

# INTRODUCTION TO ENVIRONMENTAL LAWS

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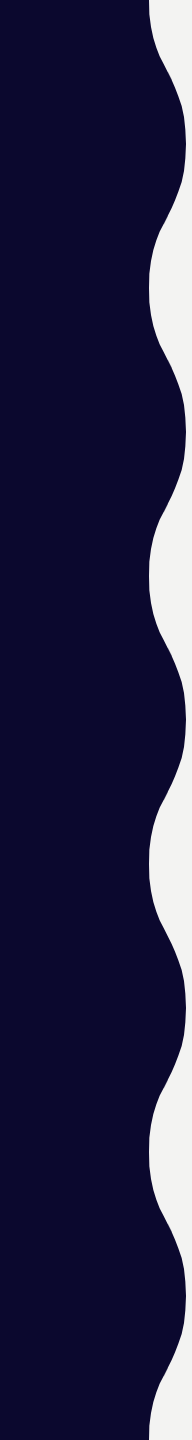
# OUTLINE

- Environmental Concerns in the 21st Century
- Environment: Meaning and Introduction
- International Environmental Laws
- Relevance of Marine Environmental Laws
- Maritime Transportation and Environmental Issues: An Overview



# ENVIRONMENTAL CONCERNS IN THE 21ST CENTURY

- Environment is a very broad, complex and rapidly developing area.
- Environmental issues are any such issues that are created by human activities and can cause harm to the environment-relate to the anthropogenic effects on the natural environment.
- Major Environmental issues are: Climate Change, Hazards, Environmental Pollution, Human Overpopulation, Hydrological issues, Nuclear Issues, Land use issues amongst others
- In 2016, UNEP Frontiers report identified a series of global and emerging environmental problems in the last 50years to take positive action in order to create sustainable environment.

