

## RÅDETS AFGØRELSE

af 22. oktober 1999

## om godkendelse af ændringerne til den reviderede protokol om beskyttelse af Middelhavet mod landbaseret forurening (Barcelona-konventionen)

(1999/801/EF)

RÅDET FOR DEN EUROPÆISKE UNION HAR —

under henvisning til traktaten om oprettelse af Det Europæiske Fællesskab, særlig artikel 175, stk. 1, sammenholdt med artikel 300, stk. 2, første punktum, og stk. 3, første afsnit,

under henvisning til forslag fra Kommissionen,

under henvisning til udtalelse fra Europa-Parlamentet<sup>(1)</sup>, og

ud fra følgende betragtninger:

- 1) Fællesskabet er kontraherende part i konventionen om beskyttelse af Middelhavet mod forurening, i det følgende benævnt »Barcelona-konventionen«<sup>(2)</sup>; Fællesskabet har ligeledes indgået fire af de protokoller, der er vedtaget som led i Barcelona-konventionen, nemlig protokollen om forebyggelse af forurening af Middelhavet ved dumpning<sup>(3)</sup>, protokollen om samarbejde om bekæmpelse af forurening med olie og andre skadelige stoffer<sup>(3)</sup>, protokollen om landbaseret forurening<sup>(4)</sup> og protokollen om særligt beskyttede områder<sup>(5)</sup>;
- 2) Kommissionen har på Fællesskabets vegne deltaget i forhandlingerne om revisionen af protokollen om beskyttelse af Middelhavet mod landbaseret forurening, i det følgende benævnt »protokollen«;
- 3) i medfør af traktatens artikel 174 bidrager Fællesskabets politik på miljøområdet bl.a. til bevarelse, beskyttelse og forbedring af miljøkvaliteten og til fremme på internationalt plan for foranstaltninger til løsning af de regionale og globale miljøproblemer;
- 4) anvendelsesområdet for ændringerne til protokollen hører i hvert fald delvis under Fællesskabets beføjelser;

Fællesskabet har således vedtaget flere direktiver på dette område<sup>(6)</sup>; Fællesskabet sørger i denne forbindelse for, at indgåelsen af disse internationale aftaler ikke er i strid med eller ændrer anvendelsesområdet for den gældende fællesskabsret;

- 5) Fællesskabets tiltrædelse af den reviderede protokol bidrager til opfyldelsen af de i traktatens artikel 174 fastsatte mål;
- 6) den reviderede protokol blev vedtaget og åbnet for undertegnelse på de befuldmægtigedes konference i Siracusa, den 7. og 8. marts 1996;
- 7) Rådet traf afgørelse om undertegnelse af protokollen den 22. juli 1996; på denne dato var den reviderede protokol imidlertid ikke åben for undertegnelse —

TRUFFET FØLGENDE AFGØRELSE:

*Artikel 1*

Ændringerne til protokollen om beskyttelse af Middelhavet mod landbaseret forurening godkendes på Fællesskabets vegne.

Teksten til ændringerne er knyttet til denne afgørelse.

*Artikel 2*

Rådets formand er bemyndiget til på Fællesskabets vegne at meddele godkendelsen af ændringerne til protokollen om

<sup>(1)</sup> EFT C 219 af 30.7.1999, s. 186.

<sup>(2)</sup> Afgørelse 77/585/EØF (EFT L 240 af 19.9.1977, s. 1)

<sup>(3)</sup> Afgørelse 81/420/EØF (EFT L 162 af 19.6.1981, s. 4).

<sup>(4)</sup> Afgørelse 83/101/EØF (EFT L 67 af 12.3.1983, s. 1).

<sup>(5)</sup> Afgørelse 84/132/EØF (EFT L 68 af 10.3.1984, s. 36).

