The background of the book cover is a detailed marble relief sculpture. It depicts a complex scene with several figures, including a horse and human figures in dynamic poses, possibly a mythological or historical event. The sculpture is light-colored, likely white or light pink marble, and shows deep carving with strong shadows and highlights.

CÉDRIC VIALE

LEXICON OF
ENVIRONMENTAL LAW
LES DÉFINITIONS DU DROIT
DE L'ENVIRONNEMENT

MARTINUS NIJHOFF PUBLISHERS

Lexicon of Environmental Law

Les définitions du droit de l'environnement

By
Cédric Viale



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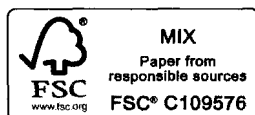
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Foreword

By Godfry Ayitégan KOUEVI

Doctor of Law

Lawyer at the Bar

*First Independent Expert at the United Nations' Permanent Forum on
Indigenous Issues*

Our environment needs us to pay it a particular attention through a book concerning the Rights that relate to it: the more precise those Rights will be, the better the protection of our environment will become, as well as its components and, in fine, Men, which means you and me. Biosphere is essential to our life, protecting ourselves from dangers that are threatening it is, then, beyond the simple citizen's duty to become an international requirement.

Through hundreds of definitions taken from international juridical instruments of reference, Dr. Cédric Viale takes part in this duty of conciseness. Faithful to his work method, which got his previous Lexicon; *The Lexicon of Human Rights, les définitions des Droits de l'Homme* (BRILL) a justified worldwide success, he classifies fundamentals terms and expressions in an easy and intelligible way and, because environment's rights are beyond the rigid Rights' frontiers, the author is concerned about allowing the "lay person", and non jurist, to find useful definitions for their activities, processes and struggles.... thanks to themes under which he gathered suitable definitions and the list of conventions that he, indeed, used to write this book.

Dr. Cédric Viale's interest in environment and its Rights has always been here. As a young doctor, I had the pleasure to meet Cédric when he was preparing his Rights' Doctorate thesis. We used to frequently go to the UN, especially to high level meetings about environmental rights. While continuing his works for the UN, he taught in universities in Japan, Iceland and France, once his thesis was done. Afterwards, I had the pleasure to have him participate in the campaign for the elections of the UN's Permanent Forum on Indigenous Issues,

insisting on biodiversity's major interest as well as sustainable development's in my interventions in the UN.

The advice was worth it since I had the honor to be trusted and elected to this prestigious council by the Indigenous people, and environmental rights are still active there, even now.

Dr. Cédric Viale's work is deep and follows a didactic academic method. There is no doubt that this intellectual contribution will allow concrete advances, notable developments, vital victories for our planet and its biodiversity.

The value of such a contribution measures itself by the inspiration that it held and vocations it reinforces: I am the first example of that last category; this book won't leave my lawyer's cabinet.

I am proud to write this preface, and I wish the author the success this book deserves, and the reader that lots of "Lexicon of" will complete the two first fascinating volumes already published.

Introduction

Legitimate concerns about the environment require extensive international regulation. The international dimension of this regulation is essential since just as wild animals do not stop at borders, neither does any kind of pollution. Thus, protection of the ozone layer should not be globally addressed by only one State, or by only a few of them.

Therefore, I wanted to write a dictionary accessible to NGOs, jurists, diplomats, students, environmental defendants, *etc.* This desire is matched with a concern for precision. Using the same method as in my first lexicon (*Lexicon of Human Rights – Les définitions des droits de l’homme* – Martinus Nijhoff Publishers, 2008), I undertook to gather, in this lexicon, definitions related to the environment by extracting them from relevant universal scope texts. Of course, such books offering definitions already exist, but they are often incomprehensible to anyone other than a lawyer. They are usually prepared by scholars and are sometimes based only on opinion.

The universal acceptance of the reference texts, as well as the way most of them are understood, indicate a general agreement about the definitions. If not during research leading to understanding and awareness, it becomes generally accepted as true because of the high percentage of people agreeing with the text.

