

**INSROP WORKING PAPER  
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**Matters of Responsibility for Marine Pollution  
under the Legislation of the Russian Federation.  
(Review of the Main Legislative Acts)**

**By A.L. Kolodkin, O.V. Kulistikova  
and E.M. Mokhova**

**INSROP International Northern Sea Route Programme**



Central Marine  
Research & Design  
Institute, Russia



The Fridtjof  
Nansen Institute,  
Norway



Ship and Ocean  
Foundation,  
Japan

## International Northern Sea Route Programme (INSROP)

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Foundation,  
Japan



# INSROP WORKING PAPER NO. 88-1997

Sub-programme IV: Political, Legal and Strategic Factors

Project IV.3.1: International Law and Russian Arctic Waters

Supervisors: Anatoly Kolodkin and R. Douglas Brubaker

**Title:** **Matters of Responsibility for Marine Pollution under the Legislation of the Russian Federation. (Review of the Main Legislative Acts)**

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INSROP is a direct result of the normalization of the international situation and the Murmansk initiatives of the former Soviet Union in 1987, when the readiness of the USSR to open the NSR for international shipping was officially declared. The Murmansk Initiatives enabled the continuation, expansion and intensification of traditional collaboration between the states in the Arctic, including safety and efficiency of shipping. Russia, being the successor state to the USSR, supports the Murmansk Initiatives. The initiatives stimulated contact and cooperation between CNIIMF and FNI in 1988 and resulted in a pilot study of the NSR in 1991. In 1992 SOF entered INSROP as a third partner on an equal basis with CNIIMF and FNI.

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## INTRODUCTION

The present Working Paper, “Matters of Responsibility for Marine Pollution under the Legislation of the Russian Federation (Review of the Main Legislative Acts of the ex-USSR and the Russian Federation)” has been prepared by the Association of the International Maritime Law of Russia within the framework of the International Northern Sea Route Programme’s Project 3.1 - “International Law and the Russian Arctic Waters”, Sub-programme IV - “Political, Legal and Strategic Factors”.

The present Working Paper is the second version of the Working Paper on this subject. The first version of the Working Paper on this subject was prepared by N.D.Koroleva, V.J.Markov, V.V.Mikhailichenko and A.P.Ushakov. Remarks concerning the first version were made by Mr.Tullio Scovazzi, which were thoroughly analyzed by the Association of the International Maritime Law of Russia. For that reason a decision was taken to change the structure of the Working Paper on the present subject, and the approach towards the presentation of the material.

The present Working Paper on this subject contains a review of the main legislative acts of the ex-USSR and the Russian Federation systematized by the

responsibility types: civil (property), criminal and administrative. Besides, the issues of responsibility for marine pollution are considered in the present Working Paper in accordance with the draft of the new Merchant Shipping Code of the Russian Federation which nowadays is at the State Duma of the Federal Assembly of the Russian Federation and which contains two sections on pollution: “Liability for Damage Caused by Oil Pollution from Ships” and “Liability for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea”.

The present Working Paper includes Mr. Tullio Scovazzi’s comments on the first version of the Working Paper on this subject and answers of the present Working Paper’s authors. An attempt has been made in the answers to substantiate the necessity of preparing a new version, the second one, of the Working Paper on this subject, rather than making corrections in accordance with the comments on the first version of the Working Paper.

A list of references is attached to the present Working Paper.

# **1. Matters of Responsibility for Marine Pollution under the Legislation of the Russian Federation (Review of the Main Legislative Acts)**

Under the legislation of the Russian Federation, responsibility for marine pollution, as well as for violation of the laws and regulations relating to marine pollution prevention, can be civil (property liability), criminal and administrative.

## **1.1. Civil (Property) Liability for Marine Pollution**

Civil (property) liability for marine pollution is determined by general norms of the civil and maritime legislation of the Russian Federation, and emerges in connection with damage caused by such pollution.

