

Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols



United Nations Environment Programme
Mediterranean Action Plan
Barcelona Convention

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Foreword

For centuries the Mediterranean Sea has been a vital crossroad linking Europe, Asia and Africa. In recent decades, rapid increases in population growth, global trade and coastal development have placed unprecedented burdens on the Mediterranean environment. In 1975, countries bordering the Mediterranean recognized the need to prevent pollution and manage the Sea's ecosystems and marine and coastal resources by adopting a policy instrument, the Mediterranean Action Plan (MAP). One year later, in 1976, the Mediterranean states adopted the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (the Barcelona Convention) and two related protocols.

The Convention entered into force in February 1978, making it the first regional seas agreement concluded under the auspices of the United Nations Environment Programme (UNEP). Support for implementation of the Convention is provided by the Barcelona Convention/Mediterranean Action Plan (UNEP/MAP) secretariat in Athens Greece, the Programme for the Assessment and Control of Marine Pollution in the Mediterranean Region (MED POL), and six affiliated regional action centres¹ (RACs) located throughout the region. Together, UNEP/MAP and its Components provide coordination, policy development and implementation, communications and capacity building assistance to the Convention's Contracting Parties.

In 1995, the MAP was replaced by the "Action Plan for the Protection of the Marine Environment and the Sustainable Development of the Coastal Areas of the Mediterranean (MAP Phase II)", and the Barcelona Convention was amended, broadening MAP's mandate beyond marine pollution control to include planning, management and support for the promotion of sustainable development in the region.

The amended Convention applies many of the concepts embodied in the instruments adopted by the 1992 Rio Conference (the Declaration on Environment and Development and the Programme of Action known as "Agenda 21"), such as sustainable

development, the precautionary principle, integrated coastal zone management; the use of best available techniques and best environmental practices, as well as the promotion of environmentally sound technology, including clean production technologies.

In furtherance of sustainable development in the region, the Mediterranean Commission on Sustainable Development (MCSD) was established in 1996 to serve as an advisory body to the Contracting Parties. The MCSD comprises representatives of the Contracting Parties and local authorities, the business community and non-governmental organizations. The MCSD coordinated the preparation of the Mediterranean Strategy for Sustainable Development, which the Contracting Parties adopted in 2005.

The Barcelona Convention is a dynamic framework that has enabled the 22 Contracting Parties to address emerging challenges and adapt to changes in international law pertaining to protection of the marine environment. Over the years, the Contracting Parties adopted seven implementing Protocols to the Barcelona Convention to address common challenges related to the prevention and reduction of pollution, the protection of biodiversity and the integrated management of the Mediterranean coastal zones, as well as a number of Decisions, some of them legally binding, that have strengthened the institutional set up for implementing the Convention and defined in a more concrete way some of its obligations. Its latest innovation was the creation in 2008 of a Compliance Committee as an official subsidiary body to facilitate the implementation of the Convention and its Protocols. Taken together, these legal tools provide an effective means to preserve a shared natural heritage and address the common concerns of the bordering States and the European Union.

This book contains the texts of the Barcelona Convention, its Protocols and its key legal Decisions² and is intended to serve as a reference tool for readers interested in the core multilateral legal instruments and mechanisms supporting protection of one of the world's great seas.

The Convention for the Protection of the Mediterranean Sea against Pollution was adopted by the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea, in Barcelona, Spain on 16 February 1976. It entered into force on 12 February 1978. The Convention was amended on 10 June 1995 and renamed Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean. The amended Convention entered into force on 9 July 2004.

The "Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft" (the Dumping Protocol) was adopted on 16 February 1976 in Barcelona, Spain. The Protocol entered into force on 12 February 1978. The Protocol was amended on 10 June 1995. To date, 15 Parties have accepted the amendments, with only one acceptance pending for its entry into force. The Protocol presented in this volume is the amended version.

The "Protocol concerning cooperation in preventing Pollution from Ships and, in cases of Emergency, combating Pollution of the Mediterranean Sea" (Prevention and Emergency Protocol) was adopted in Malta in 2002. The Protocol entered into force on 17 March 2004, replacing the Emergency Protocol of 1976.

The "Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities" (LBS Protocol) presented in this volume is the amended version of the "Land-Based Sources Protocol" of 1980 adopted in Syracuse, Italy in 1996. The amendments to the Proto-

col entered into force on 18 May 2006.

The "Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean" (SPA and Biodiversity Protocol) contained in this volume was adopted in Barcelona, Spain in 1995 and entered into force in 1999. It replaced the SPA Protocol of 1982. The Protocol includes annexes, which were adopted by the Contracting Parties in a Meeting of Plenipotentiaries held in Monaco on 24 November 1996. The annexes were revised in 2009.

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) was adopted in Madrid, Spain in 1994 and entered into force on 24 March 2011.

The "Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal" (Hazardous Wastes Protocol) was adopted in Izmir, Turkey in 1996 and entered into force on 18 January 2008.

The "Protocol on Integrated Coastal Zone Management in the Mediterranean" (ICZM Protocol) was adopted in Madrid, Spain in 2008 and entered into force on 24 March 2011³.

November 2011

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Athens, Greece

¹ The MAP's Regional Activity Centres are: the Blue Plan Regional Activity Centre (BP/RAC), the Priority Actions Programme Regional Activity Centre (PAP/RAC), the Specially Protected Areas Regional Activity Centre (SPA/RAC), the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), the Regional Activity Centre for Information and Communication (INFO/RAC) and the Cleaner Production Regional Activity Centre (CP/RAC).

² Decision IG 17/3, "New reporting format for the implementation of the Barcelona Convention and its Protocols"; is not included in this book but is set forth in Annex V, Decisions of the 15th Meeting of the Contracting Parties, UNEP(DEPI)/MED IG.17/10, "Report of the 15th Ordinary Meeting of the Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols"; which can be found at http://195.97.36.231/acrobatfiles/08IG17_10_eng.pdf. Similarly, Decision IG 19/3 on "Implementation of and reporting on Guidelines for the determination of Liability and Compensation for damages resulting from pollution of the Marine Environment in the Mediterranean Sea Area" is set forth in UNEP(DEPI)/MED IG.19/5, "Draft Decisions for the 16th Meeting of the Contracting Parties"; which can be found at http://195.97.36.231/acrobatfiles/09IG19_5_Eng.pdf.

³ For more information about the status of signatures and ratifications, see <http://195.97.36.231/dbases/webdocs/BCP/StatusOfSignaturesAndRatifications.doc>.

Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean

The Convention for the Protection of the Mediterranean Sea Against Pollution (the Barcelona Convention) was adopted on 16 February 1976 by the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea, held in Barcelona. The Convention entered into force on 12 February 1978.

The original Convention was modified by amendments adopted on 10 June 1995 by the Conference of Plenipotentiaries on the Convention for the Protection of the Mediterranean Sea against Pollution and its Protocols, held in Barcelona on 9 and 10 June 1995 (UNEP(OCA)/MED IG.6/7). The amended Convention, recorded as "Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean" entered into force on 9 July 2004.

The Contracting Parties,

- ***Conscious*** of the economic, social, health and cultural value of the marine environment of the Mediterranean Sea Area,
- ***Fully aware*** of their responsibility to preserve and sustainably develop this common heritage for the benefit and enjoyment of present and future generations,
- ***Recognizing*** the threat posed by pollution to the marine environment, its ecological equilibrium, resources and legitimate uses,
- ***Mindful*** of the special hydrographic and ecological characteristics of the Mediterranean Sea Area and its particular vulnerability to pollution,
- ***Noting that*** existing international conventions on the subject do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and do not entirely meet the special requirements of the Mediterranean Sea Area,
- ***Realizing fully*** the need for close cooperation among the States and international organizations concerned in a coordinated and comprehensive regional approach for the protection and enhancement of the marine environment in the Mediterranean Sea Area,
- ***Fully aware*** that the Mediterranean Action Plan, since its adoption in 1975 and through its evolution, has contributed to the process of sustainable development in the Mediterranean region and has represented a substantive and dynamic tool for the implementation of the activities related to the Convention and its Protocols by the Contracting Parties,
- ***Taking into account*** the results of the United Nations Conference on Environment and Development, held in Rio de Janeiro from 4 to 14 June 1992,
- ***Also taking into account*** the Declaration of Genoa of 1985, the Charter of Nicosia of 1990, the Declaration of Cairo of 1992 on Euro-Mediterranean Cooperation on the Environment within the Mediterranean Basin, the recommendations of the Conference of Casablanca of 1993, and the Declaration of Tunis of 1994 on the Sustainable Development of the Mediterranean,
- ***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,

Have agreed as follows:

Article 1

GEOGRAPHICAL COVERAGE

1. For the purposes of this 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 Mehmetcik and Kumkale lighthouses.

2. The application of the Convention may be extended to coastal areas as defined by each Contracting Party within its own territory.

3. Any Protocol to this Convention may extend the geographical coverage to which that particular Protocol applies.

Article 2

DEFINITIONS

For the purposes of this Convention:

(a) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results, or is likely to result, in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of seawater and reduction of amenities.

(b) "Organization" means the body designated as responsible for carrying out secretariat functions pursuant to article 17 of this Convention.

Article 3

GENERAL PROVISIONS

1. The Contracting Parties, when applying this Convention and its related Protocols, shall act in conformity with international law.

2. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or sub-regional agreements for the promotion of sustainable development, the protection of the environment, the conservation and preservation of natural resources in the Mediterranean Sea Area, provided that such agreements are consistent with this Convention and the Protocols and conform to international law. Copies of such agreements shall be communicated to the Organization. As appropriate, Contracting Parties should make use of existing organizations, agreements or arrangements in the Mediterranean Sea Area.

3. Nothing in this Convention and its Protocols shall prejudice the rights and positions of any State concerning the United Nations Convention on the Law of the Sea of 1982.

4. The Contracting Parties shall take individual or joint initiatives compatible with international law through the relevant international organizations to encourage the implementation of the provisions of this Convention and its Protocols by all the non-party States.

5. Nothing in this Convention and its Protocols shall affect the sovereign immunity of warships or other ships owned or operated by a State while engaged in government non-commercial service. However, each Contracting Party shall ensure that its vessels and aircraft, entitled to sovereign immunity under international law, act in a manner consistent with this Protocol.

Article 4

GENERAL OBLIGATIONS

1. The Contracting Parties shall individually or jointly take all appropriate measures in accordance with the provisions of this Convention and those Protocols in force to which they are party to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to protect and enhance the marine environment in that Area so

as to contribute towards its sustainable development.

2. The Contracting Parties pledge themselves to take appropriate measures to implement the Mediterranean Action Plan and, further, to pursue the protection of the marine environment and the natural resources of the Mediterranean Sea Area as an integral part of the development process, meeting the needs of present and future generations in an equitable manner. For the purpose of implementing the objectives of sustainable development the Contracting Parties shall take fully into account the recommendations of the Mediterranean Commission on Sustainable Development established within the framework of the Mediterranean Action Plan.

3. In order to protect the environment and contribute to the sustainable development of the Mediterranean Sea Area, the Contracting Parties shall:

- (a) apply, in accordance with their capabilities, the precautionary principle, by virtue of which where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;
- (b) apply the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter, with due regard to the public interest;
- (c) undertake environmental impact assessment for proposed activities that are likely to cause a significant adverse impact on the marine environment and are subject to an authorization by competent national authorities;
- (d) promote cooperation between and among States in environmental impact assessment procedures related to activities under their jurisdiction or control which are likely to have a significant adverse effect on the marine environment of other States or areas beyond the limits of national jurisdiction, on the basis of notification,

exchange of information and consultation;
(e) commit themselves to promote the integrated management of the coastal zones, taking into account the protection of areas of ecological and landscape interest and the rational use of natural resources.

4. In implementing the Convention and the related Protocols, the Contracting Parties shall:

- (a) adopt programmes and measures which contain, where appropriate, time limits for their completion;
- (b) utilize the best available techniques and the best environmental practices and promote the application of, access to and transfer of environmentally sound technology, including clean production technologies, taking into account the social, economic and technological conditions.

5. The Contracting Parties shall cooperate in the formulation and adoption of Protocols, prescribing agreed measures, procedures and standards for the implementation of this Convention.

6. The Contracting Parties further pledge themselves to promote, within the international bodies considered to be competent by the Contracting Parties, measures concerning the implementation of programmes of sustainable development, the protection, conservation and rehabilitation of the environment and of the natural resources in the Mediterranean Sea Area.

Article 5

POLLUTION CAUSED BY DUMPING FROM SHIPS AND AIRCRAFT OR INCINERATION AT SEA

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by dumping from ships and aircraft or incineration at sea.

Article 6

POLLUTION FROM SHIPS

The Contracting Parties shall take all measures in conformity with international law to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by discharges from ships and to ensure the effective implementation in that Area of the rules which are generally recognized at the international level relating to the control of this type of pollution.

Article 7

POLLUTION RESULTING FROM EXPLORATION AND EXPLOITATION OF THE CONTINENTAL SHELF AND THE SEABED AND ITS SUBSOIL

The Contracting Parties shall take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil.

