

**CONVENTION FOR THE PROTECTION, MANAGEMENT AND
DEVELOPMENT OF THE MARINE AND COASTAL ENVIRONMENT OF THE
EASTERN AFRICAN REGION**

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Nairobi, 21 June 1985

The Contracting Parties,

Fully aware of the economic and social value of the marine and coastal environment of the Eastern African region,

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations,

Recognizing the special hydrographic and ecological characteristics of the region which require special care and responsible management,

Recognizing further the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the insufficient integration of an environmental dimension into the development process,

Seeking to ensure that resource development shall be in harmony with the maintenance of the environmental quality of the region and the evolving principles of rational environmental management,

Realizing fully the need for cooperation amongst themselves and with competent international and regional organizations in order to ensure a coordinated and comprehensive development of the natural resources of the region,

Recognizing the desirability of promoting the wider acceptance and national implementation of existing international environmental agreements,

Noting, however, that existing international conventions concerning the marine and coastal environment do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the Eastern African region,

Desirous to adopt a regional convention elaborated within the framework of the Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region adopted at Nairobi on 21 June 1985,

Have agreed as follows:

Article 1

GEOGRAPHICAL COVERAGE

1. This Convention shall apply to the Eastern African region, hereinafter referred to as "the Convention area" as defined in paragraph (a) of article 2.
2. Except as may be otherwise provided in any protocol to this Convention, the Convention area shall not include internal waters of the Contracting Parties.

Article 2

DEFINITIONS

For the purposes of this Convention:

- (a) the "Convention area" shall be comprised of the marine and coastal environment of that part of the Indian Ocean situated within the Eastern African region and falling within the jurisdiction of the Contracting Parties to this Convention. The extent of the coastal environment to be included within the Convention area shall be indicated in each protocol to this Convention taking into account the objectives of the protocol concerned;
- (b) "pollution" means the introduction by man directly or indirectly, of substances or energy into the marine environment, including estuaries, resulting in such deleterious effects as harm to living resources hazards to human health, hindrance to marine activities, including fishing, impairment of quality for use of sea water and reduction of amenities;
- (c) "Organization" means the body designated as responsible for carrying out secretariat functions pursuant to article 16 of this Convention.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or subregional agreements, for the protection and management of the marine and coastal environment of the Convention area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organization and, through the Organization, to all Contracting Parties to this Convention.
2. Nothing in this Convention or its protocols shall be deemed to affect obligations assumed by a Contracting Party under agreements previously concluded.
3. This Convention and its protocols shall be construed in accordance with international law relating to their subject matter. Nothing in this Convention and its protocols shall prejudice the present or future claims and legal views of any Contracting Party concerning the nature and extent of its maritime jurisdiction.

Article 4

GENERAL OBLIGATIONS

1. The Contracting Parties shall, individually or jointly, take all appropriate measures in conformity with international law and in accordance with this Convention and those of its protocols in force to which they are party, to prevent, reduce and combat pollution of the Convention area and to ensure Sound environmental management of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities.
2. The Contracting Parties shall cooperate in the formulation and adoption of protocols to facilitate the effective implementation of this Convention.
3. The Contracting Parties shall take all appropriate measures in conformity with international law for the effective discharge of the obligations prescribed in this

Convention and its protocols and shall endeavour to harmonize their policies in this regard.

4. The Contracting Parties shall cooperate with the competent international, regional and subregional organizations to ensure the effective implementation of this Convention and its protocols. They shall assist each other in fulfilling their obligations under this Convention and its protocols.

5. In taking the measures referred to in paragraph 1, the Contracting Parties shall ensure that the application of such measures does not cause pollution of the marine environment outside the Convention area.

Article 5

POLLUTION FROM SHIPS

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by discharges from ships and, for this purpose, to ensure the effective implementation of the applicable international rules and standards established by, or within the framework of, the competent international organization.

Article 6

POLLUTION CAUSED BY DUMPING

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by dumping of wastes and other matter at sea from ships, aircraft, or man-made structures at sea, taking into account applicable international rules and standards and recommended practices and procedures.

Article 7

POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall endeavour to take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures or any other sources within their territories.

Article 8

POLLUTION FROM SEA-BED ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.

Article 9

AIRBORNE POLLUTION

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting from discharges into the atmosphere from activities under their jurisdiction.

Article 10

SPECIALLY PROTECTED AREAS

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems as well as rare, depleted, threatened or endangered species of wild fauna and flora and their habitats in the Convention area. To this end the Contracting Parties shall, in areas under their jurisdiction, establish protected areas, such as parks and reserves, and shall regulate and, where required and subject to the rules of international law, prohibit an activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are established to protect. The establishment of such areas shall not affect the rights of other Contracting Parties and third States and in particular other legitimate uses of the sea.

