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Legislation

Contents

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 20 December 1985

amending for the seventh time (asbestos) Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

(85/610/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas asbestos is recognized to be a health hazard;

Whereas the use of asbestos and even products containing it can, by releasing fibres, cause asbestosis and cancer; whereas placing on the market and use should therefore be subject to the severest possible restrictions;

Whereas Directive 76/769/EEC (4) as amended by Directive 83/478/EEC (5) already lays down initial measures of that kind by prohibiting, with a few exceptions, the placing on the market and use of crocidolite and by requiring specific labelling to draw attention to the hazards inherent in the use of products containing asbestos fibres;

Whereas improved monitoring of the marketing and use of dangerous asbestos fibres is necessary to protect human health, especially as there are for certain uses substitution products regarded as less dangerous;

Whereas it is necessary to deal with the marketing and the use of other products containing asbestos, and whereas in this context, the Council requests the Commission to undertake and in particular to continue with its work on the development of test methods for asbestos products as rapidly as possible;

Whereas some Member States have regulations on asbestos; whereas these differ in respect of the conditions for placing on the market and use; whereas these differences form a barrier to trade and have a direct impact on the establishment and operation of the common market;

Whereas to eliminate certain of these differences it is therefore necessary to supplement the Annex to Directive 76/769/EEC, as last amended by Directive 85/467/EEC (6),

(1) OJ No C 78, 28. 3. 1980, p. 10.
(2) OJ No C 125, 17. 5. 1982, p. 159.
(3) OJ No C 331, 17. 12. 1980, p. 5.
(4) OJ No L 262, 27. 9. 1976, p. 201.
(5) OJ No L 263, 24. 9. 1983, p. 33.
(6) OJ No L 296, 11. 10. 1985, p. 56.

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Annex I to Directive 76/769/EEC, point 5 shall become point 6, and the following point shall be added:

'6.3. Asbestos fibres Chrysotile, CAS No 12001-29-5 Amosite, CAS No 12172-73-5 Anthophyllite, CAS No 77536-67-5 Actinolite, CAS No 77536-66-4 Tremolite, CAS No 77536-68-6

6.3.1. The placing on the market and the use of products containing these fibres shall be prohibited for:

(a) toys;

(b) materials or preparations intended to be applied by spraying; Member States may, however, allow on their territories butiminous compounds containing asbestos intended to be applied by spraying as vehicle undersealing for anti-corrosion protection;

(c) finished products which are retailed to the public in powder form;

(d) items for smoking such as tobacco pipes and cigarette and cigar holders;

(e) catalytic filters and insulation devices for incorporation in catalytic heaters using liquefied gas;

(f) paints and varnishes.'

Article 2

1. Member States shall take the measures necessary to comply with this Directive not later than 31 December 1987. They shall forthwith inform the Commission thereof.

2. Member States shall communiciate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 20 December 1985.

For the Council

The President

R. KRIEPS

COUNCIL DIRECTIVE

of 20 December 1985

on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)

(85/611/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 57 (2) thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the laws of the Member States relating to collective investment undertakings differ appreciably from one state to another, particularly as regards the obligations and controls which are imposed on those undertakings; whereas those differences distort the conditions of competition between those undertakings and do not ensure equivalent protection for unit-holders;

Whereas national laws governing collective investment undertakings should be coordinated with a view to approximating the conditions of competition between those undertakings at Community level, while at the same time ensuring more effective and more uniform protection for unit-holders; whereas such coordination will make it easier for a collective investment undertaking situated in one Member State to market its units in other Member States;

Whereas the attainment of these objectives will facilitate the removal of the restrictions on the free circulation of the units of collective investment undertakings in the Community, and such coordination will help to bring about a European capital market;

Whereas, having regard to these objectives, it is desirable that common basic rules be established for the authorization, supervision, structure and activities of collective investment undertakings situated in the Member States and the information they must publish;

Whereas the application of these common rules is a sufficient guarantee to permit collective investment undertakings situated in Member States, subject to the applicable provisions relating to capital movements, to market their units in other Member States without those Member States' being able to subject those undertakings or their units to any provision whatsoever other than provisions which, in those states, do not fall within the field covered by this Directive; whereas, nevertheless, if a collective investment undertaking situated in one Member State markets its units in a different Member State it must take all necessary steps to ensure that unit-holders in that other Member State can exercise their financial rights there with ease and are provided with the necessary information,

Whereas the coordination of the laws of the Member States should be confined initially to collective investment undertakings other than of the closed-ended type which promote the sale of their units to the public in the Community and the sole object of which is investment in transferable securities (which are essentially transferable securities officially listed on stock exchanges or similar regulated markets); whereas regulation of the collective investment undertakings not covered by the Directive poses a variety of problems which must be dealt with by means of other provisions, and such undertakings will accordingly be the subject of coordination at a later stage; whereas pending such coordination any Member State may, *inter alia,* prescribe those categories of undertakings for collective investment in transferable securities (UCITS) excluded from this Directive's scope on account of their investment and borrowing policies and lay down those specific rules to which such UCITS are subject in carrying on their business within its territory;

Whereas the free marketing of the units issued by UCITS authorized to invest up to 100 % of their assets in transferable securities issued by the same body (State, local authority, etc.) may not have the direct or indirect effect of disturbing the functioning of the capital market or the financing of the Member States or of creating economic situations similar to those which Article 68 (3) of the Treaty seeks to prevent;

Whereas account should be taken of the special situations of the Hellenic Republic's and Portuguese Republic's

(1) OJ No C 171, 26. 7. 1976, p. 1.
(2) OJ No C 57, 7. 3. 1977, p. 31.
(3) OJ No C 75, 26. 3. 1977, p. 10.

financial markets by allowing those countries and additional period in which to implement this Directive,

HAS ADOPTED THIS DIRECTIVE:

Section I

General provisions and scope

Article 1

1. The Member States shall apply this Directive to undertakings for collective investment in transferable securities (hereinafter referred to as UCITS) situated within their territories.

2. For the purposes of this Directive, and subject to Article 2, UCITS shall be undertakings:

— the sole object of which is the collective investment in transferable securities of capital raised from the public and which operate on the principle of risk-spreading,

and

— the units of which are, at the request of holders, re-purchased or redeemed, directly or indirectly, out of those undertakings' assets. Action taken by a UCITS to ensure that the stock exchange value of its units does not significantly vary from their net asset value shall be regarded as equivalent to such re-purchase or redemption.

3. Such undertakings may be constituted according to law, either under the law of contract (as common funds managed by management companies) or trust law (as unit trusts) or under statute (as investment companies).

For the purposes of this Directive 'common funds' shall also include unit trusts.

4. Investment companies the assets of which are invested through the intermediary of subsidiary companies mainly otherwise than in transferable securities shall not, however, be subject to this Directive.

5. The Member States shall prohibit UCITS which are subject to this Directive from transforming themselves into collective investment undertakings which are not covered by this Directive.

6. Subject to the provisions governing capital movements and to Articles 44, 45 and 52 (2) no Member State may apply any other provisions whatsoever in the field covered by this Directive to UCITS situated in another Member State or to the units issued by such UCITS, where they market their units within its territory.

7. Without prejudice to paragraph 6, a Member State may apply to UCITS situated within its territory requirements which are stricter than or additional to those laid down in Article 4 *et seq.* of this Directive, provided that they are of general application and do not conflict with the provisions of this Directive.

Article 2

1. The following shall not be UCITS subject to this Directive:

— UCITS of the closed-ended type;

— UCITS which raise capital without promoting the sale of their units to the public within the Community or any part of it;

— UCITS the units of which, under the fund rules or the investment company's instruments of incorporation, may be sold only to the public in non-member countries;

— categories of UCITS prescribed by the regulations of the Member States in which such UCITS are situated, for which the rules laid down in Section V and Article 36 are inappropriate in view of their investment and borrowing policies.

2. Five years after the implementation of this Directive the Commission shall submit to the Council a report on the implementation of paragraph 1 and, in particular, of its fourth indent. If necessary, it shall propose suitable measures to extend the scope.

Article 3

For the purposes of this Directive, a UCITS shall be deemed to be situated in the Member State in which the investment company or the management company of the unit trust has its registered office; the Member States must require that the head office be situated in the same Member State as the registered office.

SECTION II

Authorization of UCITS

Article 4

1. No UCITS shall carry on activities as such unless it has been authorized by the competent authorities of the Member State in which it is situated, hereinafter referred to as 'the competent authorities'.

Such authorization shall be valid for all Member States.

2. A unit trust shall be authorized only if the competent authorities have approved the management company, the fund rules and the choice of depositary. An investment company shall be authorized only if the competent authorities have approved both its instruments of incorporation and the choice of depositary.

3. The competent authorities may not authorize a UCITS if the directors of the management company, of the

investment company or of the depositary are not of sufficiently good repute or lack the experience required for the performance of their duties. To that end, the names of the directors of the management company, of the investment company and of the depositary and of every person succeeding them in office must be communicated forthwith to the competent authorities.

'Directors' shall mean those persons who, under the law or the instruments of incorporation, represent the management company, the investment company or the depositary, or who effectively determine the policy of the management company, the investment company or the depositary.

4. Neither the management company nor the depositary may be replaced, nor may the fund rules or the investment company's instruments of incorporation be amended, without the approval of the competent authorities.

SECTION III

Obligations regarding the structure of unit trusts

Article 5

A management company must have sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities.

Article 6

No management company may engage in activities other than the management of unit trusts and of investment companies.

Article 7

1. A unit trust's assets must be entrusted to a depositary for safe-keeping.

2. A depositary's liability as referred to in Article 9 shall not be affected by the fact that it has entrusted to a third party all or some of the assets in its safe-keeping.

3. A depositary must, moreover:

(a) ensure that the sale, issue, re-purchase, redemption and cancellation of units effected on behalf of a unit trust or by a management company are carried out in accordance with the law and the fund rules;

(b) ensure that the value of units is calculated in accordance with the law and the fund rules;

(c) carry out the instructions of the management company, unless they conflict with the law or the fund rules;

(d) ensure that in transactions involving a unit trust's assets any consideration is remitted to it within the usual time limits;

(e) ensure that a unit trust's income is applied in accordance with the law and the fund rules.

Article 8

1. A depositary must either have its registered office in the same Member State as that of the management company or be established in that Member State if its registered office is in another Member State.

2. A depositary must be an institution which is subject to public control. It must also furnish sufficient financial and professional guarantees to be able effectively to pursue its business as depositary and meet the commitments inherent in that function.

3. The Member States shall determine which of the categories of institutions referred to in paragraph 2 shall be eligible to be depositaries.

Article 9

A depositary shall, in accordance with the national law of the State in which the management company's registered office is situated, be liable to the management company and the unit-holders for any loss suffered by them as a result of its unjustifiable failure to perform its obligations or its improper performance of them. Liability to unit-holders may be invoked either directly or indirectly through the management company, depending on the legal nature of the relationship between the depositary, the management company and the unit-holders.

Article 10

1. No single company shall act as both management company and depositary.

2. In the context of their respective roles the management company and the depositary must act independently and solely in the interest of the unit-holders.

Article 11

The law or the fund rules shall lay down the conditions for the replacement of the management company and the depositary and rules to ensure the protection of unit-holders in the event of such replacement.

SECTION IV

Obligations regarding the structure of investment companies and their depositaries

Article 12

The Member States shall determine the legal form which an investment company must take. It must have sufficient paid-up capital to enable it to conduct its business effectively and meet its liabilities.

Article 13

No investment company may engage in activities other than those referred to in Article 1 (2).

Article 14

1. An investment company's assets must be entrusted to a depositary for safe-keeping.

2. A depositary's liability as referred to in Article 16 shall not be affected by the fact that it has entrusted to a third party all or some of the assets in its safe-keeping.

3. A depositary must, moreover:

(a) ensure that the sale, issue, re-purchase, redemption and cancellation of untis effected by or on behalf of a company are carried out in accordance with the law and with the company's instruments of incorporation;

(b) ensure that in transactions involving a company's assets any consideration is remitted to it within the usual time limits;

(c) ensure that a company's income is applied in accordance with the law and its instruments of incorporation.

4. A Member State may decide that investment companies situated within its territory which market their units exclusively through one or more stock exchanges on which their units are admitted to official listing shall not be required to have depositaries within the meaning of this Directive.

Articles 34, 37 and 38 shall not apply to such companies. However, the rules for the valuation of such companies' assets must be stated in law or in their instruments of incorporation.

