

ANNEX II
DECLARATION CONCERNING THE COMPETENCE OF THE EUROPEAN COMMUNITY WITH REGARD TO MATTERS GOVERNED BY THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982 AND THE AGREEMENT OF 28 JULY 1994 RELATING TO THE IMPLEMENTATION OF PART XI OF THE CONVENTION

(Declaration made pursuant to Article 5 (1) of Annex IX to the Convention and to Article 4 (4) of the Agreement)

Article 5 (1) of Annex IX of the United Nations Convention on the Law of the Sea provides that the instrument of formal confirmation of an international organization shall contain a declaration specifying the matters governed by the Convention in respect of which competence has been transferred to the organization by its member States which are Parties to the Convention (¹⁹⁵⁸).

Article 4 (4) of the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (¹⁹⁵⁹) provides that formal confirmation by an international organisation shall be in accordance with Annex IX of the Convention.

The European Communities were established by the Treaties of Paris (ECSC) and of Rome (EEC and Euratom), signed on 18 April 1951 and 25 March 1957 respectively. After being ratified by the signatory States the Treaties entered into force on 25 July 1952 and 1 January 1958. They have been amended by the Treaty on European Union, which was signed in Maastricht on 7 February 1992 and entered into force, after being ratified by the Signatory States, on 1 November 1993, and most recently by the Accession Treaty signed in Corfu on 24 June 1994, which entered into force on 1 January 1995 (¹⁹⁶⁰).

The current Members of the Communities are the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

The United Nations Convention on the Law of the Sea and the Agreement relating to the implementation of Part XI of the Convention shall apply, with regard to the competences transferred to the European Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular Article 227 thereof.

This declaration is not applicable to the territories of the Member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Convention and the Agreement by the Member States concerned on behalf of and in the interests of those territories.

¹⁹⁵⁸ When it signed the Convention the Community made the requisite declaration, in accordance with Article 2 of Annex IX, in which it specified the matters dealt with by the Convention for which competence had been transferred to it by its Member States.

¹⁹⁵⁹ Signed by the Community on 29 July 1994 and applied by it provisionally with effect from 16 November 1994.

¹⁹⁶⁰ The Treaty of Paris establishing the European Coal and Steel Community was registered with the Secretariat of the United Nations on 15 March 1957 under No 3729; the Treaties of Rome establishing the European Economic Community and the European Atomic Energy Community (Euratom) were registered on 21 April and 24 April 1958 respectively under Nos 4300 and 4301. The Treaty on European Union was registered on 28 December 1993 under No 30615; the Accession Treaty of 24 June 1994 was published in OJ No C 241 of 29 August 1994. Questions falling under the European Union's foreign policy are governed by Title V of the Treaty on European Union.

In accordance with the provisions referred to above, this declaration indicates the competence that the Member States have transferred to the Community under the Treaties in matters governed by the Convention and the Agreement.

The scope and the exercise of such Community competence are, by their nature, subject to continuous development, and the Community will complete or amend this declaration, if necessary, in accordance with Article 5 (4) of Annex IX to the Convention.

The Community has exclusive competence for certain matters and shares competence with its Member States for certain other matters.

1. Matters for which the Community has exclusive competence

- The Community points out that its Member States have transferred competence to it with regard to the conservation and management of sea fishing resources. Hence in this field it is for the Community to adopt the relevant rules and regulations (which are enforced by the Member States) and, within its competence, to enter into external undertakings with third States or competent international organizations. This competence applies to waters under national fisheries jurisdiction and to the high seas. Nevertheless, in respect of measures relating to the exercise of jurisdiction over vessels, flagging and registration of vessels and the enforcement of penal and administrative sanctions, competence rests with the Member States whilst respecting Community law. Community law also provides for administrative sanctions.

- By virtue of its commercial and customs policy, the Community has competence in respect of those provisions of Part X and XI of the Convention and of the Agreement of 28 July 1994 which are related to international trade.

2. Matters for which the Community shares competence with its Member States

- With regard to fisheries, for a certain number of matters that are not directly related to the conservation and management of sea fishing resources, for example research and technological development and development cooperation, there is shared competence.

- With regard to the provisions on maritime transport, safety of shipping and the prevention of marine pollution contained inter alia in Parts II, III, V, VII and XII of the Convention, the Community has exclusive competence only to the extent that such provisions of the Convention or legal instruments adopted in implementation thereof affect common rules established by the Community. When Community rules exist but are not affected, in particular in cases of Community provisions establishing only minimum standards, competence is shared between the Community and its Member States. A list of relevant Community acts is in the Annex. The extent of Community competence ensuing from these acts must be assessed by reference to the precise provisions of each measure, and in particular, the extent to which these provisions establish common rules.

