MEDITERRANEAN ACTION PLAN

First Meeting of the Working group on Implementation and Compliance under the Barcelona Convention

Athens, Greece, 8-9 November 2004

INITIAL REPORT ON THE COMPARATIVE LEGAL STUDY FOR THE MAP-REPORTING SYSTEM
Initial Report on the comparative legal study for the MAP-Reporting System

1. Introduction

The ex-post evaluation of the impact and the effectiveness of the International and regional Conventions through monitoring and reporting is of key importance for:

- Establishing future trends in the state of Environment
- Assessing the effectiveness of measures taken by the Contracting Parties and thereof checking the compliance with the legal binding provisions.

Monitoring and reporting mechanisms constitute therefore an integral part of almost every legal instrument at international and regional level.

Additionally reporting is also an integral aspect of compliance in the sense that the very requirement for reporting gives an incentive to the Contracting Parties to comply with the provisions stipulated in the legal instrument.

Taking the relevant international developments into consideration and having the will to move from "word to action" regarding the effective implementation of the Barcelona Convention and its Protocols, the Contracting Parties adopted at their 12th Ordinary Meeting the reporting format for the legal component of the UNEP-MAP System. Furthermore a pilot project with the participation of seven countries aiming at the further development of the reporting system has been established.

The reporting system of the Barcelona Convention and its Protocols still remains at its infancy. As the UNEP-MAP Legal component constitutes a “high developed” legal instrument for the prevention and reduction of marine pollution, therefore contributing to sustainable development at the Mediterranean Basin, together with a set of decisions and recommendations related to the promotion of sustainable development—being thus a role model for regional Seas Conventions-, it is of utmost importance that its reporting system as a mechanism for assessing compliance will be improved.

2. Aim of the Study

The main aim of the Study undertaken on behalf of MEDU-Office of UNEP-MAP is that the reporting system of the Barcelona Convention and its Protocols is pearly examined and reviewed in comparison with the other relevant Multilateral Environmental Agreements, International and Regional Conventions and EU-Directives.

The comparative analysis can be an essential tool for reaching important conclusions concerning the effectiveness of various reporting mechanisms and furthermore for assessing recent trends on monitoring and reporting in the field of international and European law.

After taking the results of the peer comparative analysis into consideration, the ultimate goal of this study is thus to provide concrete recommendations for the improvement of the MAP-Reporting System. Proposals will aim at reducing the reporting burden for the Contracting parties through avoiding duplication and overlapping with the reporting requirements of other relevant legal instruments.

Special attention will also be paid to the art of information that has to be submitted through national reports so that it is really useful to those entities responsible for reporting as well as to the MEDU Office in order to assess the effectiveness of the measures taken for the implementation of the Convention and its Protocols. The provision of clear guidelines for the collection of right type of information can be a key element for the streamlining of reporting process.
Furthermore it will be examined the type and context of a possible reporting format for the non legal component of UNEP-MAP (namely MAP-PHASE II, ?arcelona Resolution and Priority fields of action and also all the other non legal binding instruments, such as Resolutions and Recommendations) taking into consideration all recent developments, such as the reporting mechanisms to CSD.

3. Methodology

-Categories of legal instruments to be examined

As it was previously mentioned, the reporting system of MAP is going to be reviewed in comparison with the reporting mechanisms of various Multilateral Environmental Agreements (MEAs), International and Regional Conventions and EU Directives and Decisions.

These legal instruments can be subdivided into three categories:

- First category includes all the MEAs, International and Regional Conventions on which information regarding ratification or accession is required as per Par 7.3 in terms of Resolutions and Recommendations of the Contracting Parties between 1985 and 2003. It is also worth mentioning that the IMO Resolutions regarding ship reporting requirements will be taken into consideration. The List of the aforementioned International Agreements is presented as an Annex I to this document.

- The second category includes International and Regional Conventions that are not part of the first Annex but either their context is relevant to the Barcelona Convention and its Protocols or are of general environmental interest due to their innovative reporting requirements. The List of these International and Regional Conventions is presented as Annex 2 to this document.

- Finally the relevant EU Directives and Decisions are classified to the third category. First of all, it will be examined the scope of application and the efficiency of the reporting system established through the Standardized Reporting Directive (91/692). Furthermore it will be focused on the recent trends for reporting established through the adoption of the so called Framework Directives (Air Quality Framework Directive 96/62, Water Framework Directive 2000/60) and Decisions establishing monitoring mechanisms and reporting requirements (the Decision 2004/280), because these new developments are of crucial importance for assessing progress on reporting mechanisms of EU Environmental Legislation.

Special Attention will also be paid to the Directives that have a direct or indirect relevance to the context of the Barcelona Convention and its Protocols. For example, the reporting requirements of Directives relating to the prevention and reduction of marine pollution from industrial and municipal sources are going to be examined as far as their provisions are relevant to Strategic Action Programme (SAP) for combating pollution from land-based sources. The List of the relevant EU Directives and Decisions to be examined is presented as Annex III to this document.

Criteria and parameters for the examination of reporting requirements

After taking into consideration the previous and ongoing efforts for the harmonization of reporting process of various MEAs and EU Directives, the reporting systems of the already mentioned International and European legal Instruments are going to be examined in respect of the following parameters and criteria:

- the exact form of reporting: Information can be submitted in various forms, namely as notification, communication, one-off submission, information and report.
- the frequency of reporting: Each International Agreement or EU Directive has a specific reporting period prescribed in its legal framework. However, thematic or ad
hoc reports do not have a fixed period. Periodic reporting can vary from one to six years.

