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Meeting of legal and technical experts to
review the proposed legal framework of the
action plan for the South Asian Seas region

Bangkok, 5-8 February 1990

REPORT OF THE MEETING

CONTENTS

	<u>Paragraph</u>
Introduction	1 - 12
Opening of the meeting	13 - 14
Organization of the meeting	15 - 18
Adoption of the agenda	19
Review of international arrangements	20 - 21
Review of proposed legal framework	
(a) Draft Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region	22 - 31
(b) Draft Protocol Concerning Co-operation in Combating Marine Pollution in Cases of Maritime Emergencies in the South Asian Seas Region	32
(c) Draft Protocol for the Prevention of Pollution of the South Asian Seas Region by Dumping from Ships and Aircraft	33 - 35
(d) Draft Protocol Concerning Protected Areas and Wild Fauna and Flora	36 - 37
Review of institutional and financial arrangements	38 - 39
Other business	40
Adoption of the report	41
Closure of the meeting	42 - 44
Annex I: List of participants	
Annex II: Agenda	
Annex III: List of documents	
Annex IV: Draft Convention for the Protection of the Marine and Coastal Environment of the South Asian Seas Region	
Annex V: Draft Protocol Concerning Co-operation in Combating Marine Pollution in Cases of Maritime Emergencies in the South Asian Seas Region	
Annex VI: Draft Protocol for the Prevention of Pollution of the South Asian Seas Region by Dumping from Ships and Aircraft	

INTRODUCTION

1. By decision 11/7 of 24 May 1983, the UNEP Governing Council requested "the Executive Director to designate the South Asian Seas as a region to be included in the Regional Seas Programme, in close collaboration with the States of the South Asia Co-operative Environment Programme (SACEP) and Governments in the region, and to assist in the formulation of a plan of action for the environmental protection of the South Asian Seas".
2. As a first follow-up activity to decision 11/7 of the Governing Council, the Executive Director convened, in co-operation with SACEP, a meeting of national focal points of the States of the region in order to seek their views on how to proceed in developing a comprehensive action plan for the protection and management of the marine and coastal environment of the South Asian Seas region (Bangkok, 19-21 March 1984).
3. The meeting discussed the steps leading to the adoption of an action plan and reached a consensus on the priority areas to be considered in the action plan. The meeting recommended that Governments, with the assistance of UNEP and other organizations, as appropriate, should initiate the preparation of country reports reviewing their:
 - (a) national environmental problems defined as priority areas of regional concern;
 - (b) activities which may usefully be carried out under the action plan to resolve or mitigate these problems; and
 - (c) national institutional and manpower resources which are, or may be, involved in dealing with these problems, including the identification of the need to strengthen their capabilities.
4. It was also recommended that UNEP prepare in co-operation with SACEP and other organizations as appropriate:
 - (a) a draft overview report, based on the country reports, reviewing the environmental problems of the region defined as priority areas;
 - (b) a document addressing the essential legislative aspects relevant to the action plan; and
 - (c) a draft action plan reflecting the conclusions of the country and regional reports.
5. In response to these goals, the UNEP Secretariat, with the co-operation of the competent international organizations, prepared a preliminary draft Convention for the Protection and Management of the South Asian Seas region and a draft Protocol for the Protection of Specially Protected Areas. These were presented at the Meeting of Experts on the South Asian Seas Regional Programme in Bangkok, 2-5 December 1986. One of the purposes of that meeting was to review the feasibility of a legal framework for an action plan to be adopted and to review institutional arrangements. At that meeting, the experts proposed that a meeting of legal and technical experts be held to review a proposed legal framework for the South Asian Seas action plan.
6. The Second Meeting of National Focal Points on the Development of an Action Plan for the Protection and Management of the South Asian Seas Region took place in Bangkok, 7-11 December 1987. Again, as in 1986, one of the major recommendations of that meeting, as noted by the Executive Director, was to set up a meeting of legal and technical experts as recommended at the meeting of experts in Bangkok, 2-5 December 1986.

7. It was also recommended at the meeting held on 7-11 December 1987, taking into account the outcome of the meeting of legal and technical experts and subject to the concurrence of the concerned Governments, that the Executive Director should convene a high level intergovernmental meeting or a conference of plenipotentiaries of the States expressing readiness to participate in the action plan, in order to adopt:

- the action plan;
- the legal framework of the action plan (if so decided by the Governments concerned);
- the institutional and financial arrangements supporting the action plan (and its legal framework, if appropriate); and
- the programme and budget for a forthcoming biennium.

8. As a follow-up to that meeting the Executive Director, with the co-operation of the competent international organizations, convened a meeting of legal and technical experts and presented a draft Convention and Protocol for Protection of Protected Areas and Wild Fauna and Flora along with a draft Protocol for the Prevention of Pollution of the South Asian Seas by Dumping from Ships and Aircraft and a draft Protocol Concerning Co-operation in Combating Marine Pollution in Cases of Maritime Emergencies. Each document was presented with commentary.

9. The Governments of the region were invited to send one legal and one technical expert to attend five days of meetings, Monday, through Friday, 5-9 February 1990, to examine the feasibility of the development and adoption of a suitable legal framework for an action plan to be adopted and institutional arrangements. The complete list of experts is presented in annex I to this report.

10. The following organizations were invited to send observers to the meeting: The United Nations, UNCTAD, UNDP, ESCAP, UNCHS, UNDRO, ILO, FAO, Unesco, WHO, WMO, IMO, UNIDO, IAEA, WTO, Asian Development Bank, ICOD, IUCN, SACEP and World Bank ^{1/}. The complete list of observers is presented in annex I to this report.

11. The meeting was held at the Impala Hotel in Bangkok, 5-8 February 1990.

12. This document is the report of the meeting.

^{1/} United Nations Conference on Trade and Development (UNCTAD); United Nations Development Programme (UNDP); Economic and Social Commission for Asia and the Pacific (ESCAP); United Nations Centre for Human Settlements (UNCHS); United Nations Disaster Relief Office; International Labour Organization, Food and Agriculture Organization of the United Nations (FAO); United Nations Educational, Scientific and Cultural Organization (Unesco); World Health Organization (WHO); World Meteorological Organization (WMO); International Maritime Organization (IMO); United Nations Industrial Development Organization (UNIDO); International Atomic Energy Agency (IAEA); World Tourism Organization (WTO); International Centre for Ocean Development (ICOD); World Conservation Union (IUCN); South Asia Co-operative Environment Programme (SACEP).

Agenda item 1. Opening of the meeting

13. On behalf of the Executive Director of UNEP, the meeting was opened by Mr. Charles Di Leva, Programme Officer of the Environmental Law and Machinery Unit (ELMU) of UNEP. He welcomed the participants, briefly reviewed the events leading to the meeting and invited the participants to examine and revise, where necessary, the documents prepared for the meeting.

14. Mr. Nay Htun, Director of the UNEP Regional Office for Asia and the Pacific addressed the meeting and welcomed the experts from the five countries of the region and the observers from international and non-governmental organizations. He informed the participants that it was three years since the process of adopting a legal framework for the South Asian Seas region had been launched, and briefed them on the status of legal agreements in the other nine regions of UNEP's Regional Seas Programme. He stressed that the nominees were invited here by UNEP in their own personal capacity as legal and technical experts to focus on the subject of the meeting. He mentioned that it was UNEP's desire that this meeting would be the final step in preparing the legal framework and action plan with a view to its adoption together with the South Asian Seas action plan by an intergovernmental meeting before the end of 1990. He concluded by assuring the participants of UNEP's commitment in assisting the countries of the region in the development and implementation of the South Asian Seas action plan.

Agenda item 2. Organization of the meeting

15. The Secretariat proposed to apply mutatis mutandis, the rules of procedure of UNEP Governing Council (UNEP/IG.(SSC)/3) for the conduct of the meeting. The meeting agreed to this proposal.

16. The meeting elected the following officials:

Chairman: Mr. S. A. Jinadasa (Sri Lanka)

Vice-Chairman: Mr. L. U. Joshi (India)

Rapporteur: Mr. S. H. N. Rizvi (Pakistan)

17. The Secretariat proposed, and the meeting agreed, to carry out its work in plenary session with the support of ad hoc working groups which may be established during the meeting.

18. The meeting was conducted in English.

Agenda item 3. Adoption of the agenda

19. The provisional agenda (UNEP/SAS/LWG.1/1) was introduced by the Secretariat with reference to the provisional list of documents (UNEP/SAS/LWG.1/Inf.1). The meeting considered the proposed agenda and adopted it with slight modification. The adopted agenda, as well as the final list of documents are presented as annex II and annex III respectively to this report.

Agenda item 4. Review of international arrangements

20. The Secretariat introduced the document (UNEP/SAS/LWG.1/2), the Draft Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region.

21. The representative of the International Maritime Organization (IMO) proceeded to introduce an information document prepared by IMO on the status of international conventions for which IMO is the Secretariat. The Secretariat identified and described the status of certain conventions for which UNEP is the Secretariat.

