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Involvement of the State of Palestine in MAP activities: current state of affairs

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Involvement of the State of Palestine in MAP activities: current state of affairs

Background

Involvement of the State of Palestine in MAP activities (MED POL and MSCD)

1. The paragraphs below summarize discussions on the Palestinian Authority involvement in MAP activities, held at COP 11 Meeting and subsequent COPs and Bureau Meetings. A full and detailed account of the meeting discussions is annexed to this document.
2. At COP 11, the Palestinian Authority requested the Meeting to participate in MAP work. The majority of Contracting Parties welcomed that proposal. The Meeting unanimously supported the request from the Palestinian Authority to participate in MAP activities in the region.
3. Following-up on COP 11 Decision, the 55th Bureau Meeting discussed the ways and means for the Palestinian Authority to get involved in MAP work, in light of the MAP Coordinator's report on his visit to the Palestinian Territories to explore possible areas of cooperation with the Palestinian Authority. On that occasion, the Bureau decided to endorse the request from the Palestinian Authority to take part in MAP activities. The Bureau also agreed that as a point of departure, the Palestinian Authority would be associated with the MED POL programme and MCS D activities. To that end, the Bureau invited the Secretariat to provide for the appropriate resources.
4. At the 56th Bureau Meeting, the Secretariat informed participants that, as instructed, the Palestinian Authority had been invited to participate in the MCS D 2000 meeting and that arrangements had been put in place for the MED POL Coordinator to liaise with the Palestinian Authority with the aim of elaborating a programme of cooperation.
5. Since 2001, the Palestinian Authority has been associated and actively participated in all MED POL activities. They have benefited financial support to attend MED POL meetings. Moreover with external funding, the Palestinian authority was supported to prepare and submit in 2005 and 2015 the National Action Plans to combat pollution from land based sources as per Article 5 of the Land Based Sources Protocol of the Barcelona Convention as well as to national load of pollutants.
6. As regards participation of the Palestinian Authority in MCS D meetings, through its Decision IG 22/17 on Reform of the Mediterranean Commission on Sustainable Development (MCS D) and Updated MCS D Constitutive Documents, COP 19 requested the Secretariat "to invite Palestine to attend future MCS D meetings as an observer".

Request from the State of Palestine

Further involvement of the State of Palestine in MAP

7. By their letter dated 21 March 2016, the Chairman of the Environment Quality Authority of the State of Palestine requested the MAP Coordinator for "directions to support the participation of Palestine in the Barcelona Convention conferences of parties and meetings". In response to that letter, the MAP Coordinator informed the Chairman that his request would be considered in light of the Rules of Procedure of the Barcelona Convention and brought to the attention of the President and of the Bureau, in order to formally respond. The Palestinian request was raised at the 82nd Bureau Meeting, and the Bureau requested the Secretariat to be updated on that matter.
8. To frame this subject matter at the 83rd Bureau meeting, the legal framework of the Barcelona Convention and the current status of the State of Palestine in the United Nations is presented below.

Legal Framework

Barcelona Convention and Rules of Procedure

9. Article 20 of the Barcelona Convention deals with observers. Paragraph 1 states that “Contracting Parties may decide to admit as observers at their meetings and conferences: (a) any State which is not a Contracting Party to the Convention; (...)”. According to paragraph 2, States with observer status “may participate in meetings without the right to vote and may present any information or report relevant to the objectives of the Convention”. Paragraph 3 states that the conditions for the admission and participation of observers, shall be established in the Rules of Procedure adopted by the Contracting Parties.

10. Rule 6 of the Rules of Procedure governs invitations to observers to meetings and conferences and provides that:

“The Executive Director shall, with the tacit agreement of two thirds of the Contracting Parties, invite to send representatives to observe any meeting or conference, any other State Member of the United Nations or member of its specialized agencies which so request and has direct concern in the protection of the Mediterranean Sea against pollution.

Such observers, upon invitation of the President and with the tacit consent of the meeting or the conference, may participate without vote in the deliberations of the meeting or of the conference in matters of direct concern to the States they represent”.

Status of the State of Palestine in United Nations

Non-Member Observer State status in the UN, Member State of the United Nations Educational, Scientific and Cultural Organization (UNESCO)

11. By Resolution A/RES/67/19 “Status of Palestine in the United Nations” of 29 November 2012, the UN General Assembly decided “to accord to Palestine non-member observer State status in the United Nations”. The Resolution upgrades Palestine’s official observer status from that of an Entity to a Non-Member State.