5. A Member State may decide that investment companies situated within its territory which market at least 80 % of their-units through one or more stock exchanges designated in their instruments of incorporation shall not be required to have depositaries within the meaning of this Directive provided that their units are admitted to official listing on the stock exchanges of those Member States within the territories of which the units are marketed, and that any transactions which such a company may effect outwith stock exchanges are effected at stock exchange prices only. A company's instruments of incorporation must specify the stock exchange in the country of marketing the prices on which shall determine the prices at which that company will effect any transactions outwith stock exchanges in that country.

A Member State shall avail itself of the option provided for in the preceding subparagraph only if it considers that unit-holders have protection equivalent to that of unit-holders in UCITS which have depositaries within the meaning of this Directive.

In particular, such companies and the companies referred to in paragraph 4, must:

(a) in the absence of provision in law, state in their instruments of incorporation the methods of calculation of the net asset values of their units;

(b) intervene on the market to prevent the stock exchange values of their units from deviating by more than 5 % from their net asset values;

(c) establish the net asset values of their units, communicate them to the competent authorities at least twice a week and publish them twice a month.

At least twice a month, an independent auditor must ensure that the calculation of the value of units is effected in accordance with the law and the company's instruments of incorporation. On such occasions, the auditor must make sure that the company's assets are invested in accordance with the rules laid down by law and the company's instruments of incorporation.

6. The Member States shall inform the Commission of the identities of the companies benefiting from the derogations provided for in paragraphs 4 and 5.

The Commission shall report to the Contact Committee on the application of paragraphs 4 and 5 within five years of the implementation of this Directive. After obtaining the Contact Committee's opinion, the Commission shall, if need be, propose appropriate measures.

Article 15

1. A depositary must either have its registered office in the same Member State as that of the investment company or be established in that Member State if its registered office is in another Member State.

2. A depositary must be an institution which is subject to public control. It must also furnish sufficient financial and

professional guarantees to be able effectively to pursue its business as depositary and meet the commitments inherent in that function.

3. The Member States shall determine which of the categories of institutions referred to in paragraph 2 shall be eligible to be depositaries.

Article 16

A depositary shall, in accordance with the national law of the State in which the investment company's registered office is situated, be liable to the investment company and the unit-holders for any loss suffered by them as a result of its unjustifiable failure to perform its obligations, or its improper performance of them.

Article 17

1. No single company shall act as both investment company and depositary.

2. In carrying out its role as depositary, the depositary must act solely in the interests of the unit-holders.

Article 18

The law or the investment company's instruments of incorporation shall lay down the conditions for the replacement of the depositary and rules to ensure the protection of unit-holders in the event of such replacement.

SECTION V

Obligations concerning the investment policies of UCITS

Article 19

1. The investments of a unit trust or of an investment company must consist solely of:

(a) transferable securities admitted to official listing on a stock exchange in a Member State and/or;

(b) transferable securities dealt in on another regulated market in a Member State which operates regularly and is recognized and open to the public and/or;

(c) transferable securities admitted to official listing on a stock exchange in a non-member State or dealt in on another regulated market in a non-member State which operates regularly and is recognized and open to the public provided that the choice of stock exchange or market has been approved by the competent authorities or is provided for in law or the fund rules or the investment company's instruments of incorporation and/or;

(d) recently issued transferable securities, provided that:

— the terms of issue include an undertaking that application will be made for admission to official listing on a stock exchange or to another regulated market which operates regularly and is recognized and open to the public, provided that the choice of stock exchange or market has been approved by the competent authorities or is provided for in law or the fund rules or the investment company's instruments of incorporation;

— such admission is secured within a year of issue.

2. However:

(a) a UCITS may invest no more than 10% of its assets in transferable securities other than those referred to in paragraph 1;

(b) a Member State may provide that a UCITS may invest no more than 10% of its assets in debt instruments which, for purposes of this Directive, shall be treated, because of their characteristics, as equivalent to transferable securities and which are, *inter alia*, transferable, liquid and have a value which can be accurately determined at any time or at least with the frequency stipulated in Article 34;

(c) an investment company may acquire movable and immovable property which is essential for the direct pursuit of its business;

(d) a UCITS may not acquire either precious metals or certificates representing them.

3. The total of the investments referred to in paragraph 2 (a) and (b) may not under any circumstances amount to more than 10% of the assets of a UCITS.

4. Unit trusts and investment companies may hold ancillary liquid assets.

Article 20

1. The Member States shall send to the Commission:

(a) no later than date of implementation of this Directive, lists of the debt instruments which, in accordance with Article 19 (2) (b), they plan to treat as equivalent to transferable securities, stating the characteristics of those instruments and the reasons for so doing;

(b) details of any amendments which they contemplate making to the lists of instruments referred to in (a) or any further instruments which they contemplate treating as equivalent to transferable securities, together with their reasons for so doing.

2. The Commission shall immediately forward that information to the other Member States together with any comments which it considers appropriate. Such communications may be the subject of exchanges of views within the Contact Committee in accordance with the procedure laid down in Article 53 (4).

Article 21

1. The Member States may authorize UCITS to employ techniques and instruments relating to transferable securities under the conditions and within the limits which they lay down provided that such techniques and instruments are used for the purpose of efficient portfolio management.

2. The Member States may also authorize UCITS to employ techniques and instruments intended to provide protection against exchange risks in the context of the management of their assets and liabilities.

Article 22

1. A UCITS may invest no more than 5 % of its assets in transferable securities issued by the same body.

2. The Member States may raise the limit laid down in paragraph 1 to a maximum of 10 %. However, the total value of the transferable securities held by a UCITS in the issuing bodies in each of which it invests more than 5 % of its assets must not then exceed 40 % of the value of its assets.

3. The Member States may raise the limit laid down in paragraph 1 to a maximum of 35 % if the transferable securities are issued or guaranteed by a Member State, by its local authorities, by a non-member State or by public international bodies of which one or more Member States are members.

Article 23

1. By way of derogation from Article 22 and without prejudice to Article 68 (3) of the Treaty, the Member States may authorize UCITS to invest in accordance with the principle of risk-spreading up to 100 % of their assets in different transferable securities issued or guaranteed by any Member State, its local authorities, a non-member State or public international bodies of which one or more Member States are members.

The competent authorities shall grant such a derogation only if they consider that unit-holders in the UCITS have protection equivalent to that of unit-holders in UCITS complying with the limits laid down in Article 22.

Such a UCITS must hold securities from at least six different issues, but securities from any one issue may not account for more than 30 % of its total assets.

2. The UCITS referred to in paragraph 1 must make express mention in the fund rules or in the investment company's instruments of incorporation of the States, local authorities or public international bodies issuing or guaranteeing securities in which they intend to invest more than 35 % of their assets; such fund rules or instruments of incorporation must be approved by the competent authorities.

3. In addition each such UCITS referred to in paragraph 1 must include a prominent statement in its prospectus and any promotional literature drawing attention to such authorization and indicating the States, local authorities and/or public international bodies in the securities of which it intends to invest or has invested more than 35 % of its assets.

Article 24

1. A UCITS may not acquire the units of other collective investment undertakings of the open-ended type unless they are collective investment undertakings within the meaning of the first and second indents of Article 1 (2).

2. A UCITS may invest no more than 5 % of its assets in the units of such collective investment undertakings.

3. Investment in the units of a unit trust managed by the same management company or by any other company with which the management company is linked by common management or control, or by a substantial direct or indirect holding, shall be permitted only in the case of a trust which, in accordance with its rules, has specialized in investment in a specific geographical area or economic sector, and provided that such investment is authorized by the competent authorities. Authorization shall be granted only if the trust has announced its intention of making use of that option and that option has been expressly stated in its rules.

A management company may not charge any fees or costs on account of transactions relating to a unit trust's units where some of a unit trust's assets are invested in the units of another unit trust managed by the same management company or by any other company with which the management company is linked by common management or control, or by a substantial direct or indirect holding.

4. Paragraph 3 shall also apply where an investment company acquires units in another investment company to which it is linked within the meaning of paragraph 3.

Paragraph 3 shall also apply where an investment company acquires units of a unit trust to which it is linked, or where a unit trust acquires units of an investment company to which it is linked.

Article 25

1. An investment company or a management company acting in connection with all of the unit trusts which it manages and which fall within the scope of this Directive may not acquire any shares carrying voting rights which would enable it to exercise significant influence over the management of an issuing body.

Pending further coordination, the Member States shall take account of existing rules defining the principle stated in the first subparagraph under other Member States' legislation.

2. Moreover, an investment company or unit trust may acquire no more than:

— 10 % of the non-voting shares of any single issuing body;

— 10 % of the debt securities of any single issuing body;

— 10 % of the units of any single collective investment undertaking within the meaning of the first and second indents of Article 1 (2).

The limits laid down in the second and third indents may be disregarded at the time of acquisition if at that time the gross amount of the debt securities or the net amount of the securities in issue cannot be calculated.

3. A Member State may waive application of paragraphs 1 and 2 as regards:

(a) transferable securities issued or guaranteed by a Member State or its local authorities;

(b) transferable securities issued or guaranteed by a non-member State;

(c) transferable securities issued by public international bodies of which one or more Member States are members;

(d) shares held by a UCITS in the capital of a company incorporated in a non-member State investing its assets mainly in the securities of issuing bodies having their registered offices in that State, where under the legislation of that State such a holding represents the only way in which the UCITS can invest in the securities of issuing bodies of that State. This derogation, however, shall apply only if in its investment policy the company from the non-member State complies with the limits laid down in Articles 22, 24 and 25 (1) and (2). Where the limits set in Articles 22 and 24 are exceeded. Article 26 shall apply *mutatis mutandis;*

(e) shares held by an investment company in the capital of subsidiary companies carrying on the business of management, advice or marketing exclusively on its behalf.

Article 26

1. UCITS need not comply with the limits laid down in this Section when exercising subscription rights attaching to transferable securities which form part of their assets.

While ensuring observance of the principle of risk-spreading, the Member States may allow recently authorized UCITS to derogate from Articles 22 and 23 for six months following the date of their authorization.

2. If the limits referred to in paragraph 1 are exceeded for reasons beyond the control of a UCITS or as a result of the exercise of subscription rights, that UCITS must adopt as a priority objective for its sales transactions the remedying of that situation, taking due account of the interests of its unit-holders.

SECTION VI

Obligations concerning information to be supplied to unit-holders

A. Publication of a prospectus and periodical reports

Article 27

1. An investment company and, for each of the trusts it manages, a management company must publish:

— a prospectus,

— an annual report for each financial year, and

— a half-yearly report covering the first six months of the financial year.

2. The annual and half-yearly reports must be published within the following time limits, with effect from the ends of the periods to which they relate:

— four months in the case of the annual report,

— two months in the case of the half-yearly report.

Article 28

1. A prospectus must include the information necessary for investors to be able to make an informed judgement of the investment proposed to them. It shall contain at least the information provided for in Schedule A annexed to this Directive, insofar as that information does not already appear in the documents annexed to the prospectus in accordance with Article 29 (1).

2. The annual report must include a balance-sheet or a statement of assets and liabilities, a detailed income and

expenditure account for the financial year, a report on the activities of the financial year and the other information provided for in Schedule B annexed to this Directive, as well as any significant information which will enable investors to make an informed judgement on the development of the activities of the UCITS and its results.

3. The half-yearly report must include at least the information provided for in Chapters I to IV of Schedule B annexed to this Directive; where a UCITS has paid or proposes to pay an interim dividend, the figures must indicate the results after tax for the half-year concerned and the interim dividend paid or proposed.

Article 29

1. The fund rules or an investment company's instruments of incorporation shall form an integral part of the prospectus and must be annexed thereto.

2. The documents referred to in paragraph 1 need not, however, be annexed to the prospectus provided that the unit-holder is informed that on request he or she will be sent those documents or be apprised of the place where, in each Member State in which the units are placed on the market, he or she may consult them.

Article 30

The essential elements of the prospectus must be kept up to date.

Article 31

The accounting information given in the annual report must be audited by one or more persons empowered by law to audit accounts in accordance with Council Directive 84/253/EEC of 10 April 1984 based on Article 54 (3) (g) of the EEC Treaty on the approval of persons responsible for carrying out the statutory audits of accounting documents [1]. The auditor's report, including any qualifications, shall be reproduced in full in the annual report.

Article 32

A UCITS must send its prospectus and any amendments thereto, as well as its annual and half-yearly reports, to the competent authorities.

Article 33

1. The prospectus, the latest annual report and any subsequent half-yearly report published must be offered to subscribers free of charge before the conclusion of a contract.

2. In addition, the annual and half-yearly reports must be available to the public at the places specified in the prospectus.

