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MEDITERRANEAN ACTION PLAN

Fifth Ordinary Meeting of the Contracting
Parties to the Convention for the Protection
of the Mediterranean Sea against pollution
and its related protocols

Athens, 7-11 September 1987

PROGRESS REPORT ON THE PREPARATION OF A DRAFT PROTOCOL
FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION
RESULTING FROM EXPLORATION AND EXPLOITATION OF THE
CONTINENTAL SHELF AND THE SEA-BED AND ITS SUBSOIL

UNEP

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1. The Contracting Parties at their Fourth Ordinary Meeting (Genoa, September 1985) requested the secretariat to initiate preparation for a Protocol on the protection of the Mediterranean Sea against pollution from off-shore exploration and exploitation (UNEP/IG.56/5, Recommendation A.6).
2. The draft "Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Continental Shelf and the Sea-bed and its Subsoil" (draft Protocol) has been prepared by the secretariat of the International Juridical Organization (IJO) to implement the provisions of article 7 of the Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona Convention), according to the contract between the United Nations Environment Programme (UNEP)/Mediterranean Action Plan (MAP) and the IJO.
3. In 1978, IJO promoted and held a seminar on offshore exploration and exploitation, treating in an interdisciplinary approach both the legal and technical aspects involved, for which numerous studies were prepared (see attached bibliography in annex). These studies were presented at the Meeting of Experts on the Legal Aspects of Pollution resulting from Exploration and Exploitation of the Continental Shelf and the Sea-bed and its Subsoil in the Mediterranean, Rome 1978 (IJO/UNEP Joint Project No. FP/1400-77-02 (1352)). Since then, IJO has closely followed the progress of the Contracting Parties and UNEP/MAP for the protection of the marine and coastal environment of the Mediterranean region.
4. In September 1986, UNEP convened in Athens a technical Consultation on Pollution resulting from Exploration and Exploitation of the Continental Shelf and the Sea-bed and its Subsoil. At the meeting a guide to exploration for and exploitation of natural oil and gas resources of the Mediterranean Sea-bed was considered (UNEP/IG.74/Inf.5). It was largely the information provided in the report of the Athens Meeting (UNEP/WG.155/1) that formed the basis of the draft Protocol.
5. In addition, a wide range of publications concerning the subject matter has been consulted in the elaboration of the draft Protocol. A list of the principal texts employed has been set out in the bibliography attached hereto. The draft Protocol was written in the English language, which was adopted as the working language. A subsequent translation of the draft Protocol into the French language was also made.
6. The draft Protocol was prepared, as far as possible, in accordance with the wishes of the Contracting Parties, as expressed in the Mediterranean Action Plan, the Barcelona Convention, its Protocols and the different meetings of the Contracting Parties.
7. The main consideration, throughout the draft Protocol, has been to project the great concern of the coastal States to protect and improve the Mediterranean environment through preventing, abating, combating and controlling pollution, which, in this draft Protocol, is limited to pollution resulting from exploration and exploitation of the continental shelf and the sea-bed and its subsoil. At the same time, the importance which the resources found on the sea-bed and its subsoil represent for all the coastal States, both the producing countries and the consuming countries, has not been ignored. The IJO has approached those two issues from a realistic viewpoint in order to maintain a balance between the concerns, interests and possibilities of the environment and the operators. Therefore, the strict and sound management of the environment in accordance with the technological development has been chosen.

8. During the drafting process, the differences between the legal systems and political systems and philosophies of the coastal States has also been taken into account.

9. Another major concern has been the differences in the development of the coastal States, the result of which is reflected in the recommendatory rather than mandatory provisions for the States, e.g., the national contingency plan. In the section on co-operation, special provisions are included to enhance the scientific and technical proficiency of the nationals of developing countries.

10. Two approaches were available for the actual drafting of the Protocol: one possibility was the ad hoc interpellation of experts on specific issues with the subsequent compilation and co-ordination of the information by the IJO secretariat into a draft Protocol, a second approach was the initial preparation of a working document by the legal staff of the IJO secretariat followed by discussions in a working group consisting of the legal staff of the IJO secretariat and legal experts from different countries.

11. It was decided to follow the second approach, as this permitted the discussion of each successive draft during the various meetings of the working group, with its comments being included in subsequent drafts of the Protocol. In this way, a more homogeneous text, and in particular, a more critical text, through co-operation with legal experts from diverse countries having different legal systems, could be prepared.

12. Apart from working with legal experts, the IJO consulted technical experts, international organizations and centres of study, e.g., International Maritime Organization (IMO), AGIP, The Oil Industry International Exploration and Production Forum (E&P Forum), Petroconsultant, universities, insurance companies, etc. on an ad hoc basis concerning the technical issues.

13. From a structural point of view, the draft Protocol is divided into six sections (comprising a total of thirty articles), seven annexes and one appendix:

(a) Sections:

- I - General provisions
- II - Authorization system
- III - Wastes and harmful or noxious substances and materials
- IV - Safeguards
- V - Co-operation
- VI - Final provisions

(b) Annexes:

- I - Harmful or noxious substances and materials whose disposal is prohibited
- II - Harmful or noxious substances and materials whose disposal is subject to a special permit
- III - Factors to be considered for the issue of the permits
- IV - Environmental impact assessment
- V - Oil and oily mixtures and drilling fluids
- VI - Safety measures
- VII - Contingency plan

(c) Appendix: List of Oils

14. The division of the draft Protocol into articles alone, as was the case for the Barcelona Convention and its four Protocols, was not followed. It was decided to depart from this structure because of the different major topics discussed in the text, which allow a clear division into sections, thus bringing the relevant articles together under sub-headings. The different sections and articles have titles in order to reflect clearly the subject treated therein.

