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THE POLLUTER-PAYS PRINCIPLE

OECD Analyses and Recommendations

ENVIRONMENT DIRECTORATE

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

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FOREWORD

The Polluter-Pays Principle (PPP) was adopted by OECD in 1972 as an economic principle for allocating the costs of pollution control. This Monograph contains OECD papers relevant to the Principle and to an understanding of its scope. This introductory note outlines developments in the Principle over the last 20 years.

1. The PPP, an economic principle

1.1. Which costs are covered ?

a) Pollution prevention and control costs

Under the 1972 and 1974 OECD Recommendations(1)(2), the Polluter-Pays Principle means that the polluter should bear the "costs of pollution prevention and control measures", the latter being "measures decided by public authorities to ensure that the environment is in an acceptable state". In other words the polluter has to bear the cost of steps that he is legally bound to take to protect the environment, such as measures to reduce the pollutant emissions at source and measures to avoid pollution by collective treatment of effluent from a polluting installation and other sources of pollution.

- Generally speaking, a polluter has to bear all the costs of preventing and controlling any pollution that he originates. Aside from exceptions listed by OECD(1)(2), a polluter should not receive assistance of any kind to control pollution (grants, subsidies or tax allowances for pollution control equipment, below-cost charges for public services, etc.).

- Agreed exceptions cover assistance for R&D on methods of pollution abatement and assistance to current polluters facing particularly severe new pollution control requirements. In the latter case, assistance is acceptable only when it is limited in time, required on social grounds and does not cause any significant distortion in international trade and investment.

- Assistance to pollution control was actually very much used even if such assistance was very small from a macro-economic stand point. In practice assistance of up to 45 per cent of pollution abatement investment expenditure was initially accepted in the European Community, but it has now become very modest(3). When still available, the actual amount is rarely more than 15 per cent. For new plant, assistance has always been modest and quite exceptional.

- Although assistance to existing plants has become less frequent, there is growing interest at present in special assistance to the agricultural sector to reduce the pollution caused by some farming practices (for instance, nitrate pollution of surface and ground water). More generally, there is growing interest for assistance in cases where new and substantial efforts appear necessary worldwide (for example, to protect the ozone layer). In addition, there is a trend to provide assistance to the polluter who take

prevention and control measures beyond those decided by the authorities or those that he is bound to take. This approach is not in contradiction with the text adopted in 1972 but was not envisaged at the time. It has the effect to maintain indefinitely an assistance scheme to enhance environmental protection policies.

The Principle, as defined in 1972, has progressively been generalised and extended. From being a principle of partial internalisation*, it is increasingly become a principle of full internalisation, as will be seen below.

b) Inclusion of the costs of administrative measures

At the outset the Principle related essentially to measures taken by polluters to reduce pollution, that is to say, measures to reduce the emission of pollutants into the environment. The first extension made polluters liable for the costs of administrative measures taken by the authorities as a result of pollutant emissions. Under a number of EC directives(4), a polluter may be required to pay for special measures taken by government, analyses for instance, and monitoring and control systems, insofar as the costs can be assigned directly to specific polluting activities. The administrative cost of waste management can accordingly be charged by authorities to generators of waste. Similarly, the cost of a regional system for monitoring air pollution can be charged to the economic agents causing such pollution there.

c) Inclusion of the cost of damage

A movement is under way to extend progressively the Polluter-Pays Principle to the cost of damage caused by pollution. It is clear that a polluter who failed to take the measures decided by the authorities to ensure that the environment is in an acceptable state would be liable and would have to pay compensation to any victims.

One question that arises, however, is whether a polluter should have to pay for pollution damage when he has taken all the measures ordered by the authorities (residual pollution). If the level of pollution is nevertheless quite substantial or the damage significant, the current view appears to be that the polluter should bear the cost. Where the level of pollution is slight

* In the economic theory, internalisation means that a cost which otherwise would be borne by an economic agent other than the polluter (i.e. the cost of an "externality" caused by the polluter, any cost which such person would avoid if there was no pollution) is charged to the polluter who as a result "internalises" such cost with all the other costs he already bears. Partial internalisation is an internalisation limited to certain categories of costs. Full internalisation is an internalisation of all categories of costs. In practice full internalisation is rarely achieved because, at best, the polluter bears the cost of compensating the damage borne by all compensated victims. Therefore he does not bear the cost of damage affecting uncompensated victims and he pays only compensation cost which is often well below the social cost of damage.

(allowable residual pollution), on the other hand, it seems that damage will not as a rule be compensated for. Growing use of strict liability systems for pollution cases should help to increase the number where polluters will be bound to pay the cost of damage.

In 1991, OECD adopted a Recommendation on the use of economic instruments (5) which states that sustainable and economically efficient management of environmental resources requires the internalisation of pollution prevention, control and damage costs (15). After 20 years' discussion, the need to internalise damage costs was clearly acknowledged in a formal act of the Organisation. A year previously, at the Forum on International Environmental Law in Siena, government legal experts had already supported application of the Polluter-Pays Principle to environmental damage.

This trend is gradually coming about with greater use of economic instruments that charge polluters pro rata to the pollution released. Levying a pollution charge or tax at an appropriate level internalises the cost of the damage.

When no charge is made, the cost of "residual" damage is not as a rule internalised. But exceptions do occur when the polluter compensates victims under his liability for allowable pollution, as is now the case in some Member countries.

d) Inclusion of accidental pollution

At the outset, the Polluter-Pays Principle had been devised largely in the context of continuing or chronic pollution that needed to be reduced progressively to an acceptable level. In a Declaration adopted in 1988, OECD recognised that the Principle was also applicable to accidental pollution(6) and in 1989 a Recommendation on the subject was adopted(7).

In this Recommendation it was stated that the cost of measures to prevent and control accidental pollution should be borne by the potential originators of such pollution, whether the measures are taken by them or by the authorities. Similarly, the originator of actual accidental pollution should bear the cost of control measures, including rehabilitating the environment.

Application of the Principle to zoning decisions around hazardous installations has been the subject of some discussion. It has now been accepted that the Principle applies to such decisions around new installations, and the outstanding matter is the possibility of compensation for landowners near existing installations who might be barred from building on account of the risk of accident.

The general principle embodied in the OECD Recommendation (7) is that neither the risk nor the consequences of accidental pollution should be a charge on public funds; they should be borne by the polluter. Accident prevention will be more effective when the polluter has to bear the cost of all operations made necessary by an accident (cleaning, rehabilitation).

As with chronic pollution, there are exceptions to the Principle as it applies to accidental pollution. The thinking behind them is that a polluter should only have to bear the cost of "reasonable" measures, so that he takes a

responsible approach and adopts the most economically efficient decisions. The purpose of the Principle is not to transfer all public expenditure whatsoever to the polluter, nor to penalise an economic agent who has no means of avoiding accidental pollution, but to allocate the financial burden to the party best able to take the most effective decisions.

e) A broader degree of internalisation

The trend outlined above indicates that the Polluter-Pays Principle has gradually -- but not yet completely -- become identified with the principle of full internalisation of the external costs of pollution. Ultimately, it seems likely that a polluter will have to bear if not all at least most of the costs that pollution may cause, and increasing use will be made of economic instruments, compensatory mechanisms and fines with a view to fully implement the PPP. The revenue will help to strengthen the environmental and other policies of governments.

Although the polluter pays, as a rule he is simply the first to pay and he may often pass the cost of pollution on in his prices or share his costs with other potential polluters under insurance schemes or even pass such costs to the person actually liable for the pollution. In the end, the person who really pays will usually be the consumer or user. In some cases, however, it may be the owner of the polluting activity, prevented by competition from passing the costs of pollution control measures on.

1.2 Who is the polluter ?

Although what a polluter should pay has now been clarified, the identity of the polluter is not always self-evident. This point was virtually ignored in the early OECD texts(1)(2), because the polluter was quite clearly the person whose activity had given rise to the pollution. At Community level, the polluter was defined in 1975(8) as the person who directly or indirectly causes deterioration of the environment or establishes conditions leading to its deterioration. For pollution from an industrial plant, the polluter is usually the plant operator. Cases of pollution linked to transport and consumption are more difficult to decide. On grounds of economic efficiency and administrative convenience, it is occasionally appropriate to identify the polluter as the economic agent playing a decisive role in the pollution, rather than the agent actually originating it. Hence a vehicle manufacturer could be deemed the polluter, although pollution results from the vehicle's use by its owner. Similarly, a pesticide producer could be the polluter, even though the pollution is the outcome of proper or improper use of pesticides.

Doubts as to the identity of the polluter have been clarified in specific cases. With waste, the waste generator can be deemed the polluter even when he has transferred its waste to a third party(9). In the case of accidental pollution from hazardous installations, OECD has designated the operator(7). With airports, on the other hand, the originator of noise may be the carrier, the airport authority or even the government which authorised the infrastructure. This lack of clarity reflects the lack of a clear single channel for the numerous responsibilities involved in noise pollution. It leads to the polluter being identified as the economic agent in the pollution

chain with whom it is most efficient to deal in both economic and administrative terms. But difficulties could arise if that agent is not the same for all the various costs to be allocated(10).

