



UvA-DARE (Digital Academic Repository)

Land-Based Pollution

Nollkaemper, P.A.

Published in:
Yearbook of International Environmental Law

[Link to publication](#)

Citation for published version (APA):
Nollkaemper, P. A. (1994). Land-Based Pollution. Yearbook of International Environmental Law, 4, 161-169.

General rights

It is not permitted to download or to forward/distribute the text or part of it without the consent of the author(s) and/or copyright holder(s), other than for strictly personal, individual use, unless the work is under an open content license (like Creative Commons).

Disclaimer/Complaints regulations

If you believe that digital publication of certain material infringes any of your rights or (privacy) interests, please let the Library know, stating your reasons. In case of a legitimate complaint, the Library will make the material inaccessible and/or remove it from the website. Please Ask the Library: <http://uba.uva.nl/en/contact>, or a letter to: Library of the University of Amsterdam, Secretariat, Singel 425, 1012 WP Amsterdam, The Netherlands. You will be contacted as soon as possible.

2 MARINE POLLUTION

a. Land-Based Pollution (Rivers/Air)

In 1993 the first steps were taken to effectuate Agenda 21 provisions on land-based pollution (LBP). This applies mainly to the global approach developed by UNEP, but on the regional level (the Mediterranean Sea and East Asian Seas) the imperatives of Agenda 21 are also being acknowledged. For the time being, in most regions the emphasis remains on the identification of the need for regulation of LBP, and on the creation of adequate conditions for such regulation. Actual progress in terms of specific (legal) measures adopted for LBP remains confined to the North-East Atlantic and the Baltic region and to a lesser extent the Mediterranean region.

I UNEP

Agenda 21 unequivocally recognizes that regional approaches to LBP, which up until now have predominated, should be supplemented by a global strategy to strengthen existing regional instruments and stimulate the introduction of such instruments in regions where LBP is an as yet unregulated source of disturbance of marine ecosystems. To this end, para. 17.26 of Agenda 21 invited UNEP to convene, as soon as practicable, an intergovernmental meeting to establish a global approach to LBP. In Decision 17/20 of 21 May 1993, UNEP's Governing Council responded to this invitation. The Governing Council decided to convene two main conferences. First, in June 1994, a meeting of government designated experts will discuss possible amendments to the 1985 Montreal Guidelines for the Protection of the Marine Environment from Land-Based Sources. Second, in late 1995 a two-week intergovernmental conference will be convened in Washington. This conference is to adopt a program of action for LBP and to identify means of implementation.

As a preparation for the two conferences, from 6–10 December 1993 a preliminary meeting of experts was held in Nairobi to assess the effectiveness of existing regional agreements on LBP. The meeting, attended by 53 states and several organizations, discussed, in regionally composed working groups, experiences in various regions and adopted a series of recommendations for the process leading up to the 1995 intergovernmental meeting. For the most part, these recommendations

recapitulated the views reflected in Agenda 21 and expressed at the preparatory 1991 Halifax and Nairobi conferences. Main points were the need to mobilize national, bilateral and multinational financial resources to support regulation of LBP in many regions; to provide policy guidance to the Global Environment Facility (GEF) on the international waters component of GEF's program; to provide technical assistance; to address the profound lack of adequate monitoring procedures; to cooperate in river-catchment areas; to strive for interregional cooperation; to apply the relevant parts of the Rio Declaration to LBP; to acknowledge the potential of economic instruments; and to link LBP with other international problems, such as the loss of biodiversity. Significantly, much emphasis was put on the need to identify and acknowledge the economic advantages of the control of LBP. These and other points will be taken up by the 1994 Montreal Meeting and in particular the 1995 Washington Conference.

