shall inform the Secretary-General of-

- (a) its request for arbitration; and
- (b) the provisions of this Protocol the interpretation or application of which is, in its opinion, the subject of disagreement;

3. The Secretary-General shall transmit this information to all Contracting States.

#### **ARTICLE 2**

1. The Tribunal shall consist of a single arbitrator if so agreed between the parties to the dispute within 30 days from the date of receipt of the request for arbitration.

2. In the case of the death, disability or default of the arbitrator, the parties to a dispute may agree upon a replacement within 30 days of such death, disability or default.

#### **ARTICLE 3**

1. Where the parties to a dispute do not agree upon a Tribunal in accordance with article 2 of this Annex, the Tribunal shall consist of three members-

- (a) one arbitrator nominated by each party to the dispute; and
- (b) a third arbitrator who shall be nominated by agreement between the two first named and who shall act as its Chairman.

2. If the Chairman of a Tribunal is not nominated within 30 days of nomination of the second arbitrator, the parties to a dispute shall, upon the request of one party, submit to the Secretary-General within a further period of 30 days an

agreed list of qualified persons. The Secretary-General shall select the Chairman from such list as soon as possible. He shall not select a Chairman who is or has been a national of one party to the dispute except with the consent of the other party to the dispute.

3. If one party to a dispute fails to nominate an arbitrator as provided in paragraph 1.1 within 60 days from the date of receipt of the request for arbitration, the other party may request the submission to the Secretary-General within a period of 30 days of an agreed list of qualified persons. The Secretary-General shall select the Chairman of the Tribunal from such list as soon as possible. The chairman shall then request the party which has not nominated an arbitrator to do so. If this party does not nominate an arbitrator within 15 days of such request, the Secretary-General shall, upon request of the Chairman, nominate the arbitrator from the agreed list of qualified persons.

4. In the case of the death, disability or default of an arbitrator, the party to the dispute who nominated him shall nominate a replacement within 30 days of such death, disability or default. If the party does not nominate a replacement, the arbitration shall proceed with the remaining arbitrators. In the case of the death, disability or default of the Chairman, a replacement shall be nominated in accordance with the provision of paragraphs 1.2 and 2 within 90 days of such death, disability or default.

5. A list of arbitrators shall be maintained by the Secretary-General and composed of qualified persons nominated by the Contracting Parties. Each Contracting Party may designate for inclusion in the list four persons who shall not necessarily be its nationals. If the parties to the dispute have failed within the specified time limits to submit to the Secretary-General an agreed list of qualified persons as provided for in paragraphs 2, 3 and 4, the Secretary-General shall select from the list maintained by him the arbitrator or arbitrators not yet nominated.

#### **ARTICLE 4**

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

#### **ARTICLE 5**

Each party to the dispute shall be responsible for the costs entailed by the preparation of its own case. The remuneration of the members of the Tribunal and of all general expenses incurred by the arbitration shall be borne equally by the parties to the dispute. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the parties.

#### **ARTICLE 6**

Any Contracting Party which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the parties to the dispute which have originally initiated the procedure, intervene in the arbitration procedure with the consent of the Tribunal and at its own expense. Any such intervenor shall have the right to present evidence, briefs and oral argument on the matters giving rise to its intervention, in accordance with procedures established pursuant to article 7 of this Annex, but shall have no rights with respect to the composition of the Tribunal.

#### **ARTICLE 7**

A Tribunal established under the Provisions of this Annex shall decide its own rules of procedure.

#### **ARTICLE 8**

1. Unless a Tribunal consists of a single arbitrator, decisions of the Tribunal as to its procedure, its place of meeting, and any question related to the dispute laid before it, shall be taken by majority vote of its members.

However, the absence or abstention of any member of the Tribunal who was nominated by a party to the dispute shall not constitute an impediment to the Tribunal reaching a decision. In case of equal voting, the vote of the Chairman shall be decisive.

2. The parties to the dispute shall facilitate the work of the Tribunal and in particular shall, in accordance with their legislation and using all means at their disposal-

- (a) provide the Tribunal with all necessary documents and information; and
- (b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

3. The failure of a party to the dispute to comply with the provisions of paragraph 2 shall not preclude the Tribunal from reaching a decision and rendering an award.

#### **ARTICLE 9**

The tribunal shall render its award within five months from the time it is established unless it finds it necessary to extend that time limit for a period not to exceed five months. The award of the Tribunal shall be accompanied by a statement of reasons for the decision. It shall be final and without appeal and shall be communicated to the Secretary-General who shall inform the Contracting Parties. The parties to the dispute shall immediately comply with the award.



**FIFTH SCHEDULE (sections 49 and 226)**

**SUBSTANCES LISTED IN APPENDIX I TO ANNEX I OF  
MARPOL**

**I - LIST OF OILS**

Asphalt solutions  
Blending stocks  
Roofers flux  
Straight run residue  
Oils  
Clarified  
Crude Oil  
Mixtures containing crude oil  
Diesel oil  
Fuel oil no. 4  
Fuel oil no. 5  
Fuel oil no. 6  
Residual fuel oil  
Road oil  
Transformer oil  
Aromatic oil (excluding vegetable oil)  
Lubricating oils and blending stocks  
Mineral oil  
Motor Oil  
Penetrating oil  
Spindle oil  
Turbine oil

***Distillates***

Straight run  
Flashed feed stocks

***Gas Oil***

Cracked

***Gasoline blending stocks***

Alkylates – fuel  
Reformatses  
Polymer – fuel

***Gasolines***

Casinghead  
(natural)  
Automotive  
Aviation  
Straight run  
**Fuel oil no. 1  
(kerosene)**  
Fuel oil no. 1-D  
Fuel oil no. 2  
Fuel oil no. 2-D  
**Jet fuels**  
JP –1(kerosene)  
JP-3  
JP-4  
JP-5 (kerosene,  
heavy)  
Turbo fuel  
Kerosene  
Mineral spirit  
**Naphtha**  
Solvent  
Petroleum  
Heartcut distillate  
oil

\*This list of oils shall not necessarily be considered as comprehensive.

**SIXTH SCHEDULE (section 62)**

**FORM OF IOPP CERTIFICATE AND SUPPLEMENTS**

**INTERNATIONAL OIL POLLUTION PREVENTION CERTIFICATE**

(Note: This certificate shall be supplemented by a Record of Construction and Equipment)

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, (hereinafter referred to as "the Convention") under the authority of the Government of:

.....  
*(full designation of the state)*

by

.....  
*(full designation of the competent person or organisation authorised under the provisions of the Convention)*

Particulars of ship\*

Name of ship.....

Distinctive number of letters.....

Port of registry.....

Gross tonnage.....

Deadweight of ship

(tonnes)†.....  
IMO  
Number‡.....

\*Alternatively, the particulars of the ship may be placed horizontally in boxes.

†For oil tankers.

‡In accordance with resolution A.600 (15), IMO Ship Identification Number Scheme, this information may be included voluntarily.

Appendixes to Annex 1

Type of ship\*

Oil Tanker

Ship other than oil tanker with cargo tanks coming under regulation 2(2) of Annex 1 of the Convention.

Ship other than any of the above

THIS IS TO CERTIFY-

1. That the ship has been surveyed in accordance with regulation 4 of Annex 1 of the Convention.
2. That the survey shows that the structure, equipment, systems, fittings, arrangement and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex I of the Convention.

This certificate is valid  
until(dd/mm/yyyy).....  
.....†

subject to surveys in accordance with regulation 6 of Annex I of the Convention.

Issued at

.....

(Place of issue of certificate)

.....

.....

(Date of issue)

(Signature of authorised official

issuing the certificate)

(Seal or stamp of the authority, as appropriate)

\*Delete as appropriate

†Insert the date of expiry as specified by the Administration in accordance with regulation 10(1) of Annex I of the Convention. The day and the month of this date correspond to the anniversary date as defined in regulation 1(27) of Annex I of the Convention, unless amended in accordance with regulation 10(8) of Annex I of the Convention.

**ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS**

THIS IS TO CERTIFY that at a survey required by regulation 6 of Annex 1 of the Convention the ship was found to comply with the relevant provisions of the Convention:

Annual survey:

Signed.....

*(Signature of duly authorised officer)*

Place

.....

Date

.....

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

Annual /Intermediate\* survey :

Signed.....

*(Signature of duly authorised officer)*

Place

.....

Date

.....

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

Annual/Intermediate\* survey :

Signed.....

*(Signature of duly authorised officer)*

Place

.....

Date

.....

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

Annual survey:

Signed.....

*(Signature of duly authorised officer)*

Place

.....

Date

.....

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

\_\_\_\_\_  
\*delete as appropriate

Annex I: Regulations for the Prevention of Pollution by Oil  
Appendix II: Form of IOPP Certificate and Supplements

**ANNUAL/INTERMEDIATE SURVEY IN ACCORDANCE  
WITH REGULATION 10.8.3**

THIS IS TO CERTIFY that, at an annual/intermediate\*

survey in accordance with regulation 10.8.3 OF Annex 1 of the Convention, the ship was found to comply with the relevant provisions of the Convention: the ship was found to comply with the relevant provisions of the Convention.

Signed: .....  
(Signature of duly authorised official)  
Place: .....  
Date (dd/mm/yyyy) .....  
(Seal or stamp of the authority, as appropriate)

**ENDORSEMENT TO EXTEND THE CERTIFICATE IF  
VALID FOR  
LESS THAN 5 YEARS WHERE REGULATION 10.3  
APPLIES**

The ship complies with the relevant provisions of the Convention and this Certificate shall, in accordance with regulation 10.3 of Annex 1 of the Convention be accepted as valid until (dd/mm/yyyy): .....  
Signed: .....  
(Signature of duly authorized official)  
Place: .....  
Date: (dd/mm/yyyy): .....  
(Seal or stamp of the authority, as appropriate)

**ENDORSEMENT WHERE THE RENEWAL SURVEY  
HAS BEEN  
COMPLETED AND REGULATION 10.4 APPLIES**

The ship complies with the relevant provisions of the Convention, and this Certificate shall in accordance with regulation 10.4 of Annex 1 of the Convention be accepted as valid until (dd/mm/yyyy) .....  
Signed: .....  
(Signature of duly authorized official)  
Place: .....  
Date: (dd/mm/yyyy):.....

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

-----

*\*Delete as appropriate*

Appendices to Annex 1

Appendix II: Form of  
IOPP Certificate and  
Supplements

**ENDORSEMENT TO EXTEND THE VALIDITY OF THE  
CERTIFICATE  
UNTIL REACHING THE PORT OF SURVEY OR FOR A  
PERIOD  
OF GRACE WHERE REGULATION 10.5 OR 10.6  
APPLIES**

This Certificate shall, in accordance with regulation 10.5 or  
10.6 of Annex 1 of the Convention, be accepted as valid  
until (dd/mm/yyyy) .....

Signed: .....

*(Signature of duly authorized official)*

Place: .....

Date: (dd/mm/yyyy): .....

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

**ENDORSEMENT FOR ADVANCEMENT OF  
ANNIVERSARY DATE  
WHERE REGULATION 10.8 APPLIES**

In accordance with regulation 10.8 of Annex 1 of the  
Convention, the new anniversary  
date is (dd/mm/yyyy): .....

*Signed: .....*

*(Signature of duly authorized official)*

*Place:*

.....

Date: (dd/mm/yyyy): .....

*(Seal of stamp of the authority, as appropriate)*

In accordance with regulation 10.8 of Annex 1 of the  
Convention the new anniversary

Date is (dd/mm/yyyy): .....

Signed: .....

*(Signature of duly authorized official)*

Place: .....

Date: (dd/mm/yyyy): .....

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

-----

\* Delete as appropriate

FORM A

**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 1 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. “ship 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 1 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. The language of the original Record shall be at least in English, French or Spanish, if an official language of the issuing state is also used, this shall prevail in case of a dispute or discrepancy.
  
4. Entries in boxes shall be made by inserting either a cross (x) 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 1 of the Convention and resolutions refer to those adopted by the International Maritime Organisation.

**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:

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 The ship has been accepted by the Administration  
as "ship" delivered on or before 31 December 1979 under  
regulation 1.28.1 due to unforeseen delay in delivery

**2 Equipment for the control of oil discharge from  
machinery space bilges  
and oil fuel tanks**  
(regulations 16 and 14)

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 oil filtering equipment fitted:

2.2.1 Oil filtering (15 ppm) equipment (regulation 14.6)

2.2.2 Oil filtering (15 ppm) equipment with alarm and automatic stopping device (regulation 14(7))

2.3 Approval standards\*

2.3.1 The separating/filtering equipment

1. has been approved in accordance with resolution A.393(X)
2. has been approved in accordance with resolution MEPC 60 (33)
3. has been approved in accordance with resolution MEPC 107 (49)
4. has been approved in accordance with resolution A 233 (VII)
5. (has been approved in accordance with national standards not based upon resolution A.393(X) or A.233 (VII)
6. has not been approved

2.3.2 The process unit has been approved in accordance

---

\* Refer to the Recommendation on international performance and test specifications of oily-water separating equipment and oil content meters adopted by the Organisation on 14 November 1977 by resolution A.393(X), which superseded resolution A.233 (VII); see IMO sales publication IMO-608E. Further reference is made to the Guidelines and specifications for pollution prevention equipment for machinery space bilges adopted by the Marine Environment Protection Committee of the Organisation by resolution MEPC.60(33), which, effective on 6 July 1993, superseded resolutions A.393(X) and A.444(XI); see IMO sales publication IMO-646E.

with resolution A.444(XI)

2,3,3 The oil content meter

1. been approved in accordance with resolution A.393 (X)
2. been approved in accordance with MEPC resolution 60 (33)
3. has been approved in accordance with resolution MEPC 107(49)

2.4 Maximum throughput of the system is .....m<sup>3</sup>/h

2.5 Waiver of regulation 14:

2.5.1 The requirements of regulation 14.1 or 14.2 are waived in respect of the ship in accordance with regulation 14.5.

T2.5.1.1. The ship is engaged exclusively on: voyages within special area (s) .....

2.5.1.2. The ship is certified under the International Code Safety for High Speed Craft and engaged in a scheduled service with a turn around time not exceeding 24 hours

2.5.2. The ship is fitted with holding tank(s) for its total retention on board of all oily bilge water as follows:

Tank Identification	Tank Location	
	Frames (from) – (to)	Lateral position

Total volume: .....m <sup>3</sup>
-----------------------------------

**3. Means for retention and disposal of oil residues (sludge) (regulation 12) and bilge water holding tank(s)\*.**

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

Tank Identification	Tank Location		V (l)
	Frames (from) – (to)	Lateral position	
Total volume: .....			

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 Auxiliary boiler suitable for burning oil residues

3.2.3 Tank for mixing oil residues with fuel oil, capacity .....m<sup>3</sup>

3.2.4 Other acceptable means:  
.....

3.3 The ship is fitted with holding tank (s) for the retention on board of oily bilge water as follows;

Tank	Tank Location	V

Identification	Frames (from) – (to)	Lateral position	(m <sup>3</sup> )
			Total volume: .....m <sup>3</sup>

**4 Standard discharge connection**  
(regulation 13)

4.1 The ship is provided with a pipeline for the discharge of residues from machinery bilges and sludges and reception facilities fitted with a standard discharge connection in accordance with regulation 13.

**5 Shipboard oil marine pollution emergency plan**  
(regulation 37)

5.1 The ship is provided with a shipboard oil pollution emergency plan in compliance with regulation 37

5.2. The ship is provided with a shipboard marine pollution emergency plan in compliance with regulation 37.3

**6 Exemption**

6.1 Exemptions have been granted by the Administration from the requirements of chapter III of Annex I of the Convention in accordance with regulation 3.1 (a) on those items listed under paragraph(s)

.....  
.....of this  
Record.

**7 Equivalents**  
(regulation 5)

7.1 Equivalents have been approved by the Administration for certain requirements of Annex I on those items 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)*.....

*(Signature of duly authorised officer issuing the Record)*

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

FORM B

**Supplement to International Oil Pollution Prevention Certificate  
(IOPP Certificate)**

**RECORD OF CONSTRUCTION AND EQUIPMENT FOR 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 first two types of ships as categorised in the IOPP Certificate, i.e. “oil tankers” and “ships” other than oil tankers with cargo tanks coming under regulation 2 (2) of Annex 1 of the Convention”. For the third type of ships as categorised 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. The language of the original Record shall be at least in English, French or Spanish. If an official language of the issuing state is also used, this shall prevail in the case of a dispute or discrepancy.
4. Entries in boxes shall be made by inserting either a cross (x) 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 Organisation.

