II

(Preparatory Acts)

COMMISSION

Proposal for a Council Decision on the conclusion, on behalf of the Community, of the Convention for the Protection of the Marine Environment of the North-East Atlantic

(95/C 172/01)

(Text with EEA relevance)

COM(94) 660 final — 95/0004(CNS)

(Submitted by the Commission on 9 January 1995)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130s (1), in conjunction with Article 228 (2), (3) (first subparagraph) and (4) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the Commission, on behalf of the Community, took part in the negotiations on the drafting of the Convention for the Protection of the Marine Environment of the North-East Atlantic;

Whereas the Convention was signed on behalf of the Community on 22 September 1992;

Whereas, the Convention aims to prevent and eliminate pollution and to protect the maritime area against the adverse effects of human activities;

Whereas the Community has adopted measures in the area covered by the Convention and should therefore undertake international commitments in that area; whereas the Community's action is a necessary complement to that of the Member States directly concerned and its participation in the Convention would appear to comply with the principle of subsidiarity;

Whereas pursuant to Article 130r of the Treaty, the Community's policy on the environment contributes to pursuit of the objectives of preserving, protecting and improving the quality of the environment, protecting human health, and prudent and rational utilization of natural resources; whereas, moreover, within their respective spheres of competence, the Community and the Member States cooperate with third countries and with the competent international organizations;

Whereas the Commission should be authorized to adopt, on behalf of the Community, decisions of an essentially technical nature on matters within the Community's jurisdiction; whereas the Commission, representing the Community, must act in consultation with a special Council Committee and ensure that the decisions taken are consistent with the existing Community regulations and with the objectives of the Community's environment policy,

HAS ADOPTED THIS DECISION:

Article 1

The Convention for the Protection of the Marine Environment of the North-East Atlantic, as signed in Paris on 22 September 1992, is hereby approved on behalf of the European Community.

The text of the Convention is annexed to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person or persons empowered to deposit the instrument of approval with the Government of the French Republic in accordance with the provisions of Article 34 of the Convention.

Article 3

The Commission is hereby authorized to approve, on behalf of the Community, the decisions provided for by Article 13 of the Convention, the amendments of Annexes provided for by Article 17 and the adoption of Appendices provided for by Article 18 in so far as the Appendix relates to an amendment to an Annex.

The Commission shall conduct these negotiations in consultation with a special committee designated by the Council.

It shall ensure that the decisions adopted under the Convention are consistent with the existing Community legislation and with the objectives of the Community's environment policy.

ANNEX

CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC

Oslo and Paris Conventions for the Prevention of Marine Pollution — Ministerial meeting of the Oslo and Paris Commissions (Paris: 21 to 22 September 1992)

THE CONTRACTING PARTIES,

RECOGNIZING that the marine environment and the fauna and flora which it supports are of vital importance to all nations;

RECOGNIZING the inherent worth of the marine environment of the North-East Atlantic and the necessity for providing coordinated protection for it;

RECOGNIZING that concerted action at national, regional and global levels is essential to prevent and eliminate marine pollution and to achieve sustainable management of the maritime area, that is, the management of human activities in such a manner that the marine ecosystem will continue to sustain the legitimate uses of the sea and will continue to meet the needs of present and future generations;

MINDFUL that the ecological equilibrium and the legitimate uses of the sea are threatened by pollution;

CONSIDERING the recommendations of the United Nations Conference on the Human Environment, held in Stockholm in June 1972;

CONSIDERING also the results of the United Nations Conference on the Environment and Development held in Rio de Janeiro in June 1992;

RECALLING the relevant provisions of customary international law reflected in Part XII of the United Nations Law of the Sea Convention and, in particular, Article 197 on global and regional cooperation for the protection and preservation of the marine environment;

CONSIDERING that the common interests of States concerned with the same marine area should induce them to cooperate at regional or subregional levels;

RECALLING the positive results obtained with the context of the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft signed in Oslo on 15 February 1972, as amended by the Protocols of 2 March 1983 and 5 December 1989, and the Convention for the Prevention of Marine Pollution from Land-based Sources signed in Paris on 4 June 1974, as amended by the Protocol of 26 March 1986;

CONVINCED that further international action to prevent and eliminate pollution of the sea should be taken without delay, as part of progressive and coherent measures to protect the marine environment;

RECOGNIZING that it may be desirable to adopt, on the regional level, more stringent measures with respect to the prevention and elimination of pollution of the marine environment or with respect to the protection of the marine environment against the adverse effects of human activities than are provided for in international conventions or agreements with a global scope;

RECOGNIZING that questions relating to the management of fisheries are appropriately regulated under international and regional agreements dealing specifically with such questions;

CONSIDERING that the present Oslo and Paris Conventions do not adequately control some of the many sources of pollution, and that it is therefore justifiable to replace them with the present Convention, which addresses all sources of pollution of the marine environment and the adverse effects of human activities upon it, takes into account the precautionary principle and strengthens regional cooperation;

HAVE AGREED as follows:

Article 1

Definitions

For the purposes of the Convention:

(a) 'Maritime area' means the internal waters and the territorial seas of the Contracting Parties, the sea beyond and adjacent to the territorial sea under the jurisdiction of the coastal State to the extent recognized by international law, and the high seas, including the bed of all those waters and its subsoil, situated within the following limits:

(i) those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding:

1. the Baltic Sea and the Belts lying to the south and east of lines drawn from Hasnore Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to Kullen;

2. the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° north latitude and the meridian of 5° 36′ west longitude;

(ii) that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.

(b) 'Internal waters' means the waters of the landward side of the baselines from which the breadth of the territorial sea is measured, extending in the case of watercourses up to the freshwater limit.

(c) 'Freshwater limit' means the place in a watercourse where, at low tide and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of seawater.

(d) 'Pollution' means the introduction by man, directly or indirectly, of substances or energy into the maritime area which results, or is likely to result, in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

(e) 'Land-based sources' means point and diffuse sources on land from which substances or energy reach the maritime area by water, through the air, or directly from the coast. It includes sources associated with any deliberate disposal under the seabed made accessible from land by tunnel, pipeline or other means and sources associated with man-made structures placed, in the maritime area under the jurisdiction of a Contracting Party, other than for the purpose of offshore activities.

