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Report

drawn up on behalf of the Committee on the Environment, Public Health and Consumer Protection

on the proposal from the Commission of the European Communities to the Council (doc. 341/76) for a decision concluding a Convention for the Protection of the Rhine against Chemical Pollution and an Additional Agreement to the Agreement signed in Berne on 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution

Rapporteur: Mr W. MÜLLER
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English Edition



By letter of 29 September 1976 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 235 of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a decision concluding a Convention for the Protection of the Rhine against Chemical Pollution and an Additional Agreement to the Agreement signed in Berne on 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution.

The President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Legal Affairs Committee for its opinion.

On 19 October 1976 the Committee on the Environment, Public Health and Consumer Protection appointed Mr W. Müller rapporteur.

It considered this proposal at its meetings of 19 and 29 October 1976. At the latter meeting the motion for a resolution and the explanatory statement were unanimously adopted, with 2 abstentions.

Present: Mr Martens, acting chairman; Mr Bourdellès, Mr Delmotte (deputizing for Miss Bothroyd), Mr Guerlin, Sir Peter Kirk, Mr Ney, Mr Noè (deputizing for Mr Härzschel), Mr Plebe, Mr Radoux (deputizing for Mr Adams), Mr Rivierez, Mr Schwabe, Mr Springorum and Mrs Squarcialupi.

The opinion of the Legal Affairs Committee is attached.

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The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution together with explanatory statement :

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a decision concluding a Convention for the Protection of the Rhine against Chemical Pollution and an Additional Agreement to the Agreement signed in Berne on 29 April 1963 concerning the International Commission for the Protection of the Rhine against Pollution

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 235 of the EEC Treaty (Doc. 341/76),
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinion of the Legal Affairs Committee (Doc. 400/76),
1. Expresses its satisfaction with the results obtained by the Commission in the negotiations within the framework of the International Commission on the Protection of the Rhine against Pollution;
 2. Approves the Commission's proposal;
 3. Recalls its resolutions of 19 November 1970², 16 December 1971³ and 20 June 1975⁴;
 4. Requests the Commission to insist on advantage being taken of the latest scientific findings in the implementation of the Convention and on everything being done to achieve progress in keeping the Rhine clean;

¹ OJ No. C 239, 12.10.1976, p.3

² OJ No. C 143, 3.12.1970, p.30

³ OJ No. C 2, 11.1.1972, p. 22

⁴ OJ No. C 157, 14.7.1975, p.91

EXPLANATORY STATEMENT

1. The Commission's aim in submitting this proposal for a Council decision is to confirm the Community's active participation in the International Commission for the Protection of the Rhine against Pollution.

The Council authorized the Commission to participate in the appropriate negotiations on 19 January 1976.

2. The proposal for this Council decision implies that the Community should become a contracting party to the Convention on the Protection of the Rhine and consequently accept rights and obligations.

This will satisfy a desire repeatedly expressed by Parliament, and specifically in its resolutions of 19 November 1970, 16 December 1971 and 20 June 1975, which call for more active participation by the Community in the work of the administrative body of the Convention, the International Commission for the Protection of the Rhine.

3. The Committee on the Environment, Public Health and Consumer Protection is delighted with the results obtained by the Commission in its discussions with the Rhine Commission and appreciates the priority given by the Commission to the institutional aspects.

Only as an active member of the International Commission for the Rhine will the Commission be able to cooperate more extensively and play a larger part in activities to protect the Rhine against pollution.

4. Nonetheless, the committee wishes to draw attention to the Convention proper and its annexes, which need up-dating to take account of scientific and technical progress. Since they are based on data that are several years old. To enable existing pollution to be combated effectively and new forms of pollution prevented, the Commission should therefore insist that the methods used for the various measurements, analyses, checks, biological tests, etc., take account of technical and scientific progress.

5. The Committee further wishes to emphasize, as does the Legal Affairs Committee in its opinion, that Parliament should be more closely involved in defining the Community's position as called for in Article 3 of the decision. It feels that Parliament should always be consulted on the Community's attitude towards major environmental policy questions arising in the International Commission for the Protection of the Rhine.

6. In view of the undertaking given by the Commission's representative that the Rhine Convention will be up-dated at the appropriate time on the basis of scientific and technical progress, and that the Assembly will be consulted on the major questions referred to above, the Committee on the Environment, Public Health and Consumer Protection feels that the proposal for a Council decision should be adopted without amendment so as to avoid any unnecessary delays in the ratification procedure.

