The Socialist Response: Environmental Protection Law in the German Democratic Republic

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As problems of environmental pollution and resource allocation become increasingly international in scope, those concerned with these issues must become more aware of the efforts of other nations to protect their environments. This study of environmental law in the German Democratic Republic may prove useful both in facilitating understanding of the East German administrative structure and in providing a comparative model for criticism of American environmental protection efforts. The Article also offers detailed references to specialized works concerning various aspects of environmental and natural resource administration in the GDR.

By electing both the West German Federal Republic and the East German Democratic Republic to membership on the United Nations New Governing Council for Environmental Programs (UNEP), the United Nations General Assembly put an end to a bitter diplomatic controversy which nearly jeopardized the U.N. Conference on the Human Environment at Stockholm in June, 1972, and which virtually overshadowed a key point of substance: the actual and potential contribution of the German Democratic Republic (GDR) to environmental protection generally and to environmental law in particular. With pro-

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tocol now out of the way, the time has come to include the GDR in the ongoing worldwide process of critical comparison and law reform in this field, in search of alternative solutions to common problems.

It is no secret that modern socialist states are beset by the same environmental problems as are other countries at a comparable level of economic development. While Western attention has begun to focus on the Soviet Union, especially since the 1972 Soviet-American Agreement on Cooperation in the Field of Environmental Protection, very little seems generally to be known about the environmental law of the other socialist countries. Among them, the German Democratic Republic today probably has the most advanced and the most comprehensive system of environment protection and administration. This is due in part to the country's high level of industrialization and urbanization, with the highest per capita income in Eastern Europe, and a proportionately high incidence of pollution and resource depletion problems, as set out in detail in the GDR National Report submitted in 1971 to the Secretariat of the Stockholm Conference on the Human Environment. Along with these infrastructural challenges and constraints, the GDR also has a longstanding national tradition of law for the conservation of nature. This tradition, in combination with recent economic reforms under the country's socialist system of government, has produced innovative measures for environmental protection well deserving comparative study.


The Constitution of the German Democratic Republic, adopted April 6, 1968, provides in Article 15:

(1) Land is one of the most precious natural resources of the German Democratic Republic. It must be protected and efficiently used. Land used for agriculture and forestry may only be withdrawn from such use upon authorization by the competent government authorities.

(2) The State and society provide for nature conservation in the interest of the well-being of all citizens. The conservation of water and air quality, and the protection of flora, fauna, and the natural beauty of the landscape shall be ensured by the competent authorities and are also the responsibility of every citizen.\(^5\)

In 1969 the Council of Ministers established a Standing Commission on the Socialist National Environment (sozialistische Landeskultur) for policy planning and coordination.\(^6\) The Commission was headed by a deputy chairman of the Council of Ministers, and composed of high-ranking representatives of ministries and other government agencies concerned, scientific-professional institutions and social organizations. The initial task of the Commission was the preparation of basic legislation, a first draft of which was submitted to public discussion on November 20, 1969, and substantially revised on the basis of approximately 1600 amendment proposals received from organizations, enterprises, and individuals.\(^7\)

The National Environment Act (Landeskulturgesetz) of May 14, 1970,\(^8\) enunciated general principles of environmental planning and

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\(^6\) National Report, supra note 4, at 16; A. SUM, supra note 3, at 63. The peculiar German term Landeskultur (homeland ecology, natural heritage of the country) has an 18th century tradition in conservation terminology. See Bohte, Landeskultur im Wandel der Zeit, 49 BERICHTE ÜBER LANDWIRTSCHAFT 393 (1971); Bohte, Landeskultur zwischen Elbe und Oder, 12 INNERE KOLONISATION 285 (1963).

\(^7\) ENVIRONMENTAL CONSERVATION IN THE GERMAN DEMOCRATIC REPUBLIC, supra note 4, at 1.

management as allocated between central and local government authorities, and detailed the responsibilities of enterprises and individuals. The Act also set forth policies for the regulation of five main sectors: landscape development and nature protection; management and conservation of land, forest, and water resources; air-quality conservation; waste disposal and re-utilization; and noise abatement. Implementing decrees have since been enacted for these sectors, followed by more specific regulations, technical standards, and administrative measures. Applying the socialist system of central economic planning (usually referred to as "democratic centralism") to environmental conservation, the National Planning Commission inserted policy objectives in the five-year "perspective plan" for 1971-75. The annual plan for 1972 further specified these policy objectives. Only the annual plan for 1973, however, provides detailed budgetary instructions to implement these objectives. Among the economic mea-


10. See text accompanying notes 37-62 infra. Regarding routine administrative implementation of the Act see, e.g., Erster Sofortmassnahmeplan zur Verwirklichung des Landeskulturgesetzes im Bereich der V.V.B. Binnenfischerei, 18 Deutsche Fischereizeitung 30 (1971) (inland fisheries administration); Lembcke & Haselein, Pflanzenschutzmassnahmen mit Winterraps unter besonderer Berücksichtigung des Umweltschutzes, 26 Nachrichtenblatt für den Pflanzenschutzdienst in der DDR 97 (1972) (instructions on pesticide use issued pursuant to a county plan).


note 4 supra, is an excerpt from the official parliamentary presentation of the Act, also reprinted in 19 Staats und Recht 102 (1970). See the comprehensive (544 page) commentary on the Act, Landeskulturgesetz: Kommentar (S. Supranowitz ed., Berlin 1973); Kachelmaier, About the Legal Safeguards Governing the Protection of Environment in the GDR, 1971 Law and Legislation in the German Democratic Republic (No. 2) 24; Christoph, Zur Bedeutung des Landeskulturgesetzes, 19 Staats und Recht 1453 (1970); cf. note 247 infra.


10. See text accompanying notes 37-62 infra. Regarding routine administrative implementation of the Act see, e.g., Erster Sofortmassnahmeplan zur Verwirklichung des Landeskulturgesetzes im Bereich der V.V.B. Binnenfischerei, 18 Deutsche Fischereizeitung 30 (1971) (inland fisheries administration); Lembcke & Haselein, Pflanzenschutzmassnahmen mit Winterraps unter besonderer Berücksichtigung des Umweltschutzes, 26 Nachrichtenblatt für den Pflanzenschutzdienst in der DDR 97 (1972) (instructions on pesticide use issued pursuant to a county plan).


15. [1972] G.B1. I 283. Classification criteria for "environmental protection...
sures now operative for this purpose are exemptions from production fund payment (East Germany’s equivalent of a tax on productive property) for specified anti-pollution investments,\textsuperscript{16} authorization to include specified environmental costs in price calculation,\textsuperscript{17} preferential price-setting for products manufactured by waste recycling techniques,\textsuperscript{18} environmental impact controls,\textsuperscript{19} and incentive-disincentive “economic levers” for enterprises.\textsuperscript{20}

While the original 1970 Act did not provide for new central institutions\textsuperscript{21} and merely resulted in the creation of a small secretariat servicing the Standing Commission within the office of the Council of Ministers, the creation of a new Ministry of Environmental Protection and Water Management (\textit{Ministerium für Umweltschutz und Wasserwirtschaft}) was announced on November 30, 1971. After some delay due to the sudden death of the designated minister,\textsuperscript{22} the new administrative structure became operational on January 1, 1972.\textsuperscript{23} investments” were first enunciated in Article II(4)(a) of the Decree of Dec. 1, 1972, on Planning Regulations to Implement the 1973 National Economic Plan, [1972] G. Bl. II 821. This would explain why the GDR’s Minister of Environmental Protection and Water Management, in a meeting with water management experts, stated that “in 1973, for the first time, environmental protection became part of the national economic plan;” Neues Deutschland, Feb. 10, 1973, at 2 (emphasis supplied).


17. Decree of Nov. 1, 1972, on Central Government Directives for the Calculation of Industry Prices, [1972] G.Bl. II 1741 [hereinafter cited as Price Calculation Decree]. Appendix I of this decree lists “calculable costs,” including costs of environmental protection. Appendix II lists “non-calculable costs” (among which are specifically enumerated land use charges and effluent charges for water and air pollution). Concerning these charges see text accompanying notes 161-62 \textit{infra}.


19. See text accompanying notes 117-19 \textit{infra}.

20. See text accompanying notes 110-11 and 148-65 \textit{infra}.

21. Such institutions then were considered “premature” by Christoph, \textit{supra} note 8, at 1459. \textit{See also H. Franzky, \textit{infra} note 5, at 13}.


The Ministry absorbed the national Water Management Agency created in 1969, including its Water Management Institute and the regional water management authorities established in 1958 in the country’s seven major water basin areas.

Since 1972, research has been coordinated by the Commission for Environmental Research in the Academy of Sciences of the GDR. Central research and training institutions are the Municipal Management Institute at Dresden (for such matters as waste disposal technology) and the Institute for National Environmental Research and Nature Conservation at Halle (with branch institutions at Dresden, Jena, Potsdam and Greifswald, and a Training Center for Nature Conservation at Müritzhof). At present, the Halle Institute formally is attached to the National Academy of Agricultural Sciences. The Academy of State and Law in Potsdam-Babelsberg established a permanent “Working Group on Land Law and Legal Problems of the Socialist National Environment” on April 6, 1972. Expert com-


25. The catchment areas (and their administrative centers) are as follows: Upper Elbe-Mulde (Dresden), Central Elbe-Sude-Elde (Magdeburg), Werra-Gera-Unstrut (Erfurt), Saale-White Elster (Halle), Havel (Potsdam), Spree-Oder-Neisse (Cottbus), Baltic Coast-Warnow-Peene (Stralsund). On the historical development of public water administration in the GDR since 1952 see Richter, Vor 20 Jahren: Verordnung über die Organisation der Wasserwirtschaft vom 28. August 1952, 22 WASSERWIRTSCHAFT-WASSERTECHNIK 325 (1972). See generally Schaake, Komplexe wasserwirtschaftliche Planung und ökonomisches System des Sozialismus in der DDR, 17 WASSERWIRTSCHAFT-WASSERTECHNIK 407 (1967). For large-scale land and water development projects, the basin authorities (Wasserwirtschaftsdirektionen) have established “land-improvement associations” (Melliorationsgenossenschaften) with agricultural cooperatives and other bodies at the district level. See Reichelt, Be- und Entwässerung ein wichtiger Beitrag zur sozialistischen Intensivierung und hohen Ackerbaukultur, 5 Kooperation (No. 4) 6 (1971); cf. note 147 infra.


27. Institut für Landesforschung und Naturschutz. See the annual reports of the Institute’s Standing Commission on Landscape Cultivation and Nature Conservation, in JAHRBUCH DER DEUTSCHEN AKADEMIE DER LANDWIRTSCHAFTS-WISSENSCHAFTEN (Berlin); cf. H. Franzky, supra note 5, at 20, 91.

28. See the report by Oehler & Woiczyk, Bildung des Arbeitskreises “Bodenrecht und Rechtsfragen der sozialistischen Landeskultur” des Rates für staats- und rechtswis-
mittees for environmental matters also exist in such scientific and professional organizations as the Chamber of Technology and the National Federation of Architects, as well as in the National Cultural League, which is the principal popular association for nature protection.29

At the regional level, environmental policy objectives are included in the regional master plans drawn up by the urban planning offices of the 15 counties (Bezirke) of the GDR,30 and in trans-regional planning for areas of concentration or economic "focal points" such as, for example, the Berlin Metropolitan Region. In accordance with a gradual expansion of local self-government initiated in 196731 and specifically applied to environmental functions since 1969,82 the National Environment Act broadened the powers of county and municipal authorities, especially with regard to zoning of areas devoted, for example, to recreation, water conservation, landscape conservation, and noise abatement.83 In accordance with a resolution of the Council of Ministers adopted with the Act on May 14, 1970, permanent working groups,
including legal experts, were set up as advisory bodies to the county councils, and in some cases at the district level. The 1973 Air Quality Decree conferred further responsibilities on local authorities, and established a system of compulsory "self-control" for enterprises, supervised by the Public Health Service.

II

SECTORAL REGULATION

The Ministry of Environmental Protection and Water Management now is the focal point for environmental decisionmaking in the GDR. Other ministries and administrative agencies, however, have retained important regulatory responsibilities within their respective sectors. The Council of Agricultural Production and Food Economy, for example, regulates nature conservation and pesticide use through the Central Office of Plant Protection and Plant Quarantine. The Ministry of Public Health is responsible for air pollution control in cooperation with the Meteorological Service, and for radiation con-

34. From the two informative reports by Brock, Problemberatung zu Leitungsfragen der sozialistischen Landeskultur, 21 STAAT UND RECHT 480, 818 (1972), it appears that further proposals to establish permanent "environment committees" in the county assemblies met with opposition from county officials and were abandoned. The existing consultative working groups are usually chaired by a member of the county council and report periodically to the county assembly. They follow their own working rules (Arbeitsordnungen). Cf. Oehler, et al., Leitung und Planung der sozialistischen Landeskultur in den Territorien, Sozialistische Demokratie, May 19, 1972 (Supp.).