12. In Resolution A/RES/67/19 the General Assembly recognizes that “full membership is enjoyed by Palestine in the United Nations Educational, Scientific and Cultural Organization, the Economic and Social Commission for Western Asia, the Group of Asia-Pacific States, the League of Arab States, the Movement of Non-Aligned countries and the Organization of Islamic Cooperation and the Group of 77 and China”.

Action under Rule 6 of the Rules of Procedure

13. Article 20 of the Barcelona Convention and Rule 6 of the Rules of Procedure apply to the matter at hand. From the reading of these two provisions together follows that subject to the tacit agreement of two thirds of the Contracting Parties to the Barcelona Convention, States other than those already Parties to the Convention may be invited as observers to any meeting, ordinary or extraordinary of the Contracting Parties. Under the category of observers would fall State Members of the United Nations or of any of the specialized agencies.

14. The State of Palestine is not a Member State of the United Nations. However, it holds full membership in UNESCO, which is a specialized agency of the United Nations (<http://www.un.org/en/sections/about-un/funds-programmes-specialized-agencies-and-others/index.html>). It therefore follows that the State of Palestine may be invited as an observer to any meeting of the Contracting Parties, subject to the required tacit agreement of two thirds of the Contracting Parties to the Barcelona Convention.

EXCERPTS FROM COP AND BUREAU MEETINGS REPORTS

(1) Excerpt from COP 11 (Malta, 27-30 October 1999) Meeting Report

Source: UNEP (OCA)/MED IG.12/19

Agenda item 8: Proposed recommendations and programme budget for the 2000-2001 biennium and contributions by the Contracting Parties to the Mediterranean Trust Fund (MTF) for the 2000-2001 biennium

D. Cooperation and coordination with United Nations agencies, convention secretariats, IGOs and other institutions

161. Introducing the recommendations addressed to the Contracting Parties, the Coordinator recalled the rapid development over recent years in the volume of activities undertaken in coordination with the various intergovernmental institutions active in the region. He drew attention to the communication received from the Minister of Environmental Affairs of the Palestinian Authority expressing his wish to participate in UNEP/MAP activities in the region.

162. After many representatives had welcomed the proposal by the Palestinian Authority, **the Meeting unanimously supported the request for the Authority to participate in the activities of MAP in the region (emphasis added)**. The representative of Israel added that Israel and the Palestinian Authority already participated together in several MAP activities in Israel.

(2) Excerpt from 55th BUREAU (Malta, 9-10 May 2000) Meeting Report

Source: UNEP/BUR/ 55/4

Agenda item 3: Activities since the 11th Ordinary Meeting of the Contracting Parties (Malta, 27-30 October 1999): Progress Report by the Coordinator and discussion of ongoing activities

H. Cooperation

44. As a follow-up to the decision taken by the Contracting Parties Meeting in Malta to support the request of the Palestinian Authority to participate in MAP activities, the Coordinator reported on his recent visit to the Palestinian Territories, and more specifically to the Gaza Strip, in order to discuss the situation on the spot and the possibilities of cooperating with MAP with H.E. Dr. Yousef Abu Safieh, Minister of the Environment, and the competent departments. The Palestinian leadership was faced with serious environmental problems- particularly in the refugee camps- in the areas of rehabilitation, solid waste, water resources and coastal urbanisation. Moreover, tourism was starting to take off. The Palestinian Authority expressed its determination to tackle these problems, and for this purpose it had set up some sound structures staffed by highly qualified personnel, most of which enjoyed substantial bilateral or multilateral support, primarily and to varying degrees from European countries, and wanted to put the funds allotted them to the best possible use. The Palestinian Authority was already involved in the activities of REMPEC and the MEDSTAT project implemented under the aegis of EUROSTAT in order to build up the statistical capacity of the countries on the southern and eastern banks of the Mediterranean. In accordance with the decision of the Contracting Parties and the wishes of the Palestinian Authority one possibility could be to initially involve the latter in the MED POL programme and the work of the MCSD, and possibly also the activities funded by the French GEF, such as pre-investment studies for any pollution "hot spots" identified in the Palestinian Territories.

45. Concluding, the Coordinator proposed that the Bureau should decide that participation by the Palestinian Authority as well as that of Palestinian delegates and experts in the MED POL programme and the work of the MCSD should be funded by MAP.

46. The President, followed in turn by all the other Bureau members, congratulated the Coordinator on the outcome of his visit to the Palestinian Territories and his express will to implement the decision taken at the last meeting of the Contracting Parties with no further ado. It was generally felt that the time was ripe to bring the Palestinians into the Mediterranean family and to help them to solve the difficulties they were facing in the field of the environment and sustainable development. Some participants confirmed that they themselves had noted a high degree of professionalism amongst the Palestinian officials responsible for dealing with such issues.

