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**MEDITERRANEAN ACTION PLAN**

Meeting of the MAP focal points

Athens, Greece, 7-10 July 2009

**MAP/Civil Society Cooperation Assessment**





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**MEDITERRANEAN ACTION PLAN**

**MAP/CIVIL SOCIETY COOPERATION ASSESSMENT**

**Proposal Note and a Report on the State of Play**

**Draft**

**for discussion by the MAP focal points and MAP partners**



## **Proposal Note**

### **I. Introduction**

Considering the report on the state of relations between MAP and the NGOs and the 51 responses to the questionnaire received between September 2008 and January 2009 from NGOs/MAP partners, members of the Bureau of the Contracting Parties, MAP focal points, MCSD members, RAC focal points, the Secretariat, RACs and MEDPOL, a proposal note is presented herein below aimed at promoting the relations advancement between MAP and Civil society.

In the preparation of this proposal note, the following were taken into account by the Secretariat:

1. The international legal-political context governing relations between civil society and the international organisations, which for some years now has been undergoing massive change. (A full review is presented as Annex I to this document).
2. The most innovatory examples of how the relations between NGOs and international bodies have been institutionalised. (A full review is presented as Annex II to this document).
3. Main findings, conclusions and recommendations of the assessment report on MAP/civil society cooperation that is presented as Annex III to this document.

### **II. Proposals for overhauling MAP/NGO relations**

It is generally believed that formalising the rules for NGO participation may lead to a fall in participation. It is essential to have a minimum set of rules governing accreditation and participation providing these rules are straightforward, clear and known to all. Formalization does not rule out flexibility and efficiency. The example of the CITES Convention, which has brought in detailed rules on NGO participation clearly shows that this was not an obstacle. On the contrary, NGO participation has become more active, rendering the Convention more efficient.

New relations between MAP and the NGOs could be forged by amending the rules of procedure and adopting a new Recommendation on MAP/NGO cooperation, adding to and partly replacing the recommendations from the 9th Meeting of the Contracting Parties (Barcelona), 11th Meeting of the Contracting Parties (Malta, 1999) and the 12th Meeting of the Contracting Parties (Monaco, 2001).

#### **II.1 Amending the Rules of Procedure for meetings and conferences of the contracting parties**

According to article 20.3 of the Convention, the conditions for the admission and participation of observers are established in the Rules of Procedure. In actual fact, the rules of procedure only contain a handful of very general points, the specific conditions for admission and participation resulting either from a Recommendation of the CPs meeting or from practice.

As has been done by other organisations (OSPAR commission), specific provisions on the admission procedure, admission criteria and forms of participation could be included in the

rules of procedure. International practice, however, tends to leave the details for NGO accreditation either to guidelines (IMO, Baltic Sea Convention) or to directives (UNESCO).

It would therefore seem preferable to retain the current distinction between relatively simple rules of procedure and a Decision, which could be more detailed than in the past.

There are, however, at least two if not three points where the Rules of Procedure need to be amended:

**a) Art. 8.1-B: the issue of national NGOs**

This article only allows observer status to be granted to international NGOs. But in actual fact, 33 NGOs with a purely national (or local) vocation currently enjoy observer status in MAP. There are a further 24 with a regional (Mediterranean) vocation that could easily be classed as « international ».

So does MAP actually want to grant observer status to national NGOs? Certain international organisations or conventions expressly limit the granting of observer status only to those international NGOs, which can prove that they are active at international level, or have members in several countries (UNESCO, IMO, OSPAR, International Commission for the Danube, Alpine Convention). The Baltic Sea Convention goes so far as to only admit as observers such NGOs as have at least three members amongst the Baltic Sea Contracting Parties. The Council of Europe only grants participatory status to international NGOs, although in 2003 it brought in a special « partnership » system with national NGOs. Finally, some international conventions would appear to admit both international and national NGOs as observers (Ramsar Convention, Framework Convention on Climate Change, Espoo Convention on Environmental Impact Assessment in a Trans-boundary Context):

There are three possible options:

1. Both international and national NGOs are to be admitted indiscriminately; so the Rules of Procedure will need to be amended in order to open the door to national NGOs.
2. If the contact with national NGOs has to be retained as they are considered as essential players in the field for the implementation of the Convention and its Protocols, they could be granted special status along for example the lines of the Council of Europe's « partnership ». In this case, a new indent would need to be added to article 8 of the Rules of Procedure. In the views of the Secretariat, it really is essential to be able to make national NGOs aware of MAP's activities and to get them on board. But national NGOs are not directly interested in regional cooperation. Different rights and duties could also be established for the two groups of NGOs, using a differentiated observer status.
3. If national NGOs should not be admitted as MAP partners, there is no need to amend the rule of procedure in this respect, but in the future this category of NGOs should no longer be admitted.

**b) Art. 8.1-B: The interest required of observers**

The wording of the Rules of Procedure takes no account of the 1995 amendments to the Convention and continues to limit the Convention's scope of application simply to the protection of the Mediterranean Sea against pollution.

In article 8.1-B « in the protection of the Mediterranean Sea » should therefore be replaced by « in the protection of the marine environment and coastal zones of the Mediterranean ».

The same change should also be made in Article 8.1-A as concerns observers and intergovernmental organisations.

**c) Article 8.1-B: Requirement for « direct » interest?**

In its article 20.1 (b) the Convention simply requires that NGOs' activities should be « related to » the Convention. The Rules of Procedure in art. 8.1-B are more stringent, since they require a candidate NGO to have a « direct concern » in the protection of the Mediterranean Sea. This is important in determining accreditation criteria. The extent to which NGO access is opened up will depend on which option is chosen. Applying the wording of the Rules of Procedure to the letter could end up excluding some NGO observers should they not be expressly and directly Mediterranean-oriented.

