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# Making a model: the 1974 Nordic Environmental Protection Convention and Nordic attempts to form international environmental law

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## ABSTRACT

This article investigates the 1974 Nordic Environmental Protection Convention. It shows that the ulterior motives for such a convention were Nordic ambitions to regulate and reduce transboundary pollution originating outside of the Nordic region. Emphasizing the inter-organizational dynamics between institutionalized Nordic cooperation and international organizations, it examines how the Nordics drew on developments within international organizations and how they pursued their agenda of shaping international environmental law within the OECD. Ultimately, the article argues that the Nordic countries tried to create a model convention to be exported to and implemented at the international level with the aim of reducing transboundary pollution and establishing transnational responsibilities and accountabilities. By setting out this argument and shedding light on the first legally binding international convention to address transboundary pollution with procedural principles, the article breaks new ground on the history of Nordic environmental cooperation as well as on the development of international environmental law.

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## Introduction

On the eve of the International Day of the Environment, on 4 June 1975, Ragnhildur Helgadóttir, President of the Nordic Council (NC), warmly welcomed the more than forty participants from Nordic and international organizations (IOs) to southern Sweden for the sixth Nordic conference for international organizations in Europe, such as the European Court of Justice, the European Communities, and the Council for Mutual Economic Assistance. As a performance of a green Nordic modernity,<sup>1</sup> the event was dedicated to environmental pollution and Nordic environmental policies, which in the eyes of the organizer, the Nordic Council's Presidium, deserved wider international attention as examples of international environmental cooperation.<sup>2</sup> Aptly titled 'A Regional Approach – A World Wide Responsibility', the conference covered several Nordic environmental policy initiatives, such as specific Nordic ideas on integrating occupational environment and health into environmental policies and the Nordic Plan to Protect Conservation Areas and Biotopes. However, greatest attention was given to the Nordic

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Environmental Protection Convention (NEPC), signed sixteen months earlier, on 19 February 1974, by Holger Hansen, Heikki Tuominen, Tor Halvorsen, and Svante Lundkvist, as ministers responsible for the environment in Denmark, Finland, Norway, and Sweden, respectively. Proudly described by Nordic press and politicians as 'unique in the world',<sup>3</sup> the NEPC not only demonstrated dynamic and efficient Nordic environmental cooperation, but was also the first international environmental convention to address transboundary pollution in a comprehensive manner with a legally binding framework consisting of procedural principles.

Based on preventive and precautionary notions, the NEPC established the principles of non-discrimination, equal rights of access, and the obligation of mutual information among neighbouring Denmark, Finland, Norway, and Sweden.<sup>4</sup> Due to their geographical proximity, these Nordic countries necessarily contributed – as they still do – to the degradation and pollution of their neighbours' environments, with the result that 'in our everyday life we are all more or less making other people's environments', as Helgadóttir stated in her opening speech to the conference.<sup>5</sup> Yet since environmental pollution travels in shared marine and atmospheric seas across national borders and large distances, the Nordics not only shaped each other's environments in their region, but were also embedded into Europe's environment as a whole. Located downwind from major areas of heavy industry, the Nordic region, and Norway and Sweden in particular, received air pollution from the continent and Britain, and were thus treated as 'Europe's dustbin', as Nordic observers complained.<sup>6</sup> While conference participants acknowledged the NEPC's pioneering accomplishment of 'coordinat[ing] environmental protection problems between neighbouring countries',<sup>7</sup> with a certain level of self-confidence and missionary zeal, Nordic politicians and press had the expectation that this 'Nordic environmental model'<sup>8</sup> could – and should – eventually 'be transferred to a broader context'<sup>9</sup> and that this 'Nordic environmental responsibility' should become 'an example to others'.<sup>10</sup>

When the environment emerged as a policy issue at the turn of the 1970s, IOs, such as the Organization for Economic Co-operation and Development (OECD), the North Atlantic Treaty Organization, or the Economic Commission for Europe (ECE), not only competed over institutional responsibility,<sup>11</sup> but also played a central role in raising awareness, organizing scientific research projects, and defining core principles of this new policy area, such as the polluter pays principle.<sup>12</sup> Embedded into the developments of this 'web of IOs',<sup>13</sup> Nordic politicians used international venues, such as the OECD, as well as institutionalized Nordic cooperation, the NC and the Nordic Council of Ministers (NCM), to coordinate their actions and interests, and to advance their environmental agenda cooperatively.<sup>14</sup>

This article examines the Nordic states' ulterior motivations underlying the making of the convention, parallel to the legal formalization of Nordic environmental cooperation at regional level with the revision of the Helsinki Treaty in 1974. It further investigates the subsequent attempts at transferring the established principles therein to other IOs, more specifically the OECD, highlighting how Nordic cooperation was instrumentalized for domestic interests. Although the NEPC clearly represents a milestone within Nordic environmental cooperation as well as international environmental governance due to its novel content and form, it has thus far received little attention from historians or social scientists alike – and has also vanished from public memory.<sup>15</sup>

Ultimately, the article argues that the Nordic countries tried to solve the external problem of transboundary air pollution by internal means, aiming at creating a blueprint for environmental conventions to be exported to the international level. Thus, by building on newly constructed legal norms and by defining novel legal principles, the Nordic countries tried to lead by example and to further develop international environmental law, thereby solving domestic environmental problems. This not only demonstrates the substantial self-confidence of the Nordics within evolving international environmental governance, believing themselves to be setting new international standards, but also the fundamental interdependency of environments, pollution, and policies.

Within the Nordic region, however, the convention had hardly any practical consequences; six years after its enforcement in 1976, its principles were neither adhered to nor were they generally known among Nordic environmental officials.<sup>16</sup> On the one hand, this was due to the already existing collaboration among environmental agencies and ministries. On the other hand, the limited implications emphasize that the NEPC was created for the purpose of international agenda-setting. An adoption of the Nordic equal rights of access-principle by other IOs would have meant a fundamental change in international environmental law. For this reason, the NEPC has to be understood as a decisive political move in Nordic endeavours to reduce their exposure to acid rain caused by air pollution elsewhere in Europe during the 1970s and 1980s, which only materialized into an international convention within the ECE in 1979.

To examine the interests of the Nordic countries and the inter-organizational entanglements, the article first provides a short overview of the emergence, institutionalization, and formalization of Nordic environmental cooperation between 1967 and 1974. The second part discusses the problems of and political responses to transboundary pollution and the developments leading up to the NEPC. The third part outlines the principles of the NEPC and contextualizes these in Nordic and international developments. The final part analyses Nordic motives for drafting the convention and assesses the promotion of the NEPC and its principles within the OECD during the mid-1970s. Empirically, the interpretation builds on hitherto largely unused Nordic Council publications and protocols, material from the archives of the Nordic Council of Ministers in Copenhagen, the Nordic Council in Stockholm, as well as on sources from the OECD Archives in Paris. Combined with correspondence and notes from the foreign and environmental ministries, the material allows us to break with prevalent methodological nationalism and to analyse Nordic negotiations and diplomacy in a novel manner. On this basis, the article highlights the importance of IOs in disseminating, processing, and redefining environmental ideas, principles, and policies, and shows how the idea of an environmental convention originally advanced by Nordic parliamentarians strengthened environmental cooperation at both the regional and the wider international level, and influenced international environmental law.

