



SAINT VINCENT AND THE GRENADINES

ACT NO. 53 OF 2002

I ASSENT

DR. FREDERICK BALLANTYNE

Governor-General

30th December, 2002

AN ACT to control dumping in the sea

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same, as follows:

[By Proclamation]

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|--|------------------------------|
| <p>1. This Act may be cited as the Dumping at Sea Act, 2002 and shall come into force on such date as the Governor General may appoint by proclamation published in the <i>Gazette</i>.</p> | Short title and commencement |
| <p>2. In this Act, unless the context otherwise requires,</p> <p>“Convention” means the Convention on the Prevention of Maritime Pollution by Dumping of Wastes and other Matter, done at London on the 29th day of December, 1972;</p> <p>“Convention State” means a State which is a Party to that Convention;</p> <p>“enforcement officer” means any person authorized by the Minister to enforce this Act under section 8 (1);</p> <p>“incineration” means any combustion of substances and materials for the purpose of their thermal destruction;</p> <p>“licensing authority” means the Minister responsible for health and the environment;</p> <p>“marine structure” means a platform or other man-made structure at sea, other than a pipe-line;</p> | Interpretation |

“the Minister” means the Minister of Health and the Environment;

“Saint Vincent and the Grenadines aircraft” means an aircraft registered in Saint Vincent and the Grenadines;

“Saint Vincent and the Grenadines hovercraft” means a hovercraft registered in Saint Vincent and the Grenadines;

“Saint Vincent and the Grenadines marine structure” means a marine structure owned by or leased to an individual residing in or a body corporate incorporated under the laws of Saint Vincent and the Grenadines;

“Saint Vincent and the Grenadines vessel” means a vessel registered in Saint Vincent and the Grenadines, or a vessel exempted from such registration under the Merchant Shipping Act (Cap. 364);

“Saint Vincent and the Grenadines waters” means any part of the sea within the seaward limits of Saint Vincent and the Grenadines territorial waters;

“vessel” has the meaning assigned to it by section 2 of the Merchant Shipping Act (Cap. 364).

Requirement of licenses for deposit of substances and articles in the sea, etc.

3. Subject to the following provisions of this Act, a licence under this Act is needed -

- (a) for the deposit of substances or articles within Saint Vincent and the Grenadines waters, either in the sea or under the sea-bed-
 - (i) from a vehicle, vessel, aircraft, hovercraft or marine structure;
 - (ii) from a container floating in the sea; or
 - (iii) from a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea;
- (b) for the deposit of substances or articles anywhere in the sea or under the sea-bed-
 - (i) from a Saint Vincent and the Grenadines vessel, aircraft, hovercraft or marine structure;

- (ii) from a container floating in the sea, if the deposit is controlled from a St. Vincent and the Grenadines vessel, aircraft, hovercraft or marine structure;
 - (iii) from a foreign vessel, aircraft, hovercraft or marine structure which was loaded in Saint Vincent and the Grenadines waters with any of those substances or articles; or
 - (iv) from a container floating in the sea which was loaded with any of those substances or articles in Saint Vincent and the Grenadines or in Saint Vincent and the Grenadines waters, if the deposit is controlled from a foreign vessel, aircraft, hovercraft, or marine structure;
- (c) for the loading of a vehicle, vessel, aircraft, hovercraft, marine structure or floating container in Saint Vincent and the Grenadines or in Saint Vincent waters with substances or articles for deposit anywhere in the sea or under the sea-bed;
- (d) for the scuttling of vessels -
- (i) in Saint Vincent and the Grenadines waters;
 - (ii) anywhere at sea, if the scuttling is controlled from a Saint Vincent and the Grenadines vessel, aircraft, hovercraft or marine structure; or
 - (iii) anywhere at sea if it is controlled from a foreign vessel, aircraft, hovercraft or marine structure and the vessel scuttled was towed or propelled to the place where the scuttling takes place from Saint Vincent and the Grenadines or Saint Vincent and the Grenadines waters;
- (e) for the towing or propelling from Saint Vincent and the Grenadines or Saint Vincent and the Grenadines waters of a vessel for scuttling anywhere at sea.
4. Subject to the following provisions of this Act, a license is needed-
- (a) for the incineration of substances or articles on a vessel or marine structure-
- (i) in Saint Vincent and the Grenadines waters;

Requirement
of licenses for
incineration at
sea, etc.

- (ii) anywhere at sea, if the incineration takes place on a Saint Vincent and the Grenadines vessel or a Saint Vincent and the Grenadines marine structure; or
- (iii) anywhere at sea if the incineration takes place on a foreign vessel or foreign marine structure which was loaded in Saint Vincent and the Grenadines or Saint Vincent and the Grenadines waters with any of those substances or articles; and
- (b) for the loading of a vessel or marine structure in Saint Vincent and the Grenadines or in Saint Vincent and the Grenadines waters with substances or articles for incineration anywhere at sea.

