

1. Introductory remarks

1. The 16th Meeting of the Contracting Parties held in Almeria, Spain, in January 2008 approved Decision IG 17/4 (Guidelines for the Determination of Liability and Compensation for Damages resulting from Pollution of the Marine Environment in the Mediterranean Sea Area)¹, implementing Art. 16 of the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean².

2. It also established a Working Group of legal and technical experts to facilitate and assess the implementation of the Guidelines and make proposals regarding the advisability of additional action.

3. In view of the meeting of the Working Group (Athens, 22-23 January 2009), a questionnaire was submitted to the Contracting Parties on the state of the art and implementation of the Guidelines in their national legislation. The questionnaire is oriented to the collection of information on the existing legal framework on liability and compensation for damage to the marine environment and its compatibility with the Guidelines, as well as to the needs of the Contracting Parties for capacity building, legal or technical assistance, training courses and workshops with a view to facilitating the implementation of these Guidelines. Some questions also refer to the possibility of establishing a Mediterranean Compensation Fund and the advisability of additional actions related to liability and compensation for environmental damage in the Mediterranean.

4. As at 27 December 2008, nine States have submitted answers to the questionnaire (Bosnia and Herzegovina, Croatia, Cyprus, France, Greece, Montenegro, Morocco, Syria and Turkey). Although the Contracting Parties, which have so far answered to the questionnaire, represent about 1/3 of the number of the Contracting Parties to the Barcelona Convention (22)³, they may be considered as sufficiently representative for the purpose of attempting an evaluation of the results of the questionnaire⁴.

5. With the assistance of regional legal experts, the Secretariat analysed the answers to the questionnaires transmitted by the Contracting Parties in order to provide the third meeting of the Working Group with a general picture on the status of the implementation of liability and compensation regimes in the Mediterranean at the national level, and, furthermore, to suggest priority directions to strengthen cooperation in view of facilitating the implementation of the Guidelines.

6. The answers to the questionnaire also provided food for thought and reflection for the Secretariat in view of preparing a short paper (section 3 of this document) on possible developments for strengthening the Mediterranean cooperation on liability and compensation and the respective Guidelines in the future.

7. A more detailed analysis of answers to each question of the questionnaire is presented as Annex 1 to this report.

¹ Hereinafter: the Guidelines.

² Hereinafter: the Barcelona Convention.

³ It should also be noted that in certain cases the Contracting Parties chose not to respond to some questions.

⁴ The terms "Contracting Party" or "Contracting Parties" refer hereunder (starting from para. 5 of this document) to the Contracting Parties that have responded to the questionnaire.

2. General remarks on the present state of implementation of the Guidelines

8. The Guidelines, that do not have a legally binding character *per se*, are intended to constitute the essential first step in the process of implementation of Art. 16 of the Barcelona Convention, according to which “the Contracting Parties undertake to cooperate in the formulation and adoption of appropriate rules and procedures for the determination of liability and compensation for damage resulting from pollution of the marine environment in the Mediterranean Sea Area”. This provision can be understood as envisaging a system of rules of a highly uniform or at least consistent character, thus avoiding substantive divergences between the liability and compensation regimes applying to different areas of the Mediterranean Sea. To be “appropriate”, the rules should also ensure an advanced level of environmental protection, in conformity with the object and purpose of the Barcelona Convention and its protocols.

