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## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL RECOMMENDATION

of 3 March 1975

regarding cost allocation and action by public authorities  
on environmental matters

(75/436/Euratom, ECSC, EEC)

THE COUNCIL OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community;

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Treaty establishing the European Atomic Energy Community;

Having regard to the draft recommendation submitted by the Commission;

Having regard to the Opinion of the European Parliament <sup>(1)</sup>;

Having regard to the Opinion of the Economic and Social Committee <sup>(2)</sup>;

Whereas in the framework of the declaration of the Council of the European Communities and of the representatives of the Governments of the Member States meeting with the Council of 22 November 1973 <sup>(3)</sup> on the programme of action of the European Communities on the environment, the 'polluter pays' principle was adopted;

Whereas the costs associated with the protection of the environment against pollution should be allocated according to the same principles through-

out the Community, in order to avoid distortions in trade and competition incompatible with the proper functioning of the common market and with the aim of balanced economic expansion pursued by the Community and in order to further the aims set out in the programme of action of the European Communities on the environment;

Whereas in order to facilitate application of the said principle, the European Communities and the Member States must define it more clearly by laying down procedures for its application, and by making provision for certain exceptions to be made to it such as may be made on grounds of difficulties encountered in its application and because of the interplay between other policies and the environmental protection policy;

RECOMMENDS, within the meaning of the EEC Treaty, that in respect of allocation of costs and of action by public authorities in the field of environmental protection, the Member States conform to the principles and the rules governing their application which are contained in the Commission communication annexed to this recommendation.

Done at Brussels, 3 March 1975.

*For the Council*

*The President*

J. KEATING

<sup>(1)</sup> OJ No C 76, 3. 7. 1974, p. 31.

<sup>(2)</sup> OJ No C 116, 30. 9. 1974, p. 35.

<sup>(3)</sup> OJ No C 112, 20. 12. 1973, p. 1.

## ANNEX

## Communication from the Commission to the Council regarding cost allocation and action by public authorities on environmental matters

## Principles and detailed rules governing their application

1. In the framework of the declaration of the Council of the European Communities and of the representatives of the Governments of the Member States meeting within the Council of 22 November 1973 on the programme of action of the European Communities on the environment, the 'polluter pays' principle was adopted. The programme of action provides that the Commission submit to the Council a proposal concerning the application of this principle, including possible exceptions thereto.

Charging to polluters the costs of action taken to combat the pollution which they cause encourages them to reduce that pollution and to endeavour to find less polluting products or technologies thereby enabling a more rational use to be made of the resources of the environment. Moreover, it satisfies the criteria of effectiveness and equitable practice.

In order to avoid distortions of competition affecting trade and the location of investments which would be incompatible with the proper functioning of the common market, the costs connected with the protection of the environment against pollution should be allocated according to the same principles throughout the Community.

2. To achieve this, the European Communities at Community level and the Member States in their national legislation on environmental protection must apply the 'polluter pays' principle, under which natural or legal persons governed by public or private law who are responsible for pollution must pay the costs of such measures as are necessary to eliminate that pollution or to reduce it so as to comply with the standards or equivalent measures which enable quality objectives to be met or, where there are no such objectives, so as to comply with the standards or equivalent measures laid down by the public authorities <sup>(1)</sup>.

Consequently, environmental protection should not in principle depend on policies which rely on grants of aid and place the burden of combating pollution on the Community.

3. A polluter is someone who directly or indirectly damages the environment or who creates conditions leading to such damage <sup>(2)</sup>.

If identifying the polluter proves impossible or too difficult, and hence arbitrary, particularly where environmental pollution arises from several simultaneous causes

('cumulative pollution') <sup>(3)</sup> or from several consecutive causes ('pollution chain') <sup>(4)</sup>, the cost of combating pollution should be borne at the point in the pollution chain or in the cumulative pollution process, and by the legal or administrative means which offer the best solution from the administrative and economic points of view and which make the most effective contribution towards improving the environment.

Thus, in the case of pollution chains, costs could be charged at the point at which the number of economic operators is least and control is easiest or else at the point where the most effective contribution is made towards improving the environment, and where distortions to competition are avoided.

4. Under the 'polluter pays' principle, standards and charges, or a possible combination of the two, are the major instruments of action available to public authorities for the avoidance of pollution.

(a) Standards include:

- (i) 'environmental quality standards' which, with legally binding force, prescribe the levels of pollution or nuisance not to be exceeded in a given environment or part thereof;
- (ii) 'product standards' (the term product is used here in its broadest meaning) which:
  - set levels for pollutants or nuisance which are not to be exceeded in the composition or the emissions of a product, or
  - specify properties or characteristics of design of a product, or
  - are concerned with the way in which products are used <sup>(5)</sup>.

Where appropriate, product standards include specifications for testing, packaging, marking and labelling products;

(iii) standards for fixed installations, sometimes called 'process standards', such as:

- (a) 'emission standards', which set levels for pollutants or nuisances not to be exceeded in emissions from fixed installations;

<sup>(1)</sup> As long as such a level has not been laid down by the public authorities, measures taken by such authorities to avoid pollution should also be paid for by the polluters, in accordance with the 'polluter pays' principle.

<sup>(2)</sup> The concept of polluter, as defined in this sentence, does not affect provisions concerning third-party liability.

<sup>(3)</sup> Where, in a built-up area, for example, several polluters, such as householders, users of motor vehicles and industrial plants, are simultaneously responsible for polluting the atmosphere with SO<sub>2</sub>.

<sup>(4)</sup> For example, in cases of environmental pollution by motor vehicle exhaust fumes, not only the user of the vehicle but also the manufacturers of the vehicle and of the fuel are responsible for causing atmospheric pollution.

<sup>(5)</sup> Such methods of use and specifications may be issued in the form of 'codes of practice'.

- (b) 'installation design standards', which determine the requirements to be met in the design and construction of fixed installations in order to protect the environment;
- (c) 'operating standards', which determine the requirements <sup>(1)</sup> to be met in the operation of fixed installations in order to protect the environment.

- (b) The purpose of charges shall be to encourage the polluter to take the necessary measures to reduce the pollution he is causing as cheaply as possible (incentive function) and/or to make him pay his share of the costs of collective measures, for example purification costs (redistribution function). The charges should be applied, according to the extent of pollution emitted, on the basis of an appropriate administrative procedure.

Charges should be fixed so that primarily they fulfil their incentive function.

In so far as the main function of charges is redistribution, they should at least be fixed within the context of the abovementioned measures so that, for a given region and/or qualitative objective, the aggregate amount of the charges is equal to the total cost to the Community of eliminating nuisances.

Income from charges may be used to finance either measures taken by public authorities or to help finance installations set up by an individual polluter, provided that the latter, at the specific request of the public authorities, is seen to render a particular service to the Community, by reducing his pollution level to below that set by the competent authorities. In the latter instance, the financial aid granted must be limited to compensating for the services thus rendered by the polluter to the Community.

In line with Article 92 *et seq.* of the EEC Treaty, income from charges may also be used to finance the installations of individual polluters for protecting the environment, in order actively to reduce existing pollution. In this case, the measures for financing should be incorporated in an official multi-annual finance programme by the competent authorities.

Where the overall revenue exceeds the total expenditure by the public authorities when applying the two preceding paragraphs, the surplus should preferably be used by each government for its national environmental policies; however, the surplus may be used for granting aid only under the conditions specified in paragraphs 6 and 7 below.

As far as possible, the Community should endeavour to standardize the methods of calculation used by the Member States to set charges.

- (c) In order to avoid distortions of competition affecting trade and the location of investment in the Community, it will undoubtedly be necessary to harmonize more and more closely at Community level the various instruments where they are applied in similar cases.

Until this is achieved, the question of the allocation of anti-pollution costs will never be entirely resolved at Community level. This Commission communica-

tion therefore constitutes merely a first step in the application of the 'polluter pays' principle. The first step must be followed up as quickly as possible by the harmonization within the Community of the instruments for implementing the said principle, when they are applied to similar cases, as stated in the third subparagraph of paragraph 8 of this document.

- 5. Depending on the instruments used and without prejudice to any compensation due under national law or international law, and/or regulations to be drawn up within the Community, polluters will be obliged to bear:

- (a) expenditure on pollution control measures (investment in anti-pollution installations and equipment, introduction of new processes, cost of running anti-pollution installations, etc.), even when these go beyond the standards laid down by the public authorities;
- (b) the charges.

The costs to be borne by the polluter (under the 'polluter pays' principle) should include all the expenditure necessary to achieve an environmental quality objective, including the administrative costs directly linked to the implementation of anti-pollution measures.

The cost to the public authorities of constructing, buying and operating pollution monitoring and supervision installations may, however, be borne by those authorities.

- 6. Exceptions to the 'polluter pays' principle may be justified in limited cases:

- (a) Where the immediate application of very stringent standards or the imposition of substantial charges is likely to lead to serious economic disturbances, the rapid incorporation of pollution control costs into production costs may give rise to greater social costs. It may then prove necessary:
  - to allow some polluters time to adapt their products or production processes to the new standards;
  - and/or to grant aid for a limited period and possibly of a degressive nature.

Such measures may, in any case, apply only to existing production plants <sup>(2)</sup> and existing products.

- (b) Where, in the context of other policies (e.g. regional, industrial, social, and agricultural policies or scientific research and development policy), investment affecting environmental protection benefit from aid intended to solve certain industrial, agricultural or regional structural problems.

Aids referred to under (a) and (b) may, of course, only be granted by Member States in compliance with the provisions on State aid set out in the Treaties establishing the European Communities, and in particular Articles 92 *et seq.* of the EEC Treaty. In applying Articles 92 *et seq.* of the EEC Treaty to these aids, account will be taken of the requirements

<sup>(1)</sup> Such methods of use and specifications may be issued in the form of 'codes of practice'.

<sup>(2)</sup> The enlargement or the transfer of existing production plants will be considered as the creation of new plants where this represents an increase in productive capacity.

which such aids satisfy as regards environmental protection.

7. The following shall not be considered contrary to the 'polluter pays' principle <sup>(1)</sup>:

- (a) financial contributions which might be granted to local authorities for the construction and operation of public installations for the protection of the environment, the cost of which could not be wholly covered in the short term from the charges paid by polluters using them. In so far as other effluent as well as household waste is treated in these installations, the service thus rendered to undertakings should be charged to them on the basis of the actual cost of the treatment concerned;
- (b) financing designed to compensate for the particularly heavy costs which some polluters would be obliged to meet in order to achieve an exceptional degree of environmental cleanliness;
- (c) contributions granted to foster activities concerning research and development with a view to implement-

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<sup>(1)</sup> This list may be modified by the Council, on a proposal from the Commission.

ing techniques, manufacturing processes and products causing less pollution.

8. In carrying out its tasks within the framework of the Community environment policy, the Commission will comply particularly with the abovementioned definitions and methods of application of the abovementioned 'polluter pays' principle.

The Commission asks the Council to take note of these definitions and conditions of application and to recommend that the Member States conform to them in their legislation and administrative measures involving the allocation of costs in the environmental field.

The Commission will submit all the necessary proposals in this field to the Council in due course, particularly as regards the harmonization of instruments for administering the 'polluter pays' principle, and its specific application to the problems of transfrontier pollution.

Each Member State should apply the 'polluter pays' principle to all forms of pollution within its own country and without making any distinction as to whether the pollution affects that country or another.