- **the objectives of reporting:** Objectives are dictated by the legal instrument or by Decisions and Recommendations of Contracting Parties in cases of International Agreements and can be either of strategic or of programmatic nature. Some reports aim at informing the Contracting Parties and Secretariat, other aim at providing planning and strategic tools or at assessing the effectiveness of the implementation measures.

- **the depth of the information to be submitted:** The main measure for depth is whether reporting requirements refer merely to a description of policies and measures or they go further and ask for an evaluation of the impact of these measures.

Information and data to be submitted can be classified into the following types:

- Data concerning legal transposition, namely laws, regulations and administrative provisions
- The so called baseline environmental data
- Information and data concerning practical application, namely the setting of limits and standards, the definition of best available technologies, the designation of zones and the development of codes for good practice
- Information and data concerning the monitoring of practical compliance, namely state of environment data, the monitoring and measurements methods used and the number of granted authorizations and imposed fines.

**The Provision of detailed guidelines** It should be examined whether or not Secretariat of MEAs and the European Commission provide clear guidelines in order to facilitate the preparation of national reports and to improve the management of the information required for those reports.

**Provision of electronic format:** Forms and Guidelines come in very different forms, from simple printed documents to complex digital forms available on Internet. The efficiency of the various forms will be examined, taking into consideration the benefits of electronic form in terms of accessibility.

**Publication and dissemination of national reports:** The availability of national reports to the Contracting Parties and to the Community at large is of great importance for the dissemination of information and for increased pressure especially from Non-Governmental Organizations to the States in order to improve compliance. Posting on the Internet supported by sufficient automated processes would be one of the suitable options.
ANNEX I

List of International Legal Instruments on which information regarding signature, ratification or accession is required as per paragraph 7.3 in terms of Resolutions and Recommendations of the Contracting Parties between 1985 and 2003.

- The 1996 International Convention on Load Lines
- The International Convention Relating to Intervention on the High Seas in cases of Oil Pollution Casualties (INTERVENTION 1969) and its 1973 Protocol relating to Intervention on the High Seas in Cases of Pollution by substances other than oil (INTERVENTION PROTOCOL 1973).
- The 1972 UNESCO Convention concerning the protection of the World Cultural and Natural Heritage (The World heritage Convention).
- The 1990 International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC) and the 2000 Protocol on Preparedness, Response and Cooperation to Pollution Incidents by hazardous and noxious substances (OPRC-HNS Protocol).
• The 1994 United Nations Convention to Combat Desertification.
• The 2001 International Convention on the Control of Harmful Antifouling Systems of ships.
• The 2001 International Convention on Civil Liability for Bunker Oil Pollution Damage.
ANNEX II

I. Global Conventions

1. Biodiversity
2. Cartagena Protocol on Biosafety
3. The Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that deplete the ozone layer
4. The Stockholm Convention on Persistent Organic Pollutants (POPs)-(not yet entry into force)
5. The Rotterdam Convention on prior informed procedures in trade of hazardous chemicals and pesticides

II. Regional Sea Conventions

1. Convention for the protection of the marine environment of the Baltic Sea (The HELCOM Convention)
2. Convention for the protection of marine environment of North East Atlantic (The OSPAR Convention)
3. Convention for the protection of Black Sea against pollution (The Bucharest Convention)

III. Conventions of General interest

1. The UN-ECE Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention)
2. The UN-ECE Convention on environmental impact assessment in a transboundary context (The ESPOO Convention)
3. The UN-ECE Convention on the protection and use of transboundary water sources and international lakes
4. The UN-ECE Convention on the transboundary effects of industrial accidents
5. The UN-ECE Convention on long-range transboundary air pollution (LRTAP Convention) and its Protocols
I. The Standardised Reporting Directive 91/692 and its scope of application

Special attention will be paid to the reporting system established through the Standardised Reporting Directive. A various number of directives that fall into scope of application such as the majority of water related and waste related directives.

II. Directives of general environmental interest (not covered under the provisions of 91/692 Directive)

- Biodiversity related directives (Directive 79/403 on the protection of wild birds and Directive 92/43 Habitats and Species Conservation)
- Directive 91/271 on urban waste water treatment
- Directive 91/676 on Nitrates from Agricultural Sources
- Directive 96/61 on Integrated Pollution and Prevention Control especially focused on the establishment of the European Emission Register System (EPER).
- Framework Directive on ambient air quality 96/62
- Water Framework Directive 2000/60
- Directive 2003/4 on public access to environmental information
- Directive 2003/87 establishing a scheme for greenhouse gas emission allowance trading
- Directive 2004/35 on environmental liability with regard to the prevention andremedying environmental damage.

III. EU Legislation for marine pollution

- Communication from the Commission to the Council and the European Parliament-Towards a strategy to protect and conserve the marine environment, COM/2002/0539 Final
- Decision No 2850/2000 of the European Parliament and of the Council setting up a community framework for cooperation in field of accidental or deliberate marine pollution.
- Regulation No 2099/2002 of the European Parliament and of the Council establishing a Committee on Safe Seas and the prevention of pollution from ships
• Commission’s amended proposal on the establishment of a fund for the compensation of oil pollution damage in European waters and related measures, COM (2002), 313 Final.
• Commission’s Proposal for a Council Framework Decision to strengthen the criminal law framework for the enforcement of the law against ship source pollution, COM (2003), 227 Final.

IV. Decisions concerning monitoring and reporting

• Decision No 280/2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for the implementation of the Kyoto Protocol.
• Decision No 156/2004 establishing guidelines for the monitoring and reporting of greenhouse gas emissions.