15. Another difference from the other Protocols is the rather large number of annexes. The use of annexes was adopted for the technical and practical matters for two reasons: to have the main body of the text read in a smooth, fluent manner and to avoid the problem of frequent amendments of the main body of the text. The subjects dealt with in the annexes might demand amendments on several occasions in order to be congruent with the progress of technology.

16. Observations

(a) Liability and compensation (section V, article 26):

The article on liability and compensation contains an obligation for the operator to obtain sufficient insurance or other financial guarantee according to the specific requirements of the controlling State. Whereas article 8, paragraph 1 of the Convention on Civil Liability for Oil Pollution Damage resulting from Exploration and Exploitation of Sea-bed Mineral Resources (London, 1 May 1977) specifies the minimum amount of insurance that should be held, it was felt that such a provision should not be included because neither the international organizations nor the insurance companies consulted by the IJO were able to give a realistic minimum figure.

It was clear from the discussions that a specific study regarding this subject would be necessary, taking into account:

- the particular hydrographic and morphological system pertaining to the Mediterranean Sea;
- the currents and tidal movements of the Mediterranean Sea;
- the areas where there is a concentration of exploration and exploitation activities;
- the highly sensitive areas;
- the density of population near the coast;
- the areas of high value from a touristic, cultural and natural beauty point of view.

Consequently, the minimum level of such insurance should be much higher than the figure (35 million Special Drawing Rights) established for the North Sea, where the situation is rather different.

(b) Annex I and II to the Protocol

The compilation of the two annexes regarding prohibited substances and substances subject to a special permit require a study by scientists rather than lawyers. However, the working group was of the opinion that such lists should be included in the Protocol, which is the reason why space is provided for these annexes.

The IJO secretariat has consulted scientists, universities, operators and petroleum companies in an attempt to complete the annexes but, so far, without result. None of the persons or companies contacted could provide such lists. The scientists need to have a complete list of the different chemicals used during the operations in order to be able to prepare complete and sound lists according to the toxicity of substances. The operator and, in particular, the petroleum companies encounter difficulties in producing a list of the chemicals used because even they do not know the exact composition of some products where such information is covered by industrial secrecy. In order to solve this problem practically, the IJO secretariat is currently studying the United Kingdom's legislation concerning these chemicals, which appears to be both complete and accepted by the operators, in order to provide a sound basis for discussing this matter.

17. In conclusion, the approach adopted for the drafting process can be summarized as follows:

- the preparation of the draft Protocol was realised with the assistance of experienced and highly professional legal experts;
- the vast number of consulted publications, together with the qualifications and experience of the different members of the working group and the latest technical information, enabled IJO to prepare a sound text;
- the various socio-economic aspects and the particular political situation in the Mediterranean were taken into account;
- the fact that the Mediterranean Sea basin, from an environmental point of view, is both autonomous and particular whilst at the same time having similarities with other sea basins, was taken into account;
- an attempt has been made to produce a text that is both fluent and easy to consult and read, whilst being as complete and detailed as possible.

18. The text of the draft Protocol appears in annex II to the present report.

Annex I

Bibliography of the principal texts and documents consulted

1. Legal texts

a. The Barcelona Convention

- Convention for the Protection of the Mediterranean Sea against Pollution, Barcelona, 16 February 1976.
- Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft, Barcelona, 16 February 1976.
- Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in cases of Emergency, Barcelona, 16 February 1976.
- Protocol for the Protection of the Mediterranean Sea against Pollution from Land-based Sources, Athens, 17 May 1980.
- Protocol concerning Mediterranean Specially Protected Areas, Geneva, 3 April 1982.
- Mediterranean Action Plan, Barcelona, 1975, and the Final Act of the Conference of Plenipotentiaries of the coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea, Barcelona, 16 February 1976.

b. Other International Treaties and Conventions

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- Vienna Convention on the Law of International Treaties, Vienna, 23 May 1969,
- Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil, Bonn, 9 June 1969.
- International Convention on Civil Liability for Oil Pollution damage, Brussels, 29 November 1969.
- International Convention for the Prevention of Pollution from Ships, London, 2 November 1973.
- Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, London, 17 February 1978.
- Convention for the Prevention of Marine Pollution from Land-based Sources, Paris, 4 June 1974.
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- Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances in Cases of Emergency, Lima, 12 November 1981.
- Supplementary Protocol to the Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or other Harmful Substances, Quito, 22 July 1983.
- Protocol for the Protection of the South-East Pacific against Pollution from Land-based Sources, Quito, 22 July 1983.
- United Nations Convention on the Law of the Sea, Montego Bay, 10 December 1982.

c. Other Legal Texts

- Council Decision Establishing a Community Information System for Preventing and Combating Oil Pollution of the Sea 81/971/EEC, O.J., L. 335, 10.12.1981.
- Council Directive on the Assessment on the Effects of Certain Public and Private Projects on the Environment 85/337/EEC, O.J., L 175, 5.7.1985.
- Code for the Construction and Equipment of Mobile Offshore Drilling Units, Resolution A. 414 (XI) adopted on 15 November 1979 by the Intergovernmental Maritime Consultative Organization (IMCO) Assembly at its eleventh Session.

