

Transboundary EIA provisions and initiatives in selected Regional and Multilateral Environmental Agreements

Geographic Scope

Asia and Pacific

Europe

Latin America and Caribbean

North America

Polar Region

Global

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Protocole d'application de la Convention Alpine de 1991 dans le domaine de l'énergie Protocole Energie, Bled, le 16 octobre 1998¹.

Geographic Scope Alpes

Parties Germany, France, Italy, Slovenia, Liechtenstein, Austria, Switzerland and European Economic Community.

Entry into force

Associated international instruments

- *Convention sur la protection des Alpes (Convention alpine), Salzbourg, 7 novembre 1991.*

Provisions relating to

Environmental Impact Assessment

Article 12 Evaluation de l'impact sur l'environnement

1. Les Parties contractantes effectuent dans le cadre des législations nationales en vigueur, des conventions et des accords internationaux, une évaluation préalable de l'impact sur l'environnement pour tout projet d'installations énergétiques visées aux articles 7, 8, 9 et 10 du présent protocole et pour toute modification substantielle de ces mêmes installations.
2. Les Parties contractantes reconnaissent l'opportunité d'adopter, autant que possible, les meilleures techniques disponibles afin d'éliminer ou d'atténuer l'impact sur l'environnement en prévoyant, éventuellement, le démantèlement d'installations désaffectées non respectueuses de l'environnement.

Public Participation

Chapitre III Recherche, formation et information

Article 15 Recherche et observation

1. Les Parties contractantes encouragent et harmonisent, en étroite collaboration et en tenant compte des résultats déjà acquis aux divers niveaux nationaux et internationaux, la recherche et l'observation systématique afin de réaliser les objectifs du présent protocole; en particulier en ce qui concerne les méthodes et critères d'analyse et d'évaluation des impacts sur l'environnement et le climat, ainsi que les technologies spécifiques pour les économies d'énergie et son utilisation rationnelle dans l'espace alpin.

¹ http://www.convenzionedellealpi.org/archive/protocols/protokoll_f_energie.pdf

2. Elles tiennent compte des résultats de la recherche dans les processus de définition et de vérification des objectifs et des mesures de politique énergétique ainsi que dans leur activité de formation et d'assistance technique sur le plan local, en faveur de la population, des opérateurs économiques et des collectivités territoriales.

3. Les Parties contractantes veillent à ce que les résultats nationaux de la recherche et de l'observation systématique soient intégrés dans un système commun d'observation et d'information permanente et soient rendus accessibles au public dans le cadre institutionnel existant.

**Protocole d'application de La Convention Alpine de 1991 dans le
domaine des transports Protocole Transports, Lucerne, 31 octobre
2000².**

Geographic Scope Alpes

Parties Germany, France, Italy, Slovenia, Liechtenstein, Austria,
Switzerland and European Economic Community.

Entry into force

Associated international instruments

- Convention sur la protection des Alpes (Convention alpine), *Salzbourg, 7 novembre 1991.*

Provisions relating to

Environmental Impact Assessment

Article 8 Procédure d'évaluation et de consultation intergouvernementale

1. Lorsqu'elles construisent, modifient ou agrandissent de façon significative des infrastructures de transports, les Parties contractantes s'engagent à réaliser des études d'opportunité, des études d'impact sur l'environnement et des analyses des risques et à prendre en compte leurs résultats dans le respect des objectifs du présent protocole.
2. L'équipement des Alpes en infrastructures de transport doit se faire de manière coordonnée et concertée. En cas de projets ayant un impact transfrontalier significatif, les Parties contractantes s'engagent à procéder, au plus tard après présentation des études, à des consultations mutuelles avec les Parties contractantes concernées. Ces dispositions ne portent pas préjudice au droit de chaque Partie contractante de réaliser des infrastructures de transport qui auront été adoptées conformément à leur ordre juridique interne au moment de l'adoption du présent protocole ou dont la nécessité aura été établie aux termes de la loi.
3. Les Parties contractantes encouragent la prise en compte renforcée de la politique de transports dans la gestion environnementale des entreprises.

² http://www.convenzionedellealpi.org/archive/protocols/Protokoll_f_Verkehr.pdf

Declaration on Environment and Sustainable Development in the Carpathian and Danube Region, Bucharest, 30 April 2001³.

Geographic Scope Carpathian and Danube Region
Parties Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, Poland, Republic of Moldova, Romania, Slovakia, The former Yugoslav, Republic of Macedonia, Ukraine.

Entry into force

Associated international instruments

Provisions relating to

Environmental Impact Assessment

2. (a) The activities for developing new intergovernmental regional instruments for conservation and sustainable development in the Carpathian region, by paying special attention to the celebration of the UN International Year of the Mountains in 2002 as well as to the Ministerial Conference 'Environment for Europe' (Kyiv, 2003);
- (b) New ways and means of integrated and participatory approaches to sustainable development in the Carpathian region by addressing the specific issues of industry, agriculture, forestry, rural development, cultural heritage, energy, mining and transport at a regional level in co-operation with national stakeholders, private sector and international organisations, assessing the environmental impact of such activities, and designing common solutions in response to environmental challenges;

Public Participation

Preamble

Considering that capacity building and institutional strengthening as well as specific activities in the field of education, public participation and environmental awareness are essential requirements for sustainable development in the region;

- (f) Co-operation with and among stakeholders and public-private partnership in accordance with the principles of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus, 1998);

³ www.rec.hu/tisza/summit_declar.doc

Framework Convention on the protection and sustainable development of the Carpathians, Kyiv, May 2003⁴.

Geographic Scope Carpathians
Parties The Czech Republic, The Republic of Hungary, The Republic of Poland, Romania, Serbia and Montenegro, The Slovak Republic, Ukraine.

Entry into force

Associated international instruments

Provisions relating to

Environmental Impact Assessment

Article 12 Environmental assessment/information system, monitoring and early warning

1. The Parties shall apply, where necessary, risk assessments, environmental impact assessments, and strategic environmental assessments, taking into account the specificities of the Carpathian mountain ecosystems, and shall consult on projects of transboundary character in the Carpathians, and assess their environmental impact, in order to avoid transboundary harmful effects.
2. The Parties shall pursue policies, using existing methods of monitoring and assessment, aiming at promoting:
 - (a) cooperation in the carrying out of research activities and scientific assessments in the Carpathians,
 - (b) joint or complementary monitoring programmes, including the systematic monitoring of the state of the environment,
 - (c) comparability, complementarity and standardization of research methods and related data-acquisition activities,
 - (d) harmonization of existing and development of new environmental, social and economic indicators,
 - (e) a system of early warning, monitoring and assessment of natural and manmade environmental risks and hazards, and
 - (f) an information system, accessible to all Parties.

⁴ <http://www.ceeweb.org/a6carpathian/docs/carpathian.conv.pdf>

Transboundary context

Article 12 Environmental assessment/information system, monitoring and early warning

1. The Parties shall apply, where necessary, risk assessments, environmental impact assessments, and strategic environmental assessments, taking into account the specificities of the Carpathian mountain ecosystems, and shall consult on projects of transboundary character in the Carpathians, and assess their environmental impact, in order to avoid transboundary harmful effects.

Public Participation

Article 13 Awareness raising, education and public participation

1. The Parties shall pursue policies aiming at increasing environmental awareness and improving access of the public to information on the protection and sustainable development of the Carpathians, and promoting related education curricula and programmes.

2. The Parties shall pursue policies guaranteeing public participation in decision making relating to the protection and sustainable development of the Carpathians, and the implementation of this Convention.

Convention on Cooperation for the Protection and Sustainable Use of the Danube River, Sofia, June 1994⁵.

Geographic Scope Danube River

Parties Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Germany, Hungary, Italy, Moldova, Poland, Romania, Serbia and Montenegro, Slovakia, Slovenia, Switzerland, Ukraine.

Entry into force 22 October 1998

Associated international instruments

- *Convention Instituting the Definitive Status of the Danube, 1924.*
- *Convention concerning the regime of navigation on the Danube (with annexes and supplementary protocol), Belgrade, 18 August 1948, entered into force on 11 May 1949.*
- *Supplementary Protocol to the Convention concerning the Regime of Navigation on the Danube, Belgrade, 18 August 1948.*
- *Agreement Between the Government of the Republic of Austria and the Government of the Federal Republic of Germany and of the Free State of Bavaria Concerning the Donaukraftwerk-Jochenstein-Aktiengesellschaft (Danube Power Plant and Jochenstein Joint-Stock Company), 13 February 1952, entered into force, 13 February 1952*
- *Convention (with annex) concerning fishing in the waters of the Danube, Bucharest, 29 January 1958, entered into force on 20 December 1958.*
- *Supplementary Protocol of 26 March 1998 to the Convention concerning the Regime of Navigation on the Danube.*

Provisions relating to

Environmental Impact Assessment

Article 10 Obligations of reporting

The Contracting Parties shall report to the International Commission on basic issues required for the Commission to comply with its tasks. These reports shall in particular involve:

(a) reports and documents being foreseen in this Convention or requested by the Commission;

⁵ <http://eelink.net/~asilwildlife/DanubeConvention.html>

- (b) information on the existence, conclusion, amendment or withdrawal of bi-lateral and multilateral agreements and treaties regulating the protection and water management of the Danube River and of waters within its catchment area or being relevant for questions concerned;
- (c) information on their respective laws, ordinances and other general regulations, regulating the protection and water management of the Danube River and of waters within its catchment area or being relevant for questions concerned;
- (d) communication, at the latest within an agreed delay after the International Commission has taken its decision, on the way, the timeframe and the financial expenses for implementing action-oriented decisions at the domestic level, such as recommendations, programmes and measures;
- (e) designation of competent institutions to be addressed for cooperation in the framework of this Convention by the International Commission or by other Contracting Parties;
- (f) communication on planned activities, which for reason of their character are likely to cause transboundary impacts.

Transboundary context

Article 5 Prevention, Control And Reduction Of Transboundary Impact

- (1) The Contracting Parties shall develop, adopt and implement relevant legal, administrative and technical measures as well as provide for the domestic preconditions and basis required in order to ensure efficient water quality protection and sustainable water use and thereby also to prevent, control and reduce transboundary impact.
- (2) To this end the Contracting Parties shall separately or jointly take in particular the measures indicated below:
 - (a) Record conditions of natural water resources within the Danube River catchment area applying agreed quantity and quality parameters including the methodology concerned.
 - (b) Adopt legal provisions providing for requirements including time limits to be met by waste water discharges.
 - (c) Adopt legal provisions for the handling of substances hazardous to water.
 - (d) Adopt legal provisions for reducing inputs of nutrients or hazardous substances from non-point sources, especially for the application of nutrients as well as of plant protection agents and pesticides in agriculture.
 - (e) With the aim of harmonising these regulations at a high level of protection as well as for the harmonised implementation of corresponding measures the Contracting Parties shall take into account results and proposals put forward by the International Commission.
 - (f) The Contracting Parties shall cooperate and take appropriate measures to avoid the transboundary impacts of wastes and hazardous substances in particular originating from transport.

Public Participation

Article 11 Consultations

(1) Having had a prior exchange of information the Contracting Parties involved shall at the request of one or several Contracting Parties concerned enter into consultations on planned activities as referred to in Article 3, paragraph 2, which are likely to cause transboundary impacts, as far as this ex-change of information and these consultations are not yet covered by bilateral or other international cooperation. The consultations are carried out as a rule in the framework of the International Commission, with the aim to achieve a solution.

(2) Prior to a decision on planned activities the competent authorities -with the exception of pending danger - shall wait for the results of the consultations except the case, that they are not finalised one year after their commencement at the latest.

Article 12 Exchange Of Information

(1) As determined by the International Commission the Contracting Parties shall exchange reasonably available data, inter alia, on:

(a) the general conditions of the riverine environment within the catchment area of the Danube River;

(b) Experience gained in the application and operation of best available techniques and results of research and development;

(c) Emission and monitoring data;

(d) Measures taken and planned to be taken to prevent, control and reduce transboundary impact;

(e) Regulations for waste water discharges;

(f) Accidents involving substances hazardous to water.

(2) In order to harmonise emission limits, the Contracting Parties shall undertake the exchange of information on their regulations.

(3) If a Contracting Party is requested by any other Contracting Party to provide data or information that is not available, the former shall endeavour to comply with the request but may condition its compliance upon the payment, by the requesting Party, of reasonable charges for collecting and, where appropriate, processing such data or information.

(4) For the purposes of the implementation of this Convention, the Contracting Parties shall facilitate the exchange of best available techniques, particularly through the promotion of: the commercial exchange of available techniques, direct industrial contacts and cooperation, including joint ventures; the exchange of information and experience; and the provision of technical assistance. The Contracting Parties shall also undertake joint training programmes and the organisation of relevant seminars and meetings.

(5) The provisions of this Convention shall not affect the rights or the obligations of Contracting Parties in accordance with their domestic laws, regulations, administrative

provisions or accepted legal practices and applicable international regulations to protect information related to personal data, intellectual property including industrial and commercial secrecy, or national security.

(6) If a party nevertheless decides to supply such protected information to another Party, the Party receiving such protected information shall respect the confidentiality of the information received and the conditions under which it is supplied, and shall only use that information for the purpose for which it was supplied.

Accord concernant la protection de l'Escaut, 26 Avril 1994⁶.

<u>Geographic Scope</u>	Escaut
<u>Parties</u>	France, Pays-Bas, Région de Bruxelles-Capitale, Région Flamande et Région Wallonne.

