

# Appendix 5 – Stocktake of International Instruments

Listed below are international instruments (treaties and non-treaties) that have been reviewed in detail for the purposes of this stocktake. This is not intended to be a comprehensive list (or review) of all oceans-related international instruments. Other relevant instruments will be reviewed in separate papers to be produced by the Oceans Policy Secretariat as part of Oceans Policy development.

## **International Instruments Reviewed:**

- Convention on Wetlands (Ramsar, 1971)
- Agenda 21, 1992
- World Heritage Convention
- MARPOL and the London Dumping Convention
- Convention on Biological Diversity.

	Convention on Wetlands (Ramsar, 1971)	Agenda 21, 1992	World Heritage Convention	MARPOL and the London Dumping Convention
<b>Long Title</b>	<i>"The Convention on Wetlands of International Importance especially as Waterfowl Habitat"</i>	Report of the United Nations Conference on Environment and development - Agenda 21	UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage	International Convention for the Prevention of Pollution from Ships, 1973; and Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1971
<b>Commentary</b>	The official name (above) reflects the convention's original emphasis on the conservation and wise use of wetlands primarily to provide habitat for waterbirds. Over the years, however, the Convention has broadened its scope to cover <b>all aspects</b> of wetland conservation and wise use, recognizing wetlands as ecosystems that are extremely important for biodiversity conservation in general and for the well-being of human communities. For this reason, the increasingly common use of the short form of the treaty's title, the "Convention on Wetlands", is entirely appropriate.	Agenda 21 is one of 5 key documents on sustainable development issues adopted by consensus at the 1992 Earth Summit in Rio.  It is one of the 3 non-binding or "soft law" outcomes of the Conferences. The other two are the- the Rio Declaration and the Forest		These conventions are generally considered together because of the close relationship between the means of given effect to them.  The MARPOL Convention is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes. It is a combination of two treaties adopted in 1973 and 1978 respectively and updated by amendments through the years.
<b>Purpose</b>	Purpose not specifically identified. However purpose is clearly about the protection (and "wise use") of wetlands.	Agenda 21 has not single stated purpose but it is generally given that its purpose it to promote sustainable development	To define and conserve the world's heritage for all humanity and to ensure their protection through a closer co-operation among nations.	MARPOL aims to eliminate pollution of the sea by oil and other toxic substances which might be discharged during normal operations, or released accidentally as a result of collisions or stranding of ships.  The London Dumping Convention regulates the dumping and incineration at sea of wastes and other matter.
<b>Commentary</b>	Ramsar is the first of the modern global intergovernmental treaties on conservation and wise use of natural resources, but, compared with more recent ones, its provisions are relatively straightforward and general. Text was, however, amended in 1982 and 1987, and its application has been developed by conference decisions.	The UN describes Agenda 21 as " a comprehensive plan of action to be taken globally, nationally and locally by organizations of the United Nations System, Governments, and Major Groups in every area in which human impacts on the environment".  Agenda 21 is a very large document for the purpose of this analysis the key section is considered to be Chapter 17 that deals with "Protection Of The Oceans, All Kinds Of Seas, Including Enclosed And Semi-enclosed Seas And Coastal Areas And The Protection Rational Use And Development Of Their Living Resources".		"Dumping" has been defined as the deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures, as well as the deliberate disposal of these vessels or platforms themselves.