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ANNEX II

DRAFT PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA
AGAINST POLLUTION RESULTING FROM EXPLORATION AND EXPLOITATION OF
THE CONTINENTAL SHELF AND THE SEA-BED AND ITS SUBSOIL

PREAMBLE

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution adopted at Barcelona on 16 February 1976, and with reference to article 7 of the said Convention,

Considering the rapid increase in the activities concerning exploration and exploitation of the Mediterranean sea-bed and its subsoil,

Recognizing that the pollution which may result therefrom represents a grave danger to both human health and the environment,

Desirous of protecting and preserving the Mediterranean Sea from this source of pollution,

Taking particularly into account the specially protected areas envisaged in the Protocol concerning Mediterranean Specially Protected Areas adopted at Geneva on 3 April 1982,

Bearing in mind the United Nations Convention on the Law of the Sea, opened for signature at Montego Bay on 10 December 1982,

Recognizing the differences in levels of development between the coastal States, and taking account of the economic and social imperatives of the developing countries,

Have agreed as follows:

SECTION I -GENERAL PROVISIONS

Article 1 - DEFINITIONS

For the purposes of this Protocol:

- (a) "Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976;
- (b) "Organization" means the body referred to in article 13 of the Convention;
- (c) "Resources" means all mineral resources, whether solid, liquid or gaseous;
- (d) "Activities concerning exploration and/or exploitation in the Protocol Area" (hereinafter referred to as "activities") means:
 - (i) activities of scientific research concerning the sea-bed and its subsoil;
 - (ii) activities conducted for the purpose of recovering resources, including preliminary activities, any treatment before transport to shore, and transport by pipeline to shore; it also includes construction, repair, maintenance or like operations incidental to the main purpose of recovering resources;
- (e) "Pollution" means every act referred to in article 2(a) of the Convention and every other act which results or is likely to result in deleterious effects to human health and to the environment, caused directly or indirectly by activities;
- (f) "Installation" means any fixed or floating structure and any integral part thereof engaged in activities including, in particular:

- (i) fixed or floating drilling or production platforms;
 - (ii) offshore storage facilities;
 - (iii) offshore loading terminals and transport systems for the extracted products, such as submarine pipelines;
 - (iv) apparatus attached to it and equipment for the reloading, processing, storage and disposal of substances removed from the sea-bed or its subsoil;
 - (v) ships, when they are engaged in the following activities:
 - when being used as offshore storage facilities;
 - when towing the installations referred to in the present definition, during the towing activity;
- (g) "Operator" means:
- (i) the person, authorized by the Controlling State in accordance with this Protocol to carry out activities; or
 - (ii) any person who does not hold a valid authorization according to this Protocol, but is de facto, in overall control of the activities;
- (h) "Controlling State" means the Party or Parties exercising jurisdiction over the activities carried out within the area where the installation is located; when an installation is subject to the jurisdictions of more than one Party, these Parties may appoint, by common agreement, the Party which will be the only Controlling State;
- (i) "Safety zone" means a zone established, according to the provisions of general international law, around installations with appropriate markings to ensure the safety of both navigation and the installations;

- (j) "Wastes and harmful or noxious substances and materials" means substances and materials of any kind, form, or description, intended to be abandoned or abandoned into the Protocol Area and/or produced or utilized during or resulting from activities, which might create pollution. It includes, in particular, oil and oily mixtures and drilling fluids, garbage and sewage;
- (k) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals which are subject to the provisions of annexes I and II to the present Protocol) and, without limiting the generality of the foregoing, includes the substances listed in the appendix to the present Protocol;
- (l) "Oily mixture" means a mixture with any oil content;
- (m) "Sewage" means:
- (i) drainage and other wastes from any form of toilets, urinals and water-closet scuppers;
 - (ii) drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;
 - (iii) drainage from spaces containing living animals; or
 - (iv) other waste waters when mixed with the drainages defined above;
- (n) "Garbage" means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the installation and liable to be disposed of continuously or periodically, except those substances which are defined or listed elsewhere in the present Protocol;

- (o) "Freshwater limit" means the place in watercourses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea water.

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Article 2 - GEOGRAPHICAL COVERAGE

1. The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be:
 - (a) The Mediterranean Sea Area as defined in article 1 of the Convention;
 - (b) Waters on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit.
2. The Protocol Area can also include wetlands or coastal areas, as may be designated by each of the Parties.

Article 3 - GENERAL UNDERTAKINGS

1. The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take individually or jointly all appropriate measures, utilising the best available technology, to prevent, abate, combat and control pollution of the Protocol Area resulting from activities concerning exploration and exploitation of the sea-bed and its subsoil.
2. The Parties shall ensure that all necessary measures are taken so that activities do not endanger human health, marine fauna and flora and do not cause unjustifiable interference with navigation, fishing or other legitimate use of the Protocol Area according to international law.

SECTION II - AUTHORIZATION SYSTEM

Article 4 - GENERAL PRINCIPLES

1. All activities in the Protocol Area, including erection on site of installations, shall be subject to a prior written authorization from the competent national authority of the Controlling State. Such authority, before granting the authorization, should be satisfied that the installation has been constructed according to international standards and that the operator has the technical competence and the financial capacity to carry out the activities. Such authorization should be granted in accordance with the appropriate procedure, as defined by the competent national authority.
2. Authorization should be refused if there are clear indications that the proposed activities are likely to cause significant adverse effects on the environment which could not be avoided by compliance with the conditions in the authorization, referred to in article 6, paragraph 3 of this Protocol.
3. When considering approval of the siting of an installation, the Controlling State shall ensure that no detrimental effects be caused by such siting to existing installations, in particular pipelines and cables.

