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MEDITERRANEAN ACTION PLAN

Meeting of the Bureau of the Contracting Parties to the
Convention for the Protection of the Marine Environment
and the Coastal Region of the Mediterranean
and its Protocols

Cairo (Egypt), 25-26 November 2004

**ADDENDUM 1 TO THE
PROGRESS REPORT BY THE SECRETARIAT ON ACTIVITIES
CARRIED OUT SINCE THE LAST MEETING OF THE BUREAU**

(June 2004 – October 2004)

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

The first meeting of the working group on Implementation and Compliance was convened on 8-9 November 2004 in Athens, Greece.

In response to the invitation by the Secretariat, in addition to 4 out of 6 countries, members of the Working Group, as elected in Catania, Slovenia and the EC have also participated in the meeting.

The recommendations of the meeting are attached to this addendum as **Annex I** for further consideration by the Members of the Bureau.

The meeting agreed to put before the CPs, at their 14th meeting in Slovenia, a clear recommendation requesting the formulation of a full Implementation and Compliance Mechanism under the Barcelona Convention for adoption by them at the 15th meeting in 2007. The meeting has also discussed and agreed on the main principles that should guide and be incorporated in the mechanism.

Furthermore, on the basis of the pre-session document prepared by the Secretariat, relevant experience of other Conventions and Multilateral Environmental Agreements and the specificities of the Mediterranean Region, several options were discussed with regards to the most appropriate mechanism. Thus, the type of the mechanism, its size and composition, its functions and rules and procedures for its implementation were thoroughly discussed and suggested upon.

In addition, the Working Group requested the Secretariat to prepare an outline of the future mechanism. The outline should be a paper of elements based on the discussions, findings and recommendations of the first meeting of the Working Group. A second meeting of the Working Group is requested to be held after the preparation of a first draft of the regional report on the Implementation of the Barcelona Convention for the biennium 2002-2003.

Although time is pressing, the Secretariat is in a position to prepare the second document as requested and organize a second meeting of the Working Group.

In view of the above, the Secretariat would like to draw the attention of the Bureau on some details related to the interpretation of the respective recommendation taken in Catania, and the need for a deeper involvement of the developing Mediterranean countries, especially those of the South, in this process.

The respective recommendation taken in Catania, refers to the preparation by the Working Group of a platform for consideration by the CPs at their 13th meeting in 2005:

To approve the establishment of a Working Group of Legal and Technical Experts to be assigned the following tasks:

- a. to elaborate a platform to promote the implementation of and compliance with the Barcelona Convention to be submitted for consideration to the Meeting of the Contracting Parties in 2005;*
- b. to provide guidance for the preparation of the regional report on the status of the implementation of the Barcelona Convention in the biennium 2002–2003;*
- c. The Working Group should be composed of six experts nominated by the Contracting Parties, respecting geographical distribution, along with one representative from the MAP partners. The progress achieved in the process should be regularly shared with all the Contracting Parties.*

The word platform leaves room for wide interpretation either to prepare a general study or to go in detail and propose a tailored outline paper on the mechanism or both.

On the other hand, the only developing Mediterranean country, who is member of the Working Group elected in Catania, did not participate at the first meeting because of political reasons. Since the financial coverage by the Secretariat was limited to only members of the Working Group, no representatives of other developing Mediterranean countries could participate at the meeting.

Due to the overall sensitivity of the subject, and in case where a tailored outline describing the main elements of the mechanism (based on the option/s as chosen by the WG) would be proposed to the CPs in 2005, such a limited geographical representation and participation might affect the overall process and its outputs.

Recommendations:

The Bureau is invited to look at this addendum and the recommendations of the first meeting of the WG on Implementation and Compliance and provide the Secretariat with suggestions and guidance as it may deem useful.

The Bureau may wish to request to the Secretariat to assist the Working Group in preparing both aforementioned documents with a view to submit them for consideration by the meeting of the MAP NFPs in 2005 for further consideration.

The Bureau might deem it useful to request the Secretariat to involve all Contracting Parties and seek their opinions on the recommendations prepared by the WG on Implementation and Compliance. Attention should be paid to ensure the participation of the Southern Mediterranean countries by covering, to the extent possible, their expenses of participation at the second meeting of the WG.

External Evaluation of the Mediterranean Action Plan

As stated in the Progress Report by the Secretariat on Activities carried out since the last meeting of the Bureau, (document UNEP/BUR/62/3), a detailed report on the evaluation methodology is attached as **Annex II**.

Recommendation

The Bureau is invited to comment on and approve, if appropriate, the proposed detailed methodology for the evaluation of MAP.