(f) 'Dumping' means:

(i) any deliberate disposal in the maritime area of wastes or other matter:

1. from vessels or aircraft;

2. from offshore installations;

(ii) any deliberate disposal in the maritime area of:

1. vessels or aircraft;

2. offshore installations and offshore pipelines.

(g) 'Dumping' does not include:

(i) the disposal in accordance with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, or other applicable international law, of wastes or other matter incidental to, or derived from, the normal operations of vessels or aircraft or offshore installations other than wastes or other matter transported by or to vessels or aircraft or offshore installations for the purpose of disposal of such wastes or other matter or derived from the treatment of such wastes or other matter on such vessels or aircraft or offshore installations;

(ii) placement of matter for a purpose other than the mere disposal thereof, provided that, if the placement is for a purpose other than that for which the matter was originally designed or constructed, it is in accordance with the relevant provisions of the Convention; and

(iii) for the purposes of Annex III, the leaving wholly or partly in place of a disused offshore installation or disused offshore pipeline, provided that any such operation takes place in accordance with any relevant provision of the Convention and with other relevant international law.

(h) 'Incineration' means any deliberate combustion of wastes or other matter in the maritime area for the purpose of their thermal destruction.

(i) 'Incineration' does not include the thermal destruction of wastes or other matter in accordance with applicable international law incidental to, or derived from the normal operation of vessels or aircraft, or offshore installations other than the thermal destruction of wastes or other matter on

vessels or aircraft or offshore installations operating for the purpose of such thermal destruction.

(j) 'Offshore activities' means activities carried out in the maritime area for the purposes of the exploration, appraisal or exploitation of liquid and gaseous hydrocarbons.

(k) 'Offshore sources' means offshore installations and offshore pipelines from which substances or energy reach the maritime area.

(l) 'Offshore installation' means any man-made structure, plant or vessel or parts thereof, whether floating or fixed to the seabed, placed within the maritime area for the purpose of offshore activities.

(m) 'Offshore pipeline' means any pipeline which has been placed in the maritime area for the purpose of offshore activities.

(n) 'Vessels or aircraft' means waterborne or airborne craft of any type whatsoever, their parts and other fittings. This expression includes air-cushion craft, floating craft whether self-propelled or not, and other man-made structures in the maritime area and their equipment, but excludes offshore installations and offshore pipelines.

(o) 'Wastes or other matter' does not include:

(i) human remains;

(ii) offshore installations;

(iii) offshore pipelines;

(iv) unprocessed fish and fish offal discarded from fishing vessels.

(p) 'Convention' means, unless the text otherwise indicates, the Convention for the Protection of the Marine Environment of the North-East Atlantic, its Annexes and Appendices.

(q) 'Oslo Convention' means the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft signed in Oslo on 15 February 1972, as amended by the Protocols of 2 March 1983 and 5 December 1989.

(r) 'Paris Convention' means the Convention for the Prevention of Marine Pollution from Land-based Sources, signed in Paris on 4 June 1974, as amended by the Protocol of 26 March 1986.

(s) 'Regional economic integration organization' means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by the Convention and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the Convention.

Article 2

General obligations

1. (a) The Contracting Parties shall, in accordance with the provisions of the Convention, take all possible steps to prevent and eliminate pollution and shall take the necessary measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve maritime ecosystems and, when practicable, restore marine areas which have been adversely affected.

(b) To this end Contracting Parties shall, individually and jointly, adopt programmes and measures and shall harmonize their policies and strategies.

2. The Contracting Parties shall apply:

(a) the precautionary principle, by virtue of which preventive measures are to be taken when there are reasonable grounds for concern that substances or energy introduced, directly or indirectly, into the marine environment may bring about hazards to human health, harm living resources and marine ecosystems, damage amenities or interfere with other legitimate uses of the sea, even when there is no conclusive evidence of a causal relationship between the inputs and the effects;

(b) the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter.

3. (a) In implementing the Convention, Contracting Parties shall adopt programmes and measures which contain, where appropriate, time limits for their completion and which take full account of the use of the latest technological developments and practices designed to prevent and eliminate pollution fully.

(b) To this end they shall:

(i) taking into account the criteria set forth in Appendix 1, define with respect to programmes and measures the application of, *inter alia*:

— best available techniques,

— best environmental practice,

including, where appropriate, clean technology;

(ii) in carrying out such programmes and measures, ensure the application of best available techniques and best environmental practice as so defined, including, where appropriate, clean technology.

4. The Contracting Parties shall apply the measures they adopt in such a way as to prevent an increase in pollution of the sea outside the maritime area or in other parts of the environment.

5. No provision of the Convention shall be interpreted as preventing the Contracting Parties from taking, individually or jointly, more stringent measures with respect to the prevention and elimination of pollution of the maritime area or with respect to the protection of the maritime area against the adverse effects of human activities.

Article 3

Pollution from land-based sources

The Contracting Parties shall take, individually and jointly, all possible steps to prevent and eliminate pollution from land-based sources in accordance with the provisions of the Convention, in particular as provided for in Annex I.

Article 4

Pollution by dumping or incineration

The Contracting Parties shall take, individually and jointly, all possible steps to prevent and eliminate pollution by dumping or incineration of wastes or other matter in accordance with the provisions of the Convention, in particular as provided for in Annex II.

Article 5

Pollution from offshore sources

The Contracting Parties shall take, individually and jointly, all possible steps to prevent and eliminate pollution from offshore sources in accordance with the provisions of the Convention, in particular as provided for in Annex III.

Article 6

Assessment of the quality of the marine environment

The Contracting Parties shall, in accordance with the provisions of the Convention, in particular as provided for in Annex IV:

(a) undertake and publish at regular intervals joint assessments of the quality status of the marine environment and of its development, for the maritime area or for regions or subregions thereof;

(b) include in such assessments both an evaluation of the effectiveness of the measures taken and planned for the protection of the marine environment and the identification of priorities for action.

