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Twelfth meeting of the Contracting Parties to the
Convention on Cooperation for the Protection,
Management and Development of the Marine
Environment and Coastal Areas of the West, Central
and South African Region (Abidjan Convention)

Abidjan, Côte d'Ivoire, 27 to 31 March 2017

**DRAFT ADDITIONAL PROTOCOL TO THE ABIDJAN CONVENTION
ON ENVIRONMENTAL NORMS AND STANDARDS FOR OFFSHORE OIL AND
GAS EXPLORATION AND EXPLOITATION ACTIVITIES**

Preamble

The Contracting Parties to this Protocol,

Being Parties to the Convention on Cooperation for the Protection and Development of the Marine and Coastal Environment of the Atlantic Coast of West, Central and Southern African Region, signed in Abidjan on 23 March 1981, as amended from time to time (Abidjan Convention);

Committed to implement the Convention, in particular in accordance with the articles dealing with pollution, protected areas, environment impacts, cooperation, liability and reparation

Aware of the value of oil and gas resources in the economies of the Contracting Parties to the Abidjan Convention and its influence on relations between Parties and third parties;

Recognizing the importance of the Convention area in terms of its great and diverse productive capabilities for human settlements, industry and tourism;

Appreciating the importance of effective and sustainable protection of the Convention area as one of the most productive marine areas in the world due to upwelling, abundant living and non-living resources as an important reservoir for marine biodiversity in view of, among other things, the wealth of estuaries, deltas, lagoons and wetlands along its coastline, and as a natural heritage of great scientific, cultural, educational, social, recreational and economic value for present and future generations;

Considering the strong reliance of the coastal communities in the region on the various natural resources for their livelihoods and the potential impact of depleted living resources, deteriorated water quality, loss of critical habitats, and increased eutrophication rates and the proliferation of harmful seaweed over the lagoons, estuaries, bays and surrounding coastal waters;

Concerned that the marine and coastal ecosystems of the South-Eastern Atlantic zone and their resources have suffered various impacts from the increase in unsustainable socio-economic development activities caused by man, especially on land;

Mindful of the impact of the oil and gas industry to global warming as a current major environmental and economic issue affecting prospects for sustainable development and the international commitment to address the greenhouse effect, which in 1997 resulted in the adoption of the Kyoto Protocol to the 1992 United Nations Framework Convention on Climate Change and in 2015 in the adoption of the Paris Agreement;

Worried about the effects of spills, air emissions, effluents, waste and runoff from the exploration and production of hydrocarbons and minerals and the physical alteration and destruction of habitats, among other factors, on human health and on the rich living resources of the marine and coastal environment of the West, Central and Southern Africa region;

Considering the various commitments and relevant international and regional instruments subscribed to by the States of the West, Central and Southern Africa region;

Further considering the 1992 Agenda 21 plan of action of the United Nations Conference on Environment and Development, the 1995 World Programme of Action for the Protection of the Marine Environment against Pollution from Land-based Activities, the African Charter on Maritime Transport of the African Union, as revised from time to time, Africa's Integrated Maritime Strategy by 2050, and the 2015 adoption of the General Assembly Resolution 70/1 Transforming our world: the 2030 Agenda for Sustainable Development, spelling out the Sustainable Development Goals;

Noting the contribution in particular of the 1995 World Programme of Action for the Protection of the Marine Environment against Pollution from Land-based Activities on the identification of source categories such as, urban wastewater, heavy metals, persistent organic pollutants, pesticides, nutrients, hydrocarbons, radioactive substances;

Concerned of strengthening cooperation among Contracting Parties to the Abidjan Convention;

Have agreed as follows:

Part I: General Provisions

Article 1: Definitions

For the purposes of this Protocol:

- i) "Authorization" means any document issued by the competent authority to an oil company, an oil service company (operator), granting the right to carry out exploration and exploitation of oil and gas offshore including related activities;
- ii) "Competent authority" means the public authorities designated by the Contracting Parties under this Protocol and in charge of the tasks assigned to them by this Protocol. The competent authority may consist of one or more public bodies;
- iii) "Convention" means the Convention for Cooperation in the Protection, Management and Development of the Marine and Coastal Environment of the West, Central and Southern Africa Region, adopted in Abidjan on 23 March 1981 (Abidjan Convention);
- iv) "Waste" means substances and matter of any kind, in any form or of any nature, resulting from the activities covered by this Protocol that are disposed of, intended to be disposed of or required to be disposed of;
- v) "Decommissioning" means the closure and sealing of wells in line with international best practices, the removal of facilities, the cleaning of the dangerous substances from the facilities and hazardous materials disposal, as well as the restoration of the site in accordance with national laws and oil industry international standards on the environment;
- vi) "Wastewater" means all waters containing a pollutant load and likely to contaminate receiving waters;
- vii) "Environmental Assessment" means the process, of averting, identifying, defining and assessing the direct and indirect environmental, socio-economic, and health impacts in the short, medium and long term of policies, programmes and plans, as well as development projects, and to formulate measures to eliminate, mitigate or compensate for the adverse impacts and enhance the positive impacts on the environment;
- viii) "Incident" refers to any discharge resulting in a notification obligation under article 8 of the 1973 International Convention for the Prevention of Pollution from Ships as modified by the Protocol of 1978 (MARPOL 73/78)];
- ix) "Offshore oil exploration or exploitation" means
 - a. "Exploration" activities per se, namely geophysical acquisition activities, especially seismic activities, surveys of the sea bottom and its subsoil, exploratory drilling and all related offshore oil and gas operations needed before initiating operations related to exploitation;
 - b. "Exploitation" activities per se, namely the establishment of facilities for the exploitation of resources and related activities; development drilling; extraction, processing and storage; transportation to shore by pipeline and loading of ships; maintenance, repairs, inspection and other similar auxiliary operations mainly for exploitation, including helicopter and support ship operations;
- x) "Facility" means any man-made structure, plant or vessel or parts thereof, fixed or floating, and placed in the maritime area for the purpose of offshore exploration or exploitation;
- xi) "Operator" means the entity designated by the license holder or by the authority that issues licenses for conducting offshore oil and gas operations;
- xii) "Garbage" refers to all types of food, domestic and operational waste generated during the normal course of oil exploration and exploitation activity and which may be disposed of continuously or periodically, except those substances that are defined or listed elsewhere in this Protocol;

- xiii) "Organization" means the organization named in article 16 of the Convention to perform the Convention's secretariat functions;
- xiv) "Contracting Party" means any State in the West, Central and Southern Africa region that becomes a party to this Protocol;
- xv) "Permit" means a document issued by the competent authority to an oil company or an oil service company (operator), allowing offshore oil exploration and exploitation activities;
- xvi) "Pollution" means the direct or indirect introduction by man of substances, organisms or energy into the marine environment, coastal areas and related inland waters; it has harmful effects on biological resources and human health, is a hindrance to marine activities including fishing, and alters the quality of sea water from the perspective of its use and degradation of amenities;
- xvii) "Spill" is the release of harmful or toxic substances into the environment, especially marine and coastal areas, due to human activity, and is a form of pollution, to which seabirds and intertidal areas are particularly vulnerable;
- xviii) "Harmful or noxious substances and materials" means substances and materials of any kind, in any form or of any nature that may cause pollution if introduced into the Protocol Area;
- xix) "Continuous monitoring" means the repeated measurement of:
- (a) the quality of the marine and coastal environment and each of its components, including water, sediment and biota;
 - (b) the activities or inputs, natural and anthropogenic in nature, which may affect the quality of the marine and coastal environment;
 - (c) the effects of such activities and inputs;
- xx) "Safety Area" is the area, under the provisions of general international law and technical requirements, established around vessels and facilities, with the necessary markings to ensure the safety of facilities and of navigation where appropriate;
- xxi) "Sensitive area" is any geographically limited coastal or marine area that is of particular importance or is particularly vulnerable to pollution due to the value of its biodiversity, the nature of its ecosystems, its special ecological functions or its contribution to the economy and human well-being, and which requires attention as well as special efforts with regard to management to avoid, mitigate or minimize the risk associated with pollution or degradation;
- xxii) "Coastal area" means that area between the shelf break and inland, up to the limit of tidal influence;

Article 2: Objective of the Protocol

This Protocol aims to prevent, reduce or eliminate pollution or damage to the coastal zone and the marine environment resulting from offshore oil and gas exploration and exploitation.

