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Extraordinary Meeting of the Contracting Parties
to the Convention for the protection of the
Mediterranean Sea against pollution

Geneva, 29 March - 1 April 1982

PROPOSALS FOR ALTERNATIVE ARRANGEMENTS FOR THE MANAGEMENT OF THE MEDITERRANEAN ACTION PLAN

Note by the Executive Director

Introduction -----

1. The present note is prepared in pursuance of recommendation 3 adopted by the Contracting Parties at their second meeting (document UNEP/IG.23/11, annex VIII). This recommendation is intended to define an appropriate management system of the Mediterranean Action Plan to take effect on 1 January 1983. The relevant text is reproduced below.

"The Meeting, -----"

1. Invites the Co-ordinator, assisted by the Bureau, to engage, as soon as possible, in consultations with UNEP, the country where the headquarters will be located and the bank in which the funds will be deposited (after considering various banks). These consultations should lead to the preparation by the Co-ordinator of the following documents :

An agreement with UNEP, more particularly to enable it to assign the requisite staff to the Mediterranean Action Plan, and thus ensure adequate staffing for the secretariat of the Barcelona Convention;

New financial regulations entrusting the Co-ordinator with tasks relating to the supervision of accounts, determining measures for a priori and a posteriori financial audits and defining the functions of the host country and of the bank in which the funds will be deposited;

An exchange of letters with the Government of the country in which the bank where the funds will be deposited is situated;

A study on the costs of administration and control;

2. Requests the Co-ordinator to submit these documents to the extraordinary meeting of the Contracting Parties, to be held in March 1982, with a view to adopting final decisions which should, in the normal course of events, take effect on 1 January 1983."

I. Status of the Co-ordinating Unit for the Mediterranean Action Plan.

2. The Executive Director recalls the provisions of Article 15 of the Convention which read as follows :

"The Contracting Parties designate the United Nations Environment Programme as responsible for carrying out the following secretariat functions:

- (i) To convene and prepare the meetings of the Contracting Parties and conferences provided for in articles 14, 15 and 16;
- (ii) To transmit to the Contracting Parties notifications, reports and other information received in accordance with articles 3, 9 and 20;
- (iii) To consider inquiries by, and information from, the Contracting Parties, and to consult with them on questions relating to this Convention and the protocols and annexes thereto;
- (iv) To perform the functions assigned to it by the protocols to this Convention;
- (v) To perform such other functions as may be assigned to it by the Contracting Parties;
- (vi) To ensure the necessary co-ordination 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."

3. On the basis of the agreement reached by the Contracting Parties at their meeting in 1979 to contribute voluntary funds to the Mediterranean Action Plan, the Governing Council of UNEP approved in decision 7/14 D the establishment of a regional trust fund, for a two-year period, within the framework of the Environment Fund. It also agreed with the intention of the Executive Director to assume responsibility for administering it on a temporary basis.

4. The Governing Council subsequently approved in decision 9/26 the continuation of the Mediterranean Trust Fund until 31 December 1982 at the latest, on the basis of the recommendation of the Second meeting of Contracting Parties.
5. It will also be recalled that the Governing Council in decision 6/7 B had called upon the Mediterranean Coastal States to assume full financial responsibility for secretariat costs at the earliest possible date and no later than the end of 1983.
6. When UNEP accepted to administer the Trust Fund for the protection of the Mediterranean Sea against pollution, it automatically accepted to carry out the over-all co-ordination of the Action Plan. The latter has in fact several components which are not based on the existing Convention and protocols and are, therefore, not covered by article 13 of the Convention.
7. In 1979, the Contracting Parties adopted their Rules of Procedure. Rule 2.3 defines the term "secretariat" as the United Nations Environment Programme, as provided in article 13 of the Convention. Rule 2.5 defines the term "co-ordinating unit" as the Unit within the United Nations Environment Programme designated by the Executive Director as responsible for the administration of the Mediterranean Action Plan (document UNEP/IG.14/9, annex VII).
8. The Co-ordinating Unit is, therefore, an integral part of the secretariat. It operates under the authority of the Executive Director and is subject to the relevant personnel and financial rules applicable to UNEP.
9. To the extent that the staff of the Unit deal exclusively with the Mediterranean Action Plan, the requirement of the first operative paragraph of the Recommendation quoted in paragraph 1 above has already been met.
10. However, the first operative paragraph of recommendation No. 3 envisages an agreement between UNEP, and the Contracting Parties to detach the Unit from the secretariat of UNEP, so that it may operate under a different set of financial rules. At the same time the staff of the Unit are expected to retain their international status and enjoy the privileges and immunities that apply to the United Nations officials.
11. A careful review of the applicable regulations shows that these two objectives cannot be reconciled. Secondment of staff is only permitted from one United Nations organization to another. The Executive Director is not empowered to relinquish his duty of control, policy guidance and disciplinary supervision over all staff coming under his authority. So long as the unit remains part of the secretariat it is bound to operate within the legal framework applicable to all units of the secretariat as approved by its relevant governing bodies.^{1/}