By focusing on the NEPC, this article seeks to contribute to the state of the art in three areas of scholarship. Firstly, it advances historical research on Nordic cooperation at the regional and international levels in that it sheds light on the entanglements and links between these two spheres.<sup>17</sup> Institutionalized Nordic cooperation functioned both as an arena for the dissemination of knowledge on environmental challenges, and as a common ground for formal and informal Nordic collaboration at the international level, which aided national

agendas and interests. Secondly, it contributes to research on the role of IOs in the development of international environmental policies by focusing on the inter-organizational dynamics between a regional IO, the NC and NCM, and other international organizations, in this case the OECD.<sup>18</sup> The article provides new perspectives on how particular IOs were used to advance specific agendas by focusing on a regional model, which was deliberately designed to be implemented at the international level. Of essential importance for the dissemination of these ideas and principles were (in-)formal connections among actors and organs. Thirdly, the article furthers the history of international environmental law by scrutinizing the development and dissemination of the principles of the NEPC.<sup>19</sup> The development of international environmental law was complicated not only by its political and economic implications, but also by different national legal systems. While legal scholars consider the core environmental principles – preventative principle, polluter pays principle, precautionary principle – as ‘driving forces’ of environmental policy,<sup>20</sup> this article applies an inverse perspective and sheds light on the political intentions underlying the formulation of the principles.

### **Nordic environmental cooperation: emergence, institutionalization, and formalization**

When in 1952 the interparliamentarian Nordic Council was created as an advisory “organ for joint consultation” and cooperation, members of Nordic parliaments were primarily interested in issues concerning trade and economic integration, cultural cooperation, and social and welfare policies.<sup>21</sup> Two decades later, the NC launched its first five-year environmental programme, which made policies on marine, noise and air pollution, waste treatment, environmental education, and nature protection priorities of joint Nordic concern. Over the course of the subsequent decades, environmental protection became one of the most prominent policy areas of Nordic cooperation, not only at the regional, but particularly also at the international level – a form of cooperation the NC and NCM instrumentalized to legitimate their self-declared leading position as ‘environmental frontrunners’ and ‘role models’ within contemporary international agenda-setting on environmental protection and climate change.<sup>22</sup>

At the turn of the 1970s, Denmark, Finland, Norway, and Sweden one after the other created environmental protection agencies, environmental ministries, or other institutions responsible for the new policy. In 1967, Sweden created the Swedish Environmental Protection Agency (*Statens Naturvårdsverket* – literally still called: Nature Protection Agency) and replaced older laws with the now comprehensive Environmental Act of 1969, which addressed the different sectors – such as urban-planning, wastewater treatment, nature conservation, pollution, and health issues – collectively. In 1971, Denmark established a Ministry for Pollution Control, in 1972, Norway followed suit with its Ministry for Environmental Protection, and in 1973, a Finnish Environmental Protection Department and an Environmental Protection Council were created within the Ministry of the Interior.<sup>23</sup> Yet, despite this seemingly simultaneous rise of environmental awareness in the Nordic countries, similar organizational patterns and strong state-society connections, environmental discourses and movements were embedded in nationally distinct political and institutional structures, some being more radical and part of the wider leftist movements challenging capitalist society, others following deep ecologists and eco-philosophical ideas and lifestyles.<sup>24</sup>

What is more, increasing environmental awareness and creation of environmental agencies and legislations during the so-called 'environmental turn' between 1967/68 and 1972 was clearly not limited to the Nordic countries, but an international development.<sup>25</sup> IOs were particularly important for the emergence of environmental policies, as they offered arenas for the dissemination of scientific knowledge and political ideas, and organized international conferences that put the environmental at the top of the agenda, most prominently the 1972 United Nations Conference on the Human Environment in Stockholm.<sup>26</sup>

Alongside these processes at the national and international levels, the environment entered Nordic cooperation by means of three developments between 1967 and 1974. Firstly, Nordic politicians and officials identified nature degradation and pollution as policy issues of joint concern at the 1967 Nordic Conference on Soil and Water Pollution. At this conference, initiated and arranged by the NC Presidium, Nordic politicians and scientists controversially discussed the negative consequences of technological and economic progress. Conference participants openly questioned the assumption that economic growth and prosperity necessarily enhanced human welfare. At the same time, concerns over negative consequences of costly domestic environmental regulations as well as the international competitiveness of Nordic industries were essential key drivers for Nordic cooperation on environmental pollution policies at a time of increasing Nordic and European economic integration.<sup>27</sup> In many respects, parliamentarians perceived the conference as a wake-up call. It had clearly shown 'how urgent, not to say alarming, the pollution issue also [was] in the Nordic countries', as Finnish parliamentarian Tyne Leivo-Larsson stated at the NC's annual session in 1968.<sup>28</sup>

Secondly, the NC institutionalized environmental policies with the creation of the Nordic Liaison Committee on Environmental Issues (*Kontaktorgan för miljövårdsfrågor*) on 14 December 1970.<sup>29</sup> Following the failed negotiations for a Nordic Economic Union (Nordek) in 1970 and the creation of the Nordic Council of Ministers in 1971, the Liaison Committee was succeeded by a Committee of Senior Officials on Environmental Issues (*Ämbetsmannakommittén för miljövårdsfrågor*) in September 1973.<sup>30</sup> Its main task was to develop regional and international Nordic environment cooperation by coordinating, monitoring and harmonizing measures, joint Nordic projects, information exchange, and activities of the environmental agencies.<sup>31</sup>

Thirdly, on 11 March 1974, the Nordic countries legally formalized environmental policy as part of institutionalized Nordic cooperation with the revision of the Helsinki Treaty, and established a principled of joint, cross-border responsibility for the Nordic environment.<sup>32</sup> In their national legislation, the five Nordic countries were to 'place the environmental interests of the other High Contracting Parties on an equal footing with their own', to seek harmonization of their environmental protection regulations, and to 'seek to co-ordinate matters relating to the allocation of nature reserves and recreational areas, and to protective initiatives and other measure for the conservation of flora and fauna'.<sup>33</sup> With these three new sections added to the treaty regulating institutionalized Nordic cooperation, the environment was established as an official policy area of Nordic cooperation next to economy, culture, social policy, law, and transportation and communication.

## Bordering environments and transboundary pollution

At the turn of the 1970s, there were multiple reasons – not only economic ones – why Nordic parliamentarians and officials aimed at developing inter-regional standardization and harmonization of measures, pollution levels, and prohibitions. Framed by steep rock landscapes covered with forests, the twenty-five-kilometre-long Iddefjord was a textbook example of transboundary pollution. With its banks shared on either side by Norway and Sweden, it also opens out into the Oslofjord, ultimately emptying into Danish waters in the Skagerrak. For decades, sewage from the pulp and paper mills of the Norwegian town Halden had run without treatment into the fjord, eventually leading to the collapse of the aquatic ecosystem in the border river.<sup>34</sup> In the early 1970s, marine pollution received unprecedented political attention, as new scientific evidence suggested that the Baltic Sea should be treated as a large inland lake rather than part of the sea, to which it was only connected via the Skagerrak.<sup>35</sup>

In late August 1971, the worsening condition of the Iddefjord's aquatic ecosystem was eventually brought to public attention as a proof of the need for an environmental protection convention among the Nordic countries.<sup>36</sup> Two months earlier, Danish social democratic politicians Erling Dinesen and Niels Mørk together with Swedish social democrats Sven Hammarberg and Grethe Lundblad, had requested the NC to 'recommend to the governments of Denmark, Finland, Norway and Sweden to enter into a Nordic environmental protection convention aimed at treating neighbouring countries' environmental protection interest as equal with their own national legislation.'<sup>37</sup>

The drafting of what was to become the NEPC and its signing fall into the period of legislative and administrative manifestation of Nordic environmental cooperation outlined above – that is, the period from 1967 to 1974. In fact, the formalization of Nordic environmental cooperation in the Helsinki Treaty was a parallel outcome of the parliamentarian proposal for an environmental protection convention, which resulted in both the revision of the Helsinki Treaty and the signing of NEPC in March and February 1974, respectively. Essentially, however, the NEPC established a procedural legal system that was independent of institutionalized Nordic cooperation and thus – in principle – transferable to other international arenas.