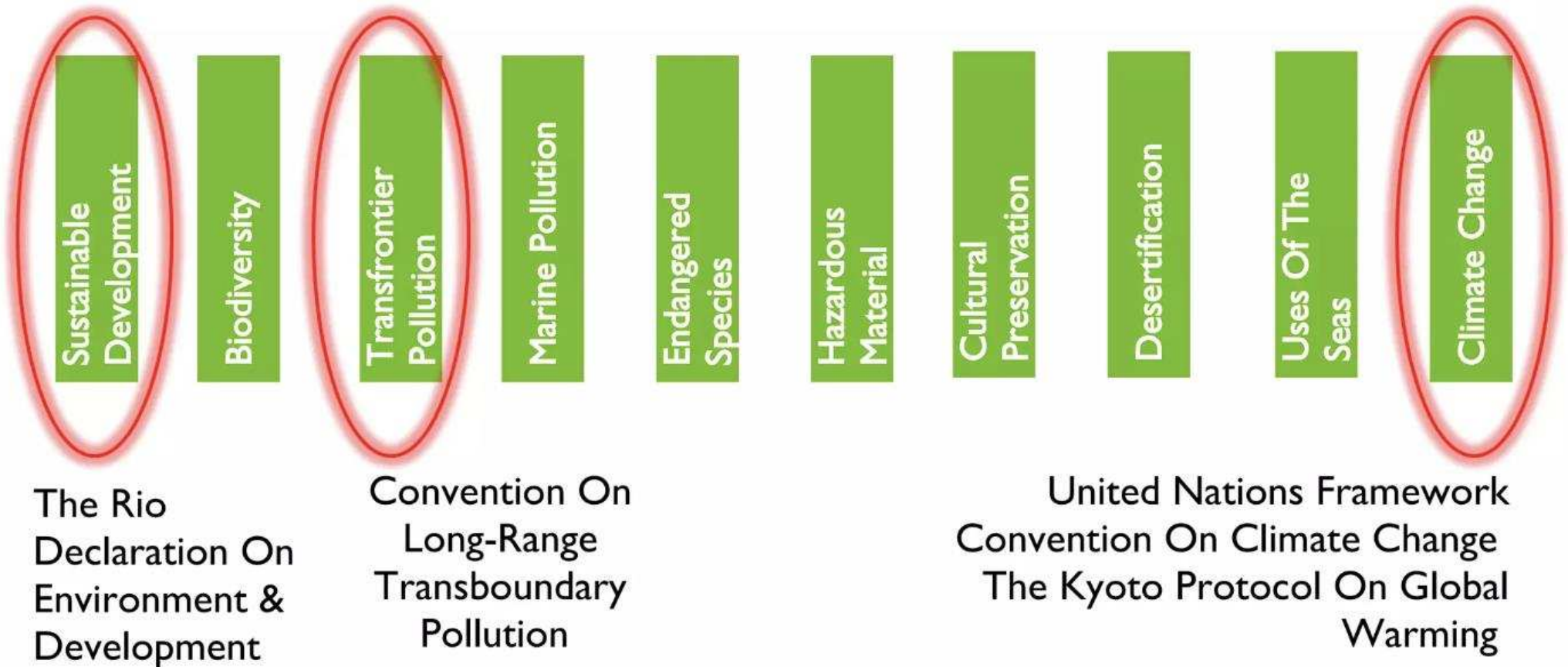


# **DEFINITION, NATURE, SCOPE AND THE DEVELOPMENT OF INTERNATIONAL ENVIRONMENTAL LAW**

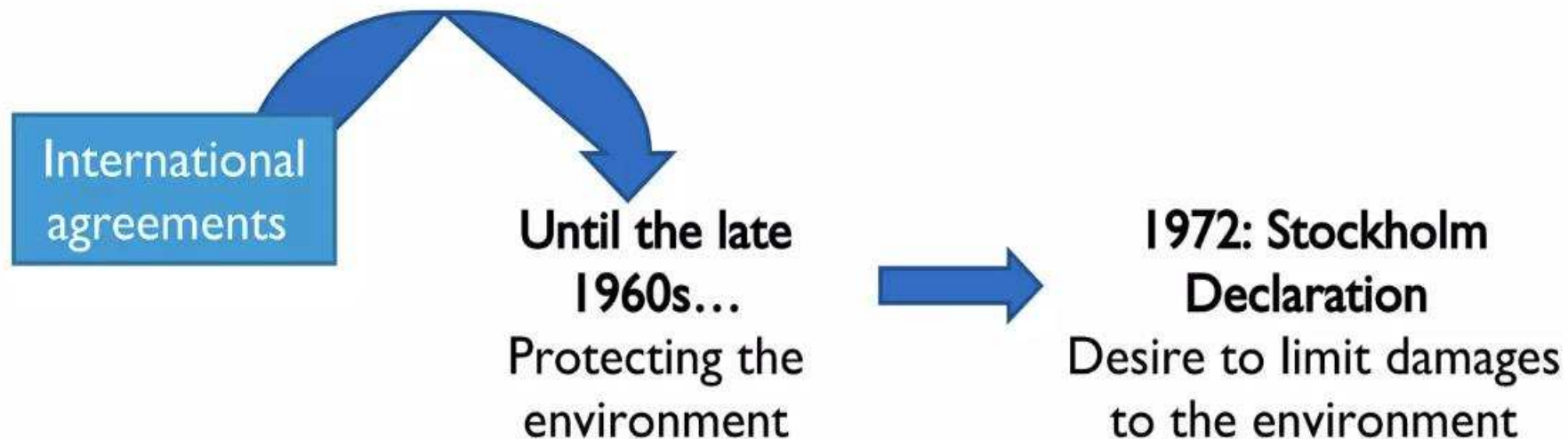
# INTRODUCTION TO INTERNATIONAL ENVIRONMENTAL LAW

- International environmental law is a comparatively new branch of international law.
- It has expanded dramatically over the years particularly since the United Nations Conference on the Human Environment, 1972.
- The development of international environmental law has produced mixed results.
- While some treaty regimes have been effective in producing the desired results (e.g. Vienna Convention on Protection of the Ozone Layer, 1985), some other regimes are struggling to produce results (e.g. United Nations Framework Convention on Climate Change, 1992).
- International Environmental law encompass the corpus of international law relevant to environmental issues, such as prevention of pollution, controlling movement of hazardous wastes, preserving endangered species etc.
- International environmental law can be assumed to be the aggregate of all the rules and principles aimed at protecting the global environment and controlling activities within national jurisdiction. It involves questions of state sovereignty, state responsibility and liability.

