

EXPLANATORY DOCUMENT ON THE DRAFT PROTOCOL

Preamble

Taking into account the specificity and originality of the Protocol on the Integrated Management of Mediterranean Coastal Zones, as the first text in the world covering coastal zones at the level of a regional sea, it was indispensable in the Preamble to indicate in some detail the various justifications for the Protocol, based on the principal ideas contained in the *Feasibility study for a legal instrument on integrated coastal area management in the Mediterranean*, endorsed by the 13th Meeting of the Contracting Parties in Catania in November 2003.¹

The Protocol on coastal zones is justified for both legal and practical reasons. It is deliberately based on the perspective of integrated coastal zone management and places this action strategy at the heart of the text as it appears to be the best way of addressing the complex problems of the sustainable development of the coastal zone.

For this reason, the Preamble sets out five ideas.

1. The legal basis

The Protocol constitutes the direct implementation of certain provisions of an international treaty, namely the Barcelona Convention of 1976, as amended on 10 June 1995. As these amendments entered into force on 9 July 2004, the Convention has since that date been entitled the "Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean". The coastal zone has therefore now become one of the direct legal subjects of the Barcelona Convention.

The Convention provides in Article 4, paragraph 5, that the Parties shall cooperate through Protocols, "prescribing agreed measures, procedures and standards for the implementation of this Convention".

It is therefore the objective of this Protocol to give effect to the Convention more precisely in two intimately inter-related fields:

- the integrated management of the coast, it being understood that this term is considered to be equivalent to the expression "coastal zone".² Article 4 of the Convention establishes the obligation for the Contracting Parties, among other general obligations, to "promote the integrated management of the coastal zones" (Article 4, paragraph 3(e)). The objective of the new Protocol is indeed to promote the integrated management of coastal zones in States Parties and at the regional level by setting out objectives and means of implementation.
- The environmental impact studies concern plans and projects for activities which are likely to cause a significant adverse impact on the marine environment, according to the wording of Article 4, paragraph 3(c), of the Convention.

Such plans and projects for activities will necessarily be undertaken in the coastal zone of States. Insofar as they may give rise to effects on the marine environment, they are of concern to all the States Parties to the Barcelona Convention. For this reason, the

¹ *Feasibility Study*, PAP/RAC, Split, September 2003, pp. 13 et seq., "Justification for a regional legal instrument".

² On this issue of terminology, see the *Feasibility study*, *ibid.*, p. 7.

Protocol devotes an article to environmental assessments in the Part on integrated management instruments (Part III of the Protocol, Article 17) and to transboundary impact studies and strategic assessments (Part IV of the Protocol, Article 25). In most of these cases, the national impact study will, in the coastal zone, have an international impact through the effects on the marine environment.

2. Practical justifications

On the basis of many scientific findings, it appears that the state of coastal zones in the Mediterranean is not only under grave threat, but that its degradation is continuing at a rapid rate. These findings are based on many sources.³ The principal causes of this degradation are either the effects of climate change and seismic waves, or anthropological pressure due to the increase in the coastal population and tourist movements and the exercise of certain economic activities.

The Strategic Action Plan for the Conservation of Marine and Coastal Biodiversity in the Mediterranean Region (SAPBIO) of 2003 draws the conclusion that it is increasingly urgent in the Mediterranean region to apply integrated coastal zone management.

The Protocol is intended to stop and reverse these trends. It covers the principal factors which continue to threaten coastal zones.

3. New requirements for the sustainable and integrated management of coastal zones

The coastal zone of the Mediterranean Sea is undoubtedly a precious common natural and cultural heritage. Its sustainable management requires a global approach which can only be given effect through integrated management in concertation between all the coastal States, while taking into consideration the diversity of existing zones and the specificity of islands.⁴

Recourse to the integrated management approach, both for planning and for management and land use, has over the past 15 years received acknowledgement from experts and numerous international organizations as the most appropriate solution to the conflicting uses of the coastal zone.⁵

³ *Feasibility study*, *ibid.*, pp. 14 et seq.; Coccossis, H., "Considering integrated coastal area management in the Mediterranean, in *Integrated coastal management in the Mediterranean: Towards Regional Protocol*, report of the Regional Forum, Cagliari, 28-29 May 2004, p. 45; *Futures for the Mediterranean Basin*, Blue Plan, 1989; EU European Environment Agency, 1999, *State and pressures of the marine and coastal Mediterranean environment*, Environmental Assessment Series No. 5, Brussels; UNEP/MAP/PAP, *White Paper: Coastal zone management in the Mediterranean*, 2001, pp. 5 et seq.

⁴ The Recommendation of the European Parliament and of the Council of 30 May 2002 refers to the local specificity and the great diversity of coastal zones (Chapter II(d)).

⁵ See OECD, Recommendation on Integrated Coastal Zone Management, 1992; Clark, J.R., *Integrated management of coastal zones*, Fisheries Technical Paper, FAO No. 327, 1992; Boelaert-Suominen and Cullinan, *Legal and institutional aspects of integrated coastal area management in national legislation*, FAO, 1994; World Bank, Post and Lundin, *Guidelines for integrated coastal zone management*, Environmentally Sustainable Development Studies and Monographs Series No. 9, 1996; Council of Europe, Model Law on Sustainable Management of Coastal Zones, 1999.

4. The contribution of international law and experience of integrated coastal zone management

Even though there is as yet no international convention devoted exclusively to coastal zones,⁶ many international texts cover the coast, particularly in regional seas conventions, insofar as an ecological approach requires that marine problems and terrestrial problems are not separated. As the Protocol could not quote all the international texts which directly or indirectly take coastal zones into account,⁷ it is confined to referring to the Convention on the Law of the Sea, the Ramsar Convention on Wetlands, the Convention on Biological Diversity and the Recommendation of the European Parliament and of the Council of 2002 concerning the implementation of Integrated Coastal Zone Management in Europe, which has largely inspired this Protocol. Special mention is made of the Framework Convention on Climate Change and its Article 4, paragraph 1(e), which contains an explicit reference to appropriate and integrated plans for coastal zone management.

The most relevant source of soft law for the concepts and issues at stake remains Chapter 17 of the Rio Agenda 21. According to the latter, the integrated management of coastal and marine areas is considered to be one of the principal components of the concept of sustainable development, which can contribute both to the well-being of coastal populations and the preservation of the ecological integrity and biodiversity of coastal areas. The Earth Summit in Johannesburg in 2002 also adopted relevant provisions on coastal zones.

With regard more specifically to the Mediterranean, the document which best advocates integrated coastal zone management is Agenda Med 21, adopted in Tunis in 1994. The work and recommendations of the Mediterranean Commission on Sustainable Development have confirmed this management strategy.

The Protocol is also inspired by the experience acquired through the work of MAP bodies (the Mediterranean Commission on Sustainable Development and the Priority Actions Programme Regional Activity Centre – PAP/RAC) through their numerous seminars, meetings, workshops, recommendations and white papers.⁸ Reference should also be made to the EU Commission's demonstration programme, the work of the Euro-Mediterranean Partnership and the Mediterranean Environmental Technical Assistance Programme (METAP). The lessons drawn from the practical experience of both the European demonstration programme and other programmes, such as coastal management programmes, have all contributed to determining the priority subjects to be addressed by the Protocol.⁹

5. Integrated coastal zone management cannot be separated from the requirement for good governance

Good governance, which implies a well-developed partnership with local actors, among the first rank of which are regional and local territorial communities, as well as with the various economic actors and NGOs, has to guide the future action of States. The Protocol is not intervening in a field that has been left untouched. States have for the most

⁶ The Lima Convention for the Protection of the Marine Environment and Coastal Area of the South-east Pacific, the Black Sea Biological Diversity and Landscape Protection Protocol (the Sofia Protocol) of 14 June 2002, the Kingston Protocol concerning Specially Protected Areas and Wildlife in the Wider Caribbean of 18 January 1990 and the Antigua Convention for Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific, of 18 February 2002, are the international treaties which accord the greatest attention to coastal zones.

⁷ See *Feasibility study*, op. cit., pp. 22 to 28.

⁸ See *Feasibility study*, op. cit., pp. 16 et seq.

⁹ UNEP/MAP/PAP, *Good practices guidelines for integrated coastal area management in the Mediterranean*, Split, 2001.

part already legislated on coastal zones.¹⁰ But, as a result of the Protocol, a new dynamic will be given to stimulate both regional cooperation and local initiatives.

Finally, the Barcelona system, which will be enriched by a new Protocol, will have to pay careful attention to avoiding duplication by ensuring coordination, through its Secretariat and its specialized regional centres, to guarantee the coherence of the action taken in the Mediterranean basin. This requirement of coherence is one of the main aspects of the institutional provisions.

It should be recalled that, under the terms of the Barcelona Convention, several of its articles apply automatically to Protocols, which explains why they are not taken up here so as to avoid unproductive duplication, despite their importance. This is the case, for example, of the general obligation to eliminate pollution to the fullest possible extent and to enhance the marine environment so as to contribute to its sustainable development (Article 4, paragraph 1, of the Convention), the implementation of the Protocols (Article 4, paragraph 4, and Article 14), public information and participation (Article 15), meetings of the Contracting Parties (Article 18) and the institutional provisions (Articles 31 to 34).

PART I GENERAL PROVISIONS

This first Part sets out the objective of the Convention and gives the usual definitions in this respect. In particular, it provides an opportunity to specify the new concepts of coastal zone and integrated coastal zone management and to determine the geographical coverage of the Protocol in terms of both the sea and the land.

Article 1 Objective of the Protocol

This provision refers to the general principles set out in Article 4 of the Barcelona Convention, as amended in 1995, and accordingly to the precautionary principle, the polluter pays principle, the principle of sustainable development and the obligation to undertake impact studies, adopt programmes and measures, utilize the best available techniques and the best environmental practices. The reference is broadened to the Protocols, as the Protocol on integrated coastal zone management has to be harmonized, without any contradictions, with all the other instruments which constitute the "Barcelona system".

The principles set out in the Barcelona Convention also include the obligation "to promote the integrated management of the coastal zones, taking into account the protection of areas of ecological and landscape interest and the rational use of natural resources" (Article 4, paragraph 3(e)). The Protocol is intended to establish a common framework for the integrated management of the coastal zone which is valid at the Mediterranean regional level, while taking into account national and local specificities. It is also intended to strengthen regional cooperation by filling an evident gap in a system which already constitutes one of the most advanced examples of environmental protection in a regional sea.

¹⁰ See Prieur, M., and Ghezali, M., *National legislation and proposals for the guidelines relating to integrated planning and management of Mediterranean coastal zones*, UNEP/MAP/PAP, Split, 2000.

