



ERICA

(Contract Number: **FI6R-CT-2004-508847**)

D8 Annex A:

Review of international legal instruments that may influence decision-making

Editor: **Copplestone D**

Reporting period: e.g. **01/03/2004 – 30/09/2006**

Date of issue of this report: **20/03/07**

Start date of project : **01/03/2004**

Duration : **36 Months**

Project co-funded by the European Commission under the Euratom Research and Training Programme on Nuclear Energy within the Sixth Framework Programme (2002-2006)

Dissemination Level

PU	Public	PU
RE	Restricted to a group specified by the partners of the [ERICA] project	
CO	Confidential, only for partners of the [ERICA] project	

[ERICA]





DISTRIBUTION LIST

Name	Number of copies	Comments
Carl-Magnus Larsson	1 1	electronically as pdf hard copy
Henning von Maravic	1 2	electronically as pdf hard copy by post
www.eric-project.org	1	electronically as pdf on the public area

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making

2/48

Dissemination level: PU

Date of issue of this report: 20/03/07





ERICA (Environmental Risk from Ionising Contaminants: Assessment and Management) will provide an integrated approach to scientific, managerial and societal issues concerned with the environmental effects of contaminants emitting ionising radiation, with emphasis on biota and ecosystems. The project started in March 2004 and is to end by February 2007.



Erica Tetralix L.

Contract No: **FI6R-CT-2004-508847**
Project Coordinator: **Swedish Radiation Protection Authority**

Contractors:

Swedish Radiation Protection Authority	SSI
Swedish Nuclear Fuel and Waste Management Company	SKB
Facilia AB	Facilia
Södertörn University College	SUC
Norwegian Radiation Protection Authority	NRPA
Research Centre in Energy, Environment and Technology	CIEMAT
Environment Agency	EA
University of Liverpool	UNILIV
Natural Environment Research Council, Centre for Ecology and Hydrology	NERC
Westlakes Scientific Consulting Ltd	WSC
Radiation and Nuclear Safety Authority	STUK
Institute for Radiological Protection and Nuclear Safety	IRSN
GSF - National Research Center for Environment and Health, GmbH	GSF
Norwegian University of Life Sciences (previously NLH)	UMB
Electricité de France	EDF

ERICA





Table of Content

1	Background	5
2	International law and binding agreements.....	5
2.1	General environmental protection	6
2.2	Protection of specific ecosystems and species.....	8
2.3	Protection of specific environmental media	10
2.4	Prospective and retrospective assessment of the impact	11
2.5	Monitoring or measurement of the impact.....	12
2.6	Provision Information	12
2.7	Decision-making.....	13
2.8	Unusual events	15





1 Background

This review has been prepared by technical rather than legal experts and should be considered as indicative and for the specific purpose of this project. It provides further details of the international law and binding agreements which are referred to in Section 1.2.2 of the ERICA Deliverable D8 - “Considerations for applying the ERICA Integrated Approach”.

2 International law and binding agreements

There are a number of types of legislative instruments, which contain factors relevant to the management of risks associated with environmental effects of contaminants emitting ionising radiation.

There are at present no specific international standards or criteria that specifically address the protection of the environment from the effects of ionising radiation. Although one purpose of the Euratom Treaty is to guarantee high safety standards, the Treaty and its subsidiary legislation are focused on protecting the health of workers and the general public, rather than non-human species. But there is now a range of other international legislation and binding agreements which include requirements to protect the environment more broadly – including protection against the harmful effects of radioactive contaminants.

The range of legislative instruments includes:

- conventions (of varying regional relevance);
- protocols;
- EC Council Directives;
- EC Council Regulations.

These are, in some cases, underpinned by:

- agreements;
- EC Council decisions;
- EC Council recommendations;
- EC Council opinions.

In terms of making decisions about how to manage risks, it is useful to consider the factors that need to be taken into account in order to comply with legislative instruments. Such factors may be grouped into:

- actions which affect the amount of radioactivity entering the environment by controlling the source and are aimed at **general environmental protection (Section 2.1)**;
- actions which are aimed at **protection of specific ecosystems (Section 2.2)**;
- actions which are aimed at **the protection of specific environmental media (Section 2.3)**;
- **prospective and retrospective assessment of the impact** of the radioactive contamination **(Section 2.4)**;
- **monitoring or measurement of the impact (Section 2.5)**;
- gathering or dissemination of **information (Section 2.6)**;
- **decision-making (Section 2.7)**;



- specific factors which relate to **unusual events** i.e. radiological accidents or emergencies (**Section 2.8**).

A summary of the main objectives, and scope of international legal instruments of relevance in the European context is included in Table AI. Many conventions contain a range of requirements that relate to different aspects of environmental protection, and for the purposes of this report. The Table is divided in a number of headings, namely:

- general environmental concerns;
- nuclear safety;
- nature conservation and terrestrial living resources;
- freshwater resources;
- atmosphere;
- marine;
- Hazardous and Noxious Substances Convention;
- hazardous substances;
- waste;
- others.

The key requirements are discussed under the functional headings above, to ensure that the full range of requirements are captured. The table makes reference to the Sections in the report in which the specific requirements are discussed.

2.1 General environmental protection

Key provisions	Factors affecting decision-making
- The requirement for prior authorisation of certain practices	- The need to prevent, reduce and control potential sources of environmental contamination
- The requirement for prospective impact assessment of certain practices	- The need to ensure nuclear safety to prevent environmental impact
- The prevention, reduction and control of impacts and of pollution at source	- The need to control shipments of radioactive substances

Perhaps the most general statement, regarding environmental protection, is included in the Rio Declaration on Environment and Development: “*In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it*” (Principle 4, UNEP, 1992). While the Rio Declaration requires States to establish suitable environmental legislation, the declaration is not in itself legally binding. However, the Climate Convention and the Biodiversity Convention were both products of Rio, and take the form of legal agreements. The generic difficulties in the interpretation and implementation of international environmental legislation is highlighted by the intense discussions at the UN World Summit on Sustainable Development (WSSD) held in Johannesburg, August 2002 which aimed to consolidate the intentions expressed within the Rio Declaration into concrete implementation mechanisms incorporating targets and timetables. Controversies arise when regulatory requirements force trade-offs to be made, for example between economic development and environmental protection, or between the wishes of the West and the needs of the developing countries. Nevertheless,





notwithstanding these difficulties, there are a number of international agreements, principles and protocols that have achieved international consensus, and will need to be explicitly addressed within decision-making. Among these, legislation, which is aimed at controlling and minimising the source of potential environmental contamination represents one of the more robust mechanisms for achieving general environmental protection.

The ‘Espoo’ Convention on Environmental Impact Assessment in a Transboundary Context states that ‘all appropriate and effective measures shall be taken to prevent, reduce and control significant transboundary environmental impact’ from a range of installations including those that produce enriched nuclear fuels, reprocess fuels or are used for the storage, disposal and processing of radioactive waste. Whilst this Convention primarily concerns the requirement to carry out an EIA, the prevention, reduction and control of impacts implies that mechanisms should be put in place at the source of such impacts.

In addition to these general environmental protection provisions, the Integrated Pollution Prevention and Control Directive (IPPC) provides principles and specific provisions for placing controls on sources of environmental pollution. Competent authorities are required to ensure that installations are operated in such a way that all appropriate preventive measures are taken to prevent pollution, in particular through application of best available techniques; that there is minimisation of waste production; and that measures are taken to prevent accidents and to limit their consequences. The Directive requires prior authorisation of certain prescribed practices and sets out the information required in permit applications, which includes (amongst other things): a description of the sources including the nature and quantities of foreseeable emissions into each medium and identification of significant effects of the emissions to the environment; proposed technology for preventing or reducing emissions; measures for prevention and recovery of waste generated.

The Convention on Nuclear Safety underpins the requirement for control of nuclear facilities in terms of their possible impact on the humans and the environment that may result from safety related failure whilst the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management deals with environmental and safety issues arising from radioactive waste management. Both conventions relate to the authorisation of practices involving radioactivity. The objectives of the Joint Convention include the objective that the environment is protected from the harmful effects of ionising radiation, in such a way that the needs and aspirations of the present generation are met without compromising those of future generations.

Requirements for prior authorisation of practices involving radioactive substances are also set out in the Euratom Basic Safety Standards Directive along with the requirement to ensure that exposures are justified, optimised and subject to limits. This Directive is principally concerned with the protection of humans rather than the environment, however it provides a framework which requires prior authorisation of practices involving radioactive substances and applications for authorisations are required to be supported by a prospective impact assessment that includes any potential impacts in other Member States.

