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MEDITERRANEAN ACTION PLAN

Meeting of the Working Group of Experts  
on 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  
Sub-Soil

Athens, 7-11 May 1990

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  
Sub-Soil

With comments received

**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 SUB SOIL**

Report containing the comments on 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. Comments received from the EEC, Egypt, France, Israel, Italy, Malta, Spain, E & P Forum.

Report prepared by the International Juridical Organization.

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Abbreviations used in the text:

Convention: Convention for the Protection of the Mediterranean Sea against Pollution.

draft Protocol: 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.

Dumping Protocol: Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft.

EIA: Environmental Impact Assessment.

**General comments**

EEC:

Good basis for discussion, some changes should be done i.e. better structure, less definitions in Article 1. Some definitions should be moved to the appropriate article.

Dispositions concerning obligations of operator should be in one section.

Very difficult to give comments since a list of products is lacking (Annex I & II), however seems to leave too much scope for Controlling State, in particular in Article 5(a) and 19 concerning environmental impact assesment (EIA), and, the transitory measures could be more restrictive.

Sometimes too detailed in comparison with other protocols, text should be made shorter where possible but the essential articles left i.e. dumping of dangerous substances, authorization, obligations and civil responsibility of the Operator.

ISRAEL:

Agrees in principle.

EGYPT:

No major comments.

MALTA:

No comments. Coincides with norms and modalities that guide the government in that field.

ITALY:

Text seems to be limited to exploration and exploitation for hydrocarbons. The text should not be limited to hydrocarbons or specify that it only deals with hydrocarbons.

SPAIN:

1. A distinction should be made between installations for exploration and exploitation. Several articles and, in particular, Sections II, III and IV, should apply to installations for exploitation only.

2. A distinction should be made between existing and future installations.

3. Too detailed.

E & P FORUM:

1. Very broad in scope and very detailed. Some matters are already dealt with in other conventions. Details might put too high a burden on meeting of Contracting Parties so references to activities that have never had a significant environmental effect could be eliminated; cross references to other conventions where appropriate; ensure that requirements are wherever possible compatible with the administrative framework of countries.

2. Low level of activities.

3. Inclusion of non oil exploration and production activities. The title implies coverage of all exploration and exploitation activities while its content is almost entirely focused on gas and oil.

two suggestions:

- redraft the text including other activities;
- specify in preamble that it mainly covers gas and oil exploration and exploitation and not exhaustively other activities. A separate protocol or annex might be developed at a later stage to cover these other activities.

Comments are based on second option.

4. Need for distinction between requirements for short term exploration activities and for long term exploitation activities.

This distinction is present in various government procedures. The distinction needs to be reflected in the definition of activities in Article 1 and the requirements for EIA in Article 5.

5. Best available technology.

"Best available technology" is used in Article 3 and 8; "most advanced safety systems" is used in Annex VI. Both seem to imply a frequent change of equipment. E & P Forum would advocate to use the term 'best available technology' as defined by the North Sea Ministers November 87 statement "throughout this declaration the term 'best available technology is understood to take into account economic availability'".

6. Control of Chemicals.

The Chemicals used in the operation of offshore installations are not the more persistent noxious type and have not been known to result in pollution as defined in Article 1 of the Convention.

The ban/limitations on chemicals listed in Annexes I and II of the draft Protocol (taken from the Land-Based Sources protocol) does not present problems. However, the proposals for control of less noxious chemicals in Article 9 and Annex V are not practical and would impose a very heavy case load on national authorities.

E & P Forum would propose either the adoption of the Chemical Use Plan as in the Kuwait protocol, or something based on the UK notification scheme.

7. Liability and compensation.

Is already covered in the Barcelona Convention and should not be covered in this draft Protocol.

As a minimum they suggest that paragraph 2 and 3 be deleted, or at the very most paragraph 1 should recognise that the Parties will pay due regard to the desirability of including strict liability and insurance/financial security only if combined with an appropriate limit in respect of all those aspects.

Comments Article per Article

Title: 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

SPAIN:

The title should reflect that the draft Protocol deals with exploration and exploitation activities for hydrocarbons.

E & P FORUM:

See general comments.

Suggest addition "of the hydrocarbon resources" after "exploitation". Alternatively the text should indicate that there will be an additional annex covering separate requirements for offshore dredging etc., to be developed at a later stage.

