

Agreement for the protection of the Rhine against chemical pollution (with annexes). Signed at Bonn on 3 December 1976

Registered by Switzerland on 23 January 1979.

The Government of the Federal Republic of Germany, the Government of the French Republic, the Government of the Grand Duchy of Luxembourg, the Government of the Kingdom of the Netherlands, the Government of the Swiss Confederation and the European Economic Community,

Referring to the Agreement of 29 April 1963² and the Additional Agreement of 3 December 1976 on the International Commission for the Protection of the Rhine against Pollution,

Considering that chemical pollution of the waters of the Rhine is a threat to its flora and fauna and also has undesirable effects on sea water,

Conscious of the dangers for certain uses of the waters of the Rhine that may result from such pollution,

Desiring to improve the quality of the waters of the Rhine with these uses in mind,

Considering that the Rhine is also used for other purposes, in particular for shipping and for receiving effluents,

Convinced that international action to protect the waters of the Rhine against chemical pollution must be evaluated in conjunction with other efforts to protect these waters, in particular efforts aimed at the conclusion of agreements to counter pollution by chlorides and thermal pollution, and that such action forms part of the continuing and interrelated measures to protect both fresh water and sea water against pollution,

Considering the action taken by the European Economic Community to protect the waters, in particular under the Council's directive of 4 May 1976 concerning pollution resulting from specific dangerous substances discharged into the water environment of the Community,

Referring to the results of the ministerial conferences held on 25 and 26 October 1972 in The Hague, 4 and 5 December 1973 in Bonn and 1 April 1976 in Paris, on protection of the Rhine against pollution,

Have agreed as follows:

Article 1. (1) In order to improve the quality of the waters of the Rhine, the Contracting Parties, in accordance with the following provisions, shall take appropriate action:

(a) To eliminate pollution of the surface waters of the Rhine basin by the dangerous substances included in the families and groupings of substances specified in annex I (hereinafter referred to as "substances listed in annex I"); they shall aim gradually to eliminate discharges of these substances, taking into account the findings of research carried out by specialists on each of these substances, as well as the technical means available;

(b) To reduce pollution of the waters of the Rhine by those dangerous substances included in the families and groups of substances listed in annex II (hereinafter referred to as "substances listed in annex II").

(2) When taking the action referred to in paragraph 1, reasonable consideration shall be given to the fact that the waters of the Rhine are used for the following purposes:

(a) Supplying drinking water for human consumption,

(b) Consumption by domestic and wild animals,

(c) Conserving and developing the natural flora and fauna, and maintaining the self-purifying capacity of the waters,

(d) Fishing,

(e) Recreation, taking hygienic and aesthetic requirements into consideration,

(f) Direct or indirect supply of fresh water to agricultural land,

(g) Production of water for industrial uses,

and the need to preserve an acceptable quality of sea water.

(3) The provisions of this Agreement are only the first step towards achieving the aim referred to in paragraph I of this article.

(4) Annex A of this Agreement provides a description of what the Contracting Parties understand by the term “Rhine” for purposes of implementing the Agreement.

Article 2. (1) The Governments Parties to this Agreement shall, in accordance with the provisions of annex III, paragraph 1, draw up a national list of those discharges into the surface waters of the Rhine basin that may contain substances covered in annex I to which emission standards may be applicable.

(2) The Governments shall, in accordance with the provisions of annex III, paragraph 2, inform the International Commission for the Protection of the Rhine against Pollution (hereinafter referred to as “the International Commission”), of the items on this list, which shall be updated regularly and at least once every three years.

(3) The proposals made by the International Commission, referred to in article 6, paragraph 3, may, if necessary, contain a list of various substances listed in annex II.

Article 3. (1) Every discharge into the surface waters of the Rhine basin that may contain one of the substances listed in annex I shall require prior approval by the competent authority of the Government concerned.

(2) In the case of discharges of those substances into the surface waters of the Rhine basin and when required for the implementation of this Agreement, in the case of discharges of those substances into drains, the approval shall specify emission standards which shall not exceed the limits set in article 5.

(3) So far as current discharges of those substances are concerned, the approval shall set a deadline for compliance with its terms. This deadline shall not exceed the limits set in article 5, paragraph 3.

(4) Approval shall be given only for a limited period. It may be renewed in the light of any changes made in the limits referred to in article 5.

Article 4. (1) The emission standards specified in the approval granted under article 3 shall determine:

(a) The permissible maximum concentration of a substance in discharges; in cases of dilution, the limits referred to in article 5, paragraph 2, subparagraph (a), shall be divided by the dilution factor;

(b) The permissible maximum quantity of a substance in discharges over one or more fixed periods of time; if necessary, this maximum may also be expressed as a unit of weight of the pollutant per unit of the characteristic component of the polluting action (for instance, per unit of weight of raw material or per unit of product).

