

No. 22693

**DENMARK
and
CANADA**

Agreement for cooperation relating to the marine environment (with annexes). Signed at Copenhagen on 26 August 1983

*Authentic texts: Danish, English and French.
Registered by Denmark on 1 February 1984.*

**DANEMARK
et
CANADA**

Accord de coopération concernant le milieu marin (avec annexes). Signé à Copenhague le 26 août 1983

*Textes authentiques : danois, anglais et français.
Enregistré par le Danemark le 1^{er} février 1984.*

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF CANADA FOR CO-OPERATION RELATING TO THE MARINE ENVIRONMENT

The Government of the Kingdom of Denmark and the Government of Canada, Conscious of the economic and social importance of the marine environment of the waters lying between Canada and Greenland and of its living resources,

Conscious of their responsibility to protect and enhance this unique marine environment for the benefit of their peoples,

Taking into account the developments at the Third United Nations Conference on the Law of the Sea, in particular the text on “ice-covered areas”,

Conscious of the risk of pollution incidents resulting from the expansion of economic activities in the said waters,

Convinced of the need to cooperate closely in preventing and responding to pollution incidents which may result from such activities,

Desiring to develop further bilateral cooperation in respect of the protection of the marine environment, particularly with respect to preparedness measures as a contingency against pollution incidents that may affect the marine environment of these waters,

Have agreed as follows:

Article I. DEFINITIONS

For the purpose of this Agreement:

(a) “Areas of responsibility”, unless otherwise provided by any annex to this Agreement for the purpose of that annex, means, with respect to Canada, those areas of Nares Strait, Baffin Bay and Davis Strait lying between Canada and Greenland west of the dividing line established by the Agreement between the Government of the Kingdom of Denmark and the Government of Canada relating to the delimitation of the continental shelf between Greenland and Canada, signed at Ottawa on December 17, 1973;² with respect to Denmark, those areas of Nares Strait, Baffin Bay and Davis Strait east of the above-mentioned dividing line; and areas resulting from any subsequent delimitation as may be agreed between the two Governments.

(b) “Area covered by this Agreement” means the areas of responsibility of both Parties.

(c) “Harmful substance” means any substance, including hydrocarbons, the escape or discharge of which is liable to create a hazard to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea and adjacent coastal areas.

(d) “Pollution incident” means an event or series of events having the same origin involving the actual or probable escape or discharge of any harmful substance or effluents containing such substance into the sea.

(e) “Parties” means the Government of Canada and the Government of the Kingdom of Denmark.

¹ Came into force on 26 August 1983 by signature, in accordance with article XIV.

² United Nations, *Treaty Series*, vol. 950, p. 147.

Article II. APPLICATION

This Agreement applies to the prevention, reduction and control of pollution of the marine environment resulting from activities within the area covered by this Agreement.

Article III. POLLUTION PREVENTION

1. In implementing this Agreement the Parties shall cooperate fully in order to protect the marine environment within their areas of responsibility.

2. Each Party shall, as appropriate and in accordance with international law, comply with a request from the other Party to investigate violations of legislation for the prevention, reduction and control of pollution that are alleged to have occurred within the former's area of responsibility.

Article IV. NOTIFICATION AND CONSULTATION

1. Prior to the initiation of any works or undertakings in its area of responsibility which may create a significant risk of pollution in the area of responsibility of the other Party, each Party on its own initiative or at the request of the other Party shall provide the other Party with all relevant information and data, the transmission of which is not prohibited by their respective laws or subject to any understanding with respect to confidentiality, and shall invite the comments of the other Party.

2. Each Party shall enter into consultations at the request of the other Party on any works or undertakings referred to in paragraph 1 and shall pursue such consultations over a reasonable period of time. Such consultations, held in the best spirit of cooperation and good neighbourliness, shall not be used by a Party to delay unreasonably or to impede the works or undertakings on which consultations are taking place.

Article V. INSTALLATIONS

The Parties shall take measures to ensure that installations engaged in exploration for or exploitation of the natural resources of the seabed and subsoil in their respective areas of responsibility are designed, constructed, placed, equipped, marked, operated and maintained in such a manner that the risk of pollution of the marine environment is minimized.

Article VI. EXCHANGE OF SCIENTIFIC AND OTHER INFORMATION

1. The Parties shall cooperate for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired relating to pollution of the marine environment, subject to their respective laws or any understanding with respect to confidentiality. In particular the Parties shall cooperate as appropriate in:

- (a) Complementary or joint scientific research programmes for observation of the quality of the marine environment;
- (b) The development of compatible marine pollution measurement methods;
- (c) The development of methods to assess the risk and extent of damage related to any introduction of harmful substance into the marine environment.

