ANTIGUA AND BARBUDA

STATUTORY INSTRUMENTS

1996, No. 25

RESOLUTION RATIFYING the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990.

WHEREAS the Ratification of Treaties Act, Cap. 364 provides in section 3(1) that a Treaty to which Antigua and Barbuda becomes a party is one which affects or concerns the relationship of Antigua and Barbuda with any international Organization, agency or association or similar body, such Treaty shall not enter into force with respect to Antigua and Barbuda unless it has been ratified or its ratification has been authorized or approved in accordance with the provisions of this Act;

AND WHEREAS the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 is an International Agreement to which Antigua and Barbuda is a signatory.

AND WHEREAS the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 is an agreement governed by international law and concern the relationship of Antigua and Barbuda and the State Parties to the Convention;

NOW, THEREFORE, BE IT RESOLVED by this Honourable House that the International Convention which was done at London on 30th November, 1990 and which is attached herewith as a Schedule be ratified as a Treaty under section 3(1)(c) of the Ratification of Treaties Act 1987.

Passed by the House of Representatives this 12th day of August, 1996.

Bridget Harris
Speaker.

Sylvia Walker
Clerk to the House of Representatives.

SCHEDULE

International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990

Text adopted by the Conference

THE PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the need to preserve the human environment in general and the marine environment in particular,

RECOGNIZING the serious threat posed to the marine environment by oil pollution incidents involving ships, offshore units, sea ports and oil handling facilities,

MINDFUL of the importance of precautionary measures and prevention in avoiding oil pollution in the first instance, and the need for strict application of existing international instruments dealing with maritime safety and marine pollution prevention, particularly the International Convention for the Safety of Life at Sea, 1974, as amended, and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and also the speedy development of enhanced standards for the design, operation and maintenance of ships carrying oil, and of offshore units,

MINDFUL ALSO that, in the event of an oil pollution incident, prompt and effective action is essential in order to minimize the damage which may result from such an incident,

EMPHASIZING the importance of effective preparation for combating oil pollution incidents and the important role which the oil and shipping industries have in this regard,

RECOGNIZING FURTHER the importance of mutual assistance and international co-operation relating to matters including the exchange of information respecting the capabilities of States to respond to oil pollution incidents, the preparation of oil pollution contingency plans, the exchange of reports of incidents of significance which may affect the marine environment or the coastline and related interests of States, and research and development respecting means of combating oil pollution in the marine environment,

TAKING ACCOUNT of the "polluter pays" principle as a general principle of international environmental law.

TAKING ACCOUNT ALSO of the importance of international instruments on liability and compensation for oil pollution damage, including the 1969 International Convention on Civil Liability for Oil Pollution Damage (CLC); and the 1971

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND); and the compelling need for early entry into force of the 1984 Protocols to the CLC and FUND Conventions,

TAKING ACCOUNT FURTHER of the importance of bilateral and multilateral agreement and arrangements including regional conventions and agreements,

BEARING IN MIND the relevant provisions of the United Nations Convention on the Law of the Sea, in particular of its part XII,

BEING AWARE of the need to promote international co-operation and to enhance existing national, regional and global capabilities concerning oil pollution preparedness and response, taking into account the special needs of the developing countries and particularly small island States,

CONSIDERING that these objectives may best be achieved by the conclusion of an International Convention on Oil Pollution Prepardeness, Response and Co-operation,

HAVE AGREED as follows:

ARTICLE 1

General Provisions

(1) Parties undertake, individually or jointly, to take all appropriate measures in accordance with the provisions of this Convention and the Annex thereto to prepare for and respond to an oil pollution incident.

(2) The Annex to this Convention shall constitute an integral part of the Convention and a reference to this Convention constitutes at the same time a reference to the Annex.

(3) This Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, on ly on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with this Convention.

ARTICLE 2

Definitions

For the purposes of this Convention:

(1) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products.

(2) "oil pollution incident" means an occurance 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 response.

(3) "Ship" means a vessel of any tyype whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, and floating craft of any type.

(4) "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.

(5) "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.

(6) "Organization" means the International Maritime Organization.

(7) "Secretary-General" means the Secretary-General of the Organization.

ARTICLE 3

Oil Pollution Emergency Plans

(1)*(a)* Each Party shall require that ships entitled to fly its flag have on board a shipboard oil pollution emergency plan as required by and in accordance with the provisions adopted by the Organization for this purpose.

(b) A ship required to have on board an oil pollution emergency plan in accordance with subparagraph (a) is subject, while in a port or at an offshore terminal under the jurisdiction of a Party, to inspection by officers duly authorised by that Party, in accordance with the practices provided for in existing international agreements or its national legislation.

