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MEDITERRANEAN ACTION PLAN

First Meeting of Mediterranean Experts on
the preparation of a Protocol on the prevention
of pollution of the Mediterranean Sea resulting
from the transboundary movements of hazardous
wastes and their disposal

Cervia, Italy, 23-25 April 1993

**Report of the First Meeting of Mediterranean Experts
on the preparation of a Protocol on the prevention
of pollution of the Mediterranean Sea resulting from
the transboundary movements of hazardous wastes
and their disposal**

Introduction

1. The Seventh Ordinary Meeting of the Contracting Parties (Cairo, October 1991) and the meeting of the Bureau of the Contracting Parties (Cairo, November 1992) requested the Secretariat to convene a meeting of a working group of technical and legal experts, during 1993, for the preparation of a draft protocol for the prevention of pollution of the Mediterranean Sea by the transboundary movement of hazardous wastes and their disposal.

2. The meeting was convened in Cervia (Italy) from 23-25 April 1993 at the kind invitation of La Facoltà dell'Arte e della Scienza.

Participation

3. Experts from the following Contracting Parties to the Barcelona Convention attended the meeting : Albania, Algeria, Cyprus, EEC, Egypt, Greece, Israel, Italy, Libyan Arab Jamahiriya, Malta, Monaco, Spain, Syria, Tunisia and Turkey.

4. Croatia attended the meeting as an observer.

5. The following United Nations bodies, specialized agencies and other intergovernmental and non-governmental organizations were represented by observers : UNEP/Basel Convention Secretariat, UNEP/IMO Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), Food and Agriculture Organization of the United Nations (FAO), International Juridical Organization for Environment and Development (IJO), Greenpeace International, International Commission for Scientific Exploration of the Mediterranean (ICSEM), The Oil Industry International Exploration and Production Forum (E & P Forum), The Hellenic Marine Environment Protection Association (HELMPEPA), La Facoltà dell'Arte e della Scienza, Centre for Environment and Development of Arab Region and Europe (CEDARE), and EURO CHLOR.

6. The list of participants is attached as Annex II to this report.

Agenda item 1 - Opening of the meeting

7. The meeting was opened by Mr. I. Dharat, Senior Programme Officer, UNEP/MAP, who welcomed participants to the meeting and made a statement on behalf of the Mediterranean Action Plan.

8. He expressed UNEP/MAP's sincere gratitude to the Government and people of Italy, the authorities of the Emilia Romagna region, and in particular to La Facoltà dell'Arte e della Scienza and its Chairman, Mr. Sergio Illuminato, and other collaborators, for hosting the meeting and providing such a beautiful venue and excellent facilities.

9. After briefly summarizing the structural objectives of UNEP/MAP, the representative of UNEP/MAP outlined the historical background to the preparation of the draft Protocol and the convening of the meeting. He pointed out that the issue of transboundary movements of hazardous wastes had become a very tense subject internationally, as well as for the Mediterranean region in particular, due to its geographical location as a crossroads between

continents. The developing countries, including those in the Mediterranean, were witnessing increased movement of various hazardous wastes which were causing risks to the environment and the human health of present and future generations. As environmental laws and regulations in the industrialized countries became increasingly tight and stringent and as the cost of waste disposal rose, in addition to the economic difficulties and financial constraints encountered by many developing countries, the practice of exporting hazardous wastes to the poor nations would continue and possibly increase in the near future. Developing countries would therefore remain vulnerable for some time to come to potential exposure to hazardous wastes until international and regional mechanisms were set up to control and resolve the world's hazardous wastes dilemma.

10. It had been estimated that between 300-400 million tons of hazardous wastes were produced annually. Around 90 per cent were generated in industrialized countries. Some of them were disposed of through hazardous waste disposal technologies, including incineration and controlled disposal on land. The rest was moved through States and regions in a search for disposal sites on land or at sea, including sites in the Mediterranean region.

11. It had, therefore, become clear that the Mediterranean States should take the necessary national and regional measures, including the preparation of a legal instrument, to deal with that serious issue. In preparing the draft Protocol, the Secretariat had been instructed by the Contracting Parties to ensure co-ordination with existing conventions, especially the Basel Convention. The Secretariat had received considerable help from the UNEP Secretariat for the Basel Convention and had also benefited from other texts such as the Bamako Convention and the proposal made by Greenpeace, as well as current international practice.

12. He concluded by emphasizing that the purpose of the meeting was to conduct a first reading of the draft Protocol. If issues remained unsolved, the Secretariat envisaged the convening of a second meeting during 1994.

