

I. INTERNATIONAL

United Nations Convention on the Law of the Sea

Preamble and Excerpts from Part XII

Summary: The United Nations describes its 1982 Convention on the Law of the Sea (UNCLOS) as “[p]ossibly the most significant legal instrument of this century” – “an unprecedented attempt by the international community to regulate all aspects of the resources of the sea and uses of the ocean, and thus bring a stable order to mankind’s very source of life.”¹ The convention was adopted in 1982 and entered into full force in 1994. As of January 2005, 147 nations had ratified it. Although the Senate Committee on Foreign Relations has unanimously recommended ratification, the United States has yet to accede to the convention.²

In 1992, the United Nations’ Agenda 21 noted that more than half the world’s population lived less than 40 miles from the coastline and that by 2020 the figure would be three quarters of the world’s population.³ Principle 4 of the Rio Declaration, adopted at the 1992 UN Conference on Environment and Development, states that “in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.”⁴

UNCLOS declares that States have both a general obligation to protect the marine environment and “the sovereign right to exploit their natural resources” under their own environmental policies. Acting individually or jointly, States must take “all measures consistent with this convention” to prevent marine pollution “from any source.” The convention

requires that States adopt legislation to prevent land-based pollution of the marine environment and to minimize the release of pollutants, “especially those which are persistent,” into the oceans.

The full text of the convention is available in PDF at: http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

The full text, with UN commentaries and updating, is available at: http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

PREAMBLE*The States Parties to this Convention*

PROMPTED by the desire to settle, in a spirit of mutual understanding and co-operation, all issues relating to the law of the sea and aware of the historic significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world,

NOTING that developments since the United Nations Conferences on the Law of the Sea held at Geneva in 1958 and 1960 have accentuated the need for a new and generally acceptable Convention on the law of the sea,

CONSCIOUS that the problems of ocean space are closely interrelated and need to be considered as a whole,

RECOGNIZING the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization

¹ <http://www.un.org/Depts/los/convention_agreements/convention_historical_perspective.htm – Third Conference>.

² <http://www.un.org/Depts/los/reference_files/chronological_lists_of_ratifications.htm – The United Nations Convention on the Law>; <http://www.un.org/Depts/los/reference_files/status2005.pdf>.

³ Agenda 21, §17.3 at <<http://www.un.org/esa/sustdev/documents/agenda21/index.htm>>.

⁴ <<http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>>.

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of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment,

BEARING IN MIND that the achievement of these goals will contribute to the realization of a just and equitable international economic order which takes into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries, whether coastal or land-locked,

DESIRING by this Convention to develop the principles embodied in resolution 2749 (XXV) of 17 December 1970 in which the General Assembly of the United Nations solemnly declared *inter alia* that the area of the seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States,

BELIEVING that the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, co-operation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world, in accordance with the Purposes and Principles of the United Nations as set forth in the Charter,

AFFIRMING that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

HAVE AGREED AS FOLLOWS:

PART XII PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

SECTION 1. GENERAL PROVISIONS

Article 192. General Obligation. States have the obligation to protect and preserve the marine environment.

Article 193. Sovereign Right of States to Exploit Their Natural Resources. States have the sovereign right to exploit their natural resources pursuant

to their environmental policies and in accordance with their duty to protect and preserve the marine environment.

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.

3. The measures taken pursuant to this Part shall deal with all sources of pollution of the marine environment. These measures shall include, *inter alia*, those designed to minimize to the fullest possible extent:

(a) release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping;

(b) pollution from vessels, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, preventing intentional and unintentional discharges, and regulating the design, construction, equipment, operation and manning of vessels;

(c) pollution from installations and devices used in exploration or exploitation of the natural resources of the seabed and subsoil, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices;

(d) pollution from other installations and devices operating in the marine environment, in particular measures for preventing accidents and dealing

with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices.

(4) In taking measures to prevent, reduce or control pollution of the marine environment, States shall refrain from unjustifiable interference with activities carried out by other States in the exercise of their rights and in pursuance of their duties in conformity with this Convention.