Provisions relating to

Environmental Impact Assessment

Article 3 : Principes de la coopération.

1. Afin d'atteindre l'objet fixé à l'article 2 du présent Accord, les Parties Contractantes prennent des mesures portant sur l'ensemble de la partie du bassin versant située sur leur territoire.

2. Dans leur action, les Parties Contractantes sont guidées par les principes suivants :

a). le principe de précaution, en vertu duquel la mise en oeuvre de mesures destinées à éviter que le rejet de substances dangereuses puisse avoir un impact transfrontière significatif, n'est pas différée au motif que la recherche scientifique n'a pas pleinement démontré l'existence d'un lien de causalité entre le rejet de ces substances, d'une part, et un éventuel impact transfrontière significatif, d'autre part;

Transboundary context

Article 5 : Missions de la Commission.

Les missions de la Commission sont les suivantes :

a) Définir, rassembler et évaluer les données à fournir par les Parties Contractantes, chacune pour ce qui concerne son territoire, afin d'identifier les sources de pollution qui ont un impact significatif sur la qualité de l'Escaut.(...)

g) Servir de cadre pour l'échange d'informations sur les projets soumis à études d'incidences et qui ont un impact transfrontière significatif sur la qualité de l'Escaut, dans le respect des législations en vigueur sur le territoire des Parties Contractantes.

Public Participation

Article 7 : Observateurs.

1. La Commission admet en qualité d'observateur et à sa demande :

⁶ <http://www.riob.org/forum/schelde.htm>

a) tout Etat non Partie contractante au présent Accord dont une partie du territoire est situé dans le bassin versant de l'Escaut.

b) la Communauté Européenne

2. La Commission peut admettre en qualité d'observateur toutes Organisations ou Commissions Intergouvernementales dont les préoccupations sont similaires aux siennes .

3. Les observateurs peuvent participer aux réunions de la Commission sans pour autant disposer d'un droit de vote et peuvent transmettre à la Commission toute information ou tout rapport relatif à l'objet de l'Accord.

Convention on the Protection of the Marine Environment of the Baltic Sea Area, Helsinki, 9 April 1992⁷.

Geographic Scope Baltic Sea
Parties Czech and Slovak, Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Norway, Poland, Russian Federation, Sweden, European Economic Community.

Entry into force 17 January 2000

Associated international instruments

- *The Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts, Gdansk, 13 September 1973.*
- *The Nordic Environmental Protection Convention, Stockholm, 19 February 1974.*
- *Agreement on the Conservation of Small Cetaceans in the Baltic and North Seas, 17 March, 1994*

Provisions relating to

Environmental Impact Assessment

Article 7 Environmental impact assessment

1. Whenever an environmental impact assessment of a proposed activity that is likely to cause a significant adverse impact on the marine environment of the Baltic Sea Area is required by international law or supra-national regulations applicable to the Contracting Party of origin, that Contracting Party shall notify the Commission and any Contracting Party which may be affected by a transboundary impact on the Baltic Sea Area.

Transboundary context

Article 7 Environmental impact assessment

2. The Contracting Party of origin shall enter into consultations with any Contracting Party which is likely to be affected by such transboundary impact, whenever consultations are required by international law or supra-national regulations applicable to the Contracting Party of origin.

⁷ <http://eelink.net/~asilwildlife/HELCOM.html>

3. Where two or more Contracting Parties share transboundary waters within the catchment area of the Baltic Sea, these Parties shall cooperate to ensure that potential impacts on the marine environment of the Baltic Sea Area are fully investigated within the environmental impact assessment referred to in paragraph 1 of this Article. The Contracting Parties concerned shall jointly take appropriate measures in order to prevent and eliminate pollution including cumulative deleterious effects.

Public Participation

Article 17 Information to the public

1. The Contracting Parties shall ensure that information is made available to the public on the condition of the Baltic Sea and the waters in its catchment area, measures taken or planned to be taken to prevent and eliminate pollution and the effectiveness of those measures. For this purpose, the Contracting Parties shall ensure that the following information is made available to the public:

- a) permits issued and the conditions required to be met;
- b) results of water and effluent sampling carried out for the purposes of monitoring and assessment, as well as results of checking compliance with water-quality objectives or permit conditions; and
- c) water-quality objectives.

2. Each Contracting Party shall ensure that this information shall be available to the public at all reasonable times and shall provide members of the public with reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in its registers.

Convention on the protection of the Black Sea against pollution, Bucharest, 21 April 1992⁸.

- Geographic Scope** Black Sea
- Parties** The Republic of Bulgaria, the Republic of Georgia, Romania, the Russian Federation, the Republic of Turkey, Ukraine.
- Entry into force** 15 January 1994
- Associated instruments**
- *Protocol on Protection of the Black Sea Marine Environment against Pollution from Land-Based Sources, Bucharest, 21 April 1992, entered into force on 15 January 1994. Protocol on Co-operation in Combating Pollution of the Black Sea Marine Environment by Oil and Other Harmful Substances in Emergency Situations, Bucharest, 21 April 1992, entered into force on 15 January 1994.*
 - *Protocol on the Protection of the Black Sea Marine Environment against Pollution by Dumping, Bucharest, 21 April 1992, entered into force on 15 January 1994.*
 - *Protocol on the Biological and Landscape Diversity Protection, Sofia, 14 June 2002, not yet in force.*
 - *Ministerial Declaration on the Protection of the Black Sea, Odessa, 7 April 1993 (<http://eelink.net/~asilwildlife/odessa.pdf>)*

Provisions relating to

Environmental Impact Assessment

Article XV Scientific and technical cooperation and monitoring

1. The Contracting Parties shall cooperate in conducting scientific research aimed at protecting and preserving the marine environment of the Black Sea and shall undertake, where appropriate, joint programmes of scientific research, and exchange relevant scientific data and information.
2. The Contracting Parties shall cooperate in conducting studies aimed at developing ways and means for the assessment of the nature and extent of pollution and of its effect on the ecological system in the water column and sediments, detecting pollutes areas, examining and assessing risks and finding remedies, and in particular, they shall develop alternative methods of treatment, disposal, elimination or utilization of harmful substances.

⁸ http://www.blacksea-commission.org/OfficialDocuments/Convention_iframe

3. The Contracting Parties shall cooperate through the Commission in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practices and procedures for the prevention, reduction and control of pollution of the marine environment of the Black Sea.

4. The Contracting Parties shall, inter alia, establish through the Commission and, where appropriate, in cooperation with international organizations they consider to be competent, complementary or joint monitoring programmes covering all sources of pollution and shall establish a pollution monitoring system for the Black Sea including, as appropriate, programmes as bilateral or multilateral level for observing, measuring, evaluating and analyzing the risks or effects of pollution of the marine environment of the Black Sea.

5. When the Contracting Parties have reasonable grounds for believing that activities under their jurisdiction or control may cause substantial pollution or significant and harmful changes to the marine environment of the Black Sea, they shall, before commencing such activities, assess their potential effects on the basis of all relevant information and monitoring data and shall communicate the results of such assessments to the Commission.

Public Participation

Article 9

The Contracting Parties shall cooperate in exchanging information relevant to Articles 5, 6, 7 and 8. Each Contracting Party shall inform the other Contracting Parties which may potentially be affected, in case of suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur.

Convention for the Protection of the Mediterranean Sea against pollution, Barcelona, 9 February 1976⁹.

- Geographic Scope** Mediterranean Sea
- Parties** Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, the European Community, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Serbia and Montenegro, Slovenia, Spain, Syria, Tunisia, Turkey.
- Entry into force** 12 February 1978, Amended in 1995.
- Associated Protocols**
- *Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft (Dumping Protocol), Barcelona, 16 February 1976, entered into force on 12 February 1978, modified by amendments adopted in Barcelona on 10 June 1995, not yet in force.*
 - *Protocol Concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency (Emergency Protocol), Barcelona, 16 February 1976, entered into force on 12 February 1978.*
 - *Protocol Concerning Co-operation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea, Valletta, 25 January 2002, not yet in force.*
 - *Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (LBS Protocol), Athens, 17 May 1980, entered into force on 17 June 1983, modified by amendments adopted in Syracuse on 7 March 1996, not yet in force. Protocol Concerning Mediterranean Specially Protected Areas (SPA Protocol), Geneva, 3 April 1982, entered into force on 23 March 1986.*
 - *Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean (SPA and Biodiversity Protocol), Barcelona, 10 June 1995, entered into force on 12 December 1999.*
 - *Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil (Offshore Protocol), Madrid, 14 October 1994, not yet in force.*
 - *Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal (Hazardous Wastes Protocol), Izmir, 1 October 1996, not yet in force.*

⁹ <http://eelink.net/~asilwildlife/barcelona.html>

Provisions relating to

Environmental Impact Assessment

Article 4 General Obligations

1. The Contracting Parties shall individually or jointly take all appropriate measures in accordance with the provisions of this Convention and those Protocols in force to which they are party to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to protect and enhance the marine environment in that Area so as to contribute towards its sustainable development.

2. The Contracting Parties pledge themselves to take appropriate measures to implement the Mediterranean Action Plan and, further, to pursue the protection of the marine environment and the natural resources of the Mediterranean Sea Area as an integral part of the development process, meeting the needs of present and future generations in an equitable manner.

For the purpose of implementing the objectives of sustainable development the Contracting Parties shall take fully into account the recommendations of the Mediterranean Commission on Sustainable Development established within the framework of the Mediterranean Action Plan.

3. In order to protect the environment and contribute to the sustainable development of the Mediterranean Sea Area, the Contracting Parties shall:

(a) apply, in accordance with their capabilities, the precautionary principle, by virtue of which where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;

(b) apply the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter, with due regard to the public interest;

(c) undertake environmental impact assessment for proposed activities that are likely to cause a significant adverse impact on the marine environment and are subject to an authorization by competent national authorities;

(d) promote cooperation between and among States in environmental impact assessment procedures related to activities under their jurisdiction or control which are likely to have a significant adverse effect on the marine environment of other States or areas beyond the limits of national jurisdiction, on the basis of notification, exchange of information and consultation;

Transboundary context

Article 4 General Obligations

3.(c) undertake environmental impact assessment for proposed activities that are likely to cause a significant adverse impact on the marine environment and are subject to an authorization by competent national authorities;

(d) promote cooperation between and among States in environmental impact assessment procedures related to activities under their jurisdiction or control which are likely to have a significant adverse effect on the marine environment of other States or areas beyond the limits of national jurisdiction, on the basis of notification, exchange of information and consultation;

Article 11 Pollution Resulting From The Transboundary Movements Of Hazardous Wastes And Their Disposal

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest possible extent eliminate pollution of the environment which can be caused by transboundary movements and disposal of hazardous wastes, and to reduce to a minimum, and if possible eliminate, such transboundary movements.

Public Participation

Article 15 Public Information And Participation

1. The Contracting Parties shall ensure that their competent authorities shall give to the public appropriate access to information on the environmental state in the field of application of the Convention and the Protocols, on activities or measures adversely affecting or likely to affect it and on activities carried out or measures taken in accordance with the Convention and the Protocols.

2. The Contracting Parties shall ensure that the opportunity is given to the public to participate in decision-making processes relevant to the field of application of the Convention and the Protocols, as appropriate.

3. The provision of paragraph 1 of this Article shall not prejudice the right of Contracting Parties to refuse, in accordance with their legal systems and applicable international regulations, to provide access to such information on the ground of confidentiality, public security or investigation proceedings, stating the reasons for such a refusal.

**Protocol concerning the Protection of the Mediterranean Sea
against Pollution Resulting from Exploration and Exploitation of
the Continental Shelf and the Seabed and its Subsoil, Madrid, 14
October 1994¹⁰.**

<u>Geographic Scope</u>	Mediterranean Sea
<u>Parties</u>	Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, the European Community, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Serbia and Montenegro, Slovenia, Spain, Syria, Tunisia, Turkey.
<u>Entry into force</u>	not yet entered into force

Provisions relating to

Environmental Impact Assessment

Article 19 Monitoring

1. The operator shall be required to measure, or to have measured by a qualified entity, expert in the matter, the effects of the activities on the environment in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area and to report on them periodically or upon request by the competent authority for the purpose of an evaluation by such competent authority according to a procedure established by the competent authority in its authorization system.
2. The competent authority shall establish, where appropriate, a national monitoring system in order to be in a position to monitor regularly the installations and the impact of the activities on the environment, so as to ensure that the conditions attached to the grant of the authorization are being fulfilled.

Article 21 Specially Protected Areas

For the protection of the areas defined in the Protocol concerning Mediterranean Specially Protected Areas and any other area established by a Party and in furtherance of the goals stated therein, the Parties shall take special measures in conformity with international law, either individually or through multilateral or bilateral cooperation, to prevent, abate, combat and control pollution arising from activities in these areas.

¹⁰ http://www.unepmap.gr/Archivio/All_Languages/WebDocs/BC&Protocols/Offshore94_eng.pdf

In addition to the measures referred to in the Protocol concerning Mediterranean Specially Protected Areas for the granting of authorization, such measures may include, *inter alia*:

- (a) Special restrictions or conditions when granting authorizations for such areas:
 - (i) The preparation and evaluation of environmental impact assessments;
 - (ii) The elaboration of special provisions in such areas concerning monitoring, removal of installations and prohibition of any discharge.
- (b) Intensified exchange of information among operators, the competent authorities, Parties and the Organization regarding matters which may affect such areas.

