



Recommendation of the Council
concerning Certain Financial
Aspects of Actions by Public
Authorities to Prevent and
Control Oil Spills

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Background Information

The Recommendation concerning Certain Financial Aspects of Actions by Public Authorities to Prevent and Control Oil Spills was adopted by the OECD Council on 18 April 1981 on the proposal of the Environment Committee (now called Environment Policy Committee). The Recommendation recommends that Adherents involved or likely to be involved in the prevention and control of oil spills examine the advantages to be derived from the conclusion of agreements.

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 Recommendation of the Council of 12 October 1976, on Principles concerning Coastal Management [C(76)161(Final)], whereby "the protection of coastal zones ... is in the common interest of mankind and is of benefit to, and the responsibility of, all Member countries and therefore has international implications" and whereby "neighbouring Member countries should give mutual help in the event of major accidental coastal pollution by establishing emergency procedures to enable a given country to make use of the services of neighbouring countries to combat, as quickly as possible, the effects of such pollution";

HAVING REGARD to the Recommendation of the Council of 14 November 1974, on Principles concerning Transfrontier Pollution [C(74)224] whereby countries should take all appropriate measures to reduce the effects of a sudden increase in pollution and should give each other mutual assistance to minimise, and where possible eliminate, the effects of incidents liable to lead to transfrontier pollution;

HAVING REGARD to the Recommendation of the Council of 26 May 1972, on Guiding Principles concerning International Economic Aspects of Environmental Policies [C(72)128] whereby the polluter should bear the cost of prevention and control measures decided on by public authorities to ensure that the environment is in an acceptable state;

NOTING the growing burden imposed on the budgets of Member countries owing to the need for appropriate facilities for preventing and controlling oil spills;

WHEREAS action to prevent and control oil spills undertaken after a given incident by the authorities of several countries would be facilitated if those countries specified in advance certain financial terms and conditions relating to their action;

WHEREAS the domestic law of most Member countries and a number of international conventions generally provide that the costs of reasonable action taken after an incident by public authorities to prevent and control an oil spill is to be borne by the person liable for the oil spill or the risk thereof;

HAVING REGARD to the Report of the Environment Committee on Certain Financial Aspects of Prevention and Control of Oil spills [ENV(80)44 and Corrigendum];

I. RECOMMENDS that the Governments of Member countries involved or likely to be involved in the prevention and control of oil spills:

1. Examine the advantages to be derived from the conclusion of agreements specifying in particular those instances where the costs of action to prevent and control an oil spill taken after an incident by the public authorities of one country would be reimbursed by another country;
2. Have regard, whether in the conclusion or revision of agreements or in their absence, so far as possible and in the light of particular circumstances, to the considerations set out in the annex to this recommendation and forming an integral part of it;
3. Take account, in calculating the costs of action taken by public authorities after an incident to prevent or control an oil spill, not only of the costs incurred as a direct result of the action, but also of costs incurred before the action for the purpose of ensuring that the necessary capability for taking that action is available;
4. Make use, save to the extent that national legislation provides to the contrary, of the Polluter Pays Principle in assigning to the person or entity liable at the internal level the costs of reasonable remedial action taken by public authorities after an incident.

II. INSTRUCTS the Environment Committee to consider in due time the preparation of a report on the practical experience of Member countries concerning steps taken to give effect to this Recommendation.

ANNEX

CERTAIN INTERNATIONAL FINANCIAL ASPECTS OF PREVENTION AND CONTROL OF OIL SPILLS

1. Where two or more countries are likely to be involved in the prevention or control of the same oil spill, it would be desirable for the countries concerned to agree in advance regarding the financial modalities governing their respective actions.

Within the framework of agreements concluded for this purpose, countries should consider specifying conditions of payment and any services provided free of charge. Countries could also consider specifying, as far as possible, the legal and fiscal conditions which will apply to their actions.

2. Where there is no prior agreement between countries on the financial modalities governing their actions, the cost of such actions might in the normal course of events be borne by them in accordance with paragraph a) or paragraph b) below:

- a) In the case of assistance provided by one country at the express request of another, the latter, should be prepared to reimburse to the first the full cost of such assistance. When making its request for assistance, the requesting country should, so far as possible, specify the type and quantity of equipment requested, the modalities and timing of such assistance and may enquire as to the probable cost;
- b) In the event of action being taken spontaneously by a country (i.e. in the absence of an express request by another country) to prevent or control an oil spill, the former country should be prepared to bear the full cost of its action.

3. The country requesting assistance is free to cancel its request at any time but in that case it should bear the costs already incurred or committed by the assisting country.

4. The above indications should not be interpreted as in any way prejudicing the rights of countries to claim reimbursement of the costs of their actions under other applicable provisions and rules of domestic and international law, notably those concerning liability and/or compensation.

5. Where on the basis of the above paragraphs, a country agrees to reimburse, or is committed to reimbursing, to another country the cost of assistance provided by the latter in preventing or controlling an oil spill, the amount of such costs should be calculated, in the absence of contrary provisions, according to current practice in the assisting country concerning reimbursement of such costs by a person or entity liable.

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