Licenses

5. (1) In determining whether to issue a license the licensing authority-

- (a) shall have regard to the need -
 - (i) to protect the marine environment, the living resources which it supports and human health; and
 - (ii) to prevent interference with legitimate uses of the sea; and
- (b) may have regard to such other matters as the authority considers relevant.

(2) Without prejudice to the generality of subsection (1) above, where it appears to the licensing authority that an applicant for a licence has applied for the licence with a view to the disposal of the substances or articles to which it would relate, the authority, in determining whether to issue a licence, shall have regard to the practical availability of any alternative methods of dealing with them.

(3) The licensing authority -

- (a) shall include such provisions in a licence as appear to the authority to be necessary or expedient -
 - (i) to protect the marine environment, the living resources which it supports and human health; and
 - (ii) to prevent interference with legitimate uses of the sea; and
- (b) may include in a licence such other provisions as the authority considers appropriate.

(4) The licensing authority may require an applicant for licence to supply such information and permit such examinations and tests as in the opinion of the authority may be necessary or expedient to enable the authority to decide whether a licence should be issued to the applicant and the provisions which any licence that is issued to him ought to contain.

(5) The licensing authority may require an applicant for a licence, on making his application, to pay a reasonable fee in respect of the administrative expenses of processing his application.

(6) The licensing authority may require an applicant for a licence to pay a further reasonable fee towards the expense-

- (a) of carrying out any examinations and tests which in the opinion of the authority are necessary or expedient to enable the authority to decide-
 - (i) whether to issue a licence to the applicant; and
 - (ii) the provisions which any licence issued to him ought to include;
- (b) of checking the manner in which operations for which a licence is needed have been or are being conducted; and
- (c) of monitoring the effect of such operations.

(7) Fees under this section shall be determined on principles settled by the Minister with the consent of the Ministry of Finance and after consultation with organizations appearing to the Minister to represent persons who are likely to apply for licenses.

(8) The licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that there has been a breach of any of its provisions.

(9) The licensing authority may vary or revoke a licence which the authority has issued if it appears to the authority that the licence ought to be varied or revoked -

- (a) because of a change in circumstances relating to the marine environment, the living resources which it supports or human health; or
- (b) because of increased scientific knowledge relating to any of those matters; or
- (c) for any other reason that appears to the authority to be relevant.

Offences
relating to
licensing
system

(10) Schedule 2 to this Act shall have effect with regard to the right to make representations, etc.

6. (1) Subject to subsections (3) to (5) below, a person who—

- (a) except in pursuance of a licence and in accordance with its provisions, does anything for which a licence is needed; or
- (b) causes or permits any other person to do any such thing except in pursuance of a licence and in accordance with its provisions,

shall be guilty of an offence.

(2) A person who for the purpose of procuring the issue of a licence, or in purporting to carry out any duty imposed on him by the provisions of a licence—

- (a) makes a statement which he knows to be false in a material particular; or
- (b) recklessly makes a statement which is false in a material particular; or
- (c) intentionally fails to disclose any material particular,

shall be guilty of any offence.

(3) Subject to subsection (4) below, it shall be a defence for a person charged with an offence under subsection (1) above in relation to any operation to prove -

- (a) that the operation was carried out for the purpose of securing the safety of a vessel, aircraft, hovercraft or marine structure or of saving life; and
- (b) that he took steps within a reasonable time to inform the Minister -
 - (i) of the operation;
 - (ii) of the locality and circumstances in which it took place; and
 - (iii) of any substances or articles concerned.

(4) A person does not have the defence provided by subsection (3) above if the court is satisfied -

- (a) that the operation-
 - (i) was not necessary for any purpose mentioned in paragraph (a) of that subsection; and
 - (ii) was not a reasonable step to take in the circumstances; or
 - (b) that it was necessary for one of those purposes but the necessity was due to the fault of the defendant.
- (5) It shall also be a defence for a person charged with an offence under subsection (1) above in relation to any operation -
- (a) which falls within section (3) (b) (i) and (ii) or section 3 (d) (ii) or section 4 (a) (ii) above; and
 - (b) which was carried out outside Saint Vincent and the Grenadines waters, to prove that:
 - (i) in respect of an operation falling within section 3 (b) (i) and (ii), the vessel, aircraft, hovercraft, marine structure or container (as the case may be) was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles deposited and the operation took place in pursuance of a licence issued by the responsible authority in that Convention State and in accordance with the provisions of that licence.
 - (ii) in respect of an operation falling within section 3 (d) (ii), the vessel scuttled was towed or propelled from a Convention State or the national or territorial waters of a Convention State to the place where the scuttling was carried out and the operation took place in pursuance of a licence issued by the responsible authority in that Convention State and in accordance with the provisions of that licence.
 - (iii) in respect of an operation falling within section 4 (a) (ii), the vessel or marine structure on which the incineration took place was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles incinerated and the operation took place in pursuance of a licence issued by the responsible authority in that Convention State and in accordance with the provisions of that licence.