13. In welcoming participants, Mr. M. Medri, Mayor of Cervia, pointed out that he and his colleagues would follow very closely the important work of the meeting and he wished it every success.

14. Ms. L. Pierantonelli, welcoming participants on behalf of the Italian Ministry of the Environment, expressed the opinion that the work of the meeting would be very important for the Mediterranean region, in particular as far as tourism was concerned.

15. Speaking on behalf of La Facoltà dell'Arte e della Scienza, Mr. S. Illuminato emphasized that the environment was one of man's fundamental rights as well as a social responsibility and it should be managed independently of economic exploitation. Environmental management was not only a responsibility for society as a whole, but especially for international organizations. He stressed that, for changes to take place, people must be informed and must be helped to understand the issues.

Agenda item 2 - Rules of procedure

16. The Secretariat stated that the rules of procedure adopted for the meetings and conferences of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related protocols (UNEP/IG.43/6, Annex XI) would apply mutatis mutandis to the First Meeting of Experts.

Agenda item 3 - Election of officers

17. In accordance with rule 20 of the rules of procedure and after informal consultations, the meeting unanimously elected the following officers :

Chairman	:	Mr. R. Cachia Zammit (Malta)
Vice-Chairmen	:	Ms. N. El-Ebrashi (Egypt) Mr. A. Piavaux (EEC)
Rapporteur	:	Mr. A. Boargob (Libyan Arab Jamahiriya)

Agenda item 4 - Adoption of the agenda and organization of work

18. The meeting adopted the provisional agenda contained in document UNEP(OCA)/MED WG.64/1/Rev.1.

19. It was decided to commence consideration of the draft Protocol by general remarks and then to undertake a first reading of the text article by article.

Agenda item 5 - Review of the draft Protocol on Hazardous Wastes

20. The representative of UNEP/MAP introduced the draft Protocol for the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal (UNEP(OCA)/MED WG.64/2). He stressed that the objective of the meeting was to review the text, make any amendments necessary and reach agreement on a revised draft text for submission to the meeting of the Contracting Parties for its consideration. Regarding the other assessment document on hazardous wastes prepared by a consultant, he pointed out that it had only been an information paper and it did not need to be discussed or approved by the meeting.

21. Several participants made brief general statements on the issue of hazardous wastes in their countries and on the draft Protocol in general terms.

22. The representative of Israel explained the situation in his country. He said that legislation required hazardous wastes to be transferred to a national site and recycling of hazardous wastes required a prior permit.

23. The representative of the EEC emphasized that he only represented the Commission of the European Communities at the meeting and any decisions taken would be without prejudice to the position to be adopted by the Community's authorities.

24. The representative of the Libyan Arab Jamahiriya pointed out that, particularly in developing countries, hazardous wastes caused risks for human health and the environment and the issue called for an urgent solution. He therefore believed that a Protocol was urgently needed and he welcomed the work of the Secretariat in preparing the text before the meeting. He informed the meeting that his country, as a Mediterranean country and a party to the Bamako Convention, had banned all kinds of imported waste shipments. The Libyan Technical Centre for Environment Protection had taken several measures to ensure the full control and registration of all chemical compounds imported into the country.

25. The representative of Tunisia said that his country had been one of the main instigators of the Bamako Convention and, in solidarity with its fellow African countries, it endeavoured to limit its own hazardous wastes through a voluntarist policy that made protection of the environment a fundamental guiding principle. Tunisia also made efforts to control and defend itself against the import of wastes or industrial activities which generated hazardous wastes.

26. At the level of prevention, since 1991 national regulations had made environmental impact assessments obligatory for all new industrial or other projects.

27. Regarding controls over the generation of waste, Tunisia had established a monitoring and technical and financial assistance system with sanctions for fraud and offences.

28. Aware of the need to introduce clean technologies into Tunisia, the Government had recently decided to create a Centre for Environmental Technology to combine efforts and competence in universities and industry in order to implement technologies which respected the environment.

29. Finally, Tunisia called upon its Mediterranean neighbours to prevent and eliminate voluntary shipwrecks of old vessels along the coast, which caused serious damage through the discharge of all types of hazardous products or wastes.

30. The representative of Algeria explained that his country had a framework law - Law No. 83-03 of 5 February 1993 - on protection of the environment, which included all aspects of development. The law was aimed at implementing a national strategy and promoting awareness among those responsible for planning and production activities.

31. In addition, Algeria had a number of other laws which dealt with environmental protection and it had ratified several international environmental agreements, including the Barcelona Convention and its Protocols and the London Convention.