9. In general, the Guidelines ensure both an advanced and balanced level of environmental protection. Thus, they require from the Contracting Parties to adopt provisions for the compensation not only of “traditional damage” (loss or life or damage to health, damage to property, loss of income), but also of “environmental damage” (a measurable adverse change in a natural or biological resource or measurable impairment of a natural or biological resource service). They provide an integrated approach to compensation measures for environmental damage, they set up strict liability as the basic liability standard, and they envisage the establishment of a compulsory insurance scheme. But the Guidelines take also into account the need to allow the development of the several economic activities, which take place in the sea (see, for instance, the guidelines on the channelling of liability, the exemptions of liability and the limitation of liability)

10. As expected, the answers to the questionnaire show that there are significant differences between the Contracting Parties as regards the implementation of the Guidelines in their present domestic legislation. The group of Contracting Parties that are members of the European Community, or those Parties that may in the future accede to it, have implemented in their legislation the advanced standards provided for in EC Directive 2004/35/EC of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage⁵. Other Contracting Parties follow their own standards, which may be inspired by, or built upon, those rules and standards contained in those global and regional environmental liability treaty regimes to which they are parties.

11. There is no need to enter here into details about the differences to how the Guidelines are presently reflected in the legislation of the Contracting Parties⁶. Suffice to mention that the variations in the definition of the polluter pays principle, which is anyhow generally accepted by the Contracting Parties, do not seem to set an insurmountable obstacle. But the fact that not all Contracting Parties give to the public access to information as regards environmental damage or the threat thereof, or ensure actions for compensation to the public, seems to suggest an important area where certain national legislations could be strengthened in the near future. Similar considerations may also apply to the fact that the legislation of only one Contracting Party requires that compensation for environmental damage be earmarked for interventions in the environmental field. Given the crucial importance of the elements concerning compensation of both traditional and environmental

⁵ However, the Directive applies only to certain kinds of environmental damage, namely environmental damage caused by the occupational activities listed in its Annex III and damage to protected species and natural habitats (see Art. 3, para. 1).

⁶ See the analysis of the answers made in Annex 1 to this document. In particular, the answers show that Guidelines 10, 11, 13, 16, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31 and 32 require action for their implementation by all or some Contracting Parties.

damage, harmonization in the definition of such elements within the different domestic legislations should be consistently pursued.

12. Last but not least, the marked differences in the participation in treaties relating to liability and compensation seem to pose a major obstacle to establishing a highly uniform or consistent Mediterranean regime. It is pertinent that this issue should be dealt with as effectively as possible, by setting priorities guided by the degree of relevance of these liability and compensation regimes with the Barcelona Convention and its protocols (e.g. IMO Liability and Compensation Conventions, Basel Protocol).

13. In the case of practical constraints, most Contracting Parties point out the lack of legal implementation measures, the lack of institutional capacity, the lack of technical capacity and the lack of financial resources. An important governance deficit is also identified by the answers provided by most Contracting Parties pointing, for instance, to the inadequate participation of the civil society in the introduction of elements of the compensation for damage and damage assessment into their domestic legislation.

14. As a conclusion the main directions for facilitating the implementation of the Guidelines by the Contracting Parties would be:

- a) Establishing a complete legal domestic framework on liability and compensation approximating as much as possible the Guidelines;
- b) Harmonizing to the extent possible by all Contracting Parties the key definitions provided for in the Guidelines at Mediterranean level;
- c) Encouraging all Contracting Parties to ratify the international conventions setting forth environmental liability and compensation regimes listed in Annex to the Guidelines;
- d) Enhancing scientific knowledge and technical capabilities at the national level in order for the Contracting Parties to be in a position to assess the extent of environmental damage;
- e) Introducing appropriate measures and actions to enhance public participation and involvement;
- f) Undertaking capacity building activities at the regional and sub regional level on key issues.

3. Possible future developments

15. It is also within the mandate of the Working Group to “make proposals regarding the advisability of additional action”. Two kinds of actions may be distinguished in this respect.

16. First, short term practical actions at the national and regional level to facilitate the implementation of the Guidelines could be taken in the forms suggested by the Contracting Parties (training of personnel on the contents of the existing international standards for liability and compensation; strengthening of national institutions which can provide and assess the relevant technical information to determine liability and compensation; informing the general public on the contents of the Guidelines and the actions for compensation; strengthening of national law enforcement capacities). Appropriate capacity building tools, such as the preparation of facilitating materials and the organization of workshops and training courses, could also be put in place.