Transboundary context

Article 26 Transboundary Pollution

1. Each Party shall take all measures necessary to ensure that activities under its jurisdiction are so conducted as not to cause pollution beyond the limits of its jurisdiction.
2. A Party within whose jurisdiction activities are being envisaged or carried out shall take into account any adverse environmental effects, without discrimination as to whether such effects are likely to occur within the limits of its jurisdiction or beyond such limits.
3. If a Party becomes aware of cases in which the marine environment is in imminent danger of being damaged, or has been damaged, by pollution, it shall immediately notify other Parties which in its opinion are likely to be affected by such damage, as well as the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), and provide them with timely information that would enable them, where necessary, to take appropriate measures. REMPEC shall distribute the information immediately to all relevant Parties.
4. The Parties shall endeavour, in accordance with their legal systems and, where appropriate, on the basis of an agreement, to grant equal access to and treatment in administrative proceedings to persons in other States who may be affected by pollution or other adverse effects resulting from proposed or existing operations.
5. Where pollution originates in the territory of a State which is not a Contracting Party to this Protocol, any Contracting Party affected shall endeavour to cooperate with the said State so as to make possible the application of the Protocol.

**Annex IV “Environmental Impact Assessment” to the Protocol
concerning the Protection of the Mediterranean Sea against
Pollution Resulting from Exploration and Exploitation of the
Continental Shelf and the Seabed and its Subsoil, Madrid, 14
October 1994¹¹.**

<u>Geographic Scope</u>	Mediterranean sea
<u>Parties</u>	Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, the European Community, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Serbia and Montenegro, Slovenia, Spain, Syria, Tunisia, Turkey.
<u>Entry into force</u>	not yet entered into force

Provisions relating to

Environmental Impact Assessment

Annex IV Environmental Impact Assessment

1. Each Party shall require that the environmental impact assessment contains at least the following:
 - (a) A description of the geographical boundaries of the area within which the activities are to be carried out, including safety zones where applicable;
 - (b) A description of the initial state of the environment of the area;
 - (c) An indication of the nature, aims, scope and duration of the proposed activities;
 - (d) A description of the methods, installations and other means to be used, possible alternatives to such methods and means;
 - (e) A description of the foreseeable direct or indirect short and long-term effects of the proposed activities on the environment, including fauna, flora and the ecological balance;
 - (f) A statement setting out the measures proposed for reducing to the minimum the risk of damage to the environment as a result of carrying out the proposed activities, including possible alternatives to such measures;
 - (g) An indication of the measures to be taken for the protection of the environment from pollution and other adverse effects during and after the proposed activities;
 - (h) A reference to the methodology used for the environmental impact assessment;
 - (i) An indication of whether the environment of any other State is likely to be affected by the proposed activities.

¹¹ http://www.unepmap.gr/Archivio/All_Languages/WebDocs/BC&Protocols/Offshore94_eng.pdf

2. Each Party shall promulgate standards taking into account the international rules, standards and recommended practices and procedures, adopted in accordance with Article 23 of the Protocol, by which environmental impact assessments are to be evaluated.

Transboundary context

Article 26 Transboundary Pollution

1. Each Party shall take all measures necessary to ensure that activities under its jurisdiction are so conducted as not to cause pollution beyond the limits of its jurisdiction.

2. A Party within whose jurisdiction activities are being envisaged or carried out shall take into account any adverse environmental effects, without discrimination as to whether such effects are likely to occur within the limits of its jurisdiction or beyond such limits.

3. If a Party becomes aware of cases in which the marine environment is in imminent danger of being damaged, or has been damaged, by pollution, it shall immediately notify other Parties which in its opinion are likely to be affected by such damage, as well as the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), and provide them with timely information that would enable them, where necessary, to take appropriate measures. REMPEC shall distribute the information immediately to all relevant Parties.

4. The Parties shall endeavour, in accordance with their legal systems and, where appropriate, on the basis of an agreement, to grant equal access to and treatment in administrative proceedings to persons in other States who may be affected by pollution or other adverse effects resulting from proposed or existing operations.

Offshore Protocol

5. Where pollution originates in the territory of a State which is not a Contracting Party to this Protocol, any Contracting Party affected shall endeavour to cooperate with the said State so as to make possible the application of the Protocol.

Annex IV Environmental Impact Assessment

1. Each Party shall require that the environmental impact assessment contains at least the following:

(i) An indication of whether the environment of any other State is likely to be affected by the proposed activities.

Public Participation

Annex IV Environmental Impact Assessment

1. Each Party shall require that the environmental impact assessment contains at least the following:

- (a)* A description of the geographical boundaries of the area within which the activities are to be carried out, including safety zones where applicable;
- (b)* A description of the initial state of the environment of the area;
- (c)* An indication of the nature, aims, scope and duration of the proposed activities;
- (d)* A description of the methods, installations and other means to be used, possible alternatives to such methods and means;
- (e)* A description of the foreseeable direct or indirect short and long-term effects of the proposed activities on the environment, including fauna, flora and the ecological balance;
- (f)* A statement setting out the measures proposed for reducing to the minimum the risk of damage to the environment as a result of carrying out the proposed activities, including possible alternatives to such measures;
- (g)* An indication of the measures to be taken for the protection of the environment from pollution and other adverse effects during and after the proposed activities;
- (h)* A reference to the methodology used for the environmental impact assessment;
- (i)* An indication of whether the environment of any other State is likely to be affected by the proposed activities.

2. Each Party shall promulgate standards taking into account the international rules, standards and recommended practices and procedures, adopted in accordance with Article 23 of the Protocol, by which environmental impact assessments are to be evaluated.

**Protocol for the Protection of the Mediterranean Sea against
Pollution from Land-Based Sources and Activities, Syracuse, 7
March 1996¹².**

<u>Geographic Scope</u>	Mediterranean Sea
<u>Parties</u>	Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, the European Community, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Serbia and Montenegro, Slovenia, Spain, Syria, Tunisia, Turkey.
<u>Entry into force</u>	not yet in force

Provisions relating to

Environmental Impact Assessment

Preamble

Applying the precautionary principle and the polluter pays principle, undertaking environmental impact assessment and utilizing the best available techniques and the best environmental practice, including clean production technologies, as provided for in article 4 of the Convention,

Annex I Elements to be taken into account in the preparation of action plans, programmes and measures for the elimination of pollution from land-based sources and activities

(...)

Priorities for action should be established by the Parties, on the basis of the relative importance of their impact on public health, the environment and socio-economic and cultural conditions. Such programmes should cover point sources, diffuse sources and atmospheric deposition.

¹² <http://sedac.ciesin.org/entri/texts/mediterranean.pollution.1976.html>

**Protocol on the Prevention of Pollution of the Mediterranean Sea
by Transboundary Movements of Hazardous Wastes and Their
Disposal, Izmir, 1 October 1996¹³.**

<u>Geographic Scope</u>	Mediterranean Sea
<u>Parties</u>	Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, the European Community, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Serbia and Montenegro, Slovenia, Spain, Syria, Tunisia, Turkey.
<u>Entry into force</u>	not yet in force

Provisions relating to

Environmental Impact Assessment

Preamble

Taking into account the 1992 Rio Declaration on Environment and Development and especially Principle 14 which declares that States "should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities or substances that cause severe environmental degradation or are found to be harmful to human health" (...)

Transboundary context

Preamble

Aware of the growing international concern regarding the need to ensure that pollution originating in one State is not transferred to other States and, consistent with this objective, of the need to reduce transboundary movements of hazardous wastes to a minimum as far as possible, with the ultimate aim of phasing out such movements (...)

Public Participation

Article 25 Mutual Information

The Parties shall inform one another directly or through the Organization of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and submission of such information shall be determined at the meetings of the Parties.

¹³ <http://www.basel.int/article11/mediterranean.doc>

Protocol concerning cooperation in preventing pollution from ships, and in case of emergency, combating pollution of Mediterranean Sea, Valletta, 25 January 2002¹⁴.

<u>Geographic Scope</u>	Mediterranean Sea
<u>Parties</u>	Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, the European Community, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Serbia and Montenegro, Slovenia, Spain, Syria, Tunisia, Turkey.
<u>Entry into force</u>	17 March 2004

Provisions relating to

Environmental Impact Assessment

Preamble

Applying the precautionary principle, the polluter pays principle and the method of environmental impact assessment, and utilizing the best available techniques and the best environmental practices, as provided for in Article 4 of the Convention.

Article 10 Operational Measures

1. Any Party faced with a pollution incident shall:
 - (a) make the necessary assessments of the nature, extent and possible consequences of the pollution incident or, as the case may be, the type and approximate quantity of oil or hazardous and noxious substances and the direction and speed of drift of the spillage;
 - (b) take every practicable measure to prevent, reduce and, to the fullest possible extent, eliminate the effects of the pollution incident;
 - (c) immediately inform all Parties likely to be affected by the pollution incident of these assessments and of any action which it has taken or intends to take, and simultaneously provide the same information to the Regional Centre, which shall communicate it to all other Parties;
 - (d) continue to observe the situation for as long as possible and report thereon in accordance with Article 9.
2. Where action is taken to combat pollution originating from a ship, all possible measures shall be taken to safeguard:
 - (a) human lives;

¹⁴

(b) the ship itself; in doing so, damage to the environment in general shall be prevented or minimized.

Any Party which takes such action shall inform the International Maritime Organization either directly or through the Regional Centre.

Article 15 Environmental Risks Of Maritime Traffic

In conformity with generally accepted international rules and standards and the global mandate of the International Maritime Organization, the Parties shall individually, bilaterally or multilaterally take the necessary steps to assess the environmental risks of the recognized routes used in maritime traffic and shall take the appropriate measures aimed at reducing the risks of accidents or the environmental consequences thereof.

Public Participation

Article 7 Dissemination And Exchange Of Information

1. Each Party undertakes to disseminate to the other Parties information concerning:

(a) the competent national organization or authorities responsible for combating pollution of the sea by oil and hazardous and noxious substances;

(b) the competent national authorities responsible for receiving reports of pollution of the sea by oil and hazardous and noxious substances and for dealing with matters concerning measures of assistance between Parties;

(c) the national authorities entitled to act on behalf of the State in regard to measures of mutual assistance and cooperation between Parties;

(d) the national organization or authorities responsible for the implementation of paragraph 2 of Article 4, in particular those responsible for the implementation of the international conventions concerned and other relevant applicable regulations, those responsible for port reception facilities and those responsible for the monitoring of discharges which are illegal under MARPOL 73/78;

(e) its regulations and other matters which have a direct bearing on preparedness for and response to pollution of the sea by oil and hazardous and noxious substances;

(f) new ways in which pollution of the sea by oil and hazardous and noxious substances may be avoided, new measures for combating pollution, new developments in the technology of conducting monitoring and the development of research programmes.

2. The Parties which have agreed to exchange information directly shall communicate such information to the Regional Centre. The latter shall communicate this information to the other Parties and, on a basis of reciprocity, to coastal States of the Mediterranean Sea Area which are not Parties to this Protocol.

3. Parties concluding bilateral or multilateral agreements within the framework of this Protocol shall inform the Regional Centre of such agreements, which shall communicate them to the other Parties.

Article 10 Operational Measures

1. Any Party faced with a pollution incident shall:

- (a) make the necessary assessments of the nature, extent and possible consequences of the pollution incident or, as the case may be, the type and approximate quantity of oil or hazardous and noxious substances and the direction and speed of drift of the spillage;
- (b) take every practicable measure to prevent, reduce and, to the fullest possible extent, eliminate the effects of the pollution incident;
- (c) immediately inform all Parties likely to be affected by the pollution incident of these assessments and of any action which it has taken or intends to take, and simultaneously provide the same information to the Regional Centre, which shall communicate it to all other Parties;
- (d) continue to observe the situation for as long as possible and report thereon in accordance with Article 9.

2. Where action is taken to combat pollution originating from a ship, all possible measures shall be taken to safeguard:

- (a) human lives;
- (b) the ship itself; in doing so, damage to the environment in general shall be prevented or minimized.

Any Party which takes such action shall inform the International Maritime Organization either directly or through the Regional Centre.

Framework Convention for the Protection of the Marine Environment of the Caspian Sea, Teheran, November 2003¹⁵.

Geographic Scope Caspian Sea

Parties Republic of Azerbaijan, Islamic Republic of Iran, Republic of Kazakhstan, Russian Federation, Turkmenistan.

Entry into force

Associated international instruments

Provisions relating to

Environmental Impact Assessment

Article 13. Environmental Emergencies

1. The contracting Parties shall take all appropriate measures and cooperate to protect human beings and the marine environment against consequences of natural or man-made emergencies. To this end, preventive, preparedness and response measures, including restoration measures, shall be applied.
2. For the purpose of undertaking preventive measures and setting up preparedness measures, the Contracting Party of origin shall identify hazardous activities within its jurisdiction, capable of causing environmental emergencies, and shall ensure that other contracting Parties are notified of any such proposed or existing activities. The Contracting Parties shall agree to carry out environmental impact assessment of hazardous activities, and to implement risk-reducing measures.
3. The Contracting Parties shall cooperate for the setting up of early warning systems for industrial accidents and environmental emergencies. In the event of an environmental emergency, or imminent threat thereof, the Contracting Party of origin shall ensure that the Contracting Parties likely to be affected, are, without delay, notified at appropriate levels.
4. The Contracting Parties shall take all appropriate measures to establish and maintain adequate emergency preparedness measures, including measures to ensure that adequate equipment and qualified personnel are readily available, to respond to environmental emergencies.

