



# The Law of the Sea



and the  
Mediterranean

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prepared for the  
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and the  
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***Cover: A medusa is accompanied by  
tiny fish in the clean, open waters of the  
Adriatic Sea.***

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# The Law of the Sea and the Mediterranean

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# A constitution for the oceans

Through the Barcelona Convention, its Protocols and other international instruments, the Mediterranean States have agreed to co-operate in "situations of grave and imminent danger to the marine environment".

These and other efforts towards regional co-operation have given the Mediterranean a big head start in making a reality of the principles embodied in the United Nations Convention on the Law of the Sea. The new "constitution for the oceans" highlights the achievement of the Mediterranean Action Plan. What new strength can this global Convention give to regional links in this crossroads of civilizations, and how has the Mediterranean Action Plan bolstered the ocean regime?

This booklet describes these two major international regimes and how they can work to further the cause of protecting the Mediterranean from the consequences of human activity, both within the region and far from its shores.

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*Mediterranean countries are united to protect their sea in cases of "grave and imminent danger".*



## Our interdependent world

We live in an age of close interdependence. Mass transportation and telecommunications – those miracles of the industrial and technological revolutions – have created a vigorous, global interchange of people, goods and information. The most distant nations can interact directly and immediately.

But there is another, more fundamental interdependence among countries, which operates in the absence of diplomatic ties, telephone lines and superhighways: *environmental* interdependence. Through processes at work on the land, in the atmosphere and in the sea, changes in one country's environment have repercussions in nearby regions and even distant parts of the world. The actions of one nation can have consequences for all.

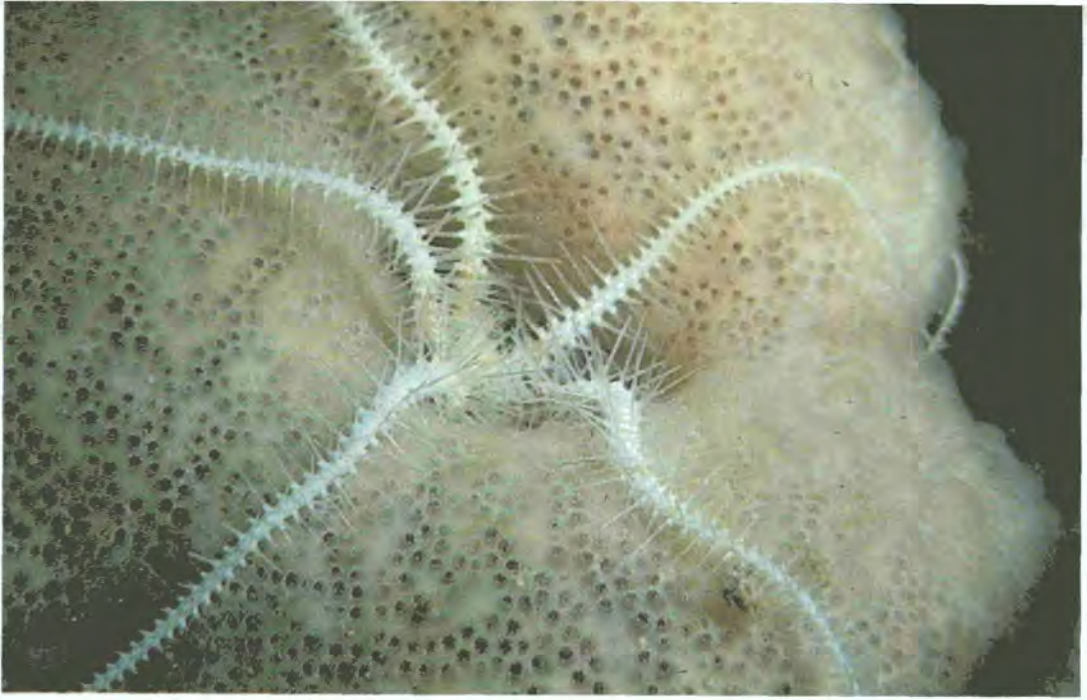
A century of industrialization and urbanization in some countries has greatly altered the environment in which we all live. In spite of evidence from around the globe of the dangers of local extinctions of animal and plant species, declining economic activity, social disruption of communities, disease and premature death, we continue to maltreat our environment. Discharge of wastes into the oceans contaminates living resources and pollutes recreational areas, threatening the health of consumers and bathers; the release of sulphur dioxide and nitrogen oxides into the atmosphere creates acid rain which is ravaging forests and exterminating inland aquatic life; the release of chlorofluorocarbons (CFCs) into the atmosphere is damaging the ozone layer, thus gradually destroying our protective shield against the sun's cancer-causing ultraviolet rays.