3. The annual and half-yearly reports shall be supplied to unit-holders free of charge on request.

B. Publication of other information

Article 34

A UCITS must make public in an appropriate manner the issue, sale, re-purchase or redemption price of its units each time it issues, sells, re-purchases or redeems them, and at least twice a month. The competent authorities may, however, permit a UCITS to reduce the frequency to once a month on condition that such a derogation does not prejudice the interests of the unit-holders.

Article 35

All publicity comprising an invitation to purchase the units of a UCITS must indicate that a prospectus exists and the places where it may be obtained by the public.

SECTION VII

The general obligations of UCITS

Article 36

1. Neither:

— an investment company, nor

— a management company or depositary acting on behalf of a unit trust,

may borrow.

However, a UCTIS may acquire foreign currency by means of a 'back-to-back' loan.

2. By way of derogation from paragraph 1, a Member State may authorize a UCITS to borrow:

(a) up to 10 %

— of its assets, in the case of an investment company, or

— of the value of the fund, in the case of a unit trust,

provided that the borrowing is on a temporary basis;

[1] OJ No L 126, 12. 5. 1984, p. 20.

(b) up to 10 % of its assets, in the case of an investment company, provided that the borrowing is to make possible the acquisition of immovable property essential for the direct pursuit of its business; in this case the borrowing and that referred to in subparagraph (a) may not in any case in total exceed 15 % of the borrower's assets.

Article 37

1. A UCITS must re-purchase or redeem its units at the request of any unit-holder.

2. By way of derogation from paragraph 1:

(a) a UCITS may, in the cases and according to the procedures provided for by law, the fund rules or the investment company's instruments of incorporation, temporarily suspend the re-purchase or redemption of its units. Suspension may be provided for only in exceptional cases where circumstances so require, and suspension is justified having regard to the interests of the unit-holders;

(b) the Member States may allow the competent authorities to require the suspension of the re-purchase or redemption of units in the interest of the unit-holders or of the public.

3. In the cases mentioned in paragraph 2 (a), a UCITS must without delay communicate its decision to the competent authorities and to the authorities of all Member States in which it markets its units.

Article 38

The rules for the valuation of assets and the rules for calculating the sale or issue price and the re-purchase or redemption price of the units of a UCITS must be laid down in the law, in the fund rules or in the investment company's instruments of incorporation.

Article 39

The distribution or reinvestment of the income of a unit trust or of an investment company shall be effected in accordance with the law and with the fund rules or the investment company's instruments of incorporation.

Article 40

A UCITS unit may not be issued unless the equivalent of the net issue price is paid into the assets of the UCITS within the usual time limits. This provision shall not preclude the distribution of bonus units.

Article 41

1. Without prejudice to the application of Articles 19 and 21, neither:

— an investment company, nor

— a management company or depositary acting on behalf of a unit trust

may grant loans or act as a guarantor on behalf of third parties.

2. Paragraph 1 shall not prevent such undertakings from acquiring transferable securities which are not fully paid.

Article 42

Neither:

— an investment company, nor

— a management company or depository acting on behalf of a unit trust

may carry out uncovered sales of transferable securities.

Article 43

The law or the fund rules must prescribe the remuneration and the expenditure which a management company is empowered to charge to a unit trust and the method of calculation of such remuneration.

The law or an investment company's instruments of incorporation must prescribe the nature of the cost to be borne by the company.

SECTION VIII

Special provisions applicable to UCITS which market their units in Member States other than those in which they are situated

Article 44

1. A UCITS which markets its units in another Member State must comply with the laws, regulations and administrative provisions in force in that State which do not fall within the field governed by this Directive.

2. Any UCITS may advertise its units in the Member State in which they are marketed. it must comply the provisions governing advertising in that State.

3. The provisions referred to in paragraphs 1 and 2 must be applied without discrimination.

Article 45

In the case referred to in Article 44, the UCITS must, *inter alia,* in accordance with the laws, regulations and administrative provisions in force in the Member State of marketing, take the measures necessary to ensure that facilities are available in that State for making payments to unit-holders, re-purchasing or redeeming units and making available the information which UCITS are obliged to provide.

Article 46

If a UCITS proposes to market its units in a Member State other than that in which it is situated, it must first inform the competent authorities and the authorities of that other Member State accordingly. It must simultaneously send the latter authorities:

— an attestation by the competent authorities to the effect that it fulfils the conditions imposed by this Directive,

— its fund rules or its instruments of incorporation,

— its prospectus,

— where appropriate, its latest annual report and any subsequent half-yearly report and

— details of the arrangements made for the marketing of its units in that other Member State.

A UCITS may begin to market its units in that other Member State two months after such communication unless the authorities of the Member State concerned establish, in a reasoned decision taken before the expiry of that period of two months, that the arrangements made for the marketing of units do not comply with the provisions referred to in Articles 44 (1) and 45.

Article 47

If a UCITS markets its units in a Member State other than that in which it is situated, it must distribute in that other Member State, in at least one of that other Member State's official languages, the documents and information which must be published in the Member State in which it is situated, in accordance with the same procedures as those provided for in the latter State.

Article 48

For the purpose of carrying on its activities, a UCITS may use the same generic name (such as investment company or unit trust) in the Community as it uses in the Member State in which it is situated. In the event of any danger of confusion, the host Member State may, for the purpose of clarification, require that the name be accompanied by certain explanatory particulars.

SECTION IX

Provisions concerning the authorities responsible for authorization and supervision

Article 49

1. The Member States shall designate the authorities which are to carry out the duties provided for in this Directive. They shall inform the Commission thereof, indicating any division of duties.

2. The authorities referred to in paragraph 1 must be public authorities or bodies appointed by public authorities.

3. The authorities of the State in which a UCITS is situated shall be competent to supervise that UCITS. However, the authorities of the State in which a UCITS markets its units in accordance with Article 44 shall be competent to supervise compliance with Section VIII.

4. The authorities concerned must be granted all the powers necessary to carry out their task.

Article 50

1. The authorities of the Member States referred to in Article 49 shall collaborate closely in order to carry out their task and must for that purpose alone communicate to each other all information required.

2. The Member States shall provide that all persons employed or formerly employed by the authorities referred to in Article 49 shall be bound by professional secrecy. This means that any confidential information received in the course of their duties may not be divulged to any person or authority except by virtue of provisions laid down by law.

3. Paragraph 2 shall not, however, preclude communications between the authorities of the various Member States referred to in Article 49, as provided for in this Directive. Information thus exchanged shall be covered by the obligation of professional secrecy on persons employed or formerly employed by the authorities receiving the information.

4. Without prejudice to cases covered by criminal law, an authority of the type referred to in Article 49 receiving such information may use it only for the performance of its duties or in the context of administrative appeals or legal proceedings relating to such performance.

Article 51

1. The authorities referred to in Article 49 must give reasons for any decision to refuse authorization, and any negative decision taken in implementation of the general

measures adopted in application of this Directive, and communicate them to applicants.

2. The Member States shall provide that decisions taken in respect of a UCITS pursuant to laws, regulations and administrative provisions adopted in accordance with this Directive are subject to the right to apply to the courts; the same shall apply if no decision is taken within six months of its submission on an authorization application made by a UCITS which includes all the information required under the provisions in force.

Article 52

1. Only the authorities of the Member State in which a UCITS is situated shall have the power to take action against it if it infringes any law, regulation or administrative provision or any regulation laid down in the fund rules or in the investment company's instruments of incorporation.

2. Nevertheless, the authorities of the Member State in which the units of a UCITS are marketed may take action against it if it infringes the provisions referred to in Section VIII.

3. Any decision to withdraw authorization, or any other serious measure taken against a UCITS, or any suspension of re-purchase or redemption imposed upon it, must be communicated without delay by the authorities of the Member State in which the UCITS in question is situated to the authorities of the other Member States in which its units are marketed.

SECTION X

Contact Committee

Article 53

1. A Contact Committee, hereinafter referred to as 'the Committee', shall be set up alongside the Commission. Its function shall be:

(a) to facilitate, without prejudice to Articles 169 and 170 of the Treaty, the harmonized implementation of this Directive through regular consultations on any practical problems arising from its application and on which exchanges of views are deemed useful;

(b) to facilitate consultation between Member States either on more rigorous or additional requirements which they may adopt in accordance with Article 1 (7), or on the provisions which they may adopt in accordance with Articles 44 and 45;

(c) to advise the Commission, if necessary, on additions or amendments to be made to this Directive.

2. It shall not be the function of the Committee to appraise the merits of decisions taken in individual cases by the authorities referred to in Article 49.

3. The Committee shall be composed of persons appointed by the Member States and of representatives of the Commission. The Chairman shall be a representative of the Commission. Secretarial services shall be provided by the Commission.

4. Meetings of the Committee shall be convened by its chairman, either on his own initiative or at the request of a Member State delegation. The Committee shall draw up its rules of procedure.

SECTION XI

Transitional provisions, derogations and final provisions

Article 54

Solely for the purpose of Danish UCITS, *pantebreve* issued in Denmark shall be treated as equivalent to the transferable securities referred to in Article 19 (1) (b).

Article 55

By way of derogation from Articles 7 (1) and 14 (1), the competent authorities may authorize those UCITS which, on the date of adoption of this Directive, had two or more depositaries in accordance with their national law to maintain that number of depositaries if those authorities have guarantees that the functions to be performed under Articles 7 (3) and 14 (3) will be performed in practice.

Article 56

1. By way of derogation from Article 6, the Member States may authorize management companies to issue bearer certificates representing the registered securities of other companies.

2. The Member States may authorize those management companies which, on the date of adoption of this Directive, also carry on activities other than those provided for in Article 6 to continue those other activities for five years after that date.

Article 57

1. The Member States shall bring into force no later than 1 October 1989 the measures necessary for them to comply with this Directive. They shall forthwith inform the Commission thereof.

2. The Member States may grant UCITS existing on the date of implementation of this Directive a period of not

more than 12 months from that date in order to comply with the new national legislation.

3. The Hellenic Republic and the Portuguese Republic shall be authorized to postpone the implementation of this Directive until 1 April 1992 at the latest.

One year before that date the Commission shall report to the Council on progress in implementing the Directive and on any difficulties which the Hellenic Republic or the Portuguese Republic may encounter in implementing the Directive by the date referred to in the first subparagraph.

The Commission shall, if necessary, propose that the Council extend the postponement by up to four years.

Article 58

The Member States shall ensure that the Commission is informed of the texts of the main laws, regulations and administrative provisons which they adopt in the field covered by this Directive.

Article 59

This Directive is addressed to the Member States.

Done at Brussels, 20 December 1985.

For the Council

The President

R. KRIEPS

ANNEX

SCHEDULE A

1. Information concerning the unit trust	1. Information concerning the management company	1. Information concerning the investment company
1.1. Name	1.1. Name or style, form in law, registered office and head office if different from the registered office.	1.1. Name or style, form in law, registered office and head office if different from the registered office.
1.2. Date of establishment of the unit trust. Indication of duration, if limited.	1.2. Date of incorporation of the company. Indication of duration if limited.	1.2. Date of the incorporation of the company. Indication of duration, if limited.
	1.3. If the company manages other unit trusts, indication of those other trusts.	
1.4. Statement of the place where the fund rules, if they are not annexed, and periodic reports may be obtained.		1.4. Statement of the place where the instruments of incorporation, if they are not annexed, and periodical reports may be obtained.
1.5. Brief indications relevant to unit-holders of the tax system applicable to the unit trust. Details of whether deductions are made at source from the income and capital gains paid by the trust to unit-holders.		1.5. Brief indications relevant to unit-holders of the tax system applicable to the company. Details of whether deductions are made at source from the income and capital gains paid by the company to unit-holders.
1.6. Accounting and distribution dates		1.6. Accounting and distribution dates.
1.7. Names of the persons responsible for auditing the accounting information referred to in Article 31.		1.7. Names of the persons responsible for auditing the accounting information referred to in Article 31.
	1.8. Names and positions in the company of the members of the administrative, management and supervisory bodies. Details of their main activities outside the company where these are of significance with respect to that company.	1.8. Names and positions in the company of the members of the administrative, management and supervisory bodies. Details of their main activities outside the company where these are of significance with respect to that company.
	1.9. Amount of the subscribed capital with an indication of the capital paid-up	1.9. Capital

1. **Information concerning the unit trust** *(continued)*	1. **Information concerning the management company** *(continued)*	1. **Information concerning the investment company** *(continued)*
1.10. Details of the types and main characteristics of the units and in particular: — the nature of the right (real, personal or other) represented by the unit, — original securities or certificates providing evidence of title; entry in a register or in an account, — characteristics of the units: registered or bearer. Indication of any denominations which may be provided for, — indication of unit-holders' voting rights if these exist, — circumstances in which winding-up of the unit trust can be decided on and winding-up procedure, in particular as regards the rights of unit-holders.		1.10. Details of the types and main characteristics of the units and in particular: — original securities or certificates providing evidence of title; entry in a register or in an account, — characteristics of the units: registered or bearer. Indication of any denominations which may be provided for, — indication of unit-holders' voting rights, — circumstances in which winding-up of the investment company can be decided on and winding-up procedure, in particular as regards the rights of unit-holders.
1.11. Where applicable, indication of stock exchanges or markets where the units are listed or dealt in.		1.11. Where applicable, indication of stock exchanges or markets where the units are listed or dealt in.
1.12. Procedures and conditions of issue and sale of units.		1.12. Procedures and conditions of issue and sale of units.
1.13. Procedures and conditions for re-purchase or redemption of units, and circumstances in which re-purchase or redemption may be suspended.		1.13. Procedures and conditions for re-purchase or redemption of units, and circumstances in which re-purchase or redemption may be suspended
1.14. Description of rules for determining and applying income.		1.14. Description of rules for determining and applying income.
1.15. Description of the unit trust's investment objectives, including its financial objectives (e.g. capital growth or income), investment policy (e.g. specialization in geographical or industrial sectors), any limitations on that investment policy and an indication of any techniques and instruments or borrowing powers which may be used in the management of the unit trust.		1.15. Description of the company's investment objectives, including its financial objectives (e.g. capital growth or income), investment policy (e.g. specialization in geographical or industrial sectors), any limitations on that investment policy and an indication of any techniques and instruments or borrowing powers which may be used in the management of the company.
1.16. Rules for the valuation of assets.		1.16. Rules for the valuation of assets.