The principle of pollution prevention, and the related ‘polluter pays’ principle is set out in a number of conventions. For example, the Convention on the Protection of the Alps commits Contracting Parties to apply ‘payment by the polluter’, and includes an objective to ‘drastically reduce the emission of pollutants and pollution problems in the Alpine region...to a level that is not harmful to man, animals and plants’. Such requirements also carry the implication that controls should be placed on the source of pollution. However, different interpretations of ‘polluter pays’ means that it is unclear whether industry, society or the consumer carry the cost for such source-based reductions.

More specific requirements related to emission controls are included in a number of other conventions. For example, the Convention on the “Transboundary Pollution of Watercourses” requires the

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making

Dissemination level: PU

Date of issue of this report: 20/03/07

7/48





prevention, control and reduction of pollution at source through prior licensing of wastewater discharges from point sources. The Conventions on the International Commission for the Protection of the Elbe, and the parallel Conventions for the Rivers Oder, Rhine and Danube, also include a general requirement to limit and reduce discharges of (unspecified) harmful materials into these rivers. The Urban Waste Water Convention requires that industrial wastewater discharges shall not adversely effect the environment or result in breach of other EC Directives.

The transfrontier shipment of radioactive substances is controlled under Council Regulation 1493/93 which requires prior declaration of shipments with a view to ensuring safe transport, but equally significantly that the shipment is acceptable to consignees in terms of its control on reaching its destination. The Vienna Convention makes provision for the assignment of liabilities for damage caused by radioactive substances.

Another form of legislative control, which controls the potential contamination, is the prohibition of certain practices, for example the London Convention that prohibits the dumping of various materials at sea (including radioactive substances and wastes), and EC Directive 86/278/EEC that prohibits of application of sewage sludge containing certain heavy metals to agricultural land.

2.2 Protection of specific ecosystems and species

Key provisions	Factors affecting decision-making
<ul style="list-style-type: none"> - Designation and control measures placed on areas or species of particular importance to conservation and the maintenance of biodiversity; - Effectiveness measured in terms of the ability of population dynamics and the ability of a population to maintain itself or for the habitat to support it. - The placing of controls on emissions into designated ecosystems 	<ul style="list-style-type: none"> - The need to identify and designate species and areas of significance (e.g. for conservation or biodiversity) and to protect them accordingly - The need to establish a baseline status and surveillance measures - The need to establish suitable protective measures to species or areas defined

The protection of certain ecosystems and habitats is another area where environmental legislation is relatively robust. The most general statements on the objectives of ecosystem protection are contained in the UNESCO Convention on Protection of the World Cultural and Natural Heritage (referred to as the World Heritage Convention) and the UN Convention on Biological Diversity (Biodiversity Convention). Both require the identification, designation, and protection of areas of particular importance, with respect to the specific requirements of each convention. Biodiversity was also one of the areas in which successful timetables were drawn up at the WSSD.

The World Heritage Convention requires parties to set up legal, scientific, technical, administrative and financial measures for identification, protection, conservation, presentation and rehabilitation of cultural and natural heritage¹.

The Biodiversity Convention requires contracting parties to:

¹ Cultural heritage includes buildings and monuments that are considered to be of universal value from the historical, aesthetic, ethnological or anthropological point of view, while natural heritage encompasses natural features, geological or physiographical formations or natural sites of outstanding value, from the aesthetic, scientific, conservation or natural beauty point of view.





- establish a system of protected areas where special measures need to be taken to conserve biological diversity;
- regulate and manage biological resources important for the conservation of biological diversity;
- promote protection of ecosystems, natural habitats and maintenance of viable populations;
- establish or maintain means to regulate, manage or control risks;
- respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities.

Particular emphasis is placed on certain ecosystems and habitats:

- those containing high diversity, i.e., large numbers of endemic or threatened species of social, economic, cultural or scientific importance;
- those which are representative, unique or associated with key evolutionary or other biological processes;
- those with specific types of species and communities, e.g. wild relatives of domesticated or cultivated species, or described genomes and genes of social, scientific or economic importance.

Other Conventions specifically relate to the designation, surveillance and protection of specific areas or ecosystems. The EC Habitats Directive, for example, requires that measures be taken to maintain or restore natural habitats of wild flora and fauna of Community interest, to ‘favourable conservation status’², whilst taking account of economic, social and cultural requirements. Member States are required to take appropriate steps to avoid the deterioration of natural habitats and of the species in the designated special areas of conservation. Thus, plans or projects not directly connected with or necessary to the management of the site but likely to have a significant effect thereon (individually or in combination) are subject to appropriate assessment to inform decisions related to the site’s conservation objectives.

The Directive on the Conservation of Birds (Directive 79/409/EEC) requires that Member States take requisite measures to maintain the population of species of birds and to maintain or re-establish diverse habitats and to provide special conservation and surveillance measures to ensure survival and reproduction, including provisions to prevent pollution or deterioration of habitats.

The Helsinki Convention on the Protection of the Marine Environment of the Baltic also includes requirements related to the protection of specific ecosystems, this time in a particular geographical area. Contracting parties are required to take all appropriate measures with respect to the Baltic Sea Areas and its coastal ecosystems to conserve natural habitats and biological diversity and to protect ecological processes – in order to ensure sustainable use of natural resources in the Baltic Sea Area (including provisions for special consideration of off-shore projects in terms of the sensitivity of breeding areas).

Conventions concerned with the protection of particular regional ecosystems include conventions on the protection of the Elbe, Oder, Rhine and Danube, the Alps, the NE Atlantic (OSPAR), the Baltic and the Mediterranean.

² Conservation status is said to be ‘favourable’ when: population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitat; the natural range of species is neither being reduced for the foreseeable future; there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.



The objective of the conventions on the Rhine, Oder, Elbe and Danube is to limit and reduce discharges of undefined harmful materials into these river systems. The Convention on the Protection of the Alps makes specific reference to the special conditions of the Alps and considers aspects such as population and culture, regional planning, prevention of air pollution, soil conservation, water management, conservation of nature and the countryside, mountain farming, mountain forests, tourism and recreation, transport, energy and waste management in a way that takes account of the topological, geological and climatic requirements of the Alpine region.

2.3 Protection of specific environmental media

Key provisions	Factors affecting decision-making
<ul style="list-style-type: none"> - The placing of controls on emissions into particular environmental media. - Co-operation between contracting parties to achieve environmental objectives 	<ul style="list-style-type: none"> - The need to control emissions into trans-boundary media, including air, watercourses and lakes

Certain conventions relate to the protection of a particular media into which materials are discharged. Many of these include transboundary issues as a result of the fact that the cross-border use of media has often been the driving force behind the conventions.

The Convention on Transboundary Watercourses and International Lakes requires measures to ensure ecologically sound use of water, rational water management, conservation of water resources and environmental protection. It also includes provisions for the conservation and restoration of the related ecosystems.

The Convention on the Long-range Transboundary Air Pollution includes requirements to limit and, as far as possible, gradually reduce and prevent air pollution, including long-range transboundary air pollution³, by including provisions for research and monitoring, exchange of monitoring results and the development of air quality management strategies.

A Convention on the Protection of Groundwater exists but, to date, it does not specifically apply to radioactive substances. However, the Water Framework Directive does apply to radioactive substances, although they are not defined as 'priority substances'. This Directive requires that administrative arrangements be established that prevent deterioration, protect, enhance and restore bodies of surface water, and also includes similar requirements for groundwater. Member States are required to ensure the highest ecological and chemical status by providing for assessment, monitoring and the establishment of emission controls.

³ Pollution is defined here as substances that may have deleterious effects such as to endanger human health, harm living resource and ecosystems etc.





2.4 Prospective and retrospective assessment of the impact

Key provisions	Factors affecting decision-making
<ul style="list-style-type: none">- Environment Impact Assessments are required for all plans or projects likely to result in significant environmental effects. All direct and indirect effects of the project or plan should be taken into account (including impacts on fauna and flora).- Although nuclear safety provisions are generally based on the protection of human beings, the Convention on Nuclear Safety requires that assessments of the safety of existing nuclear installations be undertaken which take account of environmental impacts.	<ul style="list-style-type: none">- The need to undertake EIAs for any plan or project likely to result in significant environmental impacts (in advance of decisions being made).- The need to ensure that assessments take account of direct and indirect impacts of all stages

As indicated above, there are a number of Conventions that require Environmental Impact Assessments (EIAs) to be performed before decisions regarding planning, construction and operation (e.g. regarding permits and authorisations) are made. These generally require two factors to be identified and assessed: the status of the environment before plans or projects are implemented, and an assessment of the environmental impact of different management options.