In compliance with the provisions of the Civil Code of the Russian Federation (hereinafter - the CCRF), concerning general grounds for liability for inflicting harm (article 1054 of the CCRF), harm caused to the personality or property of an individual as well as harm done to the property of a legal entity, is subject to indemnification in full by the person who caused the harm. The law can impose the obligation to compensate harm on a person who is not a harm-doer. The law or an agreement can obligate the harm-doer to pay the

aggrieved person a compensation exceeding the indemnification for harm done. A person who caused harm may be relieved from indemnification if proven not guilty of doing harm. Besides that, the law can provide for indemnification even if the accused's guilt is absent. Harm caused by justified actions is subject to indemnification in cases provided for by the law.

Under art.15 of the CCRF, real damage, being a kind of loss, is understood as expenditures that a person whose right is violated, paid or will have to pay for restoring the violated right and lost or damaged property. Art.1082 of the CCRF provides for two ways of indemnification: a person responsible for causing harm must compensate the harm in kind (to provide a thing of the same kind and quality, to repair the damaged thing, etc.) or reimburse loss.

As regards marine pollution, the ways of indemnification are limited, since here a substitution by a thing of the same kind and quality is impossible, just as it is impossible to evaluate damages, because the marine environment has no value form. Therefore, restoration of the marine environment must be considered as the only way of correcting harm caused to it. The expenditures involved in removal of pollution may be exacted from the guilty only after appropriate restoration measures have been taken.

Regulation of matters of liability for damages caused by oil pollution, and connected with the transportation by sea of hazardous and harmful substances is virtually non-existent in the legislation of the Russian Federation. The 1981 Decree of the USSR Supreme Soviet Presidium "On the Amount of Indemnification Paid by a Ship-Owner for Damage Caused by Polluting the Sea with Oil and Other Substances Harmful to Human Health and Marine Life", establishes an extremely low level of indemnification, taking into account the inflation and aggravation of ecological consequences of damage caused by oil pollution and transportation of hazardous and harmful substances by sea.

Thus, under the above Decree it is established that a ship-owner compensates losses caused by the pollution of the sea with oil from a ship or other floating craft at the rate calculated in compliance with the current legislation, but not above the total based on the rate of 120 rubles per each registered tonne of ship's gross tonnage, and on condition that the sum must not exceed 12.5 million rubles per single event of pollution. A ship-owner indemnifies for losses caused by the pollution of the sea from a ship or other floating craft with substances harmful to human health or marine life, or with other wastes and materials, based on the same rate. In cases where a ship-owner is directly to blame for losses, the limits of liability provided for by this Decree

are not applied. No other rules and procedures are established by the above Decree.

Moreover, pursuant to clause 5 of the Regulations for Navigation on the Seaways of the Northern Sea Route, 1990, vessels lacking documentation of due financial security with respect to the civil liability of the Owner for damage inflicted by polluting marine environment and the Northern Coast of Russia, are not permitted to navigate the Northern Sea Route.

A draft of a new Merchant Shipping Code has now been prepared. It has been approved by the Russian Federation Government as satisfactory to put before the State Duma of the Russian Federation Federal Assembly. Unlike the 1968 Merchant Shipping Code of the USSR, which is currently effective on the territory of the Russian Federation and does not include regulations relating to these matters, the draft of the new Merchant Shipping Code of the Russian Federation devotes two sections to the matters of liability and indemnification for damage caused by marine pollution: "Liability for Damage Caused by Oil Pollution from Ships" and "Liability for Damage in Connection with the Carriage of Hazardous and Noxious Substances".

The “Liability for Damage Caused by Oil Pollution from Ships” section of the draft of the new Russian Federation Shipping Code is based on the provisions of the 1969 International Convention on civil liability for oil pollution damage (the Russian Federation is a party to the Convention), with the Amendments to the Convention made by the 1976 and 1992 Protocols taken into account (the Russian Federation is a party to the 1976 Protocol and is currently preparing materials for the ratification of the 1992 Protocol). The regulations of this section will be applied on the territory of the Russian Federation, including the territorial sea, and in its exclusive economic zone. Under the regulations of the section, liability for any oil pollution damage caused by a vessel will be incurred by the ship-owner, who, however, may be relieved of the liability if it proves that the damage has resulted from: a) military or hostile activities, public unrest or force majeure; b) action or omission by third persons with the intention of causing damage; c) failures of lights and other navigational facilities owing to negligence or other unlawful action of the authorities responsible for keeping those facilities in order; d) design or gross carelessness of the affected person. Under the regulations of the section, the owner of a vessel carrying more the 2000 tonnes of oil in bulk, in order to cover his liability for pollution damage shall be obliged to arrange for insurance or provide some other financial security for the sum amounting to the limit of his liability for pollution damage.

