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**The application of the Principle of Common but Differentiated Responsibility for
Pollution Reduction in the Mediterranean Region**

Temporal differentiation mechanism based on ELVs

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1 Introduction

The aim of the present document is to propose and describe the process of application of the adopted principle of common but differentiated responsibility for the sustainable implementation of pollution reduction actions in the region. The process is expected to be the basis for the implementation of the regional plans and programmes to be gradually adopted by the Contracting Parties under Art 15 of the LBS Protocol.

1.1 Background

A differentiated approach based on ELVs

At the Government-designated Expert Meetings held in Durres and Barcelona (see doc UNEP(DEPI)/MED WG. 289/4 and doc. UNEP(DEPI)/MED WG. 307/4) the Contracting Parties agreed that a consensually identified differentiated approach, in the framework of the principle of common but differentiated responsibility of the Parties to the Barcelona Convention, could indeed ensure sustainable long-term implementation of the National Action Plans (NAPs) to address pollution from land-based activities. This is mainly because of the prevailing differences in the socio economic conditions of the region and the actual capacity of countries to concretely implement their pollution reduction actions and respect their commitments in the framework of LBS Protocol. After approving the principle of applying a differentiated approach, the Parties adopted the Emission Limit Values (ELVs) as the basic criteria for the development of a differentiation mechanism.

ELVs can be defined as the maximum allowable concentration or load (relative to production or time) that can be discharged to the environment. ELVs are usually set per substances and per sector, and they can be specified for sub-sectors and effluents (before and after treatment). ELVs are enforced at facility level (not average national or sectoral).

A differentiated approach based on a temporal differentiation

As a follow up to the decisions and recommendations of the MED POL Focal Points and according to decision 17/8 (2b) and (2c) of the Contracting Parties (Almeria, 2008), which call for:

- a. Identification of a differentiation mechanism during 2008-2009 for the implementation of regional Emission Limit Values (ELVs), based on BAT, and start the process of developing regional and /or subregional -as appropriate-Environmental Quality Objectives (EQOs) for the marine environment, and
- b. Identification of relevant elements and indicators arising from the implementation of the ecosystem approach,

the Secretariat proposed two options for the differentiation process that were presented to the MED POL National Focal Points Meeting of Aix-en-Provence (see doc UNEP(DEPI)/MED WG. 328/4). The two differentiation processes identified by the Secretariat, on the basis of countries' indications, relevant international literature, MEAs and the most recent developments occurred in the management of ecosystems at the global level in the framework of UNEP and, at regional level, in the framework of the application of the Ecosystem Approach, were the following:

- i. Temporal differentiation (option 1)
- ii. Differentiation in the framework of the ecosystem approach (option 2)

The Focal Points indicated a preference for the temporal differentiation option (option 1), without closing the door to Option 2, for which it was necessary to wait for additional information related to the application of the ecosystem approach in the region. The option should in any case be accompanied by the transfer of knowledge and capacity building programmes.

As a conclusion, the Focal Points recommended the following:

1. The establishment of an exhaustive list of “substances of concern” for the Mediterranean (Annex I) and a list of “action substances”(Annex II) out of the list of “substances of concern” according to the following criteria:

- a. The substance is covered by regional and /or international instruments regulating its use, release, phasing out, and
- b. The substance has an ELV or its ELV is under development either at national or at regional level, and
- c. The substance and/or its high input could represent a risk to the marine environment or human health.

2. The implementation of temporal differentiation process is based on the establishment of common regionally ELVs for the “action substances” and relevant sectors. This process should be taken into account when preparing programmes of actions including measures and timetables.

3. The temporal differentiation shall include different “temporal packages” indicating the deadlines by when countries would reach the objectives of the measure as well as intermediate deadlines, as appropriate, in function of the economic capacity of the Party and their need for development. The differentiation mechanism, in addition to the accompanying measures (transfer of know-how and technology, monitoring and evaluation, governance), could include the good housekeeping, information on the current BAT and information, on national ELVs based on information provided by the countries.

1.2 Objective

The objective of the differentiation mechanism is to facilitate the implementation by the Parties to the Barcelona Convention of regional programmes or action plans containing measures and timetables to eliminate or reduce releases of priority pollutants in the Mediterranean region (Art. 15 of the LBS Protocol).