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<b>Principles</b>	<p>Principles are not explicitly stated. The preamble to the Convention notes the following:</p> <ul style="list-style-type: none"> <li>▪ the interdependence of Man and his environment;</li> <li>▪ the fundamental ecological functions of wetlands as regulators of water regimes and as habitats supporting a characteristic flora and fauna, especially waterfowl;</li> <li>▪ that wetlands constitute a resource of great economic, cultural, scientific, and recreational value, the loss of which would be irreparable;</li> <li>▪ [the need to] to stem the progressive encroachment on and loss of wetlands now and in the future;</li> <li>▪ waterfowl in their seasonal migrations may transcend frontiers and so should be regarded as an international resource;</li> <li>▪ the conservation of wetlands and their flora and fauna can be ensured by combining far-sighted national policies with co-ordinated international action;</li> </ul>	<p>Though not part of Agenda 21 itself, principles for action on sustainable develop were set out in the accompanying “Rio Declaration on Environment and Development”. These 27 principles are often considered in the context of Agenda 21.</p> <p>Key principles include:</p> <ul style="list-style-type: none"> <li>▪ <b>intergenerational equity</b> - that there should be equity between the rights and needs of the current generation and of generations to come</li> <li>▪ <b>precautionary approach</b> - that lack of full scientific certainty of the causes and effects of environmental damage should not be a reason for delaying action to prevent such damage</li> <li>▪ <b>polluter pays</b> - that polluters should bear the cost of pollution, and that the costs of environmental damage should be reflected in cost/benefit analyses of actions affecting the environment</li> <li>▪ <b>participation</b> – that environmental issues are best handled with the participation of all concerned citizens, at the relevant level.</li> <li>▪ <b>responsibilities</b> - that the world community has a common responsibility for protecting the global environment. However, countries that pollute more should do more for environmental protection than countries that pollute less.</li> </ul>		<p>The 1996 Protocol to the London Dumping convention introduces the precautionary approach principle and the polluter pays principle.</p>
<b>Commentary</b>				
<b>Spatial jurisdiction</b>	<p>The spatial jurisdiction is contained within the Conventions definition of wetland. It states:</p> <p>“wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent</p>	Not limited.	<p>Not specified but limited by sovereign jurisdiction (i.e. will be limited to land and territorial sea).</p> <p>The convention applies to both cultural and</p>	<p>The requirements of MARPOL are to be implemented by a Party in respect of its flag vessels and also in areas where vessels are operating under the authority of the Government of that State.</p>

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	or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters”		natural heritage and defines these as follows: <ul style="list-style-type: none"> <li>▪ "cultural heritage" is a monument, group of buildings or site of historical, aesthetic, archaeological, scientific, ethnological or anthropological value.</li> <li>▪ "Natural heritage" designates outstanding physical, biological, and geological features; habitats of threatened plants or animal species and areas of value on scientific or aesthetic grounds or from the point of view of conservation</li> </ul>	The requirements of the London Dumping Convention are to be implemented by a Party in relation to vessels and aircraft flying its flag; loading in its territory or territorial seas matter which is to be dumped; or vessels and aircraft and fixed or floating platforms under its jurisdiction believed to be engaged in dumping.
<b>Commentary</b>				
<b>Obligations of parties</b>	<p>Contracting Parties commit themselves to (inter alia):</p> <ul style="list-style-type: none"> <li>▪ <b>Designate at least one site</b> that meets the Ramsar criteria for inclusion in the List of Wetlands of International Importance (the Ramsar List), and ensure the maintenance of the ecological character of each Ramsar site. Countries are expected to include in the List as many wetlands that meet the criteria as possible. Listed sites do not necessarily require protected area status, provided their ecological character is maintained through a wise use management approach;</li> <li>▪ <b>Include wetland conservation within their national land-use planning</b>, so as to promote the wise use of all wetlands within their territory;</li> <li>▪ <b>Establish nature reserves</b> on wetlands, and promote training in wetland research, management and wardening;</li> <li>▪ Consult with other Parties about the implementation of the Convention, especially with regard to transfrontier wetlands, shared water systems, shared species, and development projects affecting wetlands.</li> </ul>	<p>Agenda 21 is a plan for use by governments, local authorities and individuals to implement the principle of sustainable development contained in the Rio Declaration. It is not a binding international agreement.</p> <p>Governments can implement aspects of the Agenda in many different ways</p> <p>A huge range of actions is specified in respect of each chapter. Themes of the oceans chapter are:</p> <ol style="list-style-type: none"> <li>Integrated management and sustainable development of coastal areas, including exclusive economic zones;</li> <li>Marine environmental protection;</li> <li>Sustainable use and conservation of marine living resources of the high seas;</li> <li>Sustainable use and conservation of marine living resources under national jurisdiction;</li> <li>Addressing critical uncertainties for the management of the marine environment and climate change;</li> <li>Strengthening international, including regional, cooperation and coordination;</li> <li>Sustainable development of small islands.</li> </ol> <p>Each section has comprehensive objectives and a lengthy list of actions.</p>	<p>Each country pledges to:</p> <ul style="list-style-type: none"> <li>▪ list heritage sites;</li> <li>▪ protect those sites;</li> <li>▪ co-operate internationally in protection of sites</li> <li>▪ submit to the World Heritage Committee a schedule of sites that are suitable for inclusion on the World Heritage List</li> </ul> <p>Thus, by signing the Convention, each country pledges to conserve not only the World Heritage sites situated on its territory, but also to protect its national heritage.</p>	<p>MARPOL includes regulations aimed at preventing and minimizing pollution from ships - both accidental pollution and that from routine operations - and currently includes six technical Annexes:</p> <ul style="list-style-type: none"> <li>▪ Annex I - Regulations for the Prevention of Pollution by Oil</li> <li>▪ Annex II - Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk</li> <li>▪ Annex III - Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form</li> <li>▪ Annex IV - Prevention of Pollution by Sewage from Ships (<i>Not yet in force</i>)</li> <li>▪ Annex V - Prevention of Pollution by Garbage from Ships</li> <li>▪ Annex VI - Prevention of Air Pollution from Ships (adopted September 1997 - not yet in force)</li> </ul> <p>States Parties must accept Annexes I and II, but the other Annexes are voluntary.</p> <p>Accepting these Annexes effectively means developing domestic regulation that gives effect to the prescriptive standards specified in the Annexes.</p> <p>Annexes to the London Dumping Convention list wastes which cannot be dumped and others for which a special dumping permit is required. The criteria governing the issuing of these permits are laid down in a third Annex which deals with the nature of the waste material, the characteristics of the dumping site</p>