- ▶ International environmental law encompasses a diverse group of topics:



Like many other branches of international law, international environmental law is interdisciplinary



# **DEVELOPMENT OF INTERNATIONAL ENVIRONMENTAL LAW**

- ❑ From 1900-1972: Early Glimmers**
- ❑ Development of International environmental Law between 1945 to 1972**
- ❑ From Stockholm to Rio**
- ❑ Development of International Environmental Law after Rio**

# FROM EARLY FISHERIES CONVENTIONS TO THE CREATION OF UNITED NATIONS

## FROM EARLY FISHERIES CONVENTIONS TO THE CREATION OF UNITED NATIONS

- First developments of international environmental Rules aimed to the conservation of wildlife (fisheries, birds and seals);
- Treaties were adopted ad hoc, so they were sporadic and limited in their scope;
- Bilateral fisheries conventions were adopted in the mid-nineteenth century to avoid overexploitation (E.g. Convention between France and Great Britain Relative to Fisheries, Paris, 11 November 1867).

- Another theme of cooperation was the conservation of migratory birds. In 1872, Switzerland proposed an International Regulatory Commission for the protection of birds: an International Ornithological Committee was created in 1884 and led to the adoption in 1902 of the Convention to Protect Birds Useful to Agriculture.
- It laid down some prohibitions (birds' killing, destruction/taking of their eggs, etc., with exceptions concerning scientific research and repopulation techniques).
- To strengthen links between American and European bird protection groups a International Committee for Bird Protection was founded in 1922.

- The 1909 Water Boundaries Treaty between the US and Canada was the first to commit its parties to prevent pollution;
- The 1909 meeting of the International Congress for the Protection of Nature, in Paris, proposed the creation of an international nature protection body in 1913 an Act of Foundation of a Consultative Committee for the International Protection of Nature was signed in Berne by 17 countries (aimed to collect, classify and publish information on the international protection on nature).

- In this period two disputes were submitted to international arbitration:

1. **Pacific Fur Seal Arbitration:** Dispute between US and Great Britain on the over-exploitation of fur seals. Regulations for the “proper protection and preservation” of fur seals were set.
2. The **Trail Smelter case** concerned a 1930 dispute between US and Canada over the emission of sulphur fumes from a smelter situated in Canada which caused damage in the State of Washington. The Tribunal established that “no state has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another, or the properties or persons therein.”

- The Trail Smelter decision shaped the core principle underlying IEL. According to this principle, **a country that creates transboundary pollution is liable for any harm caused to another country.**
- Hence, Both provides for the establishment of nature reserves and parks and for the protection of some wild species. At this time environmental law was primarily limited to conservation.

# DEVELOPMENT INTERNATIONAL ENVIRONMENTAL LAW BETWEEN 1945 TO 1972

- The creation of the UN in 1945 represented the beginning of the second phase in the development of IEL:-
  - ✓international and regional organizations began to be involved in environmental issues;
  - ✓the attention on this global and regional subjects was addressed also to the causes of pollution deriving from ultra-hazardous activities.

The link between economic development and environmental protection had not been really recognized yet.

- The UN Charter did not include provisions on environmental protection or the conservation of natural resources, neither an environment body was established among the specialized agencies.
- THE BASIS FOR THE SUBSEQUENT ENVIRONMENTAL ACTIVITIES OF THE UNITED NATIONS WERE FOUND IN THE PROVISIONS CONCERNING INTERNATIONAL COOPERATION IN ECONOMIC, SOCIAL, CULTURAL AND HUMANITARIAN MATTERS.

- Food and Agriculture Organization (FAO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) included provisions with environmental aspects.
- In October 1948, a conference convened with the assistance of UNESCO, attended by representatives of 18 governments, 7 national organizations and 107 national organizations, established the **International Union for the Protection of Nature (IUPN)**:-
  - a. it was the first major international organization to address environmental issues;
  - b. it aimed at promoting the preservation of wildlife and the natural environment, public knowledge, education, scientific research and legislation;
  - c. its members are governments and non-governmental actors.