(5) The measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

Article 195. Duty Not to Transfer Damage or Hazards or Transform One Type of Pollution into Another. In taking measures to prevent, reduce and control pollution of the marine environment, States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another.

Article 196. Use of Technologies or Introduction of Alien or New Species

1. States shall take all measures necessary to prevent, reduce and control pollution of the marine environment resulting from the use of technologies under their jurisdiction or control, or the intentional or accidental introduction of species, alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto.

2. This article does not affect the application of this Convention regarding the prevention, reduction and control of pollution of the marine environment.

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.

[Articles on notification of imminent or actual damage; contingency plans against pollution; studies, research programmes and exchange of information and data; and scientific criteria for regulations are omitted.]

SECTION 3. TECHNICAL ASSISTANCE

[Omitted.]

SECTION 4. MONITORING AND ENVIRONMENTAL ASSESSMENT

[Omitted.]

SECTION 5. INTERNATIONAL RULES AND NATIONAL LEGISLATION TO PREVENT, REDUCE AND CONTROL POLLUTION OF THE MARINE ENVIRONMENT

Article 207. Pollution From Land-Based Sources

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

4. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

5. Laws, regulations, measures, rules, standards and recommended practices and procedures referred to in paragraphs 1, 2 and 4 shall include those designed

to minimize, to the fullest extent possible, the release of toxic, harmful or noxious substances, especially those which are persistent, into the marine environment.

Article 208. Pollution From Seabed Activities Subject to National Jurisdiction

1. Coastal States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising from or in connection with seabed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. Such laws, regulations and measures shall be no less effective than international rules, standards and recommended practices and procedures.

4. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

5. States, acting especially through competent international organizations or diplomatic confer-

ence, shall establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment referred to in paragraph 1. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

[Articles on pollution from activities in the Area; pollution by dumping; pollution by vessels; and pollution from or through the atmosphere are omitted.]

SECTION 6. ENFORCEMENT

Article 213. Enforcement With Respect to Pollution From Land-Based Sources. States shall enforce their laws and regulations adopted in accordance with article 207 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from land-based sources.

[The remainder of Part XII is omitted.]

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African Convention on the Conservation of Nature and Natural Resources

Summary: The African Convention on the Conservation of Nature and Natural Resources was adopted in Algiers, Algeria, on September 15, 1968, and it entered into force on June 16, 1969. Recognizing the vital importance of soil, water, flora, and fauna and to promote individual and joint action throughout the continent, the convention focuses on the duty of the contracting states to adopt laws to further conserve and intelligently develop natural resources. The convention outlines the use of land-use plans to conserve and improve soil conditions to ensure long-term productivity, and the implementation of “land-use plans based on scientific investigations.” The convention’s water provisions address the duty of two or more contracting states that jointly use surface or underground water resources stating that the states must engage in consultation and, if needed, consider establishing interstate commissions. In all respects the convention promotes interstate cooperation when necessary to further the conservation provisions. An ellipsis indicates that a provision has been abridged.

The full text of the convention is available in PDF at: http://www.africa-union.org/Official_documents/Treaties.%20Conventions.%20Protocols/Convention_Nature%20&%20Natural_Resources.pdf

The full text of the convention is available in French at: www.africa-union.org/Official_documents/Treaties_Conventions_fr/Convention%20sur%20la%20conservation%20de%20la%20nat%20et%20Res%20nat%20rev%20Adoptee.pdf

The full text of the Revised Convention, adopted in 2003 but not yet in force, is available at: http://www.africa-union.org/Official_documents/Treaties.%20Conventions.%20Protocols/nature%20and%20natural%20recesource.pdf

AFRICAN CONVENTION ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES (PREAMBLE AND ARTICLES I–VII, X, XV, XVI, XXI, AND XXV)

PREAMBLE

We the Heads of State and Government of Independent African States,

FULLY CONSCIOUS that soil, water, flora and faunal resources constitute a capital of vital importance to mankind;

CONFIRMING, as we accepted upon declaring our adherence to the Charter of the Organization of African Unity, that we know that it is our duty “to harness the natural and human resources of our continent for the total advancement of our peoples in spheres of human endeavour”;