Article 11

COOPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Contracting Parties shall cooperate in taking all necessary measures to respond to pollution emergencies in the Convention area and to reduce or eliminate pollution or the threat of pollution resulting therefrom. To this end, the Contracting Parties shall, individually and jointly, develop and promote contingency plans for responding to incidents involving pollution or the threat thereof in the Convention area.

2. When a Contracting Party becomes aware of a case in which the Convention area is in imminent danger of being polluted or has been polluted, it shall immediately notify other States likely to be affected by such pollution, as well as competent international organizations. Furthermore, it shall inform, as soon as feasible, such other States and the Organization of any measures it has taken to minimize or reduce pollution or the threat thereof.

Article 12

ENVIRONMENTAL DAMAGE FROM ENGINEERING ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat environmental damage in the Convention area, in particular the destruction of marine and coastal ecosystems, caused by engineering activities such as land reclamation and dredging.

Article 13

ENVIRONMENTAL IMPACT ASSESSMENT

1. As part of their environmental management policies, the Contracting Parties shall, in cooperation with competent regional and international organizations if necessary, develop technical and other guidelines to assist the planning of their major development projects in such a way as to prevent or minimize harmful impacts on the Convention area.

2. Each Contracting Party shall assess, within its capabilities, the potential environmental effects of major projects which it has reasonable grounds to expect may cause substantial pollution of, or significant and harmful changes to, the Convention area.

3. With respect to the assessments referred to in paragraph 2, the Contracting Parties shall, if appropriate in consultation with the Organization, develop procedures for the dissemination of information and, if necessary, for consultations among the Contracting Parties concerned.

Article 14

SCIENTIFIC AND TECHNICAL COOPERATION

1. The Contracting Parties shall cooperate, directly or with the assistance of competent regional and international organizations, in scientific research, monitoring, and the exchange of data and other scientific information relating to the purposes of this Convention and its protocols.

2. To this end, the Contracting Parties shall develop and coordinate their research and monitoring programmes concerning pollution and natural resources in the Convention area and shall establish, in cooperation with competent regional and international organizations, a regional network of national research centres and institutes to ensure compatible results. With the aim of further protecting the Convention area, the Contracting Parties shall endeavour to participate in international arrangements for research and monitoring outside the Convention area.

3. The Contracting Parties shall cooperate, within their available capabilities, directly or through competent regional and international organizations, in the provision to other Contracting Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention area.

Article 15

LIABILITY AND COMPENSATION

The Contracting Parties shall cooperate, directly or with the assistance of competent regional and international organizations, with a view of formulating and adopting appropriate rules and procedures which are in conformity with international law in the field of liability and compensation for damage resulting from pollution of the Convention area.

Article 16

INSTITUTIONAL ARRANGEMENTS

1. The Contracting Parties designate the United Nations Environment Programme as the secretariat of the Convention to carry out the following functions:

(a) to prepare and convene the meetings of Contracting Parties and conferences provided for in articles 17, 18 and 19;

(b) to transmit to the Contracting Parties information received in accordance with articles 11, 13 and 23;

(c) to perform the functions assigned to its protocols to this Convention;

- (d) to consider enquiries by, and information from the Contracting Parties and to consult with them on questions relating to this Convention and protocols;
 - (e) to coordinate the implementation of operative activities agreed upon by the meetings Contracting Parties;
 - (f) to ensure the necessary coordination with other regional and international bodies that Contracting Parties consider competent;
 - (g) to enter into such administrative arrangements as may be required for the effective discharge of secretariat functions.
2. Each Contracting Party shall designate appropriate authority to serve as the channel of communication with the Organization for purposes of this Convention and its protocols.

Article 17

MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings once every two years. It shall be the function of the ordinary meetings of the Contracting Parties to keep under review the implementation of this Convention and its protocols and, in particular:
- (a) to consider information submitted by the Contracting Parties under article 23;
 - (b) to adopt, review and amend annexes to this Convention and to its related protocols, in accordance with the provisions of article 20;
 - (c) to make recommendations regarding the adoption of any additional protocols or amendments to this Convention or its protocols in accordance with the provisions of articles 18 and 19;
 - (d) to establish working groups as required to consider any matters concerning this Convention and its protocols;
 - (e) to assess periodically the state of the environment in the Convention area;
 - (f) to consider cooperative activities to be undertaken within the framework of this Convention and its protocols, including their financial and institutional implications, and to adopt decisions relating thereto;
 - (g) to consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its protocols.
2. The Organization shall convene the first ordinary meeting of the Contracting Parties within nine months of the date on which the Convention enters into force in accordance with article 29.
3. Extraordinary meetings shall be convened at the request of any Contracting Party or upon the request of the Organization, provided that such requests are supported by a two-thirds majority of the Contracting Parties. It shall be the function of the extraordinary meeting of the Contracting Parties to consider only those items proposed in the request for the holding of the extraordinary meeting.