35. E.g., the Emissions-Kollektiv (composed of medical doctors, biologists, lawyers, economists, and chemical analysts) established by the chemical industry in the district of Bitterfeld. Neues Deutschland, Jan. 2, 1973, at 2.

36. Fifth Implementing Decree of Jan. 17, 1973, Pursuant to the National Environment Act (Air Quality Conservation), [1973] G.Bl. I 157 [hereinafter cited as Air Quality Decree]. Section 16(3), id. at 160, provides for the appointment of pollution "emission officers" in enterprises, with functions defined in the Implementing Regulations of Apr. 13, 1973, [1973] G.Bl. I at 162. Enterprises are obliged to carry out specified air pollution measurements of their emissions at their own expense, and to submit semi-annual reports; in case of non-compliance, the measurements are carried out by the Public Health Inspectorates and charged to the polluting enterprise with a 100% surcharge. Implementing Regulations, § 6, id. at 163. See Christoph, Höhere Verantwortlichkeit der Betriebe für die Reinhaltung der Luft, 4 WIRTSCHAFTS-RECHT 132 (1973).


trol through the Central Office of Radiation Protection, in cooperation with the Ministry of Labour. The Ministry of Science and Technology promulgates technical standards through the Office of Standardization, Metrology, and Products Testing. The Ministry of Basic Resource Industries delineates energy policy through the Central Energy Inspection Agency; the Ministry of Material Management regulates waste reutilization through the Board of Publicly Owned Enterprises for Reused Commodities; and the Ministry of Cultural Affairs oversees site protection through the Monuments Conservation Institute. Reflecting this proliferation of regulatory authority, current environmental law in the GDR includes a wide range of "sectoral" sources, which may be grouped under three main headings: (1) maintenance of water and air quality and noise control; (2) conservation of natural and cultural assets; and (3) sanitation and disposal of wastes and environmentally hazardous substances.

The water pollution controls pursuant to the 1963 Water Act, as implemented in 1970, are part of a series of water laws and regul-


40. See note 9 supra; see also Decree of Dec. 18, 1969, on Governmental Quality Control, [1970] G.B1. II 110; Decree of Dec. 18, 1969, on Safeguarding and Increasing the Quality of the Products of Combines and Enterprises (Quality Safeguards Decree), [1970] G.B1. II 118. Besides the central standardization office, there are coordinating offices in the various ministries. Thus sectoral control over pesticide standards is carried out jointly by the Ministries of Public Health, Agriculture, and Environmental Protection. See Beitz, Der Beitrag der Standardisierung zur Lösung der Aufgaben des Umweltschutzes bei der Intensivierung der Pflanzenproduktion, 12 STANDARDISIERUNG LANDWIRTSCHAFT UND NahrungsGÜTERWIRTSCHAFT 42 (1973).


lations enacted since 1951.\textsuperscript{46} Corresponding provisions on noise and air pollution control are to be found in two decrees implementing the National Environment Act: the Fourth Implementing Decree of May 14, 1970 (Protection from Noise),\textsuperscript{47} and the 1973 Air Quality Decree.\textsuperscript{48} Together they constitute the equivalent of what West German legal terminology usually categorizes as “protection against emissions” (\textit{Immissionsschutz}).

The classical subjects of conservation law—wildlife and scenic amenities—are covered by the First Implementing Decree of May 14, 1970, Pursuant to the National Environment Act—Protection and Care of Flora, Fauna, and Scenic Beauty (Nature Protection Decree)\textsuperscript{49} and the Second Implementing Decree of May 14, 1970, (Care and Development of the Landscape for Recreation).\textsuperscript{50} These decrees operate in conjunction with other enactments dealing with historical preservation\textsuperscript{51} and with the use of “cultivated” resources, including agricultural and

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\item[{49}]. [1970] G.BI. II 331 [hereinafter cited as Nature Protection Decree].


horticultural products, forests, and fisheries. The most comprehensive regulation of cultivated resources is accomplished by controls over land use, including the reclamation and recultivation of mining lands.

In most cases the promotion of "municipal hygiene" (Kommunalhygiene) is a function of local government. The National Environment Act has been applied in this field in accordance with an implementing decree on municipal sanitation and waste utilization. Special legislation exists for safe disposal and economic recovery of certain substances such as oil, and for the control of such specific envi-


vironment hazards as poisons, pesticides, and radiation.

III

METHODS OF IMPLEMENTATION

Environmental regulation in the German Democratic Republic must be seen in the context of the legal system as a whole, which partakes both of the German legal tradition as one of the major “civil law” systems in continental Europe, and of the contemporary East European models of “socialist law.” East German commentators have stressed the influence of Soviet law on the GDR National Environment Act, referring in particular to the Act of October 27, 1960, on Nature Conservation in the Russian Soviet Federated Socialist Republic. The preamble and the general principles of the Russian act are indeed similar to provisions of the German statute. Furthermore, the National Environment Act obliges East German authorities and enterprises to make use of the experience "of the Soviet Union and the other

64. Weinitschke, supra note 5, at 226.  
socialist countries, in accomplishing their environmental tasks," and
to cooperate closely with related institutions in those countries.66 On
the other hand, much of the substance and form of contemporary en-
vironmental law in the GDR bears the unmistakable imprint of Ger-
man legal tradition dating back to the pre-socialist period. Examples
of such traditional law include the basing of civil liability on the Bür-
gerliches Gesetzbuch (BGB) of 1896,67 and of effluent charges on
half a century of administrative experience in the Prussian Wasser-
verbände.68 The relevance of the earlier German law in point was
duly, if critically, acknowledged during the parliamentary presen-
tation of the 1970 National Environment Act.59

A. Enforcement Methods

1. Criminal and Administrative Sanctions

While the 1968 Penal Code of the GDR makes no mention of
"crimes against the environment,"70 and actually provides for exonera-
tion from criminal responsibility where harm is caused "in pursuit of
an important economic profit,"71 there is a growing catalogue of "en-
vironmental offenses" punishable under the 1968 Administrative Of-
fenses Act72 pursuant to special legislation including the 1970 National
Environment Act.73 In particular, the Nature Protection Decree en-

67. See generally E. COHN & W. ZDZIEBLO, MANUAL OF GERMAN LAW (2d ed.
London 1970); A. VON MEHREN, THE CIVIL LAW SYSTEM (Boston 1957); cf. Marko-
vits, supra note 63; Roggemann, supra note 63; Westen, Das ausservertragliche
Schadenersatzrecht der SBZ, 9 RECHT IN OST UND WEST 58 (1965); see also notes 94,
97, 133, 138, and accompanying text infra.
68. See generally A. KNEESE, THE ECONOMICS OF REGIONAL WATER QUALITY
MANAGEMENT 160-87 (Baltimore 1964).
69. Titel, supra note 4, at 5; cf. Weinitschke, supra note 5, at 226.
70. GDR Penal Code of Jan. 12, 1968 (StGB), [1968] G.Bl. I 1; French trans-
lation in 1968 REVUE DE DROIT ET DE LÉGISLATION DE LA RÉPUBLIQUE DÉMOCRATIQUE
ALLEMANDE (No. 2) 15; see generally Toepplitz, Le nouveau code pénal de la Ré-
publique Démocratique Allemande, 1969 REVUE DE DROIT ET DE LÉGISLATION DE LA
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE (No. 1) 5; Hinderer, Le nouveau droit pénal
de la République Démocratique Allemande, 16 REVUE DE DROIT CONTEMPORAIN 89
(1969); cf. Roggemann, Das Strafgesetzbuch der DDR von 1968, 13 RECHT IN OST
UND WEST 97, 145 (1969) (two installments). Note, however, section 193 of the
Penal Code regarding infringements of legal provisions for health and labor protection.
71. In this regard section 169 makes allowance for "inherent economic and de-
velopment risks." [1968] G.Bl. I, 1, 34. See E. BUCHHOLZ & D. SEIDEL, WIRTSCHAFT-
LICHE FEHLENTSCHEIDUNG ODER STRAFFÄT? (Berlin 1971); Buchholz & Seidel, Le
risque économique justifié, 1969 REVUE DE DROIT ET DE LÉGISLATION DE LA RÉPUBLIQUE
DÉMOCRATIQUE ALLEMANDE (No. 1) 23 (1969).
acted pursuant to the 1970 Act⁷⁴ builds on a regulatory structure already existing under the 1954 Nature Protection Act of the GDR,⁷⁵ which in turn was a revision of the earlier German Nature Protection Act (Reichsnaturschutzgesetz) of 1935.⁷⁶ This pre-war legislation generally was considered to be one of the world's most stringent systems of conservation law, controlled and strictly enforced by the Nature Protection Agency within the German Forest Service, and supported by an extensive program of public education and propaganda geared in part to ideological objectives of the fascist regime then in power. While the ideological basis for conservation undoubtedly is different in the GDR today,⁷⁷ the regulatory system remains essentially the same, providing for penalties, administrative permits, authority to restrict private property in designated conservation areas, and supervision by public conservation officers.⁷⁸ Considering the psychological impact of continued strict observance over a period of approximately one generation,⁷⁹ the 1970 National Environment Act may be said to have inherited a well-established tradition of governmental protection of nature against individual interference. The continuity of this policy is reflected, for example, in the Act's provisions on expropriation,⁸⁰ implemented in accordance with the 1960 Compensation Act.⁸¹

⁷⁷. Title, supra note 4, at 5. By coincidence, however, both the present environment minister and his senior deputy are alleged to have been members of the Nazi party until 1945, according to West German press reports.
⁷⁹. The "experience of several decades of nature protection in Germany" is stressed by Weinitschke, supra note 5, at 226.
Besides penalties and expropriation, existing public law remedies against environmentally harmful acts include the right of government authorities to carry out corrective measures at the polluter's expense. Authority is found in section 44 of the 1963 Water Act\(^2\) and, in the case of industrial enterprises, in section 7 of the 1969 Municipal Cleanliness Decree.\(^3\) In the case of individuals authority is found in section 16 of the 1968 People's Police Act.\(^4\) Supervision of governmental authorities in turn is exercised by the district attorneys, who, like their Soviet counterparts—the prokuratura—generally are empowered to verify compliance with the laws pursuant to the 1963 Act Regulating the Office of the Public Prosecutor.\(^5\)

Further supervision is provided by local appeal boards created in 1969 for grievances against administrative action or inaction;\(^6\) and through civic-political channels such as the National Front.\(^7\) These institutions are implicitly concerned with the protection of citizens' rights, including environmental rights, against administrative abuses.\(^8\)

\(^7\) See the numerous references in the National Environment Act, [1970] G.Bl. 67; see generally Mandl, Volksvertretungen und Ausschüsse der Nationalen Front bei der Entfaltung der schöpferischen Initiative der Bürger, 22 STAAT UND RECHT 288 (1973); Mandl, Zur Rolle der Nationalen Front in den sozialistischen Ländern, 21 STAAT UND RECHT 800 (1972); Heizelt & Lehmann, Zur Rolle der Nationalen Front, 20 STAAT UND RECHT 1938 (1971).
\(^8\) See Bönninger & Schönrah, Beschwerderecht: Instrument zur Wahrung der Rechte der Bürger und zur weiteren Verbesserung der staatlichen Leitungstätigkeit, 21 STAAT UND RECHT 20 (1972); Bley & Dähn, Aktuelle Probleme der Verwirklichung des sozialistischen Gesetzlichkeits durch die örtlichen Organe der Staatsmacht, 21 STAAT UND RECHT 693 (1972).
and for this purpose may bring into play the sanctions of governmental liability to citizens for wrongful acts of civil servants.\textsuperscript{89} In protecting the public interest, these agencies may suspend execution of governmental decisions, but they may not substitute decisions of their own.\textsuperscript{90} Their primary objective is to safeguard the principle of "socialist legality," as that principle is understood in Eastern European jurisprudence\textsuperscript{91} and is applied to environment protection.\textsuperscript{92} Within this conceptual framework, a general, non-judicial review procedure currently is being developed in the GDR for all acts of public officials, and has been operative since 1971 for administrative appeals of decisions by regional water management authorities, among other agencies.\textsuperscript{93}

2. Civil and Economic Sanctions

Current environmental case law in the GDR shows continued reliance on classical property and tort theories, particularly Articles 823 and 906 of the old German Civil Code.\textsuperscript{94} The traditional negligence


\textsuperscript{90} \textit{See} Kühnau, \textit{supra} note 114, at 41; Ritter, \textit{Beschwerdeausschüsse}, \textit{supra} note 86, at 388.