During the initial negotiations preceding the institutionalization of Nordic environmental cooperation, the Scandinavian Council for Applied Research (*Nordforsk*) had held a powerful position.<sup>38</sup> Established in 1947, and equipped with a main secretariat in 1956 as well as a Secretariat of Environmental Sciences (*Miljövärdsssekretariatet*) in Helsinki in 1970, Nordforsk was responsible for initiating, planning and coordinating research projects between the different national research councils and academies of technological and natural sciences.<sup>39</sup> In 1965, Nordforsk also created three committees on water and air pollution, and on pesticide research, respectively.<sup>40</sup> Moreover, from 1968 onwards, the organization adopted a more political attitude and gained a decisive influence on how Nordic environmental cooperation developed at scientific and political level. Among its recommendations were information exchange between authorities, and framework legislation based on ecological and holistic conceptions of environmental pollution.<sup>41</sup>

Drawing on Nordforsk's recommendations, in 1971, the four Nordic delegates urged the Nordic countries to 'go further in terms of the protection one is willing to provide for the environment' by entering into a convention.<sup>42</sup> Essentially, this convention was



supposed to establish the principle of non-discrimination as a fundamental principle. This meant that during the environmental assessment regarding the permissibility of installations, the neighbouring Nordic countries had to be considered in equal terms to the respective domestic ones.<sup>43</sup> In February 1972, the NC followed this proposal and commissioned the Nordic Environmental Protection Committee (*Nordiska miljöskyddskommittén*), which had been created for this purpose, with drafting the blueprint for such a convention.<sup>44</sup>

Over the course of eighteen months, the committee developed ideas and eventually filed its final report in October 1973,<sup>45</sup> in which it proposed two different but not mutually exclusive agreements: an independent convention and an amendment to the Helsinki Treaty – both of which would ultimately be realized. On the one hand, an amendment would explicitly strengthen Nordic environmental cooperation and establish a harmonizing agenda, which the committee considered to be an essential basis of a possible separate convention.<sup>46</sup> On the other hand, the committee also argued that it would be of advantage to agree on an environmental convention with binding instrumental principles on procedural rights, as it expected transboundary environmental pollution to increase in the future.<sup>47</sup>

### Principles of Nordic environmental protection

The novelty of the NEPC consisted in institutionalizing international environmental solidarity by establishing three key principles of governance: non-discrimination, equal rights of access, and information obligation. In particular, the introduction of the principle of equality of access was a pioneering step, establishing principles such as the application of the polluter pays principle transnationally at Nordic level. Signed at the environmental ministers' meeting in Stockholm on 19 February 1974, the convention was enabled by, and also reinforced, the intergovernmental cooperation that had been established with the creation of the NCM/Environmental Ministers in 1973. At the same time, the sixteen-article strong convention created a legally binding procedural system on transboundary pollution that was not only applicable to different kinds of pollution but also transferable to the international context.

Environmentally harmful activities were defined by the NEPC as 'the discharge from the soil or from buildings or installations of solid or liquid waste, gases or any other substance'.<sup>48</sup> The convention thus covered 'environmental nuisance by water pollution or any other effect on water conditions, sand drift, air pollution, noise, vibration, changes in temperature, ionising radiation, light etc'.<sup>49</sup> Yet, as the NEPC applied to the process of permissibility, it effectively covered stationary installations only, failing to address pesticides, the transportation sector, or oil discharges from ships. However, as it also included the continental shelf areas, it did take into account the then expanding petrochemical industry.<sup>50</sup>

Based on this definition of environmental pollution, the NEPC established the principles of non-discrimination, equality of access, and information obligation. The principle of non-discrimination was considered the 'fundamental rule'<sup>51</sup> of the convention. It entailed that when examining 'the permissibility of environmentally harmful activities, the nuisance which such activities entail or may entail in another Contracting State shall be equated with a nuisance in the State where the activities are carried out'.<sup>52</sup>



The second and essentially pioneering principle of equality of access was set out in the two paragraphs of Article 3. On the one hand, this principle established that citizens of the contracting states were treated as equal citizens, giving them the equal right to institute proceedings in court or administrative authorities on issues of permissibility if they were 'affected or may be affected by a nuisance caused by environmentally harmful activities in another Contracting State'.<sup>53</sup> On the other hand, the principle also introduced an entitlement to 'compensation for damage caused by environmentally harmful activities'.<sup>54</sup> Thus, the Article 3 introduced the polluter pays principle across national borders within the Nordic region.

Thirdly, it established the principle of information obligation and constructed an administrative system for information exchange.<sup>55</sup> The NEPC envisaged supervisory authorities that were 'entrusted with the task of safeguarding general environmental interests insofar as regards nuisances arising out of environmentally harmful activities in another Contracting State'.<sup>56</sup> Such supervisory authorities could institute proceedings, appeal against the decision of the court or administrative authority in the other contracting state, and request 'arrangement for on-site inspection' in other contracting states.<sup>57</sup> However, the obligatory information exchange between the supervisory authorities aimed at preventing any disputes on trans-boundary environmental pollution.

These three key principles rested on the principles of prevention and precaution. Though both notions concern *ex ante* regulations, the preventative principle is aimed at the reduction and prohibition of damaging activities by means of abatement technologies, while the precautionary principle extends the principle of prevention in that it applies to activities with a potential, and not yet scientifically proven, damaging impact on the environment.<sup>58</sup> Although not stated as explicit principles, the NEPC's primary objective was to 'prevent damage'.<sup>59</sup> The NEPC's principles of non-discrimination and of information obligation are both essential parts of the principle of prevention.<sup>60</sup> Furthermore, as the convention applied to the mere potential of environmental nuisance, it also took into account uncertainty, the central element of the precautionary principle as developed in the 1980s.<sup>61</sup> For this reason, the NEPC is a paradigmatic example of the necessary interdependency of environmental principles.<sup>62</sup>

While the composition of these principles and the convention's legally binding character were novel achievements, the principles themselves had been formed by international discussions and negotiations and introduced and disseminated by several IOs over the preceding years and decades. Most prominently, the principle of non-discrimination had been defined in Principle 21 of the Stockholm Declaration, which was one of the results of the 1972 Stockholm Conference, and which encouraged countries to 'ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction'.<sup>63</sup> In fact, this definition built on the no harm principle, which again originated in the decades-old principle of good-neighbourliness,<sup>64</sup> and which was also common in the Nordic region prior to the NEPC.<sup>65</sup> For this reason, it is not surprising that the initial parliamentary proposal of 1971 also promoted the principle of non-discrimination as a core principle of the future convention. In contrast to the Stockholm Declaration, however, the NEPC established this principle in a legally binding treaty, and as such presented 'a practical application of the guidelines drawn up at the Stockholm Conference'.<sup>66</sup>

Nordic cooperation was generally pervaded by the principles of non-discrimination, equal rights of access, and information obligation, as each of these contributed to greater regional integration, and to the formation of a political, legislative, and economic Nordic entity. It was in particular during the 1950s that this Nordic integration gained traction. A common labour market was established in 1954, followed by a social security union in 1955, and a passport union in 1957. Free movement, labour migration, and equal rights to social security benefits thus became the regulated norm in the region by the end of the decade.<sup>67</sup> The NEPC intensified this process of integration by introducing the polluter pays principle, thus establishing environmental liability and a progressive right to financial compensation and legal proceedings on environmental matters across Nordic borders.<sup>68</sup>

