

Appendix B Decommissioning in International Legal Frameworks

Summary of key international and regional frameworks with specific mentions of decommissioning.

Convention on the Continental Shelf (international)	• 1958 Geneva Convention on the Continental Shelf, Article 5(5) provides that '<i>any installations which are abandoned or disused must be entirely removed</i>'.
UNCLOS (international)	• The United Nations Convention on the Law of the Sea (UNCLOS) defines the rights and responsibilities of all nations in their use of the world's oceans, including the protection of the marine environment and the exploitation and management of the offshore living and non-living natural resources. It is the main international regulatory regime for offshore E&P activities. • Article 60(3) of UNCLOS specifies international obligation towards decommissioning: <i>'Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards* established in this regard by the competent international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations of structures not entirely removed.'</i> • Article 80 of the LOS Convention states that Article 60 applies <i>mutatis mutandis</i> to artificial islands, installations and structures on the continental shelf. • <i>Article 60(s) replaced the 1958 Geneva Convention on the Continental Shelf (Article 5.5) which specified complete removal of offshore oil and gas installations</i> <i>*See International Maritime Organization (IMO) Guidelines</i>
IMO international	• The International Maritime Organization (IMO) is the United Nations specialised agency with responsibility for the safety and security of shipping and the prevention of marine and atmospheric pollution by ships. • In 1989, the IMO published guidelines and standards²⁸ stemming from UNCLOS III Article 60 that address the decommissioning of oil and gas facilities (excluding pipelines). These are influential but non-binding legal principles, unless otherwise given effect by member countries in their national legislation or through some other mechanism (e.g., regional conventions such as OSPAR). Notably, they impose general requirement for removal, except in particular circumstances (determined on a case-by-case basis, related to navigation and position relative to customary traffic lanes, other users of the sea or the marine environment), as soon as reasonably practical after abandonment or permanent disuse. • Standards require complete removal of all structures weighing less than 4,000 tonnes when located in 75m or less, and in 100m or less if emplaced on the seabed after January 1998. If a structure is only partially removed, a minimum of 55m of clear water must be present for the safety of navigation

28 1989 Guidelines and Standards for the removal of offshore installations and structures on the continental shelf and in the exclusive economic zone (IMO Resolution a.672 (16)).

London Dumping Convention / London Protocol (LCLP)	• 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter ('London Dumping Convention') Article III includes in its definition of dumping: '<i>(iii) any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea</i>'. Article III (1)(b)(ii) of the Convention (and similar text is found in the Protocol at Article 1(4)(2)(3)) expressly states that: '<i>Placement of matter for a purpose other than the mere disposal thereof</i>' is not included within the definition of 'dumping', although this statement is qualified by the words: '<i>..provided that such placement is not contrary to the aims of this Convention</i>'. • The 1996 London Protocol amended the Convention and classified dumping as: '<i>any abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal</i>'. • Artificial reef guidelines developed in the 22nd and 23rd Consultative Meetings (2000 and 2001) contained the following elements of policy guidance concerning the placement of matter for a purpose other than the mere disposal thereof: ◦ placement should not be used as an excuse for disposal at sea of waste materials; ◦ placement should not be contrary to the aims of the Convention; ◦ information on placement activities by Contracting Parties should be provided to the Secretariat, as available; and ◦ materials used for placement activities should be assessed in accordance with the relevant Specific Guidelines.
OSPAR (regional)	• The Oslo and Paris Convention on the Protection of the Marine Environment in the Northeast Atlantic (OSPAR) is the instrument guiding international co-operation on the protection of the marine environment of the North East Atlantic. • Decision 98/3 for the Disposal of Disused Offshore Installation (1999) lays down the general principle that the dumping, and leaving wholly or partly in place, of disused offshore installations is prohibited. Pipelines are excluded from this decision. However, following assessments, permission may be given in the case of: ◦ steel installations weighing more than 10,000 tonnes in air; ◦ gravity-based concrete installations; ◦ floating concrete installations; ◦ any concrete anchor-base which results, or is likely to result, in interference with other legitimate uses of the sea. • OSPAR drill cuttings guidance ◦ Recommendation 2006/5 – reduction of the impacts of pollution by oil and/or other substances from cuttings piles. ◦ OSPAR Decision 2000/3 – use of Organic-Phase Drilling Fluids (OPF) and the discharge of OPF-Contaminated Cuttings. • OSPAR Guidelines on Artificial Reefs in relation to Living Marine Resources (2012–3) – consequences for the marine environment of the placement of artificial reefs on the seabed. OSPAR has a precedent with regards to its relatively stringent requirements – and is influential on decisions in other maritime jurisdictions.