47. Thus although in substance there was total agreement amongst the members of the Bureau on gradually bringing the Palestinian Authority into MAP activities, which would also be a factor of peace, two representatives expressed hesitations as to the form which this participation would take, particularly since it would have financial implications, albeit modest. It was the first time that a body aspiring to state-ship which was not a Party to the Convention, and was still not recognized as a state by the United Nations where it held observer status, would be associated with MAP, which raised a problem of law and could create a precedent likely to be invoked by other bodies in the region. Would it not be possible to get around this obstacle by requesting the Palestinian Authority to pay a symbolic voluntary contribution, for example, a sort of "visiting card" to join the "club"? Couldn't some sort of arrangement be found?

48. Another representative pointed out that they could not stand in for the Contracting Parties on major decisions; the Bureau should, however, use its full clout when it had a mandate. Point 162 of the report from the Malta meeting was absolutely explicit and spoke of unanimous support for the Palestinian Authority's request for participation: it was therefore just a matter of implementing it.

49. Summing up discussions on this point, the Coordinator stated that they were faced with a unique, one-off situation which should be dealt with in a one-off manner, using the legal basis provided by the decision of the Contracting Parties. There was a duty of solidarity. Moreover, the matter of MAP financial support put MAP's reputation on the line. The Euro-Mediterranean partnership and METAP had long been inviting the Palestinians to their meetings and some of their programmes: MAP should show itself to be flexible and to anticipate change.

50. One representative stated that since this financial-type decision had not been on the agenda he had no instructions from his government on this subject and would therefore have to report back to it before informing MAP of its position.

51. Having taken note of this statement, the President pointed out that the progress report clearly stated that the Coordinator would report to the Bureau on the outcome of his visit to the Palestinian Territories, made in the light of the decision taken by the Contracting Parties in Malta on participation of the Palestinian Authority in MAP activities. The President suggested that the representative's statement should be noted in the following recommendation which was adopted by all the other members of the Bureau.

Recommendation

In application of a unanimous decision by the 11th Ordinary Meeting of Contracting Parties in Malta, the Bureau decided to endorse the request from the Palestinian Authority to take part in MAP's activities. As a first stage, the Palestinian Authority would be associated with the MED POL programme and MCSD activities. The Secretariat would, within reason, assure the appropriate resources for this purpose. One delegate stated that he would need to report to his government and that he would inform MAP of his country's final position within two months (emphasis added).

(3) Excerpt from 56th BUREAU (Damascus, 31 October-1 November 2000) Meeting Report

Source: UNEP/BUR/ 56/3

Agenda item 3: Review of activities implemented since the last meeting of the Bureau of the Contracting Parties: progress report by the Coordinator and draft recommendations on specific activities

Cooperation

49. The Secretariat announced that, in accordance with the unanimous decision taken at the Eleventh ordinary meeting, reiterated at the last meeting of the Bureau, the Palestinian Authority had been invited to the next meeting of the MCSD, to be represented by its minister for the environment. Moreover, the MED POL Coordinator intended to travel to Gaza in order to set up a marine environment monitoring programme. The French GEF would finance the monitoring of SAP activities for the territory of the Palestinian Authority.

50. The representative of Cyprus informed the other members of the Bureau that when he had informed his government of the decision taken by the last meeting of the Bureau, they had raised no objections to the Palestinian Authority participating in MAP activities.

(4) Excerpt from COP 19 (Athens, 9-12 February 2016) Meeting Report

Source: UNEP(DEPI)/MED IG.22/28

Decision IG.22/17: Reform of the Mediterranean Commission on Sustainable Development (MCSD) and Updated MCSD Constitutive Documents

The 19th Meeting of the Contracting Parties to the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, hereinafter referred to as “the Barcelona Convention”,

Recalling the Extraordinary COP (Montpellier, France, July 1996) adopting the Terms of reference and Composition of the MCSD, and COP 10 (Tunis, Tunisia, November 1997) adopting the Rules of Procedure of the MCSD;

Recalling also Decision IG.17/5 “Governance Paper” of COP 15 (Almeria, Spain, January 2008); the Decision IG.20/13 of COP 17 (Paris, France, February 2012), and Decision IG.21/11 of COP 18 (Istanbul, Turkey, December 2013), which invited the Steering Committee of the MCSD to work on reforming the MCSD taking into account the need to sharpen the mandate of the MCSD, strengthen the role and contribution to integrate the environment in other public policies, and revise the constitutive documents of the MCSD accordingly;

