

2003 Evian Final Compliance Report Environment: Marine Environment

Commitment

2003-121: “ We commit to the ratification or acceding to and implementation of the United Nations Convention on the Law of the Sea, which provides the overall legal framework for oceans.”

Background

This commitment stems from increased recent concern over environmental issues pertaining to the Earth’s marine environment. Recent environmental disasters resulting from unsafe and careless shipping practices, the increasingly alarming state of the world’s fisheries, as well as other related issues, have brought to the attention of the international community the urgent need for increased efforts in this area of international cooperation. As the United Nations Convention on the Law of the Sea is the basis of the main international legal framework governing practices that are potentially harmful to marine environment, the G8 have made this commitment in order to support the efforts to curb environmental damage through better management of marine ecosystems and resources.

Assessment

Score	Lack of Compliance -1	Work in Progress 0	Full Compliance +1
Canada			+1
France			+1
Germany		0	
Italy		0	
Japan		0	
Russia			+1
United Kingdom			+1
United States		0	
European Union			+1
Overall (not including EU score)			+0.50

Individual Country Compliance Breakdown

1. Canada: +1

On November 7, 2003, Canada signed, made a declaration and ratified the United Nations Convention on the Law of Sea. On the same day, Canada ratified an agreement relating to the implementation of Part XI of the Convention. Prior to that, on August 3, 1999, Canada had signed and (ratified) the agreement for the implementation of the provisions of the Convention

relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.¹⁸⁹

Canada's 2003 Federal Budget provided part of \$ 1 B over a five-year period, aimed at addressing environmental concerns, to "upgrade, maintain and monitor water and waste systems and reserves...commence the establishment of 5 new national marine conservation areas and restore the ecological health of existing".¹⁹⁰

Through the Canadian International Development Agency's Technical assistance Program, Canada has made a significant contribution to the development of the Russian Arctic through a number of current projects on the environment.¹⁹¹ These include, for example, the ECORA Project on an "Integrated Ecosystem Management Approach to Conserve Biodiversity and Minimize Fragmentation in Three Selected Model Areas in the Russian Arctic", with UNEP serving as the implementing agency.¹⁹² The Department of Foreign Affairs and International Trade Canada has been actively participating in the Arctic Council, the aim of which is to protect the arctic environment and promote well-being of northern peoples on different levels. Canada and Iceland are co-leading on the development of the strategic plan for the "coordinated and integrated protection of the arctic marine environment", scheduled for presentation in November 2004.¹⁹³ Combined, these initiatives have demonstrated Canada's commitment at fulfilling this Evian Environment commitment.

2. France: +1

France ratified the United Nations Convention on the Law of the Sea (UNCLOS) in addition to signing and ratifying the agreement relating to the implementation of Part XI of the Convention in April 1996.¹⁹⁴ The Transportation Council convened on 9 October 2003 to discuss the International Convention for the Prevention of Pollution from Ships (MARPOL). During this meeting, Mrs. Loyola de Palacio, French police chief in charge of transportation and energy, pointed out that article 7 of the directive imposes conformity with UNCLOS on actions taken against ships flying a flag of a non-member state and indicated intentions for implementation.

¹⁸⁹ United Nations Department for Oceans and the Law of the Sea, "Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish and highly migratory fish stocks," 23 December 2003, www.un.org/Depts/los/reference_files/status2003.pdf

¹⁹⁰ Department of Finance Canada, "Sustainable Development Strategy:Planned Results for 2003-04," www.fin.gc.ca/toce/2003/susdevplane.html

¹⁹¹ Department of Foreign Affairs and International Trade of Canada, "The Northern Dimension of Canada's Foreign Policy," www.dfait-maeci.gc.ca/circumpolar/ndfp_rpt-en.asp#18

¹⁹² "ECORA: Integrated Ecosystem Approach to Conserve Biodiversity and Minimize Habitat Fragmentation in the Russian Arctic," Project Website, www.grida.no/ecora/projectbrief.htm

