



United Nations
Environment
Programme



Distr.
RESTRICTED

UNEP/WG.17/INF.5
9 April 1979

ENGLISH
Original : FRANCAIS

Meeting of Legal Experts on the Draft
Protocol for the Protection of the
Mediterranean Sea against Pollution
from Land-Based Sources

Geneva, 25-29 June 1979

COMMENTS SUBMITTED BY DELEGATION OF LEBANON CONCERNING THE
DRAFT PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA
AGAINST POLLUTION FROM LAND-BASED SOURCES

Note by the Executive Director

The attached document was first submitted to the Intergovernmental
Review Meeting of Mediterranean Coastal States on the Mediterranean
Action Plan, Monaco, 9-14 January 1978.

GE.79-1909

EXPLANATORY COMMENTS ON TWO DRAFTS OF THE
PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA
AGAINST POLLUTION FROM LAND-BASED SOURCES

1. General remarks

Two drafts of the protocol have been prepared and are annexed to these explanatory comments.

Draft No. 1 follows very closely the text adopted at Venice, but incorporates the amendments indicated on pages 3, 4, 5, 6, 7, 8 and 9 of the final report of the Venice Consultation.

In Draft No. 2, more substantial changes are made in the Venice text, namely, in articles 1, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14 and 15. The purpose of these drafting changes and of the rearrangement articles is to present the text in a manner more characteristic of a protocol, which is a working instrument and which should therefore facilitate the task of those responsible for its application. Accordingly, all the measures to be taken in respect of each category of pollutant listed in annexes I and II have been grouped together in the same article. However, no changes have been made in the principles underlying the Venice text. The changes proposed in each draft are commented on below.

2. Draft No. 1

As already mentioned, this draft closely follows the Venice draft, with the exception of articles 5, 6, 7 and 8.

2.1 The preamble is based directly on the preambles to the two protocols already adopted (on dumping and pollution by oil).

2.2 Article 1 is identical to the one adopted in Venice.

2.3 Article 2 reproduces word for word the text adopted in Venice.

2.4 Two additions have been made to article 3: in subparagraph (i) the words "surface or underwater" have been inserted before "coastal establishments", so as formally to cover underwater outfalls, as in the Paris Convention, and in subparagraph (iii) the words "surface or underground" have been added so as to include pollution from the underground sources which are common in the karstic soils of many countries bordering the Mediterranean.

These additions were mentioned in Venice.

2.5 Some minor drafting changes have been made in article 4, subparagraphs (a), (b) and (c).

Subparagraphs (a) and (b) have been merged into a single paragraph, in accordance with the decision taken in Venice.

In paragraph (c), which becomes paragraph (b), the case of installations which have been converted is dealt with in a new subparagraph (iii), in which the figure for the increase in production capacity or the amount of waste discharged has been reduced to 10 per cent, since 25 per cent is too high. The question of the renewal of equipment which provides an opportunity for treating waste has also been covered in subparagraph (iii).

2.6 Articles 5, 6, 7 and 8 have been considerably rearranged so as to present their provisions in a more logical sequence than in the Venice text.

Article 7 becomes article 5. Paragraph 1 of article 7 remains unchanged. Paragraph 2 has been amended to refer to paragraph 1, which it applies. The standards for emissions and standards of use are included among the measures to be taken if necessary, the intention being to minimize the impact of the expression "standards for emissions", which seems to contradict the principle of elimination set forth in paragraph 1.

Article 8 becomes article 6, without change.

Article 5 becomes article 7 and has been considerably redrafted in order to relate it in a logical manner to articles 5 and 6 by specifying the objectives to be attained and the obligation to implement the programmes and timetables prescribed in those articles.

Article 6 becomes article 8 and has been redrafted in the same spirit as new article 7, i.e. it deals with the measures to be taken by the parties to fulfil the commitments undertaken in new articles 5 and 6.

2.7 Paragraph 1 of article 9 is reproduced without change except that, in subparagraph (e), the reference to annex I has been deleted since the subparagraph deals with discharges, which are prohibited for the substances listed in annex I.

The reference to the economic capacities of the parties has been deleted from paragraph 2 of article 9 and included in a new paragraph 3.

New paragraph 3 of article 9 links consideration of the economic capacity of the parties to the timetable and not to the standards and criteria which, since they are based on objective data, ought not to be influenced by that factor.

Paragraph 4 of article 9 is former paragraph 3 of former article 9, without change.

2.8 Article 10 reproduces article 10 of the Venice draft without change.

2.9 New article 11, paragraph 2, reproduces the text of article 11 of the Venice draft. Paragraphs 1 and 3 are new. Paragraph 1 introduces

the obligation to measure or at least to assess the quantities of pollutants discharged from each country, while paragraph 3 introduces the idea of ensuring the comparability of the results of measuring and monitoring by the adoption of a common system of calibration for the instruments used. These two points were noted in the report containing the comments on the Venice text.

2.10 New article 12 reproduces the text of former article 12 without change.

2.11 New article 13 reproduces article 13 of the Venice text, except that the second paragraph contains the expression: "on a non-profit or even more favourable basis", thus providing a definition of preferential aid from developed to developing countries within the framework of the protocol.

2.12 New article 14 has been redrafted to correct the unacceptably lax wording accepted in Venice. In paragraph 1 the words "appropriate measures in order as far as possible to prevent, abate and combat such pollution" have therefore been replaced by the peremptory wording "the necessary steps to apply articles 5, 6, 7 and 8 above".

