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POLLUTION



Treaty Series No. 64 (1978)

Convention for the Prevention of Marine Pollution from Land-Based Sources

Paris, 4 June 1974

[The United Kingdom instrument of ratification was deposited on 6 April 1978
and the Convention entered into force on 6 May 1978]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
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**CONVENTION
FOR THE PREVENTION OF MARINE POLLUTION
FROM LAND-BASED SOURCES**

The Contracting Parties:

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

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

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

Recognizing that concerted action at national, regional and global levels is essential to prevent and combat marine pollution;

Convinced that international action to control the pollution of the sea from land-based sources can and should be taken without delay, as part of progressive and coherent measures to protect the marine environment from pollution, whatever its origin, including current efforts to combat the pollution of international waterways;

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

Recalling the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft concluded in Oslo on 15 February 1972, (1)

Have agreed as follows:

ARTICLE 1

1. The Contracting Parties pledge themselves to take all possible steps to prevent pollution of the sea, by which is meant the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) resulting in such deleterious effects as hazards to human health, harm to living resources and to marine eco-systems, damage to amenities or interference with other legitimate uses of the sea.

2. The Contracting Parties shall adopt individually and jointly measures to combat marine pollution from land-based sources in accordance with the provisions of the present Convention and shall harmonize their policies in this regard.

ARTICLE 2

The present Convention shall apply to the maritime area within the following limits:

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

(1) Treaty Series No. 119 (1975), Cmnd. 6228.

- (i) the Baltic Sea and Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to Kullen, and
 - (ii) 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;
- (b) that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.

ARTICLE 3

For the purpose of the present Convention:

- (a) "Maritime area" means: the high seas, the territorial seas of Contracting Parties and waters on the landward side of the base lines from which the breadth of the territorial sea is measured and extending in the case of watercourses, unless otherwise decided under article 16 (c) of the present Convention, up to the freshwater limit;
- (b) "Freshwater limit" means: the place in the 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;
- (c) "Pollution from land-based sources" means: the pollution of the maritime area
 - (i) through watercourses,
 - (ii) from the coast, including introduction through underwater or other pipelines,
 - (iii) from man-made structures placed under the jurisdiction of a Contracting Party within the limits of the area to which the present Convention applies.

ARTICLE 4

1. The Contracting Parties undertake:

- (a) to eliminate, if necessary by stages, pollution of the maritime area from land-based sources by substances listed in Part I of Annex A to the present Convention;
- (b) to limit strictly pollution of the maritime area from land-based sources by substances listed in Part II of Annex A to the present Convention.

2. In order to carry out the undertakings in paragraph 1 of this Article, the Contracting Parties, jointly or individually as appropriate, shall implement programmes and measures:

- (a) for the elimination, as a matter of urgency, of pollution of the maritime area from land-based sources by substances listed in Part I of Annex A to the present Convention;

(b) for the reduction or, as appropriate, elimination of pollution of the maritime area from land-based sources by substances listed in Part II of Annex A to the present Convention. These substances shall be discharged only after approval has been granted by the appropriate authorities within each contracting State. Such approval shall be periodically reviewed.

3. The programmes and measures adopted under paragraph 2 of this article shall include, as appropriate, specific regulations or standards governing the quality of the environment, discharges into the maritime area, such discharges into watercourses as affect the maritime area, and the composition and use of substances and products. These programmes and measures shall take into account the latest technical developments.

The programmes shall contain time-limits for their completion.

4. The Contracting Parties may, furthermore, jointly or individually as appropriate, implement programmes or measures to forestall, reduce or eliminate pollution of the maritime area from land-based sources by a substance not then listed in Annex A to the present Convention, if scientific evidence has established that a serious hazard may be created in the maritime area by that substance and if urgent action is necessary.

ARTICLE 5

1. The Contracting Parties undertake to adopt measures to forestall and, as appropriate, eliminate pollution of the maritime area from land-based sources by radio-active substances referred to in Part III of Annex A of the present Convention.

2. Without prejudice to their obligations under other treaties and conventions, in implementing this undertaking the Contracting Parties shall:

- (a) take full account of the recommendations of the appropriate international organisations and agencies;
- (b) take account of the monitoring procedures recommended by these international organisations and agencies;
- (c) co-ordinate their monitoring and study of radio-active substances in accordance with Articles 10 and 11 of the present Convention.

ARTICLE 6

1. With a view to preserving and enhancing the quality of the marine environment, the Contracting Parties, without prejudice to the provisions of Article 4, shall endeavour:

- (a) to reduce existing pollution from land-based sources;
- (b) to forestall any new pollution from land-based sources, including that which derives from new substances.

