

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1994 Nr. 41

A. TITEL

Protocol van 1978 bij het Internationaal Verdrag ter voorkoming van verontreiniging door schepen, 1973, met Bijlage; Londen, 17 februari 1978

B. TEKST

De Engelse en de Franse tekst van het Protocol, met Bijlage, zijn geplaatst in *Trb.* 1978, 188. Voor de ondertekeningen zie ook *Trb.* 1983, 127.

De bijlage is een aantal malen gewijzigd.

Zie rubriek J van *Trb.* 1985, 136, van *Trb.* 1986, 121, van *Trb.* 1988, 143, van *Trb.* 1990, 168, van *Trb.* 1992, 29, van *Trb.* 1993, 53 en 70 en rubriek J hieronder.

C. VERTALING

Zie *Trb.* 1978, 188.

D. PARLEMENT

Zie *Trb.* 1983, 127 en *Trb.* 1993, 147.

E. BEKRACHTIGING

Zie *Trb.* 1983, 127, *Trb.* 1985, 136, *Trb.* 1986, 121, *Trb.* 1988, 143 en *Trb.* 1993, 53.

F. TOETREDING

Zie *Trb.* 1983, 127, *Trb.* 1985, 136, *Trb.* 1986, 121, *Trb.* 1988, 143, *Trb.* 1990, 168, *Trb.* 1992, 29 en *Trb.* 1993, 53 en 147.

Behalve de aldaar genoemde hebben nog de volgende Staten in overeenstemming met artikel IV, eerste lid, letter c, juncto het tweede lid, van het Protocol een akte van toetreding bij de Secretaris-Generaal van de Internationale Maritieme Organisatie nedergelegd:

Argentinië ¹⁾	31 augustus 1993
Marokko	12 oktober 1993
Papoea Nieuw-Guinea	25 oktober 1993
Oekraïne	25 oktober 1993

¹⁾ Onder de volgende voorbehouden:

“The Republic of Argentina reserves its position in respect of the provision that disputes relating to the interpretation or application of this Convention as regards the exercise by a riparian State of its sovereign rights or its jurisdiction, are to be governed only by the arbitration procedures contemplated in Article X and Protocol II, where it is alleged that a riparian State has acted in breach of international rules and standards prescribed for the protection and preservation of the marine environment which are applicable to the riparian State and which have been established by this Convention.”

“The Republic of Argentina reserves its position in that it does not as yet possess the equipment required by Rule 10 of Annex IV and by Rule 7 of Annex V, and cannot fulfil the guarantees laid down in these standards.” *Vertaling*

Verklaring van voortgezette gebondenheid

De volgende Staat heeft nog een verklaring afgelegd waarin deze zich gebonden verklaart aan het Protocol te rekenen vanaf de datum van onafhankelijkheid:

de Tsjechische Republiek. 19 oktober 1993

G. INWERKINGTREDING

Zie *Trb.* 1983, 127, *Trb.* 1985, 136, *Trb.* 1986, 121, *Trb.* 1988, 43, *Trb.* 1990, 168, *Trb.* 1992, 29.

H. TOEPASSELIJKVERKLARING

Zie *Trb.* 1985, 136, *Trb.* 1986, 121, *Trb.* 1988, 143, *Trb.* 1990, 168 en *Trb.* 1993, 53.

J. GEGEVENS

Zie *Trb.* 1978, 188, *Trb.* 1983, 127, *Trb.* 1985, 136, *Trb.* 1986, 121, *Trb.* 1988, 143, *Trb.* 1990, 168, *Trb.* 1992, 29 en *Trb.* 1993, 53, 70 en 147.

Verwijzingen

Voor het op 6 maart 1948 te Genève tot stand gekomen Verdrag nopens de Intergouvernementele Maritieme Consultatieve Organisatie zie ook *Trb.* 1994, 00.

Voor het op 26 juni 1945 te San Francisco tot stand gekomen Handvest der Verenigde Naties zie ook *Trb.* 1993, 168.