Article 2 **Definitions**

Those drawing up the draft Protocol have preferred not to overdo definitions and have therefore confined themselves to those which appeared strictly necessary for an understanding of the text (*omnis definitio in iure civili periculosa est, Digesta, 50.17.202*).

It would appear appropriate to point out that:

- the definition of "Party" (paragraph (b)) is intended to include international organizations such as the European Community, while the provisions of the Protocol make use of the term "State Party" in all cases in which they are addressed only to States;
- the "Organization" mentioned (paragraph (c)) is the United Nations Environment Programme;
- with a view to formulating definitions of concepts of a scientific ("coastal zone" and "coastal ecosystem") and administrative nature ("integrated coastal zone management", "coastal plan and programme"), those drawing up the draft Protocol have assessed and considered the various reference instruments that can be used, such as the *White Paper: Coastal zone management in the Mediterranean*, UNEP/MAP/PAP, the Model Law on the Sustainable Management of Coastal Zones of the Council of Europe, the Recommendation of the European Parliament and of the Council concerning the implementation of Integrated Coastal Zone Management in Europe, etc.

Article 3 **Geographical coverage**

With regard to the crucial issue of the limits of the coastal zone, those drawing up the draft text have chosen an approach that is both precise and flexible.

The precision arises from the fact that paragraph 1 is based on well-defined limits. These are, for the seaward limit, the maximum limit of the territorial waters of States Parties (12 nautical miles for most Mediterranean States, or the lower limits set by certain States in the region). It was considered that the limit of 200 nautical miles for the exclusive economic zone, which would perhaps be conceivable in ocean areas, would not be appropriate in a semi-closed sea such as the Mediterranean as it would have the effect of including all Mediterranean waters in the concept of "coastal zone" (there is no point in the Mediterranean that is further than 200 nautical miles from the nearest land or island).

The landward limit consists of the territory of local coastal administrative units (municipalities, in several Mediterranean States, or other corresponding units in other States in the region). No distinction is made between municipalities located on continental territories and those on islands.

The flexibility arises out of the fact that paragraph 2 allows States Parties to declare that they prefer to apply the Protocol within limits which differ from those set out in paragraph 1. In this case, the seaward limit of the coastal zone could be closer (but not further out) to the coast than the maximum limit of the territorial waters; and the landward limit could be different from the territorial limits of local coastal administrative units: for example, it might not include the whole territory of a major coastal city, or it could include the territory of a municipality which, although not on the sea coast, forms part of a population centre or an important component of a coastal ecosystem (such as a wetland located near to the sea).

The declaration envisaged in paragraph 2 may be made at any time, even after the State has given expression to its agreement to be bound by the Protocol.

Paragraph 3 merely confirms the importance of local territorial entities and civil society in general in matters relating to the management of the coastal zone.

Article 4 **Preservation of rights**

Paragraphs 1 and 2 are based, *mutatis mutandis*, on the non-prejudice clauses contained in Article 2, paragraphs 2 and 3, of the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean (Barcelona, 1995). The idea is that the spirit of cooperation demonstrated by the Parties in their efforts to protect the marine environment should not prejudice the various matters that could not be addressed in a Protocol to the Barcelona Convention.

Paragraph 3 is based on a clause contained in several international treaties on the protection of the environment. It allows the Parties to adopt other provisions on the protection and management of the coastal zone, provided that they are stricter than those of the Protocol from the point of view of environmental protection.

Paragraph 4 adapts the rule set out in relation to immunity in Article 3, paragraph 5, of the Barcelona Convention to the specificities of a Protocol applying to the coastal zone.

PART II **PRINCIPLES AND ELEMENTS OF INTEGRATED COASTAL ZONE MANAGEMENT**

The second Part is at the heart of the new instrument. In the first place, it determines the general principles and objectives of integrated management that are implemented throughout the Protocol. It then covers the various elements or conditions for integrated management: the requirement of a minimum level of institutional coordination, the various measures for the protection of the coastal fringe, the obligations relating to certain economic activities, the measures protecting certain specific ecosystems and measures to combat coastal erosion. Finally, the integrated management of coastal zones requires protection of the coastal cultural heritage and mechanisms for participation, education and research.

Article 5 **General principles and objectives of integrated management**

In addition to the reference in Article 1 to the general principles of the Barcelona system, it is necessary to set out the general principles and objectives applicable in relation to integrated coastal zone management.

Once again in this field those drawing up the draft Protocol have assessed and discussed several legal or political instruments which may be used with a view to selecting and drawing up in a synthetic manner the principles which appeared to be the most appropriate.

The principles are set out in a logical but not hierarchical order. They concern aspects of integrated coastal zone management related either to the sustainable development of economic activities, or to the protection of resources and natural ecosystems (aspects which are often inseparable). They apply to both the substantive and procedural aspects of coastal zone management and are addressed to all the actors concerned, with particular attention to issues of coordination and participation. In certain cases, the principles reflect rules which are already compulsory at the legal level; for example, paragraph (g) takes up in synthesis Article 4 of the Basel Convention on the Control of Transboundary Movements of Hazardous

Wastes and their Disposal. It appeared appropriate (paragraph (d)) to emphasize the importance of integrated coastal zone management for the purposes of preventing the effects of natural disasters.

Article 6 **Institutional co-ordination**

It appeared logical, after setting out the general principles and objectives of integrated coastal zone management, that the first requirement to be met was of an institutional nature. All the international and national documents and reports, as well as the various experiments in integrated coastal zone management, emphasize the difficulties which arise out of the dispersion of responsibilities for the coastal zone between a multitude of services and administrative units.¹¹ This is one of the first proposals made in Chapter 17 of Agenda 21 (17-6). The Protocol does not claim to cover the national organization of administrative units, nor the sharing of competencies between the central and local levels. In accordance with each constitutional system, the sharing of powers is specific to each State Party.

It is however indispensable to establish or strengthen mechanisms for institutional co-ordination, as called for by the Recommendation of the Mediterranean Commission on Sustainable Development of 23 September 1997.¹² This co-ordination needs to occur at various levels in a horizontal manner: between the ministerial departments concerned and local administrative units which share responsibilities for maritime and land matters. This does not necessarily involve the merger of administrative services, but particularly the reduction of administrative barriers and the organization on a permanent basis of appropriate co-ordination so as to achieve territorial integration with regard to the land-sea division. The Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean already calls upon the Parties to ensure the co-ordination of the administration and management of both the land and marine areas of specially protected areas (Article 7, paragraph 4). This Article merely extends this co-ordination to unprotected coastal areas.

Through such co-ordination, the administrative units managing coastal zones will be able not only to integrate the maritime and land parts of the coastal zone, but also to overcome the incoherence inherent in sectoral approaches by requiring a more global vision.

Over and above such co-ordination, which is the minimum that can be demanded for the integrated management of coastal zones, it would also be desirable for States to establish specific bodies, for example, in the form of agencies or conservatories, or to appoint from among them a leading administrative unit for coastal zones which would take responsibility for ensuring co-ordination in practice. The *Guidelines for integrated management of coastal and marine areas* prepared by UNEP (1995) advocate the establishment of an inter-ministerial committee for coastal management (p. 34). Similarly, Guideline No. 2 of Resolution VIII.4 on integrated coastal zone management of 2003 of the Conference of the Contracting Parties of the Ramsar Convention encourages the creation of a coastal management authority that will bring together all the sectors and institutions involved. In the absence of the nomination of such an institution, it may be supposed that the responsibility for co-ordination would legally lie with the Head of Government him or herself.

¹¹ *White Paper: Coastal zone management in the Mediterranean*, 2001, op. cit., p. 62; Clark, J.R., *Integrated management of coastal zones*, 1992, op. cit., p. 78; Articles 29 and 30 of the Model Law on Sustainable Management of Coastal Zones of the Council of Europe, 1999.

¹² It should be recalled in this respect that, under the terms of Article 4, paragraph 2, of the Barcelona Convention, as amended, the Contracting Parties shall take fully into account the recommendations of the MCSD.

Whether they are unitary States, federal States or regionalized States, integrated coastal zone management necessarily requires joint efforts between the central level and the local or regional levels. For this reason, the Protocol calls on the Parties to organize vertical co-ordination between the national authorities responsible for coastal zones and the various regional or local authorities concerned, in accordance with the call made in Chapter XVII, paragraphs 10 and 11, of Agenda Med 21, adopted in Tunis in 1994.¹³ The Recommendation of the European Parliament and of the Council of 2002 also calls for links and co-ordination between the various levels (Chapter II(g)). This co-ordination has to cover not only the planning stages of activities and territories, but also the issuing of authorizations for activities. In this latter field, responsibility is usually entrusted to a single authority, whether national or local. It would appear to be desirable, insofar as possible, and without necessarily changing the attribution of responsibilities, for such authorizations to be preceded by concerted procedures with a view to improving the coherence of decisions.

Integrated management requires not only territorial integration, but also an effort towards the integration of decision-making. In certain fields, important decisions may accordingly have to be made jointly by two authorities at different levels. The risk of blockage could be overcome through conciliation procedures.

Integrated management also implies integration, not only of maritime and land areas, but of contiguous territories so as to achieve a scale of coastal territories that is sufficient to conduct an overall sustainable development policy. In this respect, experiments both at the level of the European Community and in coastal management programmes have demonstrated that it is indispensable to manage coastal development through territorial integrated management units composed of local entities which may be grouped together. States are therefore called upon, where possible, to facilitate the territorial grouping of local entities and, where necessary, of regional entities, taking into account the need for optimal territorial management with a view to integrated coastal zone management. This is one of the key institutional requirements to facilitate the coherence and effectiveness of plans and strategies for the sustainable development of the coastal zone.¹⁴

A priori, such institutional reforms do not require additional or new administrative resources.¹⁵ They may nevertheless necessitate a strengthening of capacities so that the officials responsible for co-ordination are aware of what is at stake in an integrated approach, as well as mechanisms for the dissemination of information and the establishment of consultative bodies, such as a national coastal council representing, in an advisory capacity, the various administrative units and economic and social actors concerned, as well as non-governmental organizations.

Article 7

Protection and use of the coastal zone

Integrated coastal zone management implies observance of a certain number of rules relating to the occupation and utilization of the coastal zone, which is specifically defined and delimited in Article 3 above. Admittedly, it is not the vocation of the Protocol to replace States with regard to the detail of such rules. However, field experience and the conclusions of many reports show that a minimum number of rules are required to govern the exercise of

¹³ Similarly, see the *White Paper*, op. cit., p. 61: Guideline No. 8 of Resolution No. VIII/4 on integrated coastal zone management of the 8th Conference of the Parties of the Ramsar Convention, 2002; the recommendations resulting from the *Assessment of integrated coastal area management initiatives in the Mediterranean: Experiences from METAP and MAP (1988-1996)*, p. 52.