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ANNEX II

AGENDA

1. Opening of the meeting
2. Organization of the meeting
 - (a) Rules of Procedure
 - (b) Designation of officers
 - (c) Organization of work
3. Adoption of the agenda
4. Review of international arrangements
5. Review of proposed legal framework
6. Review of institutional and financial arrangements
7. Other business
8. Adoption of the report
9. Closure of the meeting

ANNEX III

LIST OF DOCUMENTS

Working Documents

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UNEP/SAS/LWG.1/1/Add.1	Annotated provisional agenda.
UNEP/SAS/LWG.1/2	Draft Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region, along with commentary and Annex re: Settlement of Disputes (Arbitration).
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UNEP/SAS/LWG.1/4	Draft Protocol on Co-operation in Combating Marine Pollution in Cases of Maritime Emergencies in the South Asian Seas Region, along with Introductory Commentary.
UNEP/SAS/LWG.1/5	Draft Protocol for the Prevention of Pollution of the South Asian Seas Region by Dumping from Ships and Aircraft, along with Introductory Commentary.
UNEP/SAS/LWG.1/6	Draft Institutional and Financial Arrangements.
UNEP/SAS/LWG.1/7	Report of the meeting.

Information documents

UNEP/SAS/LWG.1/Inf.1	Provisional list of documents.
UNEP/SAS/LWG.1/Inf.2	Provisional list of participants.
UNEP/SAS/LWG.1/Inf.3	IMO Assembly Resolution A674(16) on International Co-operation on Oil Pollution Preparedness and Response.
UNEP/SAS/LWG.1/Inf.4	Status of conventions as at 25/01/1990 for countries of the South Asian Seas region.
UNEP/SAS/LWG.1/Inf.5	Comments received from the World Conservation Union (IUCN) regarding the Draft Protocol concerning Protected Areas and Wild Fauna and Flora in the South Asian Seas Region (UNEP/SAS/LWG.1/3).

- UNEP 1987 Environmental problems of the South Asian Seas region: An overview. UNEP Regional Seas Reports and Studies No. 82.
- UNEP/WG.153/5 Legal aspects of the South Asian Seas Regional programme, Bangkok 1-5 December, 1986.
- UNEP/WG.153/8 Report of the Meeting of experts on the South Asian Seas Regional Programme, Bangkok, 2-5 December 1986.
- UNEP(OCA)/SAS WG.1/7 Report of the Second Meeting of national focal points on the development of an action plan for the protection and management of the South Asian Seas region, Bangkok, 7-11 December 1987.
- UNEP/WG.105/5 Report of the Meeting of National Focal Points on the Development of an Action Plan for the Protection and Management of the South Asian Seas Region, Bangkok, 19-21 March, 1984.

Reference documents

- UNEP 1981a Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (including Protocol Concerning Co-operation in Combating Pollution in Cases of Emergency).
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- UNEP 1984a Convention for the Protection of the Marine Environment and coastal Areas of the South-East Pacific (including: Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons and Other Harmful Substances in Cases of Emergency; Supplementary Protocol to the Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances; Protocol for the Protection of the South-East Pacific against Pollution from Land-Based Sources).

- UNEP 1984b Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment (including Protocol Concerning Regional Co-operation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency).
- UNEP 1985a Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (including: Protocol Concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region; Protocol Concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region).
- UNEP 1985b Rules of procedure for meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols.

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ANNEX II

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ANNEX IV

DRAFT CONVENTION FOR THE PROTECTION AND MANAGEMENT OF THE
MARINE AND COASTAL ENVIRONMENT OF THE SOUTH ASIAN SEAS REGION

PREAMBLE

The Contracting Parties,

Fully aware of the economic and social value of the marine and coastal environment of the South Asian Seas region,

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations,

Recognizing the special hydrographic, ecological and marine characteristics of the region which require special care and responsible management,

Recognizing further that the marine and coastal environment, its ecological equilibrium, resources and legitimate uses are threatened by pollution, global warming and by the insufficient integration of an environmental regime into the development process,

Seeking to ensure that resource development shall be in harmony with the maintenance of the environmental quality of the region and the evolving principles of sustained resource management,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular Principle 21, which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction",

Realizing fully the need for co-operation amongst themselves and with competent regional and international organizations in order to ensure a co-ordinated and comprehensive development of the natural resources of the region,

Recognizing the desirability of promoting the wider acceptance and national implementation of existing international environmental agreements,

Noting, however, that existing international conventions concerning the marine and coastal environment do not cover, in spite of progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the South Asian Seas region, and that a regional convention will reinforce existing international conventions, and promote co-operation to meet regional environmental needs,

Desirous to adopt a regional convention as the legal framework within which to implement the Action Plan for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas adopted at on,

Have agreed as follows:

Agenda item 1. Opening of the meeting

13. On behalf of the Executive Director of UNEP, the meeting was opened by Mr. Charles Di Leva, Programme Officer of the Environmental Law and Machinery Unit (ELMU) of UNEP. He welcomed the participants, briefly reviewed the events leading to the meeting and invited the participants to examine and revise, where necessary, the documents prepared for the meeting.

14. Mr. Nay Htun, Director of the UNEP Regional Office for Asia and the Pacific addressed the meeting and welcomed the experts from the five countries of the region and the observers from international and non-governmental organizations. He informed the participants that it was three years since the process of adopting a legal framework for the South Asian Seas region had been launched, and briefed them on the status of legal agreements in the other nine regions of UNEP's Regional Seas Programme. He stressed that the nominees were invited here by UNEP in their own personal capacity as legal and technical experts to focus on the subject of the meeting. He mentioned that it was UNEP's desire that this meeting would be the final step in preparing the legal framework and action plan with a view to its adoption together with the South Asian Seas action plan by an intergovernmental meeting before the end of 1990. He concluded by assuring the participants of UNEP's commitment in assisting the countries of the region in the development and implementation of the South Asian Seas action plan.

Agenda item 2. Organization of the meeting

15. The Secretariat proposed to apply mutatis mutandis, the rules of procedure of UNEP Governing Council (UNEP/IG.(SSC)/3) for the conduct of the meeting. The meeting agreed to this proposal.

16. The meeting elected the following officials:

Chairman: Mr. S. A. Jinadasa (Sri Lanka)

Vice-Chairman: Mr. L. U. Joshi (India)

Rapporteur: Mr. S. H. N. Rizvi (Pakistan)

17. The Secretariat proposed, and the meeting agreed, to carry out its work in plenary session with the support of ad hoc working groups which may be established during the meeting.

18. The meeting was conducted in English.

Agenda item 3. Adoption of the agenda

19. The provisional agenda (UNEP/SAS/LWG.1/1) was introduced by the Secretariat with reference to the provisional list of documents (UNEP/SAS/LWG.1/Inf.1). The meeting considered the proposed agenda and adopted it with slight modification. The adopted agenda, as well as the final list of documents are presented as annex II and annex III respectively to this report.

Agenda item 4. Review of international arrangements

20. The Secretariat introduced the document (UNEP/SAS/LWG.1/2), the Draft Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region.

21. The representative of the International Maritime Organization (IMO) proceeded to introduce an information document prepared by IMO on the status of international conventions for which IMO is the Secretariat. The Secretariat identified and described the status of certain conventions for which UNEP is the Secretariat.

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ANNEX II

AGENDA

1. Opening of the meeting
2. Organization of the meeting
 - (a) Rules of Procedure
 - (b) Designation of officers
 - (c) Organization of work
3. Adoption of the agenda
4. Review of international arrangements
5. Review of proposed legal framework
6. Review of institutional and financial arrangements
7. Other business
8. Adoption of the report
9. Closure of the meeting

ANNEX III

LIST OF DOCUMENTS

Working Documents

UNEP/SAS/LWG.1/1	Provisional Agenda.
UNEP/SAS/LWG.1/1/Add.1	Annotated provisional agenda.
UNEP/SAS/LWG.1/2	Draft Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region, along with commentary and Annex re: Settlement of Disputes (Arbitration).
UNEP/SAS/LWG.1/3	Draft Protocol Concerning Protected Areas and Wild Fauna and Flora in the South Asian Seas Region, along with Introductory Commentary.
UNEP/SAS/LWG.1/4	Draft Protocol on Co-operation in Combating Marine Pollution in Cases of Maritime Emergencies in the South Asian Seas Region, along with Introductory Commentary.
UNEP/SAS/LWG.1/5	Draft Protocol for the Prevention of Pollution of the South Asian Seas Region by Dumping from Ships and Aircraft, along with Introductory Commentary.
UNEP/SAS/LWG.1/6	Draft Institutional and Financial Arrangements.
UNEP/SAS/LWG.1/7	Report of the meeting.