Bijlagen

Bijlage III¹⁾ bij het Verdrag zoals gewijzigd door het Protocol is voorts nog aanvaard door de volgende Staten:

Argentinië	31 augustus 1993
Marokko	12 oktober 1993
Papoea Nieuw-Guinea	25 oktober 1993
Oekraïne	25 oktober 1993

Bijlage V¹⁾ bij het Verdrag zoals gewijzigd door het Protocol is voorts aanvaard door de volgende Staten:

Argentinië	31 augustus 1993
Marokko	12 oktober 1993
Papoea Nieuw-Guinea	25 oktober 1993
Oekraïne	25 oktober 1993

¹⁾ In tegenstelling tot hetgeen is vermeld in *Trb.* 1993, 147 heeft Roemenië Bijlagen III en V niet aanvaard.

Verwijzingen

Resolutie MEPC 57 (33)

Op 30 oktober 1992 heeft de Commissie voor de Bescherming van het Mariene Milieu in overeenstemming met artikel VI van het Protocol, juncto artikel 16 van het Verdrag, een resolutie aangenomen houdende wijziging van de bijlage bij het Protocol.

In overeenstemming met artikel 16, tweede lid, letter f (iii) van het Verdrag zal de wijziging geacht worden te zijn aanvaard op de datum waarop de wijzigingen van de IBC code afgerond zijn. Ingevolge artikel 16, tweede lid, letter g, van het Verdrag zal de wijziging in werking treden zes maanden nadat zij is aanvaard.

Wat het Koninkrijk der Nederlanden betreft, zullen de wijzigingen voor het gehele Koninkrijk gelden.

De Engelse tekst van de resolutie luidt:

Resolution MEPC.57(33)

(adopted on 30 October 1992)

Amendments to the Annex of the Protocol of 1978 relating to the International Convention for the prevention of pollution from ships, 1973

(Designation of the Antarctic area as a special area and lists of liquid substances in Annex II)

The Marine Environment Protection Committee,

Recalling Article 38(a) of the Convention on the International Maritime Organization concerning the function of the Committee conferred upon it by international conventions for the prevention and control of marine pollution,

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

Noting further resolution MEPC.55(33) by which the Committee adopted amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code),

Having considered, at its thirty-third session, amendments to Annex II of MARPOL 73/78 and appendices II and III thereof proposed by the Sub-Committee on Bulk Chemicals at its twenty-first session and circulated in accordance with article 16(2)(a) of the 1973 Convention,

1. Adopts in accordance with article 16(2)(d) of the 1973 Convention amendments to Annex II of MARPOL 73/78 and appendices II and III thereof, the texts of these amendments are set out in the annex to the present resolution;

2. Determines, in accordance with article 16(2)(f)(iii) of the 1973 Convention that the amendments shall be deemed to have been accepted on the date on which the conditions for the entry into force of the amendments to the IBC Code adopted by the Committee by resolution MEPC.55(33) are met, unless, prior to that date, not less than one third of the Parties or the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. Invites the Parties to note that, in accordance with article 16(2)(g)(ii) of the 1973 Convention, the amendments shall enter into force six months after their acceptance in accordance with paragraph 2 above;

4. Requests the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to the Convention certified copies of the present resolution and the text of the amendments contained in the annex;

5. Requests further the Secretary-General to transmit to the Members of the Organization which are not Parties to the 1978 Protocol copies of the resolution and its annex.

Annex

Text of Amendments to Annex II of MARPOL 73/78 and Appendices II and III

Regulation 1

The existing text of paragraph (6) is replaced by the following:

“Noxious liquid substance” means any substance referred to in appendix II to this Annex or provisionally assessed under the provisions of regulation 3(4) as falling into category A, B, C or D.

The existing text of the last sentence of paragraph (7) is amended to read as follows:

Special areas shall be:

- a) the Baltic Sea area, and
- b) the Black Sea area, and
- c) the Antarctic area.

A new paragraph (9A) is inserted reading:

(9A) The Antarctic area means the sea area south of latitude 60° S.

Regulation 2

The following new paragraph (7) is added:

7. a) Where an amendment to this Annex and to the International Bulk Chemical Code and the 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, 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. Such relaxation shall be determined with respect to each substance, having regard to the guidelines developed by the Organization.*)

b) The Administration allowing a relaxation of the application of an amendment under this paragraph shall submit to the Organization a report giving details of the ship or ships concerned, the cargoes carried, the trade in which each ship is engaged and the justification for the relaxation, for circulation to the Parties to the Convention for their information and appropriate action, if any.

