COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 78 final

Brussels, 14 March 1991

Proposal for a

COUNCIL DECISION

concerning the approval of the Convention on the International Commission for the Protection of the Elbe

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(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The Convention on the International Commission for the protection of the Elbe was signed in Magdeburg on 8 October 1990 by the Federal Republic of Germany and by the Czech and Slovak Federal Republic, as well as by the European Economic Community, in accordance with Council Decision 8549/90 of 24 September 1990.

2. The Convention enters into force on the day on which all signatories have informed the Federal Republic of Germany as depositary that the preconditions for the entry into force currently required by the national laws have been fulfilled (Art. 18, § 1).

3. The Convention is essentially aimed at preventing the pollution of the Elbe and its drainage area (art. 1 § 1). To this end, it foresees the establishment of an International Commission on the Protection of the Elbe.

   According to art. 2 of the Convention, the International Commission shall, inter alia, prepare surveys on water pollution from point and diffuse sources, and propose limit values for the discharge of effluent and specific quality objectives, as well as specific action for the reduction of discharges of harmful substances.

4. The Convention therefore refers to matters covered by Community legislation. In particular, the Community directives on water quality objectives and elimination or reduction of water pollution by dangerous substances currently apply to the Elbe and its tributaries where they run through the territory of the Federal Republic of Germany.

5. Questions relating to the fishery industry and shipping are explicitly excluded from the Convention (art. 1 § 4). For this reason, art. 130 S of the EEC Treaty would be the correct legal basis for this decision by the Council.

6. In conclusion, the Commission proposes to the Council to adopt the attached draft decision concerning the approval, on behalf of the European Economic Community, of the Convention on the International Commission for the Protection of the Elbe, in order to permit the Community to assume its full role as a party to the Convention.

Proposal for a

COUNCIL DECISION

concluding the Convention on the International Commission for the Protection of the Elbe

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130 S thereof,

Having regard to the proposal from the Commission,[1]

Having regard to the opinion of the European Parliament[2];

Having regard to the opinion of the Economic and Social Committee[3].

Having regard to the resolution of the Council of the European Communities and of the representatives of the Governments of the Member States meeting within the Council of 19 October 1987 on the continuation and implementation of a European Community policy and action programme on the environment (1987-1992)[4], and the fourth action programme of the European Communities on the environment, annexed to the said resolution, hereafter called "Fourth Action Programme".

Whereas the Fourth Action Programme, in continuation of the earlier Action Programmes, lists amongst its main areas of activity, monitoring and control with a view to improving water quality and reducing pollution;

Whereas the Fourth Action Programme calls for active participation by the Community and its member States in international action for the protection of the environment, and attaches, in this framework, particular importance to bilateral liaisons with third Countries;

Whereas the Convention on the International Commission for the Protection of the Elbe, signed in Magdeburg on 8 October 1990, provides in particular for the establishment of an International Commission to prevent the pollution of the Elbe and its drainage area, as far as covered by this Convention;

Whereas the existing Community legislation on water pollution currently apply to the Elbe and its tributaries where they run through the territory of the Federal Republic of Germany;

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4 O.J. No. C 328 of 7-12-1987, p. 1

Whereas it appears necessary for the Community to conclude the Convention in order to attain one of the objectives of the Community as regards the preservation, protection and improvement of the quality of the environment, as provided for in the Single European Act;

Whereas the said Convention was signed on behalf of the Community on 8 October 1990 ;

HAS DECIDED AS FOLLOWS,

Article 1

The Convention on the International Commission for the protection of the Elbe is hereby approved on behalf of the European Economic community.

The text of the Convention is attached to this decision.

Article 2

The President of the Council of the European Communities shall, on behalf of the European Economic Community, inform the Federal Republic of Germany, as depositary, that the preconditions for the entry into force of the Convention have been fulfilled by the European Economic Community, in accordance with Article 18, Paragraph 1 of the Convention.

Done at Brussels,

CONVENTION ON THE INTERNATIONAL COMMISSION FOR THE PROTECTION OF THE ELBE

The Governments of the Federal Republic of Germany and the Czech and Slovak Federative Republic and the European Economic Community,

Concerned about the pollution of the Elbe,

Resolved to prevent its further pollution and to improve its current state,

Recognising the need to make a sustained contribution to the reduction of pollution in the North Sea arising from the Elbe,

Convinced of the urgency of these tasks, and

Intending 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 in the International Commission on the Protection of the Elbe, hereinafter referred to as the Commission to prevent the pollution of the Elbe and its drainage area.

2. They shall in so doing in particular endeavour

   (a) to enable use to be made of the river, in particular the obtaining of supplies of drinking water from bank-filtered waters and the agricultural use of the waters and sediments,

   (b) to achieve as natural an ecosystem as possible with a healthy diversity of species.

   (c) to reduce substantially the pollution of the North Sea from the Elbe area,

3. In order to attain these objectives step-by-step, the contracting parties within the framework of the Commission shall determine the tasks to be carried out as a priority in the form of work programmes with timetables. These programmes shall provide, *inter alia*, proposals for the application of state-of-the-art techniques for the reduction of emissions and for measures to reduce pollution from various sources.

4. The Convention does not cover matters relating to the fishing industry and shipping; however, this does not exclude the consideration of matters relating to the protection of the waters against pollution caused by these industries.