## A new international agenda

Heedless of approaching catastrophe, many nations and their leaders chose to remain indifferent until relatively recently. Attitudes changed radically after the 1972 United Nations Conference in Stockholm adopted a Declaration on the Human Environment. Indifference was replaced by intense concern, passivity by action. In this atmosphere, the United Nations Environment Programme (UNEP) was established: on both global and regional levels, activities were rapidly set in motion.

Between 1973 and 1982, the largest, most representative and most ambitious law-making conference ever, the Third United Nations Conference on the Law of the Sea (UNCLOS III), set out to write a new constitution for the oceans with the protection and preservation of the marine environment as one of its principal objectives.

The agenda that emerged for the international community aims to reconcile human activity and the natural environment, through the harmonization of ocean development and management. The Law of the Sea Convention, adopted in 1982, is the single example of an international legal instrument for sustainable development.



*Brittle stars are among the many marine animals which have fallen victim to Mediterranean pollution .*

## Leading the way

The Baltic and the Mediterranean were the first regions to take far-reaching action for the protection and preservation of the marine environment.

### The problem

The Mediterranean encompasses 18 States rife with political, ideological, cultural, economic and social differences and conflicts: Albania, Algeria, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Spain, Syria, Tunisia, Turkey and Yugoslavia. They had to shake off a heavy burden of historical animosity to come together and address their common problem – a troubled sea on which they all depend. Over millenia, their ancestors had turned thick forests into wasteland and desert. They altered the climate, exterminated many land and marine species for subsistence and sport, and destroyed lagoons and wetlands to reclaim land. Today's Mediterranean inhabitants have urbanized large segments of the coast. They have indiscriminately poured urban, agricultural and industrial wastes into inland waterways and the sea. And, deliberately and accidentally, they have introduced alien species of flora and fauna. In addition, many visitors to the region, from tourists to cargo vessels, have left their impact on the coastal and marine environment.

## The response

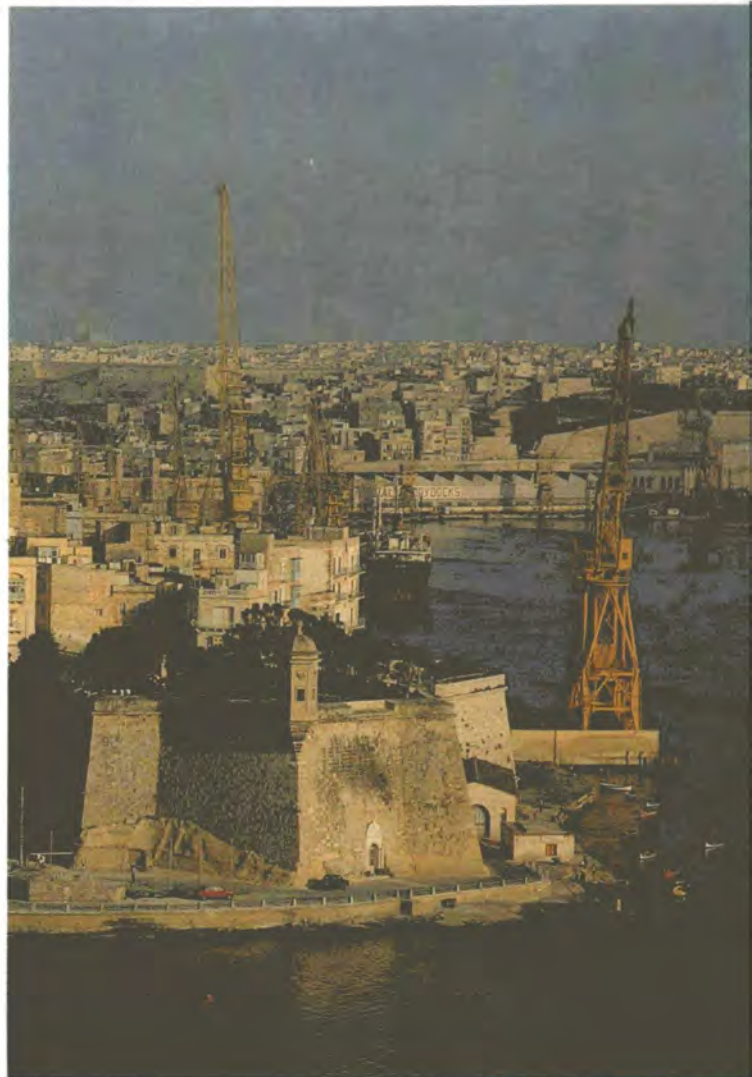
In 1975, UNEP convened a conference in Barcelona at which a historic Mediterranean Action Plan was adopted by 16 Mediterranean States and the EEC. It has four components, which cover:

- integrated planning of the development and management of the resources of the Mediterranean Basin;
- a co-ordinated programme for research, monitoring, and exchange of information, and assessment of the state of marine pollution and of protection measures;
- a framework convention for the protection of the Mediterranean environment, and related protocols with their technical annexes;
- institutional and financial implications of the Action Plan.