OPINION

of the Legal Affairs Committee

Letter of Sir Derek WALKER-SMITH, Chairman of the Legal Affairs Committee to Mr Della Briotta, Chairman of the Committee on the Environment, Public Health and Consumer Protection.

Brussels 19 October, 1976

Dear Mr Chairman,

At its meeting on 18 October 1976, the Legal Affairs Committee¹ considered and unanimously approved this proposal (doc. 341/76). The Committee also noted the Commission Communication to the Council on the outcome of negotiations for the conclusion of this Convention, contained in the same document.

The Legal Affairs Committee welcomes warmly the elaboration of the present Convention. The Committee has no observations to make on the content of the Convention, prepared by international experts. On the proposal for a Council decision, the Committee has the following comments:

(i) Article 235 has been suggested as the correct legal basis for the proposal. In 1972 Mr Armengaud presented to Parliament an initiative report, in the name of the Legal Affairs Committee, on the possibilities offered by the Treaties concerning measures against environmental pollution and any amendments to the Treaties which might be required (Doc. 15/72). The report referred to the lack of any specific provisions on this subject in the Treaties, considered a number of Articles of the EEC Treaty of which use might be made in this context and concluded that recourse should be had to Article 235 to introduce a power of direct control in the Community in environmental policy and to create a general action programme. The Committee also called on the Council to pronounce itself clearly in favour of the applicability of Article 235 to environmental problems as a whole, whilst the Commission was invited to examine the long-term possibility of amending the Treaties to include a special chapter on the environment.

¹ Present: Sir Derek Walker-Smith, Chairman, Mr Jozeau-Marigné, Vice-Chairman, Messrs Bangemann, Bayerl, Broeks, Krieg, Masullo, Plebe, Santer, Scelbà, Shaw and Vernaschi.

The Committee would emphasize here that it still considers that such is the ultimate legal solution on this subject.

(ii) In its report, the Committee further invited the Commission to take steps with a view to cooperation with other international organizations, notably the International Commission for the protection of the Rhine. The present Convention is the fruit of such cooperation and is not the first of its kind to which the Community is a party. By a decision of 7 November 1974 the Council authorized the Commission to sign the Paris Convention on the Prevention of Marine Pollution from Land-Based Sources and the Strasbourg Convention on the Protection of International Watercourses against Pollution on behalf of the Community and the Member States¹. More recently, the Community was a party to the Barcelona Convention on the protection of the Mediterranean. Article 229 of the EEC Treaty provides that: "The Commission shall also maintain such relations as are appropriate with all international organizations." In the report of Mr Armengaud² the Legal Affairs Committee urged the Commission to use the powers conferred upon it by this and other Articles to establish relations with "international organizations". Following Parliament's instructions in its resolution of 16 December 1971, that the Committee responsible should examine attentively the institutional aspects of proposals made in connection with the protection of the Rhine, the Committee concluded that the fact that the International Commission was not an international organization for the purposes of international law should not present an insurmountable obstacle, as Article 229 (2) should, without doubt, be widely interpreted. The Committee records its satisfaction that the Commission's initial request under this Article to take part as an observer in the work of the International Commission³ has produced such a positive result.

(iii) Article 3 of the draft decision provides that the Commission shall represent the Community on the International Commission and make known to it the Community's position in accordance with the directive issued to it by the Council. The Legal Affairs Committee considers that Parliament should be consulted on these directives. Your Committee, in the report by Mr Jahn

¹ See 8th General Report (Doc. 500/74) para. 250

² Op.cit., paras. 22 and 23, Explanatory Statement

³ See the Commission's proposal for a resolution on a Community environmental action programme (Doc. 62/73) pt. II, I 6.2, II 38.

on the Commission's proposal on the programme of environmental action of the European Communities (Doc. 106/73) complained of the exclusion of Parliament where the Communities were invited to participate in international conferences on the environment¹. It is proper that the Commission should represent the Communities on the international Commission² but when it is a question of defining the position of the Community in the deliberations of that body, Parliament should not be by-passed. The Legal Affairs Committee does not wish to propose an amendment to Article 3 but asks your Committee to raise this matter in its report and to endeavour to obtain satisfaction from the Commission on this point.

(sgd.) Derek Walker-Smith

¹ See para. 54

² Article 228 of the EEC Treaty provides that: 'Where this Treaty provides for the conclusion of agreements between the Community and one or more States or an international organization, such agreements shall be negotiated by the Commission. Subject to the powers vested in the Commission in this field, such agreements shall be concluded by the Council, after consulting the Assembly where required by this Treaty.'