The “Liability for Damage in Connection with the Carriage of Hazardous and Noxious Substances” section of the draft of the new Russian Federation Shipping Code is based on the provisions of the 1996 International Convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea (the Russian Federation is currently preparing materials for signing the Convention according to established procedure). Under the regulations of the section, the damage owing to the transportation by sea of hazardous and noxious substances will comprise any damage caused on the territory of the Russian Federation, including the territorial sea, pollution damage to the environment inflicted in the exclusive economic zone of the Russian Federation, damage inflicted outside the limits of the Russian Federation territory, other than environment pollution damage by hazardous and noxious substances transported aboard a vessel sailing under the State flag of the Russian Federation. Under the regulations of the section, a ship-owner incurs liability for any damage inflicted by hazardous and noxious substances. A ship-owner is relieved of liability if there is proof that the damage has resulted from: a) military or hostile activities, public unrest or force majeure; b) action or omission by third parties with the intention of causing damage; c) negligence or other unlawful action by the authorities responsible for keeping lights and other navigational facilities in order; d) failure of a

consignor to provide information about the hazardous or harmful character of the substances, which has caused damage or resulted in the failure of a ship-owner to obtain proper insurance; d) design or gross carelessness of the affected person. Under the regulations of the section, in order to cover his liability for damage, it is the duty of the owner of a vessel actually carrying hazardous or noxious substances to arrange for insurance or provide some other financial security for the sum amounting to the established limit of his liability.

It appears that the adoption of the new Merchant Shipping Code of the Russian Federation being the main legislative act in Russia, regulating relations in merchant shipping, two sections of which include rules relating to liability and indemnification for damage caused by marine pollution, will fill the existing gap in the legislation of the Russian Federation and ensure appropriate regulation of matters relating to the liability for marine pollution, with uniform international rules and procedures taken into account.

## 1.2. Criminal responsibility for marine pollution

Criminal responsibility for marine pollution is provided for by art.252, “Marine Pollution”, of the 1996 Penal Code of the Russian Federation” (hereinafter - the PCRFB).

Under art.252 of the PCRFB, a person is brought to criminal responsibility if guilty of:

- marine pollution from land-based sources;
- marine pollution owing to violation of the rules regulating burial or discharge of substances and materials harmful to human health and marine life from vessels or artificial installations erected at sea;
- preventing lawful use of the marine environment.

Under art.252 of the PCRFB, the following penal measures may be imposed for violations relating to marine pollution:

- monetary penalty;
- deprivation of eligibility for certain positions and for certain types of activities;
- corrective labor;
- arrest;

- confinement.

Thus, under part 1 of art.252 of the PCRFB, marine pollution: from land-based sources or resulting from violating the rules regulating burial and discharge of materials harmful to human health and marine life from transportation facilities, or from artificial installations erected at sea, or through preventing lawful use of the marine environment -- is punishable by a fine amounting to 200 to 500 minimal wages or amounting to the wages or other income of the convicted earned during a period of 2 to 5 months, or by deprivation of eligibility to hold certain positions or perform certain activities for up to 5 years, or corrective labor for a period of up to 2 years, or by arrest for a period of up to 4 months. The same acts but causing substantial harm to human health, fauna or flora, fishing stock, environment, recreation areas or other interests protected by the law - are punishable by confinement for a term of up to 3 years accompanied by a fine amounting to 50 to 100 minimal wages or amounting to the wages or other earnings derived by the convicted during a period of up to 1 month (part 2 of art.252 of the PCRFB). The acts specified in parts 1 or 2 of art.252 of the PCRFB, which through carelessness result in human death, are punishable by confinement for a term of 2 to 5 years (part 3 of art.252 of PCRFB).

