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Meeting of Legal Experts on the Draft
Protocol for the Protection of the
Mediterranean Sea against Pollution
from Land-Based Sources

Geneva, 25-29 June 1979

PRELIMINARY DRAFT PROTOCOL
FOR THE PROTECTION OF THE MEDITERRANEAN
SEA AGAINST POLLUTION FROM
LAND-BASED SOURCES

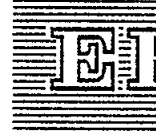
Corrigendum

The following footnotes should be inserted at the bottom
of page 8 of Annex I:

"

1/ Not in order of priority

2/ With the exception of those which are biologically harmless
or which are rapidly converted into biologically harmless
substances".



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of Legal Experts on the Draft
Protocol for the Protection of the
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25-29 June 1979

PRELIMINARY DRAFT PROTOCOL
FOR THE PROTECTION OF THE MEDITERRANEAN SEA
AGAINST POLLUTION FROM LAND-BASED SOURCES

PRELIMINARY DRAFT PROTOCOL FOR THE PROTECTION
OF THE MEDITERRANEAN SEA AGAINST POLLUTION
FROM LAND-BASED SOURCES

Article 1. General objective

The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures to prevent, abate and combat pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources within their territories.

Article 2. Coverage

The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be the Mediterranean Sea Area as defined in article 1 of the Convention for the Protection of the Mediterranean Sea against Pollution; it shall also include internal coastal waters.

Article 3. Scope

1. The Protocol shall apply to all polluting discharges reaching the Protocol Area from the territories of the Parties:

- (a) directly from coastal establishments or outfalls, or through coastal dumping;
- (b) through run-off;
- (c) through rivers, canals and other watercourses;

[(d) through the atmosphere (wherever this is specified in the Protocol or in any annex thereto).]

2. The Protocol shall also apply to all polluting discharges from fixed man-made off-shore structures under the jurisdiction of a Party.

Article 4. Definitions

For the purposes of this Protocol:

- (a) "The Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted in Barcelona on 16 February 1976;
- (b) "Organization" means the body referred to in article 13 of the Convention.

(c) "internal coastal waters" means the waters on the landward side of the base lines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit;

(d) "freshwater limit" means the place in the 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;

[(e) "new installation" means:

1. any establishment used for whatever purpose:

(i) for which a building contract is concluded or a construction permit granted more than ... after the entry into force of the Protocol; or

(ii) for which construction or site works are begun after the time limit indicated above or which are not completed three years after the entry into force of the Protocol;

2. any extension or conversion of existing installations resulting in:

(i) an increase of more than 25 per cent in production capacity or the amount of waste discharges; or

(ii) a change in the nature of the discharges.]

Article 5. Reduction of pollution from existing sources

1. The Parties shall formulate and adopt programmes for the progressive reduction of pollution from existing land-based sources aimed at protecting and improving the quality of the marine environment and carried out in accordance with a time-table agreed upon by the Parties.

Article 6. Discharges from new installations

[1. The Parties shall implement, jointly or individually, the programmes and measures necessary to ensure that wastes reaching the Protocol Area from new installations are discharged in such a manner or, as necessary, after such treatment as to avoid deleterious effects on the marine environment which interfere with any existing or foreseeable legitimate uses.]

2. The application of paragraph 1 above shall not permit the implementation of measures less stringent than those prescribed in articles 7 and 8 below.

Article 7. Substances listed in annex I

1. The Parties shall adopt strict measures in order to eliminate pollution of the Protocol Area from land-based sources by the substances listed in annex I. To this end they shall formulate, jointly or individually as appropriate, programmes and measures to ensure such elimination, if necessary in stages.

2. The Parties shall, within a period of ... years from the date of entry into force of the Protocol, prepare and adopt a time-table for the application of emission standards and/or standards of use as appropriate. The standards and time-table shall be fixed by common agreement and periodically reviewed for each of the substances listed in annex I.

Article 8. Substances listed in annex II

1. The Parties shall combat and strictly limit pollution from land-based sources in the Protocol Area by substances listed in annex II. They shall formulate, jointly or individually as appropriate, programmes and implement measures towards this end.

[2. Discharges of these substances shall be subject to the issue by the competent national authorities of an authorization for which the factors set forth in Annex III are taken into account.]

Article 9. Common guidelines, criteria or standards

1. The Parties shall progressively formulate and adopt, in co-operation with the competent international organizations, common guidelines, criteria or standards dealing, in particular, with:

- (a) the length, depth and position of pipelines for coastal outfalls, taking into account, inter alia, the methods used for pretreatment of effluents;
- (b) special requirements for effluents requiring separate treatment;
- (c) the quality of sea-water used for specific purposes that is necessary for the protection of human health, living resources and ecosystems;
- (d) the control and progressive replacement of products, installations and industrial and other processes causing significant pollution of the marine environment;

(e) special requirements concerning the quantities discharged of the substances referred to in annex I and II, their concentration in effluents and methods of discharging them.

