



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.09.1998  
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98/0278 (CNS)

Proposal for a

COUNCIL DECISION

**RELATING TO THE CONCLUSION, ON BEHALF OF THE  
COMMUNITY, OF THE CONVENTION ON THE INTERNATIONAL  
COMMISSION FOR THE PROTECTION OF THE ODER**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

1. The Convention on the International Commission for the Protection of the Oder (known as the Oder Convention) was signed in Wrocław, Poland, on 11 April 1996 by three countries, including a Member State of the Community (Federal Republic of Germany) as well as Poland, the Czech Republic and the Community itself.
2. The main objective of this Convention is multilateral cooperation to:
  - prevent and control pollution of the Oder and the Baltic Sea
  - enable the waters of the Oder to be used for human consumption, and in agriculture
  - secure as natural an eco-system as possible with a corresponding diversity of species.
3. The areas covered by this Convention fall within Community competence in relation to the aquatic environment. At internal level, this competence has been exercised through the adoption of a large body of legislation in this area.

The conclusion of the Convention by the Community will contribute to pursuit of the objectives laid down by Article 130r of the Treaty.
4. Given that, under Article 18(1) of the Convention, the Community and its Member States agree on their respective responsibilities in carrying out the obligations arising under the Convention and that the latter will enter into force, in accordance with Article 18(3) thereof, thirty days after the final instrument of ratification has been deposited, the Commission considers it highly desirable that the Community and the Member State in question, each within their respective spheres of competence, should conclude this Convention by depositing their instruments of approval and of ratification at the same time. Such a step should help to prepare the way for a rapid entry into force at international level of rules which will make it possible to prevent risks of pollution, improve the environment and water quality and ensure sustainable use of water resources.
5. The Secretariat-General of the Council of the European Union is the depositary for this Convention.
6. As the measures provided for by the Convention are instruments of environment policy, the Council Decision must have as its legal basis Article 130r(4), in conjunction with the first sentence of Article 228(2) and the first subparagraph of Article 228(3) of the EC Treaty.

**PROPOSAL FOR A COUNCIL DECISION  
RELATING TO THE CONCLUSION, ON BEHALF OF THE  
COMMUNITY, OF THE CONVENTION ON THE INTERNATIONAL  
COMMISSION FOR THE PROTECTION OF THE ODER**

THE COUNCIL OF THE EUROPEAN UNION,

*Having regard* to the Treaty establishing the European Community, and in particular Article 130r(4) thereof, in conjunction with the first sentence of Article 228(2) and the first subparagraph of Article 228(3);

*Having regard* to the proposal from the Commission,

*Having regard* to the opinion of the European Parliament,

*Whereas* the Commission has participated on behalf of the Community in the negotiations to prepare a Convention on the International Commission for the Protection of the Oder;

*Whereas* this Convention was signed on behalf of the Community in Wroclaw (Poland), on 11 April 1996;

*Whereas* this Convention aims to strengthen multilateral cooperation to prevent and control pollution of the Oder, protect the environment and ensure sustainable use of water resources;

*Whereas* the overriding aim of Commission policy in the field of the environment is a high level of protection; whereas it is based on the principles of precautionary measures and preventive action, the principle of rectifying environmental damage preferably at source and the principle of polluter pays;

*Whereas* within their respective spheres of competence, the Community and the Member States cooperate with third countries and with the competent international organisations;

*Whereas* the conclusion of the Convention by the Community contributes to the pursuit of the objectives laid down in Article 130r of the Treaty,

HAS DECIDED AS FOLLOWS:

**Article 1**

The Convention on the International Commission for the Protection of the Oder is hereby approved on behalf of the Community.

The text of the Convention is contained in the Annex to this Decision.

**Article 2**

The President of the Council is authorised to designate the person or persons empowered to deposit the instrument of approval with the Secretariat-General of the Council in accordance with Article 18(2) of the Convention.

