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MEDITERRANEAN ACTION PLAN

Meeting of Legal and Technical Experts
to examine amendments to the Barcelona
Convention, the Dumping Protocol and the
Specially Protected Areas Protocol

Barcelona, 7-11 February 1995

**PROPOSED AMENDMENTS TO
THE CONVENTION FOR THE PROTECTION OF
THE MEDITERRANEAN SEA AGAINST POLLUTION**

INTRODUCTION

As a follow up to the decisions of the Eighth Ordinary Meeting of the Contracting Parties held in Antalya in October 1993 as well as the recommendation of the Bureau at their Meeting in Rabat in June 1994, the secretariat initiated the process of revision of the Barcelona Convention, the related Protocols and the Mediterranean Action Plan.

As a result, a meeting, hosted by the government of Spain and the Generalitat of Catalunya, was organised in Barcelona from 14 to 18 November 1994 during which the amendments to the Convention, the Dumping Protocol, the Land-Based Sources Protocol and the Specially Protected Areas Protocol, proposed by the Contracting Parties and the Secretariat were examined and discussed. A brief discussion on the future Mediterranean Action Plan was also held during the meeting (UNEP(OCA)/MED WG.82/4).

As a follow up to the decisions of the Meeting, the present meeting, thanks to the financial offer received from the Government of Spain, was convened to examine new draft amendments to the Barcelona Convention, the Dumping Protocol and the Specially Protected Areas Protocol.

The proposed amendments to the Convention, the Dumping Protocol and the Specially Protected Areas Protocol reflect the deliberations of the meeting held in Barcelona from 14 to 18 November 1994. As a result, the amended texts to the Convention included in the present document are identical to those agreed upon by the Barcelona Meeting or, as requested by that Meeting, were prepared or re-drafted by the Secretariat.

The purpose of the meeting is to conclude the discussion on the amendments of the above mentioned legal instruments by agreeing on the texts which would be brought to the attention of the Ninth Ordinary Meeting of the Contracting Parties, to be held in Barcelona in June 1995, for adoption.

AMENDMENTS TO THE CONVENTION FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION

The amendments reproduced herebelow are submitted to the Meeting for discussion. The texts of the preamble, Art. 1, Art. 2, Art. 3, Art. 4, Art. 5, Art. 6, Art. 7, Art. 8, Art. 9A, Art. 9B, Art. 11 and Art. 15 are reproduced as approved by the Meeting of the Legal and Technical Experts held in Barcelona from 14 to 18 November 1994. All the other articles, including the title of the Convention, were prepared or re-drafted by the Secretariat on the basis of the deliberations of the Barcelona Meeting.

Title of the Convention

["CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AND THE COASTAL REGION OF THE MEDITERRANEAN"].

Preamble

The Contracting Parties,

2. *Fully aware* of their responsibility to preserve and sustainably develop this common heritage for the benefit and enjoyment of present and future generations,

7. *Fully aware* that the Mediterranean Action Plan, since its adoption in 1975 and through its evolution, has contributed to the process of sustainable development in the Mediterranean region and has represented a substantive and dynamic tool for the implementation of the activities related to the Convention and its Protocols by the Contracting Parties,

8. *Taking into account* the results of the United Nations Conference on Environment and Development, held in Rio de Janeiro from 4 to 14 June 1992,

9. *Also taking into account* the Declaration of Genoa of 1985, the Charter of Nicosia of 1990, the Declaration of Cairo on Euro-Mediterranean Cooperation on the Environment within the Mediterranean Basin of 1992, the recommendations of the Conference of Casablanca of 1993, and the Declaration of Tunis on the Sustainable Development of the Mediterranean of 1994,

10. *Bearing in mind* the relevant provisions of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 and signed by many Contracting Parties,

Have agreed as follows:

Article 1

GEOGRAPHICAL COVERAGE

2. The application of the Convention may be extended to coastal areas as defined by each Contracting Party within its own territory.
3. Any protocol to this Convention may extend the geographical coverage to which that particular protocol applies.

Article 2

DEFINITIONS

- (a) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of seawater and reduction of amenities.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or sub-regional agreements for the promotion of sustainable development, the protection of the environment, the conservation and preservation of natural resources in the Mediterranean Sea Area, provided that such agreements are consistent with this Convention and the Protocols and conform to international law. Copies of such agreements shall be communicated to the Organization. As appropriate, Contracting Parties should make use of existing organizations, agreements or arrangements in the Mediterranean Sea Area.
2. Nothing in this Convention shall prejudice the rights [and positions] of any State concerning the [United Nations Convention on the] Law of the Sea [of 1982] and the nature and extent of port, coastal and flag State jurisdiction.