## COUNCIL DECISION

of 3 March 1975

concluding the convention for the prevention of marine pollution from land-based sources

(75/437/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 proposal from the Commission;

Having regard to the Opinion of the European Parliament <sup>(1)</sup>;

Whereas the declaration of the Council of the European Communities and of the representatives of the Governments of the Member States meeting in the Council of 22 November 1973 <sup>(2)</sup> on the programme of action of the European Communities on the environment, emphasizes that it is important for the Community to take measures to combat marine pollution in general, and provides amongst other things for Community action with a view to combating marine pollution from land-based sources;

Whereas the convention for the prevention of marine pollution from land-based sources of 21 February 1974, also provides for the preparation and implementation of programmes intended either to eliminate or to reduce this type of pollution in the North East Atlantic;

Whereas it appears necessary for the Community to conclude this convention in order to attain, in the course of the operation of the common market, one of the objectives of the Community in the fields of the protection of the environment and the quality of life, and whereas no provision is made in the Treaty for the necessary powers;

Whereas the representative of the Community within the Commission established under the convention should be designated,

## HAS DECIDED AS FOLLOWS:

*Article 1*

The convention for the prevention of marine pollution from land-based sources is hereby concluded on behalf of the Community.

The text of the convention is annexed hereto.

*Article 2*

The President of the Council shall be authorized to designate the persons empowered to sign the convention and to confer on them the powers they require to bind the Community.

*Article 3*

The Community shall be represented by the Commission in the Commission established under Article 15 of the convention.

The Commission shall in that body put forward the position of the Community in accordance with such Directives as the Council may give it.

Done at Brussels, 3 March 1975.

*For the Council*

*The President*

J. KEATING

<sup>(1)</sup> OJ No C 127, 18. 10. 1974, p. 32.

<sup>(2)</sup> OJ No C 112, 20. 12. 1973, p. 1.

## ANNEX

## CONVENTION

## for the prevention of marine pollution from land-based sources

## THE CONTRACTING PARTIES:

RECOGNIZING that the marine environment and the fauna and flora which it supports are of vital importance to all nations;

MINDFUL that the ecological equilibrium and the legitimate uses of the sea are increasingly threatened by pollution;

CONSIDERING the recommendations of the United Nations conference on the human environment, held in Stockholm in June 1972;

RECOGNIZING that concerted action at national, regional and global levels is essential to prevent and combat marine pollution;

CONVINCED that international action to control the pollution of the sea from land-based sources can and should be taken without delay, as part of progressive and coherent measures to protect the marine environment from pollution, whatever its origin, including current efforts to combat the pollution of international waterways;

CONSIDERING that the common interests of States concerned with the same marine area should induce them to cooperate at regional or sub-regional levels;

RECALLING the convention for the prevention of marine pollution by dumping from ships and aircraft concluded in Oslo on 15 February 1972,

HAVE AGREED as follows :

*Article 1*

1. The Contracting Parties pledge themselves to take all possible steps to prevent pollution of the sea, by which is meant the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) resulting in such deleterious effects as hazards to human health, harm to living resources and to marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

2. The Contracting Parties shall adopt individually and jointly measures to combat marine pollution from land-based sources in accordance with the provisions of the present convention and shall harmonize their policies in this regard.

*Article 2*

The present convention shall apply to the maritime area within the following limits:

(a) those parts of the Atlantic and Arctic Oceans and the dependent seas which lie north of 36°

north latitude and between 42° west longitude and 51° east longitude, but excluding:

- (i) the Baltic Sea and Belts lying to the south and east of lines drawn from Hasenore Head to Griben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to Kullen and
- (ii) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° north latitude and the meridian of 5°36' west longitude;

(b) that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.

*Article 3*

For the purpose of the present convention:

- (a) 'maritime area' means: the high seas, the territorial seas of Contracting Parties and 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 water-courses, unless otherwise decided under Article 16(c) of the present convention, up to the freshwater limit;

- (b) 'Freshwater limit' means: the place in the watercourse where, at low tide and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of seawater;
- (c) 'pollution from land-based sources' means: the pollution of the maritime area
  - (i) through watercourses,
  - (ii) from the coast, including introduction through underwater or other pipelines,
  - (iii) from man-made structures placed under the jurisdiction of a Contracting Party within the limits of the area to which the present convention applies.

#### Article 4

1. The Contracting Parties undertake:
  - (a) to eliminate, if necessary by stages, pollution of the maritime area from land-based sources by substances listed in Part I of Annex A to the present convention;
  - (b) to limit strictly pollution of the maritime area from land-based sources by substances listed in Part II of Annex A to the present convention.
2. In order to carry out the undertakings in paragraph 1 of this Article, the Contracting Parties, jointly or individually as appropriate, shall implement programmes and measures:
  - (a) for the elimination, as a matter of urgency, of pollution of the maritime area from land-based sources by substances listed in Part I of Annex A to the present convention;
  - (b) for the reduction or, as appropriate, elimination of pollution of the maritime area from land-based sources by substances listed in Part II of Annex A to the present convention. These substances shall be discharged only after approval has been granted by the appropriate authorities within each Contracting State. Such approval shall be periodically reviewed.

3. The programmes and measures adopted under paragraph 2 of this Article shall include, as appropriate, specific regulations or standards governing the quality of the environment, discharges into the maritime area, such discharges into watercourses as affect the maritime area, and the composition and use of substances and products. These programmes and measures shall take into account the latest technical developments.

The programmes shall contain time limits for their completion.

4. The Contracting Parties may, furthermore, jointly or individually as appropriate, implement programmes or measures to forestall, reduce or eliminate pollution of the maritime area from land-based sources by a substance not then listed in Annex A to the present convention, if scientific evidence has established that a serious hazard may be created in the maritime area by that substance and if urgent action is necessary.

#### Article 5

1. The Contracting Parties undertake to adopt measures to forestall and, as appropriate, eliminate pollution of the maritime area from land-based sources by radioactive substances referred to in Part III of Annex A to the present convention.
2. Without prejudice to their obligations under other treaties and conventions, in implementing this undertaking the Contracting Parties shall:
  - (a) take full account of the recommendations of the appropriate international organizations and agencies;
  - (b) take account of the monitoring procedures recommended by these international organizations and agencies;
  - (c) coordinate their monitoring and study of radioactive substances in accordance with Articles 10 and 11 of the present convention.

#### Article 6

1. With a view to preserving and enhancing the quality of the marine environment, the Contracting Parties, without prejudice to the provisions of Article 4, shall endeavour:
  - (a) to reduce existing pollution from land-based sources;
  - (b) to forestall any new pollution from land-based sources, including that which derives from new substances.
2. In implementing this undertaking, the Contracting Parties shall take account of:
  - (a) the nature and quantities of the pollutants under consideration;
  - (b) the level of existing pollution;
  - (c) the quality and absorptive capacity of the receiving waters of the maritime area;
  - (d) the need for an integrated planning policy consistent with the requirement of environmental protection.



#### Article 7

The Contracting Parties agree to apply the measures they adopt in such a way as to avoid increasing pollution:

- in the seas outside the area to which the present convention applies;
- in the maritime area covered by the present convention, originating otherwise than from land-based sources.

#### Article 8

No provision of the present convention shall be interpreted as preventing the Contracting Parties from taking more stringent measures to combat marine pollution from land-based sources.

#### Article 9

1. When pollution from land-based sources originating from the territory of a Contracting Party by substances not listed in Part I of Annex A to the present convention is likely to prejudice the interests of one or more of the other parties to the present convention, the Contracting Parties concerned undertake to enter into consultation, at the request of any one of them, with a view to negotiating a cooperation agreement.

2. At the request of any Contracting Party concerned, the Commission referred to in Article 15 of the present convention shall consider the question and may make recommendations with a view to reaching a satisfactory solution.

3. The special agreements specified in paragraph 1 of this Article may, among other things, define the areas to which they shall apply, the quality objectives to be achieved, and the methods for achieving these objectives including methods for the application of appropriate standards and the scientific and technical information to be collected.

4. The Contracting Parties signatory to these special agreements shall, through the medium of the Commission, inform the other Contracting Parties of their purport and of the progress made in putting them into effect.

#### Article 10

The Contracting Parties agree to establish complementary or joint programmes of scientific and technical research, including research into the best methods of eliminating or replacing noxious sub-

stances so as to reduce marine pollution from land-based sources, and to transmit to each other the information so obtained. In doing so they shall have regard to the work carried out, in these fields, by the appropriate international organizations and agencies.

#### Article 11

The Contracting Parties agree to set up progressively and to operate within the area covered by the present convention a permanent monitoring system allowing:

- the earliest possible assessment of the existing level of marine pollution;
- the assessment of the effectiveness of measures for the reduction of marine pollution from land-based sources taken under the terms of the present conventions.

For this purpose the Contracting Parties shall lay down the ways and means of pursuing individually or jointly systematic and *ad hoc* monitoring programmes. These programmes shall take into account the deployment of research vessels and other facilities in the monitoring area.

The programmes shall take into account similar programmes pursued in accordance with conventions already in force and by the appropriate international organizations and agencies.

#### Article 12

1. Each Contracting Party undertakes to ensure compliance with the provisions of this convention and to take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of the present convention.

2. The Contracting Parties shall inform the Commission of the legislative and administrative measures they have taken to implement the provisions of the preceding paragraph.

#### Article 13

The Contracting Parties undertake to assist one another as appropriate to prevent incidents which may result in pollution from land-based sources, to minimize and eliminate the consequences of such incidents, and to exchange information to that end.

#### Article 14

1. The provisions of the present convention may not be invoked against a Contracting Party to the

extent that the latter is prevented, as a result of pollution having its origin in the territory of a non-contracting State, from ensuring their full application.

2. However, the said Contracting Party shall endeavour to cooperate with the non-contracting State so as to make possible the full application of the present convention.

#### Article 15

A Commission composed of representatives of each of the Contracting Parties is hereby established. The Commission shall meet at regular intervals and at any time when due to special circumstances it is so decided in accordance with its rules of procedure.

#### Article 16

It shall be the duty of the Commission:

- (a) to exercise overall supervision over the implementation of the present convention;
- (b) to review generally the condition of the seas within the area to which the present convention applies, the effectiveness of the control measures being adopted and the need for any additional or different measures;
- (c) to fix, if necessary, on the proposal of the Contracting Party or Parties bordering on the same watercourse and following a standard procedure, the limit to which the maritime area shall extend in that watercourse;
- (d) to draw up, in accordance with Article 4 of the present convention, programmes and measures for the elimination or reduction of pollution from land-based sources;
- (e) to make recommendations in accordance with the provisions of Article 9;
- (f) to receive and review information and distribute it to the Contracting Parties in accordance with the provisions of Articles 11, 12 and 17 of the present convention;
- (g) to make, in accordance with Article 18, recommendations regarding any amendment to the lists of substances included in Annex A to the present convention;
- (h) to discharge such other functions, as may be appropriate, under the terms of the present convention.

#### Article 17

The Contracting Parties, in accordance with a standard procedure, shall transmit to the Commission:

- (a) the results of monitoring pursuant to Article 11;

- (b) the most detailed information available on the substances listed in the Annexes to the present convention and liable to find their way into the maritime area.

The Contracting Parties shall endeavour to improve progressively techniques for gathering such information which can contribute to the revision of the pollution reduction programmes drawn up in accordance with Article 4 of the present convention.

#### Article 18

1. The Commission shall draw up its own Rules of Procedure which shall be adopted by unanimous vote.

2. The Commission shall draw up its own Financial Regulations which shall be adopted by unanimous vote.

3. The Commission shall adopt, by unanimous vote, programmes and measures for the reduction or elimination of pollution from land-based sources as provided for in Article 4, programmes for scientific research and monitoring as provided for in Articles 10 and 11, and decisions under Article 16(c).

The programmes and measures shall commence for and be applied by all Contracting Parties 200 days after their adoption, unless the Commission specifies another date.

Should unanimity not be attainable, the Commission may nonetheless adopt a programme or measures by a three-quarters majority vote of its members. The programmes or measures shall commence for those Contracting Parties which voted for them 200 days after their adoption, unless the Commission specifies another date, and for any other Contracting Party after it has explicitly accepted the programme or measures, which it may do at any time.

