

COMMISSION OF THE EUROPEAN COMMUNITIES

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Communication from the Commission to the Council
concerning the signing of the Paris Convention on the
prevention of marine pollution from land-based sources.

Recommendation for a Council Decision
concluding the Convention for the
Prevention of Marine Pollution from Land-based Sources

Recommendation for a Council Decision
concerning Community participation in the Working Party
entitled "Provisional Commission", to be set up on
the basis of Resolution III of the 1974 Paris Convention for the
Prevention of Marine Pollution from land-based Sources

Draft Resolution

(submitted to the Council by the Commission)

COMMISSION
OF THE
EUROPEAN COMMUNITIES

Brussels, 7 March 1974

Environment and
Consumer Protection Service

CONVENTION ON MARINE POLLUTION FROM LAND-BASED SOURCES

Draft of a communication from the Commission to the Council
concerning the signing of the Paris Convention on the
prevention of marine pollution from land-based sources

1. Restatement of the situation

The Diplomatic Conference on the Convention for the prevention of marine pollution from land-based sources ended in Paris on 22 February 1974. This Conference adopted a "CONVENTION ON THE PREVENTION OF MARINE POLLUTION FROM LAND-BASED SOURCES" a copy of which is attached.

From 4 June 1974 until 30 June 1975, this Convention is open for signature by States bordering the North-Eastern Atlantic and States whose rivers flow into the adjoining seas, namely: Austria, Belgium, Denmark, France, Federal Republic of Germany, Iceland, Ireland, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland, as well as by the European Economic Community. After this date, the Parties mentioned above will still be entitled to accede to the Convention.

According to the terms of the Convention, the contracting Parties find themselves to take individual or collective measures to reduce existing marine pollution from land-based sources and to prevent any new pollution. This commitment will be implemented within the framework of programmes drawn up by a management body entitled the "commission". The decisions taken by this commission will in general be by unanimous vote. Decisions relating to the establishment

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of the programmes may be taken by a three-quarters majority; these programmes will therefore bind only the contracting Parties which voted for them.

The pollutants covered by the Convention are listed in the annex hereto and classified in two categories according to whether their release is prohibited or subject to certain restrictions and controls.

2. Advantage to the Community of signing the Convention along with the Member States

The arguments already put forward by the Commission in the draft communication to the Council of 15 November 1973 (doc. R/2825 (73) ENV.106), in favour of signing the Convention for the Prevention of Marine Pollution from Land-based Sources, are restated below:

- (a) The European Communities' programme of action on the environment, adopted by the Council on 19 July 1973 (doc. R/2255 (73) ENV.91), provides for Community measures to combat marine pollution from land-based sources which are to a large extent related to those taken against the pollution of fresh water and which often call for a similar approach.

The Convention, for its part, provides for the preparation and implementation of "programmes" designed either to eliminate or to reduce the same sort of pollution in the North-Eastern Atlantic.

It therefore seems necessary to establish, through signature of the Convention by the Community, an organic link between these two types of programme and thereby to avoid duplications or unnecessary difficulties.

- (b) The same Community programme emphasizes the importance to the Community of the struggle against marine pollution in general and the particular concern that should be shown for its prevention.

Signature of the Convention by the Community will affirm in a practical manner the importance it attaches to actions in this field.

- (c) This signature will make it possible to achieve, without any special difficulties, the necessary harmonization of such measures taken to combat this type of pollution as could affect the proper functioning of the common market.

These arguments, which were scrutinized by the Member States and the Committee of Permanent Representatives (COREPER), have been recognized as valid, as is shown by the efforts of the latter¹ aimed at the insertion in the Convention of a clause enabling the Community to accede to the Convention, as well as of appropriate procedural clauses relating to implementation of the Convention by the Community.

3. Internal procedures concerning application of the Convention

It will be recalled that the actual application of the Convention has already been the subject of discussions in COREPER. Under points III and IV of doc. 343/74 (RP.CRS.6) it is stated that:

- (a) "Where the Commission set up under the Convention is required to take decisions by a vote, the representatives of the Member States and of the Community will first consult on which way to vote in the light of the Community nature or the common interest of the decisions concerned.

In case of doubt as to the legal definition of a decision, or where the latter would result in a combination of Community and national measures, these representatives will, for each individual case, decide on the spot (without prejudice to the allocation of the competences in question) on the voting method (Community or Member States) to be used.

In case of dispute, the usual Community procedures will apply."