2. In implementing this undertaking, the Contracting Parties shall take account of:

- (a) the nature and quantities of the pollutants under consideration;
- (b) the level of existing pollution;
- (c) the quality and absorptive capacity of the receiving waters of the maritime area;
- (d) the need for an integrated planning policy consistent with the requirement of environmental protection.

ARTICLE 7

The Contracting Parties agree to apply the measures they adopt in such a way as to avoid increasing pollution :

- in the seas outside the area to which the present Convention applies;
- in the maritime area covered by the present Convention, originating otherwise than from land-based sources.

ARTICLE 8

No provision of the present Convention shall be interpreted as preventing the Contracting Parties from Taking more stringent measures to combat marine pollution from land-based sources.

ARTICLE 9

1. When pollution from land-based sources originating from the territory of a Contracting Party by substances not listed in Part 1 of Annex A of the present Convention is likely to prejudice the interests of one or more of the other Parties to the present Convention, the Contracting Parties concerned undertake to enter into consultation, at the request of any one of them, with a view to negotiating a co-operation agreement.

2. At the request of any Contracting Party concerned, the Commission referred to in Article 15 of the present Convention shall consider the question and may make recommendations with a view to reaching a satisfactory solution.

3. The special agreements specified in paragraph 1 of this Article may, among other things, define the areas to which they 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 these special agreements shall, through the medium of the Commission, inform the other Contracting Parties of their purport and of the progress made in putting them into effect.

ARTICLE 10

The Contracting Parties agree to establish complementary or joint programmes of scientific and technical research, including research into the best

methods of eliminating or replacing noxious substances so as to reduce marine pollution from land-based sources, and to transmit to each other the information so obtained. In doing so they shall have regard to the work carried out, in these fields, by the appropriate international organizations and agencies.

ARTICLE 11

The Contracting Parties agree to set up progressively and to operate within the area covered by the present Convention a permanent monitoring system allowing:

- the earliest possible assessment of the existing level of marine pollution;
- the assessment of the effectiveness of measures for the reduction of marine pollution from land-based sources taken under the terms of the present Convention.

For this purpose the Contracting Parties shall lay down the ways and means of pursuing individually or jointly systematic and ad hoc monitoring programmes. These programmes shall take into account the deployment of research vessels and other facilities in the monitoring area.

The programmes shall take into account similar programmes pursued in accordance with conventions already in force and by the appropriate international organizations and agencies.

ARTICLE 12

1. Each Contracting Party undertakes to ensure compliance with the provisions of this Convention and to take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of the present Convention.

2. The Contracting Parties shall inform the Commission of the legislative and administrative measures they have taken to implement the provisions of the preceding paragraph.

ARTICLE 13

The Contracting Parties undertake to assist one another as appropriate to prevent incidents which may result in pollution from land-based sources, to minimize and eliminate the consequences of such incidents, and to exchange information to that end.

ARTICLE 14

1. The provisions of the present Convention may not be invoked against a Contracting Party to the extent that the latter is prevented, as a result of pollution having its origin in the territory of a non-Contracting State, from ensuring their full application.

2. However, the said Contracting Party shall endeavour to cooperate with the non-Contracting State so as to make possible the full application of the present Convention.

ARTICLE 15

A Commission composed 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 its rules of procedure.

ARTICLE 16

It shall be the duty of the Commission:

- (a) to exercise overall supervision over the implementation of the present Convention;
- (b) to review generally the condition of the seas within the area to which the present Convention applies, the effectiveness of the control measures being adopted and the need for any additional or different measures;
- (c) to fix, if necessary, on the proposal of the Contracting Party or Parties bordering on the same watercourse and following a standard procedure, the limit to which the maritime area shall extend in that watercourse;
- (d) to draw up, in accordance with Article 4 of the present Convention, programmes and measures for the elimination or reduction of pollution from land-based sources;
- (e) to make recommendations in accordance with the provisions of Article 9;
- (f) to receive and review information and distribute it to the Contracting Parties in accordance with the provisions of Articles 11, 12 and 17 of the present Convention;
- (g) to make, in accordance with Article 18, recommendations regarding any amendment to the lists of substances included in Annex A to the present Convention;
- (h) to discharge such other functions, as may be appropriate, under the terms of the present Convention.

ARTICLE 17

The Contracting Parties, in accordance with a standard procedure, shall transmit to the Commission:

- (a) the results of monitoring pursuant to Article 11;
- (b) the most detailed information available on the substances listed in the Annexes to the present Convention and liable to find their way into the maritime area.

The Contracting Parties shall endeavour to improve progressively techniques for gathering such information which can contribute to the revision of the pollution reduction programmes drawn up in accordance with Article 4 of the present Convention.

