

Convention on the Protection of the Rhine

Rotterdam, January 22, 1998

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 Union

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

With the intention of reinforcing their co-operation aimed at maintaining and improving the Rhine ecosystem,

Referring to the Convention of March 17, 1992 on the Protection and Use of Transboundary Water Courses and International Lakes and to the Convention of September 1992 on the Protection of the Marine Environment of the Northeast Atlantic Ocean,

Taking into account the work carried out within the framework of the Agreement of April 29, 1963 on the International Commission on the Protection of the Rhine against Pollution and the additional agreement of December 1976,

Considering that the improvement of water quality achieved under the Convention of December 3, 1976 on the Protection of the Rhine against Chemical Pollution and under the "Rhine" Action Programme of September 30, 1987 must be continued

Bearing in mind that the restoration of the Rhine is also necessary in order to maintain and improve the ecosystem of the North Sea,

Conscious of the fact that the Rhine is an important European shipping lane serving different uses

Have agreed as follows:

Article 1 Definitions

For the purpose of the present Convention, the following definitions shall apply:

1. "Rhine"

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 basis line as defined in article 5 in connection with article 11 of the UN-agreement on maritime law, the Ketelmeer and the IJsselmeer.

2. "Commission"
the International Commission on the Protection of the Rhine (ICPR).

Article 2 Scope of the Convention

The scope of this Convention comprises

1. the Rhine
2. the ground-water interacting with the Rhine,
3. the aquatic and terrestrial ecosystems interacting with the Rhine or whose interaction with the Rhine could be re-established,
4. the Rhine catchment area, as far as its pollution adversely affects the Rhine
5. the Rhine catchment area, as far as it is of importance for issues of flood prevention and defence along the Rhine.

Article 3 Targets

With this Convention the Contracting Parties set the following goals:

1. sustainable development of the Rhine ecosystem, in particular by
 - a) maintaining and improving the Rhine water quality as well as the quality of the suspended matter, the sediments and the ground water, in particular by
 - avoiding, reducing or eliminating as far as possible pollution due to hazardous substances and nutrients from point sources (e.g. from industry and municipalities), from diffuse sources (e.g. from agriculture and traffic) equally passing by the ground water and from shipping.
 - ensuring and improving the security of industrial plants and by preventing incidents and accidents;
 - b) protecting the population of organisms and the species diversity and by reducing the contamination of organisms with hazardous substances;
 - c) preserving, improving and restoring the natural function of the stream; ensuring the flow characteristics taking into account the natural bed-load discharge and favouring the interactions between river, ground water and alluvial area; maintaining, protecting and reactivating alluvial areas as natural floodplains;
 - d) maintaining, improving and restoring natural habitats for wild animals and plants in the water, on the river bottom and river banks as well as in adjacent areas, including the improvement of living

conditions for fish and the restoration of their free migration;

e) ensuring an ecologically sound and rational management of water resources;

f) taking into account ecological requirements when technically developing water bodies, e.g. in the field of flood protection, shipping and the use of hydroelectric power.

2. Ensuring the use of Rhine water for drinking water purposes;

3. Improving the sediment quality in order to enable the disposal of dredged material without causing any harm;

4. Holistic flood prevention and protection, taking into account ecological requirements;

5. Restoration of the North Sea in accordance with other measures aimed at the protection of this marine area.

Article 4 Principles

The Contracting Parties are guided by the following principles:

a) principle of prevention

b) principle of precaution

c) principle of mainly fighting environmental deteriorations at the source

d) polluter-pays principle

e) principle of not increasing adverse effects

f) principle of compensation for considerable technical interventions

g) principle of sustainable development

h) application and further development of the Best Available Technique and of the Best Environmental Practice

i) principle of not transferring environmental pollution into other environmental media.

Article 5 Obligations of the Contracting Parties

With a view to achieving the goals according to article 3 and taking into account the principles according to article 4 the Contracting Parties enter the following obligations:

1. They reinforce their co-operation and mutually inform one another in particular of the measures carried out on their territories aimed at protecting the Rhine.