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				and method of disposal.  Again, accepting these Annexes effectively means developing domestic regulation that gives effect to the prescriptive standards specified in the Annexes.
<b>Commentary</b>	<p>There are presently 133 Contracting Parties to the Convention, with 1224 wetland sites, totalling 105.8 million hectares, designated for inclusion in the Ramsar List of Wetlands of International Importance.</p> <p>A definition of "wise use" and guidelines (criteria) have been developed and were adopted at the Regina Conference, 1987, and the Kushiro Conference in 1993.</p> <p>Guidelines for assessing the importance of wetlands have also been developed.</p> <p>New Zealand has Ramsar 5 sites:</p> <ul style="list-style-type: none"> <li>▪ the Firth of Thames;</li> <li>▪ Wangamārimo;</li> <li>▪ Kōpuatai Peat Dome;</li> <li>▪ Farewell spit; and</li> <li>▪ Waituna Lagoon</li> </ul>		<p>The World Heritage Committee has inscribed 730 properties on the World Heritage List (563 cultural, 144 natural and 23 mixed properties in 125 States)</p> <p>Sites are recommended by parties and assessed by the World Heritage Committee. Guidelines specifying assessment criteria have been developed.</p> <p>New Zealand has 3 World Heritage Sites being:</p> <ul style="list-style-type: none"> <li>▪ Tongariro National Park</li> <li>▪ Te Wahipounamu south- west NZ</li> <li>▪ NZ Sub Antarctic Islands</li> </ul> <p>None of these sites include marine areas. However the Convention would seem to provide for marine areas to be included should the criteria apply.</p>	
<b>Information gathering mechanisms</b>	Contracting Parties report on progress in implementing their commitments under the Convention by submission of triennial National Reports to the Conference of the Contracting Parties. The National Reports become part of the public record	Internationally, monitoring is carried out by the Commission of Sustainable Development (CSD) an entity established UNCED specifically for the purpose.	<p>The credibility of World Heritage stems from countries' regular reporting on the condition of sites, on measures taken to preserve them, and on their efforts to raise public awareness of cultural and natural heritage.</p> <p>The states parties to the Convention in the Asia-Pacific region are preparing the first of a series of six-yearly reports to the World Heritage Committee on their application of the Convention. This report is to be considered by the 27th session of the Committee in June 2003.</p>	<p>Information of compliance with MARPOL and relies on reporting by vessels in accordance with the Convention and on the monitoring by central and local government agencies.</p> <p>Among other requirements of the London Dumping Convention, Contracting Parties undertake to designate an authority to deal with permits, keep records, and monitor the condition of the sea.</p> <p>Other articles are designed to promote regional co-operation, particularly in the fields of monitoring and scientific research.</p>
<b>Commentary</b>				
<b>Implementation in Domestic legislation</b>	The Convention is given effect through the Conservation Act (under which wetlands in public ownership are managed) and the Resource Management Act which influences	Compared with many other countries, New Zealand's legislation (Resource Management Act, Biosecurity Act, Local Government Act etc.) is largely in accord with the themes in	All three of New Zealand listed sites are protected as public conservation lands (two as national parks).	Regulations enabling NZ to give effect to MARPOL and enabling domestic implementation of the London Dumping Convention have been prepared, under the