Initially financed by UNEP, the Action Plan soon achieved one of its principal legal objectives with the adoption of a convention to serve as an umbrella structure for other legal instruments. The Barcelona Convention for the Protection of the Mediterranean Sea Against Pollution (1976), was accompanied by the first two protocols, one dealing with pollution by oil and other harmful substances in emergencies, and another on dumping from ships and aircraft.

The legal framework was further strengthened with the adoption of two additional protocols, one in 1980 dealing with land-based sources of pollution, and one in 1982 on specially protected areas.

***Much of the Mediterranean coastline has been urbanized with little or no effort to protect the environment.***



The Mediterranean Action Plan is not a programme that exists only on paper. It is backed by activities which give substance to the regional co-operative effort and involve the Parties to the Barcelona Convention and several international organizations.

Informed decisions cannot be made without information; assembling the scientific information needed as a basis for the Action Plan was the job of the Mediterranean Pollution Monitoring and Research Programme, known as MEDPOL. MEDPOL is a massive scientific undertaking to assess and monitor the impact of pollutants on the Mediterranean marine environment. Operating by co-ordinating national efforts and harnessing the expertise of scientists from all parts of the Mediterranean, MEDPOL soon became the central activity of the early Action Plan.

Accompanying MEDPOL are two other programmes. The Priority Actions Programme (PAP) offers management solutions to the region's most pressing environmental problems; these measures include integrated planning for coastal zones, aquaculture, rehabilitation and reconstruction of historic sites, water resources development for islands and isolated coastal areas, and land-use planning in earthquake zones.

The other programme, known as the Blue Plan, makes long-term projections about the health of the Mediterranean environment on the basis of current trends in socio-economic development. Among the variables taken into consideration are water resources, industrial growth, energy needs, demography, tourism, rural development and urbanization. The first phase was completed in 1987, and the Blue Plan has completed and published its long-term projections to the year 2025.

These ambitious programmes require proper organization and finance. The planners have opted for a decentralized system, with regional centres based in different countries. The first such institution was the Regional Oil Combating Centre in Malta, now renamed the Regional Marine Pollution Emergency Response Centre for the Mediterranean, sponsored by the International Maritime Organization (IMO) and funded from the Action Plan budget. The Blue Plan is located in Sophia Antipolis (France), and the PAP in Split (Yugoslavia). The newest centre, the Centre for Specially Protected Areas, is based in Tunis (Tunisia).

The vital job of co-ordinating the overall regional effort is left to the Co-ordinating Unit of the Mediterranean Action Plan, which is run by UNEP from Athens, Greece. The Co-ordinating Unit is also responsible for the convening of ordinary and extraordinary meetings of the Contracting Parties of the Barcelona Convention. Moreover, the Mediterranean coastal States are now financing the Action Plan themselves by contributing to a special UN-administered trust fund. The approved budgets for 1990 and 1991 stood at US\$5,451,000 and US\$5,698,510, respectively.

It would be unrealistic to assume that such an extensive programme could be launched and continued without further assistance. The various activities within the framework of the Action Plan now involve co-operative networks of national institutions and specialized governmental and nongovernmental, regional and global organizations.





*Unusual blooms of marine algae could be natural phenomena – or signs of pollution or global warming.*



*The Convention benefits everyone who loves and uses the sea.*

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## The Law of the Sea and the Mediterranean

The Law of the Sea Convention is a global instrument, and its provisions in Part XII on protection and preservation of the marine environment explicitly call for regional co-operation to take account of "characteristic regional features". It does not specifically name any one region of the world.

The global constitution was negotiated at the same time that the Mediterranean States were creating their own regional regime for marine environmental protection, so that there were important opportunities to ensure harmonious development of international legal rules. Thus, the general provisions of the Barcelona Convention, as with subsequent regional conventions concluded under UNEP auspices, generally conform with the provisions of the Law of the Sea Convention.