**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,**

**FRANCE**

The word "rapid" does not seem to be justified. Suggest to change this paragraph as follows:

" Bearing in mind the increase...".

**SPAIN:**

This paragraph is not justified by scientific data and they suggest it be deleted.

**E & P FORUM:**

Suggest to amend as follows:

"Considering the steady increase in the exploration for and exploitation of oil and gas and other mineral resources on 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,**

**ITALY:**

Suggest to weaken this paragraph because of the limited number of oilfields which are explored in the Mediterranean Sea and because pollution from such activities is very limited as compared to other activities.

**SPAIN:**

This paragraph is not justified by scientific data and they suggest it be deleted.

**E & P FORUM:**

Propose the deletion of "grave" and "human health" since the available background bibliography does not substantiate the statement "grave danger to both human health and" in the North Sea, or Gulf of Mexico, or elsewhere.

Proposal is substantiated by recent reports as:

Royal Commission on Environmental Pollution (1981) Eight Report: Oil Pollution of the Sea (HMSO London).

National Research Council (1985) Oil in the sea - inputs, fate and effects - pp 472 - 489 (National Academy Press, Washington).

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;

FRANCE:

In this version the draft Protocol envisages all mineral resources where the technical dispositions envisage only exploration and exploitation of hydrocarbons.

The draft Protocol is not adapted to exploration and exploitation activities of another kind but oil and gas, consequently either the text has to be adapted or the scope of the draft Protocol has to be limited. At this stage, however, it does not seem to be opportune to cover other activities since the exploitation of such other substances is not envisaged to happen in the near future in the Mediterranean, nor is there any convention which regulates such exploitation activities.

- (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;

ITALY:

Should be changed in order to make a better distinction between the research phase and the production phase.

ISRAEL:

Suggest that (d) (i) should be limited to those activities which will cause pollution as defined in the text of the draft Protocol.

SPAIN:

A distinction should be made between short term exploration activities and long term exploitation activities. Proposal for change:

"1.1. Exploration activities.

1.1.1. Seismological activities; surveys of the sea-bed and its subsoil; sample taking;

1.1.2. Exploration drillings;

1.2. Exploitation activities.

1.2.1. Installation of a fixed structure for the purpose of recovering resources, and activities connected therewith;

1.2.2. Development drillings;

1.2.3. Recovery, treatment and storage;

1.2.4. Transportation to shore, whether by seagoing vessel or by pipeline;

1.2.5. Maintenance, repair and other ancillary operations."

E & P FORUM:

A distinction should be made between short term exploration activities and long term exploitation activities. This distinction is present in the approval procedures of a number of Mediterranean countries (e.g. France, Italy, Libya, Tunisia and Spain).

Proposal for change:

"Activities concerning exploration and/or exploitation in the Protocol Area means activities for the purpose of recovering resources e.g.:

- (i) exploration activities: (Pure scientific research need not be covered because Article 11 of the Convention addresses such)
  - seismic activities
- (ii) exploratory and appraisal wells drilling (same comments on pure scientific research)
- (iii) exploitation activities:
  - the extraction and processing of the resource including any treatment before transport to shore, and transport by pipeline to shore; it also includes construction, repair, development drilling, maintenance or like operations incidental to the main purpose of recovering resources;

(iv) activities of scientific research relating to either (i), (ii) or (iii) above concerning the sea-bed and its subsoil.

(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;

SPAIN:

The proposed definition might lead to interpretation problems in the sense that an accident at work, for example, from which the deleterious effectarises, could be deemed to be pollution.

Proposal to take the definition as in Article 2 of the Convention.

FRANCE:

The definition as suggested in the draft Protocol is much larger than the one given in the Convention. This might lead to interpretation problems and it is suggested to keep the same definition as in Article 2 of the Convention.

E & P FORUM:

Suggest to take the same definition as in Article 2 (a) of the Convention as preferable and fully adequate.

(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;

ITALY:

The definition does not seem to be fully clear: semi-submersible platforms and drilling ships do not seem to be included whilst ships when towing the installations during these activities are included, such operations are maritime operations which are normally not included in exploration and exploitation activities.

SPAIN:

Dynamically positioned drilling rigs are not considered, they could be added in (i).

E & P FORUM:

Dynamically positioned drilling rigs should be included. Suggest that the following be added to f (i) - "including dynamically positioned units,"

(v) "ships...when towing the installation", should be deleted, since this is a normal marine operation.