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	the management of all wetlands including those on private land). The RMA specifically	Agenda 21. In our case, therefore, the action needed is to implement that legislation satisfactorily.	Other sites are protected through the Historic Places Act and Resource Management Act regimes	powers granted to the Minister by section 360 of the RMA. (In fact the regulations go further than necessary at this point) Rules have been prepared under the Maritime Transport Act to control pollution from vessels and installations outside the 12 nm limit. (Rules for sewage from boats outside the 12 nm limit have not yet been introduced and are not required until Annex IV comes into force)
<b>Commentary</b>				See discussion of marine pollution regulations under the strategies section of this report

	Convention on Biological Diversity, 1992	UN Convention on the Law of the Sea 1982
<b>Full Title</b>	United Nations Convention on Biological Diversity (CBD), 1992	United Nations Convention on the Law of the Sea
<b>Commentary</b>	The Convention was one of the two "hard law" outcomes of the 1992 Earth Summit in Rio.	
<b>Purpose/Objective</b>	<p>Article 1 sets the objective of the CBD as follows:</p> <p>The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.</p>	<p>UNCLOS has no single stated purpose but a number of purposes may be derived from its 320 articles.</p> <p>In essence UNCLOS provides for the territorial sea, contiguous zone, exclusive economic zone, and the continental shelf, High Seas and the Area.</p> <p>Furthermore it specifies the sovereign rights and responsibilities within the various zones/areas. Means of settling disputes between states are also provided for.</p> <p>With respect to living resources, the Convention (article 62) requires states to promote:</p> <p><i>the objective of optimum utilisation of living resources and access to them in terms of specified rights according to the spatial dimensions of the territorial sea, contiguous zone, exclusive economic zone, continental shelf and area beyond the EEZ</i></p> <p>However many other purposes may be derived from other Parts, particularly Part XII – <i>Protection and Preservation of the Marine Environment</i>. This says: <i>States have the obligation to protect and preserve the marine environment.</i></p>
<b>Commentary</b>		A theme of sustainability can be derived from the convention as a whole as rights to utilisation are subject to obligations to protect the environment
<b>Principles</b>	<p>Article 3 sets out the basic principle underpinning the Convention. It states:</p> <p>States have, in accordance with the Charter of the United Nations 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 other States or of areas beyond the limits of national jurisdiction</p>	<p>Formal principles governing the AREA [= seabed outside the continental shelf] of the EEZ re stated in Section 2 of Part XI.</p> <p>Other "derived" principles are:</p> <ul style="list-style-type: none"> <li>▪ Principles of sovereignty, sovereign rights and innocent passage are specified</li> <li>▪ The principle of due regard for the rights and duties of other states is expressed.</li> <li>▪ The high seas are open to all States.</li> </ul>

