



Recommendation of the Council for
Strengthening International
Co-operation on Environmental
Protection in Frontier
Regions

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Date(s)

Adopted on 21/09/1978

Background Information

The Recommendation for Strengthening International Co-operation on Environmental Protection in Frontier Regions was adopted by the OECD Council on 21 September 1978 on the proposal of the Environment Committee (now called Environment Policy Committee). The Recommendation recommends that Adherents develop in accordance with their own rules for the allocation of functions among the political and administrative institutions, their co-operation in regard to environmental protection in frontier regions.

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Recommendations of the Council of 14 November 1974, on Principles concerning Transfrontier Pollution, of 11 May 1976, on Equal Right of Access in Relation to Transfrontier Pollution and of 17 May 1977 for the Implementation of a Regime of Equal Right of Access and Non-Discrimination in Relation to Transfrontier Pollution [C(74)224, C(76)55(Final), C(77)28(Final)];

HAVING REGARD to the Declaration on Environmental Policy adopted by the Environment Committee at Ministerial Level on 14 November 1974 to the effect that "Governments will co-operate towards solving transfrontier pollution problems in a spirit of solidarity and with the intention of further developing international law in this field";

TAKING NOTE of the Report by the Secretariat of 14 November 1977 on environmental protection in frontier regions;

HAVING REGARD to the activities of the Council of Europe in the field of transfrontier co-operation;

AWARE that numerous transfrontier pollution problems between Member countries arise in adjacent frontier regions among which exist multiple economic, social, cultural and ecological links;

CONSIDERING that these problems can most effectively be solved through co-operation among the various competent authorities in the Member countries concerned;

On the proposal of the Environment Committee;

RECOMMENDS that Member countries develop in accordance with their own rules for the allocation of functions among the political and administrative institutions, their co-operation in regard to environmental protection in frontier regions and in doing so take account, possibly on the basis of reciprocity, of the Guidelines set forth in the Annex to the present Recommendation which is an integral part of it.

ANNEX

GUIDELINES FOR INTERNATIONAL CO-OPERATION WITH REGARD TO ENVIRONMENTAL PROTECTION IN FRONTIER REGIONS

I. Introduction

1. The purpose of these Guidelines is to promote co-operation among the Member countries of the OECD with a view to facilitating, within the framework of the environmental policies defined by such countries at national or international level, the solution of international environmental problems of regional or local character arising in their frontier regions.

These Guidelines do not affect the scope or nature of the functions of regional or local entities as defined by each country's domestic law, nor the rules of control or subordination governing such entities, nor the functions of the central organs of government in respect of international relations and general political orientation. Consequently, they should be interpreted, and where appropriate implemented, with due regard for the principle of national sovereignty and constitutional rules of each country.

2. The Guidelines cover, among other things, the prevention and control of pollution between adjacent frontier regions, warning systems and contingency plans for occurrences of transfrontier pollution, and land use to the extent that this plays a role in the questions dealt with (particularly the establishment of polluting activities and pollution-sensitive zones). They deal for instance with water treatment for the supply of water, management of underground waters in frontier regions, sewerage systems and sewage treatment as well as collection and disposal of waste and refuse.

3. For the purposes of these Guidelines¹, "countries" means OECD Member countries participating in this Recommendation; "frontier region" means a region of a country located along a land or sea frontier of that country; "adjacent frontier regions" means frontier regions located on either side of a land or sea frontier common to two countries "regional or local entity" means any regional or local authority or body and any agency exercising regional or local functions in accordance with each country's domestic law; "organised concertation" means an organised system of mutual information, discussion and exchange of view points which seek harmonized solutions to problems of common interest, and which does not have the formal character of an international negotiation within the framework of inter-states consultations.

The competent authorities will be responsible for deciding, in relation to the problem being examined, the part of its territory which is to be regarded as a frontier region for the purposes of this Recommendation and for deciding which are to be the regional or local entities concerned.

Whether a stretch of the sea is sufficiently narrow to make the areas of the countries located on its shores "adjacent frontier regions" for the purpose of this Recommendation will depend on the nature of the transfrontier pollution in question and, in certain cases, will fall to be determined by agreement between the countries concerned.

II. Guidelines Relating to the General Principles of Co-operation

1. With a view to protecting the environment in adjacent frontier regions, countries should ensure the existence of an appropriate degree of co-operation, notably at the stage of preventing transfrontier pollution, and pay particular attention to ensure the implementation of the principles of equal right of access and non-discrimination as defined in Recommendations C(74)224, C(76)55(Final) and C(77)28(Final), within such regions.

Information of the Public

2. In accordance with the principle of equal right of access [C(77)28(Final), Annex, paragraph 9], countries should in particular take care to see that persons exposed to a significant risk of transfrontier pollution are informed through channels selected by the countries themselves and enabled to the same extent as persons in the country of origin, to take part under similar conditions in administrative and judicial hearings and proceedings.

Environmental Impact Studies

3. In accordance with the principle of non-discrimination [C(77)28(Final), Annex, paragraphs 1 and 3], when the initiation of activities in a frontier region is conditional in a country upon the carrying out of an environmental impact study, the said country should ensure that, as far as possible, the effects of such activities on both sides of the frontier are included in such study on an equivalent basis.

To this end and in accordance with the principles of information exchange and consultation [C(77)28(Final), Annex, Title C], when it is planned to establish such activity in a frontier region, the countries concerned should co-operate -- and encourage their competent regional and local entities on both sides of the frontier to do likewise -- in gathering the information required for the environmental impact study and possibly to provide or transmit such information to those persons responsible for the impact study.