Done at

For the Council

The President

**Convention  
on the International Commission  
for the Protection of the Oder against Pollution**

The Government of the Federal Republic of Germany,  
the Government of the Republic of Poland,  
the Government of the Czech Republic  
and  
the European Community,  
hereinafter referred to as the contracting parties,

Convinced of the need to improve the ecological state of the Oder and the Stettiner Haff,  
including their drainage areas,

Desirous to prevent further pollution of these waters,

Resolved to contribute to a sustained reduction of pollution of the Baltic Sea,

Convinced of the urgency of these tasks,

Desirous to increase the cooperation that already exists between the contracting parties in  
this area,

Have agreed the following:

## Article 1

- (1) The contracting parties shall cooperate within the International Commission for the Protection of the Oder against Pollution, hereinafter referred to as the Commission, to prevent the pollution of the Oder and the Stettiner Haff, including their drainage areas, hereinafter referred to as the Oder.
- (2) The objectives of this cooperation shall be in particular
  - (a) to prevent the pollution of the Oder and the Baltic Sea by contaminants and to achieve a sustained reduction in the pollution thereof,
  - (b) to achieve the most natural aquatic and littoral ecosystems possible with the corresponding species diversity,
  - (c) to permit utilization of the Oder, in particular the production of drinking water from bank filtrate and the use of its water and sediments in agriculture.
- (3) To achieve these objectives, the contracting parties shall draw up joint action programmes within the Commission with timetables for their implementation. These action programmes may be gradually supplemented as necessary.
- (4) For the attainment of these objectives, the contracting parties shall promote the exchange of modern technologies to prevent and reduce pollution resulting from agreements concluded under civil law.

## Article 2

- (1) The Commission shall in particular:
  - (a) prepare surveys of point sources of pollution, estimate water pollution from non-point sources and extrapolate both by sector and the main types of pollution,
  - (b) propose limite values for the discharge of waste waters,

- (c) propose water quality objectives which take account of the intended use of the waters and the particular conditions for protection of the Baltic Sea and the aquatic and littoral ecosystems,
  - (d) establish joint measurement and analysis programmes to demonstrate the quality and quantity of the waters and the quality of the sediments, to assess the state of the aquatic and littoral ecosystems and, where necessary, to evaluate the consequences of the water pollution, and to evaluate the results,
  - (e) develop standardized methods for the classification of the waters,
  - (f) analyze data and information necessary for the protection of the Oder, in particular with regard to hydrology and water resource management,
  - (g) propose action programmes for the reduction of pollution, especially by contaminants from both municipal and industrial point sources and from non-point sources and other measures including the proposed timescale, cost estimate and possible funding arrangements,
  - (h) propose safeguards to prevent and deal with unforeseen pollution incidents, and establish a uniform warning and alert system in the light of experience,
  - (i) document the ecological importance of the various biotope elements, including the eco-morphology, and draft proposals for the maintenance, restoration and protection of aquatic and littoral ecosystems,
  - (j) discuss planned and existing types of utilization of the waters which may have important transboundary repercussions,
  - (k) promote cooperation on scientific research projects and the exchange of information, in particular on the state of the art and modern technologies to prevent and reduce water pollution.
- (2) The Commission shall cover matters relating to the protection of the waters against pollution where such pollution is caused by fisheries, shipping or other uses of the



river.

- (3) The Commission may be given other tasks by joint agreement between the contracting parties.

### Article 3

This Convention shall apply in the territories of the Republic of Poland and the Czech Republic and in the territories in which the Treaty establishing the European Community is applicable.

### Article 4

- (1) The Commission's activities shall be conducted in accordance with the laws of the contracting parties.
- (2) The Commission shall make proposals and recommendations to the contracting parties to achieve the objectives of this Convention.
- (3) The contracting parties shall inform the Commission, within specific periods of time, of the conditions and resources needed to achieve the objectives and of the measures taken and the results thereof.

### Article 5

- (1) The Commission shall consist of delegations of the contracting parties. Each contracting party shall appoint a maximum of five delegates, including the head of the delegation and his deputy and up to five alternate delegates.
- (2) Each delegation may call in experts designated by it for the consideration of specific issues.
- (3) The Commission shall adopt rules of procedure.