4. The Commission may adopt recommendations for amendments to Annex A to the present convention by a three-quarters majority vote of its members and shall submit them for the approval of the Governments of the Contracting Parties. Any Government of a Contracting Party that is unable to approve an amendment shall notify the depositary Government in writing within a period of 200 days after the adoption of the recommendation of amendment in the Commission. Should no such notification be received, the amendment shall enter into force for all Contracting Parties 230 days after the vote in the Commission. The depositary Government shall notify the Contracting Parties as soon as possible of the receipt of any notification.

*Article 19*

Within the areas of its competence, the European Economic Community is entitled to a number of votes equal to the number of its Member States which are Contracting Parties to the present convention.

The European Economic Community shall not exercise its right to vote in cases where its Member States exercise theirs and conversely.

*Article 20*

The depositary Government shall convene the first meeting of the Commission as soon as possible after the coming into force of the present convention.

*Article 21*

Any dispute between Contracting Parties relating to the interpretation or application of the present convention, which cannot be settled otherwise by the parties concerned, for instance by means of inquiry or conciliation within the Commission, shall, at the request of any of those parties, be submitted to arbitration under the conditions laid down in Annex B to the present convention.

*Article 22*

The present convention shall be open for signature at Paris, from 4 June 1974 to 30 June 1975, by the States invited to the diplomatic conference on the convention for the prevention of marine pollution from land-based sources, held at Paris, and by the European Economic Community.

*Article 23*

The present convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the French Republic.

*Article 24*

1. After 30 June 1975, the present convention shall be open for accession by States referred to in Article 22 and by the European Economic Community.

2. The present convention shall also be open for accession from the same date by any other Contracting Party to the convention for the prevention of marine pollution by dumping from ships and aircraft, opened for signature at Oslo on 15th February 1972.

3. From the date of its entry into force, the present convention shall be open for accession by any State not referred to in Article 22, located upstream on watercourses crossing the territory of one or more Contracting Parties to the present convention and reaching the maritime area defined in Article 2.

4. The Contracting Parties may unanimously invite other States to accede to the present convention. In that case the maritime area in Article 2 may, if necessary, be amended in accordance with Article 27 of the present convention.

5. The instruments of accession shall be deposited with the Government of the French Republic.

*Article 25*

1. The present convention shall come into force on the thirtieth day following the date of deposit of the seventh instrument of ratification, acceptance, approval or accession.

2. For each Party ratifying, accepting or approving the present convention or acceding to it after the deposit of the seventh instrument of ratification, acceptance, approval or accession, the present convention shall enter into force on the thirtieth day after the date of deposit by that party of its instrument of ratification, acceptance, approval or accession.

*Article 26*

At any time after the expiry of two years from the date of coming into force of the present convention in relation to any Contracting Party such party may withdraw from the convention by notice in writing to the depositary Government. Such notice shall take effect one year after the date on which it is received.

*Article 27*

1. The depositary Government shall, at the request of the Commission on a decision taken by a two-thirds majority of its members, call a conference for the purpose of revising or amending the present convention.

2. Upon accession by a State as provided for in paragraphs 2, 3 and 4 of Article 24, the maritime area in Article 2 may be amended upon a proposal by the Commission adopted by a unanimous vote. These amendments shall enter into force after unanimous approval by the Contracting Parties.

*Article 28*

The depositary Government shall inform the Contracting Parties and those referred to in Article 22:

- (a) of signatures to the present convention, of the deposits of instruments of ratification, acceptance, approval or accession, and of notices of withdrawal in accordance with Articles 22, 23, 24 and 26;
- (b) of the date on which the present convention comes into force in accordance with Article 25;
- (c) of the receipt of notifications of approval or objection, and of the entry into force of amend-

ments to the present convention and its Annexes, in accordance with Articles 18 and 27.

*Article 29*

The original of the present convention of which the French and English texts shall be equally authentic, shall be deposited with the Government of the French Republic which shall send certified copies thereof to the Contracting Parties and the States referred to in Article 22 and shall deposit a certified copy with the Secretary General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed this convention.

Done at Paris, 4 June 1974.

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## ANNEX A

The allocation of substances to Parts I, II and III below takes account of the following criteria:

- (a) persistence;
- (b) toxicity or other noxious properties;
- (c) tendency to bio-accumulation.

These criteria are not necessarily of equal importance for a particular substance or group of substances, and other factors, such as the location and quantities of the discharge, may need to be considered.

## PART I

The following substances are included in this part:

- (i) because they are not readily degradable or rendered harmless by natural processes; and
- (ii) because they may either:
  - (a) give rise to dangerous accumulation of harmful material in the food chain, or
  - (b) endanger the welfare of living organisms causing undesirable changes in the marine eco-systems, or
  - (c) interfere seriously with the harvesting of sea foods or with other legitimate uses of the sea; and
- (iii) because it is considered that pollution by these substances necessitates urgent action:
  - 1. organohalogen compounds and substances which may form such compounds in the marine environment, excluding those which are biologically harmless, or which are rapidly converted in the sea into substances which are biologically harmless;
  - 2. mercury and mercury compounds;
  - 3. cadmium and cadmium compounds;
  - 4. persistent synthetic materials which may float, remain in suspension or sink, and which may seriously interfere with any legitimate use of the sea;
  - 5. persistent oils and hydrocarbons of petroleum origin.

## PART II

The following substances are included in this part because, although exhibiting similar characteristics to the substances in Part I and requiring strict control, they seem less noxious or are more readily rendered harmless by natural processes:

- 1. organic compounds of phosphorus, silicon, and tin and substances which may form such compounds in the marine environment, excluding those which are biologically harmless, or which are rapidly converted in the sea into substances which are biologically harmless.
- 2. elemental phosphorus.
- 3. non-persistent oils and hydrocarbons of petroleum origin.
- 4. the following elements and their compounds:
  - arsenic,
  - chromium,
  - copper,
  - lead,
  - nickel,
  - zinc.
- 5. substances which have been agreed by the Commission as having a deleterious effect on the taste and/or smell of products derived from the marine environment for human consumption.

## PART III

The following substances are included in this part because, although they display characteristics similar to those of substances listed in Part I and should be subject to stringent controls with the aim of preventing and, as appropriate, eliminating the pollution which they cause, they are already the subject of research, recommendations and, in some cases, measures under the auspices of several international organizations and institutions; those substances are subject to the provisions of Article 5:

- radioactive substances, including wastes.

## ANNEX B

*Article 1*

Unless the parties to the dispute decide otherwise, the arbitration procedure shall be in accordance with the provisions of this Annex.

*Article 2*

1. At the request addressed by one Contracting Party to another Contracting Party in accordance with Article 21 of the convention, an arbitral tribunal shall be constituted: The request for arbitration shall state the subject matter of the application including in particular the Articles of the convention, the interpretation or application of which is in dispute.

2. The claimant shall inform the Commission that he has requested the setting up of an arbitral tribunal, stating the name of the other party to the dispute and the Articles of the convention the interpretation or application of which is in his opinion in dispute. The Commission shall forward the information thus received to all Contracting Parties to the convention.

*Article 3*

The arbitral tribunal shall consist of three members: each of the parties to the dispute shall appoint an arbitrator; the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

*Article 4*

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months' period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the

United Nations who shall make this appointment within a further two months' period.

*Article 5*

1. The arbitral tribunal shall decide according to the rules of international law and, in particular, those of this convention.

2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

*Article 6*

1. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority voting of its members.

2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.

3. If two or more arbitral tribunals constituted under the provisions of this Annex are seized of requests with identical or similar subjects, they may inform themselves of the procedures for establishing the facts and take them into account as far as possible.

4. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

5. The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

*Article 7*

1. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

2. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another arbitral tribunal constituted for this purpose in the same manner as the first.

*Article 8*

The European Economic Community, like any Contracting Party to the present convention, has the right to appear as applicant or respondent before the arbitral tribunal.

## ANNEXE

## CONVENTION

## pour la prévention de la pollution marine d'origine tellurique

## LES PARTIES CONTRACTANTES,

RECONNAISSANT que l'environnement marin et la faune et la flore qu'il conditionne ont une importance vitale pour toutes les nations,

CONSCIENTES du fait que l'équilibre écologique et les utilisations légitimes de la mer sont de plus en plus menacées par la pollution,

PRENANT en considération les recommandations de la conférence des Nations unies sur l'environnement humain, qui s'est réunie à Stockholm en juin 1972,

RECONNAISSANT que des actions concertées aux niveaux national, régional et mondial sont essentielles pour prévenir et combattre la pollution des mers,

CONVAINCUES que des actions internationales visant à contrôler la pollution marine d'origine tellurique peuvent et doivent être menées sans tarder, comme partie d'un programme progressif et cohérent de protection de l'environnement marin contre la pollution, quelle que soit son origine, comprenant les efforts actuels pour lutter contre la pollution des cours d'eau internationaux,

CONSIDÉRANT que les intérêts communs des États concernés d'une même zone marine doivent les conduire à coopérer au niveau régional ou sub-régional,

RAPPELANT la convention pour la prévention de la pollution marine par les opérations d'immersion effectuées par les navires et aéronefs, conclue à Oslo le 15 février 1972,

SONT CONVENUES des dispositions ci-après :

*Article premier*

1. Les parties contractantes s'engagent à prendre toutes les mesures possibles pour éviter la pollution de la mer, ce qui signifie l'introduction par l'homme, directement ou indirectement, de substances ou d'énergie dans l'environnement marin (y compris les estuaires) entraînant des conséquences de nature à mettre en danger la santé humaine, à nuire aux ressources vivantes et au système écologique marin, à porter atteinte aux agréments ou à gêner d'autres utilisations légitimes de la mer.

2. Les parties contractantes prendront individuellement et en commun des mesures pour combattre la pollution marine d'origine tellurique conformément aux dispositions de la présente convention et elles harmoniseront leurs politiques à cet effet.

*Article 2*

La présente convention s'applique à la zone maritime dont les limites sont les suivantes :

a) les régions des océans Atlantique et Arctique et de leurs mers secondaires qui s'étendent au nord du 36° de latitude nord et entre le 42° de

longitude ouest et le 51° de longitude est, mais à l'exclusion :

i) de la mer Baltique et des Belts au sud et à l'est des lignes allant d'Hasenore Head à Griben Point, de Korshage à Spodsbjerg et de Gilbjerg Head à Kullen, et

ii) de la mer Méditerranée et des mers secondaires jusqu'au point d'intersection du 36° parallèle de latitude nord et du 5° 36' méridien de longitude ouest;

b) la région de l'océan Atlantique au nord du 59° de latitude nord et entre 44° de longitude ouest et 42° de longitude ouest.

*Article 3*

Aux fins de la présente convention :

a) on entend par « zone maritime » la haute mer, les mers territoriales des parties contractantes et les eaux 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, sauf décision contraire prise en vertu de l'article 16 sous c) de la présente convention, jusqu'à la limite des eaux douces;

- b) on entend par « limite des eaux douces » l'endroit dans le cours d'eau où, à marée basse et en période de faible débit d'eau douce, le degré de salinité augmente sensiblement par suite de la présence de l'eau de mer;
- c) on entend par « pollution tellurique » la pollution de la zone maritime :
  - i) par les cours d'eau,
  - ii) à partir de la côte, y compris par introduction au moyen de canalisations sous-marines et autres canalisations,
  - iii) à partir de structures artificielles placées sous la juridiction d'une partie contractante dans les limites de la zone d'application de la présente convention.

