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MEDITERRANEAN ACTION PLAN
Regional Activity Centre for Specially
Protected Areas

Expert Meeting on Environmental
legislations related to Specially
Protected Areas and Endangered Species
in the Mediterranean.

Ustica, Italy. 16-18 September 1993

**REPORT OF THE EXPERT MEETING ON ENVIRONMENTAL
LEGISLATIONS RELATED TO SPECIALLY PROTECTED AREAS AND
ENDANGERED SPECIES IN THE MEDITERRANEAN**

Introduction:

1. In conformity with the decisions of the Contracting Parties to the Convention for the Protection of The Mediterranean Sea against Pollution and its Related Protocols (Barcelona Convention) concerning the biennium 1992 - 1993 (Seventh Ordinary Meeting, Cairo, 8-11 October 1991, UNEP(OCA)/MED IG.2/4), the Regional Activity Centre for Specially Protected Areas (RAC/SPA) has organized an expert meeting on Environmental legislation concerning specially protected areas and endangered species, in Ustica (Italy) from 16th to 18th of September 1993.

Agenda item 1: Opening the session

2. The meeting was opened on thursday September 16th, at 09:30 am by the representatives

- of the Municipality of Ustica, the Mayor D. Calf, who welcomed the participants and invited them to enjoy the natural beauties of the island and namely the Ustica Marine Reserve;

- of the management committee of the Ustica Marine Reserve namely its chairman, Admiral A. Petralia, who highlighted the important role played by the reserve in the framework of the Italian protected areas, due to its many years of existence and to its considerable achievements;

- of the Italian Ministry of Merchant Marine, Mrs. V.Turianelli, who described the Italian system of marine reserves and specified the responsibilities of the Ministry in this matter;

- of the Italian Ministry of Environment, Mr. G. Relini, who described the responsibilities of the Ministry and provided information on some Italian marines and coastal reserves;

- of the Council of Europe, as a member of the Secretariat of the Bern Convention, Mrs. M. Dejeant Pons, who emphasized on the importance of such a meeting and on the cooperation among the various international systems of protected areas;

- of the Regional Activity Centre for Specially Protected areas (RAC/SPA) namely its Director, Mr. M. Saied, who warmly thanked Italian authorities and in particular the Municipality of Ustica for their willingness to host the meeting and for the high quality of the organization. Moreover, he stressed on the importance of having such a meeting in a Municipality housing a protected site considered as an important element in the protection of the Mediterranean environment.

3. The meeting was attended by the representatives of the following Countries: Algeria, Egypt, France, Greece, Italy, Libya, Malta, Monaco, Morocco, Spain, Syria, Tunisia and Turkey. In addition, the representatives of the Council of Europe and of the International Union of the Conservation of Nature (IUCN) were present as observers. A list of participants is enclosed as Annex II of this report.

Agenda item 2: Rules of procedure

4. The meeting agreed that the Rules of Procedure applicable to meetings and conferences of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution should apply mutatis mutandis to its discussions (UNEP/IG.43/6, Annex XI).

Agenda item 3: Election of the Bureau

5. According to article 20 of the rules of procedure, the meeting unanimously elected among the representatives of the Contracting Parties:

- a chairman: the representative of Monaco
- two vice-chairpersons: the representatives of Greece and Algeria
- a rapporteur: the representative of Tunisia

Agenda item 4: Adoption of the Agenda and organization of work

6. The provisional annotated agenda prepared by the Secretariat under the reference UNEP(OCA)/MED WG.73/2 was unanimously adopted by the meeting.

Agenda item 5: Review of the National legislations concerning specially protected areas and endangered species in the Mediterranean .

7. All countries' representatives (Algeria, Egypt, France, Greece, Italy, Libya, Malta, Monaco, Morocco, Spain, Syria, Tunisia and Turkey) presented summaries on their national environmental legislation, the existing ones or the ones under preparation, on the institutions responsible for environment and protected areas and on the network of existing or expected marine and coastal protected areas.