Article 5 - REQUIREMENTS FOR AUTHORIZATIONS

The Controlling State requires that requests for authorizations and renewal of authorizations be subject to a presentation of the project by the candidate operator to its national competent authority including, in particular, the following elements:

- (a) A survey concerning the effects of the proposed activities on the environment, the competent national authority can, in light of the nature, scope, duration, technical methods employed in the activities and characteristics of the area; require that an environmental impact assessment be prepared in accordance with annex IV to this Protocol;
- (b) The precise geographic areas where the activity is being considered, including safety zones;
- (c) The professional and technical qualifications of the candidate operator and personnel on the installation as well as the composition of the crew;
- (d) The safety measures according to article 15;
- (e) The contingency plan according to article 16;
- (f) The monitoring procedures according to article 17;
- (g) The plans for removal of installations according to article 18;
- (h) Precautions for specially protected areas according to article 19;
- (i) The insurance or other financial security to cover liability in accordance with article 26, paragraph 3.

Article 6 - GRANTING OF AUTHORIZATIONS

1. The authorizations, referred to in article 4, are only to be granted after an examination by the national competent authority of the Controlling State of each element listed in article 5 and annex IV.
2. Each authorization shall determine the activities, the duration of the authorization, establish the geographical

limits of the area and the safety zones subject to the authorization and determine the technical exigencies and the authorized installations.

3. The authorization may impose conditions regarding measures, techniques or methods designed to reduce to the minimum risks and damage of pollution resulting from the activities.
4. The Parties shall notify the Organization as soon as possible of granted or renewed authorizations. The Organization shall keep a register of all the authorized installations in the Protocol Area.

Article 7 - SANCTIONS

Each Party shall establish sanctions to be imposed for breach of obligations arising out of this Protocol, national laws or regulations implementing this Protocol or the specific conditions accompanying the authorization.

SECTION III - WASTES AND HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS

Article 8 - GENERAL OBLIGATION

Notwithstanding other standards or obligations of this Section, Parties should impose a general obligation upon operators to use the best available technology and to observe internationally accepted standards regarding wastes and harmful or noxious substances and materials, to minimize the risk of pollution.

Article 9 - HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS

1. The Parties shall ensure that each substance and material used in the Protocol Area, including those to construct

and protect the installation, is accompanied by a compound description provided by the entity producing such substance or material.

2. The use and disposal into the Protocol Area of harmful or noxious substances and materials listed in annex I to this Protocol is prohibited.
3. The use and disposal into the Protocol Area of harmful or noxious substances and materials listed in annex II to this Protocol require, in each case, a prior special permit from the competent national authority of the Controlling State.
4. The use and disposal into the Protocol Area of all other harmful or noxious substances and materials which might cause pollution require a prior general permit from the competent national authority of the Controlling State.
5. The permits referred to in paragraphs 3 and 4 above shall be issued only after careful consideration of all the factors set forth in annex III to this Protocol.
6. The use and disposal into the Protocol Area of substances and materials of whatever form and compound not previously used are subject to prior temporary permission by the competent national authority of the Controlling State.
7. Each Party shall notify the Organization as soon as possible of temporary permissions granted or refused so that the Parties can take appropriate measures concerning the future use of the substances and materials referred to in paragraph 6 above, in accordance with article 29.

Article 10 - OIL AND OILY MIXTURES AND DRILLING FLUIDS

1. The Parties should formulate and adopt common minimum standards for the disposal of oil and oily mixtures and drilling fluids from installations into the Protocol Area:

- (a) Such common minimum standards shall be formulated in accordance with the provisions of annex V;
 - (b) Such common minimum standards shall not be less restrictive than, in particular, the following:
 - (i) for machinery space drainage, a maximum oil content of 15 mg. per litre whilst undiluted;
 - (ii) for production water, a maximum oil content of 40 mg. per litre as an average in any calendar month.
2. Each Party shall take measures to enforce the common minimum standards adopted pursuant to this article or to enforce more restrictive standards where such standards have been adopted by that Party.

Article 11 - SEWAGE

1. The Controlling State shall prohibit the discharge of sewage from installations into the Protocol Area except when:
- (a) The installation is discharging comminuted and disinfected sewage using a system approved by its competent national authority at a distance of four nautical miles from the nearest land or fixed fisheries installation; or
 - (b) Sewage which is not comminuted or disinfected at a distance of more than twelve nautical miles from the nearest land or fixed fisheries installation; or
 - (c) It has passed through an approved sewage treatment plant certified by its competent national authority.
2. The Controlling State shall impose stricter provisions, as appropriate, where deemed necessary because of, inter alia, the regime of the currents in the area or the proximity to any area referred to in article 19.

3. The exceptions of paragraph 1 shall not apply if the discharge produces visible floating solids or discolouration of the surrounding water.
4. When the sewage is mixed with wastes and harmful or noxious substances and materials having different disposal requirements, the more stringent requirements shall apply.

Article 12 - GARBAGE

1. Disposal into the Protocol Area of the following is prohibited:
 - (a) All plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags;
 - (b) All other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials.
2. Disposal into the Protocol Area of food wastes shall be made as far away as possible from land, but in any case not less than twelve nautical miles from the nearest land.
3. When garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

Article 13 - RECEPTION FACILITIES, INSTRUCTIONS AND SANCTIONS

Parties shall ensure that:

- (a) Operators provide adequate and easily accessible reception facilities for the proper disposal of all wastes and harmful or noxious substances and materials;

- (b) Instructions be given to all personnel on proper means of disposal;
- (c) Sanctions be imposed on illegal disposals.

Article 14 - EXCEPTIONS

1. The provisions of this Section shall not apply in case of:
 - (a) Force majeure or distress as recognized by rules of international law or when human life or the safety of the installation is threatened; or
 - (b) The discharge into the sea of substances containing oil or harmful or noxious substances or materials shall be subject to prior approval by the competent national authority of the Controlling State when being used for the purpose of combating specific pollution incidents in order to minimize the damage from pollution.
2. Disposals effectuated according to paragraph 1 of this article shall immediately be reported to the Organization and, either through the Organization or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and the nature and quantities of wastes or harmful or noxious substances or materials discharged.