Information documents

UNEP/SAS/LWG.1/Inf.1	Provisional list of documents.
UNEP/SAS/LWG.1/Inf.2	Provisional list of participants.
UNEP/SAS/LWG.1/Inf.3	IMO Assembly Resolution A674(16) on International Co-operation on Oil Pollution Preparedness and Response.
UNEP/SAS/LWG.1/Inf.4	Status of conventions as at 25/01/1990 for countries of the South Asian Seas region.
UNEP/SAS/LWG.1/Inf.5	Comments received from the World Conservation Union (IUCN) regarding the Draft Protocol concerning Protected Areas and Wild Fauna and Flora in the South Asian Seas Region (UNEP/SAS/LWG.1/3).

- UNEP 1987 Environmental problems of the South Asian Seas region: An overview. UNEP Regional Seas Reports and Studies No. 82.
- UNEP/WG.153/5 Legal aspects of the South Asian Seas Regional programme, Bangkok 1-5 December, 1986.
- UNEP/WG.153/8 Report of the Meeting of experts on the South Asian Seas Regional Programme, Bangkok, 2-5 December 1986.
- UNEP(OCA)/SAS WG.1/7 Report of the Second Meeting of national focal points on the development of an action plan for the protection and management of the South Asian Seas region, Bangkok, 7-11 December 1987.
- UNEP/WG.105/5 Report of the Meeting of National Focal Points on the Development of an Action Plan for the Protection and Management of the South Asian Seas Region, Bangkok, 19-21 March, 1984.

Reference documents

- UNEP 1981a Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (including Protocol Concerning Co-operation in Combating Pollution in Cases of Emergency).
- UNEP 1981b Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (including Protocol Concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency).
- UNEP 1982 Convention for the Protection of the Mediterranean Sea Against Pollution (including: Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft; Protocol Concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency; Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-Based Sources; Protocol Concerning Mediterranean Specially Protected Areas).
- UNEP 1984a Convention for the Protection of the Marine Environment and coastal Areas of the South-East Pacific (including: Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons and Other Harmful Substances in Cases of Emergency; Supplementary Protocol to the Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances; Protocol for the Protection of the South-East Pacific against Pollution from Land-Based Sources).

- UNEP 1984b Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment (including Protocol Concerning Regional Co-operation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency).
- UNEP 1985a Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (including: Protocol Concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region; Protocol Concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region).
- UNEP 1985b Rules of procedure for meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols.

ANNEX IV

DRAFT CONVENTION FOR THE PROTECTION AND MANAGEMENT OF THE
MARINE AND COASTAL ENVIRONMENT OF THE SOUTH ASIAN SEAS REGION

PREAMBLE

The Contracting Parties,

Fully aware of the economic and social value of the marine and coastal environment of the South Asian Seas region,

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations,

Recognizing the special hydrographic, ecological and marine characteristics of the region which require special care and responsible management,

Recognizing further that the marine and coastal environment, its ecological equilibrium, resources and legitimate uses are threatened by pollution, global warming and by the insufficient integration of an environmental regime into the development process,

Seeking to ensure that resource development shall be in harmony with the maintenance of the environmental quality of the region and the evolving principles of sustained resource management,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular Principle 21, which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction",

Realizing fully the need for co-operation amongst themselves and with competent regional and international organizations in order to ensure a co-ordinated and comprehensive development of the natural resources of the region,

Recognizing the desirability of promoting the wider acceptance and national implementation of existing international environmental agreements,

Noting, however, that existing international conventions concerning the marine and coastal environment do not cover, in spite of progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the South Asian Seas region, and that a regional convention will reinforce existing international conventions, and promote co-operation to meet regional environmental needs,

Desirous to adopt a regional convention as the legal framework within which to implement the Action Plan for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas adopted at on,

Have agreed as follows:

Agenda item 5. Review of proposed legal framework

(a) Draft Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region

22. The Chairman invited the participants to comment on and revise, as appropriate, the proposed draft Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region (UNEP/SAS/LWG.1/2).

23. At the outset of the meeting, several of the experts offered their opinions on the merits of adoption of a regional convention. They stated that the main objective of the regional action plan is to enhance the capabilities of the South Asian Seas countries in managing the marine and coastal environment. They stated that the existing international conventions on the subject provide sufficient basis to achieve this objective. In their opinion, the draft action plan in the South Asian Seas region is yet to be adopted and, as a result, at this stage it may be advisable for the countries of the region to provide more emphasis to accession to existing international conventions, rather than to create an immediate framework by adopting the proposed convention and protocols. Those experts therefore had reservations as to the adoption of the regional convention. The same experts stated their opinion that the basic elements of the draft regional convention may not conform with national and international legislation. Further, they opined that unless all South Asian countries are Parties to all the relevant international conventions concerning pollution of the marine environment and the liability and compensation regimes, any agreement pertaining to the South Asian Seas region may not ensure uniform interpretation and application of rules and regulations, and may result in the dilution of existing international conventions. Thus, while agreeing to the language in the draft Convention and two Protocols, the above-mentioned experts did not alter their expressed reservations as to whether the Convention should be adopted.

24. The Secretariat stated, and some experts agreed, that a legal framework could serve to strengthen environmental protection in the area. It was stated that there had already been two meetings to revise the draft action plan. It was also pointed out that of the ten regions participating in the Regional Seas Programme, eight had adopted a legal framework at the same time as the action plan; the ninth, the East Asian Seas region, adopted an action plan and will soon be meeting to review a proposed legal framework for their action plan. It was noted that the draft Convention and Protocols emanating from this meeting would not be binding on any country.

25. Several experts expressed reservations with a number of Articles contained in the draft Convention and Protocols. In those instances where it was not possible to agree upon language or where it was felt that a standing reservation was not adequate to address concern for a particular Article, brackets were utilized to identify the unsettled language.

26. The term "internal waters", was deleted from Article 1 "Geographic Coverage" of the draft Convention. It was the experts opinion that to include coverage of internal waters in this regional agreement could be contrary to national legislation and/or policy.

27. Further, Article 14 of the draft Convention, "Scientific and Technical Co-operation", paragraphs 1 and 2, were bracketed due to the uncertainty of several experts whether their national laws and/or policy would sanction non-nationals to conduct research projects in their national waters.

28. Some experts stated their belief that it was outside of their purview as legal and technical experts to identify the Secretariat in Article 16 "Institutional Arrangements".

29. The meeting decided to revise Article 24 "Relationship between the Convention and its related protocols". It was agreed by the meeting that it is not necessary for all States to become party to at least one Protocol before becoming party to the Convention. Such a requirement was viewed by the experts as infringing on issues of sovereignty. The Secretariat noted that such a requirement was part of the eight other regional conventions because of the belief that it strengthened commitment of the States to environmentally protective measures.

30. Concluding the discussion concerning the draft Convention, the meeting decided that amendments to the Convention and its protocols and appendices should be by consensus and not by majority vote. It was the opinion of the meeting that a consensus requirement was more appropriate given the number of countries in the region and the degree of co-operation which already existed.

31. The meeting agreed on a draft text for the Convention for Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region, subject to the reservations expressed above. The agreed text of the revised draft Convention is attached as Annex IV.

(b) Draft Protocol Concerning Co-operation in Combating Marine Pollution in Cases of Maritime Emergencies in the South Asian Seas Region

32. The meeting reviewed the draft Protocol concerning Co-operation in Combating Marine Pollution in Cases of Maritime Emergencies in the South Asian Seas Region. The agreed text of the revised draft is attached as Annex V.

(c) Draft Protocol for the Prevention of Pollution of the South Asian Seas Region by Dumping from Ships and Aircraft

33. The meeting then reviewed the draft Protocol for the Prevention of Pollution of the South Asian Seas Region by Dumping from Ships and Aircraft.

34. The Secretariat stated that the listing of regulated substances contained in the appendices was originally taken from the Protocol for the Prevention of Pollution of the Mediterranean Sea by dumping from Ships and Aircraft and after some discussion the meeting agreed to retain these lists for the time being, while recognizing that the annexes should be checked against the London Dumping Convention for updating and that they could be amended in the future.

35. The agreed text of the revised draft Protocol for the Prevention of Pollution of the South Asian Seas Region by Dumping from Ships and Aircraft is attached as Annex VI.

(d) Draft Protocol Concerning Protected Areas and Wild Fauna and Flora

36. The meeting then reviewed the draft Protocol Concerning Protected Areas and Wild Fauna and Flora in the South Asian Seas Region. The meeting agreed that the definition of South Asian Seas Region in this Protocol was unacceptable because it regulated internal waters, among other areas.

37. It was then agreed by the meeting that to revise the draft Protocol and delete all reference to internal waters would render this Protocol largely ineffective. Thus, it was decided to refrain from conducting a review of this Protocol, and to ensure that this report reflected the meeting's concern regarding the geographical scope of the Protocol as it was presented to them. The Secretariat, noting that the other similar protocols included internal waters in their geographical coverage, agreed that based on the experts' opinion deletion of "internal waters" would not likely be productive to review the draft Protocol.

Agenda item 6. Review of draft institutional and financial arrangements

38. The meeting then addressed the draft of the Institutional and Financial Arrangements. This draft was reproduced as it appeared in document UNEP(OCA)/SAS WG.1/7 as presented to the Second Meeting of National Focal Points, Bangkok, 7-11 December, 1987.