Indeed, it is inadmissible that two contracting parties should have fewer responsibilities and obligations when they have common problems than they have individually with respect to the same problems.

In paragraph 2 the following words have been added:

"However that Party shall endeavour to co-operate with the said State so as to make possible the full application of the present Protocol". This provision is contained in the Paris Convention.

2.13 The wording of new article 15 is intended to avoid the ambiguities and generalities of the present draft, which might lead to insoluble conflicts between parties.

First, it is specified that the article applies to cases which do not constitute a violation of the protocol, hence the expression "prior to or notwithstanding the implementation of the measures provided for in this protocol".

Reference is then made to "direct" prejudice in order to exclude claims based on general damage of the marine environment affecting the interests of all parties.

Lastly, it is specified that violations of the Protocol continue to be covered by the relevant provisions of the Barcelona Convention.

These amendments are in accordance with the reservations which we entered to the final report of the Venice Consultation.

2.14 Articles 16, 17, 18 and 19 are the same as those adopted in Venice.

3. Draft No. 2

This draft, which we prefer, makes much greater changes in the provisional text drafted in Venice so as to render it less abstract and theoretical and to bring it more into line with the requirements of practical application.

3.1 The preamble, in addition to the text of Draft No. 1, quotes the text of article 8 of the Convention. It seems better to quote this article in the preamble rather than to reproduce it as the text of article 1, as in Draft No. 1. As a general rule, in a text laying down rules for application, the basic text is not reproduced without specific mention of the fact.

3.2 Article 1 has been redrafted to specify that the objective of the protocol is the application of article 8 of the Convention, pursuant to its articles 4 and 15.

3.3 New article 2 reproduces article 2 of the provisional Venice text, without change.

3.4 New article 3 is devoted to definitions. It corresponds to article 4 of the Venice text, with the addition of two further definitions: "territory" and "land-based pollution". The latter definition mentions the main pathways which were listed in former article 3.

We believe that this formulation is clearer and more rational since it makes the listing of the pathways indicative and not contractual.

3.5 New article 4, defining the scope of the protocol, replaces former article 3. The text takes account of the definitions in the preceding article 3 and is therefore less unwieldy.

Two paragraphs indicating how land-based pollution should be recorded and assessed have been added.

3.6 New articles 5, 6, 7 and 8 replace former articles 5, 6, 7 and 8, and have been considerably redrafted.

Each of the new articles deals with a specific type of pollution and indicates what the parties intend to do to achieve the goal set out at the beginning of each article.

The measures described are also differentiated on the basis of present or future wastes, the two aspects of each type of pollution being covered in the same article.

Article 5 is concerned with pollution by the very harmful substances listed in annex I, and provides for the prohibition of new

discharges and the reduction and complete elimination of old ones within periods to be agreed upon. Provision is made for monitoring the environment in order to check pollution levels and the effect of the measures adopted on those levels.

Article 6 deals with pollution by the harmful substances listed in annex II, section A; it follows the presentation used in article 5 above and, in addition, specifies that permits must be obtained for new discharges.

Article 7 is devoted to pollution by discharges from the sources listed in annex II, section B, and is drafted in the same way as articles 5 and 6.

Article 8 deals with pollution by radioactive matter, which it prohibits in principle; however, it mentions the possibility of derogations from this prohibition by agreement between the parties.

3.7 New article 9, on specially protected areas, reproduces article 10 of the provisional Venice text without change.

3.8 New article 10 deals with the "shared watercourses" which were the subject of article 14 of the provisional Venice text. New article 10 is the same as new article 14 of Draft No. 1 attached. The amendments proposed are designed to ensure that the obligations of two parties polluting the same watercourse are not reduced.

3.9 New article 11 deals with pollution affecting another party. It reproduces the text of article 14 of Draft No. 1 and replaces article 14 of the Venice provisional draft.

It is specified that the article does not apply to situations brought about by a violation of the protocol and which directly prejudice the interests of one of the parties.

3.10 New article 12, dealing with co-operation between the parties, groups together the provisions of articles 9, 11 and 12 of the provisional Venice text and Draft No. 1.

It was considered more practical to combine under the heading of "Co-operation" the activities actually connected with that principle.

3.11 New article 13 reproduces the text of article 13 of the Venice draft with the additions already mentioned in 2.11 above. It is therefore the same as article 13 of Draft No. 1.

3.12 New article 14 deals with the special position of developing countries parties to the protocol. It states the principle that measures taken to control pollution should not hamper the economic and social development of these countries, and therefore that, in establishing timetables for the implementation of pollution control measures, account should be taken of the need to apply this principle.

It also introduces the idea that, if the developed countries parties to the protocol provide effective assistance to those in the developing category, periods of time indicated in the timetables could be reduced.

It should not be overlooked that the developed countries are the ones that are mainly responsible for the pollution of the Mediterranean Sea, and it is above all for them to control the pollution that they cause; their economic and financial resources should enable them to shoulder that obligation as well as to assist their less fortunate partners in avoiding the excesses which they themselves have now to remedy.

3.13 New articles 16, 17, 18 and 19 reproduce the text of articles 16, 17, 18 and 19 of the provisional Venice draft and of Draft No. 1, without change.