2. They carry out international monitoring programmes and analyses of the Rhine ecosystem within their territory agreed upon by the Commission and inform the Commission on the results.
3. They carry out investigations with a view to finding the causes and the responsible parties for pollution events.
4. They take the necessary autonomous measures on their territory, ensuring at all events that
 - a) the discharge of wastewater liable to affect the water quality is subject to a prior discharge consent or is subject to generally obliging regulations fixing emission limits;
 - b) the discharge of hazardous substances is gradually being reduced with the aim of not discharging such substances at all;
 - c) the compliance with the discharge consents or general binding regulations and the discharge is subject to surveillance;
 - d) the discharge consents or general binding regulations are regularly examined and adapted as far as allowed by considerable improvements of the development of the B.A.T. or required by the state of the receiving body of water;
 - e) regulations will, as far as possible, reduce the danger of pollution due to incidents or accidents and that emergency measures are taken;
 - f) technical interventions liable to considerably affect the Rhine ecosystem are subject to a prior consent with the necessary conditions or to generally binding regulations.
5. They take the necessary measures for their territory in order to carry out decisions taken by the Commission according to Article 11.
6. They immediately inform the Commission and those Contracting Parties liable to be affected by eventual incidents or accidents or by floodings to be expected according to the Rhine basin warning and alarm model co-ordinated by the Commission.

Article 6 Commission

1. The Contracting Parties continue their co-operation with a view to implementing this Convention.
2. The Commission possesses juridical personality. In particular, it has legal and contractual capacity conferred on legal persons according to national law. It is represented by its President.
3. The law in effect in the country hosting the headquarters is applicable to questions related to labour and social legislation.

Article 7 Organisation of the Commission

1. The Commission consists of the delegations of the Contracting Parties. Each Contracting Party designates its delegates, one of whom is head of delegation.
2. The delegations may be accompanied by experts.
3. The presidency of the Commission is limited to three years and is in turn assured by each delegation according to the order of Contracting Parties listed in the preamble. The delegation assuring the presidency nominates the President of the Commission. The President of the Commission does not act as spokesman of his delegation.
4. Should a Contracting Party renounce to the presidency, the next Contracting Party takes over the presidency.
5. The Commission drafts internal and financial rules.
6. The Commission decides on matters of internal organisation, the working structure deemed necessary and the annual budget.

Article 8 Tasks of the Commission

1. In order to achieve the tasks according to Article 3 of this Convention, the Commission has the following assignments:
 - a) to prepare international monitoring programmes and analyses of the Rhine ecosystem and to evaluate their results, also in co-operation with scientific institutions.
 - b) to elaborate proposals for different measures and programmes of measures, eventually including economic instruments and taking into account expected costs.
 - c) to co-ordinate the Contracting Parties' warning and alarm plans for the Rhine.
 - d) to evaluate the effectiveness of the measures decided on, in particular on the basis of the reports of the Contracting Parties and the results of monitoring programmes and analyses of the Rhine ecosystem.
 - e) to carry out any other tasks upon the instructions of the Contracting Parties.
2. To this end, the Commission takes decisions according to Articles 10 and 11.
3. The Commission annually presents a progress report.
4. The Commission informs the public on 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. Upon the invitation of the President, the Commission annually meets for one plenary session.
2. Extraordinary plenary sessions may be called for by the President, upon his initiative or upon the demand of at least two delegations.
3. The President proposes the agenda. Each delegation has the right to propose the items of the agenda it wishes to have discussed.

Article 10 Decision making in the Commission

1. Decisions of the Commission are taken unanimously.
2. Each delegation has one vote.
3. If measures according to article 8, paragraph 1, sub-paragraph b) to be carried out by the member states fall under the competence of the European Community, the European Community votes with the number of votes corresponding to the number of the member states signatory to this Convention, regardless of paragraph 2. The European Community does not vote if the member states vote and vice versa.
4. Abstention of not more than one delegation is not opposed to unanimity. This does not apply to the delegation of the European Community. Absence of a delegation is considered as abstention.
5. The internal rules may provide for a written procedure.

Article 11 Implementation of Commission Decisions

1. According to article 8, paragraph 1, sub-paragraph b) the Commission addresses its decisions on measures as recommendations to the Contracting Parties. The implementation is carried out according to the national law of the Contracting Parties.
2. The Commission may decide that these decisions
 - a) are to be implemented by the Contracting Parties within a certain time limit;
 - b) are to be co-ordinated and implemented.
3. The Contracting Parties regularly report to the Commission
 - a) on legislative, regulatory or other measures taken with a view to implementing the rules of the Convention and the decisions of the Commission;
 - b) on the results of the measures implemented according to sub-paragraph a);
 - c) on problems arising due to the implementation of measures

according to a).