2. Without prejudice to the provisions of article 7, such common guidelines, criteria or standards shall take into account subregional features, local geographical and physical characteristics, the economic capacity of the Parties and their need for economic development, the level of existing pollution and the local absorptive capacity of the marine environment.

3. The common guidelines, criteria or standards shall be adopted in the form either of recommended practices or of provisions incorporated in annexes to the Protocol.

Article 10. Specially protected areas

The Parties shall take appropriate measures (such as the establishment of marine parks) to protect, to the greatest extent possible, from any land-based pollution, certain areas selected because of particular ecological characteristics.

Article 11. Monitoring

Within the framework of the monitoring programmes provided for in article 10 of the Convention, and if necessary in co-operation with the competent international organizations, the Parties shall carry out at the earliest possible date monitoring activities in order:

- (a) systematically to assess, as far as possible, the levels of pollution along their coasts [and the quantities of pollutants discharged from their coastlines], in particular with regard to the substances listed in annexes I and II, and periodically to provide information in this respect.
- (b) to evaluate the effects of measures taken under the Protocol to reduce pollution of the marine environment.

Article 12. Scientific and technological co-operation

In conformity with article 11 of the Convention, the Parties shall co-operate as far as possible in scientific and technological fields related to pollution from land-based sources, including research on inputs, pathways and effects of pollutants and on the development of new methods for their treatment, elimination or reduction.

To this end the Parties shall, in particular, endeavour to:

- (a) exchange scientific and technical information;
- (b) co-ordinate their research programmes.

Article 13. Training and assistance

1. The Parties shall, directly or if necessary with the assistance of competent regional or other international organizations, endeavour to promote programmes of assistance to developing countries, in particular in the fields of science, education and technology, with a view to preventing pollution from land-based sources and its harmful effects in the marine environment.

2. Such technical assistance, [provided on a favourable financial basis], may comprise the training of scientific and technical personnel, and the acquisition, utilization and production by those countries of appropriate equipment.

Article 14. Watercourses shared by several States

1. If discharges from a watercourse which flows through the territories of two or more Parties or forms a boundary between them are liable to cause pollution of the marine environment of the Protocol Area, the Parties concerned shall endeavour to take appropriate joint measures in order as far as possible to prevent, abate and combat such pollution.

2. The provisions of the Protocol may not be invoked against a Party insofar as that Party is unable, as a result of pollution having its origin in the territory of a non contracting State, to ensure their full application.

Article 15. Pollution affecting other Parties

[1. When land-based pollution originating from the territory of one Party is likely, [notwithstanding the implementation of the measures provided for in this Protocol,] to prejudice the interests of one or more of the other Parties, the Parties concerned shall, whenever the need arises and at the request of one or more of them, undertake to enter into consultation with a view to negotiating a solution.]

2. At the request of any Party concerned, the matter shall be placed on the agenda of the next meeting of the Parties, which may make recommendations with a view to reaching a satisfactory solution.

Article 16. Exchange of Information

1. The Parties shall inform one another, either directly or through the Organization, of measures taken under articles 5 to 8, 10, 11 and 13 and of any difficulties encountered in their implementation. This information shall take the form of reports, including, in the case of article 8, statistical data on authorizations granted. Procedures for the submission of such reports shall be determined by the meetings of the Parties.

2. Information communicated through the Organization shall be circulated as soon as possible to the other Parties.

3. Parties which agree to exchange information directly shall nevertheless communicate such information to the Organization.

Article 17. Meetings of the Parties

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. It shall be the function of the meeting of the Parties to this Protocol:

- (a) to keep under review the implementation of the Protocol and to consider the efficacy of the measures adopted and the need for any other revisions, in particular in the form of annexes;
- (b) to review and amend any annex to the Protocol, as appropriate;
- (c) to formulate and adopt agreed programmes for the progressive reduction of pollution from existing land-based sources in accordance with article 5;
- (d) to adopt, in accordance with article 9, common guidelines, criteria or standards, in the form either of recommended practices or of provisions to be incorporated in annexes to the Protocol;
- (e) to make recommendations in accordance with article 15, paragraph 2;
- (f) to consider the information submitted by the Parties under article 16;
- (g) to discharge such other functions as may be appropriate for the implementation of this Protocol.

Article 18. Majority required for amendment or adoption of annexes

[Notwithstanding the provisions of subparagraph 2 (11) of Article 17 of the Convention, amendments to the annexes to this Protocol, or the adoption of additional annexes, shall require a ... majority of the Parties].

Article 19. Final Clauses

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present 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 agree otherwise.
3. This Protocol shall be open for signature in from to by any State invited to participate in the Conference of Plenipotentiaries It shall also be open until the same date 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 Mediterranean Sea 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 Depositary.
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 instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this article.

ANNEX I

A. The following substances, families and groups of substances are listed ¹⁾ for the purposes of Article 7 of the Protocol. They have been selected mainly on the basis of their

- toxicity
- persistence
- bioaccumulation.