Article 7

Pollution from other sources

The Contracting Parties shall cooperate with a view to adopting Annexes, in addition to the Annexes mentioned in Articles 3, 4, 5 and 6, prescribing measures, procedures and standards to protect the maritime area against pollution from other sources, to the extent that such pollution is not already the subject of effective measures agreed by other international organizations or prescribed by other international conventions.

Article 8

Scientific and technical research

1. To further the aims of the Convention, the Contracting Parties shall establish complementary or joint programmes of scientific or technical research and, in accordance with a standard procedure, to transmit to the Commission:

(a) the results of such complementary, joint or other relevant research;

(b) details of other relevant programmes of scientific and technical research.

2. In so doing, the Contracting Parties shall have regard to the work carried out, in these fields, by the appropriate international organizations and agencies.

Article 9

Access to information

1. The Contracting Parties shall ensure that their competent authorities are required to make available the information described in paragraph 2 of this Article to any natural or legal person, in response to any response request, without that person's having to prove an interest, without unreasonable charges, as soon as possible and at the latest within two months.

2. The information referred to in paragraph 1 of this Article is any available information in written, visual, aural or database form on the state of the maritime area, on activities or measures adversely affecting or likely to affect it and on activities or measures introduced in accordance with the Convention.

3. The provisions of this Article shall not affect the right of Contracting Parties, in accordance with their national legal systems and applicable international regulations, to provide for a request for such information to be refused where it affects:

(a) the confidentiality of the proceedings of public authorities, international relations and national defence;

(b) public security;

(c) matters which are, or have been, *sub judice*, or under enquiry (including disciplinary enquiries), or which are the subject of preliminary investigation proceedings;

(d) commercial and industrial confidentiality, including intellectual property;

(e) the confidentiality of personal data and/or files;

(f) material supplied by a third party without that party being under a legal obligation to do so;

(g) material, the disclosure of which would make it more likely that the environment to which such material related would be damaged.

4. The reasons for a refusal to provide the information requested must be given.

Article 10

Commission

1. A Commission, made up of representatives of each of the Contracting Parties, is hereby established. The Commission shall meet at regular intervals and at any time when, due to special circumstances, it is so decided in accordance with the Rules of Procedure.

2. It shall be the duty of the Commission:

(a) to supervise the implementation of the Convention;

(b) generally to review the condition of the maritime area, the effectiveness of the measures being adopted, the priorities and the need for any additional or different measures;

(c) to draw up, in accordance with the General Obligations of the Convention, programmes and measures for the prevention and elimination of pollution and for the control of activities which may, directly or indirectly, adversely affect the maritime area; such programmes and measures may, when appropriate, include economic instruments;

(d) to establish at regular intervals its programme of work;

(e) to set up such subsidiary bodies as it considers necessary and to define their terms of reference;

(f) to consider and, where appropriate, adopt proposals for the amendment of the Convention in accordance with Articles 15, 16, 17, 18, 19 and 27;

(g) to discharge the functions conferred by Articles 21 and 23 and such other functions as may be appropriate under the terms of the Convention.

3. To these ends the Commission may, *inter alia*, adopt decisions and recommendations in accordance with Article 13.

4. The Commission shall draw up its Rules of Procedure which shall be adopted by unanimous vote of the Contracting Parties.

5. The Commission shall draw up its Financial Regulations which shall be adopted by unanimous vote of the Contracting Parties.

Article 11

Observers

1. The Commission may, by unanimous vote of the Contracting Parties, decide to admit as an observer:

(a) any State which is not a Contracting Party to the Convention;

(b) any international governmental or any non-governmental organization the activities of which are related to the Convention.

2. Such observers may participate in meetings of the Commission but without the right to vote and may present to the Commission any information or reports relevant to the objectives of the Convention.

3. The conditions for the admission and the participation of observers shall be set in the Rules of Procedure of the Commission.

Article 12

Secretariat

1. A permanent Secretariat is hereby established.

2. The Commission shall appoint an Executive Secretary and determine the duties of that post and the terms and conditions upon which it is to be held.

3. The Executive Secretary shall perform the functions that are necessary for the administration of the Convention and for the work of the Commission as well as the other tasks entrusted to the Executive Secretary by the Commission in accordance with its Rules of Procedure and its Financial Regulations.

Article 13

Decisions and recommendations

1. Decisions and recommendations shall be adopted by unanimous vote of the Contracting Parties. Should unanimity not be attainable, and unless otherwise provided in the Convention, the Commission may nonetheless adopt decisions or recommendations by a three-quarters majority vote of the Contracting Parties.

2. A decision shall be binding on the expiry of a period of 200 days after its adoption for those Contracting Parties that voted for it and have not within that period notified the Executive Secretary in writing that they are unable to accept the decision, provided that at the expiry of that period three-quarters of the Contracting Parties have either voted for the decision and not withdrawn their acceptance or notified the Executive Secretary in writing that they are able to accept the decision. Such a decision shall become binding on any other Contracting Party which has notified the Executive Secretary in writing that it is able to accept the decision from the moment of that notification or after the expiry of a period of 200 days after the adoption of the decision, whichever is later.

3. A notification under paragraph 2 of this Article to the Executive Secretary may indicate that a Contracting Party is unable to accept a decision in so far as it relates to one or more of its dependent or autonomous territories to which the Convention applies.

4. All decisions adopted by the Commission shall, where appropriate, contain provisions specifying the timetable by which the decision shall be implemented.

5. Recommendations shall have no binding force.

6. Decisions concerning any Annex or Appendix shall be taken only by the Contracting Parties bound by the Annex or Appendix concerned.

Article 14

Status of Annexes and Appendices

1. The Annexes and Appendices form an integral part of the Convention.

2. The Appendices shall be of a scientific, technical or administrative nature.

Article 15

Amendment of the Convention

1. Without prejudice to the provisions of paragraph 2 of Article 27 and to specific provisions applicable to the adoption or amendment of Annexes or Appendices, an amendment to the Convention shall be governed by the present Article.