32. As far as hazardous wastes were concerned, Algeria was fully aware of the problems they represented for human health and the environment. It was therefore implementing a national system for the elimination of hazardous wastes utilizing the experience gained in other countries. Moreover, the quantitative and qualitative assessment of hazardous wastes in Algeria was being carried out, an exercise financed by the World Bank.

33. The representative of Turkey said that her country fully supported the Contracting Parties' decision to develop an additional Protocol to the Barcelona Convention that would establish a regional mechanism to prevent the transboundary movements of hazardous wastes in the Mediterranean Sea. It was important to emphasize that the Basel Convention already dealt with transboundary movements of hazardous wastes, but, as it stood, it had a number of weaknesses and was not a fully satisfactory instrument. Turkey had, however, decided to sign the Convention and would ratify it. Efforts should be made to eliminate the weak points of the Basel Convention by including stricter rules and systems in the draft Protocol under discussion.

34. The definition of hazardous wastes was not clear in the Basel Convention nor within the OECD, despite the efforts made within that organization to define wastes clearly. A clear definition of environmentally sound recycling and reuse operation was also still needed because, as was well known, wastes might turn out to be hazardous after recycling or reuse.

35. As far as the preventive approach was concerned, important generation of wastes should be minimized by modifying consumption patterns and production technologies. Turkey considered that measures to prevent and stop the unscrupulous trade in hazardous wastes should include a ban on their export from developed to developing countries. All the efforts made by developed countries to treat and dispose of wastes in their country of origin, in compliance with the proximity and self-sufficiency principle, should continue.

36. The representative of Italy said that in her country the export of hazardous wastes to developing countries was prohibited and only export to other OECD countries was permitted.

37. The observer for Greenpeace International welcomed the statement by Turkey. He emphasized that the main issue was the disparity between disposal costs in developed and developing countries and the flow of hazardous wastes to non-OECD States.

38. The observer for the E & P Forum proposed that future consideration should be given to making the following addition to Article 3.1 (e) after the word "ships":

"or of mobile offshore units engaged in the exploration or exploitation of the sea-bed...".

The draft protocol concerning the prevention of pollution resulting from the exploration and exploitation of the continental shelf, the sea bed and its subsoil being prepared within the framework of MAP required the operators of such units to have waste disposal plans proposed by the coastal State.

39. The observer for the Hellenic Marine Environment Protection Association (HELMEPA), which had a membership of 7,700 Greek seafarers, 515 Greek-owned ocean-going vessels and 140 land-based companies and organizations, expressed the opinion that, in the case of carriage of hazardous substances by sea, the IMO provisions had to be observed. Regarding wastes from vessels' operations, IMO rules also prevailed, specifically Annex III to MARPOL. Concerning the

transfer of such substances, HELMEPA considered that, provided they were handled legally, observance of IMO standard rules and regulations ensured that no problems arose. Generation, processing and disposal of hazardous wastes were outside HELMEPA's scope and were already being dealt with by competent international bodies.

40. The representative of the EEC recalled that, in 1989, the Contracting Parties had asked for an assessment of the transfer of hazardous wastes in the Mediterranean area. Considering that that assessment must be available before the adoption of any protocol on the matter, he asked the Secretariat to inform the meeting of the actual status of the assessment.

41. The representative of UNEP/MAP stated that the assessment document on the status of hazardous wastes in the Mediterranean, requested by the 1989 Meeting of the Contracting Parties, had been prepared by Greenpeace International following Greenpeace's offer to provide assistance made to the joint meeting of MAP's two standing committees. The document had been presented to the meeting of the Contracting Parties held in Cairo in October 1991, which had authorized the Secretariat to convene a meeting of Mediterranean experts on the preparation of a draft Protocol on hazardous wastes.

42. Ms. I. Rummel-Bulska, Co-ordinator of the UNEP Basel Convention Secretariat, briefed the meeting on the status of the Basel Convention, which had entered into force on 5 May 1992. Only five Mediterranean States had ratified the Convention, namely, Cyprus, Egypt, France, Monaco and Syria, and she made an appeal to African Mediterranean States to speed up the process of ratifying the Convention. She described the draft Protocol before the meeting as a positive step forward and expressed her readiness to co-operate and co-ordinate work with the Mediterranean States in that regard, as had been the case to date.