Environmental economists such as the Swede Erik Dahmén and the Canadian John Dales had 'reframed the problems of the allocation of the cost of pollution to those who caused it from a fairness issue to an issue of economic efficiency',<sup>69</sup> building on Arthur Pigou's economics of externalization. Counteracting the externalization of environmental damages by allocating the cost to the producer via charges or taxes had also been a major issue of discussion when the environment became a topic of Nordic cooperation.<sup>70</sup> Due to its impacts on production costs, the polluter pays principle itself was discussed by IOs from the late 1960s. In 1968, the Council of Europe had included the principle in a non-binding resolution in its Declaration of Principles on Air Pollution. Four years later, in May 1972, the OECD followed suit and issued initial guiding principles after having prompted its member states to consider the polluter pays principle as a fundamental principle of cost-allocation in international law-making in several non-binding recommendations.<sup>71</sup> Whereas these did not succeed in adopting binding recommendations, the NEPC did establish the polluter pays principle internationally. As a result, citizens from one Nordic country were now entitled to receive economic compensation of nuisance caused by a polluter in another Nordic country, in accordance with the most favourable law.<sup>72</sup>

### **Forming international environmental law**

Although the NEPC constituted a direct response to a regional problem, the Nordic countries' motives were also linked to two international developments that underline the broader interconnection of domestic, regional, and international interests: the 1972 Stockholm Convention, and the emergence of scientific evidence on long-range transboundary air pollution. There was a shared expectation among Nordic politicians that the NEPC would have positive effects on national environmental protection interests if the convention's main principles were further elaborated and introduced within a wider geographical context, reflecting an awareness of a globally entangled environment.<sup>73</sup> The expectation that the NEPC would serve as a 'guide [for] other countries' – in the words of the Swedish Minister of Agriculture, Svante Lundkvist – was not a vague aspiration but reflected a genuine Nordic self-perception, and was an agenda deliberately pursued within IOs.<sup>74</sup> By the time that it came into force on 5 October 1976, the NEPC and the principles it established had already been actively promoted for several years in the OECD's discussions on environmental principles and legal norms.<sup>75</sup>

Firstly, when the four Nordic delegates issued their proposal in 1971, preparations for Stockholm were running high. In general, the Stockholm Conference had two main aims: first, to raise awareness among the world's governments and societies, and second, to channel international environmental work into one shared direction and develop the necessary frameworks and methods for global governance.<sup>76</sup>

It was in connection to the second aim, the development of global environmental governance, that the four Nordic delegates had framed their proposal when arguing that the Nordic countries should demonstrate the possibilities of close international cooperation, at least at the regional level.<sup>77</sup> Against this background, the thought of creating a convention that could be a 'good blueprint for more extensive international agreements' appealed to many Nordic authorities, agencies, and organizations, reflecting a high level of self-confidence and a missionary zeal.<sup>78</sup> Ingemund Bengtsson, Swedish Minister of Agriculture at that time, regarded such a convention as an important step in the Nordic countries' endeavour to define the international scope of environmental issues. In his eyes, Nordic environmental cooperation was of 'pioneering and invaluable importance as an element in further international cooperation'.<sup>79</sup>

Considering Nordic cooperation to be far more vigorous and efficient than international environmental cooperation, Nordic politicians pursued the goal of a separate environmental protection convention in addition to the amendments to the Helsinki Treaty due to the symbolic and ideational value that this would generate: while 'international agreements and international legislation' were expected to require a long negotiation period, a Nordic convention introducing common environmental regulation was feasible within a 'relatively short time'.<sup>80</sup> Such a convention would obviously not only increase international recognition and the Nordics' standing at a time when the 'Scandinavian lifestyle' was already being recognized as a 'brand',<sup>81</sup> but politicians and representatives from nature protection organizations also expected that a Nordic convention would positively affect and guide the development of international environmental policies.<sup>82</sup> Signing the NEPC at the height of the economic recession and unemployment wave following the energy crisis that took hold in the autumn and winter of 1973 thus demonstrated a clear commitment to environmental protection independent of economic circumstances – something which arguably contributed both to the drive for external recognition and the internal claim for leadership within the Nordic countries.

Secondly, while the Iddefjord served as a regional example, the proposal for a convention emerged in close connection to another concern, which was also high on the Nordic agenda: transboundary air pollution.<sup>83</sup> Building on decades of Nordic and international cooperation on atmospheric science, the Swedish meteorologist Svante Odén had argued in a 1967 newspaper article that Scandinavia was importing airborne sulphur dioxide pollution from Britain and central Europe.<sup>84</sup> Following the publication of Odén's article, the scientists of Nordforsk's Working Group on Air Pollution received Nordic support for their plans for a network of background stations, i.e. atmospheric measuring stations located at places without any local source of air pollution, which would be deployed in order to analyse atmospheric diffusion patterns and to investigate the causes of acid rain in Scandinavia – eventually leading to the OECD Co-operative Technical Programme to Measure the Long Range Transport of Air Pollutants (LRTAP).<sup>85</sup>

Already by 1971, Nordic scientists were able to provide data suggesting that the acid precipitation across southern Scandinavia was caused by sulphur emissions outside of the Nordic region.<sup>86</sup> Given this new scientific evidence and its possible damaging effects on forestry, fishery, and agriculture, Danish and Swedish politicians – including Niels Mørk who was one of the NEPC-initiators – urgently pressed the NC to demand comprehensive sulphur dioxide emission abatement strategies and called for a joint position on this issue to be developed at the Stockholm Conference.<sup>87</sup> Due to acid rain's transnational reach, 'isolated Nordic actions'<sup>88</sup> were deemed insufficient: the reduction of transboundary air pollution required international measures since power plants and industries as sources of air pollution located in one country were causing environmental degradation in another. For this reason, the Swedish government had for instance in its national report to the Stockholm Conference advanced the idea of creating global environmental governance in the form of 'co-ordinated systems of regulations and standards'.<sup>89</sup>

The NEPC was thus not only motivated by a regional concern, but also by domestic interests in protecting the lime-deficient soil and lakes in southern Scandinavia, which presented valuable economic and recreational resources, from foreign sulphur emissions. Institutionalized Nordic cooperation thus facilitated collaboration, which was thought to improve the Nordic countries' strategic manoeuvring in international negotiations<sup>90</sup> – something a Swedish journalist in connection to the 1975 Nordic conference described as a 'joint Nordic attack against the poison from the Ruhr'.<sup>91</sup>

Hence, it was the combination of a domestic environmental concern and a regional political ambition to redefine international environmental governance and eventually reduce environmental degradation that drove Nordic politicians and officials to actively disseminate the NEPC's principles and work for a similar convention at the European level. On the one hand, as a remedial function, the principle of equal rights of access would change international dynamics, as citizens and authorities in Norway and Sweden – the two Nordic countries most seriously affected by sulphurated air pollution originating in West Germany and Britain – would be able to file legal proceedings in those countries. On the other hand, as a preventative function, equal access to courts might advance the harmonization of environmental regulation, for polluters would want to avoid becoming legally and economically accountable for environmental damage in pollution-receiving countries.