Criminal responsibility for marine pollution is also stipulated by art.85 of the 1991 Law of the RSFSR “On the Protection of the Environment” and by art.46 of the 1995 Federal Law of the Russian Federation “On the Continental Shelf of the Russian Federation”.

Under art.85 of the 1991 Law of the RSFSR “On the Protection of the Environment” officials and citizens guilty of ecological offenses, i.e. socially dangerous acts encroaching on ecological law and order established in the Russian Federation, ecological safety of the society, and causing harm to the environment and human health, incur criminal responsibility stipulated by art.252 of the PCRF.

Under art.46 of the 1995 Federal Law of the Russian Federation “On the Continental Shelf of the Russian Federation”, natural and artificial persons are brought to criminal responsibility in compliance with art.252 of the PCRF if they are guilty: of conducting geological survey and resource and marine prospecting on the continental shelf without permit or in violation of the established regulations; of illegal regional geological survey of the continental shelf, mineral resources exploration and prospecting; of violating regulations relating to the above activities; of violating currently effective standards (norms and regulations) with regard to safe realization of exploration,

prospecting and development of mineral resources; non-observance of requirements concerning the protection of mineral and living resources; of illegal burial of wastes and other materials; of pollution resulting from drilling work; of illegal laying of submarine cables and pipelines used for prospecting and development of mineral resources; and of violating regulations and terms of extending submarine cables and pipelines onto the territory of the Russian Federation.

### **1.3. Administrative responsibility for marine pollution**

Administrative responsibility for marine pollution is provided for in the following articles of the 1984 RSFSR Code on Administrative Offenses: in art.56 (2) “Violation of the Currently Effective Standards (Norms, Regulations) or the Terms of the Licenses Regulating the Permitted Activities on the Continental Shelf of the Russian Federation”; in art.57 “Violation of the Regulations Relating to the Protection of Water Resources”; in art 57 (1) “Violation of the Regulations Relating to Burial of Wastes and Other Materials on the Continental Shelf of the Russian Federation”; and art.58 “Non-Observance of the Obligations Relating to the Registration of Operations with Harmful Substances and Blends in the Ship’s Documents”.

Under the above articles of the 1984 RSFSR Code on Administrative Offenses, a person is brought to administrative responsibility if guilty of:

- violation of the currently effective standards (norms, regulations) for safe exploration and prospecting of mineral resources;
- non-observance of the requirements relating to the protection of mineral and living resources on the continental shelf of the Russian Federation;
- violation of the regulations relating to the extension of submarine cables and pipelines onto the territory of the Russian Federation, which can cause harm to human life or health, damage the living resources, marine flora and fauna, create obstacles for other lawful kinds of activities on the continental shelf of the Russian Federation;
- pollution and littering of the waters;
- violation of the regulations relating to the burial of wastes and other materials from ships and other floating facilities, aircraft, artificial islands, installations and structures, which can cause harm to human life and health, damage living resources, marine flora or fauna on the continental shelf of the Russian Federation.

Ships' masters and other officers can likewise be brought to administrative responsibility for not fulfilling the obligations to: a) record in the ship's documents operations with substances harmful to human health and

marine living resources, or with mixtures containing such substances in excess of established norms; b) enter into the ship's documents correct records of all operations with substances harmful to human health and marine living resources, or with blends containing such substances in excess of established norms.

The following administrative punishments can be used for the above-listed offenses:

- monetary fine;
- confiscation of the object constituting an instrument used for committing offense or a direct object of an administrative offense.

Thus, under part 2 of art.56 (2) of the 1984 RSFSR Code on Administrative Offenses, violation of the regulations relating to the extension of submarine cables and pipelines onto the territory of the Russian Federation, which can damage the deposits of natural resources, cause harm to human life or health, damage living resources, marine flora and fauna, create obstacles for other lawful kinds of activities on the continental shelf of the Russian Federation, entails imposition of a fine amounting to five hundred minimal wages accompanied by the confiscation of the vessel and instruments used for committing the offense, or without such.

Under art.57 (2) of the 1984 RSFSR Code on Administrative Offenses, violation of the regulations governing burial disposal of wastes and other materials from vessels and other floating facilities, aircraft, artificial islands, installations and structures, which can result in contamination of natural resources deposits, cause harm to human life and health, inflict damage to the living resources of the marine flora and fauna, entails the imposition of a fine amounting to one thousand minimal wages with the confiscation of the vessel and instruments of offense or without such.