¹⁴ See the *Good practices guidelines for integrated coastal area management in the Mediterranean*, UNEP/MAP/PAP, 2001, pp. 24-25.

¹⁵ The OECD in its 1992 Recommendation on integrated coastal zone management advocates the designation of an authority to coordinate action and also calls for the "necessary resources for this co-ordination to be provided by all concerned levels of government".

multiple activities and particularly compliance with the two imperatives specifically set forth in the Barcelona Convention itself concerning integrated coastal zone management. These two imperatives serve as the background for a series of measures envisaged in this second Part of the Protocol, as they provide the direct justification, in both legal and practical terms, for the provisions set out in Articles 7 to 11.

The two requirements set forth in the Convention are:

- the protection of areas of ecological and landscape interest; and
- the rational use of natural resources.

In view of the fact that the coastal zone is a limited area, the pressures to which it is subjected and their accumulation result directly in its deterioration, most frequently in an irreversible manner. It is for this reason that one of the requirements of the planning of coastal zones is the introduction of the concept of “environmental carrying capacity”, which constitutes a limit to uncontrolled development. If the management of the coastal space is to be sustainable, it must not irremediably result in its destruction to the detriment of future generations. Article 7 therefore implicitly raises environmental carrying capacity as a barrier that States should not go beyond in operations which transform the coastal fringe as a result of human activities. The 2001 *White Paper: Coastal zone management in the Mediterranean* refers, among action priorities, to the preparation of capacity studies (p. 25). Similarly, the *Guidelines for integrated management of coastal and marine areas* (UNEP, No. 61, 1995, pp. 52-53) consider that the “carrying capacity concept is of considerable importance” for integrated coastal zone management. It is related to the capacity of the available infrastructure and, according to the *Guidelines* (p. 17), uses beyond this capacity should not be permitted. The Recommendation of the European Parliament and of the Council of 2002 refers in this respect to “the carrying capacity of ecosystems” (Chapter II(e)).

Under the legislation in many countries, the coastal zone is often reduced to the coastal fringe. This zone parallel to the shoreline, at the physical meeting point between the sea and the land, is the focus of all the threats to the coastal ecosystem and is therefore the most fragile. But this zone is interdependent with the rest of the coastal zone. The whole of the coastal zone therefore has to be the subject of special attention, obliging States to adopt a minimum of compulsory legal provisions, without which the policy of integrated coastal zone management would be condemned to failure.

The seven rules set out in paragraphs (a) to (g) of Article 7 are all vital issues that arise in all coastal zones and for which the Protocol develops a series of elementary management principles which, in all cases, require the adoption of national legal measures by the competent authority which, depending on the Party, is either the State or a territorial community.

- (a) With regard to the coastal fringe where building is not permitted, this is a measure that already exists in most Mediterranean coastal States. The relevance of the principle lies not only in the concern to protect an area of ecological and landscape interest which is very fragile due to the land-sea interface, but also the necessity to prevent natural risks resulting from the rise in sea levels related to climate change, thereby giving effect to the Convention on Climate Change. In addition, it is based on the concern to protect populations against the effects of a seismic wave of the tsunami type (on this latter point, see Article 23 below). The Recommendation of the Mediterranean Commission on Sustainable Development of 23 September 1997 advocates in this respect the prevention of “development too close to the shore”.

The distance for which building is prohibited may vary according to the zones in question, but should not be less than 100 metres. Evidently, this does not affect in legal terms the right of properties constructed previously on this zone.

It is in this spirit that the *Guidelines for integrated management of coastal and marine areas* (UNEP, 1995, No. 61, p. 18) call for the prevention of the development of the shoreline through the establishment of a coastal strip free of any construction, the width of which would vary depending on natural conditions and social and economic requirements. The Model Law of the Council of Europe of 1999 was more precise in requiring a coastal strip where building is not permitted of between 100 and 300 metres, also imposed on the seaward side and applying to camping and caravan sites.

- (b) The Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean already provides for protected spaces with specially protected areas in coastal zones. The Protocol on integrated coastal zone management has to take into account natural non-protected areas by proposing that States should determine the extent to which these areas require a special system of minimum protection. As it is a very general Protocol, great flexibility is retained, with each State selecting the locations in which urbanization or activities likely to have a significant adverse effect on the natural environment are prohibited. The *Guidelines for integrated management of coastal and marine areas* (UNEP, No. 61, 1995, p. 18) call for the maintenance of open spaces to separate urban areas and to ensure the protection of natural and landscape coastal resources. Similarly, the Recommendation of 23 September 1997 of the Mediterranean Commission on Sustainable Development advocates the protection of “natural and coastal areas” through the prevention of dispersed urban development. The Recommendation of the European Parliament and of the Council of 2002 also calls for national strategies to ensure “the control of additional urbanisation and of the exploitation of non-urban areas while respecting natural features of the coastal environment” (Chapter IV(3)(b)(i)).
- (c) Linear concrete construction along the coast has greatly contributed to the degradation of the coastal zone and is now counterproductive in terms of tourism. Any linear development of urbanization should therefore be limited as much as possible with a preference for the development of the hinterland.
- (d) The development of new roads along the coastal fringe should be avoided to limit the increase in traffic which is prejudicial to the coastal environment and the trend for linear construction along the coast should be slowed down in favour of the development of the hinterland.
- (e) The coastal fringe in all States concerns a territory legally qualified as the public maritime domain. This coastal fringe area is the location of many activities and works. The rule set forth is confined to specifying a general obligation under which any management or use of the public maritime domain must be environmentally friendly.¹⁶
- (f) The principle of pedestrians having freedom of access to the shoreline without charge is acknowledged as a legal requirement reflecting the nature of the coast as a common heritage where everyone has to be allowed access to the sea and along beaches for social and leisure purposes. This requires States to adopt specific legal provisions guaranteeing this right of access, while taking into account specific geographical or ecological characteristics which naturally prevent such access, make it dangerous for the public or are liable to result in deteriorations which are prejudicial to the environment. Reasons of security or ecological reasons may therefore, in certain areas, result in a derogation from the principle of freedom of access. The principle of freedom of access was set out as early as 1976 by the OECD in Recommendation C(76)161, of 12 October 1976, Principle 11 of which provided that “free access by the public to the sea front in areas of tourist interest should be ensured”. Similarly, the Model Law on Sustainable Management of Coastal Zones of

¹⁶ The Model Law of the Council of Europe of 1999 also sets out the principle of the prohibition, with certain exceptions and subject to an impact study, of sea walls, rip-rap, projections above the water or draining.

the Council of Europe of 1999 contains a whole Title (9) with five Articles devoted to free access to the shore on the basis of the principle set out in Article 23.¹⁷

- (g) The movement of vehicles on beaches and dunes may be a factor of destruction, and even of the rapid disappearance of these fragile areas, which are already subject to the natural pressures of air and sea erosion. It is therefore indispensable for States to take special legal measures on this subject. Here again, out of a concern not to impose measures which are too directly binding, States Parties are merely obliged to take specific measures adapted to the areas concerned, which may range from mere regulation to prohibition, even though the Model Law of the Council of Europe of 1999 prohibited vehicles and mountain bikes outside areas provided for that purpose.¹⁸

Article 8

Economic activities

All economic activities necessarily affect the fragile equilibrium of coastal zones. Integrated management requires the environment to be taken into account in an appropriate and proportional manner in the exercise of these activities, in accordance with the requirements of sustainable development.

Several of the Protocols to the Barcelona Convention already take this element into account by setting out general obligations which necessarily have an effect on each type of economic activity. Reference may be made, for example, to Article 5, paragraph 1, and Article 6, paragraph 1, of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-based Sources and Activities, Article 3 of the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean and Article 3 of the Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil.

It is necessary to preserve the strong identity of the coastal and maritime economy. Activities which are directly dependent on the sea and situated in part or in whole in the coastal zone have to demonstrate a specific environmental quality.

It is for these reasons that an enumeration is made of six sectors of economic activity for which States have to accord specific attention and support, in exchange for greater consideration of their impacts on the environment. Each of these activities contributes in part to the degradation of the coast, but at the same time is indispensable for economic development. From the perspective of sustainable development, it is therefore necessary to provide a stronger framework for these activities through systems of authorization and specific obligations, and even sometimes through prohibitions relating to certain types of behaviour.

1. *Agriculture and industry*: the introduction of these activities has to guarantee a high level of environmental protection through a careful impact study, as envisaged in the following Article. The OECD Recommendation of 1976 on principles concerning coastal management calls for the siting of industrial activities to be carried out in such a manner as to guarantee a maximum of environmental protection in coastal areas. Certain instruments are more demanding. For example, the Kingston Protocol in the Caribbean provides for the regulation or prohibition of incompatible industrial activities (Article 5(2)(k)).¹⁹

¹⁷ See also Recommendation No. R(97)9 of the Council of Europe on a policy for the development of sustainable environment-friendly tourism in coastal areas (II(1)(d)).

¹⁸ In the same way as Recommendation R(97)9, *ibid.* (II(3)(b)(ii)).

¹⁹ With regard to the integration of agriculture, forestry and fishing into integrated coastal zone management, see FAO, *Guidelines for integrated coastal area management and agriculture, forestry and fisheries*, Rome, 1998;

2. *Shellfish production, aquaculture and fishing*: in contrast with the previous activities, these are necessarily and directly dependent on the sea. They may therefore have to be given priority in relation to other uses.²⁰ The different uses of coastal zones should lead States “to govern access to [coastal resources] taking into account the rights of coastal fishing communities and their customary practices to the extent compatible with sustainable development”.²¹ For this purpose, the fisheries sector should be consulted and involved in the process of integrated coastal zone management.

However, certain of these activities, such as aquaculture, may have effects which are prejudicial to the environment. For this reason, the recommendations made by the FAO in the Code of Conduct for Responsible Fisheries, 1995 (Article 9 on “Aquaculture development”) have been taken up here.²² With a view to avoiding the harmful effects of mariculture on the biological diversity of the marine environment and coastal areas, the 7th Conference of the Parties of the Convention on Biological Diversity, held in Kuala Lumpur in February 2004, recommended an improvement in the application of environmental impact assessments and the development of effective site selection methods in the framework of integrated coastal area management.