The 1982 Law of the Sea Convention is the largest, most wide-ranging and most complex treaty ever negotiated, and is widely recognized as one of the most important legal instruments ever concluded. It received the unprecedented number of 159 signatures, and now has 47 of the 60 ratifications needed for its entry into force. The Convention has 320 Articles in 17 Parts and 9 Annexes dealing with numerous issues, and involving such diverse topics as territorial seas and contiguous zones, straits used for international navigation, archipelagic States, an exclusive economic zone, continental shelves, high seas, islands, enclosed and semi-enclosed seas, landlocked States, the international seabed area

beyond all national jurisdiction, the marine environment, marine scientific research, development and transfer of marine technology, and dispute settlement. The protection and preservation of the marine environment is dealt with in 45 Articles of Part XII and in numerous other places throughout the treaty, directly or indirectly.

How does the Convention affect the Mediterranean regional effort in marine environment protection and preservation?

## **A sea of national maritime zones**

The Convention has sanctioned the extension of national maritime jurisdiction seawards to a territorial sea of 12 nautical miles (nm), a 24-mile contiguous zone, a 200-mile Exclusive Economic Zone (EEZ) and a continental shelf that reaches the edge of the continental margin. This extension of national jurisdiction has taken place at the expense of the high seas, an area in which any State can exercise certain traditional freedoms such as navigation, fishing and scientific research.

Because of its narrow limits, the Mediterranean does not permit any of its 18 coastal States to claim the maximum limit of either the EEZ or the continental shelf. Few States have claimed an EEZ or an exclusive fishery zone of any size in the Mediterranean Sea to date; but if all the Mediterranean coastal States extend their claims to the fullest extent possible, the Mediterranean Sea will become a sea of national maritime zones with no high seas: nowhere does the Mediterranean Sea have open space measuring 400 nm across. Only certain rights of navigation and laying of submarine cables and pipelines would remain for other States. Moreover, distributing jurisdiction over the Mediterranean among its coastal States will entail the creation of at least 33 international maritime boundaries

Several Mediterranean countries have already begun to negotiate and delimit their territorial sea and continental shelf boundaries by bilateral agreements; but some territorial claims continue to be contentious – for example, in the area between Italy, Malta and Libya, or in the Aegean Sea between Greece and Turkey.

Under the Law of the Sea Convention, the coastal State has sovereign rights over resource utilization in its EEZ and continental shelf and exclusive jurisdiction with regard to protection and preservation of the marine environment. Consequently, the well-being of a Mediterranean Sea shared by 18 national jurisdictions will require the reconciliation of national development and regional management strategies.

The EEZ grants the coastal State extensive rights, but it also imposes responsibilities and obligations, including those relating to living resources and the marine environment, which the coastal State is obliged to protect and preserve – both on its own and in co-operation with other States and international organizations.

## Co-operation in a semi-enclosed sea

Nowhere is the co-operative ethic of the new Law of the Sea more clearly espoused than in enclosed and semi-enclosed seas. The Mediterranean consists entirely of actual or potential EEZs and is connected to the oceans through very narrow outlets. Neighbourliness, especially in narrow geographical areas, implies continuous interaction. With this in mind, the Convention singles out "enclosed and semi-enclosed seas", such as the Mediterranean, as needing a heightened degree of co-operation.

Partly because of the Mediterranean's strategic importance as a causeway between the Atlantic, the Near East and the Balkans, efforts by developing Mediterranean countries to have the region formally recognized as a semi-enclosed sea under the Convention met with a flat refusal by major maritime powers. A text supported by countries ranging from Algeria to Romania would have created an even stronger obligation of co-operation, but the final provision is cast in recommendatory rather than mandatory terms. Thus, States bordering such seas as the Mediterranean are encouraged to co-operate with each other in exercising their rights and performing their obligations under the Convention.

Specifically, they are required to co-ordinate their actions in the following activities: management, conservation, exploration and exploitation of the living resources of the sea; implementation of their rights and duties with respect to the protection and preservation of the marine environment; and scientific research policies. With regard to the last, Mediterranean States should undertake, where appropriate, joint programmes of scientific research. The co-operative ethic of the Convention also requires that other interested States and international organizations be invited to participate in these co-operative activities.

## Managing living resources

The Convention has placed most of the world's great fishing grounds within the control of sovereign States. Despite its impoverished fisheries, the Mediterranean and the Black Sea together qualify as a major fishing area, accounting for a catch of nearly two million metric tons. Although small in comparison with other fishing regions, the Mediterranean seafood harvest fetches some of the world's highest prices because of the great local demand for fresh fish.