17. The second kind of actions relate to the future establishment of a compulsory insurance regime (Guideline 28) and a Mediterranean Compensation Fund (Guideline 29). Both developments are intended by the Guidelines as an option, which should be discussed by the Contracting Parties and should lead to corresponding action only if they deem it appropriate. On the one hand, it appears that compulsory insurance schemes in the cases mentioned by the Guidelines are generally not envisaged by the Contracting Parties. On the

other hand, the answers provided by the Contracting Parties suggest that there is the possibility to consider the establishment of a Mediterranean Compensation Fund. But studies and further analysis are required in order to determine the main aspects of the Fund, such as the subjects that should contribute to it, the body that should manage and administer it and the feasibility of the whole project. This result needs further elaboration, as the establishment of an international fund is usually linked to a compulsory insurance scheme for the operator (and to a limitation of the operator's liability as well).

18. However, before entering into a discussion about the establishment of a compulsory insurance scheme and a Mediterranean Compensation Fund, the Contracting Parties should consider some preliminary questions which need to be addressed and, if possible, solved. The subject of liability and compensation for damage affecting the marine environment is presently regulated not only at the domestic level, but also at the international level by a number of treaties which apply to certain activities and which, depending on the particular case, have received more or less support by States. These treaties, which are listed in the Appendix to the Guidelines, are not prejudiced by Guideline 5, "bearing in mind the need to ensure their effective implementation in the Mediterranean Sea Area".

19. As a first step, Contracting Parties could identify what are the treaties, which are important for the establishment of a consistent regime of liability and compensation in the Mediterranean Sea Area, and they should take action to become contracting parties to them as soon as possible⁷. The answers to the questionnaire show that broader participation is needed.

20. As a second step, Contracting Parties could identify what are the activities, which are not covered by the treaties in force and are likely to cause pollution and degradation of the Mediterranean marine environment (for example, land-based discharges, off-shore exploitation of mineral resources, fishing, aquaculture, activities producing underwater noise, ship dismantling, CO₂ sequestration in the seabed, etc.).

21. As a third step, Contracting Parties could consider whether it is appropriate to apply to all or some of the activities in question an advanced liability and compensation regime, such as the regime provided for in the Guidelines, and whether the establishment of a compulsory insurance scheme and a Mediterranean Compensation Fund should be included in this regime.

22. As a fourth step, Contracting Parties could consider what would be the most appropriate form for setting out a liability and compensation regime in the Mediterranean Sea Area (a new protocol to the Barcelona Convention? a model legislation? other forms?).

23. It goes without saying that the course of action indicated above, based on a series of consequent steps on the regional level, should not prevent the Contracting Parties from introducing single aspects of the Guidelines into their domestic legislation, whenever they deem appropriate to do so.

⁷ Parties could also consider the fact that some treaty regimes are less advanced than the Guidelines. For example, the present treaty regime on civil liability for oil pollution damage does not cover either the "diminution in value of natural or biological resources pending restoration" or the "compensation by equivalent if the impaired environment cannot return to its previous condition" which are both listed by Guideline 10 among the elements of environmental damage.

ANNEX 1

Analysis of the answers to the questionnaire

Part 1 - State of the art

Guideline 2 (Purpose of the Guidelines)

Question 1.1

Is the “Polluter Pays Principle” (PPP) adopted and enacted in the Party’s legislation?

The PPP has been adopted and enacted in the legislation of eight Contracting Parties. In the remaining case, the State is in process of transposing in its legislation EC Directive 2004/35/EC, with the view to provide for the furtherance of the PPP principle.