\textsuperscript{92} \textit{See} Kachelmaier, \textit{supra} note 8.


basis of tort liability has long been displaced by statutorily imposed liability regardless of fault for specified industrial risks. This system of strict liability dates back to the 1871 Enterprise Liability Act (Reichshaftpflichtgesetz), which is still in force in the GDR today.\textsuperscript{95} The system has been carried through into modern legislation on nuclear energy, mining, and oil pollution hazards.\textsuperscript{96}

In addition to the traditional remedies, a new variety of “economic sanction” for environmental damage has made its appearance. This new sanction is one which East German lawyers themselves seem to have difficulty classifying.\textsuperscript{97} The problem was highlighted in the 1968 case of City of Stassfurt v. Vereinigte Sodawerke Bernburg-Stassfurt. Relying on a 1967 State Council Resolution which empowered local government authorities to impose sanctions on enterprises for “interference with the improvement of the population’s living conditions,”\textsuperscript{98} the Stassfurt city assembly fined the defendant chemical factory 175,000 Deutsche Mark (approximately $40,000) for air pollution damages representing added pollution abatement costs allegedly incurred by the city.\textsuperscript{99} When the defendant appealed to the district council, the GDR Council of Ministers felt prompted to publish an authoritative legal opinion on the case.\textsuperscript{100} The opinion confirmed the city’s position on principle, although not on the sole basis of the 1967 Resolution. The Council of Ministers also relied upon the defendant’s alleged violation of the statutory duties of publicly owned

\textsuperscript{95} Act of June 7, 1871, Regarding Liability in Damages for Death and Bodily Injury Produced by the Operations of Railroads, Mining Works, etc., [1871] RGBI. 207, as amended Aug. 15, 1943, [1943] 1 RGBI. 489. For an English translation see A. VON MEHREN, supra note 67, at 416; see generally E. BOEHMER, DAS REICHSHAFTPFlichtGESETZ (Berlin 1950).

\textsuperscript{96} See notes 56, 59, 62 supra; Heuer & Klinger, supra note 94, at 83. With regard to mining damage in particular see Weineck, Schadenersatz nach Bergrecht, 25 NEUE JUSTIZ 232 (1971); see also note 151 infra.

\textsuperscript{97} See, e.g., Heuer & Klinger, supra note 94, at 76-77, referring specifically to air pollution sanctions imposed by local authorities pursuant to section 7(3) of the Municipal Cleanliness Decree, [1969] G.Bl. II 149, 151, as “sort of a substantive liability vis-à-vis the socialist state”, though “insufficiently generalized in legal theory and legislation”. See also Posch, Die materielle Verantwortlichkeit des Bürgers und der Betriebe im Zivilrecht, 19 STAAT UND RECHT 111 (1970); Walter, Zu Problemen einer künftigen Sanktionsregelung, 1 WIRTSCHAFTSRECHT 233 (1970); cf. Friedel und Schüsseler, Zur Weiterentwicklung der wirtschaftsrechtlichen materiellen Verantwortlichkeit durch die Einführung von Wirtschaftssanktionen, 22 STAAT UND RECHT 1331 (1973).


\textsuperscript{100} Spitzner, Antwort: Probleme der Stassfurter Luft, Sozialistische Demokratie, Jan. 19, 1969, at 9. The writer was Professor O. Spitzner, legal adviser to the GDR Council of Ministers.
enterprises. The council further specified that the proceeds of the fine must be allocated "primarily" to the reparation of the pollution damages in point.

Far more significant than "civil" sanctions, however, is the independent sanctioning system of the 1965 Contracts Act. While originally conceived as an arbitration procedure for economic relations between publicly owned enterprises, supervised by a State Contract Tribunal, the 1963 Decree on the Functions and Procedure of the State Contract Tribunal is now interpreted by the courts as excluding civil actions altogether (whether in contract or in tort) whenever both parties to a dispute are wholly or partly publicly owned enterprises, cooperatives, government authorities, or social organizations. The question arose in a 1970 extra-contractual suit for pollution damages allegedly caused by effluents from an agricultural cooperative which tainted the water supply of a semi-public textile dye plant. Although the 1963 Water Act provided for adjudication by the ordinary courts, the county court of Karl-Marx-Stadt (formerly Chemnitz) dismissed the action on the basis of the subsequent 1963 Contract Tribunal Decree, and directed the plaintiff to take the case to the State Contract Tribunal. This interpretation was indirectly confirmed by subsequent legislation explicitly referring to the jurisdiction of the State Contract Tribunal. Examples are the provisions for liability


suits pursuant to the 1969 Mining Act\textsuperscript{107} and the 1973 Air Quality Decree.\textsuperscript{108} Environmental litigation in the civil courts of the GDR is thus limited to cases where at least one of the parties is either a private individual or a corporate entity other than those mentioned in the 1963 Contract Tribunal Decree.

\section*{B. Preventive Methods}

Necessary as administrative and civil sanctions may be to induce compliance with environmental law, enforcement of such sanctions also is a potential threat to general plan fulfillment, in view of the disruptive effect which an unbudgeted, retroactive financial burden can have on the ability of the liable enterprise to carry out its other concurrent or future obligations within a centrally planned economy. Alternatively, preventive methods of legal environment protection are more attractive to a planned economy, as their costs can be allocated in advance. Therefore, in addition to price controls and other traditional planning tools,\textsuperscript{109} a number of new preventive instruments of environmental law, in the form of both incentives and disincentives, have been developed in the GDR since 1963, when the "new economic policy" (\textit{NÖSPL}) was first introduced.\textsuperscript{110} The result has been more decentralized decisionmaking at the local and enterprise level, usually under the label of "economic levers" (\textit{ökonomische Hebel}).\textsuperscript{111} Some

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\textsuperscript{109} See notes 11-18 \textit{supra}. Among conventional legal instruments are also certain specialized insurance schemes of the GDR State Insurance Agency, such as optional crop insurance against damage caused by pesticides, available on a voluntary basis to farmers and agricultural cooperatives pursuant to the Decree of May 22, 1968, [1968] 2 G.Bl. 319. See Rogoll & Nagel, \textit{Massnahmen zur Verringerung der Schadensfälle beim Einsatz von Pflanzenschutzmitteln und Wege zur Regulierung}, 14 \textit{FELD-WIRTSCHAFT} 119 (1973).
\textsuperscript{111} See Zehrfeld, \textit{Zur Einführung ökonomischer Hebel in der Wasserwirtschaft}, 18 \textit{Wasserwirtschaft-Wassertechnik} 60 (1968); Titel, \textit{supra} note 14; Christoph,
of these innovative methods are based on models elaborated jointly with other COMECON countries, and were initially introduced on a trial basis as economic experiments in selected areas.

1. Environmental Impact Controls

In addition to central clearance of annual economic plans by the Environment Ministry, nationwide zoning controls under the 1958 Urban Building Regulations, and the 1967 Rural Building Regulations, all important new economic investment projects in the GDR (such as road construction, industrial plants, or large-scale agricultural production projects) are subject to a uniform pre-investment procedure. In force since 1968, this procedure requires formal approval by the relevant regional and local government bodies, in collaboration with the National Planning Commission and the competent central government departments. The 1972 Investment Allocation Decree confirmed this system of regional planning, and introduced specific environmental criteria as part of the pre-investment scrutiny of new projects, both at the county level ("macro-allocation") and at the municipality level ("micro-allocation"). At both stages, authorization of a project may be denied or subjected to special conditions in the interest of environmental protection. In particular, each investment project is to...
be accompanied by a statement regarding compliance with environmental protection requirements. This statement must specify: (a) the environmental impact of the project; (b) projected measures for the elimination or abatement of related environmental disturbances; (c) the potential relevance of waste products; and (d) measures for the elimination and utilization of such waste products. All four criteria listed are to be considered for purposes of county and municipal authorization of the project. Criteria (a) and (c) also are to be considered by the National Planning Commission for purposes of central investment allocation among counties.119

2. Contracts for Environmental Quality Improvement

The emphasis since 1963 on contracts as a preferred instrument of economic policy120 has resulted in a new type of contractual arrangement for pollution control among enterprises, cooperatives, and local governmental bodies. The local governmental agencies usually have taken the initiative as part of their supervisory and coordinating functions for the improvement of environmental quality.121 On the basis of legal models (Kommunalverträge) specified in the 1968 Municipal Contracts Decree,122 local government authorities have been directed by the 1969 Municipal Cleanliness Decree,123 by state council resolutions,124 and by the National Environment Act125 to promote and


120. See text accompanying note 110 supra.


conclude contractual arrangements with enterprises and cooperatives for the joint planning and financing of environment protection measures.\textsuperscript{126} Contractual arrangements also have been made with local citizens’ groups, for such purposes as the maintenance of parks in residential areas.\textsuperscript{127} According to a 1967 decision of the county contract tribunal of Neubrandenburg,\textsuperscript{128} enterprises may be compelled to enter into contracts with governmental bodies on the basis of the 1965 Contract Act,\textsuperscript{129} and thus become obligated to perform specified environmental improvement measures, and be subject to economic sanctions in case of noncompliance.\textsuperscript{130} In 1969, the State Contract Tribunal (\textit{Staatliches Vertragsgericht}) issued a “statement of principles,” declaring that state and society have a duty to protect the environment for the well-being of all citizens.\textsuperscript{131} In adherence to this statement, enterprises and cooperatives have been systematically encouraged to enter into economic contracts (\textit{Wirtschaftsverträge}) for air pollution abatement. More recently, this effort has been extended to other industrial pollution problems.

A leading case in connection with the 1969 principles is \textit{Genthin Public Forest Management Enterprise v. V.E.B. Detergent Factory}.\textsuperscript{132}

\textsuperscript{126} See, e.g., the specific references to the National Environment Act by Gold & Krauss, \textit{Beziehungen zwischen örtlichen Volksvertretungen und LPGs und Fragen ihrer rechtlichen Gestaltung}, 21 STATT UND RECHT 34, 43 (1972); see also works cited in note 151 infra, in regard to contracts for the recultivation of abandoned mining land (\textit{Folgenutzungsverträge}).

\textsuperscript{127} Such maintenance contracts (\textit{Pflegeverträge}) have been entered into in compliance with the Third Implementing Decree of May 14, 1970, Pursuant to the National Environment Act, § 8(2), [1970] G.Bl. II 339, 340. In the city of Suhl, for example, such contracts were concluded with respect to a total area of 34.6 hectares of greenspace. Neues Deutschland, Mar. 7, 1973, at 2. On the controversy over the "administrative" or "civil" basis of these contracts in general, see Surkau & Petasch, supra note 84.


The plaintiff, a public entity in charge of forest production and conservation in the mixed agricultural-industrial district of Genthin, claimed compensation for damages caused to public forests by air pollution emitted from the defendant's chemical factory. Action was first brought in 1966 at the county contract tribunal in Magdeburg, with pleadings based on the 1965 Contract Act, Article 906 of the Civil Code, the Constitution, the principles of the new economic policy, and a 1965 Supreme Court precedent.\textsuperscript{133} In view of the general legal and economic significance of the dispute,\textsuperscript{134} the State Contract Tribunal in 1967 exercised its right to take jurisdiction over the case,\textsuperscript{135} and to join in the proceedings two other publicly owned enterprises (a sugar factory and a dairy plant) alleged to have contributed to air pollution in the forests concerned. The parties agreed to obtain a comprehensive expert opinion from the Forestry Planning Center at Potsdam, including air pollution measurements carried out jointly by the defendants, the GDR Meteorological Service, and the County Health Service.\textsuperscript{136} The expert opinion established and quantified the pollution damage affecting forest productivity in a 500 hectare area, and attributed it partly to dust emissions from the detergent factory and partly to sulfur dioxide emissions from all three sources.

In reaching its decision the State Contract Tribunal relied upon sections 906 and 1004 of the Civil Code,\textsuperscript{137} interpreting these provisions along the lines of the leading 1937 decision of the German Supreme Court in \textit{E. v. Gutehoffnungshütte A.G.}\textsuperscript{138} The contract tribu-

\textsuperscript{133} \textit{Hahn v. V.E.B. Chemiewerk Coswig (Oberstes Gericht), in DIE WIRTSCHAFT (No. 21) 19 (1965). See Oehler, \textit{Rechte und Pflichten sozialistischer Wirtschaftsbetriebe bei rechtmässigen Einwirkungen aus wirtschaftlicher Tätigkeit anderer Betriebe}, 15 \textit{STAAT UND RECHT} 1287, 1290 n.5 (1966).}

\textsuperscript{134} Similar cases then pending included \textit{Staatlicher Forstwirtschaftsbetrieb Dübenheide v. V.E.B. Elektrochemisches Kombinat Bitterfeld. See Grundmann, Hutschenreuter & Woehle, \textit{Reinhalteung der Luft—bedeutendes Anliegen der sozialistischen Staats- und Gesellschaftsordnung}, 17 \textit{STAAT UND RECHT} 1157, 1162 n.10 (1968); cf. Costa, \textit{Rauchschäden und ihre rechtliche Behandlung: ein volkswirtschaftliches Problem}, 8 \textit{STAAT UND RECHT} 763 (1959). Industrial air pollution damage to forestry has been a notorious problem in East Germany for more than a century, and has been a subject of pioneering scientific research starting with the work of Professor A. Stockhardt, first published in 21 \textit{THARANDTER FORSTLICHES JAHRBUCH} 218 (1871). Cf. H. Jung, \textit{Luftverrenigung und industrielle Staubbekämpfung} (2d ed. Berlin 1968); J. Stoklasa, \textit{Die Beschädigungen der Vegetation durch Rauchgasen und Fabrikexhalationen} (Berlin 1923).