Article 8

POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to draw up and implement plans for the reduction and phasing out of substances that are toxic, persistent and liable to bioaccumulate arising from land-based sources. These measures shall apply:

- (a) to pollution from land-based sources originating within the territories of the Parties, and reaching the sea:
 - directly from outfalls discharging into the sea or through coastal disposal;

– indirectly through rivers, canals or other watercourses, including underground watercourses, or through run-off;

- (b) to pollution from land-based sources transported by the atmosphere.

Article 9

COOPERATION IN DEALING WITH POLLUTION EMERGENCIES

1. The Contracting Parties shall cooperate in taking the necessary measures for dealing with pollution emergencies in the Mediterranean Sea Area, whatever the causes of such emergencies, and reducing or eliminating damage resulting therefrom.

2. Any Contracting Party which becomes aware of any pollution emergency in the Mediterranean Sea Area shall without delay notify the Organization and, either through the Organization or directly, any Contracting Party likely to be affected by such emergency.

Article 10

CONSERVATION OF BIOLOGICAL DIVERSITY

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve biological diversity, rare or fragile ecosystems, as well as species of wild fauna and flora which are rare, depleted, threatened or endangered and their habitats, in the area to which this Convention applies.

Article 11

POLLUTION RESULTING FROM THE TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest pos-

sible extent eliminate pollution of the environment which can be caused by transboundary movements and disposal of hazardous wastes, and to reduce to a minimum, and if possible eliminate, such transboundary movements.

Article 12

MONITORING

1. The Contracting Parties shall endeavour to establish, in close cooperation with the international bodies which they consider competent, complementary or joint programmes, including, as appropriate, programmes at the bilateral or multilateral levels, for pollution monitoring in the Mediterranean Sea Area and shall endeavour to establish a pollution monitoring system for that Area.

2. For this purpose, the Contracting Parties shall designate the competent authorities responsible for pollution monitoring within areas under their national jurisdiction and shall participate as far as practicable in international arrangements for pollution monitoring in areas beyond national jurisdiction.

3. The Contracting Parties undertake to cooperate in the formulation, adoption and implementation of such annexes to this Convention as may be required to prescribe common procedures and standards for pollution monitoring.

Article 13

SCIENTIFIC AND TECHNOLOGICAL COOPERATION

1. The Contracting Parties undertake as far as possible to cooperate directly, or when appropriate through competent regional or other international organizations, in the fields of science and technology and to exchange data as well as other scientific information for the purpose of this Convention.

2. The Contracting Parties undertake to promote the research on, access to and transfer of environ-

mentally sound technology, including clean production technologies, and to cooperate in the formulation, establishment and implementation of clean production processes.

3. The Contracting Parties undertake to cooperate in the provision of technical and other possible assistance in fields relating to marine pollution, with priority to be given to the special needs of developing countries in the Mediterranean region.

Article 14

ENVIRONMENTAL LEGISLATION

1. The Contracting Parties shall adopt legislation implementing the Convention and the Protocols.

2. The Secretariat may, upon request from a Contracting Party, assist that Party in the drafting of environmental legislation in compliance with the Convention and the Protocols.

Article 15

PUBLIC INFORMATION AND PARTICIPATION

1. The Contracting Parties shall ensure that their competent authorities shall give to the public appropriate access to information on the environmental state in the field of application of the Convention and the Protocols, on activities or measures adversely affecting or likely to affect it and on activities carried out or measures taken in accordance with the Convention and the Protocols.

2. The Contracting Parties shall ensure that the opportunity is given to the public to participate in decision-making processes relevant to the field of application of the Convention and the Protocols, as appropriate.

3. The provision of paragraph 1. of this Article shall not prejudice the right of Contracting Parties to refuse, in accordance with their legal systems and applicable international regulations, to pro-

vide access to such information on the ground of confidentiality, public security or investigation proceedings, stating the reasons for such a refusal.

Article 16

LIABILITY AND COMPENSATION

The Contracting Parties undertake to cooperate in the formulation and adoption of appropriate rules and procedures for the determination of liability and compensation for damage resulting from pollution of the marine environment in the Mediterranean Sea Area.

Article 17

INSTITUTIONAL ARRANGEMENTS

The Contracting Parties designate the United Nations Environment Programme as responsible for carrying out the following secretariat functions:

- (i) To convene and prepare the meetings of Contracting Parties and conferences provided for in articles 18, 21 and 22;
- ((ii) To transmit to the Contracting Parties notifications, reports and other information received in accordance with articles 3, 9 and 26;
- (iii) To receive, consider and reply to enquiries and information from the Contracting Parties;
- (iv) To receive, consider and reply to enquiries and information from non-governmental organizations and the public when they relate to subjects of common interest or to activities carried out at the regional level; in this case, the Contracting Parties concerned shall be informed;
- (v) To perform the functions assigned to it by the protocols to this Convention;
- (vi) To regularly report to the Contracting Parties on the implementation of the Convention and of the Protocols;
- (vii) To perform such other functions as may be assigned to it by the Contracting Parties;

- (viii) To ensure the necessary coordination with other international bodies which the Contracting Parties consider competent, and in particular, to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions.

Article 18

MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings once every two years and extraordinary meetings at any other time deemed necessary, upon the request of the Organization or at the request of any Contracting Party, provided that such requests are supported by at least two Contracting Parties.

2. It shall be the function of the meetings of the Contracting Parties to keep under review the implementation of this Convention and the protocols and, in particular:

- (i) To review generally the inventories carried out by Contracting Parties and competent international organizations on the state of marine pollution and its effects in the Mediterranean Sea Area;
- (ii) To consider reports submitted by the Contracting Parties under article 26;
- (iii) To adopt, review and amend as required the annexes to this Convention and to the protocols, in accordance with the procedure established in article 23;
- (iv) To make recommendations regarding the adoption of any additional protocols or any amendments to this Convention or the protocols in accordance with the provisions of articles 21 and 22;
- (v) To establish working groups as required to consider any matters related to this Convention and the protocols and annexes;
- (vi) To consider and undertake any additional action that may be required for the achieve-

ment of the purposes of this Convention and the protocols.

(vii) To approve the Programme Budget.

Article 19

BUREAU

1. The Bureau of the Contracting Parties shall be composed of representatives of the Contracting Parties elected by the Meetings of the Contracting Parties. In electing the members of the Bureau, the Meetings of the Contracting Parties shall observe the principle of equitable geographical distribution.

2. The functions of the Bureau and the terms and conditions upon which it shall operate shall be set in the Rules of Procedure adopted by the Meetings of the Contracting Parties.

Article 20

OBSERVERS

1. The Contracting Parties may decide to admit as observers at their meetings and conferences:

- (a) any State which is not a Contracting Party to the Convention;
- (b) any international governmental organization or any non-governmental organization the activities of which are related to the Convention.

2. Such observers may participate in meetings without the right to vote and may present any information or report relevant to the objectives of the Convention.

3. The conditions for the admission and participation of observers shall be established in the Rules of Procedure adopted by the Contracting Parties.

Article 21

ADOPTION OF ADDITIONAL PROTOCOLS

1. The Contracting Parties, at a diplomatic conference, may adopt additional protocols to this

Convention pursuant to paragraph 5 of article 4.

2. A diplomatic conference for the purpose of adopting additional protocols shall be convened by the Organization at the request of two thirds of the Contracting Parties.

Article 22

AMENDMENT OF THE CONVENTION OR PROTOCOLS

1. Any Contracting Party to this Convention may propose amendments to the Convention. Amendments shall be adopted by a diplomatic conference which shall be convened by the Organization at the request of two thirds of the Contracting Parties.

2. Any Contracting Party to this Convention may propose amendments to any protocol. Such amendments shall be adopted by a diplomatic conference which shall be convened by the Organization at the request of two thirds of the Contracting Parties to the protocol concerned.

3. Amendments to this Convention shall be adopted by a three-fourths majority vote of the Contracting Parties to the Convention which are represented at the diplomatic conference and shall be submitted by the Depositary for acceptance by all Contracting Parties to the Convention. Amendments to any protocol shall be adopted by a three-fourths majority vote of the Contracting Parties to such protocol which are represented at the diplomatic conference and shall be submitted by the Depositary for acceptance by all Contracting Parties to such protocol.

4. Acceptance of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 of this article shall enter into force between Contracting Parties having accepted such amendments on the thirtieth day following the receipt by the Depositary of notification of their acceptance by at least three fourths of the Contracting Parties to this

Convention or to the protocol concerned, as the case may be.

5. After the entry into force of an amendment to this Convention or to a protocol, any new Contracting Party to this Convention or such protocol shall become a Contracting Party to the instrument as amended.

Article 23

ANNEXES AND AMENDMENTS TO ANNEXES

1. Annexes to this Convention or to any protocol shall form an integral part of the Convention or such protocol, as the case may be.

2. Except as may be otherwise provided in any protocol, the following procedure shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to any protocol, with the exception of amendments to the annex on arbitration:

- (i) Any Contracting Party may propose amendments to the annexes to this Convention or to any protocol at the meetings referred to in article 18;
- (ii) Such amendments shall be adopted by a three-fourths majority vote of the Contracting Parties to the instrument in question;
- (iii) The Depositary shall without delay communicate the amendments so adopted to all Contracting Parties;
- (iv) Any Contracting Party that is unable to approve an amendment to the annexes to this Convention or to any protocol shall so notify in writing the Depositary within a period determined by the Contracting Parties concerned when adopting the amendment;
- (v) The Depositary shall without delay notify all Contracting Parties of any notification received pursuant to the preceding sub-paragraph;
- (vi) On expiry of the period referred to in sub-paragraph (iv) above, the amendment to the annex shall become effective for all Contract-

ing Parties to this Convention or to the protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph.

3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as for the adoption and entry into force of an amendment to an annex in accordance with the provisions of paragraph 2 of this article, provided that, if any amendment to the Convention or the protocol concerned is involved, the new annex shall not enter into force until such time as the amendment to the Convention or the protocol concerned enters into force.

4. Amendments to the annex on arbitration shall be considered to be amendments to this Convention and shall be proposed and adopted in accordance with the procedures set out in article 22 above.

Article 24

RULES OF PROCEDURE AND FINANCIAL RULES

1. The Contracting Parties shall adopt rules of procedure for their meetings and conferences envisaged in articles 18, 21 and 22 above.

2. The Contracting Parties shall adopt financial rules, prepared in consultation with the Organization, to determine, in particular, their financial participation in the Trust Fund.

Article 25

SPECIAL EXERCISE OF VOTING RIGHT

Within the areas of their competence, the European Economic Community and any regional economic grouping referred to in article 30 of this Convention shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention and to one or more protocols; the

European Economic Community and any grouping as referred to above shall not exercise their right to vote in cases where the member States concerned exercise theirs, and conversely.

Article 26

REPORTS

1. The Contracting Parties shall transmit to the Organization reports on:

- (a) the legal, administrative or other measures taken by them for the implementation of this Convention, the Protocols and of the recommendations adopted by their meetings;
- (b) the effectiveness of the measures referred to in subparagraph (a) and problems encountered in the implementation of the instruments as mentioned above.

2. The reports shall be submitted in such form and at such intervals as the Meetings of Contracting Parties may determine.

Article 27

COMPLIANCE CONTROL

The meetings of the Contracting Parties shall, on the basis of periodical reports referred to in Article 26 and any other report submitted by the Contracting Parties, assess the compliance with the Convention and the Protocols as well as the measures and recommendations. They shall recommend, when appropriate, the necessary steps to bring about full compliance with the Convention and the Protocols and promote the implementation of the decisions and recommendations.

Article 28

SETTLEMENTS OF DISPUTES

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Con-

vention or the protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute shall upon common agreement be submitted to arbitration under the conditions laid down in annex A to this Convention.

3. Nevertheless, the Contracting Parties may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other Party accepting the same obligation, the application of the arbitration procedure in conformity with the provisions of annex A. Such declaration shall be notified in writing to the Depositary, who shall communicate it to the other Parties.

Article 29

RELATIONSHIP BETWEEN THE CONVENTION AND PROTOCOLS

1. No one may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one of the protocols. No one may become a Contracting Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.

2. Any protocol to this Convention shall be binding only on the Contracting Parties to the protocol in question.

3. Decisions concerning any protocol pursuant to articles 18, 22 and 23 of this Convention shall be taken only by the Parties to the protocol concerned.

Article 30

SIGNATURE

This Convention, the Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft and the Protocol concern-

ing cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency shall be open for signature in Barcelona on 16 February 1976 and in Madrid from 17 February 1976 to 16 February 1977 by any State invited as a participant in the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protection of the Mediterranean Sea, held in Barcelona from 2 to 16 February 1976, and by any State entitled to sign any protocol in accordance with the provisions of such protocol. They shall also be open until the same date for signature by the European Economic Community and by any similar regional economic grouping at least one member of which is a coastal State of the Mediterranean Sea Area and which exercise competence in fields covered by this Convention, as well as by any protocol affecting them.

Article 31

RATIFICATION, ACCEPTANCE OR APPROVAL

This Convention and any protocol thereto 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 Depository.

Article 32

ACCESSION

1. As from 17 February 1977, the present Convention, the Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft, and the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency shall be open for accession by the States, by the European Economic Community and by any grouping as referred to in article 30.

