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Meeting of Legal Experts on the Preliminary
Draft Protocol for the Protection of the
Mediterranean Sea against Pollution from
Land-Based Sources

Geneva, 25-29 June 1979

REPORT OF THE MEETING OF LEGAL EXPERTS ON THE
PRELIMINARY DRAFT PROTOCOL FOR THE PROTECTION OF THE
MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES

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Introduction

1. At the Intergovernmental Review Meeting of Mediterranean Coastal States and First Meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related protocols (Geneva, 5-10 February 1979), the Executive Director of UNEP was requested to assist the Mediterranean States and the EEC to continue their consultations on the preliminary draft protocol for the protection of the Mediterranean Sea against pollution from land-based sources by convening parallel meetings of technical and legal experts to resolve the outstanding difficulties which prevent a consensus from being reached on a final text. The secretariat was also requested to assist the negotiations by providing appropriate background material on land-based pollutants.^{1/}
2. Accordingly, the Executive Director convened two parallel meetings - one for legal experts and one for technical experts - at the World Health Organization headquarters in Geneva from 25 to 29 June 1979.

Attendance

3. Experts designated by the Governments of fourteen Mediterranean coastal States and the European Economic Community participated in the two parallel meetings.
4. Observers from three United Nations bodies, three specialized agencies and the International Atomic Energy Agency, and two intergovernmental and non-governmental organizations attended the meetings.
5. A complete list of participants is attached as annex I to this report.

Agenda item 1. Joint opening of the meeting of legal experts and the meeting of technical experts

6. His Excellency, Ambassador R. Bach Baouab (Tunisia), opened the meetings in his capacity as President of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related protocols. In his opening statement, Ambassador Bach Baouab underlined the need for concerted regional action to protect the resources of the Mediterranean from pollution for future generations and to preserve the health of the present population from land-based pollutants in particular.

^{1/} UNEP/IG.14/9, Annex V, page 7, paragraph 31

7. Dr. B. Dieterich, Director, Division of Environmental Health, World Health Organization, (WHO), extended a welcome to all participants on behalf of Dr. H. Mahler, Director-General of WHO. Dr. Dieterich stated the great interest of WHO in the work being carried out with a view to controlling land-based pollution in the Mediterranean and expressed the organization's pleasure at being closely associated with the work on the preliminary draft protocol from the early preparatory stages.
8. Mr. P. S. Thacher, Deputy Executive Director of UNFP, welcomed the participants to the meetings on behalf of the Executive Director of UNFP, Dr. M. K. Tolba. Mr. Thacher expressed the gratitude of UNFP to WHO for hosting the meeting. He also thanked all the UN bodies and specialized agencies present for their very competent collaboration in providing technical information and documentation which should assist the experts in their discussions.

Agenda item 1(a). Rules of procedure

9. Since the meetings were convened by the Executive Director at the recommendation of the Contracting Parties^{2/} "to study problems which, because of their specialized nature could not fruitfully be discussed during the normal sittings of the Contracting Parties"^{3/}, the rules of procedure for meetings and conferences of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related protocols were adopted mutatis mutandis as provided for in Rule 49 of those rules.

Agenda item 1(b). Election of officers for the two meetings

10. The following officers were unanimously elected for the two meetings:

(i) Meeting of Legal Experts

<u>Chairman:</u>	Marcel SURBIGUET (France)
<u>First Vice-Chairman:</u>	Joseph NAGGEAR (Lebanon)
<u>Second Vice-Chairman:</u>	Arnaldo V. DE MOHR (Italy)
<u>Rapporteur:</u>	Koray TARGAY (Turkey)

^{2/} UNEP/IG.14/9, Annex V, Recommendation 31

^{3/} UNEP/IG.14/9, Annex VII, Rule 49 of the rules of procedure of the Contracting Parties