\textsuperscript{135} The proceedings before the State Contract Tribunal are discussed in Freiberg, \textit{supra} note 132, at 294 n.4. On the " cassation" procedure of the GDR (which is similar to that followed by other European supreme courts, but different from the West German " revision" procedure), see generally Roggemann, \textit{supra} note 63, 1966 \textit{JURISTISCHE RUNDSCHAU} at 444.

\textsuperscript{136} See excerpts in Freiberg, \textit{supra} note 132, at 294-95.

\textsuperscript{137} BGB §§ 906, 1004 (Staatsverlag der DDR 1967) (E. Ger.).

\textsuperscript{138} \textit{E. v. Gutehoffnungshütte A.G.}, Judgment of Mar. 10, 1937, 154 RGZ 161,
nal held that even though each defendant individually had complied with the applicable technical standards and maximum emission limits, the combined effect (Ballung) of their separate emissions nevertheless justified the plaintiff’s claim for compensation, regardless of fault, covering a three-year period preceding the date of decision. The tribunal allocated liability in proportion to the defendants’ respective shares in the pollution damage. In addition, relying on its 1969 Statement of Principles and on the 1964 Land Use Decree, the tribunal directed the parties to conclude an agreement on improvement and adjustment measures with a view to the abatement and possible elimination of smoke and dust damages in the Genthin area. The agreement provided for joint monitoring of air pollution by a permanent working group in close cooperation with the county health inspection agency, for technical modifications of fuel substances and filter systems in the defendants’ plants, and for a program of reforestation, with the use of pollution-resistant varieties in specified forest areas. The defendants were required to finance the reforestation program jointly through annual advance contributions, and to supervise it by means of a joint working group. After ten years the agreement would be subject to reevaluation by the Forestry Planning Center, unless any one defendant prior to that date could offer formal evidence of having eliminated or substantially reduced its share of emissions, in which case renegotiation could be requested.

In the quest for pollution control, this type of contractual instrument offers an advantage over most tort remedies: the fact that no proof of fault is required in order to establish violations. To make good a claim of breach of the agreement, it is sufficient to show failure to perform the agreed undertaking or failure to comply with applicable technical standards. Pursuant to the 1967 Standardization


139. Staatlicher Forstbetrieb Genthin v. V.E.B. Waschmittelwerk (Staatliches Vertragsgericht), in 1969 Vertragssystem 636. The decision confirms the interpretation advocated by Grundmann, Hutchenreuter & Woehe, supra note 134, at 1167, and approximates the result achieved by the West German legislative amendment discussed at note 138 supra.

140. See note 131 supra.


142. Freiberg, supra note 132, at 296.
Decree, \(^{143}\) uniform national standards for technical products and services are applicable to such contractual undertakings, whether or not they are stipulated in the agreement, and whether or not they were in force prior to the date of agreement. \(^{144}\) According to a 1971 decision of the county contract tribunal of Halle, the fact that an enterprise is not yet equipped with the modern facilities needed to meet new technical standards does not constitute a valid defense if the required equipment is readily available elsewhere. \(^{146}\)

While "environmental contracts" thus are subject to constant administrative supervision and adjustment, \(^{146}\) they are flexible enough to facilitate the adaptation of general environmental policies and planning directives to specific local circumstances. A further advantage is the fact that monitoring and conformity control can be delegated to local authorities and to the contracting parties themselves, who have a direct mutual interest in ensuring compliance.

3. Charges For Resource Use and Pollution Emissions

In partial revision of the 1963 Water Act and the 1964 Land Use Decree, \(^{147}\) which still reflected the old central-regulatory approach, the new economic policy in force since 1963 \(^{148}\) has gradually cleared the way for decentralized economic incentives and disincentives to promote rational use of scarce natural resources by enterprises. As a first attempt to contain the rapid encroachment of urban and industrial development upon valuable, productive land, \(^{149}\) a "land-use charge" (\textit{Bodennutzungsgebühr}) has been levied since 1967 on all lands permanently or temporarily withdrawn from agricultural or forestry use.

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\(^{144}\) See Pahl, \textit{supra} note 9, at 3; \textit{cf.} Air Quality Decree, § 11(2), [1973] G.Bl. I 157, 159.

\(^{145}\) \textit{V.E.B. A v. V.E.B. M.} (Bezirks-Vertragsgericht Halle), in 10 \textit{STANDARDISIERUNG LANDWIRTSCHAFT UND NÄHRUNGSGÜTERWIRTSCHAFT} 123 (1971). This view appears to be confirmed by section 19(1) of the Air Quality Decree, [1973] G.Bl. I 157, 161, which holds an enterprise liable upon proof that it failed to "duly utilize the possibilities available to it, within the conditions of socialist production, for preventing or mitigating the emissions which caused the damage."

\(^{146}\) The hybrid civil-administrative nature of this contract system is pointed out by D. Loeben, \textit{supra} note 102; Loeben, \textit{Plan and Contract Performance in Soviet Law}, 1964 U. ILL. L.F. 128.


\(^{148}\) See text accompanying note 110 \textit{supra}.

Rates are differentiated according to land capability and land use.\textsuperscript{150} The revenues from the charge are earmarked for land improvement measures and, in the case of mining land, for reclamation and recultivation measures as specified in the 1969 Mining Act and supplemented by subsequent environmental improvement contracts (\textit{Folgenutzungsverträge}).\textsuperscript{151} Furthermore, in view of the GDR's precarious overall water balance,\textsuperscript{152} the 1969 Economic Directives for the Conservation of Water and Air Quality and for Efficient Water Use\textsuperscript{153} introduced a "water-use charge" (\textit{Wassernutzungsentgelt}), expanded by decree in 1970,\textsuperscript{154} for all non-agricultural uses of ground or surface water. In this instance rates are differentiated according to types and volume of use and with regard to the technical investments required at each location.

The 1969 Directives also provided the basis for the introduction of effluent or emission charges, following the example of other socialist countries,\textsuperscript{155} and in part building upon the earlier administrative


\textsuperscript{152} See National Report, supra note 4, at 2; cf. R. GILSENBACH, \textit{WASSER: PROBLEME, PROJEKTE, PERSPEKTIVEN} (Leipzig 1971); 17 \textit{STATISTISCHES JAHREBUCH DER DEUTSCHEN DEMOKRATISCHEN REPUBLIK} 148 (1972).


\textsuperscript{155} See particularly the Hungarian Effluent Charges Decree No. 40 of Nov. 25, 1969. For an English translation see U.N. Food and Agriculture Organization, \textit{Summary and Extracts From Hungarian Legislation on Water Pollution Control}, 20 \textit{FOOD AND AGRICULTURAL LEGISLATION} (No. 2) 17 (1971); see also note 173 and accompanying text infra. As regards air pollution legislation, on the other hand, the GDR precedes Hungary, where emission charges are scheduled to be introduced on January 1, 1975. See [1973] Magyar Közlöny II 17.
experience of regional water quality management in pre-war Germany. A "water effluent charge" (Abwassergeld), first introduced on an experimental basis in three of the most heavily polluted districts (Halle, Bitterfeld, and Merseburg) in 1969, was enacted on a nationwide basis in the following year. The charge is prorated according to the quantities of specified harmful effluents or waste waters discharged into watercourses in excess of fixed standards. By 1972, 500 industrial enterprises were reported to be paying the charge. Since 1969 similar experiments for air pollution control have been conducted in the same test districts. A "charge for dust and gaseous emissions" (Staub- und Abgasgeld) entered into force on a national scale on May 1, 1973. The charge is calculated on the basis of air pollution emissions exceeding fixed standards for 113 specified substances, in monetary amounts per kilogram per hour.

Both the land-use charge and the air and water pollution charges (but not the water-use charge) are considered as economic penalties cutting into the profits of individual enterprises and, unlike positive environmental improvement investments, may not be budgeted or passed on to consumers by way of price adjustments. Unlike a general tax, the revenues from both types of charges are earmarked for special pollution abatement, compensation, and environmental improvement measures in the areas concerned. Payment of the charges

156. See note 68 supra.
163. These revenues are channelled through a special fund administered by the State Food and Agriculture Bank, established by Decree of Dec. 23, 1968, [1969] G.Bl. II 41. See Werner, Gesetzliche Grundlagen der Rekultivierung von wieder urbar
does not, however, shield the polluter from legal liability for compensation of damages, nor from the obligation to enter into environmental improvement contracts for long-term preventive measures.

C. Methods of International Cooperation

East Germany's participation in international activities for environment protection was until recently limited to the intersocialist framework of the Council of Mutual Economic Assistance (CMEA, or COMECON), established in 1949. Currently forming the general basis for COMECON environmental cooperation is the comprehensive “Nature Protection Program” for 1971-75, adopted by a conference of plenipotentiaries at Sofia in October 1972. The Nature Protection Program is administered by a Coordinating Council, established in Prague in January 1973, to operate within the COMECON Standing Committee for Scientific-Technological Coordination. The GDR is represented on the Coordinating Council by the Commission for Environmental Research of the GDR Academy of Sciences. The Nature Protection Program includes plans for a uniform “environmental law code,” as part of ongoing efforts for the harmonization and uni-

164. Like emission charges, damage payments are non-budgetable and non-calculable costs for the enterprise. See Air Quality Decree, § 19(1), [1973] G.Bl. I 157, 161; cf. Christoph, supra note 8.


169. A. SUM, supra note 3, at 115a.
ification of laws among COMECON member states. Pursuant to a 1971 agreement, six specialized "coordination centers" were created for environmental matters, including one for socio-economic, organizational, and legal aspects (with the Moscow Academy Institute of State and Law functioning as "lead agency"). The GDR is represented at this coordination center by the Environmental Law Working Group in the GDR Academy of State and Law.

Sectoral cooperation dates back much further, however, than these recent comprehensive programs and institutions. Since 1962 the Standing Conference of Heads of COMECON Water Management Services (in which the GDR was represented by its Water Management Agency, now merged with the Environment Ministry) has formulated recommendations to member states on uniform methods of water management, including principles of water classification, water quality criteria, and guidelines for effluent standards and charges. In line with the Conference's Basic Principles on Agreements to be Concluded Among COMECON Member States Relating to Cooperation in the Field of Water Quality Conservation, the GDR concluded a Boundary Waters Agreement with Poland in 1965. A major part of this agree-


172. See text accompanying note 24 supra.


174. As formulated in 1963, COMECON Doc. 23-11-61; see Stainov, Les aspects juridiques de la lutte internationale contre la pollution du Danube, 72 REVUE GÉNÉRALE DE DROIT INTERNATIONAL PUBLIC 97, 113 (1968).

ment deals with water quality control along the Oder-Neisse river boundary, providing for advance consultation on projects involving effluents, for joint water quality standards, and for coordination in case of pollution emergencies. Similar arrangements exist for boundary waters with Czechoslovakia, and bilateral or possibly regional cooperation is now envisaged with these two countries for the control of trans-frontier air pollution. Such arrangements would be based on common air quality standards elaborated through COMECON. Other subjects of multilateral cooperation within COMECON are motor vehicle emission standards and radiation protection standards.

East German environmental technology is currently being exported to other COMECON countries. In view of its major role as a producer as well as a consumer of agro-chemicals, the GDR took the initiative in seeking harmonization of pesticide regulations and standards throughout Eastern Europe. This effort began in 1960, with a meeting in Berlin of COMECON experts. The meeting recommended common criteria and tolerance limits for pesticide residues in

181. These standards are being developed through the COMECON Standing Commission on the Engineering Industry. See Note, Information, supra note 167, at 322; A. SUM, supra note 3, at 120. The relevant national agencies in the GDR are the Ministry of Machine and Vehicle Construction and the Ministry of Transportation. Concerning the regulatory functions of these agencies for emissions from combustion engines in coordination with other ministries see Air Quality Decree, §§ 5(4), 14, 16(2), 23, [1973] G.Bl. I 157, 158, 160, 162.
182. Such standards were adopted in 1965. See A. SUM, supra note 3, at 124-25. The competent national agency in the GDR is the Central Office of Radiation Protection. See notes 39, 62 supra.
183. Air pollution filter equipment, for example, is being exported for factories in Bulgaria. Neues Deutschland Mar. 31, 1973, at 6.
184. See Kurth & Schapitz, Entwicklung und Perspektiven der Herbizidproduktion und des Herbizidverbrauches in der Deutschen Demokratischen Republik, 26 NACHRICHTEN FÜR DEN PFLANZENSCHUTZDIENST IN DER DDR 206 (1972); Schmerler, Analyse und Ausblick zur Chemisierung der pflanzlichen Produktion in der DDR, 19 DEUTSCHE AGRARTECHNIK 469 (1969); see also the legislative survey by Beitz, Angermann & Becker, Pflanzenschutz und Umweltschutz unter den Bedingungen der Intensivierung der Pflanzenproduktion, 26 NACHRICHTEN FÜR DEN PFLANZENSCHUTZDIENST IN DER DDR 87, 90 (1972); and the data on GDR and COMECON fertilizer production and use in STATTISCHES JAHRBUCH, supra note 152, at 128.
plant and animal products.\textsuperscript{185} The recommendations were based partly on research by the Working Group on Pesticide Toxicology, established in 1959 at the GDR Academy of Agricultural Sciences.\textsuperscript{186} On the basis of a 1959 COMECON Agreement on Plant Quarantine and Plant Protection,\textsuperscript{187} a permanent Working Group on Plant Protection now functions in Budapest and was instrumental in COMECON's adoption in 1972 of Recommendations for the Protection of Plants and the Environment Against Pollution by Pesticides.\textsuperscript{188} The principal vehicle for the unification of national technical standards for this, as well as for several other environmental fields, was the COMECON Permanent Standardization Commission, established in 1962.\textsuperscript{189} Recommendations of the standardization commission have proven influential well beyond Eastern Europe, particularly in the International Organization for Standardization (ISO).\textsuperscript{190}

In a number of areas the GDR now participates in cooperative international efforts for environmental protection extending beyond the socialist bloc. In 1962 the German Democratic Republic, the Soviet Union, and Poland entered into an Agreement on Cooperation in Marine Fisheries which subsequently was extended to include Bulgaria and Romania.\textsuperscript{191} In 1971 the GDR concluded a bilateral treaty on fishing rights with Poland.\textsuperscript{192} On September 13, 1973, the GDR signed the multilateral Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts. Other signatories

\textsuperscript{185} Deutsche Akademie der Landwirtschaftswissenschaften, Tagungsberichte No. 42 (Berlin 1962) (meeting of Nov. 28-30, 1960).