43. Mr. E. Raftopoulos, UNEP/MAP Legal Adviser, briefed the meeting on the nature, the structure and the basic normative characteristics of the draft Protocol. He pointed out that the draft Protocol emanated from a variety of legal sources which included the 1989 Basel Convention, the 1991 Bamako Convention, the Greenpeace proposal submitted to the Seventh Ordinary Meeting of the Contracting Parties at Cairo in 1991 and the proposal by the Secretariat of the Basel Convention, while the 1992 Rio Declaration on Environment and Development as well as the requirements of the existing international environmental regime of the Barcelona Convention, had effectively been taken into account. In addition, he referred to the relevant trends and developments taking place in the context of various international organizations, other regional co-operation schemes and general international environmental law, which had also been taken into consideration. He then presented the structure of the draft Protocol (the preamble, the provisions on definitions, the substantive provisions and the procedural provisions) emphasizing the importance of assuring compatibility with the Basel Convention. There were also a number of innovatory provisions such as those concerning the allocation of the burden of proof for the definition of a hazardous waste or the information aimed at the public and public participation. Finally, he underlined the more stringent aspects of the compliance regime contained in the draft Protocol in regard to illegal traffic, the duty to re-import and the verification procedure. Pursuant to a request by the meeting, he proposed headings for each article.

44. Following the general remarks, the meeting considered the draft Protocol article by article. Due to lack of time, the meeting was unable to complete the first reading of the annexes to the draft Protocol. Articles 1 to 17 were approved by the First Meeting and the text of the draft Protocol as a whole is attached as Annex I to this report with the wording upon which no agreement was reached placed in square brackets.

Agenda item 6 - Any other matters

45. In view of some participants, a recommendation should be approved by the next meeting of the Contracting Parties to the Barcelona Convention for the speedy ratification of the Basel Convention.

Agenda item 7 - Adoption of the report of the meeting

46. The meeting adopted its report on 25 April 1993.

Agenda item 8 - Closure of the meeting

47. After the customary exchange of courtesies, the Chairman declared the meeting closed on Sunday, 25 April 1993.

ANNEX I

DRAFT PROTOCOL FOR THE PREVENTION OF POLLUTION
OF THE MEDITERRANEAN SEA BY TRANSBOUNDARY MOVEMENTS
OF HAZARDOUS WASTES AND THEIR DISPOSAL

The Contracting Parties to the present Protocol,

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

Conscious of the danger threatening the environment of the Mediterranean Sea area as a whole caused by the transboundary movement and disposal of hazardous wastes,

Convinced that the most effective way of protecting human health and the marine environment from the dangers posed by hazardous wastes is the reduction and elimination of their generation, e.g. through substitution and other clean production methods,

Recognizing the increased will for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially in developing countries,

Taking into account the 1992 Rio Declaration on Environment and Development and especially Principle 14 which declares that States "should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activity or substances that cause severe environmental degradation or are found to be harmful to human health",

Aware of the growing international concern regarding the need to ensure that pollution originating in one State is not transferred to other States and, consistent with this objective, of the need to reduce transboundary movements of hazardous wastes to a minimum as far as possible, with the ultimate aim of phasing out such movements,

Recognizing also that any State has the sovereign right to ban the entry, transit or disposal of hazardous wastes in its territory,

Taking into account also the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted on 22 March 1989, in particular Article 11, and decision I/22 adopted by the First Meeting of the Conference of the Parties to the Basel Convention,

Taking into account further that many States, among them Contracting Parties to the Barcelona Convention, have taken legal measures and entered into international agreements consistent with the Basel Convention to ban transboundary movements of hazardous wastes, for example, the Fourth ACP/EEC Convention signed in Lomé on 15 December 1989 by the European Economic Community and the African, Caribbean and Pacific Group of States, and the

Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa, adopted under the auspices of the Organization of African Unity on 30 January 1991,

Recognizing further the differences in levels of economic and legislative development among the various Mediterranean coastal States, and realizing that hazardous waste should not be allowed to be transported in order to take advantage of such economic or legislative disparities to the detriment of the environment and of the social well-being of developing countries,

Bearing in mind the fact that the most effective way of dealing with the threats represented by wastes for human health and the environment consists of decreasing or even prohibiting the transfer of activities which generate hazardous wastes,

Have agreed as follows:

Article 1 - Definitions

For the purposes of this Protocol:

- (a) "Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976;
- (b) A "party" means a Contracting Party to this protocol in accordance with Article 23, paragraph 1 of the Convention;
- (c) "Wastes" means substances or material which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;
- (d) "Hazardous wastes" means wastes as specified in Article 3 of this Protocol;
- (e) "Disposal" means any operation specified in Annex III to this Protocol;
- (f) "Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;
- (g) "Approved site or facility" means a site or facility for the disposal of hazardous wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;
- (h) "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous waste, and any information related to it, and for responding to such a notification;