2. After the entry into force of the Convention and of any protocol, any State not referred to in article 30 may accede to this Convention and to any pro-

ocol, subject to prior approval by three fourths of the Contracting Parties to the protocol concerned.

3. Instruments of accession shall be deposited with the Depository.

Article 33

ENTRY INTO FORCE

1. This Convention shall enter into force on the same date as the protocol first entering into force.

2. The Convention shall also enter into force with regard to the States, the European Economic Community and any regional economic grouping referred to in article 30 if they have complied with the formal requirements for becoming Contracting Parties to any other protocol not yet entered into force.

3. Any protocol to this Convention, except as otherwise provided in such 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 such protocol by the Parties referred to in article 30.

4. Thereafter, this Convention and any protocol shall enter into force with respect to any State, the European Economic Community and any regional economic grouping referred to in article 30 on the thirtieth day following the date of deposit of the instruments of ratification, acceptance, approval or accession.

Article 34

WITHDRAWAL

1. At any time after three years from the date of entry into force of this Convention, any Contracting Party may withdraw from this Convention by giving written notification of withdrawal.

2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party

may, at any time after three years from the date of entry into force of such protocol, withdraw from such protocol by giving written notification of withdrawal.

3. Withdrawal shall take effect 90 days after the date on which notification of withdrawal is received by the Depositary.

4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Party.

5. Any Contracting Party which, upon its withdrawal from a protocol, is no longer a Party to any protocol to this Convention, shall be considered as also having withdrawn from this Convention.

Article 35

RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the Contracting Parties, any other Party referred to in article 30, and the Organization:

- (i) Of the signature of this Convention and of any protocol thereto, and of the deposit of instruments of ratification, acceptance, approval or accession in accordance with articles 30, 31 and 32;
- (ii) Of the date on which the Convention and any protocol will come into force in accordance with the provisions of article 33;
- (iii) Of notifications of withdrawal made in accordance with article 34;
- (iv) Of the amendments adopted with respect to the Convention and to any protocol, their acceptance by the Contracting Parties and the date of entry into force of those amendments in accordance with the provisions of article 22;
- (v) Of the adoption of new annexes and of the amendment of any annex in accordance with article 23;
- (vi) Of declarations recognizing as compulsory

the application of the arbitration procedure mentioned in paragraph 3 of article 28.

2. The original of this Convention and of any protocol thereto shall be deposited with the Depositary, the Government of Spain, which shall send certified copies thereof to the Contracting Parties, to the Organization, and to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

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

DONE at Barcelona on 16 February 1976 in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.

ANNEX A

ARBITRATION

Article 1

Unless the Parties to the dispute otherwise agree, the arbitration procedure shall be conducted in accordance with the provisions of this annex.

Article 2

1. At the request addressed by one Contracting Party to another Contracting Party in accordance with the provisions of paragraph 2 or paragraph 3 of article 28 of the Convention, an arbitral tribunal shall be constituted. The request for arbitration shall state the subject matter of the application including, in particular, the articles of the Convention or the protocol, the interpretation or application of which is in dispute.

2. The claimant party shall inform the Organization that it has requested the setting up of an arbitral tribunal, stating the name of the other Party to the dispute and articles of the Convention or the protocols the interpretation or application of which is in its opinion in dispute. The Organization shall forward the information thus received to all Contracting Parties to the Convention.

Article 3

The arbitral tribunal shall consist of three members: each of the Parties to the dispute shall appoint an arbitrator; the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the Parties to the dispute, nor have his usual

place of residence in the territory of one of these Parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of the more diligent Party, designate him within a further two months' period.

2. If one of the Parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other Party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the Party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall decide according to the rules of international law and, in particular, those of this Convention and the protocols concerned.

2. Any arbitral tribunal constituted under the provisions of this annex shall draw up its own rules of procedure.

Article 6

- 1.** The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.
- 2.** The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the Parties, recommend essential interim measures of protection.
- 3.** If two or more arbitral tribunals constituted under the provisions of this annex are seized of requests with identical or similar subjects, they may inform themselves of the procedures for establishing the facts and take them into account as far as possible.
- 4.** The Parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.
- 5.** The absence or default of a Party to the dispute shall not constitute an impediment to the proceedings.

Article 7

- 1.** The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the Parties to the dispute.
- 2.** Any dispute which may arise between the Parties concerning the interpretation or execution of the award may be submitted by the more diligent Party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another

arbitral tribunal constituted for this purpose in the same manner as the first.

Article 8

The European Economic Community and any regional economic grouping referred to in article 30 of the Convention, like any Contracting Party to the Convention, are empowered to appear as complainants or as respondents before the arbitral tribunal.

Protocol for the Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea

The Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft (the Dumping Protocol) was adopted on 16 February 1976 by the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea, held in Barcelona. The Protocol entered into force on 12 February 1978.

The original Protocol was modified by amendments adopted on 10 June 1995 by the Conference of Plenipotentiaries on the Convention for the Protection of the Mediterranean Sea against Pollution and its Protocols, held in Barcelona on 9 and 10 June 1995 (UNEP(OCA)/MED IG.6/7). The amended Protocol, recorded as "Protocol for the Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea", has not yet entered into force.

The Contracting Parties to the present Protocol,

- *Being Parties* to the Convention for the Protection of the Mediterranean Sea against Pollution,
- *Recognizing* the danger posed to the marine environment by the dumping or incineration of wastes or other matter,
- *Considering* that the coastal States of the Mediterranean Sea have a common interest in protecting the marine environment from this danger,
- *Bearing in mind* that Chapter 17 of Agenda 21 of UNCED calls on the Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter (London, 1972) to take the necessary measures to end dumping in the ocean and the incineration of hazardous substances,
- *Taking into account* Resolutions LC 49(16) and LC 50(16), approved by the 16th Consultative Meeting of the 1972 London Convention, which prohibit the dumping and incineration of industrial wastes at sea,

Have agreed as follows:

Article 1

The Contracting Parties to this Protocol (hereinafter referred to as “the Parties”) shall take all appropriate measures to prevent, abate and eliminate to the fullest extent possible pollution of the Mediterranean Sea caused by dumping from ships and aircraft or incineration at sea.

Article 2

The area to which this Protocol applies shall be the Mediterranean Sea Area as defined in Article 1 of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (hereinafter referred to as “the Convention”).

Article 3

For the purposes of this Protocol:

1. “Ships and aircraft” means waterborne or airborne craft of any type whatsoever. This expression includes air-cushioned craft and floating craft, whether self-propelled or not, and platforms and other man-made structures at sea and their equipment.
2. “Wastes or other matter” means material and substances of any kind, form or description.
3. “Dumping” means:
 - (a) Any deliberate disposal at sea of wastes or other matter from ships or aircraft;
 - (b) Any deliberate disposal at sea of ships or aircraft.

(c) Any deliberate disposal or storage and burial of wastes or other matter on the seabed or in the marine subsoil from ships or aircraft.

4. "Dumping" does not include:

(a) The disposal at sea of wastes or other matter incidental to, or derived from, the normal operations of vessels or aircraft and their equipment, other than wastes or other matter transported by or to vessels or aircraft, operating for the purpose of disposal of such matter, or derived from the treatment of such wastes or other matter on such vessels or aircraft;

(b) Placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Protocol.

5. "Incineration at sea" means the deliberate combustion of wastes or other matter in the maritime waters of the Mediterranean Sea, with the aim of thermal destruction and does not include activities incidental to the normal operations of ships or aircraft.

6. "Organization" means the body referred to in article 17 of the Convention.

Article 4

1. The dumping of wastes or other matter, with the exception of those listed in paragraph 2 of this Article, is prohibited.

2. The following is the list referred to in the preceding paragraph:

(a) dredged material;

(b) fish waste or organic materials resulting from the processing of fish and other marine organisms;

(c) vessels, until 31 December 2000;

(d) platforms and other man-made structures at sea, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent, without prej-

udice to the provisions of the Protocol concerning Pollution Resulting from Exploration and Exploitation of the Continental Shelf, the Seabed and its Subsoil;

(e) inert uncontaminated geological materials the chemical constituents of which are unlikely to be released into the marine environment.

Article 5

The dumping of the wastes or other matter listed in Article 4.2 requires a prior special permit from the competent national authorities.

Article 6

1. The permit referred to in Article 5 shall be issued only after careful consideration of the factors set forth in the Annex to this Protocol or the criteria, guidelines and relevant procedures adopted by the meeting of the Contracting Parties pursuant to paragraph 2 below:

2. The Contracting Parties shall draw up and adopt criteria, guidelines and procedures for the dumping of wastes or other matter listed in Article 4.2 so as to prevent, abate and eliminate pollution.

Article 7

Incineration at sea is prohibited.

Article 8

The provisions of articles 4, 5 and 6 shall not apply in case of *force majeure* due to stress of weather or any other cause when human life or the safety of a ship or aircraft is threatened. Such dumpings shall immediately be reported 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 the wastes or other matter dumped.

Article 9

If a Party in a critical situation of an exceptional nature considers that wastes or other matter not listed in Article 4.2 of this Protocol cannot be disposed of on land without unacceptable danger or damage, above all for the safety of human life, the Party concerned shall forthwith consult the Organization. The Organization, after consulting the Parties to this Protocol, shall recommend methods of storage or the most satisfactory means of destruction or disposal under the prevailing circumstances. The Party shall inform the Organization of the steps adopted in pursuance of these recommendations. The Parties pledge themselves to assist one another in such situations.

Article 10

1. Each Party shall designate one or more competent authorities to:

- (a) Issue the permits provided for in Article 5;
- (b) Keep records of the nature and quantities of the wastes or other matter permitted to be dumped and of the location, date and method of dumping.

2. The competent authorities of each Party shall issue the permits provided for in Article 5 in respect of the wastes or other matter intended for dumping:

- (a) Loaded in its territory;
- (b) Loaded by a ship or aircraft registered in its territory or flying its flag, when the loading occurs in the territory of a State not Party to this Protocol.

Article 11

1. Each Party shall apply the measures required to implement this Protocol to all:

- (a) Ships and aircraft registered in its territory or flying its flag;
- (b) Ships and aircraft loading in its territory wastes or other matter which are to be dumped;
- (c) Ships and aircraft believed to be engaged in

dumping in areas under its jurisdiction in this matter.

Article 12

Each Party undertakes to issue instructions to its maritime inspection ships and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the Mediterranean Sea Area which give rise to suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur. That Party shall, if it considers it appropriate, report accordingly to any other Party concerned.

Article 13

Nothing in this Protocol shall affect the right of each Party to adopt other measures, in accordance with international law, to prevent pollution due to dumping.

Article 14

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 18 of the Convention. The Parties to this Protocol may also hold extraordinary meetings in conformity with article 18 of the Convention.

2. It shall be the function of the meetings of the Parties to this Protocol:

- (a) To keep under review the implementation of this Protocol, and to consider the efficacy of the measures adopted and the need for any other measures, in particular in the form of annexes;
- (b) To study and consider the records of the permits issued in accordance with articles 5, 6 and 7 and of the dumping which has taken place;
- (c) To review and amend as required any annex to this Protocol;
- (d) To discharge such other functions as may be

appropriate for the implementation of this Protocol.

3. The adoption of amendments to the Annex to this Protocol pursuant to Article 23 of the Convention shall require a three-fourths majority vote of the Parties.

Article 15

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

2. The rules or procedure and the financial rules adopted pursuant to article 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

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

DONE at Barcelona on 16 February 1976 in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.

ANNEX

The factors to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea taking into account Article 6 include:

A. CHARACTERISTICS AND COMPOSITION OF THE MATTER

1. Total amount and average compositions of matter dumped (e.g. per year).
2. Form (e.g. solid, sludge, liquid or gaseous).
3. Properties: physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeasts, parasites).

4. Toxicity.
5. Persistence: physical, chemical and biological.
6. Accumulation and biotransformation in biological materials or sediments.
7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.
8. Probability of production of taints or other

changes reducing marketability of resources (fish, shellfish, etc.).

B. CHARACTERISTICS OF DUMPING SITE AND METHOD OF DEPOSIT

1. Location (e.g. coordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed method of release, particularly the speed of the ship.
5. Dispersal characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).
6. Water characteristics (e.g. temperature, pH, salinity, stratification, oxygen indices of pollution-dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD), nitrogen present in organic and mineral form, including ammonia, suspended matter, other nutrients and productivity).
7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity).
8. Existence and effects of other dumpings which have been made in the dumping area (e.g. heavy metal background reading and organic carbon content).
9. When issuing a permit for dumping, the Contracting Parties shall endeavour to determine whether an adequate scientific basis exists for assessing the consequences of such dumping in the

area concerned, in accordance with the foregoing provisions and taking into account seasonal variations.

C. GENERAL CONSIDERATIONS AND CONDITIONS

1. Possible effects on amenities (e.g. presence of floating or stranded material, turbidity, objectionable odour, discolouration and foaming).
2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, sea-weed harvesting and culture.
3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structures, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance for scientific or conservation purposes).
4. The practical availability of alternative land-based methods of treatment, disposal or elimination or of treatment to render the matter less harmful for sea dumping.

Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea

The “Protocol concerning cooperation in preventing Pollution from Ships and, in cases of Emergency, combating Pollution of the Mediterranean Sea” (Prevention and Emergency Protocol) was adopted in Malta in 2002. The Protocol entered into force on 17 March 2004, replacing the Emergency Protocol of 1976.

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 and amended on 10 June 1995,
- *Desirous* of implementing Articles 6 and 9 of the said Convention,
- *Recognizing* that grave pollution of the sea by oil and hazardous and noxious substances or a threat thereof in the Mediterranean Sea Area involves a danger for the coastal States and the marine environment,
- *Considering* that the cooperation of all the coastal States of the Mediterranean Sea is called for to prevent pollution from ships and to respond to pollution incidents, irrespective of their origin,
- *Acknowledging* the role of the International Maritime Organization and the importance of cooperating within the framework of this Organization, in particular in promoting the adoption and the development of international rules and standards to prevent, reduce and control pollution of the marine environment from ships,
- *Emphasizing* the efforts made by the Mediterranean coastal States for the implementation of these international rules and standards,
- *Acknowledging also* the contribution of the European Community to the implementation of international standards as regards maritime safety and the prevention of pollution from ships,
- *Recognizing also* the importance of cooperation in the Mediterranean Sea Area in promoting the effective implementation of international regulations to prevent, reduce and control pollution of the marine environment from ships,
- *Recognizing further* the importance of prompt and effective action at the national, subregional and regional levels in taking emergency measures to deal with pollution of the marine environment or a threat thereof,
- *Applying* the precautionary principle, the polluter pays principle and the method of environmental impact assessment, and utilizing the best available techniques and the best environmental practices, as provided for in Article 4 of the Convention,
- *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, which is in force and to which many Mediterranean coastal States and the European Community are Parties,
- *Taking into account* the international conventions dealing in particular with maritime safety, the prevention of pollution from ships, preparedness for and response to pollution incidents, and liability and compensation for pollution damage,
- *Wishing* to further develop mutual assistance and cooperation in preventing and combating pollution,

Have agreed as follows:

Article 1

DEFINITIONS

For the purpose of this Protocol:

- (a) "Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995;
- (b) "Pollution incident" means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and/or hazardous and noxious substances and which poses or may pose a threat to the marine environment, or to the coastline or related interests of one or more States, and which requires emergency action or other immediate response;
- (c) "Hazardous and noxious substances" means any substance other than oil which, if introduced into the marine environment, is likely to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea;
- (d) "Related interests" means the interests of a coastal State directly affected or threatened and concerning, among others:
 - maritime activities in coastal areas, in ports or estuaries, including fishing activities;
 - the historical and tourist appeal of the area in question, including water sports and recreation;
 - the health of the coastal population;
 - the cultural, aesthetic, scientific and educational value of the area;
 - the conservation of biological diversity and the sustainable use of marine and coastal biological resources;
- (e) "International regulations" means regulations aimed at preventing, reducing and controlling pollution of the marine environment from ships as adopted, at the global level and in conformity with international law, under the aegis of United Nations specialized agencies, and in particular of the International Maritime Organization;

- (f) "Regional Centre" means the "Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea" (REMPEC), established by Resolution 7 adopted by the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protection of the Mediterranean Sea at Barcelona on 9 February 1976, which is administered by the International Maritime Organization and the United Nations Environment Programme, and the objectives and functions of which are defined by the Contracting Parties to the Convention.

Article 2

PROTOCOL AREA

The area to which the Protocol applies shall be the Mediterranean Sea Area as defined in Article 1 of the Convention.

Article 3

GENERAL PROVISIONS

1. The Parties shall cooperate:
 - (a) to implement international regulations to prevent, reduce and control pollution of the marine environment from ships; and
 - (b) to take all necessary measures in cases of pollution incidents.
2. In cooperating, the Parties should take into account as appropriate the participation of local authorities, non-governmental organizations and socio-economic actors.
3. Each Party shall apply this Protocol without prejudice to the sovereignty or the jurisdiction of other Parties or other States. Any measures taken by a Party to apply this Protocol shall be in accordance with international law.

Article 4

CONTINGENCY PLANS AND OTHER MEANS OF PREVENTING AND COMBATING POLLUTION INCIDENTS

1. The Parties shall endeavour to maintain and promote, either individually or through bilateral or multilateral cooperation, contingency plans and other means of preventing and combating pollution incidents. These means shall include, in particular, equipment, ships, aircraft and personnel prepared for operations in cases of emergency, the enactment, as appropriate, of relevant legislation, the development or strengthening of the capability to respond to a pollution incident and the designation of a national authority or authorities responsible for the implementation of this Protocol.

2. The Parties shall also take measures in conformity with international law to prevent the pollution of the Mediterranean Sea Area from ships in order to ensure the effective implementation in that Area of the relevant international conventions in their capacity as flag State, port State and coastal State, and their applicable legislation. They shall develop their national capacity as regards the implementation of those international conventions and may cooperate for their effective implementation through bilateral or multilateral agreements.

3. The Parties shall inform the Regional Centre every two years of the measures taken for the implementation of this Article. The Regional Centre shall present a report to the Parties on the basis of the information received.

Article 5

MONITORING

The Parties shall develop and apply, either individually or through bilateral or multilateral cooperation, monitoring activities covering the Mediterranean Sea Area in order to prevent, detect and combat pollution, and to ensure compliance with the applicable international regulations.

Article 6

COOPERATION IN RECOVERY OPERATIONS

In case of release or loss overboard of hazardous and noxious substances in packaged form, including those in freight containers, portable tanks, road and rail vehicles and shipborne barges, the Parties shall cooperate as far as practicable in the salvage of these packages and the recovery of such substances so as to prevent or reduce the danger to the marine and coastal environment.

Article 7

DISSEMINATION AND EXCHANGE OF INFORMATION

1. Each Party undertakes to disseminate to the other Parties information concerning:
 - (a) the competent national organization or authorities responsible for combating pollution of the sea by oil and hazardous and noxious substances;
 - the competent national authorities responsible for receiving reports of pollution of the sea by oil and hazardous and noxious substances and for dealing with matters concerning measures of assistance between Parties;
 - the national authorities entitled to act on behalf of the State in regard to measures of mutual assistance and cooperation between Parties;
 - the national organization or authorities respon-

sible for the implementation of paragraph 2 of Article 4, in particular those responsible for the implementation of the international conventions concerned and other relevant applicable regulations, those responsible for port reception facilities and those responsible for the monitoring of discharges which are illegal under MARPOL 73/78;

- I its regulations and other matters which have a direct bearing on preparedness for and response to pollution of the sea by oil and hazardous and noxious substances;
- I new ways in which pollution of the sea by oil and hazardous and noxious substances may be avoided, new measures for combating pollution, new developments in the technology of conducting monitoring and the development of research programmes.

2. The Parties which have agreed to exchange information directly shall communicate such information to the Regional Centre. The latter shall communicate this information to the other Parties and, on a basis of reciprocity, to coastal States of the Mediterranean Sea Area which are not Parties to this Protocol.

3. Parties concluding bilateral or multilateral agreements within the framework of this Protocol shall inform the Regional Centre of such agreements, which shall communicate them to the other Parties.

Article 8

COMMUNICATION OF INFORMATION AND REPORTS CONCERNING POLLUTION INCIDENTS

The Parties undertake to coordinate the utilization of the means of communication at their disposal in order to ensure, with the necessary speed and reliability, the reception, transmission and dissemination of all reports and urgent information concerning pollution incidents. The Regional Centre shall have the necessary means of communication

to enable it to participate in this coordinated effort and, in particular, to fulfil the functions assigned to it by paragraph 2 of Article 12.

Article 9

REPORTING PROCEDURE

1. Each Party shall issue instructions to masters or other persons having charge of ships flying its flag and to the pilots of aircraft registered in its territory to report by the most rapid and adequate channels in the circumstances, following reporting procedures to the extent required by, and in accordance with, the applicable provisions of the relevant international agreements, to the nearest coastal State and to this Party:

- (a) all incidents which result or may result in a discharge of oil or hazardous and noxious substances;
- (b) the presence, characteristics and extent of spillages of oil or hazardous and noxious substances, including hazardous and noxious substances in packaged form, observed at sea which pose or are likely to pose a threat to the marine environment or to the coast or related interests of one or more of the Parties.

2. Without prejudice to the provisions of Article 20 of the Protocol, each Party shall take appropriate measures with a view to ensuring that the master of every ship sailing in its territorial waters complies with the obligations under (a) and (b) of paragraph 1 and may request assistance from the Regional Centre in this respect. It shall inform the International Maritime Organization of the measures taken.

3. Each Party shall also issue instructions to persons having charge of sea ports or handling facilities under its jurisdiction to report to it, in accordance with applicable laws, all incidents which result or may result in a discharge of oil or hazardous and noxious substances.

4. In accordance with the relevant provisions of the Protocol for the Protection of the Mediter-

ranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil, each Party shall issue instructions to persons having charge of offshore units under its jurisdiction to report to it by the most rapid and adequate channels in the circumstances, following reporting procedures it has prescribed, all incidents which result or may result in a discharge of oil or hazardous and noxious substances.

5. In paragraphs 1, 3 and 4 of this Article, the term "incident" means an incident meeting the conditions described therein, whether or not it is a pollution incident.

6. The information collected in accordance with paragraphs 1, 3 and 4 shall be communicated to the Regional Centre in the case of a pollution incident.

7. The information collected in accordance with paragraphs 1, 3 and 4 shall be immediately communicated to the other Parties likely to be affected by a pollution incident:

- (a) by the Party which has received the information, preferably directly or through the Regional Centre; or
- (b) by the Regional Centre.

In case of direct communication between Parties, these shall inform the Regional Centre of the measures taken, and the Centre shall communicate them to the other Parties.

8. The Parties shall use a mutually agreed standard form proposed by the Regional Centre for the reporting of pollution incidents as required under paragraphs 6 and 7 of this Article.

9. In consequence of the application of the provisions of paragraph 7, the Parties are not bound by the obligation laid down in Article 9, paragraph 2, of the Convention.

Article 10

OPERATIONAL MEASURES

- 1.** Any Party faced with a pollution incident shall:
- (a) make the necessary assessments of the nature, extent and possible consequences of the pollution incident or, as the case may be, the type and approximate quantity of oil or hazardous and noxious substances and the direction and speed of drift of the spillage;
 - (b) take every practicable measure to prevent, reduce and, to the fullest possible extent, eliminate the effects of the pollution incident;
 - (c) immediately inform all Parties likely to be affected by the pollution incident of these assessments and of any action which it has taken or intends to take, and simultaneously provide the same information to the Regional Centre, which shall communicate it to all other Parties;
 - (d) continue to observe the situation for as long as possible and report thereon in accordance with Article 9.

2. Where action is taken to combat pollution originating from a ship, all possible measures shall be taken to safeguard:

- (a) human lives;
- (b) the ship itself; in doing so, damage to the environment in general shall be prevented or minimized.

Any Party which takes such action shall inform the International Maritime Organization either directly or through the Regional Centre.

Article 11

EMERGENCY MEASURES ON BOARD SHIPS, ON OFFSHORE INSTALLATIONS AND IN PORTS

1. Each Party shall take the necessary steps to ensure that ships flying its flag have on board a pollution emergency plan as required by, and in accordance with, the relevant international regulations.

Each Party shall require masters of ships flying

its flag, in case of a pollution incident, to follow the procedures described in the shipboard emergency plan and in particular to provide the proper authorities, at their request, with such detailed information about the ship and its cargo as is relevant to actions taken in pursuance of Article 9, and to cooperate with these authorities.

Without prejudice to the provisions of Article 20 of the Protocol, each Party shall take appropriate measures with a view to ensuring that the master of every ship sailing in its territorial waters complies with the obligation under paragraph 2 and may request assistance from the Regional Centre in this respect. It shall inform the International Maritime Organization of the measures taken.

Each Party shall require that authorities or operators in charge of sea ports and handling facilities under its jurisdiction as it deems appropriate have pollution emergency plans or similar arrangements that are coordinated with the national system established in accordance with Article 4 and approved in accordance with procedures established by the competent national authority.

Each Party shall require operators in charge of offshore installations under its jurisdiction to have a contingency plan to combat any pollution incident, which is coordinated with the national system established in accordance with Article 4 and in accordance with the procedures established by the competent national authority.

Article 12

ASSISTANCE

1. Any Party requiring assistance to deal with a pollution incident may call for assistance from other Parties, either directly or through the Regional Centre, starting with the Parties which appear likely to be affected by the pollution. This assistance may comprise, in particular, expert advice and the supply to or placing at the disposal of the Party concerned of the required specialized personnel, products, equipment and nautical facilities. Parties so requested shall use their best

endeavours to render this assistance.

2. Where the Parties engaged in an operation to combat pollution cannot agree on the organization of the operation, the Regional Centre may, with the approval of all the Parties involved, coordinate the activity of the facilities put into operation by these Parties.

3. In accordance with applicable international agreements, each Party shall take the necessary legal and administrative measures to facilitate:

- (a) the arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to a pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and
- (b) the expeditious movement into, through and out of its territory of the personnel, cargoes, materials and equipment referred to in subparagraph (a).

