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Mediterranean

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Item 4.3 of the Provisional Agenda

Note by the Executive Director

The draft Framework Convention attached hereto has been prepared under the auspices of the Food and Agriculture Organization of the United Nations (FAO). The draft is based upon the guidelines which were approved during the Consultation on the Protection of Living Resources and Fisheries from Pollution in the Mediterranean which was held in Rome from 19 to 23 February and from 27 May to 1 June 1974. The draft also takes into account the comments offered by the governments of the Mediterranean States in response to a questionnaire circulated by the Executive Director of FAO on 1 August 1974. It is submitted, at this stage, to participants to this meeting for information only.

It is envisaged that a Framework Convention for the protection of the marine environment against pollution in the Mediterranean Sea area, as well as certain protocols and related technical annexes, may subsequently be adopted by a conference of plenipotentiaries.<sup>1/</sup>

1/ UNEP/WG.2/4

DRAFT CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AGAINST POLLUTION IN THE MEDITERRANEAN

Preamble

THE CONTRACTING PARTIES,

Conscious of the economic, social and cultural value of the marine environment of the Mediterranean Sea Area;

Fully aware of their responsibility to preserve this common heritage for the benefit and enjoyment of present and future generations;

Recognizing the threat posed by pollution to the marine environment, its ecological equilibrium, resources and legitimate uses;

Mindful of the special hydrographic and ecological characteristics of the Mediterranean Sea Area and its particular vulnerability to pollution;

Noting that existing global conventions for the control of marine pollution do not entirely meet the special needs of the Mediterranean Sea Area;

Realizing the need for a co-ordinated and comprehensive regional approach to protect the marine environment of the Mediterranean Sea Area against pollution from all sources;

HAVE AGREED AS FOLLOWS:

Article 1

Geographical coverage

1. For the purposes of this Convention, the Mediterranean Sea Area shall mean the maritime waters of the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean Sea and the Black Sea constituted by the 41°N parallel and bounded to the West by the Straits of Gibraltar at the meridian of 5°36'W.
2. Except as may be otherwise provided in any protocol adopted under Articles 4, 6, 7, 8 or 11 of this Convention, maritime waters shall not include internal waters of the Contracting Parties.
3. Nothing in this Convention shall affect the rights or claims of any Contracting Party with regard to the nature or limits of their maritime jurisdiction in conformity with international law.

Article 2  
Definitions

For the purposes of this Convention:

(a) Pollution means the introduction by man, directly or indirectly, of substances or energy into the marine environment resulting in such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities including fishing, impairment of quality for use of sea water and reduction of amenities.

(b) Alternative A:

[- "ships and aircraft" means waterborne and airborne craft of any type whatsoever, including hydrofoil boats, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms, but not including ships or aircraft entitled to sovereign immunity under international law.]

Alternative B:

[- "ships and aircraft" means waterborne and airborne craft of any type whatsoever, including hydrofoil boats, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms.]

Article 3  
Basic obligations

1. The Contracting Parties shall individually and jointly take all appropriate legal, administrative, and other relevant measures in accordance with the provisions of this Convention and applicable protocols to prevent and abate pollution of the Mediterranean Sea Area.
2. The Contracting Parties shall apply the measures they adopt under this Convention and applicable protocols in such a way as to avoid the deliberate diversion of pollution into the sea areas outside the Mediterranean Sea Area.
3. The Contracting Parties further pledge themselves to promote, within the competent international bodies, measures concerning the protection of the marine environment against all types and sources of pollution.

Article 4

Pollution caused by dumping from ships and aircraft

Alternative A:

[The Contracting Parties shall regulate dumping from ships and aircraft in accordance with the provisions of Protocol ..... to this Convention.]

Alternative B:

[The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area caused by dumping from ships and aircraft and to this end shall co-operate in the formulation and adoption of a protocol to this Convention prescribing agreed measures, procedures and standards.]

Article 5

Pollution from ships

Alternative A:

[The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area by ships, taking into account relevant international conventions.]

Alternative B:

[The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area by ships and, where not parties to relevant international conventions for the control of pollution from ships, shall, to the extent practicable, endeavour to ensure that ships registered in their territories act consistently with the objectives and provisions of such conventions while within the Mediterranean Sea Area.]

Article 6

Pollution resulting from exploration and exploitation of  
the continental shelf and seabed

The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the seabed and its subsoil, taking into account relevant international conventions, and to this end shall co-operate in the formulation and adoption of a protocol to this Convention prescribing agreed measures, procedures and standards.