2 The temporal differentiation mechanism

2.1 Setting of regional ELVs

Reference ELVs for a given priority substance in the Mediterranean region shall be developed in close cooperation with the Contracting Parties and submitted, for possible adoption, to the

Contracting Parties meetings by MED POL. These reference values shall be preferably detailed at sector/subsector level, through a multi-stakeholder exercise involving experts and industry, and taking into account BATs and the current technological status of each sector.

All regulations and initiatives already in place (e.g. national adopted ELVs, EU Directives, OSPAR or HELCOM recommendations, etc.) will be taken into account, as well as the available technical documentation (CP/RAC sector studies, EU BREFs, industrial associations publications, etc.). Reference ELVs shall be reviewed periodically according to the evolution of technology, national legislation, and other related Multilateral Environmental Agreements.

2.2 Definition of reference timetables and deadlines for the adoption of ELVs

In order to cope with legal, technical and/or economical constraints to adopt reference regional ELVs, the regional programmes or action plans shall include different “temporal packages”, indicating the reference deadlines and intermediate deadlines by when countries shall reach the objectives of the measure.

To allow for differentiation, at least two different deadlines shall be considered. An appropriate time span should be established since the adoption of the measure, in order to allow countries and sectors to adapt to the new objectives. However, temporal differences in the implementation of measures should not be excessively long, in order to ensure a progressive convergence of environmental standards in the whole Mediterranean region. The definition of the time intervals should also take into account those of other related initiatives (e.g. SAP, EC Horizon 2020, EU directives, etc.) in order to identify, as far as possible, key and shared deadlines.

2.3 Differentiated adoption of ELVs at national level

The Parties shall prepare national programmes for the adoption and implementation of the regional ELV, indicating and justifying the deadline(s) by when the measures will be adopted at national level. The selection of deadlines will take into account the following criteria:

- National legislation. The ELVs proposed at regional level shall be adopted taking into account existing legislation already in force in the countries. For example, for those countries where the proposed ELVs have already been adopted, deadlines should be earlier or immediate.
- Technical and economic capacity. Parties shall take into account the technological status of the involved sectors, and the capacity to progressively implement BATs and BEPs leading to the achievement of ELVs. The availability of waste and waste water collecting systems and treatment plants will also be evaluated. Parties may adopt different deadlines for different sectors depending also on their total contribution to pollutant releases and the marginal costs of emission abatement. Also the capacity to afford net national economic costs derived from the implementation of measures will be of major importance for the final selection of deadlines.
- Target areas. Parties shall consider an earlier adoption of ELVs in those areas where the capacity of the receiving environment is more affected, due to the concentration of total loads (e.g. in large urban/industrial agglomerations).

These general criteria shall be more targeted and detailed by the Secretariat when included as guidelines in each regional programme or action plan.

3. Accompanying measures

3.1 Monitoring and evaluation

A Monitoring and Evaluation Plan shall be developed by MED POL and subject to the approval of the Contracting Parties on the basis of indicators that will track the implementation of the pollution reduction objectives and targets in the framework of LBS Protocol, on the basis of the differentiation mechanism adopted.

Parties shall elaborate and adopt appropriate permitting, enforcement and inspection systems, taking into account the Reference Handbook on Environmental Compliance and Enforcement in the Mediterranean Region (UNEP/MAP/MEDPOL/WHO, 2004), which provides guidelines on organizational issues, procedural issues, human infrastructure and sampling.

Environmental status and effectiveness indicators that are developed in the framework of Art. 26 of the Convention could be considered as complementary tools to assess the effectiveness of the pollution reduction measures. In this context, the possibility to have accredited national or international laboratories for tracking changes and conformity to regulations could be considered as a tool for a reliable implementation of the Monitoring and Evaluation process.

For the purposes of monitoring the implementation of measures, the Contracting Parties shall make use of the MAP biannual reporting system of the implementation of the LBS Protocol, to report on all measures taken in accordance with the different regional action plans.

The Parties shall inform the Secretariat or the Compliance Committee, according to the provisions established on the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols (UNEP(DEPI)/MED WG.320/8), of difficulties or potential situations of non-compliance with the deadlines for the adoption of ELVs.