¹⁹³ Department of Foreign Affairs and International Trade of Canada, www.dfait-maeci.gc.ca/sustain/EnvironIssu/canOcean/oceans-en.asp

¹⁹⁴ United Nations Department for Oceans and the Law of the Sea, "Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish and highly migratory fish stocks," 23 December 2003, www.un.org/Depts/los/reference_files/status2003.pdf

The whole delegation approved the measure and expressed strong adherence to the framework fixed by UNCLOS for provisions of International Conventions.¹⁹⁵

On 19 December 2003, France made a declaration and ratified the Convention Relating to the Conservation and management of Straddling Fish Stocks and Highly Migratory Fish Stocks.¹⁹⁶ France's ratification and implementation of UNCLOS since the Evian Summit represents full compliance with the G8 Environment Commitment on marine environment.

3. Germany: 0

Germany acceded to the United Nations Convention on the Law of the Sea (UNCLOS) on October 14, 1994. On the same date, it also ratified the Agreement Relating to the Implementation of Part XI of the Convention. In addition, it also signed the Agreement for the Implementation of the Provisions of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. On December 19, 2003, Germany also ratified this last Agreement relating to the Convention.¹⁹⁷ Germany's ratification since the Evian summit of the Agreement represents a step in support of the implementation of UNCLOS and, as such, qualifies as partial compliance with the Evian commitment to the ratification, accession to and implementation of UNCLOS.

4. Italy: 0

Italy made a declaration for the United Nations Convention on the Law of the Sea (UNCLOS) on January 13, 1995. Italy signed the Agreement relating to the implementation of Part XI of the Convention on January 13, 1995. It further signed and made a declaration on the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks on December 19, 2003.¹⁹⁸ Italy's failure, however, to ratify the UNCLOS and its related Agreements constitute neglect on behalf of the Italian government of its Evian marine environment commitment. However, its December 19, 2003 signature of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks indicates a work in progress on issues relating to the Law of the Sea, hence a work in progress.

5. Japan: 0

Japan signed and ratified the United Nations Convention on the Law of the Sea (UNCLOS) on June 20, 1996. On the same date, it also ratified the Agreement Relating to the Implementation

¹⁹⁵ The French National Assembly, “_ 1239, Assemblée Nationale, Constitution Du 4 Octobre 1958, Douzième Législature, Enregistré à la Présidence del'Assemblée nationale le 19 novembre 2003, Rapport D'Information,” 19 November 2003, www.assemblee-nationale.fr/12/pdf/europe/rap-per/p1239.pdf

¹⁹⁶ United Nations Department for Oceans and the Law of the Sea, “Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish and highly migratory fish stocks,” 23 December 2003, www.un.org/Depts/los/reference-files/status2003.pdf

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

of Part XI of the Convention. It also signed the Agreement for the Implementation of the Provisions of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. However, Japan has not yet ratified the Agreement on the implementation of UNCLOS.¹⁹⁹ Japan's failure to ratify this Agreement, intimately connected to UNCLOS and its implementation, indicates failure on the part of the Japanese government to fulfill their Evian commitment to date.

On the occasion of the November 24, 2003 United Nations General Assembly Meeting in New York, Japan, through a statement delivered by His Excellency Ambassador Yoshiyuki Motomura, Deputy Permanent Representative of Japan at the United Nations, expressed its commitment to “continuing its support of [and active participation in] the organs established under the Convention, namely, the International Seabed Authority (ISA), the International Tribunal for the Law of the Sea (ITLOS), and the Commission on the Limits of the Continental Shelf (CLCS).”²⁰⁰ On the same occasion, Japan reiterated its continued commitment to “the stability of the legal framework of ocean affairs” and to the “promotion of the prudent and equitable use of the sea by the international community, in accordance with the Convention.”²⁰¹ These statements, clearly in support of universal signature, ratification and accession to UNCLOS, as well as containing a direct reference to the implementation of UNCLOS and its related Agreements (through the reference to the legal framework of ocean affairs), represent a work in progress with Japan's Evian commitment regarding UNCLOS.

