

Draft Convention
on the respect of the environment and sustainable development
by pleasure craft in the Mediterranean Sea

The Contracting Parties to the present Convention

Acknowledging that the principle of freedom at sea implies the freedom to practice yachting without prejudice to the recognised rights of the coastal State over marine species within its jurisdiction,

Noting the considerable increase of pleasure craft navigation in the past decades and aware of the role that tourism plays in the achievement of sustainable development,

Fully aware of how this kind of navigation favours cultural, economic, social, sport and leisure exchanges,

Conscious, nevertheless, of the risks that the increase in this kind of traffic constitutes to the environment and to safety at sea,

Anxious, therefore, to promote and facilitate the practice of leisure sailing while fully respecting the State's competence in accordance with international law,

Wishing to harmonise, where necessary, the application of international, national or local rules relating to yachting,

Desirous of establishing a regime to regulate this type of navigation which would be adapted to the Mediterranean Sea, a semi-enclosed sea with a delicate ecological balance and that would fit in with the different uses coastal areas are put to,

Considering, furthermore, that in this particular field, it is important to strengthen the cooperation that has developed between coastal States of the Mediterranean, especially with regards to the protection of the marine environment by means of the instruments of the Barcelona Convention and particularly its Protocol on Specially Protected Areas,

Finally, in the spirit of the relevant provisions of the 1982 United Nations Convention on the Law of the Sea, of the 1992 Rio Convention on Biological Diversity, of the MARPOL 73/78 Convention as well as the provisions of other relevant international Conventions,

Have agreed as follows:

Section I. General provisions

Article 1. Geographical coverage

1. For the purposes of the present Convention and in accordance with Article 1 of the Barcelona Convention, the Mediterranean Sea area shall mean the maritime waters of the Mediterranean Sea proper, including its gulfs and seas bounded to the west by the meridian passing through Cape Spartel lighthouse, at the entrance of the Straits

of Gibraltar, and to the east by the southern limits of the Straits of the Dardanelles, between the Mehmetcik and Kumkale lighthouses .

2. The maritime waters of the Mediterranean shall also include the territorial and internal waters of the Contracting Parties as well as the marinas found there.
3. The geographical area of application of the present Convention, defined in paragraphs 1 and 2 above may be extended.

Article 2. General obligations

1. The provisions of the present Convention apply equally to pleasure craft falling under the authority of the Contracting Parties.
2. The Contracting Parties are under the obligation to ensure that pleasure craft falling under their authority respect the international or regional Conventions that apply to them.
3. Within the framework of Article 20 relating to Port State Control, the Contracting Parties shall apply, to those States that are not party to the present Convention, all the provisions of said Convention to the extent necessary so as to ensure that no more favourable treatment is given to the crafts belonging to said non-Party States.
4. The Contracting Parties invite non-Mediterranean States whose pleasure craft frequent/sail the Mediterranean sea (or that call in Mediterranean ports) to adopt provisions analogous to those contained in the present Convention.

Article 3. Definitions

1. For the purpose of the present Convention, the following definitions shall be applied to these terms:

a) Pleasure boat

- 1st type: every kind of craft using any type of propulsion system, be it privately owned or chartered, used for pleasure, sport or leisure for non-profit purposes.
- 2nd type: every kind of craft using any type of propulsion system, used for pleasure, sport or leisure.

N.B. – Jet skis fall under both categories. Hence, the use of the term ‘craft’.

- It would be inappropriate at this stage to establish criteria pertaining to size, tonnage and number of passengers; government experts will discuss these.

b) Excluded from the scope of the present Convention are:

- rowing boats,
- windsurfers.

c) Pleasure craft berthed for long periods of time (or having a fixed mooring berth) in marinas, are subject to the obligations provided in Articles 4 to 8, 10 to 14 and 16 to 18.

2. "Pollution of the marine environment" shall mean the introduction by man –either directly or indirectly – within the framework of leisure activities, of substances or energy into the marine environment, including estuaries, when such substances or energy have or are likely to have harmful effects such as damage to biological resources, to marine fauna and flora, represent or are likely to represent a hazard to human health, hinder marine activities including fishing, and other legitimate uses of the sea from the point of view of its use and the reduction of amenities.
3. "Biological diversity" shall mean the variability of living organisms originating from any source including earth, marine and other aquatic ecosystems and the ecological structure of which they form part; this includes diversity within and between species as well as the diversity of ecosystems.
4. "Coastal authorities" shall mean the administrative or police authorities, port authorities or any other authority duly entitled to ensure maritime safety and to protect the marine environment.
5. "Marina" shall mean all reception and berthing facilities for pleasure craft, especially intended or equipped for this purpose, including zones reserved for pleasure craft in those ports that are accessible to all types of vessels.

Section II. Provisions relating to the prevention of pollution by pleasure craft and the protection of the marine environment

Article 4. Polluting discharges

- a) The Contracting Parties shall prohibit operational discharges consisting of bilge water, waste water and refuse, as defined respectively in Annexes I, IV and V in the MARPOL 73/78 Convention.
- b) The Contracting Parties shall take all necessary measures to prevent spillages into the sea of pleasure craft fuel during refuelling operations.

Article 5. Retention on board of polluting discharges

The Contracting Parties shall ensure that the operational discharges referred to in Article 4 are kept on board in tanks or other storage facilities until such a time as they may be appropriately disposed of at port reception facilities.

Article 6. Anti-fouling systems

- a) The Contracting Parties shall undertake to prohibit the use, by pleasure-craft, of anti-fouling paints containing organostanic ingredients used as biocides.
- b) The Contracting Parties shall take the appropriate measures in order that waste originating from anti-fouling paints containing organostanic ingredients used as biocides be collected, handled, processed and discharged so as to protect human health and the environment.

Article 7. Gas emissions

The Contracting Parties shall adopt the maximum levels allowed for gas emissions of carbon monoxide (CO), hydrocarbons (HC) and nitrogen oxide (Nox) originating from pleasure craft equipped with diesel engines.

In pursuance of Annex VI of the MARPOL Convention 73/78, the Contracting Parties shall develop quality standards for the fuels used by pleasure craft with a view to reducing oxide of sulfur (SOx) emissions in exhaust fumes from fuel-oil.

Article 8. Sound emissions

The Contracting Parties shall observe the maximum levels permitted for sound emissions from pleasure craft equipped with motor engines.

Article 9. Protective measures

In accordance with international law and considering the characteristics of each specially protected area in the Mediterranean, the Contracting Parties shall regulate the passage of pleasure craft as well as any stopping or mooring.

Section III. Provisions relating to marinas

Article 10. Pollution linked to the operations of marinas

- a) The Contracting Parties shall undertake to commission environmental impact studies prior to the construction or development of marinas.
- b) The Contracting Parties shall take all necessary measures with the aim of reducing the discharge into the sea of wastewater and other waste generated by the operation of marinas.

Article 11. Development of marinas

- a. The Contracting Parties shall give preference to the development of the necessary reception facilities for pleasure craft in their ports, and shall keep each other informed of progress made in this regard. They shall attach particular importance to the standardisation of equipment and, to this end, shall establish all the useful links with the competent bodies in this field.
- b. The Contracting Parties shall undertake to ensure that adequate reception facilities for pleasure craft are available at their marinas for the collection of bilge water, wastewater and all waste originating from ships and pleasure craft.
- c. The Contracting Parties shall develop, for their marinas, plans for the management and processing of operational discharges collected *in situ*.

Section IV. Miscellaneous provisions

Article 12. Fishing activities

1. The Contracting Parties shall ensure that pleasure craft respect international, regional and/or national regulations in the Mediterranean Sea governing fishing activities and aquaculture, in particular the Barcelona Protocol on Specially Protected Areas and biological diversity in the Mediterranean.
2. During the authorised practice of fishing as a sport activity, any hindrance to professional fishing shall be prohibited.

Article 13. Accidents, search and rescue

1. The Contracting Parties shall undertake to mobilize the means of search and rescue likely to benefit pleasure navigation, in accordance with the Hamburg Convention of 27th April 1969, relating to search and rescue at sea and of the implementation of the world system of distress and safety at sea.
2. The Contracting Parties shall cooperate with a view to enabling coastal authorities to monitor pleasure craft so as to ensure their safety and to protect the marine environment. These authorities shall report their interventions to the States concerned with the least possible delay.
3. The Contracting Parties shall commit pleasure boats to assist other seacrafts in difficulty or to notify the authorities of any serious sailing or pollution accident.

Article 14. Protecting the underwater archaeological heritage

The Contracting Parties shall take all the necessary measures with the aim of preventing any damage, by pleasure craft, to the underwater heritage, such damage would constitute an infringement of national or international laws.

Article 15. Water sports activities

The Contracting Parties shall, individually and in cooperation with one another, ensure that regattas, competitions and other water sports events do not cause any harm to the environment and shall ensure the safety of yachtsmen.

Section V. Administrative provisions

Article 16. Identification certificate

The Contracting Parties shall introduce into their legislation, if they have not already done so, a system by means of which pleasure craft falling within their jurisdiction may be identified and shall issue a certificate for this purpose.

Article 17. Certificate of competency

The Contracting Parties shall introduce into their legislation, if they have not already done so, the requirement for a seaman to be in possession of a certificate attesting to his/her ability to navigate and to the technical know-how of every person responsible for steering a pleasure craft; such certificate should be readily available for presentation on request.

Article 18. Insurance policy

The Contracting Parties shall cause all owners of pleasure craft to be covered by third-party liability insurance for any damage caused to third parties as well as for any damage caused to the marine environment. If this policy is issued in a language other than English or French the text should be translated into one of these languages.

Article 19. Terms and Conditions

1. The Contracting Parties shall establish the terms and conditions for the certificate and policy mentioned in articles 16,17 and 18.
2. These documents shall be kept on board and be available for presentation upon request.

Section VI. Provisions relating to Port State control

Article 20. Port State control

1. Without prejudice to the inspections they have a right to carry out by virtue of international Conventions, and while fully respecting the competence of the Flag State, the Contracting Parties shall take all necessary measures so as to enable their competent authorities to check that all pleasure crafts, found in their ports, irrespective of their Flag State:
 - a) The identification certificate referred to in Article 16 above, and within the limits contained therein, or any other equivalent document which allows the identification of such craft;
 - b) The certificate of competency attesting to the ability to sail of the person responsible for the navigation of the pleasure craft, referred to in Article 17, or any other similar document;
 - c) The insurance policy referred to in Article 18; in the absence of such a certificate and if this cannot be made available within the shortest reasonable time, the owner or person responsible for the navigation of the craft shall be made to take out such a policy before leaving port.
2. Failure to produce the required documents or in the case of a serious breach of the provision of sub-paragraph 1 above:

- or
- The stay in the port may be denied;
- or
- The craft may be detained until such a time as the provisions of sub-paragraph 1 have been complied with,
- or
- The craft's stay in the port may be limited to the time necessary for emergency measures to be taken,
- or
- More flexible measures may be taken according to circumstances and specificities of the case.

The port State shall immediately inform the flag State of any decision taken by virtue of this sub-paragraph.

Section VII. Final provisions

Article 21. Meeting of the Contracting Parties

1. The Contracting Parties shall meet one year after the Convention comes into effect, at a meeting convened by the Depositary, in order to review the implementation of the Convention, and thereafter every three years upon call given by the Depositary. An extraordinary session may be convened upon the request of no less than one third (half) of the Contracting Parties.
2. The meetings of the Contracting Parties shall be held in order to ensure the implementation and furtherance of the present Convention and, in particular:
 - a) to review generally the national legislations and their modifications, notified, in accordance with Article 24, sub-paragraph 1;
 - b) to examine the reports submitted by the Contracting Parties under Article 24, sub-paragraph 2 and determine their formats and frequency;
 - c) to make recommendations concerning the adoption of amendments to the present Convention, in accordance with Article 22;
 - d) to establish working groups, as the case may be, who will be entrusted with considering any matters related to the present Convention such as issues pertaining to professional teams, social provisions and training;
 - e) to develop and implement any additional action, that may be required, for the achievement of the objectives of the present Convention;
 - f) to make all recommendations aiming to ensure the implementation or further development of the present Convention.

Article 22. Amendments to the Convention

1. Any Contracting Party to the present Convention may propose amendments to the Convention. Such amendments shall be adopted by a conference of the plenipotentiaries that shall be convened by the Depositary upon the request of two thirds (one third) of the Contracting Parties.
2. Amendments to the present Convention shall be adopted by a three-fourths majority (two thirds) vote of the Contracting Parties to the Convention represented at the conference of the plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the present Convention.
3. Acceptance of the amendments shall be notified to the Depositary in writing. Any amendment adopted shall be binding for the Contracting Parties, that have accepted them, on the thirtieth day following the receipt, by the Depositary, of such notification of their acceptance by at least three-fourths of the Contracting Parties to the present Convention.
4. After the entry into force of an amendment to the present Convention, any new Contracting Parties to the present Convention shall become Party to the instrument as amended.

Article 23. Special exercise of voting right

Within the areas of their competence, any regional economic grouping shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to the present Convention; any grouping shall not exercise their right to vote in cases where the member States concerned exercise theirs individually, and conversely.

Article 24. Communications and reports

1. The Contracting Parties shall communicate to the Depositary with the least possible delay, who in turn will, in accordance with Article 31 sub-paragraph 2, transmit them to the Parties, their legislative and statutory texts concerning yachting as well as the modifications made thereto. They shall also pass on a sufficient number of specimen certificates, issued by them or by the authorised bodies, that the Contracting Parties may keep and bring them to the attention of their officials.
2. They shall report to the Depositary on the following:
 - a) Judicial, administrative and other measures taken by them in order to implement the present Convention as well as the recommendations adopted by their meetings;
 - b) The efficacy of the measures referred to in point (a) and the problems encountered in the implementation of the aforementioned instruments.

Article 25. Settlement of disputes

Should a dispute arise between Contracting Parties as to the interpretation or implementation of the present Convention, said Parties shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

Article 26. Signature

The present Convention shall be open for signature by the coastal States of the Mediterranean, in Monaco, from to (a year). It will also be open for signature by any regional economic grouping at least one member of which is a coastal State of the Mediterranean Basin and which exercise some competence in fields covered by the present Convention.

Article 27. Ratification, acceptance or approval

The present Convention shall be submitted for ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of, which will assume the functions of Depositary.

Article 28. Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of at least.... instruments of ratification, acceptance or approval of the Convention by the Contracting Parties referred to in Article 26.
2. Thereafter, the present Convention shall enter into force with respect to any member, State and any regional economic grouping referred to in Article 26, as well as in respect of any State not referred to in said Article, on the thirtieth day following deposit of the instrument of accession.

Article 29. Accession

1. After its entry into force, the present Convention shall be open for accession by any coastal State of the Mediterranean Sea, and any regional economic grouping having the characteristics referred to in Article 26, who will not have signed by the deadlines established by this same Article. It will also be open for accession by any non-Mediterranean State.
2. Instruments of accession shall be deposited with the Depositary.

Article 30. Denunciation

1. At any time after three years from the date of entry into force of the present Convention, any Contracting Party may denounce it by giving written notification of such denunciation.
2. Denunciation shall take effect ninety days after the date on which notification thereof is received by the Depositary.

Article 31. Responsibilities of the Depositary

1. The Depositary shall inform the Contracting Parties:
 - i) Of the signature of the present Convention and of the deposit of the instruments of ratification, acceptance, approval or accession in accordance with articles 26, 27 and 29;
 - ii) Of the date on which the Convention will come into force in accordance with the provisions of Article 28;
 - iii) Of notifications of denunciation made in accordance with Article 30;
 - iv) Of the amendments adopted with respect to the Convention, their acceptance by the Contracting Parties and the date of entry into force of such amendments, in accordance with the provisions of Article 22;
2. In accordance with Article 24, the Depositary shall transmit to the Contracting Parties all communications and reports addressed to it.
3. The Depositary shall convene the first meeting of the Contracting Parties one year following the entry into force of the Convention and once every three years thereafter.
4. The original of the present Convention shall be deposited with the Depositary, which shall send certified copies thereof to the Contracting Parties, to the Secretary-General of the Organization of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

Article 32. Reserves

No reserves shall be accepted.

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

DONE at Monaco, on, in a single copy in the English and French languages, both texts being equally authoritative.