Power to take
remedial action

7. (1) The Minister may carry out any operation which appears to him to be necessary or expedient for the purpose of protecting the marine environment, the living resources which it supports and human health, or of preventing interference with legitimate use of the sea, in any case where anything for which a licence is needed appears to have been done otherwise than in pursuance of a licence and in accordance with its provisions.

(2) If the Minister carries out an operation under subsection (1) above, he may recover any expenses reasonably incurred by him in carrying it out from any person who has been convicted of an offence in consequence of the act or omission which made it appear to the Minister to be necessary or expedient to carry out the operation.

Powers of officers

8. (1) The Minister may authorize any person, subject to such limitations as may be specified in the instrument authorizing him, to enforce this Act; and the following provisions of this Act shall be construed, in reference to a person so authorized, as subject to any such limitations.

(2) Subject to the following provisions of this Act, a person so authorized may enter -

- (a) land and vehicles in Saint Vincent and the Grenadines;
- (b) foreign vessels, foreign aircraft, foreign hovercraft and foreign marine structures in Saint Vincent and the Grenadines or within Saint Vincent and the Grenadines waters;
- (c) Saint Vincent and the Grenadines vessels, aircraft, hovercraft and marine structures, wherever they may be,

if he has reasonable grounds for believing that any substances or articles intended to be deposited in the sea or under the sea-bed or incinerated on a vessel or marine structure at sea are or have been present there.

(3) A person so authorized may board -

- (a) any vessel within Saint Vincent and the Grenadines waters; and
- (b) any Saint Vincent and the Grenadines vessel wherever it may be,

if it appears to him that it is intended to be scuttled.

(4) The person so authorized shall not enter premises used only as a dwelling for the purpose of enforcing this Act.

(5) Schedule 1 to this Act shall have effect with respect to persons authorized to enforce this Act

9. The licensing authority shall compile and keep available for public inspection free of charge at reasonable hours a register containing

Duty of licensing authority to keep register of licenses

(a) in respect of each licence issued by the authority for an operation such as is mentioned in section 3 (a) (b) or (c) or section 4 above, the particulars specified in Part I of Schedule 3 to this Act; and

(b) in respect of each licence so issued for an operation such as is mentioned in section 3 (d) or (e) above, the particulars specified in Part II of that Schedule,

and shall furnish a copy of the entry relating to any such licence to any person on payment by him of such reasonable fee as the authority may with the consent of the Ministry of Finance determine.

10. (1) A person guilty of an offence under section 6 (1) above shall be liable on conviction to a fine of an amount not exceeding EC\$5,000 or to imprisonment for a term of not more than 2 years of both.

Offences – penalties, etc.

(2) A person guilty of an offence under section 6 (2) above shall be liable on conviction to a fine of an amount not exceeding EC\$5,000.

(3) A person guilty of an offence under Schedule 1 to this Act shall be liable on conviction to a fine of an amount not exceeding EC\$2,000.

(4) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, subsection (4) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(6) Proceedings for any offence under this Act may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in Saint Vincent and the Grenadines.

General defence
of due diligence

11. (1) In any proceedings for an offence under this Act it is a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) Without prejudice to the generality of subsection (1) above, a person is to be taken to have established the defence provided by that subsection if he proves -

- (a) that he acted under instructions given to him by his employer; or
- (b) that he acted in reliance on information supplied by another person without any reason to suppose that the information was false or misleading,

and in either case that he took all such steps as were reasonably open to him to ensure that no offence would be committed.

SCHEDULE 1

OFFICERS AND THEIR POWERS

[Sec. 8 (5)]

Introductory

1. In this Schedule "officer" means an enforcement officer authorized by the Minister under Section 8 to enforce this Act.

Assistants for officers etc.

2. (1) An officer may take with him, to assist him in performing his functions -

- (a) any other person; and
- (b) any equipment or materials.

(2) A person whom an officer takes with him to assist him may perform any of the officer's functions, but only under the officer's supervision.

Powers in relation to vessels, aircraft, etc.

3. (1) In order to perform functions under this Act an officer may require any person -

- (a) to give details of any substances or articles on board a vessel, aircraft, hovercraft or marine structure; and

- (b) to give information concerning any substances or articles lost from a vessel, aircraft, hovercraft or marine structure.
- (2) In order to perform any such functions an officer-
- (a) may require any vessel, aircraft, hovercraft or marine structure to stop; and
 - (b) may require the attendance -
 - (i) of the master, captain or commander of a vessel, aircraft or hovercraft;
 - (ii) of the person in charge of a marine structure; and
 - (iii) of any other person who is on board a vessel, aircraft, hovercraft or marine structure,

and may require any person on board to assist him in the performance of his functions.

(3) In order to perform any such functions an officer may detain a vessel, aircraft hovercraft or marine structure.

