

BH697

CONVENTION ON THE PROTECTION OF THE RHINE AGAINST CHEMICAL POLLUTION, December 3, 1976 (Bonn)

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 April 29, 1963 and the Supplementary Agreement of December 3, 1976 concerning the International Commission for the Protection of the Rhine against Pollution,

Considering that the chemical pollution of the waters of the Rhine endangers its fauna and flora and also has undesirable effects on the waters of the sea,

Aware of the dangers likely to result from certain uses of the waters of the Rhine,

Desiring to improve the quality of the waters of the Rhine in view of those uses,

Considering that the Rhine serves other purposes, particularly navigation and as a receptor for liquid wastes,

Convinced that international action for the protection of the Rhine waters against chemical pollution must be viewed in conjunction with other efforts made to protect the waters of the Rhine, in particular those efforts to conclude conventions against pollution by chlorides and thermal pollution, and that this action is part of the progressive and coherent measures to protect fresh and sea waters against pollution,

Considering the action undertaken by the European Economic Community for the protection of water, particularly within the framework of the Council's May 4, 1976 directive concerning pollution caused by certain dangerous substances discharged into the waterways of the Community,

Referring to the results of the Ministerial Conferences that took place on October 25 and 26, 1972 at The Hague, December 4 and 5, 1973 at Bonn, and April 1, 1976 at Paris concerning the protection of the Rhine against pollution,

Have agreed as follows:

Article 1

1. In order to improve the quality of the Rhine waters, the Contracting Parties will take, in accordance with the following provisions, appropriate measures to:

a. Eliminate pollution from the surface waters of the Rhine basin by dangerous substances included in the families and groups of substances shown in Annex I (hereinafter called "Annex I substances"). They propose to achieve gradually the elimination of discharges of those

substances, taking into account the results of studies made by experts concerning each one, as well as the technical means available.

b. Reduce the pollution of the Rhine waters by dangerous substances included in the families and groups of substances shown in Annex II (hereinafter called "Annex II substances").

2. The measures referred to in paragraph 1 above shall be adopted taking into account, within reason, that the waters of the Rhine are used for the following purposes:

a. Production of drinking water for human consumption,

b. Consumption by domestic and wild animals,

c. Conservation and development of natural species, both fauna and flora, and conservation of the self-purification property of water,

d. Fishing,

e. Recreation, taking into account health and aesthetic requirements,

f. Direct or indirect supply of fresh water for agricultural lands,

g. Production of water for industrial use and the need to preserve an acceptable quality of sea water.

3. The provisions of this Convention are but a first step to achieve the objective referred to in paragraph 1 above.

4. Annex A to the Convention specifies what the Contracting Parties understand by the term "Rhine" for the purposes of the aforementioned Convention.

## Article 2

1. The Governments Parties to this Convention will have drawn up, for their own use, in accordance with the provisions of Annex III, paragraph 1, a national inventory of discharges into the surface waters of the Rhine basin that may contain Annex I substances to which emission standards are applicable.

2. The Governments will communicate to the International Commission for the Protection of the Rhine against Pollution (hereinafter called the "International Commission"), in accordance with the provisions of Annex III, paragraph 2, the elements of their inventory which shall be updated regularly and at least every three years.

3. The proposals of the International Commission referred to in Article 6, paragraph 3, may include, if necessary, an inventory of various Annex II substances.

## Article 3

1. Any discharge into the surface waters of the Rhine basin that may contain one of the Annex I substances shall be subject to prior authorization from the competent authority of the Government concerned.

2. For the discharge of those substances into the surface waters of the Rhine basin and, when necessary for purposes of implementing this Convention, for the discharge of those substances into sewers, the authorization shall set emission standards that may not exceed the concentration limits set in accordance with Article 5.

3. As for the existing discharges of those substances, the authorization shall establish a period of time within which the conditions it lays down must be met. This period of time may not exceed the deadlines established in accordance with Article 5 (3).

4. The authorization may be granted only for a limited period of time. It may be renewed taking into account possible changes in the concentration-limits referred to in Article 5.

#### Article 4

1. The emission standards set by the authorizations issued pursuant to Article 3 shall determine:

a. The maximum admissible concentration of a substance in discharges. When there is dilution, the concentration-limit referred to in Article 5, (2) shall be divided by the dilution factor;

b. The maximum admissible quantity of a substance in discharges during one or several given periods of time. If necessary, this maximum quantity may, furthermore, be expressed in units of weight of the pollutant per unit of the characteristic polluting element (for example, unit of weight per raw material or per processed unit).