4. Annexes

No fundamental change has been made in the wording of the annexes; however, in annex II a distinction is drawn between pollutants and sources of pollution with characteristic wastes, in order to facilitate the drafting of articles 6, 7 and 8 of the protocol.

4.1 The provisional Venice text has in general been retained in the drafting of annex I up to item 8 under section A.

Section B covers radioactive products - the term "radionuclides" being used - and makes provision for the establishment of a list by agreement between the parties.

Section C contains the exception covering substances that are biologically harmless, that are rapidly converted into harmless substances, or that contain trace amounts of various substances.

4.2 In annex II harmful substances or elements are covered by section A, and the list of elements has been shortened by the deletion of phosphorus and thermal pollution, which are now under B.

Section B covers sources of characteristic effluents such as sewage or certain industrial wastes that are not directly harmful. Thermal pollution has been placed in this category.

Section C deals with the radioactive substances not covered by annex I.

Section D includes the same exception as in annex I, section C.

4.3 Annex III remains as adopted in Venice.

Draft protocol No. 1

PRELIMINARY DRAFT PROTOCOL FOR THE PROTECTION
OF THE MEDITERRANEAN SEA AGAINST POLLUTION
FROM LAND-BASED SOURCES

THE CONTRACTING PARTIES,

Being parties to the Convention for the Protection of the Mediterranean Sea against Pollution, signed at Barcelona on 16 February 1976;

Recognizing the increasing danger posed to the marine environment by pollution caused by potentially controllable wastes and other harmful substances from land-based activities or sources reaching the sea by various paths;

Considering that the coastal States of the Mediterranean Sea have a common interest in protecting the marine environment from this danger and in working together to this end;

HAVE AGREED AS FOLLOWS:

Article 1. General objective

The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures to prevent, abate and combat pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources within their territories.

Article 2. Coverage

The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be the Mediterranean Sea Area as defined in article 1 of the Convention for the Protection of the Mediterranean Sea against Pollution; it shall also include coastal internal waters.

Article 3. Scope

1. The Protocol shall apply to all polluting discharges reaching the Protocol Area from the mainland belonging to the territories of the Parties:

- (i) Directly from the coast through coastal dumping or from surface or underwater coastal establishments or outfalls;
- (ii) Through runoff;

- (iii) Through rivers, canals and other surface or underground watercourses;
- (iv) Through the atmosphere (wherever this is specified in the Protocol or in any annex thereto);

2. The Protocol shall also apply to fixed man-made off-shore structures under the jurisdiction of a Party.

Article 4. Definitions

For the purpose of this Protocol:

- (a) "Coastal internal waters" means the 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, which is the place in the watercourse where, at low tide and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea-water;
- (b) "New installation" means any establishment used for any purpose.
 - (i) For which a building contract or construction permit has been signed, or construction or works have begun, within from the entry into force of the Protocol;or
 - (ii) For which construction or works have not been completed three years after the entry into force of the Protocol;or
 - (iii) Which, after the entry into force of the Protocol, has been the subject of extension, conversion or the renewal of equipment capable of increasing production capacity or the amount of waste discharged by more than 10 per cent, or changing the nature of the discharges;
- (c) "Organization" means the body referred to in article 13 of the Convention.

Article 5. Pollution by the substances listed in annex I

1. The Parties shall adopt strict measures in order to eliminate pollution of the Protocol area from land-based sources by the substances listed in annex I. To this end they shall formulate, jointly or individually as appropriate, programmes and measures to ensure such elimination, if necessary in stages.

2. The Parties shall, within a period of, years from the date of entry into force of the Protocol, prepare and adopt, by common agreement, a timetable for the application of the programmes and measures set out in paragraph 1 above which shall, if necessary, include standards for emissions and/or standards of use as appropriate. The standards and timetable shall be periodically reviewed by common agreement for each of the substances concerned, in the light of the results obtained and of the latest scientific and technical information available.

Article 6. Pollution by the substances listed in annex II

1. The Parties shall combat and strictly limit pollution from land-based sources in the Protocol Area by substances listed in annex II. They shall formulate, jointly or individually as appropriate, programmes and implement measures towards this end.

2. Discharges of these substances shall be subject to the issue by the competent national authorities of a licence which takes the criteria laid down in annex III into account.

Article 7. Discharges from existing installations

The Parties shall implement the measures, programmes and timetable referred to in articles 5 and 6 above with a view to the progressive reduction of pollution from "existing land-based sources", until:

With respect to the substances listed in annex I, discharges are eliminated;

With respect to the substances listed in annex II, discharges are eliminated or reduced to a level compatible with the protection and improvement of the quality of the marine environment in accordance with standards established and adopted by common agreement and periodically reviewed in the light of the latest scientific and technical developments.

Article 8. Discharges from "new installations"

The Parties shall take all legislative and administrative measures in accordance with the measures, programmes, standards and timetables referred to in articles 5 and 6 above, to ensure that wastes reaching the Protocol Area from new installations shall:

With respect to the substances listed in annex I, be free from such substances;

With respect to the substances listed in annex II, be discharged, if necessary after appropriate treatment, in such a manner as to avoid deleterious effects on the marine environment which interfere with any existing or foreseeable legitimate uses.