Article 17. Environmental Impact Assessment

¹⁵ http://www.crudeaccountability.org/docs/convention_text_en.pdf

1. Each Contracting Party shall take all appropriate measures to introduce and apply procedures of environmental impact assessment of any planned activity, that are likely to cause significant adverse effect on the marine environment of the Caspian Sea.
2. Each Contracting Party will take all appropriate measures to disseminate results of environmental impact assessment carried out in accordance with paragraph 1 of this Article, to other Contracting Parties.
3. The Contracting Parties shall co-operate in the development of protocols that determine procedures of environmental impact assessment of the marine environment of the Caspian Sea in transboundary context.

Transboundary context

Article 17. Environmental Impact Assessment

4. Each Contracting Party shall take all appropriate measures to introduce and apply procedures of environmental impact assessment of any planned activity, that are likely to cause significant adverse effect on the marine environment of the Caspian Sea.
5. Each Contracting Party will take all appropriate measures to disseminate results of environmental impact assessment carried out in accordance with paragraph 1 of this Article, to other Contracting Parties.
6. The Contracting Parties shall co-operate in the development of protocols that determine procedures of environmental impact assessment of the marine environment of the Caspian Sea in transboundary context.

Public Participation

Article 21. Exchange of and Access to Information

The Contracting Parties shall directly or through the Secretariat exchange on a regular basis information, in accordance with the provisions of this Convention.

The Contracting Parties shall endeavour to ensure public access to environmental conditions of the Caspian Sea, measures taken or planned to be taken to prevent, control and reduce pollution of the Caspian Sea in accordance with their national legislation and taking into account provisions of existing international agreements concerning public access to environmental information.

Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, Noumea, 24 November 1986¹⁶.

<u>Geographic Scope</u>	South Pacific
<u>Parties</u>	American Samoa, Australia, Cook Islands, Federated States of Micronesia, Fiji, France, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand Niue, Northern Mariana Islands, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, United States of America, Vanuatu, Wallis and Futuna.
<u>Entry into force</u>	22 August 1990.
<u>Associated international instruments</u>	

Provisions relating to

Environmental Impact Assessment

Article 16 Environmental Impact Assessment

1. The Parties agree to develop and maintain, with the assistance of competent global, regional and subregional organisations as requested, technical guidelines and legislation giving adequate emphasis to environmental and social factors to facilitate balanced development of their natural resources and planning of their major projects which might affect the marine environment in such a way as to prevent or minimise harmful impacts on the Convention Area.
2. Each Party shall, within its capabilities, assess the potential effects of such projects on the marine environment, so that appropriate measures can be taken to prevent any substantial pollution of, or significant and harmful changes within, the Convention Area.
3. With respect to the assessment referred to in paragraph 2, each Party shall, where appropriate, invite:
 - (a) public comment according to its national procedures;
 - (b) other Parties that may be affected to consult with it and submit comments.
 The results of these assessments shall be communicated to the Organisation, which shall make them available to interested Parties.

¹⁶ <http://sedac.ciesin.org/entri/texts/natural.resources.south.pacific.1986.html>

Transboundary context

Article 16 Environmental Impact Assessment

2. Each High Contracting Party shall endeavour to include an assessment of the potential environmental effects in any planning activity entailing projects within its territory, particularly in the coastal areas, that may cause substantial pollution of, or significant and harmful changes to, the area of application of the Convention.

Public Participation

Article 16 Environmental Impact Assessment

3. With respect to the assessment referred to in paragraph 2, each Party shall, where appropriate, invite:

- (a) public comment according to its national procedures;
- (b) other Parties that may be affected to consult with it and submit comments.

The results of these assessments shall be communicated to the Organisation, which shall make them available to interested Parties.

The Convention for Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific, Antigua, 18 February 2002¹⁷.

<u>Geographic Scope</u>	Northeast Pacific
<u>Parties</u>	Colombia, Costa Rica, El Salvador, Guatemala, Honduras, The United Mexican States, Nicaragua, Panama
<u>Entry into force</u>	Not yet in force

Provisions relating to

Environmental Impact Assessment

Article 5 General Obligations

5. The Contracting Parties shall adopt all necessary measures so that activities under their jurisdiction or control shall be carried out in such a way as not to cause detriment through pollution or other forms of environmental deterioration to other Parties or their environment, and so that pollution caused by accidents or activities under their jurisdiction or control may not, as far as possible, extend beyond the areas over which the Contracting Parties exercise sovereignty and jurisdiction. In cases where it is foreseen that such transboundary effect may cause harm, other interested Parties should be informed and consulted in the course of planning the activity.

6. In order to protect the environment and contribute to the sustainable management, protection and conservation of the marine environment of the region, the Contracting Parties shall:

(c) Encourage cooperation between States with respect to environmental impact procedures related to activities under their jurisdiction or control that may have adverse effects on the marine environment of other States or in areas outside the boundaries of their national jurisdiction, by means of notifications, exchange of information and consultations;

Transboundary context

Article 5 General Obligations

6. In order to protect the environment and contribute to the sustainable management, protection and conservation of the marine environment of the region, the Contracting Parties shall:

¹⁷ http://www.cep.unep.org/services/nepregseas/Convention_English_NEP.doc

(c) Encourage cooperation between States with respect to environmental impact procedures related to activities under their jurisdiction or control that may have adverse effects on the marine environment **of other States or in areas outside the boundaries of their national jurisdiction**, by means of notifications, exchange of information and consultations;

Public Participation

Article 5 General Obligations

6. In order to protect the environment and contribute to the sustainable management, protection and conservation of the marine environment of the region, the Contracting Parties shall:

(c) Encourage cooperation between States with respect to environmental impact procedures related to activities under their jurisdiction or control that may have adverse effects on the marine environment of other States or in areas outside the boundaries of their national jurisdiction, by means of notifications, **exchange of information and consultations**;

Convention for the Protection and Development of the Marine Environment of the Wider Caribbean region, Cartagena de Indias, 24 march 1983¹⁸.

Geographic Scope Wider Caribbean
Parties Colombia, Costa Rica, Cuba, France, Grenada, Guatemala, Honduras, Jamaica, Mexico, Netherlands, Nicaragua, Panama, Saint Lucia, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, the Caribbean Community and the European Economic Community.

Entry into force 11 October 1986

Associated international instruments

- *Protocol Concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region (Oil Spills Protocol), Cartagena de Indias, 24 March 1983, entered into force on 11 October 1986.*
- *Protocol Concerning Specially Protected Areas and Wildlife to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (SPAW Protocol), Kingston, 18 January 1990, entered into force on 18 June 2000.*
- *Protocol Concerning Pollution from Land-Based Sources and Activities in the Wider Caribbean Region (LBS Protocol), Oranjestad, 6 October 1999, not yet in force.*

Provisions relating to

Environmental Impact Assessment

Article 12 Environmental Impact Assessment

As part of their environmental management policies the Contracting Parties undertake to 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.

Each Contracting Party shall assess within its capabilities, or ensure the assessment of, the potential effects of such projects on the marine environment, particularly in coastal areas, so that appropriate measures may be taken to prevent any substantial pollution of, or significant and harmful changes to, the Convention area.

¹⁸ http://eelink.net/~asilwildlife/carri_marine.html

With respect to the assessments referred to in paragraph 2, each Contracting Party shall, with the assistance of the Organization when requested, develop procedures for the dissemination of information and may, where appropriate, invite other Contracting Parties which may be affected to consult with it and to submit comments.

Transboundary context

Article 12 Environmental Impact Assessment

With respect to the assessments referred to in paragraph 2, each Contracting Party shall, with the assistance of the Organization when requested, develop procedures for the dissemination of information and may, where appropriate, invite other Contracting Parties which may be affected to consult with it and to submit comments.

Public Participation

Article 12 Environmental Impact Assessment

With respect to the assessments referred to in paragraph 2, each Contracting Party shall, with the assistance of the Organization when requested, develop procedures for the dissemination of information and may, where appropriate, invite other Contracting Parties which may be affected to consult with it and to submit comments.

**Protocol Concerning Specially Protected Areas and Wildlife to the
Convention for the Protection and Development of the Marine
Environment of the Wider Caribbean Region, Kingston, 18 January
1990¹⁹.**

<u>Geographic Scope</u>	Wider Caribbean
<u>Parties</u>	Colombia, Costa Rica, Cuba, France, Grenada, Guatemala, Honduras, Jamaica, Mexico, Netherlands, Nicaragua, Panama, Saint Lucia, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, the Caribbean Community.
<u>Entry into force</u>	11 October 1986

Provisions relating to

Environmental Impact Assessment

Article 13 Environmental Impact Assessment

In the planning process leading to decisions about industrial and other projects and activities that would have a negative environmental impact and significantly affect areas or species that have been afforded special protection under this Protocol, each Party shall evaluate and take into consideration the possible direct and indirect impacts, including cumulative impacts, of the projects and activities being contemplated.

The Organization and the Scientific and Technical Advisory Committee shall, to the extent possible, provide guidance and assistance, upon request, to the Party making these assessments.

¹⁹ <http://www.cep.unep.org/pubs/legislation/spaw.html>

**Protocol Concerning Pollution from Land-Based Sources and
Activities to the 1983 Convention for the Protection and
Development of the Marine Environment of the Wider Caribbean,
Oranjestad (Aruba), 6 October 1999²⁰.**

<u>Geographic Scope</u>	Wider Caribbean
<u>Parties</u>	Colombia, Costa Rica, Cuba, France, Grenada, Guatemala, Honduras, Jamaica, Mexico, Netherlands, Nicaragua, Panama, Saint Lucia, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, the Caribbean Community and the European Economic Community.
<u>Entry into force</u>	not yet in force.

Provisions relating to

Environmental Impact Assessment

Article VII Environmental Impact Assessment

1. The Contracting Parties shall develop and adopt guidelines concerning environmental impact assessments, and review and update those guidelines as appropriate.
2. When a Contracting Party has reasonable grounds to believe that a planned land-based activity on its territory, or a planned modification to such an activity, which is subject to its regulatory control in accordance with its laws, is likely to cause substantial pollution of, or significant and harmful changes to, the Convention area, that Contracting Party shall, as far as practicable, review the potential effects of such activity on the Convention area, through means such as an environmental impact assessment.
3. Decisions by the competent government authorities with respect to land-based activities, referred to in paragraph 2 above, should take into account any such review.
4. Each Contracting Party shall, subject to its domestic law and regulations, seek the participation of affected persons in any review process conducted pursuant to paragraph 2 above, and, where practicable, publish or make available relevant information obtained in this review.

Transboundary context

²⁰ http://www.cep.unep.org/pubs/legislation/lbsmp/final_protocol/protocol_eng.doc

Article IX Transboundary Pollution

Where pollution from land-based sources and activities originating from any Contracting Party is likely to affect adversely the coastal or marine environment of one or more of the other Contracting Parties, the Contracting Parties concerned shall use their best efforts to consult at the request of any affected Contracting Party, with a view to resolving the issue.

Public Participation

Article X Participation

Each Contracting Party shall, in accordance with its national laws and regulations, promote public access to relevant information and documentation concerning pollution of the Convention area from land-based sources and activities and the opportunity for public participation in decision-making processes concerning the implementation of this Protocol.

North American Agreement on Environmental Cooperation, 14 September 1993²¹.

Geographic Scope North America

Parties Canada, United Mexican States and the United States of America

Entry into force 1 January 1994

Associated international instruments

- *North American Free Trade Agreement, 17 December 1992.*
- *North American Agreement on Labor Cooperation, 14 September 1993.*

Provisions relating to

Environmental Impact Assessment

Article 10: Council Functions

7. Recognizing the significant bilateral nature of many transboundary environmental issues, the Council shall, with a view to agreement between the Parties pursuant to this Article within three years on obligations, consider and develop recommendations with respect to:

- (a) assessing the environmental impact of proposed projects subject to decisions by a competent government authority and likely to cause significant adverse transboundary effects, including a full evaluation of comments provided by other Parties and persons of other Parties;
- (b) notification, provision of relevant information and consultation between Parties with respect to such projects; and
- (c) mitigation of the potential adverse effects of such projects.

Transboundary context

Article 10: Council Functions

7. Recognizing the significant bilateral nature of many transboundary environmental issues, the Council shall, with a view to agreement between the Parties pursuant to this Article within three years on obligations, consider and develop recommendations with respect to:

- (a) assessing the environmental impact of proposed projects subject to decisions by a competent government authority and likely to cause significant adverse transboundary

²¹ http://www.cec.org/pubs_info_resources/law_treat_agree/naacc/index.cfm?varlan=english

effects, including a full evaluation of comments provided by other Parties and persons of other Parties;

- (b) notification, provision of relevant information and consultation between Parties with respect to such projects; and
- (c) mitigation of the potential adverse effects of such projects.

Draft North American Agreement on Transboundary Environmental Impact Assessment, 12 June 1997²².