(4) If an officer detains a vessel, aircraft, hovercraft or marine structure, he shall serve on the master, captain, commander or person in charge a notice in writing stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by an officer.

Containers, etc.

4. Without prejudice to his powers under any other provisions of this Act, in order to perform his functions an officer -

- (a) may open any container;
- (b) may carry out searches, inspections, measurements and tests;
- (c) may take samples;
- (d) may require the production of documents, books and records; and
- (e) may photograph or copy anything whose production he has power to require under paragraph (d) above.

Evidence of officers' authority

5. (1) An officer shall be furnished with a certificate of his authorization, and when he proposes to perform any function under this Act, it shall be his duty, if so requested, to produce that certificate.

- (2) It shall also be his duty, if so requested, to state -
- (a) his name;
 - (b) the function that he proposes to perform; and
 - (c) his grounds for proposing to perform it.

Time of performance of functions

6. An officer must perform his functions under this Act at a reasonable hour unless it appears to the officer that there are grounds for suspecting that the purpose of their performance may be frustrated if he seeks to perform them at a reasonable hour.

Power of officer to use reasonable force

7. An officer may use reasonable force, if necessary, in the performance of his functions.

Protection of officers

8. An officer shall not be liable in any civil or criminal proceedings for anything done in purported performance of his functions under this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Offences

9. Any person who -
- (a) intentionally obstructs an officer in the performance of any of his functions under this Act;
 - (b) fails without reasonable excuse to comply with a requirement made or direction given by an officer in the performance of his functions under this Act; or
 - (c) in purporting to give information required by an officer for the performance of any of his functions under this Act -
 - (i) makes a statement which he knows to be false in a material particular;
 - (ii) recklessly makes a statement which is false in a material particular; or
 - (iii) intentionally fails to disclose any material particular;

shall be guilty of an offence.

SCHEDULE 2

[Sec. 5 (10)]

LICENCES - RIGHT TO MAKE REPRESENTATIONS, ETC.

1. If within 28 days of the issue of a licence the person to whom it is issued requests the licensing authority to give him notice in writing of the reasons for the inclusion of any provision in it, the authority shall comply with his request within 28 days of receiving it.

2. On issuing a licence to a person the licensing authority shall notify him of the effect of paragraph 1 above.

3. If the licensing authority refuses an application for a licence, the authority shall give the applicant notice in writing of the reasons for the refusal.

4. If the licensing authority varies or revokes a licence without the holder's consent, the authority shall give the holder notice in writing of the reasons for the variation or revocation.

5. If within 28 days of receipt of a notice under this Schedule giving the licensing authority's reasons the person to whom it is given makes written representations to the authority concerning the matter to which the notice related, the authority shall constitute a committee to consider his representations.

6. A notice under this Schedule giving the licensing authority's reasons shall state the effect of paragraph 5 above.

7. The licensing authority shall draw up and from time to time revise a panel of persons who are specially qualified in the authority's opinion to be members of committees constituted under this Schedule, and any such committee constituted by the authority shall be drawn from members of the authority's panel.

8. If the licensing authority constitutes a committee, the authority shall appoint one of the members of the committee to be its chairman.

9. It shall be the duty of the chairman -

- (a) to serve on the person who made the representations a notice requiring him to state within 14 days of receipt of the notice whether he wishes to make oral representations to the committee;
- (c) to serve on him, not earlier than the date of the notice under paragraph (a) above, notice of the place, date and time of the meeting of the committee.

10. A notice under paragraph 9(b) above shall not specify a date for the meeting of the committee earlier than 21 days from the date of the notice, unless the person who made the representations has agreed to an earlier meeting.

11. If he expresses a wish to make oral representations, the committee shall afford him an opportunity of doing so, either in person or by any person authorized by him in that behalf.

12. The committee shall consider -

- (a) the reasons given by the authority under this Schedule; and
- (b) any representations made under this Schedule,

and shall make a report to the licensing authority after the close of their consideration, giving their findings of fact and their recommendations, and the licensing authority shall reconsider the decision of the authority to which the representations relate in the light of the report.

13. The licensing authority shall notify the person who made the representations of the result of the authority's reconsideration and the reasons for it and shall send him a copy of the committee's report.

14. Subject to paragraph 15 below, the licensing authority may pay to a person who makes representations under this Schedule such sum as the authority considers appropriate in respect of cost or expenses incurred by that person in connection with the making of the representations and of any hearing relating to them by a committee.

15. No payment shall be made in a case where the result of the reconsideration is that the authority confirms the original decision without modification.

16. The licensing authority may make arrangements for securing that such of the authority's officers as the authority considers are required are available to assist a committee constituted by the authority under this Schedule.

17. The licensing authority may pay -

- (a) such fees and allowances for members of such committees;
- (b) such other expenses of such committees,

as the authority may, with the consent of the Ministry of Finance, determine.

