



**United Nations
Environment
Programme**



UNEP(OCA)/MED IG.5/5
9 June 1995

Original: ENGLISH

MEDITERRANEAN ACTION PLAN

Ninth Ordinary Meeting of the Contracting
Parties to the Convention for the Protection
of the Mediterranean Sea against Pollution
and its Protocols

Barcelona, 5-8 June 1995

**PROPOSED AMENDMENTS TO THE CONVENTION FOR
THE PROTECTION OF THE MEDITERRANEAN SEA
AGAINST POLLUTION (BARCELONA CONVENTION)**

INTRODUCTION

As a follow up to the decisions of the Eighth Ordinary Meeting of the Contracting Parties held in Antalya in October 1993 as well as the recommendation of the Bureau at their Meeting in Rabat in June 1994, the secretariat initiated the process of revision of the Barcelona Convention, the related Protocols and the Mediterranean Action Plan.

As a result, a meeting of government-designated experts, hosted by the government of Spain and the Generalitat of Catalunya, was organised in Barcelona from 14 to 18 November 1994 during which the amendments to the Convention, the Dumping Protocol, the Land-Based Sources Protocol and the Specially Protected Areas Protocol, proposed by the Contracting Parties and the Secretariat were examined and discussed (UNEP(OCA)/MED WG.82/4).

As a follow up to the decisions of the Meeting, and thanks to the financial offer received from the Government of Spain, another meeting of government-designated experts was convened in Barcelona from 7 to 11 February 1995 to examine new draft amendments to the Barcelona Convention, the Dumping Protocol and the Specially Protected Areas Protocol (UNEP(OCA)/MED WG.91/7).

As a result, the proposed amended texts to the Convention included in the present document are those agreed upon by the above mentioned meetings and are submitted to the Ninth Ordinary Meeting of the Contracting Parties for approval and subsequently to the Conference of Plenipotentiaries, to be held in Barcelona on 9 and 10 June 1995, for formal adoption.

This document contains proposed amendments to the texts of the Convention for the Protection of the Mediterranean Sea against Pollution. The texts not included in this document remain unchanged.

Title

As amended:

CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AND THE COASTAL REGION OF THE MEDITERRANEAN

Preamble

Second indent as amended:

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

Additional indents:

Fully aware that the Mediterranean Action Plan, since its adoption in 1975 and through its evolution, has contributed to the process of sustainable development in the Mediterranean region and has represented a substantive and dynamic tool for the implementation of the activities related to the Convention and its Protocols by the Contracting Parties,

Taking into account the results of the United Nations Conference on Environment and Development, held in Rio de Janeiro from 4 to 14 June 1992,

Also taking into account the Declaration of Genoa of 1985, the Charter of Nicosia of 1990, the Declaration of Cairo on Euro-Mediterranean Cooperation on the Environment within the Mediterranean Basin of 1992, the recommendations of the Conference of Casablanca of 1993, and the Declaration of Tunis on the Sustainable Development of the Mediterranean of 1994,

Bearing in mind the relevant provisions of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 and signed by many Contracting Parties,

Article 1

GEOGRAPHICAL COVERAGE

Paragraph 2. as amended and new paragraph 3.:

2. The application of the Convention may be extended to coastal areas as defined by each Contracting Party within its own territory.
3. Any Protocol to this Convention may extend the geographical coverage to which that particular Protocol applies.

Article 2

DEFINITIONS

Paragraph (a) as amended:

- (a) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results, or is likely to result, in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of seawater and reduction of amenities.

Article 3

GENERAL PROVISIONS

Paragraphs 1. and 2. as amended and new paragraphs 2 bis, 3, and 3 bis:

1. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or sub-regional agreements for the promotion of sustainable development, the protection of the environment, the conservation and preservation of natural resources in the Mediterranean Sea Area, provided that such agreements are consistent with this Convention and the Protocols and conform to international law. Copies of such agreements shall be communicated to the Organization. As appropriate, Contracting Parties should make use of existing organizations, agreements or arrangements in the Mediterranean Sea Area.
2. Nothing in this Convention and its Protocols shall prejudice the rights and positions of any State concerning the United Nations Convention on the Law of the Sea of 1982.
- 2 bis. The Contracting Parties, when applying this Convention and its related Protocols, shall carry out their obligations in conformity with international law.

3. 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.