Therefore there is a need to decide here whether the Rules of Procedure should become more flexible or be maintained in their current form. Should the latter prevail, there is a need to clarify how this « direct concern » can be assessed on a case-by-case basis.

**II.2 Adopting a new Decision on MAP/NGO cooperation and Partnership**

The Recommendations adopted by the Contracting Parties at the 9th, 11th and 12th meetings of the Contracting Parties on MAP/ Civil Society cooperation may be completed and possibly partially amended through the adoption of a new decision on the matter. The provisions of these recommendations currently mix regulatory aspects (selection criteria and procedures) with strategic elements (cooperation aims and practical provisions). It would be useful to make clear what falls under legal or institutional type provisions, and what comes under policy and action strategy in the relations with NGOs. On this last point the adoption of a code of conduct setting out the rights and duties of NGO observers/MAP partners could be really innovative and useful.

In this respect the Secretariat proposal is to consider the possibility of formulating a new consolidated and comprehensive draft decision on MAP/Civil Society Cooperation and Partnership for submission to the next Bureau meeting and the meeting of the MAP focal points as well as to the 16<sup>th</sup> meeting of the Contracting Parties. This decision shall contain the preamble part, the text of the Decision and Annexes. The text and the annexes may address the following issues, as appropriate:

1. *Terms of reference for "NGO observers" aimed exclusively at bringing together and completing the rules that apply to NGO observers/MAP partners, including admission criteria to become and remain MAP partners.*
2. *General aims of cooperation between MAP and the NGOs that would address the cooperation and partnership aims, objectives and strategic vision.*
3. *Code of conduct that would set out the NGOs/MAP partners' rights and duties.*

**II.2.1 ToRs for NGO observers /MAP partners**

From a strictly legal point of view, the observers' terms of reference should come under the Rules of Procedure in virtue of article 20.3 of the Convention, which stipulates that: « The conditions for the admission and participation of observers shall be established in the Rules of Procedure adopted by the Contracting Parties ». In practice though, the Convention has worked somewhat differently, since provisions referring to the conditions of admission and participation are scattered throughout several Recommendations. It is therefore up to the Contracting Parties to decide whether they wish to continue this practice or would prefer to fully respect the provisions of the Convention. Whatever the procedure adopted, the content of the terms of reference will be the same. The ToRs may include the following provisions,

which are presented here purely for their content, with no specific wording being proposed at this stage.

a) Categories of NGO observers:

The 1998 « directory of MAP partners » (UNEP (OCA)MED WG.147/inf3) introduces a distinction between two categories of NGOs: list A = NGOs with a general scope of activity and allowed to participate in all meetings; list B= NGOs with a thematic scope of activity, which are only entitled to take part in certain meetings. This distinction does not appear to be relevant since under these conditions the NGOs on list A should not attend thematic meetings. It would seem preferable to distinguish between two categories of NGOs on a purely geographic and territorial basis, as proposed hereafter.

There would be two categories:

Category A= NGOs with participatory status, which would apply exclusively to international and regional (Mediterranean region) NGOs;

Category B= NGOs with partnership status, which would apply exclusively to national NGOs from the Mediterranean riparian Contracting Parties and local NGOs, again in the riparian Contracting Parties.

b) Criteria for accreditation as observers

1) Criteria common to the two categories: - to have legal status; - terms of reference, objectives and scope of activities related to one or more of MAP's areas of activity and to the scope of the Convention and its Protocols; to have existed for at least 4 years; - financial and activity reports from the last two years; - operates democratically; headquarters or office in a Mediterranean country; - proof of general or specialised, technical or scientific competence or competence in human sciences related to the activities of MAP, the Convention and Protocols; - what contributions the NGO could make to MAP.

2) Specific criteria for category B: objectives genuinely related to the marine environment and coastal zones; - NGO participating or wishing to participate in specific national or local programmes or projects on MAP implementation

c) Proposed accreditation procedure:

- Request sent to the secretariat 6 months before a COP by an NGO or proposal from a RAC with the consent of the NGO proposed
- RACs' opinion sought
- Opinion of the Secretariat
- Draft Bureau decision
- Draft Bureau Decision forwarded to the Contracting Parties/MAP focal points
- Tacit consent of the Contracting Parties
- Confirmation by the meeting of the Contracting Parties on the same conditions

d) Renewal of accreditation:

Virtually all of those who responded to the questionnaire call for an accreditation renewal procedure.

- Every 6 years, NGO observers should ask the Secretariat to renew their accreditation
- The request should show what contribution the NGO has made to MAP activities and projects as well as its attendance at meetings



e) Proposed accreditation renewal procedure:

- Request sent to the secretariat at least 3 months before the 3rd COP, otherwise the NGO is seen as relinquishing its accreditation
- Opinion of the Bureau and RACs
- Draft Secretariat decision
- Forwarded to the Contracting Parties
- Renewal approved by the COP

f) Withdrawal of accreditation

The 12<sup>th</sup> meeting of the Contracting Parties (Monaco, 2001) decided that partner organisations which fail to participate in MAP work or meetings for two consecutive years would be systematically struck off the list. This is a useful measure towards rendering the partnership effective, but it needs to be flanked by a procedure involving a prior hearing with the NGO in question.

