

Convention on the Protection of the Rhine

Bern, April 12th, 1999

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

Desiring to work towards the sustainable development of the Rhine ecosystem on the basis of a comprehensive approach, taking into consideration the natural wealth of the river, its banks and alluvial areas,

Desiring to step up their cooperation on conserving and improving the Rhine ecosystem,

Referring to the Convention of 17 March 1992 on the protection and use of transboundary watercourses and international lakes and the Convention of 22 September 1992 on the protection of the marine environment of the north-east Atlantic,

Taking into account the work carried out under the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution and the Additional Agreement of 3 December 1976,

Considering that efforts must be made to further the improvement in water quality achieved under the Convention of 3 December 1976 for the protection of the Rhine against chemical pollution and under the Rhine Action Programme of 30 September 1987,

Aware that the restoration of the Rhine is also necessary to conserve and improve the ecosystem of the North Sea,

Aware of the importance of the Rhine as a European waterway and of its various uses,

Have agreed as follows:

Article 1 Definitions

For the purposes of this Convention:

1. “Rhine” means the Rhine from the outlet of Lake Untersee and, in the Netherlands, the branches Bovenrijn, Bijlands Kanaal, Pannerdensch Kanaal, IJssel, Nederrijn, Lek, Waal, Boven-Merwede, Beneden-Merwede, Noord, Oude Maas, Nieuwe Maas and Scheur and the Nieuwe Waterweg as far as the base line as specified in Article 5 in connection with Article 11 of the United Nations Convention on the Law of the Sea, the Ketelmeer and the IJsselmeer;
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2. “Commission” means the International Commission for the Protection of the Rhine (ICPR).

Article 2 Scope

This Convention applies to:

- a) the Rhine;
- b) ground water interacting with the Rhine;
- c) aquatic and terrestrial ecosystems which interact or could again interact with the Rhine;
- d) the Rhine catchment area, insofar as its pollution by noxious substances adversely affects the Rhine;
- e) The Rhine catchment area, insofar as it is of importance for flood prevention and protection along the Rhine.

Article 3 Aims

The Contracting Parties shall pursue the following aims through this Convention:

- 1. sustainable development of the Rhine ecosystem, in particular through:
 - (a) maintaining and improving the quality of the Rhine's waters, including the quality of suspended matter, sediments and ground water, notably by
 - preventing, reducing or eliminating as far as possible pollution caused by noxious substances and by nutrients from point sources (e.g. industry and municipalities) and diffuse sources (e.g. agriculture and traffic) - including that from groundwater - and pollution from shipping;
 - ensuring and improving the safety of installations and preventing incidents and accidents;
 - (b) protecting populations of organisms and species diversity and reducing contamination by noxious substances in organisms;
 - (c) maintaining, improving and restoring the natural function of the waters; ensuring that flow management takes account of the natural flow of solid matter and promotes interactions between river, ground water and alluvial areas; conserving, protecting and reactivating alluvial areas as natural floodplains;
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- (d) conserving, improving and restoring the most natural habitats possible for wild fauna and flora in the water, on the river bed and banks and in adjacent areas, and improving living conditions for fish and restoring their free migration;
 - (e) ensuring environmentally sound and rational management of water resources;
 - (f) taking ecological requirements into account when implementing technical measures to develop the waterway, e.g. for flood protection, shipping or the use of hydroelectric power;
2. the production of drinking water from the waters of the Rhine;
 3. improvement of sediment quality in order that dredged material may be deposited or spread without adversely affecting the environment;
 4. general flood prevention and protection, taking account of ecological requirements;
 5. to help restore the North Sea in conjunction with the other actions taken to protect it.

Article 4 Principles

To this end, the Contracting Parties shall be guided by the following principles:

- (a) precautionary principle;
 - (b) principle of preventive action;
 - (c) principle of rectification, as a priority at source;
 - (d) polluter-pays principle;
 - (e) principle of not increasing damage;
 - (f) principle of compensation in the event of major technical measures;
 - (g) principle of sustainable development;
 - (h) application and development of the state of the art and best environmental practice;
 - (i) principle of not transferring environmental pollution from one environment to another.
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Article 5 Undertakings by the Contracting Parties

To achieve the aims set out in Article 3, and in the light of the principles set out in Article 4, the Contracting Parties undertake:

