

**Agreement Between the
Autoridad del Canal de Panamá (Panama Canal Authority),
United States Department of State, the United States Environmental
Protection Agency, and the United States Coast Guard,
Regarding Assistance with Respect to Certain
Environmental Pollution Incidents in the Panama Canal Area**

The Autoridad del Canal de Panamá (Panama Canal Authority) (hereafter also, “ACP”) of the Republic of Panama, on the one hand, and the Department of State of the United States of America, the U.S. Environmental Protection Agency (EPA), and the U.S. Coast Guard, on the other (hereinafter collectively "the Parties"),

CONSCIOUS of the importance of the Panama Canal to international trade and commerce;

MINDFUL of the interest of the Parties in ensuring safe unencumbered operation of the Panama Canal;

DESIRING that any significant pollution incident in the waters of the Panama Canal that may threaten to hinder such operation be combated in a safe and expeditious manner;

RECOGNIZING the existing capability of the Autoridad del Canal de Panamá (ACP) for responding to environmental emergencies in the area of the Panama Canal;

CONVINCED of the importance of developing procedures and practices to facilitate timely and appropriate supplemental assistance from agencies of the Government of the United States of America when requested by the Autoridad del Canal de Panamá in the event of an especially significant pollution incident;

CONSIDERING the experience of the 16 federal agencies of the Government of the United States of America that participate in the coordinating mechanism known as the National Response Team (NRT) and that have responsibilities, interests, and expertise in various aspects of emergency response to pollution incidents, in coordinating technical assistance during environmental emergencies in numerous countries throughout the world;

AWARE that the EPA is the Chair of the NRT, that the U.S. Coast Guard is the Vice-Chair of the NRT, and that the Department of State is a member agency of the NRT, and that the first two of those agencies of the Government of the United States of America will coordinate with the other NRT members in connection with the implementation of this Agreement;

REAFFIRMING the spirit of cooperation expressed by the Administrator of the ACP in his letter of March 15, 1999 to the Chairman of the NRT requesting that the NRT provide supplemental U.S. federal agency assistance in the event of an oil, hazardous material, or radiological spill in the Panama Canal Area;

Have agreed as follows:

I. Purpose

The purpose of this Agreement is to facilitate the provision of assistance by certain agencies of the Government of the United States of America at the request of the Autoridad del Canal de Panamá in connection with significant pollution incidents that may affect the Canal Area, as defined herein. It is intended that assistance which may be provided by U.S. agencies will supplement activities undertaken by the ACP or by private sector response capability in support of the ACP.

Nothing in this Agreement shall be construed as requiring the ACP to utilize the services of agencies of the Government of the United States or requiring agencies of the Government of the United States to provide services to the ACP except as may be provided for in incident specific agreements, executed at the time of an incident.

II. Definitions

For the purposes of this Agreement:

Hazardous Material. A hazardous material is any chemical designated as a harmful material or dangerous chemical under the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships with annexes and protocols, as amended.

Pollution Incident. A pollution incident is an oil spill or release of hazardous or radiological material that may affect the Canal Area, as defined herein.

Incident Command System. The Incident Command System (ICS) is a system to organize activities of a response to facilitate interaction among response personnel. For purposes of the relevant agencies of the Government of the United States, ICS shall refer to the National Interagency Incident Management System (NIIMS) or its substantial equivalent. For purposes of the Autoridad del Canal de Panamá, ICS shall refer to the ICS established in the ACP Contingency Plan, which is the plan created to organize responses to pollution incidents in the Panama Canal.

Incident Commander. The Incident Commander is the ACP employee who is assigned responsibility for all on-scene decisions related to an oil spill or a release of hazardous or radiological material in the Canal Area (as defined herein) in accordance with the ACP's Contingency Plan.

Incident Specific Agreement. An incident specific agreement is a document, executed at the time of an incident under the terms of this Agreement, between an agency of the Government of the United States and the ACP, detailing assistance to be provided and other information that may be necessary to facilitate assistance and payment for assistance.

United States National Response Center. The National Response Center is the United States national communications center for receiving reports of pollution incidents.