Thus, texts coming from international organizations such as the UN, the IAEA, the FAO, and other *ad hoc* texts as well, such as the Basel Convention, or the Stockholm Convention, allow us to understand valuable legal definitions of *wastes, radioactive material, living organism, climate system, fish, noise, plants* and many more that are useful to effective and high-quality work. This huge range of texts and entities from which they are taken reinforce the important place of environmental law in contemporary law.

The ordered grouping of definitions offered in this volume will enlighten the reader about the priorities of the international community regarding environmental law. It will also allow the reader to understand the framework in which States can evolve and possibly formulate juridically motivated criticism towards offenders.

In order to facilitate the use of those terms, the definitions have been classified in alphabetical order, in separate English and French lists. In each language there is:

- first, an alphabetical list of common terms with the equivalent second language term in square brackets. The list gives the exact detailed meaning followed by the source of each term;
- second, a lexicon of the same terms listed this time under such general themes as “*Mammals*”, “*Gas*”, “*Lead*”;
- third, a list of relevant documents which can be referenced for further information.

This structure should help readers to easily find the correct vocabulary to use in environmental law discussions.

Finally, I would like to thank Pamela Davis, Anaïs Kemblinsky, Danielle Raine and Timothée Viale for their invaluable and constructive help.

Cédric Viale, Ph.D.

Table of Contents

FOREWORD

By Godfry Ayitégan KOUEVI

Former Member of the UN Permanent Forum on Indigenous Issues vii

INTRODUCTION

By Cédric Viale, Ph. D. ix

ENGLISH

Definitions of environmental law terms 1

Environmental law themes 233

Relevant documents 271

FRANÇAIS

Les définitions du droit de l'environnement 275

Les sujets du droit de l'environnement 531

Les documents applicables 571

Definitions of Environmental Law Terms

ACCUMULATORS [*Accumulateurs électriques*]

- “Wastes contained in this Annex are characterized as hazardous under Article 1, paragraph 1 (a),¹ of this Convention, and their designation on this Annex does not preclude the use of Annex III to demonstrate that a waste is not hazardous.

A1 Metal and metal-bearing wastes

[...]

A1180 Waste electrical and electronic assemblies or scrap containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B B1110)”²

LIST A, ANNEX VIII, BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL.

¹ “1. The following wastes that are subject to transboundary movement shall be ‘hazardous wastes’ for the purposes of this Convention:

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III;”

² “B1110 Electrical and electronic assemblies:

- Electronic assemblies consisting only of metals or alloys
- Waste electrical and electronic assemblies or scrap (including printed circuit boards) not containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or not contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics contained in Annex III (note the related entry on list A A1180)

ACTIVATED GLASS [*Verres activés*]

- “Wastes contained in this Annex are characterized as hazardous under Article 1, paragraph 1 (a),³ of this Convention, and their designation on this Annex does not preclude the use of Annex III to demonstrate that a waste is not hazardous.
[...]

A1 Metal and metal-bearing wastes

[...]

A1180 Waste electrical and electronic assemblies or scrap containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B B1110)”⁴

LIST A, ANNEX VIII, BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL.

ADSORPTION [*Adsorption*]

- “B. *Best available technique*
[...]

- Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct reuse, and not for recycling or final disposal”

³ “1. The following wastes that are subject to transboundary movement shall be ‘hazardous wastes’ for the purposes of this Convention:

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III;”

⁴ “B1110 Electrical and electronic assemblies:

- Electronic assemblies consisting only of metals or alloys
- Waste electrical and electronic assemblies or scrap (including printed circuit boards) not containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or not contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics contained in Annex III (note the related entry on list A A1180)
- Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct reuse, and not for recycling or final disposal”

(b) General release reduction measures: When considering proposals to construct new facilities or significantly modify existing facilities using processes that release chemicals listed in this Annex, priority consideration should be given to alternative processes, techniques or practices that have similar usefulness but which avoid the formation and release of such chemicals. In cases where such facilities will be constructed or significantly modified, in addition to the prevention measures outlined in section A of Part V the following reduction measures could also be considered in determining best available techniques:

- (i) Use of improved methods for flue-gas cleaning such as thermal or catalytic oxidation, dust precipitation, or adsorption;”

Annex C, Part V, STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS.