The Polluter-Pays Principle does not deal with liability since it does not point to the person "liable" for the pollution in the legal sense. When a polluter is identified he does have to bear certain costs and compensate the victims, but he may pass the costs on to the actual party liable for the pollution, whoever it may be. The polluter accordingly acts as the guarantor of compensation, but not as the party liable for the pollution. In order to ensure that a liable party who is not the polluter reimburses the latter's costs, the polluter will need to secure financial safeguards and/or insurance. In some cases, the State has to step in to ensure that the cost of damage is paid out to victims, when the polluter and the party liable and their insurers fail to do so. Compensation funds financed by potential polluters are not contrary to the Principle(11).

2. The Polluter-Pays Principle as a principle of law

The Principle has been considered since 1990 as "a general principle of international environmental law"(12). This worldwide recognition of the Polluter-Pays Principle was the culmination of a trend earlier in evidence with its embodiment in the Single European Act in 1987 and in the Treaty of Maastricht in 1992(13). The Principle had previously been referred to in national legislation and EC directives. It is likely that it will be referred to in many conventions(14) and regional or worldwide government declarations. This trend reflects the growing support throughout the world for the principles on which the market economy rests, and their application to environmental matters.

3. Conclusions

The Polluter-Pays Principle started out as an economic principle and has recently become a legal one. It has not yet been codified, for its content has changed and will continue to do so. The predominant trend is to place further liability on the polluter and to alleviate the economic burden which pollution places on the authorities.

The Polluter-Pays Principle is not a principle of equity; it is designed not to punish polluters but to set appropriate signals in place in the economic system so that environmental costs are incorporated in the decision-making process and hence arrive at sustainable development that is environment-friendly. The aim is to avoid wasting natural resources and to put an end to the cost-free use of the environment as a receptacle for pollution. A degree of environmental pollution will certainly persist, and the consumer will bear the cost initially charged to the polluter. But use of the Polluter-Pays Principle will secure economic efficiency and will reduce distortions in international trade and investment to a minimum.

NOTES

1. Recommendation on Guiding Principles Concerning International Economic Aspects of Environmental Policies, C(72)128.
2. Recommendation on the Implementation of the Polluter-Pays Principle, C(74)223.
3. Procedure for the notification of financial assistance systems for pollution prevention and control, Environment Monograph No. 33, OECD, 1990.
4. EC Council Directive of 15 July 1975 on waste (Article 11) and Council Directive of 20 March 1978 on toxic and dangerous waste (Article 11).
5. Recommendation on the Use of Economic Instruments in Environmental Policy, C(90)177(Final).
6. Concluding Statement of the OECD Conference on Accidents Involving Hazardous Substances, held in Paris on 9 and 10 February 1988, C(88)83.
7. Recommendation on the Application of the Polluter-Pays Principle to Accidental Pollution, C(89)88(Final).
8. Communication from the Commission to the Council regarding cost allocation and action by public authorities on environmental matters. Principles and modalities, OJEC, L 194/2-4 (25 July 1975).
9. EC Council Directive of 6 December 1984 on the inspection and control within the European Community of the transfrontier shipment of hazardous waste, OJEC, L 326/31 (13 December 1984).
10. The Polluter-Pays Principle, OECD, 1975.
11. See "Pollution Insurance and Compensation Funds", Environment Monograph No. 42, Environment Directorate, OECD, 1992 (OCDE/GD(92)18).
12. International Convention on Oil Pollution Preparedness, Response and Co-operation, IMO, London, November 1990. Resolution No. 5 at the Diplomatic Conference in fact mentioned that "one of the basic principles for securing funds after pollution damage is the Polluter-Pays Principle".
13. Single European Act, OJEC, L 169/1-29 (26 June 1987), see Article 130 R. Article 34 of the Treaty establishing German unity (Berlin, 31 August 1990) requires legislation to take account of the "Polluter-Pays Principle". See also Articles 130 R.2 and 130 S.5 of the Treaty on the European Union, Maastricht, 7th February 1992.

14. Current work on third party liability could strengthen the Principle.
15. For UNECE, see the (ENWA/R.54) Convention on the transfrontier effects of industrial accidents and the Convention on the protection and use of transboundary watercourses and international lakes (ENWA/R.53). For the Oslo-Paris Commission, see the Draft Framework Convention. For the Council of Europe, the Draft Convention on civil liability for damage resulting from activities dangerous to the environment includes a regime of strict liability.

O E C D A C T S

GUIDING PRINCIPLES CONCERNING INTERNATIONAL ECONOMIC ASPECTS
OF ENVIRONMENTAL POLICIES

(Recommendation adopted on 26th May, 1972)
C(72)128

THE COUNCIL,

Having regard to Article 5b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December, 1960;

Having regard to the Resolution of the Council of 22nd July, 1970 establishing an Environment Committee;

Having regard to the Report by the Environment Committee on Guiding Principles Concerning the International Economic Aspects of Environmental Policies;

Having regard to the views expressed by interested committees;

Having regard to the Note by the Secretary-General;

1. RECOMMENDS that the Governments of Member countries should, in determining environmental control policies and measures, observe the "Guiding Principles Concerning the International Economic Aspects of Environmental Policies" set forth in the Annex to this Recommendation.

II. INSTRUCTS the Environment Committee to review as it deems appropriate the implementation of this Recommendation.

III. INSTRUCTS the Environment Committee to recommend as soon as possible the adoption of appropriate mechanisms for notification and/or consultation or some other appropriate form of action.

{Annex}

GUIDING PRINCIPLES CONCERNING INTERNATIONAL ECONOMIC ASPECTS
OF ENVIRONMENTAL POLICIES

Introduction

1. The guiding principles described below concern mainly the international aspects of environmental policies with particular reference to their economic and trade implications. These principles do not cover for instance, the particular problems which may arise during the transitional periods following the implementation of the principles, instruments for the implementation of the so-called "Polluter-Pays Principle", exceptions to this principle, transfrontier pollution or possible problems related to developing countries.

A. Guiding Principles

a) {Cost allocation: the Polluter-Pays Principle}

2. Environmental resources are in general limited and their use in production and consumption activities may lead to their deterioration. When the cost of this deterioration is not adequately taken into account in the price system, the market fails to reflect the scarcity of such resources both at the national and international levels. Public measures are thus necessary to reduce pollution and to reach a better allocation of resources by ensuring that prices of goods depending on the quality and/or quantity of environmental resources reflect more closely their relative scarcity and that economic agents concerned react accordingly.

3. In many circumstances, in order to ensure that the environment is in an acceptable state, the reduction of pollution beyond a certain level will not be practical or even necessary in view of the costs involved.

4. The principle to be used for allocating costs of pollution prevention and control measures to encourage rational use of scarce environmental resources and to avoid distortions in international trade and investment is the so-called "Polluter-Pays Principle". This principle means that the polluter should bear the expenses of carrying out the above-mentioned measures decided by public authorities to ensure that the environment is in an acceptable state. In other words, the cost of these measures should be reflected in the cost of goods and services which cause pollution in production and/or consumption. Such measures should not be accompanied by subsidies that would create significant distortions in international trade and investment.

5. This principle should be an objective of Member countries; however, there may be exceptions or special arrangements, particularly for the transitional periods, provided that they do not lead to significant distortions in international trade and investment.

b) {Environmental standards}

6. Differing national environmental policies, for example with regard to the tolerable amount of pollution and to quality and emission standards, are justified by a variety of factors including among other things different pollution assimilative capacities of the environment in its present state, different social objectives and priorities attached to environmental protection and different degrees of industrialisation and population density.

7. In view of this, a very high degree of harmonization of environmental policies which would be otherwise desirable may be difficult to achieve in practice; however, it is desirable to strive towards more stringent standards in order to strengthen environmental protection, particularly in cases where less stringent standards would not be fully justified by the above-mentioned factors.

8. Where valid reasons for differences do not exist, Governments should seek harmonization of environmental policies, for instance with respect to timing and the general scope of regulation for particular industries to avoid the unjustified disruption of international trade patterns and of the international allocation of resources which may arise from diversity of national environmental standards.

9. Measures taken to protect the environment should be framed as far as possible in such a manner as to avoid the creation of non-tariff barriers to trade.

10. Where products are traded internationally and where there could be significant obstacles to trade, Governments should seek common standards for polluting products and agree on the timing and general scope of regulations for particular products.

. National treatment and non discrimination

11. In conformity with the provisions of the GATT, measures taken within an environmental policy, regarding polluting products, should be applied in accordance with the principle of national treatment (i.e. identical treatment for imported products and similar domestic products) and with the principle of non-discrimination (identical treatment for imported products regardless of their national origin).

. Procedures of control

12. It is highly desirable to define in common, as rapidly as possible, procedures for checking conformity to product standards established for the purpose of environmental control. Procedures for checking conformity to standards should be mutually agreed so as to be applied by an exporting country to the satisfaction of the importing country.

. Compensating import levies and export rebates

13. In accordance with the provisions of the GATT, differences in environmental policies should not lead to the introduction of compensating import levies or export rebates, or measures having an equivalent effect,

designed to offset the consequences of these differences on prices. Effective implementation of the guiding principles set forth herewith will make it unnecessary and undesirable to resort to such measures.

B. Consultations

14. Consultations on the above-mentioned principles should be pursued. In connection with the application of these guiding principles, a specific mechanism of consultation and/or notification or some other appropriate form of action should be determined as soon as possible taking into account the work done by other international organisations.