Article 13

REIMBURSEMENT OF COSTS OF ASSISTANCE

1. Unless an agreement concerning the financial arrangements governing actions of Parties to deal with pollution incidents has been concluded on a bilateral or multilateral basis prior to the pollution incident, Parties shall bear the costs of their respective action in dealing with pollution in accordance with paragraph 2.

- 2.
- (a) If the action was taken by one Party at the express request of another Party, the requesting Party shall reimburse to the assisting Party the costs of its action. If the request is cancelled, the requesting Party shall bear the costs already incurred or committed by the assisting Party;
 - (b) if the action was taken by a Party on its own initiative, that Party shall bear the cost of its action;

(c) the principles laid down in subparagraphs (a) and (b) above shall apply unless the Parties concerned otherwise agree in any individual case.

3. Unless otherwise agreed, the costs of the action taken by a Party at the request of another Party shall be fairly calculated according to the law and current practice of the assisting Party concerning the reimbursement of such costs.

4. The Party requesting assistance and the assisting Party shall, where appropriate, cooperate in concluding any action in response to a compensation claim. To that end, they shall give due consideration to existing legal regimes. Where the action thus concluded does not permit full compensation for expenses incurred in the assistance operation, the Party requesting assistance may ask the assisting Party to waive reimbursement of the expenses exceeding the sums compensated or to reduce the costs which have been calculated in accordance with paragraph 3. It may also request a postponement of the reimbursement of such costs. In considering such a request, assisting Parties shall give due consideration to the needs of developing countries.

The provisions of this Article shall not be interpreted as in any way prejudicing the rights of Parties to recover from third parties the costs of actions taken to deal with pollution incidents under other applicable provisions and rules of national and international law applicable to one or to the other Party involved in the assistance.

Article 14

PORT RECEPTION FACILITIES

The Parties shall individually, bilaterally or multilaterally take all necessary steps to ensure that reception facilities meeting the needs of ships are available in their ports and terminals. They shall ensure that these facilities are used efficiently without causing undue delay to ships.

■ The Parties are invited to explore ways and

means to charge reasonable costs for the use of these facilities.

■ The Parties shall also ensure the provision of adequate reception facilities for pleasure craft.

■ The Parties shall take all the necessary steps to ensure that reception facilities operate efficiently to limit any impact of their discharges to the marine environment.

■ The Parties shall take the necessary steps to provide ships using their ports with updated information relevant to the obligations arising from MARPOL 73/78 and from their legislation applicable in this field.

Article 15

ENVIRONMENTAL RISKS OF MARITIME TRAFFIC

In conformity with generally accepted international rules and standards and the global mandate of the International Maritime Organization, the Parties shall individually, bilaterally or multilaterally take the necessary steps to assess the environmental risks of the recognized routes used in maritime traffic and shall take the appropriate measures aimed at reducing the risks of accidents or the environmental consequences thereof.

Article 16

RECEPTION OF SHIPS IN DISTRESS IN PORTS AND PLACES OF REFUGE

The Parties shall define national, subregional or regional strategies concerning reception in places of refuge, including ports, of ships in distress presenting a threat to the marine environment. They shall cooperate to this end and inform the Regional Centre of the measures they have adopted.

Article 17

SUBREGIONAL AGREEMENTS

The Parties may negotiate, develop and maintain appropriate bilateral or multilateral subregional agreements in order to facilitate the implementation of this Protocol, or part of it. Upon request of the interested Parties, the Regional Centre shall assist them, within the framework of its functions, in the process of developing and implementing these subregional agreements.

Article 18

MEETINGS

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention, held pursuant to Article 18 of the Convention. The Parties to this Protocol may also hold extraordinary meetings as provided in Article 18 of the Convention.

It shall be the function of the meetings of the Parties to this Protocol, in particular:

- to examine and discuss reports from the Regional Centre on the implementation of this Protocol, and particularly of its Articles 4, 7 and 16;
- to formulate and adopt strategies, action plans and programmes for the implementation of this Protocol;
- to keep under review and consider the efficacy of these strategies, action plans and programmes, and the need to adopt any new strategies, action plans and programmes and to develop measures to that effect;
- to discharge such other functions as may be appropriate for the implementation of this Protocol.

Article 19

RELATIONSHIP WITH THE CONVENTION

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 24 of the Convention shall apply with respect to this Protocol, unless the Parties agree otherwise.

FINAL PROVISIONS

Article 20

EFFECT OF THE PROTOCOL ON DOMESTIC LEGISLATION

In implementing the provisions of this Protocol, the right of Parties to adopt relevant stricter domestic measures or other measures in conformity with international law, in the matters covered by this Protocol, shall not be affected.

Article 21

RELATIONS WITH THIRD PARTIES

The Parties shall, where appropriate, invite States that are not Parties to the Protocol and international organizations to cooperate in the implementation of the Protocol.

Article 22

SIGNATURE

This Protocol shall be open for signature at Valletta, Malta, on 25 January 2002 and in Madrid from 26 January 2002 to 25 January 2003 by any Contracting Party to the Convention.

Article 23

RATIFICATION, ACCEPTANCE OR APPROVAL

This Protocol shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

Article 24

ACCESSION

As from 26 January 2003, this Protocol shall be open for accession by any Party to the Convention.

Article 25

ENTRY INTO FORCE

1. This Protocol shall enter into force on the thirtieth day following the deposit of the sixth instrument of ratification, acceptance, approval or accession.

2. From the date of its entry into force, this Protocol shall replace the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency of 1976 in the relations between the Parties to both instruments.

Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities

The Protocol on Land-Based Sources (the LBS Protocol) was adopted on 17 May 1980 by the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea Against Pollution from Land-based Sources, held in Athens. The Protocol entered into force on 17 June 1983.

The original Protocol was modified by amendments adopted on 7 March 1996 by the Conference of Plenipotentiaries on the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources, held in Syracuse on 6 and 7 March 1996 (UNEP(OCA)/MED IG.7/4). The amended Protocol, recorded as "Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities", entered into force on 18 May 2006.

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 and amended on 10 June 1995,
- || *Desirous* of implementing article 4, paragraph 5, and articles 8 and 21 of the said Convention,
- || *Noting* the increasing environmental pressures resulting from human activities in the Mediterranean Sea Area, particularly in the fields of industrialization and urbanization, as well as the seasonal increase in the coastal population due to tourism,
- || *Recognizing* the danger posed to the marine environment, living resources and human health by pollution from land-based sources and activities and the serious problems resulting therefrom in many coastal waters and river estuaries of the Mediterranean Sea, primarily due to the release of untreated, insufficiently treated or inadequately disposed of domestic or industrial discharges containing substances that are toxic, persistent and liable to bioaccumulate,
- || *Applying* the precautionary principle and the polluter pays principle, undertaking environmental impact assessment and utilizing the best available techniques and the best environmental practice, including clean production technologies, as provided for in article 4 of the Convention,
- || *Recognizing* the difference in levels of development between the coastal States, and taking account of the economic and social imperatives of the developing countries,
- || *Determined* to take, in close cooperation, the necessary measures to protect the Mediterranean Sea against pollution from land-based sources and activities,
- || *Taking into consideration* the Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities, adopted in Washington, D.C., on 3 November 1995,

Have agreed as follows:

Article 1

GENERAL PROVISION

The Contracting Parties to this Protocol (hereinafter referred to as “the Parties”) shall take all appropriate measures to prevent, abate, combat and eliminate to the fullest possible extent pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources and activities within their territories, giving priority to the phasing out of inputs of substances that are toxic, persistent and liable to bioaccumulate.

Article 2

DEFINITIONS

For the purposes of this Protocol:

- (a) “The Convention” means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995;
- (b) “Organization” means the body referred to in article 17 of the Convention;
- (c) “Freshwater limit” means the place in watercourses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of seawater;
- (d) The “Hydrologic Basin” means the entire watershed area within the territories of the Contracting Parties, draining into the Mediterranean Sea Area as defined in article 1 of the Convention.

Article 3

PROTOCOL AREA

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

- (a) The Mediterranean Sea Area as defined in article 1 of the Convention;
- (b) The hydrologic basin of the Mediterranean Sea Area;

- (c) 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;
- (d) Brackish waters, coastal salt waters including marshes and coastal lagoons, and ground waters communicating with the Mediterranean Sea.

Article 4

PROTOCOL APPLICATION

1. This Protocol shall apply:

- (a) To discharges originating from land-based point and diffuse sources and activities within the territories of the Contracting Parties that may affect directly or indirectly the Mediterranean Sea Area. These discharges shall include those which reach the Mediterranean Area, as defined in article 3(a), (c) and (d) of this Protocol, through coastal disposals, rivers, outfalls, canals, or other watercourses, including ground water flow, or through run-off and disposal under the seabed with access from land;
- (b) To inputs of polluting substances transported by the atmosphere to the Mediterranean Sea Area from land-based sources or activities within the territories of the Contracting Parties under the conditions defined in annex III to this Protocol.

2. This Protocol shall also apply to polluting discharges from fixed man-made offshore structures which are under the jurisdiction of a Party and which serve purposes other than exploration and exploitation of mineral resources of the continental shelf and the sea-bed and its subsoil.

3. The Parties shall invite States that are not parties to the Protocol and have in their territories parts of the hydrologic basin of the Mediterranean Area to cooperate in the implementation of the Protocol.

Article 5

GENERAL OBLIGATIONS

1. The Parties undertake to eliminate pollution deriving from land-based sources and activities, in particular to phase out inputs of the substances that are toxic, persistent and liable to bioaccumulate listed in annex I.

2. To this end, they shall elaborate and implement, individually or jointly, as appropriate, national and regional action plans and programmes, containing measures and timetables for their implementation.

3. The priorities and timetables for implementing the action plans, programmes and measures shall be adopted by the Parties taking into account the elements set out in annex I and shall be periodically reviewed.

4. When adopting action plans, programmes and measures, the Parties shall take into account, either individually or jointly, the best available techniques and the best environmental practice including, where appropriate, clean production technologies, taking into account the criteria set forth in annex IV.

5. The Parties shall take preventive measures to reduce to the minimum the risk of pollution caused by accidents.

Article 6

AUTHORIZATION OR REGULATION SYSTEM

1. Point source discharges into the Protocol Area, and releases into water or air that reach and may affect the Mediterranean Area, as defined in article 3(a), (c) and (d) of this Protocol, shall be strictly subject to authorization or regulation by the competent authorities of the Parties, taking due account of the provisions of this Protocol and annex II thereto, as well as the relevant decisions or recommendations of the meetings of the Contracting Parties.

2. To this end, the Parties shall provide for systems of inspection by their competent authorities to assess compliance with authorizations and regulations.

3. The Parties may be assisted by the Organization, upon request, in establishing new, or strengthening existing, competent structures for inspection of compliance with authorizations and regulations. Such assistance shall include special training of personnel.

4. The Parties establish appropriate sanctions in case of non-compliance with the authorizations and regulations and ensure their application.

Article 7

COMMON GUIDELINES, STANDARDS AND CRITERIA

1. The Parties shall progressively formulate and adopt, in cooperation with the competent international organizations, common guidelines and, as appropriate, standards or criteria dealing in particular with:

- (a) The length, depth and position of pipelines for coastal outfalls, taking into account, in particular, the methods used for pretreatment of effluents;
- (b) Special requirements for effluents necessitating 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) Specific requirements concerning the quantities of the substances discharged (listed in annex I), their concentration in effluents and methods of discharging them.

2. Without prejudice to the provisions of article 5

of this Protocol, such common guidelines, standards or criteria shall take into account local ecological, geographical and physical characteristics, the economic capacity of the Parties and their need for development, the level of existing pollution and the real absorptive capacity of the marine environment.

3. The action plans, programmes and measures referred to in articles 5 and 15 of this Protocol shall be adopted by taking into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

Article 8

MONITORING

Within the framework of the provisions of, and the monitoring programmes provided for in article 12 of the Convention, and if necessary in cooperation with the competent international organizations, the Parties shall carry out at the earliest possible date monitoring activities and make access to the public of the findings in order:

- (a) Systematically to assess, as far as possible, the levels of pollution along their coasts, in particular with regard to the sectors of activity and categories of substances listed in annex I, and periodically to provide information in this respect;
- (b) To evaluate the effectiveness of action plans, programmes and measures implemented under this Protocol to eliminate to the fullest possible extent pollution of the marine environment.

Article 9

SCIENTIFIC AND TECHNICAL COOPERATION

In conformity with article 13 of the Convention, the Parties shall cooperate in scientific and tech-

nological fields related to pollution from land-based sources and activities, particularly research on inputs, pathways and effects of pollutants and on the development of new methods for their treatment, reduction or elimination, as well as the development of clean production processes to this effect. To this end, the Parties shall, in particular, endeavour to:

- (a) Exchange scientific and technical information;
- (b) Coordinate their research programmes;
- (c) Promote access to, and transfer of, environmentally sound technology including clean production technology.

Article 10

TECHNICAL ASSISTANCE

1. The Parties shall, directly or with the assistance of competent regional or other international organizations, bilaterally or multilaterally, cooperate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, education and technology, with a view to preventing, reducing or, as appropriate, phasing out inputs of pollutants from land-based sources and activities and their harmful effects in the marine environment.