However, Japan is currently embroiled in a controversy with South Korea, North Korea and Russia over certain waters in the Sea of Japan that are being claimed by all four parties as part of exclusive economic zones (EEZs). This conflict has been the result of both hazy legal definitions within the UNCLOS itself, as well as numerous let-out clauses that allow signatories and non-signatories alike to set the parameters of treaty provisions according to their own interests. As a result, Japan could technically be prosecuted by the International Seabed Authority, created by the UNCLOS, for blocking navigational rights, although there is little political will to undertake such proceedings. While Japan's situation is not unique among UNCLOS signatories — other countries also have taken advantage of the UNCLOS's weaknesses — the fact that it has not been able to solve this conflict with its neighbours indicates that the implementation of UNCLOS is still a work in progress.²⁰²

6. Russia: +1

On March 12, 1997, Russia signed and ratified the United Nations Convention on the Law of the Sea. On the same date, Russia acceded to the agreement relating to the implementation of Part XI of the Convention. On August 4, 1997 Russia ratified and made a declaration concerning the

¹⁹⁹ Ibid.

²⁰⁰ Ministry of Foreign Affairs of Japan, “Statement by the H.E. Ambassador Yoshiyuki Motomura Deputy Permanent Representative of Japan at the General Assembly Meeting on Agenda Item 52(a): Oceans and the Law of the Sea 52(b): Sustainable Fisheries,” 24 November 2003, www.mofa.go.jp/announce/speech/un0311-3.html

²⁰¹ Ibid.

²⁰² Alan Boyd, “The UN's Sinking Law of the Sea” *Asia Times*, 6 April 2004. www.atimes.com/atimes/Southeast_Asia/FD06Ae01.html.

agreement for the implementation of the provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.²⁰³

On July 18, 2003, Russia participated in the meeting of the Interdepartmental Commission relating to the coordination of the activities of the federal executive organs concerning the realization of the Federal Central Program “World Ocean.”²⁰⁴ The divisions of the subprogram strive for a holistic approach to economical and environmental problems and objectives of the marine ecosystem, including research and development, extractive industries, employment (securing 17,000 jobs), sustainable utilization of Arctic and Antarctic mineral and bio resources.²⁰⁵

On December 3, 2003, a conference took place between the UN representative of UNEP and the representative of the Mine Co-development of Russia. A Program of strategic actions concerning conservation and restoration of the marine environment of the Russian Arctic was developed and approved. As a result, approximately 30 million dollars US are planned to be provided by Russia and other participating parties for the program’s implementation by 2008.²⁰⁶

In October 2003, the Russian Federation held a number of meetings with other G8 countries regarding various issues covered by UNCLOS. These included meetings with: German representatives concerning general environment questions; Italians on cooperation in the management of water pollutants and resources in the framework developed within the European Union, and; the Canadian Minister of Environment on the issues of monitoring and protecting biodiversity. The Russian Federation and the United States also signed a Protocol on Prevention and Elimination of the Oil Spillage in September 2003.²⁰⁷

Russia’s actions since the Evian summit constitute tangible work towards the implementation of the UNCLOS’ provisions, thus resulting in positive overall compliance with the G8 Environment Commitment made at Evian.

7. United Kingdom: +1

The United Kingdom made a declaration and ratified the United Nations Convention on the Law of the Sea and signed and ratified the agreement relating to the implementation of Part XI of the Convention in 1995. In 2001, the United Kingdom made a declaration, signed and ratified the

²⁰³ United Nations Department for Oceans and the Law of the Sea, “Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish and highly migratory fish stocks,” 23 December 2003, www.un.org/Depts/los/reference_files/status2003.pdf

²⁰⁴ Ministry of the Economy of Russian Federation, “World Ocean Program,” 9 January 2003, www.economy.gov.ru/merit/fcp_mirovoi_okean/index.htm

²⁰⁵ Ibid.