Annex I

Findings and Conclusions of the First Meeting of the Working Group on Implementation and Compliance

The Working Group on Implementation and Compliance that met in Athens on 8-9 November 2004 agreed on the following conclusions:

- 1) Setting up of an implementation and compliance mechanism

Legal basis

The meeting discussed and agreed that Articles 27 and 18(2) of the Barcelona Convention as well as certain decisions of the CPs, form the basis to establish a compliance mechanism for the Convention and its Protocols which is to be non confrontational, non judicial, transparent, cost effective and preventive in nature, simple, flexible, and oriented in the direction of helping parties to comply with and implement the provisions of the Convention, its protocols and decisions of the meetings of the CPs.

Possible compliance mechanism

1. The meeting favored the establishment of a specific mechanism that will address general issues of implementation and compliance as well individual cases of non-compliance based on Parties' reports and relevant information from other sources. The meeting agreed that any procedure under the compliance mechanism would be subject to the principle of due process that includes the right of the party concerned to be heard.
2. The Compliance Committee should make recommendations concerning an individual party in order to assist it to improve its implementation and compliance. Such recommendations are to be of a facilitative nature. In case facilitation does not lead to the improvement of implementation and compliance, other necessary measures may be recommended by the Compliance Committee.
3. The findings and the recommendations of the Compliance Committee should either be transmitted to the party concerned through the meeting of the Parties and/or another existing body under the Convention or Protocols.

Size and composition of the Compliance Committee

1. The meeting agreed that a limited number of members of the Compliance Committee would ensure efficiency.
2. Candidates for the Compliance Committee are proposed/suggested by the CPs. In proposing candidates, full consideration should be given by the CPs to include members of the civil society. The members of the Compliance Committee should be

elected at the meeting of the CPs and they should serve in their personal capacity. In nominating candidates, CPs have to apply the criteria adopted by the meeting of the Contracting parties.

3. In selecting the members of the Compliance Committee, the meeting of the CPs is to be guided by equitable geographical representation, rotation as well as balance among scientific, legal and technical expertise.

Elements of rules of procedures

1. The Coordinating Unit will act as secretariat of the Compliance Committee.
2. The participation of the Party concerned in the procedure of the Compliance Committee is to be based on the principle of due process. However the party concerned should be excluded from the elaboration and adoption of any findings and recommendations.
3. Before the compliance proceedings are initiated by the Compliance Committee, the party concerned is informed.
4. Concerning the request for further information by the Compliance Committee, the meeting agreed that such a right should be given to the Compliance Committee. Spot appraisal, if need be, can be organized only in agreement with the party concerned.
5. The party concerned should provide to the Compliance Committee information on measures and actions taken to implement the recommendations.

2) Follow up action

The meeting also requested the Secretariat to prepare

- a draft paper on the main elements for a possible compliance mechanism on the basis of its findings and conclusions.
- draft criteria to be applied by the CPs in proposing candidates for membership in the Compliance Committee
- regional report on the Implementation of the Barcelona Convention and its Protocols
- and to complete the pre-session working document submitted by the Secretariat to the first meeting of the Working Group on Implementation and Compliance on the basis of the above findings and conclusions.

With a view to address the above documents, a second meeting of the Working Group is envisaged to be held in late spring next year.

Annex II

DRAFT FOR CONSIDERATION BY MEDU

EXTERNAL EVALUATION OF THE MEDITERRANEAN ACTION PLAN (MAP)

Proposed approach and methodology

Background

1. The 13th Ordinary Meeting of the Contracting Parties to the Convention for the protection of the Mediterranean Sea against Pollution and its Protocols (Barcelona Convention)¹, held in Catania, Italy, on 11-14 November 2003 adopted Recommendation I.A.2.1. entitled *MAP and RACs evaluation*, in which the COP requested the Secretariat, *inter alia*:

“To launch the external overall evaluation of MAP, including the evaluation of MEDPOL Programme, with a view to presenting it to the Meeting of the Contracting Parties in 2005. In this process the document *UNEP(DEC)/MED WG.228/5 Draft Strategic Assessment of the General Framework of the Barcelona Convention (MAP evaluation)* could be considered as an input, while ensuring the consideration of other inputs from Contracting Parties.”

2. To this end, the MAP Coordinating Unit (MEDU) has engaged the services of three consultants – Delmar Blasco (Team Leader), Tarek Genena and Thymio Papayannis – to work on a part time basis during the period 1 October 2004 – 30 November 2005. The work of the consultants will be actively supported by MEDU. It is expected that the MAP National Focal Points (NFPs), the EC and MAP partners in general will contribute substantially to the work of the consultants.

