

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 18 June 1980

PROPOSAL FOR A COUNCIL DECISION

supplementing Annex IV to the Convention on the Protection
of the Rhine against Chemical Pollution

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

on the recommendation by the International Commission for the
Protection of the Rhine against Pollution on controlling
discharges of mercury by the chlor-alkali electrolysis industry

(presented by the Commission to the Council)

1. Explanatory memorandum

1.1. Background

On 25 July 1977, the Council decided to conclude the Convention on the Protection of the Rhine against Chemical Pollution and the Additional Agreement to the Agreement signed in Berne on 29 April 1963 on the International Commission for the Protection of the Rhine against Pollution (77/586/EEC).¹

The Convention and the Additional Agreement were signed in Bonn on 3 December 1976 by the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Swiss Confederation and the European Economic Community, and entered into force on 1 February 1979.

Under the Council Decision of 25 July 1977, the Community is represented by the Commission within the International Commission for the Protection of the Rhine against Pollution.

The purpose of the Convention on the Protection of the Rhine against Chemical Pollution (hereinafter called the "Convention") is to eliminate or reduce the pollution of the surface waters of the Rhine basin by dangerous substances of the families and groups of substances listed in Annexes I and II to the Convention.

Consequently, it has the same objectives and, in many respects, lays down the same measures as Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community.²

To become a contracting party to the Convention, the Community had to accede to the Agreement signed in Berne on 29 April 1963 on the International Commission for the Protection of the Rhine against Pollution (hereinafter called the "International Commission").

To this end the said Agreement has been amended by the Additional Agreement referred to above.

1.2. Purpose of the proposal

Articles 5 and 14 of the Convention provide for the International Commission to propose to the Contracting Parties limit values for the discharge of the substances listed in Annex I into the waters of the Rhine. These proposals enter into force after their unanimous adoption by the Contracting Parties and are then included in Annex IV to the Convention.

¹ OJ L 240 of 19.09.1977, page 35.

² OJ L 129 of 18.05.1976, page 23.

This adoption must be notified to the Government of the Swiss Confederation.

The first proposals of the International Commission are concerned with discharges of mercury and its compounds by the chlor-alkali electrolysis industry, which are the main point source of mercury emissions into the Rhine.

It is proposed that the limit values - expressed in terms of concentration and maximum quantity - should be set, as well as a time-limit in respect of the discharges by the chlor-alkali electrolysis industry.

1.3. Participation by the Commission in the drafting of the proposal and consistency with Community measures

This proposal was drawn up and adopted by the International Commission. The Community, represented by Commission departments, took part in the preparatory work and helped, in particular, to ensure that the results of this work should be consistent with the implementation of Council Directive 76/464/EEC of 4 May 1976¹.

As part of the application of this Directive, the Commission, incidentally, put before the Council on 20 June 1979 a proposal for a Directive on limit values for discharges of mercury into the aquatic environment by the chlor-alkali electrolysis industry².

This proposal to the Council contains measures which are compatible with the proposal made by the International Commission, apart from the time limits for the limit values - which are shorter in the case of the Rhine.

The latter proposal provides that the limit value of 0.5 g of mercury per tonne of chlorine production capacity be applied by the Contracting Parties on 1 July 1983 at the latest.

This measure, which is justified by the wish of the Contracting Parties to the Convention to eliminate mercury pollution in the near future, is compatible with Directive 76/464/EEC, Article 10 of which provides that "where appropriate, one or more Member States may individually or jointly take more stringent measures than those provided for under this Directive".

¹ OJ L 129 of 18.05.1976, page 23.

² OJ C 169 of 06.07.1979, page 2.

1.4. Consultation of the European Parliament

The powers for the actions required for the adoption of this present decision are not included in the Treaty establishing the EEC, and it is necessary to have recourse to Article 235 of that Treaty. In view of the content of that Article, the opinion of the European Parliament is necessary.

1.5. Recommendation to the Council

In conclusion, the Commission recommends that the Council adopt this proposal from the International Commission for the Protection of the Rhine against Pollution and take note of the Recommendation set out at point 2 hereafter.

Proposal for a Council Decision supplementing Annex IV to the Convention on the Protection of the Rhine against Chemical Pollution

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas by Council Decision 77/586/EEC of 27 July 1977¹ the EEC concluded the Convention for the Protection of the Rhine against Chemical Pollution (hereinafter called the "Chemical Convention") and the Additional Agreement to the Agreement signed at Berne on 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution (hereinafter called the "International Commission");

Whereas, under Article 5 of the Chemical Convention the International Commission is to propose, by means of amendments to Annex IV to the Chemical Convention, limit values for the discharge of certain substances into the surface waters of the Rhine basin whereas under Article 14 of the Chemical Convention unanimous adoption by the Contracting Parties to the Convention is required for the entry into force of such amendments;

Whereas the International Commission has established Limit values for mercury in the form of a proposal intended to supplement Annex IV to the Chemical Convention;

Whereas it is desirable that the Community, as a Contracting Party to the Chemical Convention, adopt the abovementioned proposal;

HAS DECIDED:

Article 1

The proposal from the International Commission for the Protection of the Rhine against Pollution intended to supplement Annex IV to the Convention for the Protection of the Rhine against Chemical Pollution, signed in Bonn on 3 December 1976, is hereby adopted on behalf of the European Economic Community.

The text of the proposal is annexed to this Decision.

¹ OJ No L 240, 19.9.1977, p.

Article 2

The President of the Council will notify the Government of the Swiss Confederation, in accordance with Article 14 of the Convention, of the adoption of the proposal referred to in Article 1.