Article 3: Geographical coverage

1. This Protocol applies to the Convention area as defined in article 1 of the Convention (hereinafter referred to as "Protocol Area").
2. Nothing in this Protocol or any act adopted on the basis thereof shall prejudice the rights of any State concerning the delimitation of the continental shelf.

Article 4: General Commitments

1. The Contracting Parties shall, individually or as part of bilateral or regional cooperation, take all appropriate measures to prevent, mitigate, combat and control pollution in the Protocol Area resulting from offshore exploration and exploitation, and ensure, in particular, that the best available techniques and environmentally effective and economically appropriate techniques are implemented.
2. The Contracting Parties shall apply:
 - a) The precautionary principle that preventive measures should be taken when there are reasonable grounds for concern that substances or energy introduced, directly or indirectly, into the marine and coastal environment may cause risks to human health, or grave or irreversible damage to biological resources and marine and coastal ecosystems;
 - b) The polluter pays principle, according to which the costs of pollution, preventive and mitigation measures and pollution control must be borne by the polluter.
 - c) The principle of public participation, whereby every person has the right to participate in the public decision-making that impacts on the coastal and marine environment.
3. The Contracting Parties shall implement the measures they have adopted in such a way as not to increase pollution of the sea outside the already polluted maritime area.

Article 5: Measures for effective implementation

1. To effectively implement this Protocol, the Contracting Parties shall harmonize their policies and strategies and formulate and adopt programmes and measures that contain, as necessary, deadlines for implementation.
2. The provisions of this Protocol shall not affect the right of the Contracting Parties to take, individually or jointly, more stringent measures for the prevention and elimination of pollution in the Protocol area, or for the protection thereof.

Part II: Authorizations

Article 6: General conditions and provisions

1. All offshore oil and gas exploration and exploitation activities in the Protocol Area shall be subject to prior duly issued license from the relevant competent authority. Before granting the license, that authority shall ensure that the proposed facilities are in compliance with international standards and practices and that the operator has the technical and financial capacity to undertake the proposed activities including decommissioning. It shall also ensure effective public participation at an early stage and consider the possible effects on the environment of the offshore oil and gas operations planned.
2. Permits shall be issued by the competent authority in accordance with appropriate procedures established by the Contracting Party and pursuant to its obligations under this Protocol.
3. Applications for licenses shall be refused if the proposed activities are likely to cause significant adverse environmental effects that cannot be avoided despite complying with the requirements for the granting of permits provided for in article 8, paragraph 3, of this Protocol.
4. When granting authorization on the site selection for a facility, the Contracting Party shall ensure that such a decision has no detrimental effect on existing facilities, pipelines and cables.

Article 7: Applications for Permits

1. Every Contracting Party shall subject any application for a permit or for permit extension to the filing of the proposed project by the applicant operator with the competent authority. The information on the project should include, but not be limited to the following:
 - a) A study of the environmental impacts of the proposed activities: the relevant competent authority may, in view of the nature, extent, duration and technical methods used for the activities and depending on the environmental sensitivity of the receiving environment, require the conduct of an environmental assessment in accordance with annex IV of this Protocol;
 - b) The precise geographical definition of areas where the activity is planned, including safety areas;
 - c) The professional and technical qualifications of the applicant operator and staff to be assigned to the facility, and the composition of the team;
 - d) The safety and security measures referred to in article 17;
 - e) The operator's emergency response plan as per article 18;
 - f) The continuous monitoring procedures as per article 21;
 - g) The measures provided for the decommissioning of facilities as per article 22
 - h) Precautions for specific sensitive areas as per Article 23;
 - i) The insurance or other proven financial guarantee to cover liability under article 28, paragraph 2, subparagraph b) and dismantling, as per article 22.
2. In cases of scientific research and exploration activities, the competent authority may advise to limit the scope of the requirements listed in paragraph 1 of this article depending on the nature, extent, duration of the activities, the technical processes used and the sensitivity of the receiving environment.
3. The permit application should be made in keeping with the zonation of a marine spatial plan or exploration.

Article 8: Decision concerning Issuance of Permits

1. The authorization referred to in article 6 shall be issued only after the review by the competent authority of the requirements listed in article 7 and Annex V.
2. Permits shall specify the activities and the validity of the authorization, establish the geographical limits of the area covered by the authorization and determine the technical requirements and the authorized facilities. The Contracting Parties shall see to it that the safety areas and other safety measures required around a facility are set up on time.
3. The permit must impose conditions regarding measures, techniques or methods designed to reduce to a minimum the risk of pollution and related damage resulting from the activities following also the outcomes of the undertaken environmental impact assessment of the activity at issue.

4. The Contracting Parties shall inform the Organization annually or as soon as possible of the permits granted or renewed. The Organization shall keep a register of all the authorized facilities in the Protocol area.

Part III: Environmental impacts resulting from offshore and oil and gas exploration activities

Article 9: General obligations

Without prejudice to other standards or obligations referred to in this Part, the Contracting Parties shall require operators, to use the best available techniques, and ecologically effective and economically appropriate practices, and to observe national and internationally accepted standards in order to mitigate the specific risks and potential impacts of pollution resulting from the exploration or exploitation of offshore oil and gas.

Article 10: Harmful or Noxious Substances and Materials

1. The use and storage of chemicals for activities shall be approved by the competent authority based on a safe chemical use and storage plan for these chemicals;
2. The Contracting Party shall regulate, limit or prohibit the use of chemicals for the activities in accordance with the relevant effective international standards and the applicable guidelines adopted by the Contracting Parties;
3. For the purposes of protecting the environment, the Contracting Parties shall ensure that each substance and material used for activities is accompanied by a description indicating its composition, provided by the manufacturer of that substance or material.
4. For the purpose of safety in handling, the Contracting Parties shall ensure that each chemical substance and material used for activities is accompanied by a safety data sheet, indicating its composition and safe handling methods.
5. The discharge into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in annex I of this Protocol shall be prohibited.
6. The discharge into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in annex II.A of this Protocol requires, in each case, the prior granting of a special authorization by the competent authority.
7. The discharge into the Protocol Area of all other harmful or noxious substances and materials resulting from the activities covered by this Protocol and which might cause pollution shall be subject to the prior granting by the competent authority of a general authorization.
8. The authorization referred to in paragraphs 5 above shall be issued only after a thorough review of all the factors listed in annex II.B of this Protocol. The authorizations referred to in paragraphs 6 and 7 above shall not be issued until an in-depth examination of all the factors listed in annex II.B.
9. The list of harmful substances and materials whose release is prohibited in the Protocol area (annex I) shall be reviewed whenever a given substance or material is deemed harmful to the marine environment.

Article 11: Oily mixtures, Drilling fluids and Drill cuttings discharge

1. The Contracting Parties shall formulate and adopt common standards for the discharge in the Protocol area of hydrocarbon and oily mixtures, fluids and drill cuttings from facilities, in accordance with annex III.
2. The Contracting Parties shall determine by common agreement the method used to analyse the oil content in produced water and drill cuttings.
3. Each Contracting Party shall take appropriate measures to enforce the common standards adopted under this article or the more restrictive standards it may have adopted.

Article 12: Wastewater

1. The Contracting Parties shall ensure compliance with international standards prohibiting the discharge into the Protocol Area of wastewater from oil and gas exploration and exploitation facilities permanently manned by ten (10) or more persons, unless:
 - a) The facility is discharging wastewater after treatment as approved by the competent authority at a distance of at least four nautical miles from the nearest land or permanent fishery facility. The Contracting Party is free to take a decision on a case-by-case basis; or if
 - b) The wastewater is treated in an appropriate treatment plant approved by the competent authority or is discharged in accordance with annex III.