(11) Meeting of Technical Experts

<u>Chairman:</u>	Louis J. SALIBA (Malta)
<u>First Vice-Chairman:</u>	Joaquin ROS (Spain)
<u>Second Vice-Chairman:</u>	Miltiadis VASSILOPOULOS (Greece)
<u>Rapporteur:</u>	Alain VATRICAN (Monaco)

Agenda item 2. Adoption of the agenda

11. The meeting adopted the agenda as set forth in annex II to this report.

Agenda item 3. Organization of the work

12. The meeting agreed to carry out its work in plenary and, if necessary, by ad hoc drafting groups.

Agenda item 4. Introduction of documents prepared for the meeting

13. A list of documents that were before the meeting and introduced orally to the meeting is attached as annex III to this report.

Agenda item 5. Review of the preliminary draft protocol for the
protection of the Mediterranean Sea against
pollution from land-based sources

14. The meeting then proceeded to an article by article review of the preliminary draft protocol with a view to preparing a revised text for consideration by diplomatic conference. The revised text of the preliminary draft protocol as recommended by the experts is contained in annex IV to this report.

15. Reservations expressed by the experts to certain phrases, paragraphs or articles in the revised text have been indicated in the footnotes to the text. Explanations of these reservations which have been provided by the experts concerned are set forth in annex V to this report.

Agenda item 6. Other business

16. The meeting concluded that it had fulfilled its mandate and considered that the questions still pending with regard to the text of the preliminary draft protocol were outside its competence as an expert body.
17. The meeting considered, however, that the present draft of the protocol should, in the near future, be verified from the linguistic point of view so as to ensure the harmonization of the text in the authentic languages of the Convention.
18. The meeting recommended that the publication entitled "Protection of the Mediterranean Sea against pollution from land-based sources: a survey of national legislation" (WHO and UNFP, Geneva 1976) be up-dated by the secretariat and circulated to all Mediterranean coastal States and the European Economic Community in view of its usefulness as a reference source for Governments and the EEC in their negotiations and implementation of the protocol.

Agenda item 7. Adoption of the report

19. The experts adopted the report of the meeting.

Agenda item 8. Joint closure of the meeting of legal experts and the meeting of technical experts

20. His Excellency, Ambassador Bach Baouab, presided over the joint closure of the two parallel meetings in his capacity as President of the Contracting Parties to the Barcelona Convention. After the Chairman of each meeting reviewed orally the work carried out by the meeting over which he presided, Mr. Thacher of UNFP congratulated the experts on the progress that they had achieved. The meetings were then declared closed by Ambassador Bach Baouab.

ANNEX I

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ANNEX II

A G E N D A

1. Joint opening of the meeting of legal experts and the meeting of technical experts.
 - (a) Rules of procedure.
 - (b) Election of officers for the two meetings.
2. Adoption of the agenda.
3. Organization of the work of the meeting.
4. Introduction of documents prepared for the meeting.
5. Review of the preliminary draft protocol for the protection of the Mediterranean Sea against pollution from land-based sources.
6. Other business.
7. Adoption of the report.
8. Joint closure of the meeting of legal experts and the meeting of technical experts.

ANNEX III

LIST OF DOCUMENTS BEFORE THE MEETING

A. Working Documents (available in English and French)

UNEP/WG.17/1	Provisional Agenda
UNEP/WG.17/2	Annotated Provisional Agenda
UNEP/WG.17/3	Preliminary draft protocol for the protection of the Mediterranean Sea against pollution from land-based sources
UNEP/WG.17/4	Inventory of areas of disagreement and of points requiring clarification regarding the preliminary draft protocol for the protection of the Mediterranean Sea against pollution from land-based sources
UNEP/WG.17/5	Comments on the inventory of areas of disagreement