\textsuperscript{186} See Hey, Entwicklung und Aufgabenstellung der Forschung über Pflanzen- schutzmittelrückstände in der Deutschen Demokratischen Republik, 21 NACHRICHTEN- BLATT FÜR DEN DEUTSCHEN PFLANZENSCHUTZDIENST 117 (1967); Heinisch, Chemischer Pflanzenschutz: Gefahr für die Umwelt? 48 URANIA (No. 9) 28 (1972). Since January 17, 1973, the functions of the former Working Group are carried out by a new Section for Toxicology of Agrochemicals within the Academy. See 27 NACHRICHTEN- BLATT FÜR DEN PFLANZENSCHUTZDIENST IN DER DDR 215 (1973) (special issue on "Plant Protection and Environment Protection").

\textsuperscript{187} Agreement of Dec. 14, 1959, 422 U.N.T.S. 33; see J. CAILOT, supra note 166, at 279, 367.


\textsuperscript{189} See J. CAILOT, supra note 166, at 143; cf. Angelo, Protection of the Human Environment: First Steps Toward Regional Cooperation in Europe, 5 INT'L LAWYER 511, 518 (1971). Concerning the competent national agency in the GDR, the Office of Standardization, Metrology and Product Testing, see note 40 supra.


to the Convention, adopted at Gdansk (Danzig), Poland, were Denmark, Finland, the Federal Republic of Germany, Poland, Sweden, and the Soviet Union.

In efforts to control marine pollution in the Baltic Sea, East German participation has proven to be a crucial factor, because of the GDR's important role both in the use and in the degradation of this shared resource. In 1967 the GDR passed an Act on the Exploration, Exploitation, and Delimitation of the Continental Shelf of the German Democratic Republic. The Act made specific reference to the 1958 Geneva Convention, to which the GDR was not then eligible to become a signatory. In 1968 East Germany signed a joint Declaration with Poland and the Soviet Union on the Continental Shelf of the Baltic Sea. The Declaration calls for the exclusion of non-Baltic states from the shelf, and provides that the "exploration, exploitation and other uses of the continental shelf of the Baltic Sea must not result in any unjustifiable interference with navigation, fishing, or the conservation of the living resources of the sea." Although the GDR is not formally an adherent to the International Convention for the Prevention of Pollution of the Sea by Oil, its vessels "have been instructed to comply with the Convention," and its ports are being equipped with the oil disposal facilities required by the Convention. The 1969 Oil Spills Decree applies to oil pollution casualties within the territorial waters of the GDR.

197. Art. 9, id. at 773.
198. Art. 8, id. at 772.
201. Neues Deutschland, Jan. 2, 1973, at 2 (with respect to the oil port at Rostock).
German representatives participated in the Baltic Conferences on Oil Pollution at Visby in 1969 and 1970, but the controversy over diplomatic recognition of the two German governments prevented formal agreement at that time, and subsequently led to a boycott of the 1972 United Nations Stockholm Conference by all COMECON members except Romania. Another meeting of representatives of all Baltic states was held at Helsinki, Finland, in November 1973. This meeting approved a Draft Convention on the Protection of the Marine Environment of the Baltic Sea Area, to be finalized by a Conference of Plenipotentiaries scheduled to open at Helsinki on March 18, 1974.

The 1972 Treaty on the Basis of Intra-German Relations has cleared the way for new East-West initiatives in this field. It provides, inter alia, for the conclusion of further agreements with West Germany on environmental protection. An intra-German boundary commission began discussions on water management matters in March 1973. Similar arrangements are envisaged for Berlin, where infor-
mal cooperation between West Berlin and GDR authorities has long existed for purposes of solid waste disposal, but not for the equally pressing problems of water and air pollution.208

D. Environmental Protection Under Socialism

A primary difficulty in comparative evaluation of environmental protection in East Germany is the lack of common indicators for environmental quality improvement or degradation.209 The effectiveness of environmental legislation generally is “a very hard thing to document.”210 In the absence of comprehensive annual reports by the GDR Ministry of Environmental Protection and Water Management,211 fragmentary information must be gleaned from a variety of published sources,212 including statistics on environmental investments,213 recultivated mining areas,214 nature reserves,215 and noise abatement pro-


208. The situation concerning water pollution is discussed in Behrendt, Stand des Wasserrechts in Berlin (West), 10 ZEITSCHRIFT FÜR WASSERRECHT 75 (1971).

209. In view of this difficulty, the Manpower and Social Affairs Committee of the Organization for Economic Cooperation and Development (OECD) launched a study of “social environmental indicators” in 1970. See 64 OECD OBSERVER 37 (1973).


211. Annual unpublished reports on the state of air quality are submitted by the county health inspection offices to the Ministry of Public Health and to the County Councils, pursuant to the Air Quality Implementing Regulations, § 9, [1973] G.Bl. I 162, 164.

212. See, e.g., Probleme der sozialistischen Landeskultur und des Schutzes der Umwelt, Special Supplement to DIE WIRTSCHAFT Oct. 18, 1972 (special supp.); see also the new publication series, UMWELTFORSCHUNG, issued by Gustav-Fischer-Verlag (Jena) since 1973.


215. The 7-volume HANDBUCH DER NATURSCHUTZGEBIETE DER DEUTSCHEN DEMOKRATISCHEN REPUBLIK (Halle 1970) gives detailed descriptions of 651 nature reserves.
For example, a net reduction of air pollution has been reported in the pilot district of Halle (including a 50 percent decrease in sulfur oxide emissions);\textsuperscript{217} on the other hand, a detailed land-use survey for the same district indicates that the net loss of agricultural land converted to urban-industrial use continued at its former rate in spite of legislative disincentives.\textsuperscript{218}

A second difficulty relates to the general question of "comparability" of Western and socialist systems, which has long been controversial among political scientists, economists, and lawyers alike.\textsuperscript{219} The controversy is fully relevant in the context of environmental control. It may be well to remember that "man's power over Nature is really the power of some men over other men, with Nature as their instrument."\textsuperscript{220} While some socialist jurists originally considered the divergence between "capitalist" and "socialist" law to be so fundamental as to preclude any meaningful comparison,\textsuperscript{221} intersystemic legal re-

in the GDR, most of which are relatively small in area. These reserves represent approximately 0.7% of the land area of the GDR. Cf. Bauer, Book Review, 11 ARCHIV FÜR NATURSCHUTZ UND LANDSCHAFTSFORSCHUNG 289 (1971). Their number increased to 654 in 1973; there also were 390 landscape conservation areas (primarily serving recreational purposes) in 1970, representing 17% of the land area of East Germany. National Report, supra note 4, at 10.

216. See, e.g., Neues Deutschland, Jan. 2, 1973, at 2, on "noise zoning plans" completed in 1972 for 6 townships in the county of Gera.


218. Hesse, supra note 149, at 49; see also Schramm, supra note 150, at 507, where the average annual loss of agricultural land in the GDR is estimated to be 13,000 hectares, "with no noticeable downward trend."


220. C. S. Lewis, as quoted by Zola, Medicine as an Institution of Social Control, 20 SOCIOLOGICAL REV. 487, 500 (1972).

221. See, e.g., Eörsi, Réflexions sur la méthode de la comparaison des droits dans le domaine civil, 18 REVUE INTERNATIONALE DE DROIT COMPARÉ 401 (1966); Eörsi, COMPARATIVE ANALYSIS OF SOCIALIST AND CAPITALIST LAW, 1964 CO-EXISTENCE 139, 151 (1964).
search is now generally accepted and encouraged as useful in Eastern Europe and in the GDR, if only for the avowed purpose of "demonstrating the superiority not only of socialist law over capitalist law but also of Marxist comparative jurisprudence over formal-dogmatic bourgeois comparativism." 

Be that as it may, this study of legal developments in the GDR indicates that modern environmental protection law is probably less "system-related" than seems generally to be assumed. Although there certainly is no lack of ideological rationalizations for environmental policy in current East German literature, much of the GDR's environmental law directly contradicts some sweeping generalizations about socialism which have been put forward by Western commentators, such as the frequent allegation that socialist systems attach no economic value to common goods like land and water resources, or that a centrally planned economy cannot provide sufficient economic incentives to achieve ecological goals. The charges for land use, water

222. See Zivs, Comparative Research into the Science of State and Law, 11 Rev.
    of Contemp. L. (No. 2) 145, 151 (1964).
223. Especially at the Institute of Foreign and Comparative Law of the GDR
    Academy of State and Law, Potsdam-Babelsberg. See Enderlein, Die weiteren
    Aufgaben der rechtswissenschaftlichen Forschung zur Regelung der Wirtschafstbeziehungen
224. Seiffert, Internationale Tagung in Wien zu Fragen des gewerblichen Rechts-
    schutzes, 18Staat und Recht 113, 118 (1969). Professor Seiffert is director of the
    Institute of Foreign and Comparative Law, Potsdam-Babelsberg.
225. In the terms used by Loeber, "systembezogen" vs. "systemneutral." See
    Loeber, supra note 219, at 226; see also Jakobs, supra note 219, at 114.
226. E.g., R. Loeber, Zum Verhältnis Mensch und Natur und dem Problem
    der Umweltgestaltung (Berlin 1969); Grundmann, Mensch und Umwelt, 21
    Deutsche Zeitschrift für Philosophie 190 (1973); Bitthöfer et al., Theoretische
    und politisch-ideologische Fragen der Beziehungen von Mensch und Umwelt, 20
    Deutsche Zeitschrift für Philosophie 60 (1972); Grundmann and Stabenow, Bezie-
    Tiel, supra note 4; Landeskulturgesetz: Kommentar, supra note 8, at 11-29 (further
    references to political literature).
227. M. Goldman, The Spoils of Progress: Environmental Pollution in
    the Soviet Union (Cambridge, Mass. 1972); P. Pryde, Conservation in the Soviet
    Union (New York 1972); Hödl, Die technokratische Lösung der Umweltprobleme in
    sozialistischen Ländern, 27 Frankfurter Hefte 426 (1972); Syer, Marx and Ecology,
    1 Ecologist, Oct. 1971, at 19; Powell, The Social Costs of Modernization: Ecological
    Problems in the USSR, 23 World Politics 618 (1971); Bush, Environmental
    Problems in the USSR, 21 Problems of Communism, July-Aug. 1971, at 21; Z. Zile, Soviet
    Struggle for the Quality of the Natural Environment: An Inquiry into the Limits of
    Environmental Law Under Central Planning (typewritten manuscript, July 1972).
228. M. Goldman, supra note 227; P. Pryde, supra note 227; Kramer, Prices and
    the Conservation of Natural Resources in the Soviet Union, 24 Soviet Studies 364,
    372 (1973); Goldman, Externalities and the Race for Economic Growth in the USSR:
    Will the Environment Ever Win?, 80 J. Pol. Econ. 314, 315-16 (1972); Pryde, The
    Quest for Environmental Quality in the USSR, 60 Am. Scientist 739, 745 (1972).
229. See M. Goldman, supra notes 227-28; Hödl, supra note 227, at 430.
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use, water pollution, and air pollution imposed by the East German government not only disprove these stereotypes but can be regarded as pioneering methods for the internalization of social costs\(^\text{230}\) at a time when such programs are still at the theoretical level elsewhere.\(^\text{231}\) Contrary to the often invoked spectre of bureaucratic over-centralization under socialism,\(^\text{232}\) there is considerable room for local decisionmaking in the GDR, particularly through innovative environmental impact controls and environmental improvement contracts,\(^\text{233}\) both of which have their parallels abroad.\(^\text{234}\)

It is true, as the source material for this study illustrates, that the development of environmental law in East Germany has occurred mostly through statutory and quasi-statutory enactments, rather than by judicial decisions. Considering the substantially different channels for citizen environmental action in socialist systems,\(^\text{235}\) it would be a mis-