^{1/} Furthermore, the Headquarters Agreement between the Government of Greece and the United Nations is only applicable to the establishment in Athens of a unit of the United Nations.

II. Alternative arrangements for the administration of MAP resources

12. The Contracting Parties at their second meeting rejected the idea of setting up their own secretariat which would have required an amendment to article 13 of the Convention. In order to administer funds contributed to the Mediterranean Action Plan outside the framework of a United Nations Trust Fund, a separate administrative section would have to be established, outside the co-ordinating unit, thereby separating the co-ordination and the administration functions. This option is described below.

13. The "separate administration option".

- (i) The secretariat of the Convention remains entrusted to UNEP. The co-ordination of the Action Plan remains the responsibility of the unit which is an integral part of the secretariat and remains subject to the authority of the Executive Director. All related costs are charged to the Mediterranean budget and are paid to UNEP annually in advance. Technically, the staff is on a non-reimbursable loan.
- (ii) A Management Committee composed of a representative number of Contracting Parties established under new Financial Rules (see Section III of the present Note), has authority to propose and determine priorities of allocating available funds.
- (iii) The Mediterranean Trust Fund administered by UNEP under UN rules ceases with no management role for the United Nations thereafter. The administrative functions are no longer the responsibility of UNEP nor of the Unit. They are transferred as of 1 January 1983 to a special authority or association (as CEFIGRE or MEDEAS type) serving as support who:
 - receives the contributions from the Contracting Parties;
 - invests them with a national banking institution;
 - at the request of the Co-ordinator undertakes all administrative actions (contracts, purchases, travel arrangements) and transfers convertible funds to other MAP components such as UN Agencies, Medeas, PAP/RAC Split, etc.). The detail is included in annex II. The inherent weakness of this arrangement is that the Unit is no longer responsible for the implementation of the work programme, as it has no authority over the administrative section that issues contracts, travel arrangements, etc.

- (iv) The cost of the administrative section is also charged to the Mediterranean budget. The exact cost will be known after negotiation with the Authorities where the Headquarters is located.
- (v) New financial regulations (prepared in consultation with the Bureau and with a representative of Greece) appear in Annex III to the present Note.
- (vi) The banking institution would be expected to make available to the administrative section overdraft facilities in convertible currency. A draft exchange of letters is submitted in section III of the present Note. The banking institution could be located in another country but this would result in added, and perhaps unsurmountable administrative and legal obstacles.

14. The "administration by the unit" option

- (i) The Unit remains an integral part of the secretariat and subject to the authority of the Executive Director;
- (ii) The Co-ordinator is designated programme manager with responsibility for the management of the resources of the Trust Fund under direct policy guidance from the Executive Director (UNEP/IG.14/7, annex I, para. 62 (b), c), d);
- (iii) Under the present option the Mediterranean Trust Fund would be further extended. The Greek special contribution would be administered by the UNit, without overhead costs, as a Government counterpart contribution to a project.
- (iv) UN rules would continue to be applied to personnel, project management and administration.

15. The respective advantages and disadvantages of the two options can be summarized as follows :

The "separate administration option" permits the use of bank overdraft facilities to accelerate implementation of the programme in spite of late payments of contributions; it allows to pay the cost of administration in drachmas; its disadvantage lies in the fact that it requires two different units, one U.N. and one national, to deal with the Action Plan with possible legal obstacles especially with regard to outside instructions being given to a national administration and to its audit; it also introduces the cost of borrowing funds, while losing interest on deposits (with the present schedule of payments, the bank account would constantly have a negative balance).

The "administration by the unit" option permits the handling of both co-ordination and administration functions by UNEP and retains the international character of all the activities carried out under the Mediterranean Action Plan; it can utilize the Greek special contribution in drachmas under existing rules; its disadvantage is that it does not allow for the use of bank overdraft facilities and that the administrative costs would continue to be paid in convertible currency.

16. The Contracting Parties are invited to take a decision on this matter so that the alternative arrangements, if agreed upon, can be implemented as of 1 January 1983.