2. The exceptions referred to in paragraph 1 shall not apply if the discharge generates floating, visible solids or results in a coloration, discoloration or opacity of the surrounding water. When the wastewater is mixed with waste or other harmful or noxious substances and materials whose disposal is subject to different conditions, the more stringent requirements shall apply.
3. The Contracting Parties shall impose, where appropriate, more stringent provisions when they deem it necessary due to, among other things, the current regime in the area or proximity to a sensitive area foreseen in article 23.

Article 13: Garbage

1. The Contracting Parties shall ensure compliance with the provisions of international standards, prohibiting the discharge into the Protocol Area of the articles and materials below:
 - a. All plastic objects, including in particular ropes, fishing nets by synthetic fibre and plastic bags.
 - b. All other non-biodegradable wastes, such as synthetic rags, glass items, metal object, bottles, crockery, dunnage, lining and packing materials.
2. The disposal of food waste in the Protocol Area shall take place as far as possible from the coast, pursuant to annex III.
3. If garbage is mixed with other waste whose disposal or release is subject to different conditions, the more stringent requirements shall apply.

Article 14: Seismic surveys

The Contracting Parties shall take special measures with regard to sensitive areas and migration corridors of species in order to prevent the harmful effects of seismic surveys on the marine environment. Such measures should be taken in accordance with the requirements as set out in annex IV.

Article 15: Port Reception Facilities, Instructions and Sanctions

The Contracting Parties shall ensure that:

- (a) Port reception facilities are available;
- (b) All operators that produce or dispose of waste satisfactorily dispose of and/or recycle all waste into authorized port reception facilities, in accordance with this Protocol;
- (c) All illegal disposal is sanctioned.

Article 16: Exceptions

1. The provisions of this Part III shall not apply:
 - a. in cases of force majeure and in particular:
 - i. when human life is in danger
 - ii. when the safety of facilities is endangered
 - b. in the event of damage to a facility or its equipment, provided all precautions have been taken after the damage was discovered or following the disposal to reduce adverse effects;
 - c. when the discharge into the sea of substances containing oil or harmful or noxious substances or materials, subject to the prior approval of the competent authority, is done to fight against a given event in order to minimize pollution damage;
2. However, the provisions of this Part III shall apply in any case where the operator acted with intent to cause damage or recklessly and with the knowledge that damage would probably ensue.
3. Any disposal made under the conditions referred to in paragraph 1 of this article shall be

immediately reported to the Organization, and any Contracting Party likely to be affected. The notification shall include, to the extent possible, full details of the circumstances and of the nature and quantity of the discharge of harmful or noxious substances or materials.

Part IV: Safeguards

Article 17: Safety and Security Measures

1. The Contracting Parties under whose jurisdiction activities are envisaged or undertaken shall ensure that safety and security measures are considered in the design, construction, installation of equipment, signalling, operation and maintenance of facilities.
2. The Contracting Parties shall ensure that the operator has permanently available on its facilities and in good condition, the appropriate equipment and protection devices for human life and all emergency situations, in line with the existing best environmental and economic techniques and pursuant to the operator's contingency plan as per article 18, paragraph 2.
3. The competent authority shall require a certificate of safety and fitness for that purpose (hereinafter "certificate"), issued by a recognized body in the field of production platforms, mobile offshore drilling units, offshore storage facilities, offshore loading systems, subsea pipelines and other facilities that Contracting Parties may specify.
4. The Contracting Parties shall ensure through regular inspections that operators conduct their activities in line with the provisions of this article.

Article 18: Emergency Response Plans

1. In the case of an emergency, the Contracting Parties shall implement *mutatis mutandis* the provisions of the 1981 Protocol to the Abidjan Convention on Cooperation in Combating Pollution in Cases of Emergency.
2. Each Party shall ensure that the facilities operating under its jurisdiction have put in place contingency plans against pollution incidents and that these are coordinated with the contingency plan of the Contracting Party in accordance with the Protocol on Cooperation in Combating Pollution in Cases of Emergency and are approved under the procedures set forth by the competent authority.
3. Each Contracting Party shall ensure coordination for the development and implementation of emergency response plans. Such plans are prepared in accordance with the guidelines established by the competent international organization; they will be aligned, in particular, with annex VII to this Protocol.

Article 19: Notifications

Each Contracting Party shall ensure that operators with facilities under its jurisdiction report without delay to the competent authority:

- (a) any event occurring on board a facility and causing or likely to cause pollution in the Protocol Area;
- (b) any event observed at sea that causes or is likely to cause pollution in the Protocol Area.

Article 20: Mutual Assistance in the event of Oil Spills

In the event of an oil spill, any Contracting Party requiring assistance to prevent, reduce or combat pollution arising from operations may request help from other Parties, either directly or through the regional or sub-regional centre for cooperation in cases of oil spills.

Article 21: Monitoring

1. The Contracting Parties shall carry out programmes to constantly monitor operators to ensure that authorization requirements are met and especially with regards to the impact of operations on the environment.

2. Where necessary, the Contracting Parties shall cooperate in carrying out monitoring programmes to regularly monitor the facilities and the effects of operations on the environment.
3. The Contracting Parties shall define and implement joint research programmes on continuous monitoring and assessment of the marine and coastal environment, develop codes of practice to guide participants in carrying out such continuous monitoring programmes and approve the reporting and interpretation of their findings.
4. The Contracting Parties shall cooperate with relevant regional and international organizations in carrying out assessments of the state of the marine and coastal environment.

Article 22: Decommissioning

1. The Contracting Parties shall ensure that at the end of the life of oil and gas fields, facilities are decommissioned in accordance with international norms and standards, such as those under the International Maritime Organization. Such decommissioning shall also consider other legitimate uses of the sea, particularly for fishing, safety of navigation, the protection of the marine and coastal environment as well as the rights and obligations of the other Contracting Parties.
2. The provisions of this article shall also apply to facilities disused or abandoned by any operator whose permit has been withdrawn or suspended under article 33.
3. The Contracting Party shall ensure that the permit holder or operator which ever applies shall maintain an adequate financial provision to execute decommissioning obligations

Article 23: Sensitive areas

To preserve and protect sensitive areas and especially mangrove ecosystems, coral reefs in the respect of natural balances, including fragile wetlands and the sensitive component of the marine environment, the Contracting Parties shall, individually or through bilateral or multilateral cooperation, take special measures in compliance with international law to prevent, reduce, combat and control pollution arising from offshore oil and gas exploration and exploitation activities.

Part V: Cooperation

Article 24: Scientific and technical cooperation

1. In accordance with article 14 of the Convention, the Contracting Parties shall cooperate, as appropriate, to promote studies and undertake scientific and technological research programmes to develop new methods for:
 - a) increasing knowledge on habitats and resources;
 - b) carrying out activities to minimize pollution and other risks;
 - c) preventing, reducing, combating and controlling pollution, especially in emergencies.
2. The Contracting Parties shall cooperate, with the assistance of competent regional and international organizations in the field of technology transfer, technical support in the acquisition, maintenance and production of the required equipment and facilities, training focused on strengthening capacity of scientific and technical staff, monitoring and evaluation under this Protocol.

Article 25: Internationally recommended standards, practices and procedures

1. The Contracting Parties shall cooperate, directly or through the Organization or other competent international organizations in order to:
 - a) establish appropriate scientific criteria for the formulation and elaboration of international rules and standards as well as recommended practices and procedures to meet the objectives of this Protocol;
 - b) formulate and elaborate internationally recommended rules, standards, practices and procedures;
 - c) formulate and adopt guidelines in compliance with international practices and procedures to ensure the implementation of safety measures.
2. The Contracting Parties shall seek to harmonize as soon as possible their legislation and regulations with the recommended international rules, standards, practices and procedures referred to in paragraph 1 of this article.
3. The Contracting Parties shall endeavour to the extent possible to exchange information about their policies, legislation and national regulations in this field and ensure the harmonization referred to in paragraph 2 of this article.