\(^\text{230}\) See text accompanying notes 150-65 supra.
\(^\text{231}\) For discussions of proposed legislation concerning resource use charges and effluent charges in the United States, Canada, Sweden, West Germany, and South Africa, see Rabie, South African Air Pollution Control Legislation, 6 COMP. & INT'L L.J. SOUTHERN AFRICA 63, 74 (1973); Meyer-Abich, Wirtschaftspolitische Konsequenzen der Umweltprobleme, 5 ZEITSCHRIFT FÜR RECHTSPOLITIK 186 (1972); Baumol & Oates, The Use of Standards and Prices for Protection of the Environment, 73 SWEDISH J. OF ECON. 42 (1971); Kneese, Environmental Pollution: Economics and Policy, 61 AM. ECON. REV. 153 (1971); Krier, The Pollution Problem and Legal Institutions: A Conceptual Overview, 18 U.C.L.A. L. REV. 429, 470 (1971); Lucas, Legal Techniques for Pollution Control: The Role of the Public, 6 U.B.C.L. REV. 181 (1971); Salzwedel, supra note 157; Reed, Economic Incentives for Pollution Abatement: Applying Theory to Practice, 12 ARIZ. L. REV. 511, 513 (1970). Specifically, although water effluent charges have been tried elsewhere before, emission charges for air pollution thus far have remained a purely hypothetical proposition in other countries. See EFFLUENT CHARGES ON AIR AND WATER POLLUTION (ELI monograph series no. 1, E. Selig ed., Washington 1973); Ferrar, Air Pollution Abatement: An Examination of Three Policies, 3 CRITICAL REVIEWS IN ENVIRONMENTAL CONTROL 121 (1973); Note, The Effluent Fee Approach for Controlling Air Pollution, 1970 DUKE L.J. 943, 952 (1970); Hagevik, Legislating for Air Quality Management: Reducing Theory to Practice, 33 LAW & CONTEMP. PROB. 369, 370 (1968).


\(^\text{233}\) See text accompanying notes 116-46 supra.

\(^\text{234}\) E.g., the requirement in the United States of environmental impact statements pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2)(C) (1970), and pursuant to similar state laws, such as the California Environmental Quality Act (CEQA), CAL. PUB. RES. CODE § 21100 (West Supp. 1973). Consider also the pollution abatement agreements concluded by Japanese municipalities with local industrial enterprises. See P. SAND, LEGAL SYSTEMS FOR ENVIRONMENT PROTECTION: JAPAN, SWEDEN, UNITED STATES 30 (FAO Legislative Studies No. 4, Rome 1972); Sand, supra note 128, at 150.

\(^\text{235}\) For a critique of oversimplified comparisons see Mandel, The Soviet Ecology Movement, 36 SCIENCE AND SOCIETY 385, 395 (1972). On the civic functions of the GDR Cultural League and National Front, see notes 29, 87 and accompanying text supra. Concerning the "watchdog" functions of voluntary nature conservation and wa-
take to assess the impact of environmental protection law in the GDR on the basis of "environmental defense" litigation alone.\textsuperscript{236}

On the other hand, it has been contended that in making environmental measures effective a socialist government has an advantage over Western systems, by its relative freedom from obstructive litigation.\textsuperscript{237} A reading of the sizeable East German case material,\textsuperscript{238} however, leads one to doubt the validity of this alleged advantage, at least in a decentralized system like that of the GDR. Once the principle of enterprise responsibility for production costs is accepted, public and private enterprises alike tend to make full use of legal procedures to resist cost-internalizing (in their view, cost-augmenting) measures. Similarly, acceptance of the principle of local community responsibility for environmental quality leads local governmental authorities to make full use of legal procedures against all polluting enterprises, whether such be under private or public ownership. The resulting volume of lawsuits is not incomparably smaller than in a private-enterprise system. In any event, the earlier discussion of the GDR's comprehensive statutory and administrative system of environmental controls should indicate that a lack of law enforcement is not a criticism applicable to East German environmental administration.\textsuperscript{239}

It has taken the GDR approximately three years since 1970 fully to integrate environmental policies into the economic planning process.\textsuperscript{240} Several inconsistencies remain, such as the questionable exemption of agriculture from all resource-use and pollution charges,\textsuperscript{241} or the peculiar omission of anti-noise equipment from the list of production fund deductibles.\textsuperscript{242} The Environment Ministry's current organizational structure does not seem to have eliminated potential conflicts between resource conservation and resource development interests.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{236} There are indications that the role of civil court action as an instrument to implement environmental law may have been overstated even in the United States. It has been suggested that "environmental litigation has generated far more learned commentary than lasting success." Coggins, \textit{Preparing an Environmental Law Suit, Part I: Defining a Claim for Relief Under the National Environmental Policy Act of 1969}, 58 \textit{Iowa L. Rev.} 277 (1972). For other critical viewpoints see Murphy, \textit{The National Environmental Policy Act and the Licensing Process: Environmentalist Magna Carta or Agency Coup de Grace?}, 72 \textit{Colum. L. Rev.} 963 (1972); Cranton & Boyer, \textit{Citizen Suits in the Environmental Field: Peril or Promise?}, 2 \textit{Ecology L.Q.} 407 (1972).
\item \textsuperscript{238} See cases cited in notes 61, 99, 105, 128, 132-34, 145 \textit{supra}.
\item \textsuperscript{239} See text accompanying notes 108-28 \textit{supra}.
\item \textsuperscript{240} See notes 15, 113 \textit{supra}.
\item \textsuperscript{241} See text accompanying notes 150, 154 \textit{supra}.
\item \textsuperscript{242} See note 16 \textit{supra}.
\end{itemize}
\end{footnotesize}
This is demonstrated, for example, by the case of reclamation and waterworks construction projects.\textsuperscript{243} Nor has the Ministry been granted the necessary regulatory control over such crucial matters as air pollution control, radiation protection, energy policy, nature conservation, and pesticide regulation.\textsuperscript{244} This lack of regulatory power has been a handicap particularly evident in the area of international cooperation. Even so, the GDR appears to have been quite successful in influencing COMECON environmental standardization in sectors relevant to its national economy, as in the case of agro-chemicals.\textsuperscript{246}

CONCLUSION

Western observers commenting on what is sometimes described as a cross-systemic "ecological convergence" have been quick to conclude—not without Schadenfreude—that socialist countries have "no notable advantages over other economic systems in solving environmental disruption."\textsuperscript{246} Perhaps the basic fallacy of this suspiciously self-congratulatory conclusion is that it usually is based upon the comparison of two specimens \textit{sui generis}, the United States and the Soviet

\begin{itemize}
\item \textsuperscript{243} From the Agency for Water Management (see note 24 \textit{supra}), the Environment Ministry also inherited operational responsibilities for the construction of dams, canals, and water pipelines; see Decree of Nov. 28, 1972, on the Supervision of Public Works by the Ministry of Environment Protection and Water Management, [1972] G.Bl. II 851. Potential conflicts with environment protection interests are quite conceivable here, as has been illustrated by experience in the United States. See R. Berman \& W. Viscusi, \textit{DAMMING THE WEST: RALPH NADER'S STUDY GROUP REPORT ON THE BUREAU OF RECLAMATION} (New York 1973); Findley, \textit{The Planning of a Corps of Engineers Reservoir Project: Law, Economics, and Politics}, 3 \textit{ECOLOGY} L.Q. 1 (1973).
\item \textsuperscript{244} In the case of oil pollution control, the ministry was given regulatory powers by means of an amendment to the 1969 Decree. Second Decree, of Feb. 7, 1973, on the Prevention and Control of Oil Spills [1972] G.Bl. I 101. By contrast, in the case of air pollution control, section 5(2) of the Air Quality Decree, [1973] G.Bl. I 157, 158, merely sets forth the Environment Ministry's responsibility "for the economic integration of air quality policies into the over-all development of environment protection," leaving all regulatory powers to other ministries. \textit{Id.} §§ 5(4), 14, 16(2), 23, [1973] G.Bl. I at 158, 160, 162. With reference to pesticide regulation, a 1972 report on the functions of the GDR Plant Protection Service does not even mention the Environment Ministry or its predecessor, the Permanent Environment Commission, when describing coordination with other government agencies. See Becker, \textit{supra} note 37.
\item \textsuperscript{245} See text accompanying notes 184-90 \textit{supra}. The GDR's bilateral agreements with individual COMECON partners (e.g., with Poland regarding pesticide production standards) also tend to have model influence on subsequent multilateral standardization within COMECON. See Beitz, \textit{supra} note 40, at 44.
\item \textsuperscript{246} Goldman, \textit{The Convergence of Environmental Disruption}, \textit{SCIENCE}, Oct. 2, 1970, at 37, 42; see also works cited in note 227 \textit{supra}; Lüers, \textit{Umweltrecht in der DDR: Hüben wie drüben ein Problem der Kontrolle}, 2 \textit{UMWELT} (No. 6) 48 (1972). But see \textit{LANDESKULTURGESETZ: KOMMENTAR, supra} note 8, at 22, for an express and categoric "rejection of any variety of the convergence theory in the field of environmental protection."
\end{itemize}
Union, whose only common denominator may be their sheer size. One reason for selecting the GDR instead as a more comparable reference system is the fact that the country happens to share, for one thing, the industrialization and urbanization pattern of most Western countries. Against this background, it is revealing to note the unabashed fraternal envy that seems to characterize most West German commentaries on East Germany's new environmental law. Convergence or no convergence, the case of the German Democratic Republic offers a number of useful lessons—and no alibi for comparative ecological complacency.

247. See Barm, Umweltschutz in der DDR, Deutsche Studien, June 1972, at 194; Schneider, Neues Recht der DDR auf dem Gebiet der Wasserwirtschaft, 23 Wasser und Boden 97 (1971); Lieberum, Die Umweltpolitik der Deutschen Demokratischen Republik im Spiegel ihres neuen Landeskulturgesetzes, 46 Natur und Landschaft 135 (1971); Knoche, Umweltschutz in der DDR, 21 Informationen des Instituts für Raumordnung 343 (1971); Darmel, Ein neues Landeskulturgesetz in der DDR, 2 Landschaft und Stadt 82 (1970); cf. H. Franzky, supra note 5; Gruhn, supra note 26; see also the comparative study by Lüers, Umweltschutzgesetzgebung in beiden Teilen Deutschlands, 12 Jahrbuch für Ostrecht 43 (1972).

PREAMBLE

In the German Democratic Republic, nature and its resources serve the people. They form an important basis for developing the national economy and for satisfying the material and intellectual-cultural needs of the working population.

The development, cultivation and protection of the country's natural environment, its abundant flora and fauna and natural beauties are indispensable prerequisites for providing an environment worthy of a socialist society, and promoting the health and vitality of citizens, their recreation and leisure activities.

The management of an advanced socialist system calls for the comprehensive development, rational and efficient utilisation, conservation and cultivation of landscapes according to scientific principles, to ensure continuous growth of the national economy and to improve the working and living conditions of the citizens.

Within the context of the scientific-technological revolution, natural resources are being used to an ever-growing extent due to the further development of industry and agriculture, of communications, and of towns and villages. Their availability is not unlimited. In socialist society, conditions exist for the planned development of productive forces in such a way as to lead to increased usability and productivity of natural resources, and to ensure the conservation and embellishment of man's natural environment.

Article 15 of the Constitution of the German Democratic Republic proclaims nature conservation, the efficient use and protection of land, the prevention of water and air pollution, and the protection of flora, fauna, and natural beauties of the country as duties of government and society and also of every citizen.

With a view to implementing the Constitution, the socialist national environment shall be planned and managed under the responsibility of the popular representative bodies, as a common task of all government and economic authorities, enterprises and institutions, committees of the National Front of democratic Germany, social organizations, and all citizens. They all are obliged to protect the country's natural environment and to use natural resources in a circumspect and economic manner, in the interests of the present and future generations.
Community efforts inspired by the creative power of citizens and their devotion to our socialist country, the valuable experiences and outstanding achievements of collectives of citizens in towns and villages, of social organizations, enterprises and scientific institutions in the management of our socialist country and in nature conservation are an important basis for implementation of this Act.

ARTICLE I: BASIC AIMS AND PRINCIPLES FOR THE PLANNING AND CONTROL OF THE SOCIALIST NATIONAL ENVIRONMENT

Section 1

(1) The purpose of this Act is the planned development of the socialist national environment as a system for the rational management of natural surroundings and for effective nature conservation, with the aim of conserving, improving, and efficiently using the natural basis of social life and production—land, water, air, flora and fauna, as a whole—and for the embellishment of our socialist country.

(2) The socialist national environment shall be managed as an integral part of the advanced system of socialism. It calls for planned development, efficient use, cultivation and protection of landscapes and their resources on the basis of the most advanced scientific criteria by government and economic authorities, publicly-owned enterprises and industrial combines, cooperatives, enterprises under different forms of ownership, and institutions (hereinafter referred to as enterprises), in concert with the National Front, social organizations and citizens.