III. An exchange of letters with the Government of the country where

the banking institution is located.

A draft to this effect is given below. This is applicable only if the first option is adopted.

"The Government of being a Contracting Party to the Convention for the Protection of the Mediterranean Sea against Pollution; desirous of promoting the implementation of the MAP; aware of the constraints imposed on such implementation by the irregular flow of resources due to different legal and administrative procedures prevailing among the eighteen Contracting Parties; undertakes by the present exchange of letter with the United Nations Environment Programme

1. to authorize the Bank of to make cash advances up to the annual appropriation approved by the Contracting Parties at an annual rate of interest of per cent, to be revised on a basis, which will be debited to the contributions received.
2. Such advances to be made in quarterly instalments, at the request of the Co-ordinator of the Mediterranean Action Plan.
3. to authorize the Bank to receive and invest, after reimbursement of any outstanding balances, contributions in convertible currency from the Contracting Parties and other sources and to offer an interest rate of per cent to be revised on a basis, which will be credited to the contributions account.

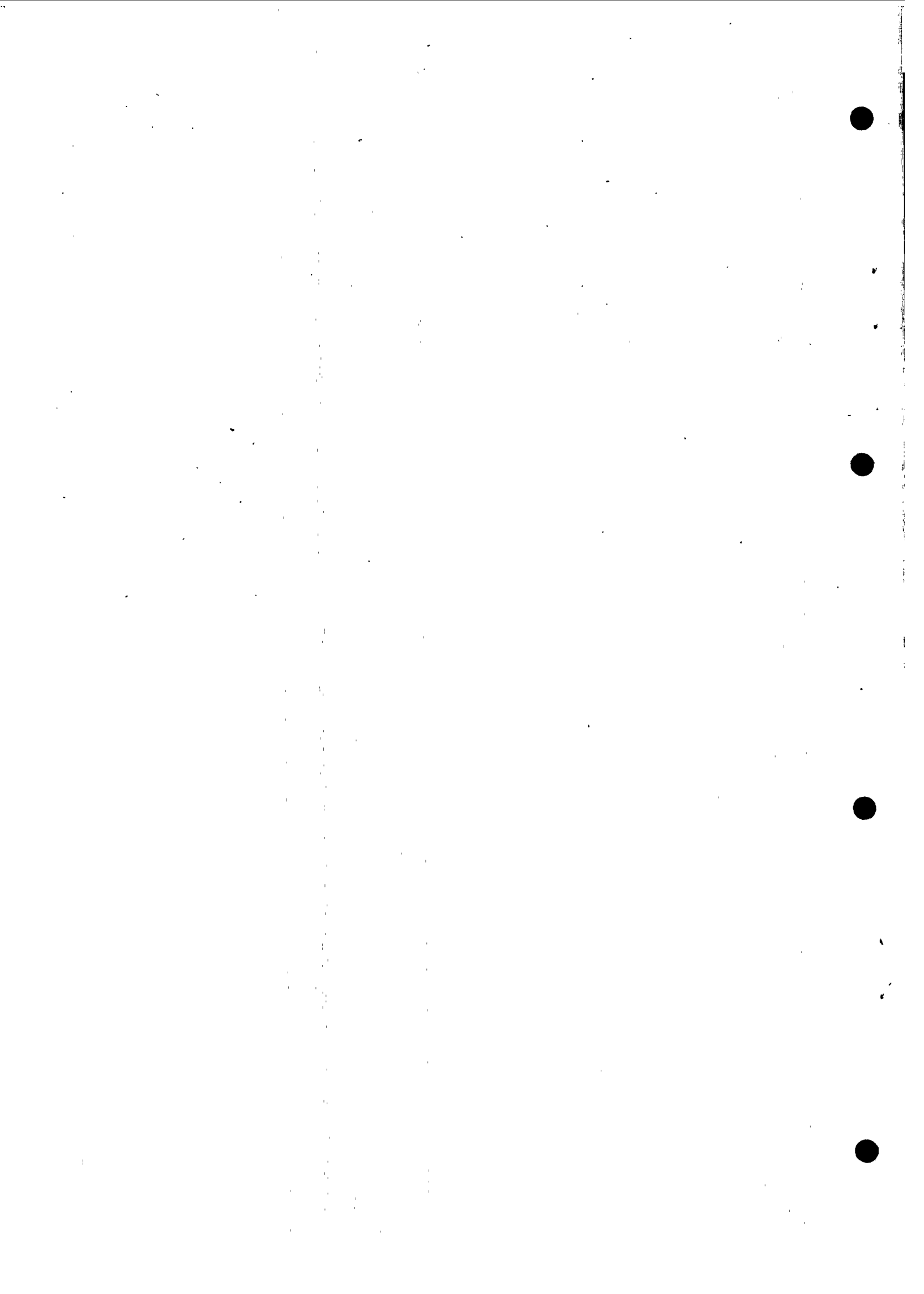
4. to guarantee to the Bank the payment of any sums due by the Contracting Parties and not paid, for whatever reason, after a period of two years.
5. to release the UN, UNEP, the Co-ordinating Unit and their staff from any liability in connexion with unpaid contributions under para. 4 above, including interest and other costs, and to seek payment of such contributions through bilateral diplomatic channels.