United States National Response Team. The United States National Response Team (NRT) is a grouping of agencies of the United States Government, established by the U.S. National Oil and Hazardous Substances Pollution Contingency Plan (NCP), with responsibility for coordinating U.S. activities during environmental emergencies. The U.S. agencies of the NRT develop procedures to ensure coordination of U.S. governmental and private response to oil discharges and releases of hazardous materials. The current participants in the NRT are 16 federal agencies of the U.S. Government, chaired by the United States Environmental Protection Agency, and vice-chaired by the U.S. Coast Guard.

Canal Area. The Canal Area (CA) is the continuous area following the course of the Panama Canal and the land areas under the jurisdiction of the ACP.

Autoridad del Canal de Panamá. The Autoridad del Canal de Panamá (ACP) is an agency of the Government of the Republic of Panama, responsible for the operation, maintenance, and management of the Panama Canal.

Private Sector Response Capability. Private sector response capability means equipment and personnel resources provided by contractors paid for by the ACP to respond to oil spills and releases of hazardous or radiological materials.

Technical Assistance Team. A Technical Assistance Team (TAT) is any group of experts provided by a U.S. agency or agencies to assist the ACP during an oil spill or release of hazardous or radiological materials.

III. Notifications

Upon the evaluation by the Incident Commander that a significant pollution incident has occurred, the ACP will notify the National Response Center. The ACP will also notify the United States Embassy in Panama.

Upon receipt of notification from the Incident Commander of a significant pollution incident, the National Response Center will immediately notify the Chair of the NRT, who will activate the NRT in accordance with established U.S. procedures.

The NRT will convene upon activation at a time and place agreed for the purpose of assessing assistance requested by the ACP and advising the Incident Specific Chair on the best means to respond to such request. The EPA, the U.S. Coast Guard, and any other participating U.S. agency will remain fully empowered to decide the level of its assistance, if any.

If the NRT determines that the deployment of U.S. agency personnel to the Canal Area is necessary and appropriate, a TAT comprising representatives of the appropriate U.S. agencies participating in the NRT will be organized under the direction of a TAT Leader, who will be a representative of the U.S. agency providing the Incident Specific Chair. The composition of the TAT will be determined by the type of incident, and by the expertise and availability of personnel and equipment from U.S. agencies participating in the NRT mechanism, as appropriate.

If it is determined by the agencies of the Government of the United States of America participating in the NRT mechanism that the deployment of personnel to the Canal Area is not necessary or appropriate, the EPA or U.S. Coast Guard will notify the Autoridad del Canal de Panamá of this decision. U.S. agencies participating in the NRT will continue to monitor the incident through communications provided by the ACP and will provide advisory services to the Incident Commander as requested.

IV. Operations

Specific operating procedures between the Parties to this Agreement, including any required reports, will be addressed at the time of the ACP notification and request based on the nature of the incident, the type and degree of assistance requested, and the U.S. agencies involved. The coordination of and scope of work pertaining to the requested assistance will be outlined in the Incident Specific Agreement. For incidents involving deployment of a TAT, the TAT Leader will report to the Incident Commander upon the TAT's arrival in the Canal Area. The TAT Leader and the Incident Commander will determine the most appropriate function for each team member in relation to the ACP ICS. Assignments for TAT members will only be made by the TAT Leader. Roles and responsibilities for a TAT member will be consistent with the mission and legal authorities of the U.S. agency providing the TAT member.

The Incident Commander will remain in charge of the incident in accordance with the ACP's Contingency Plan and the ACP ICS will be maintained throughout the incident in accordance with the ACP's Contingency Plan.

The TAT will remain in the Canal Area until relieved by another TAT assigned from a U.S. agency or U.S. agencies, or when it is determined by the TAT Leader, in consultation with the Incident Commander, that the assistance of the TAT is no longer required. Individual TAT members will be released by the TAT Leader when requested by the providing U.S. agency or when determined by the TAT Leader that the skills and expertise of the team member are no longer required.

V. Logistics

All personnel and equipment provided by an agency of the Government of the United States in response to a request for assistance under the terms of this Agreement will remain under the control of the U.S. agency providing the personnel or equipment. The ACP will facilitate the expeditious release of U.S. agency personnel and equipment from the Canal Area upon the request of the U.S. agency providing the personnel or equipment or upon the request of the TAT Leader.

Logistical arrangements, as necessary, for receiving the TAT, including, but not limited to, personnel, equipment and reference materials, and for housing, subsistence, and local travel for TAT will be the responsibility of the ACP.