THE IMPLEMENTATION OF THE POLLUTER-PAYS PRINCIPLE

(Recommendation adopted on 14th November ,1974)
C(74)223

THE COUNCIL,

Having regard to Article 5b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December, 1960;

Having regard to the provisions of the General Agreement on Tariffs and Trade;

Having regard to the Recommendations of the Council of 26th May, 1972 on Guiding Principles Concerning International Economic Aspects of Environmental Policies [C(72)128];

Having regard to the Note by the Environment Committee on Implementation of the Polluter-Pays Principle*;

Having regard to the possibility, approved by the Council of holding informal consultations on the Guiding Principles within the OECD;

On the proposal of the Environment Committee:

I. REAFFIRMS that:

1. The Polluter-Pays Principle constitutes for Member countries a fundamental principle for allocating costs of pollution prevention and control measures introduced by the public authorities in Member countries;

2. The Polluter-Pays Principle, as defined by the Guiding Principles Concerning International Economic Aspects of Environmental Policies, which take account of particular problems possibly arising for developing countries, means that the polluter should bear the expenses of carrying out the measures, as specified in the previous paragraph, to ensure that the environment is in an acceptable state. In other words, the cost of these measures should be reflected in the cost of goods and services which cause pollution in production and/or consumption;

3. Uniform application of this principle, through the adoption of a common basis for Member countries' environmental policies, would encourage the rational use and the better allocation of scarce environmental resources and prevent the appearance of distortions in international trade and investment.

II. NOTES that:

1. There is a close relationship between a country's environmental policy and its overall socio-economic policy;

* See this Monograph, p 25.

2. In exceptional circumstances, such as the rapid implementation of a compelling and especially stringent pollution control regime, socio-economic problems may develop of such significance as to justify consideration of the granting of governmental assistance if the environmental policy objectives of a Member country are to be realised within a prescribed and specified time;

3. Aid given for the purpose of stimulating experimentation with new pollution-control technologies and development of new pollution-abatement equipment is not necessarily incompatible with the Polluter-Pays Principle;

4. Where measures taken to promote a country's specific socio-economic objectives, such as the reduction of serious inter-regional imbalances, would have the incidental effect of constituting aid for pollution-control purposes, the granting of such aid would not be inconsistent with the Polluter-Pays Principle.

III. RECOMMENDS that:

1. Member countries continue to collaborate and work closely together in striving for uniform observance of the Polluter-Pays Principle, and therefore that as a general rule they should not assist the polluters in bearing the costs of pollution control whether by means of subsidies, tax advantages or other measures;

2. The granting of any such assistance for pollution control be strictly limited, and in particular comply with every one of the following conditions:

- a) it should be selective and restricted to those parts of the economy, such as industries, areas or plants, where severe difficulties would otherwise occur;
- b) it should be limited to well-defined transitional periods, laid down in advance and adapted to the specific socio-economic problems associated with the implementation of a country's environmental programme;
- c) it should not create significant distortions in international trade and investment.

3. That if a Member country, in cases of exceptional difficulty, gives assistance to new plants, the conditions be even stricter than those applicable to existing plants and that criteria on which to base this differentiation be developed;

4. In accordance with appropriate procedures to be worked out, all systems to provide assistance be notified to Member countries through the OECD Secretariat. Wherever practicable these notifications would occur prior to implementation of such systems;

5. Regardless of whether notification has taken place, consultations, as mentioned in the Guiding Principles on the implementation of such systems, will take place at the request of any Member state.

IV. INVITES the Environment Committee to report to the Council on action take pursuant to the Recommendation.

THE APPLICATION OF THE POLLUTER-PAYS PRINCIPLE
TO ACCIDENTAL POLLUTION

(Recommendation adopted on 7th July, 1989)
C(89)99(Final)

THE COUNCIL,

Having regard to Article 5b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December, 1960;

Having regard to the Recommendations of the Council of 26th May, 1972 on Guiding Principles Concerning International Economic Aspects of Environmental Policies [C(72)128];

Having regard to the Recommendation of the Recommendation of the Council of 14th November, 1974 on the Implementation of the Polluter-Pays Principle [C(74)223];

Having regard to the Recommendation of the Council of 28th April 1981 on Certain Financial Aspects of Action by Public Authorities to Prevent and Control Oil Spills [C(81)32(Final)];

Having regard to the Concluding Statement of the OECD Conference on Accidents Involving Hazardous Substances held in Paris on 9th and 10th February 1988 [C(88)83];

Considering that this Conference concluded that "operators of hazardous installations have the full responsibility for the safe operation of their installations and for taking all appropriate measures to prevent accidents" and that "operators of hazardous installations should take all reasonable measures... to take emergency actions in case of an accident";

Considering that such responsibility has repercussions on the allocation of the cost of reasonable measures aimed at preventing accidents in hazardous installations and limiting their consequences and that the Conference concluded that "the Polluter-Pays Principle should be applied, as far as possible, in connection with accidents involving hazardous substances";

Considering that public authorities are often required to take expensive action in case of accidental pollution from hazardous installations and may find it necessary to undertake costly accident preparedness measures in relation to certain hazardous installations;

Considering that closer harmonization of laws and regulations relating to the allocation of the cost of measures to prevent and control accidental pollution is likely to reduce distortions in international trade and investment;

On the proposal of the Environment Committee:

I. RECOMMENDS that, in applying the Polluter-Pays Principle in connection with accidents involving hazardous substances, Member countries take into account the "Guiding Principles Relating to Accidental Pollution" set out in the Appendix which is an integral part of this Recommendation.

II. INSTRUCTS the Environment Committee to review the actions taken by Member countries pursuant to this Recommendation and to report to the Council within three years of the adoptions of this Recommendation.

APPENDIX

GUIDING PRINCIPLES RELATING TO ACCIDENTAL POLLUTION

Scope and Definition

1. The Guiding Principles described below concern some aspects of the application of the Polluter-Pays Principle to hazardous installations.
2. For the purposes of this Recommendation:
 - a) "Hazardous installations" means those fixed installations which are defined under applicable law as being capable of giving rise to hazards sufficient to warrant the taking of precautions off-site, excluding nuclear or military installations and hazardous waste repositories (1);
 - b) "Accidental pollution" means substantial pollution off-site resulting
 - from an accident in a hazardous installation;
 - c) "Operator of a hazardous installation" means the legal or natural person who under applicable law is in charge of the installation and is responsible for its proper operation (2).

The Polluter-Pays Principle

3. According to the Recommendation of the Council of 26th May 1972, on the Guiding Principles Concerning International Economic Aspects of Environmental Policies [C(72)128], the "principle to be used for allocating the costs of pollution prevention and control is the so-called Polluter-Pays Principle". The implementation of this principle will "encourage rational use of scarce environmental resources". According to the Recommendation of the Council of 14th November 1974 on the Implementation of the Polluter-Pays Principle [C(74)223], "the Polluter-Pays Principle... means that the polluter should bear the expenses of carrying out the pollution prevention and control measures introduced by public authorities in Member countries, to ensure that the environment is in an acceptable state. In other words, the cost of these measures introduced by public authorities in Member countries, to ensure that the environment is in an acceptable state. In other words, the cost of these measures should be reflected in the cost of goods and services which cause pollution in production and/or consumption". In the same Recommendation, the Council recommended that "as a general rule, Member countries should not assist the polluters in bearing the costs of pollution control whether by means of subsidies, tax advantages or other measures".

Application of the Polluter-Pays Principle

4. In matters of accidental pollution risks, the Polluter-Pays Principle implies that the operator of a hazardous installation should bear the cost of reasonable measures to prevent and control accidental pollution from that installation which are introduced by public authorities in Member countries in conformity with domestic law prior to the occurrence of an accident in order to protect human health or the environment.

5. Domestic law which provides that the cost of reasonable measures to control accidental pollution after an accident should be collected as expeditiously as possible from the legal or natural person who is at the origin of the accident, is consistent with the Polluter-Pays Principle.
6. In most instances and notwithstanding issues concerning the origin of the accident, the cost of such reasonable measures taken by the authorities is initially borne by the operator for administrative convenience or for other reasons (3). When a third party is liable for the accident, that party reimburses to the operator the cost of reasonable measures to control accidental pollution taken after an accident.
7. If the accidental pollution is caused solely by an event for which the operator clearly cannot be considered liable under national law, such as a serious natural disaster that the operator cannot reasonably have foreseen, it is consistent with the Polluter-Pays Principle that public authorities do not charge the cost of control measures to the operator.
8. Measures to prevent and control accidental pollution are those taken to prevent accidents in specific installations and to limit their consequences for human health or the environment. They can include, in particular, measures aimed at improving the safety of hazardous installations and accident preparedness, developing emergency plans, acting promptly following an accident in order to protect human health and the environment, carrying out clean-up operations and minimizing without undue delay the ecological effects of accidental pollution. They do not include humanitarian measures or other measures which are strictly in the nature of public services and which cannot be reimbursed to the public authorities under applicable law nor measures to compensate victims for the economic consequences of an accident.
9. Public authorities of Member countries that "have responsibilities in the implementation of policies for prevention of, and response to, accidents involving hazardous substances" (4), may take specific measures to prevent accidents occurring at hazardous installations and to control accidental pollution. Although the cost entailed is as a general rule met by the general budget, public authorities may with a view to achieving a more economically efficient resource allocation, introduce specific fees or taxes payable by certain installations on account of their hazardous nature (e.g., licensing fees), the proceeds of which to be allocated to accidental pollution prevention and control.
10. One specific application of the Polluter-Pays Principle consists in adjusting these fees or taxes, in conformity with domestic law, to cover more fully the cost of certain exceptional measures to prevent and control accidental pollution in specific hazardous installations which are taken by public authorities to protect human health and the environment (e.g., special licensing procedures, execution of detailed inspections, drawing up of installation-specific emergency plans or building up special means of response for the public authorities to be used in connection with a hazardous installations), provided such measures are reasonable and directly connected with accident prevention or with the control of accidental pollution released by the hazardous installation. Lack of laws or regulations on relevant fees or taxes should not, however, prevent public authorities from meeting their responsibilities in connection with accidents involving hazardous substances.