1. **Information concerning the unit trust** *(continued)*	1. **Information concerning the management company** *(continued)*	1. **Information concerning the investment company** *(continued)*
1.17. Determination of the sale or issue price and the re-purchase or redemption price of units, in particular: — the method and frequency of the calculation of those prices, — information concerning the charges relating to the sale or issue and the re-purchase or redemption of units, — the means, places and frequency of the publication of those prices.		1.17. Determination of the sale or issue price and the re-purchase or redemption price of units, in particular: — the method and frequency of the calculation of those prices, — information concerning the charges relating to the sale or issue and the re-purchase or redemption of units, — the means, places and frequency of the publication of those prices (1).
1.18. Information concerning the manner, amount and calculation of remuneration payable by the unit trust to the management company, the depositary or third parties, and reimbursement of costs by the unit trust to the management company, tothe depositary or to third parties.		1.18. Information concerning the manner, amount and calculation of remuneration paid by the company to its directors, and members of the administrative, management and supervisory bodies, to the depositary, or to third parties, and reimbursement of costs by the company to its directors, to the depositary or to third parties.

(1) Investment companies within the meaning of Article 14 (5) of the Directive shall also indicate:
— the method and frequency of calculation of the net asset value of units,
— the means, place and frequency of the publication of that value,
— the stock exchange in the country of marketing the price on which determines the price of transactions effected outwith stock exchanges in that country.

2. Information concerning the depositary:

   2.1. Name or style, form in law, registered office and head office if different from the registered office;

   2.2. Main activity.

3. Information concerning the advisory firms or external investment advisers who give advice under contract which is paid for out of the assets of the UCITS:

   3.1. Name or style of the firm or name of the adviser;

   3.2. Material provisions of the contract with the management company or the investment company which may be relevant to the unit-holders, excluding those relating to remuneration;

   3.3. Other significant activities.

4. Information concerning the arrangements for making payments to unit-holders, re-purchasing or redeeming units and making available information concerning the UCITS. Such information must in any case be given in the Member State in which the UCITS is situated. In addition, where units are marketed in another Member State, such information shall be given in respect of that Member State in the prospectus published there.

SCHEDULE B

Information to be included in the periodic reports

I. *Statement of assets and liabilities*

— transferable securities,

— debt instruments of the type referred to in Article 19 (2) (b),

— bank balances,

— other assets,

— total assets,

— liabilities,

— net asset value.

II. *Number of units in circulation*

III. *Net asset value per unit*

IV. *Portfolio, distinguishing between:*
(a) transferable securities admitted to official stock exchange listing;

(b) transferable securities dealt in on another regulated market;

(c) recently issued transferable securities of the type referred to in Article 19 (1) (d);

(d) other transferable securities of the type referred to in Article 19 (2) (a);

(e) debt instruments treated as equivalent in accordance with Article 19 (2) (b);

and analyzed in accordance with the most appropriate criteria in the light of the investment policy of the UCITS (e. g. in accordance with economic, geographical or currency criteria) as a percentage of net assets; for each of the above investments the proportion it represents of the total assets of the UCITS should be stated.

Statement of changes in the composition of the portfolio during the reference period.

V. *Statement of the developments concerning the assets of the UCITS during the reference period including the following:*

— income from investments,

— other income,

— management charges,

— depositary's charges,

— other charges and taxes,

— net income,

— distributions and income reinvested,

— changes in capital account,

— appreciation or depreciation of investments,

— any other changes affecting the assets and liabilities of the UCITS.

VI. *A comparative table covering the last three financial years and including, for each financial year, at the end of the financial year:*

— the total net asset value,

— the net asset value per unit.

VII. *Details, by category of transaction within the meaning of Article 21 carried out by the UCITS during the reference period, of the resulting amount of commitments.*

COUNCIL RECOMMENDATION

of 20 December 1985

concerning the second subparagraph of Article 25 (1) of Directive 85/611/EEC

(85/612/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

1. HEREBY RECOMMENDS

that each time the concept of 'significant influence' for the purposes of Article 25 (1) of Directive 85/611/EEC is represented in another Member State's legislation by a numerical limit, the Member State's competent authorities should ensure, if so requested by that other Member State, that such limits are observed by investment and management companies situated within its territory when they acquire shares carrying voting rights issued by a company established within the territory of a Member State where such limits apply. With a view to implementing this recommendation, the Member States in which such limits apply when that Directive is published should communicate them to the Comission, which in turn will inform the other Member States; the same applies to any subsequent relaxation of those limits.

2. HEREBY INVITES

the competent authorities to collaborate closely with each other, in accordance with Article 50 of that Directive, to implement this recommendation.

Done at Brussels, 20 December 1985.

For the Council

The President

R. KRIEPS

COUNCIL DECISION

of 20 December 1985

concerning the adoption, on behalf of the Community, of programmes and measures relating to mercury and cadmium discharges under the convention for the prevention of marine pollution from land-based sources

(85/613/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the recommendation from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Whereas on 3 March 1975 the Community approved the Convention for the prevention of marine pollution from land-based sources (3);

Whereas the Community has also become a Contracting Party to that Convention;

Whereas the Paris Commission, which administers the Convention, has negotiated programmes and measures concerning mercury and cadmium discharges and the Community has been requested to approve them in writing by 31 December 1985;

Whereas the provisions of these programmes and measures are in line with those of the Community Directives on the subject, namely Directives 76/464/EEC (4), 83/513/EEC (5), and 84/156/EEC (6);

Whereas it is therefore desirable that the Community approve the said programmes and measures;

Whereas the Treaty has not provided the necessary powers to this end, other than those of Article 235,

HAS DECIDED AS FOLLOWS:

Sole Article

1. The Council hereby approves on behalf of the Community the programmes and measures relating to mercury and cadmium discharges within the framework of the Convention for the prevention of marine pollution from land-based sources.

The texts of the said programmes and measures are attached to this Decision.

2. The President of the Council is hereby authorized to appoint the person or persons empowered to notify this approval to the Paris Commission before 31 December 1985.

Done at Brussels, 20 December 1985.

For the Council

The President

R. KRIEPS

(1) OJ No C 286, 9. 11. 1985, p. 4.
(2) OJ No C 352, 31. 12. 1985.
(3) OJ No L 194, 25. 7. 1975, p. 5.
(4) OJ No L 129, 18. 5. 1976, p. 23.
(5) OJ No L 291, 24. 10. 1983, p. 1.
(6) OJ No L 74, 17. 3. 1984, p. 49.

ANNEX

PARCOM DECISION 85/1

PROGRAMMES AND MEASURES

of 5 June 1985

on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry

THE COMMISSION ESTABLISHED BY THE CONVENTION FOR THE PREVENTION OF MARINE POLLUTION FROM LAND-BASED SOURCES, SIGNED AT PARIS ON 4 JUNE 1974,

having regard to the provisions of the Convention, and in particular to Article 18 (3) thereof,

HAS ADOPTED THE FOLLOWING PROGRAMMES AND MEASURES:

Article 1

1. Every discharge of mercury by industrial sectors other than the chlor-alkali electrolysis industry into the maritime area as defined in Article 3a of the Convention, or into watercourses that affect the maritime area, shall require prior authorization by the competent authority of the Contracting Party concerned. Such authorizations shall lay down emission standards for the discharge and shall be reviewed periodically.

2. The emission standards must not exceed the limit values as set out in paragraph 3 below, except where a Contracting Party applies quality objectives in conformity with Annexes II and IV.

3. The limit values, the time limits by which they must be complied with and the monitoring procedure for discharges are laid down in Annex I. The limit values shall normally apply at the point where waste waters containing mercury leave the industrial plant.

When waste waters containing mercury are treated outside the industrial plant at a treatment plant intended for the removal of mercury, the Contracting Party concerned may permit the limit values to be applied at the point where the waste waters leave the treatment plant.

4. Without prejudice to their obligations arising from paragraphs 1, 2 and 3 and to the provisions of the Convention, the Contracting Parties may grant authorizations for new plants only if those plants apply the standards corresponding to the best technical means available when that is necessary for the prevention and elimination of pollution.

Whatever method it adopts, where for technical reasons the intended measures do not correspond to the best technical means available, the Contracting Party shall provide the Commission with evidence in support of these reasons before any authorization. The Commission shall, at its next meeting, examine the information provided.

5. For the purposes of these programmes and measures, 'new plant' means:

— an industrial plant which has become operational after the date of adoption of these programmes and measures,

— an existing industrial plant whose mercury-handling capacity has been substantially increased since the date of adoption of these programmes and measures.

6. The reference method of analysis to be used in determining the presence of mercury is given in Annex III, paragraph 1. Other methods may be used provided that the limits of detection, precision and accuracy of such methods are at least as good as those laid down in Annex III, paragraph 1. The accuracy required in the measurement of effluent flow is given in Annex III, paragraph 2.

Article 2

1. The Contracting Parties shall draw up specific programmes for mercury discharges by multiple sources which are not industrial plants and for which the emission standards referred to in Article 1 cannot be applied in practice.

2. The purposes of these specific programmes shall be to avoid or eliminate pollution. They shall include the most appropriate measures and techniques for the replacement, retention and recycling of mercury.

3. The specific programmes shall be in operation as soon as possible and in any case not later than 1 July 1989 and shall be communicated to the Commission.

Article 3

The Contracting Parties concerned shall monitor, within the area covered by the Convention, the aquatic environment affected by discharges. In the case of discharges affecting the waters of more than one Contracting Party, the Contracting Parties concerned shall cooperate with a view to harmonizing monitoring procedures.

Article 4

1. The Commission shall at four-yearly intervals make a comparative assessment of the implementation of these programmes and measures by Contracting Parties on the basis of information supplied to it by them pursuant to Article 17 of the Convention. The information concerned shall, in particular, comprise:

— details of authorizations laying down emission standards for discharges of mercury,

— the results of information collected or inventories drawn up concerning mercury discharged into the maritime area, and into watercourses that affect the maritime area, referred to in Article 1, paragraph 1,

— information laid down in Annex IV, paragraph 2 for those Contracting Parties applying the quality objectives,

— the results of the monitoring of the aquatic environment carried out in accordance with Article 3. Where appropriate, these should be submitted within the framework of the Joint Monitoring Programme.

2. In the event of a change in scientific knowledge relating principally to the toxicity, persistence and accumulation of mercury in living organisms and sediments, or in the event of an improvement in the best technical means available, the Commission shall consider appropriate proposals with the aim of reinforcing, if necessary, the limit values and the quality objectives, or of establishing additional limit values and additional quality objectives.

Article 5

1. The Contracting Parties shall implement these programmes and measures by 1 January 1986.

2. Contracting Parties shall communicate to the Commission the text of the provisions of internal law which they adopt in the field governed by these programmes and measures.