The Mediterranean Sea has long suffered from overfishing of several species, especially bottom-dwellers, and the exploitation of marine reptiles and mammals. Moreover, the opening of the Suez Canal in 1869 caused the migration of many Indo-Pacific species into the eastern Mediterranean, changing traditional fishing activities over time. Since the 1950s, the General Fisheries Council for the Mediterranean (GFCM), within the Food and Agriculture Organization of the United Nations (FAO), has attempted to co-ordinate the development and management of living resources. The



*Mediterranean fisheries: small catches, high prices.*

Convention proposes a new framework involving responsibilities for the coastal State on its own and in co-operation with other States and international organizations, for the conservation and optimum utilization of living resources within EEZs. Fish stocks that straddle international maritime boundaries and highly migratory species (such as highly prized tuna and swordfish in the Mediterranean) require co-operative management. This co-operative responsibility extends to mammals. In the Mediterranean, these include the endangered monk seal. The 1982 Protocol on Specially Protected Areas seeks to protect the natural habitat of these and other wildlife species in marine and coastal zones.



*The Convention calls on Mediterranean countries to co-operate in scientific research.*

## Marine scientific research

The United Nations Convention on the Law of the Sea has brought marine scientific research within the jurisdiction of the coastal State. Governments were generally wary of research by foreign vessels off their coast, particularly if it relates to natural resources or has military implications.

Under the Convention, all marine scientific research must be for "peaceful purposes". Nevertheless, research carried out by foreign vessels in zones of national jurisdiction requires the consent of the coastal State. In normal circumstances the coastal State must give permission for such research projects, in order to increase scientific knowledge of the marine environment for the benefit of all mankind. Again, the co-operative ethic of the Law of the Sea Convention encourages States and international organizations to work together in this field.

Considerable marine scientific research has been undertaken since 1910, under the auspices of the International Commission for Scientific Exploration of the Mediterranean (ICSEM), based in Monaco, the GFCM, and more recently, the Intergovernmental Oceanographic Commission (IOC) of UNESCO. Much marine scientific research in the Mediterranean is oriented towards the protection and preservation of the marine environment, whether it is carried out by institutions in the coastal State, foreigners or both co-operatively.

Within the framework of the Mediterranean Action Plan, MEDPOL is a regional marine programme of scientific research that transcends national boundaries and differences to tackle a common problem. The IOC physical oceanographic research projects for the Eastern and Western Mediterranean (POEM and PRIMO, respectively) are the latest efforts in marine scientific co-operation.

## Protection of the marine environment

The global framework for the protection and preservation of the marine environment is set out in Part XII of the Convention. Part XII operates without prejudice to the specific obligations undertaken by the Mediterranean States in the Barcelona Convention and its four Protocols. However, these specific obligations are to be performed consistently with the general principles and objectives of the Law of the Sea Convention.

Whereas the Law of the Sea Convention is concerned with marine environmental degradation as a global problem, the Barcelona Convention and its four Protocols are concerned with marine and coastal environmental degradation as a *Mediterranean* problem. Consequently, the Law of the Sea Convention also deals with issues that are not relevant to the Mediterranean, such as pollution from activities in the international seabed area and ice-covered areas, while the Mediterranean agreements elaborate upon directly relevant subjects like specially protected areas. Moreover, co-operation in the Mediterranean also covers broad problems of economic development and environmental management such as fresh water resources, historic treasures, land-use planning, renewable sources of energy, tourism, aquaculture and coastal zone management.

It is possible that not all the Mediterranean States will become Parties to the Law of the Sea Convention. In this case the legal component of the Mediterranean Action Plan assumes an even greater importance. Those aspects of the global regime for the protection and preservation of the marine environment of relevance to the Mediterranean, but not yet covered by current regional activity, have therefore to be integrated into the Barcelona system. In any case, Parties to the Law of the Sea Convention will have the task of nationally implementing that instrument in addition to their commitments in the Mediterranean arrangements.

*Soft coral in the Adriatic.*



## Regional co-operation

As required by the Law of the Sea Convention, and as set forth in the Action Plan, Mediterranean States are required to co-operate, directly or through competent international organizations, in the development of rules, standards, recommended practices and procedures, taking into account the characteristic features of the Mediterranean.

A coastal State is duty bound to notify other States and competent international organizations of any imminent or actual damage to the marine environment of which it has knowledge. Through the Regional Marine Pollution Emergency Response Centre in Malta, the Mediterranean coastal States have chosen to fulfil this responsibility co-operatively. The information it gathers is disseminated throughout the Mediterranean.