<sup>(6)</sup> Rådets direktiv 76/464/EØF af 4. maj 1976 om forurening forårsaget af udledning af visse farlige stoffer i Fællesskabets vandmiljø (EFT L 129 af 18.5.1976, s. 23). Direktivet er ændret ved direktiv 91/692/EØF (EFT L 377 af 31.12.1991, s. 48). Rådets direktiv 96/61/EF af 24. september 1996 om integreret forebyggelse og bekæmpelse af forurening (EFT L 257 af 10.10.1996, s. 26).

beskyttelse af Middelhavet mod landbaseret forurening, i overensstemmelse med artikel 16 i konventionen om beskyttelse af Middelhavet mod forurening <sup>(1)</sup>.

Den har virkning fra dagen for vedtagelsen.

Udfærdiget i Luxembourg, den 22. oktober 1999.

*Artikel 3*

Denne afgørelse offentliggøres i *De Europæiske Fællesskabers Tidende*.

*På Rådets vegne*

S. MÖNKÄRE

*Formand*

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<sup>(1)</sup> Ikrafttrædelsesdatoen for ændringerne til protokollen om beskyttelse af Middelhavet mod landbaseret forurening offentliggøres i *De Europæiske Fællesskabers Tidende* på foranledning af Generalsekretariatet for Rådet for Den Europæiske Union.

**AMENDMENTS TO THE PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA  
AGAINST POLLUTION FROM LAND-BASED SOURCES**

A. Title

The title of the Protocol is amended as follows:

**'PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION  
FROM LAND-BASED SOURCES AND ACTIVITIES'**

B. Preambular paragraphs

The first preambular paragraph of the Protocol is amended as follows:

*'Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution,  
adopted at Barcelona on 16 February 1976 and amended on 10 June 1995,'*

The third preambular paragraph of the Protocol is amended as follows:

*'Noting the increasing environmental pressures resulting from human activities in the  
Mediterranean Sea area, particularly in the fields of industrialisation and urbanisation, as well as  
the seasonal increases in the coastal population due to tourism.'*

The fourth preamble paragraph of the Protocol is amended as follows:

*'Recognising the danger posed to the marine environment, living resources and human health by  
pollution from land-based sources and activities and the serious problems resulting therefrom in  
many coastal waters and river estuaries of the Mediterranean Sea, primarily due to the release of  
untreated, insufficiently treated or inadequately disposed of domestic or industrial discharges  
containing substances that are toxic, persistent and liable to bioaccumulate,'*

The following paragraph is added as the fifth preambular paragraph:

*'Applying the precautionary principle and the polluter pays principle, undertaking environmental  
impact assessment and utilising the best available techniques and the best environmental practice  
including clean production technologies, as provided for in Article 4 of the Convention.'*

The sixth preambular paragraph of the Protocol is amended as follows:

*'Determined to take, in close cooperation, the necessary measures to protect the Mediterranean Sea  
against pollution from land-based sources and activities,'*

The following paragraph is added as the seventh preambular paragraph:

*'Taking into consideration the Global Programme of Action for the Protection of the Marine  
Environment from Land-Based Activities, adopted at Washington, D.C., on 3 November 1995,'*

C. Article 1

A title is inserted and the text is amended as follows:

**'General provision**

The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures to prevent, abate, combat and eliminate to the fullest possible extent

pollution of the Mediterranean Sea area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources and activities within their territories, giving priority to the phasing out of inputs of substances that are toxic, persistent and liable to bioaccumulate.'

D. Article 2

A title is inserted, and the text of paragraphs (a) and (d) are amended as follows:

**'Definitions**

- (a) "The Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995;
- (d) The "hydrologic basin" means the entire watershed area within the territories of the Contracting Parties, draining into the Mediterranean Sea area as defined in Article 1 of the Convention.'