## (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;

FRANCE:

The notion "Controlling State" might cause interpretation problems, it is suggested to keep the formula simple and to use "national competent authority" as in the Dumping Protocol.

It is suggested to replace "Controlling State" by "competent national authority" every time it appears in the text, i.e. artt.: 1(h); 1(g)(i); 4(1); 4(3); 6(1); 9(3); 9(4); 9(6); 15(1); 15(2); 15(3); 16(2); 16(3); 17(1); 18(1); 18(2); 18(4); 26(3).

- (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;

ITALY:

It seems opportune to make a distinction between "wastes" and "harmful and noxious wastes". As for wastes the definition could be kept as it stands, for the definition of "harmful and noxious wastes" the polluting aspect should be included.

E & P FORUM:

Propose to make a distinction between "wastes" and the other materials. As for wastes the definition seems to be adequate. For the harmful or noxious substances and materials it is believed to be necessary to state a more precise definition, e.g. to make reference to the substances in Annexes I and II. It is not considered necessary to include the last sentence of the definition.

- (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;

E & P FORUM:

Propose to delete the part between brackets, since the petrochemical products, other than those listed in Annex I and II are not relevant to the draft 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;

ITALY:

The reference to living animals in this definition is pleonastic since this situation does not normally occur.

E & P FORUM:

Suggest deletion of (iii) since the draft Protocol does not apply to these activities.

- (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;

E & P FORUM:

Suggest that "...excluding fresh fish and parts thereof..." be deleted since it is not applicable to such operations.

- (o) "Freshwater limit" means the place in water courses 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.

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.

ITALY:

It does not appear to be possible to extend the application of the Convention to internal waters of a State since this would overlap with national rules which may apply to internal waters.

FRANCE:

The inclusion of internal waters does not correspond with the normal rules and does not seem to be appropriate.

Also the extension of the application of the draft Protocol to "coastal areas" and "wetlands" does not seem to correspond with the scope of the draft Protocol which applies to the protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf. The draft Protocol should refer to Article 1 of the Convention.

SPAIN

Inclusion of "wetlands" and "coastal areas" seems to be complicated. Suggest deletion.

E & P FORUM:

Suggest deletion of 1 (b) "Waters on the landward side..". Article 1 of the Convention does not apply to such areas.

**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.

**ITALY:**

Suggest to replace "best available technology" by "best available and practicable technology".

**FRANCE:**

Suggest to replace "best available technology" by "best available technology taking into account economic availability", as already applied in other international texts.

The same replacement should apply for artt. 8 and 15 (2).

**SPAIN:**

Suggest to add a paragraph as follows:

"For the purposes of this Protocol, the term "best available technology" is understood to take into consideration economic availability".

**E & P FORUM:**

Best available technology should be defined. Suggest to adopt the concept of the Ministerial Declaration from the Second International Conference on the Protection of the North Sea, London 24/25 November 87 viz:

"Throughout this Declaration the term "best available technology" is understood to take into account economic availability".

Suggest to add a definition along these lines in Article 1.



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

### ITALY:

The Articles on authorization which should refer to all activities, apply in fact only to fixed structures; several dispositions, particularly Article 5, are inapplicable to scientific research, geophysical prospection, and explorative drilling which are only short term activities.

Suggest to explain in Article 4 that the section only applies for authorizations for fixed structures, leaving it to each State to regulate the short term activities or to divide the section in more Articles with a different procedure and conditions for the different types of authorizations.

### E & P FORUM:

Each Mediterranean State which has licensed offshore blocks has developed its own separate system for permitting exploration activities, and has a separate system for granting concessions for any developments that may subsequently result. Suggest that this section should set out the general principles of the Authorization System and that it should only detail essential requirements concerning the protection of the environment.

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.

FRANCE:

Suggest to delete "written" and to replace the expression "prior written authorization" by "prior authorization".

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.

FRANCE:

It seems necessary to change this Article in order to make a distinction between the research phase and the exploitation phase. For the research activities for hydrocarbons the procedure should be less strict, in particular for the EIA.

SPAIN:

This Article should be redrafted. Suggest for a simple Article, with the details of Requirements transferred to an Annex:

" Authorizations.

The Contracting Parties shall, in granting authorizations for exploitation activities, have regard to the Requirements set forth in Annex... to this Protocol."

E & P FORUM:

No distinction has been made between the information to be submitted for:

- a) seismic survey
- b) exploration drilling
- c) production activity

Different requirements are appropriate.