- Following the hearing with the NGO in question, the Secretariat may withdraw accreditation if it deems that the NGO no longer meets the accreditation criteria or if the NGO has shown no interest in MAP's activities
- Total lack of participation in MAP meetings and activities over a period of two years (or 4 years?) will lead to the accreditation being automatically cancelled following a hearing with the NGO in question

g) List of observers:

The secretariat shall draw up a list of MAP's observer partners and update it for each Meeting of the Contracting Parties, drawing a distinction between:

- Intergovernmental observers according to article 8.1-A of the Rules of Procedure
- NGO observers according to article 8.1-B, splitting categories A and B

h) Participation in MAP activities:

- Art. 8-2 of the Rules of Procedure applies as a matter of principle to category A NGOs with no special authorization being requested. These meetings include the various meetings of the focal points. NGO observers already participate in several focal points meetings.
- Exceptionally, and depending on agendas being of potential interest to the category B NGOs, the latter may request special authorization from the Secretariat to attend a meeting or conference which is of direct concern to them.
- NGOs in categories A and B accredited, as observers are entitled to be appointed as members of the Mediterranean Commission on Sustainable Development in accordance with the Commission's Rules of Procedure.
- According to art.8.1.B and 8.2 of the Convention's Rules of Procedure and in addition to art. 5 of the Rules of Procedure of the Mediterranean Commission on Sustainable Development, NGOs accredited according to the afore-mentioned provisions may be represented by observers at meetings of the Commission, with the consent of its Steering Committee.
- Accredited NGOs may be invited to attend RAC meetings and the steering groups for RAC activities.
- Proposals made by an NGO may be put to the vote if supported by a Contracting Party
- The other forms of participation and partnership could be laid out in a possible decision addressing the general aims of cooperation MAP/Civil society as well as in a

code of conduct of NGO rights and duties (provisions on the use of speaking rights, the right to circulate documents, the right to make written proposals related to the agenda)

- The question arises as to what extent accredited NGOs will be able to contribute- either formally or informally- to monitoring compliance with the Convention and its protocols through the compliance mechanism set up in Almeria in 2008, as is possible under the Berne and Aarhus Conventions amongst others. Having lodged a complaint with the national focal point, NGOs could refer a complaint to the Secretariat, requiring it to decide whether or not to submit it to the Compliance Committee. The answers to the questionnaire indicate majority support for this proposal.

*i) Proposal on establishing a NGO/MAP Partners Assembly:*

- All category A and B accredited NGOs may meet every 2 years during the meeting of the Contracting Parties to share their achievements and projects.
- At the opening of the NGO Assembly, the latter elects its NGO standing/liaison committee comprising 5 members for a two year term, with the chairperson necessarily belonging to category A, two members from category A and two from category B. The standing committee's chairperson is at the same time also president of the NGO assembly. The election is by secret ballot. A postal vote may be organized under the secretariat's aegis. To be elected, the members of the standing/liaison committee require the support of the majority of those voting, representing 50% of the accredited NGOs.
- On the eve of the meeting of the Contracting Parties the Secretariat presents the Meeting agenda to the NGO assembly and notes any comments and proposals from the NGOs.
- For all its discussions and for the adoption of motions forwarded to the meeting of the Contracting Parties, the assembly requires a quorum of NGOs present, representing at least one third of the accredited NGOs.

*j) Proposal to establish an NGO Standing/Liaison Committee:*

The answers to the questionnaire indicate that a slim majority supports the idea of this type of committee to represent MAP's NGO partners. There is far from being unanimity on this point amongst the NGOs and RACs.

- The members are elected for two years not immediately renewable in order to give everyone their turn and to better involve all NGOs.
- The standing/liaison committee is responsible for providing the link between the NGOs and the Secretariat, the national focal points and RACs.
- The role is unpaid. Expenses are covered by the Secretariat.
- The standing/liaison committee communicates by e-mail. It convenes once between two Meetings of the Contracting Parties if necessary or during a MAP meeting or conference.
- The chairperson or a member of the standing committee may be invited to the meetings of the national focal points or RACs as an observer.
- The standing/liaison committee provides the input for the NGO section on the MAP and RAC websites, drawing on all the accredited NGOs (or the partner NGOs are only entitled to a link on the MAP and RAC websites, which leads back to them).

k) The chairperson of the standing/liaison committee and the NGO assembly:

- They are elected for two years, not immediately renewable
- They hold observer status in the MCSD Steering Committee. To this end, the MCSD's Rules of Procedure as adopted in Monaco in 1988 (UNEP(OCA)/MED WG. 140/inf.4) should be amended. The following addition should be made to art. 17, 1st indent: « The chairperson of the NGO standing committee shall attend the meetings of the steering committee as an observer ».

**II.2.2 General aims and objectives of MAP/Civil Society cooperation and partnership**

The general aims of MAP/NGO cooperation will involve revisiting, sorting and updating the provisions to be found *inter alia* in:

- The guidelines on MAP/NGO cooperation (UNEP (OCA)/MED IG 5/11) of 15 April 1995
- The recommendations in appendix II of annex XIII from the 9th COP in Barcelona in 1995
- The recommendations in annex IV, appendix V from the 11th COP in Malta in 1999.
- Recommendations and considerations of the Governance Paper adopted by Decision IG.17/5 of the 15<sup>th</sup> meeting of the Contracting Parties in Almeria, 2008
- Suggestions and proposals that would arise during the consultation process with MAP focal points, Members of the Bureau and the NGO/MAP Partners.

**II.2.3 Code of conduct establishing the rights and duties of NGOs/ MAP partners accredited as observers or granted participatory status**

Given the scale of NGO participation in international bodies evidenced by the survey conducted in 2006 and 2007 by the United Nations Economic Commission for Europe within the framework of the implementation of the Aarhus Convention, in international organisations or under international conventions on the environment, current international practice is increasingly introducing codes of conduct or charters which set out the rights and duties to be respected by NGOs. In 2003, the Council of Europe proposed some fundamental principles on NGO status.

Such a code of conduct could be signed by the Secretariat and the accredited NGO as witness of its commitment to respect the basic principles of good conduct both towards the organisation and towards the contracting Parties. The vast majority of those who responded to the questionnaire would be in favour. Those who are not in favour refer to the risk of red tape. This code of conduct could be drawn up at a later stage if the Secretariat and Contracting Parties Party feel it could help guarantee certain joint ethics. It would make the mutual commitments of the NGOs and the Organisation in all its components both clearer and more legible.