Article 26: Mutual Information Sharing

The Contracting Parties shall inform one another directly or through the Organization on measures taken, achievements and where applicable, difficulties encountered in the implementation of this Protocol. The Parties shall determine during their meetings the procedures for the collection, timely and effective reporting and dissemination of information.

Article 27: Transboundary pollution

1. Any Contracting Party that becomes aware of any situation in which the marine and coastal environment is in imminent danger of being damaged or has been damaged by marine pollution in the Protocol Area shall immediately notify any other Contracting Party and the regional or sub-regional emergency centre, and provide them with timely and relevant information so they can take, as the case may be, appropriate measures.
2. Where pollution originates in the territory of a State that is not a Contracting Party to this Protocol, the affected Contracting Party shall seek to cooperate with the said State to make possible the application of this Protocol.

Article 28: Liability and compensation

1. The Contracting Parties shall cooperate directly or through the Organization, in order to develop and adopt appropriate rules, and procedures, as well as guidelines in accordance with

international practices and procedures defined in annex VIII regarding the assigning of liability and fast, adequate reparation or compensation for damage resulting from activities in the Protocol Area, pursuant to Article 15 of the Convention.

2. Pending development of such procedures and guidelines, each Contracting Party shall take all necessary measures to ensure that:
 - a. operators are liable for damage caused by their activities and are required to pay prompt and proportionally adequate compensation;
 - b. operators are and remain covered by insurance or other adequate financial guarantees, whose nature and conditions shall be specified by the Contracting Party so as to ensure compensation for damage caused by activities covered by this Protocol.

Part VI: Institutional and Financial Arrangements

Article 29: Designation of competent authorities

1. The Contracting Parties shall designate one or more national competent authorities to:

- a) Grant, renew and register the permits referred to in Part II of this Protocol;
- b) Issue and register the special and general authorizations referred to in article 10 of this Protocol;
- c) Issue the permits stipulated in annex V to this Protocol;
- d) Approve treatment systems and certify wastewater treatment plants, as per article 12, paragraph 1, of this Protocol;
- e) Give prior approval for exceptional discharges referred to in article 16, paragraph 1 subparagraphs a) and b) of this Protocol;
- f) Perform obligations related to the safety and security measures referred to in article 17 and annex VI to this Protocol;
- g) Implement the emergency response plans described in article 18 and annex VII to this Protocol;
- h) Establish the continuous monitoring procedures referred to in article 21 of this Protocol;
- i) Monitor the decommissioning of facilities referred to in article 22 of this Protocol.

2. The Contracting Parties shall designate a national focal point, if possible the same as for the Convention, responsible for coordinating national efforts to implement this Protocol. If different from the Convention focal point, the Protocol focal point shall periodically provide the Convention national focal point with reports on the progress of programme and activities at the national level for the implementation of this Protocol. The Convention national focal point shall liaise between the Party and the secretariat.3. The Contracting Parties shall guarantee at all times the independence and objectivity of the competent authority in the conduct of its regulatory functions.

Article 30: Secretariat and coordination mechanisms

1. In accordance with article 16 of the Convention, the Contracting Parties shall appoint the Organization to ensure that the secretariat performs the functions foreseen in article 16, as well as the following:
 - a. Assist in raising funds for the application of this Protocol.
 - b. Provide guidance and assistance to the focal points, liaison bodies or national research institutes and to all the committees, working groups or any special task force established in line with this Protocol or at the meetings of the Contracting Parties.
 - c. Provide guidance on development of procedures and necessary mechanisms to evaluate and promote compliance and effective application of the Protocol, particularly the establishment of national, sub-regional and regional databases on the measures adopted for the application of this Protocol
 - d. Assist and advise on the formulation of common guidelines, standards and criteria stated in this Protocol.
 - e. Coordinate the development of frameworks for reporting, for synergizing systems and networks for exchange of information and other mechanisms for communication aimed at facilitating the application of this Protocol.

- f. Coordinate the formulation and implementation of education, training, awareness creation and public participation programmes on environmental issues.
 - g. Prepare required reports and studies for the implementation of this Protocol and put them at the disposal of the Contracting Parties and of any other interested party.
 - h. Assist the Contracting Parties, in cooperation with relevant regional, international, intergovernmental and non-governmental organizations, in developing and managing programmes and activities aimed at reducing the negative impacts of offshore oil and gas activities in the area of the Protocol.
 - i. Fulfil any other tasks assigned by the Contracting Parties.
2. In accordance with article 22 of the Convention, the Contracting Parties shall transmit to the Organization periodic reports on measures adopted in the implementation of this Protocol. The form and frequency of these reports shall be determined at meetings of the Contracting Parties. The national focal points shall be kept informed by the focal points of this Protocol if they are not the same, and shall coordinate the activities at the national level as well as the delivery of the periodic national reports required under this article. The Organization shall ensure the distribution of reports received in compliance with this paragraph to all Contracting Parties.

Art 31: Meetings of the Parties

1. The ordinary meetings of the Parties to this Protocol shall be held back-to-back with or in conjunction with the regular meetings of the Contracting Parties to the Convention, pursuant to Article 17 of the Convention. The Parties may also hold extraordinary meetings in accordance with Article 17, paragraph 1, of the Convention.
2. Ordinary meetings of the Contracting Parties to this Protocol shall be aimed particularly at:
- a) Ensuring the application of the Protocol and reviewing the effectiveness of measures adopted;
 - b) Revising and amending any annex to this Protocol, in accordance with article 20 of the Convention;
 - c) Adopting the guidelines foreseen under this Protocol;
 - d) Performing all other functions listed in Article 17 of the Convention.

Art 32: Funding Mechanisms

1. For the implementation of the additional Protocol, the Contracting Parties shall provide and mobilize additional resources and other forms of assistance for activities pertaining to the Protocol. These resources and assistance may include voluntary contributions, grants and loans on favourable conditions provided by national and international sources, donor agencies, non-governmental sources of funding, bilateral and multilateral sources, individuals and private-sector entities, in addition to statutory contributions and obligations stated in article 21 of the Convention.
2. The Contracting Parties shall encourage and facilitate the mobilization of adequate and foreseeable financial resources, namely by way of national budget allocations, for the implementation of this Protocol.

Part VII: Final Provisions

Art 33: Sanctions

Following article 23 of the Convention on compliance control, the Parties shall also lay down rules on sanctions applicable in the event on non-fulfilment of obligations under this Protocol and the national legislation enforcing this Protocol and take all necessary measures to ensure they are enforced.

Art 34: Relation to the Convention

1. The provisions of the Convention relating to any Protocol shall apply to this Protocol.
2. The rules of procedure and financial rules adopted pursuant to article 21 of the Convention shall apply to this Protocol, unless the Parties to this Protocol agree otherwise.

Art 35: Relations with third parties

1. The Contracting Parties may invite other States not party to this Protocol, as well as non-State parties such as international, intergovernmental and non-governmental organizations, to cooperate in the implementation of this Protocol.
2. Each Contracting Party shall adopt appropriate measures in compliance with the rules of international law to ensure that nobody shall undertake within the limits of the national jurisdiction, activities that are contrary to the objectives, principles and goals of this Protocol.

Article 36: Final clause

1. This Protocol shall open at, ... on ... for signature by Contracting Parties to the Convention.
2. The provisions of Articles 27 and 28 of the Convention on ratification, acceptance, approval and accession shall apply *mutatis mutandis* to this Protocol.
3. The provisions of Articles 29, 30 and 31 of the Convention concerning entry into force, withdrawal and the responsibilities of the depository shall apply *mutatis mutandis* to this Protocol and its Annexes.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done in ... this xxx two thousand xxx in a single copy in the English and French languages, the two texts being equally authentic.