This distinction is recognized in the approval procedure presently employed by States (e.g. in France an EIA would be required prior to approval for production activities, whereas a shorter statement is considered appropriate for exploration/seismic activity).

- (c) (d) - not relevant to environmental protection. Suggest deletion.
- (f) (g) - not relevant to either licensing or seismic exploration stages.

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.

ITALY:

Suggest to replace "best available technology" by "best available and practicable technology".

SPAIN:

Suggest to add to the definitions the paragraph concerning best available technology, if such is done this Article is acceptable. (see comment Spain on Article 3).

E & P FORUM:

" Use the best available technology" implies requirement for periodic changes in installed equipment as technology changes (see comment E & P Forum on Article 3).

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.

ITALY:

It does not seem to be pertinent to cite material used to construct and protect the installation, as accompanied by a compound description provided by the entity producing such substance or material (in case this applies for the structural parts) in order to protect against pollution since most structures are made of steel. It is also not very practicable.

Paragraph 1 requires a description of the substances used to protect the structures. Special attention should be paid to anti-vegetative products for which the used quantities should be specified.

FRANCE:

It is practically impossible to conduct a control which requires a detailed description of all the used substances.

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.

ITALY:

Paragraphs 2, 3, 4 & 6: it seems to be excessive to prohibit the "use" of wastes and harmful or noxious substances and materials, it would be more appropriate to limit or prohibit disposal of such substances. Point out that the permits for disposal of such substances can only be given as prior and general permits as is the case now, it does happen that changes occur during the operations because of geological conditions which require immediate changes of the drilling muds in order to protect the well and consequently also the environment and the personnel, in such situations which require quick action it is impossible to ask for a specific authorization to the competent authority.

SPAIN:

There is confusion between "use" and "disposal", therefore suggest to delete "use" in paragraphs 2,3,4 and 6. Paragraphs 3 & 4 imply that the Controlling State has to appoint field inspectors. Suggest redrafting of the Article and that the matter is dealt with in the relevant annexes.

E & P FORUM:

This Article relates to an aspect of E & P operations which have never been known to result in pollution as defined in Article 1 of the Convention. Suggest that the requirements not be over elaborate. Suggest deletion of the word "use" in paragraphs 2,3,4 and 6. Platforms cannot operate without the use of electrical equipment which can contain Cadmium and Mercury in small amounts. The emphasis should be on the control of discharges and not on use. Paragraphs 3 & 4: the proposals are not practical and would impose a very high caseload for national authorities; suggest that there is a need to fix a minimum quantity for specific groups of substance below which consents would not be needed. The draft Protocol does not distinguish between systems for granting authorizations for general use and for a single one-off activity.

The granting of general, specific or temporary authorizations is not compatible with the conduct of safe E & P activities because it comprises human and installation security; modifications of drilling muds during drilling operations are often necessary, sometimes at very short notice to prevent a blow-out and to control pressure; these modifications cannot wait a temporary, specific or general authorization.

The Chemical Use Plan approach adopted in the Kuwait Protocol or the Notification Scheme in use on the UK shelf both avoid these problems and might be considered for the Mediterranean. Could be drafted as separate guidelines.

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.



ITALY:

Notification of each authorization seems useful and practicable if it is limited to situations which have an impact on the environment (e.g. new research and exploitation licences for minerals or the installation of fixed structures), otherwise the amount of authorizations would be too high.

The current system in Italy, which is similar to the systems applied in other Mediterranean countries, requires in a first phase a research permit which allows the applicant to do research in an approved area according to an approved programme for a maximum period of 12 years and to do geophysical prospection and exploration drilling. During the permit each of the activities is from time to time subject to authorization to be requested from different administrations, with different procedures according to the kind of activity. Exploitation activities are subject to the same administrative procedure and a concession for 30 years is granted. Each different activity requires specific authorization.

FRANCE:

The term "disposal of substances" should be defined in Article 1 in order to make sure that there is no confusion between the field of application of this Protocol and the Dumping Protocol. Article 3.3, 3.4 Dumping Protocol specifies :

3. "Dumping" means:

- (a) Any deliberate disposal at sea of wastes or other matter from ships or aircraft;
- (b) Any deliberate disposal at sea of ships or aircraft.