2. At the request of a Party, and when appropriate, the other Party shall provide information on existing or proposed legislative, regulatory or other governmental control measures that may affect the marine environment in the former's area of responsibility.

3. The Parties shall at the request of either Party, or at reasonable intervals agreeable to both Parties, hold consultations on any subject covered by this article.

Article VII. VESSEL TRAFFIC

1. The Parties shall cooperate and assist each other in their respective vessel traffic management or ship reporting services in relation to ships navigating in the area covered by this Agreement.

2. (i) The Parties shall cooperate in identifying, monitoring and reviewing as necessary appropriate routing areas for vessels in the area covered by this Agreement outside territorial waters with a view to avoiding harmful effects to the marine environment and to the economic and social conditions in the area covered by this Agreement.

(ii) In assessing the need for such cooperation the Parties shall take into account the type of vessels, the frequency of passage, the nature of cargoes, the means of propulsion, the ice conditions and such other factors as may pose a particular hazard to the marine environment.

Article VIII. COMPENSATION

The Parties shall endeavour to ensure that adequate compensation is available in respect of damage and related clean-up costs caused by pollution of the marine environment from installations engaged in exploration for or exploitation of the natural resources of the seabed and subsoil in their respective areas of responsibility.

Article IX. FACILITATION OF ACCESS

Each Party shall facilitate, in accordance with its laws and regulations, entry into its area of responsibility of vessels, aircraft, personnel or equipment of the other Party taking part in response operations referred to in the Annexes to this Agreement.

Article X. RELATIONSHIP TO OTHER AGREEMENTS

1. Nothing in this Agreement shall prejudice the position of either Party regarding matters not directly covered by this Agreement in other bilateral relations or in multilateral relations.

2. Nothing in this Agreement shall prejudice the codification and development of the law of the sea resulting from the Third United Nations Conference on the Law of the Sea nor, in this connection, the present or future claims and legal views of either Party concerning the nature and extent of coastal and flag state jurisdiction.

Article XI. ANNEXES

1. Any annex to this Agreement shall form an integral part of this Agreement.

2. The Parties may agree on additional annexes which shall enter into force as provided for in an exchange of notes between the Parties.

Article XII. AMENDMENT

1. This Agreement may be amended by an exchange of notes between the Parties.

2. Any annex to this Agreement may be amended as provided therein.

3. In addition, any supplements to an annex may be agreed upon and amended as provided in the annex.

Article XIII. SETTLEMENT OF DISPUTES

1. In case of a dispute between the Parties as to the interpretation or application of this Agreement, they should seek a solution by negotiation.

2. If the Parties have not been able to resolve their dispute through negotiations within a period of 6 months, such dispute shall be submitted to an *ad hoc* tribunal at the request of either Party.

3. The *ad hoc* tribunal shall consist of three members. The parties shall each appoint one member. The two members shall jointly appoint the President of the tribunal. If the President of the tribunal has not been appointed within six months, either Party may request the President of the International Court of Justice to make the appointment. The *ad hoc* tribunal may establish its own rules of procedure.

Article XIV. ENTRY INTO FORCE AND TERMINATION

This Agreement shall enter into force upon signature by the duly authorized representatives of the Parties and shall remain in force until terminated upon six months notice given in writing by one of the Parties to the other.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

DONE in two copies at Copenhagen, this twenty-sixth day of August one thousand nine hundred and eighty-three in English, French and Danish, each version being equally authentic.

For the Government of the Kingdom of Denmark:

TOM HØYEM

For the Government of Canada:

JOHN C. MUNRO

ANNEX A

JOINT CONTINGENCY PLAN CONCERNING POLLUTION INCIDENTS RESULTING FROM
OFFSHORE HYDROCARBON EXPLORATION OR EXPLOITATION

Paragraph 1. 1.1. For the purpose of this annex, “areas of responsibility” means, with respect to Canada, those areas of Nares Strait, Baffin Bay and Davis Strait between Canada and Greenland west of the dividing line established by the Agreement between the Government of the Kingdom of Denmark and the Government of Canada relating to the delimitation of the continental shelf between Greenland and Canada, signed at Ottawa on December 17, 1973, and, with respect to Denmark, those areas of Nares Strait, Baffin Bay and Davis Strait east of the above-mentioned dividing line, and further shall include those areas of the Labrador Sea in which, in accordance with international law, Canada and Denmark have, respectively, sovereign rights.