ARTICLE 18

1. The Commission shall draw up its own Rules of Procedure which shall be adopted by unanimous vote.

2. The Commission shall draw up its own Financial Regulations which shall be adopted by unanimous vote.

3. The Commission shall adopt, by unanimous vote, programmes and measures for the reduction or elimination of pollution from land-based sources as provided for in Article 4, programmes for scientific research and monitoring as provided for in Articles 10 and 11, and decisions under Article 16 (c).

The programmes and measures shall commence for and be applied by all Contracting Parties two hundred days after their adoption, unless the Commission specifies another date.

Should unanimity not be attainable, the Commission may nonetheless adopt a programme or measures by a three quarters majority vote of its members. The programmes or measures shall commence for those Contracting Parties which voted for them two hundred days after their adoption, unless the Commission specifies another date, and for any other Contracting Party after it has explicitly accepted the programme or measures, which it may do at any time.

4. The Commission may adopt recommendations for amendments to Annex A to the present Convention by a three quarters majority vote of its members and shall submit them for the approval of the Governments of the Contracting Parties. Any Government of a Contracting Party that is unable to approve an amendment shall notify the depositary Government in writing within a period of two hundred days after the adoption of the Recommendation of amendment in the Commission. Should no such notification be received, the amendment shall enter into force for all Contracting Parties two hundred and thirty days after the vote in the Commission. The depositary Government shall notify the Contracting Parties as soon as possible of the receipt of any notification.

ARTICLE 19

Within the area of its competence, the European Economic Community is entitled to a number of votes equal to the number of its member States which are Contracting Parties to the present Convention.

The European Economic Community shall not exercise its right to vote in cases where its member States exercise theirs and conversely.

ARTICLE 20

The depositary Government shall convene the first meeting of the Commission as soon as possible after the coming into force of the present Convention.

ARTICLE 21

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

ARTICLE 22

The present Convention shall be open for signature at Paris, from 4th June 1974 to 30th June 1975, by the States invited to the Diplomatic Conference on the Convention for the Prevention of Marine Pollution from Land-Based Sources, held at Paris, and by the European Economic Community.

ARTICLE 23

The present 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 24

1. After 30th June 1975, the present Convention shall be open for accession by States referred to in Article 22 and by the European Economic Community.

2. The present Convention shall also be open for accession from the same date by any other Contracting Party to the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, opened for signature at Oslo on 15th February 1972.

3. From the date of its entry into force, the present Convention shall be open for accession by any State not referred to in Article 22, located upstream on watercourses crossing the territory of one or more Contracting Parties to the present Convention and reaching the maritime area defined in Article 2.

4. The Contracting Parties may unanimously invite other States to accede to the present Convention. In that case the maritime area in Article 2 may, if necessary, be amended in accordance with Article 27 of the present Convention.

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

ARTICLE 25

1. The present Convention shall come into force on the thirtieth day following the date of deposit of the seventh instrument of ratification, acceptance, approval or accession⁽²⁾.

2. For each Party ratifying, accepting or approving the present Convention or acceding to it after the deposit of the seventh instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force on the thirtieth day after the date of deposit by that Party of its instrument of ratification, acceptance, approval or accession.

ARTICLE 26

At any time after the expiry of two years from the date of coming into force of the present Convention in relation to any Contracting Party such Party may withdraw from the Convention by notice in writing to the depositary Government. Such notice shall take effect one year after the date on which it is received.

ARTICLE 27

1. The depositary Government shall, at the request of the Commission on a decision taken by a two-thirds majority of its members, call a Conference for the purpose of revising or amending the present Convention.

2. Upon accession by a State as provided for in paragraphs 2, 3 and 4 of Article 24, the maritime area in Article 2 may be amended upon a proposal by the Commission adopted by a unanimous vote. These amendments shall enter into force after unanimous approval by the Contracting Parties.

ARTICLE 28

The depositary Government shall inform the Contracting Parties and those referred to in Article 22:

- (a) of signatures to the present Convention, of the deposit of instruments of ratification, acceptance, approval or accession, and of notices of withdrawal in accordance with Articles 22, 23, 24 and 26;
- (b) of the date on which the present Convention comes into force in accordance with Article 25;
- (c) of the receipt of notifications of approval or objection, and of the entry into force of amendments to the present Convention and its Annexes, in accordance with Articles 18 and 27.

⁽²⁾ The Convention entered into force on 6 May 1978.

ARTICLE 29

The original of the present 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 States referred to in Article 22 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, duly authorized by their respective Governments, have signed this Convention.

Done at Paris, this 4th day of June 1974.