(j) "Clean production methods" means those which avoid the generation of hazardous wastes in conformity with Articles 5 and 8 of this Protocol;

(j) "Environmentally sound management" of hazardous wastes means taking all practicable steps to ensure that hazardous wastes are collected, transported and disposed of (including after-care of disposal sites) in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;

(k) "Area under the national jurisdiction of a State" means any land, marine area or airspace within which a State exercises administrative and regulatory responsibilities in accordance with international law in regard to the protection of human health or the environment;

(l) "State of export" means a Party from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated;

(m) "State of import" means a Party to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;

(n) "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes is planned or takes place;

(o) "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes to be exported;

(p) "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes to be imported;

(q) "Generator" means any person whose activity produces hazardous wastes or, if that person is not known, the person who is in possession and/or control of those wastes;

(r) "Illegal traffic" means any transboundary movement of hazardous wastes as specified in Article 9;

(s) "Person" means any natural or legal person;

(t) "Developing countries" means those countries which are not Member States of the Organization for Economic Co-operation and Development (OECD);**

** Reservation by Turkey

(u) "Developed countries" means those countries which are Member States of the Organization for Economic Co-operation and Development (OECD);

(v) "Organization" means the body referred to in Article 2 (b) of the Convention.

Article 2 - Geographical coverage

The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be:

(a) The Mediterranean Sea Area as defined in Article 1 of the Convention;

[(b) The territories of coastal States which are Parties to this Protocol which can potentially be affected by transboundary movements of hazardous wastes and/or their disposal.]

Article 3 - Scope of the Protocol

1. Hazardous wastes for the purposes of this Protocol shall be:

(a) Wastes that belong to any category in Annex I to this Protocol;

(b) Wastes that are not covered under paragraph (a) above but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the State of export, import or transit;

(c) Wastes that possess any of the characteristics contained in Annex II to this Protocol;

(d) Hazardous substances that have been banned, whose registration has been cancelled or refused through government regulatory action in the country of manufacture for human health or environmental reasons, or have been voluntarily withdrawn or omitted from the government registration required for use in the country of manufacture;

(e) Wastes which derive from the normal operations of ships, the discharge of which is covered by another international instrument, are excluded from the scope of this Protocol.

2. The generator, the exporter or the importer, depending on the circumstances, shall bear the responsibility for checking with the competent authorities of the State of export, import or transit that a particular waste, prior to its transboundary movement, is not subject to this Protocol.

Article 4 - National definitions of hazardous wastes

1. Each Party to the Convention shall, within six months of becoming a Party, inform the Organization of the wastes, other than those listed in Annex I to this Protocol, considered or defined as hazardous wastes under its national legislation, and of any requirements concerning transboundary movement procedures applicable to such wastes.

2. Each Party shall subsequently inform the Organization of any significant changes in information it has provided pursuant to paragraph 1 of this Article.

3. The Organization shall inform all Parties of the information it has received pursuant to paragraphs 1 and 2 of this Article.

4. The Parties shall be responsible for making the information transmitted to them by the Organization under paragraph 3 of this Article available to their exporters.

Article 5 - General obligations

1. The Parties shall take all appropriate measures to prevent and eliminate pollution of the Mediterranean Sea area which can be caused by transboundary movements and disposal of hazardous wastes.

2. The Parties shall take all appropriate measures to reduce to a minimum, and where possible eliminate, the generation of hazardous wastes.

3. The Parties shall also take all appropriate measures to reduce to a minimum the transboundary movement of hazardous wastes, and if possible to eliminate such movement in the Mediterranean.

To achieve this goal, Parties have the right individually or collectively to ban the import of hazardous wastes. Other Parties shall respect this sovereign decision and not permit the export of hazardous wastes to States which have prohibited their import.

4. All Parties shall take appropriate legal, administrative and other measures within the area under their jurisdiction to prohibit the export and transit of hazardous wastes to developing countries, and Parties which are developing countries shall prohibit all imports and transit of hazardous wastes.

5. The Parties shall cooperate with other United Nations agencies, relevant international and regional organizations in order to prevent illegal traffic, and shall take appropriate measures to achieve this goal, including criminal punishment measures in accordance with their national legislation.

Article 6 - Transboundary movement and notification procedures

In exceptional cases, unless otherwise prohibited, when hazardous wastes cannot be disposed of in an environmentally sound manner in the country in which they originated, transboundary movements of such wastes can be allowed if:

1. The special situation of the Mediterranean developing countries which do not have the technical capabilities nor the disposal facilities for the environmentally sound management of hazardous wastes, is taken into consideration.