## Annex I

### Overview of the new relations between international organisations and NGOs

- Following the Cardoso report which emerged from the work of the panel of eminent persons on relations between the UN and civil society (June 2004, A/58/817 and corr1), the Secretary General of the United Nations took up some of the proposals (13 September 2004, AG, A/59/354) advocating in particular:
  - *increasing NGO participation in intergovernmental bodies*
  - *improving the accreditation process*
  - *drawing up a code of conduct on the rights and responsibilities of NGOs (proposal 23 in the Cardoso report)*
- In 2004, the Organisation of American Contracting Parties also gave thought to the rules of procedure concerning civil society's participation within it (OAS/Ser.G CP/CISC-106/04)
- The World Bank is also reviewing its relations with civil society organisations ([siteresources.worldbank.org/CSO/resources/Issues\\_and\\_options\\_](http://siteresources.worldbank.org/CSO/resources/Issues_and_options_))
- In application of article 3 para. 7 of the Aarhus Convention on access to information, public participation in the decision-taking process and access to justice on environmental issues, which invites Contracting Parties to apply the principles of the Convention within international decision-taking processes and in international organisations, in May 2005 the 2<sup>nd</sup> Aarhus COP adopted the Almaty declaration towards seeing the Aarhus principles being applied in international bodies. The main points advocated by this declaration are:
  - *Accreditation procedures based on clear, objective, transparent, fair and accessible conditions whilst avoiding excessive formalisation.*
  - *Participation which could extend to advisory committees, forums, debates, active Internet use and calls for comment.*

At the 7<sup>th</sup> general meeting of the UNEP regional seas' conventions and action plans in Helsinki (18-20 October, 2005), Mr. Remi Parmentier presented a report entitled « Review of the rules and practice for civil society organisations' participation in regional sea conventions and action plans ». This report comprises 24 proposals, including:

- *granting NGOs advisory rather than « observer » status*
  - *organising regular meetings between NGOs and secretariat in advance of official meetings*
  - *introducing the « green » industries sector*
  - *opening the COPs to local NGOs*
- At the regular meetings organised by UNEP within the framework of the global civil society forum, UNEP guidelines towards improving the global forum with civil society were proposed (March 2008). They specify the representation and participation of the representative groups entitled to attend the ministerial forum on the environment.



## Annex II

### Innovatory examples of how relations between the NGOs and international bodies have been institutionalised

#### International Maritime Organization

- Advisory status for any NGO able to make a substantial contribution to the IMO's work
- The right to submit written contributions (included in the minutes of the meetings) on all agenda items at all meetings, including working groups

#### UN Commission on Sustainable Development

- NGO meeting with the secretariat prior to the Commission meeting
- Possibility given to the NGOs to express the views of civil society at the start of the official plenary session
- Dialogue session after the formal session
- Daily bulletin circulated to the NGOs during the official sessions

#### FAO

- NGOs may submit written papers of no more than 2000 words to the director general to be distributed to the Council
- Any NGO which has shown no interest and has not attended any meeting for two years is expelled

#### UNESCO

- Accredited NGO status is granted for a six year renewable period
- NGOs may have advisory, association or operational cooperation status
- Total lack of participation for four years leads to the NGO being stripped of its status
- An NGO-UNESCO liaison committee is elected by the international NGO conference and is made up of one third of the accredited NGOs
- The director is periodically required to draw up a report on relations with the NGOs

#### Global Environment Facility (GEF) (500 NGOs are accredited)

- Preparatory meeting just for the NGOs on the issues being discussed, election of the co-chairman and appointment of NGO observers for each session
- Joint NGO/secretariat meeting co-chaired by the NGO co-chairman and the secretariat
- GEF grants for 16 NGOs
- NGOs invited to the meetings must be accredited; they are selected according to the meeting agenda

#### Whaling Commission

- *At the start of meetings, NGOs accredited as observers may present declarations no more than 3 pages long*
- NGOs must pay a registration fee in order to take part in official meetings

#### Council of Europe

- In 2003, advisory status for NGOs, which had existed since 1952, was replaced by a « participatory » status (395 NGOs enjoy such status)
- The NGOs may draw up memorandums and seek the advice of experts ; they have certain obligations towards the organisation, notably to submit a report every four years
- The list of NGOs with participatory status is reviewed every 4 years
- An NGO liaison committee with 36 elected members provides for on-going contact with the general secretariat
- The NGOs convene four times per year for the NGO conference with the bodies elected by the NGOs

#### Convention on the protection of the Alps

- Meeting agenda, draft resolutions and minutes of meetings sent to contracting parties and observers alike
- The NGOs may attend Standing Committee meetings as observers

International Commission for the protection of the Danube

- NGOs entitled to submit documents and proposals which the secretariat is required to distribute and which may be discussed at the meetings

Convention on Environmental Impact Assessment in a Trans-boundary Context

- The meetings of the Parties and subsidiary bodies are public unless the meeting decides otherwise

Ramsar Convention

- Proposals made by NGOs may be put to the vote at the COP if they have the support of a Party
- The meetings of the COP and subsidiary bodies are open to the public unless the COP or subsidiary body decides otherwise

CITES Convention

- Rather than enjoying permanent accreditation, the NGOs have to express their wish to be represented by observers for each COP as well as for the meetings of the plant and animal committees. They are entitled to take the floor at a time chosen by the chairperson of the session
- The NGOs may submit information documents to all meetings
- Technically qualified NGOs may be represented by observers with speaking rights at the meetings of the Standing Committee, made up of certain Contracting Parties

Aarhus Convention

- The meetings of the Parties are open to members of the public
- All the official documents are posted on the website as soon as they are sent out to the Parties
- An NGO representative appointed by the NGOs attends the Bureau meetings as an observer

Convention for the protection of the Baltic Sea- Helsinki Commission

- Observer status must be reconfirmed after five years
- Observer status is withdrawn if the NGO fails to take part in meetings for two years

OSPAR Commission

- NGOs may be accredited as being either general or specialised
- NGOs may make proposals to the meetings which will only be discussed if they have the backing of at least one contracting party
- If an NGO fails to take part in the Commission's work for two years it will be struck off or only be entitled to receive documents

Berne Convention

- Where authorised by the chairman or with the support of one national delegation, NGOs may make oral or written statements to the standing committee (which acts as the COP)
- Proposals made by an NGO may be put to the vote if taken up by a delegation
- The NGOs may complain in writing about non-compliance with the Convention.