The Espoo Convention and the EC Strategic Assessment and Environmental Impact Assessment Directives (85/337/EEC and 2001/42/EC) deal directly with the requirements for such an assessment. For example, the latter Directive requires Member States to adopt 'all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment are subject to an assessment with regard to their effects'. This assessment documentation should include the identification, description and assessment of the direct and indirect effects of the project on human beings, fauna and flora, soil, water, air, climate, landscape, material assets and cultural heritage. All aspects of the proposed activity are to be taken into account and reports are expected to include: a description of measures to prevent, reduce or offset significant adverse effects on the environment and an indication of difficulties encountered (e.g. with regard to information gaps).

The Habitats Directive and the Biodiversity and Helsinki Conventions also require EIAs to be performed, in the context of their other general requirements (relating to the protection of specific European habitats and species and the maintenance of biodiversity and protection of the Baltic Sea Area).

Other conventions imply the need to undertake some form of assessment; these include the IPPC Directive (which requires identification of significant impacts); the OSPAR Convention (which requires an evaluation of measures to implement the convention in terms of the quality of the marine environment); and the UNESCO Convention of the Conservation on World Heritage requires studies to identify and counteract impacts.

There are also conventions specifically related to the control of safety and the human exposure to radioactivity. For example, the Euratom Basic Safety Standards contain requirements to undertake assessments of impacts on humans rather than other species. The Nuclear Safety Convention requires a review of the safety of existing nuclear installations and, when necessary to make reasonably

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making

11/48

Dissemination level: PU

Date of issue of this report: 20/03/07





practicable improvements to upgrade the safety of the nuclear installation. Control measures are to be informed by assessment of social, environmental and economic impact.

2.5 Monitoring or measurement of the impact

Key provisions	Factors affecting decision-making
<ul style="list-style-type: none"> - Monitoring of emissions and media is required to determine compliance with source-specific permit requirements and media-related environmental objectives. - Surveillance related to the status of the environment is required where there are protected species or habitats present, or where there is a potential for significant environmental effects (for which SEAs are required) 	<ul style="list-style-type: none"> - The need to monitor compliance with emission limits and environmental objectives

There is a range of conventions that include requirements to undertake monitoring and surveillance activities related to the convention objectives.

Some conventions, for example the Convention on Long-range Transboundary Air Pollution (and the Early Notification Convention in the case of emergencies) include a requirement to exchange monitoring results, although the monitoring activities are not themselves subject to the convention.

Other conventions place requirements on contracting parties to co-operate or to undertake joint monitoring programmes; these include the Barcelona Convention for the Protection of the Marine Environment and Coastal Region of the Mediterranean and the Convention on the Protection of the Alps.

The EC Directive on the Quality of Water Intended for Human Consumption, and the Convention of the Protection and use of Transboundary Watercourses and International Lakes include requirements to monitor drinking water and watercourses and effluents respectively.

Conventions and agreements that place specific controls on the sources of pollution also include specific requirements to monitor emissions. The Euratom BSS and the IPPC Directive require source monitoring and compliance reporting.

Conventions with a broader scope, such as the Habitats Directive and the EC Decision on Urban Sustainable Development, require surveillance of a more general nature; regarding the conservation status of designated habitats and species and the analysis of activities in sustainable development. The SEA Directive also requires monitoring to identify any unforeseen environmental effects.

2.6 Provision Information

Key provisions	Factors affecting decision-making
<ul style="list-style-type: none"> - The provision of periodic reports on the status of various environments to other contracting parties. - The exchange of experience on, for example BAT and other scientific or technical advancements. - The notification of the nature of environmental 	<ul style="list-style-type: none"> - The need to exchange information with States potentially subject to transboundary impacts and to report on progress against specific environmental objectives included in various conventions - The need to make information available to the public in an accessible form, particularly to

ERICA





Key provisions	Factors affecting decision-making
<p>effect, measures to prevent or reduce environmental impacts, alternatives and the nature the decision.</p> <ul style="list-style-type: none"> - The provision of information to members of the public within a state in which environmental effects may occur on the nature of environmental effects, measures to reduce effects and alternatives. 	<p>public in an accessible form particularly to provide for participation in decision-making</p>

A number of conventions include general provisions for the collection of information and reporting of data and information, against given objectives, to other contracting parties (or Member States). For example, the OSPAR Convention and the Habitats Directive include such requirements. Under the OSPAR Convention, contracting parties are required to report on the implementation and effectiveness of legal, regulatory or other measures undertaken (to protect the marine environment of the North-east Atlantic), whilst under the Habitats Directive, EU Member States are required to report on the implementation of measures (to conserve natural habitats) every 6 years, and to include an evaluation of the impact of those measures on the conservation status of the designated natural habitats and species, and to evaluate progress.

There are additional requirements placed on the provision of information between contracting parties when plans or projects undertaken by one party may affect another. The Espoo Convention requires that parties likely to be affected by transboundary impacts are notified, and that this notification should include information on possible transboundary impact and the nature of the possible decision. In return, the affected party is required to provide the party of origin with reasonably obtainable information relating to potentially affected environments. Parties must also be informed if subsequent analysis indicates the presence of adverse effects or factors that may affect impacts.

In addition, there are other requirements related to the exchange of information between contracting parties (or the relevant organising body for the convention concerned) for the purposes of sharing information on key issues related to environmental protection and management. For example, the EC IPPC Directive includes a provision requiring exchange of experience on best available techniques (BAT), while the Early Notification Convention, the Urban Development and Biodiversity Conventions require similar exchanges of information on technical, scientific methods and research.

A number of conventions also require the provision of information to the public (within a given contracting party or to members of the public in another contracting party affected by transboundary impacts). This is generally in the context of allowing members of the public to participate in the decision-making process. This is the key aspect of the Århus Convention, but it also forms part of other conventions, notably the EC IPPC Directive, and the Espoo, Benelux, Barcelona and OSPAR Conventions. The Århus Convention requires that ‘the public shall be informed, early in the environmental decision-making procedure...of the proposed activity on which a decision will be taken’ this information should contain a description of the site and the physical and technical characteristics of the proposed activity, including expected residues and emissions; a description of ‘significant effects’ of the proposed activity on the environment, and measures to prevent and/or reduce effects whilst setting out alternatives.

2.7 Decision-making

Key provisions	Factors affecting decision-making





<ul style="list-style-type: none">- That the results of environmental assessments, and the results of any consultations with other States or with the public, be taken into account in decision-making.- Public participation in the planning of projects that may have a significant impact on the environment.- Public participation in the establishment of regulations that relate to environmental protection.	<ul style="list-style-type: none">- The need to take due account of the EIA and comments made in the decision-making process- The need to include all interested parties (including the public) in the decision-making process- The need to involve representatives from other Member States that may be affected by impacts
---	--

Many international conventions include requirements to take account of environmental assessments, and the results of public and other consultations (for example related to trans-boundary impacts), in decision-making. For example, the EC Directives related to Environmental Impact Assessments and Strategic Environmental Assessment (Directive 2001/42/EC) include such provisions. The latter Directive includes the requirement that the ‘environment report... and opinions expressed...and the results of any transboundary consultations...shall be taken into account during the preparation of the plan or programme and before its adoption or submission to the legislative procedure.

Similarly, the Espoo convention, which has a broader geographical coverage, requires that ‘due account’ be taken of the EIA, consultations and comments received. It further requires that the affected party (of transboundary impact) be informed of decisions, and the related reasons and considerations. Additional information that may materially affect the decision should also be exchanged and the decision reviewed if necessary. There are also provisions for post-project analysis, if necessary.

The OSPAR Convention (for the protection of the marine environment of the North-East Atlantic) includes an allowance for forming coordination agreements where pollution from one contracting party may impact on one or more other contracting parties.

With, amongst other things, their focus on the use of EIA, these conventions implicitly or explicitly require public involvement in decision-making. However, the primary convention dealing with this issue is undoubtedly the Århus Convention. It requires that the public be included in the decision-making process ‘within a transparent and fair framework’. This convention also requires that the public participate in the preparation of executive regulations and/or generally applicable legally binding normative instruments that may have a significant effect on the environment. However, the form by which this participation should take place (e.g., consultation or actual decision-making and at a local or national scale) is a matter of contention.





2.8 Unusual events

Key provisions	Factors affecting decision-making
<ul style="list-style-type: none">- The assessment and mitigation of potential impacts of accidents- The preparation of emergency plans- The provision of information to other States about the results of monitoring undertaken in response an emergency.- The establishment of agreements on liability and compensation	<ul style="list-style-type: none">- The need to reduce and mitigate the impacts of any unusual event- The need to inform other States of monitoring results in the event of an accident- The need to agree arrangements for liability and compensation in the event of environmental damage

There are a number of aspects to planning for and dealing with unusual events that are included in international legal instruments. These range from the assessment of and mitigation of potential impacts of accidents at the planning stage, as part of an SEA or EIA, to the preparation of emergency arrangements, included in the source-related controls of the Euratom BSS, Nuclear Safety Convention and the IPPC. International provisions in the event of an accident include the Early Notification and Assistance Conventions, and the EC Decision on the early exchange of information in the event of a radiological emergency, which provide for the notification and exchange of environmental monitoring information and the results of measurements in foods and drinking water.