Yet the economic implications of environmental policies and environmental law, such as the polluter pays principle, were not only controversial but also legally challenging.<sup>92</sup> Although the OECD Sub-Committee of Economic Experts had addressed the economic aspects of transboundary pollution since 1972, several issues relating to it had remained unresolved, such as the institutional organization, economic compensation, and implementation of non-discrimination.<sup>93</sup> As a consequence, the OECD Environment Committee created the Ad hoc Group on Transfrontier Pollution (TFP) in late November 1973, which was tasked with the preparation of a report on the administrative, institutional, and legal aspects of transboundary pollution for the first OECD Environmental Committee meeting at the ministerial level in 1974.<sup>94</sup>

This TFP ad hoc group became the main forum for Nordic officials' dissemination and promotion activities in relation to the NEPC's principles between 1973 and 1974 – thus already before the NEPC had been signed and enforced. As an organization that provides, develops, and disseminates knowledge, ideas, and concepts to its member countries, the

OECD – together with its Environment Directorate – has functioned as an ‘ideational agent’, picking up ideas from OECD member countries, particularly its environmental frontrunners and transferring them to other members.<sup>95</sup> Seeking solutions for the practical, institutional, and judicial realization of the Principle 21, the OECD Secretariat had thus, for instance, also aroused interest in assessing the usefulness of the principle of equal access as defined in the NEPC.<sup>96</sup>

At the same time, as previous research has shown, the OECD’s committees ‘frequently predetermined decisions’, since the committees were composed of national officials and experts, who represented governmental interests, while experts at the same time also had to provide the expertise that was requested of them.<sup>97</sup> Thus, in order for countries and groups to define the results of meetings such as those of the Environment Directorate, they had to push their agenda and influence discussions within the different committees, such as the TFP ad hoc group, which was chaired by Haakon Hjelde, an official in the Norwegian Ministry of Environment. At that time, Hjelde was also involved in the Norwegian ratification process of the NEPC as well as being a Norwegian member in the Nordic Committee of Senior Officials on Environmental Issues, whose members also facilitated Nordic environmental cooperation within different IOs.<sup>98</sup>

For Hjelde, the imminent signing of the NEPC a few weeks after the ad hoc group’s first meeting in January 1974 gave the ‘Nordic countries an advantage which also included a particular right of initiative on transboundary pollution issues within the OECD’.<sup>99</sup> Chairing the TFP ad hoc group thus presented a great opportunity to influence the final guidelines to the OECD ministerial meeting in such a way as to further Nordic interests, as he argued in internal Nordic correspondence. Whereas the Norwegian delegation provided, on behalf of its Nordic neighbours, an extensive introduction to the NEPC at the group’s January meeting, the Nordics disseminated a commented English translation of the NEPC to all national delegations of the OECD Environment Directorate during the spring of 1974.<sup>100</sup> Making efficient use of Nordic ‘steering possibilities’,<sup>101</sup> officials managed to convince the TFP ad hoc group to structure a proposal for the meeting at ministerial level based on the three core principles established in the NEPC.<sup>102</sup>

As a result of this promotion of Nordic norms, the NEPC decisively shaped the ‘Recommendation on Principles Concerning Transfrontier Pollution’, prepared for the OECD Environmental Minister’s meeting in Paris on 13 and 14 November 1974. While the recommendation drew on several international conventions such as the Stockholm Declaration, the Helsinki Convention of 22 March 1974, and the Draft European Convention for the Protection of International Watercourses against Pollution of March 1974,<sup>103</sup> the OECD imported the NEPC’s principles of non-discrimination and equal right of access, as well as procedures on information obligation and consultation, including the supervisory authority.<sup>104</sup>

Of the ten drafted action proposals for the OECD Environment Committee meeting at ministerial level, however, the ‘Principles Concerning Transfrontier Pollution’, remained ‘one of the most important and difficult areas affecting international relations in the environmental field’ due to its economic as well as legal implications.<sup>105</sup> On the one hand, the ‘controversies among the delegates to the Environment Committee over language on the existence of the problem and how to control fossil fuel emissions given the ongoing energy crisis’ were rooted in the economic recession.<sup>106</sup> Not only Britain opposed against the equal right of access principles<sup>107</sup>; the West German government also rejected any

legally binding formulation on financial compensation to foreign citizens.<sup>108</sup> On the other hand, different legal systems and concerns about national sovereignty, as for instance argued by the Spanish delegation, further hampered progress in the establishment of internationally binding instruments.<sup>109</sup>

Hence, despite the intensive preparations in the TFP ad hoc group, diverging ambitions led to several formulations not being finalized, and last-minute changes to the draft recommendation resulted in a watering-down of its language.<sup>110</sup> Firstly, despite encouraging the countries to 'reduce, and as far as possible eliminate any transfrontier pollution existing between them', the recommendation did not specify any set goal or time frame.<sup>111</sup> Secondly, countries were only encouraged to 'base their action' on, rather than 'adopt collectively the principle of non-discrimination'.<sup>112</sup> Thirdly, the principle of 'equality of access' was replaced with a principle of 'equal right of hearing' which called for those affected to be given the same right only in 'standing in judicial and administrative proceedings' and but not a right 'to be heard in any administrative, legal or judicial proceedings' as it originally stated.<sup>113</sup> This phrasing left the decision as to whether foreigners affected would be granted the same right to the respective national court and retained national sovereignty.<sup>114</sup> Hence, the recommendation did not succeed in establishing reciprocity. Fourthly, while the first draft had been specific, stating that where the polluter pay principle applied at domestic level this principle was also to be applied to 'victims of transfrontier pollution in the other countries',<sup>115</sup> the new draft was equivocal. Thus, 'victims' were replaced by 'persons affected' who should receive 'no less favourable treatment' rather than be treated 'at least equal to that of domestic victims', as the original version had put it.<sup>116</sup> This also meant, further, that those affected were only granted 'extended procedural rights' and not 'protection which the law of the polluter country gives to its nationals' in court.<sup>117</sup> Finally, neither information obligation nor a right to information were established. While the draft provided that countries were entitled to request information and data from other countries if they were not providing this information voluntarily, these provisions were missing in the final version.<sup>118</sup>

Although the OECD Principles Concerning Transfrontier Pollution contained the three core principles established in the NEPC, the first Nordic attempt to establish the principles of non-discrimination, equal rights of access, and information obligation at the international level revealed how different legal systems, the economic implications of environmental policies, and national sovereignty complicated and slowed down the development of procedural and instrumental international environmental law. Yet while the final recommendation on transboundary pollution fell short of the Nordics' ambitions, the preparations of the OECD Environmental Ministers' meeting and the discussions had at the same time shown that the Nordics shared the concern over the development of international environmental law with several OECD delegations, such as Austria, Canada, and the Netherlands, who together with the Nordic would drive sulphur dioxide reduction policies in the 1980s.

Despite reaffirmations that 'the present economic and energy situation should not adversely affect the stringency of [...] environmental policies',<sup>119</sup> the environmental ministers merely agreed to further 'co-operate towards solving transfrontier pollution problems in a spirit of solidarity and with the intention of further developing international law in this field'.<sup>120</sup> As a result, during the following years, the Nordic countries continued their endeavour of disseminating the NEPC's principles within the succeeding permanent

Transfrontier Pollution Group.<sup>121</sup> Although the OECD Council urged the countries to 'ensure' equal treatment on participation in administrative and judicial proceedings including obtaining compensation in May 1977 for damage already caused,<sup>122</sup> the first real break-through was reached within the ECE, when thirty-five environmental ministers from East and West European countries signed the framework Convention on Long-range Transboundary Air Pollution in November 1979.<sup>123</sup>

## Conclusion

Signed in the aftermath of the first energy crisis, the Nordic Environmental Protection Convention stands out in the history of international environmental law as a procedural and legally binding international treaty establishing the principles of non-discrimination, equal rights of access, and information obligation, based on the notions of prevention and precaution. As such, the NEPC is a paradigmatic example for the interdependence of the core environmental principles and stresses the interconnection of environmental, economic, and social issues.