E. Article 3

A title is inserted and the following new paragraph is added:

**'Protocol area'**

(*abis* (renumbered as (b)))

'(b) The hydrologic basin of the Mediterranean Sea area;'

Paragraph (b) is renumbered as paragraph (c). Paragraph (c) is renumbered as paragraph (d) and amended as follows:

'(d) Brackish waters, coastal salt waters including marshes and coastal lagoons, and ground waters communicating with the Mediterranean Sea.'

F. Article 4

A title is inserted and the texts of paragraphs 1(a) and (b) are amended as follows:

**'Protocol application**

1. This Protocol shall apply:
  - (a) to discharges originating from land-based point and diffuse sources and activities within the territories of the Contracting Parties that may affect directly or indirectly the Mediterranean Sea area. These discharges shall include those which reach the Mediterranean area, as defined in article 3(a), (c) and (d) of this Protocol, through coastal disposals, rivers, outfalls, canals, or other watercourses, including ground water flow, or through run-off and disposal under the seabed with access from land;
  - (b) to inputs of polluting substances transported by the atmosphere to the Mediterranean Sea area from land-based sources or activities within the territories of the Contracting Parties under the conditions defined in Annex III to this Protocol.'

The following new paragraph is added:

'3. The Parties shall invite States that are not parties to the Protocol and have in their territories parts of the hydrologic basin of the Mediterranean area to cooperate in the implementation of the Protocol.'

## G. Article 5

A title is inserted and the texts of paragraphs 1, 2 and 4 are amended as follows:

**'General obligations**

1. The Parties undertake to eliminate pollution deriving from land-based sources and activities, in particular to phase out inputs of the substances that are toxic, persistent and liable to bioaccumulate listed in Annex I.
2. To this end, they shall elaborate and implement, individually or jointly, as appropriate, national and regional action plans and programmes, containing measures and timetables for their implementation.'

Paragraph 3 is deleted.

4. (renumbered as 3)

- '3. The priorities and timetables for implementing the action plans, programmes and measures shall be adopted by the Parties taking into account the elements set out in Annex I and shall be periodically reviewed.'

The following new paragraphs are added:

- '4. When adopting action plans, programmes and measures, the Parties shall take into account, either individually or jointly, the best available techniques and the best environmental practice including, where appropriate, clean production technologies, taking into account the criteria set forth in Annex IV.
5. The Parties shall take preventive measures to reduce to the minimum the risk of pollution caused by accidents.'

## H. Article 6

A title is inserted and the text is replaced by the following:

**'Authorisation or regulation system**

1. Point source discharges into the Protocol area, and releases into water or air that reach and may affect the Mediterranean area, as defined in Article 3(a), (c) and (d) of this Protocol, shall be strictly subject to authorisation or regulation by the competent authorities of the Parties, taking due account of the provisions of this Protocol and Annex II thereto, as well as the relevant decisions or recommendations of the meetings of the Contracting Parties.
2. To this end, the Parties shall provide for systems of inspection by their competent authorities to assess compliance with authorisations and regulations.
3. The Parties may be assisted by the Organisation, upon request, in establishing new, or strengthening existing, competent structures for inspection of compliance with authorisations and regulations. Such assistance shall include special training of personnel.
4. The Parties establish appropriate sanctions in case of non-compliance with the authorisations and regulations and ensure their application.'

## I. Article 7

A title is inserted. The texts of paragraph 1(e) and paragraph 3 are amended as follows:

**‘Common guidelines, standards and criteria**

1. ...

(e) Specific requirements concerning the quantities of the substances discharged (listed in Annex I), their concentration in effluents and methods of discharging them.

3. The action plans, programmes and measures referred to in Articles 5 and 15 of this Protocol shall be adopted by taking into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.’

## J. Article 8

A title is inserted and the text is amended as follows:

**‘Monitoring**

Within the framework of the provisions of, and the monitoring programmes provided for in Article 12 of the Convention, and if necessary in cooperation with the competent international organisations, the Parties shall carry out at the earliest possible date monitoring activities and make access to the public of the findings in order:

(a) systematically to assess, as far as possible, the levels of pollution along their coasts, in particular with regard to the sectors of activity and categories of substances listed in Annex I, and periodically to provide information in this respect;

(b) to evaluate the effectiveness of action plans, programmes and measures implemented under this Protocol to eliminate to the fullest possible extent pollution of the marine environment.’