* Reference is made to Guidelines for the application of amendments to the list of substances in Annex II of MARPOL 73/78 and the IBC Code and BCH Code with respect to pollution hazards approved by the Marine Environment Protection Committee of the Organization and issued under cover of MEPC/Circ.266.

Regulation 3

The existing text of paragraph (3) is replaced by the following:

3. Noxious liquid substances carried in bulk which are presently categorized as category A, B, C or D and subject to the provisions of this Annex are referred to in appendix II to this Annex.

Regulation 4

The existing text of paragraph (1) is replaced by the following:

1. The substances referred to in appendix III to this Annex have been evaluated and found to fall outside category A, B, C and D, as defined in regulation 3(1) of this Annex because they are at present considered to present no harm to human health, marine resources, amenities or other legitimate uses of the sea, when discharged into the sea from tank cleaning or deballasting operation.

The existing text of paragraph (2) is replaced by the following:

2. The discharge of bilge or ballast water or other residues or mixtures containing only substances referred to in appendix III to this Annex shall not be subject to any requirement of this Annex.

Regulation 5

The existing text of the wording preceding paragraphs (1) and (7) is amended to read as follows:

Subject to the provisions of paragraph (14) of this regulation and of regulation 6 of this Annex,

The second sentence of the existing text of paragraph (1) is amended to read:

If tanks containing such substances or mixtures are to be washed, the resulting residues shall be discharged to a reception facility until the concentration of the substance in the effluent to such facility is at or below 0.1% by weight and until the tank is empty, with the exception of phosphorus, yellow or white for which the residual concentration shall be at 0.01% by weight.

The existing text of the second sentence of paragraph (7) is amended to read as follows:

If tanks containing such substances or mixtures are to be washed, the resulting residues shall be discharged to a reception facility which the States bordering the special area shall provide in accordance with regulation 7 of this Annex, until the concentration of the substance in the effluent to such facility is at or below 0.05% by weight and until the tank is empty, with the exception of phosphorus, yellow or white for which the residual concentration shall be 0.005% by weight.

A new paragraph (14) is added as follows:

14. In respect of the Antarctic area any discharge into the sea of noxious liquid substances or mixtures containing such substances shall be prohibited.

Regulation 8

The first and second sentences of the existing text of paragraph (3) is amended to read as follows:

If the tank is to be washed in accordance with subparagraph (2)(a) of this regulation, the effluent from the tank washing operation shall be discharged to a reception facility at least until the concentration of the substance in the discharge, as indicated by analyses of samples of the effluent taken by the surveyor, has fallen to the concentration specified in regulations 5(1) or 5(7), as applicable, of this Annex. When the required concentration has been achieved, remaining tank washings shall continue to be discharged to the reception facility until the tank is empty.

Regulation 14

In the second line the words "designated in Appendix II" are replaced by the words "referred to in appendix II".

Appendix II is replaced by the following:

Appendix II

LIST OF NOXIOUS SUBSTANCES CARRIED IN BULK

Noxious liquid substances carried in bulk and which are presently categorized as category A, B, C or D 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.

Appendix III is replaced by the following:

Appendix III

LIST OF OTHER LIQUID SUBSTANCES

Liquid substances carried in bulk which are identified as falling outside the category A, B, C or D and not subject to the provisions of this Annex are indicated as "III" in the pollution category column of chapters 17 or 18 of the International Bulk Chemical Code.

Resolutie MEPC 58 (33)

Op 30 oktober 1992 heeft de Commissie voor de Bescherming van het Mariene Milieu in overeenstemming met artikel VI van het Protocol, juncto artikel 16 van het Verdrag, een resolutie aangenomen houdende wijziging van de bijlage III bij het Verdrag, zoals gewijzigd door het Protocol.

In overeenstemming met artikel 16, tweede lid, letter f (iii) van het Verdrag zijn de wijzigingen aanvaard op 30 augustus 1993. Ingevolge artikel 16, tweede lid, letter g (ii), van het Verdrag zullen de wijzigingen op 28 februari 1994 in werking treden.

Wat het Koninkrijk der Nederlanden betreft, zullen de wijzigingen voor het gehele Koninkrijk gelden.