ANNEX I

Limit values, time limits by which they must be complied with, and the procedure for monitoring discharges

1. The limit values and the time limits for the industrial sectors concerned are set out together in the table below:

Industrial sector (1)	Limit value which must be complied with as from:		Unit of Measurement
	1 July 1986	1 July 1989	
1. Chemical industries using mercury catalysts:			
a) in the production of vinyl chloride	0,1	0,05	mg/l effluent
	0,2	0,1	g/t vinyl chloride production capacity
b) in other processes	0,1	0,05	mg/l effluent
	10	5	g/kg mercury processed
2. Manufacture of mercury catalysts used in the production of vinyl chloride	0,1	0,05	mg/l effluent
	1,4	0,7	g/kg mercury processed
3. Manufacture of organic and non-organic mercury compounds (except for products referred to in paragraph 2)	0,1	0,05	mg/l effluent
	0,1	0,05	g/kg mercury processed
4. Manufacture of primary batteries containing mercury	0,1	0,05	mg/l effluent
	0,05	0,03	g/kg mercury processed
5. Non-ferrous metal industry (2)			
5.1. Mercury recovery plants	0,1	0,05	mg/l effluent
5.2. Extraction and refining of non-ferrous metals	0,1	0,05	mg/l effluent
6. Plants for the treatment of toxic wastes containing mercury	0,1	0,05	mg/l effluent

(1) Limit values for industrial sectors other than the chlor-alkali electrolysis industry which are not mentioned in this table, such as the paper and steel industries or coal-fired power stations will, if necessary, be fixed by the Commission at a later stage. Meanwhile, the Contracting Parties shall fix emission standards for mercury discharges autonomously in accordance with Article 4 (2) of the Convention. Such standards shall take into account the best technical means available and must not be less stringent than the most nearly comparable limit value in this Annex.

(2) On the basis of experience gained in the implementation of these programmes and measures, and pursuant to Article 4 (2), the Commission shall in due course consider proposals for fixing more restrictive limit values.

2. Limit values expressed as concentrations which in principle must not be exceeded are given in the above table for the industrial sectors 1 to 4. In no instance may limit values expressed as maximum concentrations be greater than those expressed as maximum quantities divided by water requirements per kilogram of mercury handled or per tonne of installed vinyl chloride production capacity.

   However, because the concentration of mercury in effluents depends on the volume of water involved, which differs for different processes and plants, the limit values, expressed in terms of the quantity of mercury discharged in relation to the quantity of mercury handled or to the installed vinyl chloride production capacity, given in the above table, must be complied with in all cases.

3. The daily average limit values are twice the corresponding monthly average limit values given in the table.

4. A monitoring procedure must be instituted to check whether the discharges comply with the emission standards which have been fixed in accordance with the limit values laid down in this Annex.

   This procedure must provide for the taking and analysis of samples and for measurement of the flow of the discharge and, where appropriate, the quantity of mercury handled.

   Should the quantity of mercury handled be impossible to determine, the monitoring procedure may be based on the quantity of mercury that may be used in the light of the production capacity on which the authorization was based.

5. A sample representative of the discharge over a period of 24 hours shall be taken. The quantity of mercury discharged over a month must be calculated on the basis of the daily quantities of mercury discharged.

   However, a simplified monitoring procedure may be instituted in the case of industrial plants which do not discharge more than 7,5 kilograms of mercury per annum.

Notes

The limit values given in the table correspond to a monthly average concentration or to a maximum monthly load.

The amounts of mercury discharged are expressed as a function of the amount of mercury used or handled by the industrial plant over the same period or as a function of the installed vinyl chloride production capacity.

ANNEX II

Quality objectives

For those Contracting Parties applying quality objectives, emission standards shall be fixed so that the appropriate quality objective or objectives from among those listed below is or are complied with in the area affected by discharges of mercury. The competent authority shall determine the area affected in each case and shall select from among the quality objectives listed in paragraph 1 below the objective or objectives that it deems appropriate, having regard to the intended use of the area affected, taking account of the fact that the purpose of these programmes and measures is to prevent and eliminate all pollution.

1. In order to prevent and eliminate pollution as defined in Article 1 of the Convention and pursuant to Article 4 of the said Convention, the following quality objectives are set:

1.1 The concentration of mercury in a representative sample of fish flesh chosen as an indicator must not exceed 0,3 mg/kg wet fish.

1.2 The concentration of mercury in solution in estuary waters up to the freshwater limit affected by discharges must not exceed 0,5 µg/l as the arithmetic mean of the results obtained over a year.

1.3 The concentration of mercury in solution in the following waters (1) must not exceed 0,3 µg/l as the arithmetic mean of the results obtained over a year:

(i) territorial waters;

(ii) waters, other than estuary waters, on the landward side of the base line from which the breadth of the territorial sea is measured and extending in the case of watercourses up to the freshwater limit.

2. The concentration of mercury in sediments or in shellfish (mollusca and crustacea) must not increase significantly with time.

3. Where several quality objectives are applied to waters in an area, the quality of the waters must be sufficient to meet each of them.

4. The numerical values of the quality objectives specified in paragraphs 1 (2) and 1 (3) may, as an exception and where this is necessary for technical reasons, be multiplied by 1,5 until 1 July 1989.

(1) A quality objective for the high seas is not fixed, on the understanding that the quality objective for territorial waters and other waters will protect the high seas from pollution.

ANNEX III

Reference method of measurement

1. The reference method of analysis used for determining the mercury content of waters, the flesh of fish, sediments and shellfish (mollusca and crustacea) is flameless atomic absorption spectrophotometry after suitbable pre-treatment of the sample which takes account in particular of pre-oxidation of the mercury and of successive reduction of the mercury ions Hg(II).

   The limits of detection must be such that the mercury concentration can be measured to an accuracy of + / − 30 % and a precision of + / − 30 % at the following concentrations:

   — in the case of discharges, one-tenth of the maximum permitted concentration of mercury specified in the authorization,

   — in the case of surface water, one-tenth of the mercury concentration specified in the quality objective,

   — in the case of the flesh of fish and shellfish (mollusca and crustacea), one-tenth of the mercury concentration specified in the quality objective,

   — in the case of sediments, one tenth of the mercury concentration in the sample or 0,05 mg/kg dry weight whichever value is the greater.

2. Flow measurement must be carried out to an accuracy of + / − 20 %.

ANNEX IV

Monitoring procedure for quality objectives

1. For each authorization, the competent authority shall specify the restrictions, monitoring procedure and time limits for ensuring compliance with the quality objective or objectives concerned.

2. The Contracting Parties shall, for each quality objective chosen, and applied, report to the Commission on:

   — the points of discharge and the means of dispersal,

   — the area in which the quality objective is applied,

   — the location of sampling points,

   — the frequency of sampling,

   — the methods of sampling and of measurement,

   — the results obtained.

3. Samples must be properly representative of the quality of the aquatic environment in the area affected by the discharges, and the frequency of sampling must be sufficient to show any changes in the aquatic environment, taking into account, in particular, natural variations in the hydrological regime. The salt-water fish analysis must be carried out on a sufficiently representative number of samples and species.

4. With regard to the quality objective in paragraph 1.1 of Annex II, the competent authority shall choose the species of fish to be adopted as indicators for analysis. For salt waters the species chosen from among those inhabiting coastal waters and caught locally may include cod *(Gadus morhua)*, whiting *(Merlangius merlangus)*, plaice *(Pleuronectes platessa)*, mackerel *(Scomber scombrus)*, haddock *(Melanogrammus aeglefinus)* and flounder *(Platichthys flesus)*.

PARCOM DECISION 85/2

PROGRAMMES AND MEASURES

of 5 June 1985

on limit values and quality objectives for cadmium discharges

THE COMMISSION ESTABLISHED BY THE CONVENTION FOR THE PREVENTION OF MARINE POLLUTION FROM LAND-BASED SOURCES, SIGNED AT PARIS ON 4 JUNE 1974,

Having regard to the provisions of the Convention, and in particular to Article 18 (3) thereof,

HAS ADOPTED THE FOLLOWING PROGRAMMES AND MEASURES:

Article 1

1. Every discharge of cadmium into the maritime area as defined in Article 3a of the Convention, or into watercourses that affect the maritime area, shall require prior authorization by the competent authority of the Contracting Party concerned. Such authorizations shall lay down emission standards for the discharge and shall be reviewed periodically.

2. The emission standards must not exceed the limit values as set out in paragraph 3 below, except where a Contracting Party applies quality objectives in conformity with Annexes II and IV.

3. The limit values, the time limits by which they must be complied with and the monitoring procedure for discharges are laid down in Annex I. The limit values shall normally apply at the point where waste waters containing cadmium leave the industrial plant.

When waste waters containing cadmium are treated outside the industrial plant at a treatment plant intended for the removal of cadmium, the Contracting Party concerned may permit the limit values to be applied at the point where the waste waters leave the treatment plant.

4. Without prejudice to their obligations arising from paragraphs 1, 2 and 3 and to the provisions of the Convention, the Contracting Parties may grant authorizations for new plants only if those plants apply the standards corresponding to the best technical means available when that is necessary for the prevention and elimination of pollution.

Whatever method it adopts, where for technical reasons the intended measures do not correspond to the best technical means available, the Contracting Party shall provide the Commission with evidence in support of these reasons before any authorization. The Commission shall, at its next meeting, examine the information provided.

5. 'New plant' means:

— an industrial plant which has become operational after the date of adoption of these programmes and measures,

— an existing industrial plant whose cadmium-processing capacity has been substantially increased after the date of adoption of these programmes and measures.

6. The reference method of analysis to be used in determining the presence of cadmium is given in Annex III, paragraph 1. Other methods may be used provided that the limits of detection, precision and accuracy of such methods are at least as good as those laid down in Annex III, paragraph 1. The accuracy required in the measurement of effluent flow is given in Annex III, paragraph 2.

Article 2

The Contracting Parties concerned shall monitor, within the area covered by the Convention, the aquatic environment affected by discharges. In the case of discharges affecting the waters of more than one Contracting Party, the Contracting Parties concerned shall cooperate with a view to harmonizing monitoring procedures.

Article 3

1. The Commission shall, at five-yearly intervals, make a comparative assessment of the implementation of these programmes and measures by Contracting Parties on the basis of information supplied to it by them pursuant to Article 17 of the Convention. The information concerned shall, in particular, comprise:

— details of authorizations laying down emission standards for discharges of cadmium,

— the results of information collected or inventories drawn up concerning cadmium discharged into the

maritime area, and into watercourses that affect the maritime area, referred to in Article 1 paragraph 1,

— information laid down in Annex IV, paragraph 2 for those Contracting Parties applying the quality objectives,

— the results of the monitoring of the aquatic environment carried out in accordance with Article 2. Where appropriate, these should be submitted within the framework of the Joint Monitoring Programme.

2. In the event of a change in scientific knowledge relating principally to the toxicity, persistence and accumulation of cadmium in living organisms and sediments, or in the event of an improvement in the best technical means available, the Commission shall consider appropriate proposals with the aim of reinforcing, if necessary, the limit values and the quality objectives, or of establishing additional limit values and additional quality objectives.

Article 4

1. The Contracting Parties shall implement these programmes and measures by 1 January 1986.

2. Contracting Parties shall communicate to the Commission the text of the provisions of internal law which they adopt in the field governed by these programmes and measures.

ANNEX I

Limit values, time limits by which they must be complied with, and the procedure for monitoring discharges

1. The limit values and the time limits for the industrial sectors concerned are set out together in the table below:

Industrial sector (1)	Limit values which must be complied with as from:		Unit of measurement
	1 January 1986	1 January 1989 (2)	
1. Zinc mining, lead and zinc refining, cadmium metal and non-ferrous metal industry	0,3 (3)	0,2 (3)	mg/l effluent
2. Manufacture of cadmium compounds	0,5 (3)	0,2 (3)	mg/l effluent
	0,5 (4)	(5)	g/kg cadmium handled
3. Manufacture of pigments	0,5 (3)	0,2 (3)	mg/l effluent
	0,3 (4)	(5)	g/kg cadmium handled
4. Manufacture of stabilizers	0,5 (3)	0,2 (3)	mg/l effluent
	0,5 (4)	(5)	g/kg cadmium handled
5. Manufacture of primary and secondary batteries	0,5 (3)	0,2 (3)	mg/l effluent
	1,5 (4)	(5)	g/kg cadmium handled
6. Electroplating (6)	0,5 (3)	0,2 (3)	mg/l effluent
	0,3 (4)	(5)	g/kg cadmium handled
7. Manufacture of phosphoric acid and/or phosphatic fertilizer from phosphatic rock (7)	—	—	

(1) Limit values for industrial sectors not mentioned in this table will, if necessary, be fixed by the Commission at a later stage. In the meantime the Contracting Parties will fix standards for cadmium discharges autonomously in accordance with Article 4 (2) of the Convention. Such standards must take into account the best technical means available and must not be less stringent than the most nearly comparable limit value in this Annex.