2. Technical assistance would include, in particular, the training of scientific and technical personnel, as well as the acquisition, utilization and production by those countries of appropriate equipment and, as appropriate, clean production technologies, on advantageous terms to be agreed upon among the Parties concerned.

Article 11

TRANSBOUNDARY POLLUTION

1. If discharges from a watercourse which flows through the territories of two or more Parties or forms a boundary between them are likely to cause pollution of the marine environment of the Protocol Area, the Parties in question, respecting the

provisions of this Protocol in so far as each of them is concerned, are called upon to cooperate with a view to ensuring its full application.

2. A Party shall not be responsible for any pollution originating on the territory of a non-contracting State. However, the said Party shall endeavour to cooperate with the said State so as to make possible full application of the Protocol.

Article 12

SETTLEMENT OF DISPUTES

1. Taking into account article 28, paragraph 1, of the Convention, when land-based pollution originating from the territory of one Party is likely to prejudice directly the interests of one or more of the other Parties, the Parties concerned shall, at the request of one or more of them, undertake to enter into consultation with a view to seeking a satisfactory solution.

2. At the request of any Party concerned, the matter shall be placed on the agenda of the next meeting of the Parties held in accordance with article 14 of this Protocol; the meeting may make recommendations with a view to reaching a satisfactory solution.

Article 13

REPORTS

1. The Parties shall submit reports every two years, unless decided otherwise by the Meeting of the Contracting Parties, to the meetings of the Contracting Parties, through the Organization, of measures taken, results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the submission of such reports shall be determined at the meetings of the Parties.

2. Such reports shall include, *inter alia*:

(a) Statistical data on the authorizations granted in accordance with article 6 of this Protocol;

(b) Data resulting from monitoring as provided for in article 8 of this Protocol;

(c) Quantities of pollutants discharged from their territories;

(d) Action plans, programmes and measures implemented in accordance with articles 5, 7 and 15 of this Protocol.

Article 14

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 18 of the Convention. The Parties may also hold extraordinary meetings in accordance with article 18 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 action plans, programmes and measures adopted;

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

(c) To formulate and adopt action plans, programmes and measures in accordance with articles 5, 7 and 15 of this Protocol;

(d) To adopt, in accordance with article 7 of this Protocol, common guidelines, standards or criteria, in any form decided upon by the Parties;

(e) To make recommendations in accordance with article 12, paragraph 2, of this Protocol;

(f) To consider the reports submitted by the Parties under article 13 of this Protocol;

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

Article 15

ADOPTION OF ACTION PLANS, PROGRAMMES AND MEASURES

1. The meeting of the Parties shall adopt, by a two-thirds majority, the short-term and medium-term regional action plans and programmes containing measures and timetables for their implementation provided for in article 5 of this Protocol.

2. Regional action plans and programmes as referred to in paragraph 1 shall be formulated by the Organization and considered and approved by the relevant technical body of the Contracting Parties within one year at the latest of the entry into force of the amendments to this Protocol. Such regional action plans and programmes shall be put on the agenda for the subsequent meeting of the Parties for adoption. The same procedure shall be followed for any additional action plans and programmes.

3. The measures and timetables adopted in accordance with paragraph 1 of this article shall be notified by the Secretariat to all the Parties. Such measures and timetables become binding on the one hundred and eightieth day following the day of notification for the Parties which have not notified the Secretariat of an objection within one hundred and seventy-nine days from the date of notification.

4. The Parties which have notified an objection in accordance with the preceding paragraph shall inform the meeting of the Parties of the provisions they intend to take, it being understood that these Parties may at any time give their consent to these measures or timetables.

Article 16

FINAL PROVISIONS

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 24 of the Convention

shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

3. This Protocol shall be open for signature, at Athens from 17 May 1980 to 16 June 1980, and at Madrid from 17 June 1980 to 16 May 1981, by any State invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources held at Athens from 12 May to 17 May 1980. It shall also be open until the same dates for signature by the European Economic Community and by any similar regional economic grouping of which at least one member is a coastal State of the Mediterranean Sea Area and which exercises competence in 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 17 May 1981, 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 six instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this article.

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

DONE at Athens on 17 May 1980 and amended at Syracuse on 7 March 1996 in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.

ANNEX I

ELEMENTS TO BE TAKEN INTO ACCOUNT IN THE PREPARATION OF ACTION PLANS, PROGRAMMES AND MEASURES FOR THE ELIMINATION OF POLLUTION FROM LAND-BASED SOURCES AND ACTIVITIES

This annex contains elements which will be taken into account in the preparation of action plans, programmes and measures for the elimination of pollution from land-based sources and activities referred to in articles 5, 7 and 15 of this Protocol.

Such action plans, programmes and measures will aim to cover the sectors of activity listed in section A and also cover the groups of substances enumerated in section C, selected on the basis of the characteristics listed in section B of the present annex.

Priorities for action should be established by the Parties, on the basis of the relative importance of their impact on public health, the environment and socio-economic and cultural conditions. Such programmes should cover point sources, diffuse sources and atmospheric deposition.

In preparing action plans, programmes and measures, the Parties, in conformity with the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, adopted in Washington, D.C. in 1995, will give priority to substances that are toxic, persistent and liable to bioaccumulate, in particular to persistent organic pollutants (POPs), as well as to wastewater treatment and management.

A. SECTORS OF ACTIVITY

The following sectors of activity (not listed in order of priority) will be primarily considered when setting priorities for the preparation of action plans, programmes and measures for the elimination of the pollution from land-based sources and activities:

1. Energy production;
2. Fertilizer production;
3. Production and formulation of biocides;
4. The pharmaceutical industry;
5. Petroleum refining;
6. The paper and paper-pulp industry;
7. Cement production;
8. The tanning industry;
9. The metal industry;
10. Mining;
11. The shipbuilding and repairing industry;
12. Harbour operations;
13. The textile industry;

14. The electronic industry;
15. The recycling industry;
16. Other sectors of the organic chemical industry;
17. Other sectors of the inorganic chemical industry;
18. Tourism;
19. Agriculture;
20. Animal husbandry;
21. Food processing;
22. Aquaculture;
23. Treatment and disposal of hazardous wastes;
24. Treatment and disposal of domestic waste water;
25. Management of municipal solid waste;
26. Disposal of sewage sludge;
27. The waste management industry;
28. Incineration of waste and management of its residues;
29. Works which cause physical alteration of the natural state of the coastline;
30. Transport.

B. CHARACTERISTICS OF SUBSTANCES IN THE ENVIRONMENT

For the preparation of action plans, programmes and measures, the Parties should take into account the characteristics listed below:

1. Persistence;
2. Toxicity or other noxious properties (e.g. carcinogenicity, mutagenicity, teratogenicity);
3. Bioaccumulation;
4. Radioactivity;
5. The ratio between observed concentrations and no observed effect concentrations (NOEC);

6. The risk of eutrophication of anthropogenic origin;
7. Health effects and risks;
8. Transboundary significance;
9. The risk of undesirable changes in the marine ecosystem and irreversibility or durability of effects;
10. Interference with the sustainable exploitation of living resources or with other legitimate uses of the sea;
11. Effects on the taste and/or smell of marine products for human consumption;
12. Effects on the smell, colour, transparency or other characteristics of seawater;
13. Distribution pattern (i.e. quantities involved, use patterns and probability of reaching the marine environment).

C. CATEGORIES OF SUBSTANCES

The following categories of substances and sources of pollution will serve as guidance in the preparation of action plans, programmes and measures:

1. Organohalogen compounds and substances which may form such compounds in the marine environment. Priority will be given to Aldrin, Chlordane, DDT, Dieldrin, Dioxins and Furans, Endrin, Heptachlor, Hexachlorobenzene, Mirex, PCBs and Toxaphene;
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. Polycyclic aromatic hydrocarbons;
5. Heavy metals and their compounds;
6. Used lubricating oils;
7. Radioactive substances, including their wastes,

when 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;

8. Biocides and their derivatives;

9. Pathogenic microorganisms;

10. Crude oils and hydrocarbons of petroleum origin;

11. Cyanides and fluorides;

12. Non-biodegradable detergents and other non-biodegradable surface-active substances;

13. Compounds of nitrogen and phosphorus and other substances which may cause eutrophication;

14. Litter (any persistent manufactured or processed solid material which is discarded, disposed of, or abandoned in the marine and coastal environment);

15. Thermal discharges;

16. Acid or alkaline compounds which may impair the quality of water;

17. Non-toxic substances that have an adverse effect on the oxygen content of the marine environment;

18. Non-toxic substances that may interfere with any legitimate use of the sea;

19. Non-toxic substances that may have adverse effects on the physical or chemical characteristics of seawater.

ANNEX II

ELEMENTS TO BE TAKEN INTO ACCOUNT IN THE ISSUE OF THE AUTHORIZATIONS FOR DISCHARGES OF WASTES

With a view to the issue of an authorization for the discharges of wastes containing substances referred to in article 6 to this Protocol, particular account will be taken, as the case may be, of the following factors:

A. CHARACTERISTICS AND COMPOSITION OF THE DISCHARGES

1. Type and size of point or diffuse source (e.g. industrial process).

2. Type of discharges (e.g. origin, average composition).

3. State of waste (e.g. solid, liquid, sludge, slurry).

4. Total amount (volume discharged, e.g. per year).

5. Discharge pattern (continuous, intermittent, seasonally variable, etc.).

6. Concentrations with respect to relevant constituents of substances listed in annex I and of other substances as appropriate.

7. Physical, chemical and biochemical properties of the waste discharges.

B. CHARACTERISTICS OF DISCHARGE 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.
- 7.** All other characteristics as listed in annex I, section B.

C. CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING ENVIRONMENT

- 1.** Hydrographic, meteorological, geological and topographical characteristics of the coastal 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 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)* Re-use or elimination methods;
- (c)* On-land disposal alternatives;
- (d)* Appropriate low-waste technologies.

E. POTENTIAL IMPAIRMENT OF MARINE ECOSYSTEMS AND 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.

ANNEX III

CONDITIONS OF APPLICATION TO POLLUTION TRANSPORTED THROUGH THE ATMOSPHERE

This annex defines the conditions of application of this Protocol to pollution from land-based sources transported by the atmosphere in terms of Article 4.1(b) are the following:

- 1.** This Protocol shall apply to polluting discharges into the atmosphere under the following conditions:
 - (a) the discharged substance is or could be transported to the Mediterranean Sea Area under prevailing meteorological conditions;
 - (b) the input of the substance into the Mediterranean Sea Area is hazardous for the environment in relation to the quantities of the same substance reaching the Area by other means.
- 2.** This Protocol shall also apply to polluting discharges into the atmosphere affecting the Mediterranean Sea Area from land-based sources within the territories of the Parties and from fixed man-made offshore structures, subject to the provisions of article 4.2 of this Protocol.
- 3.** In the case of pollution of the Mediterranean Sea Area from land-based sources through the atmosphere, the provisions of articles 5 and 6 of this Protocol shall apply progressively to appropriate substances and sources listed in annex I to this Protocol as will be agreed by the Parties.
- 4.** Subject to the conditions specified in paragraph 1 of this annex, the provisions of Article 7.1 of this Protocol shall also apply to:
 - (a) discharges - quantity and rate - of substances emitted to the atmosphere, on the basis of the information available to the Contracting Parties concerning the location and distribution of air pollution sources;
 - (b) the content of hazardous substances in fuel and raw materials;
 - (c) the efficiency of air pollution control technologies and more efficient manufacturing and fuel burning processes;
 - (d) the application of hazardous substances in agriculture and forestry.
- 5.** The provisions of annex II to this Protocol shall apply to pollution through the atmosphere whenever appropriate. Air pollution monitoring and modelling using acceptable common emission factors and methodologies shall be carried out in the assessment of atmospheric deposition of substances, as well as in the compilation of inventories of quantities and rates of pollutant emissions into the atmosphere from land-based sources.
- 6.** All Articles, including parts thereof to this Protocol not mentioned in paragraphs 1 to 5 above shall apply equally to pollution from land-based sources transported by the atmosphere wherever applicable and subject to the conditions specified in paragraph 1 of this Annex.

ANNEX IV

CRITERIA FOR THE DEFINITION OF BEST AVAILABLE TECHNIQUES AND BEST ENVIRONMENTAL PRACTICE

A. BEST AVAILABLE TECHNIQUES

1. The use of the best available techniques shall emphasize the use of non-waste technology, if available.

2. The term “best available techniques” means the latest stage of development (state of the art) of processes, of facilities or of methods of operation which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste. In determining whether a set of processes, facilities and methods of operation constitute the best available techniques in general or individual cases, special consideration shall be given to:

- (a) comparable processes, facilities or methods of operation which have recently been successfully tried out;
- (b) technological advances and changes in scientific knowledge and understanding;
- (c) the economic feasibility of such techniques;
- (d) time limits for installation in both new and existing plants;
- (e) the nature and volume of the discharges and emissions concerned.

3. It therefore follows that what is “best available techniques” for a particular process will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

4. If the reduction of discharges and emissions resulting from the use of best available techniques does not lead to environmentally acceptable results, additional measures have to be applied.

5. “Techniques” include both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled.