De Engelse tekst van de resolutie luidt:

Resolution MEPC.58(33)

(adopted on 30 October 1992)

Amendments to the Annex of the Protocol of 1978 relating to the International Convention for the prevention of pollution from ships, 1973

(Revised Annex III)

The Marine Environment Protection Committee,

Recalling Article 38(a) of the Convention on the International Maritime Organization concerning the function of the Committee conferred upon it by international conventions for the prevention and control of marine pollution,

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

Recalling also that the Committee adopted resolution MEPC.35(27) on implementation of Annex III of MARPOL 73/78 by which it is stated, *inter alia*, that the revised provisions of Annex III can be treated as equivalent to the existing provisions and hence nothing in MARPOL 73/78 will prevent Parties to Annex III from giving effect to the revised provisions of Annex III without awaiting the formal entry into force of the revised provisions,

Recalling further that the Committee decided to commence action to amend Annex III to MARPOL 73/78 in accordance with article 16 of MARPOL 73/78, immediately upon the entry into force,

Noting also that the existing provisions of Annex III of MARPOL 73/78 already came into force on 1 July 1992,

Having considered, the amendments to Annex III of MARPOL 73/78, which were agreed at its twenty-sixth session, modified at its thirtieth and thirty-first sessions and circulated in accordance with article 16(2)(a) of the 1973 Convention,

1. Adopts in accordance with article 16(2)(d) of the 1973 Convention amendments to Annex III of MARPOL 73/78, the text of which is set out in the annex to the present resolution;

2. Determines, in accordance with article 16(2)(f)(iii) of the 1973 Convention, that the amendments shall be deemed to have been accepted on 30 Augustus 1993, unless, prior to that date, not less than one third of the Parties or the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, have communicated to the Organization their objections to the amendments;

3. Invites the Parties to note that, in accordance with article 16(2)(g)(ii) of the 1973 Convention, the amendments shall enter into force on 28 February 1994 in accordance with paragraph 2 above;

4. Requests the Secretary-General, in conformity with article 16(2)(e) of the 1973 Convention, to transmit to all Parties to Annex III of the 1978 Protocol certified copies of the present resolution and the text of the amendments contained in the annex;

5. Requests further the Secretary-General to transmit to the Members of the Organization which are not Parties to Annex III of the 1978 Protocol copies of the resolution and its annex.

Annex

The existing text of Annex III is replaced by the following:

ANNEX III

REGULATIONS FOR THE PREVENTION OF POLLUTION BY HARMFUL SUBSTANCES CARRIED BY SEA IN PACKAGED FORM

Regulation 1

Application

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

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

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

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

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

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

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

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

Regulation 2

Packing

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

Regulation 3

Marking and labelling

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

* Reference is made to the International Maritime Dangerous Goods Code (IMDG Code) adopted by the Organization by resolution A.716(17) as it has been or may be amended by the Maritime Safety Committee.

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

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

Regulation 4**)

Documentation

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

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

3. Each ship carrying harmful substances shall have a special list or manifest setting forth the harmful substances on board and the location thereof. A detailed stowage plan which sets out the location of the harmful substances on board may be used in place of such special list or manifest.

Copies of such documents shall also be retained on shore by the owner of the ship or his representative until the harmful substances are unloaded. A copy of one of these documents shall be made available before departure to the person or organization designated by the port State authority.

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

- * Reference is made to the specific exemptions provided for in the International Maritime Dangerous Goods Code (IMDG Code).
- ** Reference to "documents" in this regulation does not preclude the use of electronic data processing (EDP) and electronic data interchange (EDI) transmission techniques as an aid to paper documentation.

Regulation 5

Stowage

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

Regulation 6

Quantity limitations

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

Regulation 7

Exceptions

1. Jettisoning of harmful substances carried in packaged form shall be prohibited, except where necessary for the purpose of securing the safety of the ship or saving life at sea.
2. Subject to the provisions of the present Convention, appropriate measures based on the physical, chemical and biological properties of harmful substances shall be taken to regulate the washing of leakages overboard, provided that compliance with such measures would not impair the safety of the ship and persons on board.

AppendixGUIDELINES FOR THE IDENTIFICATION OF HARMFUL
SUBSTANCES IN PACKAGED FORM

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

- bioaccumulated to a significant extent and known to produce a hazard to aquatic life or to human health (hazard rating "+" in column A*); or

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

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

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

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

Uitgegeven de *tweëntwintigste* februari 1994.

De Minister van Buitenlandse Zaken,

P. H. KOOIJMANS