2. Any Contracting Party may propose an amendment to the Convention. The text of the proposed amendment shall be communicated to the Contracting Parties by the Executive Secretary of the Commission at least six months before the meeting of the Commission at which it is proposed for adoption. The Executive Secretary shall also communicate the proposed amendment to the signatories to the Convention for information.

3. The Commission shall adopt the amendment by unanimous vote of the Contracting Parties.

4. The adopted amendment shall be submitted by the Depositary Government to the Contracting Parties for ratification, acceptance or approval. Ratification, acceptance or approval of the amendment shall be notified to the Depositary Government in writing.

5. The amendment shall enter into force for those Contracting Parties which have ratified, accepted or approved it on the 30th day after receipt by the Depositary Government of notification of its ratification, acceptance or approval by at least seven Contracting Parties. Thereafter the amendment shall enter into force for any other Contracting Party on the 30th day after that Contracting Party has deposited its instrument of ratification, acceptance or approval of the amendment.

Article 16

Adoption of Annexes

The provisions of Article 15 relating to the amendment of the Convention shall also apply to the proposal, adoption and entry into force of an Annex to the Convention, except that the Commission shall adopt any Annex referred to in Article 7 by a three-quarters majority vote of the Contracting Parties.

Article 17

Amendment of Annexes

1. The provisions of Article 15 relating to the amendment of the Convention shall also apply to an amendment to an Annex to the Convention, except that the Commission shall adopt amendments to any Annex referred to in Articles 3, 4, 5, 6 or 7 by a three-quarters majority vote of the Contracting Parties bound by that Annex.

2. If the amendment of an Annex is related to an amendment to the Convention, the amendment of the Annex shall be governed by the same provisions as apply to the amendment to the Convention.

Article 18

Adoption of Appendices

1. If a proposed Appendix is related to an amendment to the Convention or an Annex, proposed for adoption in accordance with Article 15 or Article 17, the proposal, adoption and entry into force of that Appendix shall be governed by the same provisions as apply to the proposal, adoption and entry into force of that amendment.

2. If a proposed Appendix is related to an Annex to the Convention, proposed for adoption in accordance with Article 16, the proposal, adoption and entry into force of that Appendix shall be governed by the same provisions as apply to the proposal, adoption and entry into force of that Annex.

Article 19

Amendment of Appendices

1. Any Contracting Party bound by an Appendix may propose an amendment to that Appendix. The text of the proposed amendment shall be communicated to all Contracting Parties to the Convention by the Executive Secretary of the Commission as provided for in paragraph 2 of Article 15.

2. The Commission shall adopt the amendment to an Appendix by a three-quarters majority vote of the Contracting Parties bound by that Appendix.

3. An amendment to an Appendix shall enter into force on the expiry of a period of 200 days after its adoption for those Contracting Parties which are bound by that Appendix and have not within that period notified the Depositary Government in writing that they are unable to accept that amendment, provided that at the expiry of that period three-quarters of the Contracting Parties bound by that Appendix have either voted for the amendment and not withdrawn their acceptance or have notified the Depositary Government in writing that they are able to accept the amendment.

4. A notification under paragraph 3 of this Article to the Depositary Government may indicate that a Contracting Party is unable to accept the amendment in so far as it relates to one or more of its dependent or autonomous territories to which the Convention applies.

5. An amendment to an Appendix shall become binding on any other Contracting Party bound by the Appendix which has notified the Depositary Government in writing that it is able to accept the amendment from the moment of that notification or after the expiry of a period of 200 days after the adoption of the amendment, whichever is later.

6. The Depositary Government shall without delay notify all Contracting Parties of any such notification received.

7. If the amendment of an Appendix is related to an amendment to the Convention or an Annex, the amendment of the Appendix shall be governed by the same provisions as apply to the amendment to the Convention or that Annex.

Article 20

Right to vote

1. Each Contracting Party shall have one vote in the Commission.

2. Notwithstanding the provisions of paragraph 1 of this Article, the European Community and other regional economic integration organizations, within the areas of their competence, are entitled to a number of votes equal to the number of their Member States which are Contracting Parties to the Convention. Those organizations shall not exercise their right to vote in cases where their Member States exercise theirs and conversely.

Article 21

Transboundary pollution

1. When pollution originating from a Contracting Party is likely to prejudice the interests of one or more of the other Contracting Parties to the Convention, the Contracting Parties concerned shall enter into consultation, at the request of any one of them, with a view to negotiating a cooperation agreement.

2. At the request of any Contracting Party concerned, the Commission shall consider the question and may make recommendations with a view to reaching a satisfactory solution.

3. An agreement referred to in paragraph 1 of this Article may, *inter alia,* define the areas to which it shall apply, the quality objectives to be achieved and the methods for achieving these objectives, including methods for the application of appropriate standards and the scientific and technical information to be collected.

4. The Contracting Parties signatory to such an agreement shall, through the medium of the Commission, inform the other Contracting Parties of its purport and of the progress made in putting it into effect.

Article 22

Reporting to the Commission

The Contracting Parties shall report to the Commission at regular intervals on:

(a) the legal, regulatory, or other measures taken by them for the implementation of the provisions of the Convention and of decisions and recommendations

adopted thereunder, including in particular measures taken to prevent and punish conduct in contravention of those provisions;

(b) the effectiveness of the measures referred to in subparagraph (a) of this Article;

(c) problems encountered in the implementation of the provisions referred to in subparagraph (a) of this Article.

Article 23

Compliance

The Commission shall:

(a) on the basis of the periodical reports referred to in Article 22 and any other report submitted by the Contracting Parties, assess their compliance with the Convention and the decisions and recommendations adopted thereunder;

(b) when appropriate, decide upon and call for steps to bring about full compliance with the Convention, and decisions adopted thereunder, and promote the implementation of recommendations, including measures to assist a Contracting Party to carry out its obligations.

Article 24

Regionalization

The Commission may decide that any decision or recommendation adopted by it shall apply to all, or a specified part, of the maritime area and may provide for different timetables to be applied, having regard to the differences between ecological and economic conditions in the various regions and subregions covered by the Convention.