3.2 Transfer of know-how and technology

Reduction of pollution cannot be properly and effectively achieved in the region, in the framework of a differentiation mechanism without promoting a process of transfer of technology and know-how. This will ensure the sustainability of the reduction actions as it will concretely assist countries and create synergies. In this context, and in accordance with articles 9 and 10 of the LBS Protocol, the regional actions plans based on a temporal differentiation mechanism shall include provisions to promote the cooperation between the parties concerning the transfer of know-how and technology

Parties shall cooperate to facilitate the capacity to apply, develop and manage access to cleaner production technologies as well as the best available techniques (BAT) and the best environmental practice (BEP) leading to the achievement of ELVs. To this end, several actions shall be taken into consideration, including:

- To enhance the access to and transfer of patent-protected environmentally sound technology, in particular to developing countries;
- To promote collaborative arrangements between enterprises of developed and developing countries for the use of clean production technologies;

- To establish networks of scientists and technicians within the region to promote and integrate the technology transfer in their socio-economical environment;
- To transfer not only equipment but also the information, skills, and know-how which are needed to fund, manufacture, install, operate, maintain, adapt and improve technologies;
- To prepare information and dissemination tools on the above issues (e.g. general manuals and guidelines, web based databases, etc.), translated into different languages of the region, and specially disseminated to end-users (e.g. small and medium enterprises).

Capacity building programmes shall also be promoted by the countries and the Secretariat. Training programmes should be encouraged at regional level and promoted at the national level by industrial and environmental authorities. This will include technical workshops with experts and representatives from public authorities, industry and other stakeholders.

3.3 Synergies

The Secretariat and the involved Parties shall take into account the different legal, political and financial instruments and initiatives that are currently targeting the reduction of pollution from urban and industrial sources: the Barcelona Convention and its Protocols, the Union for the Mediterranean, the EU initiative "Horizon 2020 " and its MeHSIP, the new MAP-GEF-World Bank Strategic Partnership, the World Bank initiatives in the region and many other multilateral and bilateral initiatives in addition to the efforts of the Contracting Parties. This will ensure the needed harmonization and thus sustainability and effectiveness to the pollution reduction actions and activities. As a result, the following is recommended:

- a) Joint planning and joint implementation of activities
 - i) Joint planning and implementation could provide an opportunity to maximize use of resources;
 - ii) Enhanced coherence and coordination on cross-cutting issues;
 - iii) Joint resource mobilization efforts may attract additional resources.
- b) Exchange of information on common issues: Groups comprising staff members from the secretariats of multilateral environmental agreements, national experts could be created to exchange information on issues related to the implementation of this mechanism. This could have the following advantages:
 - i) Maximize the benefits derived from existing resources;
 - ii) Enhance coherence, consistency and coordination.
- c) Liaison or coordinating groups to:
 - i) Increase coherence and coordination on areas where significant synergies exist;
 - ii) ensure that countries priorities are properly recognized in any programmes developed;

iii) promote the development of mutually supportive tools for the sound pollution reduction of substances and relevant sectors, promote benefit-sharing, for example through technology transfer and joint research and development, which could address difficulties that are specifically regional in nature;

iv) national groups, coordination could be promoted so that consistent position is taken during negotiations on the implementation of the mechanism, and the sound reduction of pollution.

4. Accompanying information and guidelines

4.1 ELVs

For the setting of regional ELVs, the Parties shall provide information to the Secretariat on the ELVs already in force at national level for the substances of interest.

All this information, along with information related with other regional ELVs (e.g. EU Directives, OSPAR, HELCOM, etc.) shall be compiled by the Secretariat and provided as complementary information to the regional action plans.

4.2 BAT & BEPs

Reference information on BATs and BEPs related with the adoption of ELVs for a given pollutant, shall also be included in the regional action plans. Depending on the measure being adopted, this information may also include guidelines for the sound disposal of wastes containing the chemicals of concern, and alternative substances and processes to avoid the use and/or releases of the relevant substances.

5 References

UNEP/MAP (2006) Report of the meeting to review the long-term implementation of National Action Plans to address pollution from land-based activities. Durrës, (Albania), 1-3 June 2006. UNEP(DEPI)/MED WG. 289/4.

UNEP/MAP (2007) Report of the working group to review the long-term implementation of National Action Plans to address pollution from land-based activities. Barcelona, (Spain), 1-2 March 2007. UNEP(DEPI)/MED WG. 307/4.