ADVERSE EFFECTS [*Effets néfastes*]

- “For the purposes of this Convention:
[...]

2. ‘Adverse effects’ means changes in the physical environment or biota, including changes in climate, which have significant deleterious effects on human health or on the composition, resilience and productivity of natural and managed ecosystems, or on materials useful to mankind.’

Article 1, THE VIENNA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER.

ADVERSE EFFECTS OF CLIMATE CHANGE [*Effets néfastes des changements climatiques*]

- “For the purposes of this Convention:
 - 1. ‘Adverse effects of climate change’ means changes in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare.”

Article 1, UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE.

AFFECTED AREAS [*Zones touchées*]

- “For the purposes of this Convention:
[...]

- (h) ‘affected areas’ means arid, semi-arid and/or dry sub-humid areas affected or threatened by desertification;”

Article 1, UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA.

AFFECTED COUNTRIES [*Pays touchés*]

- “For the purposes of this Convention:
[...]

- (i) ‘affected countries’ means countries whose lands include, in whole or in part, affected areas;”

Article 1, UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA.

AGRICULTURAL SOILS [*Sols agricoles*]

- “Sectors/source categories”
[...]

Agriculture
[...]

Agricultural soils”

Annex A, KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE.

AIR POLLUTION [*Pollution de l’air*]

- “For the purpose of this Convention –
(a) the term *air pollution* covers all air contaminated by substances, whatever their physical state, which are harmful to health or otherwise dangerous;”

Article 2, WORKING ENVIRONMENT (AIR POLLUTION, NOISE AND VIBRATION) CONVENTION (C 148).

ALBACORE TUNA [*Thon blanc germon*]

- “Annex I. highly migratory species

1. Albacore tuna: *Thunnus alalung*.”

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA.

^x Sectors/source categories {of greenhouse gases}.

ALBATROSSES [*Albatros*]

- “Recognising that albatrosses and petrels are an integral part of marine ecosystems which must be conserved for the benefit of present and future generations, and that their conservation is a matter of common concern, particularly in the Southern Hemisphere;”

Pp. 5, AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS.

- “2. For the purpose of this Agreement:

a) ‘Albatross’ and/or ‘petrel’ means one of any species, subspecies or population of the albatrosses and/or, as the case may be, petrels listed in Annex 1⁵ to this Agreement;”

Article I, AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS.

ALLYL CHLORIANE [*Chlorure d’allyle*]

- “Wastes contained in this Annex are characterized as hazardous under Article 1, paragraph 1 (a),⁶ of this Convention, and their designation on

⁵ “Albatrosses (22 species)

Diomedea exulans

Diomedea dabbenena

Diomedea antipodensis

Diomedea amsterdamensis

Diomedea epomophora

Diomedea sanfordi

Phoebastria irrorata

Phoebastria albatrus

Phoebastria immutabilis

Phoebastria nigripes

Thalassarche cauta

Thalassarche steadi

Thalassarche salvini

Thalassarche eremita

Thalassarche bulleri

Thalassarche chrysostoma

Thalassarche melanophris

Thalassarche impavida

Thalassarche carteri

Thalassarche chlororhynchos

Phoebetria fusca

Phoebetria palpebrata [...]

⁶ “1. The following wastes that are subject to transboundary movement shall be ‘hazardous wastes’ for the purposes of this Convention:

this Annex does not preclude the use of Annex III to demonstrate that a waste is not hazardous.

[...]

A3 Wastes containing principally organic constituents, which may contain metals and inorganic materials

[...]

A3170 Wastes arising from the production of aliphatic halogenated hydrocarbons (such as chloromethane, dichloro-ethane, vinyl chloride, vinylidene chloride, allyl chloride and epichlorhydrin)”

LIST A, ANNEX VIII, BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL.

ALTERNATIVE SUBSTANCES [*Substances de remplacement*]

- “For the purposes of this Convention:

[...]

4. ‘Alternative substances’ means substances which reduce, eliminate or avoid adverse effects on the ozone layer.”