Administrative responsibility for marine pollution is provided for: by subparagraph b) of paragraph 6 of the 1971 Regulation on the Northern Sea Route Administration; by paragraph 19 of the 1984 Decree of the Presidium of the USSR Supreme Soviet "On the Economic Zone of the USSR"; by article 84 of the 1991 Law of the RSFSR "On the Protection of the Environment"; by art.46 of the 1995 Law of the Russian Federation "On the Continental Shelf of the Russian Federation".

Under subparagraph b) of paragraph 6 of the Regulation on the Northern Sea Route Administration, the Head of the Northern Sea Route Administration, his deputies, senior state inspectors and state inspectors have the right to impose

finer provided for by the administrative legislation, on masters and other officers of ships and floating facilities sailing along the Northern Sea Route, for violating the regulations relating to the prevention of pollution of the marine environment and the north coast of the Russian Federation, unless these violations entail the criminal responsibility under the legislation of the Russian Federation.

Under paragraph 19 of the 1984 Decree of the Presidium of the USSR Supreme Soviet "On the Economic Zone of the USSR", persons are brought to administrative responsibility if they are guilty of:

- marine pollution owing to illegal discharge of substances harmful to human health or living marine resources, or mixtures containing such substances in excess of the established norms, or other wastes, materials and objects which can cause damage to recreation zones or prevent other lawful ways of using the sea, in the economic zone of the Russian Federation from ships and other floating facilities, aircraft or installations and structures built at sea;

- marine pollution as a direct result of drilling or other types of work relating to exploration and prospecting of mineral resources on the sea bed in the economic zone of the Russian Federation;

- other breaches of regulations relating to the prevention, reduction and maintaining control over marine pollution in the economic zone of the Russian Federation.

Article 84 of the 1991 Law of the RSFSR "On the Protection of the Environment" stipulates the administrative responsibility with regard to officials, natural and artificial persons for; non-observance of standards, norms and other guidelines for the quality of the natural environment; environmental pollution and resulting harm to human health, flora and fauna, property of individuals and artificial persons; non-fulfillment of obligatory measures aimed at the restoration of the disturbed natural environment and reproduction of natural resources. Moreover, article 87 of the above-mentioned Law provides for the possibility of an arbitration court award binding a defendant to compensate the inflicted damage in kind at the expense of his forces and means. When such awards are passed, specific measures aimed at compensating the damage, and the time of their implementation, are defined. In case a defendant fails to perform obligations imposed on him, the arbitration court, in accordance with the Arbitration Code of Practice of the Russian Federation, has the right to change the method and procedure of performing the award.

Under art.46 of the 1995 Federal Law of the Russian Federation “On the Continental Shelf of the Russian Federation”, natural and artificial persons are brought to administrative responsibility in accordance with the legislation of the Russian Federation if they are guilty of: conducting geological survey of the continental shelf without permit or in violation of the established regulations as to the geological survey, resource and marine explorations; illegal regional geological survey of the continental shelf, mineral resources exploration and prospecting, or violating regulations relating to the above activities; violating the currently effective standards (norms, regulations) for safe mineral resources exploration, prospecting and development; non-observance of requirements concerning the protection of mineral and living resources; illegal burial of wastes and other materials; pollution resulting from drilling work; illegal laying of submarine cables and pipelines used for mineral resources prospecting and development, breach of regulations and terms of extending of submarine pipelines to the territory of the Russian Federation.