Taking note of the report of the 16th Meeting of the MCSD (Marrakesh, Morocco, June 2015) in particular with respect to the reform of the MCSD which considered that there was a need for further Secretariat support to the work and the reform of the MCSD;

1. Adopts the Composition of the MCSD and its terms of reference as an advisory body to the Contracting Parties, as contained in Annex I to this Decision;
2. Approves the rules of procedure of the MCSD, as provided in Annex I to this Decision;
3. Requests the Secretariat to improve MCSD visibility notably at the United Nations High Level Political Forum and other relevant fora at global and regional level, relying on UNEP institutional capacities;
4. Requests the Secretariat to consider the need for at least one face to face meeting of the MCSD Steering Committee in the intersessional period between MCSD Meetings;

5. Encourages the members of the MCSD to support this process by hosting the meetings of the Steering Committee, to enable at least one face to face meeting in a biennium;
6. Decides on the new non-Contracting Party membership of the MCSD, as proposed by the MCSD and its Steering Committee, which add the parliamentarian group and therefore brings the total number of MCSD Members from 37 to 40: The Local Authorities Group: Association of Italian Local Agenda 21, MEDCITIES, the Mediterranean Commission of the United Cities and Local Governments (UCLG);
 - The Socio-economic Stakeholders Group: Arab Network for Environment and Development (RAED), Union of Mediterranean Confederations of Enterprises (UMCE), ANIMA Investment Network (Cooperation platform for economic development in the Mediterranean);
 - The Non-Governmental Organizations Group: World Wide Fund for Nature –Mediterranean Programme Office (WWF MedPO), Environnement et Développement au Maghreb (ENDA-Maghreb), Mediterranean Information Office for Environment Culture and Sustainable Development (MIO ECSDE);
 - The Scientific Community Group: Forum Euroméditerranée des Instituts de Sciences Economiques (FEMISE), Mediterranean Programme for International Environmental Law and Negotiation (MEPIELAN) and Mediterranean Sustainable Development Solutions Network (Med-SDSN); The Intergovernmental Organizations Group: International Union for the Conservation of Nature (IUCN), Union for the Mediterranean (UfM) Secretariat, Centre for Environment and Development for the Arab Region and Europe (CEDARE).
 - Parliamentarians: Parliamentary Assembly of the Union for the Mediterranean (PAUfM), Circle of Mediterranean Parliamentarians on Sustainable Development (COMPSUD), Parliamentary Assembly of the Mediterranean (PAM).
7. Requests the Secretariat, in accordance with Rule 5 paragraphs 1 and 3 to invite and involve as observers other UN bodies active in the Mediterranean, inter alia UNDP (RBAS and RBEC), UN-HABITAT, UNIDO, GFCM, FAO, UN ESCWA, UN WTO, UNECE, UNECA, UNESCO and the World Bank. Additionally, it should be considered to involve representatives of youth organizations to MCSD as observers;
8. **Requests the Secretariat to invite Palestine to attend future MCSD meetings as an observer (emphasis added);**
9. Invites Contracting Parties to participate on a voluntary basis in a simple MSSD peer review process as described in Annex II of this Decision and requests the Secretariat to support this process;
10. Encourages MCSD Members to be more involved between meetings, participating in projects and actions to follow-up on the MSSD implementation, sharing good practices, knowledge transfer, and peer review, and enhance the visibility of the MCSD.

(5) Excerpt from 82nd BUREAU (Athens, 19-20 April 2016) Meeting Report

Source: UNEP(DEPI)/MED BUR 82.7

VII. Agenda item 7: Any Other Matters

53. The Bureau had agreed on the participation of the European Union as an observer to the present meeting; if interested, the EU, as any other party, should submit a request to be invited to participate as an observer in the deliberations of any matter of particular concern to them at each following Bureau meeting.

54. The Secretariat informed the Bureau on the letter it received on 21 March 2016 from the Chairman of Environment Quality Authority regarding “support to the participation of

Palestine in the Barcelona Convention conferences of parties and meetings”. The Bureau requested the Secretariat to be updated on this issue (emphasis added).

55. The Coordinator reported on the questions being raised by media representatives and the concerns over the situation and the pollution of the Mediterranean due to the garbage crisis of Lebanon. The Bureau acknowledged that UNEP is already looking at ways to respond to the situation.

56. Some Bureau members raised concern over the issue of interpretation needs and costs at Bureau meetings, as no other language but English was used during the 82nd meeting. The possibility of providing interpretation upon explicit advance request of the members of the Bureau, as appropriate, was evoked.