II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 8 May 2000

concerning the approval, on behalf of the Community, of the new Annex V to the Convention for the Protection of the Marine Environment of the North-East Atlantic on the protection and conservation of the ecosystems and biological diversity of the maritime area and the corresponding Appendix 3

(2000/340/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) in conjunction with the first sentence of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Whereas:

(1) The Community is a Contracting Party to the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention) pursuant to Decision 98/249/EC [3].

(2) The aim of the OSPAR Convention is to prevent and eliminate pollution and to protect the maritime area against the harmful effects of human activities; it entered into force on 25 March 1998.

(3) The executive body of the OSPAR Convention (the OSPAR Commission) may adopt amendments to the Convention, including new Annexes and Appendices; it has adopted a new Annex which is Annex V on the protection and conservation of the ecosystems and biological diversity of the maritime area, the Appendix 3 which stems from it, and an Agreement on the meaning of certain concepts in the Annex V.

(4) The preservation, the protection and the improvement of the quality of the environment, including the conservation of natural habitats and of wild flora and fauna and the protection of biodiversity are an essential objective of general benefit which is being pursued by the Community as provided for in Article 174 of the Treaty; the new Annex V to the OSPAR Convention may contribute to the achievement of that objective.

(5) The Community has adopted measures in the field covered by Annex V; it should enter into international commitments in this field.

(6) The objectives of Annex V supplement the objectives of Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds [4] and of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora [5]; those Directives already provide a Community framework for the protection of habitats and species in the geographical area in which they apply; the adoption of the Annex V by the Community does not prejudice the implementation of those Directives.

(7) The Commission took part in negotiating Annex V, in accordance with the Council conclusions concerning negotiating directives for the Convention for the protection of the marine environment of the North-East Atlantic.

(8) The Community should approve Annex V to the Convention for the Protection of the Marine Environment of the North East Atlantic (including the corresponding Appendix 3),

[1] OJ C 158, 4.6.1999, p. 1.
[2] Opinion delivered on 27 October 1999 (not yet published in the Official Journal).
[3] OJ L 104, 3.4.1998, p. 1.
[4] OJ L 103, 25.4.1979, p. 1. Directive as last amended by Directive 97/49/EC (OJ L 223, 13.8.1997, p. 9).
[5] OJ L 206, 22.7.1992, p 7. Directive as last amended by Directive 97/62/EC (OJ L 305, 8.11.1997, p. 42).

HAS DECIDED AS FOLLOWS:

Sole Article

1. Annex V to the Convention for the Protection of the Marine Environment of the North-East Atlantic (including the corresponding Appendix 3) is hereby approved on behalf of the Community.

The text of the said Annex V is attached to this Decision.

2. The Commission is authorised to notify the approval referred to in paragraph 1 to the OSPAR Commission.

Done at Brussels, 8 May 2000.

For the Council

The President

E. FERRO RODRIGUES

ANNEX V

ON THE PROTECTION AND CONSERVATION OF THE ECOSYSTEMS AND BIOLOGICAL DIVERSITY OF THE MARITIME AREA

Article 1

For the purposes of this Annex and of Appendix 3 the definitions of 'biological diversity', 'ecosystem' and 'habitat' are those contained in the Convention on Biological Diversity of 5 June 1992.

Article 2

In fulfilling their obligation under the Convention to take, individually and jointly, the necessary measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected, as well as their obligation under the Convention on Biological Diversity of 5 June 1992 to develop strategies, plans or programmes for the conservation and sustainable use of biological diversity, Contracting Parties shall:

(a) take the necessary measures to protect and conserve the ecosystems and the biological diversity of the maritime area, and to restore, where practicable, marine areas which have been adversely affected; and

(b) cooperate in adopting programmes and measures for those purposes for the control of the human activities identified by the application of the criteria in Appendix 3.

Article 3

1. For the purposes of this Annex, it shall, *inter alia*, be the duty of the Commission:

(a) to draw up programmes and measures for the control of the human activities identified by the application of the criteria in Appendix 3;

(b) in doing so:

(i) to collect and review information on such activities and their effects on ecosystems and biological diversity;

(ii) to develop means, consistent with international law, for instituting protective, conservation, restorative or precautionary measures related to specific areas or sites or related to particular species or habitats;

(iii) subject to Article 4 of this Annex, to consider aspects of national strategies and guidelines on the sustainable use of components of biological diversity of the maritime area as they affect the various regions and subregions of that area;

(iv) subject to Article 4 of this Annex, to aim for the application of an integrated ecosystem approach.

(c) also in doing so, to take account of programmes and measures adopted by Contracting Parties for the protection and conservation of ecosystems within waters under their sovereignty or jurisdiction.

2. In the adoption of such programmes and measures, due consideration shall be given to the question whether any particular programme or measure should apply to all, or a specified part, of the maritime area.

Article 4

1. In accordance with the penultimate recital of the Convention, no programme or measure concerning a question relating to the management of fisheries shall be adopted under this Annex. However where the Commission considers that action is desirable in relation to such a question, it shall draw that question to the attention of the authority or international body competent for that question. Where action within the competence of the Commission is desirable to complement or support action by those authorities or bodies, the Commission shall endeavour to cooperate with them.

2. Where the Commission considers that action under this Annex is desirable in relation to a question concerning maritime transport, it shall draw that question to the attention of the International Maritime Organisation. The Contracting Parties who are members of the International Maritime Organisation shall endeavour to cooperate within that organisation in order to achieve an appropriate response, including in relevant cases that organisation's agreement to regional or local action, taking account of any guidelines developed by that organisation on the designation of special areas, the identification of particularly sensitive areas or other matters.

Appendix 3

Criteria for identifying human activities for the purpose of Annex V

1. The criteria to be used, taking into account regional differences, for identifying human activities for the purposes of Annex V are:

   (a) the extent, intensity and duration of the human activity under consideration;

   (b) actual and potential adverse effects of the human activity on specific species, communities and habitats;

   (c) actual and potential adverse effects of the human activity on specific ecological processes;

   (d) irreversibility or durability of these effects.

2. These criteria are not necessarily exhaustive or of equal importance for the consideration of a particular activity.