UNEP/MAP (2009) Report of the meeting on the implementation of NAPs and the preparation of legally binding measures and timetables required by Art.15 of the LBS Protocol. Aix-en-Provence (France), 27-28 November 2008. UNEP(DEPI)/MED WG. 328/4.

UNEP/MAP (2007) Draft Decision on procedures and mechanisms on compliance under the Barcelona Convention and its Protocols. UNEP(DEPI)/MED WG. 320/8.

UNEP/MAP/MED POL/WHO (2004) Reference handbook on environmental compliance and enforcement in the Mediterranean region. MAP Technical Reports Series No. 150, UNEP/MAP, Athens, 2004.

Annex I

CHEMICAL COMPOUNDS	UNPOPs Stockholm Convention	OSPAR Convention	HELCOM Convention	WFD (EU)	LBS Protocol
METALS AND RELATED COMPOUNDS					
Metals					
Cadmium		X	X	X ^c	Yes
Lead		X	X	X ^c	Yes
Mercury		X	X	X ^c	Yes
Selenium			X		
Nickel				X	Yes
Metallic Compounds					
Organic tin compounds		X	X		Yes
Tributyltin compounds				X ^c	Yes
Tributyltin-cation				X	
Cadmium compounds			X	X ^c	
Nickel compounds				X	
Organic Mercury compounds		X	X	X ^c	Yes
Organic Lead compounds		X	X	X ^c	Yes
Selenium compounds			X		
HYDROCARBONS					
Aliphatic HC					
cyclododecane		x ^b			
1,5,9-cyclododecatriene		x ^b			
Aromatic HC					
Benzene				X	
Polycyclic Aromatic Hydrocarbons		X	X	X ^c	Yes
Anthracene				X ^c	
Napthalene				X ^c	
Fluoranthene				X	Yes
Benzo(a)pyrene				X	Yes
Benzo(b)fluoranthene				X	Yes
Benzo(g,h,i)perylene				X	Yes
Benzo(k)fluoranthene				X	Yes
Indeno(1,2,3-cd)pyrene				X	Yes
Synthetic musk					
Musk xylene		X	X		
ORGANOHALOGEN COMPOUNDS					
Halogenated Aliphatic HC					
Chlorinated paraffins, short chained (SCCP)	x ^a	X	X	X ^c	Yes
Chloroform (Trichloromethane)			X	X	Yes

Dichloromethane			X	Yes
1,2-Dichloroethane			X	Yes
Hexachlorobutadiene			X ^c	
PFOs (Perfluorooctane sulfonate)	x ^a	X		
Hexabromocyclododecane (HBCDD)	x ^a			
Halogenated Aromatic HC				
<u>Chlorobenzenes</u>				
Trichlorobenzenes			X ^c	Yes
1,2,3-trichlorobenzene		X		
1,2,4-trichlorobenzene		X	X	
1,3,5-trichlorobenzene		X		
Pentachlorobenzene	x ^a		X ^c	
<u>Brominated Flame Retardands</u>				
Brominated diphenylethers PBDEs			X ^c	Yes
Pentabrominated diphenyl ether	x ^a			Yes
Polybrominated biphenyls (PBBs)				Yes
Hexabromobiphenyl	x ^a		X	Yes
Octabromobiphenyl	x ^a			
Polychlorinated Biphenyls (PCBs)	X	X	X	Yes
Polychlorinated dibenzodioxins (PCDDs)	X	X	X	Yes
Polychlorinated dibenzofurans (PCDFs)	X	X	X	Yes
2,4,6-bromophenyl 1-2(2,3-dibromo-2-methylpropyl)		x ^b		
Pentabromoethylbenzene		x ^b		
Heptachloronorborene		x ^b		
Pentachloroanisole		x ^b		
Polychlorinated naphthalenes		x ^b		Yes
trichloronaphthalene		x ^b		
tetrachloronaphthalene		x ^b		
pentachloronaphthalene		x ^b		
hexachloronaphthalene		x ^b		
heptachloronaphthalene		x ^b		
octachloronaphthalene		x ^b		
naphthalene, chloro derivs.		x ^b		
Chlorinated Phenolic Compounds				Yes
phenol, 4,4'-(1-methylethylidene)bis[2,6-dibromo- / tetrabromobisphenol A (TBBP-A)		X		
ORGANOHALOGENATED PESTICIDES/BIOCIDES				