ANNEXES

ANNEX I: List of Harmful or Noxious Substances and Materials prohibited from disposal in the Protocol Area

A. The following substances and materials, and compounds derived therefrom are listed for the purposes of Article 10 (4 and 8). They have been selected mainly on the basis of their toxicity, persistence and bioaccumulation:

1. Mercury and mercury compounds
2. Cadmium and cadmium compounds
3. Organotin compounds and substances which may form such compounds in the marine environment
4. Organophosphorus compounds and substances which may form such compounds in the marine environment
5. Organohalogen compounds and substances which may form such compounds in the marine environment¹
6. Crude oil, fuel oil, oily sludge, used lubricating oils and refined products
7. Persistent synthetic materials that may float, sink or remain in suspension and which may interfere with any legitimate use of the sea
8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment
9. Radioactive substances, including their wastes, if their discharges do not comply with the principles of radiation protection as defined by the competent organizations, taking into account the protection of the marine environment

B. The present Annex shall not apply to discharges that contain substances listed in Part A of this Annex that are below the limits defined by the Competent Authority.

¹ Except for those which are biologically harmless or which are rapidly converted into biologically harmless substances.

ANNEX II A: List of Harmful or Noxious Substances and Materials Requiring Special Authorization for Disposal in the Protocol Area

A. The following substances and materials, and compounds thereof have been selected for the purpose of Article 10 (5, 6, 7 and 8).

1. Arsenic
2. Lead
3. Copper
4. Zinc
5. Beryllium
6. Nickel
7. Vanadium
8. Chromium
9. Biocides and their derivatives not covered in Annex I
10. Selenium
11. Antimony
12. Molybdenum
13. Titanium
14. Tin
15. Barium (other than barium sulphate)
16. Boron
17. Uranium
18. Cobalt
19. Thallium
20. Tellurium
21. Silver
22. Cyanides

B. The control and strict limitation of the discharge of substances referred to in Part A of this Annex must be implemented in accordance with Annex III.

Annex II B: Ecotoxicological Testing and Categorization of Chemicals

A. Ecotoxicological Testing of Chemicals

Ecotoxicological documentation in the form of OSPAR Harmonised Offshore Chemical Notification Format (HOCNF) shall exist for all chemicals used in the Protocol Area.

This requirement does not apply to lubricants that are used in small amounts and chemicals in closed systems that are used in small amounts. The requirement also does not apply to laboratory chemicals, dispersants and beach-cleaning agents used to combat oil spills, and to new chemicals during the period of field-testing.

Only parts 1 and 3 of the HOCNF must be completed for substances on the OSPAR List of Substances / Preparations Used and Discharged Offshore which are Considered to Pose Little or No Risk to the Environment (the PLONOR list) when reporting to the Organization.

Chemicals shall be tested for the following ecotoxicological properties:

- i. Biodegradability
 - a. Chemicals that consist of several substances shall be tested for the individual organic substances' biodegradability. The substances shall preferably be tested in accordance with the seawater test OECD 306 "Biodegradability in Seawater". If this test is not applicable for the substance to be tested, one of the following seawater tests shall be performed:
 - i. Marine CO₂ Evolution test (mod. Sturm), modified OECD 301B
 - ii. Marine BODIS test (for insoluble substances), modified ISO/TC 147/SC 5 N141
 - iii. Marine CO₂ Headspace test, modified ISO/TC 147/SC 5/WG 4 N182 for substances known to be toxic to microorganisms (for example, biocides), The Competent Authority must be contacted if alternative tests are planned to be used.
 - iv. For substances with moderate biodegradability (equivalent to BOD₂₈ from 20 to 60%) the properties of the degradation products shall also be evaluated.
- ii. Bioaccumulation
 - a. Chemicals that consist of several substances shall be tested for the individual organic substances' bioaccumulation potential. This requirement applies to substances with a molecular weight below 700 g/mol. The substances shall be tested according to OECD 117 "Partition Coefficient (n-octanol/water), High Performance Liquid Chromatography (HPLC) Method" or OECD 107 "Partition Coefficient (n- octanol/water): Shake Flask Method". For substances where standardized tests are not applicable, as for surfactants, a calculation or a scientific evaluation of the bioaccumulation potential shall be performed. Scientific evaluations shall be documented and preferably be performed by an independent party.
- iii. Toxicity
 - a. Acutely toxic inorganic and organic chemicals shall be tested for acute toxicity. The requirement does not apply to substances/preparations on OSPAR's PLONOR list. The following toxicity tests are required:
 - i. *Skeletonema costatum*, ISO/DIS 10253:1995 • *Acartia tonsa*, ISO 14669:1999
 - ii. *Scophtalamus maximus*; Part B in the OSPAR Protocols on Methods for the testing of Chemicals Used in the Offshore Industry, 1995. Sheepshead minnow is accepted as an alternative species.

- iii. *Corophium volutator*; Part A in the OSPAR Protocols on Methods for the Testing of Chemicals Used in the Offshore Industry, 1995, required if the chemicals adsorb to particles ($K_{oc} > 1000$) and/or sink and end up in the sediments (for example, surfactants)
- b. Toxicity testing of fresh water organisms can be accepted if results from marine tests are not available, and they have been performed according to standardised methods. Organic substances that are not very prone to degrade ($BOD < 20\%$ over 28 days) shall be tested for acute toxicity at substance level. Toxicity tests, including fish tests, shall be performed at substance level for all chemicals. Fish tests are not required if the chemical is inorganic and has a toxicity to the other test organisms of EC_{50} or $LC_{50} \cdot 1$ mg/l organic and a toxicity to the other test organisms of EC_{50} or $LC_{50} \cdot 10$ mg/l.

B. Categorization of Chemicals

Substances shall be categorized as follows:

1) **Black category:** The black category consists of chemicals on the following lists:

- a. OSPAR List of Chemicals for Priority Action, ref. OSPAR Strategy with regard to Hazardous Substances
- b. In addition, substances with the following ecotoxicological properties are categorized as black:
 - i. Substances that have both a low biodegradability ($BOD_{28} < 20\%$) and a high bioaccumulation potential ($\log Pow \cdot 5$)
 - ii. Substances that have both a low biodegradability ($BOD_{28} < 20\%$) and high acute toxicity (EC_{50} or $LC_{50} \cdot 10$ mg/l)
 - iii. Substances that are detrimental in a mutagenic or reproductive way

2) **Red category:** Red category consists of substances with the following ecotoxicological properties:

- a. Inorganic substances which are acutely toxic (EC_{50} or $LC_{50} \cdot 1$ mg/l)
- b. Organic substances with a low biodegradability ($BOD_{28} < 20\%$)
- c. Substances that meet two of the three following criteria:
 - i. Biodegradability equivalent to $BOD_{28} < 60\%$
 - ii. Bioaccumulation potential equivalent to $\log Pow \cdot 3$ and molecular weight < 700 or
 - iii. Acute toxicity of EC_{50} or $LC_{50} \cdot 10$ mg/l

3) **Yellow category:** Yellow category consists of substances that from their ecotoxicological properties shall not be categorized as red or black, and that are not defined as PLONOR substances

4) **Green category:** Green category consists of substances on the OSPAR PLONOR list

C: The above testing protocols are without prejudice to existing ecotoxicological protocols of national competent authorities of the contracting parties, especially if more stringent.