## **1 Particulars of Ship**

- 1.1 Name of ship .....
- 1.2 Distinctive number or letters .....
- 1.3 Port of registry .....
- 1.4 Gross onnage.....
- 1.5 Carrying capacity of ship .....(m<sup>3</sup>)
- 1.6 Deadweight of ship ..... (tonnes regulation 1.23)
- 1.7 Length of ship .....(m)  
(regulation 1.19)
- 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 Unforeseen delay in delivery

1.10.1 The ship has been accepted by the Administration as a "ship delivered on or before 31 December 1979" under regulation 1.28.1 due to unforeseen delay in delivery

1.10.2 The ship has been accepted by the Administration as an "oil tanker delivered on or before 1 June 1982" under regulation 1.28.3 Due to unforeseen delay in delivery.

1.10.3 The ship is not required to comply with the provisions of regulation 26 due to unforeseen delay in delivery

1.11 Type of ship:

1.11.1 Crude oil tanker

1.11.2 Product carrier

1.11.3 Product carrier not carrying fuel oil or heavy diesel oil as referred to in regulation 20.2, or lubricating oil

1.11.4 Crude oil/product carrier

1.11.5 Combination carrier

1.11.6. Ship, other than an oil tanker, with cargo tanks coming under regulation 2.2 of Annex 1 of the Convention

1.11.7 Oil tanker dedicated to the carriage of products referred to in regulation 2.4

1.11.8 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

1.11.9 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.

## **2 Equipment for the control of oil discharge from machinery space bilges and oil fuel tanks**

(regulations 16 and 14)

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 oil filtering equipment fitted:

2.2.1 Oil filtering (15 ppm) equipment (regulation 14.6)

2.2.2 Oil filtering (15 ppm) equipment with alarm and automatic stopping device (regulation 14.7)

2.3 Approval standards\*\*

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\*Refer to the Recommendation on international performance and test specifications of oily-water separating equipment and oil content meters adopted by the Organisation on 14

### 2.3.1 The separating/filtering equipment

1. has been approved in accordance with Resolution A 393(X)
2. has been approved in accordance with resolution MEPC 60(33)
3. has been approved in accordance with resolution MEPC 107 (49)
4. has been approved in accordance with resolution A.233 (VII).
5. has been approved in accordance with national standards not based Upon resolution A.393(X) or A.233 (VII)
6. has not been approved

### 2.3.2 The process unit has been approved in accordance with resolution A.444(XI)

### 2.3.3 The oil content meter –

1. has been approved in accordance with resolution A. 393 (X)
2. has been approved in accordance with resolution MEPC 60 (33)

---

November 1977 by resolution A.393(X), which superseded resolution A.233 (VII); see IMO sales publication IMO-608E. Further reference is made to the Guidelines and specifications for pollution prevention equipment for machinery space bilges adopted by the Marine Environment Protection Committee of the Organisation by resolution MEPC.60(33), which, effective on 6 July 1993, superseded resolutions A.393(X) and A.444(XI); and the revised Guidelines and specifications for pollution prevention equipment for machinery spaces of ships adopted by the MEPC of the Organisation by resolution MEPC 107 (49) which effective from 1 January 2005 superseded resolutions MEPC 60 (33) A.393(X) and A.444(XI).

3. has been approved in accordance with resolution MEPC 107(49)

2.4 Maximum throughput of the system is .....m<sup>3</sup>/h

2.5 Waiver of regulation 14

2.5.1 The requirements of regulation 14.1 or 14.2 are waived in respect of the ship in accordance with regulation 14(5). The ship is engaged exclusively on voyages within special area(s):.....  
.....

2.5.2 The ship is fitted with holding tank(s) for the total retention

on board of all oily bilge water as follows:

Tank Identification	Tank Location		Vc (m)
	Frames (from) – (to)	Lateral position	
Total volun			

2.5.3 In lieu of the holding tank(s) 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 12) and bilge water holding tank(s)**

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

follows:

Tank Identification	Tank Location		Vc (m
	Frames (from) – (to)	Lateral position	
Total volume: .			

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

3.2.1 Incinerator for oil residues, capacity .....//h

3.2.2 Auxiliary boiler suitable for burning oil residues

3.2.3 Tank for mixing oil residues with fuel oil, capacity .....m<sup>3</sup>

3.2.4 Other acceptable means:  
.....

3.3 The ship is provided with holding tank(s) for the retention on board of oily bilge water as follows:

Tank Identification	Tank Location	
	Frames (from) – (to)	Lateral position
Total volume: .....		

**4 Standard discharge connection**  
(regulation 13)

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 13

**5. Construction** (regulations 18,19,20,23,26,27 and 28)

5.1 In accordance with the requirements of regulation 18, 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 18

5.2 Segregated ballast tanks (SBT):

5.2.1 The ship is provided with SBT in compliance with regulation 18

5.2.2 The ship is provided with SBT, in compliance with regulation 18, which are arranged in protective locations (PL) in compliance with regulation 18, 12 to 18.15

5.2.3 SBT are distributed as follows:

Tank	Volume (m <sup>3</sup> )	Tank	Volun (m <sup>3</sup> )
			Total volume: .....

5.3 Dedicated clean ballast tanks (CBT):

5.3.1 The ship is provided with CBT in compliance with regulation 18.8 and may operate as a product carrier

5.3.2 CBT are distributed as follows:

Tank	Volume (m <sup>3</sup> )	Tank	Volun (m <sup>3</sup> )
			Total volume: .....

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 pumping 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 33

5.4.2 The ship is equipped with a COW system in compliance with regulation 33 except that the effectiveness of the system has not been confirmed in accordance with regulation 33.1 and paragraph 4.2.10 of the Revised COW Specifications (resolution A.446 (XI\*) as amended by resolution A497(XII) and A 897(21)

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 the Revised COW Specifications (resolution A.446(XI\*)) as amended by resolution A 497(XII) and A897(21)

5.5 Exemption from regulation 18:

5.5.1 The ship is solely engaged in trade between .....  
.....  
in accordance with regulation 2.5 and is therefore exempted from the

---

\* See IMO sales publication IMO-617E

\* See IMO sales publication IMO-617E



requirements of regulation 18

5.5.2 The ship is operating with special ballast arrangements in accordance with regulation 18.10 and is therefore exempted from the requirements of regulation 18

5.6 Limitation of size and arrangements of cargo tanks (regulation 26):

5.6.1 The ship is required to be constructed according to, and complies with, the requirements of regulation 26

5.6.2 The ship is required to be constructed according to, and complies with, the requirements of regulation 26.4 (see regulation 2.2)

5.7 Sub-Part and stability (regulation 28):

5.7.1 The ship is required to be constructed according to, and complies with, the requirements of regulation 28

5.7.2 Information and data required under regulation 28.5 have been supplied to the ship in an approved form

The ship is required to be constructed according to, and

complies with the requirements  
of regulation 27

5.7.3 Information and data required under regulation 27 for combination carriers have been supplied to the ship in a written procedure approved by the Administration.

5.8 Double hull construction:

5.8.1 The ship is required to be constructed according to regulation 19 and complies with the requirements of-

1. paragraph (3) (double hull construction)
2. paragraph (4) (mid-height deck tankers with double side construction)
3. paragraph (5) (alternative method approved by the Marine Environment Protection Committee)

5.8.2 The ship is required to be constructed according to and complies with the requirements of regulation 19.6 (double bottom requirements)

5.8.3 The ship is not required to comply with the requirements of regulation 19

5.8.4 The ship is subject to regulation 20 and-

1. is required to comply with paragraphs 2 to 5.7 and 8 of regulation 19 and Regulation 28 in respect of paragraph 28.6 not later than .....

2. allowed to continue operation in accordance with regulation 20.5 Until .....

3. allowed to continue operation in accordance with regulation 20.7) until .....

5.8.5 The ship is not subject to regulation 20

5.8.6. The subject is subject to regulation 21 and

2. is required to comply with regulation 21.4 not later than .....
3. is allowed to continue operation in accordance with regulation 21.5 until.....
4. is allowed to continue operation in accordance with regulation 21.6.1 until.....
5. allowed to continue operation in accordance with regulation 21.6.2 until.....
6. is exempted from the provisions of regulation 21 in accordance with regulation 2.1.7.2

5.8.7. The ship is not subject to regulation 21

5.8.8. The ship is subject to regulation 22 and:

1. complies with the requirements of regulation 22.2





.3 calculating unit

6.1.4 The system is:

.1 fitted with a starting interlock

.2 fitted with automatic stopping device

6.1.5 The oil content meter is approved under the terms of resolution A.393(X) or A.586 (14) or MEPC 108(49)\* deleted 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

6.1.6 The ship has been supplied with an operations manual for the oil discharge monitoring and control system

6.2 Slop tanks:

6.2.1 The ship is provided with ..... dedicated slop tank(s) with the total capacity of .....m<sup>3</sup> which is .....% of the oil carrying capacity, in accordance with:

.1 regulation 29.2.3

.2 regulation 29.2.3.1

.3 regulation 29.2.3.2

.4 regulation 29.2.3.3

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

approved under the terms of resolution MEPC 5(XIII)\*

6.4 Exemptions from regulations 29, 31 and 32.

6.4.1 The ship is exempted from the requirements of regulation 29, 31 and 32 in accordance with regulation 2.4

6.4.2 The ship is exempted from the requirements of regulations 29, 31 and 32 in accordance with regulation 2.2

6.5 Waiver of regulations 31 and 32

6.5.1 The requirements of regulation 31 and 32 are waived in respect of the ship in accordance with regulation 3.5. The ship is engaged exclusively on:

.1 specific trade under regulation 2.5.....

.2 voyages within special area(s)  
.....

.3 voyages within 50 nautical miles of the nearest land

---

\* Refer to the Specification for oil/water interface detectors adopted by the Marine Environment Protection Committee of the Organisation by resolution MEPC.5(XIII); only those outlets which can be monitored are to be indicated.

outside special area(s) of 72 hours or less in duration  
restricted to

.....

**7 Pumping, piping and discharge arrangements**  
(regulation 30)

7.1 The overboard discharge outlets for segregated ballast are located:

7.1.1 Above the waterline

7.1.2 Below the waterline

7.2 The overboard discharge outlets, other than the discharge manifold, for clean ballast are located:<sup>+</sup>\*

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:<sup>+</sup>

7.3.1 Above the waterline

7.3.2 Below the waterline in conjunction with the part flow arrangements in compliance with regulation 30.6.5

7.3.3 Below the waterline

7.4 Discharge of oil from cargo pumps and oil lines (regulation 30.4 and 30.5)

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 37)

8.1 The ship is provided with a shipboard oil pollution emergency plan in compliance with regulation 37.

8.2 The ship is provided with a shipboard marine pollution emergency plan in compliance with regulation 37.3.

**9 Exemption**

9.1 Exemptions have been granted by the Administration from the requirements of chapter 3 Annex 1 of the Convention in accordance with regulation 3.1 or those items listed under paragraph(s)

.....  
.....of  
this Record Book

**10 Equivalents** (regulation 5)

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

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

Issued at

.....  
*(Place of issue of the Record)*



..... Dd/mm/yyyy).....

Date of issue

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

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

**EVENTH SCHEDULE** (section 80)

**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.

**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 17 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 Part 1 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 Part 1 should be considered accordingly.

In the event of accidental or other exceptional discharge of oil, statement shall be made in the Oil Record Book Part 1 of the circumstances of, and the reasons for the discharge.

Any failure of the oil filtering equipment shall be noted in the Oil Record Book Part 1.

The entries in the Oil Record Book Part 1, for ships holding an IOPP Certificate, shall be at least in English, French or Spanish. Where entries in official language of the State whose flag the ship is entitled to fly are also used, this shall prevail in case of a dispute or discrepancy.

The Oil Record Book Part 1 shall be kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship. It shall be preserved for a period of three years after the last entry has been made.

The competent authority of the Government of a Party to the Convention may inspect the Oil Record Book Part 1 on board any ship to which this Annex applies while the ship is in its port or offshore terminals and may make a copy of any entry in that book and may require the master of the ship to certify that the copy is a true copy of such entry. Any copy so made which has been certified by the master of the ship as a true copy of an entry in the Oil Record Book Part 1 shall be made admissible in any juridical proceedings as evidence of the facts stated in the entry. The inspection of an Oil Record Book Part 1 and the taking of a certified copy by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

#### **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 in cubic metres);
  - .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, in cubic metres

(B) Discharge of dirty ballast or cleaning water from oil fuel tanks referred to under section (A)

- 5. Identity of tank(s).
- 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 15 ppm equipment;
  - 2. to reception facilities.
- 10. Quantity discharged in cubic metres

(C) Collection and disposal of oil residues (sludge and other residues)

- 11. Collection of oil residues.

Quantities of oil residues (sludge and other residues) retained on board. The quantity should be recorded weekly. (This means that the quantity must be recorded once a week even if the voyage lasts more than one week).

- .1 separated sludge (sludge resulting from purification of fuel and lubricating oils) and other residues, if applicable:

- 1 identity of tank(s) .....
- 2 capacity of tank(s) .....m<sup>3</sup>
- 3 total quantity of retention .....m<sup>3</sup>

- 12. Methods of disposal of residue.

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

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

(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 15 ppm equipment (state position at start and end):
  2. to reception facilities (identify port):\*
  3. transfer to slop tank or holding tank (indicate tank(s): state quantity retained in tanks(s) in cubic metres).

(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 through 15 ppm equipment.
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 into manual operation.

(F) Condition of the oil filtering equipment

19. Time of system failure.

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

(G) Accidental or other exceptional discharges of oil

- 22. Time of occurrence.
- 23. Place or position of ship at time of occurrence.
- 24. Approximate quantity and type of oil.
- 26. Circumstances of discharge or escape, the reasons therefore 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 in tonnes and total content of tank(s)).
- .4 Type and quantity of lubricating oil and identity of tank(s) (state quantity added and total content of tank(s)).

(I) Additional operational procedures and general remarks

Name of ship .....

Distinctive number or letters

.....

MACHINERY SPACE OPERATIONS

Date	Code (letter)	Item (number)	Record of operations/s of officer in c


signature of master

.....

\_\_\_\_\_

**OIL RECORD BOOK - PART II**

**Cargo/ballast operations -(Oil tankers)**

Name of ship:

Distinctive number or letters:

Gross tonnage:

Period from: \_\_\_\_\_ to:

Note: Every oil tanker of 150 tons gross tonnage and above shall be provided with Oil Record Book Part II to record relevant cargo/ballast operations. Such a tanker shall also be provided with Oil Record Book Part I to record relevant machinery space operations.

Name of ship.....

Distinctive number or letters .....

**PLAN VIEW OF CARGO AND SLOP TANKS  
(TO BE COMPLETED ON BOARD)**



The diagram shows a cross-section of a ship's hull. At the top is a pointed bow. Below it is a large rectangular area representing the main deck and cargo hold. A smaller rectangular area at the bottom is labeled "Pump-room". The hull tapers to a pointed stern at the bottom. To the right of the hull diagram is a table with two columns: "Identification of the tanks" and "Capacity". The table has 13 rows. The last row is labeled "Depth of slop tank(s)".

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

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

**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 Part II in accordance with regulation 36 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 code letter.

When making entries in the Oil Record Book Part II, 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 counter signed by the master of the ship. In respect of the oil tankers engaged in specific trades in accordance with regulation 25 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 Part II 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 Part II should be considered accordingly.

In the event of accidental or other exceptional discharge of oil, a statement shall be made in the Oil Record Book Part II of the circumstances of, and the reasons for the discharge.

Any failure of the oil discharge monitoring and control system shall be noted in the Oil Record Book Part II.

The entries in the Oil Record Book Part II, for ships holding an IOPP Certificate, shall be at least in English, French or Spanish. Where entries in an official language of the State whose flag the ship is entitled to fly are also used, this shall prevail in case of a dispute or discrepancy.

The Oil Record Book Part II shall be kept in such a place as to be readily available for inspection at all reasonable times and except in the case of unmanned ships under tow, shall be kept on board the ship. It shall be preserved for a period of three years after the last entry has been made.

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\*

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

The competent authority of the Government of a Party to the Convention may inspect the Oil Record Book Part II on board the ship to which this Annex applies while the ship is in its port or offshore terminals and may make a copy of any entry in that book and may require the master of the ship to certify that the copy is a true copy of such entry. Any copy so made which has been certified by the master of the ship as a true copy of an entry in the Oil Record Book Part II shall be made admissible in any juridical proceedings as evidence of the facts stated in the entry. The inspection of an Oil Record Book Part II and taking of a certified copy by the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

#### 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, in cubic metres, at 151°c and the total Content of tank(s) in cubic metres.
  