Alachlor				X	
Atrazine				X ^c	
1,2-Dibromoethane			X		
<u>Chlorophenoxyacids</u>					Yes
2,4,5-T			X		Yes
Acrylonitrile			X		
Aldrin	X		X		Yes
Aramite			X		
Chlordane	X		X		Yes
Chlordecone (Kepone)	x ^a		X		Yes
Chlordimeform			X		
Chlorfenvinphos				X	
Chlorpyrifos				X ^c	
Dicofol		X			
DDTs	X		X		Yes
Diuron				X ^c	
Dieldrin	X		X		Yes
Endosulphan (alpha-endosulfan)	x ^a	X		X ^c	
Endrin	X		X		Yes
Ethyl O-(p-nitrophenyl) phenyl phosphonothionate (EPN)		x ^b			
Fluoroacetic acid and derivates			X		
Flucythrinate		x ^b			
<u>Hexachlorocyclohexane (HCH isomers)</u>		X	X		Yes
HCH (gamma-isomer, Lindane)	x ^a		X	X ^c	Yes
alpha-HCH	x ^a				Yes
beta-HCH	x ^a		X		Yes
Heptachlor	X		X		Yes
Hexachlorobenzene	X		X	X ^c	Yes
Isobenzane			X		
Isodrin		x ^b	X		
Isoproturon				X ^c	
Kelevan			X		
Methoxychlor		X			
Mirex	X		X		Yes
Morfamquat			X		
Nitrophen			X		
Pentachlorophenol			X	X ^c	Yes
Quintozene			X		
Simazine				X ^c	
Tetrasul		x ^b			
Trifluralin		X		X ^c	
Toxaphene	X		X		Yes
OTHER ORGANIC COMPOUNDS					
Phenols					
2,4,6-tri-tert-butylphenol		X			
Nonylphenol/ethoxylates		X	X		

(NP/NPEs)			
Nonylphenols			X ^c
Nonylphenol, 4-		X	X
Octylphenols	X		X ^c
(para-tert-octylphenol)			X
Organic Nitrogen Compounds			
4- (dimethylbutylamino)diphenylamin (6PPD)	X		
3,3'- (ureylenedimethylene)bis(3,5,5- trimethylcyclohexyl) diisocyanate	x ^b		
Organic Oxigen Compounds			
neodecanoic acid, ethenyl ester	X		
2-propenoic acid, (pentabromo)methyl ester	x ^b		
Dibutylphthalate (DBP)	X	X	
Diethylhexylphthalate (DEHP)	X	X	X ^c
Pharmaceuticals			
Clotrimazole	X		
Diosgenin	x ^b		

UNPOPs: Stockholm Convention on Persistent Organic Pollutants. (X: 12 approved POPs; x^a : proposed substance)

OSPAR: OSPAR List of Chemicals for Priority Action (update 2007) (X: priority chemicals where a background document has been or is being prepared; x^b: priority chemicals where no background document is being prepared because they are intermediates in closed systems or there is no current production or use interest)

HELCOM: List of Selected Substances for Immediate Priority Action (Recom. 19/5)

WFD: List of priority substances in the Water Framework Directive (Decision 2455/2001/EC) (X: priority substance; X^c: identified or being identified as possible "priority hazardous substance").

ANNEX II

1) Nutrients

- i. BOD (group of biodegradable substances expressed as BOD) from Industrial sources
- ii. BOD (group of biodegradable substances expressed as BOD) from urban wastewater
- iii. Total Nitrogen
- iv. Total Phosphorus

2) Metals and related compounds

- o Chromium
- o Cadmium
- o Lead
- o Mercury
- o Organic tin compounds
- o Organic mercury compounds
- o Organic lead compounds

3) Organohalogen compounds:

- o Polychlorinated Biphenyls (PCBs)
- o Polychlorinated dibenzodioxins (PCDDs)
- o Polychlorinated dibenzofurans (PCDFs)
- o Pesticides included in Annex I of the LBS Protocol and Annex A of Stockholm Convention

4) Total suspended particulates

5) Total Volatile Organic Compounds

6) Nitrogen oxides

7) NH₃

8) Sulfur oxide