2. If the originator of the discharge states that he is unable to comply with the emission standards imposed, or if the competent authority of the Government concerned affirms this impossibility, authorization shall be refused.

3. If the emission standards are not respected, the competent authority of the Government concerned shall take all necessary steps to see to it that the conditions of the permit are met and, if necessary, to have the discharge banned.

#### Article 5

1. The International Commission shall propose the concentration limits referred to in Article 3 (2) and, if necessary, their application for discharges into drains. Those concentration-limits shall be set in accordance with the procedure referred to in Article 14. Following their adoption, they shall be included in Annex IX.

2. These concentration-limits are defined:

a. As the maximum admissible concentration of a substance in discharges, and

b. when appropriate, as the maximum admissible quantity of such a substance expressed in unit of weight of the pollutant per unit of the characteristic polluting element (for example, unit of weight per raw material or per processed unit).

When appropriate, concentration limits applicable to industrial wastes shall be set per sector and per type of product.

The concentration limits applicable to substances under Annex I shall be determined primarily on the basis of:

--toxicity

-- persistence

-- bioaccumulation

Taking into account the best technical means available.

3. The International Commission shall propose to the Contracting Parties the time limits referred to in Article 3 (3) on the basis of the characteristics of the industrial sectors concerned and, where necessary, the types of products. Those limits shall be set in accordance with the procedure referred to in Article 14.b

4. The International Commission shall use the data obtained at the international measuring stations in order to evaluate to what extent the content of substances under Annex I in the waters of the Rhine varies following application of the preceding provisions.

5. The International Commission may, if necessary from the point of view of the quality of the Rhine waters, propose other measures to reduce the pollution of the Rhine, taking into particular account the toxicity, persistence and bioaccumulation of the substance concerned. These proposals shall be adopted in accordance with the procedure referred to in Article 14.

#### Article 6

1. Any discharge of an Annex II substance which is likely to affect the quality of the waters of the Rhine shall be subject to regulation by the national authorities in order to limit it severely.

2. The Governments Parties to this Convention will endeavor to establish within two years from the entry into force of this Convention national programs for reducing the pollution of the waters of the Rhine by Annex II substances, for which the measures referred to in Article 6, (1), (4), (5), (6), and (7), shall be applied in particular.

3. The Contracting Parties will coordinate within the International Commission prior to establishing these national programs. To this end, the International Commission shall in regular fashion make a comparison of the national program projects in order to assure the cohesiveness of the objectives and methods of those projects and to present proposals on achieving, in particular, the common objectives of reducing the pollution of the waters of the Rhine. These last proposals shall be adopted in application of the procedure referred to in Article 14 of the present Convention. The comparison of the national program projects shall not delay the implementation of national or regional measures designed to reduce the pollution of the waters of the Rhine.

4. Any discharge likely to contain one of the substances under Annex II shall be subject to prior authorization from the competent authority of the Government concerned, which authorization establishes the emission standards. These shall be determined in relation to the quality objectives referred to in paragraph 5.

5. The programs referred to in paragraph 2 above shall include the objectives regarding the quality of the waters of the Rhine.

6. The programs may likewise contain specific provisions regarding the composition and use of substances or groups of substances as well as products and take into account the latest economically feasible technical developments.

7. The programs shall establish deadlines for their implementation.

8. The programs and the results of their application shall be reported to the International Commission in summary form.

#### Article 7

1. The Contracting Parties will take all the legislative and regulatory measures guaranteeing that the storage of Annex I and II substances shall be done in such a way that there is no danger of pollution for the waters of the Rhine.

2. The International Commission shall, if necessary, propose appropriate measures to the Contracting Parties regarding the protection of underground waters so as to prevent the pollution of the Rhine waters by Annex I and II substances.

#### Article 8

1. The Contracting Parties will ensure that discharges are controlled in application of this Convention.
2. They will report yearly to the International Commission on the data obtained.

#### Article 9

The application of the measures taken in pursuance of this Convention shall under no circumstances have the effect of directly or indirectly increasing the pollution of the waters of the Rhine.

#### Article 10

1. In order to control the Rhine water content of Annex I and II substances each Government will assume responsibility at the measuring stations on the Rhine for the installation and operation of measuring instruments and systems serving to determine the concentration of the aforementioned substances.

2. Each Government concerned will report regularly and at least once a year to the International Commission on the results of these controls.