#### Article 4

1. Les parties contractantes s'engagent :
  - a) à éliminer, au besoin par étapes, la pollution de la zone maritime d'origine tellurique par des substances énumérées à la partie I de l'annexe A de la présente convention;
  - b) à limiter sévèrement la pollution de la zone maritime d'origine tellurique par des substances énumérées à la partie II de l'annexe A de la présente convention.
2. Pour l'exécution des engagements prévus au paragraphe 1 du présent article, les parties contractantes, conjointement ou individuellement selon les cas, mettent en œuvre des programmes et mesures :
  - a) en vue de l'élimination urgente de la pollution d'origine tellurique de la zone maritime due aux substances énumérées à la partie I de l'annexe A de la présente convention;
  - b) en vue de la réduction ou le cas échéant de l'élimination de la pollution d'origine tellurique de la zone maritime due aux substances énumérées à la partie II de l'annexe A de cette convention. Ces substances ne peuvent être rejetées que sur agrément donné par les autorités compétentes de chaque État contractant. Cet agrément fera l'objet d'une révision périodique.
3. Les programmes et mesures adoptés au titre du paragraphe 2 de cet article comprennent, le cas échéant, des règlements ou normes spécifiques applicables à la qualité de l'environnement, aux rejets dans la zone maritime, à ceux des rejets dans les cours d'eau qui affectent la zone maritime et à la composition et à l'usage de substances et de produits. Ces programmes et mesures tiennent compte des derniers progrès techniques.

Les programmes fixent des délais d'achèvement.

4. Les parties contractantes peuvent, en outre, conjointement ou individuellement selon les cas, mettre en œuvre des programmes ou des mesures en vue de prévenir, de réduire ou d'éliminer la pollution d'origine tellurique de la zone maritime par une substance ne figurant pas à l'annexe A de la présente convention si les données scientifiques ont établi que cette substance peut créer pour la zone maritime un danger grave et s'il est urgent de prendre des mesures.

#### Article 5

1. Les parties contractantes s'engagent à adopter des mesures en vue de prévenir et, le cas échéant, d'éliminer la pollution d'origine tellurique de la zone maritime due aux substances radioactives dont il est question à la partie III de l'annexe A de la présente convention.
2. Sans préjudice de leurs obligations découlant d'autres traités et conventions, les parties contractantes dans l'exécution de cet engagement, doivent :
  - a) tenir pleinement compte des recommandations des organisations et institutions internationales compétentes;
  - b) tenir compte des procédures de surveillance recommandées par ces organisations et institutions internationales;
  - c) coordonner leur surveillance et leur étude des substances radioactives conformément aux articles 10 et 11 de la présente convention.

#### Article 6

1. Dans le but de préserver et d'améliorer la qualité de l'environnement marin, les parties contractantes, sans préjudice des dispositions de l'article 4, s'engagent à œuvrer pour :
  - a) réduire la pollution d'origine tellurique existante;
  - b) prévenir toute nouvelle pollution d'origine tellurique, y compris la pollution par de nouvelles substances.
2. Dans la mise en œuvre de cet engagement, les parties contractantes prennent en considération :
  - a) la nature et les quantités des polluants considérés;
  - b) le niveau de pollution existante;
  - c) la qualité et la possibilité d'absorption des eaux réceptrices de la zone maritime;
  - d) la nécessité d'une politique intégrée d'aménagement compatible avec les impératifs de la protection de l'environnement.



*Article 7*

Les parties contractantes conviennent de mettre en œuvre les mesures qu'elles auront adoptées de manière :

- à ne pas augmenter la pollution dans les mers situées en dehors de la zone d'application de la présente convention,
- à ne pas augmenter la pollution d'autres origines que d'origine tellurique dans la zone maritime couverte par la présente convention.

*Article 8*

Aucune des dispositions de la présente convention ne peut être interprétée comme empêchant les parties contractantes de prendre des mesures plus strictes en ce qui concerne la lutte contre la pollution marine d'origine tellurique.

*Article 9*

1. Lorsque la pollution d'origine tellurique en provenance du territoire d'une partie contractante par des substances non énumérées à la partie I de l'annexe A de la présente convention est susceptible de mettre en cause les intérêts d'une ou de plusieurs autres parties à la présente convention, les parties contractantes concernées s'engagent à entrer en consultation, à la demande de l'une d'entre elles, en vue de négocier un accord de coopération.

2. À la demande d'une partie contractante concernée, la Commission mentionnée à l'article 15 de la présente convention examine la question et peut faire des recommandations en vue de parvenir à une solution satisfaisante.

3. Les accords spéciaux prévus dans le paragraphe 1 du présent article peuvent, entre autres, définir les zones auxquelles ils s'appliquent, les objectifs de qualité à atteindre, et les moyens de parvenir à ces objectifs, y compris les méthodes pour l'application de normes appropriées ainsi que les renseignements scientifiques et techniques à recueillir.

4. Les parties contractantes signataires de ces accords spéciaux informent, par l'intermédiaire de la Commission, les autres parties contractantes de leur teneur et des progrès réalisés dans leur mise en œuvre.

*Article 10*

Les parties contractantes conviennent d'établir des programmes complémentaires ou conjoints de recherche scientifique et technique, comprenant la recherche des meilleures méthodes d'élimination ou de remplacement de substances nocives pour

aboutir à une diminution de la pollution marine d'origine tellurique; elles conviennent de se communiquer mutuellement les informations ainsi obtenues. Ce faisant, elles tiendront compte des travaux effectués dans ces domaines par les organisations et institutions internationales compétentes.

*Article 11*

Les parties contractantes conviennent de mettre progressivement en place et d'exploiter dans la zone d'application de la présente convention un réseau d'observation permanente de paramètres permettant :

- d'apprécier le niveau existant de la pollution marine aussi rapidement que possible,
- de vérifier l'efficacité des mesures de réduction de la pollution marine d'origine tellurique, prises en application de la convention.

À cette fin, les parties contractantes arrêtent les modalités pratiques des programmes de surveillance systématique et occasionnelle assurés individuellement ou en commun. Ces programmes tiendront compte de la présence dans la zone de surveillance de navires de recherche et d'autres équipements.

Les programmes tiendront compte des programmes analogues poursuivis dans le cadre des conventions déjà en vigueur et par les organisations et institutions internationales compétentes.

*Article 12*

1. Chacune des parties contractantes s'engage à veiller au respect des dispositions de la présente convention et à prendre sur son territoire les mesures appropriées pour prévenir et sanctionner tout comportement contraire aux dispositions de la présente convention.

2. Les parties contractantes informeront la Commission des mesures législatives et réglementaires prises en vue de l'application des dispositions du paragraphe précédent.

*Article 13*

Les parties contractantes s'engagent à se prêter assistance mutuelle en tant que de besoin pour empêcher les accidents qui pourraient conduire à la pollution d'origine tellurique, à minimiser et à éliminer les conséquences de tels accidents et à échanger des informations à cette fin.

*Article 14*

1. Les dispositions de la présente convention ne sont pas opposables à une partie contractante dans

la mesure où celle-ci, du fait d'une pollution ayant son origine dans le territoire d'un État non contractant, serait empêchée d'assurer leur pleine application.

2. Toutefois, cette partie contractante s'efforcera de coopérer avec ledit État afin de rendre possible la pleine application de la présente convention.

#### Article 15

Une Commission composée de représentants de chacune des parties contractantes est créée par la présente convention. La Commission se réunira à intervalles réguliers et à tout moment lorsque, en raison de circonstances spéciales, il en sera ainsi décidé, conformément au règlement intérieur.

#### Article 16

La Commission a pour mission :

- a) d'exercer une surveillance générale sur la mise en œuvre de la présente convention;
- b) d'examiner de façon générale l'état des mers situées dans les limites de la zone d'application de la présente convention, l'efficacité des mesures de contrôle qui ont été adoptées et la nécessité de toutes mesures complémentaires ou différentes;
- c) de fixer, le cas échéant, sur proposition de la ou des parties contractantes riveraines d'un même cours d'eau et selon une procédure type, la limite dans ce cours d'eau jusqu'à laquelle s'étendra la zone maritime;
- d) d'élaborer, conformément à l'article 4 de la présente convention, des programmes et des mesures d'élimination ou de réduction de la pollution d'origine tellurique;
- e) de faire des recommandations conformément aux dispositions de l'article 9;
- f) de recueillir et d'examiner des informations et de les diffuser aux parties contractantes conformément aux dispositions des articles 11, 12 et 17 de la présente convention;
- g) de faire, conformément à l'article 18, des recommandations concernant les amendements éventuels aux listes de substances figurant à l'annexe A de la présente convention;
- h) de remplir toutes autres fonctions, en tant que de besoin, aux termes de la présente convention.

#### Article 17

Les parties contractantes transmettent à la Commission, conformément à une procédure type :

- a) les résultats du contrôle et de la surveillance prévus par l'article 11;

- b) les informations disponibles, aussi détaillées que possible, sur les substances énumérées dans les annexes de la présente convention et susceptibles de parvenir à la zone maritime.

Les parties contractantes s'efforcent d'améliorer progressivement les techniques permettant de rassembler ces informations qui pourront contribuer à la révision des programmes de réduction de pollution établis conformément à l'article 4 de la présente convention.

#### Article 18

1. La Commission établit son règlement intérieur qui est adopté à l'unanimité des voix.

2. La Commission élabore son règlement financier qui est adopté à l'unanimité des voix.

3. La Commission adopte à l'unanimité des voix les programmes et les mesures de réduction ou d'élimination de la pollution d'origine tellurique prévus à l'article 4, les programmes de recherche scientifique et de surveillance prévus aux articles 10 et 11 ainsi que les décisions prises en application de l'article 16 sous c).

Les programmes et mesures prennent effet pour toutes les parties contractantes et sont appliqués par elles deux cents jours après leur adoption sauf fixation par la Commission d'une autre date.

Si l'unanimité ne peut se faire, la Commission peut néanmoins adopter un programme ou des mesures par un vote à la majorité des trois quarts de ses membres. Ce programme ou ces mesures prennent effet deux cents jours après leur adoption pour les parties contractantes qui ont voté en leur faveur, sauf fixation par la Commission d'une autre date, et pour toute autre partie contractante après qu'elle aura expressément accepté le programme ou les mesures, ce qui est possible à tout moment.

4. La Commission peut adopter des recommandations en vue d'amender l'annexe A de la présente convention par un vote à la majorité des trois quarts de ses membres; celles-ci seront soumises à l'approbation des gouvernements des parties contractantes. Tout gouvernement d'une partie contractante qui n'est pas en mesure d'approuver un amendement l'indique par écrit au gouvernement dépositaire dans un délai de deux cents jours après l'adoption de la recommandation d'amendement en Commission. En l'absence de toute notification de ce genre, l'amendement entre en vigueur pour toutes les parties contractantes deux cent trente jours après le vote en Commission. Le gouvernement dépositaire avise dès que possible les parties contractantes de la réception de toute notification.

*Article 19*

Dans les domaines relevant de ses compétences, la Communauté économique européenne exerce son droit de vote avec un nombre de voix égal au nombre de ses États membres qui sont parties contractantes à la présente convention.

La Communauté économique européenne n'exerce pas son droit de vote dans les cas où ses États membres exercent le leur et réciproquement.

*Article 20*

Le gouvernement dépositaire convoquera la première réunion de la Commission dès que possible après l'entrée en vigueur de la présente convention.

*Article 21*

Tout différend entre des parties contractantes relatif à l'interprétation ou l'application de la présente convention et qui n'aura pu être réglé par les parties au différend par un autre moyen tel que l'enquête ou une conciliation au sein de la Commission, est, à la requête de l'une de ces parties, soumis à l'arbitrage dans les conditions fixées à l'annexe B de la présente convention.

*Article 22*

La présente convention est ouverte, à Paris, à partir du 4 juin 1974 et jusqu'au 30 juin 1975, à la signature des États invités à la conférence diplomatique sur la convention pour la prévention de la pollution marine d'origine tellurique, qui s'est tenue à Paris, ainsi qu'à la signature de la Communauté économique européenne.