²⁰⁶ Ministry of Foreign Affairs of the Russian Federation, “Announcement of the Press Department of the Ministry of Economic Development and Trade of the Russian Federation,” 8 December 2003, www.in.mid.ru/ns-dmo.nsf/a1c87897b58a9d2743256a550029f995/432569f10031eb9343256df7002be3ec?OpenDocument

²⁰⁷ Ibid.

agreement for the implementation of the provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.²⁰⁸

On 10 December 2003, the British Department of Trade and Industry published a memorandum for the House of Lords Second Report on Delegated Powers and Regulatory Reform. It included Clause 75(4) in the Energy Bill Annex which “gave domestic effect to Part V of the United Nations Convention on the Law of the Sea, as regards the production of energy from water or wind.” In mapping the Renewable Zone (REZ), it follows the UNCLOS by reducing areas mapped out from the Continental Shelf Act of 1964 to 200 miles or less from the territorial sea baseline.²⁰⁹ The House of Commons Energy Bill printed on April 22, 2004, continued the United Kingdom’s efforts to map Renewable Energy Zones and guarantee the decommissioning of Renewable Energy Installations in accordance with UNCLOS.²¹⁰ The United Kingdom’s ratification and continued implementation of UNCLOS since the Evian Summit represents full compliance with the G8 Environment Commitment on marine environment.

8. United States: 0

The United States signed the Agreement relating to the implementation of Part XI of the Convention on the Law of the Sea (UNCLOS) on 28 July 1996. The U.S. also signed and ratified the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks in force on 11 December 2001. However, the United States has yet to ratify the Convention on the Law of the Sea or the 1994 Agreement Amending Part XI of the Law of the Sea Convention.²¹¹

The United States has made statements concerning their efforts toward accession to UNCLOS. On March 23, 2004, John F. Turner, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, testified before the Senate Environment and Public Works Committee, urging the Senate to ratify UNCLOS and the Agreement Amending Part XI of the Convention because the United Nations has modified the regime to address U.S. concerns over Deep Seabed Mining.²¹² After President George W. Bush placed UNCLOS in the “urgent”

²⁰⁸ United Nations Department for Oceans and the Law of the Sea, “Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish and highly migratory fish stocks,” 23 December 2003, www.un.org/Depts/los/reference-files/status2003.pdf

²⁰⁹ United Kingdom Parliament, House of Lords, “Delegated Powers and Regulatory Reform - Second Report,” 10 December 2003, www.parliament.the-stationery-office.co.uk/pa/Id200304/Idselect/lddelreg/10/1002.htm

²¹⁰ United Kingdom Parliament, House of Lords, “Energy Bill [HL],” 22 April 2004, www.publications.parliament.uk/pa/cm200304/cmbills/093/2004093.htm

²¹¹ United Nations Department for Oceans and the Law of the Sea, “Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish and highly migratory fish stocks,” 23 December 2003, www.un.org/Depts/los/reference-files/status2003.pdf

²¹² United States Department of State, “Accession to the 1982 Law of the Sea Convention and Ratification of the 1994 Agreement Amending Part XI of the Law of the Sea Convention,” 23 March 2004, www.state.gov/g/oes/rls/rm/2004/30723.htm

category of his treaty priorities, the Senate Foreign Relations Committee took up the treaty and voted 19-0 in recommending the Senate to support ratification.²¹³

A number of actions have been taken by the U.S. to implement UNCLOS. In Turner's testimony he stated, "U.S. marine pollution enforcement efforts have been undertaken in a manner consistent with the Convention, including its allocation of enforcement responsibilities among coastal States, flag States, and port States in various situations."²¹⁴ Further evidence of US support comes with actions taken to implement the White Water to Blue Water Partnership. This initiative is intended to help implement UNCLOS, the 1995 UN Fish Stocks Agreement, and the 2000 Convention on the Conservation and management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. For example, "The State Department has already committed US\$2 million to WW2BW-related projects worldwide (US\$1.5 million of which directly targets the Wider Caribbean Region)."²¹⁵