ANNEX III: Discharge Standards for Oily Mixtures, Drilling Fluids and Cuttings

This Annex is in reference to the standard to be adopted under Article 11, 12 and 13

Parameter	Standard
Non-Aqueous Fluid (NADF) Drilling	No discharge to sea. Ship-to-shore
NADF Cuttings	NADF drill cuttings are subject to the following requirements: <ul style="list-style-type: none"> · Discharge in sensitive and protected areas is prohibited; · Re-injection or ship-to-shore · In case of production and development drilling, a programme of seabed sampling and analysis relating to the zone of contamination must be undertaken. · No discharge to sea except where: <ul style="list-style-type: none"> ○ Hg – max 1 mg/kg dry weight in stock barite ○ Cd - max 3 mg/kg dry weight in stock barite <p style="text-align: right;">Oil-on-cuttings (OOC) should not exceed 5% Discharge via caisson must be at least 15 m below sea surface</p>
Water Based Drilling Fluids (WBDF)	The use and disposal of WBDF should be subject to a safer chemical use plan and the provisions of this Protocol (Article 10 (1)); WBDF should satisfy the following requirements: 1) No discharge to sea except when the content is: <ul style="list-style-type: none"> · In compliance with a 96 hr. LC₅₀ of SPP-3% volume. toxicity test first for drilling fluids or any alternatively testing methods based on standard toxicity assessment species;
WBDF cuttings	2) Re-inject or ship-to-shore, no discharge to sea except the content of the mud has: <ul style="list-style-type: none"> ○ Hg – 1 mg/kg dry weight in stock barite ○ Cd - 3 mg/kg dry weight in stock barite <p>Maximum chloride concentration must be less than four times the ambient concentration of fresh or brackish receiving water</p> <p>Discharge via caisson must be at least 15 m below sea surface</p>
Produced water	Re-inject. Discharge to sea: <ul style="list-style-type: none"> • maximum one-day oil and grease discharge should not exceed 40 mg/l; • 30-day average should not exceed 29 mg/L.
Machinery drainage space	Discharges with a high oil content from the drainage systems of the processing plants and platforms shall be contained, diverted and then treated as part of the product, but the remainder shall be treated up to a maximum oil content of 15 mg per litre, while undiluted, before discharge to sea;

	Oily waste and sludges from separation processes shall be transported to shore;
Well Testing	All necessary precautions shall be taken to minimize leakage of oil into the sea during production tests and from oil collected or flared from well testing; All necessary precautions shall be taken to ensure that any gas resulting from well testing is flared or used in an appropriate manner.
Completion and Well Workover fluids	Ship-to-shore or re-inject. No discharge to sea except: <ul style="list-style-type: none"> · Maximum one-day oil and grease discharge should not exceed 40mg/L; 30-day average should not exceed 29 mg/L · Neutralize to attain a pH of 6 or more
Hydrotest water	<ol style="list-style-type: none"> a. Send to shore for treatment and disposal b. Discharge offshore only following: <ol style="list-style-type: none"> i. environmental risk analysis, ii. careful selection of chemicals and iii. not less than 20m water depth c. Reduce use of chemicals
Cooling Water	The effluent should result in a temperature increase of no more than 3°C at edge of the zone where initial mixing and dilution take place. Where the zone is not defined, use 100 m from point of discharge.
Desalination Brine	Mix with other discharge waste water streams if feasible.
Sewage	<ul style="list-style-type: none"> · Discharge at more than 3 nautical miles from the nearest land, or sewage that is not comminuted or disinfected at more than 12 nautical miles from the nearest land. · No visible floating solids or cause of discoloration of the surrounding water. · Sewage that has been stored in holding tanks shall not be discharged at sea but shipped to shore
Deck Drainage (non-hazardous and hazardous drains)	Oil content of the effluent without dilution shall not exceed 15 mg/l
Storage displacement water	Oil content of the effluent without dilution shall not exceed 15 mg/l
Bilge water	Oil content of the effluent without dilution shall not exceed 15 mg/l
Produced Sand	Ship-to-shore or re-inject. No discharge to sea except when oil concentration is not more than 1% of weight

	on dry sand.
Food waste	<ul style="list-style-type: none"> · Discharge to sea after passing through a comminuter or grinder · Such comminuted or ground food wastes shall be able to pass through a screen with openings no greater than 25 millimetres. · Discharge at more than 12 nautical miles from land.
<p>Notes:</p> <p>a. 96-hr LC₅₀: Concentration in parts per million (ppm) or percent of the Suspended Particulate Phase (SPP) from a sample that is lethal to 50 percent of the test organism exposed to that concentration for a continuous period of 96 hours.</p> <p>b. In near-shore waters, carefully select the discharge location based on environmental sensitivities and the assimilative capacity of receiving waters</p>	

Annex IV: Environmental Assessments

Parties agree that the environmental assessment procedures will be in compliance with the following:

A. Legislation and Competent National Authority

1. The legislation of each Contracting Party should mandate a Competent National Authority (CNA) (or authorities) to undertake the Environmental and Social Assessment (ESA) process for all phases from exploration to production and decommissioning, including for appeals.
2. Such authorities should have adequate capacity or alternate arrangements need to be in place while their capacity is being enhanced. The time-lines for each step towards authorisation, including environmental and social assessments, should be reasonable in the context of work to be done by all involved in the process and the capacity of the CNA. In this context, we also note that the ESA process can require different levels of scope and detail, and could include strategic environmental assessments (SEAs).
3. The legislation and its application by each Contracting Party, insofar as it provides for licencing and permitting of oil and gas exploration and production, as well as the social and economic assessments to be undertaken, should as far as possible be aligned with the objectives and provisions of this Protocol, thus ensuring that authorizations have largely the same minimum requirements in the EEZs of the Contracting Parties.

Communication and Transparency

4. Adequate prior dissemination of information followed by transparent public participation should be provided as part of the Environmental and Social Assessment process so that other stakeholders and members of the public can provide inputs before decisions are made by the competent authority.
5. Decisions should be publicly available and Records of Decision (RODs) made available to the public and other stakeholders. There also should be provision for an appeal process, setting out the grounds on which decisions may be appealed as well as the requirements for lodging an appeal.
6. Events negatively impacting the environment shall be dealt with in a transparent manner.

Functional Capacity

7. As part of the EA process, applicants should be able to demonstrate their technical expertise and access to adequate financial resources.
8. There shall be adequate controls and monitoring mechanisms for the CNA to ensure compliance with permit conditions.

B: The Objectives and Requirements of Environmental Assessments

The objectives of any Environmental and Social Assessment shall be to establish before a decision is taken by any person or authority to undertake or authorise the undertaking of any activity that may to a significant extent affect the environment, that the environmental (including social, health, fisheries) effects of those activities shall first be considered.

1. In this regard an environmental assessment shall include at least the following minimum matters, noting that the EA process can require different levels of scope and detail, and could include strategic environmental assessments (SEAs).
 - (a) A general description of the proposed activities; including an indication of the nature, aims, scope and duration of the proposed activities;
 - (b) A description of the potential affected environment, including specific information necessary to identify and assess the environmental effects of the proposed activities; this should include a description of the geographical boundaries of the area within which the activities are to be carried out, including sensitive areas and safety areas where applicable, and a description of the initial state of the environment of the area;
 - (c) A description of the social structures and economic activities likely to be affected, including specific information necessary to identify and assess the effects of the proposed activities; this should include a description of the potentially affected communities and current economic activities by sector, including socio-economically vulnerable communities and activities where applicable; and a description of the current state of social structures and economic activities in the area;

- (d) A detailed description of the proposed practical activities, as appropriate, including a description of the methods, installations and other means to be used, and possible alternatives to such methods and means.
- (e) An assessment of the likely or potential environmental and socio-economic impacts of the proposed activity and the alternatives, including the direct or indirect cumulative, short-term and long-term effects;
- (f) A statement setting out the measures proposed for reducing to a minimum the risk of damage to the environment resulting from carrying out the proposed activities, including possible alternatives to such measures; and assessment of the effectiveness, limitations and potential consequences of those measures; a reference to the methodology used for the environmental impact assessment;
- (g) A statement setting out the potential social and economic benefits, which should be realistic and include not only various socio-economic benefits, but also the stakeholders who are likely to benefit in various ways;
- (h) A list of ecosystem services that were in the EA's terms of reference; including identification of priority ecosystem services considered and stakeholders engaged in the EA process; assessment of project impacts and dependencies on priority ecosystem services; and measures to mitigate project impacts and management of project dependencies on priority ecosystem services included in the environmental and social management plans.
- (j) Proposals or plans to be developed to monitor potential environmental and social impact and proposed mitigating measures; and an indication of the measures to be taken for the protection of the environment from pollution and other adverse effects during and after the proposed activities;
- (k) An indication of gaps in knowledge and uncertainty which may be encountered in computing the required information, as well as an indication of potential hazards that may pose future risks;
- (l) An indication of whether the environment in any areas outside the EEZ of the Contracting Party but within the EEZ of another Contracting or Non-Contracting Party is likely to be affected by the proposed activity or its alternatives;
- (m) A brief, non-technical summary of the information provided under paragraphs (a) to (l) of this section.