B. BEST ENVIRONMENTAL PRACTICE

6. The term “best environmental practice” means the application of the most appropriate combination of environmental control measures and strategies. In making a selection for individual cases, at least the following graduated range of measures should be considered:

- (a) the provision of information and education to the public and to users about the environmental consequences of choice of particular activities and choice of products, their use and ultimate disposal;
- (b) the development and application of codes of good environmental practice which cover all aspects of the activity in the product’s life;
- (c) the mandatory application of labels informing users of environmental risks related to a product, its use and ultimate disposal;
- (d) saving resources, including energy;
- (e) making collection and disposal systems available to the public;

- (f) avoiding the use of hazardous substances or products and the generation of hazardous waste;
- (g) recycling, recovery and re-use;
- (h) the application of economic instruments to activities, products or groups of products;
- (i) establishing a system of licensing, involving a range of restrictions or a ban.

7. In determining what combination of measures constitute best environmental practice, in general or individual cases, particular consideration should be given to:

- (a) the environmental hazard of the product and its production, use and ultimate disposal;
- (b) the substitution by less polluting activities or substances;
- (c) the scale of use;
- (d) the potential environmental benefit or penalty of substitute materials or activities;
- (e) advances and changes in scientific knowledge and understanding;
- (f) time limits for implementation;
- (g) social and economic implications.

8. It therefore follows that best environmental practice for a particular source will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

9. If the reduction of inputs resulting from the use of best environmental practice does not lead to environmentally acceptable results, additional measures have to be applied and best environmental practice redefined.

Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean

The Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean was adopted on 10 June 1995 by the Conference of Plenipotentiaries for the Protection of the Mediterranean Sea against Pollution and its Protocols, held in Barcelona. This Protocol, which replaces the Protocol concerning Mediterranean Specially Protected Areas of 1982 in accordance with its Article 32, entered into force on 12 December 1999.

The Annexes to the Protocol were adopted on 24 November 1996 by the Meeting of Plenipotentiaries on the Annexes to the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean, held in Monaco. The annexes were revised in 2009.

The Contracting Parties to the present Protocol,

- *Being Parties* to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976,
- *Conscious* of the profound impact of human activities on the state of the marine environment and the littoral and more generally on the ecosystems of areas having prevailing Mediterranean features,
- *Stressing* the importance of protecting and, as appropriate, improving the state of the Mediterranean natural and cultural heritage, in particular through the establishment of specially protected areas and also by the protection and conservation of threatened species,
- *Considering* the instruments adopted by the United Nations Conference on Environment and Development and particularly the Convention on Biological Diversity (Rio de Janeiro, 1992),
- *Conscious* that when there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be invoked as a reason for postponing measures to avoid or minimize such a threat,
- *Considering* that all the Contracting Parties should cooperate to conserve, protect and restore the health and integrity of ecosystems and that they have, in this respect, common but differentiated responsibilities,

Have agreed as follows:

PART 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 and amended at Barcelona in 1995;
- (b) "Biological diversity" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;
- (c) "Endangered species" means any species that is in danger of extinction throughout all or part of its range;
- (d) "Endemic species" means any species whose range is restricted to a limited geographical area;
- (e) "Threatened species" means any species that is likely to become extinct within the foreseeable future throughout all or part of its range and whose survival is unlikely if the factors causing numerical decline or habitat degradation continue to operate;
- (f) "Conservation status of a species" means the sum of the influences acting on the species that may affect its long-term distribution and abundance;
- (g) "Parties" means the Contracting Parties to this Protocol;
- (h) "Organization" means the organization referred to in Article 2 of the Convention;
- (i) "Centre" means the Regional Activity Centre for Specially Protected Areas.

Article 2

GEOGRAPHICAL COVERAGE

1. The area to which this Protocol applies shall be the area of the Mediterranean Sea as delimited in Article 1 of the Convention. It also includes:

- the seabed and its subsoil;
- the waters, the seabed and its subsoil on the landward side of the baseline from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit;
- the terrestrial coastal areas designated by each of the Parties, including wetlands.

2. Nothing in this Protocol nor any act adopted on the basis of this Protocol shall prejudice the rights, the present and future claims or legal views of any State relating to the law of the sea, in particular, the nature and the extent of marine areas, the delimitation of marine areas between States with opposite or adjacent coasts, freedom of navigation on the high seas, the right and the modalities of passage through straits used for international navigation and the right of innocent passage in territorial seas, as well as the nature and extent of the jurisdiction of the coastal State, the flag State and the port State.

3. No act or activity undertaken on the basis of this Protocol shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.

Article 3

GENERAL OBLIGATIONS

1. Each Party shall take the necessary measures to:

- (a) protect, preserve and manage in a sustainable and environmentally sound way areas of particular natural or cultural value, notably by the establishment of specially protected areas;
- (b) protect, preserve and manage threatened or endangered species of flora and fauna.

2. The Parties shall cooperate, directly or through

the competent international organizations, in the conservation and sustainable use of biological diversity in the area to which this Protocol applies.

3. The Parties shall identify and compile inventories of the components of biological diversity important for its conservation and sustainable use.

4. The Parties shall adopt strategies, plans and programmes for the conservation of biological diversity and the sustainable use of marine and coastal biological resources and shall integrate them into their relevant sectoral and intersectoral policies.

5. The Parties shall monitor the components of biological diversity referred to in paragraph 3 of this Article and shall identify processes and categories of activities which have or are likely to have a significant adverse impact on the conservation and sustainable use of biological diversity, and monitor their effects.

6. Each Party shall apply the measures provided for in this Protocol without prejudice to the sovereignty or the jurisdiction of other Parties or other States. Any measures taken by a Party to enforce these measures shall be in accordance with international law.

PART II

PROTECTION OF AREAS

SECTION ONE - SPECIALLY PROTECTED AREAS

Article 4

OBJECTIVES

The objective of specially protected areas is to safeguard:

(a) representative types of coastal and marine ecosystems of adequate size to ensure their long-term viability and to maintain their biological diversity;

(b) habitats which are in danger of disappearing in their natural area of distribution in the Mediterranean or which have a reduced natural area of distribution as a consequence of their regression or on account of their intrinsically restricted area;

(c) habitats critical to the survival, reproduction and recovery of endangered, threatened or endemic species of flora or fauna;

(d) sites of particular importance because of their scientific, aesthetic, cultural or educational interest.

Article 5

ESTABLISHMENT OF SPECIALLY PROTECTED AREAS

1. Each Party may establish specially protected areas in the marine and coastal zones subject to its sovereignty or jurisdiction.

2. If a Party intends to establish, in an area subject to its sovereignty or national jurisdiction, a specially protected area contiguous to the frontier and to the limits of a zone subject to the sovereignty or national jurisdiction of another Party, the competent authorities of the two Parties shall endeavour to cooperate, with a view to reaching agreement on the measures to be taken and shall, *inter alia*, examine the possibility of the other Party establishing a corresponding specially protected area or adopting any other appropriate measures.

3. If a Party intends to establish, in an area subject to its sovereignty or national jurisdiction, a specially protected area contiguous to the frontier and to the limits of a zone subject to the sovereignty or national jurisdiction of a State that is not a Party to this Protocol, the Party shall endeavour to cooperate with that State as referred to in the previous paragraph.

4. If a State which is not party to this Protocol intends to establish a specially protected area contiguous to the frontier and to the limits of a zone

subject to the sovereignty or national jurisdiction of a Party to this Protocol, the latter shall endeavour to cooperate with that State as referred to in paragraph 2.

Article 6

PROTECTION MEASURES

The Parties, in conformity with international law and taking into account the characteristics of each specially protected area, shall take the protection measures required, in particular:

- (a) the strengthening of the application of the other Protocols to the Convention and of other relevant treaties to which they are Parties;
- (b) the prohibition of the dumping or discharge of wastes and other substances likely directly or indirectly to impair the integrity of the specially protected area;
- (c) the regulation of the passage of ships and any stopping or anchoring;
- (d) the regulation of the introduction of any species not indigenous to the specially protected area in question, or of genetically modified species, as well as the introduction or reintroduction of species which are or have been present in the specially protected area;
- (e) the regulation or prohibition of any activity involving the exploration or modification of the soil or the exploitation of the subsoil of the land part, the seabed or its subsoil;
- (f) the regulation of any scientific research activity;
- (g) the regulation or prohibition of fishing, hunting, taking of animals and harvesting of plants or their destruction, as well as trade in animals, parts of animals, plants, parts of plants, which originate in specially protected areas;
- (h) the regulation and if necessary the prohibition of any other activity or act likely to harm or disturb the species or that might endanger the state of conservation of the ecosystems or species or might impair the natural or cultural characteristics of the specially protected area;
- (i) any other measure aimed at safeguarding ecological and biological processes and the landscape.

Article 7

PLANNING AND MANAGEMENT

1. The Parties shall, in accordance with the rules of international law, adopt planning, management, supervision and monitoring measures for the specially protected areas.

2. Such measures should include for each specially protected area:

- (a) the development and adoption of a management plan that specifies the legal and institutional framework and the management and protection measures applicable;
- (b) the continuous monitoring of ecological processes, habitats, population dynamics, landscapes, as well as the impact of human activities;
- (c) the active involvement of local communities and populations, as appropriate, in the management of specially protected areas, including assistance to local inhabitants who might be affected by the establishment of such areas;
- (d) the adoption of mechanisms for financing the promotion and management of specially protected areas, as well as the development of activities which ensure that management is compatible with the objectives of such areas;
- (e) the regulation of activities compatible with the objectives for which the specially protected area was established and the terms of the related permits;
- (f) the training of managers and qualified technical personnel, as well as the development of an appropriate infrastructure.

3. The Parties shall ensure that national contingency plans incorporate measures for responding to incidents that could cause damage or constitute a threat to the specially protected areas.

4. When specially protected areas covering both land and marine areas have been established, the Parties shall endeavour to ensure the coordination of the administration and management of the specially protected area as a whole.

SECTION TWO - SPECIALLY PROTECTED AREAS OF MEDITERRANEAN IMPORTANCE

Article 8

ESTABLISHMENT OF THE LIST OF SPECIALLY PROTECTED AREAS OF MEDITERRANEAN IMPORTANCE

1. In order to promote cooperation in the management and conservation of natural areas, as well as in the protection of threatened species and their habitats, the Parties shall draw up a "List of Specially Protected Areas of Mediterranean Importance", hereinafter referred to as the "SPAMI List".

2. The SPAMI List may include sites which:

- are of importance for conserving the components of biological diversity in the Mediterranean;
- contain ecosystems specific to the Mediterranean area or the habitats of endangered species;
- are of special interest at the scientific, aesthetic, cultural or educational levels.

3. The Parties agree:

- (a) to recognize the particular importance of these areas for the Mediterranean;
- (b) to comply with the measures applicable to the SPAMIs and not to authorize nor undertake any activities that might be contrary to the objectives for which the SPAMIs were established.

Article 9

PROCEDURE FOR THE ESTABLISHMENT AND LISTING OF SPAMIS

1. SPAMIs may be established, following the procedure provided for in paragraph 2 to 4 of this Article, in: (a) the marine and coastal zones subject

to the sovereignty or jurisdiction of the Parties; (b) zones partly or wholly on the high seas.

2. Proposals for inclusion in the List may be submitted:

- (a) by the Party concerned, if the area is situated in a zone already delimited, over which it exercises sovereignty or jurisdiction;
- (b) by two or more neighbouring Parties concerned if the area is situated, partly or wholly, on the high sea;
- (c) by the neighbouring Parties concerned in areas where the limits of national sovereignty or jurisdiction have not yet been defined.

3. Parties making proposals for inclusion in the SPAMI List shall provide the Centre with an introductory report containing information on the area's geographical location, its physical and ecological characteristics, its legal status, its management plans and the means for their implementation, as well as a statement justifying its Mediterranean importance;

- (a) where a proposal is formulated under subparagraphs 2 (b) and 2 (c) of this Article, the neighbouring Parties concerned shall consult each other with a view to ensuring the consistency of the proposed protection and management measures, as well as the means for their implementation;
- (b) proposals made under paragraph 2 of this Article shall indicate the protection and management measures applicable to the area as well as the means of their implementation.

4. The procedure for inclusion of the proposed area in the List is the following:

- (a) for each area, the proposal shall be submitted to the National Focal Points, which shall examine its conformity with the common guidelines and criteria adopted pursuant to Article 16;
- (b) if a proposal made in accordance with subparagraph 2 (a) of this Article is consistent with the guidelines and common criteria, after assessment, the Organization shall inform the meeting of the Parties, which shall decide to include the area in the SPAMI List;

(c) if a proposal made in accordance with subparagraphs 2 (b) and 2 (c) of this Article is consistent with the guidelines and common criteria, the Centre shall transmit it to the Organization, which shall inform the meeting of the Parties. The decision to include the area in the SPAMI list shall be taken by consensus by the Contracting Parties, which shall also approve the management measures applicable to the area.

5. The Parties which proposed the inclusion of the area in the List shall implement the protection and conservation measures specified in their proposals in accordance with paragraph 3 of this Article. The Contracting Parties undertake to observe the rules thus laid down. The Centre shall inform the competent international organizations of the List and of the measures taken in the SPAMIs.