Article 9. Common guidelines, criteria or standards

1. The Parties shall progressively formulate and adopt, in co-operation with the competent international organizations, common guidelines, criteria or standards, dealing, inter alia, with:

- (a) The length, depth and position of pipelines for coastal outfalls, taking into account, inter alia, the methods used for prior treatment of effluents;
- (b) Special requirements for effluents requiring separate treatment;
- (c) The quality of sea-water used for specific purposes that is necessary for the protection of human health, living resources and ecosystems;
- (d) The control and progressive replacement of products, installations and industrial and other processes causing significant pollution of the marine environment;
- (e) Special requirements concerning the quantities discharged of the substances referred to in annex II, their concentration in effluents and methods of discharging them.

2. Without prejudice to the provisions of article 5, such common guidelines, criteria or standards shall take into account subregional features, local geographical and physical characteristics, the level of existing pollution and the local absorptive capacity of the marine environment.

3. The timetables for the application of the common guidelines, criteria or standards shall take into account, in addition to the factors set out in paragraph 2 above, the economic capacity of the Parties and their need for economic development.

4. The common guidelines, criteria or standards shall be adopted in the form either of recommended practices or of provisions incorporated in annexes to the Protocol.

Article 10. Specially protected areas

The Parties shall take appropriate measures (such as the establishment of marine parks) to protect, to the greatest extent possible, from any land-based pollution certain areas selected because of particular ecological conditions.

Article 11. Control and monitoring of polluting discharges

1. The Parties shall make all necessary arrangements to measure or assess the quantities of pollutants from their territories reaching the Protocol Area by any path whatever.

2. Within the framework of the monitoring programmes provided for in article 10 of the Convention, and if necessary in co-operation with the competent international organizations, the Parties shall carry out at the earliest possible data monitoring activities in order:

- (a) Systematically to assess, as far as possible, and to provide information on the levels of pollution along their coasts, in particular with regard to the substances listed in annexes I and II;
- (b) To evaluate the effects of measures to reduce pollution of the marine environment taken under the Protocol.

3. The Parties shall use identical methods of observation or, should different measuring methods or instruments be used, adopt a common system of calibration with a view to ensuring the comparability of the results of observations made in pursuance of this article.

Article 12. Scientific and technological co-operation

In conformity with article 11 of the Convention, the Parties shall co-operate as far as possible in scientific and technological fields related to pollution from land-based sources, including research on inputs, pathways and effects of pollutants and on the development of new methods for the treatment, elimination or reduction of such pollutants. To this end, the Parties shall, in particular, endeavour to:

- (a) Exchange scientific and technological information;
- (b) Co-ordinate their research programmes.

Article 13. Training and assistance

The Parties shall, directly or if necessary with the assistance of regional or other qualified international organizations, endeavour to promote programmes of assistance to developing countries, in particular in the fields of science, education and technology, with a view to preventing pollution from land-based sources and its harmful effects in the marine environment.

Such technical assistance, provided on a non-profit or even more favourable basis, could comprise in particular the training of scientific and technical personnel, and the acquisition, utilization and production by those countries of appropriate equipment.

Article 14. Watercourses shared by several States

1. If discharges from a watercourse which flows through the territories of two or more Parties or forms a boundary between them are liable to cause pollution of the marine environment of the Protocol Area, the Parties concerned shall jointly take the necessary steps to apply articles 5, 6, 7 and 8 above.

2. The provisions of the Protocol may not be invoked against a Party insofar as that Party is prevented, as a result of pollution having its origin in the territory of a non-contracting State, from fully applying them.

However, that Party shall endeavour to co-operate with the said State so as to make possible the full application of the present Protocol.

Article 15. Pollution affecting other Parties

1. If, prior to or notwithstanding the implementation of the measures provided for in this Protocol, land-based pollution originating in the territory of one Party prejudices or is likely to prejudice in a direct manner the interests of one or more of the other Parties, the Parties concerned shall, in a spirit of co-operation, whenever the need arises and at the request of one or more of them, undertake to enter into consultation, directly or at the meetings of the Parties, with a view to negotiating a solution.

2. At the request of any Party concerned, the question shall be placed on the agenda of the next meeting of the Parties, which may make recommendations with a view to reaching a satisfactory solution.

3. The above provisions do not cover situations brought about by the violation of commitments entered into under the Protocol, which continue to be governed by the provisions of articles 11, 21 and 22 of the Convention.

Article 16. Exchange of Information

1. The Parties shall inform one another, either directly or through the Organization, of measures taken under articles 5, 6, 7, 8, 10, 11, 13 and 14 and of any difficulties encountered in their implementation. This information shall take the form of reports, including in particular for article 8 statistical data on licences granted. Procedures for the submission of such reports shall be determined at the meetings of the Parties.

2. Information communicated through the Organization shall be circulated as soon as possible to the other Parties.

3. Parties which agree to exchange information directly shall nevertheless communicate such information to the Organization.

Article 17. Meetings of the Parties

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 purposes of meetings of the Parties shall include:
- (a) To keep under review the implementation of the Protocol and to consider the efficacy of the measures adopted and the need for any other revisions, in particular in the form of annexes;
 - (b) To review and amend any annex to the Protocol, as appropriate;
 - (c) To formulate and adopt agreed programmes for the progressive reduction of pollution from existing land-based sources in accordance with article 7;
 - (d) To adopt, in accordance with article 9, common guidelines, criteria or standards, in the form either of recommended practices or of provisions incorporated in annexes to the Protocol;
 - (e) To make recommendations in accordance with article 15, paragraph 2;
 - (f) To consider the documents submitted by the Parties under article 16;
 - (g) As necessary, to perform any other function in implementation of this Protocol.