(2) On the basis of experience gained in the implementation of these programmes and measures, and pursuant to Article 3 (2), the Commission shall in due course consider proposals for fixing more restrictive limit values.

(3) Monthly flow-weighted average concentration of total cadmium.

(4) Monthly average.

(5) It is impossible for the moment to fix limit values expressed as load. If need be, these values will be fixed by the Commission in accordance with Article 3 (2) of these programmes and measures. If the Commission does not fix any limit values, the values expressed as load given in the column neaded '1 January 1986' will be kept.

(6) Contracting Parties may suspend application of the limit values until 1 January 1989 in the case of plants which discharge less than 10 kg of cadmium a year and in which the total volume of the electroplating tanks is less than 1,5 m^3, if technical or administrative considerations make such a step absolutely necessary.

(7) At present there are no economically feasible technical methods for systematically extracting cadmium from discharges arising from the production of phosphoric acid and/or phosphatic fertilizers from phosphatic rock. No limit values have therefore been fixed for such discharges. The absence of such limit values does not release the Contracting Parties from the obligation under Article 1, paragraph 1 of these programmes and measures to fix emission standards for these discharges. Limit values will, as necessary, be fixed by the Commission at a later stage.

2. Limit values expressed as concentrations which in principle must not be exceeded are given in the above table for the industrial sectors 2, 3, 4, 5 and 6. In no instance may limit values expressed as maximum concentrations be greater than those expressed as maximum quantities divided by water requirements per kilogram of cadmium handled. However, because the concentration of cadmium in effluents depends on the volume of water involved, which differs for different processes and plants, the limit values, expressed in terms of the quantity of cadmium discharged in relation to the quantity of mercury handled, given in the above table, must be complied with in all cases.

3. The daily average limit values are twice the corresponding monthly average limit values given in the above table.

4. A monitoring procedure must be instituted to check whether the discharges comply with the emission standards which have been fixed in accordance with the limit values laid down in this Annex.

   This procedure must provide for the taking and analysis of samples and for measurement of the flow of the discharge and the quantity of cadmium handled.

   Should the quantity of cadmium handled be impossible to determine, the monitoring procedure may be based on the quantity of cadmium that may be used in the light of the production capacity on which the authorization was based.

5. A sample representative of the discharge over a period of 24 hours shall be taken. The quantity of cadmium discharged over a month must be calculated on the basis of the daily quantities of cadmium discharged.

   However, a simplified monitoring procedure may be instituted in the case of industrial plants which do not discharge more than 10 kilograms of cadmium per annum. In the case of industrial electroplating plants, a simplifid monitoring procedure may only be instituted if the total volume of the electroplating tanks is less than 1,5 m^3.

ANNEX II

Quality objectives

For those Contracting Parties applying quality objectives, emission standards shall be fixed so that the appropriate quality objective or objectives from among those listed below is or are complied with in the area affected by discharges of cadmium. The competent authority shall determine the area affected in each case and shall select from among the quality objectives listed in paragraph I below the objective or objectives that it deems appropriate, having regard to the intended use of the area affected, while taking account of the fact that the purpose of these programmes and measures is to prevent and eliminate all pollution.

1. The following quality objectives, which will be measured sufficiently close to the point discharge, are fixed (1), with the object of preventing and eliminating pollution within the meaning of Articles 1 and 4 of the Convention.

1.1 The concentration of cadmium in solution in estuary waters up to the freshwater limit affected by discharges must not exceed 5 µg/litre.

1.2 The concentration of cadmium in solution must not exceed 2,5 µg/litre in waters affected by discharges (2) as follows:

(i) territorial waters;

(ii) waters, other than estuary waters, on the landward side of the base line from which the breadth of the territorial sea is measured and extending in the case of watercourses up to the freshwater limit.

2. In addition to the above requirements, the results of the monitoring carried out in accordance with Article 2 must be compared with the following concentrations (1):

2.1 In the case of estuary waters up to the freshwater limit, a concentration of cadmium in solution of 1 µg/litre.

2.2 A concentration of cadmium in solution of 0,5 µg/litre in the case of water as follows:

(i) territorial waters;

(ii) waters, other than estuary waters, on the landward side of the base lines from which the breadth of the territorial sea is measured and extending in the case of watercourses up to the freshwater limit.

2.3 If these concentrations are not complied with at any one of the points on the national network, the reasons must be reported to the Commission.

3. The concentration of cadmium in sediments and/or shellfish (mollusca and crustacea), if possible of the species *Mytilus edulis*, must not increase significantly with time.

4. Where several quality objectives are applied to waters in an area, the quality of the waters must be sufficient to comply with each of those objectives.

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(1) All concentrations relate to the arithmetic mean of the results obtained over one year.

(2) A quality objective for the high seas is not fixed on the understanding that the quality objective for territorial waters and other waters will protect the high seas from pollution.

ANNEX III

Reference method of measurement

1. The reference method of analysis used for determining the cadmium content of waters, sediments and shellfish (mollusca and crustacea) is atomic absorption spectrophotometry after preservation and suitable treatment of the sample.

   The limits of detection must be such that the cadmium concentration can be measured to an accuracy of ± 30 % and a precision of ± 30 % at the following concentrations:

   — in the case of discharges, one-tenth of the maximum permitted concentration of cadmium specified in the authorization,

   — in the case of surface water, 0,1 µg/litre or one-tenth of the cadmium concentration specified in the quality objective, whichever is the greater,

   — in the case of shellfish (mollusca and crustacea), 0,1 mg/kg wet weight,

   — in the case of sediments, one-tenth of the cadmium concentration in the sample or 0,1 mg/kg dry weight, with drying being carried out between 105 and 110 °C at constant weight, whichever value is the greater.

2. Flow measurement must be carried out to an accuracy of ± 20 %.

ANNEX IV

Monitoring procedure for quality objectives

1. For each authorization the competent authority shall specify the restrictions, monitoring procedure and time limits for ensuring compliance with the quality objective(s) concerned.

2. The Contracting Parties shall, for each quality objective chosen and applied, report to the Commission: on:

   — the points of discharge and the means of dispersal,

   — the area in which the quality objective is applied,

   — the location of sampling points,

   — the frequency of sampling,

   — the methods of sampling and measurement,

   — the results obtained.

3. Samples must be sufficiently representative of the quality of the aquatic environment in the area affected by the discharges, and the frequency of sampling must be sufficient to show any changes in the aquatic environment, taking into account, in particular, natural variations in the hydrological regime.

ANNEXE

DÉCISION PARCOM 85/1

PROGRAMMES ET MESURES

du 5 juin 1985

concernant les valeurs limites et les objectifs de qualité pour les rejets de mercure des secteurs autres que celui de l'électrolyse des chlorures alcalins

LA COMMISSION CRÉÉE PAR LA CONVENTION POUR LA PRÉVENTION DE LA POLLUTION MARINE D'ORIGINE TELLURIQUE, SIGNÉE À PARIS LE 4 JUIN 1974,

eu égard aux dispositions de la convention, et notamment son article 18 paragraphe 3,

A ARRÊTÉ LES PROGRAMMES ET MESURES CI-APRÈS:

Article premier

1. Tout rejet de mercure de secteurs industriels autres que celui de l'électrolyse des chlorures alcalins, dans la zone maritime définie à l'article 3a de la convention ou dans des cours d'eau qui affectent la zone maritime, fait l'objet d'une autorisation préalable délivrée par l'autorité compétente de la partie contractante concernée. De telles autorisations spécifient des normes d'émission pour le rejet et sont revues périodiquement.

2. Les normes d'émission ne doivent pas dépasser les valeurs limites décrites au paragraphe 3 ci-après, sauf dans les cas où une partie contractante applique des objectifs de qualité conformément aux annexes II et IV.

3. Les valeurs limites, les délais fixés pour le respect de ces valeurs et la procédure de surveillance et de contrôle à appliquer aux rejets figurent à l'annexe I. Les valeurs limites s'appliquent normalement au point où les eaux usées contenant du mercure sortent de l'établissement industriel.

Si les eaux usées contenant du mercure sont traitées hors de l'établissement industriel dans une installation de traitement destinée à éliminer le mercure, la partie contractante concernée peut permettre que les valeurs limites soient appliquées au point où les eaux usées sortent de l'installation de traitement.

4. Sans préjudice de leurs obligations résultant des paragraphes 1, 2 et 3 ainsi que des dispositions de la convention, les parties contractantes ne peuvent accorder d'autorisations pour les établissements nouveaux que si ces établissements appliquent les normes correspondant aux meilleurs moyens techniques disponibles lorsque cela est nécessaire afin de prévenir et d'éliminer la pollution.

Quelle que soit la méthode qu'elle adopte, la partie contractante, dans le cas où, pour des raisons techniques, les mesures envisagées ne correspondent pas aux meilleurs moyens techniques disponibles, informe la commission préalablement à toute autorisation des justifications de ces raisons. Lors de sa réunion suivante, la commission examine l'information présentée.

5. Aux fins des présents programmes et mesures, on entend par « établissement nouveau » :

— tout établissement industriel mis en service après la date d'adoption des présents programmes et mesures,

— tout établissement industriel existant dont la capacité de traitement du mercure a été augmentée considérablement après la date d'adoption des présents programmes et mesures.

6. La méthode d'analyse de référence à utiliser pour déterminer la présence de mercure figure à l'annexe III point 1. D'autres méthodes peuvent être utilisées à condition que les limites de détection, la précision et l'exactitude de ces méthodes soient au moins aussi valables que celles qui figurent à l'annexe III point 1. L'exactitude requise pour la mesure du débit des effluents figure à l'annexe III point 2.

Article 2

1. Les parties contractantes établissent des programmes spécifiques pour les rejets de mercure effectués par des sources multiples qui ne sont pas des établissements industriels et pour lesquelles les normes d'émission mentionnées à l'article 1er ne peuvent pas être appliquées dans la pratique.

2. L'objectif de ces programmes spécifiques est d'éviter ou d'éliminer la pollution. Ils comportent notamment les mesures et les techniques les plus appropriées en vue d'assurer la substitution, la rétention et le recyclage du mercure.

3. Les programmes spécifiques sont d'application aussitôt que possible, et en tout cas au plus tard le 1er juillet 1989, et sont communiqués à la commission.

Article 3

Les parties contractantes concernées assurent la surveillance, dans la zone couverte par la convention, du milieu aquatique affecté par les rejets. Dans le cas de rejets affectant les eaux de plusieurs parties contractantes, les parties contractantes concernées collaborent en vue d'harmoniser les procédures de surveillance.

Article 4

1. À des intervalles de quatre ans, la commission procède à une évaluation comparative de l'application des présents programmes et mesures par les parties contractantes sur la base des informations que celles-ci présentent à la commission conformément à l'article 17 de la convention, en particulier en ce qui concerne:

— les détails relatifs aux autorisations fixant les normes d'émission pour les rejets de mercure,

— les résultats de l'information rassemblée ou des inventaires établis, relatifs aux rejets de mercure effectués dans la zone maritime et dans les cours d'eau qui affectent la zone maritime, visés à l'article 1er paragraphe 1,

— l'information figurant à l'annexe IV point 2 pour les parties contractantes qui appliquent des objectifs de qualité,

— les résultats du contrôle et de la surveillance continus du milieu aquatique conformément à l'article 3. Où cela s'applique, ces résultats devraient être soumis dans le cadre du programme conjoint de contrôle et de surveillance continus.

2. En cas de modification des connaissances scientifiques relatives principalement à la toxicité, à la persistance et à l'accumulation du mercure dans les organismes vivants et dans les sédiments, ou en cas d'amélioration des meilleurs moyens techniques disponibles, des propositions appropriées sont examinées par la commission visant à renforcer, si nécessaire, les valeurs limites et les objectifs de qualité, ou à adopter des valeurs limites supplémentaires et des objectifs de qualité supplémentaires.

Article 5

1. Les parties contractantes mettent en œuvre les présents programmes et mesures à compter du 1er janvier 1986.

2. Les parties contractantes informent la commission des dispositions de droit interne prises en application des présents programmes et mesures.