The present agreement shall enter into force for an initial period of two years and shall be automatically extended for further two-year periods unless notice of cancellation is given in writing by either Party six months before the expiration of any two-year period.

The text of the present agreement and of any amendments thereto shall be communicated by the Co-ordinator to the Contracting Parties."

Conclusions

1/. In conclusion, the Executive Director considers that the separate administration option introduces constraints of a legal nature and creates two parallel instruments for servicing the Action Plan. The administration by UNEP option offers policy control by the Parties and retains the full international character of the Mediterranean Action Plan that has proven over the past several years a major contributing element of its success.



ANNEX I

Proposed revision to the Terms of Reference for the
administration of the Mediterranean Trust Fund.

(document UNEP/IG.14/9, annex IX)

After paragraph 24 insert a new paragraph 25 and renumber existing paragraphs 25 and 26.

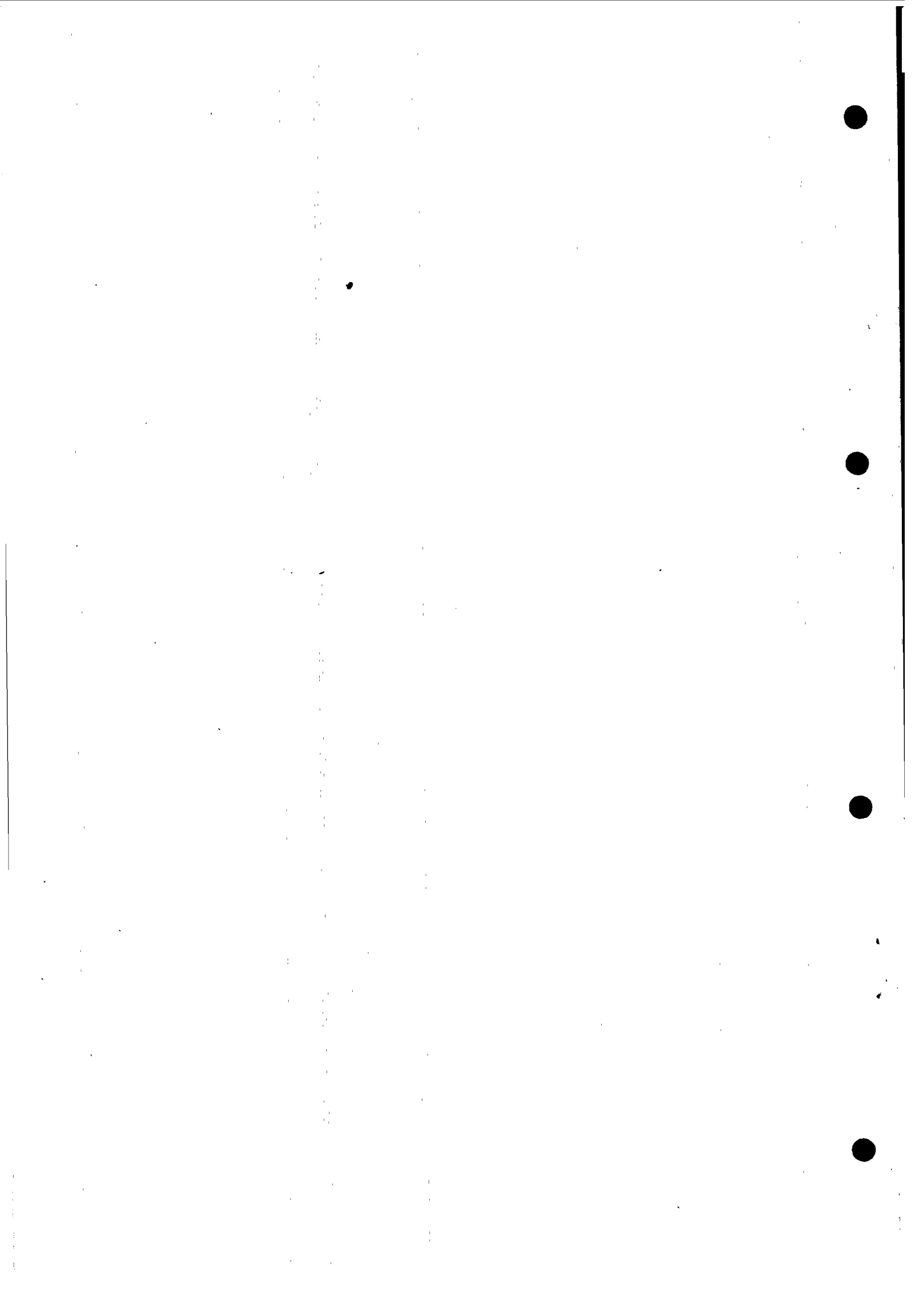
" There is established a Management Committee composed of six members elected by the Contracting Parties with authority to propose and determine priorities of allocating available funds, within the Work Programme and budget adopted by the Contracting Parties.