1. to step up their cooperation and to inform one another, particularly regarding actions taken in their territory to protect the Rhine;
 2. to implement in their territory the international measuring programmes and the studies of the Rhine ecosystem agreed upon by the Commission and to inform the Commission of the results;
 3. to carry out analyses with a view to identifying the causes of and parties responsible for pollution;
 4. to initiate the autonomous actions they deem necessary in their territory, and in any event ensure that
 - (a) discharging of waste water liable to affect water quality is subject to prior authorisation or to general rules laying down emission limits;
 - (b) discharges of hazardous substances are gradually reduced with a view to complete elimination;
 - (c) compliance with authorisations and general rules is monitored, as are discharges;
 - (d) authorisations and general rules are periodically examined and adjusted where substantial improvements in the state of the art so permit or where the state of the receiving medium so necessitates;
 - (e) the risk of pollution from incidents or accidents is reduced as far as possible by regulations, and the requisite measures are taken in the event of an emergency;
 - (f) technical measures liable to have a serious effect on the ecosystem are subject to prior authorisation, along with the necessary conditions, or to general regulations;
 5. to initiate the necessary actions in their territory to implement decisions taken by the Commission in accordance with Article 11;
 6. in the event of incidents or accidents that might threaten the quality of the water of the Rhine or in the event of imminent flooding, immediately to inform the Commission and the Contracting Parties liable to be affected, in accordance with the warning and alert plans coordinated by the Commission.
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Article 6 Commission

1. To implement this Convention, the Contracting Parties shall pursue their cooperation within the Commission.
2. The Commission shall have legal personality. In the territory of the Contracting Parties it shall, in particular, enjoy the legal capacity conferred on legal persons by domestic law. It shall be represented by its Chairman.
3. Questions of labour legislation and social matters shall be governed by the law of the country in which the Commission has its seat.

Article 7 Organisation of the Commission

1. The Commission shall consist of the delegations of the Contracting Parties. Each Contracting Party shall appoint its delegates, one of whom shall be head of delegation.
2. The delegations may enlist the services of experts.
3. The Commission shall be chaired for three years by each delegation in turn in the order of Contracting Parties listed in the preamble. The delegation chairing the Commission shall appoint the Chairman. The Chairman shall not act as spokesman for his delegation.

Should a Contracting Party waive its right to chair the Commission, the next Contracting Party shall take the Chair.

4. The Commission shall draft its rules of procedure and financial regulations.
5. The Commission shall decide on matters of internal organisation, the working structure it deems necessary and the annual operating budget.

Article 8 Tasks of the Commission

1. To achieve the aims set out in Article 3 the Commission shall accomplish the following tasks:
 - (a) prepare international measuring programmes and studies of the Rhine ecosystem and make use of their results, in cooperation with scientific institutions if necessary;
 - (b) make proposals for individual measures and programmes of measures, where appropriate including economic instruments and taking into account the expected costs;
 - (c) coordinate the Contracting States' warning and alert plans for the Rhine;
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- (d) evaluate the effectiveness of the actions decided upon, notably on the basis of the reports of the Contracting Parties and the results of the measuring programmes and studies of the Rhine ecosystem;
 - (e) carry out any other tasks entrusted to it by the Contracting Parties.
2. To this end, the Commission shall take decisions in accordance with Articles 10 and 11.
 3. The Commission shall submit an annual activity report to the Contracting Parties.
 4. The Commission shall inform the public as to the state of the Rhine and the results of its work. It may draft and publish reports.

Article 9 Plenary sessions of the Commission

1. At the invitation of the Chairman, the Commission shall meet for one plenary session per year.
2. Extraordinary plenary sessions may be called by the Chairman, upon his initiative or at the request of at least two delegations.
3. The Chairman shall propose the agenda. Each delegation shall have the right to have items included on the agenda that it wishes to have discussed.

Article 10 Decision-making in the Commission

1. Decisions of the Commission shall be taken unanimously.
 2. Each delegation shall have one vote.
 3. If measures to be carried out by the Contracting Parties in accordance with Article 8(1)(b) fall within the competence of the European Community, the latter shall vote with the number of votes corresponding to the number of its Member States which are Contracting Parties to this Convention, notwithstanding paragraph 2 above. The European Community shall not vote in cases where its Member States vote and vice versa.
 4. Abstention of only one delegation shall not constitute an impediment to unanimity. This shall not apply to the delegation of the European Community. Absence of a delegation shall be considered as abstention.
 5. The rules of procedure may provide for a written procedure.
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Article 11 Implementation of Commission Decisions

1. The Commission shall communicate to the Contracting Parties, in the form of recommendations, its decisions on the measures referred to in Article 8(1)(b), which shall be implemented in accordance with the national law of the Contracting Parties.
2. The Commission may stipulate that these decisions
 - (a) shall be applied by the Contracting Parties on the basis of a timetable;
 - (b) shall be implemented in a coordinated manner.
3. The Contracting Parties shall report regularly to the Commission on:
 - (a) the legislative, regulatory and other measures they have taken with a view to implementing the provisions of this Convention and on the basis of the Commission's decisions;
 - (b) the results of the measures implemented in accordance with subparagraph (a);
 - (c) problems arising in the implementation of the measures referred to in subparagraph (a).
4. If a Contracting Party cannot implement the Commission's decisions, in full or in part, it shall report this within a specific time limit set by the Commission on a case-by-case basis and shall give its reasons. Each delegation may submit a request for consultation, to which a response must be given within two months.