ANNEXE I

Valeurs limites, délais fixés pour le respect de ces valeurs et procédure de surveillance et de contrôle à appliquer aux rejets

1. Pour les secteurs industriels concernés, les valeurs limites et les délais d'application sont regroupés dans le tableau ci-après:

Secteur industriel (1)	Valeur limite à respecter à partir du:		Unité de mesure
	1er juillet 1986	1er juillet 1989	
1. Industries chimiques utilisant les catalyseurs mercuriels:			
a) pour la production du chlorure de vinyle	0,1	0,05	mg/l eau rejetée
	0,2	0,1	g/t capacité de production de chlorure de vinyle
b) pour d'autres procédés	0,1	0,05	mg/l eau rejetée
	10	5	g/kg mercure traité
2. Fabrication des catalyseurs mercuriels utilisés pour la production du chlorure de vinyle	0,1	0,05	mg/l eau rejetée
	1,4	0,7	g/kg mercure traité
3. Fabrication des composés organiques et non organiques du mercure, à l'exception des produits visés au point 2	0,1	0,05	mg/l eau rejetée
	0,1	0,05	g/kg mercure traité
4. Fabrication des batteries primaires contenant du mercure	0,1	0,05	mg/l eau rejetée
	0,05	0,03	g/kg mercure traité
5. Industrie des métaux non ferreux (2)			
5.1. Établissements de récupération du mercure	0,1	0,05	mg/l eau rejetée
5.2. Extraction et raffinage de métaux non ferreux	0,1	0,05	mg/l eau rejetée
6. Établissements de traitement de déchets toxiques contenant du mercure	0,1	0,05	mg/l eau rejetée

(1) Pour les secteurs industriels autres que celui de l'électrolyse des chlorures alcalins, qui ne sont pas mentionnés dans le présent tableau, tels que les industries du papier et de l'acier ou les centrales thermiques au charbon, les valeurs limites sont fixées en cas de besoin par la commission à un stade ultérieur. Entre-temps, les parties contractantes fixent de manière autonome, conformément à l'article 4 paragraphe 2 de la convention, des normes d'émission pour les rejets de mercure. Ces normes doivent tenir compte des meilleurs moyens techniques disponibles et ne doivent pas être moins strictes que la valeur limite la plus comparable contenue dans la présente annexe.

(2) Sur la base de l'expérience acquise lors de l'application des présents programmes et mesures et conformément aux dispositions de leur article 4 paragraphe 2, la commission considérera, en temps utile, des propositions ayant pour but de fixer des valeurs limites plus restrictives.

2. Les valeurs limites exprimées en termes de concentration qui, en principe, ne doivent pas être dépassées figurent dans le tableau ci-avant pour les secteurs industriels 1 à 4. Dans aucun cas, les valeurs limites exprimées en concentrations maximales ne peuvent être supérieures à celles exprimées en quantités maximales divisées par les besoins en eau par kilogramme de mercure traité ou par tonne de capacité de production de chlorure de vinyle installée.

   Toutefois, étant donné que la concentration de mercure dans les effluents dépend du volume d'eau impliqué, qui diffère selon les différents procédés et établissements, les valeurs limites, exprimées en termes de quantité de mercure rejeté par rapport à la quantité de mercure traité ou à la capacité de production de chlorure de vinyle installée, figurant dans le tableau ci-avant, doivent être respectées dans tous les cas.

3. Les valeurs limites des moyennes journalières sont égales au double des valeurs limites des moyennes mensuelles correspondantes figurant au tableau.

4. Pour vérifier si les rejets satisfont aux normes d'émission fixées conformément aux valeurs limites définies dans la présente annexe, une procédure de contrôle doit être instituée.

   Cette procédure doit prévoir le prélèvement et l'analyse d'échantillons, la mesure du débit des rejets et, le cas échéant, de la quantité du mercure traité.

   Si la quantité de mercure traité est impossible à déterminer, la procédure de contrôle peut se fonder sur la quantité de mercure qui peut être utilisée en fonction de la capacité de production sur laquelle se fonde l'autorisation.

5. Un échantillon représentatif du rejet pendant une période de vingt-quatre heures est prélevé. La quantité de mercure rejeté au cours d'un mois est calculée sur la base des quantités quotidiennes de mercure rejeté.

   Toutefois, une procédure de contrôle simplifiée peut être instaurée pour les établissements industriels qui ne rejettent pas plus de 7,5 kg de mercure par an.

Notes

Les valeurs limites indiquées dans le tableau correspondent à une concentration moyenne mensuelle ou à une charge mensuelle maximale.

Les quantités de mercure rejetées sont exprimées en quantité de mercure traitée par l'établissement industriel pendant la même période ou en fonction de la capacité de production de chlorure de vinyle installée.

ANNEXE II

Objectifs de qualité

Pour celles des parties contractantes qui appliquent la stratégie des objectifs de qualité, les normes d'émission sont fixées de manière à ce que le (ou les) objectif(s) de qualité approprié(s) parmi ceux énumérés ci-après soi(en)t respecté(s) dans la région affectée par les rejets de mercure. L'autorité compétente désigne la région affectée dans chaque cas et sélectionne, parmi les objectifs de qualité figurant au point 1 ci-après, celui ou ceux qu'elle juge appropriés, eu égard à la destination de la région affectée, en tenant compte du fait que l'objectif des présents programmes et mesures est de prévenir et d'éliminer toute pollution.

1. Dans le but de prévenir et d'éliminer la pollution telle que définie dans l'article 1er de la convention et en application de l'article 4 de ladite convention, les objectifs de qualité ci-après sont fixés.

1.1. La concentration de mercure dans un échantillon représentatif de la chair de poisson choisie comme indicateur ne doit pas excéder 0,3 mg/kg de chair humide.

1.2. La concentration de mercure en solution dans les eaux des estuaires, jusqu'à la limite des eaux douces, affectées par les rejets ne doit pas excéder 0,5 µg/l en tant que moyenne arithmétique des résultats obtenus au cours d'une année.

1.3. La concentration de mercure en solution dans les eaux suivantes (1) ne doit pas excéder 0,3 µg/l en tant que moyenne arithmétique des résultats obtenus au cours d'une année:

i) eaux de mer territoriales;

ii) les eaux, non estuariennes, en deçà de la ligne de base servant à mesurer la largeur de la mer territoriale et s'étendant dans le cas des cours d'eau jusqu'à la limite des eaux douces.

2. La concentration de mercure dans les sédiments ou mollusques et crustacés ne doit pas augmenter de manière significative avec le temps.

3. Lorsque plusieurs objectifs de qualité sont appliqués aux eaux d'une région, la qualité des eaux doit être suffisante pour respecter chacun de ces objectifs.

4. À titre d'exception, dans la mesure ou cela s'avère nécessaire pour des raisons techniques et après notification préalable à la commission, les valeurs numériques des objectifs de qualité figurant aux points 1.2 et 1.3 peuvent être multipliées par 1,5 jusqu'au 1er juillet 1989.

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(1) Il n'a pas été fixé de normes de qualité pour la haute mer, vu que l'objectif de qualité pour les eaux territoriales et autres eaux protégeront la haute mer contre la pollution.

ANNEXE III

Méthodes de mesure de référence

1. La méthode d'analyse de référence utilisée pour déterminer la teneur en mercure des eaux, de la chair de poisson, des sédiments et des mollusques et crustacés est la mesure de l'absorption atomique sans flamme par spectrophotométrie, après avoir soumis l'échantillon à un traitement préalable adéquat tenant compte notamment de la préoxydation du mercure et de la réduction successive des ions mercuriques Hg (II).

   Les limites de détection doivent être telles que la concentration en mercure puisse être mesurée avec une exactitude de ± 30 % et une précision de ± 30 % pour les concentrations suivantes:

   — dans le cas de rejets, un dixième de la concentration maximale autorisée en mercure spécifiée dans l'autorisation,

   — dans le cas d'eaux superficielles, un dixième de la concentration en mercure spécifiée par l'objectif de qualité,

   — dans le cas de la chair de poisson ainsi que dans le cas de mollusques et de crustacés, un dixième de la concentration en mercure spécifiée par l'objectif de qualité,

   — dans le cas de sédiments, un dixième de la concentration du mercure de l'échantillon ou 0,05 mg/kg poids sec, la valeur la plus élevée étant d'application.

2. La mesure du débit doit être effectuée avec une exactitude de ± 20 %.

ANNEXE IV

Procédure de contrôle pour les objectifs de qualité

1. Pour toute autorisation accordée en application des présents programmes et mesures, l'autorité compétente précise les restrictions, les modalités de surveillance et les délais limites pour assurer le respect du ou des objectifs de qualité en cause.

2. Pour chaque objectif de qualité choisi et appliqué, les parties contractantes doivent faire rapport à la commission sur:

   — les points de rejet et le dispositif de dispersion,

   — la zone dans laquelle est appliqué l'objectif de qualité,

   — la localisation des points de prélèvement,

   — la fréquence d'échantillonnage,

   — les méthodes d'échantillonnage et de mesure,

   — les résultats obtenus.

3. Les échantillons doivent être suffisamment représentatifs de la qualité du milieu aquatique dans la région affectée par les rejets et la fréquence d'échantillonnage doit être suffisante pour mettre en évidence les modifications éventuelles du milieu aquatique, compte tenu notamment des variations naturelles du régime hydrologique. L'analyse des poissons d'eau de mer doit porter sur un nombre suffisamment représentatif d'échantillons et d'espèces.

4. En ce qui concerne l'objectif de qualité visé au point 1.1 de l'annexe II, l'autorité compétente choisit les espèces de poissons à retenir comme indicateurs à analyser. Pour les eaux salines, les espèces localement capturées et choisies parmi celles habitant les eaux côtières peuvent inclure le cabillaud (*Gadus morhua*), le merlan (*Merlangius merlangus*), la plie (*Pleuronectes platessa*), le maquereau (*Scomber scombrus*), l'églefin (*Melanogrammus aeglefinus*) et le flet (*Platichthys flesus*).

DÉCISION PARCOM 85/2

PROGRAMMES ET MESURES

du 5 juin 1985

concernant les valeurs limites et les objectifs de qualité pour les rejets de cadmium

LA COMMISSION CRÉÉE PAR LA CONVENTION POUR LA PRÉVENTION DE LA POLLUTION MARINE D'ORIGINE TELLURIQUE, SIGNÉE À PARIS LE 4 JUIN 1974,

eu égard aux dispositions de la convention, et notamment son article 18 paragraphe 3,

A ARRÊTÉ LES PROGRAMMES ET MESURES CI-APRÈS:

Article premier

1. Tout rejet de cadmium dans la zone maritime définie à l'article 3a de la convention ou dans un cours d'eau affectant la zone maritime fait l'objet d'une autorisation préalable délivrée par l'autorité compétente de la partie contractante concernée. De telles autorisations spécifient des normes d'émission pour le rejet et sont revues périodiquement.

2. Les normes d'émission ne doivent pas dépasser les valeurs limites spécifiées au paragraphe 3 ci-après, sauf dans les cas où une partie contractante applique des objectifs de qualité conformément aux annexes II et IV.

3. Les valeurs limites, les délais fixés pour le respect de ces valeurs et la procédure de surveillance et de contrôle à appliquer aux rejets figurent à l'annexe I. Les valeurs limites s'appliquent normalement au point où les eaux usées contenant du cadmium sortent de l'établissement industriel.

Si les eaux usées contenant du cadmium sont traitées hors de l'établissement industriel dans une installation de traitement destinée à éliminer le cadmium, la partie contractante peut permettre que les valeurs limites soient appliquées au point où les eaux usées sortent de l'installation de traitement.

4. Sans préjudice de leurs obligations résultant des paragraphes 1, 2 et 3 ainsi que des dispositions de la convention, les parties contractantes ne peuvent accorder d'autorisation pour les établissements nouveaux que si ces établissements appliquent les normes correspondant aux meilleurs moyens techniques disponibles, lorsque cela est nécessaire afin de prévenir et d'éliminer la pollution.

Quelle que soit la méthode qu'elle adopte, la partie contractante, dans le cas où, pour des raisons techniques, les mesures envisagées ne correspondent pas aux meilleurs moyens techniques disponibles, doit informer la commission préalablement à toute autorisation des justifications de ces raisons. Lors de sa réunion suivante, la commission doit examiner l'information présentée.

5. Aux fins des présents programmes et mesures, on entend par « établissement nouveau »:

— l'établissement industriel mis en service après la date d'adoption des présents programmes et mesures,

— l'établissement industriel existant dont la capacité de traitement du cadmium a été augmentée considérablement après la date d'adoption des présents programmes et mesures.

6. La méthode d'analyse de référence à utiliser pour déterminer la présence de cadmium figure à l'annexe III point 1. D'autres méthodes peuvent être utilisées à condition que les limites de détection, la précision et l'exactitude de ces méthodes soient au moins aussi valables que celles qui figurent à l'annexe III point 2.