An analysis of the definitions of the PPP provided by the nine Contracting Parties shows that some differences exist. For instance, depending on the countries, the PPP is understood as the “identification of the polluter” or as “the obligation of the polluter to compensate damages and bear the costs arising from the latter in case of pollution or environmental damage” or as “the obligation for the polluter to realize and manage economic and social projects and to deliver services” or as “the obligation of the polluter to meet the costs of pollution control and prevention measures” or as “the obligation of the polluter to prevent, limit and eliminate the environmental pollution and improving the environment, including costs of damage assessment”.

Question 1.2

Implementation constraints related to PPP application

The majority of the Contracting Parties point out the existence of difficulties related to the lack of institutional capacity. Lack of legal implementation measures, difficult polluter identification and lack of technical capacity are also mentioned by six Contracting Parties. One Contracting Party refers to the lack of horizontal institutional coordination and the lack of an integrated approach to manage marine and coastal environmental issues.

Guideline 5 (Relationship with other regimes)

Question 2.1

Participation by the Party in treaties relating to liability and compensation regimes

There are significant differences from one Contracting Party to the other as regards the participation to the twenty-three relevant instruments mentioned in the questionnaire. In fact, there is not one single instrument that has been ratified by all the nine Contracting Parties that have responded to the questionnaire.

Question 2.2

Participation constraints are related to ...

Contracting Parties identify participation constraints mainly as regards lack of legal or administrative implementation measures, lack of institutional capacity and to the lack of financial resources.

Question 3

Has the Party adopted any legislation to implement the EC Directive 2004/35/EC?

Out of the three EC Member States that have responded to the questionnaire, two have already implemented the EC directive through the adoption of domestic legislation. In the third EC Member State, the implementation of the directive is in process. Two Contracting Parties that are not EC Member States, but may in the future accede to the EC, point out that they have already adopted legislation based on the EC directive.

On the optional question concerning the description of the legislation transposing the EC Directive 2004/35/EC into the national legal order, one EC Member State submitted information.

Guidelines 8, 9 (Damage)

Question 4.1

Legislation regulating environmental damage

Four Contracting Parties provide information on the adoption of legislation regulating environmental damage. The definitions, all contained in recently adopted instruments, basically seem to include the same elements and to cover the same aspects and types of damage. In one case, the drafting of such legislation is in process.

Question 4.2

Constraints related to the adoption of legislation and its implementation

States that have not adopted legislation regulating environmental damage refer, as constraints, to inadequate legal implementation measures, lack of institutional capacity and lack of technical capacity. These constraints are also referred to by States that have adopted relevant legislation. In one case, lack of good governance is mentioned.

Guidelines 10, 11, 13, 14, 15 (Compensation for damage and damage assessment)

Question 5.1

Environmental damage in the Party's legislation includes the following elements ...

The elements included in the definition of environmental damage vary significantly from country to country. The element of "costs of activities and studies to assess the damage" is mentioned by six Contracting Parties. The element of "costs of the preventive measures including measures to prevent a threat of damage or an aggravation of damage" is mentioned by five Contracting Parties. The element of "cost of measures undertaken to clean up, restore and reinstate the impaired environment, including the cost of monitoring and control of the effectiveness of such measures" is mentioned by eight Contracting Parties. The element of "diminution in value of natural or biological resources pending restoration" is mentioned by five Contracting Parties. The element of "compensation by equivalent if the impaired environment cannot return to its previous condition" is mentioned by five Contracting Parties. The legislation of three Contracting Parties covers all the five relevant elements.

Question 5.2

Implementation constraints in introducing any of the above elements of compensation in the Party's legislation are related to ...

Contracting Parties mainly refer to lack of specialized institutions, lack of reliability of data, lack of best available technology and inadequate participation by the civil society. Lack of trained personnel is also referred to by some Contracting Parties.

Question 6

Does the Party's legislation provide that the competent authority can decide that no further reinstatement measures should be taken if their costs would be disproportionate to the consequent environmental benefits?

Three Contracting Parties answer in the affirmative.

Question 7

Does the Party's legislation provide for compensation for diminution in value?