4. "Dumping" does not include:

- (a) The disposal at sea of wastes or other matter incidental to, or derived from, the normal operations of vessels or aircraft and their equipment, other than wastes or other matter transported by or to vessels or aircraft, operating for the purpose of disposal of such matter, or derived from the treatment of such wastes or other matter on such vessels or aircraft;
- (b) Placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Protocol.

As far as "use" is concerned it seems to be difficult to put that into practice. Only the limitation of disposal seems pertinent because certain products (e.g. mercury and cadmium) have to be used. Also, a case by case authorization system would be very cumbersome for the administration and the industry.

Suggest:

- to delete "use" in paragraphs 2 to 6.
- to replace "prior temporary permission" in paragraph 6 by a declaration system and leaving the possibility for the competent national authority to impose quantitative limitations or technical requirements on the most dangerous products.

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.

ITALY:

For establishing the maximum content of oil and oily mixtures the method to be used should be specified, i.e. spectrometry with infrared rays which allow greater precision. It would be useful to have the distinction between oil and oily mixtures and drilling fluids specified in this Article.

FRANCE:

The dispositions of this Article and of Annex V seem to be complex and difficult to apply. In particular the system of prior permits for drilling fluids is not adapted to the situation. Suggest to simplify the procedure asking the Operators to declare the amount of disposed mud, the place of disposal and the taken precautions to the administration.

SPAIN:

Drilling fluids need to be kept separate from oil and oily mixtures. Paragraph (b) lays down certain minimum standards which are not universally accepted. The laying down of standards should be left for future refining as the draft Protocol develops.

E & P FORUM:

A major distinction should be made between oily water mixtures and drilling fluids. Suggest a separate Article on drilling fluids which should be better put under a revised Article 9.

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.

FRANCE:

This Article needs revision. It foresees stricter dispositions for disposal at sea than for disposal at land which does not seem to be justified. For authorization of disposal it is appropriate to adopt similar dispositions as set in the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources ( Article 6 and Annex III).

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.

ITALY:

The content of Article 11 and 12 should be similar to the ones of Annex V of MARPOL 73/78, putting platforms on the same level as ships. According to MARPOL 73/78 the Mediterranean is a "special area". Paragraph 2, Article 11 and paragraph 3, Article 12 should stay.

E & P FORUM:

Article 11 and 12 follow the Annexes IV and V of the MARPOL Convention. The oil industry would generally encourage states to ratify MARPOL and its optional Annexes. It would however question the need to reproduce the provisions in the draft Protocol, and particularly question the desirability of their incorporation with minor changes.

If Article 11 is to be retained we recommend the following changes:

Article 11 paragraph 1 after "installations" insert "permanently manned by 10 or more persons" (this wording is included in the corresponding Article in the Kuwait Convention Protocol and is similar to that in Annex IV, Reg. 2 of MARPOL 73/78).

**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.

**ITALY:**

Treatment of wastes and dangerous substances should be at the expense of the Operators as specified in the legislation of the Contracting Parties.

**E & P FORUM:**

Paragraph (a), question whether it is for the Operator to provide adequate onshore reception facilities for the proper disposal of all wastes. In many cases it is the port or municipal authority who provides such facilities.

Suggest:

" Operators arrange for the proper disposal of all wastes and harmful or noxious substances and materials in onshore reception facilities".

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 IV.
5. The Parties shall ensure through inspection that the activities are conducted by the operators in accordance with this article.

ITALY:

A Certificate of safety and fitness for purpose recognized by the competent international body for production platforms and mobile offshore drilling units. This disposition introduces a complete new concept into Italian legislation. Italian legislation only classifies mobile drilling units as maritime installations; for fixed units and, in any event for installations for mineral activities, there is no such classification nor certificate provided. However, the obligation of such certificate for petroleum platforms could be accepted, taking into account the safety factor, on the condition that each Contracting Party can choose the entity to give such certificate after agreement between the Parties on certain rules to assure uniformity.

SPAIN:

Consider that these matters are adequately dealt with by States and that it is both superfluous and a complication to include in the draft Protocol. Suggest to delete.

FRANCE:

Replace "most advanced" by "adequate" in paragraph 2.

E & P FORUM:

Question the need for the coverage of this complex area, which is dealt with by various codes, design guides etc.

Operational discharges (or prohibitors thereof) have been covered by Articles 8 - 12. Suggest that all that is additionally necessary is a general requirement for the installations to be designed and operated so as not to release oil to the environment. If this were adopted Article 15 could be shortened and Annex VI deleted.