## Article 6

- (1) The chairmanship of the Commission shall be held by the delegations of the contracting parties in turn. Details of the chairmanship and the related tasks shall be laid down in the rules of procedure. The delegation holding the chairmanship shall designate one of its members as Chairman. The delegation may appoint a further delegate for the duration of its chairmanship.
- (2) The Chairman shall not normally speak on behalf of his delegation in the Commission meetings.

## Article 7

- (1) The Commission shall meet at least once a year at the Chairman's invitation for an ordinary meeting at a place specified by him.
- (2) Extraordinary meetings shall be convened by the Chairman at the request of at least one delegation.
- (3) The heads of the delegations may confer between meetings of the Commission.
- (4) The Chairman shall propose the agenda. Each delegation shall be entitled to include those items in the agenda which it wishes to have discussed.

## Article 8

- (1) Each delegation shall have one vote.
- (2) Negotiations and decisions within the framework of this Convention and in the course of its implementation shall be carried out by the European Community and the Federal Republic of Germany within their respective fields of competence. The European Community shall not exercise its right to vote in cases in which the Federal Republic of Germany is competent and vice-versa.
- (3) The Commission's decisions and proposals shall be unanimously adopted. A written

procedure may be applied in accordance with conditions to be specified in the rules of procedure.

- (4) Decisions *nem. con.* shall be deemed to be unanimous, provided all the delegations are present.

#### Article 9

- (1) The Commission shall set up working parties to carry out certain tasks.
- (2) The working parties shall consist of the delegates or experts designated by each delegation.
- (3) The Commission shall determine the tasks and the number of members of each working party and shall appoint the Chairman.

#### Article 10

The Commission shall have legal personality. Its legal capacity shall be governed by the law of the State in which its secretariat is located. The Commission shall be represented by its Chairman. The Chairman may determine his representatives in accordance with the rules of procedure.

#### Article 11

The Commission shall establish a secretariat for the preparation and implementation of its work. The Commission shall lay down rules for the work of the secretariat in the rules of procedure. The secretariat shall be located in Breslau.

#### Article 12

The Commission may call on the services of specially qualified persons or bodies to examine specific issues within the limits of its budget.

### Article 13

- (1) The Commission shall, in accordance with the objectives of this Convention, decide on cooperation with other international and national organizations concerned with protection of waters against pollution.
- (2) The Commission shall inform the public of the results of its work and its programmes and measures.

### Article 14

The Commission shall provide the contracting parties with an activity report at least every two years and, if necessary, with further reports, in particular on measures taken and the results of analyses and their evaluation.

### Article 15

- (1) Each contracting party shall bear the cost of its representation in the Commission and in the working parties.
- (2) Other costs incurred by the Commission and the costs of the secretariat shall be covered by the Commission's budget. The contributions to the Commission's budget shall be divided among the contracting parties as follows:

Federal Republic of Germany	38.75%
Republic of Poland	38.75%
Czech Republic	20.00%
European Community	2.50%
TOTAL	100.00%

- (3) The Commission shall decide on its budget and confirm its performance. Further details shall be laid down in the rules of procedure.
- (4) The Commission's budget shall be made up, apart from the contributions from the contracting parties, of donations, grants, interest receipts and resources from other

sources.

#### Article 16

- (1) Rights and obligations of the contracting parties resulting from bi- and multilateral agreements shall not be affected by this Convention.
- (2) The Commission shall examine, in agreement with the contracting parties, the extent to which it is possible and expedient to harmonize the rights and obligations from existing agreements in order, among other things, to avoid duplication of effort and shall present corresponding proposals if appropriate.

#### Article 17

The working languages of the Commission shall be German, Polish and Czech.

#### Article 18

- (1) This Convention must be ratified or confirmed in accordance with the respective laws of the contracting parties.
- (2) The ratification or confirmation deeds shall be deposited with the Secretariat-General of the Council of the European Union as depositary. The depositary shall inform the other contracting parties of every ratification or confirmation deed deposited.
- (3) This Convention shall enter into force thirty days after the day on which the last ratification or confirmation deed has been deposited with the depositary. The depositary shall inform the other contracting parties of the date of entry into force.

#### Article 19

- (1) The Convention shall be concluded for an indefinite period.