3. *Tourism and sporting and recreational activities*: Tourism, and the sporting and recreational activities which may be associated, are particularly highly developed in coastal zones in view of the very attractive nature of the shore, both in terms of landscape and the presence of the sea. In this respect, while tourism is an essential economic activity in the coastal zone, to become sustainable it has to be subject to constraints relating to the conservation of natural resources and landscapes.²³ Professionals working in the tourism sector, associated in the same way as other actors in the process of integrated coastal zone management through participation procedures (see Article 12 below), should conform to environmental quality approaches through codes of good practice. The inclusion of sustainable tourism in the Protocol is based on the outcome of the Euro-Mediterranean Conference held in Helsinki in 1997, in which one of the priority actions for the integrated management of coastal zones was the promotion of sustainable tourism. The alarm with regard to the harmful effects of mass tourism was clearly raised in Chapter XVII of Agenda Med 21, adopted in Tunis in 1994, under Point 14, with regard to the conservation of historical, cultural, ecological and social values in tourist areas. The policy of sustainable tourism will have to be integrated into the management of coastal zones.²⁴ It will have to be inspired by the major international texts which determine the content of this new strategy, namely: the OECD Recommendation of 1976 on principles concerning coastal management which, in Point B(21), calls for the development of a code of conduct for tourists for the protection of sites of special interest: the Charter for Sustainable Tourism adopted by the World Conference on Sustainable Tourism in Lanzarote in 1995; the Recommendation of the Council of Europe of 2 June 1997 on a policy for the development of sustainable environment-friendly tourism in coastal areas; the Global Code of Ethics for Tourism of the World

UNEP/MAP/MEDPOL, *Guidelines for the application of Best Environmental Practices (BEPs) for the rational use of fertilizers and the reduction of nutrient loss from agriculture for the Mediterranean region*, Technical Reports Series 143 (2004).

²⁰ See the OECD Recommendation on principles concerning coastal management of 1976 (A(13)).

²¹ *Code of Conduct for Responsible Fisheries*, FAO, 1995 (Article 10, “Integration of fisheries into coastal area management”).

²² See also *Approaches for zoning of coastal areas with reference to Mediterranean aquaculture*, UNEP/MAP/PAP, Split, 1996.

²³ The Kingston Protocol in the Caribbean of 18 January 1990 requires States to regulated tourist and recreational activities which might endanger the ecosystems of protected areas (Article 5(2)(12)).

²⁴ UNEP/MAP/PAP, *Guidelines for integrated management of coastal and marine areas*, 1995, p. 18.

Tourism Organization, approved by the United Nations General Assembly on 21 December 2001;²⁵ and the Guidelines on Biodiversity and Tourism Development, adopted in 2004 at the 7th Conference of the Parties to the Convention on Biological Diversity.²⁶

Carrying capacity thresholds would appear to be indispensable to control tourist pressure. They will have to be based on the definition of indicators formulated jointly by the Parties with the assistance of the Secretariat and the Centre in Split and will be used, among other purposes, for impact assessments. Many activities have already been undertaken on these subjects in the Mediterranean and the Protocol will serve to supplement them and make them operational.²⁷ The Protocol, in the absence of a specific treaty devoted to tourism,²⁸ will also set forth the policy guidance adopted at many conferences and meetings in the Mediterranean.²⁹

With regard to sporting and recreational activities, it must be possible to subject them to appropriate regulation and prohibitions according to the types of activity and the zones concerned. In parallel to these indispensable national rules imposed in principle by this Protocol, codes of good practice should be concluded between the public authorities and sporting organizations in such cases as underwater diving, rock climbing, hang-gliding and nautical regattas. A draft Convention on environment and sustainable development of pleasure craft activities in the Mediterranean was prepared in 2003.³⁰ At a meeting of a group of national experts held in Monaco on the feasibility of this Convention in December 2004, it was decided to renounce this draft text in place of a resolution to be submitted to the Parties for adoption. This resolution will be accompanied by guidelines based on principles annexed to the resolution. The Regional Strategy for the prevention of marine pollution from ships, which will be adopted at the 14th Meeting of the Contracting Parties in 2005, will include provisions on the prevention of pollution from pleasure craft as a specific objective. With regard to marinas, the resolution proposes that they should be subject to a preliminary environmental impact assessment and calls for particular attention to be paid to the management of waste.

4. *Utilization of natural resources and the extraction of minerals*: the excavation and removal of sand, gravel and other mineral resources must necessarily be subject to prior authorization so as to enable the public authorities to monitor the coastal equilibrium and avoid rapid erosion. This must also apply to the pumping of water for desalination plants. In certain areas, to overcome erosion and conserve coastal sediments, it must even be possible to prohibit the removal of sand.

²⁵ See also, United Nations Economic and Social Council, Commission on Sustainable Development, *Sustainable development of tourism*, 2 March 2001.

²⁶ Decision VII/14, adopted in Kuala Lumpur, 9-20 February 2004.

²⁷ UNEP/MAP/PAP, *Guidelines for carrying capacity assessment for tourism in Mediterranean coastal areas*, Split, 1997; UNEP, Blue Plan, *Tourism and sustainable development in the Mediterranean: White Paper*; Satta, Alessio, "Tourism in the Mediterranean: Processes and impacts on the coastal environment", in *Integrated coastal management in the Mediterranean: Towards Regional Protocol*, Report of the Regional Forum, Cagliari, 28-29 May 2004, p. 59.

²⁸ Such as the Tourism Protocol to the Alpine Convention (Bled, 16 October 1998) and the Convention establishing the Sustainable Tourism Zone of the Caribbean (Margarita, 12 December 2001).

²⁹ The Mediterranean Tourism Charter of Casablanca (22 September 1995); the Calvi Declaration on Tourism and Sustainable Development in the Mediterranean (19 April 1997); the call by NGOs for sustainable tourism in the Mediterranean (Med Project Ulixes 21, Barcelona, 15 March 1998); the Recommendation of the Mediterranean Commission on Sustainable Development (Malta, 30 October 1999) which called upon the Parties to the Barcelona Convention to promote a regional cooperation mechanism in the field of tourism.

³⁰ UNEP/MAP, 13th Meeting of the Contracting Parties, Catania (11-14 November 2003), (UNEP/DEC)/MED.1G, 15/Inf.14, 2 October 2003.

Underground water and areas of dynamic contact or interface between fresh and salt water require special attention. They are normally covered by the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-based Sources and Activities. Underground water is overexploited, particularly due to tourism,³¹ which necessitates particular attention. Integrated management requires its role and quality to be taken into consideration, particularly when it is being extracted or in the case of the disposal of certain effluents or wastes.³²

5. *Energy*: energy plants are often constructed on the coastal strip, both in the case of thermal and nuclear plants. Recently, sources of renewable energy, such as wind farms, have been constructed on the shore or at sea. These activities should be taken into account in the integrated management of the coastal zone and a sound assessment made of all the environmental, landscape, social and cultural impacts that they may have prior to their authorization. The impact study once again in this case has to be considered as being compulsory. Certain installations should be constructed far from particularly fragile or protected coastal zones. The conclusions of the 1995 Santorini Workshop did not hesitate to state that "Coastal zones need to be declared free of major industrial or energy installations especially nuclear ones which entail significant environmental risks."
6. *Ports and maritime infrastructure and works*: these works must not prejudice the fragile equilibrium of the coastal zone, and especially fragile areas, even where they are not protected, such as estuaries, wetlands, reefs and archipelagos. The FAO Code of Conduct for Responsible Fisheries of 1995, in Article 8(9), sets out rules for the sound management of harbours and landing places. It also provides that States should establish an institutional framework for the selection and improvement of the siting of harbours for fishing vessels which allows for consultation among the authorities responsible for coastal area management.

Works affecting the soil and subsoil of the sea and the coastal fringe should be rigorously controlled and most frequently prohibited in view of their harmful effects on coastal erosion. The construction of artificial reefs for fishing should be envisaged in land-use plans for coastal zones and subject to authorization to control their impact on the environment and on living marine resources, in accordance with the recommendations of the FAO Code of Conduct for Responsible Fisheries (Article 8(11)).

Article 9

Specific coastal ecosystems

The coastal zone contains many fragile ecosystems. Integrated coastal zone management requires some of them to be taken into account more specifically, and particularly those which are outside the geographical and material coverage of the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean.

1. *Coastal landscapes* have a specificity which is clear in itself, whether or not they are classified as protected areas. Integrated management should therefore take into account their characteristics and evolution in the case of any action taken in the coastal zone. The landscape must also become a subject of regional and transboundary cooperation. These elements are directly based on the European Landscape Convention adopted in Florence in 2000, which has been force since

³¹ See WWF, *Freshwater and tourism in the Mediterranean*, Lucia De Stefano, 2004.

³² See UNEP/MAP/PAP, *Conceptual framework and planning guidelines for integrated coastal area and river basin management*, Split, 1999.

1 March 2004. The landscape, especially in coastal areas, is also systematically taken into account as a value to be conserved in many international documents.³³

2. *Wetlands and estuaries* play an essential role, both in terms of natural resources and biodiversity, as well as in attenuating the effects of floods and seismic sea waves. Not all of them are classified as specially protected areas. They nevertheless require serious consideration in any action taken on the coastal zone in terms of the integration of ecological factors which affect sustainable development. The UNEP/MAP/PAP *White Paper* of 2001 calls for the improvement of the management of wetlands and estuaries in relation to their entire watershed (p. 67).³⁴

This may lead to the prohibition or restriction of an activity which is likely to have an adverse effect on a wetland. Measures also have to be undertaken for the restoration of degraded areas. All of the elements relating to wetlands in coastal zones are taken directly from the Principles and Guidelines (particularly Guideline No. 4) for incorporating wetland issues into integrated coastal zone management, as approved in Valencia at the 8th Conference of the Contracting Parties to the Convention on Wetlands, 18-26 November 2002. They also give effect to the Memorandum of Collaboration concluded between the MAP Coordinating Unit (the Secretariat of the Barcelona Convention) and the Office of the Ramsar Convention on 11 September 2001.

3. *Coastal forests and woods* play an essential role in ecology, landscapes and the prevention of erosion, even outside specially protected areas. They therefore need to be protected.
4. *Dunes and dune cordons* have to be conserved and restored in view of their ecological and landscape functions.
5. *Islands and small islands* in the Mediterranean deserve special attention due to the existence of 162 islands of over 10 km² and 4000 small islands of under 10 km². The flexibility of the definition of the Protocol's geographical coverage (Article 3) allows it to take into consideration the specificity of certain islands in view of their dimensions. Several documents emphasize the importance of taking this specificity into account.³⁵ But, more generally, integrated coastal zone management not only has to include islands and small islands, but also to take into account their specificity in planning documents and in the crucial sector of waste management.³⁶ Respect for the environment is a priority in this regard and has to be encouraged by ensuring the participation of island populations and by placing emphasis on their local knowledge. The conclusions of the Santorini Workshop on Policies for Sustainable Development of Mediterranean Coastal Areas of 1995 even call for the formulation of special integrated management plans for islands.

³³ OECD Recommendation of 1976 (A(10)); the Biodiversity and Landscape Conservation Protocol to the Black Sea Convention (Sofia, 14 June 2002).

³⁴ See Papayannis, Thymio, *Regional action for wetlands: The Mediterranean experience, 1991-2002*, Ramsar, MedWet, 2002.