11. A further specific application of the Polluter-Pays Principle consists in charging, in conformity with domestic law, the cost of reasonable pollution control measures decided by the authorities following an accident to the operator of the hazardous installation from which pollution is released. Such measures taken without undue delay by the operator or, in case of need, by the authorities would aim at promptly avoiding the spreading of environmental damage and would concern limiting the release of hazardous substances (e.g., by ceasing emissions at the plant, by erecting floating barriers on a river), the pollution as such (e.g., by cleaning or decontamination), or its ecological effects (e.g., by rehabilitating the polluted environment).

12. The extent to which prevention and control measures can be considered reasonable will depend on the circumstances under which they are implemented, the nature and extent of the measures, the threats and hazards existing when the decision is taken, the laws and regulations in force, and the interests which must be protected. Prior consultation between operators and public authorities is economically efficient, and provide adequate protection of human health and the environment.

13. The pooling among operators of certain financial risks connected with accidents, for instance by means of insurance or within a special compensation or pollution control fund, is consistent with the Polluter-Pays Principle.

Exceptions

14. Exceptions to the Polluter-Pays Principle could be made under special circumstances such as the need for the rapid implementation of stringent measures for accident prevention, provided this does not lead to significant distortions in international trade and investment. In particular, any aid to be granted to operators for prevention or control of accidental pollution should be limited and comply with the conditions set out previously (5). In the case of existing hazardous installations, compensatory payments or measures for changes in zoning decisions in the framework of the local land-use plan might be envisaged with a view to facilitating the relocation of these installations so as to lessen the risks for the exposed population.

15. Likewise, exceptions to the above Guiding Principles could be made in the event of accidental pollution if strict and prompt implementation of the Polluter-Pays Principle would lead to severe socio-economic consequences.

16. The allocation to the person at the origin of the accident or the operator, as the case may be, of the cost of reasonable measures taken by public authorities to control accidental pollution does not affect the possibility under domestic law of requiring the same person to pay other costs connected with the public authorities' response to an accident (e.g., the supply of potable water) or with the occurrence of the accident. In addition, public authorities may, as appropriate, seek compensation from the party liable for the accident for costs incurred by them as a result of the accident when such costs have not yet been paid to the authorities.

NOTES

1. Hazardous installations covered by this Recommendation are as defined in the law applicable in the country of the installation (domestic law and in some instances, European Community law). Countries are not prevented from making provisions under their national laws to the effect that the Guiding Principles also apply to installations excluded under subparagraph 2a of this Appendix.
2. The concept of operator is defined in the law applicable in the country of the installation, in which attention may be given to criteria such as ownership of certain hazardous substances or possession of a license or permit.
3. In cases where a party other than the operator has, under the law applicable in the country of the installation, strict liability for an accident, the cost of reasonable control measures taken by the authorities would be charged to that party, not to the operator. Whenever national laws provide a regime of strict liability, this regime would be applied in respect of the reimbursement of costs of control measures taken after the accident.
4. Concluding Statement of the OECD Conference on Accidents Involving Hazardous Substances, C(88)83.
5. Recommendation of the Council of 14th November 1974 on the Implementation of the Polluter-Pays Principle, C(74)223.

EXPLANATORY REPORTS

NOTE ON THE IMPLEMENTATION OF THE POLLUTER-PAYS PRINCIPLE

(Note by the Environment Committee)

Introduction

Within the framework of the "Guiding Principles Concerning International Economic Aspects of Environmental Policies", the Polluter-Pays Principle contributes to the avoidance of distortions in international trade and investment.

This paper is intended to offer clarifications for the practical implementation of the Polluter-Pays Principle. It should, however, be noted that:

- such implementation must be considered in connection with that of the other parts of the Guiding Principles;
- the dynamic aspects of the implementation of the Polluter-Pays Principle have not been fully considered here.

A. DEFINITION

1. The Polluter-Pays Principle (applying to transitional periods with possible exceptions and in the long-term) implies that in general it is for the polluter to meet the costs of pollution control and prevention measures, irrespective of whether these costs are incurred as the result of the imposition of some charge on pollution emission, or are debited through some other suitable economic mechanism, or are in response to some direct regulation leading to some enforced reduction in pollution.

2. The Polluter-Pays Principle, as defined in paragraph 4 of the "Guiding Principles", states that the polluter should bear the expenses of preventing and controlling pollution "to ensure that the environment is in an acceptable state". The notion of an "acceptable state" decided by public authorities, implies that through a collective choice and with respect to the limited information available, the advantage of a further reduction in the residual social damage involved is considered as being smaller than the social cost of further prevention and control. In fact, the Polluter-Pays Principle is no more than an efficiency principle for allocating costs and does not involve bringing pollution down to an optimum level of any type, although it does not exclude the possibility of doing so.

3. To reach a better allocation of resources in line with paragraph 2 of the Guiding Principles, it is desirable that the private costs of goods and services should reflect the relative scarcity of environmental resources used in their production. If this is the case, consumers and producers would adjust themselves to the total social costs for the goods and services they

* Drafted in 1973, published in the publication "The Polluter-Pays Principle", OECD, 1975.

are buying and selling. The Polluter-Pays Principle is a means of moving towards this end. From the point of view of conformity with the Polluter-Pays Principle, it does not matter whether the polluter passes on to his prices some or all the environment costs or absorbs them.

B. INSTRUMENTS FOR APPLYING THE POLLUTER-PAYS PRINCIPLE

4. The Polluter-Pays Principle may be implemented by various means ranging from process and products standards, individual regulation and prohibitions to levying various kinds of pollution charges. Two or more of these instruments can be used together. The choice of instruments is particularly important as the effectiveness of a policy depends on it. This choice can only be made by public authorities at central or regional level, in the light of a number of factors such as the amount of information required for the efficient use of these various instruments, their administrative cost, etc.

5. Direct regulations could be of exceptional value in achieving immediate or speeding pollution reduction needed to safeguard public health or abate unacceptable nuisance. They would also be more appropriate in cases where the kind of pollutant or the structure of the group of polluters (because of their number or of their composition) make the charge system less effective.

6. In other cases, pollution prevention and control measures may achieve a desired improvement of the quality of the environment to least social costs when they are based on the levying of charges. When charges are applied they should be put in the framework of a comprehensive policy. Such a policy will make explicit the function of charges in relation to environmental policy objectives and to other instruments. When a charge is levied, it induces polluters to treat their effluents as long as the treatment costs remain lower than the amount of the charge they would otherwise be compelled to pay in the absence of pollution abatement. A charging policy may thus achieve an objective at least social cost to society as it would induce each of these polluters to abate pollution to the point where they each incur the same additional costs for the same reduction of pollution emission.

Another advantage of charges is that they can provide a continuing incentive of improved pollution abatement.

Charges may also be levied for example by regional bodies as a means of achieving an efficient cost allocation. In such a system some firms may treat more waste and this service can be financed by all the polluters who are using the services and will thus be in line with the Polluter-Pays Principle.

C. EXCEPTIONS TO THE POLLUTER-PAYS PRINCIPLES

7. An environmental policy will normally be put into effect gradually. In certain circumstances such as a speedy or a sudden and very extensive implementation of environmental policy, environmental improvements may be helped and even speeded up if existing polluters are given aid in their initial or transitional efforts to reduce their emissions. Aid payments for such purposes will only be a valid exception to the Polluter-Pays Principle if they form part of transitional arrangements whose duration has been laid down in advance and do not lead to significant distortions in international trade

and investment. Such transitional arrangements can also include a time-table for progressively tightening up emission standards and raising the scale of charges to the levels required to reach the quality targets.

8. Exceptions to the Polluter-Pays Principle may also be justified when steps to protect the environment would jeopardise the social and economic policy objectives of a country or region. This would be the case, for example, when the additional expenditure incurred by polluting industries would result in holding back regional development or adversely affecting the labour market. However, in the spirit of the general principle approved, it is recommended that such exceptions are kept at the level and for the time strictly necessary to reach the specific socio-economic objectives. Aid to promote research and development in line with other aspects of government policy is not inconsistent with the Polluter-Pays Principle.

CERTAIN FINANCIAL ASPECTS OF PREVENTION
AND CONTROL OF OIL SPILLS

(Extracts from the Report by the Environment Committee)

PART II: TYPES OF COST FOR INCLUSION IN CLAIMS FOR REIMBURSEMENT

After examining whether countries might be called upon to reimburse the costs of assistance rendered, the Committee considered what types of cost might be included in claims for reimbursement. It emerged from the discussions that it might be undesirable to apply varying methods of calculation for reimbursements between countries and for reimbursement of a country by the person liable. The Committee felt that, subject to agreement to the contrary, the amount of costs in respect of which the assisting country might claim reimbursement should be calculated in accordance with the practice applied in that country concerning reimbursement of action costs by the person liable.