Article 18. Annexes and amendments to annexes

The amendment of the annexes to this Protocol or the adoption of additional annexes pursuant to article 17 of the Convention shall require, notwithstanding subparagraph 2 (ii) of that article, a majority of the Parties.

Article 19. Final Clauses

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present 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 agree otherwise.

3. This Protocol shall be open for signature in from to by any State invited to participate in the Conference of Plenipotentiaries It shall also be open until the same date 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 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 day following the deposit of at least instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this article.

Annex I

The following substances, families and groups of substances are listed, not in any order of priority, for the purposes of articles 5, 7 and 8 of the Protocol. They have been selected mainly on the basis of their:

Toxicity,

Persistence,

Bioaccumulation.

- A. Very harmful substances, families and groups of substances
1. Organohalogen compounds and substances which may form such compounds in the marine environment.
 2. Organophosphorus compounds and substances which may form such compounds in the marine environment.
 3. Organotin compounds and substances which may form such compounds in the marine environment.
 4. Mercury and mercury compounds.
 5. Cadmium and cadmium compounds.
 6. Used lubricating oils and persistent mineral oils, and persistent hydrocarbons of petroleum origin.
 7. Substances being potentially carcinogenic, teratogenic or mutagenic in or through the marine environment.
 8. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea.
- B. Very harmful substances which are or could be covered by international regulations or agreements.

Radionuclides, the characteristics and list of which shall be established by international agreements or, failing that, by agreement between the Parties.

C. This annex applies to pollution by the substances listed above, regardless of their source or pathway. It does not apply to compounds that are biologically harmless or compounds that are rapidly converted into biologically harmless substances; nor does it apply to materials containing these substances in trace amounts below the limits decided upon by common agreement between the Parties.

Annex II

The following substances, families and groups of substances or sources of pollution are listed, not in any order of priority, for the purposes of articles 6, 7 and 8 of the Protocol. They have been selected mainly on the basis of the criteria used for annex I, taking into account the fact that they are generally less noxious or are more readily rendered harmless by natural processes and therefore affect more limited coastal areas.

A. Substances, families and groups of substances

1. The following elements and their compounds

Arsenic	Nickel	Vanadium
Antimony	Lead	Uranium
Beryllium	Selenium	Zinc
Chromium	Thallium	
Copper	Titanium	

2. Biocides and their derivatives not covered by annex I.

3. Organosilicon compounds and substances which may form such compounds in the marine environment excluding those which are biologically harmless or are rapidly converted into harmless substances.

4. Crude oils and hydrocarbons of petroleum origin and mixtures containing any of these other than those listed in annex I.

5. Cyanides and fluorides.

6. Non-biodegradable detergents and other surface-active substances.

7. Pathogenic micro-organisms.

8. Substances which have a deleterious effect on the taste and/or smell of the product for human consumption derived from the aquatic environment, and compounds liable to give rise to such substances in the marine environment.

B. Sources of pollution

1. Pollution by urban effluents containing pathogenic micro-organisms, organic matter with an adverse effect on the oxygen balance, and substances rich in organic or inorganic phosphorous, nitrites or nitrates.

2. Pollution by sources discharging effluents which, without having toxic effects, may be deleterious on account of the amounts or concentrations in which they are discharged, and in particular residues from the aluminium, titanium and phosphoric acid industries.

3. Thermal pollution.

C. Radioactive substances which are or could be covered by international regulations or agreements

Radioactive wastes and other radioactive matter not covered by annex I.

D. This annex applies to pollution by the substances and energy listed above regardless of their source or pathway. It does not apply to compounds that are biologically harmless or that are rapidly converted into biologically harmless substances; nor does it apply to materials containing these substances in trace amounts below the limits decided upon by common agreement between the Parties.

Annex III

According to articles 6, 7 and 8 of the Protocol, the factors to be considered in establishing criteria governing the issue of an authorization for the discharge of wastes containing substances referred to in annex II include:

A. Characteristics and composition of the waste

1. Type and size of waste source (industrial process, etc.).
2. Type of waste (origin, average composition).
3. Form of waste (solid, liquid, sludge, slurry).
4. Total amount (volume, e.g. per year).
5. Discharge pattern (continuous, intermittent, seasonal variations, etc.).
6. Concentrations of major constituents, namely those listed in annexes I and II.
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 rendering harmful compounds.
5. Adverse effects on the oxygen balance.
6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other seawater 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 conditions of the coastal area.

2. Location of the waste discharge (outfall, canal, outlet, etc.) and its location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas, shellfish grounds), and other discharges.
3. Initial dilution achieved at the point of waste release.
4. Dispersion characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).
5. Water characteristics with respect to physical, chemical, biochemical, biological and ecological conditions in the discharge area.
6. Capacity of the receiving marine environment to absorb waste discharges without undue effects.

D. Availability of waste treatment technology

The method of waste treatment and discharge should be selected taking into account the availability and the possible implementation of various treatment, re-use or elimination methods of industrial and domestic wastes and waste waters on land, including particularly, the methods available for new installations.