4. Should a Contracting Party not be able to implement the decisions of the Commission or only be able to partly implement them it will inform the others within a certain time limit individually set by the Commission and explain the reasons. Each delegation may move for consultations; such a move must be met within two months.

On the basis of the reports of the Contracting Parties or on the basis of consultations the Commission may decide on measures supporting the implementation of decisions.

5. The Commission keeps a list of its decisions addressed to the Contracting Parties. The Contracting Parties annually add the state of implementation of the Commission's decisions to this list, at latest two months before the Plenary Session of the Commission.

Article 12 Secretariat of the Commission

1. The Commission has a permanent secretariat carrying out the tasks it is entrusted with by the Commission. This secretariat is led by an executive secretary.

2. The Contracting Parties decide on the headquarters of the secretariat.

3. The Commission designates the executive secretary.

Article 13 Distribution of expenses

1. Each Contracting Party pays for the expenses in connection with its representation in the Commission and its working structure, and each Contracting Party pays for the expenses for any analyses or measures carried out within its territory.

2. The contributions of the Contracting Parties to cover the expenses in connection with the annual budget are fixed in the Commission's internal and financial rules.

Article 14 Co-operation with other states, other organisations and external experts

1. The Commission co-operates with other intergovernmental organisations and may address recommendations to these organisations.

2. The Commission may recognise as observers:

a) states interested in the work of the Commission

b) intergovernmental organisations the work of which is related to the Convention

c) non-governmental organisations as far as their interests or tasks are concerned.

3. The Commission exchanges information with non-governmental organisations, as far as their interests or tasks are concerned. The Commission in particular consults these organisations before taking decisions which might be of particularly great

importance to them and informs these organisations of the decisions taken.

4. Observers may present to the Commission any information or report relevant for the targets of the Convention. They may be invited to participate in meetings of the Commission without having the right to vote.

5. The Commission may decide to consult experts of the acknowledged non-governmental organisations or external experts and may invite them to participate in meetings of the Commission.

6. The rules for co-operation and the required conditions of acknowledgement and participation are fixed in the internal and financial rules.

Article 15 Working languages

The working languages of the Commission are German, French and Dutch. Details are fixed in the internal and financial rules.

Article 16 Settlement of disputes

1. Should disputes arise between Contracting Parties on the issue of the interpretation or application of this Convention, the parties concerned will strive for a solution by means of negotiations or any other possibility of arbitration acceptable to them.

2. If it is not possible to settle the dispute by this means and provided the parties to the dispute do not decide otherwise, arbitration proceedings according to the annexes to this Convention which are part of this Convention are carried out upon the demand of one of the parties to the dispute.

Article 17 Entry into force

Each Contracting Party notifies the Government of the Swiss Confederation as soon as the national terms for the coming into effect of the present Convention have been complied with. The Government of the Swiss Confederation confirms the receipt of the notifications and informs the other Contracting Parties thereof. The Convention shall enter into force the first day of the second month following the receipt of the last notification.

Article 18 Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Contracting Party, that Party may withdraw from the Convention by giving written notification to the Government of the Swiss Confederation.

2. The withdrawal takes effect at the end of the calendar year following the withdrawal.

Article 19 Abrogation and continuance of rights hereto in force

1. With the entry into force of this Convention and irrespective of paragraphs 2 and 3, the following agreements are terminated:

a) Agreement of April 29, 1963 on the International Commission on

the Protection of the Rhine against Pollution,

b) Additional Agreement of December 3, 1976 to the Agreement of April 29, 1963 on the International Commission on the Protection of the Rhine against Pollution,

c) Convention of December 3, 1976 on the Protection of the Rhine against Chemical Pollution.

2. Decisions, recommendations, limit values and any other agreements based on the Agreement of April 29, 1963 on the International Commission on the Protection of the Rhine against Pollution, the Additional Agreement of December 3, 1976 and the Agreement of December 3, 1976 on the Protection of the Rhine against Chemical Pollution remain applicable without any changes to their legal nature, as long as the Commission does not explicitly abrogate them.