2. The competent authority of the State of import ensures that the hazardous waste is disposed of in an approved site or facility with the technical capacity for its environmentally sound disposal.

3. The transboundary movement of hazardous wastes only takes place with the prior written notification of the State of export as specified in Annex IV to this Protocol, and the prior written consent of the State(s) of import and the State(s) of transit.

4. Every State involved in a transboundary movement ensures that such movement is consistent with international safety standards and financial guarantees, in particular the procedures and standards set out in the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

Article 7 - Duty to reimport

The State of export shall reimport the hazardous wastes if the transboundary movement cannot be completed by reason of impossibility of performance of the contract. To this end, any State of transit shall not oppose, hinder or prevent the return of those wastes to the State of export after being properly informed by the State of export.

Article 8 - Regional cooperation

1. In conformity with Article 11 of the Convention, the Parties shall cooperate as far as possible in scientific and technological fields related to pollution from hazardous wastes, particularly in the implementation and development of new methods for reducing and eliminating hazardous waste generated through clean production methods.

2. To this end, the Parties shall submit annual reports to the Organization regarding the hazardous wastes they generate in order to enable the Organization to produce a hazardous waste audit.

3. The Parties shall cooperate in taking appropriate measures to implement the precautionary approach based on prevention of pollution problems arising from hazardous wastes and their transboundary movement and disposal. To this end, the Parties shall employ clean production methods applicable to the entire product life cycles.

[Article 9 - Illegal traffic

1. For the purpose of this Protocol, any transboundary movement of hazardous wastes in contravention of this Protocol shall be deemed to be illegal traffic.

2. Each Party shall introduce appropriate national legislation for imposing criminal penalties on all persons who have planned, carried out, or assisted in such illegal activities. Such penalties shall be sufficiently high both to punish and deter such conduct.

3. In the case of illegal traffic due to the conduct of the exporter or the generator, the State of export shall ensure that the wastes in question are taken back by the exporter or the generator or, if necessary, by itself, into the State of export and that appropriate legal action shall be taken against the contravenor(s).

4. In the case of illegal traffic due to the conduct of the importer or disposer, the State of import shall ensure that the wastes in question are returned to the exporter by the importer and that legal proceedings according to this Protocol are taken against the contravenor(s).

5. The Parties shall forward, as soon as possible, all information relating to illegal traffic to the Organization, which shall distribute the information to all Contracting Parties.

6. The Parties shall cooperate to ensure that no illegal traffic takes place. Upon request, the Organization shall assist Parties in their identification of cases of illegal traffic and shall circulate immediately to the Parties concerned any information it has received regarding illegal traffic.]

Article 10 - Assistance to developing countries

1. The Parties shall, directly or with the assistance of competent or other international organizations or bilaterally, cooperate with a view to formulating and implementing programmes of financial and technical assistance to developing countries for the implementation of this Protocol.

2. To that purpose, the first meeting of the Parties to this Protocol should consider the establishment of a regional centre for training and technical assistance in the field of hazardous wastes.

Article 11 - Transmission of information

The Parties shall inform one another through the Organization of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and distribution of such information shall be determined at the meetings of the Parties.

Article 12 - Information to and participation of the public

1. In the exceptional cases in which transboundary movement of hazardous wastes is permitted under Article 6 of this Protocol, the Parties shall ensure that adequate information is made available to the public transmitted through such channels as the Parties deem appropriate.

2. The State of export and the State of import shall, in accordance with the provisions of this Protocol and whenever possible and appropriate, give the public an opportunity to participate in relevant procedures with the aim of making known its views and concerns.

Article 13 - Verification

1. Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Protocol must inform the Organization thereof, and, in such an event, shall simultaneously and immediately inform, directly or through the Organization, the Party against whom the allegations are made.

2. The Organization shall carry out a verification of the substance of the allegation and submit a report thereon to the Parties.

Article 14 - Liability and compensation

The Parties shall cooperate with a view to setting out, as soon as possible, appropriate guidelines for the evaluation of the damage, as well as rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes.

Article 15 - Meetings

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

2. The functions of the meetings of the Parties shall be, inter alia:

(a) To keep under review the implementation of this Protocol, and consider any additional measures, including in the form of annexes;

(b) To revise and amend any annex to this Protocol;

(c) To formulate and adopt programmes, methods and measures in accordance with the relevant Articles of this Protocol;

(d) To consider any information submitted by the Parties to the Organization or to the meetings of the Parties in accordance with the relevant Articles of this Protocol;

(e) To perform such other functions as may be appropriate for the application of this Protocol.