The Committee undertook a survey by questionnaire into practices in Member countries concerning methods of calculating the costs of their action in claims against the person liable. The Group divided costs into two main categories: fixed costs and additional costs.

Fixed costs are costs incurred even in the absence of any oil combatting action to ensure that the necessary capability is available. They include in particular the wages of staff of public authorities involved in actions, a figure proportional to capital costs of equipment used, a proportion of general storage and maintenance costs for equipment and of the general costs of establishing some public force which can take effective action in the event of an incident.

Additional costs are costs incurred as a result of the action which would not have been incurred had it not taken place. They include in particular cost of fuel and other items consumed in the course of action, additional expenditure on personnel during action, costs of lightening vessels, towing and pumping operations and waste disposal.

Analysis the replies received shows that all countries which replied claim reimbursement of most additional costs and that the great majority of countries also claim reimbursement of a certain disposal.

Discussions concerning fixed costs produced the following arguments:

- a) Where the state does not itself undertake oil combatting action recourse would generally be had to the services of private firms and fixed costs would then have to be paid by the person liable (who would also have to cover the firms' profits and a higher level of damage due to the time required by the firms to move their equipment after agreeing the terms of engagement);

* Drafted in 1981. Published in "Combatting Oil Spills", OECD, 1982.

- b) Where the state bears the fixed costs itself, the person liable would
 - have an interest in letting the state act in his place rather than preventing and controlling the oil spill. As a consequence the person liable would escape some of this financial burden and in addition specialised firms would lose business;
- c) A state using its own vessels in a maritime salvage operation (e.g. towing) is entitled to claim payment of fixed costs. [Protocol of 1967 to the Convention for the unification of certain rules of law respecting assistance and salvage at sea (Brussels, 23rd September, 1910)];
- d) A state which has to equip itself for the effective prevention and control of oil spills is performing a service which should be paid for at a just price, furthermore, it would, if fixed costs can be recovered, be encouraged to equip itself;
- e) No provision of international law warrants the view that fixed costs would not be reimbursable.

The following counter-arguments were also put forward:

- a) payment for action by public services is subject in some countries to rules of public finance which do not allow the reimbursement of fixed costs, at any rate as concerns emergency operations within the national territory;
- b) the domestic law of some countries, notably in regard to insurance, does not consider fixed costs of actions undertaken by the State as constituting damage for which compensation may be claimed, at least as concerns accidental pollution control under domestic law.

A study concerning the possible allocation at the domestic level of fixed costs to a polluter liable has been carried out by the Secretariat in the light of the Polluter-Pays Principle. The conclusion of the study is that such allocation would be incompatible with the Polluter-Pays Principle were such principle to be applied to the case of oil spills where the person liable is identified(1). Several Delegations supported the view that the Polluter-Pays Principle was applicable in practice to cases of accidental pollution due to oil spills, while other Delegations considered that no purpose was served or that it was inappropriate to refer to principle of economics in a matter of a legal nature.

In the light of discussions based on the results of the enquiry and on legal and economic analysis, the Committee in general came out in favour of

(1) The analysis undertaken did not concern cases where the liability or compensation ceiling was exceeded. Its aim was to determine, on the basis of well-known economic principles, which types of cost would be payable by the person liable once it was established that such person had to pay the cost of measures to prevent and control an oil spill.

the inclusion in the calculation of the claim for actions costs, to the extent compatible with international legislation, of an appropriate fraction of the relevant fixed costs.

CONCLUSION FOR PART II

In the light of the above observations, the Committee adopted the conclusions below; it recognised that in the present situation these conclusions are only effective in some Member countries and that political or legal obstacles may prevent their general application.

Where on the basis of the paragraph 15.1 to 15.4, 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.

In calculating the costs of action by public authorities to prevent or control an oil spill, consideration should be given to including not only those costs resulting directly from the action undertaken but also an appropriate fraction of the fixed costs related to that action.

Where at domestic level, the "Polluter-Pays Principle" is applied to the prevention or control of oil spills, the person or entity liable for such a spill or the risk thereof should bear the full cost of reasonable prevention and control measures taken after the incident by public authorities for the purpose of dealing with it, and should not benefit from any direct or indirect financial assistance from the public authorities which would alleviate the financial burden of such measures.

APPLICATION OF THE POLLUTER-PAYS PRINCIPLE TO ACCIDENTAL POLLUTION*

(Note by the Secretariat)

I. INTRODUCTION

1. In certain cases of accidental pollution from a hazardous installation, public authorities have to intervene to protect human health and the environment and to take large-scale and costly emergency measures. In a few cases, the intervention of public services in an emergency was limited because adequate funds were not available. For some accidents, it took ten years or more to recoup the cost of response of public services and this entailed very costly legal proceedings. In other cases, public authorities have to take expensive preparedness measures in order to be able to cope with potential emergencies caused by a particular hazardous installation. The situation in which the authorities find themselves today in cases of accidental land-based pollution is very similar to that which existed ten years ago with respect to accidental oil pollution of the sea, an area in which States were careful to ensure that the cost of their response would henceforth be reimbursed fairly quickly and with a fair amount of certainty.

2. In pollution issues, the Polluter-Pays Principle constitutes for the OECD the "fundamental principle for allocating costs of pollution prevention and control measures". This principle, which has a very wide scope, has been applied to continuous pollution and could also be applied to accidental land-based pollution. Also, the economic analysis underpinning the Polluter-Pays Principle in cases of continuous pollution justifies equally well the application of the principle in cases of accidental pollution (internalisation of environmental costs in the costs of goods and services). According to the Recommendation of the OECD Council [C(74)223], "uniform application of this principle, through the adoption of a common basis for Member countries' environmental policies, would encourage the rational use and better allocation of scarce environmental resources and prevent the appearance of distortions in international trade and investment".

3. In 1988, the OECD Conference on Accidents Involving Hazardous Substances concluded that "the Polluter-Pays Principle should be applied as far as possible in connection with accidents involving hazardous substances" [C(88)83]. The uniform application of the Polluter-Pays Principle (PPP) in cases of accidental pollution caused by hazardous installations would have the added advantage that it would give operators an incentive to improve accident prevention measures.

4. As Member countries expressed their support for applying the Polluter-Pays Principle to accidental pollution, it would be useful to clarify a number of points in order to facilitate the implementation of this principle in the area of accidental pollution.

* Drafted in 1989.

5. Detailed studies of the application of the Polluter-Pays Principle to accidental pollution have been prepared for the Group of Economic Experts and the ad hoc Group of Experts on Accidents Involving Hazardous Substances, and are summarised in this Note. They took as a starting point earlier OECD and EEC texts concerning the Polluter-Pays Principle. They focused on the various possible ways of financing the expenditure incurred by the authorities in dealing with accidents, and on the limitations to be placed on the application of the Polluter-Pays Principle in order to ensure an equitable sharing of costs and to avoid the imposition of inappropriate new taxes, charges or compensatory payments.

6. These studies also took into account the current practice in Member countries with regard to the reimbursement of the cost of pollution prevention and control measures taken by public authorities. It was found that in all Member countries there is at least one area in which the cost of the measures taken by the authorities in response to accidental pollution is charged to the operator.

7. According to the Recommendations of the OECD Council on the Polluter-Pays Principle [C(72)128 and C(74)223], this principle deals with the allocation to the polluter of the costs of certain pollution prevention and control measures, although some exceptions are allowed for. The meaning to be given to the terms "prevention and control measures" and "polluter" in connection with fixed hazardous installation will be examined. The issue of the "exceptions" in the area of accidental pollution will then be considered.

II. MEASURES TO PREVENT AND CONTROL ACCIDENTAL POLLUTION

8. In the case of accidents involving hazardous substances, "prevention measures" are the measures taken to prevent the occurrence of accidents capable of causing accidental pollution, and the measures taken prior to an accident to ensure that, if an accident does occur, damage is mitigated outside the site of the accident. They comprise on-site measures to improve the safety of the installation and accident preparedness, to reduce the rate of accidents and limit the release of pollutants from the installation in the event of accident, installation-specific emergency plans, and certain off-site measures such as the acquisition of land around the installation or the cessation of building in the vicinity of the installation so that a sufficient distance separates the installation from the neighbouring area that could be affected in the case of an accident (for example the release of pollutants, materials or hazardous substances, or the generation of heat or pressure waves).

9. Administrative measures implemented by the authorities prior to an accident with a view to preventing accidents in specific hazardous installations or taking remedial action should an accidental pollution occur could be covered by the Polluter-Pays Principle. Examples of such measures are: special studies carried out prior to the issue of a license, detailed inspections of a hazardous installation, preparation of the specific emergency plan for such an installation, and even the purchase of particular equipment needed to cope with an accident in a particular hazardous installation.

10. "Control measures" are the measures taken without undue delay after an accident to control the pollution caused by the accident, with a view to limiting possible damage which accidental pollution might cause anywhere. They comprise, first, measures to halt the release of pollutants, to prevent the pollution from spreading, to remove the pollutants released outside the installation as a result of the accident and to clean up the polluted environment, and second, measures taken without undue delay after the accident to rehabilitate the environment. It will be noted that pollution is taken in the broadest sense of the release of substances or energy into the environment with damaging consequences for human beings or the environment, either domestic or international.