B. Information Documents (available in English and French)

UNEP/WG.17/INF.1	List of documents
UNEP/WG.17/INF.2	List of participants
UNEP/WG.17/INF.3	Report of second Intergovernmental Consultation concerning a draft protocol for the protection of the Mediterranean Sea against pollution from land-based sources (Venice, 17-21 October 1977) (formerly issued as UNEP/IG.9/5)
UNEP/WG.17/INF.4	"New Installations": an outline of some existing definitions
UNEP/WG.17/INF.5	Comments submitted by delegation of Lebanon concerning the draft protocol for the protection of the Mediterranean Sea against pollution from land-based sources

ANNEX IV

PRELIMINARY DRAFT PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA
AGAINST POLLUTION FROM LAND-BASED SOURCES

"THE CONTRACTING PARTIES TO THE PRESENT PROTOCOL,

Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution signed at Barcelona on 16 February 1976,

Desirous of implementing article 4, paragraph 2, and articles 8 and 15 of the said Convention,

Noting the rapid development of human activities in the Mediterranean Sea Area, particularly in the matters of industrialization and urbanization, and the seasonal increase in coastal population due to tourism,

Recognizing the danger posed to the marine environment and to human health by pollution from land-based sources and the serious problems existing in this respect in many coastal waters and river estuaries of the Mediterranean Sea, mostly due to the release of untreated, insufficiently treated or inadequately disposed domestic or industrial discharges,

Recognizing the differences in levels of economic development between the coastal States, and taking account of the economic and social imperatives of the developing countries,

Determined to take in close co-operation all necessary measures to protect the Mediterranean Sea against pollution from land-based sources,

HAVE AGREED AS FOLLOWS:

Article 1. General objective

The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures to prevent, abate and control pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources on their territories.

Article 2. Coverage

The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be the Mediterranean Sea Area as defined in article 1 of the Convention; it shall also include waters on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit; it shall also include saltwater marshes communicating with the sea. ^{1/}

Article 3. Scope ^{2/}

1. The Protocol shall apply to all polluting discharges reaching the Protocol Area from land-based sources on the territories of the Parties, in particular:
 - directly, from outfall pipelines discharging into the sea, or through coastal dumping;
 - indirectly, through rivers, canals and other streams, underground watercourses, run-off and through the atmosphere. ^{3/}
2. The Protocol shall also apply to all pollution discharges from fixed man-made off-shore structures which are under the jurisdiction of a Party and which serve purposes other than the exploration and exploitation of mineral resources of the continental shelf and the sea-bed and its subsoil.

Article 4. Definitions ^{2/}

For the purposes of this Protocol:

- (a) "The Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted in Barcelona on 16 February 1976;
- (b) "Organization" means the body referred to in article 13 of the Convention;

^{1/} The expert designated by the Government of Turkey expressed a reservation to this article.

^{2/} The expert designated by the Government of Lebanon expressed a reservation to the concept underlying articles 3 and 4.

^{3/} The experts designated by the Governments of Italy, Lebanon, Spain and Turkey expressed reservations to paragraph 1 of this article.

- (c) "freshwater limit" means the place in the watercourses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea-water; ^{4/}

Article 5. Substances listed in annex I

1. The Parties undertake to eliminate, by stages if necessary, pollution of the Protocol Area from land-based sources by substances listed in annex I of the present Protocol.
2. To this end they shall elaborate and implement, jointly or individually as appropriate, the necessary programmes and measures.
3. These programmes and measures shall include, in particular, emission standards and standards of use as well as time-tables for their application.
4. Time-limits for the implementation of these programmes and measures may differ ^{5/} depending on whether existing or new installations are concerned.
5. The standards and time-tables shall be fixed by the Parties and periodically reviewed for each of the substances listed in annex I, in accordance with article 15. ^{6/}

Article 6. Substances or Sources listed in annex II

1. The Parties shall strictly limit pollution from land-based sources in the Protocol Area by substances or sources listed in annex II of the present Protocol.
2. To this end they shall elaborate and implement, jointly or individually as appropriate, suitable programmes and measures.
3. Time-limits for the implementation of these programmes and measures may differ ^{7/} depending on whether existing or new installations are concerned.