39. It was agreed by the meeting, that as this was a meeting of legal and technical experts, consideration of this document was not within their purview, but would be better suited to an intergovernmental meeting. It was agreed, however, at the suggestion of one of the experts and the observer from IMO, that the document would be taken by the experts to their countries where they would request the appropriate body to review said draft document.

30. Concluding the discussion concerning the draft Convention, the meeting decided that amendments to the Convention and its protocols and appendices should be by consensus and not by majority vote. It was the opinion of the meeting that a consensus requirement was more appropriate given the number of countries in the region and the degree of co-operation which already existed.

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Agenda item 7. Other business

40. The observer from IMO advised the meeting that IMO would be prepared to assist any of the participating States in implementing the IMO Conventions to which they have not yet become a Party together with providing assistance in the finalization of national oil spill contingency plans. He informed the meeting that IMO now has a Regional Advisor on Marine Pollution for Asia and the Pacific.

Agenda item 8. Adoption of the report

41. The Rapporteur presented the draft report and its annexes to the meeting and it was adopted, with slight amendments, as it appears in this document.

Agenda item 9. Closure of the meeting

42. On behalf of the Executive Director of UNEP, Mr. Di Leva in his closing remarks thanked the Chairman, Vice-Chairman, Rapporteur and all the participants for their hard work and professional conduct. The co-operative effort of the experts, leading to an agreed upon draft Convention and protocols was most appreciated.

43. The Chairman, S. A. Jinadasa, closed the meeting thanking the Secretariat for its support, and for its work in preparing the report of the meeting. He stated that the work should help lead toward a successful intergovernmental meeting. He added that, while the draft protocol on protected areas had not been agreed to and the draft on institutional and financial arrangements was not reviewed, he was certain the draft protocol would be considered in the future and that the draft of Institutional and Financial Arrangements would be taken by the experts back to their countries for attention by the appropriate bodies.

44. The meeting was closed by the Chairman at 1.30 p.m. on Thursday, 8 February 1990.

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ANNEX I

LIST OF PARTICIPANTS

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ANNEX II

AGENDA

1. Opening of the meeting
2. Organization of the meeting
 - (a) Rules of Procedure
 - (b) Designation of officers
 - (c) Organization of work
3. Adoption of the agenda
4. Review of international arrangements
5. Review of proposed legal framework
6. Review of institutional and financial arrangements
7. Other business
8. Adoption of the report
9. Closure of the meeting

ANNEX III

LIST OF DOCUMENTS

Working Documents

UNEP/SAS/LWG.1/1	Provisional Agenda.
UNEP/SAS/LWG.1/1/Add.1	Annotated provisional agenda.
UNEP/SAS/LWG.1/2	Draft Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region, along with commentary and Annex re: Settlement of Disputes (Arbitration).
UNEP/SAS/LWG.1/3	Draft Protocol Concerning Protected Areas and Wild Fauna and Flora in the South Asian Seas Region, along with Introductory Commentary.
UNEP/SAS/LWG.1/4	Draft Protocol on Co-operation in Combating Marine Pollution in Cases of Maritime Emergencies in the South Asian Seas Region, along with Introductory Commentary.
UNEP/SAS/LWG.1/5	Draft Protocol for the Prevention of Pollution of the South Asian Seas Region by Dumping from Ships and Aircraft, along with Introductory Commentary.
UNEP/SAS/LWG.1/6	Draft Institutional and Financial Arrangements.
UNEP/SAS/LWG.1/7	Report of the meeting.

Information documents

UNEP/SAS/LWG.1/Inf.1	Provisional list of documents.
UNEP/SAS/LWG.1/Inf.2	Provisional list of participants.
UNEP/SAS/LWG.1/Inf.3	IMO Assembly Resolution A674(16) on International Co-operation on Oil Pollution Preparedness and Response.
UNEP/SAS/LWG.1/Inf.4	Status of conventions as at 25/01/1990 for countries of the South Asian Seas region.
UNEP/SAS/LWG.1/Inf.5	Comments received from the World Conservation Union (IUCN) regarding the Draft Protocol concerning Protected Areas and Wild Fauna and Flora in the South Asian Seas Region (UNEP/SAS/LWG.1/3).

- UNEP 1987 Environmental problems of the South Asian Seas region: An overview. UNEP Regional Seas Reports and Studies No. 82.
- UNEP/WG.153/5 Legal aspects of the South Asian Seas Regional programme, Bangkok 1-5 December, 1986.
- UNEP/WG.153/8 Report of the Meeting of experts on the South Asian Seas Regional Programme, Bangkok, 2-5 December 1986.
- UNEP(OCA)/SAS WG.1/7 Report of the Second Meeting of national focal points on the development of an action plan for the protection and management of the South Asian Seas region, Bangkok, 7-11 December 1987.
- UNEP/WG.105/5 Report of the Meeting of National Focal Points on the Development of an Action Plan for the Protection and Management of the South Asian Seas Region, Bangkok, 19-21 March, 1984.

Reference documents

- UNEP 1981a Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (including Protocol Concerning Co-operation in Combating Pollution in Cases of Emergency).
- UNEP 1981b Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (including Protocol Concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency).
- UNEP 1982 Convention for the Protection of the Mediterranean Sea Against Pollution (including: Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft; Protocol Concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency; Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-Based Sources; Protocol Concerning Mediterranean Specially Protected Areas).
- UNEP 1984a Convention for the Protection of the Marine Environment and coastal Areas of the South-East Pacific (including: Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons and Other Harmful Substances in Cases of Emergency; Supplementary Protocol to the Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances; Protocol for the Protection of the South-East Pacific against Pollution from Land-Based Sources).

- UNEP 1984b Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment (including Protocol Concerning Regional Co-operation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency).
- UNEP 1985a Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (including: Protocol Concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region; Protocol Concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region).
- UNEP 1985b Rules of procedure for meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols.

ANNEX IV

DRAFT CONVENTION FOR THE PROTECTION AND MANAGEMENT OF THE
MARINE AND COASTAL ENVIRONMENT OF THE SOUTH ASIAN SEAS REGION

PREAMBLE

The Contracting Parties,

Fully aware of the economic and social value of the marine and coastal environment of the South Asian Seas region,

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations,

Recognizing the special hydrographic, ecological and marine characteristics of the region which require special care and responsible management,

Recognizing further that the marine and coastal environment, its ecological equilibrium, resources and legitimate uses are threatened by pollution, global warming and by the insufficient integration of an environmental regime into the development process,

Seeking to ensure that resource development shall be in harmony with the maintenance of the environmental quality of the region and the evolving principles of sustained resource management,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular Principle 21, which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction",

Realizing fully the need for co-operation amongst themselves and with competent regional and international organizations in order to ensure a co-ordinated and comprehensive development of the natural resources of the region,

Recognizing the desirability of promoting the wider acceptance and national implementation of existing international environmental agreements,

Noting, however, that existing international conventions concerning the marine and coastal environment do not cover, in spite of progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the South Asian Seas region, and that a regional convention will reinforce existing international conventions, and promote co-operation to meet regional environmental needs,

Desirous to adopt a regional convention as the legal framework within which to implement the Action Plan for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas adopted at on,

Have agreed as follows:

Article 1

GEOGRAPHICAL COVERAGE

This Convention shall apply to the marine environment and coastal areas of the South Asian Seas, hereinafter referred to as "the Convention area" as defined in paragraph (a) of Article 2.

Article 2

DEFINITIONS

For the purposes of this Convention:

- (a) "The Convention area" shall comprise the marine and coastal areas falling within the jurisdiction of the Contracting Parties to the Convention, excluding their internal waters.
- (b) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine and coastal environment resulting in, or likely to result in, such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities, including fishing, impairment of quality for use of sea water and reduction of amenities.
- (c) "Secretariat" means the body designated as responsible for carrying out secretariat functions pursuant to Article 16 of this Convention.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties may enter into agreements, including regional or subregional agreements, for the protection and management of the marine and coastal environment of the Convention area. Contracting Parties shall make every endeavour to ensure that such agreements are consistent with this Convention. Copies of such agreements shall [may] be communicated to the Secretariat and, through the Secretariat, to all Contracting Parties to this Convention.
2. Nothing in this Convention or its protocols shall be deemed to affect obligations assumed by a Contracting Party under agreements previously concluded.
3. This Convention and its protocols shall be interpreted in accordance with international law relating to their subject matter. Nothing in this Convention and its protocols shall prejudice the present or future claims and legal views of any Contracting Party concerning the nature and extent of its maritime jurisdiction.

Article 4

GENERAL OBLIGATIONS

1. The Contracting Parties shall, individually or jointly, take all appropriate measures in conformity with [international law and in accordance with] this Convention and those of its protocols in force to which they are party, to prevent, reduce and combat pollution of the Convention area and to ensure sound environmental management of the marine and coastal environment [including the natural resources found therein], [in relation to activities in the Convention area], using for this purpose the best practicable means at their disposal.

