



POLLUTION PREVENTION REGULATIONS IN GENERAL

This Part represents a constitution for the prevention of pollution of the seas on a global, regional, and local basis. Any obligations assumed by states under special conventions and agreements related to the protection and preservation of the marine environment are to be carried out in a manner consistent with the general principles and objectives of the Convention;¹ consequently, these provisions should not be viewed solely as a text of law, as they are also a political document. This thread of thought can be found in many of the provisions, which require the states to undertake efforts to create a reliable and effective global system for the protection of the marine environment by means of international co-operation, including technical assistance and environment observation,² and the application of international regulations and standards.³

All states have the obligation to protect and preserve the marine environment⁴ and can be held liable for failure to fulfil their obligations,⁵ e.g., if pollution spreads beyond the area where a state exercises its sovereign rights.⁶ They are obliged to take measures to reduce to the fullest possible extent pollution from all sources, whether land-based sources, sea-bed activities, dumping, the atmosphere, or vessels;⁷ furthermore, plans must be made to prevent accidents and deal with emergencies that may occur during the operation of vessels and installations and devices used for exploration and exploitation.⁸ However, these provisions affect mostly the coastal states and the flag states; only those provisions dealing with the Area,⁹ dumping,¹⁰ and the atmosphere¹¹ (which includes air navigation) affect all states, as these fields are either partly or wholly related to the high seas. A corollary to these provisions is the granting of investigative power to port states, which may even initiate proceedings in respect of unlawful discharge beyond their general jurisdiction against any vessel, which is voluntarily within a port or at an off-shore terminal of the port state.¹²

The main responsibility for the protection of the marine environment lies with the states, which have a coastline. These states, which enjoy the benefits of being granted sovereign rights over living and non-living resources within the limits of an exclusive economic zone¹³ and a continental shelf,¹⁴ have also been given the corresponding duty to protect and preserve the marine environment within these areas.¹⁵ Significant in this context are the duties not to transfer damage or hazards,¹⁶ to provide necessary information,¹⁷ and control land-based sources of pollution,¹⁸ sea-bed activities,¹⁹ and vessels.²⁰ The Convention distinguishes among varying levels of intensity of involvement, e.g., "taking into account," "not less effective," and "giving effect." This results from the Conference's aim of unifying pollution regulations on a global basis²¹ without overburdening the capabilities of developing states.²² However, the urgency of controlling marine pollution also caused the Conference to provide for scientific and technical assistance²³ and preferential treatment²⁴ for developing countries in their efforts to prevent, reduce, or control pollution and its effects on the environment.

¹ Art. 237, Para. 2

² Art. 197-206

³ Art. 207(1), 208(3), 209(2); 210(6), 211(2), 212(1)

⁴ Art. 192

⁵ Art. 235, Para. 1

⁶ Art. 194, Para. 2; Art. 195

⁷ Part. XII, Sec. 5-6

⁸ Art. 194, Para. 3

⁹ Art. 209, 215

¹⁰ Art. 206, 206 -Preservation of the Marine Environment, Page 126

¹¹ Art. 211, 211 -Indemnity, Page 128

¹² Art. 218, 218 -Dumping, Page 123

¹³ Art. 56-57

¹⁴ Art. 76

¹⁵ Art. 193, 207-208

¹⁶ Art. 195

¹⁷ Art. 206

¹⁸ Art. 206

¹⁹ Art. 207

²⁰ Art. 208

²¹ Art. 194, Para. 3

²² Art. 237

²³ Art. 207, Para. 4

²⁴ Art. 202; Art. 203

FRAMEWORK FOR POLLUTION PREVENTION

The general application of the Convention: The Provisions of the Convention are without prejudice for other obligations assumed by the states to prevent pollution; however, all obligations are to be earned out in a manner consistent with the general principles and objectives of the Convention (Art 237).

GENERAL OBLIGATION	PARTICULAR OBLIGATION		
	States have the obligation to protect and preserve the marine environment (Art 192) and must incorporate international law to various degrees, see column. <i>Legislation</i> below	States are responsible and liable with regard to their international Obligations (Art. 235)	States are to cooperate on global and regional Basis (Art. 197-201)
	States must not transfer hazard or transform one type of pollution to another (Art. 195-196)	States must render technical assistance to developing states (Art. 202)	
Source of Pollution	Legislation Art. 207-212, 237	Enforcement Art. 213-222	Responsibility and Liability General: Art 304
Land-based source	207, State (taking into account)	213, Coastal state	Art 235
Sea-bed activities territorial Sea Exclusive Economic Zone	208(1), Coastal state 208(2-3), States (not less effective)	214, Coastal state	Art. 235
Area	209(1), Authority Annex III, Art 17 209(2), States (not less effective)	215, Authority in accordance with Part XI, Annex III, Art.47	Art 235
Dumping	210, States (not less effective)	216(a), Coastal State 216(b), Flag state 216(c), Any state for loading of wastes or other matters occurring in territory	Art. 235
Vessel	194, 3, States 211, 2, Flag State (at least to the same effect) 211, 4, Coastal state 211, 5, Coastal state (giving effect) 211, 6, Coastal State	For details, including safeguards, see next two diagrams Warship immunity, Art 236	Art 232, 235-236
Atmosphere	212, States (taking into account)	222, States	Art 235
Ice-covered area	234, Coastal state (non-discriminatory)		Art. 235-236