- With regard to the provisions of Parts XIII and XIV of the Convention, the Community's competence relates mainly to the promotion of cooperation on research and technological development with non-member countries and international organizations. The activities carried out by the Community here complement the activities of the Member States. Competence in this instance is implemented by the adoption of the programmes listed in the Annex.

3. Possible impact of other Community policies

- Mention should also be made of the Community's policies and activities in the fields of control of unfair economic practices, government procurement and industrial competitiveness as well as in the area of development aid. These policies may also have some relevance to the

Convention and the Agreement, in particular with regard to certain provisions of Parts VI and XI.

Appendix

COMMUNITY ACTS WHICH REFER TO MATTERS GOVERNED BY THE CONVENTION AND THE AGREEMENT

- In the maritime safety and prevention of marine pollution sectors

Council Decision 92/143/EEC of 25 February 1992 on radio-navigation systems for Europe (OJ No L 59, 4 March 1992, p. 17);

Council Directive 79/115/EEC of 21 December 1978 concerning pilotage of vessels by deep sea pilots in the North Sea and English Channel (OJ No L 33, 8 February 1979, p. 32);

Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods (OJ No L 247, 5 October 1993, p. 19);

Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (13th individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ No L 307, 13 December 1993, p. 1);

Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (Classification Societies Directive) (OJ No L 319, 31 December 1994, p. 20);

Council Directive 94/58/EC of 22 November 1994 on the minimum level of training of seafarers (OJ No L 319, 12 December 1994, p. 28);

Council Directive 95/21/EEC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (OJ No L 157, 7 July 1995, p. 1);

Council Directive 96/98/EC of 13 December 1996 on marine equipment (OJ No L 46, 17 February 1997, p. 25);

Council Regulation (EEC) No 613/91 of 4 March 1991 on the transfer of ships from one register to another within the Community (OJ No L 68, 15 March 1991, p. 1) and Commission Regulation (EEC) No 2158/93 of 28 July 1993 concerning the application of amendments to the International Convention for the Safety of Life at Sea, 1974, and to the International Convention for the Prevention of Pollution from Ships, 1973, for the purpose of Council Regulation (EEC) No 613/91 (OJ No L 194, 3 August 1993, p. 5);

Council Regulation (EC) No 2978/94 of 21 November 1994 on the implementation of IMO Resolution A.747(18) on the application of tonnage measurements of ballast spaces in segregated ballast oil tankers (OJ No L 319, 12 December 1994, p. 1);

Council Regulation (EC) No 3051/95 of 8 December 1995 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries) (3051/95/EC) (OJ No L 320, 30 December 1995, p. 14).

- In the field of protection and preservation of the marine environment - Part XII of the Convention

Council Decision 81/971/EEC of 3 December 1981 establishing a Community information system for the control and reduction of pollution caused by hydrocarbons discharged at sea (OJ No L 355, 10 December 1981, p. 52);

Council Decision 86/85/EEC of 6 March 1986 establishing a Community information system for the control and reduction of pollution caused by the spillage of hydrocarbons and other harmful substances at sea (OJ No L 77, 22 March 1986, p. 33);

Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils (OJ No L 194, 25 July 1975, p. 23);

Council Directive 75/442/EEC of 15 July 1975 on waste (OJ No L 194, 25 July 1975, p. 34);

Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water (OJ No L 31, 5 February 1976, p. 1);

Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (OJ No L 129, 18 May 1976, p. 23);

Council Directive 78/176/EEC of 20 February 1978 on waste from the titanium dioxide industry (OJ No L 54, 25 February 1978, p. 19);

Council Directive 79/923/EEC of 30 October 1979 on the quality required of shellfish waters (OJ No L 281, 10 November 1979, p. 47);

Council Directive 80/779/EEC of 15 July 1980 on air quality limit values and guide values for sulphur dioxide and suspended particulates (OJ No L 229, 30 August 1980, p. 30);

Council Directive 82/176/EEC of 22 March 1982 on limit values and quality objectives for mercury discharges by the chlor-alkali electrolysis industry (OJ No L 81, 27 March 1982, p. 29);

Council Directive 82/50/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities (OJ No L 230, 5 August 1982, p. 1);

Council Directive 82/883/EEC of 3 December 1982 on procedures for the surveillance and monitoring of environments concerned by waste from the titanium dioxide industry (OJ No L 378, 31 December 1982, p. 1);