Article 18

ADOPTION OF PROTOCOLS

1. The Contracting Parties, at a conference of plenipotentiaries, may adopt additional protocols to this Convention pursuant to paragraph 2 of article 4.

2. If so requested by a two-thirds majority of the Contracting Parties, the Organization shall convene a conference of plenipotentiaries for the purpose of adopting additional protocols to this Convention.

Article 19

AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Contracting Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a two-thirds majority of the Contracting Parties.
2. Any Contracting Party to this Convention may propose amendments to any protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a two-thirds majority of the Contracting Parties to the protocol concerned.
3. The text of any proposed amendment shall be communicated by the Organization to all Contracting Parties at least ninety days before the opening of the conference of plenipotentiaries.
4. Any amendment to this Convention shall be adopted by a two-thirds majority vote of the Contracting Parties to the Convention which are present and voting at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the Convention. Amendments to any protocol shall be adopted by a two-thirds majority vote of the Contracting Parties to the protocol which are present and voting at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the protocol.
5. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraph 4 shall enter into force between Contracting Parties having accepted such amendments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least six of the Contracting Parties to this Convention or to the protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Contracting Party on the thirtieth day after the date on which that Party deposits its instrument.
6. After the entry into force of an amendment to this Convention or to a protocol, any new Contracting Party to this Convention or such protocol shall become a Contracting Party to the Convention or protocol as amended.

Article 20

ANNEXES AND AMENDMENT OF ANNEXES

- I. Annexes to this Convention or to a protocol shall form an integral part of the Convention or, as the case may be, such protocol.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the adoption and entry into force of amendments to annexes to this Convention or to annexes to a protocol:
 - (a) any Contracting Party may propose amendments to annexes to this Convention or annexes to any protocol at the meetings convened pursuant to article 17;

- (b) such amendments shall be adopted by a two-thirds majority vote of the Contracting Parties to the instrument in question;
 - (c) the Depositary shall without delay communicate the amendments so adopted to all Contracting Parties to this Convention;
 - (d) any Contracting Party that is unable to accept an amendment to annexes to this Convention or to annexes to any protocol shall so notify the Depositary in writing within a period determined by the Contracting Parties concerned when adopting the amendment;
 - (e) the Depositary shall without delay notify all Contracting Parties of notifications received pursuant to the preceding subparagraph;
 - (f) on expiry of the period determined in accordance with subparagraph (d) above, the amendment to the annex shall become effective for all Contracting Parties to this Convention or to the protocol concerned which have not submitted a notification in accordance with the provisions of that subparagraph;
 - (g) a Contracting Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party.
3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex, provided that, if it entails an amendment to the Convention or a protocol, the new annex shall not enter into force until such time as that amendment enters into force.
4. Any amendment to the Annex on Arbitration shall be proposed and adopted, and shall enter into force, in accordance with the procedures set out in article 19.

Article 21

RULES OF PROCEDURES AND FINANCIAL RULES

1. The Contracting Parties shall adopt rules of procedure for their meetings.
2. The Contracting Parties shall adopt financial rules, prepared in consultation with the Organization, to determine, in particular, their financial participation in the cooperative activities undertaken for the purposes of this Convention and of protocols to which they are parties.

Article 22

SPECIAL EXERCISE OF THE RIGHT TO VOTE

In their fields of competence, the regional intergovernmental integration organizations referred to in article 26 shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention and to one or more protocols. Such organizations shall not exercise their rights to vote if the member States concerned exercise theirs and vice versa.

Article 23

TRANSMISSION OF INFORMATION

The Contracting Parties shall transmit regularly to the Organization information on the measures adopted by them in the implementation of this Convention and of protocols to which they are parties, in such form as the meetings of Contracting Parties may determine.

Article 24

SETTLEMENT OF DISPUTES

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or its protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.
2. If the Parties concerned cannot settle the dispute through the means mentioned in the preceding paragraph, the dispute shall, upon common agreement of the Parties concerned, be submitted to arbitration under the conditions set out in the Annex on Arbitration.