2. The environmental effects in an environmental assessment shall be assessed with a degree of detail proportionate to their likely environmental and socio-economic significance. Thus, assessments should focus on core potential problem areas in the context of the proposed activities and their potential impact on the environment, socio-economic activities and communities.

3. Before the CNA gives a decision on an activity for which an environmental (including social, health and fisheries) impact assessment has been conducted, the CNA shall give opportunity to government agencies, members of the public, experts in any relevant discipline and interest groups to comment on the environmental impact assessment of the activity.

C: Applicability and Specific Requirements

(1) The following listed activities comprise a minimum list of activities that will trigger the requirement for the ESA process in the offshore oil and gas sector. They include:

- (a) Seismic surveys
- (b) Drilling
- (c) Oil and gas fields development.
- (d) Construction of offshore pipelines
- (e) Decommissioning

(2) However, an ESA shall not be required in instances of national emergencies, routine maintenance and in some instances of upgrading of facilities (less than 10% change).

(3). The Competent National Authority shall require that geo-referenced (position) data collected during the EA study be submitted to the CNA in an acceptable electronic format.

D: General considerations

1. The Convention shall develop a regional guideline or guidance for EIA practitioners on undertaking environmental and social impact assessments in the Convention Area.

2. The licenses and permit regimes for exploration and production activities should be clearly set out so that applicants for authorisations, the public and other stakeholders have a common understanding of these processes or procedures.

Annex V: Requirements for Issuing Permits

The exploration and exploitation permits shall be issued only by the Competent National Authority in accordance with national and international norms and standards, such as the IFC/World Bank Guidelines and, in general, internationally accepted best practices.

A. Authorizations for the exploration and exploitation phases

For the issuance of authorizations in the form of permits as per Part II Articles 6,7 and 8 of the Protocol, the following factors in particular shall, as appropriate, be considered:

1) Exploration phase: Characteristics and composition of likely air emissions, discharges, waste, noise pollution / pollution and spills:

- a. The main sources of air emissions, including emissions of greenhouse gases and fugitive emissions (continuous and intermittent);
- b. Waste water discharges, including hydrostatic tests, coolant water and other waste water (origin of average composition);
- c. Identification of the types of waste (solid, liquid, sludge, gas) and their estimated quantities;
- d. Types and magnitudes of seismic surveys;
- e. Types and levels of high-frequency noise produced by the air ducts and other sources of acoustic energy;
- f. Nature and importance of discharges from exploration operations (seismic vessels, service vessels, pipelines or other installation).

2) Exploitation phase

- a. Type and size of waste source (e.g. industrial process);
- b. Type of waste (origin of average composition);
- c. Waste form (solid, liquid, sludge, gas);
- d. Total amount (volume discharges); Quarterly evaluation of waste generated;
- e. Discharge pattern (continuous, intermittent, seasonally variable, etc.);
- f. Concentration of major constituents, substances listed in Annex I, substances listed in Annex II and other substances as appropriate (to ensure this point is binding);
- g. Physical, chemical and biochemical properties of the waste.

B. Characteristics of Waste Constituents, Emissions, Discharges, Noise pollution and Discharges

- a. Persistence (physical, chemical, biological) in the receiving environment

- b. Toxicity and other noxious effects (morbidity, CMR: carcinogenic, mutagenic, harmful to reproduction);
- c. Accumulation in biological materials and/or sediment;
- d. Biochemical transformation producing harmful compounds;
- e. Adverse effects on the content and balance of the environment, including oxygen and others);
- f. Susceptibility to physical, chemical and biochemical transformations and interaction in the aquatic environment with other constituents of the sea water likely to produce biological or other harmful effects from the point of view of the uses listed in Section E below.

C. Characteristics of discharge area and receiving marine and coastal environment

- a. Hydrographic, meteorological, geological and topographical characteristics of the marine and coastal zone;
- b. Location and type of discharge (outfall, channel, outlet, etc.);
- c. Initial dilution at the point of discharge into the receiving marine environment;
- d. Characteristics of natural contaminant dispersion, such as effects of the currents, tides and horizontal wind and vertical mixing;
- e. Characteristics of receiving water with respect to physical, chemical, biological and ecological conditions in the discharge area;
- f. Capacity of the receiving marine environment without undesirable effects in the discharged waste.

D. Available Technologies for the Reduction of Waste, Emissions, Discharges, Noise Pollution and Spills

In selecting waste reduction and discharge methods consideration should be given to the existence and the possibility of implementation of:

- a. Alternative treatment processes;
- b. Reuse or disposal methods;
- c. Alternatives for onshore discharge, where appropriate;
- d. Clean technologies.

E. Potential Impacts on Marine and Coastal Ecosystems and other Rightful Uses of the Sea

- a. Effects on human health due to the pollution impact on:
 - Edible marine and coastal organisms
 - Bathing waters
 - Aesthetics
 - Tourism
- b. Effects on marine and coastal ecosystems and living resources, including protected and endangered species, in particular seabirds, marine mammals and sea turtles, vulnerable habitats and generally marine and coastal biodiversity;

- c. Effects on other rightful uses of the sea in accordance with international law.

Annex VI: Safety and Security Measures

The Parties shall ensure enforcement of the following provisions pursuant to Article 17:

- a) The facility is safe and fit for its intended purpose and, in particular, that it is designed and built to withstand maximum loads of any natural phenomenon, especially the highest force of wind and sea in meteorological record and potential earthquakes, and that it is adapted to both the configuration and stability of the seabed and water depth;
- b) All activity phases including storage and transport of recovered resources are well separated, and the whole activity can be controlled by the safety plan and is conducted in the safest way possible and that the operator continuously monitors all his activities;
- c) The most advanced safety systems are used and periodically tested to minimize the risk of leaks, spills, accidental discharges, fire, exposure, rash or anything that might endanger the safety of humans or the environment; a specialized team trained to implement and maintain these systems is on site and conducts regular exercises. In the case of licensed facilities without permanent staff, they shall ensure that a dedicated team is always available;
- d) The facilities and, if necessary, the established safety zone are marked in accordance with international recommendations so as to be properly signalled with sufficient details and clearly identifiable markings;
- e) The facilities are indicated on maps in accordance with international maritime practice and that interested persons are notified their presence;
- f) In order to ensure compliance with the above provisions, the person(s) with responsibility for the facilities and activities, including the head of the blowout preventer, have the qualifications required by the competent authority and sufficient qualified personnel are permanently available. Such qualifications should be accompanied, in particular, by ongoing training on safety and the environment.

Annex VII: Emergency Response Plan

A. The operation response plan

- 1) Operators shall ensure that:
 - a. the most suitable alert and communication system is on the facility and in good working order;
 - b. the alert is immediately given in the event of emergency and any emergency is immediately reported to the competent authority;
 - c. in coordination with the competent authority, the dissemination of alert, and appropriate assistance and coordination of the latter are organized and supervised without delay;
 - d. immediate information about the nature and extent of the emergency is given to the team present on the facilities and to the competent authority;
 - e. the competent authority is constantly informed about the emergency response developments;
 - f. at any time there is enough material and the most suitable equipment, such as ships and aircraft, ready to roll out the emergency response plan;
 - g. the specialized team referred to in Annex VI paragraph (c) knows the most appropriate methods and techniques to control leakages, spillages, accidental discharges, fire, explosions, eruptions and any other threat to human life or environment;
 - h. The specialized team responsible for reducing and preventing long-term damage to the environment knows the most appropriate methods and techniques;
 - i. The team has detailed knowledge of the emergency response plan of the operator, drills are organized so that the team has full mastery of the equipment and procedures and each individual knows his role exactly.
- 2) The operator shall cooperate within an institutional framework with other operators or entities capable of providing the necessary assistance so as to be sure that such assistance may be delivered should the extent and nature of an emergency create a risk for which assistance is or may be required.