*Article 23*

La présente convention est soumise à ratification, acceptation ou approbation. Les instruments de ratification, d'acceptation ou d'approbation seront déposés auprès du gouvernement de la République française.

*Article 24*

1. Après le 30 juin 1975, la présente convention sera ouverte à l'adhésion des États visés à l'article 22, ainsi qu'à l'adhésion de la Communauté économique européenne.

2. La présente convention sera également ouverte à partir de cette même date à l'adhésion de toute autre partie contractante à la convention pour la prévention de la pollution marine par les opérations d'immersion effectuées par les navires et aéronefs, ouverte à la signature à Oslo le 15 février 1972.

3. Dès son entrée en vigueur, la présente convention sera ouverte à l'adhésion de tout État non visé à l'article 22, situé en amont des cours d'eau traversant le territoire d'une ou de plusieurs parties contractantes à la présente convention et se jetant dans la zone maritime définie à l'article 2.

4. Les parties contractantes pourront à l'unanimité inviter d'autres États à adhérer à la présente convention. Dans ce cas, la zone maritime de l'article 2 pourra, en tant que de besoin, être modifiée conformément à l'article 27 de la présente convention.

5. Les instruments d'adhésion seront déposés auprès du gouvernement de la République française.

*Article 25*

1. La présente convention entrera en vigueur le trentième jour qui suit la date du dépôt du septième instrument de ratification, d'acceptation, d'approbation ou d'adhésion.

2. Pour chacune des parties qui ratifiera, acceptera ou approuvera la présente convention ou y adhèrera après le dépôt du septième instrument de ratification, d'acceptation, d'approbation ou d'adhésion, la présente convention entrera en vigueur le trentième jour après le dépôt par cette partie de son instrument de ratification, d'acceptation, d'approbation ou d'adhésion.

*Article 26*

À tout moment, deux années après la date d'entrée en vigueur de la présente convention à l'égard d'une partie contractante, cette partie pourra dénoncer la convention par notification écrite adressée au gouvernement dépositaire. La dénonciation prendra effet un an après la date à laquelle elle aura été reçue.

*Article 27*

1. Le gouvernement dépositaire convoquera, à la demande de la Commission statuant à la majorité des deux tiers de ses membres, une conférence aux fins de reviser ou de modifier la présente convention.

2. Lors de l'adhésion d'un État, dans les conditions prévues aux paragraphes 2, 3 et 4 de l'article 24, la zone maritime de l'article 2 pourra être modifiée sur proposition de la Commission statuant à l'unanimité des voix. Ces modifications entreront en vigueur après approbation unanime des parties contractantes.

*Article 28*

Le gouvernement dépositaire avisera les parties contractantes et celles visées à l'article 22 :

- a) des signatures de la présente convention, du dépôt des instruments de ratification, d'acceptation, d'approbation ou d'adhésion et des notifications de dénonciation conformément aux articles 22, 23, 24 et 26;
- b) de la date à laquelle la présente convention entrera en vigueur en application de l'article 25;
- c) du dépôt des notifications d'approbation et d'objection et de l'entrée en vigueur des amen-

dements à la présente convention et à ses annexes en application des articles 18 et 27.

*Article 29*

L'original de la présente convention, dont les textes français et anglais font également foi, sera déposé auprès du gouvernement de la République française qui en adressera des copies certifiées conformes aux parties contractantes et aux États visés à l'article 22 et qui remettra une copie certifiée conforme au secrétaire général des Nations unies pour enregistrement et publication conformément à l'article 102 de la charte des Nations unies.

EN FOI DE QUOI, les soussignés, dûment autorisés par leurs gouvernements respectifs, ont signé la présente convention.

Fait à Paris, le 4 juin 1974.

## ANNEXE A

La répartition des substances entre les parties I, II et III ci-dessous tient compte des critères ci-après :

- a) la persistance;
- b) la toxicité ou autres propriétés nocives;
- c) la tendance à la bio-accumulation.

Ces critères ne sont pas nécessairement d'égale importance pour une substance ou un groupe de substances déterminées, et d'autres facteurs, tels que l'emplacement et la quantité déversée, doivent peut-être être pris en considération.

## PARTIE I

Les substances suivantes sont incluses dans la présente partie :

- i) parce qu'elles ne sont pas rapidement décomposées ou rendues inoffensives par des processus naturels; et
- ii) parce qu'elles peuvent :
  - a) soit entraîner une accumulation dangereuse de matières nocives dans la chaîne alimentaire,
  - b) soit menacer la santé des organismes vivants en provoquant des modifications non souhaitables des écosystèmes marins,
  - c) soit gêner gravement la récolte des produits de la mer ou les autres utilisations légitimes de la mer; et
- iii) parce qu'on considère que la pollution par ces substances exige des mesures urgentes :
  - 1. composés organohalogénés et substances qui peuvent donner naissance à de tels composés dans le milieu marin, à l'exclusion de ceux qui sont biologiquement inoffensifs, ou qui se transforment rapidement dans la mer en substances biologiquement inoffensives;
  - 2. mercure et composés du mercure;
  - 3. cadmium et composés du cadmium;
  - 4. les matières synthétiques persistantes qui peuvent flotter, rester en suspension, ou couler, et qui peuvent gravement gêner toute utilisation légitime de la mer;
  - 5. huiles et hydrocarbures d'origine pétrolière persistants.

## PARTIE II

Les substances suivantes sont incluses dans la présente partie parce que, bien que présentant des caractères analogues aux substances de la partie I et devant faire l'objet d'un contrôle rigoureux, elles semblent moins nocives ou sont plus rapidement rendues inoffensives par un processus naturel :

- 1. composés organiques du phosphore, du silicium et de l'étain et substances qui peuvent donner naissance à de tels composés dans le milieu marin, à l'exclusion de ceux qui sont biologiquement inoffensifs ou qui se transforment rapidement dans la mer en substances biologiquement inoffensives;
- 2. phosphore élémentaire;
- 3. huiles et hydrocarbures d'origine pétrolière non persistants;
- 4. les éléments ci-après et leurs composés :
  - arsenic,
  - chrome,
  - cuivre,
  - plomb,
  - nickel,
  - zinc;
- 5. substances qui, de l'avis de la Commission, ont un effet nuisible sur le goût et/ou l'odeur de produits de consommation par l'homme dérivés du milieu marin.

## PARTIE III

Les substances suivantes sont incluses dans la présente partie parce que, bien que présentant des caractères analogues aux substances de la partie I et devant faire l'objet d'un contrôle rigoureux en vue de prévenir et, le cas échéant, d'éliminer la pollution dont elles sont la cause, elles font déjà l'objet d'études, de recommandations et, le cas échéant, de mesures dans le cadre de plusieurs organisations et institutions internationales; ces substances sont soumises aux dispositions de l'article 5 :

- substances radioactives, y compris les déchets.

## ANNEXE B

*Article premier*

À moins que les parties au différend n'en disposent autrement, la procédure d'arbitrage est conduite conformément aux dispositions de la présente annexe.

*Article 2*

1. Sur requête adressée par une partie contractante à une autre partie contractante en application de l'article 21 de la convention, il est constitué un tribunal arbitral. La requête d'arbitrage indique l'objet de la requête, y compris, notamment, les articles de la convention dont l'interprétation ou l'application sont en litige.

2. La partie requérante informe la Commission du fait qu'elle a demandé la constitution d'un tribunal arbitral, du nom de l'autre partie au différend ainsi que des articles de la convention dont l'interprétation ou l'application font à son avis l'objet du différend. La Commission communique les informations ainsi reçues à toutes les parties contractantes à la convention.

*Article 3*

Le tribunal arbitral est composé de trois membres : chacune des parties au différend nomme un arbitre; les deux arbitres ainsi nommés désignent d'un commun accord le troisième arbitre, qui assume la présidence du tribunal. Ce dernier ne doit pas être le ressortissant de l'une des parties au différend, ni avoir sa résidence habituelle sur le territoire de l'une de ces parties, ni se trouver au service de l'une d'elles, ni s'être déjà occupé de l'affaire à aucun autre titre.

*Article 4*

1. Si, dans un délai de deux mois après la nomination du deuxième arbitre, le président du tribunal arbitral n'est pas désigné, le secrétaire général des Nations unies procède, à la requête de la partie la plus diligente, à sa désignation dans un nouveau délai de deux mois.

2. Si, dans un délai de deux mois après la réception de la requête, l'une des parties au différend ne procède pas à la nomination d'un arbitre, l'autre partie peut saisir le secrétaire général des Nations unies qui désigne le président du tribunal arbitral dans un nouveau délai de deux mois. Dès sa désignation, le président du tribunal arbitral demande à la partie qui n'a pas nommé d'arbitre de le faire dans un délai de deux mois. Passé ce délai, il saisit le secrétaire général des Nations unies qui

procède à cette nomination dans un nouveau délai de deux mois.

*Article 5*

1. Le tribunal arbitral décide selon les règles du droit international et, en particulier, de la présente convention.

2. Tout tribunal arbitral constitué aux termes de la présente annexe établit ses propres règles de procédure.

*Article 6*

1. Les décisions du tribunal arbitral, tant sur la procédure que sur le fond, sont prises à la majorité des voix de ses membres.

2. Le tribunal peut prendre toutes mesures appropriées pour établir les faits. Il peut, à la demande d'une des parties, recommander les mesures conservatoires indispensables.

3. Si deux ou plusieurs tribunaux arbitraux constitués aux termes de la présente annexe se trouvent saisis de requêtes ayant des objets identiques ou analogues, ils peuvent s'informer des procédures relatives à l'établissement des faits et en tenir compte dans la mesure du possible.

4. Les parties au différend fourniront toutes facilités nécessaires pour la conduite efficace de la procédure.

5. L'absence ou le défaut d'une partie au différend ne fait pas obstacle à la procédure.

*Article 7*

1. La sentence du tribunal arbitral est motivée. Elle est définitive et obligatoire pour les parties au différend.

2. Tout différend qui pourrait surgir entre les parties concernant l'interprétation ou l'exécution de la sentence peut être soumis par la partie la plus diligente au tribunal arbitral qui l'a rendue ou, si ce dernier ne peut en être saisi, à un autre tribunal arbitral constitué à cet effet de la même manière que le premier.

*Article 8*

La Communauté économique européenne, comme toute partie contractante à la convention, est habilitée à agir comme partie requérante ou appelée devant le tribunal arbitral.

**COUNCIL DECISION****of 3 March 1975****concerning Community participation in the Interim Commission established on the basis of resolution No III of the convention for the prevention of marine pollution from land-based sources****(75/438/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 proposal from the Commission;

Having regard to the Opinion of the European Parliament <sup>(1)</sup>;

Whereas in resolution No III annexed to the Final Act of the convention for the prevention of marine pollution from land-based sources of 21 February 1974, it is recommended that an Interim Commission be established, comprising representatives of the signatories of the convention;

Whereas by Decision No 75/437/EEC <sup>(2)</sup> this convention has been concluded on behalf of the Community;

Whereas the representative of the Community within the Interim Commission should therefore be designated,

**HAS DECIDED AS FOLLOWS:**

*Sole Article*

Pending the entry into force of the convention for the prevention of marine pollution from land-based sources, the Commission shall be authorized to represent the Community in the working group entitled 'Interim Commission' established on the basis of resolution No III annexed to the Final Act of the convention.

Done at Brussels, 3 March 1975.

*For the Council*

*The President*

**J. KEATING**

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<sup>(1)</sup> OJ No C 127, 18. 10. 1974, p. 32.

<sup>(2)</sup> See page 5 of this Official Journal.