SCHEDULE 3

PARTICULARS TO BE CONTAINED IN REGISTERS

PART 1

LICENSES FOR DEPOSIT OR INCINERATION OR ASSOCIATED OPERATIONS

1. The name of the holder of the licence.
2. The period of the licence.
3. The name, where known, of the producer of the substances or articles.
4. Their description and quantity.
5. Their country of origin, where known.

6. The site at which it was intended to deposit or incinerate them.
7. The place from which it was intended that they should be taken to that site.
8. The nature of any container or packaging in which it was intended that they should be when deposited.
9. The results of any toxicity tests carried out for the purpose of determining whether the licence should be issued or the provisions to be included in it.

PART II

LICENSES FOR SCUTTLING OR ASSOCIATED OPERATIONS

10. The name of the holder the licence.
11. The period of the licence.
12. The name of the owner of the vessel.
13. A description of the vessel.
14. The site at which it was intended to scuttle it.
15. The place from which it was intended that it should be taken to that site.

Treaty Series No. 43 (1976)

Convention
on the Prevention of Marine Pollution by
Dumping of Wastes and other Matter

London, Mexico City, Moscow, Washington

29 December 1972-31 December 1973

[The United Kingdom instruments of ratification were deposited on 17 November 1975, and the Convention entered into force for the United Kingdom on 17 December 1975]

Presented to Parliament

by the Secretary of State for Foreign and Commonwealth Affairs

by Command of Her Majesty

June 1976

LONDON
HER MAJESTY'S STATIONERY OFFICE

30p net

Cmd. 6486

CONVENTION
ON THE PREVENTION OF MARINE POLLUTION BY
DUMPING OF WASTE AND OTHER MATTER

The Contracting Parties to this Convention,

Recognizing that the marine environment and the living organisms which it supports are of vital importance to humanity, and all people have an interest in assuring that it is so managed that its quality and resources are not impaired;

Recognizing that the capacity of the sea to assimilate wastes and render them harmless, and its ability to regenerate natural resources, is not unlimited;

Recognizing that States have, in accordance with the Charter of the United Nations (1) and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of the other States or of areas beyond the limits of national jurisdiction;

Recalling Resolution 2749 (XXV) of the General Assembly of the United Nations on the principles governing the sea-bed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction;

Noting that marine pollution originates in many sources, such as dumping and discharges through the atmosphere, rivers' estuaries, outfalls and pipelines, and that it is important that States use the best practicable means to prevent such pollution and develop products and processes which will reduce the amount of harmful waste to be disposed of;

Being convinced that international action to control the pollution of the sea by dumping can and must be taken without delay but that this action should not preclude discussion of measures to control other sources of marine pollution as soon as possible; and

Wishing to improve protection of the marine environment by encouraging States with a common interest in particular geographical areas to enter into appropriate agreements supplementary to this Convention;

Have agreed as follows:

ARTICLE I

Contracting Parties shall individually and collectively promote the effective control of all sources of pollution of the marine environment, and pledge themselves especially to take all practicable steps to prevent the pollution of the sea by the dumping of waste and other matter that is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

ARTICLE II

Contracting Parties shall, as provided for in the following Articles, take effective measures individually, according to their scientific, technical and economic capabilities, and collectively, to prevent marine pollution caused by dumping and shall harmonize their policies in this regard.

ARTICLE III

For the purposes of this Convention:

1. (a) "Dumping" means:
 - (i) any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;
 - (ii) any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea.
 - (b) "Dumping" does not include:
 - (i) the disposal at sea of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;
 - (ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.
 - (c) The disposal of wastes or other matter directly arising from, or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources will not be covered by the provisions of this Convention.
2. "Vessels and aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air cushioned craft and floating craft, whether self-propelled or not.
 3. "Sea" means all marine waters other than the internal waters of States.
 4. "Wastes or other matter" means material and substance of any kind, form or description.
 5. "Special permit" means permission granted specifically on application in advance and in accordance with Annex II and Annex III.

6. "General permit" means permission granted in advance and in accordance with Annex III.

7. "The Organisation" means the organisation designated by the Contracting Parties in accordance with Article XIV (2).

ARTICLE IV

1. In accordance with the provisions of this Convention Contracting Parties shall prohibit the dumping of any wastes or other matter in whatever form or condition except as otherwise specified below :

- (a) the dumping of wastes or other matter listed in Annex I is prohibited;
- (b) the dumping of wastes or other matter listed in Annex II requires a prior special permit;
- (c) the dumping of all other wastes or matter requires a prior general permit.

2. Any permit shall be issued only after careful consideration of all the factors set forth in Annex III, including prior studies of the characteristics of the dumping site, as set forth in Sections B and C of that Annex.

3. No provision of this Convention is to be interpreted as preventing a Contracting Party from prohibiting, insofar as that Party is concerned, the dumping of wastes or other matter not mentioned in Annex I. That Party shall notify such measures to the Organisation.