This article has investigated the NEPC by examining the Nordic ulterior motives for such an independent convention in addition to the parallel legal formalization of Nordic environmental cooperation with the amendments to the Helsinki Treaty in March 1974. It has shown that these motives were driven by two aspects in particular: First, the development of international environmental governance against the background of the 1972 Stockholm Conference, where Nordic politicians wished to stipulate an example of progressive and efficient international environmental cooperation, in order to strengthen their position and image. Second, Nordic concerns over transboundary pollution originating outside of the Nordic region amid increasing scientific evidence about the long-range dissemination of air pollution and the acidification of natural resources of economic and recreational value. The article thus advances the argument that the Nordic countries created a model convention with the aim of exporting its principles to the international level in order, on the one hand, to address and eventually reduce transboundary sulphur emission causing domestic environmental degradation, and, on the other hand, to establish responsibilities and accountabilities across borders, thereby shaping international environmental law and governance. Ultimately, the NEPC is the result of the Nordic countries ambition to solve the external problem of transboundary air pollution by internal means.

Moreover, the article has analysed the Nordic attempts to shape international environmental law by scrutinizing the inter-organizational dissemination of the convention's principles within the OECD. The fact that the Nordics targeted the OECD stresses the interconnectedness of environmental policies and law with in particular economic policies and interests. In using the different working groups of this IO to promote the NEPC, Nordic officials and experts decisively influenced the discussion, negotiations, and results. For the dissemination of the ideas and principles of the convention in several organs of the OECD, Nordic cooperation thus not only served to actively support but also supplied a point of reference for what is actually possible at international level. Yet in contrast to research focussing on how IOs have influenced domestic environmental policies and principles, this article has shed light on the inverse influence. As such, the article has scrutinized the political intentions ulterior to the formulation of principles of international



environmental law. The fact that the Nordics aimed at creating a blueprint for an environmental convention to be exported to the international level, demonstrates their substantial self-confidence: they believed that they were setting the international standards of international environmental governance. Equally, however, it also highlights the interdependency of environmental pollution and policies, both geographically, economically, and legally.

## Notes

1. On the conference and its performativity, see Buns and Hinde, "Green States in a Dirty World."
2. Nordisk Råd Presidiesekretariat (NRPS), "Internasjonal konferanse 1975," Swedish National Archive (SNA), 2708.01/F 11/8, folder I 58.900 (1974–76); *A Regional Approach*, 7. The conference was held in Frostavallen, Höör, Sweden, between 4 and 6 June 1975.
3. SNA, NRPS, "Internasjonal konferanse 1975." This translation and all other translations are by the author.
4. Iceland did not participate in the negotiations and did not sign the NEPC, mainly due to its geographical distance to the other Nordic countries. In general, with the exception of marine pollution and resources, Iceland kept a passive role within Nordic environmental cooperation until the late 1980s, when it also expressed interest in signing the NEPC; *Nordiska rådet 1988, 2. ekstra session*, 36.
5. *A Regional Approach*, 12.
6. "Norden vil ikke være Europas søppelkasse."
7. "Miljøvern møte i nordisk regi."
8. Björck, "Nordiska miljömodell."
9. *A Regional Approach*, 12.
10. Bjørnbak, "Det nordiske miljøansvar – et eksempel for andre."
11. Borowy, "Before UNEP."
12. E.g. Kaiser and Meyer, *International Organizations and Environmental Protection*; Meyer, "Who should pay for pollution?"
13. Kaiser and Meyer, "Conclusion: Setting Agendas, Building Institutions and Shaping Binding International Commitments," 325.
14. On the history of Nordic environmental cooperation, see Buns, "Green Internationalists."
15. Recently, first historical analyses of the NEPC were provided in Buns, "Da miljøpolitikk blev nordisk," 81–9; Buns, "Green Internationalists," 159–83. One of the few works exclusively exploring the implementation of the NEPC and its consequences in the Nordic region is by the legal scholar Phillips, "Nordic Co-operation for the Protection of the Environment" 153–79. For further accounts by legal scholars, see Koivurova, "The Future of the Nordic Environmental Protection Convention," 505–26; Larsson, *The Law of Environmental Damage*, 339–42.
16. E.g. "Magnor Nerheim to Nordisk Ministerråd," 1981, Norwegian National Archive (NNA), S-2532/Dca/L025, 061.20, 3.
17. E.g. Götz and Haggren, *Regional Cooperation and International Organizations*.
18. E.g. Kaiser and Meyer, *International Organizations and Environmental Protection*.
19. E.g. Baziadoly, "The Major Stages in the Construction of European Environmental Law."
20. Sadeleer, *Environmental Principles*, 4, 9–11, quote 23.
21. Quoted in Wendt, *Cooperation in the Nordic Countries*, 51.
22. *Programme for Nordic Co-operation on the Environment and Climate 2019–2024*, 6 f. This "pioneering" perception is also reproduced by scholarship, e.g. Anker, *The Power of the Periphery*.
23. Until 1985, when the Swedish Ministry of the Environment was established, the Swedish Minister of Agriculture was officially responsible for environmental matters. Until 1973, the Finnish State Ministry was responsible for environmental matters. Between 1973 and 1983, an

Environmental Protection Department and an Environmental Protection Council were established under the Finnish Ministry of the Interior. In 1983, a Finnish Environmental Ministry was created, and in 1990, Iceland, too, established a Ministry for Environment. Lundqvist, "Sweden"; Engberg, *Det heles vel*, 325–445; Olesen, *Anker Jørgensens tid 1972–1982*, 57–60; Berntsen, *Grønne linjer*, 173–78; Røed, "Miljøverndepartementet"; Hermanson and Joas, "Finland," 107; Jørgens, "Die Institutionalisierung von Umweltpolitik im internationalen Vergleich," 78. For a comprehensive analysis of the Nordic countries' environmental institutions and agencies, see the contributions in Christiansen, *Governing the Environment*; Joas and Hermanson, *Nordic Environments*.