2. The Contracting Parties shall co-operate in the formulation and adoption of protocols able or necessary to facilitate the effective implementation of this Convention.
3. The Contracting Parties shall take all appropriate measures [in conformity with international law] for the effective discharge of the obligations prescribed in this Convention and its protocols and shall endeavour to harmonize their policies in this regard.
4. The Contracting Parties shall co-operate with the competent international, regional and sub-regional organizations to establish and adopt recommended practices, procedures and measures to prevent, reduce and combat pollution from all sources and to promote sustained resource management in conformity with the objectives of this Convention and its protocols, and to assist each other in fulfilling their obligations under this Convention and its protocols.
5. In taking measures referred to in paragraph 1 the Contracting Parties shall act so as not to transfer, directly or indirectly, pollution or hazards threatening the marine and coastal environment of the Convention area from one location to another or to transform one type of pollution into another.

Article 5

POLLUTION FROM SHIPS

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by discharges from ships and, for this purpose, to ensure the effective implementation of the applicable international rules and applicable standards.

Article 6

POLLUTION CAUSED BY DUMPING

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by dumping of wastes and other matter at sea from ships, aircraft, or man-made structures at sea.

Article 7

POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources within their territories.

Article 8

POLLUTION FROM SEABED ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting directly or indirectly from exploration and exploitation of the seabed and its subsoil.

Article 9

AIRBORNE POLLUTION

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting from discharge of pollutants into the atmosphere from activities under their jurisdiction.

Article 10

SPECIALLY PROTECTED AREAS

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems as well as depleted, threatened or endangered species of wild fauna and flora and their habitats in the Convention area. To this end, the Contracting Parties shall establish protected areas, such as parks and reserves, and prohibit or regulate any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are established to protect. The establishment of such areas shall not affect the rights of other Contracting Parties and third States.

Article 11

CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Contracting Parties shall co-operate in taking all necessary measures to respond to emergencies caused by pollution in the Convention area, whatever the cause of such emergencies, and to reduce or eliminate pollution or the threat of pollution resulting therefrom. To this end, the Contracting Parties shall, individually and jointly, develop and promote contingency plans for responding to incidents involving pollution or the threat thereof in the Convention area.

2. When a Contracting Party becomes aware of a case in which the Convention area is in imminent danger of being polluted or has been polluted, it shall immediately warn other States affected, or likely to be affected, by such pollution, providing them with such pertinent information as will enable them to minimize the pollution and co-operate with those states in order to prevent or minimize the harmful effects of the emergency and immediately inform the competent international organizations. Furthermore, it shall inform, as soon as feasible, such other States and the Secretariat of any measures it has taken to minimize or reduce pollution or the threat thereof.

Article 12

ENVIRONMENTAL DAMAGE FROM ENGINEERING ACTIVITIES

The Contracting Parties shall take all appropriate measures within their respective jurisdictions to prevent, reduce and combat environmental damage in the Convention area, in particular the destruction of marine and coastal ecosystems, caused by engineering activities such as land reclamation, mining or dredging, etc.

Article 13

ENVIRONMENTAL IMPACT ASSESSMENT

1. As part of their environmental management policies, the Contracting Parties shall, in co-operation with competent regional and international organizations, develop technical and other

guidelines to assist the planning of their major development projects in such a way as to prevent or minimize harmful impacts on the Convention area.

2. Each Contracting Party shall assess, within its capabilities, the potential environmental effects of major projects which it has reasonable grounds to expect may cause substantial pollution of, or significant and harmful changes to, the Convention area.

3. With respect to the assessments referred to in paragraph 2, the Contracting Parties shall, in consultation with the Secretariat, develop a co-ordinated or unified system for the collection and dissemination of data relating to environmental impact assessment in the Convention Area and procedures for the dissemination of information and, if necessary, for consultation among the Contracting Parties concerned.

Article 14

SCIENTIFIC AND TECHNICAL CO-OPERATION

[1. The Contracting Parties shall co-operate, directly or with the assistance of competent regional and international organizations, in scientific research, monitoring, and the exchange of data and other scientific information relating to the purposes of this Convention and its protocols.]

[2. To this end, the Contracting Parties shall develop and co-ordinate their research and monitoring programmes concerning pollution and natural resources in the Convention area and shall establish, in co-operation with competent regional and international organizations, a regional network of research centres and institutes to ensure compatible results. With the aim of further protecting the Convention area, the Contracting Parties shall endeavour to participate in international arrangements for research and monitoring outside the Convention area.]

3. The Contracting Parties shall endeavour to co-operate, taking into account their capabilities, directly or through competent regional and international organizations, in the provision to other Contracting Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention area.

Article 15

LIABILITY AND COMPENSATION

Each Contracting Party should ensure that recourse is available in accordance with its legal system for compensation or other relief in respect of damage caused by pollution of the Convention area by natural or juridical persons under its jurisdiction.

Article 16

INSTITUTIONAL ARRANGEMENTS

1. The Contracting Parties designate as the Secretariat of the Convention to carry out the following functions:

- (a) prepare and convene the meetings of Contracting Parties and conferences provided for in Articles 17, 18 and 19;
- (b) transmit to the Contracting Parties notifications, reports and other information received in accordance with Articles 3, 11, 13, and 22;

- (c) perform the functions assigned to it by protocols to this Convention;
 - (d) consider enquiries by, and information from, the Contracting Parties and to consult with them on questions relating to this Convention and its protocols;
 - (e) co-ordinate the implementation of co-operative activities agreed upon by the meeting of Contracting Parties;
 - (f) ensure the necessary co-ordination with other concerned regional and international bodies that the Contracting Parties consider competent; and
 - (g) enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions; and
 - (h) the Secretariat shall distribute the full text of any proposed protocol or annex or any amendment to the Convention or any protocol or any annex at least three months before a meeting at which Contracting Parties can vote on said proposal. Distribution shall be to all parties, signatories, and concerned international organizations.
2. Each Contracting Party shall designate an appropriate authority to serve as the channel of communication with the Secretariat for the purposes of this Convention and its protocols.

Article 17

MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings [once every two years]. It shall be the function of the ordinary meetings of the Contracting Parties to keep under review the implementation of this Convention and its protocols and, in particular to:
- (a) consider reports submitted by the Contracting Parties under Article 22;
 - (b) adopt, review and amend annexes to this Convention and to its related protocols, in accordance with the provisions of Article 20;
 - (c) make recommendations regarding the adoption of any additional protocols or amendments to this Convention or its protocols in accordance with the provisions of Articles 18 and 19;
 - (d) establish such expert groups as deemed necessary to report to the ordinary meetings of the Contracting Parties;
 - (e) review periodically the state of the environment in the Convention area;
 - (f) consider co-operative activities to be undertaken within the framework of this Convention and its protocols, including their financial and institutional implications, and to adopt decisions relating thereto; and
 - (g) consider and undertake any additional activities that may be required for the achievement of the purposes of this Convention and its protocols.
2. The first ordinary meeting of the Contracting Parties will be held within one year of the date on which the Convention enters into force in accordance with Article 28.
3. Extraordinary meetings shall be convened at the request of any Contracting Party. It shall be the function of the extraordinary meeting of the Contracting Parties to consider only those items proposed in the request for the holding of the extraordinary meeting.

Article 18

ADOPTION OF PROTOCOLS

1. The Contracting Parties, at a conference of plenipotentiaries, may adopt additional protocols to this Convention pursuant to paragraph 2 of Article 4.
2. If so requested by a majority of the Contracting Parties, the Secretariat shall convene a conference of plenipotentiaries for the purpose of adopting additional protocols to this Convention.

Article 19

AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Contracting Party to this Convention may propose amendments to this Convention or to any protocol to which they are a Party. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Secretariat at the request of a majority of the Contracting Parties.
2. Any amendment to this Convention or to any protocol shall be adopted by a consensus.
3. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraph 2 shall enter into force between Contracting Parties having accepted such amendments on the sixtieth day following the date of receipt by the Depositary of the instruments of the Contracting Parties to this Convention or to the protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Contracting Party on the sixtieth day after the date on which that Party deposits its instrument.

Article 20

ADOPTION AND AMENDMENT OF ANNEXES

1. Annexes to this Convention or to a protocol shall form an integral part of the Convention or of such protocol, as the case may be, and unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical, and administrative matters pertaining to the marine environment in the Convention area.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the adoption and entry into force of amendments to annexes to this Convention or to annexes to a protocol:
 - (a) any Contracting Party may propose amendments to annexes to this Convention or annexes to any protocol at the meetings convened pursuant to Article 17;
 - (b) such amendments shall be adopted by consensus of the Contracting Parties to the instrument in question;
 - (c) the Depositary shall without delay communicate the amendments so adopted to all Contracting Parties to this Convention;

- (d) any Contracting Party that is unable to accept an amendment to annexes to this Convention or to annexes to any protocol shall so notify the Depositary in writing within sixty days from the date of communication of the adoption by the Depositary;
 - (e) the Depositary shall without delay notify all Contracting Parties of notification received pursuant to the preceding sub-paragraph;
 - (f) on expiration of the period determined in accordance with sub-paragraph (d) above, the amendment to the annex shall become effective for all Contracting Parties to this Convention or to the protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph; and
 - (g) a Contracting Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party.
3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex, provided that, if it entails an amendment to the Convention or a protocol, the new annex shall not enter into force until such time as that amendment enters into force.
4. Any amendment to the annex on arbitration shall be proposed and adopted, and shall enter into force, in accordance with the procedures set out in Article 19.