Article 25

Signature

The Convention shall be open for signature at Paris from 22 September 1992 to 30 June 1993 by:

(a) the Contracting Parties to the Oslo Convention or the Paris Convention;

(b) any other coastal State bordering the maritime area;

(c) any State located upstream on watercourses reaching the maritime area;

(d) any regional economic integration organization having as a member at least one State to which any of the subparagraphs (a) to (c) of this Article applies.

Article 26

Ratification, acceptance or approval

The Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the French Republic.

Article 27

Accessions

1. After 30 June 1993, the Convention shall be open for accession by the States and regional economic integration organizations referred to in Article 25.

2. The Contracting Parties may unanimously invite States or regional economic integration organizations not referred to in Article 25 to accede to the Convention. In the case of such an accession, the definition of the maritime area shall, if necessary, be amended by a decision of the Commission adopted by unanimous vote of the Contracting Parties. Any such amendment shall enter into force after unanimous approval of all the Contracting Parties on the 30th day after the receipt of the last notification by the Depositary Government.

3. Any such accession shall relate to the Convention including any Annex and any Appendix that have been adopted at the date of such accession, except when the instrument of accession contains an express declaration of non-acceptance of one or several Annexes other than Annexes I, II, III and IV.

4. The instruments of accession shall be deposited with the Government of the French Republic.

Article 28

Reservations

No reservations to the Convention may be made.

Article 29

Entry into force

1. The Convention shall enter into force on the 30th day following the date on which all Contracting Parties to the Oslo Convention and all Contracting Parties to the Paris Convention have deposited their instrument of ratification, acceptance, approval or accession.

2. For any State or regional economic integration organization not referred to in paragraph 1 of this Article, the Convention shall enter into force in accordance with paragraph 1 of this Article, or on the 30th day following the date of the deposit of the instrument of ratification, acceptance, approval or accession by that State or regional economic integration organizations, whichever is later.

Article 30

Withdrawal

1. At any time after the expiry of two years from the date of entry into force of the Convention for a Contracting Party, that Contracting Party may withdraw from the Convention by notification in writing to the Depositary Government.

2. Except as may be otherwise provided in an Annex other than Annexes I to IV to the Convention, any Contracting Party may at any time after the expiry of two years from the date of entry into force of such Annex for that Contracting Party withdraw from such Annex by notification in writing to the Depositary Government.

3. Any withdrawal referred to in paragraphs 1 and 2 of this Article shall take effect one year after the date on which the notification of that withdrawal is received by the Depositary Government.

Article 31

Replacement of the Oslo and Paris Conventions

1. Upon its entry into force, the Convention shall replace the Oslo and Paris Convention as between the Contracting Parties.

2. Notwithstanding paragraph 1 of this Article, decisions, recommendations and all other agreements adopted under the Oslo Convention or the Paris Convention shall continue to be applicable, unaltered in their legal nature, to the extent that they are compatible with, or not explicitly terminated by, the Convention, any decisions or, in the case of existing recommendations, any recommendations adopted thereunder.

Article 32

Settlement of disputes

1. Any disputes between Contracting Parties relating to the interpretation or application of the Convention, which cannot be settled otherwise by the Contracting Parties concerned, for instance by means of inquiry or conciliation within the Commission, shall at the request of any of those Contracting Parties, be submitted to arbitration under the conditions laid down in this Article.

2. Unless the parties to the dispute decide otherwise, the procedure of the arbitration referred to in paragraph 1 of this Article shall be in accordance with paragraphs 3 to 10 of this Article.

3. (a) At the request addressed by one Contracting Party to another Contracting Party in accordance with paragraph 1 of this Article, an arbitral tribunal shall be constituted. The request for arbitration shall state the subject matter of the application including in particular the Articles of the Convention, the interpretation or application of which is in dispute.

(b) The applicant party shall inform the Commission that it has requested the setting up of an arbitral tribunal, stating the name of the other party to the dispute and the Articles of the Convention the interpretation or application of which, in its opinion, is in dispute. The Commission shall forward the information thus received to all Contracting Parties to the Convention.

4. The arbitral tribunal shall consist of three members: each of the parties to the dispute shall appoint an arbitrator; the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

5. (a) If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the President of the International Court of Justice shall, at the request of either party, designate him within a further two months' period.

(b) If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the President of the International Court of Justice who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the President of the International Court of Justice who shall make this appointment within a further two months' period.

6. (a) The arbitral tribunal shall decide according to the rules of international law and, in particular, those of the Convention.

(b) Any arbitral tribunal constituted under the provisions of this Article shall draw up its own rules of procedure.

(c) In the event of a dispute as to whether the arbitral tribunal has jurisdiction, the matter shall be decided by the decision of the arbitral tribunal.

7. (a) The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority voting of its members.

(b) The arbitral tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.

(c) If two or more arbitral tribunals constituted under the provisions of this Article are seized of requests with identical or similar subjects, they may inform themselves of the procedures for establishing the facts and take them into account as far as possible.

(d) The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

(e) The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

8. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

9. Any Contracting Party that has an interest of a legal nature in the subject matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

10. (a) The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

(b) Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another arbitral tribunal constituted for this purpose in the same manner as the first.

Article 33

Duties of the Depositary Government

The Depositary Government shall inform the Contracting Parties and the signatories to the Convention:

(a) of the deposit of instruments of ratification, acceptance, approval or accession, of declarations of non-acceptance and of notifications of withdrawal in accordance with Articles 26, 27 and 30;

(b) of the date on which the Convention comes into force in accordance with Article 29;

(c) of the receipt of notifications of acceptance, of the deposit of instruments of ratification, acceptance, approval or accession and of the entry into force of amendments to the Convention and of the adoption and amendment of Annexes or Appendices, in accordance with Articles 15, 16, 17, 18 and 19.

Article 34

Original text

The original of the Convention, of which the French and English texts shall be equally authentic, shall be deposited with the Government of the French Republic which shall send certified copies thereof to the Contracting Parties and the signatories to the Convention and shall deposit a certified copy with the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Convention.