In the event of an accident, the general environmental legislation would also come into play with respect to the evaluation and application of countermeasures intended to reduce radioactive doses (primarily to humans) after an accident. The disposal of waste and the potential environmental side-effects of countermeasures (e.g., defoliation, deep- ploughing or fertilisation) would be particular issues that would need to be addressed. In emergency situations there may be a re-evaluation of the applicability of the various instruments; it is by no means certain that the legislation will be applicable in a given situation, and the actual interpretation of the law may vary from country to country. This will have to be discussed by the responsible authorities and decision-makers for each specific case.

In the event of environmental damage, there are provisions for the response to pollution incidents and for compensation included in the Helsinki and Barcelona Conventions (for the Baltic and Mediterranean marine environments respectively). For example, the Helsinki Convention requires parties to develop and accept rules concerning responsibility for damage, including criteria and procedures for determination of liability. The Vienna Convention deals specifically with civil liabilities arising from certain peaceful uses of nuclear energy and allows for liability to be associated with damage due to radioactive properties of nuclear facilities, radioactive products or wastes.



Table A1: Key international legal instruments related to environmental protection in Europe

Agreement	Objectives	Scope	Section in D8 Annex A
General environmental concerns			
Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Århus)	To contribute to the right of every person of present and future generations to live in an environment adequate to his or her well-being, each party shall guarantee the rights of access to information, public participation in decision-making and access to justice.	<p>Includes requirement for compatibility between arrangements for the provision of information, public participation and access-to-justice, and requires all contracting parties to ensure that:</p> <ul style="list-style-type: none"> - public authorities possess and update environmental information which is relevant to their functions; - an adequate flow of information to public authorities about proposed and existing activities that may significantly affect the environment; - environmental information available to the public is transparent and accessible - information about type and scope of environmental information is held - reports are made on the state of the environment, relevant strategies, policies, plans and programmes. <p>It also includes provisions for informing the public early in the environmental decision-making procedure of the proposed activity, including a description of ‘significant effects’ on the environment and options and measures to prevent and/or reduce such effects. A non-technical summary is required to facilitate the process.</p> <p>In decision-making, due account must taken of the outcome of</p>	Information (2.6)



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>the EIA process and public participation.</p> <p>There is also a provision for public participation in the preparation of regulations that may have a significant effect on the environment.</p>	<p>Decisions (2.7)</p>
<p>Convention on Environmental Impact Assessment (EIA) in a Transboundary Context (Espoo)</p>	<p>Enhance international cooperation in assessing environmental impact in particular in a transboundary context.</p>	<p>Requires that an EIA is undertaken prior to authorisation decisions and that the public are given an opportunity for to participate in this process.</p> <p>Requires that contracting parties potentially affected by transboundary effects are notified on the nature of the possible transboundary impact and of the decision. The affected party is also required to provide the originator with reasonably obtainable information relating to potentially affected environment.</p> <p>The information to be included in the EIA submitted to the relevant authorities is defined in detail in Appendix II. It includes: a description of the environment likely to be affected; potential environmental impact and estimation of its significance; mitigation measures; predictive methods and underlying assumptions and data used; gaps in knowledge and uncertainties; monitoring and management programmes (where appropriate); non-technical summary.</p> <p>Due account of the EIA and comments provided should be taken in decision-making. Information should be provided of the reasons and considerations on which the decision was based and any additional information on transboundary impact.</p>	<p>Source and Assessment (2.1 and 2.4)</p> <p>Information (2.6)</p> <p>Decisions (2.7)</p>

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>Parties determine whether post-project analysis should be carried out (e.g. surveillance and determination of transboundary impact). If adverse effect or factors that may affect such an impact the parties should be informed immediately.</p> <p>There is also a commitment set up, or intensify research programmes to: improve methods for assessing impacts; better understand cause-effect relationships and their role in integrated environmental management; monitoring efficient implementation of decisions; creative approaches for environmentally sound alternatives; application of principles of EIA at the macro-economic level.</p> <p>Parties will review policies and methodological approaches to EIA with a view to improving EIA in transboundary context and to exchange information regarding experience.</p>	
<p>Directive 2001/42/EC on the assessment of effects of certain plans and programmes on the environment (the SEA Directive)</p>	<p>Provide high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development by ensuring that ...environmental assessment is carried out for certain plans and programmes which are likely to have significant effects on the environment.</p>	<p>This Directive concerns plans likely to have significant environmental effects, and includes <i>inter alia</i>: energy, industry, transport waste management, water management, planning and land use. It includes a general provision that environmental assessments are carried out before adoption or submission of plans.</p> <p>An environmental report is required that identifies: current state of the environment, likely significant effects, established environmental protection objectives; likely significant effects⁴</p>	<p>Assessment (2.4)</p>

⁴ Includes: biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and interrelationships.

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 18/48

Dissemination level: **PU**

Date of issue of this report: **20/03/07**



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>on the environment; measures to prevent or reduce adverse effects, reasons for selecting alternatives, technical difficulties in compiling required information; non-technical summary.</p> <p>There are provisions for consultation: a draft environment report should be made available to authorities (and public affected by or interested in the decision making) who are given an appropriate time frame in which to express their opinion.</p> <p>There is a requirement to take account of the environment report and opinions expressed in decision-making before adoption or submission to legislative procedures.</p> <p>Information on the decision is to be made available, including details of how environmental considerations have been integrated into the plan or programme, reasons for decision and measures for monitoring.</p> <p>Monitoring of significant environmental effects is required to identify at an early stage unforeseen adverse effects.</p> <p>Information, reporting and review should allow for exchange information on experience.</p>	<p>Information (2.6)</p> <p>Decisions (2.7)</p> <p>Monitoring (4.8)</p>
Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment	Applies to the assessment of environmental effects of those public and private projects likely to have significant effects on the environment ⁵	Requires Member States (MSs) to adopt all measures necessary to ensure that before consent is given projects likely to have significant effects on the environment are made subject to an assessment with regard to their effects.	Source (2.1)

⁵ By virtue inter alia of their nature, size or location

⁶ Includes nuclear power stations, > 1kW, facilities for the permanent storage or final disposal of radioactive waste.

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 19/48

Dissemination level: PU

Date of issue of this report: 20/03/07



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>EIA will identify, describe and assess the direct and indirect effects of the project on the following: human beings, fauna and flora; soil, water air, climate, landscape; the interaction of these factors; material assets and cultural heritage.</p> <p>Relevant projects listed in Annex I⁶ and Annex II (latter at discretion of MS)⁷;</p> <p>MSs adopt necessary measures to ensure the developer supplies in an appropriate form information specified in and that authorities make appropriate information available to the developer. Information required includes: an estimate of the type and quantity of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation etc.); alternatives and reasons for choice (taking account of environmental effects); aspects of the environment significantly affected (population, fauna, flora, water, air, climatic factors, material assets (incl. architectural and archaeological heritage), landscape and interrelationships; the direct and indirect effects from: existence of the project; use of natural resources, emissions; description of measures to prevent, reduce or offset significant adverse effects on the environment; non-technical summary; indication of difficulties.</p> <p>Consultation provisions are also included; authorities and public should be given opportunity to express opinion in</p>	<p>Assessment (2.4)</p> <p>Information (2.6)</p>

7 Extractive industries, installations for the enrichment of nuclear fuel, reprocessing of irradiated nuclear fuels and collection and processing of radioactive waste (unless included in Annex I), energy industry, shipyards.