- In 1947, an Economic and Social Council (ECOSOC) resolution convened the 1949 United Nations Conference on the Conservation and Utilization of Resources (UNCCUR). The aim was the management and conservation of natural resources, important to the reconstruction of devastated areas.
- The resolution determined the competence of the UN over environmental matters – more recently resulting in the 1972 Stockholm Conference and the 1992 UNCED. UNCCUR was held from August 17 to September 6 in N.Y. State and was attended by over 1,000 individuals from more than 50 countries.

The Conference concerned six issues:

- a. MINERALS;
- b. FUELS AND ENERGY;
- c. WATER;
- d. FORESTS;
- e. LAND;
- f. WILDLIFE
- g. FISH

- In 1954, the General Assembly of the UN convened a major Conference on the Conservation of the Living Resources of the Sea, which led to the conservation rules adopted in the 1958 Geneva Convention.
- In 1954, the first global convention for the prevention of oil pollution was adopted. It would be followed, 15 years later, by treaties permitting intervention to combat the effects of oil pollution, establishing civil liability for oil pollution damage and creating oil pollution compensation fund.
- The **1959** Antarctic Treaty committed parties to peaceful activities in that region and prohibited nuclear explosions or the disposal of radioactive waste.
- In **1967**, the European Community (EC) adopted its first environmental act, on the packaging and labelling of dangerous goods (in the absence of express environmental provisions in the 1957 Treaty of Rome).
- The 1972 Ramsar Convention was the first environment treaty to establish rules addressing the conservation of a particular type of ecosystem.



# STOCKHOLM CONFERENCE (UNCHE), 1972

- In this context the 1972 Stockholm Conference (5-16 June 1972) was convened in December 1968 by the United Nations General Assembly.
- The conference considered the impact of human activities on biosphere, including the effects of air and water pollution, deforestation and drainage of wetlands;
- the significant elements of innovation concerned:
  1. the redefinition of international issues;
  2. the attention for cooperation;
  3. the approach to international responsibility;
  4. the conceptualization of international relationships.

- **The conference adopted three non-binding instruments:**

- a. Resolution on institutional and financial arrangements(which proposed that UN General Assembly established new institutional arrangements);
- b. A Declaration containing 26 principles;
- c. An Action Plan containing 109 recommendations.

➤ 109 points were generally accepted by States and involved six main subject areas:

- 1) planning and management of human settlements for environmental quality;
- 2) environmental aspects of natural resources management;
- 3) identification and control of pollutants and cultural aspects of environmental issues;
- 4) educational, informational, social and cultural aspects of environmental issues;
- 5) development and environment;
- 6) international organizational action proposals



# CREATION OF UNEP

- It also proposed a new UN Agency, the **United Nations Environment Programme (UNEP)** composed of Governing Council, a Secretariat and an Environment Fund.
- In 1975 the UN General Assembly approved UNEP's work contributing to the development and codification of a new body of international law to meet new requirements generated by environmental concerns and by the strategy based on the UNCHE Declaration.
- UNEP has played a catalytic role in the development of international environmental law. During this period, UNEP also launched its Regional Seas Programme under which conventions, protocols and programmes of action have been concluded to protect regional seas. In addition, UNEP developed guidelines or “soft law “ instruments

# UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

Rio de Janeiro 3–14 June 1992



# RIO DECLARATION (UNCED), 1992

- In December 1989 the UN General Assembly convened a UN Conference on Environment and Development for June 1992 in Brazil (UNCED).
- ❖ UNCED was held in Rio de Janeiro on 3-14 June 1992 and was attended by:-
  - 176 states;
  - more than 50 intergovernmental organizations;
  - several thousands corporations and NGOs.

# SIGNIFICANCE

- The UNCED adopted three important **non-binding** instrument:
  1. Rio Declaration on the environmental and development (27 Principle)
  2. Agenda 21
  3. UNCED Forestry Principle
- It adopted three important **binding** instrument:
  1. UNFCCC
  2. CBD
  3. UNCCD

# GOAL

Establishing a new and equitable global partnership through the creation of new levels of cooperation among states, societies and people.