³⁵ Conclusions of the Santorini Workshop of 1995; Chapter XVII of Agenda Med 21, Point 20; the Recommendation of the Council of Europe (Rec(2002)1) on guiding principles for sustainable spatial development of the European Continent (V(5) on coastal and island regions); Mediterranean Commission on Sustainable Development, *Strategic review of sustainable development in the Mediterranean*, 2001, UNEP/MAP, Athens, p. 9, "Island eco-systems".

³⁶ UNEP/MAP/MEDPOL, *Guidelines on the management of coastal litter in the Mediterranean region*, Technical Reports Series 148, 2004; European Council on Environmental Law, *La gestion des déchets dans les îles au regard du droit communautaire*, Funchal, Madeira, 2004.

Article 10

Coastal erosion

Coastal erosion is one of the dramas of coastal zones. Integrated management has to take this into account in any activities and works liable to aggravate or give rise to such erosion, which is already acute as a result of natural phenomena. As combating coastal erosion sometimes has to be given priority in local sustainable development strategies, advantage should be taken of the establishment of integrated coastal zone management instruments to anticipate needs relating to erosion more effectively through special plans for the management of coastal sediments. Special assessments have to be made of the effects and the cost of coastal erosion caused by all activities on the coastal strip so as to anticipate developments more effectively and measure the impact of coastal works and development more precisely. These specific provisions are directly based on the work of the European Commission in the context of the EUROSION project.³⁷ It is necessary to strengthen the resilience of the coast, or in other words its capacity for resistance and adaptation to natural and artificial changes. Since 1995, MAP has placed erosion control among the principal objectives for sustainable development in the region.³⁸ Guidelines for the management of erosion control programmes have been formulated³⁹ and should be used as technical support for the implementation of the Protocol.

The Convention for Co-operation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific of 2002 contains an Article on coastal erosion (Article 7), which only sets the objective of the reduction of erosion, without indicating the measures to be adopted. The Lima Convention for the Protection of the Marine Environment and Coastal Area of the South-east Pacific of 1981 already contains the requirement (Article 5) for the Parties to adopt all appropriate measures to prevent, reduce and control erosion of the coastal area resulting from the activities of man. Annex IV of the Paris Convention of 1994 on desertification is devoted to the Northern Mediterranean and refers in Article 2(g) to the “concentration of economic activity in coastal areas as a result of urban growth, industrial activities, tourism and irrigated agriculture”. It proposes the adoption of action programmes relating to soil conservation.⁴⁰ Although there is unanimous agreement on the damage caused by erosion, the remedies are more complex. The present Protocol is innovative in setting out practical legal measures, and not only objectives. However, it remains modest by confining itself to providing for erosion to be taken into account in the planning of all coastal activities, including at the financial level.

Article 11

Cultural heritage

The cultural heritage of coastal zones forms part of the wealth of these territories and represents an additional element in their attraction and an economic added value through the resulting tourism. It therefore has to be among the elements included in the integrated management process and should not be addressed in isolation. The strategic approach

³⁷ EUROSION, *A guide to coastal erosion management practices in Europe*, January 2004; National Institute for Coastal and Marine Management, *Living with coastal erosion in Europe: Sediment and space for sustainability*, Netherlands, 2004.

³⁸ See UNEP, Blue Plan, *Threats to soils in Mediterranean countries: Document review*, Plan Blue Papers No. 2, 2003; Ministère français de l'aménagement du territoire et de l'environnement, *La défense des côtes contre l'érosion marine: Pour une approche globale et environnementale*, 1997.

³⁹ UNEP/MAP/PAP, *Guidelines for erosion and desertification control management with particular reference to Mediterranean coastal areas*, Split, 2000.

⁴⁰ Although covering erosion in mountain areas, reference may be made to the Protocol on soil protection to the Alpine Convention (1998), which provides in Article 11 for the delimitation and treatment of Alpine zones threatened by erosion.

advocated by the Recommendation of the European Parliament and of the Council of 2002 refers explicitly to cultural heritage in Chapter 1(c).

The underwater part of this cultural heritage is giving rise to growing interest and is subject to increasingly frequent pillage and destruction. The Protocol therefore sets out a minimum of obligations intended to achieve better protection of this heritage. This is based on certain of the rules contained in the UNESCO Convention on the Protection of the Underwater Cultural Heritage adopted in Paris on 6 November 2001. Preservation *in situ* must be the first option, while elements that are removed must be conserved and managed in a manner that ensures their long-term preservation, and may not be commercially exploited.

Article 12 Participation

The Barcelona Convention provides in Article 15, paragraph 2, for the opportunity to be given to the public to participate in decision-making processes relevant to the field of application of the Convention and the Protocols, as appropriate. This provision is therefore applicable to the present Protocol.

Nevertheless, the principle of participation, which has its origins in Principle 10 of the Rio Declaration of 1992, must be understood as going beyond just the public, especially in the field of integrated coastal zone management.

In practice, as a process, integrated management requires very broad participation and partnership with all the categories of actors concerned. This is a requirement for the governance applicable to such zones. For this reason, participation in the present case concerns not only the public in general, including NGOs, but also territorial communities and the various other public entities and economic operators, both private and public. The *White Paper* of 2001 places particular emphasis on the need for participation,⁴¹ as does the Recommendation of the European Parliament and of the Council of 2002 (Chapter II(f)). It also includes the participation of local communities and indigenous peoples, as emphasized by Guideline No. 9 of Resolution VIII/4 of the 8th Conference of the Parties to the Ramsar Convention.⁴² A full study of participation in the Mediterranean was published in 2002, accompanied by recommendations for the strengthening of public participation.⁴³

Participation consists of associating all of these actors in the various stages of the integrated management policy, namely at the level of the formulation of coastal strategies, plans and programmes, as well as their implementation. The form taken by such participation is left to the discretion of States. Taking inspiration from the Aarhus Convention, ratified or signed by the European Parties to the Barcelona Convention, participation may take place through consultative bodies or public hearings or inquiries. The *White Paper* of 2001 calls for the appointment of advisory committees at the local level to promote participation (p. 63). The Recommendation of 23 September 1997 of the Mediterranean Commission on Sustainable Development encourages the development of participatory mechanisms. Participation also has to allow the use of means of recourse at the administrative or legal

⁴¹ See pp. 48-49 and 65-66; see also: *Good practices guidelines*, 2001, op. cit., pp. 22-24; OECD Recommendation of 1992 (II), participation in decision-making at an early stage of policy formulation and project assessment; and Chapter XVII, Point 32, of Agenda Med 21, Tunis, 1994.

⁴² Applying the *Guidelines for establishing and strengthening local communities' and indigenous people's participation in the management of wetlands*, of the 7th Conference of the Parties to the Ramsar Convention, adopted at San José, Costa Rica, in 1999.

⁴³ Scoullou, M., Roniotes, A. and Malotidi, V., *Public participation in the Mediterranean*, Mediterranean Information Office for Environment, Culture and Sustainable Development (MIO-ECSDE), Athens, 2002.

levels.⁴⁴ It is proposed that mediation and conciliation mechanisms should be established in the case of challenges to certain projects so as to avoid disputes which are generally longer and more costly. In its 1998 Guidelines, the FAO advocates the training of arbitrators and facilitators to resolve disputes relating to integrated coastal zone management.⁴⁵ The UNEP *Guidelines for integrated management of coastal and marine areas* of 1995 call for arbitration and the nomination of qualified intermediaries to resolve disputes between users of coastal resources and the coastal population at large (p. 50).

Article 13 **Awareness-raising, training, education and research**

As integrated coastal zone management is a complex and long-term action strategy, it is indispensable for it to be accompanied by substantial work in the fields of the awareness, education and training of populations, officials and the various actors associated with the process in accordance with the previous Article on participation.⁴⁶ This is included in the activities that each State should consider for integrated management and sustainable development of coastal areas under the terms of Chapter 17 of Agenda 21 (17(6)(l)). The Workshop organized by the Mediterranean Information Office for Environment, Culture and Sustainable Development (MIO-ECSDE) emphasized the importance of public education and awareness.⁴⁷ The Recommendation of the European Parliament and of the Council of 2002 includes in national strategies the need for appropriate national training and education programmes (Chapter IV(3)(h)). The purpose is not only to indicate the general interest of the sustainable management of the coastal zone, but also the various existing technical, legal and economic instruments.

These activities will cover the persons concerned at both the national and local levels and should benefit from the international cooperation activities envisaged in Article 22 of this Protocol, based on the experiences and demonstration programmes existing in the Mediterranean region or elsewhere through the UNEP Regional Seas Programme.

Although research is already envisaged in general terms in Article 13 of the Convention, that Article does not refer to Protocols. For this reason, it is necessary to emphasize in the Protocol the need for research specially dedicated to integrated coastal zone management by calling upon States to establish specialized centres which will be used not only to assist in information and training activities, but which will also contribute to the development of inventories, as set out in Article 14, the operation of the future cooperation networks covered by Articles 21 and 22 and which could provide assistance to both public and private planners and decision-makers. As integrated coastal zone management is an innovative form of management, the research centres would necessarily have to be interdisciplinary, as emphasized in the *White Paper* of 2001 (p. 49).⁴⁸ Chapter 17 of Agenda 21 includes scientific and technological means amongst the means of implementation of integrated coastal area management so that States can disseminate and transfer to developing countries environmentally safe methodologies for the sustainable development of coastal and marine areas (17(13)).

⁴⁴ The Recommendation of 23 September 1997 of the Mediterranean Commission on Sustainable Development calls for court action to be made easier as a means of opposing planning decisions.

⁴⁵ *FAO Guidelines: Integrated coastal area management and agriculture, forestry and fisheries*, Rome, 1998, p. 219.

⁴⁶ Public training is included in Chapter XVII, Point 30, of Agenda Med 21, Tunis, 1994; see the Convention for Cooperation in the Protection and Sustainable Development of the Marine and Coastal Environment of the Northeast Pacific (Antigua, 2002) (Article 10(2)(g)) and the Aruba Protocol concerning Pollution from Land-based Sources and Activities in the Caribbean of 1999 (Article XI on "Education and awareness").

⁴⁷ Final report of the Mediterranean Workshop on the Promotion of Education and Public Awareness for Environment and Sustainability in the Mediterranean, MIO-ECSDE, Athens, 1998.

⁴⁸ See also the *Guidelines for integrated management of coastal and marine areas*, UNEP, 1995, p. 27-28.

PART III

INSTRUMENTS FOR INTEGRATED COASTAL ZONE MANAGEMENT

The third Part endeavours to place emphasis on a number of specific instruments which necessarily accompany any integrated coastal zone management policy. In the first place, these consist of the establishment of inventories and networks of observatories, the adoption of a Mediterranean Strategy accompanied by national strategies and national coastal plans and programmes. It is also necessary for environmental assessment procedures, land ownership mechanisms and economic and financial instruments to be organized.