Article 21

RULES OF PROCEDURES AND FINANCIAL RULES

- 1. The Contracting Parties shall by consensus adopt rules of procedure for their meetings.
- 2. The Contracting Parties shall by consensus adopt financial rules, with assistance provided by the Secretariat, to determine, in particular, their financial participation in the co-operative activities undertaken for the purposes of this Convention and its protocols.

Article 22

REPORTS

The Contracting Parties shall transmit to the Secretariat reports on the measures adopted by them in the implementation of this Convention and of protocols to which they are parties, in such form and at such intervals as is determined by the Contracting Parties.

Article 23

SETTLEMENT OF DISPUTES

- 1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or its protocols, they shall seek a settlement of the dispute through peaceful means of their mutual choice.
- 2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph within a period of eighteen months after the dispute has arisen, or within any other period of time agreed upon by the Parties, the dispute shall be submitted to arbitration, at the request of any of those Parties, under the conditions set out in the annex on Arbitration.

Article 24

RELATIONSHIP BETWEEN THE CONVENTION AND ITS RELATED PROTOCOLS

1. No State shall become a Contracting Party to a protocol unless it is a Contracting Party to this Convention.
2. Decisions concerning any protocol may only be made by Contracting Parties to the protocol concerned.

Article 25

SIGNATURE

This Convention and the Protocol(s) concerning shall be open for signature at from to by States participating in the Conference of Plenipotentiaries on the Protection and Management of the Marine and Coastal Environment of the South Asian Seas, region held at from to

Article 26

RATIFICATION, ACCEPTANCE AND APPROVAL

This Convention and its protocols shall be subject to ratification, acceptance, or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of, which will assume the functions of Depositary.

Article 27

ACCESSION

1. This Convention and its protocols shall be open for accession by the States referred to in Article 25 from the day after the date on which the Convention or the protocol concerned is closed for signature.
2. After the entry into force of this Convention and of any protocol, any State of the region not referred to in Article 25 may accede to the Convention and to any protocol, subject to prior approval by consensus of the Contracting Parties to the Convention or the protocol concerned.
3. Instruments of accession shall be deposited with the Depositary.

Article 28

ENTRY INTO FORCE

1. The Convention and any of its protocols shall enter into force on the sixtieth day following the date of deposit of at least three instruments of ratification, acceptance or approval of, or accession to, such Convention or protocol by the Contracting Parties referred to in Article 25.
2. Thereafter this Convention and any Protocol thereto shall enter into force with respect to any State referred to in Article 25 or 27 on the sixtieth day following the date of deposit of its instruments of ratification, acceptance, approval or accession.

Article 29

WITHDRAWAL

1. At any time after two years from the date of entry into force of this Convention with respect to a Contracting Party, that Contracting Party may withdraw from this Convention by giving written notification to the Depositary.
2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party may, at any time after two years from the date of entry into force of such protocol with respect to that Contracting Party, withdraw from such protocol by giving written notification to the Depositary. The depositary shall immediately notify all Contracting Parties of the withdrawal.
3. Withdrawal shall take effect on the sixtieth day after the date on which notification of withdrawal is received by the Depositary.
4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Contracting Party.

Article 30

DEPOSITARY

1. The Depositary shall inform the Signatories and the Contracting Parties, as well as the Secretariat, of:
 - (a) the signature of this Convention and of its protocols and the deposit of instruments of ratification, acceptance, approval or accession, making sure that such signature(s) and any other instruments are in due and proper form;
 - (b) the date on which the Convention or any protocol will come into force for each Contracting Party;
 - (c) notification of withdrawal and the date on which it will take effect;
 - (d) the amendments adopted with respect to the Convention or to any protocol, their acceptance by the Contracting Parties and the date of their entry into force; and
 - (e) all matters relating to new annexes and to the amendment of any annex.
2. The original of this Convention and of any protocol shall be deposited with the Depositary, the Government of, which shall send certified copies thereof to the Signatories, the Contracting Parties and the Secretariat.
3. As soon as the Convention or any protocol enters into force, the Depositary shall transmit a certified copy of the instrument concerned to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

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

DONE at this day of one thousand nine hundred and ninety-..... in single copy in the English language.

Annex on Arbitration

Article 1

Unless the settlement referred to in Article 23 paragraph 1 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with articles 2 to 10 below.

Article 2

The claimant party shall notify the Secretariat that it requests the dispute be submitted to arbitration pursuant to paragraph 2 of Article 23 of the Convention. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. The Secretariat shall forward the information thus received to all Contracting Parties to the Convention or to the protocol concerned.

Article 3

The arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either party, designate the Chairman within a further two months' period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention and the protocol or protocols concerned.

2. Any arbitral tribunal constituted under the provisions of this annex shall draw up its own rules of procedure.

ANNEX V

DRAFT PROTOCOL CONCERNING CO-OPERATION IN COMBATING MARINE POLLUTION
IN CASES OF MARITIME EMERGENCIES IN THE SOUTH ASIAN SEAS REGION

The Contracting Parties to this Protocol

Being Contracting Parties to the Convention for the Protection and Management of the Marine Coastal Environment of the South Asian Seas Region done at on,

Conscious that the use of the South Asian Seas Region and adjacent water areas for vessel traffic, oil production and refining activities poses the risk of major spillages of oil and other harmful substances and the consequent serious threat to the marine and coastal environment and the interests of the countries in the Region,

Noting the International Maritime Organization's Assembly Resolution A.448(XI) which recognizes that regional anti-pollution arrangements are a valuable and economical way of supplementing national arrangements in the effective combating of major spillages of oil and other harmful substances in cases of emergency,

Recognizing that in the event of major spillages of oil and other harmful substances or in the event thereof, prompt and effective action should be taken at the local level to mitigate the effects or eliminate the threat,

Further recognizing that for major spills mutual assistance, and in some cases, assistance from the international community at large will be required, which should be planned and organized in advance so as to be timely and effective,

Being aware of existing agreements and arrangements which have already been concluded in the region for co-operation in dealing with spillages of oil and other harmful substances,

Have agreed as follows:

Article 1

Definitions

For the purposes of this Protocol:

"South Asian Seas Region" means the Convention Area as defined in Article 2 (a) of the Convention.

"Convention" means the Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region.

"Secretariat" means the institution referred to in Article 2(c) of the Convention.

"Marine pollution incident" means a discharge or spillage of oil or other harmful substance into the marine and coastal environment, or significant threat thereof, however caused, of a magnitude that requires emergency action or other immediate response for the purpose of minimizing effects or eliminating the threat to the marine and coastal environment.

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

6. "Harmful substance" means any substance other than oil which, if introduced into the marine and coastal environment is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or interfere with other legitimate uses of the marine and coastal environment.

7. "Related interests" means the interests of a Contracting Party directly and/or indirectly affected or threatened by marine pollution incidents and concerning, among others:

- (a) maritime, coastal, port or estuarine activities;
- (b) the historical and tourist appeal of the area in question, including water sports and recreation;
- (c) the health and welfare of the coastal human and animal population; and
- (d) fishing activities and the conservation of natural resources.

Article 2

Application

This Protocol applies to marine pollution incidents which have resulted in, or which pose a significant threat of, pollution to the marine and coastal environment of the South Asian Seas region or which adversely affect the related interests of one or more of the Contracting Parties.

Article 3

General Provisions

1. The Contracting Parties shall, within their capabilities, co-operate in taking all necessary measures, both preventive and remedial, for the protection of the marine and coastal environment of the Convention area from marine pollution incidents.

2. The Contracting Parties shall, within their capabilities, establish and maintain the means of responding to marine pollution incidents, and shall endeavour to reduce the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of regional and national contingency plans, the identification and development of the capability to respond to marine pollution incidents and the designation of a national authority with overall responsibility for the implementation of this Protocol.

Article 4

Exchange of Information

Each Contracting Party shall, at least annually, exchange with the other Contracting Parties up-to-date information relating to the implementation of this Protocol, including the identity of the authorities responsible for such implementation, and information on their laws, regulations, institutions and procedures relating to the prevention of marine pollution incidents and to the means of combating and reducing the harmful effects of spillages of oil and other harmful substances.