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 20/48

Dissemination level: **PU**

Date of issue of this report: **20/03/07**



Agreement	Objectives	Scope	Section in D8 Annex A
<p>EC Directive 96/61/EC concerning integrated pollution prevention and control (IPPC)</p>	<p>To achieve integrated prevention and control of pollution arising from activities listed. It provides measures to prevent or reduce emissions to air, water and land in order to achieve a high level of protection of the environment.</p>	<p>In general: Competent authorities are required to ensure that installations are operated in such a way that: all appropriate preventive measures are taken against pollution, in particular through application of best available techniques; no significant pollution is caused; waste production is avoided; energy is used efficiently; measures are taken to prevent accidents and limit their consequences; measures to upon cessation of activities to avoid any pollution risk and return the site to a satisfactory state;</p> <p>Permits: Applications for permits should include: description of installation and its activities; raw and auxiliary materials...and the energy used in or generated by the installation; sources of emissions; conditions of the site; nature and quantities of foreseeable emissions into each medium and identification of significant effects of the emissions to the environment; proposed technology for preventing or reducing emissions; measures for prevention and recovery of waste generated; measures planned to monitor emissions;</p> <p>An integrated approach to issuing permits is required – coordinated where more than one authority is involved; Decisions should include conditions that guarantee that the installation will comply with this Directive. Conditions of permit will include emission values, based on the application of best available techniques, having regard to their potential to transfer pollution from one medium to another; and if necessary, requirements that ensure protection of soil and ground water; measures concerning the management of wastes; release monitoring requirements; measures relating to</p>	<p>Source (2.1)</p> <p>Unusual events (2.8)</p> <p>Assessment (2.4)</p> <p>Monitoring (4.8)</p> <p>Decisions (2.7)</p> <p>Monitoring (4.8)</p>

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>malfunctions and temporary derogations. Reconsideration and updating permit conditions is periodically required and in event of: pollution of significance; substantial changes in BAT; operational safety; new provisions in Community legislation. The operator informs authority of results of monitoring; provides assistance in inspections.</p> <p>Access to information and public participation requirements are included; permits made available for an appropriate period of time to the public; results of monitoring; inventory of principal emissions; There is also provision for sending the Commission every 3 years representative data on limit values and to exchange information on BAT. Information should be forwarded to other potentially affected states (by transboundary pollution) at the same time as available to its own nationals.</p>	Information (2.6)
Council Regulation (EEC) No. 973/93 on the evaluation and control of the risks of existing substances	Better management of risks of existing substances (relating to manufacture and import of substances – listed in the European Inventory of Existing Commercial Substances) Einecs ⁹	<p>Relates to: collection, circulation and accessibility of information on existing substances and the evaluation of risks in order to ensure the better management of those risks. Different requirements relate to high volume production or import and lower volume. Information required includes:</p> <ul style="list-style-type: none"> • Reasonably foreseeable uses of the substance; • Physico-chemical properties; • Pathways and environmental fate; • Ecotoxicity of the substance; • Acute and sub-acute toxicity; 	Information (2.6)

⁹ Not entirely clear which materials involved

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 23/48

Dissemination level: **PU**

Date of issue of this report: **20/03/07**



Agreement	Objectives	Scope	Section in D8 Annex A
		<ul style="list-style-type: none"> • Data on carcinogenicity, mutagenicity and/or toxicity of the substance; <p>Responsibility is on manufacturers and importers to obtain existing data on the above and to submit information to the Commission. This will include information on new uses of the substance that could substantially change the type, form, magnitude or duration of the exposure of man or the environment or new data on the physico-chemical properties, toxicological and ecotoxicological effects.</p> <p>Priority lists will be submitted by manufacturers and importers. The factors taken into account in establishing priority: effects on man or the environment; exposure of man or the environment; lack of data on effects; work carried out in other international fora and Community legislation.</p>	
Nuclear safety			
Convention on nuclear safety	Promotion of high level of nuclear safety worldwide and ensuring that the use of nuclear energy is safe well regulated and environmentally sound. To protect individuals, society and the environment from the harmful effects of ionising radiations from nuclear installations.	Requires signatories to: <ul style="list-style-type: none"> - Undertake a review of safety of existing nuclear installations and make reasonably practicable upgrades if necessary. If upgrades cannot be made to shut down the installation taking into account the energy context as well as social, environmental and economic impact. - Establish and maintain a legislative and regulatory framework which provides for a licensing and enforcement system - Carry out comprehensive systematic safety assessments before the construction and 	Source (2.1)

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>commissioning of the installation and throughout its life with verification by analysis, surveillance, testing and inspection with respect to design and operation.</p> <ul style="list-style-type: none"> - Ensure that radiation exposure to workers and the public are ALARA and dose limits complied with. - Make emergency preparedness arrangements including preparation on off-site and on-site plans that are routinely tested. - Address protection against the release of radioactive materials to prevent accidents and mitigate against their radiological consequences should they occur at the design stage - Ensure the generation of radioactive waste should be kept to the minimum practical. 	Unusual events (2.8)
<p>Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management</p>	<p>To achieve a high level of safety worldwide and to ensure all stages of spent fuel and radioactive waste management are effective against potential hazards to individuals, society and the environment</p>	<p>Applies to safety of spent fuel management and radioactive waste management and is related to existing facilities, the siting, design and construction, and operation of waste facilities. An environmental assessment is required covering the operating lifetime of the facility. The inter-dependence of different steps in spent fuel management is identified and the need to avoid actions that impose reasonably predictable impacts on future generations greater than those for the current generation.</p> <p>A legislative framework that includes a system of licensing and the development of appropriate emergency plans.</p> <p>Transboundary movement is also within the scope of this</p>	<p>Source (2.1) Assessment (2.4) Unusual events (2.8)</p>

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>convention.</p> <p>Reporting includes information on</p>	
<p>Council directive 96/29/Euratom basic safety standards</p>	<p>Protection of the health of workers and the general public against the dangers of ionising radiation</p>	<p>Requires that practices are subject to prior authorisation and the disposal, recycling and reuse of radioactive substances are subject to authorisation. Provides for clearance levels.</p> <p>Exposures should be justified, optimised and subject to dose limits.</p> <p>Requires for operational protection of the population including all arrangements and surveys for detecting and eliminating factors which are liable to create a risk to members of the public. This includes the examination and approval of plans for the discharges of radioactive effluents.</p> <p>Requires the estimation of population dose which must be realistic as possible for the population as a whole and for reference groups in places where such groups may occur. Estimates should include assessment of external radiation, assessment of intakes of radionuclides indicating the nature of the radionuclides, physical and chemical form and activity concentration, and an assessment of doses for reference groups of the population and the characteristics of such groups.</p> <p>Requires that intervention in the event of a radiological emergency shall be undertaken to reduce the detriment if it can be justified.</p>	<p>Source (2.1)</p> <p>Monitoring (4.8)</p> <p>Assessment (2.4)</p> <p>Unusual events (2.8)</p>
<p>Council directive 89/618/Euratom – informing the general public on health protection measures to be</p>	<p>Informing the public for the purposes of improving the operational health protection in the event of a radiological emergency</p>	<p>Information about restrictions on the consumption of foodstuffs etc</p>	<p>Unusual events (2.8)</p>

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 26/48

Dissemination level: **PU**

Date of issue of this report: **20/03/07**



Agreement	Objectives	Scope	Section in D8 Annex A
protection measures to be taken in the event of a radiological emergency			
Council regulation 1493/93 shipments of radioactive substances between member states	Control over shipment of radioactive substances between member states	Prior declaration of shipment that consignee has complied with all requirements for safe use, storage and disposal (applied to waste before 1 Jan 1994)	Source (2.1)
Vienna convention on civil liabilities	To establish minimum standards to provide financial protection against damage resulting from certain peaceful uses of nuclear energy	Identification of liability any loss or damage due to radioactive properties of nuclear properties, radioactive products or waste	Source (2.1) and Unusual events (2.8)
Council decision 87/60/Euratom on community arrangements for the early exchange of information in the event of a radiological emergency	Early exchange of information in the event of a radiological emergency	Exchange of information including results of environmental monitoring, results of measurements in foodstuffs, feeding stuffs and drinking water	Assessment (2.4) and Unusual events (2.8)
Convention on assistance in the case of a nuclear accident or radiological emergency	An international framework to facilitate prompt provision of assistance	Requires the IAEA to disseminate information on methodologies, techniques and results of research relating to nuclear accidents or radiological emergencies	Information (2.6)
Convention on early notification of a nuclear accident	Provision of relevant information about nuclear accidents as early as possible in order that transboundary radiological consequences can be minimised	Requires notification of the results of environmental monitoring relevant to the transboundary release of radioactive materials	Information (2.6) and Monitoring (4.8)
Nature conservation and terrestrial living resources			
UN Educational, Scientific	To ensure that effective and active measures	Generally related to the provision of assistance to contracting	Ecosystems and

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 27/48

Dissemination level: PU

Date of issue of this report: 20/03/07



Agreement	Objectives	Scope	Section in D8 Annex A
and Cultural Organisation (UNESCO) Convention concerning the protection of the world cultural and natural heritage ^{10,11}	are taken for the protection, conservation and presentation of cultural and natural heritage	<p>parties. Requires parties to adopt a general policy; set up services for protection, conservation and presentation of cultural and natural heritage; establish legal scientific, technical, administrative and financial measures for identification, protection, conservation, presentation and rehabilitation of this heritage; foster establishment or development of national or regional centres.</p> <p>State submit to World Heritage Committee an inventory of property forming part of cultural and natural heritage;</p> <p>Committee establishes list of 'World Heritage in Danger' where major operations are necessary and where assistance has been requested.</p>	species (2.2) Assessment (2.4)
UN Convention on Biological Diversity	Conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising out of the use of genetic resources ¹² .	Requires contracting parties to: <ul style="list-style-type: none"> - 'develop national strategies, plans and programmes for the conservation and sustainable use of biological diversity'. This includes actions to identify components of biological diversity, monitor them and identify processes and categories of 	Ecosystems and species (2.2)

10 Cultural heritage: monuments or groups of buildings (incl. architectural works, sculpture, painting, archaeological structures, inscriptions, cave dwellings which are of outstanding universal value from the point of view of history, art or science). Sites of universal value from the historical, aesthetic, ethnological or anthropological point of view.