SECTION IV - SAFEGUARDS

Article 15 - SAFETY MEASURES

1. The Controlling State within whose jurisdiction activities are being considered or are being carried out should ensure that safety measures are taken with regard to the design, construction, placement, equipment, marking, operation and maintenance of installations.

2. The Controlling State shall ensure that the operator has at all times on the installations, most advanced equipment and devices, maintained in good working order, to protect human life, to prevent accidental pollution and to facilitate prompt response to an emergency, in accordance with the best available technology and the provisions of the operator's contingency plan referred to in article 16.
3. The competent national authority of the Controlling State shall require a certificate of safety and fitness for purpose (hereinafter referred to as "certificate") recognized by the competent international body for production platforms, mobile offshore drilling units, offshore storage facilities, offshore loading systems, pipelines and for such other installations as decided by the Controlling State.
4. The Parties shall formulate and adopt rules and standards in accordance with international practices and procedures to ensure the provisions of annex VI.
5. The Parties shall ensure through inspection that the activities are conducted by the operators in accordance with this article.

Article 16 - CONTINGENCY PLANNING

1. The Parties shall endeavour to promote and maintain a plan for combating pollution or other adverse effects to the environment or to save human life in the Protocol Area in cases of emergencies resulting from activities (hereinafter referred to as "national contingency plan"). The national contingency plan should establish and co-ordinate in particular, the equipment, ship, aircraft and manpower prepared for operations in cases of emergencies. Parties should promote bilateral, subregional or multilateral co-operation regarding contingency plans.

2. The Controlling State, before it grants an authorization, shall require that the operator has developed a satisfactory contingency plan approved by the competent national authority (hereinafter referred to as the "operator's contingency plan"), referred to in article 5(e). Such plan shall be prepared in accordance with the provisions of annex VII to this Protocol.
3. Each Controlling State shall establish national co-ordination and direction in accordance with annex VII to this Protocol.

Article 17 - MONITORING

1. The operator should be required to measure the effects of the activities on the environment and to report on them periodically or upon request by the competent national authority of the Controlling State for an evaluation by such national authority according to a procedure established by the Controlling State in its authorization system.
2. The competent national authority of the Controlling State should establish, where appropriate, a national monitoring system in order to be in a position to survey regularly the installations and the impact of the activities on the environment, so as to ensure that the conditions under which the authorization was granted are being met.

Article 18 - REMOVAL OF INSTALLATIONS

1. Operators shall be required by the Controlling States to remove any installation which is abandoned or disused, to ensure safety of navigation, taking into account any international standards accepted in this regard by the Parties. Such removal shall also have due regard to other

legitimate uses of the sea, in particular fishing, the protection of the marine environment and the rights and duties of other States. All necessary measures shall previously have been taken by the operator and under his responsibility to prevent spillage or leakage from the site of the activities.

2. The Controlling State shall require that abandoned or disused pipelines are either removed in accordance with paragraph 1 of this article or are buried and cleaned inside so that they neither endanger navigation, hinder fishing, threaten the marine environment, nor interfere with other legitimate uses of the sea nor the rights and duties of other States. Its competent national authority shall ensure that appropriate publicity is given to the depth, position and dimensions of any buried pipeline and that such information is indicated on charts and notified to the Organization and other competent international organizations and the Parties.
3. The provisions of this article also apply to the operator whose authorization may have been revoked or suspended pursuant to article 7.
4. Where the operator fails to comply with the provisions of this article, the competent national authority of the Controlling State shall undertake, at the operator's expense, such action or actions as shall be necessary to remedy the operator's failure to act.

Article 19 - SPECIALLY PROTECTED AREAS

For the protection of the areas defined in article 3 of the Protocol concerning Mediterranean Specially Protected Areas, and in furtherance of the goals stated therein, Parties shall take particular measures, either individually or jointly, to prevent, abate, combat and control pollution arising from activities in these areas.

In addition to the measures enunciated in the said Protocol, such measures may include, inter alia:

- (a) Special restrictions or conditions in such areas for:
 - (i) the preparation and evaluation of environmental impact assessments and the granting of authorizations;
 - (ii) the elaboration of safety measures, contingency planning, monitoring and removal of installations;
- (b) Intensified exchange of information between operators, the competent national authorities, Parties and the Organization regarding matters which may affect such areas.

SECTION V - CO-OPERATION

Article 20 - STUDIES AND RESEARCH PROGRAMMES

In conformity with article 11 of the Convention, the Parties shall co-operate in promoting studies and undertaking programmes of scientific and technological research to develop new methods of:

- (a) Carrying out activities in a way which minimizes the risk of pollution;
- (b) Preventing, abating, combating and controlling pollution, especially in cases of emergency.

Article 21 - REQUEST FOR ASSISTANCE OR INFORMATION

A Party requiring assistance or information to prevent, abate or combat pollution resulting from activities may call upon the help of the Organization and of the other Parties, who

shall do their utmost to provide the assistance or information requested, especially in cases of emergency.

Article 22 - INTERNATIONAL RULES, STANDARDS AND RECOMMENDED PRACTICES AND PROCEDURES

1. The Parties shall co-operate, either directly or through the Organization or other competent international organizations, in order to:
 - (a) Establish appropriate scientific criteria for the formulation and elaboration of international rules, standards and recommended practices and procedures for achieving the aims of this Protocol;
 - (b) Formulate and elaborate such international rules, standards and recommended practices and procedures.
2. The Parties shall, as soon as possible, harmonize their laws and regulations with the international rules, standards and recommended practices and procedures referred to in paragraph 1 above.
3. Parties shall endeavour as far as possible, to exchange information relevant to their national policies, laws and regulations and the harmonization referred to in paragraph 2 above:

Article 23 - SCIENTIFIC AND TECHNICAL ASSISTANCE TO DEVELOPING COUNTRIES

1. The Parties shall, directly or with the assistance of competent regional or global international organizations, co-operate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, law, education and technology, in order to prevent, abate, combat and control pollution from activities in the Protocol Area.