11. These definitions of pollution prevention and control measures are not all-encompassing. They do not include, for instance, measures which are not directly related to the pollution, compensation for the damage incurred by victims, or the general administrative measures that are not directly related to specific hazardous installations.

III. MEASURES WHOSE COST COULD BE CHARGED TO THE POLLUTER

12. The decision to implement accidental pollution prevention and control measures is taken by the operator or the authorities. As the operator clearly bears the cost of measures decided on his own initiative, the Polluter-Pays Principle relates essentially to measures taken by the authorities within the limits of their competence prior to any possible accident in a specific installation, or after an accident in order to protect human health and the environment. Such measures are implemented either by the operator, or, should he default, by the public authorities, in which case the cost should be borne by the polluter in conformity with applicable law.

13. In order to ensure that charging the polluter for the costs of measures decided by the authorities does not lead to excesses, the polluter should be charged solely for the cost of measures that are reasonable in view of the circumstances. Such a limitation already exists in a number of international treaties, in the law of all Member countries on the control of oil slicks, and in many countries' laws or regulations concerning emergency measures. With a view to avoiding subsequent disputes, it may be useful for the authorities to consult, if possible, the operator or its representatives, including in appropriate cases, representatives of workers, before deciding on measures, especially in matters of accidental prevention. It could also be useful to establish in advance criteria as to what constitutes a "reasonable" measure by the authorities in relation to the circumstances of the accident and the nature and extent of the measures and the risks. In any case, if the courts rule that a control measure decided by the authorities is not "reasonable", constitutes an abuse of discretionary power or is without legal basis, the cost would be borne by the authorities themselves.

a) Responsibility and identification of the operator

14. Operators have a key role to play in pollution prevention and control; indeed, the OECD Conference on Accidents Involving Hazardous Substances concluded that "operators of hazardous installations have the full

responsibility for the safe operation of their installations and for taking all appropriate measures to prevent accidents" and "should take all reasonable measures to... take emergency actions in case of an accident".

15. With regard to fixed "hazardous installations", domestic law and in certain cases, European Community law would determine the person designated by the term "operator"; in general it is the person who is in charge of the installation and is responsible for its proper operation. If the installation is managed by a legal person, the operator is this person and not one of its employees in a personal capacity.

b) Charging of costs to the operator

16. An important feature of the Polluter-Pays Principle is that the authorities should not have to assume the cost of reasonable measures taken to prevent and control accidental pollution from a particular hazardous installation and decided upon by authorities within the limits of their competence.

17. With regard to costs incurred before an accident this means first, that the authorities should not subsidise operators for the cost of improvements to safety, and second, that they should be able to levy on the operators, as need be, charges or taxes to finance certain measures for the prevention and control of accidental pollution related to specified installations.

18. With regard to the cost of control measures taken by public authorities after an accident has occurred, efficient implementation of the Polluter-Pays Principle requires that these authorities should be in a position to obtain without undue delay or costly procedures the reimbursement of the cost of reasonable measures for controlling accidental pollution taken to protect human health or the environment. In conformity with the Polluter-Pays Principle, the person who should reimburse such cost is the polluter, i.e. the person at the origin of the accidental pollution.

19. For administrative convenience or for other reasons related to the relevant legal system or the objectives pursued, it would appear desirable that as a general rule the cost of the accidental pollution control measures be charged to the operator. Allocation of the cost to the operator is justified by the fact that the operator is usually in the best position to prevent and to limit their consequences in a cost-effective way. If the operator is not in a position to prevent the accident, i.e. when he is clearly not at the origin of the accident, the cost could be charged to another person. Accordingly, the Polluter-Pays Principle does not require that the operator is necessarily the only person who may have to bear the cost of control measures.

20. It follows first, that if the accident is attributable, in whole or in part, to another person, the operator has a claim against that person for reimbursement of all or part of the costs paid to the authorities. Second, if the operator clearly cannot be held under national law to be at the origin of the accident, it does not appear desirable that the authorities should require him to pay the cost of their control measures. This might be the case in some countries with accidents arising solely from major natural disasters which could not be foreseen (such as earthquakes), external causes (such as aircraft

crashes) or acts of third parties (such as sabotage), provided that the operator has taken all the measures that he can reasonably be expected to take. It might also be the case with accidental pollution caused solely by the fault or the negligence of the authorities.

IV. EXCEPTIONS

21. The exceptions to the Polluter-Pays Principle concern the costs that can be allocated to the polluter, and the usual exceptions as identified in the previous Council Acts on the Polluter-Pays Principle [C(72)128, C(74)223].

22. The costs which can be allocated to the polluter on the basis of the Polluter-Pays Principle are the cost of prevention and control measures which are directly related to accidental pollution in specific installations. However, the costs of measures that the authorities decide to finance out of taxation rather than by charges should not be included under the Polluter-Pays Principle. In many countries such measures consist essentially of those provided by emergency services (medical, police and fire services) in order to protect human life and property, or humanitarian measures (evacuation, shelter, etc.).

23. In addition, it may be judicious to allow in certain cases and subject to certain controls, exceptions to the PPP in the case of existing installations that have to meet new and stringent safety requirements. The circumstances in which such exceptions are warranted, as set out in 1974 [C(74)223], are also applicable. Assistance to operators may take the form of subsidies for new equipment and for development of new safety technologies. Another way may consist in compensating a change in the use of the site of an installation or in providing free of charge permission for a more beneficial use of the site of a hazardous installation with a view to reducing the net cost of relocating this installation to a more appropriate site.

24. Finally, there might be cases where the cost of control measures taken by the authorities is particularly high and, for instance, exceeds the financial capacity of the operator. In such cases, immediate reimbursement of the cost by the operator to the authorities might have serious consequences such as the closure of the enterprise and no compensation for the victims of accidental pollution. Provision could exceptionally be made, for instance, for reimbursement of the authorities to be staggered or limited in order to allow prompt and full compensation for physical damage of victims.

V. RELATIONSHIP WITH LIABILITY

25. Requiring the operator to reimburse the cost of reasonable control measures taken by the authorities after an accident is a means of financing emergency expenditure by a public department. Such reimbursement may result from provisions of public law which specify relations between the administration and persons at the origin of an accident or provisions of private law which attribute liability to the operator or require the operator to reimburse the cost of controlling accidental pollution ("gestion d'affaire"). Except where civil liability is channelled solely on the operator, such reimbursement does not prevent the operator or the authorities invoking the alleged civil liability of third parties who would be liable for

all or part of the accident. Furthermore, in many Member countries such reimbursement may be obtained from the operator even when he is not liable to pay compensation to the victims of the accident.

26. Allocation of the cost of certain control measures to the operator does not prejudice the allocation to the operator in conformity with domestic law of other costs resulting from the occurrence of the accident, for instance the cost of providing an alternative supply of potable water or the cost arising from the absence of water supply. Similarly authorities may charge the response cost to the party liable for the accident if such cost was not already paid.

VI. INSURANCE AGAINST POLLUTION RISKS

27. As it is possible in principle to insure against accidental pollution, the operator can avoid having to bear the cost of pollution control measures in the event of an accident by taking out appropriate insurance if available on the market or by joining a compensation fund. If he does so, the cost of the control measures carried out by the authorities in case of an accident will be borne by the insurer and not by the operator, and in some cases the authorities will even be compensated directly by the insurer or the fund manager. This is not contrary to the Polluter-Pays Principle since the operator contributes to the average cost of pollution control measures via the insurance premiums that he pays.

VII. A NEW RECOMMENDATION OF THE COUNCIL CONCERNING THE POLLUTER-PAYS PRINCIPLE

28. As the application of the Polluter-Pays Principle in the case of accidental marine pollution has been the subject of a Recommendation by the OECD Council in 1981 [C(81)32(Final)], a new draft Recommendation of the Council was prepared which sets out the conditions in which the Polluter-Pays Principle could be applied generally to accidental pollution occurring in fixed hazardous installations. Such an Act would provide guidance to Member countries on the application of the Polluter-Pays Principle; it would help to promote a harmonized interpretation of a principle that is recognized in all Member countries and would provide useful clarification for the implementation of cost-effective pollution prevention and control policies without excluding further developments concerning the application of the Polluter-Pays Principle in situations not covered by this Act.

29. Such a Recommendation would extend existing Council Acts on the Polluter-Pays Principle [C(72)128 and C(74)223] to an area which until now has not yet been dealt with explicitly and would be consistent with the practice of most Member countries. The implementation of this Council Act should contribute to facilitating the reimbursement of certain expenditures by public authorities arising from accidents in hazardous installations

COMPENSATION FOR VICTIMS OF ACCIDENTAL POLLUTION*

(Report by the Secretariat)

A. INTRODUCTION

1. In 1989 the OECD Council adopted a Recommendation on the Application of the Polluter-Pays Principle to Accidental Pollution [C(89)88(Final)]. This Council Act was concerned principally with measures taken by public authorities to prevent and control accidental pollution, and did not refer to any compensation which might be payable to pollution victims as redress for inflicted damage. The Council had stated that allocation of the cost of measures to control accidental pollution taken by public authorities "does not affect the possibility ... of requiring the same person to pay other costs connected with ... the occurrence of the accident".