FULLY CONSCIOUS of the ever-growing importance of natural resources from an economic, nutritional, scientific, educational, cultural and aesthetic point of view;

CONSCIOUS of the dangers which threaten some of these irreplaceable assets;

ACCEPTING that the utilization of the natural resources must aim at satisfying the needs of man according to the carrying capacity of the environment;

DESIROUS of undertaking individual and joint action for the conservation, utilization and development of these assets by establishing and maintaining their rational utilization for the present and future welfare of mankind;

CONVINCED that one of the most appropriate means of achieving this end is to bring into force a convention;

HAVE AGREED AS FOLLOWS:

Article I. The contracting States hereby establish an AFRICAN CONVENTION ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES.

Article II. Fundamental Principle. The contracting States shall undertake to adopt the measures necessary to ensure conservation, utilization and development of soil, water, flora and faunal resources in accordance with scientific principles and with due regard to the best interests of the people.

Article III. Definitions. For the purposes of the present Convention, the meaning of the following expressions shall be as defined below:

(a) “Natural Resources” means renewable resources, that is soil, water, flora and fauna;



(d.) “Conservation area” means any protected natural resource area, whether it be a strict natural reserve, a national park or a special reserve.

(1) “Strict nature reserve” means an area:

(i) under State control and the boundaries of which may not be altered nor any portion alienated except by the competent legislative authority;

(ii) throughout which any form of hunting or fishing, any undertaking connected with forestry, agriculture or mining, any grazing, any excavation or prospecting, drilling, leveling of the ground or construction, any work tending to alter the configuration of the soil or the character of the vegetation, any water pollution and, generally, any act likely to harm or disturb the fauna or flora, including introduction of zoological or botanical species, whether indigenous or imported, wild or domesticated, are strictly forbidden;

(iii) where it shall be forbidden to reside, enter, traverse or camp, and where it shall be forbidden to fly over at low altitude, without a special written permit from the competent authority, and in which scientific investigations (including removal of animals and plants in order to maintain an ecosystem) may only be undertaken by permission of the competent authority.

(2) “National park” means an area:

(i) under State control and the boundaries of which may not be altered or any portion alienated except by the competent legislative authority;

(ii) exclusively set aside for the propagation, protection, conservation and management of vegetation and wild animals as well as for the protection of sites, land-spaces or geological formations of particular scientific or aesthetic value, for the benefit and enjoyment of the general public; and

(iii) in which the killing, hunting and capture of animals and the destruction or collection of plants are prohibited except for scientific and management purposes and on the condition that such measures are taken under the direction or control of the competent authority;

(iv) covering any aquatic environment to which all of the provisions of section (b) (1–3) above are applicable.

The activities prohibited in strict nature reserve under the provisions of section (a) (2) of paragraph (4) of this article are equally prohibited in national parks except in so far as they are necessary to enable the park authorities to implement the provisions of section (2) of this paragraph, by applying, for example, appropriate management practices, and to enable the public to visit these parks; however, sport fishing may be practiced with the authorization and under the control of the competent authority.

(3) “Special reserve” means other protected areas such as:

(i) “game reserve” which shall denote an area

(a) set aside for the conservation, management and propagation of wild animal life and the protection and management of its habitat;

(b) within which the hunting, killing or capture of fauna shall be prohibited except by or under the direction or control of the reserve authorities;

(c) where settlement and other human activities shall be controlled or prohibited.

(ii) “partial reserve” or “sanctuary” which shall denote an area:

(a) set aside to protect characteristic wildlife and especially bird communities, or to protect

particularly threatened animal or plant species and especially those listed in the Annex to this Convention, together with the biotopes essential for their survival;

(b) in which all other interests and activities shall be subordinated to this end.

(iii) “soil,” “water” or “forest” reserve shall denote areas set aside to protect such resources.

Article IV. Soil. The contracting States shall take effective measures for conservation and improvement of the soil and shall in particular combat erosion and misuse of the soil. To this end:

(a) they shall establish land-use plans based on scientific investigations (ecological, pedological, economic, and sociological) and, in particular, classification of land-use capability;

(b) they shall, when implementing agricultural practices and agrarian reforms,

(1) improve soil conservation and introduce improved farming methods, which ensure long-term productivity of the land;

(2) control erosion caused by various forms of land-use which may lead to loss of vegetation cover.