Evaluation schedule

3. The proposed schedule for the evaluation is as follows:
- 3.1 By 30 October 2004, the Team Leader will submit to MEDU a proposal on the methodology, approach and activities to be carried out as part of the MAP evaluation. The proposal, once accepted by MEDU, will be circulated to MAP NFPs and the EC.
 - 3.2 9-10 December 2004: First Meeting of MAP NPF and the EC on the MAP Evaluation to discuss and make recommendations on the methodology, approach and activities to be carried out as part of the evaluation.
 - 3.3 By 28 February 2005, the Team Leader will submit to MEDU a draft with the proposed content and approach of the Evaluation Report. After consideration and acceptance by MEDU, the first draft shall be circulated to all NFPs, the EC and MAP partners.

¹The 1995 amendments to the Convention have now entered into force and the new official name of the treaty is **Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean**.

- 3.4 End of March 2005: Second Meeting of MAP NFPs and the EC to discuss and make recommendations on the first draft of the Evaluation Report.
- 3.5 By 25 July 2005 the Team Leader will submit to MEDU a second draft of the Evaluation Report. After consideration and acceptance by MEDU, the second draft will be circulated to all NFPs, the EC and MAP partners.
- 3.6 September 2005: Third Meeting of the NFP and the EC on MAP Evaluation. The meeting will discuss, amend as appropriate and adopt a final draft of the Evaluation Report. The Evaluation Report will be submitted for consideration and action to the 14th Meeting of the Contracting Parties to be held in Slovenia on xx-xx November 2005.

The context the MAP Evaluation

4. MAP is now at the crossroads. Thirty years after its launch, its future role, both from a strategic and operational point of view, has to be determined in the light of recent developments in the region and at the global level. On this basis, its priorities, effectiveness and direction must be assessed.

5. At the regional level, seven of the Contracting Parties to the Barcelona Convention are now members of the European Union, and there are prospects of further enlargements of the EU involving other Parties. The EU is taking a more active role in the region and at the same time MAP is seeking to establish a closer working relationship with the European Commission in the interest of sustainable development in the Mediterranean.

6. The asymmetries in the levels of socio-economic development in the region, the different approaches to governance, the increasing pressures on natural resources, uncontrolled migration flows and unresolved conflicts that have existed over a long period of time continue to be matters of serious concern. Some of the relevant processes that are changing the dynamics of the region and should be taken into account include: the Barcelona Process, including the Euro-Mediterranean Association Agreements and the forthcoming Euro Mediterranean Conference scheduled for 2005; the EU's New Neighbourhood Initiative – Wider Europe; the establishment of the Facility for Euro-Mediterranean Investment and Partnership (FEMIP); the wider role of the European and Mediterranean regions; and the growing interest of the USA in the Mediterranean. .

7. At the global level, the results of the World Summit on Sustainable Development, the adoption of the Millennium Development Goals, and the successful replenishment of the Global Environmental Facility are particularly relevant to the MAP process.

8. In the face of these new realities, it was deemed essential to carry out an external assessment of the role that MAP should play in the next decade in order to remain relevant for the region.

The aim of the MAP Evaluation

9. Taking into account the context briefly described above, the overall aim of the MAP Evaluation is:

- 9.1 to take stock of the perceptions and positions of Contracting Parties to the Barcelona Convention and of the key partners to MAP regarding the usefulness and efficiency of the MAP processes, institutional arrangements, funding mechanisms and concrete outputs, in particular in relation to the

Action Plan for the Protection of the Marine Environment and the Sustainable Development of the Coastal Areas of the Mediterranean, or MAP Phase II (1995-2004); and

- 9.2 to make recommendations to COP-13 of the Barcelona Convention for the preparation of a MAP Phase III for the period 2006-2015.

Issues to be addressed

10. With this overall aim in mind, the consultants should address three main issues:
 - 10.1 a general analysis of the results of MAP Phase II and its impact at the regional level, in particular as viewed by the Parties to the Barcelona Convention;
 - 10.2 the capacity of the current MAP structure and *modus operandi* to respond to the political, legal, institutional and other challenges facing sustainable development in the region within the framework of current regional and global approaches and trends; and
 - 10.3 the future orientation of MAP and its relations with other regional and international organizations and processes.