(2) If the discharger declares that he cannot comply with the prescribed emission standards, or if the competent authority of the Government concerned confirms this, permission shall be refused.

(3) If the emission standards are not being adhered to, the competent authority of the Government concerned shall take all appropriate steps to ensure that the terms of the approval are complied with and, where necessary, that the discharge is forbidden.

Article 5. (1) The International Commission shall propose the limits referred to in article 3, paragraph 2, and, where necessary, their applicability to discharges into drains. These limits shall be set in accordance with the procedure laid down in article 14. Once adopted, they shall be included in annex IV.

(2) These limits shall be determined:

(a) By the permissible maximum concentration of a substance in the discharges; and

(b) Where appropriate, by the permissible maximum quantity of such a substance, expressed as a unit of weight of the pollutant per unit of the component characteristic of the polluting action (for instance, per unit of weight of raw material or per unit of product).

Where appropriate, the limits applicable to industrial effluents shall be determined by sector and by product type.

The limits applicable to the substances listed in annex I shall be determined primarily on the basis of:

— Toxicity,

— Persistence,

— Bio-accumulation,

taking into consideration the best technical facilities available.

(3) The International Commission shall propose to the Parties to the Agreement the deadlines referred to in article 3, paragraph 3, taking into account the distinctive characteristics of the industrial sectors concerned and, where appropriate, of product types. These deadlines shall be established in accordance with the procedure laid down in article 14.

(4) The International Commission shall use the findings obtained at the international measurement points in order to establish to what extent the content of substances listed in annex I in the waters of the Rhine has changed after implementation of the foregoing provisions.

(5) The International Commission, if this is required from the point of view of the quality of the waters of the Rhine, may propose other measures aimed at reducing the pollution of the waters of the Rhine, particularly with regard to toxicity, persistence and bio-accumulation of the substance concerned. These proposals shall be adopted in accordance with the procedure laid down in article 14.

Article 6. (1) Every discharge of one of the substances listed in annex II which could detrimentally affect the quality of the waters of the Rhine shall be regulated by the national authorities with a view to introducing rigorous restrictions.

(2) The Governments Parties to this Agreement shall endeavour, within a period of two years from the entry into force of this Agreement, to establish national programmes reducing pollution of the waters of the Rhine by the substances listed in annex II; for their implementation they shall apply in particular the measures indicated in paragraphs 1, 4, 6 and 7 of this article.

(3) Before establishing these national programmes, the Contracting Parties shall confer in the International Commission in order to co-ordinate them. To this end, the International Commission

shall regularly compare the draft national programmes in order to ensure their compatibility in terms of aims and means, and shall make proposals, in particular for the achievement of common aims relating to reducing the pollution of the waters of the Rhine. These proposals shall be adopted in accordance with the procedure laid down in article 14 of this Agreement. Comparison of national draft programmes shall not be allowed to cause delays in the implementation, at the national or regional level, of measures intended to reduce the pollution of the waters of the Rhine.

(4) For each discharge that may contain one of the substances listed in annex II, prior authorization shall be required from the competent authority of the Government concerned which establishes the emission standards. The standards shall be determined in terms of the quality goals indicated in paragraph 5.

(5) The programmes referred to in paragraph 2 of this article shall prescribe quality goals for the waters of the Rhine.

(6) The programmes may also include specific provisions concerning the composition and use of substances or groups of substances and of products, and shall take account of the latest economically viable technical developments.

(7) The programmes shall set deadlines for their implementation.

(8) The International Commission shall be provided with a summary of the programmes and the results of their implementation.

Article 7. (1) The Contracting Parties shall take all necessary statutory and administrative action in order to guarantee that storage of the substances listed in annexes I and II is organized so as to avoid any danger of polluting the waters of the Rhine.

2) The International Commission shall, as necessary, propose to the Contracting Parties appropriate measures for protecting groundwater in order to prevent pollution of the waters of the Rhine by the substances covered in annexes I and II.

Article 8. (1) The Contracting Parties shall ensure that discharges are regulated in accordance with this Agreement.

(2) They shall inform the International Commission annually of their experiences.

Article 9. Implementation of the measures adopted under this Agreement shall in no case lead to a direct or indirect increase in the pollution of the waters of the Rhine.

Article 10. (1) In order to monitor the proportion of substances covered in annexes I and II in the waters of the Rhine, each Government concerned shall be responsible for the installation and operation of measuring instruments and systems, at the agreed measurement stations on the Rhine, which shall serve to determine the concentration of these substances.

(2) Each Government concerned shall inform the International Commission regularly, and at least once annually, of the results of this monitoring process.