Article 2

1. In particular the Commission shall

   (a) prepare surveys showing major point sources of discharges of harmful materials (discharge charts), estimate water pollution from diffuse sources and extrapolate both of these,

   (b) propose limit values for the discharge of effluent,

   (c) propose specific quality objectives taking account of the requirements with regard to the use of the waters, the particular conditions for the protection of the North Sea and the natural aquatic communities,

   (d) propose and coordinate the implementation of joint programmes of measurements and investigations to demonstrate the quality of the waters, sediments and effluent and to describe the aquatic and coastal communities, and shall record and evaluate the findings,

   (e) compile standardized methods for the classification of water quality in the Elbe,

   (f) propose specific action for the reduction of discharges of harmful materials from the point sources of both local authorities and industry and from diffuse sources and further measures including timetables and a cost assessment,

   (g) propose protective measures to prevent water pollution resulting from accidents,

   (h) propose a uniform warning and alert system for the drainage area, to be updated according to experience,

(i) describe the hydrological situation in the Elbe area and record the main influencing factors (Elbe monograph),

(j) provide documentary evidence regarding the ecological importance of the various biotope elements of the waters and draft proposals regarding the improvement of conditions for aquatic and coastal communities,

(k) discuss planned and, upon request of a delegation, existing types of utilization of the waters which may have serious international repercussions, including hydraulic structures and regulation of the waters,

(l) promote cooperation in particular on scientific research projects and regarding the exchange of information especially on the state of the technology and cooperation on scientific research projects,

(m) prepare the basis for any regulations between the contracting parties regarding the protection of the Elbe and its drainage area.

2. The Commission shall furthermore be responsible for all other matters assigned to it by the contracting parties by joint agreement.

Article 3

This Convention shall apply in the territories in which the Treaty establishing the European Economic Community is applicable and under the terms of that Treaty, on the one hand, and in the territory of the Czech and Slovak Federative Republic, on the other hand.

Article 4

The contracting parties shall inform the Commission about all the basic matters required for the Commission to fulfil its tasks and about the measures taken and the total resources used. The Commission shall evaluate these reports and may submit proposals to the contracting parties regarding improvements.

Article 5

1. The Commission shall consist of the delegations of the contracting parties. Each contracting party shall appoint a maximum of five delegates and their deputies, including the head of the delegation and his deputy.

2. Each delegation may call in experts which it appoints for the consideration of certain matters.

Article 6

1. The chairmanship of the Commission shall be held by the delegations of the contracting parties in turn. Details regarding the provision of a chairman shall be determined by the Commission and included in its rules of procedure. The delegation chairing the Commission shall appoint one of its members as Chairman. This delegation may for the duration of its chairmanship appoint a further delegate.

2. The Chairman shall, as a rule, not speak on behalf of his delegation during the meetings of the Commission.

Article 7

1. The Commission shall meet at least once a year, when invited by the Chairman for a regular meeting at a place to be specified by him.

2. Extraordinary meetings shall be convened by the Chairman if so requested by a delegation.

3. The leaders 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. The order shall be decided by majority decision of the Commission.

Article 8

1. Each delegation shall have one vote.

2. Negotiations and decisions within the framework of this agreement as well as its implementation shall be conducted by the European Communities and the Federal Republic of Germany within their respective fields of competence. The European Communities shall not exercise their 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, unless otherwise specified in this Convention, be unanimously adopted. A written procedure may take place in line with the conditions to be specified in the rules of procedure.

4. Decisions nem. con. shall be deemed to be unanimous, provided all 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 appointed by each delegation.

3. The Commission shall determine the task and the number of members of each working party and shall appoint its Chairman.

Article 10

The Commission shall establish a secretariat for the preparation, implementation and support of its work. The headquarters of the secretariat shall be at Magdeburg. Further details shall be governed by the rules of procedure.

Article 11

The Commission may call on the services of especially suitable persons or establishments for the examination of special matters.

Article 12

The Commission shall adopt decisions regarding cooperation with other national and international organizations concerned with pollution control.

Article 13

The Commission shall provide the contracting parties with an activity report at least every two years and, as required, with further reports setting out in particular the results of investigations and their assessments.

Article 14

1. Each contracting party shall bear the cost of its representation in the Commission and the working parties and the cost of the current investigations carried out in its territory.

2. All other expenditure arising from the work of the Commission, including the costs of the secretariat, shall be divided among the contracting parties as follows:

Federal Republic of Germany	65.0%
European Economic Community	2.5%
Czech and Slovak Federative Republic	32.5%
TOTAL	100%

The Commission may also specify a different breakdown in certain cases.

Article 15

The Commission shall adopt rules of procedure.

Article 16

1. Existing conventions and treaties shall remain unaffected.

2. The Commission shall examine as soon as possible to what extent it is expedient to amend, to supplement or to annul conventions and treaties as referred to in paragraph 1 because of their contents or for other reasons. It shall draw up recommendations in respect of their amendment or annulment and of the conclusion of new conventions or treaties.

Article 17

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

Article 18

This Convention shall enter into force on the day on which all signatories have informed the Federal Republic of Germany as depositary that the preconditions for the entry into force currently required by the national laws have been fulfilled.

The Convention shall be concluded for an unlimited period. It can be denounced with five years' notice. The notice of denunciation is to be made in writing to the depositary, who will inform the other contracting parties. The notice of denunciation will take effect as of the day on which it is received by the depositary.

Article 19

This Convention, which is drawn up in original copies in the German and Czech languages, each text being equally binding, shall be deposited in the archives of the Government of the Federal Republic of Germany. The latter shall send a certified copy to each of the contracting parties.

Done at

on 1990

For the Government of the Federal Republic of Germany
For the European Economic Community
For the Government of the Czech and Slovak Federative Republic

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