Five Contracting Parties declare that their legislation provides for compensation for diminution in value. Three of such Contracting Parties declare to apply the criteria for "compensatory remediation" provided for in Annex II of the already mentioned EC Directive.

Question 8

Does the Party's legislation provide for compensation by equivalents?

The legislations of four Contracting Parties provide for compensation by equivalents in the form of the "compensatory remediation" (*rectius*: "complementary remediation") set forth for in Annex II of the already mentioned EU Directive.

Question 9

Does the Party's legislation allow for the use of non-economic values, such as spiritual or cultural values, in the determination of compensation for diminution in value or compensation by equivalent?

No Contracting Party's legislation provides for the use of non-economic values in the determination of compensation.

Question 10

Does the Party's legislation provide for thresholds of significance to compensate environmental damage?

One Contracting Party's legislation provides for thresholds of significance to compensate environmental damage.

Question 11.1

What are the sources of information available to the Party on the previous condition of the environment (so-called baseline condition) in order to assess the extent of environmental damage?

Three Contracting Parties refer to the National Baseline Budgets of Pollution Emission and Releases and to the Biodiversity Inventory. Others refer to periodical monitoring or to pollution emissions registers or to data on town planning zoning, such as protected areas. Other Contracting Parties do not mention any source of information.

Question 11.2

Implementation constraints in getting the information not provided by the sources referred to in Guideline 11

Contracting Parties mainly refer, as constraints, to lack of reliability of data, lack of best available technology and inadequate participation by civil society. Some Contracting Parties also refer to lack of specialized institutions and of trained personnel.

Question 12.1

Does the Party's legislation provide that compensation for environmental damage is earmarked for interventions in the environmental field?

The legislation of only one Contracting Party provides for compensation for environmental damage earmarked for interventions in the environmental field.

Question 12.2

Does the Party's legislation cover all the four elements of traditional damage as referred to in Guideline 14?

The legislations of three Contracting Parties cover all the four elements of traditional damage as referred to in Guideline 14.

Question 12.3

Does the Party's legislation provide for joint and several liability in case of pollution of a diffuse character?

Only one Contracting Party declares that its legislation provides for joint and several liability in case of pollution of a diffuse character.

Guidelines 16, 17, 18 (Preventive and remedial measures; channelling of liability)

Question 13

Under the Party's legislation, is the operator bound to take the preventive and remedial measures referred to in Guideline 10 (b) and (c)?

Six Contracting Parties declare that their legislation provides that the operator is bound to take preventive and remedial measures.

Question 14

How does the Party's legislation regulate the taking of the above preventive or remedial measures, when the operator fails to take such measures or cannot be identified or is not liable under the existing legislation?

In four cases, the Contracting Parties take both preventive and remedial measures and, where appropriate, recover the cost from the operator. One Contracting Party indicates that those measures are not taken by the Contracting Party, but it does not provide any further information on the matter. One Contracting Party states that it takes only preventive measures.

Question 15

Under the Party's legislation, is liability imposed also on subjects different from the operator, as defined in Guideline 18?

One Contracting Party states that its legislation imposes liability also on subjects different from the operator, namely the captain of the ship, the owner of the hazardous cargo or of the offshore installation and the owners of any activity in general.

Question 16

Does the Party's legislation provide for a definition of operator different from that provided in Guideline 18?

Five Contracting Parties state that their domestic legislation provides for a definition of "operator" which differs from the one provided in Guideline 18.

Guidelines 19, 20, 21, 22 (Standards of liability)**Question 17**

Does the Party's legislation include provisions related to ...?

The legislation of four Contracting Parties provides for general civil extra-contractual liability, general administrative liability of State organs and environmental liability. The legislation of three Contracting Parties provides only for environmental liability. The legislation of one Contracting Party does not provide for any specific liability.

Question 18

What is the basis standard of liability established under the Party's legislation for...?