Council Directive 82/884/EEC of 3 December 1982 on a limit value for lead in the air (OJ No L 378, 31 December 1982, p. 15);

Council Directive 83/513/EEC of 26 September 1983 on limit values and quality objectives for cadmium discharges (OJ No L 291, 24 October 1983, p. 1);

Council Directive 84/156/EEC of 8 March 1984 on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry (OJ No L 74, 17 March 1984, p. 49);

Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants (OJ No L 188, 16 July 1984, p. 20);

Council Directive 84/491/EEC of 9 October 1984 on limit values and quality objectives for discharges of hexachlorocyclohexane (OJ No L 274, 17 October 1984, p. 11);

Council Directive 85/203/EEC of 7 March 1985 on air quality standards for nitrogen dioxide (OJ No L 87, 27 March 1985, p. 1);

Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ No L 175, 5 July 1985, p. 40);

Council Directive 86/280/EEC of 12 June 1986 on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC (OJ No L 181, 4 July 1986, p. 16);

Council Directive 88/609/EEC of 24 November 1988 on the limitation of emissions of certain pollutants into the air from large combustion plants (OJ No L 336, 7 December 1988, p. 1);

Council Directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste incineration plants (OJ No L 163, 14 June 1989, p. 32);

Council Directive 89/429/EEC of 21 June 1989 on the reduction of air pollution from existing municipal waste incineration plants (OJ No L 203, 15 July 1989, p. 50);

Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ No L 135, 30 May 1991, p. 40);

Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ No L 375, 31 December 1991, p. 1);

Council Directive 91/689/EEC of 12 December 1991 on hazardous waste (OJ No L 377, 31 December 1991, p. 20);

Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ No L 206, 22 July 1992, p. 7);

Council Directive 92/112/EEC of 15 December 1992 on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry (OJ No L 409, 31 December 1992, p. 11);

Council Directive 94/67/EEC of 16 December 1994 on the incineration of hazardous waste (OJ No L 365, 31 December 1994, p. 34);

Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ No L 30, 6 February 1993, p. 1).

- In the marine environment research and scientific and technological cooperation sector

Marine Science and Technology Programme;

Environment and Climate Programme;

Cooperation with third countries and international organizations: Scientific and technological cooperation with developing countries Programme (INCO-DC).

- Conventions to which the Community is a party

Convention for the prevention of marine pollution from land-based sources, Paris, 4 June 1974 (Council Decision 75/437/EEC of 3 March 1975, published in OJ No L 194, 25 July 1975, p. 5);

Protocol amending the Convention for the prevention of marine pollution from land-based sources, Paris, 26 March 1986 (Council Decision 87/57/EEC of 28 December 1986, published in OJ No L 24, 27 January 1987, p. 47);

Protocol for the protection of the Mediterranean Sea against pollution from land-based sources, Athens, 17 May 1980 (Council Decision 83/101/EEC of 28 February 1983, published in OJ No L 67, 12 March 1983, p. 1);

Convention for the protection of the Mediterranean Sea against pollution and the Protocol for the prevention of the pollution of the Mediterranean Sea by dumping from ships and aircraft, Barcelona, 16 February 1976, (Council Decision 77/585/EEC of 25 July 1977, published in OJ No L 240, 19 September 1977, p. 1);

Protocol concerning cooperation in combating pollution of the Mediterranean Sea by oil and other harmful substances in cases of emergency, Barcelona, 16 February 1976 (Council Decision 81/420/EEC of 19 May 1981, published in OJ No L 162, 19 June 1981, p. 4);

Convention on long-range transboundary air pollution, Geneva, 13 November 1979 (Council Decision 81/462/EEC of 11 June 1981, published in OJ No L 171, 27 June 1981, p. 11);

Protocol of 2-3 April 1982 concerning Mediterranean specially protected areas, Geneva, 3 April 1982, (Council Decision 84/132/EEC of 1 March 1984, published in OJ No L 68, 10 March 1984, p. 36);

Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances, Bonn, 13 September 1983 (Council Decision of 28 June 1984, published in OJ No L 188, 16 July 1984, p. 7);

Cooperation agreement for the protection of the coasts and waters of the north-east Atlantic against pollution, Lisbon, 17 October 1990 (Council Decision 93/550/EEC, published in OJ No L 267, 28 October 1993, p. 20);

Basel Convention on the control of transboundary movements of hazardous wastes and their disposal, signed in Basel on 22 March 1989 (Council Decision 93/98/EEC of 1 February 1993, published in OJ No L 39, p. 1).