	Convention on Biological Diversity, 1992	UN Convention on the Law of the Sea 1982
		<ul style="list-style-type: none"> <li>No state may claim sovereignty or sovereign rights over any part of the Area or its resources.</li> </ul>
<b>Commentary</b>		
<b>Spatial jurisdiction</b>	<p>The jurisdictional scope of the Convention is set out clearly in Article 4 as follows:</p> <p>Subject to the rights of other States, and except as otherwise expressly provided in this Convention, the provisions of this Convention apply, in relation to each Contracting Party:</p> <p>(a) In the case of components of biological diversity, in areas within the limits of its national jurisdiction; and</p> <p>(b) In the case of processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.</p>	<p>The Convention sets out the spatial prescriptions for the territorial sea, contiguous zone, exclusive economic zone, the high seas, the continental shelf, and the area.</p> <p>Sovereign rights and jurisdiction are specified.</p> <ol style="list-style-type: none"> <li>Sovereignty of coastal state o/ Territorial Sea</li> <li>right of innocent passage</li> <li>sovereign rights of EEZ continental shelf resources</li> <li>freedom (navigation, overflight, laying of submarine cables and pipelines, construction of islands, fishing) of high seas and the area</li> <li>duties of conservation and cooperation</li> </ol>
<b>Commentary</b>		
<b>Obligations of parties</b>	<p>Key obligations include</p> <ul style="list-style-type: none"> <li>Adoption of general measures for conservation and sustainable use (including the development of <b>national strategies</b>, plans or programmes and the integration of biodiversity into other plans and programmes</li> <li>Identification and <b>monitoring</b> of biodiversity</li> <li>Promotion of in-situ conservation of biodiversity (whether in protected areas or outside)</li> <li>Adopt measure and develop facilities for the ex-situ conservation of biodiversity</li> <li>Provide for <b>sustainable use</b> of components of biodiversity</li> <li>Adopt measures that act as <b>incentives</b> for the conservation and sustainable use of components of biodiversity.</li> <li>Maintain programmes of <b>training and research</b></li> <li>Promote public <b>understanding and awareness</b> of biological diversity.</li> <li>Introduce <b>environmental impact assessment</b> of projects that are likely to affect biodiversity</li> <li>facilitate access to genetic resources for environmentally sound uses and the sharing of benefits from their uses</li> <li>respect for and maintenance of indigenous and local communities' traditional knowledge relates to the conservation an sustainable use of biodiversity</li> </ul>	<p>Key obligations include:</p> <ul style="list-style-type: none"> <li>General obligation on States to protect and preserve the marine environment.</li> <li>Specific marine environment obligations under other special conventions to be exercised in a manner consistent with this Convention.</li> <li>Parties have a good faith obligation with respect to the Convention not to operate in such a manner as to constitute an abuse of right.</li> <li>Freedom of navigation, overflight and the laying of submarine cables and pipelines in the EEZ. and on the continental shelf.</li> <li>Coastal states to determine allowable catches of living resources in EEZ.</li> <li>Coastal states to ensure proper conservation and management measures in EEZ to avoid over-exploitation and maintain populations for maximum sustainable yields.</li> <li>Coastal states to take into consideration effects on dependent and associated species to ensure population sustainability.</li> <li>Coastal states to promote optimum utilisation of living resources in EEZ.</li> <li>Prohibit, manage and regulate the exploitation of marine mammals.</li> <li>Necessary measures to ensure the effective protection of the</li> </ul>

	Convention on Biological Diversity, 1992	UN Convention on the Law of the Sea 1982
	[This mentions only 2 of the 3 pillars of the CBD, namely conservation and sustainable use, not [illegible] benefit sharing]	marine environment are to be taken – the [Seabed?] Authority is to adopt rules, regulations and procedures to that end.
<b>Commentary</b>		Key protection and preservation responsibilities are stated in Part XII; and marine scientific research in Part XIII. Key conservation responsibilities in Part VII Section 2.
<b>Information gathering mechanisms</b>	As noted above contracting Parties are required to monitor biological diversity.  Article 17 also states that: Contracting Parties shall facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity	The International Seabed Authority Commission for Limits of the Continental Shelf is established, along with various judicial bodies [the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea].  Conference of the states' parties.
<b>Commentary</b>		
<b>Implementation in Domestic legislation</b>	The Convention is implemented through the policies and operational plans and programmes of the Department of Conservation and through the implementation of the RMA. The preparation of a New Zealand Biodiversity Strategy (NZBS) in 2000 allowed New Zealand to meet a key commitment of the CBD.	Part XI relating to the Area is already in place through the United Nations Convention on the Law of the Sea Act 1996.  Definition of the limits of the continental shelf are to be lodged with the Commission on the Limits of the Continental Shelf before May 2009.  Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 Continental Shelf Act 1964 Fisheries Act
<b>Commentary</b>	The NZBS promotes a range of further actions that will enhance New Zealand's adherence to the CBD. See discussion in the Strategies section of this report	