These instruments are at the same time prospective, operational and regulatory. They are prospective through coastal strategies, plans and programmes, However, the success of these instruments depends on the implementation in practice of three types of means. The first are means of monitoring and observation of the state and trends of the coastal environment. This is followed by recourse to environmental assessment, particularly through environmental impact studies. Finally, they consist of means of intervention in land ownership, accompanied by funds adequate for the implementation of the various measures for the integrated management of the coastal zone.

Article 14

Observatories, inventories and networks⁴⁹

Observatories, inventories and networks form the infrastructure required for any prospective or operational work relating to the coastal zone. All coastal operations depend on this work. The establishment of an inventory is therefore a *sine qua non* as a preliminary stage for all these measures. To fulfill this function, the coastal inventory has to assemble a series of elements:

- The inventory has to take into account the processes and cover all the human activities relating to the fishing and aquaculture, transport, energy, tourism and leisure, industry and mining, urbanism, waste management and agricultural sectors. It also includes the management of resources, such as the protection of species and habitats, landscape and the cultural heritage.
- The inventory has to cover all administrative levels.
- It has to provide an analysis of the interests, role and concerns of citizens, NGOs and the private sector.
- The inventory has to identify the inter-regional organizations and cooperative structures concerned.
- It makes an assessment of the applicable policies and legislative measures.

By placing these data in common within a network of coastal zones, the Parties will be facilitating the formulation of the regional strategy for coastal zone management by making it possible for any action for the coastal zone to be global in perception.

⁴⁹ With regard to observatories, inventories and networks, see:

- *White Paper*, "Analysis of the state of coastal areas", p. 64;
- *Good practices guidelines*, 2001, pp. 19-22;
- OECD Recommendation, 1992(II);
- OECD Recommendation, 1976 (B(20));
- EU Recommendation, 2002, Chapter II;
- Agenda Med 21, Chapter XVII, Points 13 and 22.

Article 15 **Mediterranean Strategy for Integrated Coastal Zone Management⁵⁰**

The Strategy lies within the framework of the Mediterranean Strategy for Sustainable Development. At this level, integrated coastal zone management is in practice no more than the application to the coastal zone of all the elements which make up sustainable development.

The formulation of the Strategy therefore has to take into consideration a series of elements:

- the protection of the coastal environment on the basis of an ecosystem approach, which takes into account its fragility and preserves its integrity and functions, while ensuring the sustainable management of the natural resources of the marine and land components of the coast;
- the taking into account of the threat constituted by climate change for coastal zones and the dangers represented by the rise in sea levels and the increase in the frequency and violence of storms;
- the establishment of an alarm system for disasters which threaten human life and the environment;
- appropriate and responsible measures for the environmental protection of the coast, including the protection of coastal urban areas and the cultural heritage;
- economic prospects and possibilities for sustainable employment;
- the socio-cultural system applicable in local communities;
- in the case of isolated coastal communities, the maintenance and promotion of their cohesion; and
- the improved coordination of the measures taken by all the authorities concerned, both at sea and on land, at the transborder level.

Article 16 **National coastal strategies, plans and programmes⁵¹**

A national strategy specially devoted to integrated coastal zone management has to take into account the principles and objectives of the Protocol. It would be based on the Mediterranean Strategy and would guide the activities of the various actors in the management of coastal zones.

⁵⁰ On this point, see, among others:

- *White Paper*, pp. 58-59;
- MCSD, 1997, *White Paper*;
- EU Recommendation, 2002, Chapter V;
- Helsinki Declaration, Euro-Mediterranean Conference, 1997 (2(2)(3));
- MCSD, *Strategic review of sustainable development*, 2001, p. 84;
- Integrated coastal zone management, MCSD, requires a regional framework, 9th Meeting, Genova, 17-19 June 2004, Appendix VII, "Sustainable development of marine and coastal areas";
- Mediterranean Strategy for Sustainable Development: Preparatory report, Rabat, 7-8 May 2004, marine and coastal areas form part of the Strategy, p. 13.

⁵¹ It is interesting to consult:

- *White Paper*, pp. 26 and 65-66;
- Helsinki Conference, 1997;
- Framework Convention on the Protection and Sustainable Development of the Carpathians, Article 5;
- Ramsar Guidelines, 2002 (12(4));
- EU Recommendation, 2002, Chapter IV;
- EU demonstration programme, planning process, Synthesis theme D, 1999;
- *A guide to coastal environment management*, 2004.

Whatever form they take, national strategies fulfill the role of:

- determining, at the national and regional levels, the respective roles of the various administrative actors whose responsibilities cover activities and resources related to coastal zones, and the mechanisms for their coordination;
- envisaging contractual and voluntary agreements with certain users of coastal zones, including agreements concluded with industry in the field of the environment, fiscal and economic incentives and the utilization of regional development mechanisms;
- strengthening or maintaining national and, where appropriate, regional and local legislation, policies and programmes covering both the marine and land areas of coastal zones;
- identifying, among other actions, measures for the promotion of public participation in the field of integrated coastal zone management;
- defining mechanisms to ensure the integrated and coordinated implementation of the regional legislation and policies which affect coastal zones, including during reviews of regional policies;
- including adequate alarm and monitoring systems and the dissemination to the public of information on coastal zones;
- determining the conditions under which support could be provided by appropriate national training and education programmes for the implementation of the principles of integrated coastal zone management; and
- establishing a schedule or timetable for the implementation of the different programmes and the follow-up of the various operations.

Coastal plans and programmes may be conceived specially for integrated coastal zone management and be set out in a specific document, or they may be conceived and integrated into strategies, plans and programmes of which the objectives or coverage are broader than mere coastal matters. In this latter case, they would be integrated into an overall environmental strategy or a land-use or urbanism plan.

They would implement the objectives and policies of the national strategy, with emphasis on the conditions for the allocation and use of the marine and land parts of coastal zones, paying special attention to environmental carrying capacity with a view to preventing environmental degradation.

Article 17

Environmental assessments⁵²

Environmental assessments are undoubtedly the surest means of prevention for the protection of the coastal zone. Environmental assessments allow both the evaluation of the current state of the environment and action on any future degradation of the coastal zone. Environmental assessments are of two types: preliminary environmental impact studies in the

⁵² With regard to environmental assessments, see:

- *White Paper*, p. 64;
- MCS D, 1997;
- Northeast Pacific Convention, Articles 6(2)(b) and 10(3) and (4);
- Ramsar Guidelines, 2002, Nos. 3 and 11(6);
- UNEP/MAP/PAP, *Approaches for zoning of coastal areas with reference to Mediterranean aquaculture*, 1996, Annex B: "Guidelines for an environmental impact assessment (EIA) in intensive aquaculture", pp. 33-34;
- UNEP/MAP/PAP, *Guidelines for integrated management*, 1995, pp. 40-43;
- UNEP/MAP/PAP, *Conceptual framework and planning guidelines for integrated coastal area and river basin management*, 1999, p. 63;
- Agenda 21, Chapter 17 (6)(d);
- Kingston Protocol, Article 13.

case of works and activities undertaken in the coastal zone and strategic assessments in relation to plans and programmes for the zone.

For an environmental impact study to be effective, it has to be undertaken before any public or private works or projects are carried out which may have an effect on the environment in coastal zones.

Similarly, for the environmental impact study documentation to be useful, it has to contain data on the following elements:

1. Description of the proposed activity and its purpose.
2. Description of the environment in which the proposed activity is planned.
This consists of an analysis of the initial state of the site and its environment, with emphasis on the specificities of the coastal zone and focusing in particular on:
 - natural resources;
 - natural agricultural, forest, maritime and leisure areas;
 - landscapes;
 - property and cultural heritage likely to be affected by the project; and
 - carrying capacity of the coastal environment.
3. Description of the impact that the proposed activity and the replacement measures may have on the environment and an estimate of their significance, specifying the direct and indirect effects on the following factors:
 - humankind, fauna and flora;
 - soil, water, air, climate and landscape;
 - interaction between these different factors; and
 - property and cultural heritage.This analysis has to take into account the specific sensitivity of the coastal environment and the relationship between marine and land areas.
4. Description, where appropriate, of the replacement measures which may reasonably be envisaged, without omitting the "zero" option.
5. Description of the measures intended to reduce as much as possible the adverse impact on the environment and particularly the coastal ecosystem.

In view of the importance of plans and programmes which may affect the coastal zone, strategic environmental assessments of these plans and programmes should be undertaken so as to be able to take into account as early as possible the effects on the environment of the economic development activities envisaged in these plans and programmes. In this respect, and as in the case of environmental impact studies, the content of strategic environmental assessments should focus on the specific sensitivity of coastal zones, their carrying capacity and the relationship between the marine and land parts of the coastal zone. Strategic environmental assessments will provide a basis for an overall prospective assessment of the coastal environment.

Article 18

Land ownership⁵³

Control of the coastal area is a prerequisite for the success of any integrated coastal zone management. Due to the fact that the coastal area constitutes a limited space for all human activities and occupations (urban, housing, industrial, tourist, recreational and even for the management of solid and liquid waste ...), it is an object of desire and is under threat.

⁵³ Consult on this subject:
- Agenda Med 21, Chapter XVII, Point 27.

In this context, and with a view to promoting integrated coastal zone management, it is important to adopt and establish a series of mechanisms and means which make it possible for the coastal area to be available and accessible and to rationalize its utilization, particularly so as to preserve non-urbanized zones and permit public access for recreational and leisure purposes. These mechanisms and means may have the following forms and purposes:

- mechanisms for land acquisition and its expropriation for public ownership, taking into account the fragility of sensitive zones;
- mechanisms to control any additional urbanization and the management of non-urban areas, even where they are not specially protected, while respecting the natural characteristics of the coastal environment; and
- rights of way applying to various properties with the aim of protecting coastal zones and preserving their specificity.

Article 19 **Economic and financial instruments⁵⁴**

Economic and financial instruments determine the success of integrated coastal zone management strategies, plans and programmes. Experience has shown that assembling the necessary funding constitutes a basic element in the effectiveness of any intervention. The same applies to the imposition of taxes and charges. These mechanisms play a dual role: dissuasive, on the one hand, and in the financing of activities related to the coastal zone, on the other.

For the implementation of integrated coastal zone management instruments, it is necessary to:

1. adopt relevant financial and economic instruments in support of local, regional and national integrated management initiatives. These measures form part of projects and actions in accordance with integrated coastal zone management plans and programmes and with the results of environmental impact studies and strategic environmental assessments to ensure that the adverse effects on the coastal environment are nil or negligible.

These instruments are intended to internalize environmental costs so as to achieve an optimal allocation of resources and strengthen equity in resource utilization.