3. The allocation of costs for the annual budget according to article 12 of the Convention of April 29, 1963 on the International Commission for the Protection of the Rhine against Pollution as modified by the Additional Agreement of December 3, 1976 remains in force until the Commission has fixed an allocation in its internal and financial proceedings.

Article 20 Original and Deposit

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

Done at on this day of , one thousand nine hundred and ninety-...

For the Governments of

the Federal Republic of Germany:

the French Republic:

the Grand Duchy of Luxembourg:

the Kingdom of the Netherlands:

the Swiss Confederation:

For the European Community:

Annex

Arbitration

1. As long as the parties to the dispute do not decide otherwise, the arbitration procedures according to

this annex are applicable.

2. The court of arbitration has three members; the claimant as well as the defendant appoint one arbitrator each; the two arbitrators thus appointed agree on the third arbitrator who acts as the chairman of the court of arbitration

If the chairman of the court of arbitration has not been appointed within two months after the appointment of the second arbitrator, the President of the International Court of Justice appoints an arbitrator within two further months upon the demand of the party acting first.

3. If one of the parties to the dispute has not appointed an arbitrator within two months following the receipt of the demand according to Article 16 of the Convention, the other party may address itself to the President of the International Court of Justice who will appoint the chairman of the court of arbitration within a further two months. As soon as the chairman of the court of arbitration has been appointed, he calls upon the party which has not yet appointed any arbitrator to do so within two months. After the expiry of this time limit he seizes the President of the International Court of Justice who appoints someone within the two months to come.

4. Should the President of the International Court of Justice be prevented in the above mentioned cases or be subject of one of the parties to the dispute, the chairman of the court of arbitration or the arbitrator are appointed by the vice-president of the International Court of Justice or by the most senior member of the International Court of Justice who is not subject of one of the parties to the dispute.

5. These regulations apply mutatis mutandis when constituting other positions becoming vacant.

6. The court of arbitration takes its decisions according to the rules of international law and particularly according to the rules of the Convention.

7. Decisions of the court of arbitration concerning questions of procedure as well as material questions are taken with the majority of the votes of its members; absence or abstention of one of the members of the court appointed by the parties does not hinder the court in taking a decision. In the event of an equality of votes the chairman shall have the casting vote. Decisions taken by the Court are binding for the parties which cover the costs for the arbitrator they have appointed and share the other costs at equal part. For any further questions the court of arbitration decides upon the proceedings.

8. Should disputes arise between two contracting parties of which only one is member of the European Community - which itself is Contracting Party - the other party simultaneously addresses the corresponding motion to this member state and to the European Community which in common reply to this party within a time limit of two months after receipt of the motion whether the member state, the European Community or the member state and the European Community will in common act as party to the dispute. If such a reply is not given within the time limit, the member state and the European Community are considered to be one and the same party to the dispute in application of this annex. This is equally valid if the member state and the Community in common act as party to the dispute.

Protocol of signature

With the signing the Convention on the Protection of the Rhine the heads of delegation in the ICPR agree upon the following points.

1. The following documents remain untouched by the Convention:

a) the Convention of December 3, 1976 on the Protection of the Rhine against

Pollution by Chlorides

b) the exchange of letters of April 29/ May 13 1983 on the above mentioned Convention which entered into force on July 5, 1985,

c) the declaration of the heads of delegation of the governments party to the Agreement of April 29, 1963 on the International Commission for the Protection of the Rhine against Pollution

d) the Additional Protocol of September 25, 1991 on the Convention of December 3, 1976 on the Protection of the Rhine against Pollution by Chlorides,

e) the declaration of September 25, 1991 of the heads of delegation of the Governments party to the Convention on the International Commission for the Protection of the Rhine against Pollution.

2. "Best Available Technique" as well as "Best Environmental Practice" are to be understood within the Convention on the Protection of the Rhine as described in the Convention of March 17, 1992 on the Protection and use of Transboundary Water Courses and International Lakes (annexes I and II) as well as in the Convention of September 22, 1992 on the Protection of the Marine Environment of the Northeast Atlantic Ocean (annexes 1 and 2).

3. The headquarters of the Commission remain in Koblenz.

4. In cases of settlements of conflicts between member states of the European Community which do not concern any other state, article 219 of the Treaty on the foundation of the European Community (EC) as amended on February 7, 1992 is applicable.

Done at

(Signatures of the heads of delegation in the ICPR)