Article V. Water

1. The contracting States shall establish policies for conservation, utilization and development of underground and surface water, and shall endeavour to guarantee for their populations a sufficient and continuous supply of suitable water, taking appropriate measures with due regard to –

(a) the study of water cycles and the investigation of each catchment area;

(b) the co-ordination and planning of water resources development projects;

(c) the administration and control of all water utilization; and

(d) prevention and control of water pollution.

2. Where surface or underground water resources are shared by two or more of the contracting States, the latter shall act in consultation, and if the need arises, set up inter-State Commissions to study and resolve problems arising from the joint use of these

resources, and for the joint development and conservation thereof.

Article VI. Flora

1. The contracting States shall take all necessary measures for the protection of flora and to ensure its best utilization and development. To this end the Contracting States shall:

(a) adopt scientifically based conservation, utilization and management plans of forests and rangeland, taking into account the social and economic needs of the States concerned, the importance of the vegetation cover for the maintenance of the water balance of an area, the productivity of soils and the habitat requirements of the fauna;

(b) observe section (a) above by paying particular attention to controlling bush fires, forest exploitation, land clearing for cultivation, and over-grazing by domestic and wild animals;

(c) set aside areas for forest reserve and carry out afforestation programmes where necessary;

(d) limitation of forest grazing to season and intensities that will not prevent forest regeneration; and

(e) establish botanical gardens to perpetuate plant species of particular interest.

2. The Contracting States also shall undertake the conservation of plant species or communities, which are threatened and/or of special scientific or aesthetic value by ensuring that they are included in conservation areas.

Article VII. Faunal Resources

1. The Contracting States shall ensure conservation, wise use and development of faunal resources and their environment, within the framework of land-use planning and of economic and social development. Management shall be carried out in accordance with plans based on scientific principles, and to that end the Contracting States shall:

(a) manage wildlife populations inside designated areas according to the objectives of such areas and also manage exploitable wildlife populations outside such areas for an optimum sustained yield, compatible with and complementary to other land uses; and

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(b) manage aquatic environments, whether in fresh, brackish or coastal water, with a view to minimise deleterious effects of any water and land use practice which might adversely affect aquatic habitats.

Article X. Conservation Areas

1. The Contracting States shall maintain and extend where appropriate, within their territory and where applicable in their territorial waters, the Conservation areas existing at the time of entry into force of the present convention and, preferably within the framework of land use planning programmes, assess the necessity of establishing additional conservation areas in order to:

- (a) protect those ecosystems which are most representative of and particularly those which are in any respect peculiar to their territories;
- (b) ensure conservation of all species and more particularly of those listed or may be listed in the annex to this convention.

Article XV. Organization of National Conservation Services. Each Contracting State shall establish, if it has not already done so, a single agency empowered to deal with all matters covered by this Convention, but, where this is not possible a co-coordinating machinery shall be established for this purpose.

Article XVI. Inter-State Co-operation

1. The Contracting States shall co-operate:
 - (a) whenever such co-operation is necessary to give effect to the provisions of this convention, and
 - (b) whenever any national measure is likely to affect the natural resources of any other State.

Article XXI. Entry into Force

1. This Convention shall come into force on the thirtieth day following the date of deposit of the fourth instrument of ratification or accession with the Administrative Secretary General of the Organization of African Unity, who shall inform participating States accordingly.
2. In the case of a State ratifying or acceding to the Convention after the depositing of the fourth instrument of ratification or accession, the Convention shall come into force on the thirtieth day

after the deposit by such State of its instrument of ratification or accession.

3. The London Convention of 1933 or any other Convention on the conservation of flora and fauna in their natural state shall cease to have effect in States in which this Convention has come into force.

Article XXV. Final Provisions. The original of this Convention, of which both the English and the French texts are authentic, shall be deposited with the Administrative Secretary General of the Organization of African Unity.