8. Some countries raised specific issues, namely:

- the necessity of ensuring an integrated management of coastal areas, in the case where sharing out competencies on land or sea is foreseen by the legislation;
- the necessity of ensuring coordination among the practiced competencies at the central and the regional levels;
- the necessity of highlighting the importance of protecting historical and cultural sites;
- the procedure for coastal land purchase by the French "Conservatoire du Littoral" , their restoration for protection purposes and their opening to the public.
- the setting up of a system which complies with the Protocol spirit, as the case of establishing an authority dealing with specially protected areas and their designation in Turkey.

9. Documents [UNEP(OCA)/MED WG.73/3], [UNEP(OCA)/MED WG.73/4] and [UNEP(OCA)/MED WG.73/5] were subject to commentaries .

10. The experts were invited to complete, via their national focal points, the Directory on environmental legislation concerning protected areas in the Mediterranean riparian countries [UNEP(OCA)/MED WG.73/3].

11. Concerning document [UNEP(OCA)/MED WG.73/4] "Protected areas in the Mediterranean -An Analytical Study of the relevant Legislation", it was notified that this document would be updated after the directory had been completed.

12. Finally, as for the document " Synthesis of legislations concerning the protection of cetaceans, monk seal, marine turtles , marine vegetation and birds in the Mediterranean countries" [UNEP(OCA)/MED WG.73/5], it was explained that this document was only a provisional version focused only on species of special interests and that it would be updated in the future.

13. The RAC/SPA consultant gave a brief summary on the various legislations related to the SPA Protocol. He underlined, in particular, the following points:

a/ The significance of the EEC directive 92/43 of May 21st 1992 on the conservation of natural habitats and wild fauna and flora, which will have to be implemented in the near future by the four Mediterranean riparian countries, members of EEC. This directive foresees a network of protected areas of the Community interest;

b/ Although the SPA Protocol contains several obligations that are not mandatory immediately, all the States Parties have edicted or are preparing, in a gradual process of implementation, legislations that are in harmony with the objectives aimed by the Protocol,

c/ There exists a great variety in the national legislations among and within the countries with regard to the different objectives and features of protected areas. Since the Protocol does not contemplate uniformity, it is suitable to take advantage of this diversity and to take into consideration the fact that each country, though complying with the spirit of the protocol, can adjust its application on the basis of its specific need.

d/ In most countries, there exists specific legal provisions describing the establishment and management of coastal and marine protected areas; in other countries, non specific provisions are used (for example, in the field of fishing or of coastal management) in order to achieve similar objectives for the protection;

e/ Legislations do not always follow an integrated approach for the protection of terrestrial and marine components of the site;

f/ Several legislations envisage the preparation of a management plan as a prerequisite to guarantee an effective protection ;

g/ Certain States may face conflicts of competence, either at the central level among different ministries, or at the regional/local levels among different administrations;

h/ Now, most of the States propose to protect sites, but also species, in order to assure a conservation of the biological diversity;

i/ Some legislations envisage the participation of public in the procedures of establishment

and management of protected areas and are willful to open these sites as much as possible to the public.

14. The representatives of different countries made several comments on this synthesis.

15. The representative of Greece claimed that each country should keep its flexibility and we should not try to standardize their legislation, as the juridical systems of countries for the protection of areas and species have their own particularities. In case of overlapping of competence, it would be recommendable to set up coordinating committees capable to provide concerted management of areas selected for protection.

16. All representatives insisted on the necessity of not secluding the protection of species and the protection of their environment; these two elements cannot be dissociated.

17. The representative of IUCN asked if in certain countries, the SPA Protocol had been or could be used as a legal basis for the designation of protected sites, as it is the case in Turkey with the creation of an Authority for specially protected areas and SPA sites designation. The representative of Tunisia indicated that this could not be the case, because the provisions of the SPA Protocol were enabled to have a direct application for its generality; therefore, domestic laws had to define the conditions of establishment and management of SPA. The representative of Greece underlined that the SPA Protocol could not be used by itself but together with other national legal instruments. The SPA consultant added that in one country (Italy), the law on protected areas made distinction between marine protected areas as defined under the SPA Protocol and those defined under the Italian law on sea protection.