The country of origin should communicate to the exposed country the results and elements that are pertinent for questions of transfrontier pollution of environmental impact studies when such studies indicate a significant risk of transfrontier pollution and when their transmission is not prohibited by legislative provisions or prescriptions or applicable international conventions.

In cases where this transmission is prohibited or where the country of origin considers it is not in a position to transmit certain elements of such studies due to their confidential nature, the country of origin should nevertheless co-operate with the exposed country with the aim of informing it as completely as possible, or of finding another satisfactory solution.

Exchange of Scientific Information

4. In accordance with the principle of exchange of scientific information [C(74)224, Annex, paragraph 11], countries should take particular pains to ensure compatibility in pollution-measuring methods used by their respective technical services on their side of the frontier. They should take similar action to ensure comparability in respect of pollution assessment criteria and the statistical data on which environmental protection measures in their frontier regions are based.

III. Guidelines Relating to International Co-operation at Regional and Local Level

5. Countries should encourage their regional or local entities to co-operate with equivalent entities in the neighbouring country or countries for the purpose of facilitating the implementation in the adjacent frontier regions of their respective environmental policies and thus of resolving specific environmental problems.

Such co-operation undertaken with due respect to the allocation of functions set out by each country's domestic law, may take the form of contacts, organised concertation, co-ordinated or joint actions and possibly imply the conclusion of arrangements or agreements. In the latter case, the domestic law will determine the modalities for possibly authorising regional or local entities to conclude such arrangements or agreements.

6. For this purpose, countries concerned should seek ways of solving any legal, administrative and financial difficulties which are liable to impede such co-operation at regional or local level and should devise in concert, where necessary, such bilateral or multilateral frameworks as may be needed for carrying out specific joint actions concerned with the environment in adjacent frontier regions.

7. Countries should ensure that co-operation under Guidelines 5 and 6, between regional and/or local entities on either side of a frontier develops as favourably as co-operation between regional and/or local entities of the same country.

Co-ordination of Administrative Services and Relations between Them

8. To improve the conditions needed for co-operation on environmental protection in adjacent frontier regions, countries should, within the framework of their own administrative and legal systems, and, as need be in furtherance of intergovernmental agreements:

- a) Ensure co-ordination between the various administrative services associated with environmental protection in their frontier regions,
- b) Designate or expressly empower officials in the central, regional or local administration to establish all necessary contacts with their counterparts on the other side of the frontier in order to facilitate the passage of information on a reciprocal basis and the holding of concertation and, as need be, intergovernmental consultation for protection of the environment in adjacent frontier regions,
- c) Draw up a table showing the correspondence between the functions of regional or local entities in adjacent frontier areas called upon to co-operate in the protection of the environment and distribute it to such entities.

Implementation of International Co-operation

a) Organised International Concertation

9. To promote co-operation in regard to environmental protection in adjacent frontier areas, countries should, by common agreement and to the extent it would be useful, introduce arrangements, if not already in existence, for organised concertation among various administrative authorities concerned and representatives of regional and/or local entities of adjacent frontier regions which have been designated for the purpose in each country according to its own internal requirements.

10. Whenever it is not felt essential by the countries concerned that such concertation should be conducted at intergovernmental level, regional or local entities directly concerned should be left to initiate and operate it in a manner to be specified by such countries according to their domestic laws.

11. Countries concerned should ensure that the administrative authorities participating in such organised concertation inform and consult one another regularly and in good time on any environmental protection issue arising in the frontier regions concerned and which might create difficulties between such regions.

b) Concrete Actions

12. In the interests of easier and more effective co-operation between regional or local entities as mentioned in Guideline 5, countries concerned should consider the desirability, in the particular context of their frontier regions, and after all intergovernmental consultations which they may consider necessary, of taking measures for the purpose of:

- a) Encouraging the implementation of concrete environmental protection actions contemplated by regional or local entities in co-operation with their counterparts on the other side of a frontier, to the extent that such actions are compatible with their own environmental policies at national level;
- b) Encouraging and facilitating the preparation, by the regional or local entities in adjacent frontier areas, of proposals for arrangements or agreements relating to specific joint environmental protection actions in such regions, and, where deemed appropriate, authorising the conclusion of such arrangements or agreements at the administrative level which they consider appropriate;
- c) Providing for, and bringing into effect if need be, systems for sharing the financing of joint environmental protection studies and actions undertaken by the competent entities in neighbouring countries in adjacent frontier regions;
- d) Facilitating by all appropriate means the holding of joint meetings between regional or local entities of adjacent frontier regions.

c) Financial Questions

13. When the superior bodies of a country financially support their regional or local entities in their actions to protect the environment undertaken within the national territory, they should make no distinction in granting support as to whether such actions contribute to protecting the environment of the country itself or of a frontier region of an exposed country, provided that the conditions and zones are comparable.

14. When regional or local entities in adjacent frontier regions undertake, with the agreement or authorisation of the competent bodies in the countries concerned, joint environmental protection action, they should enjoy equivalent financial facilities to those they would be able to obtain for similar action undertaken under comparable conditions and in comparable zones within their national territory jointly with another regional or local entity.

¹ The definitions of "country of origin", "exposed country", "country concerned", "pollution" and "transfrontier pollution" are contained in the Council Recommendation of 17 May 1977 [C(77)28(Final)].

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