11 Natural heritage: natural features, geological or physiographical formations or natural sites of outstanding value (from the aesthetic, scientific, conservation or natural beauty point of view).

12 Annex I identifies ecosystems, habitats, species and communities to be considered: Ecosystems and habitats containing high diversity; large numbers of endemic or threatened species of social, economic, cultural or scientific importance, or representative, unique or associated with key evolutionary or other biological processes; Species and communities: e.g. wild relatives of domesticated or cultivated species; described genomes and genes of social, scientific or economic importance.

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 28/48

Dissemination level: [PU](#)

Date of issue of this report: **20/03/07**



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>activities which have or are likely to have adverse impacts on the conservation and sustainable use of biological diversity.</p> <ul style="list-style-type: none">- Establish system of protected areas where special measures need to be taken to conserve biological diversity; and to regulate or manage biological resources important for the conservation of biological diversity; promote protection of ecosystems, natural habitats and maintenance of viable populations; establish or maintain means to regulate, manage or control risks; respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities.- Integrate consideration of the conservation of sustainable use of biological resources into national decision-making;- Establish and maintain programmes for scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity.- Introduce appropriate procedures requiring environmental impact assessment of proposed projects that may have a significant adverse effect on biological diversity. Interaction with potentially affected Contracting Parties also included.- Facilitate exchange of information, including exchange of results of technical, scientific and socio-economic research;- Promote international technical and scientific cooperation and the development of national	<p>Assessment (2.4)</p> <p>Information (2.6)</p>

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
Convention on the Conservation of Migratory Species of Wild Animals (Bonn)	Promote conservation and effective management of migratory species by concerted action of all States	<p>Parties are required to take action to conserve migratory species, paying particular attention to those for which the conservation status is unfavourable¹³, and to take action to avoid species becoming endangered¹⁴.</p> <p>Endangered species - parties shall endeavour to conserve or restore habitats; prevent, remove, compensate or minimize adverse effects of activities that seriously impede or prevent migration; prevent, reduce or control factors that endanger species; prohibition of 'taking' of animals (with exclusions);</p> <p>Identification of migratory species and description of their range and migratory route; periodic review of conservation status; coordinated conservation and management plans; research into ecology and population dynamics; exchange of information; conservation/restoration of habitats; elimination of activities and obstacles; prevention, reduction or control of the release into the habitat of a migratory species of substances harmful to that migratory species; measures based on sound ecological principles</p>	<p>Ecosystems and species (2.2)</p> <p>Unusual events (2.8)</p>
Convention on Wetlands of International Importance	To stem the progressive encroachment on and loss of wetlands now and in the future	Contracting parties are required to designate suitable wetlands (at least one) for inclusion in 'the List' of Wetlands of	Ecosystems and species (2.2)

¹³ Favourable conservation status relates to: population dynamics (self-sustaining); range not reduced; sufficiency of habitat; distribution and abundance of species approaches historical coverage;

¹⁴ Endangered: in danger of extinction throughout all or a significant portion of its range)range – areas of land and water inhabited or crosses);

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
especially as Waterfowl Habitat15 (Ramsar)		International Importance, taking account of their significance in terms of: ecology, botany, zoology, limnology or hydrology, and particularly those of importance to waterfowl; consideration of international responsibility for conservation, management and wise use of migratory stocks of waterfowl. Contracting parties shall arrange to be informed if the ecological character of wetland included on the list has changed; compensate for any loss in wetland by provision of additional nature reserves; encourage research and exchange of data; endeavour to increase waterfowl populations.	Information (2.6)
Convention on the Protection of the Alps (Alpine Convention)	Preservation and protection of the Alps by applying principles of prevention, payment by the polluter, cooperation and the sustained use of resources	Considers: population and culture (including consideration of indigenous population); regional planning; prevention of air pollution (drastically reduce emission of pollutants); soil conservation (particularly agricultural and forestry methods); water management (preserve or re-establish healthy water systems – lakes and rivers free of pollution); conservation of nature and countryside (protect, conserve and rehabilitate natural environment so that ecosystems function, species and habitats are preserved, and the variety, uniqueness and beauty of nature is preserved on a permanent basis); mountain farming; mountain forests; tourism and recreation; transport; energy and waste management (taking account of the topological, geological and climatic requirements of the Alpine region). Includes provisions for cooperation in research and monitoring ¹⁶	Source (2.1) Ecosystems and species (2.2) Monitoring (4.8)

15 Wetlands: areas of marsh, fen, peatland or water – whether natural or artificial, permanent or temporary, with water static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed 6m. Waterfowl: birds ecologically dependent on wetlands.

16 Contracting parties: Germany, France, Italy, Slovenia, Liechtenstein, Austria, Switzerland and EEC

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 31/48

Dissemination level: PU

Date of issue of this report: 20/03/07



Agreement	Objectives	Scope	Section in D8 Annex A
Benelux Convention concerning hunting and the protection of birds ¹⁷	Harmonisation of the principles governing the laws and regulations on the subject of hunting and the protection of birds in the wild state.	Relates to the protection of species of birds living in the wild state and deals mainly with hunting arrangements (dates and areas) and the prohibition of sale, purchase or supply of bird species. Unlikely to be of relevance to ERICA application.	Ecosystems and species (2.2)
Benelux Convention on Nature Conservation	For Concerted action and cooperation among the three Governments in the conservation, management and rehabilitation of natural environment ¹⁸ and landscapes.	Provides for the harmonisation of relevant principles and instruments and coordination of information and education campaigns, scientific data. Development of protection and management concepts for transboundary ¹⁹ natural areas and landscapes, parks and areas of importance to migratory species; inventory and granting of protected status; harmonised programmes of management and concerted action for implementation.	Ecosystems and species (2.2)
EC Convention on the conservation of European wildlife and natural habitats	Conserve wild flora, fauna and their natural habitats, especially those species and habitats whose conservation requires the cooperation of several States and to promote such cooperation	Provides measures to maintain the population of wild flora and fauna corresponding to particular ecological, scientific and cultural requirements (while taking account of economic and recreational requirements). It promotes national policies for the conservation of wild flora, fauna and natural habitats and requires legislative and administrative measures to be taken to ensure conservation of the habitats of wild flora and fauna, especially for conservation of endangered natural habitats; Special attention to migratory species (incl. in planning arrangements and deliberate damage, particularly during breeding, rearing or hibernation is prohibited.	Ecosystems and species (2.2)

17 Applies in Belgium, Netherlands and Luxembourg

18 Natural environment: includes physical surroundings of man a-biotic and biotic elements; landscape: a tangible part of the earth defined in relation to soil, relief, water, climate, flora, fauna and man.

19 Transboundary: a part or area lying across the intra-Benelux border.

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 32/48

Dissemination level: **PU**

Date of issue of this report: **20/03/07**



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>(individually or in combination) shall be subject to appropriate assessment of its implications in view of the site's conservation objectives.</p> <ul style="list-style-type: none"> - Agree to plans or projects after having ascertained that it will not adversely affect the integrity of the site and, if appropriate, after having obtained the opinion of the general public. <p>MSs are required to undertake surveillance of the conservation status of the natural habitats and species, with particular regard to priority habitat types and priority species and to draw up a report on the implementation of measures every 6 years; including an evaluation of the impact of those measures on conservation status of the relevant natural habitat types and species, including an evaluation of progress.</p>	<p>Monitoring (4.8)</p> <p>Information (2.6)</p>
<p>Council Directive 79/409/EEC on the conservation of wild birds (also included in the remit of the Habitats Directive)</p>	<p>Conservation of all species of naturally occurring birds in the wild state in the European territory to which the Treaty applies.</p>	<p>MSs are required to:</p> <ul style="list-style-type: none"> - take requisite measures to maintain the population of listed wild bird species²¹ at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements; - take measures to maintain or re-establish a sufficient diversity and area of habitats including: creation of protected areas, upkeep and management in accordance with the ecological needs of habitats inside and outside protected zones; re-establishment of destroyed biotopes; creation of biotopes; 	<p>Ecosystems and species (2.2)</p>

²¹ It covers the protection, management and control of these species and lays down rules for their exploitation