2. The purpose of this report is to fill that gap and to discuss how the cost of compensation to which victims of accidental pollution could be entitled should be allocated (damage qualifying for compensation such as bodily injury or damage to property, loss of income, etc., but not including the cost of accidental pollution control measures already considered). Reference will be made to the many studies on the Polluter-Pays Principle undertaken at OECD, although no instrument adopted by the OECD Council in this field explicitly covers the allocation of the cost of damage or of compensating pollution victims. It should be noted that this report does not address civil liability for environmental damage for the purpose of equitable compensation or of damage prevention.

B. SCOPE OF THE REPORT

3. This report is concerned with damage which occurs when accidental pollution is significant enough for the environment not to be "in an acceptable state" in the light of local circumstances (hereafter called "serious pollution damage"). In some countries this involves "abnormal" disruptions which exceed the normal damage caused by certain industrial activities under normal operating conditions. The reference to "acceptable state" is introduced in order to be consistent with previous OECD Acts on the Polluter-Pays Principle [C(72)128, and C(74)223].

4. If an activity is carried out in conformity with laws and regulations and even if pollution emissions are at tolerable levels or are below the limits laid down by public authorities, it may nevertheless cause on a routine basis or in exceptional circumstances damage which is sometimes named "residual damage". Compensation for such damage is not discussed here. Similarly, no consideration is given to damage caused by pollution at levels considered to be tolerable taking into account local circumstances (1) (i.e. damage arising when the environment is, according to public authorities and to applicable laws, in an acceptable state).

* Drafted in 1991.

5. This report does not examine damage caused by deliberate (or non-accidental) pollution by the operator or his employees nor does it concern certain hazardous activities which are already or will shortly be covered by special international liability regimes. It does not deal with nuclear installations, military activities, transport operations, hazardous waste repositories. The approach which it adopts is the same as the one adopted previously by the OECD Council in its Recommendation on the Application of the Polluter-Pays Principle to Accidental Pollution (i.e. to require that the polluter bears the cost of damage caused by accidental pollution).

6. The report does not address the issues of the causal link between accidental pollution and damage, the definition of what damage qualifies for compensation, or of the level of pollution above which pollution damage is not tolerable, or which public or private party can claim compensation for damage (i.e. the so-called "victims"). In each case, these issues would be resolved by reference to applicable law.

C. ECONOMIC ANALYSIS: IMPLEMENTATION OF THE PRINCIPLE OF INTERNALISATION

7. In order to improve environmental protection, financial disincentives need to be given to persons whose actions or omissions give rise to accidental pollution, so as to ensure that they will avoid such actions and omissions and thus prevent pollution. To this end, the external costs involved in the damage incurred by accidental pollution victims should be "internalised" by those at the origin of the damage (1).

8. The report on "Economic Analysis of the Polluter-Pays-Principle in Relation to Accidental Pollution" showed that the allocation of the cost of damage follows the same economic logic as the allocation of the cost of measures to prevent and control accidental pollution. Having regard to the Recommendation on the Application of the Polluter-Pays Principle to Accidental Pollution [C(89)88(Final)], there is therefore justification, exclusively on grounds of the economic efficiency considerations, for allocating the cost of excessive pollution damage to the polluter.

9. Even if it is recognised that the polluter should bear the cost of excessive pollution damage, who the polluter is still needs to be clarified in each case. In the Concluding Statement of the OECD Conference on Accidents Involving Hazardous Substances, held in Paris on 9th and 10th February 1988 [C(88)83], it is stated that "operators of hazardous installations have the full responsibility for the safe operation of their installations and for taking all appropriate measures to prevent accidents". Clearly such responsibility should have a bearing on the allocation of serious pollution damage costs in the event of an accident in hazardous installations. It therefore appears reasonable to allocate this cost to the operators, with certain exceptions in appropriate cases. The justification from the economic viewpoint for this policy approach is shown in the study on "Economic Arguments for Certain Accident Compensation Systems". In May 1990, BIAC stated that "the principal objective of liability regimes should be to promote environmental protection. This can best be achieved by linking liability to operational control" in order to create an "incentive for the controlling entity to adopt all precautions for environmental protection".

10. Prior identification of the "polluter" who should pay compensation also has the advantage of making it unnecessary for the victims to pay sometimes considerable costs to identify the person at the origin of the accident and to prove the fault at the origin of his responsibility. This economic benefit is all the greater as the costs involved are sometimes very substantial and have to be borne initially by victims who in many cases cannot afford them. It therefore makes legal redress easier, but it may also have a negative impact by obliging the operator to compensate victims without himself being able to obtain reimbursement from the person in fact liable for the accident (who may be unidentified or insolvent).

11. However, this type of situation is exceptional since it is rare for liability for an accident to lie with anyone other than the operator and rare for such person, if he is not the operator, to be unable to meet his financial obligations. As the operator generally has contractual relations with this other person, he can reduce the risk of the latter causing an accident and being unable to bear the costs by monitoring his activities closely and requiring him in the contract to provide security or take out insurance. Where the risk of non-repayment to the operator of the cost of pollution damage caused by such person is insured, the premium would be lower if the insurance were taken out by the operator than if it were taken out by the vast numbers of potential victims.

12. Allocation to the operator of the cost of damage arising from serious pollution, when in reality he has not caused the accident and was not in a position to exert control over the person liable, would however not be consistent with the principle of internalisation if the operator could not in turn allocate to the person liable the cost of damage (right of recourse), in order to encourage him not to create conditions likely to cause an accident.

13. Such an allocation constitutes an economic incentive on the operator for the prevention of accidents and its economic consequence in the event of a catastrophe may be attenuated by means of insurance and funds. The Secretariat's study on the cost of accidental pollution shows that the extra cost involved in applying strict liability instead of liability based on fault counts on average for very little in industry and in the major risk insurance sector. Furthermore, this slight extra cost is in part offset by lower legal fees and less litigation.

D. EXCEPTIONS TO THE COST ALLOCATION TO THE OPERATOR

14. Allocating to the operator the cost of serious pollution damage would be justified if the accident occurs when the operator has effective control of the installation at the time of the accident. By contrast, it serves no useful purpose from the economic incentive viewpoint to insist that the operator bear such cost even where he had no influence over the event which caused the accidental pollution. This would apply, for example, to accidents caused exclusively by:

- a) an act of war, hostility, civil war or insurrection;
- b) an act of a third party (including victims);

- c) an act performed in compliance with an order or a compulsory measure
 - of a public authority;
- d) natural phenomenon of an exceptional, inevitable and irreversible character.

Exceptions to the allocation of the cost of damage to the operator might therefore be provided for whenever the operator is exonerated of liability. The victims will then have to seek compensation from the person actually responsible for the damage (if he is solvent and can be identified) or they will have no effective remedy. As a matter of fact, it is also consistent with the principle of internalisation that such person be asked to bear the compensation cost, even if victims will find it difficult to identify such person.

E. COMPATIBILITY WITH RECENT INTERNATIONAL TEXTS

15. Internalising the cost of serious pollution damage is in line with the Recommendation on Water Resource Management Policies, which requires Member countries to incorporate environmental cost into their resource pricing. The environmental cost within the meaning of this Recommendation includes as a minimum the compensation that the victims would receive for the damage caused by an accidental pollution.

16. Internalising the cost of serious pollution damage corresponds to the principle set out in the Resolution of the European Conference of Ministers of Transport (November 1989), according to which "since many users do not pay their full costs, it is necessary, in accordance with the Polluter-Pays Principle, to introduce systems of supplementary charging for environmental damage caused". It also complies with the principle adopted in December 1989 by the Ministers of the Environment and of Health of the Member States of the European Region of WHO, according to which "every public and private body that causes or may cause damage to the environment is made financially responsible (the Polluter-Pays Principle)". This approach is also consistent with the conclusions of the Sienna Forum on International Law of the Environment (April 1990) which give support to the "application of the Polluter-Pays Principle for chronic as well as for accidental damage to the environment in order to encourage economically efficient environmental protection and to avoid economic distortions". Within OECD, TUAC supported this approach in May 1990 when it stated that "everything has to be done to internalise the cost of pollution and environmental damage on the basis of the Polluter-Pays Principle". At the global level, the parties signatory to the International Convention on Oil Pollution Preparedness, Response, and Co-operation considered that the "Polluter-Pays" Principle was a "general principle of international environmental law" (IMO, London, November 1990).

17. The trend toward allocating serious pollution damage costs to the operator may result from the imposition of a larger number of regulatory requirements to be met by the operator or of additional controls to be exercised by public authorities. It found specific expression recently in the adoption of new international conventions establishing strict operator liability regimes (for example, for Antarctic mining activities and the

transport of hazardous substances in Europe) and in the support given by the Member countries of the Council of Europe to the preparation of a draft convention on damage resulting from activities dangerous to the environment. With regard to the Rhine river basin, harmonization of laws on civil liability for damage caused by hazardous substances, based, at least as far as water laws were concerned, on the principle of strict liability was advocated by the Ministers back in 1987.

F. RELATION TO CIVIL LIABILITY

18. Allocating the cost of serious pollution damage to the operator of the hazardous installation concerned is an expression of a growing trend in Member countries. This may be due to the fact that, under the influence of increasing regulation or of court decisions aimed increasingly at protecting the environment and victims of pollution, courts conclude in a growing number of cases that the operator is liable because he has not taken certain accidental pollution prevention and control measures or because he is presumed not to have taken such measures. As indicated in a previous Secretariat study, this trend has been reinforced by the fact that a growing number of Member countries have already introduced or are about to introduce special civil liability regimes for hazardous plant or substances. The most recent example is the German Law of 10th December 1990 on environmental liability, which introduces a strict liability regime for the operator of a hazardous installation.