**COUNCIL DIRECTIVE**  
**of 16 June 1975**  
**on the disposal of waste oils**  
**(75/439/EEC)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament <sup>(1)</sup>;

Having regard to the Opinion of the Economic and Social Committee <sup>(2)</sup>;

Whereas any disparity between the provisions on the disposal of waste oils already applicable or in preparation in the various Member States may create unequal conditions of competition and thus directly affect the functioning of the common market; whereas it is therefore necessary to approximate laws in this field as provided for in Article 100 of the Treaty;

Whereas it seems necessary for this approximation of laws to be accompanied by Community action so that one of the aims of the Community in the sphere of protection of the environment can be achieved by wider regulations; whereas certain specific provisions to this effect should therefore be laid down; whereas Article 235 of the Treaty should be invoked as the powers required for this purpose have not been provided by the Treaty;

Whereas all provisions relating to the disposal of waste oils should have as one of their essential objectives the protection of the environment against the harmful effects caused by the discharge, deposit or treatment of these oils;

Whereas the recycling of waste oils may be conducive to a fuel supply policy;

Whereas the programme of action of the European Communities on the environment <sup>(3)</sup> underlines the importance of the problem of the disposal of waste oils without harmful effects upon the environment;

Whereas the quantities of waste oils and in particular of emulsions have increased in the Community;

Whereas an efficient and coherent system of treatment for waste oils, which will neither create barriers to intra-Community trade nor affect competition, should apply to all such products, even those which are composed only in part of oil, and should provide for their safe treatment under economically satisfactory conditions;

Whereas such a system should regulate the treatment, discharge, deposit and collection of waste oils and provide for a system of permits for undertakings which dispose of such oils, for compulsory collection and/or disposal of such oils in certain cases and for suitable inspection procedures;

Whereas in cases where certain undertakings are required to collect and/or dispose of waste oils, compensation by indemnities of that part of their costs relating thereto and not covered by their earnings should be possible and whereas these indemnities may be financed, among other methods, by a charge on new or regenerated oils,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

For the purposes of this Directive, the term 'waste oils' shall be taken to mean any semi-liquid or liquid used product totally or partially consisting

<sup>(1)</sup> OJ No C 85, 18. 7. 1974, p. 6.

<sup>(2)</sup> OJ No C 125, 16. 10. 1974, p. 33.

<sup>(3)</sup> OJ No C 112, 20. 12. 1973, p. 3.



of mineral or synthetic oil, including the oily residues from tanks, oil-water mixtures and emulsions.

#### Article 2

Member States shall take the necessary measures to ensure the safe collection and disposal of waste oils.

#### Article 3

Member States shall take the necessary measures to ensure that, as far as possible, the disposal of waste oils is carried out by recycling (regeneration and/or combustion other than for destruction).

#### Article 4

Member States shall take the necessary measures to ensure the prohibition of:

1. any discharge of waste oils into internal surface waters, ground water, coastal waters and drainage systems;
2. any deposit and/or discharge of waste oils harmful to the soil and any uncontrolled discharge of residues resulting from the processing of waste oils;
3. any processing of waste oils causing air pollution which exceeds the level prescribed by existing provisions.

#### Article 5

Where the aims defined in Articles 2, 3 and 4 cannot otherwise be achieved, Member States shall take the necessary measures to ensure that one or more undertakings carry out the collection and/or disposal of the products offered to them by holders, where appropriate in the zone assigned to them by the competent authorities.

#### Article 6

In order to comply with the measures taken pursuant to Article 4, any undertaking which disposes of waste oils must obtain a permit.

This permit shall be granted by the competent authorities after examination of the installations,

if necessary. These authorities shall impose the conditions required by the state of technical development.

#### Article 7

A person holding waste oils must, if he is unable to comply with the measures taken pursuant to Article 4, place them at the disposal of the undertaking or undertakings referred to in Article 5.

#### Article 8

The holders of certain quantities of waste oils containing impurities in excess of certain percentages must handle and stock them separately.

The competent authorities shall fix the quantities and percentages, which may differ according to category of product, referred to in the first subparagraph.

#### Article 9

Undertakings collecting and/or disposing of waste oils must carry out these operations in such a way that there will be no avoidable risk of water, air or soil pollution.

#### Article 10

Any establishment producing, collecting and/or disposing of more than a given quantity of waste oils per year, to be specified by each Member State but not higher than 500 litres, must:

- keep a record of the quantity, quality, origin and location of such oils and of their despatch and receipt, including the dates of the latter and/or
- convey such information to the competent authorities on request.

Member States are authorized to fix the quantity of waste oils in accordance with the first subparagraph in terms of an equivalent quantity of new oil calculated according to a reasonable conversion factor.

#### Article 11

Any undertaking which disposes of waste oils must convey to the competent authorities, at their request, any information concerning the disposal or deposit of such waste oils or residues thereof.

*Article 12*

The undertakings referred to in Article 6 shall be inspected periodically by the competent authorities, particularly as regards their compliance with the conditions of their permits.

*Article 13*

As a reciprocal concession for the obligations imposed on them by the Member States pursuant to Article 5, indemnities may be granted to collection and/or disposal undertakings for the service rendered. Such indemnities must not exceed annual uncovered costs actually recorded by the undertaking taking into account a reasonable profit.

The amount of these indemnities must be such as not to cause any significant distortion of competition or to give rise to artificial patterns of trade in the products.

*Article 14*

The indemnities may be financed, among other methods, by a charge imposed on products which after use are transformed into waste oils, or on waste oils.

The financing of indemnities must be in accordance with the 'polluter pays' principle.

*Article 15*

Each Member State shall periodically convey to the Commission information concerning its technical expertise and the experience gained and results obtained through the application of measures taken pursuant to this Directive.

The Commission shall send an overall summary of such information to the Member States.

*Article 16*

Every three years, Member States shall draw up a situation report on the disposal of waste oils in their respective countries and shall send it to the Commission.

*Article 17*

Member States shall implement the measures necessary to comply with this Directive within 24 months of its notification, and shall forthwith inform the Commission thereof.

*Article 18*

The provisions adopted by the Member States pursuant to this Directive may be progressively applied to the undertakings referred to in Article 6, existing at the time of notification of this Directive, within four years of the said notification.

*Article 19*

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 20*

This Directive is addressed to the Member States.

Done at Luxembourg, 16 June 1975.

*For the Council*

*The President*

R. RYAN

## COUNCIL DIRECTIVE

of 16 June 1975

concerning the quality required of surface water intended for the abstraction of drinking water in the Member States

(75/440/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament <sup>(1)</sup>;

Having regard to the Opinion of the Economic and Social Committee <sup>(2)</sup>;

Whereas the increasing use of water resources for the abstraction of water for human consumption necessitates a reduction in the pollution of water and its protection against subsequent deterioration;

Whereas it is necessary to protect public health and, to this end, to exercise surveillance over surface water intended for the abstraction of drinking water and over the purification treatment of such water;

Whereas any disparity between the provisions on the quality required of surface water intended for the abstraction of drinking water already applicable or in preparation in the various Member States may create unequal conditions of competition and thus directly affect the functioning of the common market; whereas it is therefore necessary to approximate laws in this field as provided for in Article 100 of the Treaty;

Whereas it seems necessary for this approximation of laws to be accompanied by Community action so that one of the aims of the Community in the sphere of protection of the environment and improvement of the quality of life can be achieved by wider regulations; whereas certain specific provisions to this effect should therefore be laid down; whereas Article 235 of the Treaty should be invoked

as the powers required for this purpose have not been provided by the Treaty;

Whereas the programme of action of the European Communities on the environment <sup>(3)</sup> provides that quality objectives are to be jointly drawn up fixing the various requirements which an environment must meet *inter alia* the definition of parametric values for water, including surface water intended for the abstraction of drinking water;

Whereas the joint fixing of minimum quality requirements for surface water intended for the abstraction of drinking water precludes neither more stringent requirements in the case of such water otherwise utilized nor the requirements imposed by aquatic life;

Whereas it will be necessary to review in the light of new technical and scientific knowledge the parametric values defining the quality of surface water used for the abstraction of drinking water;

Whereas the methods currently being worked out for water sampling and for measuring the parameters defining the physical, chemical and microbiological characteristics of surface water intended for the abstraction of drinking water are to be covered by a Directive to be adopted as soon as possible,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive concerns the quality requirements which surface fresh water used or intended for use in the abstraction of drinking water, hereinafter called 'surface water', must meet after application of appropriate treatment. Ground water, brackish water and water intended to replenish

<sup>(1)</sup> OJ No C 62, 30. 5. 1974, p. 7.

<sup>(2)</sup> OJ No C 109, 19. 9. 1974, p. 41.

<sup>(3)</sup> OJ No C 112, 20. 12. 1973, p. 3.

water-bearing beds shall not be subject to this Directive.

2. For the purposes of applying this Directive, all surface water intended for human consumption and supplied by distribution networks for public use shall be considered to be drinking water.

#### Article 2

For the purposes of this Directive surface water shall be divided according to limiting values into three categories, A1, A2 and A3, which correspond to the appropriate standard methods of treatment given in Annex I. These groups correspond to three different qualities of surface water, the respective physical, chemical and microbiological characteristics of which are set out in the table given in Annex II.

#### Article 3

1. Member States shall set, for all sampling points, or for each individual sampling point, the values applicable to surface water for all the parameters given in Annex II.

Member States may refrain from setting the values of parameters in respect of which no value is shown, in the table in Annex II, pursuant to the first subparagraph pending determination of the figures in accordance with the procedure under Article 9.

2. The values set pursuant to paragraph 1 may not be less stringent than those given in the 'I' columns of Annex II.

3. Where values appear in the 'G' columns of Annex II, whether or not there is a corresponding value in the 'I' columns of that Annex, Member States shall endeavour to respect them as guidelines, subject to Article 6.

#### Article 4

1. Member States shall take all necessary measures to ensure that surface water conforms to the values laid down pursuant to Article 3. Each Member State shall apply this Directive without distinction to national waters and waters crossing its frontiers.

2. In line with the objectives of this Directive, Member States shall take the necessary measures to ensure continuing improvement of the environ-

ment. To this end, they shall draw up a systematic plan of action including a timetable for the improvement of surface water and especially that falling within category A3. In this context, considerable improvements are to be achieved under the national programmes over the next 10 years.

The timetable referred to in the first subparagraph will be drawn up in the light of the need to improve the quality of the environment, and of water in particular, and the economic and technical constraints which exist or which may arise in the various regions of the Community.

The Commission will carry out a thorough examination of the plans referred to in the first subparagraph, including the timetables, and will, if necessary, submit appropriate proposals to the Council.

3. Surface water having physical, chemical and microbiological characteristics falling short of the mandatory limiting values corresponding to treatment type A3 may not be used for the abstraction of drinking water. However, such lower quality water may, in exceptional circumstances, be utilized provided suitable processes — including blending — are used to bring the quality characteristics of the water up to the level of the quality standards for drinking water. The Commission must be notified of the grounds for such exceptions, on the basis of a water resources management plan within the area concerned, as soon as possible, in the case of existing installations, and in advance, in the case of new installations. The Commission will examine these grounds in detail and, where necessary, submit appropriate proposals to the Council.

#### Article 5

1. For the purposes of Article 4 surface water shall be assumed to conform to the relevant parameters if samples of this water taken at regular intervals at the same sampling point and used in the abstraction of drinking water show that it complies with the parametric values for the water quality in question, in the case of:

- 95 % of the samples for parameters conforming to those specified in the 'I' columns in Annex II,
- 90 % of the samples in all other cases, and if in the case of the 5 or 10 % of the samples which do not comply:

- (a) the water does not deviate from the parametric values in question by more than 50 %, except

for temperature, pH, dissolved oxygen and microbiological parameters;

- (b) there can be no resultant danger to public health;
- (c) consecutive water samples taken at statistically suitable intervals do not deviate from the relevant parametric values.