(2) Each Party shall require that operators of offshore units under its jurisdiction have oil pollution emergency plans, which are co-ordinated with the national system established in accordance with article 6 and approved in accordance with procedures established by the competent national authority.

(3) Each Party shall require that authorities or operators in charge of such sea ports and oil handling facilities under its jurisdiction as it deem appropriate have oil pollution emergency plans or similar arrangements which are co-ordinated with the national system established in accordance with article 6 and approved in accordance with procedures established by the competent national authority.

ARTICLE 4

Oil Pollution Reporting Procedures

(1) Each Party shall:

(a) require masters or other persons having charge of ships flying its flags and persons having charge of offshore units under its jurisdiction to report without delay any event on their ship or offshore unit involving a discharge or probable discharge of oil;

(i) in the case of a ship, to the nearest coastal State;

(ii) in the case of an offshore unit, to the coastal State to whose jurisdiction the unit is subject;

(b) require masters or other persons having charge of ships flying its flag and persons having charge of offshore units under its jurisdiction to report without any observed event at sea involving a discharge of oil or the presence of oil;

(i) in the case of a ship, to the nearest coastal State;

(ii) in the case of an offshore unit, to the coastal State to whose jurisdiction the unit is subject;

(c) require persons having charge of sea ports and oil handling facilities under its jurisdiction to report without delay any event involving a discharge or probable discharge of oil or the presence of oil to the competent national authority;

(d) instruct its maritime inspection vessels or aircraft and other appropriate services or officials to 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 competent national authority or, as the cae may be, to the nearest coastal State;

(e) request the pilots of civil aircraft to report without delay any observed event at sea involving a discharge of oil or the presence of oil to the nearest coastal State.

(2) Reports under paragraph (1) (a)(i) shall be made in accordance with the requirements developed by the Organization and based on the guidelines and general principles adopted by the Organization. Reports under paragraph (1)(a)(ii), (b) (c) and (d) shall be made in accordance with the guidelines and general principles adopted by the Organization to the extent applicable.

ARTICLE 5

Action On Receiving An Oil Pollution Report

(1) Whenever a Party receives a report referred to in article 4 or pollution information provided by other sources, it 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) then, 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) When the severity of such oil pollution incident so justifies, the Party should provide the Organization directly or, as appropriate, through the relevant regional organization or arrangements with the information referred to in paragraph (1)(b) and (c).

(3) When the severity of such oil pollution incident so justifies, other States affected by it are urged to inform the Organization directly or, as appropriate, through the relevent regional organizations or arrangements of their assessment of the extent of the threat to their interests and any action taken or intended.

(4) Parties should use, in so far as practicable, the oil pollution reporting system developed by the Organization when exchanging information and communicating with other States and with the Organization.

ARTICLE 6

National And Regional Systems For Preparedness And Response

(1) Each Party shall establish a national system for responding promptly and effectively to oil pollution incidents. This system shall include as a minimum:

(a) the designation of:

(i) the competent national authority or authorities with responsibility for oil pollution preparedness and response;

(ii) the national operational contact point or points, which shall be responsible for the receipt and transmission of oil pollution reports as referred to in article 4; and

(iii) an authority which is entitled to act on behalf of the State to request assistance or to decide to render the assistance requested;

(b) a national contingency plan for preparedness and response which includes the organizational relationship of the various bodies involved, whether public or private, taking into account guidelines developed by the Organization.

(2) In addition, each Party, within its capaqbilities either individually or through bilateral or multilateral co-operation and, as appropriate, in co-operation with the oil and shipping industries, port authorities and other relevant entities, shall 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 organizations and training of relevant personnel;

(c) detailed plans and communication capabilities for responding to an oil pollution incident. Such capabilities should be continuously available; and

(d) a mechanism or arrangement to co-ordinate the response to an oil pollution incident with, if appropriate, the capabilities to mobilize the necessary resources.

(3) Each Party shall ensure that current information is provided to the Organization, directly or through the relevant regional organization or arrangements, concerning:

(a) the location, telecommunication data and, if applicable, areas of responsibility of authorities and entities referred to in paragraph (1)(a);

(b) information concerning pollution response equipment and expertise in disciplines related to oil pollution response and marine salvage which may be made available to other States, upon request; and

(c) its national contingency plan.