Article 1, THE VIENNA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER.

ALTERNATIVE TECHNOLOGIES OR EQUIPMENT [*Technologie ou matériel de remplacement*]

- “For the purposes of this Convention:

[...]

3. ‘Alternative technologies or equipment’ means technologies or equipment the use of which makes it possible to reduce or effectively eliminate emissions of substances which have or are likely to have adverse effects on the ozone layer.”

Article 1, THE VIENNA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER.

ANTARCTIC CONVERGENCE [*Convergence antarctique*]

- “1. This Convention applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III;”

resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

[...]

4. The Antarctic Convergence shall be deemed to be a line joining the following points along parallels of latitude and meridians of longitude:

50°S, 0°; 50°S, 30°E; 45°S, 30°E; 45°S, 80°E; 55°S, 80°E; 55°S, 150°E; 60°S, 150°E; 60°S, 50°W; 50°S, 50°W; 50°S, 0°.

Article I, CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES.

ANTARCTIC MARINE ECOSYSTEM [*Ecosystème marin antarctique*]

- “1. This Convention applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

[...]

3. The Antarctic marine ecosystem means the complex of relationships of Antarctic marine living resources with each other and with their physical environment.”

Article I, CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES.

ANTARCTIC MARINE RESOURCES [*Ressources marines vivantes de l'Antarctique*]

- “1. This Convention applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

2. Antarctic marine living resources means the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.”

Article I, CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES.

ANTI-FOULING SYSTEM [*Système antisalissure*]

- “For the purposes of this Convention, unless expressly provided otherwise: [...]

2. ‘Anti-fouling system’ means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms.”

Article 2, INTERNATIONAL CONVENTION ON THE CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS.

ANTIMONY [*Antimoine*]

- “Wastes contained in this Annex are characterized as hazardous under Article 1, paragraph 1 (a),⁷ of this Convention, and their designation on this Annex does not preclude the use of Annex III to demonstrate that a waste is not hazardous.

A1 Metal and metal-bearing wastes

A1010 Metal wastes and waste consisting of alloys of any of the following:

- Antimony

[...]

but excluding such wastes specifically listed on list B.

A1020 Waste having as constituents or contaminants, excluding metal waste in massive form, any of the following:

- Antimony; antimony compounds”

LIST A, ANNEX VIII, BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL.

APPROVED SITE OR FACILITY [*Site ou installation agréé*]

- “For the purposes of this Convention:

[...]

5. ‘Approved site or facility’ means a site or facility for the disposal of hazardous wastes or other wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;”

Article 2, BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL.

⁷ “1. The following wastes that are subject to transboundary movement shall be ‘hazardous wastes’ for the purposes of this Convention:

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III;”

AREA OF LOW PEST PREVALENCE [*Zone à faible prévalence d'organismes nuisibles*]

- “1. For the purpose of this Convention, the following terms shall have the meanings hereunder assigned to them:

“Area of low pest prevalence” – an area, whether all of a country, part of a country, or all or parts of several countries, as identified by the competent authorities, in which a specific pest occurs at low levels and which is subject to effective surveillance, control or eradication measures;”

Article II, INTERNATIONAL PLANT PROTECTION CONVENTION (1997).

AREA UNDER THE NATIONAL JURISDICTION OF A STATE [*Zone relevant de la compétence nationale d'un Etat*]

- “For the purposes of this Convention:
[...]

9. ‘Area under the national jurisdiction of a State’ means any land, marine area or airspace within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;”

Article 2, BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL.

ARID, SEMI-ARID AND DRY SUB-HUMID AREAS [*Zones arides, semi-arides et subhumides sèches*]

- “Aware that arid, semi-arid and dry sub-humid areas together account for a significant proportion of the Earth’s land area and are the habitat and source of livelihood for a large segment of its population,”

Pp. 3, UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA.

- “For the purposes of this Convention:
[...]

(g) ‘arid, semi-arid and dry sub-humid areas’ means areas, other than polar and sub-polar regions, in which the ratio of annual precipitation to potential evapotranspiration falls within the range from 0.05 to 0.65;”

Article 1, UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA.