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MEDITERRANEAN ACTION PLAN

Fourth meeting of the Working Group of Experts
on the draft Protocol for the protection of the
Mediterranean Sea against pollution resulting
from Exploration and Exploitation of the
Continental Shelf and the Seabed and its Subsoil

Madrid, 11-12 October 1994

REPORT OF THE FOURTH MEETING OF THE WORKING GROUP OF EXPERTS ON THE DRAFT PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION RESULTING FROM EXPLORATION AND EXPLOITATION OF THE CONTINENTAL SHELF AND THE SEABED AND ITS SUBSOIL

Introduction

1. At their Eighth Ordinary Meeting (Antalya, 12-15 October 1993), the Contracting Parties decided to convene the Conference of Plenipotentiaries on the Protocol for the Protection of the Mediterranean Sea against Pollution resulting from the Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil (Offshore Protocol) during 1994, and accepted the offer of Spain to host and finance the full cost of the Conference. The Meeting also decided that the Conference should be preceded by a short meeting of experts (UNEP(OCA)/MED IG.3/5, Annex IV(A), paragraph 3.6).
2. At its meeting held in Rabat on 8 and 9 June 1994, the Bureau endorsed the Secretariat's proposal that the meeting of experts should be held on 11 and 12 October 1994, to be followed by the Conference of Plenipotentiaries on 13 and 14 October 1994, and that the meetings should take place in Madrid at the invitation of the Government of Spain (UNEP/BUR/44/4).

Attendance

3. Experts designated by the following Contracting Parties to the Barcelona Convention attended the Fourth Meeting of the Working Group of Experts: Croatia, Cyprus, Egypt, European Community, France, Greece, Israel, Italy, Malta, Monaco, Spain, Tunisia and Turkey.
4. The following United Nations bodies, specialized agencies, and other intergovernmental and non-governmental organizations were represented by observers: United Nations Educational, Scientific and Cultural Organization/Intergovernmental Oceanographic Commission (UNESCO/IOC), UNEP/IMO Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) International Juridical Organization for Environment and Development (IJO), the Oil Industry International Exploration and Production Forum (E & P Forum), Medmaravis and Jaycees Ankara.
5. The list of participants appears as Annex II to this report.

Agenda Item 1 - Opening of the meeting

6. Mr Joaquin Ros Vicent, Adviser, Spanish Secretariat of State for the Environment and Housing, welcomed the participants on behalf of the Government of Spain.
7. Mr Lucien Chabason, Coordinator of the Mediterranean Action Plan, opened the meeting and welcomed the participants on behalf of Ms Elisabeth Dowdeswell, Executive Director of the United Nations Environment Programme (UNEP). After describing briefly the background to the elaboration of the draft Protocol, he urged participants to focus on resolving the few pending issues so that the Protocol could be adopted by the Conference of Plenipotentiaries, thus making a further important contribution towards implementation of Article 7 of the Barcelona Convention.

Agenda Item 2 - Rules of procedure

8. The rules of procedure for 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) applied mutatis mutandis to this meeting.

Agenda Item 3 - Election of Officers

9. The meeting elected the following officers:

Chairman:	Mr Joaquin Ros Vicent (Spain)
Vice-Chairmen:	Mr Shawky Abdeen (Egypt) Mr Jacques Vaccarezza (EC)
Rapporteur:	Mr Lawrence Micallef (Malta)

Mr Ibrahim Dharat (UNEP/MAP) served as the Technical Secretary of the meeting.

Agenda Item 4 - Adoption of the Agenda and organization of work

10. The agenda proposed by the Secretariat (UNEP(OCA)/MED WG.81/1) was adopted. The meeting also agreed to the organization of work contained in document UNEP(OCA)/MED WG.81/2.

Agenda Item 5 - Review of the draft offshore Protocol

11. The Coordinator introduced the draft Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil contained in document UNEP(OCA)/MED WG.81/3. He suggested that the meeting should focus on the few remaining issues, namely, those articles on which general agreement had been reached, but to which one Contracting Party had expressed a reservation (Preamble, paragraph 7, Articles 1(g)(ii), 2, II.1(b), 12.2, 16.1, 19.1, and 21; those articles to which minor corrections were made after comments had been received from the EC; and articles which were still in brackets (Article 9.3), or which had an alternative text (Articles 21 and 27).

12. The Chairman suggested that the meeting should commence by focusing on the reservations contained in the text. It should then turn its attention to the text in brackets, following which any general remarks concerning the text could be made.

13. The Director of REMPEC informed the meeting that he had been requested by participants in the recent meeting of Focal Points of the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) to bring to the attention of the Working Group of Experts their concerns relating to the offshore Protocol (REMPEC/WG.10/18). Some participants had proposed that, following the provisions of the OPRC Convention, there should be a provision in the offshore

Protocol stating that Contracting Parties should require operators of offshore units under their jurisdiction to have oil pollution emergency plans coordinated with the national system established under the Emergency Protocol and that such plans should be established along the guidelines adopted by the competent international organization. Participants had also expressed the view that experts from Contracting Parties should be informed of their concerns. Some participants had also considered that Article 18 of the draft Protocol was in part contradictory to the Emergency Protocol.

14. Several representatives expressed the view that the geographical coverage provided for in the draft Protocol went beyond the definition given in Article 1 of the Barcelona Convention.

15. The Coordinator informed the meeting of a proposed amendment to Annex I, paragraph A.9, received very recently from the International Atomic Energy Agency (IAEA) concerning the reference to radioactive substances, including their wastes. The proposed amendment made specific reference to the International Basic Safety Standards for Protection against Ionizing Radiation and for the Safety of Radiation Sources and to the role of the IAEA.

16. After some discussion, the meeting took note of the proposal. but decided to retain the text of Annex I, paragraph A.9 as it appeared in the draft.

17. With regard to Article 2, Geographical Coverage, the representative of Turkey proposed the inclusion of the following new paragraph:

"Nothing in the Protocol, nor any act adopted on the basis of this Protocol, shall prejudice the rights of any State concerning the delimitation of the continental shelf area."

18. During the ensuing discussion, some representatives said that they would have to consult their legal experts before giving their views on the proposal.

19. The Chairman suggested that, since no objection had been raised to the proposal, it should be transmitted to the Conference of Plenipotentiaries in order to give the participants more time to conduct the necessary consultations.

20. In the course of the meeting, experts and observers considered the pending issues. A consensus was reached on the text in brackets and further amendments made it possible to remove the remaining reservations with two exceptions.

21. The Working Group then approved the final text of the draft Protocol (Annex I).

Agenda Item 6 - Other business

22. The Coordinator of MAP expressed his appreciation to the International Juridical Organisation for Environment and Development (IJO), for its long association with and assistance to MAP in the preparation of the Offshore Protocol.

Agenda Item 7 - Adoption of the report of the meeting

23. The meeting adopted its report on Wednesday, 12 October 1994.

Agenda Item 8 - Closure of the meeting

24. Following the customary exchange of courtesies, the Chairman closed the meeting at 18.00 hours on Wednesday, 12 October 1994.

ANNEX I

DRAFT PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION RESULTING FROM EXPLORATION AND EXPLOITATION OF THE CONTINENTAL SHELF AND THE SEABED AND ITS SUBSOIL

PREAMBLE

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,

Bearing in mind Article 7 of the said Convention,

Bearing in mind the increase in the activities concerning exploration and exploitation of the Mediterranean seabed and its subsoil,

Recognizing that the pollution which may result therefrom represents a serious danger to the environment and to human beings,

Desirous of protecting and preserving the Mediterranean Sea from pollution resulting from exploration and exploitation activities,

Taking into account the Protocols related to the Convention for the Protection of the Mediterranean Sea against Pollution and, in particular, the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency, adopted at Barcelona on 16 February 1976, and the Protocol concerning Mediterranean Specially Protected Areas, adopted at Geneva on 3 April 1982,

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,

Recognizing the differences in levels of development among the coastal States, and taking account of the economic and social imperatives of the developing countries,

Have agreed as follows:

SECTION I - GENERAL PROVISIONS

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) "Organization" means the body referred to in Article 13 of the Convention;
- (c) "Resources" means all mineral resources, whether solid, liquid or gaseous;
- (d) "Activities concerning exploration and/or exploitation of the resources in the Protocol Area" (hereinafter referred to as "activities") means:
 - (i) Activities of scientific research concerning the resources of the seabed and its subsoil;
 - (ii) Exploration activities:
 - Seismological activities; surveys of the seabed and its subsoil; sample taking;
 - Exploration drilling;
 - (iii) Exploitation activities:
 - Establishment of an installation for the purpose of recovering resources, and activities connected therewith;
 - Development drilling;
 - Recovery, treatment and storage;
 - Transportation to shore by pipeline and loading of ships;
 - Maintenance, repair and other ancillary operations;
- (e) "Pollution" is defined as in Article 2, paragraph (a), of the Convention;
- (f) "Installation" means any fixed or floating structure, and any integral part thereof, that is engaged in activities, including, in particular:
 - (i) Fixed or mobile offshore drilling units;
 - (ii) Fixed or floating production units including dynamically-positioned units;

- (iii) Offshore storage facilities including ships used for this purpose;
 - (iv) Offshore loading terminals and transport systems for the extracted products, such as submarine pipelines;
 - (v) Apparatus attached to it and equipment for the reloading, processing, storage and disposal of substances removed from the seabed or its subsoil;
- (g) "Operator" means:
- (i) Any natural or juridical person who is authorized by the Party exercising jurisdiction over the area where the activities are undertaken (hereinafter referred to as the "Contracting Party") in accordance with this Protocol to carry out activities and/or who carries out such activities; or
 - (ii) Any person who does not hold an authorization within the meaning of this Protocol but is *de facto* in control of such activities;
- (h) "Safety zone" means a zone established around installations in conformity with the provisions of general international law and technical requirements, with appropriate markings to ensure the safety of both navigation and the installations;
- (i) "Wastes" means substances and materials of any kind, form or description resulting from activities covered by this Protocol which are intended for disposal;
- (j) "Harmful or noxious substances and materials" means substances and materials of any kind, form or description, which might cause pollution, if introduced into the Protocol Area;
- (k) "Chemical Use Plan" means a plan drawn up by the operator of any offshore installation which shows:
- (i) The chemicals which the operator intends to use in the operations;
 - (ii) The purpose or purposes for which the operator intends to use the chemicals;
 - (iii) The maximum concentrations of the chemicals which the operator intends to use within any other substances, and maximum amounts intended to be used in any specified period;
 - (iv) The area within which the chemical may escape into the marine environment;

- (l) "Oil" means petroleum in any form including crude oil, fuel oil, oily sludge, oil refuse and refined products and, without limiting the generality of the foregoing, includes the substances listed in the Appendix to this Protocol;
- (m) "Oily mixture" means a mixture with any oil content;
- (n) "Sewage" means:
 - (i) Drainage and other wastes from any form of toilets, urinals and water-closet scuppers;
 - (ii) Drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;
 - (iii) Other waste waters when mixed with the drainages defined above;
- (o) "Garbage" means all kinds of food, domestic and operational waste generated during the normal operation of the installation and liable to be disposed of continuously or periodically, except those substances which are defined or listed elsewhere in this Protocol;
- (p) "Freshwater limit" means the place in water courses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea water.

Article 2 - GEOGRAPHICAL COVERAGE*¹

1. The area to which this Protocol applies (referred to in this Protocol as the "Protocol Area") shall be:
 - (a) The Mediterranean Sea Area as defined in Article 1 of the Convention, including the continental shelf and the seabed and its subsoil;
 - (b) Waters on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit.
2. Any of the Contracting Parties to this Protocol (referred to in this Protocol as "the Parties") may also include in the Protocol area wetlands or coastal areas of their territory.

¹* Turkey has expressed a reservation.

Article 3 - GENERAL UNDERTAKINGS

1. The Parties shall take, individually or through bilateral or multilateral cooperation, all appropriate measures to prevent, abate, combat and control pollution in the Protocol Area resulting from activities, *inter alia* by ensuring that the best available techniques, environmentally effective and economically appropriate, are used for this purpose.
2. The Parties shall ensure that all necessary measures are taken so that activities do not cause pollution.

SECTION II - AUTHORIZATION SYSTEM

Article 4 - GENERAL PRINCIPLES

1. All activities in the Protocol Area, including erection on site of installations, shall be subject to the prior written authorization for exploration or exploitation from the competent authority. Such authority, before granting the authorization, shall be satisfied that the installation has been constructed according to international standards and practice and that the operator has the technical competence and the financial capacity to carry out the activities. Such authorization shall be granted in accordance with the appropriate procedure, as defined by the competent authority.
2. Authorization shall be refused if there are indications that the proposed activities are likely to cause significant adverse effects on the environment that could not be avoided by compliance with the conditions laid down in the authorization and referred to in Article 6, paragraph 3, of this Protocol.
3. When considering approval of the siting of an installation, the Contracting Party shall ensure that no detrimental effects will be caused to existing facilities by such siting, in particular, to pipelines and cables.

Article 5 - REQUIREMENTS FOR AUTHORIZATIONS

1. The Contracting Party shall prescribe that any application for authorization or for the renewal of an authorization is subject to the submission of the project by the candidate operator to the competent authority and that any such application must include, in particular, the following:
 - (a) A survey concerning the effects of the proposed activities on the environment; the competent authority may, in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area, require that an environmental impact assessment be prepared in accordance with Annex IV to this Protocol;

- (b) The precise definition of the geographical areas where the activity is envisaged, including safety zones;
- (c) Particulars of the professional and technical qualifications of the candidate operator and personnel on the installation, as well as of the composition of the crew;
- (d) The safety measures as specified in Article 15;
- (e) The operator's contingency plan as specified in Article 16;
- (f) The monitoring procedures as specified in Article 19;
- (g) The plans for removal of installations as specified in Article 20;
- (h) Precautions for specially protected areas as specified in Article 21;
- (i) The insurance or other financial security to cover liability as prescribed in Article 27, paragraph 2 (b).

2. The competent authority may decide, for scientific research and exploration activities, to limit the scope of the requirements laid down in paragraph 1 of this Article, in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area.

Article 6 - GRANTING OF AUTHORIZATIONS

1. The authorizations referred to in Article 4 shall be granted only after examination by the competent authority of the requirements listed in Article 5 and Annex IV.
2. Each authorization shall specify the activities and the period of validity of the authorization, establish the geographical limits of the area subject to the authorization and specify the technical requirements and the authorized installations. The necessary safety zones shall be established at a later appropriate stage.
3. The authorization may impose conditions regarding measures, techniques or methods designed to reduce to the minimum risks of and damage due to pollution resulting from the activities.
4. The Parties shall notify the Organization as soon as possible of authorizations granted or renewed. The Organization shall keep a register of all the authorized installations in the Protocol Area.

Article 7 - SANCTIONS

Each Party shall prescribe sanctions to be imposed for breach of obligations arising out of this Protocol, or for non-observance of the national laws or regulations implementing this Protocol, or for non-fulfilment of the specific conditions attached to the authorization.

SECTION III - WASTES AND HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS

Article 8 - GENERAL OBLIGATION

Without prejudice to other standards or obligations referred to in this Section, the Parties shall impose a general obligation upon operators to use the best available, environmentally effective and economically appropriate techniques and to observe internationally accepted standards regarding wastes, as well as the use, storage and discharge of harmful or noxious substances and materials, with a view to minimizing the risk of pollution.

Article 9 - HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS

1. The use and storage of chemicals for the activities shall be approved by the competent authority, on the basis of the Chemical Use Plan.
2. The Contracting Party may regulate, limit or prohibit the use of chemicals for the activities in accordance with guidelines to be adopted by the Contracting Parties.
3. For the purpose of protecting the environment, the Parties shall ensure that each substance and material used for activities is accompanied by a compound description provided by the entity producing such substance or material.
4. The disposal into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in Annex I to this Protocol is prohibited.
5. The disposal into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in Annex II to this Protocol requires, in each case, a prior special permit from the competent authority.
6. The disposal into the Protocol Area of all other harmful or noxious substances and materials resulting from the activities covered by this Protocol and which might cause pollution requires a prior general permit from the competent authority.
7. The permits referred to in paragraphs 5 and 6 above shall be issued only after careful consideration of all the factors set forth in Annex III to this Protocol.

Article 10 - OIL AND OILY MIXTURES AND DRILLING FLUIDS AND CUTTINGS

1. The Parties shall formulate and adopt common standards for the disposal of oil and oily mixtures from installations into the Protocol Area:

- (a) Such common standards shall be formulated in accordance with the provisions of Annex V, A;
- (b) Such common standards shall not be less restrictive than the following, in particular:
 - (i) For machinery space drainage, a maximum oil content of 15 mg per litre whilst undiluted;
 - (ii) For production water, a maximum oil content of 40 mg per litre as an average in any calendar month; the content shall not at any time exceed 100 mg per litre;
- (c) The Parties shall determine by common agreement which method will be used to analyze the oil content.

2. The Parties shall formulate and adopt common standards for the use and disposal of drilling fluids and drill cuttings into the Protocol Area. Such common standards shall be formulated in accordance with the provisions of Annex V, B.

3. Each Party shall take appropriate measures to enforce the common standards adopted pursuant to this Article or to enforce more restrictive standards that it may have adopted.

Article 11 - SEWAGE

1. The Contracting Party shall prohibit the discharge of sewage from installations permanently manned by 10 or more persons into the Protocol Area except in cases where:

- (a) The installation is discharging sewage after treatment as approved by the competent authority at a distance of at least four nautical miles from the nearest land or fixed fisheries installation, leaving the Contracting Party to decide on a case by case basis; or
- (b) The sewage is not treated, but the discharge is carried out in accordance with international rules and standards; or
- (c) The sewage has passed through an approved sewage treatment plant certified by the competent authority.

2. The Contracting Party shall impose stricter provisions, as appropriate, where

deemed necessary, *inter alia* because of the regime of the currents in the area or proximity to any area referred to in Article 21.

3. The exceptions referred to in paragraph 1 shall not apply if the discharge produces visible floating solids or produces colouration, discolouration or opacity of the surrounding water.

4. If the sewage is mixed with wastes and harmful or noxious substances and materials having different disposal requirements, the more stringent requirements shall apply.

Article 12 - GARBAGE

1. The Contracting Party shall prohibit the disposal into the Protocol Area of the following products and materials:

- (a) All plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags;
- (b) All other non-biodegradable garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials.

2. Disposal into the Protocol Area of food wastes shall take place as far away as possible from land, in accordance with international rules and standards.

3. If garbage is mixed with other discharges having different disposal or discharge requirements, the more stringent requirements shall apply.

Article 13 - RECEPTION FACILITIES, INSTRUCTIONS AND SANCTIONS

The Parties shall ensure that:

- (a) Operators dispose satisfactorily of all wastes and harmful or noxious substances and materials in designated onshore reception facilities, except as otherwise authorized by the Protocol;
- (b) Instructions are given to all personnel concerning proper means of disposal;
- (c) Sanctions are imposed in respect of illegal disposals.

Article 14 - EXCEPTIONS

1. The provisions of this Section shall not apply in case of:

(a) *Force majeure* and in particular for disposals:

- to save human life,
- to ensure the safety of installations,
- in case of damage to the installation or its equipment,

on condition that all reasonable precautions have been taken after the damage is discovered or after the disposal has been performed to reduce the negative effects.

(b) The discharge into the sea of substances containing oil or harmful or noxious substances or materials which, subject to the prior approval of the competent authority, are being used for the purpose of combating specific pollution incidents in order to minimize the damage due to the pollution.

2. However, the provisions of this Section shall apply in any case where the operator acted with the intent to cause damage or recklessly and with knowledge that damage will probably result.

3. Disposals carried out in the circumstances referred to in paragraph 1 of this Article shall be reported immediately to the Organization and, either through the Organization or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and of the nature and quantities of wastes or harmful or noxious substances or materials discharged.

SECTION IV - SAFEGUARDS

Article 15 - SAFETY MEASURES

1. The Contracting Party within whose jurisdiction activities are envisaged or are being carried out shall ensure that safety measures are taken with regard to the design, construction, placement, equipment, marking, operation and maintenance of installations.

2. The Contracting Party shall ensure that at all times the operator has on the installations adequate equipment and devices, maintained in good working order, for protecting human life, preventing and combating accidental pollution and facilitating prompt response to an emergency, in accordance with the best available environmentally effective and economically appropriate techniques and the provisions of the operator's contingency plan referred to in Article 16.

3. The competent authority shall require a certificate of safety and fitness for the purpose (hereinafter referred to as "certificate") issued by a recognized body to be submitted in respect of production platforms, mobile offshore drilling units, offshore storage facilities, offshore loading systems and pipelines and in respect of such other installations as may be specified by the Contracting Party.

4. The Parties shall ensure through inspection that the activities are conducted by the operators in accordance with this Article.

Article 16 - CONTINGENCY PLANNING

1. In cases of emergency the Contracting Parties shall implement *mutatis mutandis* the provisions of the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency.

2. Each Party shall require operators in charge of installations under its jurisdiction to have a contingency plan to combat accidental pollution, coordinated with the contingency plan of the Contracting Party established in accordance with the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency and approved in conformity with the procedures established by the competent authorities.

3. Each Contracting Party shall establish coordination for the development and implementation of contingency plans. Such plans shall be established in accordance with guidelines adopted by the competent international organization. They shall, in particular, be in accordance with the provisions of Annex VII to this Protocol.

Article 17 - NOTIFICATION

Each Party shall require operators in charge of installations under its jurisdiction to report without delay to the competent authority:

- (a) Any event on their installation causing or likely to cause pollution in the Protocol Area;
- (b) Any observed event at sea causing or likely to cause pollution in the Protocol Area.

Article 18 - MUTUAL ASSISTANCE IN CASES OF EMERGENCY

In cases of emergency, a Party requiring assistance in order to prevent, abate or combat pollution resulting from activities may request help from the other Parties, either directly or through the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), which shall do their utmost to provide the assistance requested.

For this purpose, a Party which is also a Party to the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency shall apply the pertinent provisions of the said Protocol.

Article 19 - MONITORING

1. The operator shall be required to measure, or to have measured by a qualified entity, expert in the matter, the effects of the activities on the environment in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area and to report on them periodically or upon request by the competent authority for the purpose of an evaluation by such competent authority according to a procedure established by the competent authority in its authorization system.

2. The competent authority shall establish, where appropriate, a national monitoring system in order to be in a position to monitor regularly the installations and the impact of the activities on the environment, so as to ensure that the conditions attached to the grant of the authorization are being fulfilled.

Article 20 - REMOVAL OF INSTALLATIONS

1. The operator shall be required by the competent authority to remove any installation which is abandoned or disused, in order to ensure safety of navigation, taking into account the guidelines and standards adopted by the competent international organization. Such removal shall also have due regard to other legitimate uses of the sea, in particular fishing, the protection of the marine environment and the rights and duties of other Contracting Parties. Prior to such removal, the operator under its responsibility shall take all necessary measures to prevent spillage or leakage from the site of the activities.

2. The competent authority shall require the operator to remove abandoned or disused pipelines in accordance with paragraph 1 of this Article or to clean them inside and abandon them or to clean them inside and bury them so that they neither cause pollution, endanger navigation, hinder fishing, threaten the marine environment, nor interfere with other legitimate uses of the sea or with the rights and duties of other Contracting Parties. The competent authority shall ensure that appropriate publicity

is given to the depth, position and dimensions of any buried pipeline and that such information is indicated on charts and notified to the Organization and other competent international organizations and the Parties.

3. The provisions of this Article apply also to installations disused or abandoned by any operator whose authorization may have been withdrawn or suspended in compliance with Article 7.

4. The competent authority may indicate eventual modifications to be made to the level of activities and to the measures for the protection of the marine environment which had initially been provided for.

5. The competent authority may regulate the cession or transfer of authorized activities to other persons.

6. Where the operator fails to comply with the provisions of this Article, the competent authority shall undertake, at the operator's expense, such action or actions as may be necessary to remedy the operator's failure to act.

Article 21 - SPECIALLY PROTECTED AREAS

For the protection of the areas defined in Article 3 of the Protocol concerning Mediterranean Specially Protected Areas and any other area established by a Party and in furtherance of the goals stated therein, the Parties shall take special measures in conformity with international law, either individually or through multilateral or bilateral cooperation, to prevent, abate, combat and control pollution arising from activities in these areas.

In addition to the measures referred to in the Protocol concerning Mediterranean Specially Protected Areas for the granting of authorization, such measures may include, *inter alia*:

- (a) Special restrictions or conditions when granting authorizations for such areas:
 - (i) The preparation and evaluation of environmental impact assessments;
 - (ii) The elaboration of special provisions in such areas concerning monitoring, removal of installations and prohibition of any discharge.
- (b) Intensified exchange of information among operators, the competent authorities, Parties and the Organization regarding matters which may affect such areas.

SECTION V - COOPERATION

Article 22 - STUDIES AND RESEARCH PROGRAMMES

In conformity with Article 11 of the Convention, the Parties shall, where appropriate, cooperate in promoting studies and undertaking programmes of scientific and technological research for the purpose of developing new methods of:

- (a) Carrying out activities in a way that minimizes the risk of pollution;
- (b) Preventing, abating, combating and controlling pollution, especially in cases of emergency.

Article 23 - INTERNATIONAL RULES, STANDARDS AND RECOMMENDED PRACTICES AND PROCEDURES

1. The Parties shall cooperate, either directly or through the Organization or other competent international organizations, in order to:

- (a) Establish appropriate scientific criteria for the formulation and elaboration of international rules, standards and recommended practices and procedures for achieving the aims of this Protocol;
- (b) Formulate and elaborate such international rules, standards and recommended practices and procedures;
- (c) Formulate and adopt guidelines in accordance with international practices and procedures to ensure observance of the provisions of Annex VI.

2. The Parties shall, as soon as possible, endeavour to harmonize their laws and regulations with the international rules, standards and recommended practices and procedures referred to in paragraph 1 of this Article.

3. The Parties shall endeavour, as far as possible, to exchange information relevant to their domestic policies, laws and regulations and the harmonization referred to in paragraph 2 of this Article.

Article 24 - SCIENTIFIC AND TECHNICAL ASSISTANCE TO DEVELOPING COUNTRIES

1. The Parties shall, directly or with the assistance of competent regional or other international organizations, cooperate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, law, education and technology, in order to prevent, abate, combat and control pollution due to activities in the Protocol Area.

2. Technical assistance shall include, in particular, the training of scientific, legal

and technical personnel, as well as the acquisition, utilization and production by those countries of appropriate equipment on advantageous terms to be agreed upon among the Parties concerned.

Article 25 - MUTUAL INFORMATION

The Parties shall inform one another directly or 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 submission of such information shall be determined at the meetings of the Parties.

Article 26 - TRANSBOUNDARY POLLUTION

1. Each Party shall take all measures necessary to ensure that activities under its jurisdiction are so conducted as not to cause pollution beyond the limits of its jurisdiction.

2. A Party within whose jurisdiction activities are being envisaged or carried out shall take into account any adverse environmental effects, without discrimination as to whether such effects are likely to occur within the limits of its jurisdiction or beyond such limits.

3. If a Party becomes aware of cases in which the marine environment is in imminent danger of being damaged, or has been damaged, by pollution, it shall immediately notify other Parties which in its opinion are likely to be affected by such damage, as well as the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), and provide them with timely information that would enable them, where necessary, to take appropriate measures. REMPEC shall distribute the information immediately to all relevant Parties.

4. The Parties shall endeavour, in accordance with their legal systems and, where appropriate, on the basis of an agreement, to grant equal access to and treatment in administrative proceedings to persons in other States who may be affected by pollution or other adverse effects resulting from proposed or existing operations.

5. Where pollution originates in the territory of a State which is not a Contracting Party to this Protocol, any Contracting Party affected shall endeavour to cooperate with the said State so as to make possible the application of the Protocol.

Article 27 - LIABILITY AND COMPENSATION

1. The Parties undertake to cooperate as soon as possible in formulating and adopting appropriate rules and procedures for the determination of liability and compensation for damage resulting from the activities dealt with in this Protocol, in conformity with Article 12 of the Convention.

*² 2. Pending development of such procedures, each Party:

- (a) Shall take all measures necessary to ensure that liability for damage caused by activities is imposed on operators, and they shall be required to pay prompt and adequate compensation;
- (b) Shall take all measures necessary to ensure that operators shall have and maintain insurance cover or other financial security of such type and under such terms as the Contracting Party shall specify in order to ensure compensation for damages caused by the activities covered by this Protocol.

SECTION VI - FINAL PROVISIONS

Article 28 - APPOINTMENT OF COMPETENT AUTHORITIES

Each Contracting Party shall appoint one or more competent authorities to:

- (a) Grant, renew and register the authorizations provided for in Section II of this Protocol;
- (b) Issue and register the special and general permits referred to in Article 9 of this Protocol;
- (c) Issue the permits referred to in Annex V to this Protocol;
- (d) Approve the treatment system and certify the sewage treatment plant referred to in Article 11, paragraph 1, of this Protocol;
- (e) Give the prior approval for exceptional discharges referred to in Article 14, paragraph 1 (b), of this Protocol;
- (f) Carry out the duties regarding safety measures referred to in Article 15, paragraphs 3 and 4, of this Protocol;

*² The European Community expressed a reservation.
France expressed a reservation pending further consideration.

- (g) Perform the functions relating to contingency planning described in Article 16 and Annex VII to this Protocol;
- (h) Establish monitoring procedures as provided in Article 19 of this Protocol;
- (i) Supervise the removal operations of the installations as provided in Article 20 of this Protocol.

Article 29 - TRANSITIONAL MEASURES

Each Party shall elaborate procedures and regulations regarding activities, whether authorized or not, initiated before the entry into force of this Protocol, to ensure their conformity, as far as practicable, with the provisions of this Protocol.

Article 30 - 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 may also hold extraordinary meetings in accordance with Article 14 of the Convention.
2. The functions of the meetings of the Parties to this Protocol shall be, *inter alia*:
 - (a) To keep under review the implementation of this Protocol and to consider the efficacy of the measures adopted and the advisability of any other measures, in particular in the form of annexes and appendices;
 - (b) To revise and amend any annex or appendix to this Protocol;
 - (c) To consider the information concerning authorizations granted or renewed in accordance with Section II of this Protocol;
 - (d) To consider the information concerning the permits issued and approvals given in accordance with Section III of this Protocol;
 - (e) To adopt the guidelines referred to in Article 9, paragraph 2, and Article 23, paragraph 1 (c), of this Protocol;
 - (f) To consider the records of the contingency plans and means of intervention in emergencies adopted in accordance with Article 16 of this Protocol;
 - (g) To establish criteria and formulate international rules, standards and recommended practices and procedures in accordance with Article 23, paragraph 1, of this Protocol, in whatever form the Parties may agree;

- (h) To facilitate the implementation of the policies and the achievement of the objectives referred to in Section V, in particular the harmonization of national and European Community legislation in accordance with Article 23, paragraph 2, of this Protocol;
- (i) To review progress made in the implementation of Article 27 of this Protocol;
- (j) To discharge such other functions as may be appropriate for the application of this Protocol.

Article 31 - RELATIONS WITH THE CONVENTION

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.

Article 32 - FINAL CLAUSE

1. This Protocol shall be open for signature at _____ from _____ to _____, and at _____ from _____ to _____, by any State Party to the Convention invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Seabed and its Subsoil, held at _____ from _____ to _____. It shall also be open until the same dates for signature by the European Community and by any similar regional economic grouping of which at least one member is a coastal State of the Protocol Area and which exercises competence in fields covered by this Protocol in conformity with Article 24 of the Convention.
2. 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.
3. As from _____, this Protocol shall be open for accession by the States referred to in paragraph 1 above, by the European Community and by any grouping referred to in that paragraph.
4. This Protocol shall enter into force on the thirtieth day following the date of deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 1 of this Article.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Protocol.

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

ANNEX I

HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS THE DISPOSAL OF WHICH IN THE PROTOCOL AREA IS PROHIBITED

- A. The following substances and materials and compounds thereof are listed for the purposes of Article 9, paragraph 4, of the Protocol. They have been selected mainly on the basis of their toxicity, persistence and bioaccumulation:
1. Mercury and mercury compounds
 2. Cadmium and cadmium compounds
 3. Organotin compounds and substances which may form such compounds in the marine environment^{1/}
 4. Organophosphorus compounds and substances which may form such compounds in the marine environment^{1/}
 5. Organohalogen compounds and substances which may form such compounds in the marine environment^{1/}
 6. Crude oil, fuel oil, oily sludge, used lubricating oils and refined products
 7. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea
 8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment
 9. Radioactive substances, including their wastes, if their discharges do not comply with the principles of radiation protection as defined by the competent international organizations, taking into account the protection of the marine environment
- B. The present Annex does not apply to discharges which contain substances listed in section A that are below the limits defined jointly by the Parties and, in relation to oil, below the limits defined in Article 10 of this Protocol.

^{1/} With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless substances.

ANNEX II**HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS
THE DISPOSAL OF WHICH IN THE PROTOCOL AREA
IS SUBJECT TO A SPECIAL PERMIT**

A. The following substances and materials and compounds thereof have been selected for the purpose of Article 9, paragraph 5, of the Protocol.

1. Arsenic
2. Lead
3. Copper
4. Zinc
5. Beryllium
6. Nickel
7. Vanadium
8. Chromium
9. Biocides and their derivatives not covered in Annex I
10. Selenium
11. Antimony
12. Molybdenum
13. Titanium
14. Tin
15. Barium (other than barium sulphate)
16. Boron
17. Uranium
18. Cobalt
19. Thallium
20. Tellurium
21. Silver
22. Cyanides

B. The control and strict limitation of the discharge of substances referred to in section A must be implemented in accordance with Annex III.

ANNEX III

FACTORS TO BE CONSIDERED FOR THE ISSUE OF THE PERMITS

For the purpose of the issue of a permit required under Article 9, paragraph 7, particular account will be taken, as the case may be, of the following factors:

A. Characteristics and composition of the waste

1. Type and size of waste source (e.g. industrial process);
2. Type of waste (origin, average composition);
3. Form of waste (solid, liquid, sludge, slurry, gaseous);
4. Total amount (volume discharged, e.g. per year);
5. Discharge pattern (continuous, intermittent, seasonally variable, etc.);
6. Concentrations with respect to major constituents, substances listed in Annex I, substances listed in Annex II, and other substances as appropriate;
7. Physical, chemical and biochemical properties of the waste.

B. Characteristics of waste constituents with respect to their harmfulness

1. Persistence (physical, chemical, biological) in the marine environment;
2. Toxicity and other harmful effects;
3. Accumulation in biological materials or sediments;
4. Biochemical transformation producing harmful compounds;
5. Adverse effects on the oxygen content and balance;
6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea-water constituents which may produce harmful biological or other effects on any of the uses listed in Section E below.

C. Characteristics of discharge site and receiving marine environment

1. Hydrographic, meteorological, geological and topographical characteristics of the area;
2. Location and type of the discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery and fishing areas, shellfish grounds) and other discharges;
3. Initial dilution achieved at the point of discharge into the receiving marine environment;
4. Dispersion characteristics such as effects of currents, tides and wind on horizontal transport and vertical mixing;
5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area;
6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. Availability of waste technologies

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

- (a) Alternative treatment processes;
- (b) Reuse or elimination methods;
- (c) On-land disposal alternatives;
- (d) Appropriate low-waste technologies.

E. Potential impairment of marine ecosystem and sea-water uses

1. Effects on human life through pollution impact on:
 - (a) Edible marine organisms;
 - (b) Bathing waters;
 - (c) Aesthetics.
2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.
3. Effects on other legitimate uses of the sea in conformity with international law.

ANNEX IV

ENVIRONMENTAL IMPACT ASSESSMENT

1. Each Party shall require that the environmental impact assessment contains at least the following:
 - (a) A description of the geographical boundaries of the area within which the activities are to be carried out, including safety zones where applicable;
 - (b) A description of the initial state of the environment of the area;
 - (c) An indication of the nature, aims, scope and duration of the proposed activities;
 - (d) A description of the methods, installations and other means to be used, possible alternatives to such methods and means;
 - (e) A description of the foreseeable direct or indirect short and long-term effects of the proposed activities on the environment, including fauna, flora and the ecological balance;
 - (f) A statement setting out the measures proposed for reducing to the minimum the risk of damage to the environment as a result of carrying out the proposed activities, including possible alternatives to such measures;
 - (g) An indication of the measures to be taken for the protection of the environment from pollution and other adverse effects during and after the proposed activities;
 - (h) A reference to the methodology used for the environmental impact assessment;
 - (i) An indication of whether the environment of any other State is likely to be affected by the proposed activities.
2. Each Party shall promulgate standards taking into account the international rules, standards and recommended practices and procedures, adopted in accordance with Article 23 of the Protocol, by which environmental impact assessments are to be evaluated.

ANNEX V

OIL AND OILY MIXTURES AND DRILLING FLUIDS AND CUTTINGS

The following provisions shall be prescribed by the Parties in accordance with Article 10:

A. Oil and Oily Mixtures

1. Spills of high oil content in processing drainage and platform drainage shall be contained, diverted and then treated as part of the product, but the remainder shall be treated to an acceptable level before discharge, in accordance with good oilfield practice;
2. Oily waste and sludges from separation processes shall be transported to shore;
3. All the necessary precautions shall be taken to minimize losses of oil into the sea from oil collected or flared from well testing;
4. All the necessary precautions shall be taken to ensure that any gas resulting from oil activities should be flared or used in an appropriate manner.

B. Drilling Fluids and Drill Cuttings

1. Water-based drilling fluids and drill cuttings shall be subject to the following requirements:
 - (a) The use and disposal of such drilling fluids shall be subject to the Chemical Use Plan and the provisions of Article 9 of this Protocol;
 - (b) The disposal of the drill cuttings shall either be made on land or into the sea in an appropriate site or area as specified by the competent authority.
2. Oil-based drilling fluids and drill cuttings are subject to the following requirements:
 - (a) Such fluids shall only be used if they are of a sufficiently low toxicity and only after the operator has been issued a permit by the competent authority when it has verified such low toxicity;
 - (b) The disposal into the sea of such drilling fluids is prohibited;

- (c) The disposal of the drill cuttings into the sea is only permitted on condition that efficient solids control equipment is installed and properly operated, that the discharge point is well below the surface of the water, and that the oil content is less than 100 grams of oil per kilogram dry cuttings;
- (d) The disposal of such drill cuttings in specially protected areas is prohibited;
- (e) In case of production and development drilling, a programme of seabed sampling and analysis relating to the zone of contamination must be undertaken.

3. Diesel-based drilling fluids:

The use of diesel-based drilling fluids is prohibited. Diesel oil may exceptionally be added to drilling fluids in such circumstances as the Parties may specify.

ANNEX VI

SAFETY MEASURES

The following provisions shall be prescribed by the Parties in accordance with Article 15:

- (a) That the installation must be safe and fit for the purpose for which it is to be used, in particular, that it must be designed and constructed so as to withstand, together with its maximum load, any natural condition, including, more specifically, maximum wind and wave conditions as established by historical weather patterns, earthquake possibilities, seabed conditions and stability, and water depth;
- (b) That all phases of the activities, including storage and transport of recovered resources, must be properly prepared, that the whole activity must be open to control for safety reasons and must be conducted in the safest possible way, and that the operator must apply a monitoring system for all activities;
- (c) That the most advanced safety systems must be used and periodically tested in order to minimize the dangers of leakages, spillages, accidental discharges, fire, explosions, blow-outs or any other threat to human safety or the environment, that a trained specialized crew to operate and maintain these systems must be present and that this crew must undertake periodic exercises. In the case of authorized not permanently manned installations, the permanent availability of a specialized crew shall be ensured;
- (d) That the installation and, where necessary, the established safety zone, must be marked in accordance with international recommendations so as to give adequate warning of its presence and sufficient details for its identification;
- (e) That in accordance with international maritime practice, the installations must be indicated on charts and notified to those concerned;
- (f) That, in order to secure observance of the foregoing provisions, the person and/or persons having the responsibility for the installation and/or the activities, including the person responsible for the blow-out preventer, must have the qualifications required by the competent authority, and that sufficient qualified staff must be permanently available. Such qualifications shall include, in particular, training, on a continuing basis, in safety and environmental matters.

ANNEX VII

CONTINGENCY PLAN

A. The operator's contingency plan

1. Operators are obliged to ensure:

- (a) That the most appropriate alarm system and communication system are available at the installation and they are in good working order;
- (b) That the alarm is immediately raised on the occurrence of an emergency and that any emergency is immediately communicated to the competent authority;
- (c) That, in coordination with the competent authority, transmission of the alarm and appropriate assistance and coordination of assistance can be organized and supervised without delay;
- (d) That immediate information about the nature and extent of the emergency is given to the crew on the installation and to the competent authority;
- (e) That the competent authority is constantly informed about the progress of combating the emergency;
- (f) That at all times sufficient and most appropriate materials and equipment, including stand-by boats and aircraft, are available to put into effect the emergency plan;
- (g) That the most appropriate methods and techniques are known to the specialized crew referred to in Annex VI, paragraph (c), in order to combat leakages, spillages, accidental discharges, fire, explosions, blow-outs and any other threat to human life or the environment;
- (h) That the most appropriate methods and techniques are known to the specialized crew responsible for reducing and preventing long-term adverse effects on the environment;
- (i) That the crew is thoroughly familiar with the operator's contingency plan, that periodic emergency exercises are held so that the crew has a thorough working knowledge of the equipment and procedures and that each individual knows exactly his role within the plan.

2. The operator shall cooperate, on an institutional basis, with other operators or entities capable of rendering necessary assistance, so as to ensure that,

in cases where the magnitude or nature of an emergency creates a risk for which assistance is or might be required, such assistance can be rendered.

B. National coordination and direction

The competent authority for emergencies of a Contracting Party shall ensure:

- (a) The coordination of the national contingency plan and/or procedures and the operator's contingency plan and control of the conduct of actions, especially in case of significant adverse effects of the emergency;
- (b) Direction to the operator to take any action it may specify in the course of preventing, abating or combating pollution or in the preparation of further action for that purpose, including placing an order for a relief drilling rig, or to prevent the operator from taking any specified action;
- (c) The coordination of actions in the course of preventing, abating or combating pollution or in preparation for further action for that purpose within the national jurisdiction with such actions undertaken within the jurisdiction of other States or by international organizations;
- (d) Collection and ready availability of all necessary information concerning the existing activities;
- (e) The provision of an up-to-date list of the persons and entities to be alerted and informed about an emergency, its development and the measures taken;
- (f) The collection of all necessary information concerning the extent and means of combating contingencies, and the dissemination of this information to interested Parties;
- (g) The coordination and supervision of the assistance referred to in Part A above, *in cooperation with the operator*;
- (h) The organization and if necessary, the coordination of specified actions, including intervention by technical experts and trained personnel with the necessary equipment and materials.
- (i) Immediate communication to the competent authorities of other Parties which might be affected by a contingency to enable them to take appropriate measures where necessary;
- (j) The provision of technical assistance to other Parties, if necessary;
- (k) Immediate communication to the competent international organizations with a view to avoiding danger to shipping and other interests.

APPENDIX

List of Oils *

Asphalt solutions

Blending Stocks
Roofers Flux
Straight Run Residue

Oils

Clarified
Crude Oil
Mixtures containing crude oil
Diesel Oil
Fuel Oil No. 4
Fuel Oil No. 5
Fuel Oil No. 6
Residual Fuel Oil
Road Oil
Transformer Oil
Aromatic Oil (excluding vegetable oil)
Lubricating Oils and Blending Stocks
Mineral Oil
Motor Oil
Penetrating Oil
Spindle Oil
Turbine Oil

Distillates

Straight Run
Flashed Feed Stocks

Gas Oil

Cracked

* _____
The list of oils should not necessarily be considered as exhaustive.

Jet Fuels

JP-1 (Kerosene)
JP-3
JP-4
JP-5 (Kerosene, Heavy)
Turbo Fuel
Kerosene
Mineral Spirit

Naphtha

Solvent
Petroleum
Heartcut Distillate Oil

Gasoline Blending Stocks

Alkylates - fuel
Reformats
Polymer - fuel

Gasolines

Casinghead (natural)
Automotive
Aviation
Straight Run
Fuel Oil No. 1 (Kerosene)
Fuel Oil No. 1-D
Fuel Oil No. 2
Fuel Oil No. 2-D

ANNEX II

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LISTE DES PARTICIPANTS

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