2. Technical assistance would include, in particular, the training of scientific, legal and technical personnel, as well as the acquisition, utilization and production by those countries of appropriate equipment on advantageous terms to be agreed upon among the Parties concerned.

Article 24 - MUTUAL INFORMATION

The Parties shall inform one another directly or through the Organization of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and submission of such information shall be determined at the meetings of the Parties.

Article 25 - TRANSFRONTIER POLLUTION

1. Each Party shall take all measures necessary to ensure that activities under its jurisdiction are conducted so as not to cause pollution beyond the limits of its jurisdiction.
2. A Party within whose jurisdiction activities are being considered or carried out should take into account any adverse environmental effects without discrimination as to whether such effects are likely to occur within the limits of its jurisdiction or beyond such limits, inter alia, such non-discrimination should be observed in national laws and regulations.
3. When a Party becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution, it shall immediately notify other Parties it deems likely to be affected by such damage as well as the Organization and provide them with timely information that would enable them, where necessary, to take appropriate measures.

4. Parties should endeavour, in accordance with their legal systems and, where appropriate, on the basis of an agreement, to grant equal access to and treatment in administrative proceedings to persons in other States who may be affected by pollution or other adverse effects resulting from proposed or existing operations.
5. A Party shall not be responsible for any pollution originating in the territory of a non-contracting State. However, the said Party shall endeavour to co-operate with the said State so as to make full application of the Protocol possible.

Article 26 - LIABILITY AND COMPENSATION

1. The Parties undertake to co-operate as soon as possible in the formulation and adoption of appropriate principles and procedures for the determination of liability and compensation for damage resulting from the activities considered in this Protocol.
2. Operators are liable for damage suffered as a result of activities and they shall pay prompt and adequate compensation for such damage. Compensation should be determined on the basis of strict and limited liability.
3. To cover the liability under this Protocol, the operator shall be required to have and maintain insurance or other financial security to such amount, of such type and terms as the Controlling State shall specify.

SECTION VI - FINAL PROVISIONS

Article 27 - APPOINTMENT OF COMPETENT NATIONAL AUTHORITIES

Each Controlling State shall appoint one or more competent national authority to:

- (a) Grant, renew and register the authorizations as provided in Section II of this Protocol;
- (b) Issue and register the special and general permits and temporary permissions referred to in article 9 of this Protocol;
- (c) Issue the permits referred to in annex V to this Protocol;
- (d) Approve the system and certify the sewage treatment plant referred to in article 11, paragraph 1 of this Protocol;
- (e) Issue the prior approval for exceptional discharges referred to in article 14, paragraph 1 of this Protocol;
- (f) Carry out the duties regarding safety measures referred to in article 15, paragraphs 3 and 5 of this Protocol;
- (g) Perform the functions relating to contingency planning according to article 16 and annex VII to this Protocol;
- (h) Provide for monitoring procedures as provided in article 17 of this Protocol;
- (i) Control the removal operations of the installations as provided in article 18 of this Protocol.

Article 28 - TRANSITORY MEASURES

Each Party shall elaborate procedures and regulations regarding activities, whether authorized or not, initiated before the entry into force of this Protocol, to ensure conformity, as far as practicable, with the provisions of this Protocol.

Article 29 - MEETINGS

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 14 of the Convention. The Parties may also hold extraordinary meetings in accordance with article 14 of the Convention.
2. The functions of the meetings of the Parties to this Protocol shall be, inter alia:
 - (a) To keep under review the implementation of this Protocol and to consider the efficacy of the measures adopted and the advisability of any other measures, in particular in the form of annexes and appendices;
 - (b) To revise and amend any annex or appendix to this Protocol;
 - (c) To consider the records of the authorizations granted or renewed in accordance with Section II of this Protocol;
 - (d) To consider the records of the permits, permissions and approvals issued in accordance with Section III of this Protocol;
 - (e) To consider the records of the contingency plans and means of intervention in emergencies adopted in accordance with article 16 of this Protocol;

- (f) To establish criteria and formulate international rules, standards and recommended practices and procedures in accordance with article 22 of this Protocol, in whatever form the Parties may agree;
- (g) To facilitate the implementation of the policies and objectives of Section V, in particular the harmonization of national laws in accordance with article 22 of this Protocol;
- (h) To discharge such other function as may be appropriate for the application of this Protocol.

Article 30 - FINAL CLAUSE

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.
2. The rules of procedure and the financial rules adopted pursuant to article 18 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.
3. This Protocol shall be open for signature, at from to ,and at from to ,by any State invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Sea-bed and its Subsoil held at from to

It shall also be open until the same dates for signature by the European Economic Community and by any similar regional economic grouping of which at least one member is a coastal State of the Protocol Area and which exercises competence in fields covered by this Protocol.

4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depository.
5. As from _____, this Protocol shall be open for accession by the States referred to in paragraph 3 above, by the European Economic Community and by any grouping referred to in that paragraph.
6. This Protocol shall enter into force on the thirtieth day following the deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this article.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at _____ on this _____ in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.

ANNEX I

HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS WHOSE DISPOSAL IS
PROHIBITED

(See "Report concerning the Draft", IJO (ELPU/6.87/INF.1) pp. 5-6.)