IN WITNESS WHEREOF, WE, the Heads of State and Government of independent African States, assembled at Algiers, Algeria, on 15th September 1968 have signed this Convention.

1. ALGERIA (Signed)
2. BOTSWANA (Signed)
3. BURUNDI (Signed)
4. CAMEROON (Signed)
5. CENTRAL AFRICAN REPUBLIC (Signed)
6. CHAD (Signed)
7. CONGO (BRAZZAVILLE) (Signed)
8. DEMOCRATIC REPUBLIC OF CONGO (Signed)
9. DAHOMEY (Signed)
10. ETHIOPIA (Signed)
11. GABON (Signed)
12. GAMBIA (Signed)
13. GHANA (Signed)
14. GUINEA (Signed)
15. IVORY COAST (Signed)
16. KENYA (Signed)
17. LESOTHO (Signed)
18. LIBERIA (Signed)
19. LIBYA (Signed)
20. MADAGASCAR (Signed)
21. MALAWI (Signed)
22. MALI (Signed)
23. MAURITANIA (Signed)
24. MAURITIUS (Signed)
25. MOROCCO (Signed)
26. NIGER (Signed)

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| 27. NIGERIA (Signed) | 34. TOGO (Signed) |
| 28. RWANDA (Signed) | 35. TUNISIA (Signed) |
| 29. SENEGAL (Signed) | 36. UGANDA (Signed) |
| 30. SIERRA LEONE (Signed) | 37. UNTIED ARAB REPUBLIC (Signed) |
| 31. SOMALIA (Signed) | 38. UNITED REPUBLIC OF TANZANIA (Signed) |
| 32. SUDAN (Signed) | 39. UPPER VOLTA (Signed) |
| 33. SWAZILAND (Signed) | 40. ZAMBIA (Signed) |

European Landscape Convention

Summary: The member States of the Council of Europe that are signatories to this convention acknowledged that landscape throughout Europe is an important common resource and a “key element to individual and social well-being.” The convention seeks the integration of landscape considerations into regional and local planning policies through public education, special training for professionals, assessment of current landscape resources, setting of objectives, and implementation of policies. It promotes international cooperation and mutual assistance, with special emphasis on transfrontier regions. There are procedures for monitoring implementation, giving awards, and for the adoption, amendment, and “denunciation” of the convention. Upon adoption of the convention by the council, signatory status will also be available by invitation of the council to the European Community and States of Europe that are not council members.

The full text of the European Landscape Convention is available at: <http://conventions.coe.int/Treaty/EN/Treaties/Html/176.htm>

The full text of the European Landscape Convention is available in French at: <http://conventions.coe.int/Treaty/FR/Treaties/Html/176.htm>

EUROPEAN LANDSCAPE CONVENTION

PREAMBLE

The member States of the Council of Europe signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage, and that this aim is pursued in particular through agreements in the economic and social fields;

Concerned to achieve sustainable development based on a balanced and harmonious relationship

between social needs, economic activity and the environment;

Noting that the landscape has an important public interest role in the cultural, ecological, environmental and social fields, and constitutes a resource favourable to economic activity and whose protection, management and planning can contribute to job creation;

Aware that the landscape contributes to the formation of local cultures and that it is a basic component of the European natural and cultural heritage, contributing to human well-being and consolidation of the European identity;

Acknowledging that the landscape is an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognised as being of outstanding beauty as well as everyday areas;

Noting that developments in agriculture, forestry, industrial and mineral production techniques and in regional planning, town planning, transport, infrastructure, tourism and recreation and, at a more general level, changes in the world economy are in many cases accelerating the transformation of landscapes;

Wishing to respond to the public’s wish to enjoy high quality landscapes and to play an active part in the development of landscapes;

Believing that the landscape is a key element of individual and social well-being and that its protection, management and planning entail rights and responsibilities for everyone;

Having regard to the legal texts existing at international level in the field of protection and management of the natural and cultural heritage, regional and spatial planning, local self-government and transfrontier co-operation, in particular the Convention on the Conservation of European Wildlife and Natural Habitats (Bern, 19 September 1979), the Convention for the Protection of