DONE at Paris, on the twenty-second day of September 1992.

ANNEX I

THE PREVENTION AND ELIMINATION OF POLLUTION FROM LAND-BASED SOURCES

Article 1

1. When adopting programmes and measures for the purpose of this Annex, the Contracting Parties shall require, either individually or jointly, the use of:

— best available techniques for point sources,

— best environmental practice for point and diffuse sources,

including, where appropriate, clean technology.

2. When setting priorities and in assessing the nature and extent of the programmes and measures and their time scales, the Contracting Parties shall use the criteria given in Appendix 2.

3. The Contracting Parties shall take preventive measures to minimize the risk of pollution caused by accidents.

4. When adopting programmes and measures in relation to radioactive substances, including waste, the Contracting Parties shall also take account of:

(a) the recommendations of the other appropriate international organizations and agencies;

(b) the monitoring procedures recommended by these international organizations and agencies.

Article 2

1. Point source discharges to the maritime area, and releases into water or air which reach and may affect the maritime area, shall be strictly subject to authorization or regulation by the competent authorities of the Contracting Parties. Such authorization or regulation shall, in particular, implement relevant decisions of the Commission which bind the relevant Contracting Party.

2. The Contracting Parties shall provide for a system of regular monitoring and inspection by their competent authorities to assess compliance with authorizations and regulations of releases into water or air.

Article 3

For the purposes of this Annex, it shall, *inter alia,* be the duty of the Commission to draw up:

(a) plans for the reduction and phasing out of substances that are toxic, persistent and liable to bioaccumulate arising from land-based sources;

(b) when appropriate, programmes and measures for the reduction of inputs of nutrients from urban, municipal, industrial, agricultural and other sources.

ANNEX II

THE PREVENTION AND ELIMINATION OF POLLUTION BY DUMPING OR INCINERATION

Article 1

This Annex shall not apply to any deliberate disposal in the maritime area of:

(a) wastes or other matter from offshore installations;

(b) offshore installations and offshore pipelines.

Article 2

Incineration is prohibited.

Article 3

1. The dumping of all wastes or other matter is prohibited, except for those wastes or other matter listed in paragraphs 2 and 3 of this Article.

2. The list referred to in paragraph 1 of this Article is as follows:

(a) dredged material;

(b) inert materials of natural origin, that is solid, chemically unprocessed geological material the chemical constituents of which are unlikely to be released into the marine environment;

(c) sewage sludge until 31 December 1998;

(d) fish waste from industrial fish processing operations;

(e) vessels or aircraft until, at the latest, 31 December 2004.

3. (a) The dumping of low and intermediate level radioactive substances, including wastes, is prohibited.

(b) As an exception to subparagraph 3 (a) of this Article, those Contracting Parties, the United Kingdom and France, who wish to retain the option of an exception to subparagraph 3 (a) in any case not before the expiry of a period of 15 years from 1 January 1993, shall report to the meeting of the Commission at Ministerial level in 1997 on the steps taken to explore alternative land-based options.

(c) Unless, at or before the expiry of this period of 15 years, the Commission decides by an unanimous vote not to continue the exception provided in subparagraph 3 (b), it shall take a decision pursuant to Article 13 of the Convention on the prolongation for a period of 10 years after 1 January 2008 of the prohibition, after which another meeting of the Commission at Ministerial level shall be held. Those Contracting Parties mentioned in subparagraph 3 (b) of this Article still wishing to retain the option mentioned in subparagraph 3 (b) shall report to the Commission meetings to be held at Ministerial level at two yearly intervals from 1999 onwards about the progress in establishing alternative land-based options and on the results of scientific studies which show that any potential dumping operations would not result in hazards to human health, harm to living resources or marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

Article 4

1. The Contracting Parties shall ensure that:

(a) no wastes or other matter listed in paragraph 2 of Article 3 of this Annex shall be dumped without authorization by their competent authorities, or regulation;

(b) such authorization or regulation is in accordance with the relevant applicable criteria, guidelines and procedures adopted by the Commission in accordance with Article 6 of this Annex;

(c) with the aim of avoiding situations in which the same dumping operation is authorized or regulated by more than one Contracting Party, their competent authorities shall, as appropriate, consult before granting an authorization or applying regulation.

2. Any authorization or regulation under paragraph 1 of this Article shall not permit the dumping of vessels or aircraft containing substances which result or are likely to result in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

3. Each Contracting Party shall keep, and report to the Commission records of the nature and the quantities of wastes or other matter dumped in accordance with paragraph 1 of this Article, and of the dates, places and methods of dumping.

Article 5

No placement of matter in the maritime area for a purpose other than that for which it was originally designed or constructed shall take place without authorization or regulation by the competent authority of the relevant Contracting Party. Such authorization or regulation shall be in accordance with the relevant applicable criteria, guidelines and procedures adopted by the Commission in accordance with Article 6 of this Annex. This provision shall not be taken to permit the dumping of wastes or other matter otherwise prohibited under this Annex.

Article 6

For the purposes of this Annex, it shall, *inter alia,* be the duty of the Commission to draw up and adopt criteria, guidelines and procedures relating to the dumping of wastes or other matter listed in paragraph 2 of Article 3, and to the placement of matter referred to in Article 5, of this Annex, with a view to preventing and eliminating pollution.

Article 7

The provisions of this Annex concerning dumping shall not apply in case of *force majeure*, due to stress of weather or any other cause, when the safety of human life or of a vessel or aircraft is threatened. Such dumping shall be so conducted as to minimize the likelihood of damage to human or marine life and shall immediately be reported to the Commission, together with full details of the circumstances and of the nature and quantities of the wastes or other matter dumped.

Article 8

The Contracting Party shall take appropriate measures, both individually and within relevant international organizations, to prevent and eliminate pollution resulting from the abandonment of vessels or aircraft in the maritime area caused by accidents. In the absence of relevant guidance from such international organizations, the measures taken by individual Contracting Parties should be based on such guidelines as the Commission may adopt.