3 bis. Nothing in this Convention and its Protocols shall affect the sovereign immunity of warships or other ships owned or operated by a State while engaged in government non-commercial service. However, each Contracting Party shall ensure that its vessels and aircraft, entitled to sovereign immunity under international law, act in a manner consistent with this Protocol.

Article 4

GENERAL OBLIGATIONS

As amended:

1. The Contracting Parties shall individually or jointly take all appropriate measures in accordance with the provisions of this Convention and those Protocols in force to which they are party to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to protect and enhance the marine environment in that Area so as to contribute towards its sustainable development.

2. The Contracting Parties pledge themselves to take appropriate measures to implement the Mediterranean Action Plan and, further, to pursue the protection of the marine environment and the natural resources of the Mediterranean Sea Area as an integral part of the development process, meeting the needs of present and future generations in an equitable manner. For the purpose of implementing the objectives of sustainable development the Contracting Parties shall take fully into account the recommendations of the Mediterranean Commission on Sustainable Development established within the framework of the Mediterranean Action Plan.

3. In order to protect the environment and contribute to the sustainable development of the Mediterranean Sea Area, the Contracting Parties shall:

- (a) apply, in accordance with their capabilities, the precautionary principle, by virtue of which where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;
- (b) apply the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter, with due regard to the public interest;

- (c) undertake environmental impact assessment for proposed activities that are likely to cause a significant adverse impact on the marine environment and are subject to an authorization by competent national authorities;
 - (d) promote cooperation 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;
 - (e) commit themselves 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.
4. In implementing the Convention and the related Protocols, the Contracting Parties shall:
- (a) adopt programmes and measures which contain, where appropriate, time limits for their completion;
 - (b) utilize the best available techniques and the best environmental practices and promote the application of, access to and transfer of environmentally sound technology, including clean production technologies, taking into account the social, economic and technological conditions.
5. The Contracting Parties shall cooperate in the formulation and adoption of Protocols, prescribing agreed measures, procedures and standards for the implementation of this Convention.
6. The Contracting Parties further pledge themselves to promote, within the international bodies considered to be competent by the Contracting Parties, measures concerning the implementation of programmes of sustainable development, the protection, conservation and rehabilitation of the environment and of the natural resources in the Mediterranean Sea Area.

Article 5

As amended:

**POLLUTION CAUSED BY DUMPING FROM SHIPS
AND AIRCRAFT OR INCINERATION AT SEA**

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by dumping from ships and aircraft or incineration at sea.

Article 6

POLLUTION FROM SHIPS

As amended:

The Contracting Parties shall take all measures in conformity with international law to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by discharges from ships and to ensure the effective implementation in that Area of the rules which are generally recognized at the international level relating to the control of this type of pollution.

Article 7

POLLUTION RESULTING FROM EXPLORATION AND EXPLOITATION OF
THE CONTINENTAL SHELF AND THE SEABED AND ITS SUBSOIL

As amended:

The Contracting Parties shall take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil.

Article 8

POLLUTION FROM LAND-BASED SOURCES

As amended:

The Contracting Parties shall take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Area and to draw up and implement plans for the reduction and phasing out of substances that are toxic, persistent and liable to bioaccumulate arising from land-based sources. These measures shall apply:

- (a) to pollution from land-based sources originating within the territories of the Parties, and reaching the sea:
 - directly from outfalls discharging into the sea or through coastal disposal;
 - indirectly through rivers, canals or other watercourses, including underground watercourses, or through run-off;
- (b) to pollution from land-based sources transported by the atmosphere.

New article as follows:

Article 9A

CONSERVATION OF BIOLOGICAL DIVERSITY

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve biological diversity, rare or fragile ecosystems, as well as species of wild fauna and flora which are rare, depleted, threatened or endangered and their habitats, in the area to which this Convention applies.

New article as follows:

Article 9B

POLLUTION RESULTING FROM THE TRANSBOUNDARY MOVEMENTS
OF HAZARDOUS WASTES AND THEIR DISPOSAL

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest possible extent eliminate pollution of the environment which can be caused by transboundary movements and disposal of hazardous wastes, and to reduce to a minimum, and if possible eliminate, such transboundary movements.

Article 11

SCIENTIFIC AND TECHNOLOGICAL COOPERATION

Paragraph 2. as amended:

2. The Contracting Parties undertake to promote the research on, access to and transfer of environmentally sound technology, including clean production technologies and to cooperate in the formulation, establishment and implementation of clean production processes.