States are required to adopt anti-pollution contingency plans and to co-operate in combating pollution and preventing or minimizing the damage. Again the Centre, whose mandate has recently been extended to cover other harmful substances transported by sea as well as oil, is assisting Mediterranean States in formulating and implementing contingency plans. Moreover, States in the region are being encouraged to develop co-operative relationships bilaterally for this purpose. Already Italy and Yugoslavia, Italy and Greece, and Italy, France and Monaco have concluded agreements for their respective subregions.

States are to co-operate in promoting studies and research programmes, and to exchange information and data on marine environmental pollution. As seen earlier, the Mediterranean States have been doing this through MEDPOL. Indeed, a major goal of the first phase of MEDPOL was the co-ordination and standardization of methodologies and intercalibration of equipment to help the region-wide network of scientists and institutions to analyse, compare and communicate their results.

## Technical assistance

Protection and preservation of the marine environment is costly both in material and human resources, especially for developing countries. In a sea such as the Mediterranean, where the well-being of one part is dependent on the whole, the best possible strategy for safeguarding the environment is participation by everyone concerned in protection activities. The Convention takes account of the fact that participation by those developing countries that lack the necessary resources can be assured only if they are given the scientific, technical and training assistance they need, including preferential treatment in the allocation of the resources of international organizations.

This assistance in the Mediterranean takes place both bilaterally and multilaterally, with technical and financial help from the Co-ordinating Unit in monitoring and research. Further to resources made available from the Mediterranean Trust Fund, major assistance for the region from the





World Bank and the European Community through the environmental programme for the Mediterranean is now under way.

The United Nations Industrial Development Organization (UNIDO) is leading an effort to set up a Mediterranean Centre for Research and Development in Marine Industrial Technology, which could lead to greater technical co-operation between the public and private sectors in the development of environmentally and socially acceptable technologies.

## Monitoring and assessment

Under the Law of the Sea Convention and under the Barcelona Convention, States are to monitor the risks or effects of pollution by observation, measurement, evaluation and analysis, and to publish reports and results. MEDPOL is intended to fulfill this function on a regional basis, although to date not all the Mediterranean States have drawn up the required national monitoring programmes.

*Above: The Athens headquarters of the Co-ordinating Unit of the Mediterranean Action Plan.*

*Bottom: Collecting samples for MEDPOL.*



# Sources of pollution

Sources of pollution are many and diverse, and their control requires specifically-designed measures. Under the Law of the Sea Convention, States are under the obligation to protect and preserve the marine environment from all sources of marine pollution; it goes on to detail the specific obligations with respect to each source, in all cases requiring States to adopt legislation and other measures and to harmonize their actions at the regional level.

**Pollution from land-based sources** is by far the major source of marine environmental degradation; it results from urbanization, industrialization and agriculture.

The Mediterranean States recognized this and adopted a Protocol for the Protection of the Mediterranean Sea against Pollution from Land-based Sources in 1980, which came into force in 1983. On the basis of the Protocol, specific emission limits and water quality objectives have already been set for toxic substances such as mercury, cadmium and DDT.

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*Urbanization is a major source of damage to marine ecosystems.*





*Plastic trash on an oiled shore. The 1973 London Dumping Convention was aimed at stopping the deliberate discharge of wastes from vessels and platforms.*

**Pollution from seabed activities** makes a relatively small contribution overall, but it could become locally significant in areas of offshore mining.

Compared to the Gulf of Mexico, the North Sea or the Arabian Gulf, the Mediterranean has very little offshore activity and this is concentrated in very few areas. But with an eye on future possibilities, technical and legal experts have been meeting within the framework of the Action Plan since 1986. A draft protocol on the protection of the Mediterranean Sea against pollution from offshore exploration and exploitation activities has been completed, and is being considered by the Contracting Parties to the Barcelona Convention.

**Pollution by dumping** has long been a source of environmental degradation. Dumping is the deliberate disposal of wastes or other matter from vessels, aircraft, platforms and other structures at sea, and includes the disposal of the structures themselves. In dealing with dumping, the Law of the Sea Convention was preceded by another specialized global treaty, the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, concluded in London in 1973.



*Oil doesn't only come from tankers: as a diver investigates, tentacles of oil escape from the side hatch of this vessel capsized off the coast of Cyprus.*

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Leading up to the Barcelona Convention were widely publicized events such as the dumping of titanium dioxide wastes (the infamous "red slicks" of yesteryear) in the Western Mediterranean. In response, the Mediterranean States adopted a regional instrument, the Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft, along with the Barcelona Convention in 1976, and this has been ratified by all the Parties to the latter.