Article 7

Pollution from land-based sources

1. The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other sources within their territories.
2. To this end, they shall co-operate in the formulation and adoption of one or more protocols to this Convention, prescribing agreed measures for the control of pollution from land-based sources, including procedures and standards concerning discharges and environmental quality, and programmes to prevent or abate pollution by specified substances.

Article 8

Co-operation in dealing with pollution emergencies

Alternative A:

[The Contracting Parties shall co-operate in dealing with pollution emergencies in the Mediterranean Sea Area in accordance with the provisions of Protocol ..... to this Convention.]

Alternative B:

1. The Contracting Parties shall take concerted action to prevent or reduce damage resulting from pollution emergencies, and to this end shall co-operate in the formulation and adoption of a protocol to this Convention prescribing agreed measures and procedures including joint contingency planning.
2. Any Contracting Party which becomes aware of any pollution emergency in the Mediterranean Sea Area shall without delay notify the organization referred to in Article 13 and any Contracting Party likely to be affected by such emergency.]

Article 9

Monitoring

1. The Contracting Parties shall establish, in close co-operation with the competent international bodies, a pollution monitoring system for the Mediterranean Sea Area, and shall individually or jointly designate appropriate national or regional institutions to participate in such systems.
2. The Contracting Parties shall co-operate in the formulation and adoption of technical annexes to this Convention prescribing agreed procedures and standards for such matters as data collection and intercalibration, baseline studies and continuous monitoring programmes.

Article 10

Scientific and technological co-operation

1. The Contracting Parties undertake directly, or when appropriate through competent regional or other international organizations, to co-operate in the fields of science and technology, and to exchange data as well as other scientific information for the purposes of this Convention.
2. The Contracting Parties shall develop and co-ordinate their national research programmes relating to all types of marine pollution, and shall co-operate in the establishment and implementation of regional and other international research programmes.
3. The Contracting Parties shall co-operate in the provision of technical and other assistance in fields relating to marine pollution, with particular regard to the special needs of developing countries.

Article 11

Liability and compensation

The Contracting Parties shall co-operate in the formulation and adoption of a protocol to this Convention establishing appropriate procedures for the determination of liability, and for the compensation for damage resulting from marine pollution deriving from violations of the provisions of this Convention and applicable protocols.

Article 12

Exemptions

1. The provisions of Articles 4, 5, 6 and 7 and of any protocol adopted pursuant thereto shall not apply to any discharge in case of "force majeure" due to stress of weather or any other cause, when the safety of human life or of a ship or aircraft or other equipment operating in the marine environment is threatened.
2. Any pollution resulting from an act or omission exempted in accordance with the preceding paragraph shall be notified to the organization referred to in Article 13, taking into account the provisions of Article 8.

Article 13

Institutional arrangements

1. The Contracting Parties designate ..... as the organization responsible for performing the following secretariat functions:
  - (i) to convene and prepare the meetings of Contracting Parties provided for in Article 14;
  - (ii) to carry out tasks relating to the adoption and amendment of technical annexes as provided for in Article 24;

- (iii) to convey to the Contracting Parties all notification and reports in accordance with Articles 8, 12 and 16;
  - (iv) to consider enquiries by, and information from, the Contracting Parties, and to consult with and provide recommendations to the Contracting Parties on questions relating to this Convention and the protocols and technical annexes;
  - (v) to perform such other functions as may be assigned to it by the Contracting Parties.
2. The organization designated under the provisions of the preceding paragraph shall ensure the necessary co-ordination with other international bodies which the Contracting Parties consider as being qualified, and in particular shall enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions.

#### Article 14

##### Meetings of the Contracting Parties

- The Contracting Parties shall meet at least once every two years to keep under review the implementation of this Convention and the protocols and, in particular,
- (i) to review generally the state of marine pollution and its effects in the Mediterranean Sea Area, and to consider relevant inventories carried out by states and international bodies concerned;
  - (ii) to adopt, as required, protocols to this Convention under Article 19, and amendments to this Convention and the protocols under Article 23;
  - (iii) adopt, review and amend as required the annexes of this Convention and of the protocols, in accordance with the procedure established in Article 24;
  - (iv) consider reports submitted by the Contracting Parties under Articles 8 and 16;
  - (v) consider reports and recommendations submitted by the organization referred to in Article 13 on questions relating to this Convention and the protocols;
  - (vi) establish groups of experts as required to consider any technical or scientific matters related to this Convention and the protocols and technical annexes;
  - (vii) consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and the protocols.

#### Article 15

##### Financing

The expenses incurred by the organization referred to in Article 13 in performing the secretariat functions assigned to it shall be shared by the Contracting Parties in equal parts.