They take the form of economic and fiscal incentives and any other measures compatible with the internalization of environmental costs, and may include the conclusion of contracts for the management of natural coastal areas through partnerships.

States could establish taxes and charges intended to dissuade and prevent activities that damage the coastal environment, the product of which would be devoted to the maintenance and management of coastal areas. Part of the product of these taxes and charges could also be used to maintain a special fund to finance integrated coastal zone management.

⁵⁴ With regard to economic and financial instruments, see:

- *White Paper*, p. 25, "METAP";
- MCSD, 1997, *White Paper*;
- OECD Recommendation, 1992 (II);
- Council of Europe, Model Law;
- UNEP/MAP/PAP, *Guidelines for integrated management*, 1995, pp. 36, 48-49 and 72-75;
- Agenda Med 21, Chapter XVII, Points 18 and 19.

2. identify sustainable sources of financing for integrated coastal management initiatives and examine the way in which the best use can be made of existing financing mechanisms.

PART IV INTERNATIONAL CO-OPERATION

This Part addresses the essential aspects of international co-operation for the integrated management of coastal zones in the Mediterranean through actions to be undertaken at the regional, subregional and bilateral levels. The provisions in this Part follow the mandate contained in Article 197 of the United Nations Convention on the Law of the Sea, which provides that “States shall co-operate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.” This duty of co-operation is developed in greater detail in Article 123 of the Convention on the Law of the Sea, which indicates that “States bordering an enclosed or semi-enclosed sea should co-operate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization (...) to co-ordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment”.

Article 20 Training and research

Article 20 is drawn up in parallel with Article 13, which covers “Awareness-raising, training, education and research” on integrated coastal zone management at the national and local levels. In Article 20, the issue is addressed at the international level. In this context, Article 20 sets forth regional and subregional co-operation activities to be undertaken in the fields of training and research. The purpose of this Article is to promote the development of knowledge on integrated coastal zone management. It proposes that this should be done, on the one hand, through international co-operation for the training of scientific, technical and administrative personnel and, on the other, through the promotion of scientific and technical research, inter alia, through the exchange of information and the co-ordination of research programmes in the Mediterranean regional context. These measures can be implemented either directly between Parties wishing to do so or, where appropriate, with the assistance of the Centre or the competent international organizations.

This Article applies, *mutatis mutandis*, the policy guidance contained in Article 200 of the United Nations Convention on the Law of the Sea of 1982, which provides that “States shall co-operate, directly or through competent international organizations, for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall endeavour to participate actively in regional and global programmes to acquire knowledge for the assessment of the nature and extent of pollution, exposure to it and its pathways, risks and remedies.”

Paragraph 1 of Article 20 of the draft Protocol, which covers the training of scientific, technical and administrative personnel in the field of integrated coastal zone management, is based on similar provisions in the United Nations Convention on the Law of the Sea (Article 202(i)) and the LBS Protocol (Article 10(2)), the Specially Protected Areas and Biodiversity Protocol (Article 22(2)) and the Offshore Protocol (Article 22). Paragraph 2, which covers scientific and technical co-operation, is based on the provisions contained in Articles 4, paragraph 4, and 13, paragraph 2, of the Convention, and those of the LBS Protocol (Article

9), the Specially Protected Areas and Biodiversity Protocol (Articles 20(1) and (2)), the Offshore Protocol (Article 22) and the Hazardous Wastes Protocol (Article 8(1)).

Article 21

Scientific and technical assistance

Article 21 gives effect to the provisions of Article 202 of the United Nations Convention on the Law of the Sea of 1982 respecting “Scientific and technical assistance to developing States”, which provides that “States shall, directly or through competent international organizations (...) promote programmes of scientific, educational, technical and other assistance to developing States for the protection and preservation of the marine environment and the prevention, reduction and control of marine pollution.”

Article 21 of the draft Protocol calls upon the Parties to co-operate in the field of scientific and technical assistance, access to environmentally sound technologies and their transfer and other possible forms of assistance. It is based on Article 13, paragraph 3, of the Convention, which provides that the Contracting Parties undertake to co-operate in the provision of technical and other possible assistance, giving priority to the special needs of developing countries in the Mediterranean region. The Article is also based on the corresponding provisions of the LBS Protocol (Article 10(1)), the Specially Protected Areas and Biodiversity Protocol (Article 22(1)), the Offshore Protocol (Article 24(2)) and the Hazardous Wastes Protocol (Article 10).

The commitment to co-operate set forth in this Article is fairly broad in scope, as it covers scientific and technical assistance, access to environmentally sound technologies and their transfer and other possible forms of assistance. Furthermore, this assistance is not limited to developing countries in the Mediterranean region: it is open, more generally, “to Parties requiring such assistance for integrated coastal zone management”. This is intended to reconcile the duty of assistance to developing countries in the region with the improvement of integrated coastal zone management, which is the specific objective of the Protocol.

The Article specifies that the co-operation concerned may occur directly between the parties or with the assistance of the Centre or the international organizations concerned. It leaves to the discretion of the Parties the scope and modalities of the assistance to be provided in each case.

Article 22

Exchange of information and demonstration projects

This Article develops the policy guidance provided in Article 200 of the United Nations Convention on the Law of the Sea of 1982 concerning co-operation between States for the purpose of “encouraging the exchange of information and data” and active participation in regional and global programmes “to acquire knowledge”.

Paragraph 1 of Article 22 sets forth the commitment of the Parties to co-operate in the field of the exchange of information and data on the use of best environmental practices and environmentally friendly technologies for integrated coastal zone management. Paragraph 2 refers to the specific activities envisaged for such co-operation. These activities may be carried out by the Parties directly, or with the assistance of the Centre, as is often currently the case. The Article is based on the provisions of the Barcelona Convention, which provide that the Parties shall “utilize the best available techniques and the best environmental practices” (Article 4, paragraph 4(b)) and that they undertake “to exchange data as well as other scientific information for the purpose of this Convention” (Article 13, paragraph 1 *in fine*). It also follows the guidance provided in the corresponding provisions of the other Protocols, including the LBS Protocol (Article 9), the Specially Protected Areas and

Biodiversity Protocol (Article 20(3)), the Offshore Protocol (Article 25), the Hazardous Wastes Protocol (Article 11) and the new Emergency and Prevention Protocol (Article 7(8)).

Article 23 **Natural disasters**

Article 23 is intended to promote co-operation between the Parties to ensure the early detection and the provision of assistance in the event of natural disasters which may affect the coastal zones of the Mediterranean. The enormous magnitude and catastrophic effects of the tsunami which devastated the coastal zones of various countries in East Asia on 26 December 2004 has yet again emphasized the need for effective co-operation in the various regions of the planet. The risk of a seismic wave of the tsunami type in the Mediterranean is not merely an academic concern (Santorini 1650 BC, Crete 365 BC, Rhodes 1303, Algiers 1365, Calabria and Sicily 1783, Liguria 1887, Messina 1908, Amorgos 1956, Nice 1979 and Boumerdés 2003). Almost 20 tsunamis have been recorded over the past 2000 years in the Mediterranean. It is therefore necessary to protect coastal zones against this natural risk. The Article provides for the co-operation of the Parties in the fields of detection, the transmission of information, means of prevention and response, and humanitarian and technical assistance in the event of natural disasters affecting the coastal zones of the Mediterranean. It gives effect to the policy guidance provided in Principle 18 of the Rio Declaration of 1992, under the terms of which "States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted."

Paragraph 1 of the Article sets out the commitment of the Parties to organize co-ordination in the use of the means of detection, warning and communication at their disposal with a view to ensuring the transmission of urgent information on any natural disaster which may affect the coastal zones of the Mediterranean. For this purpose, the text takes into account the three principal natural phenomena that are liable to produce seismic waves with catastrophic effects on coastal zones, namely an earthquake, a volcanic eruption or a landslide. The duty of the notification of a risk of imminent damage is set out in Article 198 of the United Nations Convention on the Law of the Sea of 1982, which provides that "When a State becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution, it shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organizations."

In practical terms, the States Parties and the Secretariat to the Convention can obtain support from a regional structure that already exists by collaborating with the European Mediterranean Seismological Centre (EMSC), established in 1975 and bound since 1987 to the Council of Europe through an open partial agreement as a warning body. Fourteen coastal States of the Mediterranean are already members of the EMSC.⁵⁵ They may also avail themselves of the services of the Environmental Remote Sensing Regional Activity Centre (ERS/RAC) established by MAP in Catanzaro, Sicily.

Over and above warning systems, preventive action has to be taken through contingency plans. Paragraph 2 requires the Parties to formulate, either individually or through bilateral or multilateral co-operation, contingency plans and other arrangements to respond to the consequences of a natural disaster. These plans also have to cover the effects of the rise in sea levels due to climate change. The Parties are called upon to inform the Centre every two years of the measures taken so that it can report to the Parties based on the information received. This paragraph is based on Article 199 of the United Nations Convention on the Law of the Sea of 1982, which provides that "States in the area affected,

⁵⁵ EMSC, Postal Box 12, 91680 Bruyères-le-Chatel, France: Internet site, www.emsc-csem.org

in accordance with their capabilities, and the competent international organizations shall co-operate, to the extent possible, in eliminating the effects of pollution and preventing or minimizing the damage. To this end, States shall jointly develop and promote contingency plans for responding to pollution incidents in the marine environment.”

The establishment of procedures for early detection, warning and communication, on the one hand, and the formulation of contingency plans and other means, on the other, are the measures that are normally set out in international conventions on co-operation for the prevention of disasters. This is the case, for example, of the Convention on Early Notification of a Nuclear Accident of 1986 and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency of 1986, adopted within the framework of the International Atomic Energy Agency (IAEA) following the Chernobyl catastrophe in 1986. Another relevant example is the International Convention on Oil Pollution Preparedness, Response and Co-operation, adopted in London on 30 November 1990 in the framework of the International Maritime Organization (IMO).

Paragraph 3 sets out the commitment of the Parties to co-operate, also with local authorities and non-governmental organizations, with a view to the provision on an urgent basis of all humanitarian and technical assistance in response to a natural disaster affecting the coastal zones of the Mediterranean Sea. It follows the guidance set out in Article 202 of the United Nations Convention on the Law of the Sea of 1982, which calls upon States to “provide appropriate assistance, especially to developing States, for the minimization of the effects of major incidents which may cause serious pollution of the marine environment”. The duty of assistance is set out in Article 23, paragraph 3, of the draft Protocol as an objective of co-operation between the Parties, while also calling for the collaboration of local authorities and competent non-governmental organizations. The text refers to the relevant provisions of Article 13 of the Prevention and Emergency Protocol, adopted in Valletta on 25 January 2002, which may be used, *mutatis mutandis*, as a guide for resolving issues relating to the reimbursement of the costs of assistance.