Under clause 4 of part 2 of article 211, art.219, clause 2 of part 2 of article 219 (2), clause 1 of part 3 of article 224 (9) of the RSFSR 1984 Code on Administrative Offenses, cases of administrative offense relating to the marine environment pollution are examined by:

- the bodies of the State Mining Inspection, for the violation of the existing standards (norms, regulations) or the license terms regulating the permitted activities on the continental shelf;

- the Federal body for the protection of the environment and natural resources, which protects the mineral and living resources of the Russian Federation continental shelf, for the violation of the existing standards (norms, regulations) regulating the permitted activities on the Russian Federation continental shelf, violation of the regulations governing the burial of waste and other material on the Russian Federation continental shelf, violation of the water resources protection regulations, non-performance by a ship's master and other officers of a vessel the duties to file operations with noxious substances and mixtures or entering into the ship's papers incorrect records about operations with substances harmful to human health and the marine life;

- the Administration of the Northern Sea Route, for the pollution and littering on the lanes of the Northern Sea Route and the areas adjacent to it;

- the bodies of the Russian Federation border-line service, for the violation of the existing standards (norms, regulations) governing the permitted activities on the continental shelf of the Russian Federation.

## CONCLUSION

In the present Working Paper an attempt has been made to spotlight the issues of responsibility for pollution damage, proceeding from the types of responsibility existing under the Russian Federation legislation. In this connection the present Working Paper is of a general survey character and does not pursue the goal of carrying out a theoretical investigation of the present subject and detailed coverage of certain incidents relating to pollution.

It appears expedient to continue the research into the present subject with a further deeper scrutiny of the issue and to conduct separate lines of research relating to the theoretical problems of the present issue, and separate lines of research involving detailed investigation of incidents connected with pollution.

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11. Civil Code of the Russian Federation.

12. Criminal Code of the Russian Federation, 1996.

13. The RSFSR Law of December 19, 1991, No.2060-1 “On the Protection of the Natural Environment”.

14. Federal Law of the Russian Federation dated November 30, 1995 No.187-F3 “On the Continental Shelf of the Russian Federation”.

15. Decree of the USSR Supreme Soviet Presidium dated March 13, 1981 “On the Amount of Compensation by a Ship-Owner for Damage Inflicted by Pollution of the Sea with Oil and Other Substances Harmful to Human Health and Marine Life”

16. Decree of the USSR Supreme Soviet Presidium dated February 28, 1984 “On the Economic Zone of the USSR”.

17. Regulation on the Northern Sea Route Administration, 1971.

18. Regulations for Navigation on the Seaways of the Northern Sea Route, 1990.

4

Review of the discussion paper by N.D. Koroleva,  
V.Y. Markov, V.V. Mikhailichenko & A.P. Ushakov  
on "Responsibility for damage caused by the pollution  
of the marine environment (review of the former Soviet Union  
legislation and the legislation of the Russian Federation)".

#### General Remarks

In my opinion the discussion paper is very clear in expressing the idea that the present Russian legislation (which is based on the former Soviet legislation) present serious deficiencies. This legislation is at the same time confused and superabundant, resulting from the stratification of different regulations. It determines the risk of a plurality of payments to be made by the polluter. Furthermore, it is not in conformity with the 1969 CLC and the 1971 Fund Conventions, to which Russia is a party, which are commonly interpreted in the sense that the assessment of compensation for oil pollution damage is not to be made on the basis of an abstract quantification of damage calculated in accordance with theoretical models<sup>1</sup>. The reader understands that this kind of legislation could be an obstacle for the development of the Northern Sea Route.

The authors quote only incidentally (p. 1) the well known "Antonio Gramsci" tanker, which grounded twice (in 1979 and in 1987) in the Baltic Sea, determining serious legal problems of assessment of the damage within the IOPC Fund<sup>2</sup>. A non-Russian reader would have welcome more elaboration on the two accidents, and especially on their legal follow up within the Soviet Union. Data on other and less known accidents, if any, resulting in domestic litigations within the Soviet Union or the Russian Federation would also be useful.

Although English is not my mother tongue, I notice a number of linguistic mistakes which need correction. For ex., at p. 1, "we intent", "determaining"; at p. 4, "defind", "prodactivity", "uder", "Ministeres", etc.

#### Specific Remarks

P. 1: A non-Russian reader would be glad to know more about the legal status of the three "Methods Instructions". Are they laws? Decrees? Regulations? Were they published in an official

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<sup>1</sup> Similar remarks could be made also with respect to the Italian legislation on compensation for ecological damage. See MAFFEI, The Compensation for Ecological Damage in the "Patmos" Case, in FRANCONI & SCOVAZZI, International Responsibility for Environmental Harm, Graham & Trotman, London, 1991, p. 381.