E. Potential obstacles to sea-water uses

1. Effects on human health through pollution impact on:
 - (a) Sible 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.

Draft Protocol No. 2

PRELIMINARY DRAFT PROTOCOL FOR THE PROTECTION
OF THE MEDITERRANEAN SEA AGAINST POLLUTION
FROM LAND-BASED SOURCES

PREAMBLE

THE CONTRACTING PARTIES,

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

Recognizing the increasing danger posed to the marine environment by pollution caused by potentially controllable wastes and other harmful substances from land-based activities or sources reaching the sea by various paths;

Considering that the coastal States of the Mediterranean Sea have a common interest in protecting the marine environment from this danger and in working together to this end;

Recalling article 8 of the above-mentioned Barcelona Convention which states that "The Contracting Parties shall take all appropriate measures to prevent, abate and combat pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources within their territories";

HAVE AGREED AS FOLLOWS:

Article 1. General objective

The above preamble is an integral part of this Protocol (hereinafter referred to as "the Protocol"). The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall adopt the following provisions pursuant to article 4, paragraph 2, and article 15 of the Barcelona Convention (hereinafter referred to as "the Convention") with a view to implementing the obligations assumed under article 8 of the Convention.

Article 2. Coverage

The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be the Mediterranean Sea Area as defined in article 1 of the Convention; it shall also include coastal internal waters.

Article 3. Definitions

For the purposes of this Protocol:

- (a) "Coastal internal waters" means the 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, namely up to the place in the watercourse where, at low tide and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea water;
- (b) The "territory" of a Party means the mainland, the islands inland bodies of fresh surface water, flowing or still, under the jurisdiction of that Party. Fixed man-made structures erected in the sea and within the jurisdiction of the above-mentioned Party are also considered to be part of its territory;
- (c) "Land-based pollution" means pollution reaching the Protocol Area from sources situated in the territory of a Party by any pathway whatever, including:
 - (i) Runoff from the coast;
 - (ii) Surface or underground watercourses;
 - (iii) Canals, outlets and pipelines with surface or underwater discharge;
 - (iv) Discharges onto the beach covered by the highest winter tide, or directly into the sea from the coast;
 - (v) From the atmosphere.
- (d) "New installation" means any establishment used for any purpose:
 - (i) For which a building contract or construction permit has been signed, or construction or works have begun, within from the entry into force of the Protocol;or
 - (ii) For which construction or works have not been completed three years after the entry into force of the Protocol;or
 - (iii) Which, after entry into force of the Protocol, is the subject of extension, conversion or the renewal of

equipment resulting either in an increase of more than 10 per cent in production capacity and the amount of waste discharged, or in the renewal of the equipment of the establishment, or yet in a change in the nature of the discharges;

- (e) "Organization" means the body referred to in article 13 of the Convention.

Article 4. Scope

The Protocol shall apply to any pollutant emanating or discharged from a source situated in the territory of a Party and reaching the Protocol Area by any pathway whatever, in particular the pathways enumerated in article 3 (c) above.

The degree of pollution shall be recorded or assessed at the point where it enters the Protocol Area in cases where it is transferred by ground water and through the atmosphere.

For stable, non-degradable or absorbable pollutants, the degree of pollution in the Protocol Area may be estimated from observations made at the source.

Article 5. Pollution by the substances listed in annex I

The Parties shall adopt strict measures in order to eliminate pollution of the Protocol Area from land-based sources by the substances listed in annex I.

To this end they shall formulate and implement, jointly or individually as appropriate, within a period of from the date of entry into force of the Protocol, programmes and measures to control and prohibit any new discharge or increase in existing discharges of the above-mentioned substances.

They shall also formulate and implement, jointly or individually as appropriate, programmes, measures and timetables for the progressive reduction of existing discharges of such substances with a view to their elimination within a period of years from the entry into force of the Protocol.

The Parties shall establish a system for monitoring the pollution of the marine environment by discharges of these substances from existing establishments with a view to the periodic review of the above programmes, measures and timetables in the light of the results of such monitoring and of the latest relevant scientific and technical developments.

Article 6. Pollution by the substances listed in annex II.A

The Parties shall combat and strictly limit pollution from land-based sources in the Protocol Area by substances listed in annex II.A.

They shall closely monitor discharges from such sources and, for that purpose:

- (i) They shall jointly establish and adopt, within a general regional or subregional framework as appropriate, classifications, standards, criteria and procedures in respect of the harmfulness and acceptable tolerances, and the circumstances and conditions in which discharges of such substances may be permitted or prohibited;
- (ii) They shall establish a system for monitoring the local marine environment to permit the evaluation of any harmful effects of existing or authorized discharges, and the intensification or abatement of such effects;
- (iii) They shall adopt, individually or jointly as appropriate, programmes, procedures and timetables with a view to reducing pollution in the Protocol Area by such substances, taking into account the results obtained by the application of subparagraphs (i) and (ii) above. These documents shall be reviewed periodically in the light of the monitoring of the environment and of new scientific and technical developments;
- (iv) They shall make discharges from new installations subject to the prior issue of permits, and shall authorize such discharges only within the limits of the results and provisions of subparagraphs (i), (ii) and (iii) above and on the basis of the directives contained in annex III.
- (v) They shall keep the Organization informed of the results of the observations carried out pursuant to subparagraph (ii) above, and of permits issued in application of subparagraph (iv) above.