## Annex III

### Report of the State of Play of MAP/NGOs cooperation

The 15<sup>th</sup> ordinary meeting of the Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols which was held in Almeria (Spain) from 15-18 January 2008, established the objective of improving NGO participation in MAP activities and enhancing their contribution to achieving MAP's goals, particularly as regards the implementation of the Barcelona Convention and its Protocols. For this purpose, the secretariat was invited to evaluate the effectiveness of cooperation between MAP and the NGOs with an eye to revising the list of partners and submitting proposals to the 16<sup>th</sup> Meeting of the Contracting Parties.

To this end, this report is intended to establish the state of play as far as the current situation in MAP-NGO relations is concerned by.

1. *Examining the legal bases for NGO participation in MAP*
2. *Examining MAP's programmes or policies on its partnership with the NGOs*
3. *Looking at the Mediterranean Commission on Sustainable Development and the NGOs*
4. *Establishing a breakdown of the list of MAP's current NGO partners on the basis of their geographical distribution and profile of work*
5. *Examining the state of the budget granted for NGO participation in MAP activities and meetings*
6. *presenting some concluding remarks on the main findings of the state of the play as well as on the way forward*

#### 1. **General considerations on the legal bases for NGO participation in MAP**

The initial version of the Barcelona Convention « for the protection of the Mediterranean Sea against pollution », as adopted in Barcelona on 16<sup>th</sup> February 1976, did not include any reference to non-governmental organisations (NGOs) or to the role of civil society. The Preamble, however, clearly expressed the view that the aim of the Convention was to protect the marine environment as a « common heritage for the benefit of present and future generations ». The people of the Mediterranean were thus very much present as essential players alongside the Contracting Parties.

The role of the Mediterranean peoples was formalised at the time of the amendments made to the Convention on 10<sup>th</sup> June 1995, the title of which was henceforth to be: « Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean ».

A clear distinction should be drawn between the regulatory basis for NGO participation and their remit on the one hand, and the various roles with which the Convention and Protocols entrust the peoples and NGOs on the other. It should also be borne in mind that certain provisions in the Convention and Protocols foresee public and NGO participation at the level of each Contracting Party, whilst others plan for it at the level of the Organisation. Various provisions in the Convention, Protocols as well as decisions of the meetings of the Contracting Parties that refer to the public, NGOs, local authorities and economic and social players, and a table with their annotations are presented as information document.

It emerges from this overview that the Contracting Parties have more obligations towards the public and NGOs than does the Organisation.

It also emerges from this overview that cooperation between MAP and the NGOs is based on widely-scattered provisions, the fundamentals of which are to be found in articles 15, 17 and 20 of the Convention.

In practice, however, the distinction between « the public » and « the NGOs » should not always be taken literally, since NGOs are simply an expression of the public having come together within an association. Sometimes though a clear distinction should be drawn between the two categories, particularly as far as the details of each of their rights and duties are concerned.

These provisions in the Convention are intended to apply to all MAP activities within each of the Protocols mentioned explicitly in articles 15 and 17 and implicitly in article 20. Moreover, each Protocol (with the exception of the Protocol concerning Specially Protected Areas) contains a provision according to which « the provisions of the Convention relating to any Protocol shall apply with respect to this Protocol ».

### **1.1 The regulatory basis for NGO participation**

The adoption of the amendments to the Convention on 10<sup>th</sup> June 1995 formalised and institutionalised NGO participation in the Barcelona Convention process. According to article 20 « Observers », the Parties may accept any non-governmental organisations as observers under the following conditions:

- 1) Basic condition: to be an NGO « whose activities are related to the Convention ». This is a rather flexible provision, since there is no requirement for the NGO's statutes to be directly related to the Mediterranean and the protection of the marine environment and coastline.
- 2) Formal condition: the provisions governing observer admission and participation are established by the rules of procedure adopted by the Contracting Parties. Article 24 of the Convention stipulates that these rules of procedure shall apply during meetings and conferences foreseen under articles 18, 21 and 22 of the Convention.
- 3) Effects of observer status: NGOs with observer status shall enjoy the following rights:
  - *Taking part in meetings and conferences without the right to vote*
  - *Submitting any information related to the objectives of the Convention*
  - *Submitting any report related to the objectives of the Convention*

### **1.2 The rules of procedure for meetings and conferences of the Contracting Parties to the Barcelona Convention and its Protocols and the Observer status**

On the basis of article 20-3 of the Convention, the conditions for the admission and participation of observers are established by the rules of procedure.

When the rules of procedure were adopted at the first meeting of the Contracting Parties in Geneva on 5-10 February 1979 (UNEP/IG.14/9, annex VII), they already included an article 8.1 B and 8.2, which foresaw the granting of observer status to NGOs with the tacit consent of all the Contracting Parties. The difference in status between NGO and other observers in terms of their appointment lies in the powers of the executive director. For the non-Party Contracting Parties and inter-governmental organisations apart from the United Nations and specialised institutions, the executive director requires the tacit consent of two thirds of the Contracting Parties. For the United Nations and its subsidiary bodies, they are appointed as observers by right. Finally, for the NGOs, the executive director requires the tacit consent of all the Contracting Parties.