^{4/} The expert designated by the Government of Turkey expressed a reservation to this paragraph in the light of his reservation to article 2.

^{5/} The experts designated by the Governments of Morocco, Tunisia and Turkey expressed reservations to this paragraph.

^{6/} The expert designated by the Government of Lebanon expressed a reservation to this paragraph.

^{7/} The experts designated by the Governments of Morocco, Tunisia and Turkey expressed reservations to this paragraph.

Discharges shall be subject to the issue, by the competent national authorities, of an authorization taking into account the provisions of annex III.

Article 7. Common guidelines, criteria or standards

1. The Parties shall progressively formulate and adopt, in co-operation with the competent international organizations, common guidelines, and as appropriate, criteria or standards dealing, in particular, with:
 - (a) the length, depth and position of pipelines for coastal outfalls, taking into account, in particular, the methods used for pretreatment of effluents;
 - (b) special requirements for effluents requiring separate treatment;
 - (c) the quality of sea-water used for specific purposes that is necessary for the protection of human health, living resources and ecosystems;
 - (d) the control and progressive replacement of products, installations and industrial and other processes causing significant pollution of the marine environment;
 - (e) special requirements concerning the quantities discharged of the substances referred to in annexes I and II, their concentration in effluents and methods of discharging them.
2. Without prejudice to the provisions of article 5, such common guidelines, criteria or standards shall take into account ecological subregional features, local geographical and physical characteristics, the economic capacity of the Parties and their need for development, the level of existing pollution and the real local absorptive capacity of the marine environment.^{8/} The common guidelines, criteria or standards shall be adopted taking into account, in their time-limits of application, the economic capacity of the Parties and their need for development.

Article 8. Monitoring

Within the framework of the monitoring programmes provided for in article 10 of the Convention, and if necessary in co-operation with the competent international organizations, the Parties shall carry out at the earliest possible date monitoring activities in order:

^{8/} The expert designated by the Government of Lebanon expressed his reservation to including the phrase "the economic capacity of the Parties and their need for development".

- (a) systematically to assess, as far as possible, the levels of pollution along their coasts, in particular with regard to the substances or sources listed in annexes I and II, and periodically to provide information in this respect;
- (b) to evaluate the effects of measures taken under the Protocol to reduce pollution of the marine environment.

Article 9. Scientific and technological co-operation

In conformity with article 11 of the Convention, the Parties shall co-operate as far as possible in scientific and technological fields related to pollution from land-based sources, including research on inputs, pathways and effects of pollutants and on the development of new methods for their treatment, elimination or reduction.

To this end the Parties shall, in particular, endeavour to:

- (a) exchange scientific and technical information;
- (b) co-ordinate their research programmes.

Article 10. Training and assistance

1. The Parties shall, directly or as appropriate with the assistance of competent regional or other international organizations, endeavour to promote programmes of assistance to developing States, in particular in the fields of science, education and technology, with a view to preventing pollution from land-based sources and its harmful effects in the marine environment. ^{9/}
2. Such technical assistance may comprise the training of scientific and technical personnel, and the acquisition, ^{10/}utilization and production by those States of appropriate equipment.

Article 11. Watercourses shared by several States

1. If discharges from a watercourse which flows through the territories of two or more Parties or forms a boundary between them are liable to cause pollution of the marine environment of the Protocol Area, the Parties concerned shall be invited to co-operate in taking appropriate joint measures in order to ensure the full application of the present Protocol. ^{11/}

^{9/} The experts designated by the Governments of Lebanon, Libyan Arab Jamahiriya, Morocco, Tunisia and Turkey proposed to add after "endeavour to promote" the words "and implement".

^{10/} The expert designated by the Government of Morocco expressed a reservation to this paragraph

^{11/} The experts designated by the Governments of Lebanon and Morocco expressed reservations to this paragraph.