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Meeting of COREPER and the ad-hoc Working Party of Legal Experts held in January and early February 1973.

(b) "Moreover, whereas not all the Member States will be signatories to the Convention:

1. It should be noted that commitments and obligations entered into by the Community under the Convention may not affect any of the Community provisions in force without having been approved by the Council, in accordance with the rules of the Treaty;
2. It is understood that decisions on non-Community matters taken in the context of the Convention may not directly or indirectly affect those Member States which are not signatories to the Said Convention (unless the latter take a formal decision to the contrary);
3. The signatory Member States and the Community will take all appropriate measures to ensure that the above provisions are observed."

Furthermore, the final text includes the following provision, the aim of which is to avoid third countries becoming the arbiters of the distribution of competences between the Member States and the Community.

"It is recognized that, in the European Economic Community, the competences necessary for implementing the Convention may lie with either the Member States comprising it or the Community - depending upon circumstances - and that only the latter may decide on the distribution of such competences."

4. Summary

The Commission recommends the Council:

- (a) to adopt a resolution inviting the Member States concerned to sign the 1974 Paris Convention as soon as possible, together if possible, and in any case before 31 December 1974;

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- (b) to adopt a decision relating to the signature and conclusion of the Convention by the Community. Such signature should take place immediately after the last signature by the Member States concerned; in accordance with Community practice, the persons empowered to sign could be the Presidents of the Council and of the Commission;
- (c) by virtue of this decision, to authorize the Commission to represent the Community in the commission set up pursuant to Article 15 of this Convention;
- (d) pending signature of the Convention by the Community, to authorize the Commission to represent the Community, during the period before the entry into force of the Convention, in the "Provisional Commission" set up on the basis of a recommendation by representatives of the governments invited to the Paris Conference.

Finally, the Commission proposes that the texts relating to the procedures concerning the application of the Convention by the Community and its Member States, adopted by the Committee of Permanent Representatives (doc. 343/74 RP.CRS 6) in its 717th session on 15 February, should be incorporated in the minutes of the Council meeting during which the Council will adopt the draft resolution and draft decision referred to under (a) and (b) above. (These texts are set out on pp. 3 and 4 (a) and (b) of the present communication.)

Recommendation for a Council Decision concluding the Convention
for the Prevention of Marine Pollution from Land-based Sources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the recommendation from the Commission;

Having regard to the Opinion of the European Parliament¹;

HAS DECIDED AS FOLLOWS:

Article 1

On behalf of the Community the Convention for the Prevention of Marine
Pollution from Land-based Sources, the text of which Convention is
annexed hereto, is hereby concluded.

Article 2

The President of the Council is hereby authorized to designate the
persons empowered to sign the Convention, and to confer on them the
powers necessary to bind the Community.

Article 3

The Community shall be represented by its Commission in the commission
set up pursuant to Article 15 of the Convention.

Done at Brussels,

For the Council,

¹ doc. E.P. 35.170, 4.12.1973

Recommendation for a Council Decision concerning Community participation in the Working Party entitled "Provisional Commission", to be set up on the basis of Resolution III of the 1974 Paris Convention for the Prevention of Marine Pollution from Land-based Sources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the recommendation from the Commission;

Having regard to the Opinion of the European Parliament¹;

HAS DECIDED AS FOLLOWS:

Sole Article

Pending the entry into force of the Convention, the Commission is authorized to represent the Community in the Working Party entitled "Provisional Commission", to be set up on the basis of Resolution III of the Convention for the Prevention of Marine Pollution from land-based sources.

¹ doc. E.P. 35.170, 4.12.1973

Draft Resolution

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Draft Convention for the Prevention of Marine Pollution from Land-based Sources, adopted on 21 February 1974 (hereinafter referred to as the 1974 Paris Convention);

Having regard to the proposal from the Commission;

Having regard to the Opinion of the Committee of Permanent Representatives dated 7 January 1974¹;

Having regard to the Opinion of the European Parliament²;

Whereas it is in the interest of the Member States and the Community to take effective measures as quickly as possible to protect the sea from pollution, and particularly pollution from land-based sources;

Recommends the Member States concerned in the Convention for the Prevention of Marine Pollution from Land-based Sources:

- to sign the 1974 Paris Convention as soon as possible, and in any case before 31 December 1974.

¹ Council doc. 2382/73 (SP/CRS.41) Eutr.1, 7.11.1973

² E.P. doc. 35.170, 4.12.1973