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		<ul style="list-style-type: none"> - apply special conservation measures to ensure survival and reproduction, while taking account of trends and variations in population levels in evaluations; - take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant; also outside these protection areas - strive to avoid pollution or deterioration of habitats. - report on implementation of the convention. 	<p>Source (2.1)</p> <p>Information (2.6)</p>
Freshwater resources			
<p>Directive 2000/60/EC establishing a framework for Community action in the field of water policy (Water Framework Directive)</p>	<p>To establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwaters which prevents further deterioration; promotes sustainable water use, aims at enhanced protection and improvement of the aquatic environment; progressive reduction of pollution of groundwater; protection of terrestrial and marine waters.</p>	<p>Coordination of administrative arrangements within river basin districts to achieve environmental objectives which include:</p> <ul style="list-style-type: none"> - For surface waters to prevent deterioration, protect, enhance and restore all bodies of surface water and progressively reduce pollution from priority substances; - For groundwater: to prevent or eliminate input of pollutants into groundwater and to prevent the deterioration of status of all groundwater bodies; protect, enhance and restore all bodies of groundwater and ensure a balance between abstraction and recharge; reverse any significant and sustained upward trend in the concentration of any pollutant. <p>Member States are required to ensure the highest ecological and chemical status possible; that there are the least possible changes to good groundwater status and no further</p>	<p>Media (2.13)</p> <p>Source (2.1)</p>

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>deterioration of affected bodies of water (criteria for establishing chemical and ecological status are provided in Appendices).</p> <p>For each river basin, an analysis of its characteristics, a review of impact of human activity on the status of surface waters and on groundwater and an economic analysis of water use is required.</p> <p>Monitoring programmes should be established to provide a comprehensive overview of water status in each river basin district, including: the ecological and chemical status and ecological potential and the chemical and quantitative status of groundwaters. There are also provisions to monitor the causes of possible failure, relevant permits and authorisations and monitoring programmes.</p> <p>Combined approach for point and diffuse sources entailing emission controls based on BAT, relevant emission limit values and for diffuse impacts controls using best environmental practices (as set out in for example the IPPC Directive).</p> <p>MSs are required to report to the Commission (of river basin management plans).</p>	<p>Assessment (2.4)</p> <p>Monitoring (4.8)</p> <p>Source (2.1)</p>
<p>Convention on the protection and use of transboundary watercourses and international lakes</p>	<p>The prevention , control and reduction of transboundary water pollution and sustainable use of transboundary waters</p>	<p>Measures to be taken to prevent. Control` and reduce pollution, to ensure ecologically sound use of water, rational water management, conservation of water resources and environmental protection. Conservation and restoration of the ecosystems.</p>	<p>Source and Media (2.1, 2.3)</p> <p>Ecosystems and</p>

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 36/48

Dissemination level: **PU**

Date of issue of this report: **20/03/07**



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>ecosystems.</p> <p>Prevention, control and reduction of pollution at source through prior licensing of point source waste water discharges and monitoring and control of discharges, discharge limits for hazardous substances based on BAT, environmental impact assessment is applied.</p> <p>Research and development into methods for the assessment of toxicity of hazardous substances, improved knowledge of the environmental effects of pollutants, and the phasing out of or substitution of substances likely to have transboundary impact</p> <p>Hazardous substances mean substances which are toxic, carcinogenic, teratogenic or bio-accumulative.</p> <p>Riparian bodies shall collect, compile and evaluate data to identify pollution sources likely to cause transboundary impact. Joint monitoring programmes, elaborate emission limits and water quality objectives</p> <p>Requires the results of water and effluent sampling for monitoring and assessment and the checking of compliance with water quality objectives to be publicly available</p>	<p>species (2.2)</p> <p>Assessment (2.4)</p> <p>Monitoring (4.8)</p> <p>Information (2.6)</p>
Council Directive 98/83/EC on the quality of water intended for human consumption	To protect human health from the adverse effects of any contamination of waters intended for human consumption	Member states to set quality standards for prescribed parameters which includes tritium and total indicative dose. Member states are not required to monitor drinking water for tritium or total radioactivity to establish indicative dose if it can demonstrate by other monitoring carried out that levels are below set parametric values which are 100Bq/l for tritium and 0.1mSv per year for total indicative dose. TID excludes doses	<p>Monitoring (4.8)</p> <p>Media (2.3)</p>

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		due to tritium, K ⁴⁰ , radon and radon decay products.	
Council Directive 91/676/EEC on the protection of water against pollution caused by nitrates from agricultural sources	To reduce water pollution caused or induced by nitrates from agricultural sources and prevention of further such pollution.	No relevant articles. Mainly about NVZ s and agricultural practice codes.	
Council Directive 91/271/EEC concerning urban waste water treatment	To protect the environment from the adverse effects of urban waste water and waste water from industrial premises	Treatment and discharge of urban waste water. Industrial waste water discharges shall not adversely effect the environment or result in breach of other EC directives. Sludges to be disposed in an environmentally acceptable manner.	Source (2.1), Media (2.3)
Directive 80/86/EEC on protection of groundwater against pollution caused by certain dangerous substances	Protection of groundwater against pollution caused by certain dangerous substances – list 1 and list 2 substances	Article 2 states does not apply discharges of matter containing radioactive substances.	
Council directive 76/464/EEC on pollution caused by certain dangerous substances discharged into the aquatic environment	Elimination of pollution by List 1 substances and the reduction of pollution by list 2 substances	Application to radioactivity unclear	
Council directive 78/659/EEC on quality of fresh water in order to support fish life	To protect or improve the quality of standing or running fresh water to support fish life.	Not relevant	
Conventions on the international commission for the protection of the Elbe,	Reduction in pollution in North Sea from Elbe, Oder, Rhine and Danube	Limit and reduce discharges of harmful materials (not defined)	Source (2.1) and Media (2.3)

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 38/48

Dissemination level: **PU**

Date of issue of this report: **20/03/07**



Agreement	Objectives	Scope	Section in D8 Annex A
Oder, Rhine and Danube			
Atmosphere			
Convention on long range transboundary air pollution	To protect man and his environment against air pollution. To limit reduce and prevent air pollution.	<p>Development of policies to reduce air pollution by certain means including research and monitoring, exchange of monitoring results. To develop air quality management strategies.</p> <p>Air pollution definition includes substances that may have deleterious effects such as to endanger human health, harm living resource and ecosystems etc.</p> <p>Concentrates somewhat on sulphur compounds and other major air pollutants.</p> <p>Includes the development of a dose/effect relationship for sulphur compounds and other major air pollutants/</p>	Monitoring (4.8) Information (2.6)
Directive 2001/81/EC on national emissions ceilings for certain atmospheric pollutants	To limit emissions of acidifying and eutrophying pollutants and ozone precursors to improve protection of the environment and human health	Limits on NO _x , SO ₂ , VOCs and NH ₃ . Not relevant	
Marine			
Convention for the Protection of the Marine Environment of the North-east Atlantic (OSPAR)	To promote actions to prevent and eliminate pollution of the sea to protect the marine environment	Contracting Parties are required to take all possible steps to prevent and eliminate pollution and shall take all the necessary measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable,	Source (2.1) Media (2.3)

22 These terms are defined in some detail in Appendix I

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 39/48

Dissemination level: PU

Date of issue of this report: 20/03/07



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>restore marine areas which have been adversely affected.</p> <p>The following shall be applied: precautionary principle; polluter pays principle; the latest technological developments and practices to prevent and eliminate pollution fully. Taking into account: best available techniques and best environmental practice²².</p> <p>Contracting Parties shall take all possible steps to prevent and eliminate pollution for land-based sources, from dumping or incineration and from offshore sources</p> <p>Contracting parties undertake and report on assessments of the quality of the marine environment and to include in such assessments both an evaluation of the effectiveness of the measures taken and planned for the protection of the marine environment and the identification of priorities for action²³.</p> <p>Contracting parties are required to report to the OSPAR Commission on legal, regulatory or other measures; the effectiveness of measures; problems encountered. On the basis of this, the Commission assesses compliance and when appropriate to decide and call for steps to bring about full compliance.</p> <p>Competent authorities are required to make available</p>	Assessment (2.4) and Information (2.6)

23 Annex IV – detailed requirements for assessment – to take account of the quality of the marine environment and each of its compartments (water, sediment and biota); activities and effects of such activities; includes monitoring programmes, use and development of validated scientific assessment tools; increase knowledge and scientific understanding and the relationships between inputs, concentration and effects. The Commission will define and implement programmes of collaborative monitoring and assessment-related research, draw up codes of practice, carry out assessments – taking account of relevant monitoring and research

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 40/48

Dissemination level: PU

Date of issue of this report: 20/03/07



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>information (to any natural or legal person in response to a reasonable request) on the state of the maritime area, on activities or measures adversely affecting or likely to affect it and on activities or measures introduced in accordance with the Convention. Where pollution originating from a Contracting Party is likely to prejudice the interests of one or more other contracting parties – the parties concerned should enter into consultation with a view to a cooperation agreement.</p>	Decisions (2.7)
Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention)	Improve protection of the marine environment	<p>This convention promotes the effective control of all sources of pollution of the marine environment, and ...take all practicable steps to prevent the pollution of the sea by the dumping of waste and other matter that is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or interfere with other legitimate uses of the sea²⁴.</p> <p>Contracting parties are required to prohibit the dumping of any wastes or other matter²⁵ in whatever form or condition except as otherwise specified (radioactive substances and radioactive waste are explicitly included), although these provisions do not apply when it is necessary to secure the safety of human life or of vessels, aircraft, platforms and other man-made structures at sea in cases of <i>force majeure</i> – where likely that the damage consequent upon such dumping will be less than would otherwise occur.</p>	Source (2.1)

24 Dumping includes: deliberate disposal at sea of wastes and other matter from vessels, aircraft, platforms and other man-made structures at sea; any deliberate disposal at sea of vessels, aircraft, platforms and other man-made structures at sea.