Article 9

In an emergency, if a Contracting Party considers that wastes or other matter the dumping of which is prohibited under this Annex cannot be disposed of on land without unacceptable danger or damage, it shall forthwith consult other Contracting Parties with a view to finding the most satisfactory methods of storage or the most satisfactory means of destruction or disposal under the prevailing circumstances. The Contracting Party shall inform the Commission of the steps adopted following this consultation. The Contracting Parties pledge themselves to assist one another in such situations.

Article 10

1. Each Contracting Party shall ensure compliance with the provisions of this Annex:

(a) by vessels or aircraft registered in its territory;

(b) by vessels or aircraft loading in its territory the wastes or other matter which are to be dumped or incinerated;

(c) by vessels or aircraft believed to be engaged in dumping or incineration within its internal waters or within its territorial sea or within that part of the sea beyond and adjacent to the territorial sea under the jurisdiction of the coastal state to the extent recognized by international law.

2. Each Contracting Party shall issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the maritime area which give rise to suspicions that dumping in contravention of the provisions of the present Annex has occurred or is about to occur. Any Contracting Party whose authorities receive such a report shall, if it considers it appropriate, accordingly inform any other Contracting Party concerned.

3. Nothing in this Annex shall abridge the sovereign immunity to which certain vessels are entitled under international law.

ANNEX III

THE PREVENTION AND ELIMINATION OF POLLUTION FROM OFFSHORE SOURCES

Article 1

This Annex shall not apply to any deliberate disposal in the maritime area of:

(a) wastes or other matter from vessels or aircraft;

(b) vessels or aircraft.

Article 2

1. When adopting programmes and measures for the purpose of this Annex, the Contracting Parties shall require, either individually or jointly, the use of:

(a) best available techniques;

(b) best environmental practice;

including, where appropriate, clean technology.

2. When setting priorities and in assessing the nature and extent of the programmes and measures and their time scales, the Contracting Parties shall use the criteria given in Appendix 2.

Article 3

1. Any dumping of wastes or other matter from offshore installations is prohibited.

2. This prohibition does not relate to discharges or emissions from offshore sources.

Article 4

1. The use on, or the discharge or emission from, offshore sources of substances which may reach and affect the maritime area shall be strictly subject to authorization or regulation by the competent authorities of the Contracting Parties. Such authorization or regulation shall, in particular, implement the relevant applicable decisions, recommendations and all other agreements adopted under the Convention.

2. The competent authorities of the Contracting Parties shall provide for a system of monitoring and inspection to assess compliance with authorization or regulation as provided for in paragraph 1 of Article 4 of this Annex.

Article 5

1. No disused offshore installation or disused offshore pipeline shall be dumped and no disused offshore installation shall be left wholly or partly in place in the maritime area without a permit issued by the competent authority of the relevant Contracting Party on a case-by-case basis. The Contracting Parties shall ensure that their authorities, when granting such permits, shall implement the relevant applicable decisions, recommendations and all other agreements adopted under the Convention.

2. No such permit shall be issued if the disused offshore installation or disused offshore pipeline contains substances which result or are likely to result in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

3. Any Contracting Party which intends to take the decision to issue a permit for the dumping of a disused offshore installation or a disused offshore pipeline placed in the maritime area after 1 January 1998 shall, through the medium of the Commission, inform the other Contracting Parties of its reasons for accepting such dumping, in order to make consultation possible.

4. Each Contracting Party shall keep, and report to the Commission, records of the disused offshore installations and disused offshore pipelines dumped and of the disused offshore installations left in place in accordance with the provisions of this Article, and of the dates, places and methods of dumping.

Article 6

Articles 3 and 5 of this Annex shall not apply in case of *force majeure*, due to stress of weather or any other cause, when the safety of human life or of an offshore installation is threatened. Such dumping shall be so conducted as to minimize the likelihood of damage to human or marine life and shall immediately be reported to the Commission, together with full details of the circumstances and of the nature and quantities of the matter dumped.

Article 7

The Contracting Parties shall take appropriate measures, both individually and within relevant international organizations, to prevent and eliminate pollution resulting from the abandonment of offshore installations in the maritime area caused by accidents. In the absence of relevant guidance from such international organizations, the measures taken by individual Contracting Parties should be based on such guidelines as the Commission may adopt.

Article 8

No placement of a disused offshore installation or a disused offshore pipeline in the maritime area for a purpose other than that for which it was originally designed or constructed shall take place without authorization or regulation by the competent authority of the relevant Contracting Party. Such authorization or regulation shall be in accordance with the relevant applicable criteria, guidelines and procedures adopted by the Commission in accordance with subparagraph (d) of Article 10 of this Annex. This provision shall not be taken to permit the dumping of disused offshore installations or disused offshore pipelines in contravention of the provisions of this Annex.

Article 9

1. Each Contracting Party shall issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the maritime area which give rise to suspicions that a contravention of the provisions of the present Annex has occurred or is about to occur. Any Contracting Party whose authorities receive such a report shall, if it considers it appropriate, accordingly inform any other Contracting Party concerned.

2. Nothing in this Annex shall abridge the sovereign immunity to which certain vessels are entitled under international law.

Article 10

For the purposes of this Annex, it shall, *inter alia*, be the duty of the Commission:

(a) to collect information about substances which are used in offshore activities and, on the basis of that information, to agree lists of substances for the purposes of paragraph 1 of Article 4 of this Annex;

(b) to list substances which are toxic, persistent and liable to bioaccumulate and to draw up plans for the reduction and phasing out of their use on, or discharge from, offshore sources;

(c) to draw up criteria, guidelines and procedures for the prevention of pollution from dumping of disused offshore installations and of disused offshore pipelines, and the leaving in place of offshore installations, in the maritime area;

(d) to draw up criteria, guidelines and procedures relating to the placement of disused offshore installations and disused offshore pipelines referred to in Article 8 of this Annex, with a view to preventing and eliminating pollution.

ANNEX IV

THE ASSESSMENT OF THE QUALITY OF THE MARINE ENVIRONMENT

Article 1

1. For the purposes of this Annex 'monitoring' means the repeated measurement of:

(a) the quality of the marine environment and each of its compartments, that is, water, sediments and biota;

(b) activities or natural and anthropogenic inputs which may affect the quality of the marine environment;

(c) the effects of such activities and inputs.