<u>Geographic Scope</u>	North America
<u>Parties</u>	North-American Inter-governmental Group on Transboundary Environmental Impact Assessment (Canada, Mexico and the United States)
<u>Entry into force</u>	Recommendations made to the governments of Canada, Mexico and the United States by the group of experts
<u>Associated international instruments</u>	<ul style="list-style-type: none"> ➤ <i>North American Free Trade Agreement, 17 December 1992.</i>

Provisions relating to

Environmental Impact Assessment

Preamble

Building on the *North American agreement on environmental cooperation*, and more specifically its article 10(7);

Also building on the *recommendation on transboundary environmental impact assessment in North America* and the *transboundary environmental impact assessment overarching principles* adopted by the council of the commission for environmental cooperation;

Reaffirming the *Stockholm Declaration on the human environment* of 1972 and the *Rio Declaration on environment and development* of 1992;

Recognizing the interrelationship of their environments;

Also recognizing the sovereign right of states to exploit their own resources pursuant to their own environmental and development policies and their 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;

Recalling their tradition of environmental cooperation and expressing their desire to respect and build on international environmental agreements and existing national and sub-national laws, policies, processes and instruments in order to promote cooperation between them;

Convinced of the importance of environmental impact assessment in general, and more specifically of transboundary environmental impact assessment, in achieving sustainable development;

²² http://www.cec.org/pubs_info_resources/law_treat_agree/pbl.cfm?varlan=english

Recognizing that states shall provide prior and timely notification and relevant information to potentially affected states on activities that may have a significant adverse transboundary environmental impact and shall consult with those states at an early stage and in good faith;

Emphasizing the need and importance of developing anticipatory policies and of preventing, mitigating and monitoring significant adverse environmental impact in general and more specifically in a transboundary context, in accordance with the precautionary principle;

Conscious of the need to give explicit consideration to environmental factors at an early stage in the decision-making process by applying environmental impact assessment, at all appropriate administrative levels, as a necessary tool to improve the quality of information presented to decision makers so that environmentally sound decisions can be made paying careful attention to minimizing significant adverse environmental impact, particularly in a transboundary context, thereby limiting potential conflicts between the parties;

Emphasizing the importance of public participation in conserving, protecting and enhancing the environment, particularly in the context of domestic and transboundary environmental impact assessment;

Commending the ongoing activities of the parties to ensure that, through their national legal and administrative provisions and their national policies, environmental impact assessment is carried out;

1. Definitions

Competent Government Authority means that or those federal and non-federal authorities which the Parties designate as responsible for performing the duties arising out of this Agreement;

Environmental Impact means any change caused by a proposed project on human health and safety, flora, fauna, soil, air, water, climate, the current use of lands and resources for traditional purposes by indigenous people or, physical structures, sites or artifacts that are of historical, archaeological, paleontological or architectural significance or, the interaction among these factors; it also includes impacts on cultural heritage or socio-economic conditions resulting from changes to those factors. Impact includes direct, indirect and cumulative impacts;

Mitigation Measures - definition to be elaborated

Party of Origin means the Party within whose territory a proposed project is intended to be carried out; (further refinement required)

Post-Project Monitoring - definition to be elaborated

Potentially Affected Party means any Party or Parties whose territory could potentially be adversely affected by a proposed project located within the territory of another Party (further refinement required);

Proposed Project - definition to be elaborated

Transboundary Environmental Impact means any environmental impact, either permanent or temporary in the territory of a Party caused by a proposed project, the

physical origin of which is situated wholly or in part in the territory of another Party, and may include, inter alia, environmental impact on migratory species and marine resources and environmental impacts transmitted through shared water sheds and air sheds; (definition to be refined)

Transboundary Environmental Impact Assessment means a domestic assessment procedure that is used to evaluate the transboundary environmental impacts of a proposed project;

2. Trigger for notification

2.1 In accordance with Articles 3 to 7, the Party of Origin shall notify any Potentially Affected Party of proposed projects:

a) located within 100 km of the Canada - United States of America or United Mexican States - United States of America borders and in a category of projects listed in Appendix I; or

b) determined by the competent government authority to have the potential to cause significant adverse transboundary environmental impacts taking into consideration the factors set forth in [Appendix III], without regard to the distance of the project from NACEC.the border;

3. When to notify

3.1 The Party of Origin shall notify any Potentially Affected Party, as early as possible, but no later than when informing its own public about a proposed project and in all cases the notification should be given early enough to provide the Potentially Affected Party and its public a meaningful opportunity to have their comments considered and, in cases where a transboundary environmental impact assessment is conducted, to participate in that assessment process.

4. By whom and to whom

4.1 The competent government authority of the Party of Origin shall notify the designated federal official of the Potentially Affected Party and may notify, as appropriate, designated non-federal officials of the Potentially Affected Party.

5. How to notify

5.1 all official notifications shall be transmitted by a rapid and reliable means that also provides a record of notification.

6. Language of notifications and other communications

6.1 notifications and other communications pursuant to this agreement shall be sent in at least one of the official language(s) of the party of origin.

6.2 the party of origin is encouraged to also transmit a translation of the notification in the language of the potentially affected party where practicable.

7. Content of notification of proposed project

7.1 notification of a proposed project under article 2 above shall contain sufficient information to apprise a potentially affected party of the nature of the proposed project. The notification should include, as available, the elements outlined in part I appendix II.

7.2 in its notification of a proposed project, the party of origin shall stipulate reasonable time frames within which the potentially affected party should respond to the notification;

7.3 if at the time of notification of a proposed project, the party of origin has decided to conduct a transboundary environmental impact assessment, the notification should include, when available, the information contained in parts I and II of appendix II.

8. Request for, and exchange of, information

8.1 when a potentially affected party has reasonable concerns that its environment would be significantly adversely affected by a proposed project, and when no notification has occurred in accordance with article 2, the potentially affected party may request information, or when notification has occurred, additional information, from NACEC the party of origin.

8.2 when notification has occurred, any request for additional information shall be made within an appropriate time frame based on the designated time frames indicated in the notification and should include a justification as to why the additional information is needed.

8.3 the party of origin shall to the extent possible, promptly respond to such a request, and where a transboundary environmental impact assessment takes place, the response should, if possible, be provided in time to allow the potentially affected party to participate meaningfully in such an assessment.

8.4 if the party of origin becomes aware of new and material information relating to the potential for significant adverse transboundary environmental impacts of the proposed project, it shall promptly transmit such information to the potentially affected party.

9. Response from NACEC .the potentially affected party

9.1 in its response to the notification of a proposed project, the potentially affected party should indicate whether it intends to provide comments, or to participate in a transboundary environmental impact assessment if one is undertaken.

9.2 if the potentially affected party indicates that it does not intend to provide comments, or to participate in a transboundary environmental impact assessment, or if it does not respond within the designated time frames, the party of origin does not have any further obligations for that particular project pursuant to this agreement unless at a later date the potentially affected party becomes aware of new information which leads it to reasonably believe that it is likely to face significant adverse transboundary environmental impacts from nacec. In such a case, the potentially affected party shall notify the party of origin and provide an explanation of why the new information makes it believe it is likely to face significant adverse transboundary environmental impacts from NACEC.

10. Trigger for assessment

10.1 if a proposed project is likely to cause significant adverse transboundary environmental impacts on the environment of another party, the party of origin shall:

A) ensure that a transboundary environmental impact assessment is undertaken, which should include, when available, the elements outlined in appendix iv;

B) notify the potentially affected party of the transboundary environmental impact assessment, including, when available, the elements outlined in part ii of appendix ii;

The determination whether a proposed project is likely to cause significant adverse transboundary environmental impacts on the environment of another party shall be made by the party of origin, taking into account the elements outlined in appendix III.

10.2 in its notification, the party of origin shall stipulate reasonable time frames within which the potentially affected party should respond to the notification;

10.3 if no potentially affected party responds to the notification in article 10.1 (b) or indicates that it does not intend to provide comments or participate in a transboundary environmental impact assessment, then the party of origin does not have any further obligation pursuant to this agreement;

10.4 notwithstanding article 10.3, the party of origin may proceed with the preparation of a transboundary environmental impact assessment.

11. Conducting the assessment

11.1 the party of origin shall ensure that:

A) any potentially affected party has a meaningful opportunity to participate, and;

B) relevant information furnished by any potentially affected party is considered.

11.2 in ensuring that a transboundary environmental impact assessment is undertaken, the party of origin shall invite the close cooperation of any potentially affected party.

11.3 a transboundary environmental impact assessment is not adequate or insufficient to the extent that the party of origin does not receive information from NACEC. A potentially affected party in a timely fashion.

Transboundary context

10. Trigger for assessment

10.1 if a proposed project is likely to cause significant adverse transboundary environmental impacts on the environment of another party, the party of origin shall:

A) ensure that a transboundary environmental impact assessment is undertaken, which should include, when available, the elements outlined in appendix IV;

B) notify the potentially affected party of the transboundary environmental impact assessment, including, when available, the elements outlined in part ii of appendix II;

The determination whether a proposed project is likely to cause significant adverse transboundary environmental impacts on the environment of another party shall be made by the party of origin, taking into account the elements outlined in appendix III.

10.2 in its notification, the party of origin shall stipulate reasonable time frames within which the potentially affected party should respond to the notification;

10.3 if no potentially affected party responds to the notification in article 10.1 (b) or indicates that it does not intend to provide comments or participate in a transboundary environmental impact assessment, then the party of origin does not have any further obligation pursuant to this agreement;

10.4 notwithstanding article 10.3, the party of origin may proceed with the preparation of a transboundary environmental impact assessment.

11. Conducting the assessment

11.1 the party of origin shall ensure that:

- A) any potentially affected party has a meaningful opportunity to participate, and;
- B) relevant information furnished by any potentially affected party is considered.

11.2 in ensuring that a transboundary environmental impact assessment is undertaken, the party of origin shall invite the close cooperation of any potentially affected party.

11.3 a transboundary environmental impact assessment is not adequate or insufficient to the extent that the party of origin does not receive information from NACEC. A potentially affected party in a timely fashion.

Public Participation

12. Public participation

12.1 The Party of Origin shall allow the public of the Potentially Affected Party to:

- a) submit comments for the transboundary environmental impact assessment process, and;
- b) participate in any public hearing or meeting relating to the transboundary environmental impact assessment held by the Party of Origin within its territory; to the same extent accorded to the public of the Party of Origin, with the exception of any costs of and funding for such participation. The Party of Origin shall make best efforts to facilitate the attendance of the public of the Potentially Affected Party at such hearings or meetings, subject to its applicable laws and regulations relating to entry and exit of persons.

12.2 The Potentially Affected Party shall make available to its public relevant information received from NACEC. The Party of Origin regarding a proposed project.

**Protocol on Environmental Protection to the Antarctic Treaty
(Environmental Protocol), with four Annexes (Annex I,
Environmental Impact Assessment; Annex II, Conservation of
Antarctic Fauna and Flora; Annex III, Waste Disposal and Waste
Management; and Annex IV, Prevention of Marine Pollution),
Madrid, 4 October 1991²³.**

<u>Geographic Scope</u>	Antarctic
<u>Parties</u>	Argentina, Australia, Belgium, Brazil, Bulgaria, Canada, Chile, China, Ecuador, Finland, France, Germany, Greece, India, Italy, Japan, South Korea, Netherlands, New Zealand, Norway, Peru, Poland, Russia, South Africa, Spain, Sweden, United Kingdom, United States of America, Ukraine and Uruguay.
<u>Entry into force</u>	14 January 1998
<u>Associated international instruments</u>	<ul style="list-style-type: none"> ➤ <i>The Antarctic Treaty, Washington, 1 December 1959, entered in force on 23 June 1961.</i> ➤ <i>Agreed Measures for the Conservation of Antarctic Fauna and Flora, Brussels, 2 June 1964.</i> ➤ <i>Convention for the Conservation of Antarctic Seals, London, 1 June 1972, entered into force on 11 March 1978.</i> ➤ <i>Convention on the Conservation of Antarctic Marine Living Resources CCAMLR, Canberra, 20 May 1980, entered into force on 7 April 1982.</i> ➤ <i>Convention on the Regulation of Antarctic Mineral Resource Activities, Wellington, 2 June 1988.</i>

Provisions relating to

Environmental Impact Assessment

Article 3 Environmental Principles

1 The protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research, in particular research essential

²³ http://www.antarctica.ac.uk/About_Antarctica/Treaty/protocol.html

to understanding the global environment, shall be fundamental considerations in the planning and conduct of all activities in the Antarctic Treaty area.

2 To this end:

(a) activities in the Antarctic Treaty area shall be planned and conducted so as to limit adverse impacts on the Antarctic environment and dependent and associated ecosystems;

(b) activities in the Antarctic Treaty area shall be planned and conducted so as to avoid:

(i) adverse effects on climate or weather patterns;

(ii) significant adverse effects on air or water quality;

(iii) significant changes in the atmospheric, terrestrial (including aquatic), glacial or marine environments;

(iv) detrimental changes in the distribution, abundance or productivity of species or populations of species of fauna and flora;

(v) further jeopardy to endangered or threatened species or populations of such species;
or

(vi) degradation of, or substantial risk to, areas of biological, scientific, historic, aesthetic or wilderness significance;

(c) activities in the Antarctic Treaty area shall be planned and conducted on the basis of information sufficient to allow prior assessments of, and informed judgments about, their possible impacts on the Antarctic environment and dependent and associated ecosystems and on the value of Antarctica for the conduct of scientific research; such judgments shall take account of:

(i) the scope of the activity, including its area, duration and intensity;

(ii) the cumulative impacts of the activity, both by itself and in combination with other activities in the Antarctic Treaty area;

(iii) whether the activity will detrimentally affect any other activity in the Antarctic Treaty area;

(iv) whether technology and procedures are available to provide for environmentally safe operations;

(v) whether there exists the capacity to monitor key environmental parameters and ecosystem components so as to identify and provide early warning of any adverse effects of the activity and to provide for such modification of operating procedures as may be necessary in the light of the results of monitoring or increased knowledge of the Antarctic environment and dependent and associated ecosystems; and

(vi) whether there exists the capacity to respond promptly and effectively to accidents, particularly those with potential environmental effects;

(d) regular and effective monitoring shall take place to all assessment of the impacts of ongoing activities, including the verification of predicted impacts;

(e) regular and effective monitoring shall take place to facilitate early detection of the possible unforeseen effects of activities carried on both within and outside the Antarctic Treaty area on the Antarctic environment and dependent and associated ecosystems.