ANNEX II

HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS WHOSE DISPOSAL IS SUBJECT
TO A SPECIAL PERMIT

(See "Report concerning the Draft", IJO (ELPU/6.87/INF.1) pp. 5-6.)

ANNEX III

FACTORS TO BE CONSIDERED FOR THE ISSUE OF THE PERMITS

With a view to the issue of an authorization for the discharge of harmful or noxious substances and materials containing substances referred to in annex II to this Protocol, particular account will be taken, as the case may be, of the following factors:

A. Characteristics and composition of the waste

1. Type and size of waste source (e.g. industrial process).
2. Type of waste (origin, average composition).
3. Form of waste (solid, liquid, sludge, slurry, gaseous).
4. Total amount (volume discharged, e.g. per year).
5. Discharge pattern (continuous, intermittent, seasonally variable, etc.).
6. Concentrations with respect to major constituents, substances listed in annex I, substances listed in annex II, and other substances as appropriate.
7. Physical, chemical and biochemical properties of the waste.

B. Characteristics of waste constituents
with respect to their harmfulness

1. Persistence (physical, chemical, biological) in the marine environment.
2. Toxicity and other harmful effects.

3. Accumulation in biological materials or sediments.
4. Biochemical transformation producing harmful compounds.
5. Adverse effects on the oxygen content and balance.
6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea-water constituents which may produce harmful biological or other effects on any of the uses listed in section E below.

C. Characteristics of discharge site and receiving marine environment

1. Hydrographic, meteorological, geological and topographical characteristics of the area.
2. Location and type of the discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery, and fishing areas, shellfish grounds) and other discharges.
3. Initial dilution achieved at the point of discharge into the receiving marine environment.
4. Dispersion characteristics such as effects of currents, tides and wind on horizontal transport and vertical mixing.
5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area.
6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. Availability of waste technologies

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

- (a) Alternative treatment processes;
- (b) Re-use or elimination methods;
- (c) On-land disposal alternatives;
- (d) Appropriate low-waste technologies.

E. Potential impairment of marine ecosystem and sea-water uses

1. Effects on human life through pollution impact on:
 - (a) Edible marine organisms;
 - (b) Bathing waters;
 - (c) Aesthetics.
2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.
3. Effects on other legitimate uses of the sea.

ANNEX IV

ENVIRONMENTAL IMPACT ASSESSMENT

1. Each Party shall require that the environmental impact assessment contains at least the following:
 - (a) A description of the geographical boundaries of the area within which the activities are to be carried out, including safety zones where applicable;
 - (b) A description of the initial state of the environment of the area;
 - (c) An indication of the nature, aims, scope and duration of the proposed activities;
 - (d) A description of the methods, installations and other means to be used;
 - (e) A description of the foreseeable direct or indirect short and long-term effects of the proposed activities on the environment, including fauna, flora and the ecological balance;
 - (f) A statement setting out the measures proposed to reduce to the minimum the risk of damage to the environment from carrying out the proposed activities, in addition, possible alternatives to such measures;
 - (g) An indication of the measures to be taken for the protection of the environment from pollution and other adverse effects during and after the proposed activities.
2. Each Party shall promulgate standards taking into account the international rules, standards and recommended practices and procedures, adopted in accordance with article 22 by which environmental impact assessments are to be evaluated.

ANNEX V

OIL AND OILY MIXTURES AND DRILLING FLUIDS

The following provisions shall be ensured by the Parties in accordance with article 10:

A. OIL AND OILY MIXTURES

1. Spills of high oil content in processing drainage and platform drainage shall be contained, diverted and then treated as part of the product, but the remainder shall be treated to an acceptable level before discharge, in accordance with good oil field practice.
2. Oily waste and sludges from separation processes shall be transported to shore;
3. Oil and condensates from well testing shall be flared, taking all precautions necessary to prevent leakages of oil into the sea.

B. DRILLING FLUIDS

1. Water based drilling fluids are subject to the following requirements:
 - (a) The use of such drilling fluids is subject to a prior permit by the competent national authority of the Controlling State;
 - (b) The disposal of such drilling fluids and the drill cuttings shall be made as far away as possible from the nearest land, specially protected area or fixed fisheries installation but in any case at a minimum distance established in the permit;
 - (c) Where the drilling fluids contain harmful or noxious substances and/or materials, the provisions of article 9 of the present Protocol shall apply.
2. Oil based drilling fluids are subject to the following requirements:

- (a) Such fluids shall only be used if they are of a sufficiently low toxicity and only after the operator has been issued a permit by the competent national authority of the Controlling State when it has verified such low toxicity;
- (b) In the cases where such fluids are used, the permit shall contain conditions concerning the disposal of such fluids and the drill cuttings resulting from its use;
- (c) In cases where oil based drilling fluids are used, they shall not be disposed of into the sea; and, the drill cuttings shall be effectively washed before discharged into the sea, so that the oil content is less than ten percent in dry weight.

3. Diesel based drilling fluids are subject to the following requirements:

- (a) The use of diesel based drilling fluids is prohibited except in those exceptional circumstances where the use is necessary because of exceptional technical exigencies and after the operator has been issued a special permit by the competent national authority of the Controlling State;
- (b) The special permit referred to in subparagraph (a) above shall only be issued if the national competent authority is satisfied that the use is justified because of exceptional technical exigencies;
- (c) In the cases where such fluids are used, the disposal of such drilling fluids and drill cuttings shall be subject to the conditions in the special permit but in any case, disposal into the Protocol Area shall be prohibited.