Article 4

GENERAL OBLIGATIONS

1. The Contracting Parties shall individually or jointly take all appropriate measures in accordance with the provisions of this Convention and those Protocols in force to which they are party to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to protect and enhance the marine environment in that Area so as to contribute towards its sustainable development.
2. The Contracting Parties pledge themselves to take appropriate measures to implement the Mediterranean Action Plan and, further, to pursue the protection of the marine environment and the natural resources of the Mediterranean Sea Area as an integral part of the development process, meeting the needs of present and future generations in an equitable manner.
3. In order to protect the environment and contribute to the sustainable development of the Mediterranean Sea Area , the Contracting Parties shall:
 - (a) apply, in accordance with their capabilities, the precautionary principle, by virtue of which where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;
 - (b) apply the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter, with due regard to the public interest;
 - (c) undertake environmental impact assessment for proposed activities that are likely to cause a significant adverse impact on the marine environment and are subject to an authorization by competent national authorities;
 - (d) promote cooperation between and among States in environmental impact assessment procedures related to activities under their jurisdiction or control which are likely to have a significant adverse effect on the marine environment of other States or areas beyond the limits of national jurisdiction, on the basis of notification, exchange of information and consultation.
 - (e) ensure the integrated management of the coastal zones, taking into account the protection of areas of ecological and landscape interest and the rational use of natural resources.

4. In implementing the Convention and the related Protocols, the Contracting Parties shall:

- (a) adopt programmes and measures which contain, where appropriate, time limits for their completion;
- (b) utilize the best available techniques and the best environmental practices and promote the application of, access to and transfer of environmentally sound technology, including clean production technologies, taking into account the social, economic and technological condition.

5. The Contracting Parties shall cooperate in the formulation and adoption of protocols, prescribing agreed measures, procedures and standards for the implementation of this Convention.

6. The Contracting Parties further pledge themselves to promote, within the international bodies considered to be competent by the Contracting Parties, measures concerning the implementation of programmes of sustainable development, the protection, conservation and rehabilitation of the environment and of the natural resources in the Mediterranean Sea Area.

Article 5

POLLUTION CAUSED BY DUMPING FROM SHIPS AND AIRCRAFT OR INCINERATION AT SEA

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by dumping from ships and aircraft or incineration at sea.

Article 6

POLLUTION FROM SHIPS

The Contracting Parties shall take all measures in conformity with international law to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by discharges from ships and to ensure the effective implementation in that Area of the rules which are generally recognized at the international level relating to the control of this type of pollution.

Article 7

POLLUTION RESULTING FROM EXPLORATION AND EXPLOITATION OF
THE CONTINENTAL SHELF AND THE SEABED AND ITS SUBSOIL

The Contracting Parties shall take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the continental shelf and the sea-bed and its subsoil.

Article 8

POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to ultimately phase out the inputs of toxic, persistent and bioaccumulative substances. These measures shall apply:

(a) To pollution from land-based sources within the territories of the Parties, in particular:

directly, from outfalls discharging into the sea or through coastal disposal;

indirectly, through rivers, canals or other watercourses, including underground watercourses, or through run-off;

(b) To pollution from land-based sources transported by the atmosphere.

Article 9A

NATURE CONSERVATION AND BIODIVERSITY

1. The Contracting Parties shall formulate strategies, plans or programmes and shall take all appropriate measures for the protection and conservation of the biological diversity and sustainability of the biological resources of the Mediterranean Sea Area.

2. The Contracting Parties shall jointly prepare and adopt inventories of sites and species of common Mediterranean interest. Lists of threatened and/or endangered species shall be prepared by the Contracting Parties and regularly updated. The Contracting Parties shall take appropriate measures to protect such species and sites and shall establish specially protected areas.

Article 9B

POLLUTION RESULTING FROM THE TRANSBOUNDARY MOVEMENTS
OF HAZARDOUS WASTES AND THEIR DISPOSAL

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area which can be caused by transboundary movements and disposal of hazardous wastes, and to reduce to a minimum, and if possible eliminate, such transboundary movements.

Article 11

SCIENTIFIC AND TECHNOLOGICAL COOPERATION

2. The Contracting Parties undertake to promote the research on, access to and transfer of environmentally sound technology, including clean production technologies and to cooperate in the formulation, establishment and implementation of clean production processes.
3. Deleted.

Article 11A

ENVIRONMENTAL LEGISLATION

1. The Contracting Parties shall enact legislation implementing the Convention and the Protocols and shall report at regular intervals to the Meetings of the Contracting Parties on the state and the implementation of this legislation.
2. The Secretariat may assist, upon request, any Contracting Party in the drafting and implementing of environmental legislation in compliance with the Convention and the Protocols.

Article 11B

PUBLIC INFORMATION AND PARTICIPATION

1. The Contracting Parties shall ensure that their competent authorities shall give to any natural or legal person appropriate access to information on the state of the maritime area, on activities or measures adversely affecting or likely to effect it and on activities carried out or measures taken in accordance with the Convention and the Protocols.