18. The representatives of Tunisia and Turkey indicated that it was important to strengthen the means and mechanisms of coordination and exchange of information.

Agenda item 6: Analysis of the status of implementation of SPA Protocol at the national legislation level.

19. A general presentation was made by the RAC/SPA consultant particularly concerning the following points:

a/ References to the SPA Protocol in the national legislations, designating protected areas, were almost completely absent;

b/ The procedure of notification of protection measures taken by the States as well as of information with scientific character was not always concluded by the States;

c/ The importance of technical and financial cooperation (article 15), and namely the importance of reinforcing this cooperation by international agreements;

d/ The national procedures of establishment and modification of the objectives or limits of protected areas must be similar, a provision which is not always employed;

e/ Certain national legislations go beyond the limits provided by the Protocol (namely for

the impact studies); this could lead to make proposals of modification or improvement of the Protocol.

20. Countries were then invited to present the status of implementation of the Protocol at the national level.

21. The representative of Algeria introduced elements of the national legislation in his country in conformity with the objectives of the Protocol. He emphasized on the difficulty of implementing the legislation due to the lack of technical and financial means; this did not however prevent the promotion of actions of public information and awareness. He notified that each park is subject to management plan preparation.

22. The representative of France indicated that the legal framework in his country was adequate and that protected areas (on the Mediterranean coast 14 parks and reserves and 111 sites of the littoral Conservatory) were well preserved. He also underlined the difficulty of protecting the natural coastal areas outside the protected areas. In addition, he recalled the importance of management plans and human activities' impact on the protected areas.

23. The representative of Greece outlined the priorities in her country which foresee extension of legal protection to 51 areas (including 11 Ramsar sites, 10 National Parks and 20 aesthetic forests), 11 of which are coastal and were designated as SPA. All these areas must be subject to the preparation and implementation of a management plan. NGOs are involved in certain cases.

24. The representative of Italy presented 103 Italian protected sites (coastal and Ramsar sites). He also announced that other marine and coastal sites had been identified for protection. The major problem is the application of existing legislation rather than the demand of new legal provisions.

25. The representative of Libya pointed out the different legal texts concerning the protection of the environment. He explained that the implementation of the Protocol was coordinated by the national concerned authorities.

26. The representative of Malta distinguished three types of legislation on this subject: one concerning protected coastal areas where protected species are mainly terrestrial; one concerning species not necessarily related to protected areas such as cetaceans, monk seal and marine turtles; and the third one concerning marine conservation areas, which was enacted in 1992.

27. The representative of Morocco recalled that legislation of his country complied with the Protocol. He pointed out that for the National Park of Al Hoceima, the public was deeply involved in its establishment and that some modifications to the project were issued. A centre for environmental education had been installed within a classified site located on the atlantic coast.

28. The representative of Monaco described legislation of his country, including the provision for marine mammals protection beyond territorial waters within the framework of the common declaration among France, Italy and Monaco. This declaration illustrated the difficulties encountered in protecting species outside the jurisdiction defined by the Protocol.

29.The representative of Syria informed the meeting that a specific environmental legislation was being drawn up.

30.The representative of Tunisia mentioned among other things the preparation of a code on the protection of nature which would provide for a better implementation of the protection of the environment and a better coordination among all national concerned authorities.

31.The representative of Turkey mentioned the existence of an Authority for Specially Protected Areas responsible for the establishment and management of SPA, which can also be exclusively terrestrial ones. He stressed on the importance of cooperation among Mediterranean countries.

32.The representative of Spain raised the problem of the economic aspects connected with the implementation of the Protocol, which requires massive financing.

33.The representative of France stressed the importance of inventories and of keeping into consideration the sites of ecological value in any decision concerning territorial planning.

Agenda item 7: Evaluation of the efficiency of the Protocol and comparison with other existing instruments (protocols, conventions...).