<sup>2</sup> Information on the international consequences of the two accidents could be asked to the IOPC Fund directly (4 Albert Embankment, London SE1 7SR, UK).

journal?

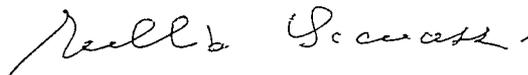
P. 4, 2nd para.: I am not fully sure to understand the meaning of the sentences from "Therefore, the above-mentioned items" (...) to "harm to bio-resources". They could be clarified.

P. 6, 2nd para.: I cannot understand what does the "liquidation of a spill" mean.

P. 8, 2nd para.: "invalid", which means null and void from the beginning, is probably not the right word. I understand that Resolution No. 13 terminated on December 31, 1992 (i.e., it ceased to produce its effects).

P. 9, 2nd para.: To be precise, that compensation "is not to be made on the basis of an abstract quantification of damage calculated in accordance with theoretical models" is not said in the 1969 CLC and 1971 Fund Convention. This was said in Resolution No. 3, "Pollution Damage", adopted in October 1980 by the Assembly of the Oil Pollution Compensation Fund.

Milan, 1 March 1996.



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### **Authors' Answers**

to Mr. Tullio Scovazzi's comment on the discussion paper prepared by N.D.Koroleva, V.J.Markov, V.V.Mikhailichenko and A.P.Ushakov on the subject of "Responsibility for Marine Pollution Damage (Review of the ex-USSR legislation and the legislation of Russia)."

### **General remarks**

It must be agreed with the opinion of the esteemed Mr.Tullio Scovazzi that the submitted "discussion paper very vividly expresses the idea that the present-day Russian legislation (which is based on the ex-USSR legislation) shows serious shortcomings." At the same time this legislation is involved and burdened with excessive norms as a result of various regulations overlapping. This reflects the processes currently going on in Russia connected with the restructuring of the economic life of the country.

On receipt of Mr.Tullio Scovazzi's remarks, the Association of International Maritime Law of Russia has thoroughly studied them and come to the conclusion that it is now expedient to prepare for the Working Paper materials covering the main legislative acts on responsibility for pollution damage, basing the work on the types of responsibility under the legislation of

the Russian Federation: civil (property), criminal and administrative. In this connection a decision has been taken to change the structure and contents of the Working Paper with the above-mentioned considerations taken into account.

As to a detailed examination of incidents caused by oil pollution from Russian ships or near the Russian coasts, and their legal consequences, it appears expedient to devote a separate work to that subject.

### **Special Remarks**

In connection with the comments, attention has been paid to the quality of translation and the translator has been substituted. We hope that in the present Working Paper linguistic difficulties will be overcome.

## The three main cooperating institutions of INSROP



### **Ship & Ocean Foundation (SOF), Tokyo, Japan.**

SOF was established in 1975 as a non-profit organization to advance modernization and rationalization of Japan's shipbuilding and related industries, and to give assistance to non-profit organizations associated with these industries. SOF is provided with operation funds by the Sasakawa Foundation, the world's largest foundation operated with revenue from motorboat racing. An integral part of SOF, the Tsukuba Institute, carries out experimental research into ocean environment protection and ocean development.



### **Central Marine Research & Design Institute (CNIIMF), St. Petersburg, Russia.**

CNIIMF was founded in 1929. The institute's research focus is applied and technological with four main goals: the improvement of merchant fleet efficiency; shipping safety; technical development of the merchant fleet; and design support for future fleet development. CNIIMF was a Russian state institution up to 1993, when it was converted into a stock-holding company.



### **The Fridtjof Nansen Institute (FNI), Lysaker, Norway.**

FNI was founded in 1958 and is based at Polhøgda, the home of Fridtjof Nansen, famous Norwegian polar explorer, scientist, humanist and statesman. The institute specializes in applied social science research, with special focus on international resource and environmental management. In addition to INSROP, the research is organized in six integrated programmes. Typical of FNI research is a multi-disciplinary approach, entailing extensive cooperation with other research institutions both at home and abroad. The INSROP Secretariat is located at FNI.

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