2 THE NORTH-EAST ATLANTIC

Pending the ratification and entry into force of the 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic, the Paris Commission continued the implementation of the 1974 Paris Convention for the Prevention of Marine Pollution from Land-Based Sources, as well as the Action Plan of the Paris Commission adopted at the 1992 Ministerial meeting. At its fifteenth meeting, held jointly with the Oslo Commission from 14-19 June 1993, in Berlin, the Commission reviewed and updated the 1992 Action Plan of the Oslo and Paris Commissions. The Commission adopted six specific measures:

- Recommendation 93/1 concerning Limitation of Pollution from Existing Primary Iron and Steel Production (adopted with three reservations). This Recommendation was adopted in the framework of the industrial sectors approach of the Commission. It supplements PARCOM Recommendations 91/2 and 92/2 concerning the definition of the best available technology in, and the limitation of pollution from, primary iron and steel industry.
- (→) Decision 93/1 on the Phasing Out of the Use of Hexachloroethane (HCE) in the Non-Ferrous Metal Industry (adopted with three reservations). This Decision is also part of the industrial sectors approach. It obliges the contracting parties to phase out all uses of hexachloroethane in the non-ferrous metal industry (mainly as a degasifier in magnesium and copper foundries) by 31 December 1997.
- Recommendation 93/2 on Further Restrictions on the Discharge of Mercury from Dentistry (adopted with three reservations). This recom-

mendment supplements several earlier measures adopted by the Paris Commission to reduce mercury reaching the marine environment, in particular Recommendation 89/3 on reducing mercury discharges from various sources and Decision 90/2 on batteries containing mercury and cadmium.

- (→) Recommendation 93/3 on the Elaboration of National Action Plans and Best Environmental Practice for the Reduction of Inputs to the Environment of Pesticides from Agricultural Use (adopted with two reservations).
- Recommendation 93/4 on the Phasing Out of Cationic Detergents DTDMAC, DSDMAC and DHTDMAC in Fabric Softeners (adopted with one reservation), which calls on states to complete the ongoing substitution of the use of these detergents by less environmentally hazardous alternatives.
- (→) Recommendation 93/5 concerning Increases in Radioactive Discharges from Nuclear Reprocessing Plants (adopted with three reservations). This Recommendation is a watered down version of an original draft recommendation proposed by Denmark and Ireland aimed at preventing increases in the discharges of radionuclides following the commissioning of the THORP reprocessing plant in Sellafield, United Kingdom. Following disagreement in the Paris Commission, relating, *inter alia*, to the assessment of the expected discharges, to the acceptability thereof and to the alleged duplication of procedures followed within the framework of the EURATOM Treaty, a not very demanding Recommendation was adopted. According to the United Kingdom, the Recommendation is "too vague to provide a proper basis for a PARCOM Recommendation."

3 THE NORTH SEA

The Third International North Sea Conference, The Hague 1990, agreed that before the Fourth International Conference in 1995 an intermediate ministerial meeting should be convened in 1993. This intermediate ministerial meeting convened in Copenhagen, 7-8 December 1993. The main items on the agenda were the problems encountered with the implementation of the 1990 North Sea Conference Declaration with regard to nutrients and pesticides. The meeting concluded that progress in the achievement of the targets set by the 1990 Conference has been lopsided (*see* (→) Statement of Conclusions of the Intermediate Ministerial Meeting). In particular, reductions of discharges of untreated sewage and nitrogen into the North Sea will not achieve the targets set for 1995. Also the reduction in the use of pesticides has been insufficient. On other points, practice conformed to what was envisaged by the 1990

Declaration. The intermediate ministerial meeting confirmed the agreements made in 1990, and called on states, the European Community and the Paris Commission to take certain additional steps to come closer to the reduction targets. Amongst other things, the Meeting provided further impetus to the identification and protection of sensitive areas.

4 THE BALTIC SEA

From 2–5 February 1993, the Baltic Marine Environment Protection Commission (Helsinki Commission) held its 14th meeting in Helsinki. Pending the ratification and entry into force of the 1992 Convention on the Protection of the Marine Environment of the Baltic Sea Area, the Helsinki Commission decided on new topics to be included in its work program to promote early implementation of the new Convention. At the same time, the Commission continued to prepare and adopt specific recommendations for priority sources and sectors on the basis of the 1974 Helsinki Convention. The Commission adopted five recommendations relating to LBP:

- Recommendation 14/1 on Monitoring of Airborne Pollution Load. This Recommendation, superseding HELCOM Recommendation 11/1, aims to improve the availability of reliable data on the amounts of harmful substances carried by air to the Baltic Sea, with a view to the implementation of Art. 6 of the Helsinki Convention, which calls on states to minimize the airborne pollution of the Baltic Sea.
- Recommendation 14/2 on Limitation of Discharges into Water and Emissions to the Atmosphere from Production and Formulation of Pesticides. This Recommendation aims to support the implementation of the 1990 Baltic Sea Declaration calling for a substantive reduction of the load of pollutants most harmful to the ecosystem of the Baltic Sea. It contains a number of recommendations which the contracting parties should apply to plants which produce or formulate a certain amount of active substances.
- Recommendation 14/3 on Limitation of Emissions to the Atmosphere and Discharges into Water from Glass Industry. This Recommendation calls on states to apply the best available technology in the glass industry, and prescribes applicable principles and emission standards.
- Recommendation 14/4 on Reduction of Ammonia Volatilization from Animal Housing. This Recommendation aims to reduce inputs of nutrients from diffuse sources, and thereby to give effect to, *inter alia*, the 1990 Baltic Sea Declaration.
- Recommendation 14/5 on Reduction of Diffuse Emissions from Used Batteries containing Heavy Metals (Mercury, Cadmium and Lead).

This Recommendation supersedes (HELCOM Recommendation 6/5 and is intended as a further contribution to the reduction of diffuse emissions into the Baltic Sea.

5 THE MEDITERRANEAN SEA

From 12-15 October 1993, the Eighth Meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona Convention) convened in Antalya, Turkey. LBP is covered by a Protocol to the Barcelona Convention and, on the policy level, by the Mediterranean Action Plan.

The Meeting expressed its concern over the inadequate implementation of the LBP Protocol to the Barcelona Convention, and requested the Secretariat to monitor and implementation by the contracting parties. As regards substantive issues, the Meeting recommended that the contracting parties:

- reduce and phase out by the year 2005 inputs to the marine environment of toxic, persistent and bio-accumulative substances;
- take a series of measures to assess and control pollution by carcinogenic, teratogenic and mutagenic substances. Although the parties considered the present state of knowledge on this issue inadequate, consistent with the precautionary principle measures to eliminate inputs by such substances are recommended.

The Meeting adopted several recommendations that are indirectly relevant to LBP. These concerned the monitoring of marine pollution in the Mediterranean and the environmentally sound management of the Mediterranean coastal zones.

The contracting parties also discussed the implementation of the Mediterranean Action Plan in 1992-1993. They were in broad agreement as to the need to revitalize the Mediterranean Action Plan, *inter alia*, in order to give effect to the imperatives of Agenda 21. A Resolution concerning principles and priorities for reorientation of the Mediterranean Action Plan acknowledges, *inter alia*, the need to focus the activities of the Plan in accordance with the recommendations of Agenda 21, to promote the transfer of clean technologies and to strengthen the capabilities of contracting parties that are most in need of this; issues with direct relevance to LBP.

6 THE BLACK SEA

The 1992 Convention on the Protection of the Black Sea against Pollution (Bucharest Convention) sets out a legal framework for common policies of the coastal states to prevent LBP of the Black Sea. In itself,

however, the Bucharest Convention does not contain specific objectives, obligations or time-frames. In order to supplement the Convention with a program common objectives and priorities, on 7 April 1993 the coastal states of the Black Sea met in Odessa to adopt the (→) Ministerial Declaration on the Protection of the Black Sea (Odessa Declaration). The Odessa Declaration includes the following agreements relevant to LBP:

- to develop by 1996 common environmental quality objectives and emission standards for inputs of substances listed in the Protocol on LBP to the Bucharest Convention and to take the necessary measures to reduce inputs of these substances to the agreed levels (para. 1);
- to further the use of low and non-waste technologies to achieve a reduction of inputs of harmful substances, including nutrients (para. 2);
- to construct sewage treatment plans in areas where the local population is at risk or where there may be detrimental effects of the sustainable development of the marine environment for such activities as tourism or fisheries (para. 3);
- to prepare, before 1996, co-ordinated national plans for the reduction of inputs of harmful substances, especially nutrients (para. 4);
- to introduce compulsory environmental impact assessment of all projects (para. 16);
- to improve the availability and quality of data on the state of the environment of the Black Sea (paras. 12–14).

The Ministers responsible for the protection of the Black Sea will meet on a triennial basis to discuss progress in the implementation of the Odessa Declaration, as well as any necessary adjustments. These meetings, and any decisions to be taken by them, are to be consistent and integrated with the implementation of the Bucharest Convention.