Section 2

Government planning and control shall ensure the development of the socialist national environment with maximum benefit for society. This calls for comprehensive planning of environmental development, for multiple use of landscapes and their resources, concentration of forces and means on economic and territorial focal points, and the most efficient utilisation of funds. Environmental requirements shall be included in the planned allocation of productive forces and the preparation of investments.

Section 3

(1) The responsibility for central governmental planning and control of the fundamental aspects of the socialist natural environment in their overall economic context lies with the Council of Ministers. Central government planning and control of fundamental aspects of the socialist national environment shall be organically linked with autonomous planning and control by local authorities, with the autonomous activities of enterprises and with the promotion of citizen initiative.

(2) The Council of Ministers shall ensure the integration of environmental planning and control into the economic system of socialism, and the
inclusion of environmental requirements in prognostic surveys, long-term and national economic plans. The Council of Ministers shall also ensure that the development of a productive countryside corresponding to the requirements of society, the rational and efficient use of land and water, the prevention of air pollution and the treatment or utilisation of waste products are effectively promoted by means of economic regulations.

(3) Within the scope of its responsibility for central governmental planning and control, the Council of Ministers shall ensure that, in the event of divergent points of view regarding the implementation of fundamental environmental policies, priority is given to the interests of society as a whole.

Section 4

(1) Local representative bodies and their executive authorities are responsible for comprehensive management of the socialist national environment in their respective regions. They include environmental requirements in their prognostic activities within the scope of their responsibility, defining related policies within the long-term and economic plan, in concert with other government and economic authorities.

(2) On the basis of the applicable laws of local government, the representative bodies of the towns and villages define the rights and obligations of enterprises and citizens with regard to the management of the socialist national environment in their regions. In particular they define policies within their local statutes with regard to maintaining the cleanliness of residential areas, of roads, streets, squares, parks, gardens and green spaces, watercourses and local woodlands, and policies of waste disposal and noise abatement.

(3) Local representative bodies and their executive authorities shall ensure that, in the event of divergent points of view regarding the implementation of environmental measures within their regions, priority is given to the interests of society as a whole.

Section 5

(1) Local councils coordinate all measures within their regions affecting or influencing the environment, to ensure the comprehensive development of the socialist national environment with a high degree of social effectiveness. For this purpose they shall—on the basis of the applicable laws—coordinate their long-term and annual plans with those of enterprises, and make decisions on site selection. They may request the inclusion of environmental policies in the plans of enterprises for the prevention, repairation, or abatement of damage, and undertake further appropriate measures. Cooperation between local authorities and with enterprises shall be established for the joint implementation of environmental policies.

(2) Local authorities and their departments shall supervise the planned implementation of environmental policies by enterprises.
Section 6

(1) Government and economic authorities and enterprises are responsible—in concert with the National Front and the social organizations—for developing multiple opportunities for citizen participation in environmental measures, for promoting their initiative, and for including them in the supervision of the implementation of such measures. Systematic public relations work shall be conducted, in order to enlighten and inform the population and the enterprises.

(2) Responsible government authorities shall ensure environmental education and instruction, particularly at the general schools, the universities, technical colleges, and vocational schools. The competent government and economic authorities and the enterprises ensure the continued environmental education of the working population, in concert with scientific institutions, the National Front and social organizations.

Section 7

Enterprises and their supervisory authorities shall ensure that the landscape and its resources are used in a rational and efficient manner. They are responsible for excluding to the greatest extent possible harmful effects on the natural environment resulting from their activities. They shall undertake the necessary environmental measures by appropriate means of cooperation within the scope of their autonomous planning and control of the reproduction process. Enterprises are obliged to include environmental problems in their prognostic surveys, to coordinate projected measures with the local councils and to include them in their long-term and annual plans. In the enterprises' reports to their supervisory authorities and to the local representative bodies, environmental measures must be included.

Section 8

(1) The most advanced scientific and technological findings shall be applied for the planned implementation of environmental policies. Enterprises shall plan, develop, and apply techniques and installations which eliminate to the furthest possible extent harmful effects and nuisances for the people and their environment and which ensure the fullest utilisation of substances used or arising from production for the economic solution of environmental problems. When developing new techniques and products, the efficient and harmless disposal of unavoidable waste products is to be taken into account.

(2) Government and economic authorities and enterprises, which exert an essential influence on the socialist national environment through their activities, are responsible for ensuring the necessary scientific-technological research and for concentrating on focal points of science and technology in accordance with the principles of socialist scientific organization. They shall develop socialist teamwork in the implementation of the necessary scientific-technological policies in concert with scientific institutions.
Section 9

Government and economic authorities and enterprises are obliged to make use of international experience and scientific knowledge, particularly that of the Soviet Union and the other socialist countries, in accomplishing their environmental tasks. Responsible government and economic authorities shall work together closely with similar institutions in the Soviet Union and in other socialist countries. Cooperation in industry and research shall particularly be developed for the purpose of basic science and technology.

ARTICLE II: LANDSCAPE MANAGEMENT AND CULTIVATION, AND PROTECTION OF THE NATURAL HERITAGE

Section 10 (Objectives)

Planned management and cultivation of landscapes, conservation and improvement of such assets of our socialist country as serve the promotion of health and recreation, our heritage in the field of the natural sciences and cultural history, and aesthetic assets shall be ensured by the responsible government authorities in close cooperation with economic authorities, enterprises, scientific institutions, the National Front, social organizations and citizens. Landscape management and cultivation, including development of the natural environment of towns and villages, shall be the subject of long-term and comprehensive planning.

Section 11 (Principles governing landscape management and protection)

(1) Measures likely to modify or influence landscapes shall be undertaken in such a way as to ensure that landscape balance is not disturbed and that multiple use of the landscape is possible. Government and economic authorities and enterprises are obliged to prepare measures changing the landscape, such as buildings, roads, public transport and other facilities well in advance, and to integrate them into the landscape in such a way as to ensure an efficient and harmonious use of the area. The recreational value and beauty of the landscape shall essentially be preserved, and enhanced to the extent possible.

(2) Landscapes biologically disturbed as a result of economic and technological interference shall, to the extent possible, be restored and developed in such a way as to allow their rational and efficient use by society and to enable them to fulfill their environmental functions.

(3) In connection with the use of chemicals necessary for the effective use of landscapes and their resources, observance of the standards set for the maximum admissible quantity, the time and the repetition of their application shall be assured. These and other substances shall be handled in such a way as to guarantee, to the furthest possible extent, the exclusion of harmful effects on man and his environment.
Section 12 (Measures in towns and villages)

Government and economic authorities and enterprises shall cooperate with the National Front, social organizations, and citizens to make use of all possibilities to embellish towns and villages and to develop and cultivate residential areas, places of work, transport facilities, roads, streets, squares, parks, gardens and greenspaces, local watercourses and woodlands, so as to allow them to serve the maintenance and promotion of health, recreation, and well-being of citizens.

Section 13 (Protected landscapes, parts of landscapes, and sites)

(1) Appropriate landscapes, parts of landscapes, sites and natural phenomena, rare species of plants and animals shall be protected to preserve the variety and beauty of our socialist country, and to ensure opportunities for scientific research. For this purpose, the responsible government authorities may declare landscapes, parts of landscapes, or sites to be nature reserves, landscape protection areas, nature monuments, primeval or early historical soil monuments, or declare rare species of plants and animals to be protected.

(2) District councils may designate as nature reserves parts of landscapes which are distinguished by natural features of scientific or cultural value, or which accommodate rare plants or animals threatened with extinction. The Council of Ministers shall make decisions concerning nature reserves of central significance.

(3) District councils may designate as landscape protection areas landscapes or parts of landscapes which are particularly suitable as recreation areas for the population on account of their beauty, or considered worth preserving on account of their particular character or as areas of outstanding landscape cultivation. The Council of Ministers shall make decisions concerning landscape protection areas of central significance.

(4) Natural sites or structures of environmental value, or of local geographical and scientific importance, may be protected by decision of county councils. The protection of primeval or early historic soil monuments takes place on the basis of the applicable laws in cooperation with the competent State Museums of Primeval and Early History.

(5) Wild-growing plants and wild animals may be declared to be protected by the competent central government authority, if they are threatened with extinction, are of national economic significance, or are of particular value for research and education.

(6) Local representative bodies and their executive authorities shall ensure the planned development, cultivation, and improvement of protected landscapes, parts of landscapes, and sites, and the conservation and increase of protected plants and animals, in concert with scientific institutions, the National Front, social organizations, enterprises, and citizens.

(7) In nature reserves, all measures are prohibited which have a harmful effect on the landscape, or its flora and fauna. Exceptions must be approved by the responsible government authorities.
(8) In landscape protection areas, measures changing the landscape, in particular buildings, surface changes, and mining operations, require consent of the responsible local councils.

Section 14 (Recreation areas)

(1) Landscapes shall be planned, developed, cultivated, and rationally used for the full implementation of the right of citizens to leisure and recreation, particularly in the form of tourism, physical culture, sports, intellectual-cultural activities, and for the maintenance and promotion of health. Landscape protection areas and other suitable areas, especially landscapes with abundant forest and water resources, shall be developed as recreation areas, and existing recreation areas shall be developed and cultivated in such a way as to ensure their permanent suitability.

(2) The representative bodies of towns and villages make decisions concerning local recreation areas in accordance with the general development of recreation facilities in the counties and districts. Suitable forms of cooperation shall be employed in the development of local recreation areas. Decisions concerning the development of regional recreation areas are made by the county and district representative bodies in concert with the representative bodies of the towns and villages within the recreation areas, according to the importance of those areas for the recreation facilities of the region concerned. The Council of Ministers shall make decisions on recreation areas of central significance.

(3) The local councils shall develop recreation areas, improve them and ensure their appropriate use by promoting the initiative of enterprises, the National Front, social organizations, and citizens, in accordance with social interests.

(4) The responsible local representative bodies shall make full use of the possibilities to ensure water and shoreline recreation facilities for all citizens. In the general social interest, construction and establishment of fenced-in sites shall as a rule not be permitted on the embankments of waters serving the recreation of citizens, envisaged as such, or suited to this purpose. Decisions concerning the necessary extension of such embankment areas shall be made by the government authorities responsible for recreation areas.

(5) Where real property or parts of property situated within the recreation areas of embankments are required in the general social interest for the establishment of facilities serving the recreation of citizens, local authorities competent for development of the recreation area must undertake measures to conclude agreements on the right of joint use, or, if necessary, on the transfer of ownership by exchange, purchase, or, in the case of publicly-owned property, on the change of legal title. If such agreements cannot be concluded and if the envisaged measures cannot be accomplished elsewhere at reasonable expense, responsible government authorities are entitled, in exceptional cases, to restrict or expropriate rights of use and ownership or legal title to such real property or parts of property.
(6) Measures injurious to the interests of society in the use of recreation areas for leisure and recreation purposes are prohibited. Exceptions must be approved by the responsible local authorities.

Section 15 (Health resorts and recreation centers)

(1) The development of health resorts including seaside spas and recreation centers is of particular importance for the promotion and restoration of the health and fitness of citizens. Local representative bodies and their executive authorities are responsible for overall management of health resorts and recreation centers in conformity with the hygienic and aesthetic purposes of such places.

(2) The responsible government authorities must ensure that natural medicinal and bioclimatic facilities are developed, used, and protected in accordance with social interests.

Section 16 (Coast protection)

(1) The coast, with its beaches, dunes, cliffs, and areas threatened by erosion, shall be protected to the greatest extent possible by means of biological and technological measures against natural transformation processes and, in particular, against losses of land.

(2) Responsible government authorities shall undertake the necessary measures in the framework of a plan of coast conservation and care, with the participation of the National Front, social organizations, and enterprises. Citizens and enterprises shall prevent damage to coastal protective installations, in the interests of the conservation of the coastal regions and the recreation of the working population.

ARTICLE III: LAND USE AND PROTECTION

Section 17 (Objectives)

Conservation, cultivation, improvement, and efficient social utilisation of land as an important basis for the development of environmental and living conditions of the citizens and as an irreplaceable major means of production for agriculture and forestry are permanent duties of government and economic authorities and enterprises in concert with the National Front, social organizations, and citizens.

Section 18 (Land use and duty of use)

(1) Land shall be used in conformity with ecological circumstances in such a way as to meet social requirements and to achieve the greatest possible benefit.

(2) Agricultural cooperatives, publicly-owned farms and other socialist enterprises in agriculture and forestry are responsible for the permanent optimum use of agricultural and forest land and of areas suitable for agricultural and forest use, unless these areas are being utilised in other ways. They shall ensure the planned conservation and extension of agricultural and forest areas, particularly areas of arable land, according to natural and economic circumstances.
Local councils are responsible for taking measures to ensure the utilisation of areas suitable for agricultural and forestry use which are not currently so used, to ensure the planned reclamation of damaged areas and their reallocation to social use.