3 Activities shall be planned and conducted in the Antarctic Treaty area so as to accord priority to scientific research and to preserve the value of Antarctica as an area for the conduct of such research, including research essential to understanding the global environment.

Article 8 Environmental Impact and Assessment

1 Proposed activities referred to in paragraph 2 below shall be subject to the procedures set out in Annex I for prior assessment of the impacts of those activities on the Antarctic environment or on dependent or associated ecosystems according to whether those activities are identified as having:

- (a) less than a minor or transitory impact;
- (b) a minor or transitory impact; or
- (c) more than a minor or transitory impact.

2 Each Party shall ensure that the assessment procedures set out in Annex I are applied in the planning processes leading to decisions about any activities undertaken in the Antarctic Treaty area pursuant to scientific research programs, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities.

3 The assessment procedures set out in Annex I shall apply to any change in an activity whether the change arises from an increase or decrease in the intensity of an existing activity, from the addition of an activity, the decommissioning of a facility, or otherwise.

4 Where activities are planned jointly by more than one Party, the Parties involved shall nominate one of their number to coordinate the implementation of the environmental impact assessment procedures set out in Annex I.

Public Participation

Article 6 Cooperation

1 The Parties shall cooperate in the planning and conduct of activities in the Antarctic Treaty area. To this end, each Party shall endeavour to:

- (a) promote cooperative programs of scientific, technical and educational value, concerning the protection of the Antarctic environment and dependent and associated ecosystems;
- (b) provide appropriate assistance to other Parties in the preparation of environmental impact assessments;
- (c) provide to other Parties upon request information relevant to any potential environmental risk and assistance to minimise the effects of accidents which may damage the Antarctic environment or dependent and associated ecosystems;

(d) consult with other Parties with regard to the choice of sites for prospective station and other facilities so as to avoid the cumulative impacts caused by their excessive concentration in any location;

(e) where appropriate, undertake joint expeditions and share the use of stations and other facilities; and

(f) carry out such steps as may be agreed upon at Antarctic Treaty Consultative Meetings.

2 Each Party undertakes, to the extent possible, to share information that may be helpful to other Parties in planning and conducting their activities in the Antarctic Treaty area, with a view to the protection of the Antarctic environment and dependent and associated ecosystems.

3The Parties shall co-operate with those Parties which may exercise jurisdiction in areas adjacent to the Antarctic Treaty area with a view to ensuring that activities in the Antarctic Treaty area do not have adverse environmental impacts on those areas.

**Protocol on Environmental Protection to the Antarctic Treaty,
Annex I: Environmental Impact Assessment, Madrid, 4 October
1991²⁴.**

<u>Geographic Scope</u>	Global
<u>Parties</u>	Argentina, Australia, Belgium, Brazil, Bulgaria, Canada, Chile, China, Ecuador, Finland, France, Germany, Greece, India, Italy, Japan, South Korea, Netherlands, New Zealand, Norway, Peru, Poland, Russia, South Africa, Spain, Sweden, United Kingdom, United States of America, Ukraine and Uruguay.
<u>Entry into force</u>	14 January 1998

Provisions relating to

Environmental Impact Assessment

Article 1 Preliminary Stage

1 The environmental impacts of proposed activities referred to in Article 8 of the Protocol shall, before their commencement, be considered in accordance with appropriate national procedures.

2 If an activity is determined as having less than a minor or transitory impact, the activity may proceed forthwith.

Article 2 Initial Environmental Evaluation

1 Unless it has been determined that an activity will have less than a minor or transitory impact, or unless a Comprehensive Environmental Evaluation is being prepared in accordance with Article 3, an Initial Environmental Evaluation shall be prepared. It shall contain sufficient detail to assess whether a proposed activity may have more than a minor or transitory impact and shall include:

(a) a description of the proposed activity, including its purpose, location, duration and intensity; and

(b) consideration of alternatives to the proposed activity and any impacts that the activity may have, including consideration of cumulative impacts in the light of existing and known planned activities.

2 If an Initial Environmental Evaluation indicates that a proposed activity is likely to have no more than a minor or transitory impact, the activity may proceed, provided that appropriate procedures, which may include monitoring, are put in place to assess and verify the impact of the activity.

²⁴ http://www.antarctica.ac.uk/About_Antarctica/Treaty/ccamlr.html

Article 3 Comprehensive Environmental Evaluation

1 If an Initial Environmental Evaluation indicates or if it is otherwise determined that a proposed activity is likely to have more than a minor or transitory impact, a Comprehensive Environmental Evaluation shall be prepared.

2 A Comprehensive Environmental Evaluation shall in

(a) a description of the proposed activity including its purpose, location, duration and intensity, and possible alternatives to the activity, including the alternative of not proceeding, and the consequences of those alternatives;

(b) a description of the initial environmental reference state with which predicted changes are to be compared and a prediction of the future environmental reference state in the absence of the proposed activity;

(c) a description of the methods and data used to forecast the impacts of the proposed activity;

(d) estimation of the nature, extent, duration, and intensity of the likely direct impacts of the proposed activity;

(e) consideration of possible indirect or second order impacts of the proposed activity;

(f) consideration of cumulative impacts of the proposed activity in the light of existing activities and other known planned activities;

(g) identification of measures, including monitoring programs, that could be taken to minimise or mitigate impacts of the proposed activity and to detect unforeseen impacts and that could provide early warning of any adverse effects of the activity as well as to deal promptly and effectively with accidents;

(h) identification of unavoidable impacts of the proposed activity;

(i) consideration of the effects of the proposed activity on the conduct of scientific research and on other existing uses and values;

(j) an identification of gaps in knowledge and uncertainties encountered in compiling the information required under this paragraph;

(k) a non-technical summary of the information provided under this paragraph; and

(l) the name and address of the person or organisation which prepared the Comprehensive Environmental Evaluation and the address to which comments thereon should be directed.

3 The draft Comprehensive Environmental Evaluation shall be made publicly available and shall be circulated to all Parties, which shall also make it publicly available, for comment. A period of 90 days shall be allowed for the receipt of comments.

4 The draft Comprehensive Environmental Evaluation shall be forwarded to the Committee at the same time as it is circulated to the Parties, and at least 120 days before the next Antarctic Treaty Consultative Meeting, for consideration as appropriate.

5 No final decision shall be taken to proceed with the proposed activity in the Antarctic Treaty area unless there has been an opportunity for consideration of the draft Comprehensive Environmental Evaluation by the Antarctic Treaty Consultative Meeting on the advice of the Committee, provided that no decision to proceed with a proposed

activity shall be delayed through the operation of this paragraph for longer than 15 months from the date of circulation of the draft Comprehensive Environmental Evaluation.

6 A final Comprehensive Environmental Evaluation shall address and shall include or summarise comments received on the draft Comprehensive Environmental Evaluation. The final Comprehensive Environmental Evaluation, notice of any decisions relating thereto, and any evaluation of the significance of the predicted impacts in relation to the advantages of the proposed activity, shall be circulated to all Parties, which shall also make them publicly available, at least 60 days before the commencement of the proposed activity in the Antarctic Treaty area.

Article 4 Decisions to be based on Comprehensive environmental evaluations

Any decision on whether a proposed activity, to which Article 3 applies, should proceed, and, if so, whether in its original or in a modified form, shall be based on the Comprehensive Environmental Evaluation as well as other relevant considerations.

Article 5 Monitoring

1 Procedures shall be put in place, including appropriate monitoring of key environmental indicators, to assess and verify the impact of any activity that proceeds following the completion of a Comprehensive Environmental Evaluation.

2 The procedures referred to in paragraph 1 above and in Article 2 (2) shall be designed to provide a regular and verifiable record of the impacts of the activity in order, *inter alia*, to:

- (a) enable assessments to be made of the extent to which such impacts are consistent with the Protocol; and
- (b) provide information useful for minimising or mitigating impacts, and, where appropriate, information on the need for suspension, cancellation or modification of the activity.

Public Participation

Article 6 Circulation of Information

1 The following information shall be circulated to the Parties, forwarded to the Committee and made publicly available:

- (a) a description of the procedures referred to in Article 1;
- (b) an annual list of any Initial Environmental Evaluations prepared in accordance with Article 2 and any decisions taken in consequence thereof;
- (c) significant information obtained, and any action taken in consequence thereof, from procedures put in place in accordance with Articles 2 (2) and 5; and
- (d) information referred to in Article 3 (6).

2 Each Party undertakes, to the extent possible, to share information that may be helpful to other Parties in planning and conducting their activities in the Antarctic Treaty area, with a view to the protection of the Antarctic environment and dependent and associated ecosystems.

3 The Parties shall co-operate with those Parties which may exercise jurisdiction in areas adjacent to the Antarctic Treaty area with a view to ensuring that activities in the Antarctic Treaty area do not have adverse environmental impacts on those areas.

**The Rovaniemi Declaration on the Protection of the Arctic
Environment, 14 June 1991²⁵.**

<u>Geographic Scope</u>	Arctic
<u>Parties</u>	Canada, Denmark, Finland, Iceland, Norway, Sweden, the Union of Soviet Socialist Republics and the United States of America.
<u>Entry into force</u>	<i>Declaration on the Establishment of the Arctic Council</i> 19 September 1996

Provisions relating to

Environmental Impact Assessment

We commit ourselves to a joint Action Plan of the Arctic Environmental Protection Strategy which includes:

- Cooperation in scientific research to specify sources, indigenous peoples and to invite their organizations to future pathways, sinks and effects of pollution, in particular, oil, acidification, persistent organic contaminants, radioactivity,
- Assessment of potential environmental impacts of development activities:

Full implementation and consideration of further measures to control pollutants and reduce their adverse effects to the Arctic environment.

We intend to assess on a continuing basis the threats to the Arctic environment through the preparation and updating of reports on the state of the Arctic environment, in order to propose further cooperative action.

²⁵ <http://arcticcircle.uconn.edu/NatResources/Policy/rovaniemi.html>

Guidelines for Environmental Impact Assessment in the Arctic / Arctic environmental protection strategy, 1997 ²⁶.

<u>Geographic Scope</u>	Arctic
<u>Parties</u>	Sweden, Canada, Finland, Denmark/Greenland, Russia, United States of America, Norway and Iceland.

Provisions relating to

Environmental Impact Assessment

The decision to conduct an EIA for a project in the Arctic should take into account the special conditions in the Arctic. Arctic-specific thresholds and sensitivity criteria are strongly recommended. The decision to identify and specify the type of assessment to be applied to a project is commonly called screening.

When should EIA be applied?

In the Arctic, EIA should be applied to activities associated with the exploitation of both renewable and non-renewable natural resources, public use, military activities and the development of infrastructure for different purposes that may cause significant environmental impacts. The growing development in the Arctic may also bring new types of activities, whose impacts have so far only been found in more temperate areas.

Transboundary context

In the EIA process, possible transboundary impacts should be considered, when appropriate. Assessments of transboundary impacts require project developers and authorities to make allowances for different legal systems, to provide translations when necessary, and to make special arrangements for public participation across jurisdictional borders.

What are transboundary impacts?

Transboundary impact means any impact within a country (the affected country) that is caused by an activity located in another country (the country of origin).

Proposed projects that may cause impacts across provincial or municipal borders, and the assessment of these impacts, may have features in common with transboundary impacts and assessments between countries. However, provincial or municipal border

²⁶ <http://arcticcentre.ulapland.fi/aria/procedures/eiaguide.pdf>

projects should be dealt with according to the national legislation or land claim agreements.

How should impacts across borders in the Arctic be dealt with?

When a proposed project may lead to impacts across jurisdictional boundaries, the country of origin and the project developer should ensure that the affected country and its citizens within the area of likely impact are given the opportunity to participate in the environmental impact assessment. The country of origin should thus provide information on the assessment at an early stage in the assessment process, when a decision to apply an EIA is made or when the scope of the assessment is determined. Open dialogue and information exchange should be established between the country of origin and the affected country or countries.

While determining the scope of the assessment, the potential transboundary impacts should be identified and the methods to be used for assessing them should be agreed upon. During the assessment, harmonization of baseline information, and assessment of approaches and assessment methodologies may be required to ensure compatibility between results of the assessment on both sides of the border. Joint study or steering groups may provide a forum for exchanges of information.

Public participation should be made available to the public in the areas of likely impact on both sides of the border.

Everyone should receive the same information, and be given the same opportunity to participate in the assessment and comment on the results.

Where necessary, translation of key documents should be provided for.

The UN ECE Convention on EIA in a Transboundary Context, the Espoo Convention (1991, entered into force in 1997), provides a comprehensive framework for dealing with activities likely to have significant adverse transboundary impacts. Further details can be laid down in bi- or multilateral agreements or other arrangements to provide for an effective transboundary assessment in regions with special features such as the Arctic.