G. POLLUTION RISK INSURANCE

19. Where an operator is insured and/or contributes to a compensation fund, he generally does not have to bear the cost of serious pollution damage in the event of accidental pollution and he might therefore neglect to take appropriate accident prevention measures because this risk is covered. This is unlikely to occur in reality, however, since the operator almost always incurs uninsured losses when accidental pollution occurs and the premiums usually reflect safety records and practices of the insured. Although premiums cannot be adjusted in all cases of accident, they should be adjusted and bonuses withdrawn where possible. With premium adjustment, insurance can be used to increase the likelihood of victim compensation without undermining the financial incentive for operator care.

H. LIMITS TO COMPENSATION

20. Limiting compensation payable to victims, for example by limiting the civil liability of polluters, is a feature of certain international strict liability regimes and is also found in a few national regimes of strict liability for accidental pollution. The effect of such a limit is to make the victims bear part of the cost of major accidents, or even the community where the authorities decide to take action on grounds of national solidarity in the event of a disaster. It may also result in the polluters' insurance premiums or contributions to compensation funds being lower than they would otherwise be. In such cases, polluters collectively do not have to bear the average cost of accidents and the particular polluter involved will not bear the real

cost of the accident he caused. This reduction in the cost of damage borne by the polluters reduces the internalisation effect sought. The reduction in the average cost of accidents (and insurance premiums) could, however, constitute an acceptable exception to the principle of internalisation provided that the limits to compensation are set a sufficiently high level so as not to undermine the incentive value of the liability risk; nevertheless, considerations of equity and social justice will certainly be affected. In practice it is difficult to avoid this type of limitation (insolvency of enterprises over and above a certain limit), but the limit can be adjusted upwards to the extent that pollution insurance markets are well developed and that compensation funds have been created to make up the difference up to a certain ceiling. Beyond this, governments might, in certain cases, have to step in because of a kind of societal responsibility in allowing the creation of high risk activities.

NOTES

- 1) According to the draft Convention on Civil Liability for damage resulting from activities dangerous to the environment [DIR/JUR(91)3], developed within the Council of Europe, the operator is not liable if he proves that "the damage was caused by pollution at tolerable levels to be anticipated under [relevant] local circumstances" (Art. 8).
- 2) According to the conclusions of the OECD Workshop on the Role of Public Authorities in Preventing Major Accidents (London, February 1990), operator liability for damage caused by an accident should serve as an incentive for the prevention of accidents and represents "an important supplement to requirements, monitoring and enforcement".

INTERNALISATION
AND THE POLLUTER-PAYS PRINCIPLE IN OTHER OECD ACTS AND DECLARATIONS

A. DECLARATIONS

Declaration on Environmental Policy

(Adopted by Member Governments during the meeting of the Environment Committee at Ministerial level on 14th November 1974)

The governments of OECD Member countries declare that:

...

They will continue to observe and further refine the "Polluter-Pays Principle" and other agreed principles to encourage environmental protection and to avoid international economic distortions, and where desirable encourage the harmonisation of environmental policies.

...

Declaration on Environment: Resource for the Future

(Adopted by Member Governments during the meeting of the Environment Committee at Ministerial Level on 20th June 1985)

The governments of OECD Member countries and of Yugoslavia declare that they will:

...

Seek to introduce more flexibility, efficiency and cost-effectiveness in the design and enforcement of pollution control measures in particular through a consistent application of the Polluter-Pays Principle and a more effective use of economic instruments in conjunction with regulations.

...

Communiqué - Environment Committee Meeting at Ministerial Level
An Environmental Strategy in the 1990s (January 1991)

...

Successful policy integration, and the attainment of sustainable development, is critically dependent on assigning prices to raw materials, goods and services that better reflect their full environmental and social costs. Ministers called upon the OECD to continue its work on pricing policy, in particular to assess the economic and environmental consequences of modified prices, including the implications for trade and industry.

...

Ministers welcomed, and strongly supported, the recent expansion in OECD countries of the use of economic instruments (e.g., taxes, charges and tradeable permits) to achieve environmental objectives.

...

Concluding Statement of the OECD Conference
on Accidents Involving Hazardous Substances
Paris, 9th-10th February 1988

...

The Conference concluded that the Polluter-Pays Principle should be applied as far as possible in connection with accidents involving hazardous substances.

...

B. ACTS OF THE OECD COUNCIL

Principles Concerning Transfrontier Pollution
(Recommendation adopted on 14th November 1974)
C(74)224

THE COUNCIL,

...

I. RECOMMENDS that, without prejudice to future developments in international law and international co-operation in relation to transfrontier pollution, Member countries should be guided in their environmental policy by the principles concerning transfrontier pollution contained in this Recommendation and its Annex, which is an integral part of this Recommendation.

Annex
Some Principles Concerning Transfrontier Pollution

C. Principle of non-discrimination

4. Countries should initially base their action on the principle of non-discrimination, whereby:

...

c) any country whenever it applies the Polluter-Pays Principle should apply it to all polluters within this country without making any difference according to whether pollution affects this country or another country.

...

16. When negotiating new bilateral or multilateral agreements countries should, while taking into account the principles set out above, strive for the application of efficient pollution prevention and control measures in accordance with the Polluter-Pays Principle.

The Re-use and Recycling of Beverage Containers
(Recommendation adopted on 3rd February 1978)
C(78)8(Final)

THE COUNCIL,

Considering that national policies towards the internalisation of external costs are to be implemented on the basis of action principles common to all Member countries, in order to avoid the creation of trade barriers;

I. RECOMMENDS that Member countries, through international co-operation as appropriate, where practicable define and implement policies designed to ensure that the costs of the adverse environmental impacts of the manufacture and use of beverage containers are effectively and equitably borne by the producers and users of such containers.

Coal and the Environment
(Recommendation adopted on 8th May 1979)
C(79)117

THE COUNCIL,

...

I. RECOMMENDS that:

...

- iv) In order to ensure the appropriate use of different energy resources, the cost of environmental protection and pollution control should be, as is compatible with the Polluter-Pays Principle, reflected in the price of energy.

Certain Financial Aspects of Action by Public Authorities
to Prevent and Control Oil Spills
(Recommendation adopted on 28th April 1982)
C(81)32(Final)

THE COUNCIL,

...

Having regard to the Recommendation of the Council of 26th 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:

...

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

a) 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;

.....

c) take into 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 cost 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;

d) 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 of costs of reasonable remedial action taken by public authorities after an incident.

Water Resource Management Policies: Integration,
Demand Management, and Groundwater Protection
(Recommendation adopted on 31st March 1989)
C(89)12(Final)

THE COUNCIL,

...

II. RECOMMENDS that Member countries develop and implement effective water demand management policies in all areas of water services through making greater use of:

...

-- appropriate resource pricing for water services;

...

IV. RECOMMENDS that in developing comprehensive groundwater policies Member countries pay particular attention to:

...

-- the use of pricing and other policies to manage demand;

...

V. RECOMMENDS that in the implementation of the above policies Member countries take account of the Guidelines for Water Resource Management Policies contained in the Appendix to this Recommendation of which it forms an integral part.

APPENDIX

Guidelines for Water Resource Management Policies: Integration, Demand Management and Groundwater Protection

...

4. The Recommendation and the Guidelines are meant to supplement and strengthen and not in any way to weaken the Polluter-Pays Principle.

...

PART I

Guidelines for Improved Institutional Arrangements for Integrated Management of Water Resources and Other Policies

...

27. Resource pricing should be the main economic instrument and should be followed, wherever possible, in the pricing of water resources unless good reasons dictate otherwise. The concept of resource pricing provides the basis of charging for all types of uses and the price of water services should at least cover the opportunity costs of these services: the capital, operation, maintenance and environmental costs. These opportunity costs should reflect the long-run incremental costs to the community of satisfying marginal demand; such a charging system is usually known as long-run marginal social cost pricing.

...

30. Unless there are good reasons for implementing other policies, such as favouring particular groups of consumers or regions or overriding long-term environmental goals, the resource pricing concept should be observed and promoted. Subsidies for the costs of water service provision, which have economic, financial and environmental disadvantages, should be avoided and in the cases of exception the reasons should be explicitly stated.

Use of Economic Instruments in Environmental Policy
(Recommendation adopted on 31st January 1991)
C(90)177(Final)

THE COUNCIL,

Considering that a sustainable and economically efficient management of environmental resources requires, inter alia, the internalisation of pollution prevention, control and damage costs;

Considering that such internalisation can be enhanced by a consistent use of market mechanisms, in particular those economic instruments defined in the Annex to this Recommendation;

I. RECOMMENDS that Member countries:

...

- ii) work towards improving the allocation and efficient use of natural and environmental resources by means of economic instruments so as to better reflect the social cost of using these resources.

C. RESOLUTION OF THE ECMT

The Council of the European Conference of Ministers of Transport meeting in Paris on the 23rd November 1989:

DECLARE:

- that, since many users do not pay their full costs, it is necessary, in accordance with the Polluter-Pays Principle, to introduce systems of supplementary charging for environmental damage caused. In principle, each transport mode should pay the full costs caused (for instance, through raising excise duty on fuels and/or road pricing). Methods of estimating such costs and ways of internalising them, should be developed at international level.

END-OF-TEXT