24. For comparative accounts, cf. e.g. Hermanson, "Green Movements and Their Political Development in the Nordic Countries"; Jamison, "Miljøkampens historia"; Jamison et al., *The Making of the New Environmental Consciousness*. For accounts on national environmental movements, cf. e.g. Hougaard, "The Founding of the Danish Environmental Movement NOAH"; Rannikko, "Local Environmental Conflict and the Change in Environmental Consciousness"; Strømsnes, Selle, and Grendstad, "Environmentalism between state and local community"; Anker, "Science as Vacation"; Räsänen, "Converging Environmental Knowledge"; Kaihovirta, Lindberg, and Wickström, "The Neste War 1970–1972". The national differences have influenced the Scandinavian cooperation during the 1970 European Conservation Year, cf. Notaker, "Staging Discord."
25. For international environmental policies, 1968 is generally defined as a turning point; e.g. Engels, "Modern Environmentalism." Recent research on the ecological turn in the Nordic region has singled out 1967 as the turning point, Buns, "Green Internationalists," 6, 49; Heidenblad, *Den gröna vändningen*.
26. Hünemörder, "Vom Expertennetzwerk zur Umweltpolitik," 287 f; McCormick, *The Global Environmental Movement*, 88 f; Meyer, "From Nature to Environment."
27. Buns, "Green Internationalists," 50, 313 f.
28. *Nordiska rådet 1968*, 175.
29. *Nordiska rådet 1971*, 2467.
30. Jens Kampmann, Nordisk Ministerråd Sekretariatet (NMRS), "Protokoll, Nordiska ministerrådets (miljövårdsministrarna) möte per capsulam i September 1973," 3 September 1973, Danish National Archive (DNA), 2002–14, box 487, folder 801.14 B.1, 1. Nordek was negotiated between 1968 and 1970, but eventually failed when Finland stepped back in March 1970. The planned Nordic Council of Ministers was nevertheless instituted by a revision of the Helsinki Treaty and an agreement on cultural cooperation in 1971; Bruun Andersen, "Dansk europapolitik og nordisk samarbejde," 117; Olesen, "Choosing or Refuting Europe?"; Olesen, "EFTA 1959–72"; Wendt, *Cooperation in the Nordic Countries*, 125–59.
31. "Arbetsordning för ämbetsmannakommittén för miljövårdsfrågor," 3 September 1973, DNA, 2002–14, box 488, folder 802.20 B.1 + B.2, 2; Erik Himle, "Notat. Nordisk samarbeide om miljøvern. Vedlegg 1. Mandat for Nordisk embetsmannsutvalg for miljøvernsspørsmål," 2 March 1972, NNA, S-6794/Dbe/L4280, 75.3/7, folder IV.
32. NMRS, "Pressemeddelelse fra Ministerrådets møde i København den 11. marts 1974," SNA, 1211/17, box 334, 2 f. Initially created without any legally binding agreement, the Treaty of Co-operation between Denmark, Finland, Iceland, Norway, and Sweden (Helsinki Treaty, *Helsingforsaftalen*) formalized institutionalized Nordic cooperation in 1962; *The Helsinki Treaty*.
33. Articles 30, 31, and 32 of *The Helsinki Treaty*, 8.
34. "Nordisk miljøvernkonvensjon – Iddefjorden bevis på behovet."
35. E.g. *Nordiska rådet 1970*, 1263–1265; *Nordisk gränsregion, miljövård och urbanisering*.
36. "Nordisk miljøvernkonvensjon – Iddefjorden bevis på behovet."
37. *Nordiska rådet 1972*, 495.
38. In 1987, Nordforsk was incorporated into the Nordic Foundation for Technological and Industrial Development (*Nordisk fond for teknologi og industriell utvikling*), before it was "re-created" as NordForsk in 2005. Mustelin, "Studier och job"; NordForsk, "About NordForsk".

39. Erik Himle, "Nordisk samarbeide om miljøvern," 2 March 1972, NNA, S-6794/Dbe-L4280, 75.3/7, folder IV; Stenstadvold, *Langtidsplan for Nordforsk*, 66.
40. *Nordiska rådet 1968*, 1066; Stenstadvold, *Langtidsplan for Nordforsk*, 66.
41. Stenstadvold, *Langtidsplan for Nordforsk*, 103; Mustelin and Åkerblom, *Nordforsks miljövårdsutredning*, 79, 82; *Nordiska rådet 1969*, 537 f. Nordforsk had suggested five areas in which cooperation could take place: national legislation, a liaison committee on environmental issues in each of the countries, similar application of rules, opportunities for environmental education, and increasing information to the general public.
42. *Nordiska rådet 1972*, 494 f, quote 494.
43. *Nordiska rådet 1972*, 494.
44. *Nordiska rådet 1972*, 190, 1422 f; Nordiska kontaktorganet för miljövårdsfrågor, "Förslag till nordiskt handlingsprogram på miljövårdsområdet," 3 May 1972, SNA, 1211/17, box 251, 8. The committee was established by the Senior Officials for Nordic Cooperation (*Samarbeidsministrenes embetsmannsutvalg*, EK-SAM) on 10 March 1972. The committee itself was composed of two representatives of each Nordic country with one having legal and the other environmental competence. Iceland did not participate in this committee. Nordiska miljöskyddskommittén, "Preliminär rapport med alternativa förslag i fråga om en nordisk miljöskyddsöverenskommelse," 20 September 1972, SNA, 1211/17, box 294, 2 f. Erik Himle, "Handlingsprogram for miljøvern. Behandling av Nordisk Råds rekommandasjoner 3 og 4/1972," 16 March 1972, NNA, S-6794/Dbe/L4280, 75.3/7, folder IV, 2.
45. Nordiska miljöskyddskommittén, "Preliminär rapport," SNA, 4, 23.
46. *Ibid.*, 25–28.
47. *Ibid.*, 27.
48. Article 1, NEPC, "The Nordic Environmental Protection Convention (and Protocol)".
49. *Ibid.*
50. Article 13, NEPC. As a parallel development, a few weeks after the NEPC, the Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area was signed on 22 March 1974; Räsänen and Laakkonen, "Institutionalization of an International Environmental Policy Regime."
51. Ad hoc Group on Transfrontier Pollution, AEU/TFP/ENV/74.6, "The Nordic Environmental Protection Convention with a Commentary," 24 April 1974, OECD, 4. The Nordic Environmental Protection Committee considered Article 2 of the convention as its basic provision, defining its main purpose; Nordiska miljöskyddskommittén, "Preliminär rapport," SNA, 37.
52. Article 2, NEPC.
53. Article 3, NEPC.
54. *Ibid.*
55. The procedures are further defined in Article 4–12, NEPC.
56. Article 4, NEPC.
57. Article 10, NEPC.
58. Faure and Partain, *Environmental Law and Economics*, 84 f, 89 f.
59. Article 3, NEPC.
60. Sadeleer, *Environmental Principles*, 98–102.
61. *Ibid.*, 135.
62. *Ibid.*, 363.
63. Stockholm Declaration of the United Nations Conference on the Human Environment, Principle 21, *Report of the United Nations Conference on the Human Environment*, 5.
64. Sadeleer, *Environmental Principles*, 85–87, 102.
65. The Norwegian Neighbouring Properties Act of 1961, for instance, had prohibited pollution between neighbours – including widespread air pollution – unless expressly permitted. Furthermore, in 1929 and 1971, the Swedish-Norwegian Water Rights Convention and the Boundary Rivers Agreement between Finland and Sweden had been signed, respectively, which were not replaced by the NEPC; *Nordisk miljöskyddskonvention*, 29.
66. "Miljökonvention i Norden."