2. The provisions of the Protocol may not be invoked against a Party insofar as that Party is unable, as a result of pollution having its origin in the territory of a non-contracting State, to ensure their full application. However, the said Party shall endeavour to co-operate with the said State so as to make possible the full application of the present Protocol.

Article 12. Pollution affecting other Parties

1. When land-based pollution originating from the territory of one Party is likely to prejudice directly the interests of one or more of the other Parties, the Parties concerned shall, at the request of one or more of them, undertake to enter, in consultation with a view to seeking a satisfactory solution.^{12/}
2. At the request of any Party concerned, the matter shall be placed on the agenda of the next meeting of the Parties, which may make recommendations with a view to reaching a satisfactory solution.

Article 13. Exchange of information

1. The Parties shall inform one another through the Organization of measures taken, results achieved and any difficulties encountered in the implementation of this Protocol. Procedures for the collection and submission of such information shall be determined at the meetings of the Parties.
2. Such information shall include, among others:
 - (a) statistical data on the authorizations granted according to article 6;
 - (b) data resulting from monitoring;
 - (c) quantities of pollutants discharged from their territories;
 - (d) measures taken in accordance with articles 5 and 6.^{13/}

Article 14. Meetings of the Parties

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 14 of the Convention. The Parties may also hold extraordinary meetings in accordance with article 14 of the Convention.

^{12/} The expert designated by the Government of Lebanon expressed a reservation to paragraph 1 of this article.

^{13/} The expert designated by the Government of Turkey expressed a reservation to paragraph 2.

2. It shall be the function of the meeting of the Parties to this Protocol:
- (a) to keep under review the implementation of the Protocol and to consider the efficacy of the measures adopted and the need for any other revisions, in particular in the form of annexes;
 - (b) to review and amend any annex to the Protocol, as appropriate;
 - (c) to formulate and adopt programmes and measures in accordance with articles 5, 6, and 15;
 - (d) to adopt, in accordance with article 7, common guidelines, criteria or standards, in any form decided upon by the Parties;
 - (e) to make recommendations in accordance with article 12, paragraph 2;
 - (f) to consider the information submitted by the Parties under article 13;
 - (g) to discharge such other functions as may be appropriate for the implementation of this Protocol.

Article 15. Adoption of programmes and measures

1. The meeting of the Parties shall adopt the programmes and measures for the reduction or the elimination of pollution from land-based sources which are provided for in articles 5 and 6 of the present Protocol in accordance with the procedure prescribed in article 17 of the Convention.
2. However, the Parties which are not able to accept the programme, shall inform the meeting of the Parties of the measures they intend to take as regards the programme concerned, it being understood that these Parties shall be free, at any time, ^{14/} to give their consent to the programme that has been adopted.

Article 16. Final clauses

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present Protocol.
2. The rules of procedure and the financial rules adopted pursuant to article 18 of the Convention shall apply with respect to this Protocol, unless the Parties agree otherwise.

^{14/} The experts designated by the Governments of the Libyan Arab Jamahiriya, Morocco and Tunisia, expressed reservations to the entire article.

3. This Protocol shall be open for signature in from to by any State invited to participate in the Conference of Plenipotentiaries It shall also be open until the same date for signature by the European Economic Community and by any similar regional economic grouping of which at least one member is a coastal State of the Mediterranean Sea Area and which exercises competence in fields covered by this Protocol.
4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.
5. As from, this Protocol shall be open for accession by the States referred to in paragraph 3 above, by the European Economic Community and by any grouping referred to in that paragraph.
6. This Protocol shall enter into force on the thirtieth day following the deposit of at least instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this article.

ANNEX V

EXPLANATIONS OF RESERVATIONS MADE BY EXPERTS AS INDICATED IN FOOTNOTES
TO PRELIMINARY DRAFT PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN
SEA AGAINST POLLUTION FROM LAND-BASED SOURCES

Article 2

Reservations of the expert designated by the Government of Turkey

Two reserves:

The first concerns the inclusion of the concept of "internal coastal waters" within the coverage of the Protocol as defined in this article.