3. The International Commission shall prepare an annual report summarizing the results of the controls and making it possible to follow changes in the quality of the Rhine waters.

#### Article 11

When a Government Party to this Convention notes a sudden and sizeable increase in Annex I and II substances in the waters of the Rhine or has knowledge of an accident that may result in seriously endangering the quality of those waters, it will inform without delay the International Commission and the Contracting Parties likely to be affected according to a procedure to be established by the International Commission.

#### Article 12

1. The Contracting Parties will report regularly to the International Commission on the data obtained in the application of this Convention.

2. When necessary, the International Commission shall prepare recommendations to improve gradually the application of this Convention.

#### Article 13

The International Commission shall prepare recommendations in order to achieve comparable results for the use of appropriate methods of measurement and analysis.

#### Article 14

1. Annexes I and IV, which are an integral part of this Convention, may be amended and expanded in order to adapt them to scientific and technical advances or to improve the effectiveness of the fight against the chemical pollution of the Rhine waters.

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

3. The amended or expanded texts shall enter into force upon their unanimous approval by the Contracting Parties.

#### Article 15

Any dispute between the Contracting Parties as to the interpretation or application of this Convention that cannot be resolved through negotiation shall, unless the parties to the dispute decide otherwise, be submitted at the request of one of the parties to arbitration in accordance with the provisions of Annex B, which is an integral part of this Convention.

#### Article 16

For purposes of the application of this Convention, the European Economic Community and its Member States will act in the fields coming under their respective jurisdictions.

#### Article 17

1. Each Signatory Party will notify the Government of the Swiss Confederation of the execution of the procedures required for the entry into force of this Convention.

2. Contingent on the notification by each Party of the completion of the procedures required for the entry into force of the Supplementary Agreement to the Agreement concerning the International Commission for the Protection of the Rhine against Pollution, this Convention shall enter into force on the first day of the second month following the receipt of the last notification provided for in the preceding paragraph.

#### Article 18

At the end of three years following its entry into force, this Convention may be denounced at any time by any of the Contracting Parties by means of a statement addressed to the Government of the Swiss Confederation. The denunciation shall take effect, for the denouncing Party, six months following receipt of the statement by the Government of the Swiss Confederation.

#### Article 19

The Government of the Swiss Confederation will inform the Contracting Parties of the date of receipt of any notification or statement received pursuant to Articles 14, 17, and 18.

#### Article 20

1. If the April 29, 1963 Agreement concerning the International Commission for the Protection of the Rhine against Pollution is denounced by one of the Parties to the aforementioned Agreement, the Contracting Parties will consult without delay on the measures necessary to ensure the continued execution of the tasks that, under this Convention, are the responsibility of the International Commission.

2. If an agreement is not reached in the six months following the opening of consultations, each of the Contracting Parties may denounce this Convention at any time in accordance with Article 18, without waiting for the three-year period to elapse.

#### Article 21

This Convention, drawn up in a single copy in German, French, and Dutch, the three texts being equally authentic, shall be deposited in the Archives of the Government of the Swiss Confederation, which shall transmit a certified copy to each of the Contracting Parties.

Done at Bonn on December 3, 1976.

#### Annex A

For the purposes of this Convention, the Rhine begins at the outlet from the lower lake and includes its branches up to the coastline, from which its waters flow freely into the North Sea, and includes the IJssel up to Kampen.

In establishing the national programs referred to in Article 6 of the Convention, with respect to objectives of quality and the coordination of the programs to be carried out within the International Commission, the distinction between the fresh and brackish waters of the river will be taken into account.

#### Annex B

##### ARBITRATION

1. Unless the parties to the dispute decide otherwise, the procedure for arbitration shall be conducted in accordance with the provisions contained in this annex.

2. The Arbitral Tribunal shall be composed of three members: each of the parties to the dispute shall name an arbitrator and the two arbitrators thus appointed shall appoint by common accord a third arbitrator, who will become the Chief Arbitrator of the Tribunal.

If at the end of two months following the appointment of the second arbitrator the Chief Arbitrator of the Tribunal has not been appointed, the President of the European Court of Human Rights shall, at the request of the most diligent party, appoint one within a new two-month period.