Para. 2, "most advanced equipment and devices" see earlier comments.

Para. 3, implies that the certifying authority will be an international ship classification society, this is a feature of UK regulations but not in that of other states.

Agree in principle with the certification but suggest that decision on designation of bodies able to certify be left to the Contracting Parties (as in Kuwait Protocol).

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.

ITALY:

It should be stated more precisely in which way and to what extent the control of the States will be extended.

With reference to the contingency plan it would be opportune to clarify their nature, e.g. only for oil spill or not.

FRANCE:

Para. 1, it would be useful to refer to the Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency.

E & P FORUM:

Para. 3, it is not stated precisely what co-ordination and direction the Controlling State should establish. In addition, the nature of the contingency plan is not defined, is it an Oil Spill Contingency Plan or a General Contingency Plan (environmental aspects and all emergency aspects).

The National co-ordination and direction (Annex VII - B) is considered as too dominant, for minor incidents in particular the Operator is able to manage the situation under his own responsibility.



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.

ITALY:

With reference to monitoring the effects of the activities on the environment it is considered necessary to specify that this requirement only applies to exploitation activities and not for short term activities like exploration.

FRANCE:

Para. 2 does not seem to be necessary since it would be more appropriate to leave the possibility for the Competent National Authority to have the monitoring done by the operators to the extent that they are obliged to transmit the information to the administration and to the extent that the administration has the power to control such.

E & P FORUM:

Suggest to restrict the application of this Article to production activities

" During the production stage of activities the operator should be required...etc".

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.

ITALY:

This Article requires the removal of all offshore installations including the submarine pipelines. In principle agree but the Parties should have the possibility to allow exceptions in justified cases and in particular for disused pipelines which do not cause environmental danger.

FRANCE:

The notion "legitimate uses of the sea" is legally not satisfactory and should be deleted.

SPAIN:

The guidelines which IMO is preparing in this respect should be taken into account.

E & P FORUM:

Pipelines are normally not included in the definition of "installations".

Suggest to retitile the Article as "Abandonment of Installations and Pipelines".

Para. 1, suggest to refer to " Guidelines and Standards for the removal of offshore installations and structures on the continental shelf and in the exclusive economic zone", which were provisionally agreed by IMO's Maritime Safety Committee in April 88 and which will be submitted to the IMO Assembly in 1989.

Para. 2, suggest following text:

" The Controlling State shall require that abandoned or disused pipelines are maintained and monitored in such a fashion 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 pipeline whether buried or not and that such information is indicated on charts and notified to the Organisation and other competent international organisations and the Parties".

**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.

**ITALY:**

Probably a better co-ordination between this draft Protocol and the Protocol concerning Mediterranean Specially Protected Areas should be made.

**FRANCE:**

It should be specified that "Parties shall take particular measures in conformity with international law".

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.

ITALY:

It would be opportune to refer to the Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency, in particular Article 10.

FRANCE:

It is desirable to change the dispositions of this Article and to specify that each country has to put in place enough means of intervention in relation to the amount of given authorizations. It should only be in exceptional circumstances that the help of other countries could be asked.

E & P FORUM:

Due to its importance for this draft Protocol, propose that the Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency should be mentioned in the text of this Article.

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.

ITALY:

Because of the sensitivity of this problem, in particular strict liability, the matter needs more detailed study.

FRANCE:

It would be appropriate to specify the term "strict and limited liability".

E & P FORUM:

Suggest to delete paras. 2 and 3 (see also general comment).



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.

FRANCE:

This Article has to be redrafted in function of earlier observations, in particularly the comments on Article 1 - h.

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.

ITALY:

It would be opportune if the Contracting Parties could ask the opinion of a Commission of experts, when considered necessary.

E & P FORUM:

Due to the variety and technical nature of the topics covered by the draft Protocol and the rapid advancement of technology the Forum sees the need for the establishment of a Technical Commission, charged to oversee the implementation of the Protocol requirements. The industry would be pleased to assist such a commission in the development of appropriate guidelines.

Such a body has been established by the Paris Commission to administer the implementation of the more limited requirements under the Paris Convention which has been working for 12 years on the implementation of their equivalent to Article 8 and 10. Information is being collected to implement their equivalent to Article 9 in the next few years.