The ACP will assist in the expeditious customs and immigration handling of TATs and of equipment for entry to and departure from Panama under the terms established in the exchange of diplomatic notes between the Government of the United States of America and the Government of the Republic of Panama dated December 19, 2001 and December 26, 2001.

VI. Funding

Payment for all activities under this Agreement associated with an incident in the Canal Area, including all expenses associated with the provision of assistance by the TAT or any U.S. agency, will be the responsibility of the ACP on an advance of funds basis.

At the time of a pollution incident, the EPA or the U.S. Coast Guard, and any other U.S. agency that intends to provide assistance to the ACP consistent with this Agreement, shall execute an Incident Specific Agreement with the ACP. The ACP shall advance funds, in accordance with the terms set forth in the Incident Specific Agreement, to the pertinent U.S. agency for the assistance requested and in an amount specified in the Incident Specific Agreement. Such U.S. agency shall provide that assistance under the terms of the Incident Specific Agreement.

Reconciliation of the actual costs of assistance provided by a U.S. agency with funds advanced by the ACP will be in accordance with the terms of the relevant Incident Specific Agreement.

VII. Training, Exercises, and Planning

An annual tabletop exercise will be conducted by the Parties to ensure continuity of communications, planning, and operations. In the event of an incident in the Canal Area requiring the activation of the NRT, the annual tabletop exercise for that year may be foregone.

The annual tabletop exercise may consist of a tabletop seminar format or the application of a scenario to be developed jointly by relevant U.S. agencies (through the NRT mechanism) and the ACP. The annual tabletop exercise will be held in the Canal Area or elsewhere as deemed necessary and appropriate. Funding for exercise expenses, exclusive of U.S. federal government salaries, will be provided by the ACP on an advance of funds basis. The ACP and the relevant U.S. agencies involved in providing the planning, training, and exercise outlined in this section will utilize an Incident Specific Agreement or similar mechanism to identify the scope of the exercise, type of training provided, and the associated costs.

The EPA or the U.S. Coast Guard will, in coordination with the NRT, advise the ACP of training programs available from agencies of the U.S. Government in planning for and response to oil spills or releases of hazardous and/or radiological materials, and will assist in making available such programs to the ACP on a cost reimbursable basis.

VIII. Privileges and Immunities

In accordance with the exchange of diplomatic notes between the Government of the United States of America and the Government of the Republic of Panama dated December 19, 2001 and December 26, 2001, employees of the Government of the United States of America present in the territory of the Republic of Panama for activities related to this Agreement shall be granted privileges and immunities by the Government of Panama.

IX. Dispute Resolution

Any disagreements or disputes concerning the interpretation or implementation of this agreement shall be resolved solely through consultation between the Parties, and shall not be referred to any court, international tribunal or third party for settlement.

X. Implementation

The Parties may, by mutual written agreement, establish procedures and forms to implement this Agreement, and revise such procedures and forms as necessary. Further, the Parties may agree to the participation of additional U.S. agencies in this Agreement. Such participation would be effected by listing each such agency in an annex to the Agreement, at which time that agency would be deemed a “participating agency” under the Agreement.

However, nothing in this Agreement shall be construed to affect the ability of an agency of the Government of the United States to provide authorized assistance outside the framework of this Agreement, as appropriate, to the ACP or any other Panamanian agency or entity.

XI. Entry into Force and Termination

This Agreement will enter into force upon signature by the U.S. EPA, the U.S. Coast Guard, the U.S. Department of State and the ACP. The Agreement will remain in force until terminated either by either Party upon written notification to the other Party.

Any of the U.S. participating agencies may terminate their participation in this Agreement by means of written notification to the other participating agencies and to the ACP. Such termination will take effect three months from the date of notification. Any assistance already in progress at the time of termination in response to a pollution incident shall continue to apply until such assistance is completed.

Done at Panama City, this 1st day of April, 2002, in quadruplicate in the English language.

For the Autoridad del Canal de Panamá:

Alberto Alemán Zubieta
Administrator

For the United States Department of
State and the United States
Environmental Protection Agency:

Frederick A. Becker
Chargé d'Affaires, a.i.

For the United States Coast Guard:

Rear Admiral Paul J. Pluta
Assistant Commandant for Marine
Safety, Security, and Environment
Protection