ANNEX VI

SAFETY MEASURES

The following provisions shall be ensured by the Parties in accordance with article 15:

- (a) That the installation is safe and fit for the purpose for which it is to be used, in particular, that it is designed and constructed so as to withstand, together with its maximum load, any natural condition, including, more specifically, maximum wind and wave conditions as established by historical weather patterns, earthquake possibilities, sea-bed conditions and stability, and water depth;
- (b) That all phases of the activities, including storage and transport of recovered resources, are properly prepared, that the whole activity can be controlled for safety reasons and is conducted in the safest possible way and that the operator applies a monitoring system for all his activities;
- (c) That the most advanced safety systems are used and periodically tested in order to minimize the dangers of leakages, spillages, accidental discharges, fire, explosions, blow-outs or any other threat to human safety or the environment, that a trained specialised crew to operate and maintain these systems is present and that this crew undertakes periodic exercises;
- (d) That the installation, and when necessary the established safety zone, is sufficiently marked so as to give adequate warning of its presence and sufficient details for its identification using appropriate and internationally recognized warning signals;
- (e) That the installations are, in accordance with international maritime practice, indicated on charts and notified to those concerned;
- (f) That in order to secure the above provisions, the person and/or persons who have the responsibility concerning the installation

and/or the activities, including the person responsible for the blow-out preventer, have the qualifications required by the Controlling State and that there is permanently sufficient, qualified staff present at the installation. Such qualifications should include, in particular, training, on a continued basis, as regards safety and environmental matters.

ANNEX VII

CONTINGENCY PLAN

A. The operator's contingency plan

1. Operators are obliged to ensure:

- (a) That the most advanced alarm system and communication system is available at the installation and that it is in good working order;
- (b) That the alarm is immediately raised on the occurrence of an emergency and that any emergency is immediately communicated to the competent national authority of the Controlling State;
- (c) That in co-ordination with the competent national authority of the Controlling State, reception of the alarm and appropriate assistance and co-ordination of assistance can be organised and supervised without delay;
- (d) That immediate information about the nature and extent of the emergency is given to the crew on the installation and to the competent national authority of the Controlling State;
- (e) That the competent national authority of the Controlling is constantly informed about the progress of combating the emergency;
- (f) The availability, at all times, of sufficient and most advanced materials and equipment, including stand-by boats and aircraft, to put into effect the emergency plan;
- (g) That the most advanced methods and techniques are known to the specialised crew referred to in annex VI(c) , in order to combat leakages, spillages, accidental discharges, fire, explosions, blow-outs and any other threat to human life or the environment;

- (h) That the most advanced methods and techniques are known to the specialised crew who will deal with reduction and prevention of long term adverse effects on the environment;
 - (i) That the crew has thorough knowledge of the operator's contingency plan, that periodic emergency exercises are held so that the crew has a thorough working knowledge of the equipment and procedures and that each individual knows exactly his role within the plan.
2. The operator should co-operate, on an institutional basis, with other operators or entities capable of rendering necessary assistance, so as to assure that, in cases where the magnitude or nature of an emergency creates a risk for which assistance is or might be required, said assistance can be rendered.

B. National co-ordination and direction

The Controlling State shall establish national co-ordination and direction to ensure the following:

- (a) Co-ordination of the national contingency plan and/or procedures and the operator's contingency plan and control of the conduct of actions, especially in case of significant adverse effects of the emergency;
- (b) Direction of the operator to take any action it may specify in the course of preventing, abating or combating pollution or in the preparation of further action for that purpose, including putting an order for a relief drilling rig, or to prevent the operator from taking any specified action;
- (c) Co-ordination of actions in the course of preventing, abating or combating pollution or in preparation for further action for that purpose within the national jurisdiction, with such actions undertaken within the jurisdiction of other States or by international organizations;

- (d) Collection and ready availability of all necessary information concerning the existing activities;
- (e) An up-to-date list of the persons and entities to be alerted and informed about an emergency, its development and measures taken;
- (f) Collection of all necessary information concerning the extent and means of combating contingencies and dissemination of this information to interested parties;
- (g) Co-ordination and supervision of the assistance referred to in paragraph A above, in co-operation with the operator;
- (h) That, if necessary, specified actions including interventions by technical experts and trained personnel with the necessary equipment and materials are organized and co-ordinated;
- (i) Immediate communication to the competent national authorities of other Parties which might be affected by a contingency, to put them in the position to take appropriate measures where necessary;
- (j) Technical assistance to other Parties when necessary;
- (k) Immediate communication to the competent international organizations with a view to avoiding danger to shipping and other interests.

APPENDIX
List of Oils*

Asphalt solutions

Blending Stocks
Roofers Flux
Straight Run Residue

Oils

Clarified
Crude Oil
Mixtures containing crude oil
Diesel Oil
Fuel Oil No. 4
Fuel Oil No. 5
Fuel Oil No. 6
Residual Fuel Oil
Road Oil
Transformer Oil
Aromatic Oil (excluding vegetable oil)
Lubricating Oils and Blending Stocks
Mineral Oil
Motor Oil
Penetrating Oil
Spindle Oil
Turbine Oil

Distillates

Straight Run
Flashed Feed Stocks

Gas Oil

Cracked

* The list of oils shall not necessarily be considered as comprehensive.

Jet Fuels

JP-1 (Kerosene)
JP-3
JP-4
JP-5 (Kerosene, Heavy)
Turbo Fuel
Kerosene
Mineral Spirit

Naptha

Solvent
Petroleum
Heartcut Distillate Oil

Gasoline Blending Stocks

Aklylates - fuel
Reformats
Polymer - fuel

Gasolines

Casinghead (natural)
Automotive
Aviation
Straight Run
Fuel Oil No. 1 (Kerosene)
Fuel Oil No. 1-D
Fuel Oil No. 2
Fuel Oil No. 2-D