34.The RAC/SPA consultant pointed out the importance of the SPA Protocol as a first treaty specifically devoted to marine SPAs. He added that since its adoption in 1982 the principles of international law have been evolved, namely with reference to the law of the sea (Montego Bay Convention) and to the law of the environment (Rio Conference).

35.Among the instruments analogous to SPA Protocol, he examined in more detail the Kingston Protocol (Caribbean Region) and the Nairobi Protocol (Eastern African Region). He put accent on the following differences:

a/ While the field of application of the SPA Protocol does not extend beyond the territorial sea of the parties, the two other Protocols are applicable to the whole zone falling under the jurisdiction of the parties. This definition includes also the exclusive economic zones which were established by the parties. Although no economic zone has been defined yet in the Mediterranean, the possibility of establishing protected areas beyond the territorial sea should be envisaged.

b/ As the SPA Protocol lies within the scope of the Convention on biological diversity, it should be completed by incorporating certain mechanisms, such as the preliminary assessment of activities that could have an adverse impact on the environment.

c/ The two other protocols and other instruments enclose lists of fauna and flora species to be protected, of species which can be exploited on a sustainable basis, of habitats to be preserved. The SPA Protocol considers specially the areas and could be annexed by lists of species and habitats.

d/ The Kingston Protocol envisages a procedure of international listing of protected sites,

based on the proposal of the involved Parties, on the evaluation by a Scientific and Technical Advisory Committee and on the decision coming from a Contracting Parties meeting.

e/ The evolution of the international law of environment is based on the sustainable development concept, which is cited in the Nairobi and Kingston Protocols. This concept deserves to be included in the SPA Protocol, covering in particular regulation of tourism within the SPA and detailed preparation of managements plans.

36. Then, he introduced briefly the other international instruments concerning the same subjects: the Convention on Whaling, the African Convention, the Ramsar Convention, the Bonn Convention, the Bern Convention and the Convention on Biological Diversity.

37. The representative of the Council of Europe introduced the Bern Convention and defined possible ways of cooperation and coordination that could be set up with the SPA Protocol.

38. The chairman opened the discussion indicating the importance of coordination between Conventions, namely the Bern Convention which contains a list of species as an annex. He emphasized on two more particular points, namely the necessity of adding an annex for wildlife in the form of lists of species and the requisite to give to the SPA Directory a legal value by making up an annex to the Protocol.

39. The representative of Algeria requested that, in all approaches to the Protocol, scientific and technical cooperation should be provided. In this regard, he proposed some specific measures and provisions (legislative provisions, Centre of exchange of information).

40. Several delegations, namely those of Italy and Monaco, stated that it was important, in order to protect species, to take into account and to develop actions aimed at preserving biotopes and habitats which were considered as a support to species survival.

41. In the framework of drawing up annexed lists of species to the Protocol, the director of RAC/SPA described the work already done by the Centre regarding endangered marine vegetation and other species, which could serve as a base for the preparation of those lists.

42. During the general discussion, the majority of the delegations agreed on the necessity of updating the SPA Protocol, namely the definition of its field of application, its extension in particular to the species under annexed lists, the inclusion of environmental impact studies' procedures and the setting up of criteria for the designation of protected areas into the directory.

43. It was agreed that a working group meets together in order to prepare some concrete proposals for the amendment of this Protocol. The proposals of the working group, as adopted unanimously by the expert meeting, are enclosed as Annex I of this report.

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Agenda Item 8: Adoption of the minutes of the expert meeting

44. The draft report of the meeting was submitted to the participants by the secretariat

and was adopted after discussion.

Agenda item 9: Closure of the meeting

45.The mayor of Ustica congratulated the participants for the significance of their work which had a particular interest for Ustica and its marine reserve. He also indicated that his Commune was willing to host other meetings organized in the framework of RAC/SPA activities.

46.The Director of the Marine Reserve of Ustica felicitated the efforts and the results of the meeting and invited the participants to visit the Marine Reserve and to take time to enjoy the beauties of the island.