Which activities may cause transboundary impacts in the Arctic?

All activities assessed according to the national EIA legislation should be screened for the likelihood of transboundary impacts. The ECE Convention includes a list of activities for which transboundary impact assessment is mandatory. Bior multilateral agreements may also mandate activities to be covered by transboundary assessments. Because of the sensitivity of the Arctic environment, relevant activities requiring EIA, other than those listed in the ECE Convention, should be agreed upon for the Arctic region. In addition, for those activities already on the ECE Convention list, lower threshold levels may be needed for projects in the Arctic. In the Arctic, the development of oil and gas resources, large-scale hydroelectric projects, and extensive mining and smelter works are activities that have already led to transboundary impacts. For these activities the scale of operation is often so large that transboundary impacts can occur even though the border is far away. In addition several smaller activities, such as forestry development, land drainage and road building have caused transboundary impacts, when these activities have occurred close to borders.

Public Participation

An EIA should ensure effective public participation and consultation. Unique features such as culture, socio-economic and remoteness factors should be considered in planning and carrying out public consultations in the Arctic.

Who is the public?

When used in the context of the EIA process, the “public” means the individuals, indigenous people, groups, organizations, or communities that have an interest in or could be affected by the proposed action.

In 1981, the federal government established an intervenor funding program to provide financial assistance to those wishing to present their views to the Panel.

Intervenor funding enabled many participants to prepare briefs and to travel to public sessions to present the briefs. Although this program was independent of the Panel’s review responsibilities, nevertheless, the Panel concludes that the review process was materially assisted and that intervenor funding enhanced the quality and substance of interventions from northern residents whose interests would be most directly affected if the development were to go ahead. The Panel recommends that intervenor funding be made available for all future public reviews, and that funding be restricted to those participants who would be significantly affected by the proposal under review.

What is public participation?

In EIA, public participation provides the affected and interested public an opportunity to influence planning, assessment and monitoring of projects. Public participation includes public hearings, public meetings, public access and public right to comment.

It is an effective way to integrate environmental, cultural, social, economic, and technological considerations. It provides a forum for the expression, discussion, analysis and evaluation of issues, information, values, perspectives, and interests. It facilitates the fair and reasonable resolution of conflicts through mediation, negotiation, and public review.

Why involve the public in the EIA process?

There are several reasons to involve the public in the planning and analysis of proposed activities that could affect people’s environment and quality of life, including:

- To provide a means for those who may be affected by a project to provide input into the planning, assessment and monitoring of the project.
- To inform people about the characteristics, location, and design of the proposed activity. People need information about a project to lessen anxiety and to plan accordingly.
- To determine the scope of the EIA. People who will be affected by an activity have a stake in identifying the important issues or concerns and alternatives to be analyzed, and in setting the temporal boundaries of the EIA.
- To acquire information. The individuals and communities affected are a primary source of information for the EIA.
- To establish mutually agreed rules and procedures for conducting public meetings and consultations.

Public participation ensures the openness of the EIA and, ultimately, the acceptability, accountability, and credibility of EIA decision-making.

Effective community involvement is critical to successful public participation.

Understanding and trust must be established among the public, project proponents, and regulators, if affected communities are to accept and contribute positively to a proposal. This requires a sincere commitment by all parties to work cooperatively throughout the EIA process and once the project is implemented.

When does public participation occur in the EIA process?

Public participation occurs before and throughout the EIA process and continues afterwards if the project is implemented.

Participation should be as continuous as possible to avoid the loss of interest from the participating parties.

Specific points for scheduling public participation include: 33

- The public should be informed when a project is first proposed (application of EIA), and given information on how to get involved. An early plan should be made for incorporation of traditional knowledge.

- The public should participate in the scoping and baseline monitoring phases during the initial EIA planning when the environmental issues, and, in some cases, mitigation measures are identified.

- The public should have the opportunity to review and comment on each phase of the EIA.

- After the EIA is completed, the public should be able to review the final analysis and recommendations, and submit comments to the acting agency or party before project implementation.

- Once a project is implemented, then public should be routinely informed about the activity, including having access to information about any environmental effects, monitoring programs and the effectiveness of mitigation.

- In 1989, the State Committee for Natural Resources and Ecology conducted an EIA on the technical and economic plan for the extraction of natural gas at Bovankovo and Kharasavey (the Yamal peninsula). Experts from, among others, the State Committee for Natural Resources, the Academy of Sciences, the State Sanitary Service, the Ministry of Health, and the State Hydrometeorological Service, as well as local authorities and representatives of indigenous peoples living in the area of possible impact participated in the procedure. The assessment concluded that the following sensitive natural features would be affected: permafrost, coastal zone, wet tundra, reindeer pastures and migration routes. Two indigenous settlements were located nearby. The assessment led to a negative decision on the project. The expert commission did, however, allow for new studies to find adequate technical solutions to the problems. At present, these studies are underway. A program for social support of the indigenous population has also been put forward.

What are the important elements of effective public participation?

Clear rules and procedures for conducting meetings and consultations should be established, for example, who is able to participate, by which means and on which

terms. Public participation and awareness will be increased through easy access to EIA documentation and clear, concise communication of information.

A variety of methods can be used by government agencies or project proponents to involve the public. In addition to traditional means of informing the public through letters and media announcements, public participation may be encouraged by:

- visits to communities by government staff or project proponents, or the establishment of local offices;
- public hearings held by panels, commissions or advisory committees, which include members of the public; and
- teleconferences to allow participation in meetings when travel is not possible.

The methods of communicating with the public should be tailored to each stage in the EIA process, and should accommodate the needs and preferences of those segments of the public involved at each stage.

- With the implementation of land claim agreements in the Canadian Yukon and Northwest Territories, new environmental impact assessment processes have been and will be established.

Which aspects of public participation demand special attention in the Arctic?

The Arctic is culturally and socio-economically a non-uniform and complex area. Therefore, the participation of Arctic communities is needed to resolve conflicts and disputes between people with different values, perceptions, and goals, and frequently exhibiting a lack of mutual trust and understanding. A successful EIA process should acknowledge different opinions, perceptions and perspectives fairly to foster common understanding.

Government agencies, project proponents, and researchers need to develop an understanding of indigenous people, their culture and socio-economic structure, and need to work together with their community leaders.

Methods of communication should not be intrusive and should be sensitive to indigenous peoples' customs and lifestyles. The use of translators and interpreters who master local languages is often essential.

Indigenous people should be provided with the opportunity to contribute their traditional knowledge throughout the process. Requests for information and documents should recognize the differences between science and traditional knowledge. Contacts within communities should be established early so that indigenous people who are experts in traditional knowledge can be identified and liaisons established. Time frames for EIA in arctic environments are often longer than for a nonarctic EIA. This is to take into consideration the cultural and socio-economic factors and the remoteness of towns and communities. Therefore, sufficient time, within reasonable limits, is needed by the public to review and respond to the information.

When scheduling meetings, the remoteness of many arctic communities should be taken into consideration, and community activities should be accommodated whenever possible. Additional funding may be needed to enable people from isolated locations to participate in public meetings. Meetings should be planned imaginatively with cultural differences in mind.

Convention on Biological Diversity, Rio de Janeiro, 5 June 1992²⁷.

Region

Global

Parties

Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, European Community, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Niue, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The Former Yugoslav Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia.

Entry into force

29 December 1993

²⁷ <http://www.biodiv.org/doc/legal/cbd-en.pdf>

Associated instruments

- *Cartagena Protocol on Biosafety to the Convention on Biological Diversity, Montreal, 29 January 2000, entered into force on 11 September 2003.*

Co-ordination with related instruments

- *Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 3 March 1973, entered into force on 1 July 1975.*
- *Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention), 2 February 1971, entered into force on 21 December 1975.*
- *Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention), Paris, 16 November 1972, entered into force on 17 December 1975.*
- *United Nations Framework Convention on Climate Change (UNFCCC), New York, 9 May 1992, entered into force on 21 March 1994.*
- *Convention to Combat Desertification (CCD), Paris, 17 June 1994, entered into force on 26 December 1996.*

Provisions relating to

Environmental Impact Assessment

Article 14. Impact Assessment and Minimizing Adverse Impacts

1. Each Contracting Party, as far as possible and as appropriate, shall:
 - (a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;
 - (b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;
 - (c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;
 - (d) In the case of imminent or grave danger or damage, originating under its jurisdiction or control, to biological diversity within the area under jurisdiction of other States or in areas beyond the limits of national jurisdiction, notify immediately the potentially affected States of such danger or damage, as well as initiate action to prevent or minimize such danger or damage; and

(e) Promote national arrangements for emergency responses to activities or events, whether caused naturally or otherwise, which present a grave and imminent danger to biological diversity and encourage international cooperation to supplement such national efforts and, where appropriate and agreed by the States or regional economic integration organizations concerned, to establish joint contingency plans.

2. The Conference of the Parties shall examine, on the basis of studies to be carried out, the issue of liability and redress, including restoration and compensation, for damage to biological diversity, except where such liability is a purely internal matter.

Transboundary context

Article 14. Impact Assessment and Minimizing Adverse Impacts

1. Each Contracting Party, as far as possible and as appropriate, shall:

(c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;

(d) In the case of imminent or grave danger or damage, originating under its jurisdiction or control, to biological diversity within the area under jurisdiction of other States or in areas beyond the limits of national jurisdiction, notify immediately the potentially affected States of such danger or damage, as well as initiate action to prevent or minimize such danger or damage; and

Public Participation

Article 13. Public Education and Awareness

The Contracting Parties shall:

(a) Promote and encourage understanding of the importance of, and the measures required for, the conservation of biological diversity, as well as its propagation through media, and the inclusion of these topics in educational programmes; and

(b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes, with respect to conservation and sustainable use of biological diversity.

Article 14. Impact Assessment and Minimizing Adverse Impacts

1. Each Contracting Party, as far as possible and as appropriate, shall:

(a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological

diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;

Article 17. Exchange of Information

1. The Contracting Parties shall facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries.
2. Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1.

**United Nations Convention on the Law of the Sea, Montego Bay, 10
December 1982²⁸.**

Geographic Scope Global

Parties

Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Canada, Cape Verde, Chile, China, Comoros, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Egypt, Equatorial Guinea, European Community, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kiribati, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, The former Yugoslav, Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Tunisia, Tuvalu, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Vanuatu, Viet Nam, Yemen, Zambia and Zimbabwe.

Entry into force 16 November 1994

²⁸ http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm

Associated Agreements

- *Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, 28 July 1994, entered into force on 28 July 1996.*
- *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995 Fish Stocks Agreement), 4 August 1995, entered into force on 11 December 2001.*

Co-ordination with related instruments at the global level

- *International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), and related International Maritime Organization (IMO) instruments on pollution from ships;*
- *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention 1972), 13 November 1972, London, entered into force on 30 August 1975 and 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, London, 7 November 1996, not yet in force.*
- *Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities, Washington, DC, 1995;*
- *Convention on Biological Diversity (CBD), Rio de Janeiro on 5 June 1992, Entered into force on 29 December 1993.*

Co-ordination with related instruments at the regional level

- *Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan Convention), Abidjan, 23 March 1981, entered into force 5 August 1984.*
- *Convention for Co-operation in the Protection and Sustainable Development of the Marine and Coastal Environment of the North-East Pacific (Antigua Convention), Antigua, 18 February 2002, not yet in force.*
- *Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona Convention), Barcelona, 16 February 1976, entered into force 12 February 1978.*
- *Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention), Cartagena de Indias, 24 March 1983, entered into force 11 October 1986.*
- *Convention for the Protection of the Marine Environment and Coastal Zone of the South-East Pacific (Lima Convention), Lima, 12 November 1981, entered into force on 19 May 1986.*

- *Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (Noumea Convention), Noumea, 24 November 1986, entered into force on 22 August 1990.*
- *Convention for the Protection, Management, and Development of the Marine and Coastal Environment of the Eastern African Region (Nairobi Convention), Nairobi, 21 June 1985, entered into force on 30 May 1996.*
- *Convention on the Protection of the Black Sea against Pollution (Bucharest Convention), Bucharest, 21 April 1992, entered into force on 15 January 1994.*
- *Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (Kuwait Convention), Kuwait, 24 April 1978, entered into force on 1 July 1979.*
- *Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment (Jeddah Convention), Jeddah, 14 February 1982, entered into force on 20 August 1985.*

Provisions relating to

Environmental Impact Assessment

Section 4. Monitoring And Environmental Assessment

Article 204 Monitoring of the risks or effects of pollution

1. States shall, consistent with the rights of other States, endeavour, as far as practicable, directly or through the competent international organizations, to observe, measure, evaluate and analyse, by recognized scientific methods, the risks or effects of pollution of the marine environment.
2. In particular, States shall keep under surveillance the effects of any activities which they permit or in which they engage in order to determine whether these activities are likely to pollute the marine environment.

Article 205 Publication of reports

States shall publish reports of the results obtained pursuant to article 204 or provide such reports at appropriate intervals to the competent international organizations, which should make them available to all States.

Article 206 Assessment of potential effects of activities

When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.

Transboundary context

Article 194 Measures to prevent, reduce and control pollution of the marine environment

1. States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.

2. States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention.

Public Participation

Section 2. Global And Regional Cooperation

Article 197 Cooperation on a global or regional basis

States shall cooperate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.