West Africa (Abidjan Convention)	There is no specific mention in the Abidjan Convention on the decommissioning, but it is covered in the Draft Additional Protocol to the Abidjan Convention on Environmental Norms and Standards for Offshore Oil and Gas Exploration and Exploitation Activities, adopted as the Malabo Protocol in 2019: • decommission in accordance with international norms and standards, such as those under the International Maritime Organization; • consider other legitimate uses of the sea, particularly for fishing, safety of navigation, the protection of the marine and coastal environment, as well as the rights and obligations of the other Contracting Parties • also applies to facilities disused or abandoned by any operator whose permit has been withdrawn or suspended; • permit holder or operator, whichever applies, shall maintain an adequate financial provision to execute decommissioning obligations; • removal or disposal of offshore installations, infrastructure, platforms or pipelines.
Mediterranean (Barcelona Convention)	• Article 7 imposes an obligation upon the parties to 'take all appropriate measures to prevent, abate, combat and, to the fullest possible extent, eliminate pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the continental shelf, seabed and subsoil'. • The Protocol for the Prevention of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil (the Offshore Protocol, 2011) further covers removal of installations, defined as any fixed or floating structure and integral part thereof, that is engaged in activities, including, in particular: ◦ fixed or mobile offshore drilling units; ◦ fixed or floating production units including dynamically positioned units; ◦ offshore storage facilities including ships used for this purpose; ◦ offshore loading terminals and transport systems for the extracted products, such as submarine pipelines; and ◦ apparatus attached to it and equipment for the reloading, processing, storage and disposal of substances removed from the seabed or its subsoil. • The Protocol requires operators to: ◦ remove abandoned or disused installations to ensure safety of navigation, with particular regard to fishing, protection of the marine environment and rights and duties of other Contracting Parties; ◦ remove or bury pipelines with regard to the same as the above; ◦ also applies to facilities disused or abandoned by any operator whose permit has been withdrawn or suspended; ◦ if operator fails to comply, the competent authority shall undertake (at the operator's expense) action necessary to remedy failure to act. • Separate commitments cover prevention of pollution by dumping, from ships and from land-based sources.

**South Pacific
(Noumea
Convention)**

- The Noumea Dumping Protocol relates to deliberate dumping at sea of platforms or other man-made structures at sea and requires all appropriate measures to prevent, reduce and control pollution by dumping. However, Article 2(b) of the Noumea Convention states that dumping does not include placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of the Convention.
- An Amendment to the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping ('Dumping Protocol Amendment') was adopted in 2006, updating the definition of dumping to include 'abandonment or toppling at the site of platforms or other man-made structures at sea, done for the sole purpose of deliberate disposal'.

Commonwealth participants in international and regional frameworks.

	International				Regional					
	UNCLOS / IMO	LCLP	CBD	Basel	Abid- jan	Nairobi	Barce- lona	OSPAR	Noumea	Carta- gena
Indo-Pacific										
Australia	x	x	x	x					x	
Bangladesh	x		x	x						
Brunei Darussalam	x		x	x						
India	x		x	x						
Malaysia	x		x	x						
New Zealand	x	x	x	x					x	
Pakistan	x	x	x	x						
Papua New Guinea	x	x	x	x					x	
Africa										
Cameroon	x		x	x	x					
Ghana	x		x	x	x					
Kenya	x	x	x	x		x				
Mozambique	x		x	x		x				
Namibia	x		x	x						
Nigeria	x	x	x	x	x					
Sierra Leone	x	x	x	x	x					
South Africa	x	x	x	x	x	x				
Tanzania	x	x	x	x		x				
Uganda	x		x	x						
Europe										
Cyprus	x		x	x			x			
United Kingdom	x	x	x	x				x		x
America / Caribbean										
Canada	x	x	x	x						
Barbados	x	x	x	x						x
Belize	x		x	x						x
Guyana	x		x	x						x
Trinidad and Tobago	x		x	x						x

Note: Basel = Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal; CBD=Convention on Biological Diversity