7 EAST ASIAN SEAS

On 9–10 July 1993, the Tenth Meeting of the Coordinating Body on the Seas of East Asia (COBSEA) of the East Asian Seas Action Plan was held in Bangkok (UNEP(OCA)/EAS IG.4/7 of 10 July 1993). COBSEA, established in 1981, has the overall authority to determine the contents of the Action Plan, to review the progress of the Action Plan and to approve programs for its implementation.

In response to the relevant paragraphs of chapter 17 of Agenda 21, the meeting included in its work program the assessment of LBP. Several other projects approved by COBSEA are indirectly related to LBP. These include the project "Conservation And Sustainable Development for the East Asian Seas" and the "Coastal Resources Management Plan Project for the East Asian Seas Region."

The meeting examined COBSEA's long-term strategy in the light of Agenda 21. COBSEA found its long-term strategy to be in complete harmony with the sentiments embodied in chapter 17 of Agenda 21. However, in reaffirming its adopted long-term strategy, COBSEA recognized that a shift in emphasis was desirable to better reflect the spirit of UNCED. In particular, the strategy was shifted away from a narrow approach that addresses single problems in isolation towards a broad, integrated approach that addresses these problems in relation to other activities and responsibilities in the coastal zone. Also, the strategy was focused away from a preoccupation with measuring, assessing and monitoring towards acknowledging that this data-gathering is only a means to an end.

Induced by a growing interest of states of the wider East Asian Seas Region to join the Action Plan as well as by the developments since the adoption of the Action Plan in 1981 (including the adoption of Agenda 21), the Meeting envisaged the convening of an intergovernmental meeting to review and revise the Action Plan.

8 SMALL ISLAND STATES

LBP has been recognized as a major concern in the preparations for the Global Conference on the Sustainable Development of Small Island States, to be convened from 25 April—6 May 1994 in Barbados.

In response to General Assembly Resolution 47/189 of 22 December 1992, a Regional Technical Meeting on the sustainable development of small islands states in the Atlantic, Caribbean and Mediterranean was held from 12–16 July 1993 in Port-of-Spain, Trinidad and Tobago. The Meeting identified the peculiar vulnerabilities and characteristics that compound the difficulties of small island developing states as compared to the difficulties experienced by developing countries generally. Specifically with respect to LBP, the Meeting recognized several measures to be considered, including:

- at the national level: use of cleaner technologies; integration of waste management and pollution control into land-use planning; greater control of agricultural activities, including control of the use and storage of pesticides and fertilizers; and the development of comprehensive solid waste management strategies;
- at the regional level: establishment of regional systems for the treatment, disposal and recycling of domestically generated wastes; assistance in preparing environmental impact assessments; and identification of sources and technical and financial assistance/cooperation;
- at the international level: promotion of international cooperation in the

establishment of waste-management facilities as a component of international investment projects; identification of criteria for development assistance and technical assistance projects to address protection of the marine environment from LBP; promotion of the control of the use of toxic chemicals in the context of international financing for agricultural projects; and identification of sources and technical and financial assistance/cooperation (A/CONF.167/PC/8 of 16 August 1993, Appendix III).

This report was one of the documents before the First Session of the Preparatory Committee for the Global Conference on the Sustainable Development of Small Island States, which met from 30 August—10 September 1993. The measures proposed by the Preparatory Committee include:

- assistance to small island states to assess the impact of LBP and to develop mechanisms to eliminate or minimize LBP;
- international cooperation in the establishment of waste management facilities and the control of toxic chemicals and pollution prevention as components in international investment projects;
- improved access to resources for national and regional efforts to formulate and implement education campaigns designed to gain local recognition of the need to control wastes at the source, the value of reuse and recycling and of appropriate packaging, and the possibilities for converting wastes to resources in culturally appropriate ways (A/48/36 of 13 October 1993, para. 22).

Although the references to the negotiations on LBP are still bracketed, it may be assumed that the outcomes of the Conference will serve as a major input in the preparations for the Intergovernmental Conference on LBP to be convened in May 1995, Washington, D.C. (See *supra* section 1).

9 OTHER DEVELOPMENTS

In addition to the developments mentioned above, several activities deserve mention in passing.