**Pollution from vessels** may come from ships during normal operations or in accidents and emergencies. Through international organizations or diplomatic conferences, States are required to establish international rules and standards to deal with this type of pollution and to adopt routing systems for safe navigation. Flag States are required to enact the legislation necessary for vessels on their registry. Although the Law of the Sea Convention sets down these fundamental requirements, specific account was taken of the Mediterranean marine environment as early as 1973, at the International Conference on the Prevention of Pollution from Ships. This conference produced a convention, later amended in 1978 and known as MARPOL 73/78, which designated the Mediterranean as one of several "special areas" where tank washings at sea are banned and where marine disposal from ships of sewage and garbage is strictly limited.

While only half of the Mediterranean coastal States have ratified MARPOL 73/78, the others represent a relatively small tonnage.

Most States have encountered technical and economic problems in setting up port reception facilities for garbage and oil wastes as required by MARPOL 73/78.

There is only one instance of a routing system in the Mediterranean: transit of tankers is prohibited in the Straits of Bonifacio. On the other hand, in 1976 the Mediterranean States concluded an instrument to deal with emergency situations: the Protocol Concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency, which has now been ratified by all Barcelona Convention Parties.



▲ *Getting ready: testing oil dispersants off the coast of Malta.*

▼ *Tar balls on a beach are evidence that ships are polluting illegally.*



**Pollution via the atmosphere** is the major source of pollution identified by the Law of the Sea Convention that has been least addressed in the Mediterranean arrangements. Although atmospheric pollution is contaminating the marine environment, it is much more than a marine problem, and one which involves States other than coastal countries, and pollution sources far from the sea.

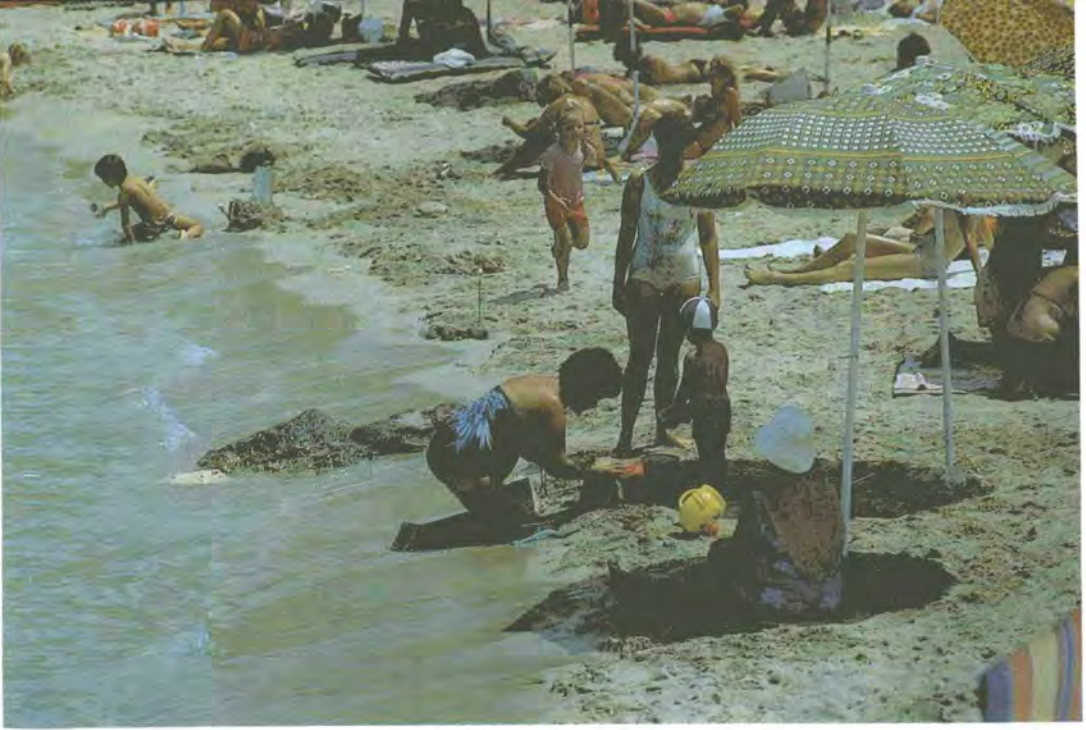
Nonetheless, several major urban centres on the Mediterranean coast are subject to intense local air pollution, mostly by sulphur dioxide which emanates from heavy industries, public and private transportation and power plants. Smog hangs over some cities, especially in the summer months, and it is known that historic treasures are being damaged.