2. The Contracting Parties shall ensure that the opportunity is given to the public to participate in decision making processes, as appropriate.

3. The provision of paragraph (1) of this Article shall not prejudice the right of Contracting Parties to refuse to provide access to such information on the ground of confidentiality, public security or investigation proceedings, stating the reasons for such a refusal.

Article 12

LIABILITY AND COMPENSATION

The Contracting Parties undertake to co-operate in the formulation and adoption of appropriate rules and procedures for the determination of liability and compensation for damage resulting from pollution of the marine environment in the Mediterranean Sea Area.

Article 13

SECRETARIAT

1. The Coordinating Unit for the Mediterranean Action Plan, operating under the auspices of the United Nations Environment Programme, shall be responsible for carrying out the following secretariat functions:

- (i) To prepare, convene and service the meetings of the organs of the Contracting Parties and of conferences provided in Articles
- (ii) To transmit to the Bureau and to the Contracting Parties notifications, reports and other information received in accordance with the Convention and its Protocols;
- (iii) To consider enquiries by, and information from, the Contracting Parties, Non-governmental Organisations and the public;
- (iv) To ensure the necessary coordination with other international bodies which the Contracting Parties consider competent, and in particular, to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions;
- (v) To monitor the implementation of the Convention and its Protocols and to regularly inform the Contracting Parties of the results of such monitoring;
- (vi) To perform the functions assigned to it by the Protocols of this Convention:
- (vii) To perform such other functions as may be assigned to it by the Contracting Parties.

2. The Coordinating Unit for the Mediterranean Action Plan shall guide and supervise the work of the Regional Activity Centres which are entrusted by the Contracting Parties with special regional responsibilities.

3. The Coordinator of the Mediterranean Action Plan shall be the chief administrative official of the Organisation and shall perform the functions that are necessary for the administration of the Convention, the Action Plan and for the work of the Meetings of the Contracting Parties and other organs. Other tasks may also be entrusted to the Coordinator by the Meetings of the Contracting Parties in accordance with its Rules of Procedure.

Article 14

MEETINGS OF THE CONTRACTING PARTIES

- ..2. (iva) To make decisions and recommendations on any matters necessary for the implementation of the Convention and the Protocols;
- (ivb) To establish such subsidiary bodies and regional activity centres as it considers necessary for the implementation of the Convention and the Protocols and to define their terms of reference;
- (vii) To elect the members to be represented on the Bureau as provided in Article 14A;
- (viii) To approve the Programme Budget.

Article 14A

BUREAU

1. The Bureau of the Contracting Parties shall be composed of representative of six Contracting Parties elected by the Meetings of the Contracting Parties. In electing the members of the Bureau, the Meetings of the Contracting Parties shall observe the principle of equitable geographical distribution.

2. The functions of the Bureau and the terms and conditions upon which it shall operate shall be set in the Rules of Procedure adopted by the Meetings of the Contracting Parties.

Article 14B

MEDITERRANEAN COMMISSION ON SUSTAINABLE DEVELOPMENT

1. A Mediterranean Commission on Sustainable Development shall be established in the framework of the Mediterranean Action Plan, and shall be composed of representatives of all Contracting Parties.
2. The functions of the Commission and the terms and conditions upon which it shall operate shall be set in the Rules of Procedures adopted by the Meeting of the Contracting Parties.

Article 14C

OBSERVERS

1. The Contracting Parties may decide to admit as an observer at their meetings and conferences any international governmental or any non-governmental organisation the activities of which are related to the Convention as well as any State which is not Party to this Convention. The conditions for the admission and the participation of observers shall be set in the Rules of Procedure adopted by the Contracting Parties.
2. Such observers may participate without vote in these meetings and conferences and may present any information or report relevant to the objectives of the Convention and its Protocols.

Article 15

ADOPTION OF ADDITIONAL PROTOCOLS

3. Deleted.

Article 18

RULES OF PROCEDURE AND FINANCIAL RULES

2. The Contracting Parties shall adopt financial rules to determine, in particular, their financial participation in the Trust Fund.

Article 20

REPORTS

The Contracting Parties shall transmit to the Organisation at regular intervals reports on:

- (a) the legal, administrative or other measures taken by them for the implementation of this Convention, the Protocols and of the decisions and recommendations adopted by their meetings;
- (b) the effectiveness of the measures referred to in subparagraph (a) and problems encountered in the implementation of the instruments as mentioned above.

Article 21

COMPLIANCE CONTROL

The meetings of the Contracting Parties shall, on the basis of periodical reports referred to in Article 20 and any other report submitted by the Contracting Parties, assess the compliance with the Convention and the Protocols as well as the decisions and recommendations. They shall recommend, when appropriate, the necessary steps to bring about full compliance with the Convention and the Protocols and promote the implementation of the decisions and recommendations.