On the basis of the reports from the Contracting Parties or of consultations, the Commission may decide that measures will be taken to assist the implementation of the decisions.

5. The Commission shall keep a list of its decisions addressed to the Contracting Parties. The Contracting Parties shall add to the list annually with updates on the progress made in implementing the Commission's decisions, at the latest two months before the Plenary Session of the Commission.

Article 12 Secretariat of the Commission

1. The Commission shall have a permanent secretariat, which shall carry out the tasks entrusted to it by the Commission and be headed by an executive secretary.
 2. The Contracting Parties shall decide on the headquarters of the secretariat.
 3. The Commission shall appoint the executive secretary.
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Article 13 Distribution of costs

1. Each Contracting Party shall bear the costs of its representation in the Commission and its working structure, and each Contracting State shall bear the costs of the studies and actions it carries out within its territory.
2. The distribution of costs relating to the annual operating budget between the Contracting Parties shall be laid down in the Commission's rules of procedure and financial regulations.

Article 14 Cooperation with other States, other organisations and external experts

1. The Commission shall cooperate with other intergovernmental organisations and may address recommendations to them.
2. The Commission may recognise as observers:
 - (a) States that have an interest in the work of the Commission;
 - (b) intergovernmental organisations whose work is related to the Convention;
 - (c) non-governmental organisations, insofar as their field of interest or activities are relevant.
3. The Commission shall exchange information with non-governmental organisations insofar as their fields of interest or activities are relevant. The Commission shall in particular consult such organisations before discussing decisions liable to have an important impact on them and shall inform them as soon as such decisions have been taken.
4. Observers may submit to the Commission any information or reports relevant to the aims of the Convention. They may be invited to participate in Commission meetings without having the right to vote.
5. The Commission may decide to consult specialists representing the recognised non-governmental organisations or other experts and invite them to its meetings.
6. The conditions for cooperation and those for eligibility and participation shall be laid down in the rules of procedure and financial regulations.

Article 15 Working languages

The working languages of the Commission shall be Dutch, French and German. Detailed arrangements shall be laid down in the rules of procedure and financial regulations.

Article 16 Settlement of disputes

1. If a dispute arises between Contracting Parties regarding the interpretation or application of this Convention, the Parties concerned shall seek a solution through negotiation or any other form of dispute settlement acceptable to them.
2. If the dispute cannot be settled in this manner, it shall, unless the Parties to the dispute decide otherwise, be submitted, at the request of one of them, to arbitration in accordance with the provisions of the Annex to this Convention, which shall form an integral part thereof.

Article 17 Entry into force

Each Contracting Party will notify the Government of the Swiss Confederation once it has completed the procedures necessary to bring this Convention into force. The Government of the Swiss Confederation will confirm the receipt of notifications and also inform the other Contracting Parties. The Convention will enter into force on the first day of the second month following receipt of the last notification.

Article 18 Withdrawal

1. Three years after its entry into force, any of the Contracting Parties may at any time withdraw from this Convention by means of a written declaration to the Government of the Swiss Confederation.
2. Withdrawal from the Convention shall take effect only at the end of the following year.

Article 19 Repeal and continued application of current law

1. With the entry into force of this Convention and notwithstanding paragraphs 2 and 3 of this Article, the following shall be repealed:
 - (a) Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution,
 - (b) Additional Agreement of 3 December 1976 to the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution,
 - (c) Convention of 3 December 1976 for the protection of the Rhine against chemical pollution.
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2. Decisions, recommendations, limit values and any other arrangements adopted on the basis of the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution, the Additional Agreement of 3 December 1976 and the Convention of 3 December 1976 for the protection of the Rhine against chemical pollution shall remain applicable without any change to their legal nature, provided the Commission does not explicitly repeal them.
3. The distribution of costs relating to the annual operating budget defined in Article 12 of the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution as amended by the Additional Agreement of 3 December 1976 shall remain in force until the Commission has established a distribution in its rules of procedure and financial regulations.