## K. Article 9

A title is inserted and the text is amended as follows:

**‘Scientific and technical cooperation**

In conformity with Article 13 of the Convention, the Parties shall cooperate in scientific and technological fields related to pollution from land-based sources and activities, particularly research on inputs, pathways and effects of pollutants and on the development of new methods for their treatment, reduction or elimination, as well as the development of clean production processes to this effect. To this end, the Parties shall, in particular, endeavour to:

The following new paragraph is added:

‘(c) promote access to, and transfer of, environmentally sound technology including clean production technology.’

## L. Article 10

A title is inserted and the text is amended as follows:

**‘Technical assistance**

1. The Parties shall, directly or with the assistance of competent regional or other international organisations, bilaterally or multilaterally, cooperate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, education and technology, with a view to preventing, reducing or, as appropriate, phasing out inputs of pollutants from land-based sources and activities and their harmful effects in the marine environment.

2. Technical assistance would include, in particular, the training of scientific and technical personnel, as well as the acquisition, utilisation and production by those countries of appropriate equipment and, as appropriate, clean production technologies, on advantageous terms to be agreed upon among the Parties concerned.’

## M. Article 11

A title is inserted as follows:

**‘Transboundary pollution’**

## N. Article 12

A title is inserted and the text of paragraph 1 is amended as follows:

**‘Settlement of disputes**

1. Taking into account Article 28(1), of the Convention, when land-based pollution originating from the territory of one Party is likely to prejudice directly the interests of one or more of the other Parties, the Parties concerned shall, at the request of one or more of them, undertake to enter into consultation with a view to seeking a satisfactory solution.’

## O. Article 13

A title is inserted. The texts of paragraph 1, the first sentence of paragraph 2 and sub-paragraph (d) of paragraph 2 are amended as follows:

**‘Reports**

1. The Parties shall submit reports every two years, unless decided otherwise by the meeting of the Contracting Parties, to the meetings of the Contracting Parties, through the Organisation, of measures taken, results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the submission of such reports shall be determined at the meetings of the Parties.

2. Such reports shall include, *inter alia*:

(d) action plans, programmes and measures implemented in accordance with Articles 5, 7 and 15 of this Protocol.’

## P. Article 14

A title is inserted. The texts of paragraph 1 and of sub-paragraphs (a), (c) and (f), of paragraph 2 are amended as follows:

**'Meetings**

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 18 of the Convention. The Parties may also hold extraordinary meetings in accordance with Article 18 of the Convention.
2. ...
  - (a) to keep under review the implementation of this Protocol and to consider the efficacy of the action plans, programmes and measures adopted;
  - (c) to formulate and adopt action plans, programmes and measures in accordance with Articles 5, 7 and 15 of this Protocol;
  - (f) to consider the reports submitted by the Parties under Article 13 of this Protocol.'

## Q. Article 15

A title is inserted and the text of paragraph 1 is amended as follows:

**'Adoption of action plans, programmes and measures**

1. The meeting of the Parties shall adopt, by a two-thirds majority, the short-term and medium-term regional action plans and programmes containing measures and timetables for their implementation provided for in Article 5 of this Protocol.'

The text of paragraph 2 is replaced by the following:

- '2. Regional action plans and programmes as referred to in paragraph 1 shall be formulated by the Organisation and considered and approved by the relevant technical body of the Contracting Parties within one year at the latest of the entry into force of the amendments to this Protocol. Such regional action plans and programmes shall be put on the agenda for the subsequent meeting of the Parties for adoption. The same procedure shall be followed for any additional action plans and programmes.'