In three cases, the standard of liability for environmental damage, as well as for traditional damage, is a combination of strict and fault liability. Two Contracting Parties apply strict liability for environmental damage and a combination of strict and fault liability for traditional damage. One Contracting Party applies strict liability for environmental damage and does not provide any further information on traditional damage.

Question 19

Is absolute liability for either environmental or traditional damage applied by the Party's legislation?

Six States do not apply absolute liability in any case, while one State applies it for environmental damage.

Question 20

Does the Party's legislation ...?

Two Contracting Parties apply fault based liability in cases of environmental damage resulting from activities not covered by any of the Protocols to the Barcelona Convention. Four Contracting Parties provide for apportionment of liability in case of multi-party causation of damage. Three Contracting Parties provide for joint and several liability in case of multi-party causation of damage. One Contracting Party states that it uses the definition of "incident" provided for in Guideline 22.

Guidelines 23, 24, 25 (Exemptions of liability and limitations of liability)

Question 21

What are the exemptions of liability provided for under the Party's legislation?

Eight Contracting Parties apply exemptions of liability, even if on rather different grounds. "Force majeure" is an exemption in seven countries; "acts of war, hostilities, civil war and insurrection" in five countries; "acts of terrorism" in three countries; "orders or compulsory measures of public authorities" in six countries. Some other exemption causes, such as mandatory order of a public authority, are mentioned by certain Contracting Parties.

Question 22

Does the Party's legislation, including the treaties in force for the Party, provide for any financial limits of liability?

Financial limits of liability are provided for by four legislations. They apply to different activities in the various countries, such as navigation and ultra-hazardous activities. There is no regular re-evaluation of the financial limits.

Guidelines 26, 27 (Time limits)

Question 23

Does the Party's legislation apply a two-tier system of shorter and longer periods to commence proceedings for compensation?

A two-tier system of shorter and longer periods to commence proceedings for compensation is applied by two Contracting Parties. The periods are different (3 years/5 years in one case and 5 years/10 years in the other). One Contracting Party applies a period of 30 years from the moment of the occurrence of the damage.

Question 24

From when does the statute of limitation run?

In the cases of two Contracting Parties, the statute of limitation starts from different moments, that is either the moment when the damage was discovered or the moment was the damage occurred.

Guideline 28 (Financial and security scheme)

Question 25

Does the Party's legislation require that the operator of activities covered by these Guidelines participates in a financial security scheme or financial guarantee to cover liability?

Three Contracting Parties require operators to participate in a financial security scheme or provide an insurance or financial guarantee to cover liability. In one case, the Contracting Party requires both of them.

Question 26

How does the Party envisage the possibility of establishing a compulsory insurance regime in the cases mentioned by this Guideline?

One Contracting Party states that an insurance security regime will be established by the year 2010 for the activities listed in Annex III to EC Directive 2004/35. The other Contracting Parties either do not envisage such a regime or do not respond to the question.

Question 27

Have the operators voluntarily established financial and security schemes?

Only in one case the operators have voluntarily established a financial and security scheme.

Question 28

Are financial and security schemes available on the market to cover environmental liability?

There are no financial or security schemes available on the market to cover environmental liability.

Guideline 30 (Access to information)**Question 29**

Are the competent authorities of the Party bound by any specific procedure to give public access to information as regards environmental damage or the threat thereof, as well as measures taken to receive compensation for it?

In six Contracting Parties the competent authorities are bound to give public access to information as regards environmental damage or the threat thereof, as well as on measures taken to receive compensation for it. In four cases there are specific time limits to reply to requests for information and in three cases the legislation provides for specific grounds to refuse information.

Guideline 31 (Action for compensation)**Question 30**

Under the Party's legislation, action for compensation for environmental damage can be brought by...

There are differences between the nine Contracting Parties as to the actors entitled to bring an action for compensation. While the State is always entitled to do so, regimes vary as regards the position of other public entities, civil society organizations and private persons.