The second is based on the proposal of the expert designated by the Government of Turkey, who requested that the Protocol should not apply to installations used exclusively for governmental and non-commercial purposes by the Parties. In this connexion, the expert designated by the Government of Turkey cited the example of article 11 of the "Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft."

Articles 3 and 4

Reservations of the expert designated by the Government of Lebanon

The expert designated by the Government of Lebanon expressed a reservation concerning articles 3 and 4 of the Protocol:

1. The order of these articles should be inverted, so that "Definitions" comes before "Scope of the Protocol".
2. The routes of transfer of land-based pollution as listed in article 3 should be placed in the "Definitions" and not in the "Scope", especially because of the transfer of pollution by the atmospheric route.
3. The "Definitions" should include a definition of the territory so as to remove all ambiguity; and mention should be made there of fixed man-made off-shore structures, which would pass from para. 2 of the present article 3 to the definition of territory.
4. The "Scope of the Protocol" should indicate where pollution is observed.

Article 3

Reservation of the expert designated by the Government of Italy to paragraph 1

The expert designated by the Government of Italy expressed a reservation concerning the inclusion in Article 3, para. 1 of the proposal "and through the atmosphere" for the following reasons:

1. The question of pollution transferred by the atmosphere is still under study both by scientists and by organizations such as UNEP and OECD, and for that reason we do not have sufficient data for embarking on a study of that type of pollution.
2. In particular, scientific knowledge does not make it possible to discern the sources of pollution carried by the atmosphere. Consequently, the problem in question can only be a statement of principle.

The expert designated by the Government of Italy is therefore of the opinion that the question concerning pollution transferred by the atmosphere should form the subject of another protocol.

Reservation of the expert designated by the Government of Spain

The expert designated by the Government of Spain expressed his reservation to the inclusion in paragraph 1 of article 3 of polluting discharges reaching the Protocol Area "through the atmosphere". He considers that pollution from or through the atmosphere is an independent source of pollution different from pollution from land-based sources, as it is stated in the Informal Composite Negotiating Text of the Third U.N. Conference on the Law of the Sea (articles 195-3-a, 208, 213, 214 and 223). Therefore this type of pollution should be dealt with in an "ad hoc" Protocol.

Linking the legal regime applicable to both sources may cause an unjustifiable delay in the adoption and entry into force of the international instruments required to combat marine pollution from land-based sources.

Reservation of the expert designated by the Government of Turkey to paragraph 1

The reservation expressed by the expert was based on the idea that the Protocol should not apply to polluting discharges reaching the Protocol Area from land-based sources on the territories of the Parties through underground watercourses and through the atmosphere.

Article 4

Reservation of the expert designated by the Government of Turkey

The expert designated by the Government of Turkey expressed his reservation to the definition of "freshwater limit" on the grounds that he had already made a reservation to the inclusion of internal coastal waters in the coverage of the Protocol.

Article 5

Reservation of the expert designated by the Government of Morocco to paragraph 4

The expert designated by the Government of Morocco reserved his position concerning the articles dealing with the reduction of pollution coming from existing or new sources.

Reservation of the expert designated by the Government of Turkey to paragraph 4

The expert designated by the Government of Turkey stated that the time-tables/time-limits for implementation should be a matter falling exclusively within national competence, since in his view each State party to the Protocol should establish its plan of action according to its economic priorities.

Reservation of the expert designated by the Government of Lebanon to paragraph 5

The reservation relates to the words "standards and time-tables" used at the start of the paragraph; they should be replaced by the term "programmes and measures", since the documents concerned have to be reviewed from time to time and since article 15, referred to at the end of the paragraph, applies to programmes and measures.