Section 19 (Increasing soil fertility)

(1) Agricultural cooperatives, publicly-owned farms and other enterprises in agriculture and forestry and the competent government and economic authorities shall ensure the conservation and increase of soil fertility by means of appropriate measures based on the latest findings of scientific research and the best experience gained in soil cultivation. All resources and possibilities shall be utilised towards a fundamental and lasting improvement of the fertility of areas used for agriculture and forestry, or suitable for such use, and towards appropriate landscape management.

(2) Land improvement projects of agricultural cooperatives and publicly-owned farms, of related cooperative associations, and of other enterprises in agriculture and forestry must be in line with modern industrial production methods in agriculture. They shall be directed towards the decisive improvement of soil fertility and thus towards the further increase of agricultural and forest production and towards the general improvement of environmental qualities, taking into account possible effects on the natural environment. The responsible government and economic authorities shall ensure the implementation of comprehensive land improvement projects in particular.

Section 20 (Protection of soils against damage caused by wind and water)

(1) The responsible state and economic authorities, the agricultural production cooperatives, nationally-owned estates, and other agricultural and forestry enterprises shall ensure proper allocation of land to woodlands-farmlands, type of use and cultivation corresponding to ecological circumstances and environmental requirements, in order to protect the soil against wind and water erosion or parching, to increase soil fertility, and for landscape management.

(2) Planting trees outside forests, in particular around waters, roads and streets, shall be used wherever possible—taking traffic security into consideration—to preserve and increase soil fertility, to increase agricultural, forestry and wildlife production, as well as to improve the appearance and recreational value of the landscape and to promote nature conservation.

Section 21 (Protection of land used for agriculture and forestry against unjustified withdrawal for other purposes)

(1) Land used for purposes of agriculture and forestry may not be withdrawn from use or restricted in such use, save in justifiable exceptional cases.

(2) In cases where land used for agriculture or forestry has to be withdrawn—wholly or partly—for other purposes for socially justified rea-
sons, it shall be ensured that soil of inferior quality be given priority for such purposes. Valuable arable land shall be preserved in conformity with ecological circumstances.

(3) After termination of other uses, areas must be systematically reconditioned by the former users, so as to enable the area to be returned primarily to agricultural use. Areas, for which a return to agriculture was not envisaged or cannot be achieved, shall be made available for purposes of forestry, inland fishing, water supply, recreation or other uses, according to social requirements and economic prerequisites, through planned cooperation by present users with subsequent users and upon approval by government authorities responsible for the administration of agriculture.

**ARTICLE IV: FOREST USE AND PROTECTION**

*Section 22 (Objectives)*

Planned management, use, and cultivation of the forests as an important source of raw materials and as an important environmental factor for the health and recreation of citizens, and for the landscape balance constitute permanent tasks of government and economic authorities, government forestry enterprises, agricultural production cooperatives and other legitimate users.

*Section 23 (Development and protection of forests)*

(1) Responsible government and economic authorities, government forestry enterprises, agricultural cooperatives and other legitimate users shall ensure the planned conservation and enhancement of the productive and environmental functions of forests by means of forest cultivation and efficient use according to the latest results of scientific research. They shall ensure the most effective utilisation of wood as a raw material.

(2) Government forestry enterprises, agricultural cooperatives and other legitimate users shall cultivate high-yielding and ecologically suitable varieties of timber, and apply the most advanced forest protection measures towards the management and development of forests to ensure a maximum increase in wood supply and to improve their environmental functions.

(3) The responsible government and economic authorities and enterprises shall cooperate with the National Front, social organizations, and citizens to protect forests against fires, against reducing their multiple functions, against pollution, and against depletion of their flora and fauna.

**ARTICLE V: WATER USE AND PROTECTION**

*Section 24 (Objectives)*

Water, including groundwater, shall be efficiently used and protected as an irreplaceable basis of the social reproduction process, particularly for the supply of drinking water, industrial water, and irrigation of socialist agricultural enterprises, as well as for inland shipping and fishing. Conservation of its quality shall be ensured for the continuous development of the
national economy, for the promotion of the health and recreation of citizens, of physical culture, and of sports. Utilisation of water resources protection and cultivation of waters and their embankments, improvement of water quality, and efficient use of water constitute permanent duties of government and economic authorities and enterprises in concert with the National Front, social organizations, and citizens.

**Section 25 (Utilisation of water resources and water allocation)**

1. Responsible government authorities and enterprises shall ensure that water resources are conserved—particularly by means of a system of biological and technological measures including economic regulations—that their usable proportion is increased, improved in quality, and used efficiently.

2. In case of interference with the water economy of the landscape as a result of production measures by industry, agriculture, or other sectors, enterprises shall strive to exclude, to the extent possible, detrimental effects on the social use in terms of quantity and quality of water resources, or undertake other measures to safeguard the water supply.

3. To meet the water demands of the national economy, economical use of water, particularly by industry, shall be ensured by means of appropriate methods based on the highest scientific-technological standards.

**Section 26 (Water use and water quality conservation)**

1. Utilisation of waters by water extraction, inflow of water and effluents, and other measures influencing water quality, or by the raising or lowering of water levels shall proceed in accordance with social requirements. The competent government authorities shall regulate water use based on government permits, ensure the supervision of water uses, and cooperate with citizens and social organizations in implementing the functions of water protection.

2. To ensure water quality conservation, the intake of effluents may not exceed the established limitations of water pollution. These standards shall be variable, taking into consideration use requirements, self-cleansing capacities, the burdening of the water with polluting substances, and scientific-technological knowledge in accordance with social requirements.

3. The handling of substances liable to cause water pollution shall be effected in such a way as to exclude injuries to the health of citizens and damage to the national economy, and to avoid detrimental effects on the waters and their flora and fauna. Enterprises and citizens shall take all necessary precautions for this purpose.

4. The planned development and care of the waters shall preserve their environmental qualities, prevent the depletion of the flora and fauna of the waters and their shorelines and ensure their appropriate use.

**Section 27 (Measures for effluent treatment)**

1. Enterprises are obliged to treat effluents in accordance with the required standards to ensure water quality conservation. Effluent treatment
facilities shall be operated permanently by them with optimal cleansing effect. Enterprises not possessing treatment facilities required for ensuring the observance of standards shall plan and install such facilities. Appropriate forms of cooperation must be developed for the efficient implementation of effluent treatment.

(2) Government and economic authorities and enterprises shall ensure that the necessary facilities and establishments for the treatment of effluents are planned and provided in the course of initial construction, extension or reconstruction of enterprises, production plants and settlements, and in the introduction of new production techniques; such facilities and establishments shall be brought into operation with the required degree of effectiveness at the time of starting production or beginning with the use of dwellings and establishments.

(3) Measures for water quality conservation shall be planned, coordinated and implemented by government and economic authorities and enterprises so as to achieve a gradual improvement of water quality in accordance with the focal points of the respective regions.

(4) Enterprises shall promote the planned use of suitable effluents and of their usable contents for the national economy. Effluents shall be used for soil treatment in accordance with economic, territorial, and natural factors and the interests of hygiene, to ensure water quality conservation and the increase of yields in agriculture and forestry.

(5) Owners, holders of property rights and occupants of residential properties from which effluents do not flow into public sewage collection systems are obliged to dispose of their domestic effluents in such a way as to prevent any detriment to the requirements of hygiene and water quality.

Section 28 (Water protection areas)

To safeguard the water supply of the population, water source areas must be protected against pollution and depletion. For this purpose, district or county councils may designate areas as water protection areas which serve as sources of water supply for the population, stipulating limitations of use and prohibitions, according to the significance and extent of the supply region.

ARTICLE VI: AIR QUALITY CONSERVATION

Section 29 (Objectives)

The air, as a necessary condition of life and production in society and as a vital prerequisite to maintain the health of citizens and to improve their working and living conditions, shall, to the fullest possible extent, be conserved in its natural composition. Prevention of air pollution from dust, waste gases and odors constitutes a permanent duty of government and economic authorities and enterprises, in concert with the National Front, social organizations and citizens.
Section 30 (Protection of the atmosphere against air pollutants)

(1) To ensure air quality conservation, the competent authorities must fix standards varied in accordance with social requirements and in consideration of the state of scientific technological knowledge.

(2) Enterprises are responsible for preventing pollution of the air with air pollutants exceeding the required standards. They shall permanently operate facilities for air quality conservation at maximal efficiency.

(3) In the development, production, and operation of facilities and products, enterprises shall concentrate on excluding or, to the extent possible, reducing air pollution in the course of the production process or in the utilisation of products or installations. Where air pollutants result from the production process, in spite of the application of modern production methods and other measures, enterprises are obliged to plan, install, and operate the necessary facilities for air quality conservation according to required standards. The recovery of usable substances from dust and waste gases must be ensured.

(4) The competent government and economic authorities shall make planned provision for ensuring that pollution of the air by exhaust gases from motor vehicles does not exceed the required standards.

(5) The competent government authorities shall supervise the observance of required standards for air quality conservation.

Section 31

(1) Government and economic authorities and enterprises shall ensure that in the planning and implementation of investments, in the construction and reconstruction of residential areas, health resorts and recreation centers, in the extension and reconstruction of the communications network, and in the new and further development of means of transport, the necessary measures and requirements are included for air quality conservation, taking into consideration the selection of appropriate sites, so that the observance of the required standards can be ensured. The required facilities for air quality conservation shall be put into operation at the time of starting production or use of the establishment.

(2) Air quality conservation measures shall be planned, coordinated, and executed by government and economic authorities and enterprises in such a way as to guarantee a gradual improvement of air quality conditions, in accordance with regional target area priorities.

(3) Local representative bodies and their executive authorities shall provide for measures in their plans by which the damage caused by unavoidable air pollution is kept as low as possible in their regions, or by which other facilities are provided to compensate for any interference with working and living conditions. Agricultural cooperatives, publicly-owned farms and other agricultural and forestry enterprises shall reduce harmful effects of unavoidable air pollution from agricultural and forestry production by means of long-term adaptation measures.
Section 32 (Objectives)

(1) Further development of the national economy and the management of the socialist national environment call for towns and villages to effectively utilise or harmlessly dispose of waste products occurring as solid, liquid or gaseous residues of production processes or municipal waste or other liquid or gaseous harmful substances.

(2) Responsible government and economic authorities and enterprises shall cooperate with the National Front, social organizations and citizens to ensure that the living conditions of citizens, the landscape and the national economy are not impaired by the discharge and disorderly disposal of waste products. The disposal of waste products outside the required dumping sites is not permitted.

Section 33 (Measures for the re-use and harmless disposal of waste products)

(1) Responsible government and economic authorities and enterprises shall ensure that the necessary facilities for the efficient re-use and the harmless disposal of waste products are planned and provided, utilising suitable forms of cooperation. This applies in particular to the establishment, extension, and reconstruction of enterprises and production plants.

(2) Local representative bodies and their executive authorities are responsible for the planned collection, re-use, and orderly disposal of municipal waste and residues from industry and effluent treatment, in accordance with the requirements of safety, order, cleanliness, hygiene, and national economic effectiveness. In particular, the production of soil improvement agents shall be promoted in this context.

ARTICLE VIII: PROTECTION AGAINST NOISE

Section 34 (Objectives)

Protection against noise is an important prerequisite for the maintenance and promotion of the citizens’ health and the improvement of their working and living conditions. Noise abatement therefore constitutes a permanent duty of government, economic authorities, enterprises, and citizens, in concert with the National Front and social organizations.

Section 35 (Measures for protection against noise)

(1) For the protection of citizens against noise, responsible central government authorities shall fix standards varied according to social requirements and considering the state of scientific-technological knowledge.

(2) The responsible government and economic authorities and enterprises are obliged to ensure a planned gradual reduction of noise which originates within their areas of competence. They shall take noise abatement into account in conformity with the required standards in the planning and
implementation of investments, in the construction and reconstruction of residential areas, health resorts and recreation areas, in the extension and reconstruction of the communications network, and in the new and further development of production techniques and products including transport vehicles.

(3) Citizens shall behave in such a way as not to disturb socialist community life by avoidable noise.

Section 36 (Noise protection areas)

The representative bodies of towns and villages may designate as noise protection areas parts of their regions where objects and establishments are situated which require very quiet surroundings and special protection against noise.

ARTICLE IX: FINAL PROVISIONS

Section 37

Environmental measures must be planned and implemented in accordance with the requirements of national defense and internal security.

Section 38

(1) Local councils and other responsible government authorities are entitled to issue orders to enterprises and citizens who violate their obligations arising out of articles II-VIII, and to demand compensation for additional expenditure and damages caused by infringements of obligations.

(2) Administrative appeal is permissible against decisions of government authorities according to section 14(5) and against orders by the chairpersons of local councils and the heads of other responsible government authorities according to paragraph (1).

(3) Assertion of these rights in detail is governed by the applicable laws.

Section 39

The Council of Ministers shall issue legal provisions for the implementation of this Act.

Section 40

The applicable special laws on the protection and use of land and water, the laws on mining, health resorts, recreation centers, and medicinal facilities, on hygiene and public health and on primeval and early historic soil monuments remain unaffected.

Section 41

(1) The present Act shall enter into effect on June 1, 1970.

(2) (3) [Repeal and amendment of prior legislation].