Members are elected at each ordinary meeting of the Contracting Parties for a period of two years. Members may stand for re-election to a second two-year's term.

The Management Committee meets in principle twice a year at the seat of the Unit and takes its decisions at the simple majority. The Committee elects its own chairman and vice-chairman.

The Co-ordinator is an ex-officio member of the Committee with the right to vote on behalf of the secretariat.

The meetings of the Management Committee are not public. Its decisions are communicated promptly to all Contracting Parties, but no record is kept of its deliberations."



ANNEX II

A description of the functions relating to the implementation of the Mediterranean Action Plan.

Co-ordination

A. Secretariat functions of the Barcelona Convention (Art. 13).

- (i) To convene and prepare documentation for the meetings of the Contracting Parties and conferences;
- (ii) to transmit to the Contracting Parties notifications, reports and other information received in accordance with Art. 3, 9, 20;
- (iii) to consider enquiries by, and information from, the Contracting Parties and to consult with them on questions relating to the Convention, Protocols and Annexes;
- (iv) to perform the functions assigned to it by the Protocols;
- (v) to perform such other functions as may be assigned to it by the Contracting Parties;
- (vi) to ensure the necessary co-ordination 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.

B. Overall co-ordination of the Long-term Programme for Pollution Monitoring and Research in the Mediterranean (MED POL-PHASE II), with the collaboration of the UN agencies and other relevant international organizations and the Working Group on Scientific and Technical Co-operation; analysis and dissemination of data as well as other scientific information for the purpose of the Convention (art. 11.1).

C. Co-ordination of various of MAP components : ROCC, Blue Plan, PAP, SPA (Specially Protected Areas).

D. Representation at meetings, public information.

Programme Management

- development of projects within approved budget negotiation with UN agencies, organizations and consultants.

- drafting of projects documents : objectives, outputs, work-plan, time-table and budget.
- approval of projects and revisions by Fund/UNEP.
- follow-up of project activities; rephrasing of activities, rescheduling of budgets.
- reporting on activities, publication of manuals, guidelines, reports of meetings.