New article as follows:

Article 11A

ENVIRONMENTAL LEGISLATION

1. The Contracting Parties shall adopt legislation implementing the Convention and the Protocols.
2. The Secretariat may, upon request from a Contracting Party, assist that Party in the drafting of environmental legislation in compliance with the Convention and the Protocols.

New article as follows:

Article 11B

PUBLIC INFORMATION AND PARTICIPATION

1. The Contracting Parties shall ensure that their competent authorities shall give to the public appropriate access to information on the environmental state in the field of application of the Convention and the Protocols, on activities or measures adversely affecting or likely to affect it and on activities carried out or measures taken in accordance with the Convention and the Protocols.
2. The Contracting Parties shall ensure that the opportunity is given to the public to participate in decision making processes relevant to the field of application of the Convention and the Protocols, as appropriate.
3. The provision of paragraph 1. of this Article shall not prejudice the right of Contracting Parties to refuse, in accordance with their legal systems and applicable international regulations, to provide access to such information on the ground of confidentiality, public security or investigation proceedings, stating the reasons for such a refusal.

Article 12

LIABILITY AND COMPENSATION

As amended:

The Contracting Parties undertake to cooperate in the formulation and adoption of appropriate rules and procedures for the determination of liability and compensation for damage resulting from pollution of the marine environment in the Mediterranean Sea Area.

Article 13

INSTITUTIONAL ARRANGEMENTS

Paragraph (iii) as amended and new paragraphs (iii bis) and (iv bis):

- (iii) to receive, consider and reply to enquiries and information from the Contracting Parties;
- (iii bis) to receive, consider and reply to enquiries and information from non-governmental organizations and the public when they relate to subjects of common interest or to activities carried out at the regional level; in this case, the Contracting Parties concerned shall be informed;
- (iv bis) to regularly report to the Contracting Parties on the implementation of the Convention and of the Protocols;

Article 14

MEETINGS OF THE CONTRACTING PARTIES

New paragraph 2. (vii) as follows:

- (vii) to approve the Programme Budget.

New article as follows:

Article 14A

BUREAU

1. The Bureau of the Contracting Parties shall be composed of representatives of the Contracting Parties elected by the Meetings of the Contracting Parties. In electing the members of the Bureau, the Meetings of the Contracting Parties shall observe the principle of equitable geographical distribution.
2. The functions of the Bureau and the terms and conditions upon which it shall operate shall be set in the Rules of Procedure adopted by the Meetings of the Contracting Parties.

New article as follows:

Article 14B

OBSERVERS

1. The Contracting Parties may decide to admit as observers at their meetings and conferences:
 - (a) any State which is not a Contracting Party to the Convention;
 - (b) any international governmental organisation or any non-governmental organisation the activities of which are related to the Convention.
2. Such observers may participate in meetings without the right to vote and may present any information or report relevant to the objectives of the Convention.
3. The conditions for the admission and participation of observers shall be established in the Rules of Procedure adopted by the Contracting Parties.

Article 15

ADOPTION OF ADDITIONAL PROTOCOLS

Deletion of paragraph 3.

Article 18

RULES OF PROCEDURE AND FINANCIAL RULES

Paragraph 2. as amended:

2. The Contracting Parties shall adopt financial rules, prepared in consultation with the Organisation, to determine, in particular, their financial participation in the Trust Fund.

Article 20

REPORTS

As amended:

1. The Contracting Parties shall transmit to the Organisation reports on:
 - (a) the legal, administrative or other measures taken by them for the implementation of this Convention, the Protocols and of the recommendations adopted by their meetings;
 - (b) the effectiveness of the measures referred to in subparagraph (a) and problems encountered in the implementation of the instruments as mentioned above.
2. The reports shall be submitted in such form and at such intervals as the Meetings of Contracting Parties may determine.

Article 21

COMPLIANCE CONTROL

As amended:

The meetings of the Contracting Parties shall, on the basis of periodical reports referred to in Article 20 and any other report submitted by the Contracting Parties, assess the compliance with the Convention and the Protocols as well as the measures and recommendations. They shall recommend, when appropriate, the necessary steps to bring about full compliance with the Convention and the Protocols and promote the implementation of the decisions and recommendations.