3. If, within two months following the receipt of the request referred to in Article 15 of the Convention, one of the parties to the dispute does not appoint a member of the Tribunal, the other party may request the President of the European Court of Human Rights to appoint the Chief Arbitrator of the Arbitral Tribunal within a new two-month period. Upon his designation, the Chief Arbitrator of the Arbitral Tribunal shall request the party that has not named an arbitrator to do so within two months. If no action has been taken during that time, he shall then request the President of the European Court of Human Rights to make the appointment within a new two-month time limit.

4. If, in the cases referred to in the preceding paragraphs, the President of the European Court of Human Rights is unavoidably absent or if he is a national of one of the parties to the dispute, the designation of the Chief Arbitrator of the Arbitral Tribunal or the naming of an arbitrator shall fall to the Vice President of the Court, or to the oldest member of the Court who is able to do so and who is not a national of one of the parties to the dispute.

5. The foregoing provisions shall apply, according to the case, in order to fill seats that have become vacant.

6. The Arbitral Tribunal shall hand down a decision according to the rules of international law and, in particular, according to the provisions of this Convention.

7. The decisions of the Arbitral Tribunal, on procedure as well as on the merits of the case, shall be adopted by a majority vote of its members, the absence or abstention of one of the members of the tribunal designated by the parties not precluding a decision on the part of the Tribunal. In the event of a tie vote, the Chief Arbitrator's vote shall prevail. The decisions of the Tribunal shall be binding on the parties. The latter

shall bear the expenses of the arbitrator they have appointed and shall divide the other expenses equally among themselves. On other points, the Arbitral Tribunal itself shall decide the procedure it will follow.

8. In the event of a dispute between two Contracting Parties of which only one is a Member State of the European Economic Community, itself a Contracting Party, the other party will request both that Member State and the Community notify it jointly within a period of two months following the receipt of the request whether the Member State, the Community, or the Member State and the Community together constitute a party to the dispute. Without such notification within the aforementioned time period, the Member State and the Community will be considered one single party to the dispute for the purposes of application of the provisions of this Annex. The same holds true when the Member State and the Community together constitute a party to the dispute.

## Annex I

### Families and Groups of Substances

Annex I comprises certain individual substances forming part of the following families and groups of substances, chosen primarily on the basis of their toxicity, persistence, and bioaccumulation, with the exception of those that are biologically harmless or which rapidly transform themselves into biologically harmless substances:

1. Organohalogenic compounds and substances that can give rise to such compounds in a water environment
2. Organophosphoric compounds
3. Organostannic compounds
4. Substances proven to be carcinogenic in a water medium or through that medium \*
5. Mercury and mercury compounds
6. Cadmium and cadmium compounds
7. Persistent mineral oils and persistent petroleum hydrocarbons

\* To the extent that certain substances contained in Annex II are carcinogenic, they are included in category 4 of this Annex.

## Annex II

### Families and Groups of Substances

Annex II comprises:

Substances forming part of the families and groups of substances listed in Annex I and for which the concentration limits referred to in Article 5 of the Convention have not been established, Certain individual substances and categories of substances that form part of the families and groups of substances listed below, and which have a detrimental effect on the water medium that can, however, be limited to a certain area and which depends on the characteristics of the receiving waters and their localization.

Families and groups of substances referred to in the second category:

1. The following metalloids and metals, as well as their compounds:



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

2. Biocides and their derivatives not appearing in Annex I

3. Substances having a detrimental effect on the taste and/or smell of products for human consumption derived from the water medium, as well as compounds capable of giving rise to such substances in water

4. Toxic or persistent organosilicon compounds and substances that can give rise to such compounds in water, with the exception of those that are biologically harmless or that quickly transform themselves into harmless substances in the water

5. Inorganic phosphorus and elementary phosphorus compounds

6. Non-persistent mineral oils and non-persistent petroleum hydrocarbons

7. Cyanides

8. Fluorides

9. Substances exercising an unfavorable influence on the oxygen balance particularly:

Ammonia

Nitrites

Annex III

1. The national inventory referred to in Article 2 (1) of this Convention concerns the dischargers, points of discharge, the substances discharged, classified according to their nature, and the amount of those substances.

2. The elements of the inventory referred to in Article 2 (2) of the Convention concerns the total respective amounts of the different substances listed in Annex I, discharged into the waters of the Rhine basin between the measuring points proposed by the International Commission and accepted by all the Contracting Parties.

Annex IV

Concentration Limits (Article 5)

Substance of group of substances	Concentration limit expressed as the maximum concentration of a substance	Concentration limit expressed as the maximum amount of a substance	Time limit existing for discharges	Observations
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