Three minor amendments have since been made to these provisions concerning the NGOs observer status:

- *In 1981 (2nd meeting of the Parties, Cannes), in article 8.1 B the initial expression « non-governmental international organisation » has been replaced by « international non-governmental organisation ». The term NGO is indeed the one usually applied. But restricting this to « international » NGOs alone is a problem and will require a change to the rules of procedure in the future in order to respect practice, according to which national and regional NGOs are accepted as well as international ones.*
- *In 1981 (2nd meeting of the Parties, Cannes, France) the end of article 8.2 which read: « ...dealing with matters of direct concern to them » was replaced by: « dealing with matters of direct concern to the organisations they represent ». In 1989 (6th meeting of the Contracting Parties, Athens, Greece) it was added to article 8.1 B that henceforth, apart from attending the public sittings of meetings and conferences, these observers may also attend the « meetings of the technical committees ».*

In actual fact, the current rules of procedure as amended in 1981 and 1989 contain just one article on the NGOs, which being not fully in line with the remit provided in article 20.3 of the Convention, is actually very general regarding the conditions for NGO admission and participation. All article 8.1 B and 8.2 actually stipulate is that:

*Art. 8.1 B: « The Executive Director shall, with the tacit consent of the Contracting Parties, invite to send representatives to observe any public sitting of any meeting or conference, including the meetings of technical committees, any international non-governmental organisation which has a direct concern in the protection of the Mediterranean Sea against pollution ».*

*Art. 8.2: « Such observers may, upon the invitation of the President and with the tacit consent of the meeting or the conference, participate without vote in the deliberations of the meeting or conference dealing with matters of direct concern to the organisations they represent ».*

These provisions were not updated following the amendments to the Convention in 1995 and say nothing about the general conditions for admission or renewal of observer status, nor do they provide any details about observers' rights and obligations. Limiting the NGOs' scope of intervention purely to marine pollution issues no longer squares with the scope of the Convention and Protocols and should also be further adapted.

## **2. MAP programmes and policies related to the partnership with the NGOs**

When the first Mediterranean Action Plan (MAP) was adopted at the intergovernmental meeting held in Barcelona in 1975, point III.5 of the final declaration simply stated that for the conference of plenipotentiaries responsible for adopting the Barcelona Convention and its Protocols in 1976, observers would be invited in accordance with UN practices.

Thus at the outset of MAP, NGO participation came under the common law of the United Nations. In its original 1976 version, the Barcelona Convention made no mention whatsoever of NGOs, although this did not prevent them being granted observer status in the Rules of Procedure adopted in 1979.

MAP phase II, adopted on 10<sup>th</sup> June 1995, highlighted the need for public awareness raising, information and participation. It was decided to:

- *« Ensure, through the Coordinating Unit and Regional Activity Centres, that all relevant IGOs and NGOs have appropriate access to information concerning MAP, and actively participate in MAP activities accordingly (point I. 4 of the Action Plan) », which in the institutional arrangements is expressed in the following terms:*
- *« The Coordinating Unit maintains relations and coordinates its activities with international and non-governmental organisations ». It should be noted here that international intergovernmental and non-governmental organisations are established on the same footing.*

In the Barcelona Resolution on the Environment and Sustainable Development of the same date, adopting MAP Phase II, the Contracting Parties:

- *Decide to « enhance the support and involvement of international, regional and national NGOs and the public» (point 1)*
- *Request « the Mediterranean Commission on Sustainable Development, in which NGOs will be duly represented... » (point 12)*
- *Invite « all social and economic actors concerned, especially local communities, the scientific and educative community, companies and non-governmental organisations to associate themselves with the implementation of the Mediterranean Action Plan Phase II » (point 13).*

Following a long and deep participatory consultation and reflection process, the 11<sup>th</sup> Meeting of the Contracting Parties held in Malta in 1999 decided on the main objectives of MAP/NGOs:

1. To advance the general purposes of MAP and to promote the policies, strategies and programmes derived from the Barcelona Convention and its protocols and decisions of the meetings of the Contracting Parties;
2. To obtain expert information, law and advice, technical cooperation and assistance from international, regional and national NGOs;
3. To enable NGOs, which represent important sectors of public opinion in the Mediterranean to express the views of their members on environmental issues, raise public awareness and influence public opinion and action for the benefit of the environment.

Since that, with a view to attaining the above objectives, a number of implementation actions and measures were agreed upon by the meetings of the Contracting Parties to be undertaken at three levels: at the Contracting Parties level, at NGOMAP/Partner level and at the Secretariat (including MEDPOL and the RACs) level.

The 12<sup>th</sup> meeting of the Contracting Parties, in Monaco, 14-17 November 2001, adopted a list of criteria, which appears in Appendix to this Annex, for admission of MAP/NGOs Partners in and their remaining in the list of MAP partners.

The external evaluation of MAP addressed the issue of MAP partnership with civil society and recommended that clear criteria and a strategic view should be developed for the partnerships with national, regional and international NGOs, active in the areas of concern to the Convention, including for the funding provided for NGOs projects.

A more in depth analysis of MAP policies related to partnership with NGOs is presented in the Detailed Information document.

### **3. The Mediterranean Commission on Sustainable Development (MCSD) and the NGOs**

The Mediterranean Commission on Sustainable Development was set up following the recommendation from the Tunis ministerial conference, approved by the Barcelona conference of plenipotentiaries in June 1995. It was established as an advisory body entrusted with making proposals within the MAP framework.