ARTICLE V

1. The provisions of Article IV shall not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms or other man-made structures at sea in cases of *force majeure* caused by stress of weather, or in any case which constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures at sea, if dumping appears to be the only way of averting the threat and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimize the likelihood of damage to human or marine life and shall be reported forthwith to the Organisation.

2. A Contracting Party may issue a special permit as an exception to Article IV (1) (a), in emergencies, posing unacceptable risk relating to human health and admitting no other feasible solution. Before doing so the Party shall consult any other country or countries that are likely to be affected and the Organisation which, after consulting other Parties, and International Organisations as appropriate, shall, in accordance with Article XIV promptly recommend to the Party the most appropriate procedures to adopt. The Party shall follow these recommendations to maximum extent feasible consistent with the time within which action must be taken and with the general obligation to avoid damage to the marine environment and shall inform the Organisation of the action it takes. The Parties pledge themselves to assist one another in such situations.

3. Any Contracting Party may waive its rights under paragraph (2) at the time of, or subsequent to ratification of, or accession to this Convention.

ARTICLE VI

1. Each Contracting Party shall designate an appropriate authority or authorities to:
 - (a) issue special permits which shall be required prior to, and for, the dumping of matter listed in Annex II and in the circumstances provided for in Article V (2);
 - (b) issue general permits which shall be required prior to, and for, the dumping of all other matter;
 - (c) keep records of the nature and quantities of all matter permitted to be dumped and the location, time and method of dumping;
 - (d) monitor individually, or in collaboration with other Parties and competent international organisations, the condition of the seas for the purposes of this Convention.
2. The appropriate authorities of a Contracting Party shall issue prior special or general permits in accordance with paragraph (1) in respect of matter intended for dumping :
 - (a) loaded in its territory;
 - (b) loaded by a vessel or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not party to this Convention.
3. In issuing permits under sub-paragraphs (1) (a) and (b) above, the appropriate authority or authorities shall comply with Annex III, together with such additional criteria, measures and requirements as they may consider relevant.
4. Each Contracting Party, directly or through a Secretariat established under a regional agreement, shall report to the Organisation, and where appropriate to other Parties, the information specified in sub-paragraphs (c) and (d) of paragraph (1) above, and the criteria, measures and requirements it adopts in accordance with paragraph (3) above. The procedure to be followed and the nature of such reports shall be agreed by the Parties in consultation.

ARTICLE VII

1. Each Contracting Party shall apply the measures required to implement the present Convention to all:
 - (a) vessels and aircraft registered in its territory or flying its flag;
 - (b) vessels and aircraft loading in its territory or territorial seas matter which is to be dumped;
 - (c) vessels and aircraft and fixed or floating platforms under its jurisdiction believed to be engaged in dumping.

2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Convention .

3. The Parties agree to co-operate in the development of procedures for the effective application of this Convention particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Convention.

4. This Convention shall not apply to those vessels and aircraft entitled to sovereign immunity under international law. However each Party shall ensure by the adoption of appropriate measures that such vessels and aircraft owned or operated by it act in a manner consistent with the object and purpose of this Convention, and shall inform the Organisation accordingly.

5. Nothing in this Convention shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping at sea.

ARTICLE VIII

In order to further the objectives of this Convention, the Contracting Parties with common interest to protect in the marine environment in a given geographical area shall endeavour, taking into account characteristic regional features, to enter into regional agreements consistent with this Convention for the prevention of pollution, especially by dumping. The Contracting Parties to the present Convention shall endeavour to act consistently with the objectives and provisions of such regional agreements, which shall be notified to them by the Organisation. Contracting Parties shall seek to co-operate with the Parties to regional agreements in order to develop harmonized procedures to be followed by Contracting Parties to the different conventions concerned. Special attention shall be given to cooperation in the field of monitoring and scientific research.

ARTICLE IX

The Contracting Parties shall promote, through collaboration within the Organisation and other international bodies, support for those Parties which request it for:

- (a) the training of scientific and technical personnel;
- (b) the supply of necessary equipment and facilities for research and monitoring ;
- (c) the disposal and treatment of waste and other measures to prevent or mitigate pollution caused by dumping;

preferably within the countries concerned, so furthering the aims and purposes of this Convention.

ARTICLE X

In accordance with the principles of international law regarding State responsibility for damage to the environment of other States or to any other area of the environment, caused by dumping of wastes and other matter of all kinds, the Contracting Parties undertake to develop procedures for the assessment of liability and the settlement of disputes regarding dumping.

ARTICLE XI

The Contracting Parties shall at their first consultative meeting consider procedures for the settlement of disputes concerning the interpretation and application of this Convention.