The following new paragraphs are added:

- '3. The measures and timetables adopted in accordance with paragraph 1 of this Article shall be notified by the Secretariat to all the Parties. Such measures and timetables become binding on the one hundred and eightieth day following the day of notification for the Parties which have not notified the Secretariat of an objection within one hundred and seventy-nine days from the date of notification.
4. The Parties which have notified an objection in accordance with the preceding paragraph shall inform the meeting of the Parties of the provisions they intend to take, it being understood that these Parties may at any time give their consent to these measures or timetables.'

## R. Article 16

A title is inserted and the text of paragraph 2 is amended as follows:

**'Final provisions**

2. The rules of procedure and the financial rules adopted pursuant to Article 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.'

The text of the last paragraph is amended as follows:

'Done at Athens on 17 May 1980 and amended at Syracuse on 7 March 1996 in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.'

## ANNEX I

Annex I is replaced by a new Annex I as follows:

**'ANNEX I****ELEMENTS TO BE TAKEN INTO ACCOUNT IN THE PREPARATION OF ACTION PLANS, PROGRAMMES AND MEASURES FOR THE ELIMINATION OF POLLUTION FROM LAND-BASED SOURCES AND ACTIVITIES**

This annex contains elements which will be taken into account in the preparation of action plans, programmes and measures for the elimination of pollution from land-based sources and activities referred to in Articles 5, 7 and 15 of this Protocol.

Such action plans, programmes and measures will aim to cover the sectors of activity listed in Section A and also cover the groups of substances enumerated in Section C, selected on the basis of the characteristics listed in Section B of the present Annex.

Priorities for action should be established by the Parties, on the basis of the relative importance of their impact on public health, the environment and socio-economic and cultural conditions. Such programmes should cover point sources, diffuse sources and atmospheric deposition.

In preparing action plans, programmes and measures, the Parties, in conformity with the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, adopted at Washington, D.C., in 1995, will give priority to substances that are toxic, persistent and liable to bioaccumulate, in particular to persistent organic pollutants (POPs), as well as to wastewater treatment and management.

**A. SECTORS OF ACTIVITY**

The following sectors of activity (not listed in order of priority) will be primarily considered when setting priorities for the preparation of action plans, programmes and measures for the elimination of the pollution from land-based sources and activities:

- (1) energy production;
- (2) fertiliser production;
- (3) production and formulation of biocides;
- (4) the pharmaceutical industry;
- (5) petroleum refining;
- (6) the paper and paper-pulp industry;
- (7) cement production;
- (8) the tanning industry;

- (9) the metal industry;
- (10) mining;
- (11) the shipbuilding and repairing industry;
- (12) harbour operations;
- (13) the textile industry;
- (14) the electronic industry;
- (15) the recycling industry;
- (16) other sectors of the organic chemical industry;
- (17) other sectors of the inorganic chemical industry;
- (18) tourism;
- (19) agriculture;
- (20) animal husbandry;
- (21) food processing;
- (22) aquaculture;
- (23) treatment and disposal of hazardous wastes;
- (24) treatment and disposal of domestic waste water;
- (25) management of municipal solid waste;
- (26) disposal of sewage sludge;
- (27) the waste management industry;
- (28) incineration of waste and management of its residues;
- (29) works which cause physical alteration of the natural state of the coastline;
- (30) transport.

#### B. CHARACTERISTICS OF SUBSTANCES IN THE ENVIRONMENT

For the preparation of action plans, programmes and measures, the Parties should take into account the characteristics listed below:

- (1) persistence;
- (2) toxicity or other noxious properties (e.g. carcinogenicity, mutagenicity, teratogenicity);
- (3) bioaccumulation;
- (4) radioactivity;
- (5) the ratio between observed concentrations and no observed effect concentrations (NOEC);
- (6) the risk of eutrophication of anthropogenic origin;
- (7) health effects and risks;

- (8) transboundary significance;
- (9) the risk of undesirable changes in the marine ecosystem and irreversibility or durability of effects;
- (10) interference with the sustainable exploitation of living resources or with other legitimate uses of the sea;
- (11) effects on the taste and/or smell of marine products for human consumption;
- (12) effects on the smell, colour, transparency or other characteristics of seawater;
- (13) distribution pattern (i.e. quantities involved, use patterns and probability of reaching the marine environment).