- (2) Five years after its entry into force, this Convention may be denounced at any time by any of the contracting parties through notification to the depositary. The Convention shall thereby cease to have effect for the denouncing party one year after the deposit of the note in question with the depositary.

#### Article 20

This Convention which is drawn up in original copies in German, Polish and Czech, each text being equally binding, shall be deposited in the archives of the Secretariat-General of the Council of the European Union. The latter shall send a certified copy to each of the contracting parties.

Done at Breslau

on

For the Government of the Federal Republic of Germany:

For the Government of the Republic of Poland:

For the Government of the Czech Republic:

For the European Community:

**FINANCIAL STATEMENT****1. TITLE OF OPERATION**

Convention on the International Commission for the Protection of the Oder against Pollution.

**2. BUDGET HEADING INVOLVED**

B7-811

**3. LEGAL BASIS**

- Proposal for a Council Decision relating to the conclusion, on behalf of the Community, of the Convention on the International Commission for the Protection of the Oder against Pollution.
- The aim of this Convention is to prevent and control pollution of the Oder and the Baltic Sea, promote ecosystems and diversity of species and enable the waters of the Oder to be used for human consumption and in agriculture.
- The international conventions to which the Commission is a contracting party.

**4. DESCRIPTION OF OPERATION****4.1. General objective**

Under the Oder Convention, the International Commission for the Protection of the Oder against Pollution coordinates the work which is necessary to achieve the objectives of the Convention. It is assisted by a secretariat located in Wroclaw (Poland).

**4.2. Period covered and arrangements for renewal or extension**

Annual contribution for the duration of the Convention.

**5. CLASSIFICATION OF EXPENDITURE**

5.1. NCE

5.2. DA

**6. TYPE OF EXPENDITURE OR REVENUE**

Joint financing with other sources in the public and/or private sector.

## 7. FINANCIAL IMPACT

Each contracting party contributes to the administrative expenditure incurred by the secretariat of the International Commission for the Protection of the Oder in accordance with the breakdown set out in Article 15 of the Convention. This is: Germany 38.75%, Poland 38.75%, Czech Republic 20%, EC 2.5%. The budget for the secretariat is estimated on an annual basis. By way of a guideline in 1997, the contribution from the European Community was ECU 1 450.

## 8. FRAUD PREVENTION MEASURES

The provisions relating to verification of the use of financial contributions by the Community for this type of Convention apply.

## 9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

### 9.1. Objectives

#### (a) General objective

To create the conditions necessary for better cooperation between the various contracting parties. As a result, mutual assistance in the event of accidental pollution will in future come into play with greater speed and effectiveness.

#### (b) Specific objectives

The specific objectives include the following:

- (a) prevent and control pollution of the Oder and the Baltic Sea;
- (b) secure as natural aquatic and terrestrial ecosystems as possible with a corresponding diversity of species;
- (c) enable the Oder to be used for, among other things, the production of drinking water from bank-filtered water, as well as the use of water and sediment for agricultural purposes.

### 9.2. Grounds for the operation

International conventions on rivers are an effective means of combating cross-border pollution of waterways. Mention may be made of the Conventions on the Rhine and the Elbe, where international cooperation is helping to reduce pollution.

A joint approach to selecting priorities, identifying the measures to be taken and implementing those measures avoids duplication or triplication and as a result reduces costs.

The active participation of the Community is necessary by virtue of its legal competence and is in keeping with the broad lines of the 5th Action Programme "Towards sustainable development" where international cooperation is acknowledged as one of the Community priorities for the future.



**10. ADMINISTRATIVE EXPENDITURE (PART A OF SECTION III OF THE BUDGET)**

**10.1. Impact on employment**

The operation does not involve any increase in the number of Commission staff. Requirements are covered by existing resources in DG XI.

**10.2. Financial impact of additional human resources**

Not applicable.

**10.3. Impact on other operating expenditure**

Budget for three missions per year for meetings of the Commission or heads of delegation at the seat of the secretariat in Wroclaw (Poland), i.e.  $1\ 100 \times 3 = \text{ECU } 3\ 300$ .

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