(3) The International Commission shall prepare an annual report which summarizes the results of the monitoring process and makes it possible to keep track of the changes in the quality of the waters of the Rhine.

Article 11. When a Government Party to this Agreement discovers in the waters of the Rhine a sudden and large increase of substances listed in annexes I and II, or becomes aware of an accident which may result in a serious threat to the quality of those waters, it shall immediately inform the International Commission and those Contracting Parties which may be affected, using a procedure to be established by the International Commission.

Article 12. (1) The Contracting Parties shall regularly inform the International Commission of the experience they have acquired through implementation of this Agreement.

(2) The International Commission shall draw up, as necessary, recommendations for progressive improvement in the implementation of this Agreement.

Article 13. The International Commission shall draw up recommendations for achieving comparability of results through the use of appropriate methods of measurement and analysis.

Article 14. (1) Annexes I to IV, which form an integral part of this Agreement, may be amended and supplemented in order to bring them into line with scientific and technical developments or to make the efforts to Counter chemical pollution of the waters of the Rhine more effective.

(2) To this end, the International Commission shall recommend such amendments or additions as it deems useful.

(3) The amended or supplemented texts shall enter into force after their unanimous adoption by the Contracting Parties.

Article 15. Any dispute between the Contracting Parties, relating to the interpretation or implementation of this Agreement, which cannot be settled by negotiation shall, unless the Parties to the dispute decide otherwise, be submitted, at the request of either of them, to arbitration in accordance with the provisions of annex B which forms an integral part of this Agreement.

Article 16. In implementing this Agreement the European Economic Community and its member States shall take action with regard to those areas which fall within their respective jurisdictions.

Article 17. (1) Each signatory Party shall notify the Government of the Swiss Confederation of the completion of the procedures incumbent on such Party for the entry into force of this Agreement.

(2) Subject to notification by all Parties of the completion of the procedures required for the entry into force of the Additional Agreement to the Agreement on the International Commission for the Protection of the Rhine against Pollution, the present Agreement shall enter into force on the first day of the second month following receipt of the last notification specified in the previous paragraph.

Article 18. Upon the expiry of a period of three years after its entry into force, this Agreement may be denounced at any time by any of the Contracting Parties by means of a declaration addressed to the Government of the Swiss Confederation. The denunciation shall enter into force, for the denouncing Party, six months after receipt of the declaration by the Government of the Swiss Confederation.

Article 19. The Government of the Swiss Confederation shall inform the Contracting Parties of the date of receipt of each notification or declaration received in pursuance of articles 14, 17 and 18.

Article 20. (1) If the Agreement on the International Commission for the Protection of the Rhine against Pollution of 29 April 1963 is denounced by one of the Parties to that Agreement, the Contracting Parties shall immediately consult each other concerning the measures required to ensure the continuing discharge of the functions incumbent upon the International Commission under this Agreement.

(2) If no agreement has been reached within six months after the start of these consultations, each of the Contracting Parties may at any time denounce this Agreement in accordance with article 18, without waiting for the expiry of the three-year period.

Article 21. This Agreement, prepared in a single original in the German, French and Dutch languages, all three texts being equally authentic, shall be deposited in the archives of the Government of the Swiss Confederation, which shall transmit an authenticated copy thereof to each of the Contracting Parties.

DONE at Bonn, on 3 December 1976.

ANNEX A

For the purposes of this Agreement, the Rhine begins where it leaves Lake Constance and includes those river arms through which it freely reaches the North Sea up to the coastline, including the IJssel up to Kampen.

When drawing up the national programmes referred to in article 6 of this Agreement—so far as quality goals are concerned—and when co-ordinating these programmes within the International Commission, the distinction between fresh river water and brackish river water shall be taken into consideration as necessary.