## Article 16

### Reports

Each Contracting Party shall transmit to the organization referred to in Article 13 reports on the measures adopted in implementation of this Convention and applicable protocols, in such form and at such intervals as the meeting of Contracting Parties may determine.

## Article 17

### Compliance control

The Contracting Parties undertake to co-operate in the development of procedures for the effective application of this Convention and the protocols, particularly on the high seas, including procedures for reporting vessels and aircraft observed acting in contravention of this Convention and applicable protocols.

## Article 18

### Settlement of disputes

Any dispute between Contracting Parties relating to the interpretation or application of the Convention or the protocols, which cannot be settled by negotiation, shall be referred at the request of either party to the International Court of Justice for decision unless the parties in dispute agree to submit it to arbitration.

## Article 19

### Protocols

1. Any protocol adopted by a meeting of Contracting Parties shall be binding only on those Contracting Parties which have accepted such protocol.
2. Except as may be otherwise provided, Articles 20 to 24 inclusive shall also apply to any protocol to this Convention, and for this purpose "Contracting Parties" shall mean the parties to the protocol concerned.

## Article 20

### Modes of participation in the Convention and Protocols

1. This Convention shall be open for signature by the government of any Mediterranean coastal State.
2. Signature of this Convention shall be subject to ratification, acceptance or approval.
3. After its entry into force, this Convention shall be open for accession by any State which is a member of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or party to the Statute of the International Court of Justice, subject to prior approval by a [two-thirds] majority of the Contracting Parties at the time.



4. Instruments of ratification, acceptance, approval or accession shall be deposited with ....., hereinafter referred to as the Depositary.

Article 21

Entry into force

1. This Convention shall enter into force on the thirtieth day following the date of deposit of at least ..... instruments of ratification, acceptance or approval.
2. After the entry into force of this Convention in accordance with paragraph 1 of this Article, the Convention shall enter into force for each State whose Government deposits an instrument of ratification, acceptance, approval or accession on the thirtieth day following the date on which such instrument is received by the Depositary.

Article 22

Withdrawal

1. At any time after ..... years from the date of entry into force of this Convention, any Contracting Party may withdraw from the Convention by giving written notification of withdrawal.
2. Withdrawal shall take effect on December thirty-first of the calendar year following the year in which notification of withdrawal was communicated to the Depositary.

Article 23

Amendment of the Convention and Protocols

1. Any Contracting Party may propose amendments to the Articles of this Convention.
2. Any such proposed amendment shall be submitted to a meeting of Contracting Parties for adoption, or to the Depositary, which shall communicate it to all Contracting Parties. The Contracting Parties shall, as soon as possible after the meeting or after receipt of the communication, inform the Depositary of their acceptance or rejection of the amendment.
3. An amendment to this Convention shall enter into force ..... days after the Depositary has received notification of acceptance of such amendment from all Contracting Parties.

Article 24

Adoption and amendment of technical annexes

1. The Contracting Parties may, by a ..... majority vote, adopt or amend technical annexes which shall form an integral part of this Convention.

2. The organization referred to in Article 13 shall without delay submit the technical annexes or amendments thereto for the approval of the Governments of the Contracting Parties.
3. Any Government of a Contracting Party that is unable to approve a technical annex or an amendment thereto, shall notify in writing the organization referred to in Article 13, within a period determined by a ..... majority vote of the Contracting Parties.
4. The Organization referred to in Article 13 shall without delay notify all Contracting Parties of any notification received pursuant to paragraph 3 above.
5. On the expiry of the period referred to in paragraph 3 above, the technical annex or amendment thereto shall become effective for all Contracting Parties which have not submitted a notification in accordance with the provisions of that paragraph.

Article 25

Responsibilities of Depositary

1. The Depositary shall inform the Governments of the Contracting Parties:
  - (i) of the signature of this Convention and of any protocol thereto, and of the deposit of instruments of ratification, acceptance, approval or accession in accordance with Article 20;
  - (ii) of the date on which the Convention and of any protocol will come into force in accordance with Article 21;
  - (iii) of notifications of withdrawal made in accordance with Article 22;
  - (iv) of proposals for the amendment of the Convention and of any protocol, notification of acceptance or rejection of such amendments and the entry into force of amendments, in accordance with Article 23.
2. The original of this Convention and of any protocol thereto shall be deposited with the Depositary who shall send certified copies thereof to the Contracting Parties and shall deposit a certified copy with the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

IN WITNESS THEREOF, the representatives duly authorized by their respective Governments have signed this Convention.

DONE at ..... (date)

in a single copy in the ..... languages, each version being equally authoritative.