Article 6

Reservation of the expert designated by the Government of Morocco to paragraph 3

The expert designated by the Government of Morocco reserved his position concerning the articles dealing with the reduction of pollution coming from existing or new sources.

Reservation of the expert designated by the Government of Turkey to paragraph 3

The expert designated by the Government of Turkey stated that the time-tables/time-limits for implementation should be a matter falling exclusively within national competence, since in his view each State party to the Protocol should establish its plan of action according to its economic priorities.

Article 7

Reservation of the expert designated by the Government of Lebanon to paragraph 2

The reservation concerns the inclusion of "the economic capacity of the Parties and their need for development" among the factors to be taken into account in determining the guidelines, standards and criteria referred to in article 7. Since human nature and essential human needs with respect to hygiene and environment are the same in all countries, only objective factors should be taken into account in making this determination.

It is therefore proposed that the phrase in question should be deleted from paragraph 2, and that there should be added a paragraph 3 reading as follows:

"The guidelines, norms and criteria shall be so determined that they give rise only to such economic constraints as are strictly necessary in the light of the most recent scientific and technical information. They shall take account, in their time-limits of application, of the economic capacity of the Parties and of their development needs".

Article 10

Reservation of the expert designated by the Government of Morocco to paragraph 2

The expert delegated by the Government of Morocco is of the opinion that the expression "provided on a favourable financial basis", as used in the former article 13, should be retained.

Article 11

Reservation of the expert designated by the Government of Lebanon to paragraph 1

Contrary to what might be understood from the wording adopted, the fact of sharing the banks or the successive sections of a watercourse should not diminish the obligations of two or more Parties to the Protocol.

The text which the Government of Lebanon would like to see in place of that adopted would read, from the end of the fourth line of paragraph 1:

"... appropriate measures to enable them to discharge all of their obligations which are relevant to the full application of the Protocol".

Reservation by the expert designated by the Government of Morocco to paragraph 1

The expert considers that the expression "shall be invited to co-operate" is a mere pious wish incompatible with the fundamental objective of a protocol concerning pollution from land-based sources. A watercourse which flows solely through the territory of States parties to the Protocol and which might cause pollution of the protocol area should be regulated by those same parties in order to ensure the full application of the Protocol, which, by its nature, will concern discharges from watercourses having their sources entirely within the territory of States parties to a protocol on pollution from land-based sources; the control and the strict scientific regulation of such watercourses depends entirely on those parties. The expert from Morocco is of the opinion that the most appropriate expression for inclusion in article 11, paragraph 1, would therefore be: "The Parties concerned shall implement appropriate measures".

Article 12

Reservations by the expert designated by the Government of Lebanon to paragraph 1

It is essential to define the scope and conditions of application of this article clearly, narrowly and restrictively, in order to avoid any misinterpretation, especially where the interests of the Parties may be prejudiced as a result of violations of the Protocol. This requirement is not met by the very general wording adopted for paragraph 1.

The text of the article should therefore include:

At the beginning of paragraph 1, the following phrase:

"When, before the implementation of the measures provided for in the Protocol, but after its entry into force, or despite the implementation of those measures, land-based pollution".

After the second paragraph, a third paragraph reading as follows:

"The above provisions do not apply to situations resulting from the breach of obligations assumed under the Protocol, which remain governed by the provisions of articles 11, 21 and 22 of the Convention".

Article 13

Reservation by the expert designated by the Government of Turkey

The expert designated by the Government of Turkey proposed that the term "among others" should be replaced by "for example", since the items of information specified could not constitute a mandatory list in each case but were, rather, examples of many other items which might result from measures taken, results achieved and difficulties encountered in the implementation of the Protocol.

Article 15

Reservation of the expert designated by the Government of Morocco

The expert designated by the Government of Morocco considers it paradoxical that adoption of the annexes should require a majority vote, while adoption of the programmes and measures requires unanimity.

It would probably be simpler to make adoption of the programmes and measures subject to the majority procedure applicable to the annexes.