#### C. CATEGORIES OF SUBSTANCES

The following categories of substances and sources of pollution will serve as guidance in the preparation of action plans, programmes and measures:

- (1) organohalogen compounds and substances which may form such compounds in the marine environment. Priority will be given to aldrin, chlordane, DDT, dieldrin, dioxins and furans, endrin, heptachlor, hexachlorobenzene, mirex, PCBs and toxaphene;
- (2) organophosphorus compounds and substances which may form such compounds in the marine environment;
- (3) organotin compounds and substances which may form such compounds in the marine environment;
- (4) polycyclic aromatic hydrocarbons;
- (5) heavy metals and their compounds;
- (6) used lubricating oils;
- (7) radioactive substances, including their wastes, when their discharges do not comply with the principles of radiation protection as defined by the competent international organisations, taking into account the protection of the marine environment;
- (8) biocides and their derivatives;
- (9) pathogenic micro-organisms;
- (10) crude oils and hydrocarbons of petroleum origin;
- (11) cyanides and fluorides;
- (12) non-biodegradable detergents and other non-biodegradable surface-active substances;
- (13) compounds of nitrogen and phosphorus and other substances which may cause eutrophication;
- (14) litter (any persistent manufactured or processed solid material which is discarded, disposed of, or abandoned in the marine and coastal environment);
- (15) thermal discharges;
- (16) acid or alkaline compounds which may impair the quality of water;
- (17) non-toxic substances that have an adverse effect on the oxygen content of the marine environment;
- (18) non-toxic substances that may interfere with any legitimate use of the sea;
- (19) non-toxic substances that may have adverse effects on the physical or chemical characteristics of seawater.

## ANNEX II

Annex II is deleted.

## ANNEX III

Annex III is renumbered as Annex II. A title is added and the introductory paragraph is amended as follows:

*'ANNEX II*

**ELEMENTS TO BE TAKEN INTO ACCOUNT IN THE ISSUE OF THE AUTHORISATIONS FOR DISCHARGES OF WASTES**

With a view to the issue of an authorisation for the discharges of wastes containing substances referred to in Article 6 of this Protocol, particular account will be taken, as the case may be, of the following factors:

The title and paragraphs 1, 2, 3, 6 and 7 of Section A are amended as follows:

*'A. CHARACTERISTICS AND COMPOSITION OF THE DISCHARGES*

1. Type and size of point or diffuse source (e.g. industrial process).
2. Type of discharges (e.g. origin, average composition).
3. State of waste (e.g. solid, liquid sludge, slurry).
6. Concentrations with respect to relevant constituents of substances listed in Annex I and of other substances as appropriate.
7. Physical, chemical and biochemical properties of the waste discharges.'

The title of Section B is amended and a new paragraph is added:

*'B. CHARACTERISTICS OF DISCHARGE CONSTITUENTS WITH RESPECT TO THEIR HARMFULNESS*

7. All other characteristics as listed in Annex I, Section B.'

The title and paragraph 3 of Section C are amended as follows:

*'C. CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING ENVIRONMENT*

3. Initial dilution achieved at the point of discharge into the receiving environment.'

## ANNEX IV

Annex IV is renumbered as Annex III. A title is added and paragraphs 1, 2, 3 and 5 are amended as follows:

*'ANNEX III*

**CONDITIONS OF APPLICATION TO POLLUTION TRANSPORTED THROUGH THE ATMOSPHERE**

1. This Protocol shall apply to polluting discharges into the atmosphere under the following conditions:
  - (a) the discharged substance is or could be transported to the Mediterranean Sea area under prevailing meteorological conditions;
  - (b) the input of the substance into the Mediterranean Sea area is hazardous for the environment in relation to the quantities of the same substance reaching the area by other means.