Article 25

RELATIONSHIP BETWEEN THE CONVENTION AND ITS PROTOCOLS

1. No State or regional intergovernmental integration organization may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one protocol to the Convention. No State or regional intergovernmental integration organization may become a Contracting Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.
2. Decisions concerning any protocol shall be taken only by the Contracting Parties to the protocol concerned.

Article 26

SIGNATURE

This Convention, the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region and the Protocol concerning cooperation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region shall be open for signature at Nairobi from 21 June 1985 to 20 June 1986 by any State invited as participant to the Conference of Plenipotentiaries on the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, held at Nairobi from 17 June 1985 to 21 June 1985. They shall also be open for signature between the same dates by any regional intergovernmental integration organization exercising competence in fields covered by the Convention and such protocols and having at least one member State which belongs to the Eastern African region provided that such regional organization has been invited to participate in the Conference of Plenipotentiaries.

Article 27

RATIFICATION, ACCEPTANCE AND APPROVAL

This Convention and its protocols shall be subject to ratification, acceptance or approval by the States and organizations referred to in article 26. Instruments of ratification,

acceptance or approval shall be deposited with the Government of the Republic of Kenya which will assume the functions of Depositary.

Article 28

ACCESSION

1. This Convention and its protocols shall be open for accession by the States and organizations referred to in article 26 as from the day following the date on which the Convention or the protocol concerned is closed for signature.
2. After the entry into force of this Convention and of any protocol, any State or regional intergovernmental integration organization not referred to in article 26 may accede to the Convention and to any protocol, subject to prior approval by three-fourths of the Contracting Parties to the Convention or the protocol concerned.
3. Instruments of accession shall be deposited with the Depositary.

Article 29

ENTRY INTO FORCE

1. This Convention shall enter into force on the same date as the first protocol entering into force.
2. Any protocol to this Convention, except as otherwise provided in such protocol, shall enter into force on the ninetieth day following the date of deposit of the sixth instrument of ratification, acceptance, or approval of, or accession to, such protocol by the States referred to in article 26.
3. Thereafter, this Convention and any protocol shall enter into force with respect to any State or organization referred to in article 26 or article 28 on the ninetieth day following the date of deposit of its instruments of ratification, acceptance, approval or accession.

Article 30

WITHDRAWAL

1. At any time after three years from the date of entry into force of this Convention with respect to a Contracting Party, that Contracting Party may withdraw from this Convention by giving written notification to the Depositary.
2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party may, at any time after three years from the date of entry into force of such protocol with respect to that Contracting Party, withdraw from such protocol by giving written notification to the Depositary.
3. Withdrawal shall take effect one year after the date on which notification of withdrawal is received by the Depositary.
4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Contracting Party.
5. Any Contracting Party which, upon its withdrawal from a protocol, is no longer a Contracting Party to any protocol to this Convention, shall be considered as also having withdrawn from the Convention itself.

Article 31

RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the signatories and the Contracting Parties, as well as the Organization, of:

- (a) the signature of this Convention and of its protocols and the deposit of instruments of ratification, acceptance, approval or accession;
- (b) the date on which the Convention or any protocol will come into force for each Contracting Party;
- (c) notification of withdrawal and the date on which it will take effect;
- (d) the amendments adopted with respect to the Convention or to any protocol, their acceptance by the Contracting Parties and the date of their entry into force;
- (e) all matters relating to new annexes and to the amendment of any annex.

2. The original of this Convention and of any protocol shall be deposited with the Depositary, the Government of the Republic of Kenya, which shall send certified copies thereof to the Signatories, the Contracting Parties and the Organization.

3. As soon as the Convention or any protocol enters into force, the Depositary shall transmit a certified copy of the instrument concerned to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Convention.

Done at Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in single copy in the English and French languages, the two texts being equally authentic.

Annex on arbitration

Article 1

Unless the agreement referred to in article 24 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with articles 2 to 10 below.

Article 2

The claimant party shall notify the Organization that the parties agree to submit the dispute to arbitration pursuant to paragraph 2 of article 24 of the Convention. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. The Organization shall forward the information thus received to all Contracting Parties to the Convention or to the protocol concerned.

Article 3

The arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place

of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months' period.
2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention and the protocol or protocols concerned.
2. Any arbitral tribunal constituted under the provisions of this annex shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.
2. The arbitral tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.
3. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings .
4. The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

Article 7

The arbitral tribunal may hear and determine counterclaims arising directly out of the subject-matter of the dispute.

Article 8

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

Article 9

Any Contracting Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the arbitral tribunal.

Article 10

1. The arbitral tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months .
2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.
3. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another arbitral tribunal constituted for this purpose in the same manner as the first.