Article 7. Pollution by the sources listed in annex II.B

The Parties shall closely monitor and shall reduce the pollution of the marine environment from the Protocol Area by the discharge of wastes, substances or energy from the sources listed in annex II.B and to that end:

They shall establish and adopt, jointly or individually as appropriate, environment quality standards, criteria and procedures for any treatment and discharge which shall take account of the nature and volume of the discharges and of local circumstances,

with a view to correcting or minimizing any harmful effects of such discharges and to maintaining favourable conditions for all legitimate present or future uses of the marine environment;

They shall make discharges from new installations subject to the prior issue of permits, bearing in mind the directives contained in annex III, and shall monitor the effects of such discharges on the marine environment;

They shall inform the Organization of the results observed and the discharge permits issued.

Article 8. Pollution by radioactive discharges

Discharges containing radioactive matter shall, in view of the special features of the Mediterranean, be prohibited.

However, insofar as international safety standards are observed, the Parties may, by common agreement, agree upon certain derogations from the above prohibition.

Article 9. Specially protected areas

The Parties shall take appropriate measures (such as the establishment of marine parks) to protect, to the greatest extent possible, from any land-based pollution, certain areas selected because of particular ecological conditions.

Article 10. Shared watercourses

1. If discharges from a watercourse which flows through the territories of two or more Parties or forms a boundary between them are liable to cause pollution of the marine environment of the Protocol Area, the Parties concerned shall take the necessary steps to apply articles 5, 6, 7 and 8 above.

2. The provisions of the Protocol may not be invoked against the Party insofar as that Party is prevented, as a result of pollution having its origin in the territory of the non-contracting State, from fully applying them. However, that Party shall endeavour to co-operate with the said State so as to make possible the full application of the present Protocol.

Article 11. Pollution affecting other Parties

1. If, prior to or notwithstanding the implementation of the measures provided for in this Protocol, land-based pollution originating in the territory of one Party prejudices or is likely to prejudice in a direct manner the interests of one or more of the other Parties, the Parties concerned shall, in a spirit of co-operation, whenever the need

arises and at the request of one or more of them, undertake to enter into consultation, directly or at the meetings of the Parties, with a view to negotiating a solution.

2. At the request of any Party concerned, the question shall be placed on the agenda of the next meeting of the Parties, which may make recommendations with a view to reaching a satisfactory solution.

3. The provisions of this article do not cover situations brought about by the violation of commitments entered into under the Protocol, which continue to be governed by the provisions of articles 12, 21 and 22 of the Convention.

Article 12. Co-operation between the Parties

With a view to harmonizing and co-ordinating measures to combat land-based pollution affecting the Protocol Area, the Parties shall agree:

- (i) To co-operate either directly, or through the Organization or through competent organizations, with a view to formulating and adopting definitions of joint standards, criteria and procedures for the implementation of articles 5, 6, 7 and 8 above;
- (ii) To adopt comparable procedures and techniques for the monitoring of the environment provided for in articles 5, 6 and 7 above; to this end they shall adopt a common system for the calibration of measuring and observation instruments in order to render the measurements comparable;
- (iii) To co-operate as far as possible in scientific and technological fields related to land-based pollution, including the harmfulness of substances, their inputs, pathways, behaviour in and impact on the marine environment, techniques for the treatment, elimination and reduction of the pollution they cause, and, to that end, to develop as far as possible exchanges of information, transfers of technology and the co-ordination of research programmes in the above fields;
- (iv) To exchange information on their plans of action, on the application of such plans and on the results achieved by their implementation. Such information may be exchanged either directly or through the Organization.

Article 13. Training and technical assistance

The Parties shall, directly or if necessary with the assistance of regional or other qualified international organizations, endeavour to

promote programmes of assistance to developing countries, in particular in the fields of science, education and technology, with a view to preventing pollution from land-based sources and its harmful effects in the marine environment.

Such technical assistance, provided on a non-profit or even more favourable basis, could comprise in particular the training of scientific and technical personnel, and the acquisition, utilization and production by those countries of appropriate equipment.

Article 14. The imperative needs of development

The application of the Protocol shall not prejudice the imperative needs of the economic and social development of the developing countries.

The timetables for the application of programmes, standards and criteria in such countries shall therefore take these imperative needs into account, as well as any economic, scientific and technical assistance provided to those countries by the developed countries with a view to helping them to combat the pollution of the marine environment.

Article 15. Exchange of information

The Parties shall inform the Organization of measures taken under articles 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14.

The Parties may also exchange information directly, although such exchanges shall not relieve them of their obligations under the above paragraph. This information shall take the form of reports including, in respect of articles 6, 7 and 8, statistical data on permits granted. Procedures for the submission of such reports shall be determined at the meetings of the Parties.

Information communicated through the Organization shall be circulated as soon as possible to the other Parties.

Article 16. Meetings of the Parties

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 purposes of meetings of the Parties shall include:

- (a) to keep under review the implementation of the Protocol and to consider the efficacy of the measures adopted and the need for any other revisions, in particular in the form of annexes.

- (b) to review and amend any annex to the Protocol, as appropriate;
- (c) to formulate and adopt agreed programmes for the progressive reduction of pollution from existing land-based sources in accordance with articles 5, 6 and 7;
- (d) to adopt, in accordance with article 12, common guidelines, criteria or standards, in the form either of recommended practices or of provisions to be incorporated in annexes to the Protocol;
- (e) to make recommendations in accordance with article 11, paragraph 2;
- (f) to consider the documents submitted by the Parties under article 15;
- (g) as necessary, to perform any other function in implementation of this Protocol.