It should be emphasized that, over and above these isolated measures, the best means of prevention consists of integrating measures to combat natural disasters in coastal strategies, plans and programmes, as required by Article 5(d). The prohibition of construction on the coastal fringe, as envisaged in Article 7(a), and areas in which building is prohibited under the terms of Article 7(b), are clearly measures which will have the effect of limiting more effectively the human and material damage caused by any future seismic wave directly affecting the coastal zones of the Mediterranean Sea.

Article 24

Transboundary co-operation

Article 16 provides that each State Party shall formulate a national strategy for integrated coastal zone management and coastal implementation plans and programmes in conformity with the integrated management objectives and principles of this Protocol. Without in so doing modifying the scope of this provision, Article 24 calls for co-ordination between the Parties in the preparation and implementation of national coastal strategies, plans and programmes which affect contiguous coastal zones directly or indirectly. Such co-operation may be undertaken, as appropriate, at the bilateral or regional levels, either directly or with the assistance of the Centre or the international organizations concerned. This consists, quite simply, of setting out the duty of co-operation imposed by international law between neighbouring countries and taking into consideration its implications with regard to the management of contiguous coastal zones, in accordance with the objectives of the Protocol. In conformity with the principles of institutional co-ordination set out in Article 6, this Article provides that local and regional bodies shall be associated with the process of the co-ordination of national coastal strategies, plans and programmes for the management of contiguous coastal zones.

Article 24 is based on the Model Law on Sustainable Management of Coastal Zones adopted by the Council of Europe in 1999, Article 80 of which covers the “management of adjacent coastal zones” and provides that “national and local authorities shall endeavour to co-ordinate their plans for managing border coastal zones while bearing in mind the characteristics of the coastal area concerned. The population shall take part in drawing up the plans on the basis of the principles of equal access and non-discrimination.”

Article 25

Transboundary impact studies and strategic assessments

This Article addresses the issue of co-operation between the Parties in conducting impact studies and strategic assessments of activities, plans and programmes concerning the coastal zone under their jurisdiction which are likely to cause significant adverse effects to the coastal zones of other States or the marine environment of the Mediterranean Sea. It is based on the guidance set out in the United Nations Convention on the Law of the Sea of 1982, which provides, inter alia, that “States shall, consistent with rights of other States, endeavour, as far as practicable, directly or through the competent international organizations, to observe, measure, evaluate and analyse, by recognized scientific methods, the risks or effects of pollution of the marine environment (...) In particular, States shall keep under surveillance the effects of any activities which they permit or in which they engage in order to determine whether these activities are likely to pollute the marine environment” (Article 204). Article 206, on “Assessment of potential effects of activities”, provides that “When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.” Article 202 adds in paragraph (c) that States, directly or through competent international organizations, shall “provide appropriate assistance, especially to developing States, concerning the preparation of environmental assessments.”

Article 25 of the draft Protocol is more directly based on the provisions of Article 4, paragraph 3(d), of the Convention which, in setting out general obligations, provides inter alia that the Parties shall “promote co-operation between and among States in environmental impact assessment procedures related to activities under their jurisdiction or control which are likely to have a significant adverse effect on the marine environment of other States or areas beyond the limits of national jurisdiction, on the basis of notification, exchange of information and consultation.” This applies, in particular, to activities, plans and programmes relating to the coastal zone within the jurisdiction of a Party which are likely to have a significant adverse effect on the coastal zones of other coastal States or the marine environment of the Mediterranean Sea. Article 25 therefore lies within the framework established by Article 4, paragraph 3(d), of the Convention, although its provisions are adapted to the specific characteristics of coastal zones.

Article 25 of the draft Protocol provides for impact studies and strategic assessments to be undertaken in a transboundary context, that is where activities, plans and programmes relating to the coastal zone under the jurisdiction of one Party are liable to have a significant adverse effect on the coastal zones of other States or the marine environment of the Mediterranean Sea. The term “significant adverse effect” is used to indicate that the studies and strategic assessments concerned only have to be undertaken where the potential impact of the activities, plans or programmes appears to be sufficiently serious. The reference to the “marine environment of the Mediterranean Sea” is intended to take into account, in the light of the impact studies and strategic assessments, not only the significant adverse effect on the coastal zones of other States, but also any such effect which could be caused to marine areas beyond the national jurisdiction. This wording which, according to the International

Court of Justice, now forms part of the body of rules of international environmental law (“Legality of the Threat or Use of Nuclear Weapons”, Advisory Opinion 8 July 1996, ICJ, *Reports 1996*, p. 226), takes up the wording of Article 4, paragraph 3(d), of the Convention.

The procedures of notification, exchange of information and consultation proposed to the Parties in Article 24, paragraph 1, are based on the provisions of the Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo (Finland) on 25 February 1991, and its Protocol on Strategic Environmental Assessment, done at Kiev (Ukraine) on 21 May 2003. The text of the Article is also based on the provisions of the draft articles on Prevention of transboundary harm from hazardous acts, adopted by the United Nations International Law Commission in 2001 (Report of the International Law Commission, Fifty-third session, 23 April-1 June and 2 July-10 August 2001, General Assembly, *Official Records*, Fifty-sixth Session, Supplement No. 10 (A/56/10)). Without following these texts in detail, this Article sets out a model framework for notification, exchange of information and consultation for application by the Parties when they carry out impact studies or strategic assessments concerning coastal zones in a transboundary context.

As the wording of Article 25 does not offer a level of detail comparable to that of the Espoo Convention or the Kiev Protocol, paragraph 2 of Article 25 provides that the Parties may adopt, where appropriate, more detailed or adapted bilateral or multilateral agreements to give full effect to the provisions of this Article.

PART V INSTITUTIONAL PROVISIONS

Article 26 Focal Points

Article 26 takes up the formula of “Focal Points”, which is a well-established practice in the Mediterranean system and which has already proven its effectiveness.

This Article acknowledges the role incumbent upon the Centre with regard to the technical and scientific aspects of the application of the Protocol. It assigns functions to the Focal Points, including ensuring liaison with the Centre and disseminating information in their countries on the technical and scientific aspects of the application of the Protocol. It is also envisaged that the Focal Points shall meet periodically, at the initiative of the Centre.

The text of the Article is based on the provisions in Article 24 of the Specially Protected Areas and Biodiversity Protocol.

Article 27 Reports and monitoring

Article 27 addresses aspects relating to supervising the application of the Protocol, while following the habitual model consisting of the preparation of national reports for consideration by the meetings of the Parties.

Paragraph 1 concerns the preparation by each Party of a periodical national report on the state and evolution of integrated coastal zone management, the effectiveness of the measures taken and the problems encountered. These reports are to be submitted to the Organization in the form and at the times determined by the meeting of the Parties. It is therefore the meeting of the Parties which agrees upon the arrangements and schedule for the national information reports. This paragraph is based on the provisions contained in the United Nations Convention on the Law of the Sea of 1982 (Article 205) and the Barcelona

Convention (Article 26), as well as the Specially Protected Areas and Biodiversity Protocol (Article 23) and the Hazardous Wastes Protocol (Article 11).

Article 28 **Institutional arrangements**

Article 28 addresses the issue of institutional arrangements. It assigns to the Organization the functions of co-ordinating the implementation of the Protocol and co-operating with non-governmental organizations. These responsibilities are to be carried out with the support of the Centre, to which it may entrust the functions enumerated in the text of the Article.

The functions that the Organization may entrust to the Centre under the terms of subparagraph (a) consist of assisting the Parties to carry out the activities set out therein. In contrast, the functions with which the Organization may entrust the Centre under subparagraphs (b) to (f) consist of actions that the Centre is called upon to undertake by itself by virtue of the provisions of the Protocol. Subparagraph (c) requires the Centre to submit a regular report to the Parties on the state and development of integrated coastal zone management in the Mediterranean Sea.

The Article also provides in subparagraph (g) that the Centre may undertake any other function assigned to it by the Parties.

Article 29 **Meetings of the Parties**

The purpose of Article 29 is to provide for the meetings of the Parties for this Protocol and to set out the functions of these meetings.

Paragraph 1 provides that the meetings of the Parties to the Protocol shall be held in conjunction with the ordinary meetings of the Contracting Parties to the Convention, held pursuant to Article 18 of the Convention.

Paragraph 2 sets out the functions incumbent upon the meeting of the Parties to this Protocol, without however listing them exhaustively. Indeed, in accordance with paragraph 2(i), the meeting of the Parties to the Protocol may decide to examine any other matter relevant to the Protocol which is not specifically enumerated in subparagraphs (a) to (h) of paragraph 2.

In addition to the reference to Article 18 of the Convention, this Article is based on the corresponding provisions of other Protocols, such as, in particular, Article 26 of the Specially Protected Areas and Biodiversity Protocol and Article 15 of the Hazardous Wastes Protocol.

PART VI **FINAL PROVISIONS**

Article 30 **Relations with the Convention**

The purpose of Article 30 is to recall the relations that exist between the Convention and its various Protocols.

Article 30 confirms that the provisions of the Convention relating to any Protocol apply with respect to this Protocol. This provisions transposes Article 31, paragraph 1, of the

Offshore Protocol in view of the transversal nature of its content. Similarly, as this Protocol also contains provisions the application of which could affect those of other Protocols, it would appear appropriate to include the same provision. With a view to safeguarding the application of the other Protocols in their specific fields of action, and facilitating the co-ordinated application of the provisions of this Protocol in accordance with the penultimate clause of its Preamble, this Article refers to the relevant provisions of the Convention, which organize its relations with its Protocols.

Article 31 **Relations with third parties**

The purpose of Article 31 is to provide a framework for the relations between this Protocol and third parties.

The provisions of paragraphs 1 and 2 have their basis in Article 123 of the United Nations Convention on the Law of the Sea of 1982, which provides that “States bordering an enclosed or semi-enclosed sea (...) shall endeavour, directly or through an appropriate regional organization (...) to invite, as appropriate, other interested States or international organizations to co-operate with them in furtherance of the provisions of this article.” They are based more directly on Article 3, paragraph 4, of the Barcelona Convention, which specifies that “The Contracting Parties shall take individual or joint initiatives compatible with international law through the relevant international organizations to encourage the implementation of the provisions of this Convention and its Protocols by all the non-party States”. These provisions have been developed in the Specially Protected Areas and Biodiversity Protocol, Article 28 of which contains identical wording to that of Article 31, paragraphs 1 and 2, of this Protocol. As in the case of the Specially Protected Areas and Biodiversity Protocol, it is important to include provisions for the application of the present Protocol in relation to third parties, in compliance with the limits imposed by international law.

Article 32 **Final provisions**

Article 32 takes up the habitual provisions concerning the signature, ratification, acceptance, approval and accession of States and regional economic groupings which are Parties to the Convention, and the entry into force of the Protocol.