1.2. The Party within whose area of responsibility a pollution incident occurs shall make an assessment of the nature and extent of the pollution incident or, as the case may be, of the type and approximate quantity of harmful substances floating on, or suspended in the sea, and the direction and speed of movement of such substances.

1.3. In its area of responsibility, each Party shall respond expeditiously and to the best of its ability to a pollution incident that affects or threatens to affect the area of responsibility of the other Party.

1.4. When a pollution incident occurs, each Party shall respond expeditiously and to the best of its ability to a call for assistance from the other Party.

1.5. Action taken by a Party in accordance with this paragraph shall be consistent with its relevant laws and regulations and subject to the operational requirements or other obligations of the appropriate agencies of each Party.

Paragraph 2. 2.1. Information shall be exchanged regarding drilling operations and related matters. Such information shall be exchanged when plans are being considered for approval, during drilling operations and in the phases subsequent to the completion of drilling.

2.2. The Parties shall exchange information on the status and implementation of their respective pollution contingency plans including the contingency plans of concessionaires/operators.

2.3. Exchange of information between the Parties in accordance with this paragraph shall be subject to their respective laws or any understanding with respect to confidentiality.

2.4. The Parties shall keep each other informed of:

- (I) The agencies responsible for coordinating response operations in the event of a pollution incident,
- (II) The organizations and officials responsible within the aforementioned agencies,
- (III) The procedures to initiate the contingency plans for the areas concerned,
- (IV) Such personnel, equipment and other resources as may be available.

Paragraph 3. 3.1. In the event of a pollution incident that affects or threatens to affect the areas of responsibility of both Parties, the Party in whose area of responsibility the pollution incident has occurred shall immediately notify the other Party. The notification shall if possible include:

- (I) The geographical position of the pollution incident,
- (II) The source of the pollution incident,
- (III) A description of the nature of the pollution incident and of the type and amount of the harmful substance,
- (IV) Other relevant details and such further information as may reasonably be requested by the other Party.

3.2. The notifying Party and the Party receiving notification shall keep each other fully informed of developments relating to the pollution incident, and of any action they may take or plan to take in order to combat the pollution incident.

Paragraph 4. 4.1. The Party in whose area of responsibility the pollution incident occurs shall, upon request by the other Party, provide facilities for a representative or representatives of the other Party to observe the planning, evaluation and implementation of response operations to combat the pollution incident.

Paragraph 5. 5.1. The Party in whose area of responsibility a pollution incident occurs shall supervise and command response operations within such area by designating an On-Scene Commander (OSC), who for this purpose need not necessarily be located in the geographical position of the incident.

5.2. In the event of a pollution incident that affects or threatens to affect the areas of responsibility of both Parties, or in the event of a request for assistance to the other Party, the OSC shall be assisted by a Deputy On-Scene Commander (DOSC) appointed by the Party

which is not providing the OSC. The DOSC shall also act as the direct liaison between the OSC and the Agencies of the Government which the DOSC represents.

5.3. In the event of a pollution incident which necessitates the extension of response operations into the area of responsibility of the other Party, the Parties shall determine whether and when a shift of supervision and command from one Party to the other may be required by the circumstances of the pollution incident; in such event, the DOSC shall prepare suitable arrangements for such shift of supervision and command or for the coordination of response operations by both Parties.

Paragraph 6. 6.1. The Party in whose area of responsibility a pollution incident occurs shall bear all direct costs of response operations:

- (I) Taken by the other Party upon request of the OSC,
- (II) Taken by the other Party as agreed between the OSC and DOSC,
- (III) Taken by the other Party in its area of responsibility as may be necessary and reasonable as an immediate response pending the appointment of an OSC and DOSC, in the event that such pollution incident affects or threatens to affect the areas of responsibility of that Party.

6.2. The provisions of this paragraph shall apply as between the two Parties, without prejudice to rights of recovery against third parties. The Party to whom costs of response operations are reimbursed will assist as appropriate the other Party in exercising a right of recovery against a third party including the provision of documentation and witnesses.

Paragraph 7. 7.1. Agencies designated by the respective parties may agree to amendments to this annex. Such amendments shall come into force on signature.

7.2. The appropriate agencies of the Parties may agree on and amend any supplement regarding operational implementation of this annex.