The constitutive documents for the Mediterranean Commission on Sustainable Development, which were adopted in Monaco at the 4th meeting of the MCSD in October 1998 (UNEP (OCA) MED WG. 140/ inf.4) stipulate the presence of NGOs within this advisory body.

This was a huge step forwards for the NGOs, since from being observers within the instances of MAP, they become members of one of MAP's bodies. Indeed, according to point 5 of the "terms of reference", the MCSD was composed of 35 members including representatives of « NGOs working in the fields of environment and of sustainable development ». They are on an equal footing with the representatives of the Contracting Parties. Point 14 of the terms of reference stipulates that: "*The Commission shall, through the Secretariat, enhance the dialogue with, and the participation of, relevant NGOs and the independent sector, and receive and analyse their inputs within the context of the overall implementation of the Mediterranean regional strategy for sustainable development*".

The Commission's composition provides seats not only for the NGOs but also for the local authorities and socio-economic players. The NGOs are entitled to 5 seats for representatives and 5 for alternates, as are the other two groups of members. NGOs are appointed for two years on the basis of the existing criteria and lists of MAP partners. The important selection of NGOs sitting on the MCSD is not tempered by the possibility of non-member NGOs being granted observer status at MCSD meetings, since the MCSD's rules of procedure provide for observers (art. 5). This issue was raised at the extraordinary meeting of the Parties in Montpellier in 1996 (p.12 and para. 69).

Partnership with the NGOs also raises questions within the actual MCSD framework. The decision was actually taken to convene a working session of the NGO networks in Madrid on 17<sup>th</sup> and 18<sup>th</sup> January, 2004, in order to enhance NGO participation in the MCSD and the MSSD. The conclusions of this meeting were discussed at the 9<sup>th</sup> meeting of the MCSD and Friends of the Earth made a presentation about NGO involvement in the MSSD.

At the 14<sup>th</sup> Meeting of the Contracting Parties in Portoroz in 2005, a proposal from the secretariat was adopted on admitting the main groups within the MCSD (UNEP (DE) MED IG 18/12). This has given rise to a sort of selection regime with specific criteria for NGOs seeking a seat in the MCSD. It is important that these criteria should be harmonised with those which apply to observer status.

Turning to the strategic assessment of the general framework of the Barcelona Convention, which was presented at the 13<sup>th</sup> Meeting of the Contracting Parties in Catania in 2003:

« Cooperation with civil society and NGOs has evidently improved these last years. However, cooperation with business and private companies is still very limited and remains one of the most critical issues within the context of the MCSD. Cooperation with the scientific and academic community is steadily improving ». (UNEP(DEC)MED IG 15/inf.5).

The Governance paper adopted by the 15<sup>th</sup> meeting of the Contracting Parties in Decision IG/17/5 provides for new MCSD members from the academic sector and scientific community as

well as eminent experts in the field of sustainable development in addition to those already representing NGOs, local authorities and socio economic actors/MAP Partners.

#### 4. An inventory of MAP's NGO partners

Over the past ten years there has been little change in the total number of NGOs with observer status and thereby seen as MAP partners:

1998: 71 NGOs ; 2000: 81 NGOs ; 2008: 80 NGOs

After the Rio Conference in 1992, there was a sharp increase in the number of NGOs effectively attending the meetings of the Contracting Parties, with major downwards variations:

Meeting of the Contracting Parties	Number of Participants
4 <sup>th</sup> Meeting (1985)	8
6 <sup>th</sup> Meeting (1989)	9
7 <sup>th</sup> Meeting (1991)	9
9 <sup>th</sup> Meeting (1995)	30
Extraordinary meeting (1996)	22
10 <sup>th</sup> Meeting (1997)	21
11 <sup>th</sup> Meeting (1999)	17
13 <sup>th</sup> Meeting (2003)	24
14 <sup>th</sup> Meeting (2005)	16
15 <sup>th</sup> Meeting (2008)	15

In the 1998 « directory of MAP partners » (UNEP (OCA)/MED WG.147/inf.3), a distinction was made between two categories of NGOs:

- List A of NGOs, deemed entitled to take part in MAP meetings with observer status because a priori their general scope of activities is related to the environment and development
- List B of NGOs with a thematic focus, which would only allow them to participate in certain meetings or specialised activities.

Based on the list of MAP's NGO partners drawn up on 14<sup>th</sup> December 2007 (UNEP (DEPI)MED IG.17/inf.7), the NGOs could be grouped into three categories according to their basic competence:

1. NGOs primarily concerned with the environment
2. NGOs of a socio-economic nature
3. NGOs bringing together local authorities

Each of these categories was then broken down according to its national, regional (Mediterranean) or international vocation.

For the 80 NGOs registered, this breaks down as follows:

	Environmental	Socio-economic	Local authority	Total
Associations with a national vocation	31	2	1	34
Associations with a regional vocation	20	3	1	24
Associations with an international vocation	16	6	-	22
<b>Total</b>	<b>67</b>	<b>11</b>	<b>2</b>	<b>80</b>

General NGOs	<b>40</b>
Specialised NGOs	<b>40</b>

A handful of these NGOs are of a markedly scientific and academic nature, which distinguishes them from the NGOs in the field. Of 80 NGOs, 9 can be taken as scientific and academic, although that almost certainly includes some mistakes.

Finally, the NGOs can be broken down according to their statutory base, which of course in no way pre-empts their regional or international vocation.

The breakdown of the NGOs according to their headquarters location is the following:

Partners headquartered in Contracting Parties to the North of Mediterranean:	46
Partners headquartered in Contracting Parties to the South and East of Mediterranean:	24
Partners headquartered in Non-Contracting Parties to the North:	10

In the 2000 breakdown, there were 57 in the North and 24 in the South and East.