- (B) Internal transfer of oil cargo during voyage
  - 4. Identity of tank(s):
    - .1 from:
    - .2 to: (state quantity transferred and total quantity of tanks in cubic metres)
  - 5. Was (were the tank(s) in 4.1 emptied? (If not, state quantity retained) in cubic metres
  
- (C) Unloading of oil cargo
  - 6. Place of unloading

7. Identity of tank(s) unloaded.
8. MWas (were) the tank(s) emptied? (If not, state quantity in cubic metres)
  - (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.
10. Identity of tank(s) washed.
11. Number of machines in use.
12. Time of start of washing.
13. Washing pattern employed. \*
14. Washing line pressure.
15. Time washing was completed or stopped.
16. State method of establishing that tank(s) was (were) dry.
17. Remarks.
- (E) Ballasting of cargo tanks
18. Position of ship at start and end of ballasting.
19. Ballasting process:
  - .1 identity of tank(s) ballasted:

---

\*

<sup>1</sup> **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.**

<sup>2</sup> 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.

.2 time of start and end:

.3 quantity of ballast received. Indicate total quantity of ballast for each tank involved in the operation in cubic metres.

(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, in cubic metres

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, in cubic metres.

(G) Cleaning of cargo tanks

27. Identity of tank(s) cleaned.

28. Port or ship's position

29. Duration of cleaning.

30. Method of cleaning. \*

31. Tank washings transferred to:

---

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

1. reception facilities (state port and quantity in cubic metres) ;
  2. slop tank(s) or cargo tank(s) designated as slop tank(s) (identify tank(s); state quantity transferred and total quantity in cubic metres).
- (H) Discharge of dirty ballast
32. Identity of tank(s).
  33. Time and position of ship at start of discharge into the sea.
  34. Time and position of ship on completion of discharge into the sea.
  35. Quantity discharged into the sea in cubic metres.
  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 in cubic metres.
  40. Discharged to shore reception facilities (identify port and quantity involved in cubic metres).\*
- (I) Discharge of water from slop tanks into the sea
41. Identity of slop tanks.
  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 in cubic metres and rate of

---

<sup>5</sup> 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 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.

discharge in m<sup>3</sup> /hour

48. Final quantity discharged in cubic metres and rate of discharge in m<sup>3</sup> /hour

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 in metres.

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 mixture not otherwise dealt with

55. Identity of tank(s).

56. Quantity disposed of from each tank. (State the quantity retained) in cubic metres.

57. Method of disposal:

- .1 to reception facilities (identify port and quantity involved):\*
- .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) in cubic metres; and
- .4 other method (state which); state quantity disposed of in cubic metres.

---

\*<sup>5</sup> 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 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.

- (K) Discharge of clean ballast contained in cargo tanks
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.
66. Quantity discharged, in cubic metres:
- .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 in cubic metres 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.

Name of ship

.....

Distinctive number or letters

.....

**CARGO/BALLAST OPERATIONS (OIL TANKERS)**

Date	Code (letter)	Item (number)	Record of operations/sig of officer in cl

Signature of master .....

**EIGHTH SCHEDULE (sections 85, 91, 226)**

**LIST OF NOXIOUS LIQUID SUBSTANCES CARRIED IN BULK**

Noxious liquid substances carried in bulk and which are presently categorised as Category X, Y, Z and other substances and subject to the provisions of this Annex, are so indicated in the Pollution Category column of chapters 17 or 18 of the International Bulk Chemical Code.

**NINTH SCHEDULE (section 91)**

**GUIDELINES FOR THE CATEGORISATION OF NOXIOUS LIQUID SUBSTANCES**

Products are assigned to pollution categories based on an evaluation of their properties as reflected in the resultant GESAMP Hazard Profile as shown in the table below:

Rule	A1 Bio Accumulation	A2 Bio degradation	B1 Acute toxicity	B2 Chronic toxicity	D3 Long term health effect	E2 Effects on marine wildlife and on benthic habitats	Cat
1			≥ 5				<b>X</b>
2	≥ 4		4				
3		NR	4				
4	≥ 4	NR			CMRTNI		
5			4				<b>Y</b>
6			3				
7			2				
8	≥ 4	NR		Not 0			
9				≥ 1			
10						F <sub>p</sub> , F or S If not inorganic	
11					CMRTNI		
12	Any product not meeting the criteria of rules 1 to 11 and 13						<b>Z</b>
13	All products identified as: ≥ 2 in column A1; R in column A2; blank in column D3; not F <sub>p</sub> , F or S (if not organic) in column E2; and 0 (zero) in all other columns of the GESAMP Hazard Profile						<b>OS</b>

---

\* Reference is made to MEPC 1/Circ. 512 on the Revised Guidelines for the provisional assessment of liquid substances transported in bulk.

Abbreviated legend to the revised GESAMP Hazard Evaluation Procedure

<b>Columns A and B – Aquatic environment</b>					
Numerical rating	<b>Bioaccumulation and biodegradation</b>			<b>Aquatic toxicity</b>	
	<b>A1*</b> <b>Bioaccumulation</b>		<b>A2*</b> <b>Biodegradation</b>	<b>B1*</b> <b>Acute toxicity</b>	<b>B2*</b> <b>Chronic toxicity</b>
	<b>log Pow</b>	<b>BCF</b>		<b>LC/EC/OC<sub>50</sub></b> <b>(mg/l)</b>	<b>NOEC</b> <b>(mg/l)</b>
0	<1 of >ca. 7	not measurable	R: readily Biodegradable  NR: not readily biodegradable  Inorg: inorganic Substance	> 1000	> 1
1	≥ 1 - < 2	≥ 1 - < 10		> 100 - ≤ 100	> 0.1 - ≤ 1
2	≥ 2 - < 3	≥ 10 - < 100		> 10 - ≤ 100	>0.01 - ≤ 0.1
3	≥ 3 - < 4	≥ 100 - < 500		> 1 - ≤ 10	>0.001 - ≤ 0.01
4	≥ 4 - < 5	≥ 500 - < 4000		> 0.1 - ≤ 1	≤ 0.001
5	≥ 5 - < ca.7	≥ 4000		> 0.01 - ≤ 0.1	
6				≤ 0.01	

-----  
\* These columns are used to define pollution categories

Abbreviated legend to the revised GESAMP Hazard Evaluation Procedure (*continued*)

<b>Columns C and D – Human health (Toxic effects to mammals)</b>						
Numerical rating	<b>C</b>			<b>D</b>		
	<b>Acute mammalian toxicity</b>			<b>Irritation, corrosion &amp; long-term health effects</b>		
	<b>C1</b> <b>Oral toxicity</b>	<b>C2</b> <b>Percutaneous</b>	<b>C3</b> <b>Inhalation</b>	<b>D1</b> <b>Skin irritation</b>	<b>D2</b> <b>Eye irritation</b>	<b>D3*</b> <b>Long-term Health</b>

	LD <sub>50</sub> (mg/kg)	Toxicity LD <sub>50</sub> (mg/kg)	Toxicity LC <sub>50</sub> (mg/l)	& corrosio n	& corrosio n	effects
0	> 2000	> 2000	>20	not irritating	not irritating	C – Carcinoge n
1	>300 - ≤ 2000	>1000 - ≤ 2000	>10 - ≤ 20	mildly irritating	mildly irritating	M – Mutagenic
2	>50 - ≤ 300	>200 - ≤ 1000	> 2 - ≤ 10	irritating	irritating	R – Reprotoxic
3	> 5 - ≤ 50	>50 - ≤ 200	> 0.5 - ≤ 2	Severely irritating or corrosive 3A Corr. (≤ 4 h) 3B Corr. (≤ 1 h) 3C Corr. (≤ 3 min)	severely irritating	S – Sensitizing A – Aspiration  Hazard T – Target organ  Systemic  Toxicity L - Lung injury N – Neurotoxic I – Immuno- toxic
4	≤ 5	≤ 50	≤ 0.5			

\*These columns are used to define pollution categories.

Abbreviated legend to the revised GESAMP Hazard Evaluation Procedure (*continued*)

Column E Interferences with other uses of the sea			
E1 Tainting	E2* Physical effects on wildlife	E3 Interference with coastal amenities	
		Numerical	Description & action

	& benthic habitats	rating	
NT: not tainting (tested) T: tainting test positive	Fp: Persistent floater F: Floater S: Sinking substances	0	no interference <b>no warning</b>
		1	slightly objectionable <b>warning, not closure of amenity</b>
		2	moderately objectionable <b>possible closure of amenity</b>
		3	highly objectionable <b>closure of amenity</b>

### TENTH SCHEDULE (section 127)

#### LIST OF OTHER LIQUID SUBSTANCES

Liquid substances carried in bulk which are identified as falling outside Categories, X, Y, Z and other substances subject to the provisions of this Annex and indicated as 'III' in the Pollution Category column of chapters 17 or 18 of the International Bulk Chemical Code.

### ELEVENTH SCHEDULE (section 110)

#### FORM OF CARGO RECORD BOOK FOR SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK

CARGO RECORD BOOK FOR SHIPS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK

Name of ship .....

Distinctive number or letters .....

IMO Number .....

Gross tonnage .....

Period from ..... to .....

Name of ship .....

Distinctive number or letters .....

**PLAN VIEW OF CARGO AND SLOP TANKS  
(TO BE COMPLETED ON BOARD)**

The diagram shows a plan view of a ship's hull. At the bottom, there is a section labeled "Pump room". Above this, the hull is divided into several horizontal sections representing cargo and slop tanks. To the right of the hull diagram is a table with two columns: "Identification of the tanks" and "Capacity". The table has 14 rows. A diagonal line is drawn across the table, starting from the bottom left and moving towards the top right, indicating a break in the sequence of tanks. Below the table, the instruction "(Give the capacity of each tank in cubic metres)" is written.

Identification of the tanks	Capacity

(Give the capacity of each tank in cubic metres)

## INTRODUCTION

The following pages show a comprehensive list of items of cargo and ballast operations which are, when appropriate, to be recorded in the Cargo Record Book on a tank-to-tank basis in accordance with paragraph 2 of regulation 9 of Annex II of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended. The items have been grouped into operational sections, each of which is denoted by a letter.

When making entries in the Cargo 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 and, if applicable, by a surveyor authorised by the competent authority of the State in which the ship is unloading. Each completed page shall be countersigned by the master of the ship.

### List of items to be recorded

Entries are required only for operations involving all Categories of substances.

#### (A) Loading of cargo

1. Place of loading.
2. Identify tank(s), name of substance(s) and category(ies).

#### (B) Internal transfer of cargo

3. Name and category of cargo(es) transferred.
4. Identity of tanks:

.1 from:

.2 to:

5. Was (were) tank(s) in 4.1 emptied?
6. If not, quantity remaining in tank(s).

#### (C) Unloading of cargo

7. Place of unloading.
8. Identity of tank(s) unloaded.
9. Was (were) tank(s) emptied?



- .1 If yes, confirm that the procedure for emptying and stripping has been performed in accordance with the ship's Procedures and Arrangements Manual (i.e. list, trim, stripping temperature).
  - .2 If not, quantity remaining in tank(s).
10. Does the ship's Procedures and Arrangements Manual require a prewash with subsequent disposal to reception facilities?
11. Failure of pumping and/or stripping system:
- .1 time and nature of failure;
  - .2 reasons for failure;
  - .3 time when system has been made operational.

(D) Mandatory prewash in accordance with the ship's Procedures and Arrangements Manual

12. Identify tank(s), substance(s) and category(ies).
13. Washing method:
- .1 number of washing machines per tank;
  - .2 duration of wash/washing cycles;
  - .3 hot/cold wash.
14. Prewash slops transferred to:
- .1 reception facility in unloading port (identify port);
  - .2 reception facility otherwise (identify port).

(E) Cleaning of cargo tanks except mandatory prewash (other prewash operations, final wash, ventilation etc.)

15. State time, identify tank(s), substance(s) and category(ies) and state:
- .1 washing procedure used;
  - .2 cleaning agent(s) (identify agent(s) and quantities);
  - .3 ventilation procedure used (state number of fans used, duration of ventilation).
16. Tank washings transferred:

- .1 into the sea;
- .2 to reception facility (identify port);
- .3 to slops collecting tank (identify tank).

**(F) Discharge into the sea of tank washings**

- 17. Identify tank(s):
  - .1 Were tank washings discharged during cleaning of tank(s)? If so at what rate?
  - .2 Were tank washing(s) discharged from a slops collecting tank? If so, state quantity and rate of discharge.
- 18. Time pumping commenced and stopped.
- 19. Ship's speed during discharge.

**(G) Ballasting of cargo tanks**

- 20. Identity of tank(s) ballasted.
- 21. Time at start of ballasting.

**(H) Discharge of ballast water from cargo tanks**

- 22. Identity of tank(s)
- 23. Discharge of ballast:
  - .1 into the sea;
  - .2 to reception facilities (identify port)
- 24. Time ballast discharge commenced and stopped.
- 25. Ship's speed during discharge.

**(I) Accidental or other exceptional discharge**

- 26. Time of occurrence.
- 27. Approximate quantity, substance(s) and category(ies).
- 28. Circumstances of discharge or escape and general remarks.

**(J) Control by authorised surveyors**

- 29. Identify port.

- 30. Identify tank(s), substance(s), category(ies) discharged ashore.
- 31. Have tank(s), pump(s), and piping system(s) been emptied?
- 32. Has a prewash in accordance with the ship's Procedures and Arrangements Manual been carried out?
- 33. Have tank washings resulting from the prewash been discharged ashore and is the tank empty?
- 34. An exemption has been granted from mandatory prewash.
- 35. Reasons for exemption.
- 36. Name and signature of authorised surveyor.
- 37. Organisation, company, government agency for which surveyor works.

**(K) Additional operational procedures and remarks**

Name of ship .....

Distinctive number or letters .....

IMO Number .....

**CARGO/BALLAST OPERATIONS**

Date	Code (letter)	Item (number)	Record of operations/signature of officer in charge/name of and signature of authorised surveyor

.....  
(Signature of Master)

**TWELFTH SCHEDULE (section 120)**

**FORM OF NLS CERTIFICATE**

INTERNATIONAL POLLUTION PREVENTION CERTIFICATE FOR THE CARRIAGE OF NOXIOUS LIQUID

SUBSTANCES IN BULK

Issued under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as amended (hereinafter referred to as “the Convention”), under the authority of the Government of:

.....  
(full designation of the state)

by .....  
(full designation of the competent person or organisation  
authorised under the provisions of the Convention)

***Particulars of ship\****

Name of ship .....

Distinctive number or letters .....

Port of registry .....

Gross tonnage .....

**IMO Number†** .....

\* Alternatively, the particulars of the ship may be placed horizontally in boxes.

† In accordance with resolution A. 600 (15), IMO Ship Identification Number Scheme, this information may be included voluntarily.

**THIS IS TO CERTIFY:**

1. That the ship has been surveyed in accordance with the provisions of regulation 8 of Annex II of the Convention.
2. That the survey showed that the structure, equipment, systems, fitting, arrangements and material of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex II of the Convention.
3. That the ship has been provided with a Procedures and Arrangements Manual as required by regulation 14 of Annex II of the Convention, and that the arrangements and equipment of the ship prescribed in the Manual are in all respects satisfactory.
4. That the ship complies with the requirements of Annex II of Marpol 73/78 for the carriage in bulk of the following noxious liquid substances, provided that all relevant provisions of Annex II are observed.

Noxious liquid substances	Conditions of carriage (tank numbers)	Pollution Category
*continued on additional signed and dated sheets		

This certificate is valid until (dd/mm/yyyy).....subject to surveys in accordance with regulation 8 of Annex II of the Convention.

Completion date of the survey on which the certificate is based (dd/mm/yyyy).....

Issued at

.....  
(Place of issue of certificate)

.....  
(Date of issue)  
(Signature of authorised official

.....  
  
issuing the certificate)

(Seal or stamp of the authority, as appropriate)

\_\_\_\_\_  
(\*Delete as appropriate)

## ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS

THIS IS TO CERTIFY that, at a survey required by regulation 8 of Annex II of the Convention, the ship was found to comply with the relevant provisions of the Convention:

Annual survey Signed .....  
(signature of duly authorised official)

Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

Annual / Intermediate \*survey Signed  
.....  
(signature of duly authorised official)

Place .....  
Date .....