Done at Brussels,

For the Council,

The President,

RECOMMENDATION FOR A PROPOSAL

FROM THE INTERNATIONAL COMMISSION FOR THE PROTECTION OF THE RHINE
AGAINST POLLUTION
to supplement Annex IV to the Convention for the Protection of the
Rhine against Chemical Pollution, signed in Bonn on 3 December 1976.

The International Commission for the Protection of the Rhine against
Pollution,

Having regard to the Convention for the Protection of the Rhine
against Pollution,

Having regard, in particular Articles 3, 4, 5 and 14 thereof,

Proposes to the Contracting Parties to the Convention that Annex IV
to the Convention of 3 December 1976 be supplemented as follows in
respect of mercury:

.../...

LIMIT VALUES (Article 5)

Substance or group of substances	Origin	Limit value in terms of the maximum concentration of a substance	Limit value in terms of the maximum quantity of a substance	Time-limit for existing discharges	Remarks
Mercury	Chlor-alkali electrolysis establishments	The limit values in terms of the maximum concentration of mercury are calculated by dividing the limit value in terms of the maximum quantity of water used per tonne of chlorine production capacity	A monthly average of 0.5 gramme of mercury per tonne of chlorine production capacity. A daily average of 2 grammes of mercury per tonne of chlorine production capacity	1 July 1983	The limit values set out in the preceding columns are to be applied to mercury deriving from production activity and must therefore be observed at the outlet from the production plants. As regards measuring, analysing and sampling methods, see the recommendation of the International Commission dated 28 December 1979

Pursuant to Articles 14 and 19 of the Convention, the measures set out in the above table will enter into force after their unanimous adoption by the Contracting Parties to the Convention. The Contracting Parties will notify their adoption to the Government of the Swiss Confederation, which will acknowledge reception of notification.

2. Communication from the Commission to the Council on the recommendation from the International Commission for the Protection of the Rhine against Pollution on the control of discharges of mercury by the chlor-alkali electrolysis industry.

2. Communication by the Commission to the Council containing the recommendation drawn up by the International Commission for the control of discharges by the chlor-alkali electrolysis industry.

2.1. Articles 12 and 13 of the Convention provide that "the International Commission shall, where applicable, draw up recommendations with the aim of progressively improving application of the said Convention and shall draft recommendations with a view to achieving comparable results by the use of appropriate methods of measurement and analysis".

The International Commission has accordingly drawn up recommendations which it is sending to the Contracting Parties for their information. These recommendations are concerned with discharges of mercury by the chlor-alkali electrolysis industry, which are the subject of the proposal for a Council Decision referred to in point 1.

The recommendations refer to:

- (i) the calculation of limit values expressed in terms of maximum concentration of mercury in waste water and the preservation of the measurement results;
- (ii) a method of reference analysis;
- (iii) sampling.

The recommendations correspond, in essence, to the provisions set out in the proposal for a Council Directive on limit values for discharges of mercury into the aquatic environment by the chlor-alkali electrolysis industry¹.

¹ OJ C 169 of 06.07.1979

11

RECOMMENDATIONS

In view of its proposal of 27 and 28 June 1979 at Baden, Switzerland, on the limit values for discharges of mercury by the chlor-alkali electrolysis industry, the International Commission for the Protection of the Rhine against Pollution makes the following recommendations to the Contracting Parties to the Convention for the Protection of the Rhine against Chemical Pollution, pursuant to the provisions of Articles 12 and 13 thereof:

1. Proceeding from the fact that a monthly average of 715 litres of waste water is polluted by mercury per tonne of chlorine production capacity, the maximum concentration, taking account of the maximum quantity of mercury set at 0.5 gramme per tonne of chlorine production capacity, must not exceed a monthly average of 0.7 milligrammes of mercury per litre of waste water.

Proceeding also from the fact that a maximum daily average of 2,000 litres of waste water is polluted with mercury per daily tonne of chlorine production capacity, the maximum concentration, taking account of the maximum quantity set at 2.0 grammes of mercury per tonne of chlorine production capacity must not exceed a daily average of 1.0 milligramme of mercury per litre of waste water.

If there is more waste water deriving from production, the concentrations must be reduced in inverse proportion. If the quantity of waste water is reduced by special measures aimed at saving water without exceeding the maximum quantities of mercury, the maximum concentrations may be increased in inverse proportions.

Where waste water deriving from production is diluted with other waste water, this value is to be divided by the corresponding dilution factor.

The monthly average values of discharges are obtained from the daily averages by applying the results of analyses of statistically representative daily samples.

The monthly average concentration corresponds to the relation between the monthly maximum quantity (determined from daily quantities) and the total monthly rate of out-flow.

The results of these determinations and of all measurements shall be kept for not less than four years.

The competent authority shall monitor the emission standards. This may be done by means of measurements by the authority itself and/or checks on the samples taken and analysed by the manufacturer.

.../...

2. The limit values set out in Annex IV for the discharge of mercury by the chlor-alkali electrolysis industry relate to the determination of mercury by flameless atomic absorption at 253.7 nm (Hatch and Ott cold vapour method) after oxidation of the unfiltered sample, reduction of mercuric ions by stannous chloride and entrainment of mercury metal.

Other equivalent analysis procedures may be used instead of the reference method described above.

3. The control of discharges in any particular case depends on the specific conditions for each plant. The following control procedures may, for example, be applied:
 - (i) daily collection and analysis of mixed samples over 24 hours proportional to the rate of out-flow;
 - (ii) collection and analysis of 24 mixed one-hour samples or corresponding mixed samples relating to several hours.