However, in April 2004, "the United States Senate again declined to debate a Foreign Relations Committee resolution, backed by the administration of President George Bush, that might have led to recognition of the world's most ambitious forum for conflict resolution," the UNCLOS system.²¹⁶ Another bid is expected to be made through one of the six alternate committees that have jurisdiction over the issue.²¹⁷ A Senate approval and US ratification of the UNCLOS would constitute full compliance, but until that happens, a work in progress is granted to the U.S. on this commitment.

9. European Union: +1*

The European Union made a declaration of ratification and formal confirmation for the United Nations Convention on the Law of the Sea (UNCLOS) on April 1, 1998. The European Union signed and ratified making a formal confirmation on the Agreement relating to the implementation of Part XI of the Convention on April 1, 1998. In addition, the EU made a declaration on the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish stocks and highly migratory fish stocks on December 19, 2003.²¹⁸

²¹³ United States Department of State, "Senate Leader Advocates Ratification of Law of the Sea Convention," 22 April 2004, usinfo.state.gov/is/Archive/2004/Apr/23-542785.html

²¹⁴ United States Department of State, "Accession to the 1982 Law of the Sea Convention and Ratification of the 1994 Agreement Amending Part XI of the Law of the Sea Convention," 23 March 2004, www.state.gov/g/oes/rls/rm/2004/30723.htm

²¹⁵ USAID, "White Water to Blue Water," 2003, www.usaid.gov/our_work/environment/water/wwf3.factsheets/white.water.to.blue.water.pdf

²¹⁶ Alan Boyd. "The UN's sinking law of the sea," Asia Times. 6 April 2004. www.atimes.com/atimes/Southeast_Asia/FD06Ae01.html

²¹⁷ Ibid.

²¹⁸ United Nations Department for Oceans and the Law of the Sea, "Status of the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the implementation of the provisions of the Convention relating to the conservation and management of straddling fish and highly migratory fish stocks," 23 December 2003, www.un.org/Depts/los/reference_files/status2003.pdf

In a recent meeting of the Council of the European Union a directive on this issue was developed. “The aim of the Directive is to transpose the international rules on ship-source pollution of the MARPOL Convention into Community legislation and to establish harmonized rules for their enforcement. It also extends the measures to include offences occurring on the high seas in accordance with the provisions of the United Nations Convention on the Law of the Sea (UNCLOS). The council agreed on a general approach, pending the European Parliament’s opinion in the reading, concerning the proposal for a Regulation aiming at providing the European Marine Safety Agency with new tasks in the field of maritime security and in the process of Community recognition of the training and qualifications of third country seafarers, as well as additional competence and means to fight pollution caused by ships”.²¹⁹

On January 8, 2004, the EU stated that, “The proposed Council Decision approves the accession of the European Community to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific ocean...The Convention applies to all species of highly migratory fish stocks (as listed in Annex I of UNCLOS) and such other species of fish as the Commission may determine, occurring in the Convention Area. The Community has therefore a real interest in the relevant fisheries and must co-operate with other interested States and Entities at the multilateral level towards the conservation and management of these fishery resources, in accordance with the provisions of UNCLOS and UNFSA.”²²⁰ The accession of the European Community to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean was thereby approved. This serves as evidence of action on behalf of the EU towards the accession of the Convention on the Conservation and Management of Highly Migratory Fish Stocks.

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²¹⁹ Council of the European Union, “2551th Council Meeting – Transport Telecommunications and Energy,” December 5, 2003

²²⁰ Commission of the European Communities. “Proposal for a Council Decision on the accession of the Community to the convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean,” 8 January 2004, europa.eu.int/eur-lex/pri/en/lip/latest/doc/2003/act0855en03/1.doc