Article 16 - Adoption

The meeting of the Parties shall adopt, by a two-thirds (2/3) majority, any additional programmes and measures for the prevention and elimination of pollution from transboundary movements of hazardous wastes and their disposal.

Article 17 - Final clauses

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.
2. The rules of procedure and the financial rules adopted pursuant to Article 18 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.
3. This Protocol shall be open for signature at _____, from _____ to _____, and at Madrid from _____ to _____, by any State invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea against Pollution from Transboundary Movements of Hazardous Wastes and their Disposal held at _____ from _____ to _____. It shall also be open until the same dates for signature by the European Economic Community and by any similar regional economic grouping of which at least one member is a coastal State of the Mediterranean Sea Area and which exercises competence in the fields covered by this Protocol.
4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.
5. As from _____, this Protocol shall be open for accession by the States referred to in paragraph 3 above, by the European Economic Community and by any grouping referred to in that paragraph.
6. This Protocol shall enter into force on the thirtieth (30) day following the deposit of at least six (6) instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of the Article.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at _____ on this _____ day of _____ in a single copy in the Arabic, English, French, and Spanish languages, the four texts being equally authoritative.

ANNEX I

CATEGORIES OF WASTES WHICH ARE HAZARDOUS WASTES

Waste Streams:

- Y0 All wastes containing or contaminated by radionuclides, the concentration or properties of which result from human activity
- Y1 Clinical wastes from medical care in hospitals, medical centres and clinics
- Y2 Wastes from the production and preparation of pharmaceutical products
- Y3 Waste pharmaceuticals, drugs and medicines
- Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals
- Y5 Wastes from manufacturing, formulation and use of wood preserving chemicals
- Y6 Wastes from the production, formulation and use of organic solvents
- Y7 Wastes from heat treatment and tempering operations containing cyanides
- Y8 Waste mineral oils unfit for their originally intended use
- Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions
- Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
- Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment
- Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
- Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
- Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
- Y15 Wastes of an explosive nature not subject to other legislation
- Y16 Wastes from production, formulation and use of photographic chemicals and processing materials
- Y17 Wastes resulting from surface treatment of metals and plastics

- Y18 Residues arising from industrial waste disposal operations
- Y46 Wastes collected from households, including sewage and sewage sludges
- Y47 Residues arising from the incineration of household wastes
- Wastes having as constituents:
- Y19 Metal carbonyls
- Y20 Beryllium; beryllium compounds
- Y21 Hexavalent chromium compounds
- Y22 Copper compounds
- Y23 Zinc compounds
- Y24 Arsenic; arsenic compounds
- Y25 Selenium; selenium compounds
- Y26 Cadmium; cadmium compounds
- Y27 Antimony; antimony compounds
- Y28 Tellurium; tellurium compounds
- Y29 Mercury; mercury compounds
- Y30 Thallium; thallium compounds
- Y31 Lead; lead compounds
- Y32 Inorganic fluorine compounds excluding calcium fluoride
- Y33 Inorganic cyanides
- Y34 Acidic solutions or acids in solid form
- Y35 Basic solutions or bases in solid form
- Y36 Asbestos (dust and fibres)
- Y37 Organic phosphorous compounds
- Y38 Organic cyanides
- Y39 Phenols; phenolic compounds including chlorophenols
- Y40 Ethers
- Y41 Halogenated organic solvents

- Y42 Organic solvents excluding halogenated solvents
- Y43 Any congener of polychlorinated dibenzo-furan
- Y44 Any congener of polychlorinated dibenzo-p-dioxin
- Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44).

ANNEX II

LIST OF HAZARDOUS CHARACTERISTICS

<u>UN Class</u>	<u>Code</u> *	<u>Characteristics</u>
1	H1	<p>Explosive</p> <p>An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction or producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.</p>
3	H3	<p>Flammable liquids</p> <p>The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5 degrees C, closed-cup tests, or not more than 65.6 degrees C, open-cup test. (Since the results of open-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such difference would be within the spirit of this definition).</p>
4.1	H4.1	<p>Flammable solids</p> <p>Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.</p>
4.2	H4.2	<p>Substances or wastes liable to spontaneous combustion</p> <p>Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or in heating up on contact with air, and being liable to catch fire.</p>
4.3	H4.3	<p>Substances or wastes which, in contact with water emit flammable gases</p> <p>Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.</p>

* Corresponds to the hazardous classification system included in the United Nations Recommendations on the transport of Dangerous Goods (ST/SG/AC.10/1/Rev.5, United Nations, New York, 1988)

- 5.1 H5.1 Oxidizing
Substances or wastes which, while in themselves not necessarily combustible, may generally by yielding oxygen, cause or contribute to the combustion of other materials.
- 5.2 H5.2 Organic peroxides
Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
- 6.1 H6.1 Poisonous (Acute)
Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
- 6.2 H6.2 Infectious substances
Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
- 8 H8 Corrosives
Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
- 9 H10 Liberation of toxic gases in contact with air or water
Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
- 9 H11 Toxic (Delayed or chronic)
Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
- 9 H12 Ecotoxic
Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
- 9 H13 Capable, by any means, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above.