Article 20 Original and Deposit

This Convention, drafted in the Dutch, French and German languages, each of the three texts being equally authentic, is deposited with the Government of the Swiss Confederation, which will transmit a certified copy to each of the Contracting Parties.

Done at Bern,

April 12th, 1999

For the Governments of

the Federal Republic of Germany:

Klaus BALD

Fritz HOLZWARTH

the Kingdom of the Netherlands:

A.P.T. BIJLSMA

the French Republic:

André GADAUD

the Swiss Confederation:

Philippe ROCH

the Grand Duchy of Luxembourg:

Paul HANSEN

For the European Community:

Helmut BLÖCH

Annex

Arbitration

1. Unless the parties to the dispute decide otherwise, the arbitration procedure shall be conducted in accordance with the provisions of this Annex.
2. The arbitral tribunal shall consist of three members. The claimant and the defendant shall appoint one arbitrator each; the two arbitrators so appointed shall by common consent designate a third who shall chair the tribunal.

If the chair of the arbitral tribunal has not been appointed within two months of the appointment of the second arbitrator, the President of the International Court of Justice shall appoint an arbitrator within two further months at the request of the first party to act.

3. If one of the parties to the dispute has not appointed a member of the tribunal within two months of receipt of the request provided for in Article 16 of the Convention, the other party may submit the matter to the President of the International Court of Justice who shall appoint the chair of the arbitral tribunal within a further two months. Once appointed, the chair shall request the party which has not yet appointed an arbitrator to do so within two months. Upon expiry of this time limit he or she shall submit the matter to the President of the International Court of Justice who shall make this appointment within a further two months.
 4. If, in one of the cases referred to above, the President of the International Court of Justice is prevented from acting or is a national of one of the parties to the dispute, the Vice-President of the Court or the most senior member of the Court who is not prevented from acting and is not a national of one of the parties to the dispute shall appoint the chair of the arbitral tribunal or an arbitrator.
 5. These provisions shall apply, *mutatis mutandis*, to the filling of posts which have become vacant.
 6. The arbitral tribunal shall decide on the basis of the rules of international law and in particular on the basis of the provisions of this Convention.
 7. As regards both procedural and substantive matters, the arbitral tribunal shall decide by a majority of its members' votes; the absence or abstention of one of the members of the tribunal appointed by the parties shall not prevent the tribunal from reaching a decision. In the event of parity of votes, the chairman shall have the casting vote. The decisions of the Tribunal shall be binding on the parties. Each party shall bear the costs of the arbitrator appointed by it and shall share the other costs equally. For other matters, the arbitral tribunal shall establish its own rules of procedure.
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In the case of a dispute between two Contracting Parties, only one of which is a Member State of the European Community, which is itself a Contracting Party, the other Party shall simultaneously transmit its request to that Member State and to the Community, which shall jointly notify the party within two months following receipt of the request whether the Member State, the Community or the Member State and the Community together are parties to the dispute. If such notification is not given within the appointed time, both the Member State and the Community shall be regarded as constituting one and the same party to the dispute for the purposes of applying this Annex. The same shall obtain when the Member State and the Community are jointly a party to the dispute.

Protocol of signature

In signing the Convention for the Protection of the Rhine, the heads of delegation in the ICPR agree upon the following points.

1. The following shall remain unaffected by the Convention:
 - (a) the Convention of 3 December 1976 for the protection of the Rhine against Pollution by Chlorides;
 - (b) the Exchange of letters of 29 April/13 May 1983 on the abovementioned Convention, which exchange entered into force on 5 July 1985;
 - (c) the Declaration of 11 December 1986 of the heads of delegation of the Governments Party to the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution;
 - (d) the Additional Protocol of 25 September 1991 on the Convention of 3 December 1976 for the protection of the Rhine against Pollution by Chlorides;
 - (e) the Declaration of 25 September 1991 of the heads of delegation of the Governments Party to the Agreement of 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution.
2. “State of the art” and “best available techniques” are synonymous expressions and, like the expression “best environmental practice”, must be understood as defined in the Convention of 17 March 1992 on the protection and use of transboundary watercourses and international lakes (Annexes I and II) and the Convention of 22 September 1992 for the protection of the marine environment of the north-east Atlantic (Appendix 1).
3. The Commission shall continue to have its seat in Koblenz.
4. In cases of settlements of disputes between Member States of the European Community which do not concern any other State, Article 219 of the Treaty establishing the European Community shall apply.

Done at Bern,

April 12th, 1999

For the Governments of

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