Article 5

Communication of Information Concerning, and Reporting of, Marine Pollution Incidents or Imminent Threats Thereof

1. Each Contracting Party shall establish appropriate procedures to ensure that information regarding marine pollution incidents or imminent threats thereof are reported as rapidly as possible, and shall, inter alia:

- (a) require its appropriate officials, masters of ships flying its flag and persons in charge of offshore facilities operating under its jurisdiction and/or control to report to it and the nearest coastal state(s) any marine pollution incident or imminent threats thereof; and
- (b) require, when consistent with international law, or request masters of all ships and pilots of all aircraft operating in the vicinity of its coasts to report to it any marine pollution incident or imminent threats thereof of which they are aware.

2. The format of the report to be made pursuant to Article 5, paragraph 1 shall be as provided in the annex.

3. In the event of receiving a report regarding a marine pollution incident, or imminent threats thereof a Contracting Party shall immediately notify the Secretariat and all other Contracting Parties whose interests are likely to be affected by such incident, as well as the flag State of any ship involved in it. The Contracting Party shall also inform such Contracting Parties of the measures it has taken to minimize or reduce marine pollution or the threat thereof.

Article 6

Mutual Assistance

1. Each Contracting Party shall render assistance to other Contracting Parties which request assistance in responding to a marine pollution incident, in accordance with the Regional Contingency Plan.

2. Each Contracting Party shall, subject to its laws and regulations, facilitate the movement into, through and out of its territory of technical personnel, equipment and material necessary for responding to a marine pollution incident.

Article 7

Operational Measures

Each Contracting Party shall, within its capabilities, take steps including those outlined below in responding to a marine pollution incident:

- (a) make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;
- (b) promptly communicate information concerning the incident pursuant to Article 5;
- (c) promptly determine its ability to take effective measures to respond to the incident and the assistance that might be required;

- (d) consult as appropriate with other Contracting Parties concerned in the process of determining the necessary response to the incident; and
- (e) take the measures necessary to prevent, reduce or eliminate the effects of the incident, including monitoring of the situation.

Article 8

Subregional Arrangements

1. With a view to facilitating the implementation of the provisions of this Protocol, and in particular Articles 6 and 7, the Contracting Parties may conclude appropriate bilateral or multilateral subregional arrangements.

2. Contracting Parties to this Protocol which enter into such subregional arrangements shall notify the other Contracting Parties, as well as the Secretariat, of the conclusion of such arrangements.

Article 9

Institutional Arrangements

The Contracting Parties designate the Secretariat to carry out, in co-operation with the International Maritime Organization, the following functions:

- (a) assisting Contracting Parties, upon request, in the following areas:
 - (i) the preparation, periodic (at least annual) review and updating of the regional and national contingency plans referred to in paragraph 2 of Article 3, with a view, inter alia, to promoting the compatibility of the plans of the Contracting Parties, and
 - (ii) publicizing training courses, programmes and material;
- (b) assisting the Contracting Parties upon request, on a regional basis, in the following areas:
 - (i) the co-ordination of regional emergency response activities, and
 - (ii) the provision of a forum for discussion of such activities and related topics;
- (c) establishing and maintaining liaison with concerned national, regional and international organizations;
- (d) maintaining a current inventory of equipment, materials and expertise readily available in the Convention area to deal with a marine pollution incident;
- (e) disseminating information on the prevention and combating of marine pollution incidents;
- (f) identifying or maintaining means for marine emergency response communications;

- (g) assisting the Contracting Parties in the exchange of information pursuant to Article 4 of this Protocol; and
- (h) preparing reports and carrying out other duties assigned to it by the Contracting Parties.

Article 10

National Contingency Plan

The National Contingency Plan referred to in Article 3 of this Protocol shall cover at least the following aspects:

- (a) Allocation of institutional and functional responsibilities for directing and executing operations to prevent, control and clean up spills of oil or other harmful substances;
- (b) Identification of the areas most vulnerable or sensitive to ecological or economic damage which will require special protection;
- (c) The natural, atmospheric and marine conditions prevalent in such vulnerable areas;
- (d) Optimum control and clean-up methods in various circumstances and vulnerable areas;
- (e) Financial and physical resources, such as material and equipment available in the country and in the vulnerable areas, and criteria for the allocation of specialized equipment;
- (f) Plan of action in cases of emergency;
- (g) Arrangements for requesting and using privately-owned assistance;
- (h) List of personnel and institutions involved in the plan of action; and
- (i) Means to provide special concessions permitting the unhindered movement of equipment and personnel necessary for the implementation of this Protocol.

Article 11

Regional Contingency Plan

The Regional Contingency Plan referred to in Article 3 is intended to cover operational aspects of oil spill surveillance and response. It can include, but is not limited to:

- (a) information exchange;
- (b) the use of vessels, aircraft and oil spill response equipment;
- (c) arrangements for the assumption of the lead role by the State in whose waters a pollution incident occurs;
- (d) clear definition of command structure and liaison for joint response operations;

- (e) identification of priority coastal and sea areas;
- (f) arrangements for vessel operation in, or overflying of, the territory of other States; and
- (g) the conduct of paper and live exercises to test the adequacy of the plan.

Article 12

Meetings of the Contracting Parties

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held every year. The Contracting Parties to this Protocol may also hold extraordinary meetings as provided for in Article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties:

- (a) to review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness; and
- (b) to consider measures to improve co-operation under this Protocol including, in accordance with Articles 19 paragraph 2 and 20 paragraph 2 of the Convention, possible amendments to this Protocol.

Article 13

Relationship between this Protocol and the Convention

1. The provisions of the Convention relating to its protocols shall apply to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to Article 21 of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

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

DONE AT this day of one thousand nine hundred and ninety-..... in a single copy in the English language.

Annex

Guidelines for the report to be made
pursuant to Article 5 paragraph 1 of the Protocol

1. Each report shall contain:
 - (a) the identification of the source of pollution (e.g. identity of the ship, fixed or floating platform or any other structure);
 - (b) the geographic position, time and date of the observation or of occurrence of the incident;
 - (c) the marine meteorological conditions prevailing in the area or if not available, in the nearest area; and
 - (d) where the pollution originates from a ship, relevant details concerning the ship's condition.
2. Each report shall also contain in particular:
 - (a) a clear indication or description of the oil or other harmful substances involved, including the correct technical names of such substances, i.e., not only trade names;
 - (b) a statement or estimate of the quantities, concentrations, nature (oil or a noxious liquid, solid or gaseous substance) and likely conditions of oil or other harmful substances discharged or likely to be discharged into the sea such as extent, thickness and likely drift of the spill;
 - (c) where relevant, a description of the packaging and identifying marks; and
 - (d) the name of the consignor, consignee, and producer.
3. Each report shall be supplemented, as necessary, by any relevant information requested by a recipient of the report or deemed appropriate by the person sending the report.
4. Each of the persons referred to in Article 5, paragraph 1 of this Protocol shall:
 - (a) supplement as far as possible the initial report, as necessary, with information concerning further developments; and
 - (b) comply as fully as possible with requests from affected States for additional information.

ANNEX VI

DRAFT PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE
SOUTH ASIAN SEAS REGION BY DUMPING FROM SHIPS AND AIRCRAFT

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas region,

Recognizing the danger posed to the marine environment by pollution caused by the dumping of wastes or other matter from ships and aircraft,

Considering that the coastal States of the South Asian Seas have a common interest in protecting the marine environment from this danger,

Bearing in mind the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, adopted in London in 1972,

Also bearing in mind the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes, Basel, Switzerland 1989 and other relevant existing international agreements,

Have agreed as follows:

Article 1

The Contracting Parties to this Protocol shall take all measures necessary to prevent and abate pollution of the Convention area caused by dumping from ships and aircraft.

Article 2

The area to which this Protocol applies shall be the Convention area as defined in Article 1 of the Convention for the Protection and Management of the Marine and Coastal Environment of the South Asian Seas Region (hereinafter referred to as "the Convention").

Article 3

For the purposes of this Protocol:

1. "Ships and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air-cushioned craft and floating craft, whether self-propelled or not, and fixed or floating platforms and other man-made structures at sea and their equipment.
2. "Wastes or other matter" means material and substances of any kind, form or description.
3. "Dumping" means:
 - (a) Any deliberate disposal at sea of wastes or other matter from ships or aircraft;
 - (b) Any deliberate disposal at sea of ships or aircraft.

4. "Dumping" does not include:

- (a) The disposal at sea of wastes or other matter incidental to, or derived from, the normal operations of ships or aircraft and their equipment, other than wastes or other matter transported by or to vessels or aircraft, operating for the purpose of disposal of such matter, or derived from the treatment of such wastes or other matter on such vessels or aircraft provided such incidental or derivative disposal is in compliance with all applicable international law and national legislation;
- (b) Placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Protocol, and is in compliance with all applicable international law and national legislation.

5. "Secretariat" means the body referred to in Article 16 of the Convention.

Article 4

The dumping from ships and aircraft of any Contracting Party or any other country into the Convention area of wastes or other matter listed in annex I to this Protocol is prohibited.