ANNEX III

DISPOSAL OPERATIONS

A. Operations which do not lead to the possibility of resource recovery, recycling, reclamation, direct re-use or alternative uses.

Section A encompasses all such disposal operations which occur in practice.

- D1 Deposit into or onto land (e.g. landfill, etc.)
- D2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)
- D3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
- D4 Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds, lagoons, etc.)
- D5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
- D6 Release into a water body except seas/oceans
- D7 Release into seas/oceans including sea-bed insertion
- D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A
- D9 Physico chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A (e.g. evaporation, drying, calcination, neutralisation, precipitation, etc.)
- D10 Incineration on land
- D11 Incineration at sea
- D12 Permanent storage (e.g. emplacement of containers in mines, etc.)
- D13 Blending or mixing prior to submission to any of the operations in Section A
- D14 Repackaging prior to submission to any of the operations in Section A
- D15 Storage pending any of the operations in Section A

B. Operations which may lead to resource recovery, recycling, reclamation, direct re-use or alternative uses.

Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and which otherwise would have been destined for operations included in Section A.

- R1 Use as a fuel (other than in direct incineration) or other means to generate energy
- R2 Solvent reclamation/regeneration
- R3 Recycling/reclamation of organic substances which are not used as solvents
- R4 Recycling/reclamation of metals and metal compounds
- R5 Recycling/reclamation of other inorganic materials
- R6 Regeneration of acids or bases
- R7 Recovery of components used for pollution abatement
- R8 Recovery of components from catalysts
- R9 Used oil re-refining or other reuses of previously used oil
- R10 Land treatment resulting in benefit to agriculture or ecological improvement
- R11 Uses of residual materials obtained from any of the operations numbered R1-R11
- R12 Exchange of wastes for submission to any of the operations numbered R1-R11
- R13 Accumulation of material intended for any operation in Section B

ANNEX IV (A)

INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export;
2. Exporter of the waste 1/;
3. Generator(s) of the waste and site of generation 1/;
4. Importer and disposer of the waste and actual site of disposal 1/;
5. Intended carrier(s) of the waste or their agents, if known 1/;
6. Country of export of the waste
Competent authority 2/;
7. Expected countries of transit
Competent authority 2/;
8. Country of import of the waste
Competent authority 2/;
9. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit) 3/;
10. Means of transport envisaged (road, rail, sea, air, inland waters);
11. Information relating to insurance 4/;
12. Designated and physical description of the waste including Y number and UN number and its composition 5/ and information on any special handling requirements including emergency provisions in case of accidents;
13. Type of packaging envisaged (e.g. bulk, drummed, tanker);
14. Estimated quantity in weight/volume 6/;
15. Process by which the waste is generated 7/;
16. For wastes listed in ANNEX I, classifications from ANNEX II: hazardous characteristic, H number, and UN class;
17. Method of disposal as per ANNEX III;
18. Declaration by the generator and exporter that the information is correct;
19. Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there is no reason to believe that the waste will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import;

20. Information concerning the contract between the exporter and the disposer.

NOTES

- 1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted.
- 2/ Full name and address, telephone, telex or telefax number.
- 3/ In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.
- 4/ Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.
- 5/ The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.
- 6/ In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.
- 7/ Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

ANNEX IV (B)

INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

1. Exporter of the waste 1/;
2. Generator(s) of the waste and site of generation 1/;
3. Disposer of the waste and actual site of disposal 1/;
4. Carrier(s) of the waste 1/ or his agent(s);
5. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste;
6. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated;
7. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable);
8. Information on special handling requirements including emergency provision in case of accidents;
9. Type and number of packages;
10. Quantity in weight/volume;
11. Declaration by the generator or exporter that the information is correct;
12. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties;
13. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal.

NOTES

The information required on the movement document shall where possible be integrated in one document with that required under transport rules. Where this is not possible the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

- 1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.

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LISTE DES PARTICIPANTS

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