The work involved in administering and reviewing the implementation of the broad ranging requirements in this draft Protocol should not be underestimated (see main comment 1 and Article 27).

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.

## **Annexes**

### **General comments**

#### **ITALY:**

The nature of the Annexes is extremely technical and specialised and requires a preliminary analysis by the "technical meeting" to be organised by UNEP.

#### **FRANCE:**

In general, a simplification of the Annexes is suggested which would facilitate the implementation in each country and would accelerate the acceptance by the Parties.

At the moment no comments are being made on the Annexes and should they be kept in their current form, they should be subject to an examination by a group of experts.

Comments Annex per Annex.

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.

E & P FORUM:

Suggest that the draft Protocol should indicate that the States are responsible for specifying the activities or developments that should be subject to the EIA procedures.

Propose to subject to the procedure all production activities but only exploration activities when they are adjacent to or within a specially protected area or specially sensitive area.

These principles could be included in a specific Article in Section 4. Alternatively the Organisation could develop Guidelines on this subject (This procedure has been followed in the Kuwait Protocol).

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.

E & P FORUM:

A. 2. The products from well testing can alternatively be either collected or flared. The adoption of measures to prevent spills is appropriate in each case.

A. 3. Suggest new text:

" All the necessary precautions should be taken to minimise losses of oil into the sea from oil collected or flared from well testing."  
(see Article IX Kuwait Protocol)

**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.

E & P FORUM:

Drilling fluids are necessary to control well pressures and need to be tailor-made to the particular geological conditions; Does each state wish to take on the responsibility for permitting each mud used and any variations? Muds and cuttings are normally discharged at the drilling site; Specific requirements may be necessary at certain sensitive locations but not as a general rule. The following UNEP report "The impact of water based drilling mud discharges on the Environment" (UNEP Industry and Environment Overview Series, 1985) highlights the limited and localised impact of water based drilling fluids.

1. (a) Suggest to delete "use" and insert "disposal". It is the discharge that must be authorised, possibly as part of the Chemical Use Plan.

Propose the following for B.

" WATER BASED DRILLING FLUIDS

In specially protected areas a special authorization is required and if the Environmental Impact Assessment indicates the need, a requirement that muds be disposed of at another specified location. Any special authorization issued for the use of a specific water based mud in an area will remain valid until rescinded.

OIL BASED DRILLING FLUIDS

The use of diesel based muds is prohibited.

The discharge of the whole low toxicity oil based drilling fluids is prohibited.

The discharge of the cuttings resulting from the use of such fluids is permitted, provided that an efficient solids control equipment is installed and properly operated and that the discharge point is below the surface of the water.

The discharge of the cuttings drilled with the use of such fluids in specially protected areas is prohibited.

The chemical constituents of the low toxicity oil based muds must be notified to the Authorities and their discharge will be in such a way that the average oil content is no more than 150 g/kg dry solids. \*

In case of production and development drilling, a programme of seabed sampling and analyses relating to the zone of contamination must be undertaken.

\* (Background note:

It is proposed that there be a requirement that only approved low toxicity oil based muds be used and that the oil content of the cuttings discharged be minimised by the use of good operation of efficient solids control equipment. There are current moves by some North Sea States in an area where there is a very high level of drilling activity to additionally require cuttings cleaning using wash liquors. Washing does result in a reduction in the residual oil content, but also in a change of the form of the cuttings. It is very doubtful whether any benefits to the environment result and some hints that its use could be deleterious.

The above requirements would seem to be appropriate in the light of the low level of drilling activity in the Mediterranean, and the provision for additional requirements in specially sensitive areas.)

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) 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.

E & P FORUM:

Do not consider that the references to these safety measures are relevant in this draft Protocol (see comment Article 15).

Propose that the term "most advanced safety system" not be employed since it would call for a continuous change of equipment, and that the "use of best available technology" would be more appropriate ( see comments on Articles 3 and 8).

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 State 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 interest.

E & P FORUM:

Agree that in some States the Controlling State will take full responsibility in the event of a "major spill" and implement their Contingency Plan. However this is not always the case. Some modification is needed in order to introduce flexibility in the role of the State.

B (b) implies a specific State role and the requirement for considerable specialistic expertise. Suggest that the requirement should be for the Operator to have a contingency plan which is acceptable to the State and compatible with its plan.

The Annex does not mention "The Regional Oil Combatting Centre for the Mediterranean".

**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

**Jet Fuels**

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

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

**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