# **IMPORTANT PRINCIPLES**

- Principle 1: **Role of Humans**
- Principle 2: **State Sovereignty**
- Principle 3: **Right to Development**
- Principle 15: **Precautionary Principle**
- Principle 16: **Polluter Pays Principle**

# UNITED NATIONS ON SUSTAINABLE DEVELOPMENT [AGENDA 21]

- Agenda 21 is a 350-page document
- 40 chapters
- Have been grouped into 4 sections:
  1. Part I: Social and Economic Dimension
  2. Part II: Conservation and Management of Resources for Development
  3. Part III: Strengthening Role of Major Groups
  4. Means of Implementation

# AGENDA 21

- It was conceived as a non-binding action plan for sustainable development, directed to the whole international community;
- It was negotiated over 2 years and reflects a global consensus at the highest level towards the implementation on national strategies, plans, policies and processes;
- The implementation of Agenda 21 is a responsibility of governments;
- The Agenda represented a relevant moment of international consensus on principles, practices and rules which might contribute to the development of new rules of conventional and customary law.

# WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT (WSSD), 2002

- The United Nations General Assembly Resolution 55/199 convened the World Summit on Sustainable Development (WSSD or the Summit) in Johannesburg in 2002.
- Purpose of the Summit was to conduct a 10-year review of Agenda 21 and to ensure a balance between the three reinforcing components of sustainable development - economic development, social development and environmental protection. WSSD marks a major advancement from the Rio Conference in terms of participation.
- Around 21000 participants were present at the Summit with delegates from 191 governments.

Two major outcomes of WSSD are:

1) Johannesburg Declaration on Sustainable Development;

2) Johannesburg Plan of Action

- It contained a Plan of Implementation without specific actions to be taken, but with general commitments and aspirations regarding:

hunger, drinking water, basic sanitation, energy, chemicals, hazardous waste, water efficiency plans, fishing, marine environment, biological diversity, sustainable development, etc

# SOURCES OF INTERNATIONAL ENVIRONMENTAL LAW

- **Article 38 (1) of the Statute of the International Court of Justice (ICJ)** which provides:
  - (a) International Conventions, whether general or particular, establishing rules expressly recognized by the contesting states.
  - (b) International Custom, as evidence of a general practice accepted as law.
  - (c) The General Principles of law recognized by civilized nations.
  - (d) Judicial Decisions and the Teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

# MARITIME TRANSPORTATION AND ENVIRONMENTAL ISSUES

- International Maritime Organization (IMO) uses various instruments to protect the marine environment from shipping activities
- *Torrey Canyon Disaster* of 1967
- IMO brought the first environmental law the International Convention for the Prevention of Pollution from Ships (MARPOL). MARPOL was introduced to prevent pollution due to tanker accidents, cleaning of cargo tanks and disposal of oily engine room wastes.
- United Nations Convention on the Law of the Sea (UNCLOS) is the most comprehensive and recent international legislation introduced in 1982 and came into force in 1994 to reduce environmental impacts of marine transportation.