67. Hilson, *The Nordic Model*, 133.
68. On the polluter pays principle and compensation, cf. Sadeleer, *Environmental Principles*, 31–83.
69. Meyer, “Who should pay for pollution?,” 382.
70. Buns, “Green Internationalists,” 55–61.
71. For a historical account on the establishment of the polluter pays principle and the cross-organizational diffusions, see Meyer, “Who should pay for pollution?,” here 383 f; Meyer, “Making the Polluter Pay: How the European Communities Established Environmental Protection.” For a legal perspective, cf. Sadeleer, *Environmental Principles*, 31–83. Cf. also Environment Directorate, Sub-Committee of Economic Experts, ENV(71)21, “The ‘Polluter Pays’ Principle and the Instruments for allocating environmental costs,” 25 August 1971, OECD.
72. On the NEPC and restitution, see Larsson, *The Law of Environmental Damage*, 339–42.
73. Knut Berger, “Notat. Nordisk Miljøvernkonvensjon. Møte med utenriks- og konstitusjonskomitéen 12. februar,” NNA, 1; Erik Lykke, “Notat til Statsråden. Norsk ratifikasjon av den nordiske miljøvernkonvensjon,” 14 January 1975, NNA, 1.
74. “Miljökonvention i Norden.”
75. Nordisk Ministerråd, “Pressmeddelande. Nordiska Miljöskyddskonventionen träder i kraft, utkast,” 17 September 1976, DNA, 2002–14, box 487, folder 801. Cf. e.g. AEU/TFP/ENV/74.6, OECD, 2.
76. United Nations General Assembly, “Consideration of the provisional agenda for the forty-fifth session. Addendum,” E/4466/add.1, 22 May 1968.
77. *Nordiska rådet 1972*, 494, quote 495.
78. *Nordiska rådet 1972*, 497.
79. *Nordiska rådet 1972*, 183–5, quote 184.
80. NMRS, “Embetsmannskomiteéns og nordisk økonomisk samarbeidsutvalgs møte i Helsingfors 30. oktober 1972, Utkast III,” 19 October 1972, SNA, 1211/17, box 218, 1.
81. *Nordiska rådet, 1971*, 170.
82. “Notat. Nordisk miljøvernkonvensjon, sammendrag av norske remissuttalelser,” 23 January 1974, DNA, 2002–14, box 487, folder 801, 2.
83. *Nordiska rådet 1972*, 463–5, 1420 f.
84. On the immediate events following Odén’s article, see Heidenblad, “New History of the Ecological Turn.”; Lundgren, *Acid Rain on the Agenda*.
85. Mustelin and Åkerblom, *Nordforsks miljövårdsutredning*, 74 f, 86–8. The OECD/LRTAP ran between 1972 and 1975. A first detailed international history of transboundary sulphur dioxide pollution and the relation between science and politics during the Cold War has been provided by Rothschild, *Poisonous Skies*; Rothschild, “Burning Rain.” On Nordic cooperation in the OECD/LRTAP-project, cf. Buns, “Green Internationalists,” 134–42.
86. *Air pollution across national boundaries*, 7–13.
87. *Nordiska rådet 1972*, 463–5.
88. *Nordiska rådet 1972*, 181.
89. *Sweden’s National Report to the United Nations on the Human Environment*, 70.
90. *Nordiska rådet 1972*, 184.
91. Martinsson, “Miljökonferens löser problemer med Ruhr-röken?.”
92. On the economic context of environmental principles, see Faure and Partain, *Environmental Law and Economics*, 79–105.
93. Environment Committee, ENV(73)40, “International Cooperation in the Solution of Transfrontier Pollution Problems,” 2 November 1973, OECD.
94. Haakon B. Hjelde, “Notat. OECD’s miljøkomite. Møte i Ad Hoc-gruppe for “Trans Frontier Pollution” (TFP) – Paris 28.–29. januar 1974,” 6 February 1974, DNA, 2002–14, box 498, folder 804–804.2 804.3, 1.
95. Busch, “The OECD Environment Directorate,” quote 78; Lehtonen, “OECD peer reviews and policy convergence,” 78.

96. The report prepared by the Secretariat to the Environment Committee's ninth meeting in November 1973 explicitly mentioned the NEPC with regard to the principle of equal rights of access; ENV(73)40, OECD, 10 f; Hjelde, "Notat. OECD's miljøkomite," DNA, 2.
97. Meyer, "Who should pay for pollution?," 386.
98. Haakon B Hjelde, "Foredrag til statsråd," 12. februar 1974, NNA, S-6794/Dbe/L4280, 75.3/7, folder V; DNA, 2002-14, box 488, folder 802.24 B.1.
99. Hjelde, "Notat. OECD's miljøkomite," DNA, 6.
100. AEU/TFP/ENV/74.6, OECD.
101. Hjelde, "Notat. OECD's miljøkomite," DNA, 6.
102. Richard G. Fort, "Notat. OECD. Miljøkomiteen. Referat fra miljøkomiteens 10. sesjon. Paris 4.-6. Mars 1974," 12 March 1974, NNA, S-2532/Dca/L0423, 065, folder IV, 2 f.
103. The first draft was discussed at the second meeting of the Ad hoc group on 29 and 30 April 1974. For this draft and for detailed notes on the origins of the paragraphs, cf. Ad hoc Group on Transfrontier Pollution, AEU/TFP/ENV/74.2, "Declaration on environmental policies in relation to transfrontier pollution," 22 March 1974; Ad Hoc Group on Transfrontier Pollution, AEU/TFP/ENV/74.2, "Declaration on Environmental Policies in Relation to Transfrontier Pollution," ANNEX III, 16 April 1974, all OECD. The second meeting resulted in a revision, cf. Ad Hoc Group on Transfrontier Pollution, AEU/TFP/ENV/74.8, "Some Principles for Solving Transfrontier Pollution Problems," 22 May 1974, OECD. Eventually adopted by the Council on 14 November 1974, cf. Council, C(74)224, "Recommendation of the Council on Principles Concerning Transfrontier Pollution," 21 November 1974, OECD.
104. NEPC articles 2, 3, 4, 5 and 11 found reflection in the first draft on principles of the Ad hoc group; AEU/TFP/ENV/74.2, "Declaration on Environmental Policies in Relation to transfrontier pollution," and AEU/TFP/ENV/74.2 ANNEX III, OECD.
105. ENV/M(74)4, Environment Committee, "Meeting at Ministerial Level. Minutes of the 13th Session held at the OECD Headquarters in Paris on 13th and 14 November 1974," 6 March 1975, OECD, 33.
106. Rothschild, *Poisonous Skies*, 52.
107. *Ibid.*, 52.
108. Richard G. Fort, "Notat. OECD – Miljøkomiteen – Referat fra Miljøkomiteens 11. sesjon – Paris, 1.-3. juli 1974," 11 July 1974, NNA, S-2532/Dca/L0423, 065, folder IV, 6.
109. ENV/M(74)4, 17.
110. Similar arguments have been made in Rothschild, "Burning Rain," 191-6, and Rothschild, *Poisonous Skies*, 55 f.
111. Title 2, C(74)224, Annex, 4.
112. Title 8, AEU/TFP/ENV/74.8, 4; Title 4, C(74)224, Annex, 4.
113. Title 9(a), AEU/TFP/ENV/74.8, 5; Title 5(a), C(74)224, Annex, 5.
114. ENV/M(74)4, 47.
115. Article 14(d), AEU/TFP/ENV/74.2, Annex I, 6.
116. Title 8(d), AEU/TFP/ENV/74.8, 5; Title 4(d), C(74)224, Annex, 5.
117. Article 17, AEU/TFP/ENV/74.2, Annexe I, 7; Title 5b, C(74)224, Annex, 5.
118. Title 10, AEU/TFP/ENV/74.8, 5; Title 6, C(74)224, Annex, 6.
119. ENV/M(74)4, 37.
120. ENV/M(74)4, Annex III, 54.
121. Environment Committee, ENV(76)42, "Mandate of the Transfrontier Group," 26 November 1976, OECD, 1 f. The NEPC was analysed in detail in a comparative OECD report in 1976, Environment Directorate, Transfrontier Pollution Group, ENV(76)1, "Summary Report on Equal Right of Access," 17 February 1976, OECD.
122. Council, C(77)28(Final), "Recommendation of the Council for the Implementation of a Regime of Equal Right of Access and Non-Discrimination in Relation to Transfrontier Pollution," Annex, 23 May 1977, OECD, 5.
123. For recent historical analyses of the 1979 convention, cf. Rothschild, *Poisonous Skies*, 101-23; Buns, "Green Internationalists," 185-211.

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