Article 198 Notification of imminent or actual damage

When a State becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution, it shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organizations.

Article 199 Contingency plans against pollution

In the cases referred to in article 198, States in the area affected, in accordance with their capabilities, and the competent international organizations shall cooperate, to the extent possible, in eliminating the effects of pollution and preventing or minimizing the damage. To this end, States shall jointly develop and promote contingency plans for responding to pollution incidents in the marine environment.

Article 200 Studies, research programmes and exchange of information and data

States shall cooperate, directly or through competent international organizations, for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall endeavour to participate actively in regional and global programmes to acquire knowledge for the assessment of the nature and extent of pollution, exposure to it, and its pathways, risks and remedies.

Article 201 Scientific criteria for regulations

In the light of the information and data acquired pursuant to article 200, States shall cooperate, directly or through competent international organizations, in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practices and procedures for the prevention, reduction and control of pollution of the marine environment.

Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, New York, 28 July 1994²⁹.

Geographic Scope

Global

Parties

Albania, Algeria, Argentina, Armenia, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Belize, Benin, Bolivia, Botswana, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Equatorial Guinea, European Community, Fiji, Finland, France, Gabon, Georgia, Germany, Greece, Grenada, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kiribati, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Malta, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Papua, New Guinea, Paraguay, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Samoa, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Sweden, The former Yugoslav, Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Tunisia, Tuvalu, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Vanuatu, Zambia and Zimbabwe.

Entry into force

28 July 1996

Provisions relating to**Environmental Impact Assessment***Annex*

²⁹ http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindxAgree.htm

Section 1. Costs To States Parties And Institutional Arrangements

(...)

5. Between the entry into force of the Convention and the approval of the first plan of work for exploitation, the Authority shall concentrate on:

(...)

(h) promotion and encouragement of the conduct of marine scientific research with respect to activities in the Area and the collection and dissemination of the results of such research and analysis, when available, with particular emphasis on research related to the environmental impact of activities in the Area;

(...)

7. An application for approval of a plan of work shall be accompanied by an assessment of the potential environmental impacts of the proposed activities and by a description of a programme for oceanographic and baseline environmental studies in accordance with the rules, regulations and procedures adopted by the Authority.

Section 2. The Enterprise

1. The Secretariat of the Authority shall perform the functions of the Enterprise until it begins to operate independently of the Secretariat. The Secretary-General of the Authority shall appoint from within the staff of the Authority an interim Director-General to oversee the performance of these functions by the Secretariat.

These functions shall be:

(...)

(b) assessment of the results of the conduct of marine scientific research with respect to activities in the Area, with particular emphasis on research related to the environmental impact of activities in the Area;

**Agreement for the Implementation of the Provisions of the
Convention relating to the conservation and management of
straddling fish stocks and highly migratory fish stocks, New York,
4 August 1995³⁰.**

<u>Geographic Scope</u>	Global
<u>Parties</u>	Australia, Austria, Bahamas, Barbados, Belgium, Brazil, Canada, Cook Islands, Costa Rica, Cyprus, Denmark, European Community, Fiji, Finland, France, Germany, Greece, Iceland, India, Iran (Islamic Republic of), Ireland, Italy, Luxembourg, Maldives, Malta, Marshall Islands, Mauritius, Micronesia (Federated States of), Monaco, Namibia, Nauru, Netherlands, New Zealand, Norway, Papua New Guinea, Portugal, Russian Federation, Saint Lucia, Samoa, Senegal, Seychelles, Solomon Islands, South Africa, Spain, Sri Lanka, Sweden, Tonga, Ukraine, United Kingdom on behalf of Pitcairn, Henderson, Ducie and Oeno Islands, Falkland Islands, South Georgia and South Sandwich Islands, Bermuda, Turks and Caicos Islands, British Indian Ocean Territory, British Virgin Islands and Anguilla, United Kingdom of Great Britain and Northern Ireland (on behalf of the United Kingdom of Great Britain and Northern Ireland), United States of America and Uruguay.
<u>Entry into force</u>	11 December 2001

Provisions relating to

Environmental Impact Assessment

*Conservation and management of straddling fish stocks and highly Migratory fish stocks
Article 5 General Principles*

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

(a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;

³⁰ http://www.un.org/Depts/los/convention_agreements/texts/fish_stocks_agreement/CONF164_37.htm

- (b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;
- (c) apply the precautionary approach in accordance with article 6;
- (d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or dependent upon or associated with the target stocks;

**Convention on the Conservation of Migratory Species of Wild
Animals, Bonn, 23 June 1979³¹.**

Geographic Scope Global

Parties

Albania, Argentina, Australia, Belarus, Belgium, Benin, Bolivia, Bulgaria, Burkina Faso, Cameroon, Chad, Chile, Congo, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Dem. Rep. of the Congo, Denmark, Djibouti, Ecuador, Egypt, Eritrea, European Community, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guinea, Guinea-Bissau, Hungary, India, Ireland, Israel, Italy, Jordan, Kenya, Latvia, Liberia, Libyan Arab, Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Mauritania, Mauritius, Monaco, Mongolia, Morocco, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Rep. of Moldova, Romania, Sao Tome and Principe, Saudi Arabia, Senegal, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Rep., Tajikistan, The former Yugoslav, Republic of Macedonia, Togo, Tunisia, Uganda, Ukraine, United Kingdom, United Rep. Of Tanzania, Uruguay and Uzbekistan.

Entry into force

Associated Agreements

- Agreement on the Conservation of Seals in the Wadden Sea, *Bonn*, 16 October 1990, entered into force on 1 October 1991.
- Agreement on the Conservation of Bats in Europe (EUROBATS), *London*, 4 December 1991, entered into force on 16 January 1994.
- Agreement on the Conservation of Small Cetaceans in the Baltic and North Seas (ASCOBANS), *New York*, 13 September 1991, entered into force on 29 March 1994.
- Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA), *The Hague*, 16 June 1995, entered into force on 1 November 1999.
- Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS), *Monaco*, 24 November 1996, entered into force on 1 June 2001.

³¹ <http://arcticcircle.uconn.edu/NatResources/Policy/rovaniemi.html>

- Agreement on the Conservation of Albatross and Petrels (ACAP),
Canberra, 19 June 2001, entered into force on 1 February 2004.

Provisions relating to

Environmental Impact Assessment

Article III Endangered Migratory Species: Appendix I

1. Appendix I shall list migratory species which are endangered.
2. A migratory species may be listed in Appendix I provided that reliable evidence, including the best scientific evidence available, indicates that the species is endangered.
3. A migratory species may be removed from Appendix I when the Conference of the Parties determines that:
 - a) reliable evidence, including the best scientific evidence available, indicates that the species is no longer endangered, and
 - b) the species is not likely to become endangered again because of loss of protection due to its removal from Appendix I.
4. Parties that are Range States of a migratory species listed in Appendix I shall endeavour:
 - a) to conserve and, where feasible and appropriate, restore those habitats of the species which are of importance in removing the species from danger of extinction;
 - b) to prevent, remove, compensate for or minimize, as appropriate, the adverse effects of activities or obstacles that seriously impede or prevent the migration of the species;

**Convention on the Conservation of Migratory Species of Wild
Animals - Resolution 7.2 Impact Assessment And Migratory
Species, Bonn, 18-24 September 2002³².**

<u>Geographic Scope</u>	Global
<u>Parties</u>	Albania, Argentina, Australia, Belarus, Belgium, Benin, Bolivia, Bulgaria, Burkina Faso, Cameroon, Chad, Chile, Congo, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Dem. Rep. of the Congo, Denmark, Djibouti, Ecuador, Egypt, Eritrea, European Community, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guinea, Guinea-Bissau, Hungary, India, Ireland, Israel, Italy, Jordan, Kenya, Latvia, Liberia, Libyan Arab, Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Mauritania, Mauritius, Monaco, Mongolia, Morocco, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Rep. of Moldova, Romania, Sao Tome and Principe, Saudi Arabia, Senegal, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Rep., Tajikistan, The former Yugoslav, Republic of Macedonia, Togo, Tunisia, Uganda, Ukraine, United Kingdom, United Rep. Of Tanzania, Uruguay and Uzbekistan.

Provisions relating to

Environmental Impact Assessment

Preamble

Adopted by the Conference of the Parties at its Seventh Meeting (Bonn, 18-24 September 2002)

Concerned that avoidable detriment to migratory species often occurs through lack of adequate prior **assessment of the potential environmental impacts** of projects, plans, programmes and policies, carried out in a way that is systematic and formally taken into account in decision-making;

Emphasising that migratory species are especially in need of international cooperation in this respect owing *inter alia* to their particular susceptibility to impacts which may be manifest far beyond the territory of the country in which they originate, and to cumulative impacts;

³²

[http://www.cms.int/bodies/COP/cop7/proceedings/pdf/en/part I/Res Rec/RES 7 02 Impact Assessment](http://www.cms.int/bodies/COP/cop7/proceedings/pdf/en/part_I/Res_Rec/RES_7_02_Impact_Assessment)

Desirous that migratory species interests be given improved treatment in biodiversity-related aspects of **environmental impact assessment** and strategic environmental assessment;

Conscious that Article I (1) (c) of the Convention defining favourable conservation status, Article II (2) regarding avoiding endangerment of species and Article III (4) regarding protection of Appendix I species all imply a need to anticipate and predict effects;

Aware that many Contracting Parties already operate legal and institutional systems of **environmental assessment** in various forms, but that most would benefit from international harmonisation of guidance on principles, standards, techniques and procedures, and confirmation of their applicability to migratory species interests;

Aware that environmental impact assessment is foreseen in other conventions concerned with biodiversity conservation, and in CMS Agreements;

Further aware that the respective Conferences of the Parties to the Ramsar Convention on Wetlands and the Convention on Biological Diversity (CBD) have in recent years adopted or endorsed decisions and guidelines on environmental impact assessment which have relevance to cooperation between those conventions and the Convention on Migratory Species;

Noting in particular that CBD's Decision IV/10c on impact assessment and minimisation of adverse effects specifically encouraged collaboration between the CBD, the Ramsar Convention, CMS, the International Association for Impact Assessment and IUCN – the World Conservation Union on this matter;

Noting also that CBD's Decision V/18 on impact assessment, liability and redress specifically encouraged similar cooperation in relation to the development of guidelines for incorporating biodiversity-related issues into legislation and/or processes on strategic environmental assessment, and included the CMS Scientific Council among those with whom cooperation was requested;

Noting further that the CBD-CMS Joint Work Programme 2002-2005, in section 10, includes actions relating to studies of migratory species and impact assessment, and to input concerning migratory species in guidelines for the integration of biodiversity considerations into impact assessment procedures;

Welcoming the endorsement by CBD COP6 of the "Guidelines for Incorporating Biodiversity-related Issues into Environmental Impact Assessment Legislation and/or Processes and in Strategic Environmental Assessment" annexed to its Decision VI/7; and 13 * The original draft of this resolution, considered by the Conference of the Parties, was numbered 7.10.

Desiring as always to maximise synergy and joint working efficiencies between all biodiversity-related Conventions;

The Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals

1. *Emphasises* the importance of good quality environmental impact assessment (EIA) and strategic environmental assessment (SEA) as tools for implementing Article II (2) of the Convention on avoiding endangerment of migratory species and Article III (4) of the Convention on protection of Appendix I species, and as important elements to include in

agreements concluded under Article IV (3) of the Convention in respect of Appendix II species, and in agreements concluded under Article IV (4) of the Convention in respect of Appendix II and other species;

2. *Urges* Parties to include in EIA and SEA, wherever relevant, as complete a consideration as possible of effects involving impediments to migration, in furtherance of Article III (4) (b) of the Convention, of transboundary effects on migratory species, and of impacts on migratory patterns or on migratory ranges;

3. *Further urges* Parties to make use, as appropriate, of the “Guidelines for Incorporating Biodiversity-related Issues into Environmental Impact Assessment Legislation and/or Processes and in Strategic Environmental Assessment” endorsed by Decision VI/7 of CBD COP 6;

4. *Requests* the Secretariat to establish cooperative links with the International Association for Impact Assessment in furtherance of the matters specified in this resolution, and on other matters of mutual interest;

5. *Further requests* the Secretariat to pursue its contacts with secretariats of other multilateral environmental agreements in evaluating with them the potential implications of the decisions of their Conferences of the Parties on the conservation of migratory species;

Transboundary context

Preamble

2. *Urges* Parties to include in EIA and SEA, wherever relevant, as complete a consideration as possible of effects involving impediments to migration, in furtherance of Article III (4) (b) of the Convention, of transboundary effects on migratory species, and of impacts on migratory patterns or on migratory ranges;

● **Public Participation**

Preamble

6. *Encourages* Parties to establish contact with relevant national contact points from within the networks of the International Association for Impact Assessment with a view to identifying sources of expertise and advice for assisting with migratory species-related impact assessment as part of impact assessment procedures in general;

7. *Requests* the Scientific Council, in cooperation with the International Association for Impact Assessment, the Scientific & Technical Review Panel of the Ramsar Convention on Wetlands, the Subsidiary Body on Scientific, Technical and Technological Advice of the CBD and other suitably qualified bodies, including CMS Agreements, to review existing international guidance in this field, identify gaps in relation to migratory species interests and if necessary, develop further guidance relating to migratory species issues for consideration and possible adoption by the Conference of the Parties at its eighth meeting;