(Seal or stamp of the authority, as appropriate)

Annual / Intermediate \*survey Signed .....

(signature of duly authorised official)  
Place .....  
Date (dd/mm/yyyy).....

(Seal or stamp of the authority, as appropriate)

Annual survey Signed .....

(signature of duly authorised official)  
Place .....  
Date (dd/mm/yyyy).....

(Seal or stamp of the authority, as appropriate)

## THIRTEENTH SCHEDULE (A) (section 97)

s. 129

### Standard format for the Procedures and Arrangements Manual

*Note 1:* The format consists of a standardized introduction and index of the leading paragraphs to each section. This standardized part shall be reproduced in the Manual of each ship. It shall

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\* Delete as appropriate

be followed by the contents of each section as prepared for the particular ship. When a section is not applicable, "NA" shall be entered, so as not to lead to any disruption of the numbering as required by the standard format. Where the paragraphs of the standard format are printed in italics, the required information shall be described for that particular ship. The contents will vary from ship to ship because of design, trade and intended cargoes. Where the text is not in italics, that text of the standard format shall be copied into the Manual without any modification.

*Note 2:* If the Administration requires or accepts information and operational instructions in addition to those outlined in this Standard Format, they shall be included in Addendum D of the Manual.

## STANDARD FORMAT

### MARPOL 73/78 ANNEX II

#### PROCEDURES & ARRANGEMENTS MANUAL

Name of ship .....

Distinctive number or letters .....

IMO Number .....

Port of registry

Approval stamp of Administration

### **Introduction**

1. The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (hereinafter referred to as MARPOL 73/78) was established in order to prevent the pollution of the marine environment by discharges into the sea from ships of harmful substances or effluents containing such substances in order to achieve its aim. MARPOL, 73/78 contains six Annexes in which detailed regulations are given with respect to the handling on board ships and the discharge into the sea or release into the atmosphere of six main groups of harmful substances, i.e. Annex I (Mineral oils) Annex II (Noxious liquid substances carried in bulk). Annex III (Harmful substances carried in packaged form), Annex IV (Sewage), Annex V (Garbage) and Annex VI (Air pollution).
2. Regulation 13 of Annex II of MARPOL, 73/78 (hereinafter referred to as "Annex II") prohibits the discharge into the sea of noxious liquid substances of categories X, Y or Z or of ballast water, tank washings or other residues or mixtures containing such substances, except in compliance with specified conditions including procedures and arrangements based upon standards developed by the international Maritime Organisation (IMO) to ensure that the criteria specified for each category will be met.
3. Annex II requires that each ship which is certified for the carriage of noxious liquid substances in bulk shall be provided with a Procedures and Arrangements Manual, hereinafter referred to as the "Manual".

4. This Manual has been written in accordance with regulation 14 of Annex II and is concerned with the marine environmental aspects of the cleaning of cargo tanks and the discharge of residues and mixtures from these operations. The Manual is not a safety guide and reference shall be made to other publications specifically to evaluate safety hazards.

5. The purpose of the Manual is to identify the arrangements and equipment required to enable compliance with Annex II and to identify for that ship's officers all operational procedures with respect to cargo handling, tank, cleaning, slops handling, residue discharging, ballasting and deballasting which must be followed in order to comply with the requirements of Annex II.

6. In addition, this Manual, together with the ship's Cargo Record Book and the Certificate issued under Annex II\*, will be used by Administrations for control purposes in order to ensure full compliance with the requirements of Annex II by this ship.

7. The master shall ensure that no discharges into the sea of cargo residues or residue/water mixtures containing category X, Y or Z substances shall take place, unless such discharges are made in full compliance with the operational procedure contained in the Manual.

8. This Manual has been approved by the Administration and no alteration or revision shall be made to any part of it without the prior approval of the Administration

#### Index of Sections

1.	Main features of MARPOL 73/78, Annex II .....	262
2.	Description of the ship's equipment and arrangements .....	263
3.	Cargo unloading procedures and tank stripping .....	265
4.	Procedures relating to the cleaning of cargo tanks, the discharge Of residues, ballasting and deballasting .....	266
5.	Information and procedures .....	268

### **Section 1 – Main features of MARPOL 73/78, Annex II**

1.1 The requirements of Annex II apply to all ships carrying noxious liquid substances in bulk. Substances posing a threat of harm to the marine environment are divided into three categories, X Y and Z. Category X substances are those posing the greatest threat to the marine environment, whilst category Z substances are those posing the smallest threat.

1.2 Annex II prohibits the discharge into the sea of any effluent containing substances falling under these categories, except when the discharge is made under conditions which are

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\* Include only the Certificate issued to the particular ship, i.e. The International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk or the Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.



specified in detail for each category. These conditions include, where applicable such parameters as:

1. the maximum quantity of substances per tank which may be discharged into the sea.

(j) the speed of the ship during the discharge.

(k) the minimum distance from the nearest land during discharge.

(l) the minimum depth of water at sea during discharge and

(m) the need to effect the discharge below the waterline.

1.3 For certain sea areas identified as “special area” more stringent discharge criteria apply. Under Annex II the special area is the Antarctic area.

1.4 Annex II requires that every ship is provided with pumping and piping arrangements to ensure that each tank designated for the carriage of category X, Y and Z substances does not retain after unloading a quantity of residue in excess of the quantity given in the Annex. For each tank intended for the carriage of such substances an assessment of the residue quantity has to be made. Only when the residue quantity as assessed is less than the quantity prescribed by the Annex may a tank be approved for the carriage of a category X, Y or Z substance.

1.5 In addition to the conditions referred to above, an important requirement contained in Annex II is that the discharge operations of certain cargo residues and certain tank cleaning and ventilation operations may only be carried out in accordance with approved procedures and arrangements.

1.6 To enable the requirement of paragraph 1.5 to be met, this Manual contains in section 2 all particulars of the ship’s equipment and arrangements, in section 3 operational procedures for cargo unloading and tank stripping and in section 4 procedures for discharge of cargo residues, tank washing, slops collection, ballasting and deballasting as may be applicable to the substances the ship is certified to carry.

1.7 By following the procedures as set out in this Manual, it will be ensured that the ship complies with all relevant requirements of Annex II to MARPOL 73/78.

## **Section 2 – Description of the ship’s equipment and arrangements**

2.1 This section contains all particulars of the ship’s equipment and arrangements necessary to enable the crew to follow the operational procedures set out in sections 3 and 4.

### **2.2 General arrangement of ship and description of cargo tanks**

This section shall contain a brief description of the cargo area of the ship with the main features of the cargo tanks and their positions.

Line or schematic drawings showing the general arrangement of the ship and indicating the positions and numbering of the cargo tanks and heating arrangements shall be included.

### **2.3 Description of cargo pumping and piping arrangements and stripping system**

This section shall contain a description of the cargo pumping and piping arrangements and of the stripping system. Line or schematic drawings shall be provided showing the following and be supported by textual explanation where necessary:

- .1 cargo piping arrangements with diameters;
- .2 cargo pumping arrangements with pump capacities;
- .3 piping arrangements of stripping system with diameters;
- .4 pumping arrangements of stripping system with pump capacities;
- .5 location of suction points of cargo lines and stripping lines inside every cargo tank;
- .6 if a suction well is fitted, the location and cubic capacity thereof;
- .7 line draining and stripping or blowing arrangements; and
- .8 quantity and pressure nitrogen or air required for line blowing if applicable.

#### **2.4 Description of ballast tanks and ballast pumping and piping arrangements**

This section shall contain a description of the ballast tanks and ballast pumping and piping arrangements.

Line or schematic drawings and tables shall be provided showing the following:

- .1 a general arrangement showing the segregated ballast tanks and cargo tanks to be used as ballast tanks together with their capacities (cubic metres);
- .2 ballast piping arrangement;
- .3 pumping capacity for those cargo tanks which may also be used as ballast tanks; and
- .4 any interconnection between the ballast piping arrangements and the underwater outlet system.

#### **2.5 Description of dedicated slop tanks with associated pumping and piping arrangements**

This section shall contain a description of the dedicated slop tank(s), if any, with the associated pumping and piping arrangements. Line or schematic drawings shall be provided showing the following:

- .1 which dedicated slop tanks are provided together with the capacities of such tanks;
- .2 pumping and piping arrangements of dedicated slop tanks with piping diameters and their connection with the underwater discharge outlet.

#### **2.6 Description of underwater discharge outlet for effluents containing noxious**

## **liquid substances**

This section shall contain information on position and maximum flow capacity of the underwater discharge outlet (or outlets) and the connections to this outlet from the cargo tanks and slop tanks. Line or schematic drawings shall be provided showing the following:

### **2.7 Description of flow rate indicating and recording devices**

(Deleted)

### **2.8 Description of cargo tank ventilation system**

This section shall contain a description of the cargo tank ventilation system.

Line or schematic drawings and tables shall be provided showing the following and supported by textual explanation if necessary:

- .1 the noxious liquid substances the ship is certified fit to carry having a vapour pressure over 5 kPa at 20°C suitable for cleaning by ventilation to be listed in paragraph 4.4.10 of the Manual;
- .2 ventilation piping and fans;
- .3 positions of the ventilation openings;
- .4 the minimum flow rate of the ventilation system to adequately ventilate the bottom and all parts of the cargo tank;
- .5 the location of structures inside the tank affecting ventilation;
- .6 the method of ventilating the cargo pipeline system, pumps, filters, etc, and
- .7 means for ensuring that the tank is dry.

### **2.9 Description of tank washing arrangements and wash water heating system**

This section shall contain a description of the cargo tank washing arrangements, wash water heating system and all necessary tank washing equipment.

Line or schematic drawings and tables or charts shall be provided showing the following:

- .1 arrangements of piping dedicated for tank washing with pipeline diameters;
- .2 type of tank cleaning machines with capacities and pressure rating;
- .3 maximum number of tank cleaning machines which can operate simultaneously;
- .4 position of deck openings for cargo tank washing;

- .5 the number of cleaning machines and their location required for ensuring complete coverage of the cargo tank walls;
- .6 maximum capacity of wash water which can be heated to 60°C by the installed heating equipment; and
- .7 maximum number of tank cleaning machines which can be operated simultaneously at 60°C.

### **Section 3 – Cargo unloading procedures and tank stripping**

3.1 This section contains operational procedures in respect of cargo unloading and tank stripping which must be followed in order to ensure compliance with the requirements of Annex II.

#### **3.2 Cargo unloading**

This section shall contain procedures to be following including the pump and cargo unloading and suction line to be used for each tank. Alternative methods may be given.

The method of operation of the pump or pumps and the sequence of operation of all valves shall be given.

The basic requirement is to unload the cargo to the maximum extent

#### **3.3 Cargo tank stripping**

This section shall contain procedures to be following during the stripping of each cargo tank.

The procedures shall include the following:

- .1 operation of stripping system;
- .2 list and trim requirements;
- .3 line drawing and stripping or blowing arrangements if applicable; and
- .4 duration of the stripping time of the water test.

#### **3.4 Cargo temperature**

This section shall contain information on the heating requirements of cargoes which have been identified as being required to be at a certain minimum temperature during unloading.

Information shall be given on control of the heating system and the method of temperature measurement.

### **3.5 Procedures to be followed when a cargo tank cannot be unloaded in accordance with the required procedures.**

This section shall contain information on the procedures to be followed in the event that the requirements contained in section 3.3 and/or 3.4 cannot be met due to circumstances such as the following:

- .1 failure of cargo tank stripping system; and
- .2 failure of cargo tank heating system.

### **3.6 Cargo Record Book**

The Cargo Record Book shall be completed in the appropriate places on completion of any cargo operation.

## **Section 4 – Procedures relating to the cleaning of cargo tanks, the discharge of residues, ballasting and deballasting**

4.1 This section contains operational procedures in respect of tank cleaning, ballast and slops handling which must be followed in order to ensure compliance with the requirements of Annex II.

4.2 The following paragraphs outline the sequence of actions to be taken and contain the information essential to ensure that noxious liquid substances are discharged without posing a threat of harm to the marine environment.

4.3 (Deleted)

4.4 The information necessary to establish the procedures for discharging the residue of the cargo, cleaning, ballasting and deballasting the tank shall take into account the following:

**.1 Category of substance**

The category of the substance should be obtained from the relevant Certificate.

**.2 Stripping efficiency of tank pumping system**

The contents of this section will depend on the design of the ship and whether it is a new ship or existing ship (See flow diagram and pumping/stripping requirements).

**.3 Vessel within or outside special area**

This section shall contain instructions on whether the tank washings can be discharged into the sea within a special area (as defined in section 1.3) or outside a special area. The different requirements shall be made clear and will depend on the design and trade of the ship.

No discharges into the sea of residues of noxious liquid substances, or mixtures, containing such substances, are allowed within the Antarctic area (the sea area south of latitude 60°S).

4. **Solidifying or high-viscosity substance**

The properties of the substance should be obtained from the shipping document.

5. **Miscibility with water**

(Deleted)

6. **Compatibility with slops containing other substances**

This section shall contain instructions on the permissible and non-permissible mixing of cargo slops. Reference should be made to compatibility guides.

7. **Discharge to reception facility**

This section shall identify those substances the residues of which are required to be prewashed and discharged to a reception facility.

8. **Discharging into the sea**

This section shall contain information on the factors to be considered in order to identify whether the residue/water mixtures are permitted to be discharged into the sea.

9. **Use of cleaning agents or additives**

This section shall contain information on the use and disposal of cleaning agents (e.g. solvents used for tank cleaning) and additives to tank washing water (e.g. detergents).

10. **Use of ventilation procedures for tank cleaning**

This section shall make reference to all substances suitable for the use of ventilation procedures.

- 4.5 Having assessed the above information, the correct operational procedures to be followed should be identified using the instructions and flow diagram of section 5. Appropriate entries shall be made in the Cargo Record Book indicating the procedure adopted.

## **Section 5 – Information and procedures**

This section shall contain procedures, which will depend on the age of the ship and pumping efficiency. Examples of flow diagram referred to in this section are given at addendum A and incorporate comprehensive requirements applicable to both new and existing ships. The Manual for a particular ship shall only contain those requirements specifically applicable to that ship.

Information relating to melting point and viscosity, for those substances which have a melting point equal to or greater than 0°C or a viscosity equal or greater than 50 mPa·s at 20°C should be obtained from the shipping document.

For substances allowed to be carried, reference is made to the relevant Certificate.

The Manual shall contain

Table 1	(Deleted)
Table 2	Cargo tank information
Addendum A	Flow diagram
Addendum B	Prewash procedures
Addendum C	Ventilation procedures
Addendum D	Additional information and operational instructions when Required or accepted by the Administration

Outlines of the above table and addenda are shown below:

Table 2 – Cargo tank information

Tank No*	Capacity (m <sup>3</sup> )	Stripping Quantity (litres)

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\* Tank numbers should be identical to those in the ship's Certificate of Fitness.

**Addendum A**

**Flow diagrams – Cleaning of cargo tanks and disposal of  
Tank washings/ballast containing residues of  
Category X, Y and Z substances**

- Note 1: This flow diagram shows the basic requirements applicable to all age groups of ships and is for guidance only.
- Note 2: All discharges into the sea are regulated by Annex ii.
- Note 3: Within the Antarctic area any discharge into the sea of noxious liquid substances or mixtures containing such substances is prohibited.