ARTICLE 7

International Co-Operation In Pollution Response

(1) Parties agree that, subject to their capabilities and the availability of relevant resources, they will co-operate and provide advisory services, technical support and

equipment for the purpose of responding to an oil pollution incident, when the severity of such incident so justifies, upon the request of any Party affected or likely to be affected. The financing of the costs for such assistance shall be base on the provisions set out in the Annex to this Convention.

(2) A Party which has requested assistance may ask the Organization to assist in identifying sources of provisional financing of the costs referred to in paragraph (1).

(3) In accordance with applicable international agreements, each Party shall take necessary legal or administrative measures to facilitate:

(a) the arrival and utilization in and departure from its 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 its territory of personnel, cargoes, materials and equipment referred to in subparagraph *(a)*

ARTICLE 8

Research And Development

(1) Parties agree to co-operate directly or, as appropriate, through the Organization or relevant regional organizations or arrangements in the promotion and exchange of results of research and development programmes relating to the enhancement of the state-of-the-art of oil pollution preparedness and response, including technologies and techniques for surveillance, containment, recovery, dispersion, clean-up and otherwise minimizing or mitigating the effects of oilpollution, and for restoration.

(2) To this end, Parties undertake to establish directly or, as appropriate, through the Organization or relevant regional organizations or arrangements, the necessary links between Parties' research institutions.

(3) Parties agree to co-operate directly or through the Organization or relevant regional organizations or arrangements to promote, as appropriate, the holding on a regular basis of international symposia on relevant subjects, including technological advances in oil pollution combating techniques and equipment.

(4) Parties agree to encourage, through the Organization or other competent international organizations, the development of standards for compatible oil pollution combating techniques and equipment.

ARTICLE 9

Technical Co-Operation

(1) Parties undertake directly or through the Organization and other international

bodies, as appropriate, in respect of oil pollution preparedness and response, to provide support for those Parties which request technical assistance:

(a) to train personnel;

(b) to ensure the availability of relevant technology, equipment and facilities;

(c) to facilitate other measures and arrangements to prepare for and response to oil pollution incidents; and

(d) to initiate joint research and development programmes.

(2) Parties undertake to co-operate actively, subject to their national law, regulations and policies, in the transfer of technology in respect of oil pollution preparedness and response.

ARTICLE 10

Promotion Of Bilateral And Multilateral Co-Operation In Preparedness And Response

Parties shall endeavour to conclude bilateral or multilateral agreements for oil pollution preparedness and response. Copies of such agreements shall be communicated to the Organization which should make them available on request to Parties.

ARTICLE 11

Relation To Other Conventions And International Agreements

Nothing in this Convention shall be construed as altering the rights or obligations of any Party under any other convention or international agreement.

ARTICLE 12

Institutional Arrangements

(1) Parties designate the Organization, subject to its agreement and the availability of adequate resources to sustain the activity, to perform the following functions and activities:

(a) information services:

(i) to receive, collate and disseminate on request the information provided by Parties (see, for example, articles 5(2) and (3), 6(3) and (10) and relevant information provided by other sources; and

(ii) to provide assistance in identifying sources of provisional financing of costs (see, for example, article 7(2));

(b) education and training:

(i) to promote training in the field of oil pollution preparedness and response (see, for example, article 9); and

(ii) to promote the holding of international symposia (see, for example, article 8(3));

(c) technical services:

(i) to facilitate co-operation in research and development (see, for example, articles8(1), (2) and (4) and 9(1)(d);

(ii) to provide advice to States establishing national or regional response capabilities; and

(iii) to analyse the information provided by Parties (see, for example, articles 5(2) and (3), 6(3) and 8(1) and relevant information provided by other sources and provide advice or information to States;

(d) technical assistance:

(i) to facilitate the provision of technical assistance to States establishing national or regional response capabilities; and

(ii) to facilitate the provision of technical assistance and advice, upon the request of States faced with major oil pollution incidents.

(2) In carrying out the activities specified in this article, the Organization shall endeavour to strengthen the ability of States individually or through regional arrangements to prepare for and combat oil pollution incidents, drawing upon the experience of States, regional agreements and industry arrangements and paying particular attention to the needs of developing countries.

(3) The provisions of this article shall be implemented in accordance with a programme developed and kept under review by the Organization.

ARTICLE 13

Evaluation Of The Convention

Parties shall evaluate within the Organization the effectiveness of the Convention in the light of its objectives, particularly with respect to the principles underlying co-operation and assistance.

ARTICLE 14

Amendments

(1) This Convention may be amended by one of the procedures specified in the following paragraphs.

(2) Amendment after consideration by the Organization:

(a) Any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by the Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration.

(b) Any amendment proposed and circulated as above shall be submitted to the Marine Environment Protection Committee of the Organization for consideration.