2. This Protocol shall also apply to polluting discharges into the atmosphere affecting the Mediterranean Sea area from land-based sources within the territories of the Parties and from fixed man-made offshore structures, subject to the provisions of Article 4(2) of this Protocol.
3. In the case of pollution of the Mediterranean Sea area from land-based sources through the atmosphere, the provisions of Articles 5 and 6 of this Protocol shall apply progressively to appropriate substances and sources listed in Annex I to this Protocol as will be agreed by the Parties:
5. The provisions of Annex II to this Protocol shall apply to pollution through the atmosphere whenever appropriate. Air pollution monitoring and modelling using acceptable common emission factors and methodologies shall be carried out in the assessment of atmospheric deposition of substances, as well as in the compilation of inventories of quantities and rates of pollutant emissions into the atmosphere from land-based sources.'

#### ANNEX IV

A new Annex IV is added as follows:

#### 'ANNEX IV

#### **CRITERIA FOR THE DEFINITION OF BEST AVAILABLE TECHNIQUES AND BEST ENVIRONMENTAL PRACTICE**

##### A. BEST AVAILABLE TECHNIQUES

1. The use of the best available techniques shall emphasise the use of non-waste technology, if available.
2. The term "best available techniques" means the latest stage of development (state of the art) of processes, of facilities or of methods of operation which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste. In determining whether a set of processes, facilities and methods of operation constitute the best available techniques in general or individual cases, special consideration shall be given to:
  - (a) comparable processes, facilities or methods of operation which have recently been successfully tried out;
  - (b) technological advances and changes in scientific knowledge and understanding;
  - (c) the economic feasibility of such techniques;
  - (d) time limits for installation in both new and existing plants;
  - (e) the nature and volume of the discharges and emissions concerned.
3. It therefore follows that what is "best available techniques" for a particular process will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.
4. If the reduction of discharges and emissions resulting from the use of best available techniques does not lead to environmentally acceptable results, additional measures have to be applied.
5. "Techniques" include both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled.

##### B. BEST ENVIRONMENTAL PRACTICE

6. The term "best environmental practice" means the application of the most appropriate combination of environmental control measures and strategies. In making a selection for individual cases, at least the following graduated range of measures should be considered:

- (a) the provision of information and education to the public and to users about the environmental consequences of choice of particular activities and choice of products, their use and ultimate disposal;
  - (b) the development and application of codes of good environmental practice which cover all aspects of the activity in the product's life;
  - (c) the mandatory application of labels informing users of environmental risks related to a product, its use and ultimate disposal;
  - (d) saving resources, including energy;
  - (e) making collection and disposal systems available to the public;
  - (f) avoiding the use of hazardous substances or products and the generation of hazardous waste;
  - (g) recycling, recovery and reuse;
  - (h) the application of economic instruments to activities, products or groups of products;
  - (i) establishing a system of licensing, involving a range of restrictions or a ban.
7. In determining what combination of measures constitute best environmental practice, in general or individual cases, particular consideration should be given to:
- (a) the environmental hazard of the product and its production, use and ultimate disposal;
  - (b) the substitution by less polluting activities or substances;
  - (c) the scale of use;
  - (d) the potential environmental benefit or penalty of substitute materials or activities;
  - (e) advances and changes in scientific knowledge and understanding;
  - (f) time limits for implementation;
  - (g) social and economic implications.
8. It therefore follows, that best environmental practice for a particular source will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.
9. If the reduction of inputs resulting from the use of best environmental practice does not lead to environmentally acceptable results, additional measures have to be applied and best environmental practice redefined.'
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