Ship details	Stripping requirements (in litres)		
	Category X	Category Y	Category Z
New ships keel laid after 1 January 2007	75	75	75
IBC ships until 1 January 2007	100 + 50 Tolerance	100 + 50 Tolerance	300 + 50 Tolerance
BCH ships	300 + 50 Tolerance	300 + 50 Tolerance	900 + 50 Tolerance
Other ships keel laid Before 1 January 2007	N/A	N/A	Empty to the most possible extent

<b>Cleaning and disposal procedures (CDP)</b> (Start at the top of the column under the CDP number specified and complete each item procedure in the sequence where marked)						
No	Operation	Procedure number				
		1(a)	1(b) )	2(a) )	2(b)	3
1	Ship tank and piping to maximum extent at	X	X	X	X	X



	least in compliance with the procedure in section 3 of the Manual					
2	Apply prewash in accordance with addendum B of the Manual and discharge residue to reception facility	X	X			
3	Apply subsequent wash, additional to the prewash, with A complete cycle of the cleaning machine(s) (for ships built before 1 July 1994) a wash quantity not less than calculated with "k" = 1.0 (for ships built on or after 1 July 1994)		X			
4	Apply ventilation procedure in accordance with addendum C of the Manual					X
5	Ballast tanks or wash tank to commercial standards	X		X	X	X
6	Ballast added to tank		X			
7	Conditions for discharge of ballast/residue/water mixtures other than prewash					
	1. distance from land > 12 nautical miles	X		X	X	
	2. ship's speed > 7 knots	X		X	X	
	3. water depth > 25 metres	X		X	X	
	4. Using underwater discharge (not exceeding permissible Discharge rate)	X		X		
8	Conditions for discharge of ballast					
	1. distance from land > 12 nautical miles		X			
	2. water depth > 25 metres		X			
9	Any water subsequently introduced into a tank may be discharged into the sea without restrictions	X	X	X	X	X

**Addendum B**  
**Pre-wash procedures**

The addendum in the Manual shall contain prewash procedures based on appendix 6 of Annex II. These procedures shall contain specific requirements for the use of the tank washing arrangements and equipment provided on the particular ship and include the following:

- .1 cleaning machine positions to be used;
- .2 slops pumping out procedure;
- .3 requirements for hot washing;
- .4 number of cycles of cleaning machine (or time); and
- .5 minimum operating pressures

### **Addendum C Ventilation procedures**

This addendum to the Manual shall contain ventilation procedures based on appendix 7 of Annex II. The procedures shall contain specific requirements for the use of the cargo tank ventilation system, or equipment, fitted on the particular ship and shall include the following:

- .1 ventilation position to be used;
- .2 minimum flow or speed of fans;
- .3 procedures for ventilating cargo pipeline, pumps, filters, etc.; and
- .4 procedures for ensuring that tanks are dry on completion.

### **Addendum D Additional information and operational instructions required or accepted by The Administration**

This addendum to the Manual shall contain additional information and operational instructions required or accepted by the Administration.

## **THIRTEENTH SCHEDULE 'B'**

### **Appendix 5**

#### **Assessment of residue quantities in cargo tanks, pumps and associated piping**

1. Introduction
- 1.1 **Purpose**

1.1.1 The purpose of this appendix is to provide the procedure for testing the efficiency of cargo pumping systems.

## 1.2 Background

1.2.1 The ability of the pumping system of a tank to comply with regulation 12.1, 12.2 or 12.3 is determined by performing a test in accordance with the procedure set out in section 3 of this appendix. The quantity measured is termed the “stripping quantity”. The stripping quantity of each tank shall be recorded in the ship’s Manual.

1.2.2 After having determined the stripping quantity of one tank, the Administration may use the determined quantities for a similar tank, provided the Administration is satisfied that the pumping system in that tank is similar and operating properly.

## 2. Design criteria and performance test

2.1 The cargo pumping systems should be designed to meet the required maximum amount of residue per tank and associated piping as specified in regulation 12 of Annex II to the satisfaction of the Administration.

2.2 In accordance with regulation 12.5 the cargo pumping systems shall be tested with water to prove their performance. Such water tests shall, by measurement, show that the system meets the requirements of regulation 12. In respect of regulations 12.1 and 12.2 a tolerance of 50 litres per tank is acceptable.

## 3 Water performance test

### 3.1. Test condition

3.1.1 The ship’s trim and list shall be such as to provide favourable drainage to the suction point. During the water test the ship’s trim shall not exceed 3° by the stern, and the ship’s list shall not exceed 1°.

3.1.2 The trim and list chosen for the water test shall be recorded. This shall be the minimum favourable trim and list used during the water test.

3.1.3 During the water test, means shall be provided to maintain a backpressure of not less than 100 kPa at the cargo tank’s unloading manifold (see figures 501 and 5-2).

3.1.4 The time taken to complete the water test shall be recorded for each tank, recognizing that this may need to be amended as a result of subsequent tests.

### 3.2. Test procedure

3.2.1 Ensure that the cargo tank to be tested and its associated piping have been cleaned and that the cargo tank is safe for entry.

3.2.2 Fill the cargo tank with water to a depth necessary to carry out normal end of unloading procedures.

3.2.3 Discharge and strip water from the cargo tank and its associated piping in accordance with the proposed procedures.

3.2.4 Collect all water remaining in the cargo tank and its associated piping into a calibrated container for measurement. Water residues shall be collected, inter alia, from the following points:

- .1 the cargo tank suction and its vicinity;
- .2 any entrapped areas on the cargo tank bottom;
- .3 the low point drain of the cargo pump; and
- .4 all low point drains of piping associated with the cargo tank up to the manifold valve.

3.2.5 The total water volumes collected above determine the stripping quantity for the cargo tank.

3.2.6 Where a group- of tanks is served by a common pump or piping, the water test residues associated with the common system(s) may be apportioned equally among the tanks provided that the following operational restriction is included in the ship's approved Manual: "For sequential unloading of tanks in this group, the pump or piping is not to be washed until all tanks in the group have been unloaded."

## **THIRTEENTH SCHEDULE "C"**

### **Prewash procedures**

**A.** For ships built before 1 July 1994

A prewash procedure is required in order to meet certain Annex II requirements. This appendix explains how these prewash procedures shall be performed.

### **Prewash procedures for non-solidifying substances**

1. Tanks shall be washed by means of a rotary water jet, operated at sufficiently high water pressure. In the case of category X substances, cleaning machines shall be operated in such locations that all tank surfaces are washed. In the case of category Y substances, only one location need be used.

2. During washing, the amount of water in the tank shall be minimized by continuously pumping out slops and promoting flow to the suction point (positive list and trim). If this condition cannot be met, the washing procedure shall be repeated three times, with thorough stripping of the tank between washings.

3. Those substances which have a viscosity equal to or greater than 50 mPa..s at 20°C shall be washed with hot water (temperature at least 60°C), unless the properties of such substances make the washing less effective.

4. The number of cycles of the cleaning machine used shall not be less than that specified in table 6-1. A cleaning machine used shall not be less than that specified in table 6-1. A cleaning machine cycle is defined as the period between two consecutive identical orientations of the tank cleaning machne (rotation through 360°).

5. After washing, the tank cleaning machine(s) shall be kept operating long enough to flush the pipeline; pump and filter, and discharge to shore reception facilities shall be continued until the tank is empty.

**Prewash procedures for solidifying substances**

1. Tanks shall be washed as soon as possible after unloading. If possible, tanks shall be heated prior to washing.

2. Residues in hatches and manholes shall preferably be removed prior to the prewash.

3. Tanks shall be washed by means of a rotary water jet operated at sufficiently high water pressure and in locations to ensure that all tank surfaces are washed.

4. During washing, the amount of water in the tank shall be minimized by pumping out slops continuously and promoting flow to the suction point (positive list and trim). If this condition cannot be met, the washing procedure shall be repeated three times with thorough stripping of the tank between washings.

5. Tanks shall be washed with hot water (temperature at least 60°C) unless the properties of such substances make the washing less effective.

6. The number of cycles of the cleaning machine used shall not be less than that specified in table 6-1. A cleaning machine cycle is defined as the period between two consecutive identical orientation of the machine (rotation through 360°).

7. After washing, the cleaning machine(s) shall be kept operating long enough to flush the pipeline, pump and filter, and discharge to shore reception facilities shall be continued until the tank is empty.

**Table 6-1 Number of cleaning machine cycles  
To be used in each location**

Category of substance	Number of cleaning machine cycles	
	Non-solidifying Substances	Solidifying substances
Category X	1	2
Category Y	$\frac{1}{2}$	1

**B** For ships built on or after 1 July 1994 and recommendatory for ships build before 1 July 1994

A prewash procedure is required in order to meet certain Annex II requirements. This appendix explains how these prewash procedures shall be performed and how the minimum volumes of washing media to be used shall be determined. Smaller volumes of washing media may be used based on actual verification testing to the satisfaction of the Administration. Where reduced volumes are approved, an entry to that effect must be recorded in the Manual.

If a medium other than water is used for the prewash, the provisions of regulation 13.5.1 apply.

### **Prewash procedures for non-solidifying substances without recycling**

1. Tanks shall be washed by means of a rotary jet(s), operated at sufficiently high water pressure. In the case of category X substances, cleaning machines shall be operated in such locations that all tank surfaces are washed. In the case of category Y substances, only one location need be used.
2. During washing, the amount of liquid in the tank shall be minimized by continuously pumping out slops and promoting flow to the suction point. If this condition cannot be met, the washing procedure shall be repeated three times, with thorough stripping of the tank between washings.
3. Those substances which have a viscosity equal to or greater than 50 mPa·s 20°C shall be washed with hot water (temperature at least 60°C), unless the properties of such substances make the washing less effective.
4. The quantities of wash water used shall not be less than those specified in paragraph 20 or determined according to paragraph 21.
5. After prewashing, the tanks and lines shall be thoroughly stripped.

### **Prewash procedures for solidifying substances without recycling**

6. Tanks shall be washed as soon as possible after unloading. If possible, tanks should be heated prior to washing.
7. Residues in hatches and manholes should preferably be removed prior to the prewash.
8. Tanks shall be washed by means of a rotary jet(s) operated at sufficiently high water pressure and in locations to ensure that all tank surfaces are washed.
9. During washing, the amount of liquid in the tank shall be minimized by pumping out slops continuously and promoting flow to the suction point. If this condition cannot be met, the washing procedure shall be repeated three times with thorough stripping of the tank between washings.
10. Tanks shall be washed with hot water (temperature at least 60°C), unless the properties of such substances make the washing less effective.
11. The quantities of wash water used shall not be less than those specified in paragraph 20 or determined according to paragraph 21.

12. After prewashing, the tanks and lines shall be thoroughly stripped.

### **Prewash procedures with recycling of washing medium**

13. Washing with a recycled washing medium may be adopted for the purpose of washing more than one cargo tank. In determining the quantity, due regard must be given to the expected amount of residues in the tanks and the properties of the washing medium and whether any initial rinse or flushing is employed. Unless sufficient data are provided, the calculated end concentration of cargo residues in the washing medium shall not exceed 5% based on nominal stripping quantities.

14. The recycled washing medium shall only be used for washing tanks having contained the same or similar substance.

15. A quantity of washing medium sufficient to allow continuous washing shall be added to the tank or tanks to be washed.

16. All tank surfaces shall be washed by means of a rotary jet(s) operated at sufficiently high pressure. The recycling of the washing medium may either be within the tank to be washed or via another tank, e.g. a slop tank.

17. The washing shall be continued until the accumulated throughput is not less than that corresponding to the relevant quantities given in paragraph 20 or determined according to paragraph 21.

18. Solidifying substances and substances with a viscosity equal to or greater than 50 mPa·s at 20°C shall be washed with hot water (temperature at least 60°C) when water is used as the washing medium, unless the properties of such substances make the washing less effective.

19. After completing the tank washing with recycling to the extent specified in paragraph 17, the washing medium shall be discharged and the tank thoroughly stripped. Thereafter, the tank shall be subjected to a rinse, using clean washing medium, with continuous drainage and discharged to a reception facility. The rinse shall as a minimum cover the tank bottom and be sufficient to flush the pipelines, pump and filter.

### **Minimum quantity of water to be used in a prewash**

20. The minimum quantity of water to be used in a prewash is determined by the residual quantity of noxious liquid substance in the tank, the tank size, the cargo properties, the permitted concentration in any subsequent wash water effluent, and the area of operation. The minimum quantity is given by the following formula:

$$Q = k (15r^{0.8} + 5r^{0.7} \times V / 1000 \text{ where}$$

Q = the required minimum quantity in cubic metres r = the residual quantity per tank in cubic metres. The value of r shall be the value demonstrated in the actual stripping efficiency test, but shall not be taken lower than 0.100 m<sup>3</sup> for a tank volume of 500 m<sup>3</sup> and above and 0.040 m<sup>3</sup> for a tank volume of 100 m<sup>3</sup> and below. For tank sizes between 100 m<sup>3</sup> and 500 m<sup>3</sup> the minimum value of r allowed to be used in the calculations is obtained by linear interpolation.

For category X substances the value of r shall either be determined based on stripping tests according to the Manual, observing the lower limits as given above, or be taken to be 0.9 m<sup>3</sup>.

V = tank volume in cubic metres

K = a factor having values as follows:

Category X, non-solidifying, low-viscosity substance, k = 1.2

Category X, solidifying or high-viscosity substance, k = 2.4

Category Y, non-solidifying, low-viscosity substance, k = 0.5

Category Y, solidifying or high-viscosity substance, k = 1.0

The table below is calculated using the formula with a k factor of 1 and may be used as an easy reference.

Stripping Quantity (m <sup>3</sup> )	Tank volume (m <sup>3</sup> )		
	100	500	3000
≤ 0.04	1.2	2.9	5.4
0.10	2.5	2.0	5.4
0.30	5.9	6.8	12.2
0.90	14.3	16.1	27.7

21 Verification testing for approval of prewash volumes lower than those given in paragraph 20 may be carried out to the satisfaction of the Administration to prove that the requirements of regulation 13 are met, taking into account the substances the ship is certified to carry. The prewash volume so verified shall be adjusted for other prewash conditions by application of the factor k as defined in paragraph 20.

### THIRTEENTH SCHEDULE "D"

#### Ventilation procedures

1. Cargo residues of substances with a vapour pressure greater than 5 kPa at 20°C may be removed from a cargo tank by ventilation.
2. Before residues of noxious liquid substances are ventilated from a tank, the safety hazards relating to cargo flammability and toxicity shall be considered. With regard to safety aspects, the operational requirements for openings in cargo tanks in SOLAS 74, as amended, the International Bulk Chemical Code, the Bulk Chemical Code, and the ventilation procedures in the International Chamber of Shipping (ICS) Tanker Safety Guide (Chemicals) should be consulted.



3. Port authorities may also have regulations on cargo tank ventilation.
4. The procedures for ventilation of cargo residues from a tank are as follows:
  - .1 the pipelines shall be drained and further cleared of liquid by means of ventilation equipment;
  - .2 the list and trim shall be adjusted to the minimum levels possible so that evaporation of residues in the tank is enhanced;
  - .3 ventilation equipment producing an airjet which can reach the tank bottom shall be used. Figure 7-1 could be used to evaluate the adequacy of ventilation equipment used for ventilating a tank of a given depth;
  - .4 ventilation equipment shall be placed in the tank opening closest to the tank sump or suction point;
  - .5 ventilation equipment shall, when practicable, be positioned so that the airjet is directed at the tank sump or suction point and impingement of the airjet on tank structural members is to be avoided as much as possible; and
  - .6 ventilation shall continue until no visible remains of liquid can be observed in the tank. This shall be verified by a visual examination or an equivalent method.

## FOURTEENTH SCHEDULE "A" (section 129)

### Appendix to Annex III

#### Criteria 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-

<b>Category: Acute 1</b>	
96 hr LC50 (for fish)	$\leq 1 \text{ mg/l and/or}$
96 hr LC50 (for crustacea)	$\leq 1 \text{ mg/l and/or}$
72 or 96 hr ErC50 (for algae or other aquatic plants)	$\leq 1 \text{ mg/l}$

<b>Category: Chronic 1</b>
----------------------------

96 hr LC50 (for fish)	$\leq 1 \text{ mg/e}$ and/or
96 hr EC50 (for crustacea)	$\leq 1 \text{ mg/e}$ and/or
72 or 96 hr ErC50 (for algae or other aquatic plants)	$\leq 1 \text{ mg/e}$

and the substance is not rapidly degradable and/or the  $\log K_{ow} \geq 4$  (unless the experimentally determined BCF  $< 500$ )

**Category: Chronic 2**

96 hr LC50 (for fish)	$> 1$ to $\leq 10 \text{ mg/e}$
and/or	
96 hr LC50 (for crustacea)	$> 1$ to $\leq 10 \text{ mg/e}$ and/or
72 or 96 hr ErC50 (for algae or other aquatic plants)	$> 1$ to $\leq 10 \text{ mg/e}$

And the substance is not rapidly degradable and/or the  $\log K_{ow} \geq 4$  (unless the experimentally determined BCF  $< 500$ ), unless the chronic toxicity NOECs are  $> 1 \text{ mg/e}$

**FOURTEENTH SCHEDULE "B"**

s. 145

**FORM OF ISPP CERTIFICATE**

**INTERNATIONAL SEWAGE POLLUTION PREVENTION CERTIFICATE**

Issued under the Provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, by resolution MEPC ( ), (hereinafter referred to as "the Convention"), under the authority of the Government of:

.....  
 (full designation of the state)

by .....

(full designation of the competent person or organisation authorised under the provisions of the Convention )

**Particulars of ship <sup>1</sup>**

Name of ship .....

Distinctive number or letters .....

Port of registry .....

Gross tonnage .....

Number of persons which the ship is certified to carry .....

IMO Number <sup>2</sup>.....

New/existing ship\*

Date on which keel was laid or ship was at a similar stage of construction or, where applicable, date on which work for a conversion or an alteration or modification of a major character was commenced .....

THIS IS TO CERTIFY

1. That the ship is equipped with a sewage treatment plant/comminuter holding tank and a discharge pipeline in compliance with a the regulations 9 and 10 of Annex IV of the Convention as follows:

1.1. Description of the sewage treatment plant\*

Type of sewage treatment plant .....

Name of manufacturer .....

The sewage treatment plan is certified by the Administration to meet the effluent standards as provided for in resolution MEPC 2 (VI).

1.2 Description of comminuter\*

Type of communit.....

Name of manufacturer .....

Standard of sewage after disinfection .....

---

\* \*Delete as appropriate

1.3 Description of holding tank .....m<sup>3</sup>  
 Total capacity of the holding tank .....  
 Location .....

1.4. A pipeline for the discharge of sewage to a reception facility fitted with a standard connection.

2. The ship has been surveyed in accordance with regulation 4 of Annex IV of the Convention.
3. That the survey shows that the structure, equipment, systems fittings, arrangements and materials of the ship and the condition thereof are in all respects satisfactory and that the ship complies with the applicable requirements of Annex IV of the Convention.

This Certificate is valid until ..... subject to surveys in accordance with regulation 4 of Annex IV of the Convention.

Completion date of survey on which the Certificate is based .....  
 dd/mm/yyyy/

Issued at .....

(Place of issue of Certificate)

...dd/mm/yyyy.....  
 (date of issue)

.....  
 (signature of authorised official  
 issuing the Certificate)

Seal or stamp of the authority, as appropriate

**FIFTEENTH SCHEDULE** (section 150)

**STANDARD DIMENSIONS OF FLANGES FOR DISCHARGE CONNECTIONS**

Description	Dimension
Outside diameter	210 mm
Inner diameter	According to pipe outside diameter
Bolt circle diameter	170 mm
Slots in flange	4 holes 18 mm in diameter equidistantly placed on a bolt circle of the above diameter, slotted to the flange

	periphery. The slot width to be 18 mm
Flange thickness	16 mm
Bolts and nuts: quantity and diameter	4, each of 16 mm in diameter and of suitable length
The flange is designed to accept pipes up to a maximum internal diameter of 100 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a suitable gasket, shall be suitable for a service pressure of 6 kg/cm <sup>2</sup>	

1. For ships having a moulded depth of 5 m and less, the inner diameter of the discharge connection may be 38 mm.
2. For ships in dedicated trades; i.e. passenger ferries, alternatively the ship's discharge pipeline may be fitted with a discharge connection which can be accepted by the Administration, such as quick connection couplings.

## **SIXTEENTH SCHEDULE (section 168)**

### **FORM OF GARBAGE RECORD BOOK**

Name of ship: .....

Distinctive number or letters: .....

IMO No: .....

Period: ..... From: ..... To: .....

#### **1. Introduction**

In accordance with regulation 9 of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78), a record is to be kept of each discharge operation or completed incineration. This includes discharges at sea, to reception facilities, or to other ships.

#### **2. Garbage and garbage management**

Garbage includes all kinds of food, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the vessel and liable to be disposed of continuously or periodically except those substances which are defined or listed in other annexes to MARPOL 73/78 (such as oil, sewage or noxious liquid substances).

The Guidelines for the Implementation of Annex V of MARPOL 73/78\* should also be referred to for relevant information.

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\* \* Refer to the Guidelines for the Implementation of Annex V of MARPOL 73/78; see IMO sales publication IMO-656E

### **3. Description of the garbage**

The garbage is to be grouped into categories for the purposes of this record book as follows:

1. Plastics
2. Floating dunnage, lining or packing material
3. Ground-down paper products, rags, glass, metal, bottles, crockery, etc.
4. Cargo residues paper products, rags, glass, metal, bottles, crockery, etc.
5. Food waste
6. Incinerator ash.

### **4 Entries in the Garbage Record Book**

4.1 Entries in the Garbage Record Book shall be made on each of the following occasions:

- (a) When garbage is discharged into the sea:
  - (i) Date and time of discharge
  - (ii) Position of the ship (latitude and longitude) Note, for cargo residue discharges  
Include discharge start and stop positions
  - (iii) Category of garbage discharged
  - (iv) Estimated amount discharged for each category in cubic metres
  - (v) Signature of the officer in charge of the operation
- (b) When garbage is discharged to reception facilities ashore or to other ships:
  - (i) Date and time of discharge
  - (ii) Port or facility, or name of ship
  - (iii) Category of garbage discharged
  - (iv) Estimated amount discharged for each category in cubic metres
  - (v) Signature of officer in charge of the operation
- (c) When garbage is incinerated:
  - (i) Date and time of start and stop of incineration
  - (ii) Position of the ship (latitude and longitude)
  - (iii) Estimated amount incinerated in cubic metres
  - (iv) Signature of the officer in charge of the operation
- (d) Accidental or other exceptional discharges of garbage
  - (i) Time of occurrence
  - (ii) Port or position of the ship at time of occurrence
  - (iii) Estimated amount and category of garbage
  - (iv) Circumstances of disposal, escape or loss, the reason therefore and general remarks.

## 4.2 Receipts

The master should obtain from the operator of port reception facilities, or from the master of the ship receiving the garbage, a receipt or certificate specifying the estimated amount of garbage transferred. The receipts or certificates must be kept on board the ship with the Garbage Record Book for two years.

## 4.3 Amount of garbage

The amount of garbage on board should be estimated in cubic metres, if possible separately according to category. The Garbage Record Book contains many references to estimated amount of garbage. It is recognised that the accuracy of estimating amounts of garbage is left to interpretation. Volume estimates will differ before and after processing. Some processing procedures may not allow for a usable estimate of volume, e.g. the continuous processing of food waste. Such factors should be taken into consideration when making and interpreting entries made in a record.

### RECORD OF GARBAGE DISCHARGES

Ship's name ..... Distinctive no. or letters ..... IMO No. ....

Garbage categories-

1. Plastic
2. Floating dunnage, lining, or packing materials.
3. Ground paper, products, rags, glass, metal, bottles, crockery, etc.
4. Cargo residues paper products, rags, glass, metal, bottles, crockery, etc.
5. Food waste
6. Incinerator ash except from plastic products which may contain toxic or heavy metal residues.

NOTE: THE DISCHARGE OF ANY GARBAGE OTHER THAN FOOD WASTE IS PROHIBITED IN SPECIAL AREAS. ONLY GARBAGE DISCHARGED INTO THE SEA MUST BE CATEGORISED. GARBAGE OTHER THAN CATEGORY 1 DISCHARGED TO RECEPTION FACILITIES NEED ONLY BE LISTED AS A TOTAL ESTIMATED AMOUNT. DISCHARGES OF CARGO RESIDUES START & STOP POSITIONS TO BE RECORDED.

Date /Time	Position of the ship	Estimated amount discharged into sea (m <sup>3</sup> )	Estimated amount discharged to reception facilities or to other ship (m <sup>3</sup> )	Estimated amount incinerated (m <sup>3</sup> )	Certification/ Signature
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		Cat. 2	Cat. 3	Cat. 4	Cat. 5	Cat. 6	Cat. 1	Other		

Master's signature:..... Date: .....

**SEVENTEENTH SCHEDULE (section 182)**

**FORM OF INTERNATIONAL AIR POLLUTION PREVENTION (IAPP) CERTIFICATE**

***INTERNATIONAL AIR POLLUTION PREVENTION CERTIFICATE***

Issued under the provisions of the Protocol of 1997 as amended by resolution MEPC 178(58) in 2008, to amend 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") under the authority of the Government of-

.....  
(full designation of the state)

by .....  
(full designation of the competent person or organization authorized under the provisions of the Convention)

Particulars of ship\* .....

Nature of ship .....

Distinctive number or letters .....

IMO Number

Port of registry .....

Gross tonnage .....

**THIS IS TO CERTIFY**

1. That the ship has been surveyed in accordance with regulation 5 of Annex VI of the Convention; and
2. That the survey shows that the equipment, systems, fittings, arrangements and materials fully comply with the applicable requirements of Annex VI of the Convention.



This Certificate is valid until(dd/mm/yyyy).....  
subject to surveys in accordance with regulation 5 of Annex VI of the Convention.

Completion date of the survey on which this Certificate is based (dd/mm/yyyy).....

Issued at .....  
(Place of issue of certificate)

Date (ss/mm/yyyy).....  
(Date of issue) (Signature of duly authorized official  
issuing the certificate)

(Seal or stamp of the authority, as appropriate)

### ENDORSEMENT FOR ANNUAL AND INTERMEDIATE SURVEYS

THIS IS TO CERTIFY that, at a survey required by regulation 5 of Annex VI of the Convention, the ship was found to comply with the relevant provisions of that Annex-

Annual survey Signed .....  
(Signature of duly authorized official)

Place .....

Date (dd/mm/yyyy).....

(Seal or stamp of the authority, as appropriate)

Annual/Intermediate\* survey Signed .....  
(Signature of duly authorized official)

Place .....

Date (dd/mm/yyyy).....

(Seal or stamp of the authority, as appropriate)

Annual/Intermediate\* survey Signed .....  
(Signature of duly authorized official)

Place .....

Date (dd/mm/yyyy).....

(Seal or stamp of the authority, as appropriate)

Annual survey Signed .....

(Signature of duly authorized official)

Place .....

Date (dd/mm/yyyy).....

(Seal or stamp of the authority, as appropriate)

**ANNUAL/INTERMEDIATE SURVEY IN ACCORDANCE WITH REGULATION 9.8.3**

THIS IS TO CERTIFY that, at an annual/intermediate\* survey in accordance with regulation 9.8.3 of Annex VI of the Convention, the ship was found to comply with the relevant provisions of that Annex:

Signed.....  
(signature of duly authorized official)

Place.....

Date (dd/mm/yyyy).....

(seal or stamp of the authority, as appropriate)

**ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN 5 YEARS WHERE REGULATION 9.3 APPLIES**

The ship complies with the relevant provisions of the Convention, and this Certificate shall, in accordance with regulation 9.3 of Annex VI of the Convention, be accepted as valid until (dd/mm/yyyy).....

Signed.....  
(signature of duly authorized official)

Place.....

Date (dd/mm/yyyy).....

(seal or stamp of the authority, as appropriate)

**ENDORSEMENT WHERE THE RENEWAL SURVEY HAS BEEN COMPLETED AND REGULATION 9.4 APPLIES**

The ship complies with the relevant provisions of the Annex, and this Certificate shall, in accordance with regulation 9.4 of Annex VI of the Convention, be accepted as valid until (dd/mm/yyyy) .....

Signed .....  
(signature of duly authorized official)

Place .....

Date (dd/mm/yyyy) .....

(seal or stamp of the authority, as appropriate)

**ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL  
REACHING THE PORT OF SURVEY OR FOR A PERIOD OF GRACE  
WHERE REGULATION 9.5 OR 9.6 APPLIES**

This Certificate shall, in accordance with regulation 9.5 or 9.6\* of Annex VI of the Convention,  
be accepted as valid until (dd/mm/yyyy) .....

Signed .....  
(signature of duly authorized official)

Place .....

Date (dd/mm/yyyy) .....

(seal or stamp of the authority, as appropriate)

**ENDORSEMENT FOR ADVANCEMENT OF ANNIVERSARY DATE WHERE  
REGULATION 9.8 APPLIES**

In accordance with regulation 9.8 of Annex VI of the Convention, the new anniversary date is  
(dd/mm/yyyy) .....

Signed .....  
(signature of duly authorized official)

Place .....

Date (dd/mm/yyyy) .....

(seal or stamp of the authority, as appropriate)

**SUPPLEMENT TO INTERNATIONAL AIR POLLUTION PREVENTION  
CERTIFICATE (IAPP CERTIFICATE)**

**RECORD OF CONSTRUCTION AND EQUIPMENT**

Notes-

- 1 This Record shall be permanently attached to the IAPP Certificate. The IAPP Certificate shall be available on board the ship at all times.
- 2 The Record shall be at least in English, French or Spanish, if an Official language of the Issuing state is also used, this shall prevail in case of a dispute or discrepancy.
- 3 Entries in boxes shall be made by inserting either a cross (X) for the answer “yes” and “applicable” or a (-) for the answers “no” and “not applicable” as appropriate.
- 4 Unless otherwise stated, regulations mentioned in this Record refer to regulations of Annex VI of the Convention and resolutions or circulars refer to those adopted by the International Maritime Organization.

**1. Particulars of ship**

- 1.1 Name of ship  
.....
- 1.2 IMO number .....
- 1.3 Date on which keel was laid or ship was at a similar stage of construction .....
- 1.4 Length (L) metres.....

**2 Control of emissions from ships**

- 2.1. Ozone-depleting substances (regulation 12)
  - 2.1.1 The following fire-extinguishing systems, other systems and equipment containing ozone-depleting substances, other than hydrochlorofluorocarbons (HCFCs), installed before 19 May 2005 may continue in service:

System or equipment	Location on board	Substance

- 2.1.2 The following systems containing HCFCs installed before 1 January 2020 may continue in service:

System or	Location on board	Substance

equipment		

2.2 Nitrogen oxides (NO) (regulation 13)

2.2.1 The following marine diesel engines installed on the ship comply with the applicable emission limit of regulation 13 in accordance with the revised NOx Technical Code 2008:

	Engine # 1	Engine # 2	Engine # 3	Engine # 4	Engine # 5	Engine # 6
Manufacturer and model						
Serial number						
Use						
Power output (kw)						
Rated speed (rpm)						
Date of installation (dd/mm/yyyy)						
Date of major conversion (dd/mm/yyyy)	According to Reg. 13.2.2					
	According to Reg. 13.2.3					
Exempted by regulation 13.1.1.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tier I Reg. 13.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tier I Reg. 13.4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tier I Reg. 13.2.2 or 13.5.2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tier I Reg. 13.5.1.1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Approved method exists	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Approved method not commercially available	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Approved method installed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2.1 Sulphur oxides (SO) and particulate matter (regulation 14)

2.3.1 When the ship operates outside of an Emission Control Area specified in regulation 14.3, the ship uses:

1. fuel oil with a sulphur content as documented by bunker delivery notes that does not exceed the limit value of :
  - **4.50% m/m** (not applicable on or after 1 January 2012); or .....
  - **3.50% m/m** (not applicable on or after 1 January 2020); or .....

- **0.50% m/m**, and/or ..... □

2. an equivalent arrangement approved in accordance with regulation 4.1 as listed in 2.6 that is at least as effective in terms of SO<sub>x</sub> emission reductions as compared to using a fuel oil with a sulphur content limit value of-

- **4.50% m/m** (not applicable on or after 1 January 2012); or ..... □

- **3.50% m/m** (not applicable on or after 1 January 2020); or ..... □

- **0.50% m/m**, ..... □

2.3.2 When the ship operates inside an Emission Control Area specified in regulation 14.3 the ship uses:

1. fuel oil with a sulphur content as documented by bunker delivery notes that does not exceed the limit value of:

- 1.00% m/m (not application on or after 1 January 2015); or.....
- 0.10% m/m, and/or.....

2. an equivalent arrangement approved in accordance with regulation 4.1 as listed in 2.6 that is at least effective in terms of Sox emission reductions are compared to using a fuel oil with sulphur content line value of:

- 1.00% m/m (not applicable on or after 1 January 2015); or.....
- 0.10% m/m.....

2.4 Volatile organic compounds (VOCs) (regulation 15)

2.4.1 The tanker has a vapour collection system installed and approved in accordance with MSC/Circ.585.....

2.4.2.1 For a tanker carrying crude oil, there is an approved in VOC management plan.....

2.4.2.2 VOC management plan approval reference:.....

2.5 Shipboard incineration (regulation 16)

The ship has an incinerator-

1. installed on a or after 1 January 2000 that complies with resolution MEPC.76(40)
2. installed before 1 January 2000 that complies with-

resolution MEPC.59(33)† .....

resolution MEPC.76(40)\* .....

2.6 Equivalent (regulation 4)

The ship has been allowed to use the following fitting material, appliance or apparatus to be fitted in a ship or other procedures, alternative fuel oil, or compliance methods used as an alternative to that required by this Annex:

System or equipment	Equivalent used	Approval reference

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

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

Date (dd/mm/yyyy).....  
(date of issue) (signature of duly auth Official issuing the Record)

(seal or stamp of the authority, as appropriate)

**EIGHTEENTH SCHEDULE (section 194)**

**ANNEX TO THE INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND COOPERATION, 1990**

**REIMBURSEMENT OF COSTS OF ASSISTANCE**

1. (a) Unless an agreement concerning the financial arrangements governing actions of Parties to deal with oil pollution incidents has been concluded on a bilateral or multilateral basis prior to the oil pollution incident, Parties shall bear the costs of their respective actions in dealing with pollution in accordance with subparagraph (i) or subparagraph (ii).

(i) If the action was taken by one Party at the express request of another Party, the requesting Party shall reimburse to the assisting Party the cost of its action. The requesting Party may cancel its request at any time, but in that case it shall bear the costs already incurred or committed by the assisting Party.

(ii) If the action was taken by a Party on its own initiative, this Party shall bear the costs of its action.

(b) The principles laid down in subparagraph (a) shall apply unless the Parties concerned otherwise agree in any individual case.

(2) Unless otherwise agreed, the costs of action taken by a Party at the request of another Party shall be fairly calculated according to the law and current practice of the assisting Party concerning the reimbursement of such costs.

- (3) The Party requesting assistance and the assisting Party shall, where appropriate, cooperate in concluding any action in response to a compensation claim. To that end, they shall give due consideration to existing legal regimes. Where the action thus concluded does not permit full compensation for expenses incurred in the assistance operation, the Party requesting assistance may ask the assisting party to waive reimbursement of the expenses exceeding the sums compensated or to reduce the costs which have been calculated in accordance with paragraph (2). It may also request a postponement of the reimbursement of such costs. In considering such a request, assisting Parties shall give due consideration to the needs of the developing countries.
- (4) The provisions of this Convention shall not be interpreted as in any way prejudicing the rights of Parties to recover from third parties the costs of actions to deal with pollution or the threat of pollution under other applicable provisions and rules of national and international law. Special attention shall be paid to the 1969 International Convention on Civil Liability for Oil Pollution Damage and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage or any subsequent amendment to those Conventions.

## **NINETEENTH SCHEDULE** (sections 221 and 222)

### **Overall Limit on Liability of Fund**

#### **PART I**

#### **Permanent Provision**

#### ***Article 4 - paragraphs 4 and 5***

4. (a) Except as otherwise provided in sub-paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.
- (b) Except as otherwise provided in sub-paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 135 units of account.
- (c) The maximum amount of compensation referred to in sub-paragraph (a) and (c) shall be 200 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such parties, during the preceding calendar year, equalled or exceeded 600 million tons.



- (d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.
  - (e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.
5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

## **PART II**

### **Transitional Provision**

#### ***Article 4 - paragraphs 4, 5 and 6***

4. (a) Except as otherwise provided in sub-paragraph (b) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage caused in the territory of the Contracting States, including any sums in respect of which the Fund is under an obligation to indemnify the owner pursuant to Article 5, paragraph 1, of this Convention, shall not exceed 30 million special drawing rights.
- (b) The aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 30 million special drawing rights.
5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under the Liability Convention and this Convention shall be the same for all claimants.
6. The Assembly of the Fund (hereinafter referred to as “the Assembly”) may, having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to changes in the monetary values, decide that the amount of 30 million special drawing rights referred to in paragraph 4, subparagraph (a) and (b), shall be changed; provided, however, that this amount shall in no case exceed 60 million special drawing rights or be lower than 30 million special drawing rights. The changed amount shall apply to incidents which occur after the date of the decision effecting the change.

**TWENTIETH SCHEDULE (section 235)**

**FORM OF CERTIFICATE OF INSURANCE REGARDING CARRIAGE OF HNS**

**Certificate of Insurance or Other Financial Security in respect of Liability for  
Damage Caused by Hazardous and Noxious Substances (HNS)**

Issued in accordance with the provisions of article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.

Name of ship	Distinctive number or letters	IMO ship identification number	Port of registry	Name and full address of the principal place of business of the owner

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.

Type of security

.....

Duration of security

.....

Name and address of the insurer(s) and/or guarantor(s)

Name

.....

Address

.....

This certificate is valid until

.....

Issued or certified by the Government of .....

.....

(Full designation of the State)

At ..... On .....  
(Place)  
(Date) .....  
(Signature and title of issuing or certifying official)

Explanatory notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the state where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of security" must stipulate the date on which such security takes effect.
5. The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.

## **TWENTY-FIRST SCHEDULE (sections 236 and 237)**

### **TEXTS OF CHAPTER III AND IV, ARTICLE 52 AND ANNEX II OF THE HNS CONVENTION**

#### **SUB-PART III - COMPENSATION BY THE INTERNATIONAL HAZARDOUS AND NOXIOUS SUBSTANCES FUND (HNS FUND)**

##### **Establishment of the HNS Fund**

###### **Article 13**

1. The International Hazardous and Noxious substances Fund (HNS Fund) is hereby established with the following aims:
  - (a) to provide compensation for damage in connection with the carriage of hazardous and noxious substances by sea, to the extent that the protection afforded by chapter II is inadequate or not available; and
  - (b) to give effect to the related tasks set out in article 15.
2. The HNS Fund shall in each State Party be recognized as a legal person capable under the laws of that State of assuming rights and obligations and of being a party

in legal proceedings before the courts of that State. Each State Party shall recognise the Director as the legal representative of the HNS Fund.

## **Compensation**

### **Article 14**

1. For the purpose of fulfilling its function under article 13, paragraph 1 (a), the HNS Fund shall pay compensation to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of chapter II:
  - (a) because no liability for the damage arises under chapter II;
  - (b) because the owner liable for the damage under chapter II is financially incapable of meeting the obligations under this Convention in full and any financial security that may be provided under chapter II does not cover or is insufficient to satisfy the claims for compensation for damage; an owner being treated as financially incapable of meeting these obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under chapter II after having taken all reasonable steps to pursue the available legal remedies;
  - (c) because the damage exceeds the owner's liability under the terms of chapter II.
2. Expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise damage shall be treated as damage for the purposes of this article.
3. The HNS Fund shall incur no obligation under the preceding paragraphs if:
  - (a) it proves that the damage resulted from an act of war, hostilities, civil war or insurrection or was caused by hazardous and noxious substances which had escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or
  - (b) the claimant cannot prove that there is a reasonable probability that the damage resulted from an incident involving one or more ships.
4. If the HNS Fund proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the HNS Fund may be exonerated

wholly or partially from its obligation to pay compensation to such person. The HNS Fund shall in any event be exonerated to the extent that the owner may have been exonerated under article 7, paragraph 3. However, there shall be no such exoneration of the HNS Fund with regard to preventive measures.

5.
  - (a) Except as otherwise provided in subparagraph (b), the aggregate amount of compensation payable by the HNS Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount and any amount of compensation actually paid under chapter II for damage within the scope of application of this Convention as defined in article 3 shall not exceed 250 million units of account.
  - (b) The aggregate amount of compensation payable by the HNS Fund under this article for damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 250 million units of account.
  - (c) Interest accrued on a fund constituted in accordance with article 9, paragraph 3, if any, shall not be taken into account for the computation of the maximum compensation payable by the HNS Fund under this article.
  - (d) The amounts mentioned in this article shall be converted into national currency on the basis of the value of that currency with reference to the Special Drawing Right on the date of the decision of the Assembly of the HNS Fund as to the first date of payment of compensation.
6. Where the amount of established claims against the HNS Fund exceeds the aggregate amount of compensation payable under paragraph 5, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants. Claims in respect of death or personal injury shall have priority over other claims, however, save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with paragraph 5.
7. The Assembly of the HNS Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner has not constituted a fund in accordance with chapter II. In such cases paragraph 5 (d) applies accordingly.

## **Related tasks of the HNS Fund**

### **Article 15**

For the purpose of fulfilling its function under article 13, paragraph 1 (a), the HNS Fund shall have the following tasks:

- (a) to consider the claims made against the HNS Fund;
- (b) to prepare an estimate in the form of a budget for each calendar year of:

Expenditure:

- (i) costs and expenses of the administration of the HNS Fund in the relevant year and any deficit from operations in the preceding years; and
  - (ii) payments to be made by the HNS Fund in the relevant year;
- Income:
- (iii) surplus funds from operations in preceding years, including any interest;
  - (iv) initial contributions to be paid in the course for the year;
  - (v) annual contributions if required to balance the budget; and
  - (vi) any other income;
- (c) to use at the request of a State Party its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or mitigate damage arising from an incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention; and
  - (d) to provide, on conditions laid down in the internal regulations, credit facilities with a view to the taking of preventive measures against damage arising from a particular incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention.

## **General provisions on contributions**

### **Article 16**

1. The HNS Fund shall have a general account, which shall be divided into sectors.
2. The HNS Fund shall, subject to article 19, paragraphs 3 and 4, also have separate accounts in respect of:
  - (a) oil as defined in article 1, paragraph 5(a)(i) (oil account);
  - (b) liquefied natural gases of light hydrocarbons with methane as the main constituent (LNG) (LNG account); and
  - (c) liquefied petroleum gases of light hydrocarbons with propane and butane as the main constituents (LPG) (LPG account).
3. There shall be initial contributions and, as required, annual contributions to the HNS Fund.

4. Contributions to the HNS Fund shall be made into the general account in accordance with article 18, to separate accounts in accordance with article 19 and to either the general account or separate accounts in accordance with article 20 or article 21, paragraph 5. Subject to article 19, paragraph 6, the general account shall be available to compensate damage caused by hazardous and noxious substances covered by that account, and a separate account shall be available to compensate damage caused by a hazardous and noxious substance covered by that account.
5. For the purposes of article 18, article 19, paragraph 1(a)(i), paragraph 1 (a)(ii) and paragraph 1 (c), article 20 and article 21, paragraph 5, where the quantity of a given type of contributing cargo received in the territory of a State Party by any person in a calendar year when aggregated with the quantities of the same type of cargo received in the same State Party in that year by any associated person or persons exceeds the limit specified in the respective subparagraphs, such a person shall pay contributions in respect of the actual quantity received by that person notwithstanding that that quantity did not exceed the respective limit.
6. "*Associated person*" means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the State concerned.

### **General provisions on annual contributions**

#### **Article 17**

1. Annual contributions to the general account and to each separate account shall be levied only as required to make payments by the account in question.
2. Annual contributions payable pursuant to articles 18, 19 and article 21, paragraph 5 shall be determined by the Assembly and shall be calculated in accordance with those articles on the basis of the units of contributing cargo received or, in respect of cargoes referred to in article 19, paragraph (b), discharged during the preceding calendar year or such other year as the Assembly may decide.
3. The Assembly shall decide the total amount of annual contributions to be levied to the general account and to each separate account. Following that decision the Director shall, in respect of each State Party, calculate for each person liable to pay contributions in accordance with article 18, article 19, paragraph 1 and article 21, paragraph 5, the amount of that person's annual contribution to each account, on the basis of a fixed sum for each unit of contributing cargo reported in respect of the person during the preceding calendar year or such other year as the Assembly may decide. For the general account, the above-mentioned fixed sum per unit of contributing cargo for each sector shall be calculated pursuant to the regulations contained in Annex II to this Convention. For each separate account, the fixed sum per unit of contributing cargo referred to above shall be calculated by dividing the total annual contribution to be levied to that account by the total quantity of cargo contributing to that account.
4. The Assembly may also levy annual contributions for administrative costs and decide on the distribution of such costs between the sectors of the general account and the separate accounts.

5. The Assembly shall also decide on the distribution between the relevant accounts and sectors of amounts paid in compensation for damage caused by two or more substances which fall within different accounts or sectors, on the basis of an estimate of the extent to which each of the substances involved contributed to the damage.

### **Annual contributions to the general account**

#### **Article 18**

1. Subject to article 16, paragraph 5, annual contributions to the general account shall be made in respect of each State Party by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of aggregate quantities exceeding 20,000 tonnes of contributing cargo, other than substances referred to in article 19, paragraph 1, which fall within the following sectors:
  - (a) solid bulk materials referred to in article 1, paragraph 5(a) (vii);
  - (b) substances referred to in paragraph 2; and
  - (c) other substances.
2. Annual contributions shall also be payable to the general account by persons who would have been liable to pay contributions to a separate account in accordance with article 19, paragraph 1, had its operation not been postponed or suspended in accordance with article 19. Each separate account the operation of which has been postponed or suspended under article 19 shall form a separate sector within the general account.

### **Annual contributions to separate accounts**

#### **Article 19**

1. Subject to article 16, paragraph 5, annual contributions to separate accounts shall be made in respect of each State Party:
  - (a) in the case of the oil account,
    - (i) by any person who has received in that State in the preceding calendar year, or such other year as the Assembly may decide, total quantities exceeding 150,000 tonnes of contributing oil as defined in article 1, paragraph 3, of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, and who is or would be liable to pay contributions to the International Oil Pollution



Compensation Fund in accordance with article 10 of that Convention; and

- (ii) by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of total quantities exceeding 20,000 tonnes of other oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
  - (b) in the case of the LNG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, immediately prior to its discharge, held title to an LNG cargo discharged in a port or terminal of that State;
  - (c) in the case of the LPG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, was the receiver in that State of total quantities exceeding 20,000 tonnes of LPG.
- 2. Subject to paragraph 3, the separate accounts referred to in paragraph 1 above shall become effective at the same time as the general account.
- 3. The initial operation of a separate account referred to in article 16, paragraph 2, shall be postponed until such time as the quantities of contributing cargo in respect of that account during the preceding calendar year, or such other year as the Assembly may decide, exceed the following levels:
  - (a) 350 million tonnes of contributing cargo in respect of the oil account;
  - (b) 20 million tonnes of contributing cargo in respect of the LNG account;
  - and
  - (c) 15 million tonnes of contributing cargo in respect of the LPG account.
- 4. The Assembly may suspend the operation of a separate account if:
  - (a) the quantities of contributing cargo in respect of that account during the preceding calendar year fall below the respective level specified in paragraph 3; or
  - (b) when six months have elapsed from the date when the contributions were due, the total unpaid contributions to that account exceed 10% of the most recent levy to that account in accordance with paragraph 1.
- 5. The Assembly may reinstate the operation of a separate account which has been suspended in accordance with paragraph 4.
- 6. Any person who would be liable to pay contributions to a separate account the operation of which has been postponed in accordance with paragraph 3 or suspended in accordance with paragraph 4, shall pay into the general account the contributions due by that person in respect of that separate account. For the purpose of calculating future contributions, the postponed or suspended separate account shall form a new sector in the general account and shall be subject to the HNS points system defined in Annex II.

## **Initial contributions**

### **Article 20**

1. In respect of each State Party, initial contributions shall be made of an amount which shall for each person liable to pay contributions in accordance with article 16, paragraph 5, articles 18 , 19, and article 21, paragraph 5, be calculated on the basis of a fixed sum, equal for the general account and each separate account, for each unit of contributing cargo received or, in the case of LNG, discharged in that State, during the calendar year preceding that in which this Convention enters into force for that State.
2. The fixed sum and the units for the different sectors within the general account as well as for each separate account referred to in paragraph 1 shall be determined by the Assembly.
3. Initial contributions shall be paid within three months following the date on which the HNS Fund issues invoices in respect of each State Party to persons liable to pay contributions in accordance with paragraph 1.

## **Reports**

### **Article 21**

1. Each State Party shall ensure that any person liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article appears on a list to be established and kept up to date by the Director in accordance with the provisions of this article.
2. For the purposes set out in paragraph 1, each State Party shall communicate to the Director, at a time and in the manner to be prescribed in the internal regulations of the HNS Fund, the name and address of any person who in respect of the State is liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article, as well as data on the relevant quantities of contributing cargo for which such a person is liable to contribute in respect of the preceding calendar year.
3. For the purposes of ascertaining who are, at any given time, the persons liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article and of establishing, where applicable, the quantities of cargo to be taken into account for any such person when determining the amount of the contribution, the list shall be prima facie evidence of the facts stated therein.
4. Where a State Party does not fulfil its obligations to communicate to the Director the information referred to in paragraph 2 and this results in a financial loss for the HNS Fund, that State Party shall be liable to compensate the HNS fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by a State Party.
5. In respect of contributing cargo carried from one port or terminal of a State Party to another port or terminal located in the same State and discharged there, States Parties shall have the option of submitting to the HNS Fund a report with an annual aggregate quantity for each account covering all receipts of contributing cargo,

including any quantities in respect of which contributions are payable pursuant to article 16, paragraph 5. The State Party shall, at the time of reporting, either:

- (a) notify the HNS Fund that the State will pay the aggregate amount for each account in respect of the relevant year in one lump sum to the HNS Fund; or
- (b) instruct the HNS Fund to levy the aggregate amount for each account by invoicing individual receiver or, in the case of LNG, the title holder who discharges within the jurisdiction of that State Party, for the amount payable by each of them. These persons shall be identified in accordance with the national law of the State concerned.

### **Non-payment of contributions**

#### **Article 22**

1. The amount of any contribution due under articles 18, 19, 20 or article 21, paragraph 5, and which is in arrears shall bear interest at a rate which shall be determined in accordance with the internal regulations of the HNS Fund, provided that different rates may be fixed for different circumstances.
2. Where a person who is liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5, does not fulfil the obligations in respect of any such contribution or any part thereof and is in arrears, the Director shall take all appropriate action, including court action, against such a person on behalf of the HNS Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

### **Optional liability of States Parties for the payment of contributions**

#### **Article 23**

1. Without prejudice to article 21, paragraph 5, a State Party may at the time when it deposits its instrument of ratification, acceptance, approval or accession or at any time thereafter declare that it assumes responsibility for obligations imposed by this Convention on any person liable to pay contributions in accordance with articles 18, 19, 20 or article 21, paragraph 5, in respect of hazardous and noxious substances received or discharged in the territory of that State. Such a declaration shall be made in writing and shall specify which obligations are assumed.
2. Where a declaration under paragraph 1 is made prior to the entry into force of this Convention in accordance with article 46, it shall be deposited with the Secretary-General who shall after the entry into force of this Convention communicate the declaration to the Director.
3. A declaration under paragraph 1 which is made after the entry into force of this Convention shall be deposited with the Director.

4. A declaration made in accordance with this article may be withdrawn by the relevant State giving notice thereof in writing to the Director. Such a notification shall take effect three months after the Director's receipt thereof.
5. Any State which is bound by a declaration made under this article shall, in any proceedings brought against it before a competent court in respect of any obligation specified in the declaration, waive any immunity that it would otherwise be entitled to invoke.

## **Organisation and administration**

### **Article 24**

The HNS fund shall have an Assembly and a Secretariat headed by the Director.

### **Assembly**

### **Article 25**

The Assembly shall consist of all States Parties to this Convention.

### **Article 26**

The functions of the Assembly shall be:

- (a) to elect at each regular session its President and two Vice-Presidents who shall hold office until the next regular session;
- (b) to determine its own rules of procedure, subject to the provisions of this Convention;
- (c) to develop, apply and keep under review internal and financial regulations relating to the aim of the HNS fund as described in article 13, paragraph 1(a), and the related tasks of the HNS fund listed in article 15;
- (d) to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;
- (e) to adopt the annual budget prepared in accordance with article 15(b);
- (f) to consider and approve as necessary any recommendation of the Director regarding the scope of definition of contributing cargo;
- (g) to appoint auditors and approve the accounts of the HNS Fund;
- (h) to approve settlements of claims against the HNS Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with article 14 and to determine the terms and conditions according to which provisional payments in respect of claims

shall be made with a view to ensuring that victims of damage are compensated as promptly as possible;

- (i) to establish a Committee on Claims for Compensation with at least 7 and not more than 15 members and any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the States Parties are appropriately represented; the Rules of Procedure of the Assembly may be applied, *mutatis mutandis*, for the work of such subsidiary body;
- (j) to determine which States not party to this convention, which Associate Members of the Organisation and which intergovernmental and international non-governmental Organisations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies;
- (k) to give instructions concerning the administration of the HNS Fund to the Director and subsidiary bodies;
- (l) to supervise the proper execution of this Convention and of its own decisions;
- (m) to review every five years the implementation of this Convention with particular reference to the performance of the system for the calculation of levies and the contribution mechanism for domestic trade; and
- (n) to perform such other functions as are allocated to it under this convention or are otherwise necessary for the proper operation of the HNS Fund.

## **CHAPTER IV -CLAIMS AND ACTIONS**

### **Limitation of actions**

#### **Article 37**

1. Rights to compensation under chapter II shall be extinguished unless an action is brought thereunder within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage and of the identity of the owner.
2. Rights to compensation under chapter III shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to article 39, paragraph 7, within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage.
3. In no case, however, shall an action be brought later than ten years from the date of incident which caused the damage.
4. Where the incident consists of a series of occurrences, the ten-year period mentioned in paragraph 3 shall run from the date of the last of such occurrences.

## **Jurisdiction in respect of action against the owner**

### **Article 38**

1. Where an incident has caused damage in the territory, including the territorial sea or in an area referred to in article 3 (b), of one or more States Parties, or preventive measures have been taken to prevent minimize damage in such territory including the territorial sea or in such area, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of any such States Parties.
2. Where an incident has caused damage exclusively outside the territory, including the territorial sea, of any State and either the conditions for application of this Convention set out in article 3(c) have been fulfilled or preventive measures to prevent or minimize such damage have been taken, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of:
  - (a) the State Party where the ship is registered or, in the case of an unregistered ship, the State Party whose flag the ship is entitled to fly; or
  - (b) the State Party where the owner has habitual residence or where the principal place of business of the owner is established; or
  - (c) the State Party where a fund has been constituted in accordance with article 9, paragraph 3.
3. Reasonable notice of any action taken under paragraph 1 or 2 shall be given to the defendant.
4. Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.
5. After a fund under article 9 has been constituted by the owner or by the insurer or other person providing financial security in accordance with article 12, the courts of the State in which such fund is constituted shall have exclusive jurisdiction to determine all matters relating to the apportionment and distribution of the fund.

## **Jurisdiction in respect of action against the HNS Fund or taken by the HNS Fund**

### **Article 39**

1. Subject to the subsequent provisions of this article, any action against the HNS Fund for compensation under article 14 shall be brought only before a court having jurisdiction under article 38 in respect of actions against the owner who is liable for damage caused by the relevant incident or before a court in a State Party which would have been competent if an owner had been liable.

2. In the event that the ship carrying the hazardous or noxious substances which caused the damage has not been identified, the provisions of article 38, paragraph 1, shall apply *mutatis mutandis* to actions against the HNS Fund.
3. Each State Party shall ensure that its courts have jurisdiction to entertain such actions against the HNS fund as are referred to in paragraph 1.
4. Where an action for compensation for damage has been brought before a court against the owner or the owner's guarantor, such court shall have exclusive jurisdiction over any action against the HNS Fund for compensation under the provisions of article 14 in respect of the same damage.
5. Each State Party shall ensure that the HNS Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with this Convention before a competent court of that State against the owner or the owner's guarantor.
6. Except as otherwise provided in paragraph 7, the HNS Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.
7. Without prejudice to the provisions of paragraph 5, where an action under this Convention for compensation for damage has been brought against an owner or the owner's guarantor before a competent court in a State Party, each party to the proceedings shall be entitled under the national law of that State to notify the HNS Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seized and in such time and in such a manner that the HNS Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgement rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgement was given, become binding upon the HNS Fund in the sense that the facts and findings in that judgement may not be disputed by the HNS fund even if the HNS fund has not actually intervened in the proceedings.

## **Recognition and enforcement**

### **Article 40**

1. Any judgement given by a court with jurisdiction in accordance with article 38, which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognised in any State Party, except:
  - (a) where the judgement was obtained by fraud; or
  - (b) where the defendant was not given reasonable notice and a fair opportunity to present the case.
2. A judgement recognised under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.
3. Subject to any decision concerning the distribution referred to in article 14, paragraph 6, any judgement given against the HNS Fund by a court having jurisdiction in accordance with article 39, paragraphs 1 and 3, shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognized and enforceable in each State Party.

## **Subrogation and recourse**

### **Article 41**

1. The HNS Fund shall, in respect of any amount of compensation for damage paid by the HNS Fund in accordance with article 14, paragraph 1, acquire by subrogation the rights that the person so compensated may enjoy against the owner or the owner's guarantor.
2. Nothing in this Convention shall prejudice any rights of recourse or subrogation of the HNS Fund against any person, including persons referred to in article 7, paragraph 2(d), other than those referred to in the previous paragraph, in so far as they can limit their liability. In any event the right of the HNS Fund to subrogation against such person shall not be less favourable than that of an insurer of the person to whom compensation has been paid.
3. Without prejudice to any other rights of subrogation or recourse against the HNS Fund which may exist, a State Party or agency thereof which has paid compensation for damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensation would have enjoyed under this Convention.

## **Supersession clause**

### **Article 42**

This Convention shall supersede any convention in force or open for signature, ratification or accession at the date on which this convention is opened for signature, but only to the extent that such convention would be in conflict with it; however, nothing in this article shall affect the obligations of States Parties to States not party to this Convention arising under such convention.

## **EXTRACT FROM CHAPTER VI – FINAL CLAUSES**

### **Winding up of the HNS Fund**

#### **Article 52**

1. If this Convention ceases to be in force, the HNS Fund shall nevertheless:
  - (a) meet its obligations in respect of any incident occurring before this Convention ceased to be in force; and
  - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under (a), including expenses for the administration of the HNS Fund necessary for this purpose.
2. The Assembly shall take all appropriate measures to complete the winding up of the HNS Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the HNS Fund.



3. For the purposes of this article the HNS Fund shall remain a legal person.

## **Annex II to the HNS Fund**

### **Regulations for the calculation of annual contributions to the general account**

#### **Regulation 1**

1. The fixed sum referred to in article 17, paragraph 3, shall be determined for each sector in accordance with these regulations.
2. When it is necessary to calculate contributions for more than one sector of the general account, a separate fixed sum per unit of contributing cargo shall be calculated for each of the following sectors as may be required:
  - (a) solid bulk materials referred to in article 1, paragraph 5 (a) (vii);
  - (b) oil, if the operation of the oil account is postponed or suspended;
  - (c) LNG, if the operation of the LNG account is postponed or suspended;
  - (d) LPG, if the operation of the LPG account is postponed or suspended;
  - (e) other substances.

#### **Regulation 2**

1. For each sector the fixed sum per unit of contributing cargo shall be the product of the levy per HNS point and the sector factor for that sector.
2. The levy per HNS point shall be the total annual contributions to be levied to the general account divided by the total HNS points for all sectors.
3. The total HNS points for each sector shall be the product of the total volume, measured in metric tonnes, of contributing cargo for that sector and the corresponding sector factor.
4. A sector factor shall be calculated as the weighted arithmetic average of the claims/volume ratio for that sector for the relevant year and the previous nine years, according to this regulation.
5. Except as provided in paragraph 6, the claims/volume ratio for each of these years shall be calculated as follows:
  - (a) established claims, measured in units of account converted from the claim currency using the rate applicable on the date of the incident in question, for damage caused by substances in respect of which contributions to the HNS Fund are due for the relevant year; divided by
  - (b) the volume of contributing cargo corresponding to the relevant year.
6. In cases where the information required in paragraph 5(a) and (b) is not available, the following values shall be used for the claims/volume ratio for each of the missing years;
  - (a) solid bulk materials referred to in article 1,

paragraph 5(a)(vii)	0
(b) oil, if the operation of the oil account is postponed	0
(c) LNG, if the operation of the LNG account is postponed	0
(d) LPG, if the operation of the LPG account is postponed	0
(e) other substances	0.0001

7. The arithmetic average of the 10 years shall be weighted on a decreasing linear scale, so that the ratio of the relevant year shall have a weight of 10, the year prior to the relevant year shall have a weight of 9, the next preceding year shall have a weight of 8, and so on, until the tenth year has a weight of 1.
8. If the operation of a separate account has been suspended, the relevant sector factor shall be calculated in accordance with those provisions of this regulation, which the Assembly shall consider appropriate.

## **TWENTY-SECOND SCHEDULE (section 237)**

### **TEXT OF ARTICLE 48 OF THE HNS CONVENTION**

#### **Amendment of Limits**

#### **ARTICLE 48**

1. Without prejudice to the provisions of article 47, the special procedure in this article shall apply solely for the purpose of amending the limits set out in article 9, paragraph 1 and article 14, paragraph 5.
2. Upon the request of at least one half, but in no case less than six, of the States Parties, any proposal to amend the limits specified in article 9, paragraph 1, and article 14, paragraph 5, shall be circulated by the Secretary-General to all Members of the Organisation and to all Contracting States.
3. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organisation (the Legal Committee) for consideration at a date at least six months after the date of its circulation.
4. All Contracting States, whether or not Members of the Organisation, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
5. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided in paragraph 4, on condition that at least one half of the Contracting States shall be present at the time of voting.
6. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship

between the limits established in article 9, paragraph 1, and those in article 14, paragraph 5.

7. (a) No amendment of the limits under this article may be considered less than five years from the date this Convention was opened for signature nor less than five years from the date of entry into force of a previous amendment under this article.  
  
(b) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention increased by six per cent per year calculated on a compound basis from the date on which this Convention was opened for signature.  
  
(c) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention multiplied by three.
8. Any amendment adopted in accordance with paragraph 5 shall be notified by the Organisation to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period no less than one-fourth of the States which were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.
9. An amendment deemed to have been accepted in accordance with paragraph 8 shall enter into force eighteen months after its acceptance.
10. All Contracting States shall be bound by the amendment, unless they denounce this Convention in accordance with article 49, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

When an amendment has been adopted but the 18 month period for its acceptance has not yet expired, a State which becomes a contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 8. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Convention enters into force for that State, if later.

## **TWENTY-THIRD SCHEDULE (section 48A)**

### **Arbitration**

(in accordance with article 10 of the Convention)

#### **Article I**

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

#### **Article II**

- (1) An Arbitration Tribunal shall be established upon the request of one Party to the Convention addressed to another in application of article 10 of the present Convention. The request for arbitration shall consist of a statement of the case together with any supporting documents.
- (2) The requesting Party shall inform the Secretary-General of the Organisation of the fact that it has applied for the establishment of a Tribunal, of the names of the Parties to the dispute, and of the articles of the Convention or Regulations over which there is in its opinion disagreement concerning their interpretation or application. The Secretary-General shall transmit this information to all Parties.

### **Article III**

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

### **Article IV**

- (1) If, at the end of a period of 60 days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organisation upon request of either Party shall within a further period of 60 days proceed to such nomination, selecting him from a list of qualified persons previously drawn up by the Council of the Organisation.
- (2) If, within a period of 60 days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly inform the Secretary-General of the Organisation who shall nominate the Chairman of the Tribunal within a period of 60 days, selecting him from the list prescribed in paragraph (1) of the present article.
- (3) The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organisation to make the nomination in the form and conditions prescribed in the preceding paragraph.
- (4) The Chairman of the Tribunal, if nominated under the provisions of the present article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party.
- (5) In the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of 60 days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In case of the decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of article III above, or in the absence of agreement between the members of the Tribunal within a period of 60 days of the decease or default according to the provisions of the present article.

## **Article V**

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

## **Article VI**

Each Party shall be responsible for the remuneration of its Arbitrator and connected costs and for the costs entailed by the preparation of its own case. The remuneration of the Chairman of the Tribunal and of all general expenses incurred by the Arbitration shall be borne equally by the Parties. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof.

## **Article VII**

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

## **Article VIII**

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

## **Article IX**

- (1) Decisions of the Tribunal both as to its procedure and its place of meeting and as to any question laid before it, shall be taken by majority votes of its members, the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible, shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the vote of the Chairman shall be decisive.
- (2) The Parties shall facilitate the work of the Tribunal and in particular in accordance with their legislation, and using all means at their disposal:
  - (a) provide the Tribunal with the necessary documents and information;
  - (b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.
- (3) Absence of default of one Party shall not constitute an impediment to the procedure.

## **Article X**

- (1) The Tribunal shall render its award within a period of five months from the time it is established unless it decides, in the case of necessity, to extend the time limit for a further period not exceeding three months. The award of the Tribunal shall be accompanied by a statement of reasons. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organisation. The Parties shall immediately comply with the award.
- (2) Any controversy which may arise between the Parties as regards interpretation or execution of the award may be submitted by either Party

for judgment to the Tribunal which made the award, or, if it is not available to another Tribunal constituted for this purpose, in the same manner as the original Tribunal.

### **OBJECTS AND REASONS**

The issue of marine pollution is of immense importance especially for vulnerable countries like The Gambia. This Bill seeks to provide the framework for the prevention of marine pollution, and the management of the marine environment in the territory of The Gambia. The Bill incorporates best practices adopted by the International Maritime Organisation on Marine Pollution.