The work of GEF on its international waters program is of increasing relevance to LBP. Its reconsideration of the eligibility criteria for the inclusion of projects in the international waters program makes it easier to cover regional LBP projects by GEF funding.

On 7 September 1993, eight Arctic states signed a (→) Ministerial Declaration in Nuuk, Greenland, reconfirming the Arctic Environmental Protection Strategy adopted in Rovaniemi, 1991. The Nuuk Declaration also covers protection of the Arctic region against LBP, in particular

atmospheric depositions.

In the European Community, several initiatives of potential relevance to LBP are being considered. The Commission has proposed a directive on integrated pollution prevention and control, which would require Member States to take an integrated approach to controlling emissions into the air, water and land (OJ EC 1993 No. C 311). At a more preliminary stage is the reconsideration of the directive 76/464 on the inputs of dangerous substances.

In the Caribbean region, work is continuing on a protocol for LBP. A scheduled Second Meeting of Experts on Land-Based Sources of Pollution has been postponed to March 1994.

In several other regions the development of instruments is being considered. At the Experts Meeting convened by UNEP (see above), support was voiced for the development of several new regional instruments on LBP, including a convention or protocol for the North-West Pacific and a protocol for the Red Sea.

André Nollkaemper

b. Vessel Source Pollution

I INTRODUCTION

In 1993, continuing efforts of states to grapple with the issue of vessel source pollution were galvanized by two accidents in January involving oil spills from the Liberian-registered *Braer* and the Danish-registered *Maersk Navigator*. Both spills threatened areas rich in marine biodiversity. The International Maritime Organization (IMO), in addition to its substantive work on vessel source pollution, addressed the issue through its focus on institutional means. These included improving the implementation of its existing instruments and enhancing the coordination among its various committees to respond more effectively to maritime safety and environmental protection concerns in the face of burgeoning workloads and limited financial resources.

2 STRUCTURAL ISSUES

Effective implementation of IMO instruments was a central theme of IMO in 1993. Several countries sharing the majority of the world merchant fleet have ratified many IMO conventions and adopted its plethora

FlashFile - NCC/IBL aanvraagbon A078385857

4/20/2005 8:00:29 AM

Materiaal : Abx PPN : 081487118
 Titel : Yearbook of international environmental law
 :
 Auteur :
 Deel / Supplem. :
 Corporatie : Externe Database :
 Jaar / Editie : 1991 Extern Nummer :
 Uitgave : London [etc.] Graham & Trotman
 Serie / Sectie :
 Pag-ISSN / ISBN : 0965-1721

081487118 ; P 16.690 ; ; 1994 V5 - ~eH17804947~eV~c

Jaar	: 1994-00-00	Datum Indienen	: 19-04-2005 18:03
Volume	:	Datum Plaatsing	: 19-04-2005 18:03
Aflevering	:	Datum Rappel	: 17-05-2005
Leenvorm	: KOPIE	Particulier	: N
Leveringswijze	: E	Geplaatst bij	: 0008
Cooperatiecode	:	Indiener	: 0004/9999
Aanvrager	: 0004/9998	Eindgebruiker	: 041631433
Aanvragerident.	: UVA KEUR (UB GRONINGEN)	Aanvragerident.	:
Auteur	: Nollkaemper, P.A.		
Artikel	: Land-Based Pollution		
Bladzijden	: 161-169		
Bron	:		
Opmerking	: arno ID: 128762		

Indiener	: 0004/9999	Stuur rekening	: N
Aanvrager	: 0004/9998	Eindgebruiker	: 041631433
Aanvragerident.	: UVA KEUR (UB GRONINGEN)	Aanvragerident.	:

Afleveradres Post UvA Keur
 UB Groningen
 Broerstraat 4
 9700 AN Groningen

NL

Fax
 E-mail m.s.van.delden@rug.nl
 Ftp
 Ariel
 Telefoon 050-3635057

Faktuuradres Clearing House

[1] origineel gestuurd
 [2] kopie gestuurd
 [3] overige

[4] nog niet aanwezig
 [5] niet aanwezig
 [6] niet beschikbaar

[7] uitgeleend
 [8] wordt niet uitgeleend
 [9] bibliografisch onjuist
 [0] bij de binder

Aantal eenheden : 9
 Aanvraagnummer : A078385857