47.The Director of RAC/SPA congratulated all participants on their work and effort, and the Italian local and national authorities on their hospitality and the quality of the meeting organization.

48.After recalling the importance of this meeting in the framework of improving the conservation of the Mediterranean heritage, the Chairman addressed his sincere felicitations to all participants and to the organizers, to the Municipality of Ustica and to the Italian authorities. He declared the meeting closed on Saturday 18th of September 1993 at 14h15.

ANNEX I
PROPOSALS

The legal experts, convened at Ustica, Italy, on 16-18 September 1993,

considering

- that the Protocol concerning Mediterranean specially protected areas has the merit of having been the first international treaty of this kind within the framework of the UNEP Regional Seas Program;
- that it is a component of a fruitful system of regional cooperation which can be further strengthened;
- that after the adoption of the Protocol, international law has undergone a considerable evolution, in particular in the fields of the law of the sea and the law of the environment;
- that it is appropriate to adapt the Protocol to this evolution, relating to biological diversity and in particular the protection of wildlife;

propose

to the meeting of the Parties to take into account, with a view of a possible procedure of amendment or revision of the Protocol, the following points.

- 1) The title of the Protocol could be modified into "Protocol concerning Mediterranean specially protected areas and wildlife".
- 2) The text of the Protocol, which would contain the initial provisions on protected areas and develop a special chapter on wildlife, could be shaped in the following manner:

-Preamble.

- **Part I:** General provisions, including articles on: Definitions; Territorial application; General obligations; Environmental impact assessment; National inventories; Exemptions for traditional activities; Publicity, information, public awareness and education; Scientific, technical and management research; Mutual cooperation.
- **Part II:** Protected areas, including articles on: Establishment of protected areas; Protection measures; Planning and management regime for protected areas; Establishment of buffer zones; Protected areas contiguous to international boundaries; Changes in the status; Listing of protected areas; Establishment of common guidelines and criteria.
- **Part III:** Protected species, including articles on: National measures for the protection of wildlife; Cooperative measures for the protection of wildlife; Introduction or reintroduction of species; Modification of status; Listing of protected species; Establishment of common guidelines and criteria.

- **Part IV:** Institutional provisions, including articles on: Notifications and reports to the Organization;

Scientific and technical advisory committee; Institutional arrangements; Meetings of the Parties.

- **Part V:** Final provisions, including articles on: Relationship to other treaties; Signature; Ratification and accession; Reservations; Entry into force.

3) As the purpose of the Protocol would become the protection of areas and wildlife, in the parts relating to the general provisions and the institutional provisions the references to the protection of areas should be followed by references to the protection of wildlife.

[For ex., the provision on the general obligations of the Parties should state that they take the necessary measures to protect and manage in a sustainable way both areas and species needing protection].

4) As the protection of certain species cannot be effective if it does not cover their whole range area, the territorial application of the Protocol should not be restricted to the territorial sea of the Parties, as far as regulation of activities potentially affecting wildlife is concerned.

5) Annexes could be added to the Protocol relating respectively to: the lists of protected and strictly protected species of fauna and flora; the list of protected habitats; the list of specially protected areas. Reservations on the species listed in the annexes could be permitted.

6) The listing of a species, an area or a habitat on an annex list should entail a procedure on both the domestic and international level, through the nomination by the interested party, a review by the Scientific and Technical Consultative Committee, a decision by the meeting of the Contracting Parties.

7) The coordination between the Protocol and the other international treaties entailing the creation of areas or the protection of habitats or wildlife and applying to the Mediterranean should be ensured.

8) During the phase of revision of the text of the Protocol the wording of some provisions could be made more precise or strengthened, if there has been a change in the conditions.

9) The Protocol should be provided with an adequate institutional machinery, through the national Focal Points and RAC/SPA with further strengthening their competencies.

10) The provision on the non-prejudice for the codification and development of the law of the sea by the United Nations Conference (Art. 1, para. 2, beginning of the sentence) could be deleted.

ANNEX II

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LISTE DES PARTICIPANTS

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