The Protocol on Land-based Sources of Pollution does apply to pollution from land-based sources transported by the atmosphere, but the conditions of this application have yet to be defined in an annex to that Protocol. In the meantime, monitoring of atmospheric pollution has begun under MEDPOL, and estimates of atmospheric pollution loads for several major pollutants have already been made. Six of the northern Mediterranean States, together with other European countries, are Parties to the 1979 Geneva Convention on Long-range Transboundary Air Pollution, which has led to specific protocols to control and reduce sulphur and nitrogen emissions.

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***Athens is a city where air pollution is a major problem, damaging human health as well as antiquities.***





***Safer beaches: States have responsibility for maintaining standards and enforcing environmental laws.***

## Enforcement

Laws regulating human behaviour are essential for the protection and preservation of the environment. But to be useful, such laws must be applied effectively. The Law of the Sea Convention requires Mediterranean coastal and flag States, like all other States, to enforce laws and regulations within their jurisdiction in accordance with international standards. Through the Barcelona Convention, its Protocols and other international instruments, Mediterranean States have also assumed additional responsibility for enforcement of environmental standards through national legislation and other measures, and international co-operation.

## No refuge for polluters

The days when vessels could discharge their wastes freely into the sea are nearing an end. The Law of the Sea Convention also recognizes the jurisdiction of States within whose ports rogue vessels take refuge. Previously, polluting vessels discharged their wastes illegally and thereafter took refuge in foreign ports before any action could be taken against them. Port States now have jurisdiction over such vessels together with the flag State and the coastal State that suffered the pollution, so that there is no refuge for polluters.

Moreover, by virtue of a Memorandum of Understanding on Port State Control concluded in 1982, European ports are enforcing environmental and human safety conventions through spot checks on vessels in their ports. Vessels that are deemed to be unseaworthy are prevented from sailing until the necessary repairs are undertaken. Although this preventive type of port State control applies only to European ports, it holds promise for the rest of the Mediterranean.

Emergencies arising from accidents at sea, such as the *Torrey Canyon* and *Amoco Cadiz* disasters, have always attracted widespread attention because of the spectacular damage caused to the coastline, local industries and communities. While the Mediterranean, fortunately, has not suffered a major oil spill so far, there have been serious accidents involving toxic cargos such as the 1974 *Cavtat* shipwreck in the Adriatic Sea. The Law of the Sea Convention and the preceding specialized 1969 International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties recognize the right of the threatened coastal State to take extraordinary action to deal with maritime casualties. The Mediterranean States have gone further by agreeing to co-operate in taking the necessary measures in situations of grave and imminent danger to the marine environment.

**Mermaid's cup algae. Mediterranean States are responsible for protecting the marine environment and its inhabitants.**



## Responsibility and liability

In the modern international Law of the Sea, States are responsible and liable for the fulfilment of their obligations concerning the protection of the marine environment. But that law is still far from perfect: victims of pollution are not always compensated. Consequently, State Parties to the Law of the Sea Convention undertake to develop the law further in this regard.

The Mediterranean States have taken up this challenge by agreeing to co-operate in the development of procedures for determining liability and compensation for damage resulting from pollution that violates the Barcelona Convention and its Protocols. A study concerning a future Mediterranean Inter-State Guarantee Fund for this purpose has been carried out.





## Only the beginning

The United Nations Convention on the Law of the Sea contains the global framework necessary for the protection and preservation of the marine environment and the development of its resources. Like all treaties, the Convention cannot work unless a sufficient number of States become Parties to it. Moreover, becoming a Party to the agreement is only the beginning: the Convention has to be implemented in order to work. Implementation for a State includes:

- formulation of a consistent national marine policy;
- enactment of national legislation;
- taking national, regional and global institutional measures;
- undertaking subregional, regional and global co-operation.

Very few Mediterranean States have ratified the Convention so far. Fortunately, participation in the Mediterranean Action Plan, and specifically in the Barcelona Convention and its four Protocols, is extensive. But ratifications of the Protocols on Land-based Sources of Pollution and on Specially Protected Areas are still due by some States. National implementation of these instruments is also slow and yet the health of the Mediterranean Sea depends on such action.

Mediterranean States have been leaders in protecting the marine environment. The Mediterranean Action Plan, by assisting in the regional implementation of the Law of the Sea Convention, has done a great deal to promote the effectiveness of the global constitution. However, the progress made so far needs to be consolidated through increased national commitment and action, so that new endeavours to protect and preserve the Mediterranean marine environment may be undertaken with confidence.



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*Back cover: Floating debris and garbage are eyesores in an otherwise picturesque Mediterranean harbour.*

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