Article 5

The dumping from ships and aircraft of any Contracting Party or any other country in the Convention area of wastes or other matter listed in annex II to this Protocol requires, in each case, a prior special permit to be issued from the competent national authorities, after consultation with the other Contracting Parties.

Article 6

The dumping from ships and aircraft of any Contracting Party or any other country in the Convention area of all other wastes or other matter not listed in annexes I or II to this Protocol requires, in each case, a prior general permit from the competent national authorities.

Article 7

The permits referred to in Article 5 and 6 above shall be issued only after careful consideration of all the factors set forth in annex III to this Protocol including prior studies of the characteristics and properties of the wastes or other matter, the characteristics of the dumping site and the practical availability of alternative land-based methods of treatment, disposal or elimination as set forth in that annex. The Secretariat shall receive records of such permits.

Article 8

If a Contracting Party in a critical situation of an exceptional nature considers that wastes or other matter listed in Annex I to this Protocol cannot be disposed of on land without unacceptable danger or damage, above all for the safety of human life or the environment, the Contracting Party concerned shall forthwith request the Secretariat to consult with the Contracting Parties and the competent international organizations. The Secretariat, after so consulting them, shall recommend methods of storage or the most satisfactory means of destruction or disposal under the prevailing circumstances. The Contracting Party shall inform the Secretariat of the steps adopted in pursuance of these recommendations. The Contracting Parties pledge to assist one another in such situations.

Article 9

1. Each Contracting Party shall designate one or more competent authorities to:
 - (a) Issue the special permits in a manner consistent with Article 5;
 - (b) Issue the general permits in a manner consistent with Article 6;
 - (c) Keep records of the nature and quantities of the wastes or other matter permitted to be dumped and of the location, date, and method of dumping.
2. Each Contracting Party shall notify the Secretariat forthwith of the identity, and means of communicating with, the competent authority designated pursuant to this article.
3. The competent authorities of each Contracting Party shall be responsible to issue the permits provided for in Articles 5 and 6 in respect of the wastes or other matter intended for dumping which are:
 - (a) Loaded by a ship or aircraft in its territory;
 - (b) Loaded by a ship or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not a Contracting Party to this Protocol.

Article 10

1. Each Contracting Party shall apply the measures required to implement this Protocol to all:
 - (a) Ships and aircraft registered in its territory or flying its flag;
 - (b) Ships and aircraft loading in its territory wastes or other matter which are to be dumped;
 - (c) Ships and aircraft believed to be engaged in dumping in areas under its jurisdiction in this matter.
2. This Protocol shall not apply to any ships or aircrafts owned or operated by a Contracting Party to this Protocol and used for the time being only on government non-commercial service. However, each Contracting Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships or aircraft owned or operated by it, that such ships and aircraft act in a manner consistent, so far as is reasonable and practicable, with this Protocol.

Article 11

Each Contracting Party undertakes to issue instructions to its maritime inspection ships and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the Convention area which give rise to suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur. That Contracting Party shall report accordingly to any other Contracting Party concerned.

Article 12

Nothing in this Protocol shall affect the right of each Contracting Party to adopt other measures, in accordance with the principles of international law, to prevent pollution due to dumping. The Contracting Parties shall endeavour to harmonize legislation to enforce the provisions of this Protocol.

Article 13

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 17 of the Convention. The Contracting Parties to this Protocol may also hold extraordinary meetings in conformity with Article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties to this Protocol:

- (a) To keep under review the implementation of this Protocol, and to consider the efficacy of the measures adopted and the need for any other measures, in particular in the form of annexes;
- (b) To study and consider the records of the permits issued in accordance with Articles 5, 6 and 7 and of the dumping which has taken place;
- (c) To review and amend any annex to this Protocol;
- (d) To discharge such other functions as may be appropriate for the effective implementation of this Protocol.

3. The adoption of amendments to this Protocol or to the appendices to this Protocol pursuant to Article 19 of the Convention shall require a consensus of the Contracting Parties present at a meeting convened in accordance with this Article.

Article 14

1. The provisions of the Convention relating to any protocol shall apply with respect to the present Protocol.

2. The rules of procedure and the financial rules adopted pursuant to Article 21 of the Convention shall apply with respect to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

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

DONE at this day of one thousand nine hundred and ninety- in a single copy in the English language.

Annex 1

The following substances and materials are listed for the purposes of Article 4 of this Protocol.

1. Organohalogen compounds and compounds which may form such substances in the marine environment, excluding those which are non-toxic or which are rapidly converted in the sea into substances which are biologically harmless, provided that they do not make edible marine organisms unpalatable.
2. Organosilicon compounds which may form such substances in the marine environment, excluding those which are non-toxic or which are rapidly converted in the sea into substances which are biologically harmless, provided that they do not make edible marine organisms unpalatable.
3. Mercury and mercury compounds.
4. Cadmium and cadmium compounds.
5. Persistent plastic and other persistent synthetic materials which may materially interfere with fishing or navigation, reduce amenities, or interfere with other legitimate uses of the sea.
6. Crude oil and hydrocarbons which may be derived from petroleum, and any mixtures containing any of these, taken on board for the purpose of dumping.
7. High- and medium- and low-level radioactive wastes or other high- and medium and low-level radioactive matter to be defined by the International Atomic Energy Agency.
8. Acid and alkaline compounds of such composition and in such quantity that they may seriously impair the quality of sea-water. The composition and quantity to be taken into consideration shall be determined by the Contracting Parties in accordance with the procedure laid down in Article 13, paragraph 3, of this Protocol.
9. Materials in whatever form (e.g. solids, liquids, semi-liquids, gases or in a living state) produced for biological and chemical warfare, other than those rapidly rendered harmless by physical, chemical or biological processes in the sea, providing that they do not:
 - (i) Make edible marine organisms unpalatable; or
 - (ii) Endanger human or animal health.

This annex does not apply to wastes or other materials, such as sewage sludge and dredge spoils, containing the substances referred to in paragraphs 1 through and including 6 above as trace contaminants. The dumping of such wastes shall be subject to the provisions of annexes II and III as appropriate.

Annex II

The following wastes and other matter, the dumping of which requires special care, are listed for the purposes of Article 5 of this Protocol.

1. (i) Arsenic, lead, copper, zinc, beryllium, chromium, nickel, vanadium, selenium, antimony and their compounds;

(ii) Cyanides and fluorides;

(iii) Pesticides and their by-products not covered in Annex I;

(iv) Synthetic organic chemicals, other than those referred to in annex I, likely to produce harmful effects on marine organisms or to make edible marine organisms unpalatable.
2. (i) Acid and alkaline compounds the composition and quantity of which have not yet been determined in accordance with the procedure referred to in annex I, paragraph 8.

(ii) Acid and alkaline compounds not covered by annex I, excluding compounds to be dumped in quantities below thresholds which shall be determined by the Contracting Parties in accordance with the procedure laid down in Article 13, paragraph 3, of this Protocol.
3. Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.
4. Substances which, though of a non-toxic nature, may become harmful owing to the quantities in which they are dumped, or which are liable to reduce amenities seriously or to endanger human life or marine organisms or to interfere with navigation.
5. Radioactive waste or other radioactive matter which will not be included in annex I. In the issue of permits for the dumping of this matter, the Contracting Parties should take full account of the recommendations of the competent international body in this field, at present the International Atomic Energy Agency.

Annex III

The factors to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea taking into account Article 7 of this Protocol include:

A. CHARACTERISTICS AND COMPOSITION OF THE MATTER

1. Total amount and average compositions of matter dumped (e.g. per year).
2. Form (e.g. solid, sludge, liquid or gaseous).
3. Properties: physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeast, parasites).
4. Toxicity.
5. Persistence: physical, chemical and biological.
6. Accumulation and biotransformation in biological materials or sediments.
7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.
8. Probability of production of taints or other changes reducing marketability of resources (fish, shellfish, etc.).

B. CHARACTERISTICS OF DUMPING SITE AND METHOD OF DEPOSIT

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed method of release, particularly the speed of the ship.
5. Dispersal characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).
6. Water characteristics (e.g. temperature, pH, salinity, stratification, oxygen indices of pollution-dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD), nitrogen present in organic and mineral form, including ammonia, suspended matter, other nutrients and productivity).
7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity).
8. Existence and effects of other dumpings which have been made in the dumping area (e.g. heavy metal background reading and organic carbon content).

9. When issuing a permit for dumping, the Contracting Parties shall endeavour to determine whether an adequate scientific basis exists for assessing the consequences of such dumping in the area concerned, in accordance with the foregoing provisions and taking into account seasonal variations.

C. GENERAL CONSIDERATIONS AND CONDITIONS

1. Possible effects on amenities (e.g. presence of floating or stranded material, turbidity, objectionable odour, discolouration and foaming).

2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, sea-weed harvesting and culture.

3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structures, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance for scientific or conservation purposes).

4. The practical availability of alternative land-based methods of treatment, disposal or elimination or of treatment to render the matter less harmful for sea dumping.