2. Pending a Community policy on the matter, the frequency of sampling and the analysis of each parameter, together with the methods of measurement shall be defined by the competent national authorities which shall take into account the volume of water abstracted, the extent of the abstraction, the population served, the degree of risk engendered by the quality of the water and seasonal variations in the quality.

3. Higher values than those referred to in paragraph 2, shall not be taken into consideration in the calculation of the percentages referred to in paragraph 1 when they are the result of floods or natural disasters or abnormal weather conditions.

4. Sampling shall mean the place at which surface water is abstracted before being sent for purification treatment.

#### *Article 6*

Member States may at any time fix more stringent values for surface water than those laid down in this Directive.

#### *Article 7*

Implementation of the measures taken pursuant to this Directive may under no circumstances lead either directly or indirectly to deterioration of the current quality of surface water.

#### *Article 8*

This Directive may be waived:

- (a) in the case of floods or other natural disasters;
- (b) in the case of certain parameters marked (O) in Annex II because of exceptional meteorological or geographical conditions;
- (c) where surface water undergoes natural enrichment in certain substances as a result of which

it would exceed the limits laid down for categories A1, A2 and A3 in the table in Annex II;

- (d) in the case of surface water in shallow lakes or virtually stagnant surface water, for parameters marked with an asterisk in the table in Annex II, this derogation being applicable only to lakes with a depth not exceeding 20 m, with an exchange of water slower than one year, and without a discharge of waste water into the water body.

Natural enrichment means the process whereby, without human intervention, a given body of water receives from the soil certain substances contained therein.

In no case may the exceptions provided for in the first subparagraph disregard the requirements of public health protection.

Where a Member State waives the provisions of this Directive, it shall forthwith notify the Commission thereof, stating its reasons and the periods anticipated.

#### *Article 9*

The numerical values and the list of parameters given in the table in Annex II, defining the physical, chemical and microbiological characteristics of surface water may be revised either at the request of a Member State or on a proposal from the Commission, whenever technical and scientific knowledge regarding methods of treatment is extended or drinking water standards are modified.

#### *Article 10*

Member States shall bring into force the laws, regulations and administrative provisions needed in order to comply with this Directive within two years of its notification. They shall forthwith inform the Commission thereof.

#### *Article 11*

This Directive is addressed to the Member States.

Done at Luxembourg, 16 June 1975.

*For the Council*

*The President*

R. RYAN

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*ANNEX I***Definition of the standard methods of treatment for transforming surface water of categories A1, A2 and A3 into drinking water***Category A1*

Simple physical treatment and disinfection, e.g. rapid filtration and disinfection.

*Category A2*

Normal physical treatment, chemical treatment and disinfection, e.g. pre-chlorination, coagulation, flocculation, decantation, filtration, disinfection (final chlorination).

*Category A3*

Intensive physical and chemical treatment, extended treatment and disinfection e.g. chlorination to break-point, coagulation, flocculation, decantation, filtration, adsorption (activated carbon), disinfection (ozone, final chlorination).

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## ANNEX II

## Characteristics of surface water intended for the abstraction of drinking water

	Parameters	A1 G	A1 I	A2 G	A2 I	A3 G	A3 I
1	pH	6.5 to 8.5		5.5 to 9		5.5 to 9	
2	Coloration (after simple filtration) mg/l Pt scale	10	20 (O)	50	100 (O)	50	200 (O)
3	Total suspended solids mg/l SS	25					
4	Temperature ° C	22	25 (O)	22	25 (O)	22	25 (O)
5	Conductivity µs/cm <sup>-1</sup> at 20 °C	1 000		1 000		1 000	
6	Odour (dilution factor at 25 °C)	3		10		20	
7*	Nitrates mg/l NO <sub>3</sub>	25	50 (O)		50 (O)		50 (O)
8 <sup>(1)</sup>	Fluorides mg/l F	0.7 to 1	1.5	0.7 to 1.7		0.7 to 1.7	
9	Total extractable organic chlorine mg/l Cl						
10*	Dissolved iron mg/l Fe	0.1	0.3	1	2	1	
11*	Manganese mg/l Mn	0.05		0.1		1	
12	Copper mg/l Cu	0.02	0.05 (O)	0.05		1	
13	Zinc mg/l Zn	0.5	3	1	5	1	5
14	Boron mg/l B	1		1		1	
15	Beryllium mg/l Be						
16	Cobalt mg/l Co						
17	Nickel mg/l Ni						
18	Vanadium mg/l V						
19	Arsenic mg/l As	0.01	0.05		0.05	0.05	0.1
20	Cadmium mg/l Cd	0.001	0.005	0.001	0.005	0.001	0.005
21	Total chromium mg/l Cr		0.05		0.05		0.05
22	Lead mg/l Pb		0.05		0.05		0.05
23	Selenium mg/l Se		0.01		0.01		0.01
24	Mercury mg/l Hg	0.0005	0.001	0.0005	0.001	0.0005	0.001
25	Barium mg/l Ba		0.1		1		1
26	Cyanide mg/l Cn		0.05		0.05		0.05

	Parameters	A1 G	A1 I	A2 G	A2 I	A3 G	A3 I
27	Sulphates	150	250	150	250 (O)	150	250 (O)
28	Chlorides	200		200		200	
29	Surfactants (reacting with methyl blue)	0.2		0.2		0.5	
30* (*)	Phosphates	0.4		0.7		0.7	
31	Phenols (phenol index) paratraniline 4 aminoantipyrine		0.001	0.001	0.005	0.01	0.1
32	Dissolved or emulsified hydrocarbons (after extraction by petroleum ether)		0.05		0.2	0.5	1
33	Polycyclic aromatic hydrocarbons		0.0002		0.0002		0.001
34	Total pesticides (parathion, BHC, diel- drin)		0.001		0.0025		0.005
35*	Chemical oxygen demand (COD)					30	
36*	Dissolved oxygen saturation rate	> 70		> 50		> 30	
37*	Biochemical oxygen demand (BOD <sub>5</sub> ) (at 20 °C without nitrification)	< 3		< 5		< 7	
38	Nitrogen by Kjeldahl method (except NO <sub>3</sub> )	1		2		3	
39	Ammonia	0.05		1	1.5	2	4 (O)
40	Substances extractable with chloroform	0.1		0.2		0.5	
41	Total organic carbon						
42	Residual organic carbon after flocculation and membrane filtration (5 µ) TOC						
43	Total coliforms 37 °C	50		5 000		50 000	
44	Faecal coliforms	20		2 000		20 000	
45	Faecal streptococci	20		1 000		10 000	
46	Salmonella	Not present in 5 000 ml		Not present in 1 000 ml			

I = mandatory.

G = guide.

O = exceptional climatic or geographical conditions.

\* = see Article 8 (d).

(1) The values given are upper limits set in relation to the mean annual temperature (high and low).

(2) This parameter has been included to satisfy the ecological requirements of certain types of environment.



## COUNCIL DECISION

of 24 June 1975

establishing a common procedure for the exchange of information between the surveillance and monitoring networks based on data relating to atmospheric pollution caused by certain compounds and suspended particulates

(75/441/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 proposal from the Commission;

Having regard to the Opinion of the European Parliament <sup>(1)</sup>;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the programme of action of the European Communities on the environment <sup>(2)</sup> makes provision for the establishment of a procedure for the exchange of information between the pollution surveillance and monitoring networks;

Whereas this procedure is necessary to combat pollution and nuisances, this being one of the Community objectives concerning the improvement of the quality of life and the harmonious development of economic activities throughout the Community; whereas the specific powers necessary to this end are not provided by the Treaty;

Whereas the exchange of the results of pollution level measurements provides one way of keeping abreast of long-term trends and improvements resulting from national legislation or from possible Community legislation;

Whereas the transport of pollutants over long distances necessitates surveillance at regional, national, Community and global levels;

Whereas the results of such measurements constitute essential information for carrying out epidemiological surveys to provide a better understanding of the harmful effects of pollutants on health;

Whereas since only certain sulphur compounds and suspended particulates are systematically and intensively monitored in the Member States;

Whereas the measurements to be carried out must enable the daily average concentrations of the pollutants recorded to be determined, this time basis having been chosen as being the common denominator for most of the currently existing stations in the Community;

Whereas on the basis of current studies on the comparability of the measurement methods, the Commission shall, at the earliest opportunity, submit proposals on the harmonization of these methods so that the data obtained by the various stations referred to in this Decision may be directly compared;

Whereas the exchange of information provided for in this Decision, limited to three years and to two atmospheric pollutants will have to serve, on one hand as a pilot study for the elaboration of a complete system for the exchange of data answering the specific needs of the European Communities in the area of environmental protection, and on the other hand will form an input element in the 'global environmental monitoring system' which is part of the United Nations environmental programme,

HAS ADOPTED THIS DECISION:

*Article 1*

A common procedure is hereby established for the exchange of information, by surveillance and monitoring networks, based on data relating to atmospheric pollution. This procedure is to be considered as preliminary and applies to the results of atmospheric measurements of certain sulphur compounds and suspended particulates obtained by fixed stations sampling continuously.

<sup>(1)</sup> OJ No C 76, 7. 4. 1975, p. 40.

<sup>(2)</sup> OJ No C 112, 20. 12. 1973, p. 3.

*Article 2*

For the purposes of this Decision:

- (a) measurement of certain sulphur compounds means:
  - measurement of sulphur dioxide,
  - or measurements of strong acidity in the atmosphere expressed as sulphur dioxide;
- (b) measurements of suspended particulates means:
  - gravimetric measurements,
  - or measurements of black smoke.

Each Member State shall, using the description form defined in Annex II, inform the Commission of the physico-chemical nature of the data measured.

*Article 3*

Each Member State shall, after consulting the Commission and applying the parameters defined in Annex I, select, within six months after the adoption of this Decision, from existing or planned sampling or monitoring stations those which are to supply the data for the exchange of information. It shall inform the Commission of its selection by means of the description form set out in Annex II.

*Article 4*

1. Each Member State shall designate the person or persons, body or bodies responsible for the collection and transmission to the Commission of the data referred to in paragraph 2 and shall inform the Commission thereof within six months from the adoption of this Decision.

2. The daily average concentrations of the pollutants recorded at each of the selected stations shall be transmitted monthly by the persons or bodies referred to in paragraph 1 to the Commission within six months following the measurements.

Amounts shall be expressed in microgrammes per cubic metre of air at standard temperature and pressure.

3. The first data to be exchanged as information will be those obtained during the seventh month following the adoption of this Decision.

4. Each quarter the Commission shall prepare full tabular reports of the data to be forwarded for verification by the Member States concerned.

5. An annual report, to include different types of data evaluation, shall be prepared by the Commission, in consultation with national experts, on the basis of the data referred to in this Decision and of further information deemed appropriate by Member States and made available to the Commission. This report will be distributed to Member States.

*Article 5*

On the basis of its proposals concerning the harmonization of methods of measurement to be submitted at the earliest opportunity and in the light of experience gained in the course of the exchange of information referred to in this Decision, the Commission shall, within a period of three years following receipt of the first data, submit appropriate proposals on the establishment of a new procedure for the exchange of information to the Council.

*Article 6*

This Decision is addressed to the Member States.

Done at Luxembourg, 24 June 1975.

*For the Council*

*The President*

G. FITZGERALD

**ANNEX I****SELECTION OF SAMPLING OR MONITORING STATIONS**

1. The selection of sampling or monitoring stations shall be based mainly on geographic and demographic parameters (urban and rural areas, size of cities, residential or predominantly industrial zones) and on pollution levels (maximum, average and minimum).