# The Torrey Canyon Oil Spill - March 18, 1967.

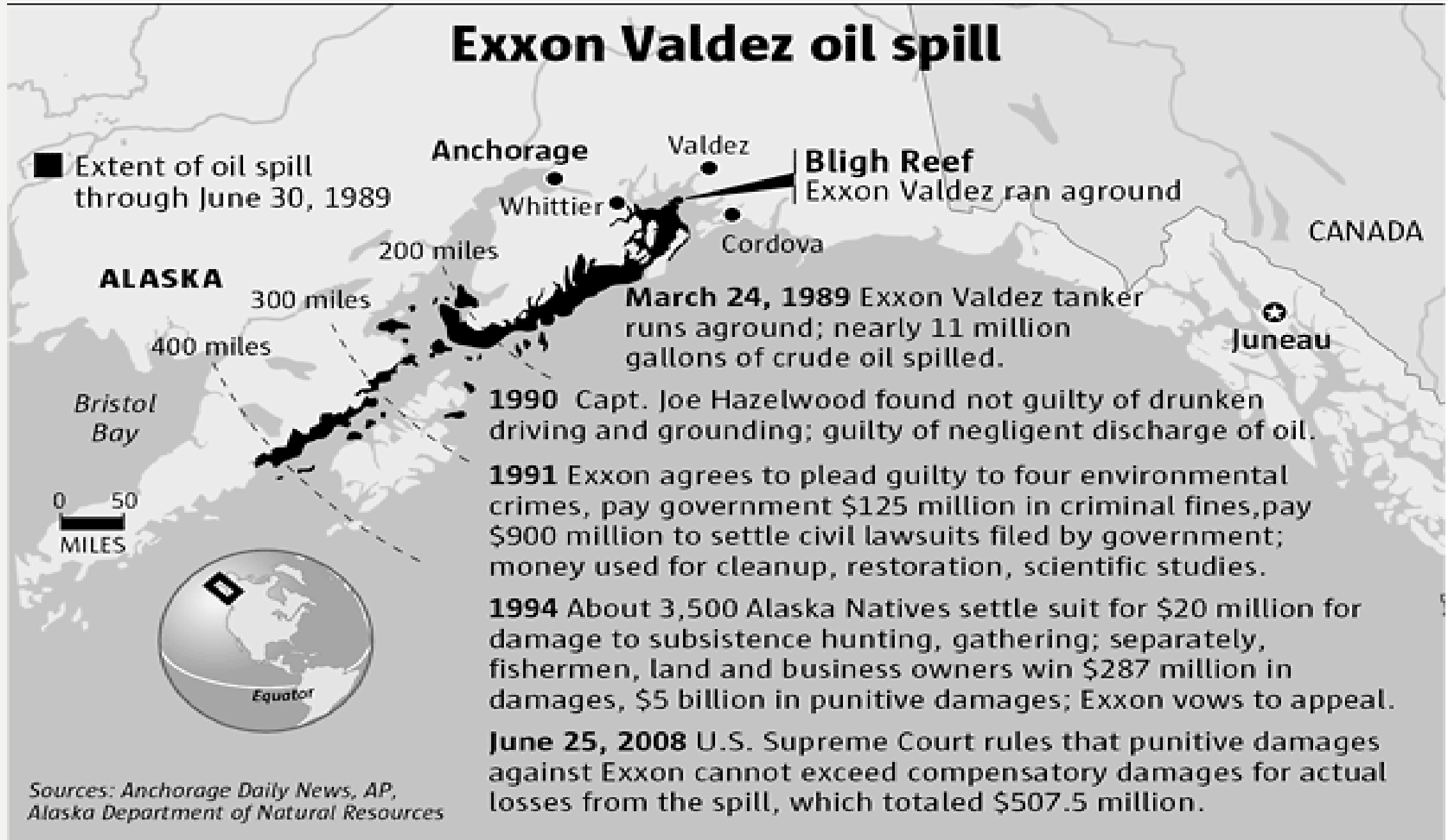
25 - 36 million gallons



# **ENVIRONMENTAL EFFECTS OF MARINE TRANSPORTATION**

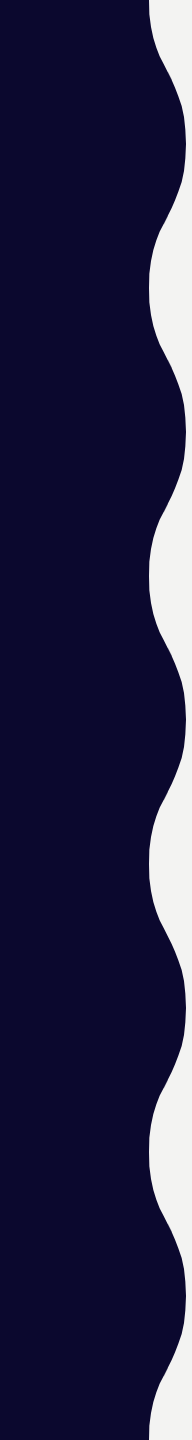
- Air Pollution
- Spills from Ships
- Oil spill impact on wildlife
- Garbage and Sewage
- Shipbreaking
- Underwater Noise

# Exxon Valdez oil spill



# CONCLUSION

- Large number of international agreements
- Overlap in many situations
- Treaty congestion has created the very unfavorable and paradoxical situation



Thank You !!!