Article 17. Annexes and amendments to annexes

(The amendment of the annexes to this Protocol or the adoption of additional annexes pursuant to article 17 of the Convention shall require, notwithstanding subparagraph 2 (ii) of that article, a majority of the Parties.)

Article 18. Final Clauses

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present 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 agree otherwise.

3. This Protocol shall be open for signature in from to by any State invited to participate in the Conference of Plenipotentiaries It shall also be open until the same date 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 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 day following the deposit of at least instruments of ratification acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this article.

Annex I

The following substances, families and groups of substances are listed, not in any order of priority, for the purposes of articles 5, 7 and 8 of the Protocol. They have been selected mainly on the basis of their:

Toxicity,

Persistence,

Bioaccumulation.

A. Very harmful substances, families and groups of substances

1. Organohalogen compounds and substances which may form such compounds in the marine environment.
2. Organophosphorus compounds and substances which may form such compounds in the marine environment.
3. Organotin compounds and substances which may form such compounds in the marine environment.
4. Mercury and mercury compounds.
5. Cadmium and cadmium compounds.
6. Used lubricating oils and persistent mineral oils, and persistent hydrocarbons of petroleum origin.
7. Substances being potentially carcinogenic, teratogenic or mutagenic in or through the marine environment.
8. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea.

B. Very harmful substances which are or could be covered by international regulations or agreements

Radionuclides, the characteristics and list of which shall be established by international agreement, or failing that, by agreement between the Parties.

C. This annex applies to pollution by the substances listed above, regardless of their source or pathway. It does not apply to compounds that are biologically harmless or that are rapidly converted into biologically harmless substances; nor does it apply to materials containing these substances in trace amounts below the limits decided upon by common agreement between the Parties.

Annex II

The following substances, families and groups of substances or sources of pollution are listed, not in any order of priority, for the purposes of articles 6, 7 and 8 of the Protocol. They have been selected mainly on the basis of the criteria used for annex I, taking into account the fact that they are generally less noxious or are more readily rendered harmless by natural processes and therefore affect more limited coastal areas.

A. Substances, families and groups of substances

1. The following elements and their compounds

Arsenic	Nickel	Vanadium
Antimony	Lead	Uranium
Beryllium	Selenium	Zinc
Chromium	Thallium	
Copper	Titanium	

2. Biocides and their derivatives not covered by annex I.

3. Organosilicon compounds and substances which may form such compounds in the marine environment excluding those which are biologically harmless or are rapidly converted into harmless substances.

4. Crude oils and hydrocarbons derived from petroleum origin and mixtures containing any of these other than those listed in annex I.

5. Cyanides and fluorides.

6. Non-biodegradable detergents and other surface-active substances.

7. Pathogenic micro-organisms.

8. Substances which have a deleterious effect on the taste and/or smell of the product for human consumption derived from the aquatic environment, and compounds liable to give rise to such substances in the marine environment.

Sources of pollution

1. Pollution by urban effluents containing pathogenic micro-organisms, organic matter with an adverse effect on the oxygen balance and substances rich in organic or inorganic phosphorous, nitrites or nitrates.

2. Pollution by sources discharging effluents which, without having toxic effects, may be deleterious on account of the amounts or concentrations in which they are discharged, and in particular residues from the aluminium, titanium and phosphoric acid industries.

3. Thermal pollution.

C. Radioactive substances which are or could be covered by international regulations or agreements

Radioactive waste and other radioactive matter not covered by annex I.

D. This annex applies to pollution by the substances and energy listed above regardless of their source or pathway. It does not apply to compounds that are biologically harmless or that are rapidly converted into biologically harmless substances; nor does it apply to materials containing these substances in trace amounts below the limits decided upon by common agreement between the Parties.

Annex III

According to articles 6, 7 and 8 of the Protocol, the factors to be considered in establishing criteria governing the issue of an authorization for the discharge of wastes containing substances referred to in annex II include:

A. Characteristics and composition of the waste

1. Type and size of waste source (industrial process, etc.).
2. Type of waste (origin, average composition).
3. Form of waste (solid, liquid, sludge, slurry).
4. Total amount (volume, e.g. per year).
5. Discharge pattern (continuous, intermittent, seasonal variations, etc.).
6. Concentrations of major constituents, namely, those listed in annexes I and II.
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 rendering harmful compounds.
5. Adverse effects on the oxygen 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 conditions of the coastal area.

2. Location of the waste discharge (outfall, canal, outlet, etc.) and its location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas, shellfish grounds), and other discharges.
3. Initial dilution achieved at the point of waste release.
4. Dispersion characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).
5. Water characteristics with respect to physical, chemical, biochemical, biological and ecological conditions in the discharge area.
6. Capacity of the receiving marine environment to absorb waste discharges without undue effects.

D. Availability of waste treatment technology

The method of waste treatment and discharge should be selected taking into account the availability and the possible implementation of various treatment, re-use or elimination methods of industrial and domestic wastes and waste waters on land, including particularly, the methods available for new installations.

E. Potential obstacles to sea-water uses

1. Effects on human health 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.