25 This applies to all vessels, aircraft, fixed or floating platforms

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>transboundary impact) whenever an EIA on the marine environment of the Baltic is required.</p> <p>Parties are required to take all appropriate measures with respect to the Baltic Sea Areas and its coastal ecosystems to conserve natural habitats and biological diversity and to protect ecological processes – in order to ensure sustainable use of natural resources in the Baltic Sea Area.</p> <p>CPs to report to Commission on: measures taken, effectiveness of measures, problems encountered and to ensure that information is made available to the public concerning: the condition of the Baltic Sea, measures taken or planned to prevent and eliminate pollution and the effectiveness of those measures; including information on permits, results of sampling and water quality objectives.</p> <p>The convention also provides for response to pollution incidents and requires parties to develop and accept rules concerning responsibility for damage – including criteria and procedures for determination of liability.</p>	<p>Ecosystems and species (2.2)</p> <p>Information (2.6)</p> <p>Unusual events (2.8)</p>
The Convention on the Protection of the Black Sea against Pollution (Bucharest)	Protection of the Black Sea against Pollution	More detailed objectives only are available (not requirements), these are: to prevent pollution by hazardous substances or matter; prevent, reduce pollution from land-based sources, by dumping, caused by or connected with activities on the continental shelf including exploitation of natural resources; from or through the atmosphere; to prevent, reduce and control the pollution from or through the atmosphere; to protect biodiversity and marine living	<p>Source (2.1)</p> <p>Ecosystems and species (2.2)</p> <p>Monitoring (4.8) and</p>

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		atmosphere; to protect biodiversity and marine living organisms; prevent pollution from hazardous wastes in transboundary movement and the illegal traffic thereof; provide a framework for scientific and technical co-operation and monitoring activities; and from emergency situations.	Unusual events (2.8)
Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona)	<p>Protection of the Mediterranean (promotion of sustainable development, the conservation and preservation of natural resources)</p> <p><i>The convention applies to: the dumping from ships and aircraft; pollution from ships; resulting from exploration and exploitation of the continental shelf, seabed and its subsoil; and from land-based sources</i></p>	<p>Contracting parties are required to take all appropriate measures to prevent, abate, combat and to the fullest extent possible eliminate pollution of the Mediterranean Sea Area and protect and enhance the marine environment to contribute to its sustainable development; protection should be considered as part of development process and the precautionary and polluter pays principles (and BAT and BEP) should be applied.</p> <p>Parties are required to:</p> <ul style="list-style-type: none"> - undertake environmental impact assessment of activities likely to have a significant adverse effect on the marine environment and to commit themselves to integrated management of coastal zones; - draw up and implement plans for the reduction and phasing out of substance that are toxic, persistent and liable to bioaccumulate arising from land-based sources; - take appropriate measures to protect and preserve biological diversity, rare or fragile ecosystems, as well as species of wild fauna and flora which are rare, depleted, threatened or endangered and their habitats; - establish complementary or joint pollution monitoring programmes; 	<p>Source (2.1), Media (2.3)</p> <p>Assessment (2.4)</p> <p>Source (2.1)</p> <p>Ecosystems and species (2.2)</p> <p>Monitoring (4.8)</p> <p>Unusual events (2.8)</p> <p>Information (2.6) and decisions (2.7)</p>

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		<ul style="list-style-type: none"> - cooperate on formulation and adoption of appropriate rules and procedures for the determination of liability and compensation for damage; - provide information to the public on the environmental state and ensure that the opportunity is given to the public to participate in decision-making; - transmit to the convention organisation reports on measures taken to implement Convention and the effectiveness of such measures. 	
Convention on Coastal and Marine Biodiversity in the Mediterranean (Alghero)			
Hazardous substances			
Convention on transboundary effects of industrial accidents	Prevention of, preparedness of and response to industrial accidents	Does not apply to nuclear accidents or radiological emergencies	
Convention on civil liabilities for damage caused during carriage of dangerous goods by road, rail and inland navigation vessels	Liability for damage caused	Only signed by Germany and Morocco Applies to radioactive substances through the International carriage of dangerous goods by road (ADR) which defines dangerous goods and includes radioactive substances.	Unusual events (2.8) and Source (2.1)
Basel convention on control of transboundary movements of hazardous wastes and their disposal	To ensure that the management of hazardous wastes and other wastes is consistent with the protection of human health and the environment.	Not applicable to radioactive waste	
European agreement concerning the international	Transport safety	Covers radioactive substances but not of prime relevant to ERICA	Source (2.1)

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
concerning the international carriage of dangerous goods by road (ADR)		ERICA	
European agreement concerning the international carriage of dangerous goods by inland waterways	See ADR	See ADR	
Council Directive 91/689/EEC on hazardous waste	The controlled management of hazardous waste	Radioactive material is excepted	
Waste			
Council directive 1999/31/EC on the landfill of waste	To reduce negative effects on the environment	Radioactive waste is excepted	
Council Directive 94/62/EC on packaging and packaging waste	Management of packaging and packaging waste	Not relevant	
Council directive 86/278/EEC on sewage sludge in agriculture	To regulate the use of sewage sludge in agriculture in such a way as to prevent harmful effects on soil, vegetation, animals and man.	Prohibition of sludge containing certain heavy metals such as cadmium, copper, nickel, lead, zinc, mercury and chromium	
Council directive 75/442/EC on waste	Protection of human health and the environment against harmful effects caused by collection, transport, treatment, storage and tipping of waste	Radioactive material is excepted	
Council resolution 15 June 1992 on the renewal of community action plan in the	Better understanding and wider dissemination of knowledge, leading to safer and more efficient management, storage and disposal of	Requires preparation of a radioactive waste plan which addresses:	Information (2.6)

ERICA

D8 Annex A: Review of international legal instruments that may influence decision-making 46/48

Dissemination level: [PU](#)

Date of issue of this report: **20/03/07**



Agreement	Objectives	Scope	Section in D8 Annex A
community action plan in the field of radioactive waste	efficient management, storage and disposal of radioactive waste with regard to industrial safety, protection of the public and the environment.	Technical cooperation Concerted action on safe management and storage of radioactive waste Research Information for the public	
Others			
Un Declaration of Human Rights	To promote universal respect for and observance of human rights and fundamental freedoms.	Rights to life, liberty and security of person, without distinction of any kind.	
ILO Conventions on Labour rights		Various – dealing with (among other things) various aspects of occupational health and safety – not relevant to the application of ERICA	
Rio Declaration on Environment and Development	To establish an equitable global partnership working towards international agreements which respect the interests of all and protect the integrity of global environmental and development system	Highlights the responsibility of States to ensure that activities do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction. Environmental protection should be part of the development process in order to achieve sustainable development and States are required to eliminate unsustainable patterns of production and to cooperate to ensure that this is undertaken; Establishment of a global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. Other requirements relate to the exchange of scientific and technological information (to enhance capacity for sustainable	Ecosystems and species (2.2) Source (2.1) Information (2.6)

ERICA



Agreement	Objectives	Scope	Section in D8 Annex A
		<p>development) and for the participation of all concerned citizens and access to information.</p> <p>States are also required to establish suitable environmental legislation, to include EIA as an instrument for proposed activities</p> <p>Timely notification of natural disasters and other emergencies especially where they may have a significant trans-boundary impact is required. Commitments to develop laws related to liability and compensation are also included.</p> <p>The precautionary approach should be applied, according to States' capabilities and the role of women, youth and indigenous people in sustainable development are recognised.</p>	<p>Assessment (2.4)</p> <p>Unusual events (2.8)</p>