B. National coordination and leadership

- (i) Each Contracting Party shall have a National Contingency Plan.
- (ii) The competent authority of the Contracting Party shall, in the event of an emergency, ensure:
 - a. the coordination of the national emergency response plan and/or response procedures and the operator's emergency response plan, and control the conduct of operations, especially in case of major risks associated with the emergency;
 - b. the operator takes any measures deemed relevant to prevent, mitigate or control pollution or to prepare relevant future operations, including sending a back-up drilling rig, or shall prohibit the operator from taking a given initiative;
 - c. the coordination of pollution prevention, mitigation and control activities or preparations for future operations to be conducted within the national jurisdiction with similar businesses within the jurisdiction of other States or to be undertaken by international organizations;

- d. the gathering and permanent availability of all necessary information regarding on-going activities;
- e. the establishment of an updated list of individuals and organizations to alert and keep informed, in the event of an emergency, of the evolution of the situation and the measures taken;
- f. the collection of all information on the scale of an emergency situation, the resources available to address it and the communication of this information to the interested parties;
- g. The coordination and supervision of the assistance referred to in (A) below in cooperation with the operator;
- h. The organization and coordination, if necessary, of specific actions including the intervention of technical experts and trained personnel with the necessary equipment and materials;
- i. The immediate notification, in the event of an emergency, of the competent authorities of other Parties that may be affected by such a situation for them to envisage the appropriate measures;
- j. the provision of technical assistance to other Parties where necessary;
- k. the immediate notification of the competent international organizations of any emergency so as to avoid navigational hazards and other interests.

Annex VIII: Guidelines on Liability and Compensation for Damage resulting from Pollution of the Marine and Coastal Environment in the Area of the Abidjan Convention

A. Purpose of the Guidelines

These Guidelines are intended to implement Article 15 of the Abidjan Convention, under which the Contracting Parties shall cooperate to develop and adopt appropriate rules and procedures for the determination of liability and compensation for damage resulting from pollution of the marine and coastal environment in the Abidjan Convention area.

These Guidelines are also aimed at effective implementation by the Contracting Parties of the "polluter pays" principle, under which the costs of pollution prevention, control and reduction should be supported by the polluter given its public interest. No subsidiary state liability is provided.

Without being binding, these guidelines are intended to strengthen cooperation between the Contracting Parties for the establishment of a regime of liability and redress for damage resulting from pollution of the marine environment and coastal region in the Abidjan Convention area.

B. Scope of the Guidelines and Relations with other Regimes

The Guidelines shall apply to activities under the Abidjan Convention or any of its Protocols.

The Guidelines shall be subject to global and regional regimes regarding liability and compensation for damage to the marine and coastal environment.

The Guidelines shall not affect the issues of State liability in respect of wrongdoing internationally.

C. Geographical Coverage

These Guidelines shall apply to the Abidjan Convention area as defined in Article I of the Abidjan Convention.

D. Implementation

Legislation

1. The legislation of the Contracting Parties should include provisions to compensate both traditional damage and environmental damage resulting from pollution of the marine and coastal environment.
2. For the purposes of these Guidelines, "traditional damage" shall mean:
 - a. Loss of life or personal injury;
 - b. Loss of, or damage to, property other than property held by the person liable;
 - c. Loss of profit as a direct consequence of harm to a legally protected interest in connection with the use of the marine environment for economic purposes, induced by an impairment of the environment, given the savings and costs;
 - d. Any loss or damage caused by preventive measures to avoid the damage referred to in paragraphs a), b) and c).
3. For the purposes of these Guidelines, "environmental damage" means a measurable loss to a natural resource or measurable harm caused to a natural resource service which may occur directly or indirectly. The remedy for an environmental damage should include, as appropriate:
 - a. The cost of activities and studies in assessing the damage;
 - b. The cost of preventive measures, including measures taken to prevent a threat of injury or aggravation of damage;
 - c. The cost of measures taken or to be taken to clean, restore and rehabilitate the impaired environment;
 - d. The decreased value of natural resources until their rehabilitation;

- e. Restoration by equivalents when the rehabilitation of the impaired environment is not possible.
- 4. To assess the extent of environmental damage, all available sources of information on the initial state of the environment should be considered, including the national, sub-regional, and regional baseline budgets of international emissions / discharges of pollutants.
- 5. The measures in paragraph 11 b) and c) should be reasonable, that is to say, they should be relevant, applicable, proportionate and based on actual objective criteria and information.
- 6. When compensation is granted for the damage referred to in paragraph 11 d) and e), it should be assigned to an environmental intervention in the area of the Abidjan Convention.
- 7. The Contracting Parties should require that the measures referred to in paragraph 11 b) and c) are taken by the operator. If the operator does not take such measures or cannot be identified or is not liable under these Guidelines, the Contracting Parties should themselves take such measures and charge the operator where applicable.

Liability

- 8. Liability for damage covered by these Guidelines should rest with the operator.
- 9. For purposes of these Guidelines, "operator" means any natural or legal person, private or public entity, who exercises the control of an activity covered by these Guidelines. This term also applies to any person who, without due authorization, exercises de facto control of an activity under these Guidelines.
- 10. These Guidelines shall also apply to damage caused by pollution of a diffuse character, where it is possible to establish a causal link between the damage and the activities of different operators. In such cases, the liability is divided between the operators based on an equitable assessment of the damage caused.
- 11. The basic standard of the liability regime should be strict liability; however, in case of damage from activities not covered by any of the Protocols to the Convention, the Contracting Parties may apply fault-based liability.
- 12. In accordance with these Guidelines, liability should depend on the establishment of a causal link between the event and the damage.
- 13. For the purposes of these Guidelines, "Event" means an instantaneous fact, an uninterrupted succession or series of occurrences having the same origin which cause damage or create a serious and imminent risk of harm.
- 14. The operator should not be liable for damages that it can prove that they were caused by acts or events totally beyond its control, including an act of war, hostilities, civil war, insurrection, an act of terrorism or a natural phenomenon of an exceptional and irresistible character.
- 15. Where strict liability applies, financial liability limits can be set based on international treaties or applicable national laws.
- 16. The Contracting Parties should regularly review these limits, taking into account the particular risks the activities under these Guidelines may pose to the marine and coastal environment.
- 17. The time limits should be established on the basis of a two-tiered system: a minimum period from the time when it was aware of the damage (three years) and a maximum period from the date of the event (thirty years).

Insurance and Oil Damage Compensation Fund

- 18. The Contracting Parties should take measures to encourage the establishment of a compulsory insurance scheme or other instruments and financial security markets in order to allow operators to cover, through the financial guarantees, their liabilities under these Guidelines, and to require actual commitment.
- 19. The Contracting Parties should study the possibility of setting up a compensation fund in the Abidjan Convention area to provide compensation when the damage exceeds the liability of the operator, when the operator is not known, when it is not able to bear the cost of the damage and is not covered by a financial security, or when the State takes preventive measures in emergency situations and is not reimbursed for the cost of such measures.
- 20. The Contracting Parties may exclude cases of diffuse pollution from the operations of the Fund.
- 21. The Fund should be financed, if necessary, by regular contributions from Contracting Parties and the operators.

Access to Information

22. The Contracting Parties should ensure that the competent authorities of their countries make public, as widely as possible, access to information on damage or threats of damage to the environment, as well as redress. The responses to requests for information should be made within specific time limits.
23. The Contracting Parties should identify the public authorities empowered to go to court for compensation for damage to the marine and coastal environment under these Guidelines.
24. The Contracting Parties should determine the appropriate legal means to engage the public, including NGOs, civil society, and local communities, in the field of the marine and coastal environment.

Review Process

25. The Contracting Parties should assess the implementation of these Guidelines within three years from their adoption by the Meeting of the Contracting Parties. Based on that assessment, the meeting of Contracting Parties could decide to develop a legally binding instrument.