Article 2

Les parties contractantes concernées assurent la surveillance, dans la zone couverte par la convention, du milieu aquatique affecté par les rejets. Dans le cas de rejets affectant les eaux de plusieurs parties contractantes, les parties contractantes concernées collaborent en vue d'harmoniser les procédures de surveillance.

Article 3

1. À des intervalles de cinq ans, la commission procède à une évaluation comparative de l'application des présents programmes et mesures par les parties contractantes, sur la base des informations que les parties contractantes présentent à la commission, conformément à l'article 17 de la convention, en particulier en ce qui concerne:

— les détails relatifs aux autorisations fixant les normes d'émission pour les rejets de cadmium,

— les résultats de l'information rassemblée ou des inventaires établis, relatifs aux rejets de cadmium effectuées dans la zone maritime ou dans les cours d'eau

qui affectent la zone maritime visés à l'article 1er paragraphe 1,

— l'information figurant à l'annexe IV point 2 pour les parties contractantes qui appliquent des objectifs de qualité,

— les résultats du contrôle et de la surveillance continus du milieu aquatique conformément à l'article 2. Où cela s'applique, ces résultats devraient être soumis dans le cadre du programme conjoint de contrôle et de surveillance continus.

2. En cas de modification des connaissances scientifiques relatives principalement à la toxicité, à la persistance et à l'accumulation du cadmium dans les organismes vivants dans les sédiments, ou en cas d'amélioration des meilleurs moyens techniques disponibles, des propositions appropriées sont examinées par la commission visant à renforcer, si nécessaire, les valeurs limites et les objectifs de qualité, ou à fixer des valeurs limites supplémentaires et des objectifs de qualité supplémentaires.

Article 4

1. Les parties contractantes mettent en œuvre les présents programmes et mesures à compter du 1er janvier 1986.

2. Les parties contractantes informent la commission des dispositions de droit interne prises en application des présents programmes et mesures.

ANNEXE I

Valeurs limites, délais fixés pour le respect de ces valeurs et procédures de surveillance et de contrôle à appliquer aux rejets

1. Pour les secteurs industriels concernés, les valeurs limites et les délais d'application sont regroupés dans le tableau ci-après:

Secteur industriel (1)	Valeurs limites à respecter à partir du:		Unité de mesure
	1er janvier 1986	1er janvier 1989 (2)	
1. Extraction du zinc, raffinage du plomb et du zinc, industrie des métaux non ferreux et du cadmium métallique	0,3 (3)	0,2 (3)	mg/l eau rejetée
2. Fabrication des composés de cadmium	0,5 (3)	0,2 (3)	mg/l eau rejetée
	0,5 (4)	(5)	g/kg cadmium traité
3. Fabrication des pigments	0,5 (3)	0,2 (3)	mg/l eau rejetée
	0,3 (4)	(5)	g/kg cadmium traité
4. Fabrication des stabilisants	0,5 (3)	0,2 (3)	mg/l eau rejetée
	0,5 (4)	(5)	g/kg cadmium traité
5. Fabrication des batteries primaires et secondaires	0,5 (3)	0,2 (3)	mg/l eau rejetée
	1,5 (4)	(5)	g/kg cadmium traité
6. Électrodéposition (6)	0,5 (3)	0,2 (3)	mg/l eau rejetée
	0,3 (4)	(5)	g/kg cadmium traité
7. Fabrication de l'acide phosphorique et/ou d'engrais phosphatés à partir de roche phosphatée (7)	—	—	

(1) Pour les secteurs industriels qui ne sont pas mentionnés dans le présent tableau, les valeurs limites seront fixées en cas de besoin par la commission à un stade ultérieur. Entre-temps, les parties contractantes fixent de manière autonome, conformément aux dispositions de l'article 4 paragraphe 2 de la convention, des normes pour les rejets de cadmium. Ces normes doivent tenir compte des meilleurs moyens techniques disponibles et ne doivent pas être moins strictes que la valeur limite la plus comparable contenue dans cette annexe.

(2) Sur la base de l'expérience acquise lors de l'application des présents programmes et mesures, et conformément aux dispositions de leur article 3 paragraphe 2, la commission considérera, en temps utile, des propositions ayant pour but de fixer des valeurs limites plus restrictives.

(3) Concentration moyenne mensuelle en cadmium total pondéré selon le débit de l'effluent.

(4) Moyenne mensuelle.

(5) Il est pour le moment impossible de fixer les valeurs limites exprimées en poids. La commission fixe ces valeurs le cas échéant comme le prévoit l'article 3 paragraphe 2 des présents programmes et mesures. Si la commission ne fixe pas de valeurs limites, les valeurs exprimées en poids figurant dans la colonne « 1er janvier 1986 » sont maintenues.

(6) Les parties contractantes peuvent suspendre jusqu'au 1er janvier 1989 l'application des valeurs limites pour les établissements ne rejetant pas plus de 10 kg de cadmium par an et dont l'ensemble des cuves d'électrodéposition représente un volume inférieur à 1,5 m^3, lorsque la situation technique ou administrative rend cette mesure absolument nécessaire.

(7) Au stade actuel, il n'existe pas de méthodes techniques valables sur le plan économique qui permettent d'extraire systématiquement le cadmium des rejets résultant de la production d'acide phosphorique et/ou d'engrais phosphatés à partir de roche phosphatée. Aucune valeur limite n'a donc été fixée pour ces rejets. L'absence de ces valeurs limites ne dégage pas les parties contractantes de leur obligation, au titre du paragraphe 1 de l'article 1er des présents programmes et mesures, de fixer des normes d'émission pour ces rejets. Les valeurs limites seront fixées à un stade ultérieur par la commission, si le besoin s'en fait sentir.

2. Les valeurs limites exprimées en termes de concentration qui, en principe, ne doivent pas être dépassées figurent dans le tableau ci-avant pour les secteurs industriels des rubriques 2, 3, 4, 5 et 6. Dans tous les cas, les valeurs limites exprimées en concentrations maximales ne peuvent être supérieures à celles exprimées en quantités maximales divisées par les besoins en eau par kilogramme de cadmium traité. Toutefois, étant donné que la concentration de cadmium dans les effluents dépend du volume d'eau impliqué, qui diffère selon les différents procédés et établissements, les valeurs limites, exprimées en termes de quantité de cadmium rejeté par rapport à la quantité de cadmium traité, figurant dans le tableau ci-avant, doivent être respectées dans tous les cas.

3. Les valeurs limites des moyennes journalières sont égales au double des valeurs limites des moyennes mensuelles correspondantes figurant dans le tableau ci-avant.

4. Pour vérifier si les rejets satisfont aux normes d'émission fixées conformément aux valeurs limites définies à la présente annexe, une procédure de contrôle doit être instituée.

   Cette procédure doit prévoir le prélèvement et l'analyse d'échantillons, la mesure du débit des rejets et de la quantité de cadmium traité.

   Si la quantité de cadmium traité est impossible à déterminer, la procédure de contrôle peut se fonder sur la quantité de cadmium qui peut être utilisée en fonction de la capacité de production sur laquelle se fonde l'autorisation.

5. Un échantillon représentatif du rejet pendant une période de vingt-quatre heures est prélevé. La quantité de cadmium rejetée au cours d'un mois doit être calculée sur la base des quantités quotidiennes de cadmium rejetées.

   Toutefois, une procédure de contrôle simplifiée peut être instaurée pour les établissements industriels qui ne rejettent pas plus de 10 kg de cadmium par an. En ce qui concerne les établissements industriels d'électrodéposition, une procédure de contrôle simplifiée ne peut être instaurée que si l'ensemble des cuves d'électrodéposition représente un volume inférieur à 1,5 m^3.

ANNEXE II

Objectifs de qualité

Pour celles des parties contractantes qui appliquent la stratégie des objectifs de qualité, les normes d'émission sont fixées de manière que le (ou les) objectif(s) de qualité approprié(s), parmi ceux énumérés ci-après, soi(en)t respecté(s) dans la région affectée par des rejets de cadmium. L'autorité compétente désigne la région affectée dans chaque cas et sélectionne, parmi les objectifs de qualité figurant au paragraphe 1, celui ou ceux qu'elle juge appropriés, eu égard à la destination de la région affectée, en tenant compte du fait que l'objectif des présents programmes et mesures est de prévenir et d'éliminer toute pollution.

1. Dans le but de prévenir et d'éliminer la pollution au sens des articles 1er et 4 de la convention de Paris, les objectifs de qualité ci-après, qui sont mesurés suffisamment proche du point de rejet, sont fixés (1):

1.1. la concentration de cadmium en solution dans les eaux des estuaires jusqu'à la limite des eaux douces affectées par les rejets ne doit pas excéder 5 µg/l;

1.2. la concentration de cadmium en solution dans les eaux suivantes affectées par les rejets (2) ne doit pas excéder 2,5 µg/l:

i) eaux de mer territoriales;

ii) les eaux, non estuariennes, en deçà de la ligne de base servant à mesurer la largeur de la mer territoriale et s'étendant dans le cas des cours d'eau jusqu'à la limite des eaux douces.

2. Outre les exigences ci-avant, les résultats du contrôle et de la surveillance continus effectués conformément à l'article 2 doivent être comparés aux concentrations suivantes (1):

2.1. dans le cas des eaux estuariennes jusqu'à la limite des eaux douces, une concentration de cadmium en solution de 1 µg/l;

2.2. une concentration de cadmium en solution de 0,5 µg/l dans les eaux suivantes:

i) eau de mer territoriales;

ii) les eaux, non estuariennes, en deçà de la ligne de base servant à mesurer la largeur de la mer territoriale et s'étendant dans le cas des cours d'eau jusqu'à la limite des eaux douces.

2.3. Si ces concentrations ne sont pas respectées, ne fût-ce qu'en un seul point du réseau national de contrôle et de surveillance, les raisons doivent en être avisées à la commission.

3. La concentration de cadmium dans les sédiments et/ou mollusques et crustacés, si possible de l'espèce *Mytilus edulis,* ne doit pas augmenter de manière significative avec le temps.

4. Lorsque plusieurs objectifs de qualité sont appliqués aux eaux d'une région, la qualité des eaux doit être suffisante pour respecter chacun de ces objectifs.

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(1) Toutes les concentrations se rapportent à la moyenne arithmétique des résultats obtenus pendant une année.

(2) Il n'a pas été fixé de normes de qualité pour la haute mer, vu que les normes de qualité pour les mers territoriales et autres eaux protégeront la haute mer contre la pollution.

ANNEXE III

Méthodes de mesure de référence

1. La méthode d'analyse de référence utilisée pour déterminer la teneur en cadmium des eaux, des sédiments et des mollusques et crustacés est la mesure de l'absorption atomique par spectrophotométrie, après conservation et traitement appropriés de l'échantillon.

   Les limites de détection doivent être telles que la concentration en cadmium puisse être mesurée avec une exactitude de ± 30 % et une précision de ± 30 % pour les concentrations suivantes:

   — dans le cas de rejets, un dixième de la concentration maximale autorisée en cadmium, spécifiée dans l'autorisation,

   — dans le cas des eaux superficielles, 0,1 µg/l ou un dixième de la concentration en cadmium, spécifiée par l'objectif de qualité, la valeur la plus élevée étant à retenir,

   — dans le cas de mollusques et crustacés, 0,1 mg/kg, poids humide,

   — dans le cas de sédiments, un dixième de la concentration du cadmium de l'échantillon ou 0,1 mg/kg, poids sec, séchage effectué entre 105 et 110 °C à poids constant, la valeur la plus élevée étant à retenir.

2. La mesure du débit des effluents doit être effectuée avec une exactitude de ± 20 %.

ANNEXE IV

Procédure de contrôle pour les objectifs de qualité

1. L'autorité compétente précise les prescriptions, les modalités de surveillance et les délais pour assurer le respect du ou des objectifs de qualité en cause.

2. Pour chaque objectif de qualité choisi et appliqué, les parties contractantes doivent faire rapport à la commission sur:

   — les points de rejet et le dispositif de dispersion,

   — la zone dans laquelle est appliqué l'objectif de qualité,

   — la localisation des points de prélèvement,

   — la fréquence d'échantillonnage,

   — les méthodes d'échantillonnage et de mesure,

   — les résultats obtenus.

3. Les échantillons doivent être suffisamment représentatifs de la qualité du milieu aquatique dans la région affectée par les rejets et la fréquence d'échantillonnage doit être suffisante pour mettre en évidence les modifications éventuelles du milieu aquatique, compte tenu notamment des variations naturelles du régime hydrologique.