Question 31

If civil society organizations or private persons cannot bring an action, can they intervene in the proceedings or present amicus curiae briefs?

In two countries civil society organizations and private persons can intervene in proceedings or present *amici curiae* briefs.

Part 2 – General questions and needs assessment**Question 32**

Does the party have institutions, which deal with the issues of liability and compensation for damage resulting from pollution of the marine environment?

Six Contracting Parties have institutions, which deal with the issues of liability and compensation for environmental damage.

Question 33

Does the Party have autonomous institutions on the subject of liability and compensation for damage resulting from pollution of the marine environment?

Only one Contracting Party has an autonomous institution with specific competences in the field of damage resulting from pollution of the marine environment.

Question 34

Does the Party have technical institutions (e.g. research institutes or laboratories) to determine the environmental and traditional damage resulting from pollution of the marine environment?

Four Contracting Parties state to have technical institutions to determine the environmental and traditional damage resulting from pollution of the marine environment.

Question 35

Were your authorities confronted with any incident which provoked a substantial pollution of the marine environment over the past five years?

None of the Contracting Parties has been confronted with an incident which provoked a substantive pollution of the marine environment over the past five years.

Question 36

Please briefly describe the incident, etc.

No answers, given the negative answers to question 35.

Question 37

Do you consider that the measures undertaken were sufficient?

No answers, given the negative answers to question 35.

Question 38

What measures would you consider the most appropriate or necessary in order to facilitate the implementation of the Guidelines?

Contracting Parties point out a number of different measures, which seem to correspond to the specific situation of each responding country. In general, eight Contracting Parties agree on the need for:

- training their competent personnel on the contents of the existing international standards, the Guidelines and the actions for compensation;
- strengthening national institutions which can provide and assess the relevant technical information to determine liability and compensation;
- informing the general public on the contents of the Guidelines and the actions for compensation; and
- strengthening their law enforcement capacities.

As regards capacity building tools, the majority of Contracting Parties suggest the elaboration of facilitating materials and the organization of regional or sub-regional workshops and training courses.

Part 3 – Next steps**Guideline 29 (Mediterranean Compensation Fund)**

Six Contracting Parties express their support to the establishment of a Mediterranean Compensation Fund. One points out that the Fund should be compatible with other international funds. One Contracting Party finds that it is too early to establish such a Fund.

There is no uniformity of views on the subjects that should contribute to the Fund. For some Contracting Parties contributions should be paid by the private operators concerned and for some others by both the operators and the member States.

There are also different views as regards the body that should administer and manage the Fund (bodies composed of founder parties or REMPEC or a new secretariat or a new committee or an assembly composed of all the Members of the MAP and Barcelona Convention, which would also be entitled to form committees or working groups that deal with specific questions).

All nine Contracting Parties agree that the main obstacles for the establishment of the Fund would be financial. Some Contracting Parties also refer to legal and institutional obstacles.

Other steps

The Contracting Parties suggest a number of possible measures to enhance access and knowledge to the Guidelines by all stakeholders. There seem to be a general agreement on the desirability of the organization of local, regional, sub-regional and international workshops, also in order to exchange practical experiences. The issuing of publications and leaflets is also suggested.

There is disagreement on the need to apply the Mediterranean liability and compensation regime also to activities not specifically regulated by the Barcelona Convention and its Protocols. Five Contracting Parties are against this option while four are in favour. Among those in favour, there are different views as regards the activities to which the regime should extend, even if fishing is mentioned by most of them. Different views are also expressed on the possibility to apply the Mediterranean liability and compensation regime to activities covered by other liability and compensation treaties and to Parties which have not yet ratified such other treaties: three Contracting Parties are against while five are in favour.

Finally, as regards the possibility of establishing a compulsory insurance regime for the Mediterranean (see Guideline 28), two Contracting Parties support the option, two are open to take it into consideration and one finds it too early to think of such possibility.