(c) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Marine Environment Protection Committee.

(d) Amendments shall be adopted by a two-thirds majority of only the parties to the Convention present and voting.

(e) If adopted in accordance with subparagraph (d), amendments shall be communicated by the Secretary-General to al Parties to the Convention for acceptance.

(f) (i) An amendment to an article or the Annex of the Convention shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties.

(ii) An amendment to an appendix shall be deemed to have been accepted to the end of a period to be determined by the Marine Environment Protection Committee at the time of its adopted, which period shall not be less than ten months, unless within that period an objection is communicated to the Secretary-General by not less than one third of the Parties.

(g) (i) An amendment to an article or the Annex of the Convention accepted in conformity with paragraph (f)(i) shall enter into force six months after the date on which it is deemed to have been accepted with respect to the Parties which have notified the Secretary-General that they have accepted it.

(ii) An amendment to an appendix accepted in conformity with subparagraph (f)(ii) shall enter into force six months after the date on which it is deemed to have been accepted with respect to all Parties with the exception of those which, before the date, have objected to it. A Party may at any time withdraw a previously communicated objection by submitting a notification to that effect to the Secretary-General.

(3) Amendment by a Conference:

(a) Upon the request of a Party, concurred with by at least one third of the Parties, the Secretary-General shall convene a conference of Parties to the Convention to consider amendments to the Convention.

(b) An amendment adopted by such a Conference by a two-thirds majority of those Parties present and voting shall be communicated by the Secretary-General to all Parties for their acceptance.

(c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in paragraph (2)(f) and (g)

(4) The adoption and entry into force of an amendment constituting an addition of an Annex or an appendix shall be subject to the procedure applicable to an amendment to the Annex.

(5) Any Party which has not accepted an amendment to an article or the Annex under paragraph (2)(f)(i) or an amendment constituting an addition of an Annex or an appendix under paragraph (4) or has communicated an objection to an amendment to an appendix under paragraph (2)(f)(ii) shall be treated as a non-Party only for the purpose of the application of such amendment. Such treatment shall terminate upon the submission of a notification of acceptance under paragraph (2)(f)(i) or withdrawal of the objection under paragraph (2)(g)(ii).

(6) The Secretary-General shall inform all Parties of any amendment which enters into force under this article, together with the date on which the amendment enters into force.

(7) Any notification of acceptance of, objection to, or withdrawal of objection to, an amendment under this article shall be communicated in writing to the Secretary-General who shall inform Parties of such notification and the date of its receipt.

(8) An appendix to the Convention shall contain only provisions of a technical nature.

ARTICLE 15

Signature, Ratification, Acceptance, Approval And Accession

(1) This Convention shall remain open for signature at the Headquarters of the Organization from 30 November 1990 until 29 November 1991 and shall thereafter remain open for accession. Any State may become a Party to this Convention by:

(a) Signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the secretary-General.

ARTICLE 16

Entry Into Force

(1) This Convention shall enter into force twelve months after the date on which not less than fifteen States have either signed it without reservation as to ratification, acceptance or approval or have deposited the requisite instruments of ratification, acceptance, approval or accession in accordance with article 15.

(2) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of this Convention or three months after the date of deposit of the instrument, whichever is the later date.

(3) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which this Convention entered into force, this Convention shall become effective three months after the date of deposit of the instrument.

(4) After the date on which an amendment to this Convention is deemed to have been accepted under article 14, any instrument of ratification, acceptance, approval or accession deposited shall apply to this Convention as amended.

ARTICLE 17

Denunciation

(1) This Convention may be denounced by any Party at any time after the expiry of five years from the date on which this Convention enters into force for that party.

(2) Denunciation shall be effected by notification in writing to the Secretary-General.

(3) A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General or denunciation by the Secretary-General or after the expiry of any longer period which may be indicated in the notification.

ARTICLE 18

Depositary

(1) This Convention shall be deposited with the Secretary-General.

(2) The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto of:

(i) each new signature or deosit of an instrument of ratification, acceptance, approval or accession, togeher with the date thereof;

(ii) the date of entry into force of this Convention; and

(iii) the deposit of any instrument of denunciation of this Convention together with the date on which it was received and the date on which the denunciation takes effect;

(b) transmit certified true copies of this Convention to the Governments of all States which have signed this Convention or acceded thereto.

(3) As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the united Nations.

ARTICLE 19

Languages

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for the purpose, have signed this Convention.

DONE AT London this thirtieth day of November one thousand nine hundred and ninety.

ANNEX

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, co-operate 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.

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