Financial Management

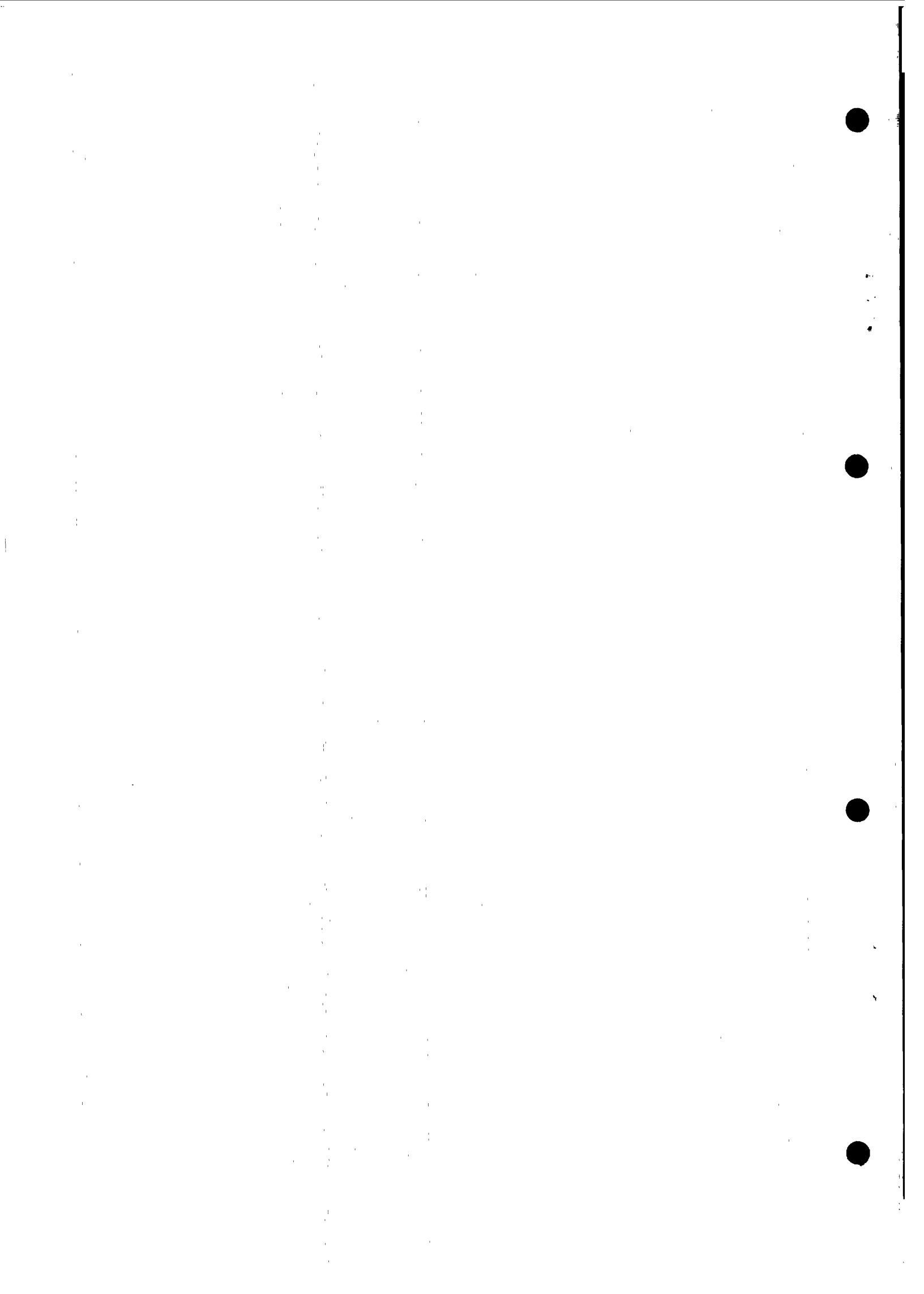
- requests to Governments for payment; acknowledging receipt; issuing monthly statement of contributions.
- receipt of funds by Chemical Bank, New York.
- investment by UN, on advice of Investment Committee of General Assembly.
- projection of cash requirement (quarterly).
- cash disbursement to individual agencies and organizations : quarterly on receipt of satisfactory financial statement.

Administration

- Staff of the Unit: recruitment and personnel administration.
- Consultants : issuance of contracts (SSA), evaluation reports, payment of fees.
- Travel : issuance of authorization and visas, ticketing, booking, and payment of daily subsistence allowance (DSA) for UNEP staff. Issuance of travel authorization and payment of DSA for consultants and experts attending intergovernmental and expert meetings.
- Fellowships : placement, travel.
- Meetings :
 - (i) at the headquarters of the Co-ordinating Unit :
booking of conference hall, hotel and transportation, recruitment of local temporary staff, recruitment of interpreters and translators either through the UN office, Geneva, or locally (if recruited locally, contracts will be issued by UNEP).

(ii) outside the headquarters : agreement between UN and host Government, including estimated cost to be borne by Government. Recruitment of interpreters and translators as (i) above. Documentation : Translation of documentation through the UN office, Geneva or locally. If locally, contracts will be issued to translators. Reproduction of documentation.

- Purchasing : bidding, selection, ordering, shipping, insurance, property control, sale or disposal.
- Accounting : review and approval of quarterly financial statements from UN agencies, etc. recording of expenditures.
- Financial reporting : monthly status of experts by project, by agency, by item. Annual report to Contracting Parties, General Assembly.
- Audit : UN internal auditors; external auditors appointed by the General Assembly.



ANNEX III

New financial regulations required under Option 1 above.

(to be drafted jointly by the secretariat, the Bureau and representatives of the Greek Government).