A meticulous check and a revision of the NGO partner list would appear to be essential in order to correctly identify those which are effectively observers, and to distinguish them from the intergovernmental organisations which also hold observer status. The date on which their observer status was recognised should also be mentioned for each NGO, along with the date of renewal if in the future we establish a limited duration for the status of observer.

## **5. State of the budget granted for NGO participation**

It was difficult to establish an exact picture of the budget earmarked for the NGOs. The budget tabled at the meetings of the Contracting Parties is not detailed enough for that and it would require going through the accounting documents with a fine toothcomb. It is, moreover, only a proposed budget rather than actual expenditure. To get an exact overview of MAP's assistance to the NGOs, actual annual expenditure would need to be established by pooling together the various headings involved.

The only budget heading regularly mentioned is usually entitled « support to NGOs » and comes under the Coordinating Unit's accounts. But there is no doubt that the NGOs receive other funds either in the form of travel costs and daily allowances for the meetings attended by the NGOs, or through contracts or commissions with the NGOs for specific information or training services, or under the MCSD budget, where the NGOs are permanently present in a big/important way. In 2002, for example, 18 memoranda of agreements were signed with the NGOs, to which 106,000 dollars were allotted. In 2003, 6 memoranda were signed to the total tune of 22,000 dollars (Secretariat's report, Catania, 2003, p.25).

The amounts earmarked for the NGOs and allocated from the budgets of each of the centres or RACs should also be counted in, these not appearing in the general accounts.

Going only by the headings that make express reference to the NGOs in the published budget, the following changes can be seen under the « support to NGOs » heading. It should be pointed out, however, that this support for the NGOs does not take account of the smaller sum the NGOs can actually expect in so far as, depending on the year, this heading also covers « public awareness raising » (in 1996), or « training and national campaign » (in 1997), « support for information activities concerning the MCSD » (in 1998 and 1999), or « support for NGOs and other important actors » (since 2004).

Year	State of Budget granted In US\$
1996	20 000
1997	20 000
1998	22 000
1999	52 010
2000	73 000 or 39 000 (+50 000 external funding)
2001	73 000 or 34 000 (+50 000 external funding)
2002	60 000 (+ 50 000 ext)
2003	60 000 (+ 50 000 ext)
2004	66 000
2005	66 000
2006	61 000
2007	66 000
2008	44 000 (11 000 of which meeting participation)
2009	36 000 (16 000 of which meeting participation)

## 6. General concluding remarks

1) It emerges from this overview that, besides reviewing the criteria for admission of NGOs as MAP partners and remaining on the list of MAP partners, the list is also in dire need of sorting, using a more apt classification based on the international/regional/national distinction.

2) The vocabulary used needs to be harmonised to avoid ambiguity.

3) There is no obvious need for increasing the allocated budget by the Meetings of the Contracting Parties to support NGOs activities (mainly those from the southern and eastern part of the Mediterranean), including their participation to MAP meetings as well as those activities aimed at their capacity building and institutional strengthening. The total budget allocated by MTF and EC funds is 125 000 euro per biennium.

4) The NGOs' rights and duties also need to be clarified, better specifying their possible role at the various levels of MAP activity. In this respect, there is a need to revise the rules of procedure for meetings and conferences of the Contracting Parties as far as the NGOs and observers status are concerned, and/or draft a new decision or guidelines serving as a code of conduct for the NGOs in MAP as well describing, among others, the ToR for NGOs MAP partnership.

5) In view of preparing a Proposal Note for the consideration of the Contracting Parties on MAP/NGO/Civil society Partnership, account could be taken, among others, of:

- *The vast diversity of NGOs both in terms of their objectives and how they are organised (in the field, scientific, with general or specific focus, purely environmental or socio-economic, etc....)*
- *The parallel situation of some other observers such as intergovernmental organisations close to the NGOs through their activities, such as the IUCN or the CIHEAM.*
- *The special case of the MCSD, where the NGOs are recruited as full members whilst being selected from amongst the NGO observers.*
- *The need to focus on the implementation of the Convention and its Protocols as well as of the MSSD.*
- *Lessons learned and good practices in MAP.*



6) Thought should be given to the provisions governing NGO attendance at the meetings of the Contracting Parties, as well as at the meetings of the MAP focal points, those of other subsidiary bodies like the RACs and MED POL focal points meetings as well as the meetings of various working groups.



## Appendix 1

### Cooperation and Coordination with Partners

Taking into account the recommendations of the Eleventh Ordinary Meeting of the Contracting Parties (Malta, October 1999), the different documents produced by MAP on the issue of MAP Partners, the decision of the Bureau of the Contracting Parties (Cyprus, May 2001), and the Meeting of MAP National Focal Points, (Athens, September 2001), the following proposal has been prepared by the Secretariat:

#### Proposed common criteria for inclusion and retention:

1. Existence of a legal constitution;
2. Existence of a regularly elected Bureau or equivalent body;
3. Establishment of headquarters or relevant offices in a Mediterranean country;
4. Capability to contribute to the aims and objectives of MAP.

#### Additional criteria for retention \*

1. Provision of regular information to MAP;
2. Contribution and involvement in MAP activities and projects;
3. Attendance of MAP meetings;
4. Participation in active Mediterranean networks.

#### Application and selection procedure

An application for partner status should be sent to the Secretariat at least three months before the meeting of MAP Focal Points. The application should include:

- i. a concise statement about the organization and how it meets the stipulated criteria;
- ii. copy of by-laws or constitution;
- iii. indication of the contribution it can provide to MAP objectives.

Following the receipt of the application, the Secretariat will distribute copies to the Contracting Parties that will take a final decision during its Ordinary Meeting.

#### List of partners

Every two years, the Contracting Parties will revise the list of partners taking into account the approved criteria. Those partners that do not participate in the work and meetings of MAP for two consecutive years will be systematically eliminated from the list of partners.

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\* will be applied as appropriate