ARTICLE XII

The Contracting Parties pledge themselves to promote, within the competent specialised agencies and other international bodies, measures to protect the marine environment against pollution caused by:

- (a) hydrocarbons, including oil, and their wastes;
- (b) other noxious or hazardous matter transported by vessels for purposes other than dumping;
- (c) wastes generated in the course of operation of vessels, aircraft, platforms and other man-made structures at sea;
- (d) radio-active pollutants from all sources, including vessels;
- (e) agents of chemical and biological warfare;
- (f) wastes or other matter directly arising from or related to the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

The Parties will also promote, within the appropriate international organisation, the codification of signals to be used by vessels engaged in dumping.

Article XIII

Nothing in this Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the sea convened pursuant to resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extend of costal and flag State jurisdiction. The Contracting Parties agree to consult at a meeting to be convened by the Organisation after the Law of the Sea Conference, and in any case not later than 1976, with a view to defining the nature and extent of the right and the responsibility of a coastal State to apply the Convention in a zone adjacent to its coast.

ARTICLE XIV

1. The Government of the United Kingdom of Great Britain and Northern Ireland as a depositary shall call a meeting of the Contracting Parties not later than three months after the entry into force of this Convention to decide on organisational matters.

2. The Contracting Parties shall designate a competent Organisation existing at the time of that meeting to be responsible for secretariat duties in relation to this Convention. Any Party to this Convention not being a member of this Organisation shall make appropriate contribution to the expenses incurred by the Organisation in performing these duties.

3. The Secretariat duties of the Organisation shall include:

- (a) the convening of consultative meetings of the Contracting Parties not less frequently than once every two years and of special meetings of the Parties at any time on the request of two-thirds of the Parties;
- (b) preparing and assisting, in consultation with the Contracting Parties and appropriate international organisations, in the development and implementation of procedures referred to in sub-paragraph (4) (e) of this article;
- (c) considering enquiries by, and information from the contracting Parties, consulting with them and with the appropriate International Organisations, and providing recommendations to the Convention;
- (d) conveying to the Parties concerned all notifications received by the organisation in accordance with Articles IV (3), V (1) and (2), VI (4), XV, XX and XXI.

Prior to the designation of the Organisation these functions shall, as necessary, be performed by the depositary, who for this purpose shall be the Government of the United Kingdom of Great Britain and Northern Ireland.

4. Consultative or special meetings of the contracting Parties shall keep under continuing review the implementation of this Convention and may, *inter alia*:

- (a) review and adopt amendments to this Convention Parties and its Annexes in accordance with Article XV;
- (b) invite the appropriate scientific body or bodies to collaborate with and to advise the Parties or the Organisation on any scientific or technical aspect relevant to this Convention, including particularly the content of the Annexes;
- (c) receive and consider reports made pursuant to Article VI (4);
- (d) promote co-operation with and between regional organisations concerned with the prevention of marine pollution;
- (e) develop or adopt, in consultation with appropriate International Organisations, procedures referred to in Article V (2), including basic criteria for determining exceptional and emergency situations, and procedures for consultative advice and the safe disposal of matter in such circumstances, including the designation of appropriate dumping areas, and recommend accordingly;
- (f) Consider any additional action that may be required.

5. The Contracting Parties at their first consultative meeting shall establish rules of procedure as necessary.

ARTICLE XV

1. (a) At meetings of the Contracting Parties called in accordance with Article XIV amendments to this Convention may be adopted by a two-thirds majority of those present. An amendment shall enter into force for the Parties which have accepted it on the sixtieth day after two-thirds of the Parties shall have deposited an instrument of acceptance of the amendment with the Organisation. Thereafter the amendment shall enter into force for any other Party 30 days after that Party deposits its instrument of acceptance of the amendment.

(b) The Organisation shall inform all Contracting Parties of any request made for a special meeting under Article XIV and of any amendments adopted at meetings of the Parties and of the date on which each such amendment enters into force for each Party.

2. Amendments to the Annexes will be based on scientific or technical considerations. Amendments to the Annexes approved by a two-thirds majority of those present at a meeting called in accordance with Article XIV shall enter into force for each contracting Party immediately on notification of its acceptance to the Organisation and 100 days after approval by the meeting for all other Parties except for those which before the end of the 100 days make a declaration that they are not able to accept the amendment at that time. Parties should endeavour to signify their acceptance of an amendment to the Organisation as soon as possible after approval at a meeting. A Party may at any time substitute an acceptance for a previous declaration of objection and the amendment previously objected to shall thereupon enter into force for that party.

3. An acceptance or declaration of objection under this Article shall be made by the deposit of an instrument with the Organisation. The Organisation shall notify all Contracting Parties of the receipt of such instruments.

4. Prior to the designation of the Organisation, the Secretarial functions herein attributed to it, shall be performed temporarily by the Government of the United Kingdom of Great Britain and Northern Ireland, as one of the depositaries of this Convention.

ARTICLE XVI

The Convention shall be open for signature by any State at London, Mexico City, Moscow and Washington from 29 December 1972 until 31 December 1973.