2. **Demographic parameters**

Five categories shall be considered:

- cities or urban areas with more than two million inhabitants,
- cities or urban areas having between one and two million inhabitants,
- cities or urban areas having between 0.5 and one million inhabitants,
- cities or urban areas having between 0.1 and 0.5 million inhabitants,
- cities or urban areas with less than 0.1 million inhabitants.

Each Member State shall specify a maximum of five cities or urban areas in each of the categories representative of the different types of urbanization and the various topographic and climatic conditions.

In each of the first four categories, two types of zone shall be considered:

- residential zones, including business districts where the main stationary source of pollution is heating,
- predominantly industrial zones.

The distinction between residential and predominantly industrial zones shall be based on the topography and the type of activity, and not on the origin of the existing or measured pollution.

In the case of the fifth category, only residential zones shall be considered.

3. **Parameters relating to pollution levels**

In each city or urban area in the first four categories for which there is a sufficient number of representative sites, three sampling or monitoring stations shall be specified for each of the two zones on the basis of the pollution levels (maximum, average and minimum) measured by the existing networks. For the fifth category, only maximum and average pollution sites shall be taken into consideration.

The stations designated must be representative of the conditions obtaining around the sampling point and not be under the direct and immediate influence of a pollution source.

4. **Geographic parameters**

Each Member State shall specify, according to the size of its surface area, sampling stations, outside the urban areas, distributed as evenly as possible throughout its territory.

Member States with a surface area of less than 100 000 km<sup>2</sup> shall specify up to five sites and Member States with a larger surface area up to 15 sites.

## ANNEX II

## DESCRIPTION FORM

(to be filled in for each sampling or monitoring station)

1. Name of the Member State: .....
2. Name of the city or rural area: .....  
.....
3. Name of the urban area (where appropriate): .....  
.....
4. Name of the station (plus code where appropriate): .....  
.....
5. Organization responsible for measurements, including address, telephone number and name of the person responsible: .....  
.....  
.....
6. Geographic parameters:  
Station situated in a  
☐ city or urban area  
☐ non-urban area  
Tick as appropriate.
7. Demographic parameters:  
If the station is situated in a city or urban area, classify it as one of the following five categories:  
☐ cities or urban areas with more than two million inhabitants  
☐ cities or urban areas having between one and two million inhabitants  
☐ cities or urban areas having between 0.5 and one million inhabitants  
☐ cities or urban areas having between 0.1 and 0.5 million inhabitants  
☐ cities or urban areas with less than 0.1 million inhabitants  
Place a tick in the appropriate box.
8. Location of the station (e.g. address): .....  
.....  
For stations situated in urban areas:  
☐ predominantly industrial zone  
☐ predominantly commercial or residential zone  
Place a tick in the appropriate box.
9. Notes on the location and characteristics of the station (state whether it is part of a network and, if so, the sampling height above ground, the distance from the main road, the distance from the main pollution sources etc.): .....  
.....  
.....  
.....
10. Estimated area of the zone for which the station is representative of the pollution level (if possible): .....  
.....

## 11. Atmospheric pollutants sampled or monitored at the station:

- ☐ sulphur dioxide  
☐ high level of acidity  
☐ suspended particulates  
☐ black smoke  
☐ others (specify): .....

Tick as appropriate

## 12. Other parameters (meteorological, etc.) measured at the same station:

.....  
.....  
.....  
.....

**Pollutant: sulphur dioxide**

## 13.1. Sampling methods used: .....

.....  
.....  
.....

## 14.1. Analytical methods used: .....

.....  
.....  
.....

## 15.1. Duration and frequency of sampling: .....

Normal time of start of sampling: .....

Normal time of end of sampling: .....

Duration of each sampling <sup>(1)</sup>: .....

## 16.1. Method and frequency of calibration:

.....  
.....  
.....

## 17.1. Date when monitoring of this pollutant began at this station:

.....

**Pollutant: high level of acidity**

## 13.2. Sampling methods used:

.....  
.....  
.....

<sup>(1)</sup> Indicate non-integrating continuous analyses by C.

14.2. Analytical methods used: .....

.....  
.....

15.2. Duration and frequency of sampling: .....

Normal time of start of sampling: .....

Normal time of end sampling: .....

Duration of each sampling <sup>(1)</sup>: .....

16.2. Method and frequency of calibration: .....

.....  
.....

17.2. Date when monitoring of this pollutant began at this station: .....

.....

**Pollutant: suspended particulates**

13.3. Sampling methods used: .....

.....  
.....

14.3. Analytical methods used: .....

.....  
.....

15.3. Duration and frequency of sampling: .....

Normal time of start of sampling: .....

Normal time of end of sampling: .....

Duration of each sampling <sup>(1)</sup>: .....

16.3. Method and frequency of calibration: .....

.....  
.....

17.3. Date when monitoring of this pollutant began at this station: .....

.....

**Pollutant: black smoke**

13.4. Sampling methods used: .....

.....  
.....

<sup>(1)</sup> Indicate non-integrating continuous analyses by C.

14.4. Analytical methods used: .....

.....  
.....  
.....

15.4. Duration and frequency of sampling: .....

Normal time of start of sampling: .....

Normal time of end of sampling: .....

Duration of each sampling <sup>(1)</sup>: .....

16.4. Method and frequency of calibration: .....

.....  
.....  
.....

17.4. Date when monitoring of this pollutant began at this station: .....

.....

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<sup>(1)</sup> Indicate non-integrating continuous analyses by C.

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## COUNCIL DIRECTIVE

of 15 July 1975

on waste

(75/442/EEC)

## THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament <sup>(1)</sup>;

Having regard to the Opinion of the Economic and Social Committee <sup>(2)</sup>;

Whereas any disparity between the provisions on waste disposal already applicable or in preparation in the various Member States may create unequal conditions of competition and thus directly affect the functioning of the common market; whereas it is therefore necessary to approximate laws in this field, as provided for in Article 100 of the Treaty;

Whereas it seems necessary for this approximation of laws to be accompanied by Community action so that one of the aims of the Community in the sphere of protection of the environment and improvement of the quality of life can be achieved by more extensive rules; whereas certain specific provisions to this effect should therefore be laid down; whereas Article 235 of the Treaty should be invoked as the powers required for this purpose have not been provided for by the Treaty;

Whereas the essential objective of all provisions relating to waste disposal must be the protection of human health and the environment against harmful effects caused by the collection, transport, treatment, storage and tipping of waste;

Whereas the recovery of waste and the use of recovered materials should be encouraged in order to conserve natural resources;

Whereas the programme of action of the European Communities on the environment <sup>(3)</sup>, stresses the need for Community action, including the harmonization of legislation;

Whereas effective and consistent regulations on waste disposal which neither obstruct intra-Community trade nor affect conditions of competition should be applied to movable property which the owner disposes of or is required to dispose of under the provisions of national law in force, with the exception of radioactive, mining and agricultural waste, animal carcasses, waste waters, gaseous effluents and waste covered by specific Community rules;

Whereas, in order to ensure the protection of the environment, provision should be made for a system of permits for undertakings which treat, store or tip waste on behalf of third parties, for a supervisory system for undertakings which dispose of their own waste and for those which collect the waste of others, and for a plan embracing the essential factors to be taken into consideration in respect of the various waste disposal operations;

Whereas that proportion of the costs not covered by the proceeds of treating the waste must be defrayed in accordance with the 'polluter pays' principle,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

For the purposes of this Directive:

- (a) 'waste' means any substance or object which the holder disposes of or is required to dispose of pursuant to the provisions of national law in force;

<sup>(1)</sup> OJ No C 32, 11. 2. 1975, p. 36.

<sup>(2)</sup> OJ No C 16, 23. 1. 1975, p. 12.

<sup>(3)</sup> OJ No C 112, 20. 12. 1973, p. 3.



(b) 'disposal' means:

- the collection, sorting, transport and treatment of waste as well as its storage and tipping above or under ground,
- the transformation operations necessary for its re-use, recovery or recycling.

#### Article 2

1. Without prejudice to this Directive, Member States may adopt specific rules for particular categories of waste.

2. The following shall be excluded from the scope of this Directive:

- (a) radioactive waste;
- (b) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries;
- (c) animal carcasses and the following agricultural waste: faecal matter and other substances used in farming;
- (d) waste waters, with the exception of waste in liquid form;
- (e) gaseous effluents emitted into the atmosphere;
- (f) waste covered by specific Community rules.

#### Article 3

1. Member States shall take appropriate steps to encourage the prevention, recycling and processing of waste, the extraction of raw materials and possibly of energy therefrom and any other process for the re-use of waste.

2. They shall inform the Commission in good time of any draft rules to such effect and, in particular, of any draft rule concerning:

- (a) the use of products which might be a source of technical difficulties as regards disposal or lead to excessive disposal costs;
- (b) the encouragement of:
  - the reduction in the quantities of certain waste,
  - the treatment of waste for its recycling and re-use,
  - the recovery of raw materials and/or the production of energy from certain waste;
- (c) the use of certain natural resources, including

energy resources, in applications where they may be replaced by recovered materials.

#### Article 4

Member States shall take the necessary measures to ensure that waste is disposed of without endangering human health and without harming the environment, and in particular:

- without risk to water, air, soil and plants and animals,
- without causing a nuisance through noise or odours,
- without adversely affecting the countryside or places of special interest.

#### Article 5

Member States shall establish or designate the competent authority or authorities to be responsible, in a given zone, for the planning, organization, authorization and supervision of waste disposal operations.

#### Article 6

The competent authority or authorities referred to in Article 5 shall be required to draw up as soon as possible one or several plans relating to, in particular:

- the type and quantity of waste to be disposed of,
- general technical requirements,
- suitable disposal sites,
- any special arrangements for particular wastes.

The plan or plans may, for example, cover:

- the natural or legal persons empowered to carry out the disposal of waste,
- the estimated costs of the disposal operations,
- appropriate measures to encourage rationalization, of the collection, sorting and treatment of waste.

#### Article 7

Member States shall take the necessary measures to ensure that any holder of waste:

- has it handled by a private or public waste collector or by a disposal undertaking,
- or disposes of it himself in accordance with the measures taken pursuant to Article 4.

*Article 8*

In order to comply with the measures taken pursuant to Article 4 any installation or undertaking treating, storing or tipping waste on behalf of third parties must obtain a permit from the competent authority referred to in Article 5, relating in particular to :

- the type and quantity of waste to be treated,
- general technical requirements,
- precautions to be taken,
- the information to be made available at the request of the competent authority concerning the origin, destination and treatment of waste and the type and quantity of such waste.

*Article 9*

The installations and undertakings referred to in Article 8 shall be periodically inspected by the competent authority referred to in Article 5 to ensure, in particular, that the conditions of the permit are being fulfilled.

*Article 10*

Undertakings transporting, collecting, storing, tipping or treating their own waste and those which collect or transport waste on behalf of third parties shall be subject to supervision by the competent authority referred to in Article 5.

*Article 11*

In accordance with the 'polluter pays' principle, the cost of disposing of waste, less any proceeds derived from treating the waste, shall be borne by:

- the holder who has waste handled by a waste collector or by an undertaking referred to in Article 8;
- and/or the previous holders or the producer of the product from which the waste came.

*Article 12*

Every three years, Member States shall draw up a situation report on waste disposal in their respective countries and shall forward it to the Commission. To this effect, the installations or undertakings referred to in Articles 8 and 10 must supply the competent authority referred to in Article 5 with the particulars on the disposal of waste. The Commission shall circulate this report to the other Member States.

The Commission shall report every three years to the Council and to the European Parliament on the application of this Directive.

*Article 13*

Member States shall bring into force the measures needed in order to comply with this Directive within 24 months of its notification and shall forthwith inform the Commission thereof.

*Article 14*

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 15*

This Directive is addressed to the Member States.

Done at Brussels, 15 July 1975.

*For the Council*

*The President*

M. RUMOR