ANNEX B

JOINT CONTINGENCY PLAN CONCERNING POLLUTION INCIDENTS RESULTING FROM SHIPPING ACTIVITIES

Paragraph 1. 1.1. For the purpose of enhancing the safety of shipping and to protect the marine environment, the Parties shall endeavour to exchange current information as appropriate on the nature and movement of shipping in the area covered by this Agreement.

1.2. The Parties shall exchange information on the status and implementation of their respective ship-source pollution contingency plans.

1.3. Exchange of information between the Parties in accordance with this Paragraph shall be subject to their respective laws or any understanding with respect to confidentiality.

1.4. The Parties shall keep each other informed of:

- (I) The agencies responsible for coordinating response operations in the event of a ship-source pollution incident,
- (II) The organizations and officials responsible within the aforementioned agencies,
- (III) The procedures to initiate the contingency plans for the areas concerned,
- (IV) Such personnel, equipment and other resources as may be available.

Paragraph 2. 2.1. The Parties undertake to request the masters of all ships and pilots of all aircraft in the area covered by this Agreement to report without delay through the channels which may be most practicable and adequate in the circumstances:

- (I) Any casualty that is causing or likely to cause a pollution incident,
- (II) The presence, nature and extent of harmful substances likely to constitute a serious threat to the coast or related interests of one of the Parties.

Paragraph 3. 3.1. In the event of a pollution incident, the Party within whose area of responsibility the incident occurs shall make an assessment of the nature and extent of the pollution incident in order to enable that Party to decide whether to initiate a response operation to combat the pollution incident. In making such assessment the Parties shall take into account the type and quantity of harmful substances and their direction and speed.

Paragraph 4. 4.1. In the event of a pollution incident that affects or threatens to affect the areas of responsibility of both Parties, the Party in whose area of responsibility the pollution incident has occurred shall immediately notify the other Party in order to enable the latter Party to decide whether to initiate a response operation to combat the pollution incident. The notification shall if possible include:

- (I) The geographical position of the pollution incident,
- (II) The source of the pollution incident,
- (III) A description of the nature of the pollution incident and of the type and amount of the harmful substance,
- (IV) Other relevant details and such further information as may reasonably be requested by the other Party.

4.2. The notifying Party and the Party receiving notification shall keep each other fully informed of developments relating to the pollution incident, and of any action they may take or plan to take in order to combat the pollution incident.

Paragraph 5. 5.1. When a pollution incident occurs, each Party shall respond expeditiously and to the best of its ability to a call for assistance from the other Party.

5.2. Action taken by a Party in accordance with this paragraph shall be consistent with its relevant laws and regulations and subject to the operational requirements or other obligations of the appropriate agencies of each Party.

Paragraph 6. 6.1. The Party in whose area of responsibility the pollution incident occurs shall, upon request by the other Party, provide facilities for a representative or representatives of the other Party to observe the planning, evaluation and implementation of response operations to combat the pollution incident.

Paragraph 7. 7.1. Response operations to combat a pollution incident shall be supervised by the Party initiating the response operation who shall designate an On-Scene Commander (OSC), who for this purpose need not necessarily be located in the geographical position of the incident.

7.2. When a Party calls on the other Party for assistance in response to a pollution incident, the first Party shall retain command of the combined operation and the other Party may appoint a Deputy On-Scene Commander (DOSC).

7.3. A shift of supervision and command of combined operations from one Party to the other may be determined by the Parties in light of the development of the response operation.

Paragraph 8. 8.1. The costs of a response operation shall be borne by the Party initiating the operation.

8.2. If however, a Party calls upon the other Party for assistance, the first Party shall bear all direct costs of such operations taken by the other Party upon request.

8.3. Notwithstanding paragraph 8.1., any measure taken by a Party that is necessary and reasonable as immediate response pending designation of the OSC does not constitute initiation of a response operation for the purposes of this Agreement.

8.4. The costs of a response operation subsequent to a shift of supervision and command from one Party to another pursuant to paragraph 7.3 shall be borne by the latter Party.

8.5. The provisions of this Paragraph shall apply as between the two Parties, without prejudice to rights of recovery against third parties. The Party to whom costs of response operations are reimbursed will assist as appropriate the other Party in exercising a right of recovery against a third party including the provision of documentation and witnesses.

Paragraph 9. 9.1. Agencies designated by the respective Parties may agree to amendments to this annex. Such amendments shall come into force upon signature.

9.2. The appropriate agencies of the Parties may agree on and amend any supplement regarding operational implementation of this annex.