ARTICLE XVII

The Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

ARTICLE XVIII

After 31 December 1973, this Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

ARTICLE XIX

1. This convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession.⁽²⁾

2. For each Contracting Party ratifying or acceding to the convention after the deposit of the fifteenth instrument of ratification or accession, the convention shall enter into force on the thirtieth day after deposit by such Party of its instrument of ratification or accession.

ARTICLE XX

The depositaries shall inform contracting Parties:

- (a) of signatures to this convention and of the deposit of instruments of ratification, accession or withdrawal, in accordance with Articles XVI, XVII, XVIII and XXI, and
- (b) of the date on which this convention will enter into force, in accordance with Article XIX.

ARTICLE XXI

Any Contracting Party may withdraw from this Convention by giving six months' notice in writing to a depositary, which shall promptly inform all Parties of such notice.

(²) The Convention entered into force on 30 August 1975

ARTICLE XXII

The original of this Convention of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Governments of Mexico, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America who shall send certified copies thereof to all States. ⁽³⁾

IN WITNESS WHEREOF the undersigned plenipotentiaries being duly authorised thereto by their respective Governments have signed the present Convention.

DONE in quadruplicate at London, Mexico City, Moscow and Washington, this twenty-ninth day of December, 1972.

(*) After the Convention has been registered with the United Nations, the French, Russian and Spanish texts will be published in the United Nations Treaty Series, available through Agency Section, Her Majesty's Stationery Office, P.O. Box 569, London, SE1 9NY, Tel.: 01-928 6977, ext. 410.

ANNEX I

1. Organohalogen compounds.
2. Mercury and mercury compounds.
3. Cadmium and cadmium compounds.
4. Persistent plastics and other persistent synthetic materials, for example, netting and ropes, which may float or may remain in suspension in the sea in such a manner as to interfere materially with fishing, navigation or other legitimate uses of the sea.
5. Crude oil, fuel oil, heavy diesel oil, and lubricating oils hydraulic fluids, and any mixtures containing any of these, taken on board for the purpose of dumping.
6. High-level radio-active wastes or other high-level radio-active matter, defined on public health, biological or other grounds, by the competent international body in this field, at present the International Atomic Energy Agency, as unsuitable for dumping at sea.
7. Materials in whatever form (e.g solids, liquids, semi-liquids, gases or in living state) produced for biological and chemical warfare.
8. The preceding paragraphs of this Annex do not apply to substances which are rapidly rendered harmless by physical, chemical or biological processes in the sea provided they do not:
 - (i) make edible marine organisms unpalatable, or
 - (ii) endanger human health or that of domestic animals.

The consultative procedure provided for under Article XIV should be followed by a Party if there is doubt about the harmlessness of the substance.

9. This Annex does not apply to wastes or other materials (e.g Sewage sludges and dredged spoils) containing the matters referred to in paragraphs 1-5 above as trace contaminants. Such wastes shall be subject to the provisions of Annexes II and III as appropriate.

ANNEX II

The following substances and materials requiring special care are listed for the purposes of Article VI (1) (a).

A. Wastes containing significant amounts of the matters listed below:

arsenic	}	and their compounds
lead		
copper		
zinc		
organosilicon compounds		
cyanides		
fluorides		
pesticides and their by-products not covered in Annex I.		

B. In the issue of the permits for the dumping of large quantities of acids and alkalis, consideration shall be given to the possible presence in such wastes of the substances listed in paragraph A and to the following additional substances:

beryllium	}	and their compounds
chromium		
nickel		
vanadium		

C. Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation

D. Radio-active wastes or other radio-active matter not included in Annex I. In the issue of permits for the dumping of this matter, the Contracting Parties should take full account of the recommendations of the competent international body in this field, at present the International Atomic Energy Agency.

ANNEX III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account Article IV (2), include:

A. Characteristics and composition of the matter

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

B. Characteristics of dumping site and method of deposit

1. Location (e.g co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (e.g quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed method of release.
5. Dispersal characteristics (e.g effects of currents, tides and wind on horizontal transport and vertical mixing).
6. Water characteristics (eg. temperature, pH, salinity, stratification, oxygen indices of pollution -dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD)-nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).
7. Bottom characteristics (e.g topography, geochemical and geological characteristics and biological productivity).
8. Existence and affects of other dumpings which have been made in the dumping area (e.g heavy metal background reading and organic carbon content).
9. In issuing a permit for dumping, Contracting Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Annex, taking into account seasonal variations.

C. General considerations and conditions

1. Possible effects on amenities (e.g. presence of floating or stranded material, turbidity, objectionable odour, discolouration and foaming).
2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.
3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structures, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance for scientific or conservation purposes).
4. The practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful for dumping at sea.

Passed in the House of Assembly this 8th day of October, 2002.

NICOLE HERBERT
Clerk of the House of Assembly (Ag.)

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