Tasks to be carried out by the consultants

11. More specifically, in the course of their interactions with the Parties to the Convention, MAP component structures and MAP partners, the consultants should consider the following questions:

- 11.1 to what extent the expected objectives of MAP have been achieved in different countries and at the regional level;
- 11.2 the quality and the usefulness/impact of the results and outputs generated by the MAP processes, taking into account the available resources;
- 11.3 the perception of MAP by the Parties to the Barcelona Convention, other international organizations and partners in relation to the implementation of its mandate and their expectations for the coming years;
- 11.4 the overall vision and strategies of MAP, including recommendations on how to define MAP's future orientations;
- 11.5 the legal, policy, institutional and programmatic frameworks of MAP Phase II and their implementation at the regional and national levels, in particular in relation to the geographical remit of the Plan (the sea, the coastal zone and beyond?) and its compatibility and synergy with other relevant global or regional conventions, and other programmes and processes in the region;
- 11.6 the present relationship with the European Commission (EC) and future modalities for the strengthening of the cooperation between the two processes, taking into account the EU's recent enlargement;
- 11.7 the institutional set-up of MAP, in particular its management structure, financial arrangements and decision making process;
- 11.8 the relationship between MEDU and the Regional Activity Centres (RACs), in view of the RACs' financing and management profiles;
- 11.9 the visibility of MAP and of its outputs and how these can be improved;
- 11.10 the ability of MAP to identify and mobilize external sources of financing to meet future challenges;
- 11.11 the ability and effectiveness of MAP to respond to emerging issues on the environmental agenda, as well as in the field of sustainable development on the global and regional level, and the contribution it can make in these fields;
- 11.12 the new elements and approaches for inclusion in MAP Phase III, in particular the need to fully integrate the ecosystem approach in its general framework and specific components; and

- 11.13 the relationship between MAP and the United Nations Environment Programme (UNEP) in view of the new Regional Seas Strategic Directions for 2004-2007.

Methodology

12. The evaluation will be carried out:
 - 12.1 as an integral part of the ongoing evaluations of MAP components;
 - 12.2 taking into account lessons learned from the methodology and outputs of the various past evaluations of MAP and its components; and
 - 12.3 fully taking into account the context of the legal, political and socio-economic developments in the region.
13. The document UNEP(DEC)/MED WG.228/5 Draft Strategic Assessment of the General Framework of the Barcelona Convention (MAP evaluation) will serve as the initial basis for analysis.
14. The evaluation will be carried out using an open and participative approach through:
 - 14.1 a desk review and in depth analysis of relevant documents:
 - 14.2 consultant and Team Leader Delmar Blasco will analyse documents related to the legal framework of the MAP process (the Convention and its Protocols), and the modus operandi of the treaty at the regional and national levels, including funding issues and the interaction with key partners (except the EU/EC) ;
 - 14.3 consultant Thymio Papayannis analyse documents related to the Mediterranean Commission on Sustainable Development (MCSD), the Euro Mediterranean Partnership (including the overall relation of MAP with the EU/EC), and the Programme for the Protection of Coastal Historic Sites; and
 - 14.4 consultant Tarek Genena will analyse documents related to the RACs and related programmes and activities, and the Programme for the Assessment and Control of Pollution in the Mediterranean Region (MED POL);
 - 14.5 meetings and interviews by e-mail and by telephone with MAP NPF and other relevant government officials in the Contracting Parties in relation to 14.1.1 above. A total of 10 missions are envisaged for this purpose;
 - 14.6 meetings with key officials in the EC and with key partners in the MCSD process in relation to 14.1.2 above. Five missions are envisaged for this purpose;
 - 14.7 interviews with RAC and MED POL Directors and with NFP and partners, as opportunities arise, in relation to 14.1.3 above. A total of six missions are envisaged for this purpose;
 - 14.8 interviews in person, as opportunities arise, and by e-mail and telephone with key intergovernmental and non-governmental partners in relation to all aspects of the MAP Evaluation. No specific missions are envisaged for this purpose, but the Team Leader will ensure that the views of these partners are heard by the three consultants, as appropriate.

14.9 Two meetings of the consultants in Athens at appropriate moments to exchange views and coordinate their work;

15. The need/advisability of developing one or more questionnaires addressed to the NFPs/EC and/or other actors, for distribution in early January 2005 will be discussed and decided upon at the First Meeting on the MAP Evaluation (9-10 December 2004).

16. Particular attention will be paid to the complementary or overlapping/ contradictory nature and functions of the different MAP components, with a view to identifying recommendations and proposals for a more coherent and efficient MAP Phase III.

17. The three consultants, in analyzing the issues related to the different MAP components, will take into account the outreach/communications aspects of these, including the use of internet, publications and other means for reaching, or not, the appropriate constituencies and audiences.