2. Monitoring may be undertaken either for the purposes of ensuring compliance with the Convention, with the objective of identifying patterns and trends or for research purposes.

Article 2

For the purposes of this Annex, the Contracting Parties shall:

(a) cooperate in carrying out monitoring programmes and submit the resulting data to the Commission;

(b) comply with quality assurance prescriptions and participate in intercalibration exercises;

(c) use and develop, individually or preferably jointly, other duly validated scientific assessment tools, such as modelling, remote sensing and progressive risk assessment strategies;

(d) carry out, individually or preferably jointly, research which is considered necessary to assess the quality of the marine environment, and to increase knowledge and scientific understanding of the marine environment and, in particular, of the relationship between inputs, concentration and effects;

(e) take into account scientific progress which is considered to be useful for such assessment purposes and which has been made elsewhere either on the initiative of individual researchers and research institutions, or through other national and international research programmes or under the auspices of the European Economic Community or other regional economic integration organizations.

Article 3

For the purposes of this Annex, it shall, *inter alia,* be the duty of the Commission:

(a) to define and implement programmes of collaborative monitoring and assessment-related research, to draw up codes of practice for the guidance of participants in carrying out these monitoring programmes and to approve the presentation and interpretation of their results;

(b) to carry out assessments taking into account the results of relevant monitoring and research and the data relating to inputs of substances or energy into the maritime area which are provided by virtue of other Annexes to the Convention, as well as other relevant informations;

(c) to seek, where appropriate, the advice or services of competent regional organizations and other competent international organizations and competent bodies with a view to incorporating the latest results of scientific research;

(d) to cooperate with competent regional organizations and other competent international organizations in carrying out quality status assessments.

APPENDIX 1

Criteria for the definition of practices and techniques mentioned in paragraph 3 (b) (i) of Article 2 of the Convention

Best available techniques

1. The use of the best available techniques shall emphasize the use of non-waste technology, if available.

2. The term 'best available techniques' means the latest stage of development (state of the art) of processes, of facilities or of methods of operation which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste. In determining whether a set of processes, facilities and methods of operation constitute the best available techniques in general or individual cases, special consideration shall be given to:

   (a) comparable processes, facilities or methods of operation which have recently been successfully tried out;

(b) technological advances and changes in scientific knowledge and understanding;

(c) the economic feasibility of such techniques;

(d) time limits for installation in both new and existing plants;

(e) the nature and volume of the discharges and emissions concerned.

3. It therefore follows that what is 'best available techniques' for a particular process will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

4. If the reduction of discharges and emissions resulting from the use of best available techniques does not lead to environmentally acceptable results, additional measures have to be applied.

5. 'Techniques' include both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled.

Best environmental practice

6. The term 'best environmental practice' means the application of the most appropriate combination of environmental control measures and strategies. In making a selection for individual cases, at least the following graduated range of measures should be considered:

(a) the provision of information and education to the public and to uses about the environmental consequences of choice of particular activities and choice of products, their use and ultimate disposal;

(b) the development and application of codes of good environmental practice which covers all aspects of the activity in the product's life;

(c) the mandatory application of labels informing users of environmental risks related to a product, its use and ultimate disposal;

(d) saving resources, including energy;

(e) making collection and disposal systems available to the public;

(f) avoiding the use of hazardous substances or products and the generation of hazardous waste;

(g) recycling, recovery and reuse;

(h) the application of economic instruments to activities, products or groups of products;

i) establishing a system of licensing, involving a range of restrictions or a ban.

7. In determining what combination of measures constitute best environmental practice, in general or individual cases, particular consideration should be given to:

(a) the environmental hazard of the product and its production, use and ultimate disposal;

(b) the substitution by less polluting activities or substances;

(c) the scale of use;

(d) the potential environmental benefit or penalty of substitute materials or activities;

(e) advances and changes in scientific knowledge and understanding;

(f) time limits for implementation;

(g) social and economic implications.

8. It therefore follows the best environmental practice for a particular source will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

9. If the reduction of inputs resulting from the use of best environmental practice does not lead to environmentally acceptable results, additional measures have to be applied and best environmental practice redefined.

APPENDIX 2

Criteria mentioned in paragraph 2 of Article 1 of Annex I and in paragraph 2 of Article 2 of Annex III

1. When setting priorities and in assessing the nature and extent of the programmes and measures and their time scales, the Contracting Parties shall use the criteria given below:

   (a) persistency;

   (b) toxicity or other noxious properties;

   (c) tendency to bioaccumulation;

   (d) radioactivity;

   (e) the ratio between observed or (where the results of observations are not yet available) predicted concentrations and no observed effect concentrations;

   (f) anthropogenically caused risk of eutrophication;

   (g) transboundary significance;

   (h) risk of undesirable changes in the marine ecosystem and irreversibility or durability of effects;

   (i) interference with harvesting of sea-foods or with other legitimate uses of the sea;

   (j) effects on the taste and/or smell of products for human consumption from the sea, or effects on smell, colour, transparency or other characteristics of the water in the marine environment;

   (k) distribution pattern (i.e., quantities involved, use pattern and liability to reach the marine environment);

   (l) non-fulfilment of environmental quality objectives.

2. These criteria are not necessarily of equal importance for the consideration of a particular substance or group of substances.

3. The above criteria indicate that substances which shall be subject to programmes and measures include:

   (a) heavy metals and their compounds;

   (b) organohalogen compounds (and substances which may form such compounds in the marine environment);

   (c) organic compounds of phosphorus and silicon;

   (d) biocides such as pesticides, fungicides, herbicides, insecticides, slimicides and chemicals used, *inter alia*, for the preservation of wood, timber, wood pulp, cellulose, paper, hides and textiles;

   (e) oils and hydrocarbons of petroleum origin;

   (f) nitrogen and phosphorus compounds;

   (g) radioactive substances, including wastes;

   (h) persistent synthetic materials which may float, remain in suspension or sink.