ANNEX B

ARBITRATION

- (1) Except where the parties to the dispute decide otherwise, the arbitration procedure shall be carried out in accordance with the provisions of this annex.
- (2) The Arbitration Tribunal shall consist of three members: each party to the dispute shall appoint one arbitrator and the two arbitrators thus appointed shall designate, by mutual agreement, the third arbitrator who shall be Chairman of the Tribunal. If, within two months after the appointment of the second arbitrator, the Chairman of the Arbitration Tribunal has not been designated, the President of the European Court of Human Rights shall appoint him within a further period of two months at the request of the party which first took action.
- (3) If, within two months after receipt of the request referred to in article 15 of this Agreement, one of the parties to the dispute has not appointed a member of the Tribunal as required, the other party may bring the matter before the President of the European Court of Human Rights, who shall designate the Chairman of the Arbitration Tribunal within a further period of two months. As soon as the Chairman of the Arbitration Tribunal has been designated, he shall request the party that has not appointed an arbitrator to do so within a period of two months. At the end of this period, he shall bring the matter before the President of the European Court of Human Rights, who shall make the designation within a further period of two months.
- (4) If, in the cases referred to in the foregoing paragraphs, the President of the European Court of Human Rights is unable to act or if he is a national of one of the parties to the dispute, the designation of the Chairman of the Arbitration Tribunal or the appointment of the arbitrator shall be made by the Vice-President of the Court or by the most senior member of the Court who is not prevented from acting and who is not a national of one of the parties to the dispute.
- (5) The foregoing provisions shall apply, mutatis mutandis, to the filling of vacancies as they occur.
- (6) The Arbitration Tribunal shall take its decisions on the basis of the rules of international law and, in particular, the provisions of this Agreement.
- (7) The Arbitration Tribunal shall take its decisions, on both procedural and substantive matters, by a majority vote; the absence or abstention of one of the members of the Court appointed by the parties shall not prevent the Tribunal from reaching a decision. In the event of a tie the Chairman

shall have the casting vote. The decisions of the Tribunal shall be binding on the parties. The parties shall defray the expenses of the member whom they have appointed and shall share the other costs equally. In all other respects the Arbitration Tribunal shall establish its own rules of procedure.

(8) In the case of a dispute between two Contracting Parties of which one is a State member of the European Economic Community, itself a Contracting Party, the other Party shall address its request both to the member State and to the Community which, within a period of two months after receipt of the request, shall together inform the Party whether the member State, the Community, or the member State and the Community jointly will be a party to the dispute. If such notification is not made within the designated period, the member State and the Community shall be deemed, for purposes of the provisions of this annex, to be one and the same party to the dispute. The same shall apply when the member State and the Community jointly constitute a party to the dispute.

ANNEX I

FAMILIES AND GROUPS OF SUBSTANCES

Annex I specifies some individual substances forming part of the following families and groups of substances which are to be selected principally on the basis of their toxicity, persistence and bio-accumulation, except for substances which are biologically harmless or which rapidly become biologically harmless:

- (1) Organic halogen compounds and substances which may produce such compounds in water;
- (2) Organic phosphorus compounds;
- (3) Organic tin compounds;
- (4) Substances which have been shown to have a carcinogenic effect in or through the action of water,*
- (5) Mercury and mercury compounds;
- (6) Cadmium and cadmium compounds;
- (7) Stable mineral oils and stable petroleum-base hydrocarbons.

ANNEX II

FAMILIES AND GROUPS OF SUBSTANCES

Annex II specifies:

— Substances forming part of the families and groups of substances listed in annex I for which the limits referred to in article 5 of this Agreement have not been established;

* To the extent that some substances in annex II have carcinogenic effects they are included under category 4 of this annex.

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— Certain individual substances and certain categories of substances forming part of the families and groups of substances mentioned below, that have a detrimental effect on water; this effect may, however, be limited to a particular area and will depend on the characteristics of the waters which receive them and on their situation.

Families and groups of substances as referred to under the second dash above:

(1) The following metalloids and metals and their compounds:

- (1) Zinc; (6) Selenium; (11) Tin; (16) Vanadium;
(2) Copper; (7) Arsenic; (12) Barium; (17) Cobalt;
(3) Nickel; (8) Antimony; (13) Beryllium; (18) Thallium;
(4) Chromium; (9) Molybdenum; (14) Borium; (19) Tellurium;
(5) Lead; (10) Titanium; (15) Uranium; (20) Silver;

(2) Biocides and their derivatives not specified in annex 1;

(3) Substances detrimental to the taste and/or smell of water-derived products intended for human consumption, and also compounds which may produce such substances in the waters;

(4) Toxic or stable organic silicon compounds and substances which could produce such compounds in water, except for those which are biologically harmless or which in water are rapidly converted into harmless substances;

(5) Inorganic phosphorus compounds and elementary phosphorus;

(6) Non-stable mineral oils and non-stable petroleum-based carbohydrates;

(7) Cyanides, fluorides;

(8) Substances which upset the oxygen balance, such as ammonia, nitrites.

ANNEX III

(1) The national list referred to in article 2, paragraph 1, of this Agreement concerns the dischargers, the discharge points, the substances discharged, classified by type, and the amount of these substances.

(2) The listed items, mentioned in article 2, paragraph 2, refer to respective total quantities of the various substances listed in annex I which are discharged into the waters of the Rhine basin between the measurement points proposed by the International Commission and adopted by all Contracting Parties.

ANNEX IV

LIMITS (ARTICLE 5)

Substance

Limit expressed as the maximum

Limit expressed

as the maximum

Deadline

or group concentration

of substances Origin of a substance

quantity

of a substance

for current

discharges Remarks