1. Organohalogen compounds and substances, which may form such compounds in the marine environment. ²⁾
2. Organophosphorus compounds and substances which may form such compounds in the marine environment. ²⁾
3. Organotin compounds and substances which may form such compounds in the marine environment. ²⁾
4. Mercury and mercury compounds.
5. Cadmium and cadmium compounds.
6. [Persistent mineral oils and persistent hydrocarbons of petroleum origin, in particular] used lubricating oils.
7. Persistent [solid] synthetic materials [, in particular plastics,] which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea.
8. Substances [having proven] [which are potentially] carcinogenic, teratogenic or mutagenic [properties] in or through the marine environment.
9. [Radioactive wastes and other radioactive matter.]

OR

[Radioactive wastes and other radioactive matter to be defined by the Parties.]

OR

[Radioactive wastes and other radioactive matter to be defined by the IAEA.]

OR

[Radionuclides, when the discharges do not comply with the principles of radiation protection and/or exceed the limits to be defined jointly by the Parties.]

B. [This annex applies to all wastes from land-based sources, including municipal and industrial discharges as well as any other point and non-point sources. The present annex does not apply to discharges which contain the substances referred to in Section A below the limits defined jointly by the Parties. The discharge of such wastes shall be subject to the provisions of annexes II and III.]

OR

[This annex applies to all wastes from land-based sources, including municipal and industrial discharges as well as any other point and non-point sources.]

OR

[The present annex does not apply to discharges which contain the substances referred to in Section A below the limits defined jointly by the Parties. The discharge of such wastes shall be subject to the provisions of annexes II and III.]

OR

[Delete entire Section B.]

ANNEX II

A. The following substances, families and groups of substances, or sources of pollution, listed for the purpose of Article 8 of the Protocol, have been selected mainly on the basis of criteria used for annex I, taking into account the fact that they are generally less noxious or are more readily rendered harmless by natural processes and therefore generally affect more limited coastal areas.

1. The following elements and their compounds:

- | | | | |
|-------------|---------------|---------------|---------------|
| 1. zinc | 6. selenium | 11. tin | 16. vanadium |
| 2. copper | 7. arsenic | 12. barium | 17. cobalt |
| 3. nickel | 8. antimony | 13. beryllium | 18. thalium |
| 4. chromium | 9. molybdenum | 14. boron | 19. tellurium |
| 5. lead | 10. titanium | 15. uranium | 20. silver |

2. Biocides and their derivatives not covered in annex I.

3. Organosilicon compounds and substances which may form such compounds in the marine environment excluding those which are biologically harmless or are rapidly converted into harmless substances.

[4. Crude oils and hydrocarbons of petroleum origin and mixtures containing any of these other than those listed in annex I.]

5. Cyanides and fluorides.

6. Non-biodegradable detergents and other surface-active substances.

[7. Inorganic compounds of phosphorus and elemental phosphorus.]

8. Pathogenic micro-organisms.

9. Thermal pollution.

[10. Radioactive wastes and other radioactive matter, not covered in annex I.]

11. Substances which have a deleterious effect on the taste and/or smell of the products for human consumption derived from the aquatic environment, and compounds liable to give rise to such substances in the marine environment.

[12. Substances which have an adverse effect on the oxygen balance.]

B. [This annex applies to all wastes from land-based sources, including municipal and industrial discharges as well as any other point and non-point sources. The present annex does not apply to discharges which contain the substances referred to in Section A below the limits defined jointly by the Parties. The discharge of such wastes shall be subject to the provisions of annex III.]

OR

[This annex applies to all wastes from land-based sources, including municipal and industrial discharges as well as any other point and non-point sources.]

OR

[The present annex does not apply to discharges which contain the substances referred to in Section A below the limits defined jointly by the Parties. The discharge of such wastes shall be subject to the provisions of annex III.]

OR

[Delete entire Section B.]

C. The control and strict limitation of the discharge of substances referred to in Section A should be implemented in accordance with the criteria set out in annex III.

ANNEX III

The factors to be taken into account in establishing criteria governing the issue of an authorization for the discharge of wastes containing substances referred to in annex II or in Section B of annex I include:

- A. Characteristics and composition of the waste
 1. Type and size of waste source (industrial process, etc.).
 2. Type of waste (origin, average composition).
 3. Form of waste (solid, liquid, sludge, slurry).
 4. Total amount (volume e.g. per year).
 5. Discharge pattern (continuous, intermittent, seasonal variations, 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 rendering harmful compounds.
 5. Adverse effects on the oxygen balance.
 6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other seawater 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 conditions of the coastal area.

2. Location of the waste discharge (outfall, canal, outlet, etc.) and its location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas, shellfish grounds), and other discharges.
3. Initial dilution achieved at the point of waste release.
4. Dispersion characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).
5. Water characteristics with respect to physical, chemical, biochemical, biological and ecological conditions in the discharge area.
6. Capacity of the receiving marine environment to receive waste discharges without undue effects.

D. Availability of waste treatment technology

The method of waste treatment and discharge should be selected taking into account the availability and the possible implementation of various treatment, re-use or elimination methods of industrial and domestic wastes and waste waters on land, including particularly, the methods available for new installations.

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

1. Effects on human health 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.