SIGNATURES, RATIFICATIONS AND APPROVALS

<i>State</i>	<i>Date of signature</i>	<i>Date of ratification or approval (AP)</i>
Belgium	28 May 1975	
Denmark	11 June 1974	1 Mar. 1976
European Economic Community	23 June 1975†	
France	} 11 June 1974	25 Jan. 1977 (AP)
Germany, Federal Republic of		
Iceland	} 7 Feb. 1975	
Ireland, Republic of		
Luxembourg	} 11 June 1974	10 Nov. 1977 6 Apr. 1977 (AP)
Netherlands		
Norway		
Portugal	21 June 1975	
Spain	} 11 June 1974	30 July 1976 6 Apr. 1978*†
Sweden		
United Kingdom		

* The United Kingdom ratification included Gibraltar, Jersey, Guernsey and the Isle of Man.

†STATEMENTS AND DECLARATIONS

EUROPEAN ECONOMIC COMMUNITY

In a note to the Government of the French Republic, dated 8 February 1978, the President of the Council of the European Communities stated that the signature on behalf of the Community constituted ratification for the Community.

UNITED KINGDOM

On depositing its instrument of ratification the Government of the United Kingdom made the following declaration:

“... the Convention will not enter into force for Gibraltar, the Bailiwick of Jersey and the Isle of Man until the 30th day following the date on which the Government of the United Kingdom notify the Government of the Republic of France that the measures required to implement the provisions of the Convention in Gibraltar, the Bailiwick of Jersey and the Isle of Man have been taken.”

ANNEX A

The allocation of substances to Parts I, II and III below takes account of the following criteria :

- (a) persistence;
- (b) toxicity or other noxious properties;
- (c) tendency to bio-accumulation.

These criteria are not necessarily of equal importance for a particular substance or group of substances, and other factors, such as the location and quantities of the discharge, may need to be considered.

PART I

The following substances are included in this Part

- (i) because they are not readily degradable or rendered harmless by natural processes; and
- (ii) because they may either
 - (a) give rise to dangerous accumulation of harmful material in the food chain, or
 - (b) endanger the welfare of living organisms causing undesirable changes in the marine eco-systems, or
 - (c) interfere seriously with the harvesting of sea foods or with other legitimate uses of the sea; and
- (iii) because it is considered that pollution by these substances necessitates urgent action.

1. Organohalogen compounds and substances which may form such compounds in the marine environment, excluding those which are biologically harmless, or which are rapidly converted in the sea into substances which are biologically harmless.

2. Mercury and mercury compounds.

3. Cadmium and cadmium compounds.

4. Persistent synthetic materials which may float, remain in suspension or sink, and which may seriously interfere with any legitimate use of the sea.

5. Persistent oils and hydrocarbons of petroleum origin.

PART II

The following substances are included in this Part because, although exhibiting similar characteristics to the substances in Part I and requiring strict control, they seem less noxious or are more readily rendered harmless by natural processes:

1. Organic compounds of phosphorous, silicon, and tin and substances which may form such compounds in the marine environment, excluding those which are biologically harmless, or which are rapidly converted in the sea into substances which are biologically harmless.

2. Elemental phosphorus.
3. Non-persistent oils and hydrocarbons of petroleum origin.
4. The following elements and their compounds:

Arsenic	Lead
Chromium	Nickel
Copper	Zinc

5. Substances which have been agreed by the Commission as having a deleterious effect on the taste and/or smell of products derived from the marine environment for human consumption.

PART III

The following substances are included in this Part because, although they display characteristics similar to those of substances listed in Part I and should be subject to stringent controls with the aim of preventing and, as appropriate, eliminating the pollution which they cause, they are already the subject of research, recommendations and, in some cases, measures under the auspices of several international organisations and institutions; those substances are subject to the provisions of Article 5:

— Radioactive substances, including wastes.

ANNEX B

ARTICLE 1

Unless the parties to the dispute decide otherwise, the arbitration procedure shall be in accordance with the provisions of this Annex.

ARTICLE 2

1. At the request addressed by one Contracting Party to another Contracting Party in accordance with Article 21 of the Convention, 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.

2. The claimant shall inform the Commission that he 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 is in his opinion in dispute. The Commission shall forward the information thus received to all Contracting Parties to the Convention.

ARTICLE 3

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.

ARTICLE 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary General of the United Nations shall, at the request of either party, designate him within a further two months' period.

2. 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 Secretary General of the United Nations 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 Secretary General of the United Nations who shall make this appointment within a further two months' period.

ARTICLE 5

1. The arbitral tribunal shall decide according to the rules of international law and, in particular, those of this Convention.

2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

ARTICLE 6

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

2. The 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.

3. If two or more arbitral tribunals constituted under the provisions of this Annex 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.

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

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

ARTICLE 7

1. 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.

2. 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 8

The European Economic Community, like any Contracting Party to the present Convention, has the right to appear as applicant or respondent before the arbitral tribunal.