6. The Parties may revise the SPAMI List. To this end, the Centre shall prepare a report.

Article 10

CHANGES IN THE STATUS OF SPAMIS

Changes in the delimitation or legal status of a SPAMI or the suppression of all or part of such an area shall not be decided upon unless there are important reasons for doing so, taking into account the need to safeguard the environment and comply with the obligations laid down in this Protocol and a procedure similar to that followed for the creation of the SPAMI and its inclusion in the List shall be observed.

PART III

PROTECTION AND CONSERVATION OF SPECIES

Article 11

NATIONAL MEASURES FOR THE PROTECTION AND CONSERVATION OF SPECIES

1. The Parties shall manage species of flora and fauna with the aim of maintaining them in a favourable state of conservation.

2. The Parties shall, in the zones subject to their sovereignty or national jurisdiction, identify and compile lists of the endangered or threatened species of flora and fauna and accord protected status to such species. The Parties shall regulate and, where appropriate, prohibit activities having adverse effects on such species or their habitats, and carry out management, planning and other measures to ensure a favourable state of conservation of such species.

3. With respect to protected species of fauna, the Parties shall control and, where appropriate, prohibit:

(a) the taking, possession or killing (including, to the extent possible, the incidental taking, possession or killing), the commercial trade, the transport and the exhibition for commercial purposes of these species, their eggs, parts or products;

(b) to the extent possible, the disturbance of wild fauna, particularly during the period of breeding, incubation, hibernation or migration, as well as other periods of biological stress.

4. In addition to the measures specified in the previous paragraph, the Parties shall coordinate their efforts, through bilateral or multilateral action, including if necessary, agreements for the protection

and recovery of migratory species whose range extends into the area to which this Protocol applies.

5. With respect to protected species of flora and their parts and products, the Parties shall regulate, and where appropriate, prohibit all forms of destruction and disturbance, including the picking, collecting, cutting, uprooting, possession of, commercial trade in, or transport and exhibition for commercial purposes of such species.

6. The Parties shall formulate and adopt measures and plans with regard to ex situ reproduction, in particular captive breeding, of protected fauna and propagation of protected flora.

7. The Parties shall endeavour, directly or through the Centre, to consult with range States that are not Parties to this Protocol, with a view to coordinating their efforts to manage and protect endangered or threatened species.

8. The Parties shall make provision, where possible, for the return of protected species exported or held illegally. Efforts should be made by Parties to reintroduce such specimens to their natural habitat.

Article 12

COOPERATIVE MEASURES FOR THE PROTECTION AND CONSERVATION OF SPECIES

1. The Parties shall adopt cooperative measures to ensure the protection and conservation of the flora and fauna listed in the Annexes to this Protocol relating to the List of Endangered or Threatened Species and the List of Species whose Exploitation is Regulated.

2. The Parties shall ensure the maximum possible protection and recovery of the species of fauna and flora listed in the Annex relating to the List of Endangered or Threatened Species by adopting at the national level the measures provided for in paragraphs 3 and 5 of Article 11 of this Protocol.

3. The Parties shall prohibit the destruction of and damage to the habitat of species listed in the Annex relating to the List of Endangered or Threatened Species and shall formulate and implement action plans for their conservation or recovery. They shall continue to cooperate in implementing the relevant action plans already adopted.

4. The Parties, in cooperation with competent international organizations, shall take all appropriate measures to ensure the conservation of the species listed in the Annex relating to the List of Species whose Exploitation is Regulated while at the same time authorizing and regulating the exploitation of these species so as to ensure and maintain their favourable state of conservation.

5. When the range area of a threatened or endangered species extends to both sides of a national frontier or of the limit that separates the territories or the areas subject to the sovereignty or the national jurisdiction of two Parties to this Protocol, these Parties shall cooperate with a view to ensuring the protection and conservation and, if necessary, the recovery of such species.

6. Provided that no other satisfactory solutions are available and that the exemption does not harm the survival of the population or of any other species, the Parties may grant exemptions to the prohibitions prescribed for the protection of the species listed in the Annexes to this Protocol for scientific, educational or management purposes necessary to ensure the survival of the species or to prevent significant damage. Such exemptions shall be notified to the Contracting Parties.

Article 13

INTRODUCTION OF NON-INDIGENOUS OR GENETICALLY MODIFIED SPECIES

1. The Parties shall take all appropriate measures to regulate the intentional or accidental introduction of non-indigenous or genetically modified species to the wild and prohibit those that may

have harmful impacts on the ecosystems, habitats or species in the area to which this Protocol applies.

2. The Parties shall endeavour to implement all possible measures to eradicate species that have already been introduced when, after scientific assessment, it appears that such species cause or are likely to cause damage to ecosystems, habitats or species in the area to which this Protocol applies.

PART IV

PROVISIONS COMMON TO PROTECTED AREAS AND SPECIES

Article 14

AMENDMENTS TO ANNEXES

1. The procedures for amendments to Annexes to this Protocol shall be those set forth in Article 23 of the Convention.

2. All proposed amendments submitted to the meeting of Contracting Parties shall have been the subject of prior evaluation by the meeting of National Focal Points.

Article 15

INVENTORIES

Each Party shall compile comprehensive inventories of:

- (a) areas over which they exercise sovereignty or jurisdiction that contain rare or fragile ecosystems, that are reservoirs of biological diversity, that are important for threatened or endangered species;
- (b) species of fauna or flora that are endangered or threatened.

Article 16

GUIDELINES AND COMMON CRITERIA

The Parties shall adopt:

- (a) common criteria for the choice of protected marine and coastal areas that could be included in the SPAMI List which shall be annexed to the Protocol;
- (b) common criteria for the inclusion of additional species in the Annexes;
- (c) guidelines for the establishment and management of specially protected areas.

The criteria and guidelines referred to in paragraphs (b) and (c) may be amended by the meeting of the Parties on the basis of a proposal made by one or more Parties.

Article 17

ENVIRONMENTAL IMPACT ASSESSMENT

In the planning process leading to decisions on industrial and other projects and activities that could significantly affect protected areas and species and their habitats, the Parties shall evaluate and take into consideration the possible direct or indirect, immediate or long-term, impact, including the cumulative impact of the projects and activities being contemplated.

Article 18

INTEGRATION OF TRADITIONAL ACTIVITIES

1. In formulating protective measures, the Parties shall take into account the traditional subsistence and cultural activities of their local populations. They shall grant exemptions, as necessary, to meet such needs. No exemption which is allowed for this reason shall:

- (a) endanger either the maintenance of ecosystems protected under this Protocol or the biological processes contributing to the maintenance of those ecosystems;

(b) cause either the extinction of, or a substantial reduction in, the number of individuals making up the populations or species of flora and fauna, in particular endangered, threatened, migratory or endemic species.

2. Parties which grant exemptions from the protection measures shall inform the Contracting Parties accordingly.

Article 19

PUBLICITY, INFORMATION, PUBLIC AWARENESS AND EDUCATION

1. The Parties shall give appropriate publicity to the establishment of specially protected areas, their boundaries, applicable regulations, and to the designation of protected species, their habitats and applicable regulations.

2. The Parties shall endeavour to inform the public of the interest and value of specially protected areas and species, and of the scientific knowledge which may be gained from the point of view of nature conservation and other points of view. Such information should have an appropriate place in education programmes. The Parties shall also endeavour to promote the participation of their public and their conservation organizations in measures that are necessary for the protection of the areas and species concerned, including environmental impact assessments.

Article 20

SCIENTIFIC, TECHNICAL AND MANAGEMENT RESEARCH

1. The Parties shall encourage and develop scientific and technical research relating to the aims of this Protocol. They shall also encourage and develop research into the sustainable use of specially protected areas and the management of protected species.

2. The Parties shall consult, when necessary, among themselves and with competent international organizations with a view to identifying, planning and undertaking scientific and technical research and monitoring programmes necessary for the identification and monitoring of protected areas and species and assessing the effectiveness of measures taken to implement management and recovery plans.

3. The Parties shall exchange, directly or through the Centre, scientific and technical information concerning current and planned research and monitoring programmes and the results thereof. They shall, to the fullest extent possible, coordinate their research and monitoring programmes, and endeavour jointly to define or standardize their procedures.

4. In technical and scientific research, the Parties shall give priority to SPAMIs and species appearing in the Annexes to this Protocol.

Article 21

MUTUAL COOPERATION

1. The Parties shall, directly or with the assistance of the Centre or international organizations concerned, establish cooperation programmes to coordinate the establishment, conservation, planning and management of specially protected areas, as well as the selection, management and conservation of protected species. There shall be regular exchanges of information concerning the characteristics of protected areas and species, the experience acquired and the problems encountered.

2. The Parties shall, at the earliest opportunity, communicate any situation that might endanger the ecosystems of specially protected areas or the survival of protected species of flora and fauna to the other Parties, to the States that might be affected and to the Centre.

Article 22

MUTUAL ASSISTANCE

1. The Parties shall cooperate, directly or with the assistance of the Centre or the international organizations concerned, in formulating, financing and implementing programmes of mutual assistance and assistance to developing countries that express a need for it with a view to implementing this Protocol.

2. These programmes shall include public environmental education, the training of scientific, technical and management personnel, scientific research, the acquisition, utilization, design and development of appropriate equipment, and transfer of technology on advantageous terms to be agreed among the Parties concerned.

3. The Parties shall, in matters of mutual assistance, give priority to the SPAMIs and species appearing in the Annexes to this Protocol.

Article 23

REPORTS OF THE PARTIES

The Parties shall submit to ordinary meetings of the Parties a report on the implementation of this Protocol, in particular on:

- (a) the status and the state of the areas included in the SPAMI List;
- (b) any changes in the delimitation or legal status of the SPAMIs and protected species;
- (c) possible exemptions allowed pursuant to Articles 12 and 18 of this Protocol.

PART V

INSTITUTIONAL PROVISIONS

Article 24

NATIONAL FOCAL POINTS

Each Party shall designate a National Focal Point to serve as liaison with the Centre on the technical and scientific aspects of the implementation of this Protocol. The National Focal Points shall meet periodically to carry out the functions deriving from this Protocol.

Article 25

COORDINATION

1. The Organization shall be responsible for coordinating the implementation of this Protocol. For this purpose, it shall receive the support of the Centre, to which it may entrust the following functions:

- (a) assisting the Parties, in cooperation with the competent international, intergovernmental and non-governmental organizations, in:
 - establishing and managing specially protected areas in the area to which this Protocol applies;
 - conducting programmes of technical and scientific research as provided for in Article 20 of this Protocol;
 - conducting the exchange of scientific and technical information among the Parties as provided for in Article 20 of this Protocol;
 - preparing management plans for specially protected areas and species;
 - developing cooperative programmes pursuant to Article 21 of this Protocol;
 - preparing educational materials designed for various groups;
- (b) convening and organizing the meetings of the National Focal Points and providing them with secretariat services;
- (c) formulating recommendations on guidelines and common criteria pursuant to Article 16 of this Protocol;

- (d) creating and updating databases of specially protected areas, protected species and other matters relevant to this Protocol;
 - (e) preparing reports and technical studies that may be required for the implementation of this Protocol;
 - (f) elaborating and implementing the training programmes mentioned in Article 22, paragraph 2;
 - (g) cooperating with regional and international governmental and non-governmental organizations concerned with the protection of areas and species, provided that the specificity of each organization and the need to avoid the duplication of activities are respected;
 - (h) carrying out the functions assigned to it in the action plans adopted in the framework of this Protocol;
 - (i) carrying out any other function assigned to it by the Parties.
- provided for in Article 16 of this Protocol;
 - (e) considering reports transmitted by the Parties under Article 23 of this Protocol, as well as any other pertinent information which the Parties transmit through the Centre;
 - (f) making recommendations to the Parties on the measures to be adopted for the implementation of this Protocol;
 - (g) examining the recommendations of the meetings of the National Focal Points pursuant to Article 24 of this Protocol;
 - (h) deciding on the inclusion of an area in the SPAMI List in conformity with Article 9, paragraph 4, of this Protocol;
 - (i) examining any other matter relevant to this Protocol, as appropriate;
 - (j) discussing and evaluating the exemptions allowed by the Parties in conformity with Articles 12 and 18 of this Protocol.

Article 26

MEETINGS OF THE PARTIES

1. The ordinary meetings of the Parties to this Protocol shall be held in conjunction with the ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 18 of the Convention. The Parties may also hold extraordinary meetings in conformity with that Article.

2. The meetings of the Parties to this Protocol are particularly aimed at:

- (a) keeping under review the implementation of this Protocol;
- (b) overseeing the work of the Organization and of the Centre relating to the implementation of this Protocol and providing policy guidance for their activities;
- (c) considering the efficacy of the measures adopted for the management and protection of areas and species, and examining the need for other measures, in particular in the form of Annexes and amendments to this Protocol or to its Annexes;
- (d) adopting the guidelines and common criteria

PART VI

FINAL PROVISIONS

Article 27

EFFECT OF THE PROTOCOL ON DOMESTIC LEGISLATION

The provisions of this Protocol shall not affect the right of Parties to adopt relevant stricter domestic measures for the implementation of this Protocol.

Article 28

RELATIONSHIP WITH THIRD PARTIES

1. The Parties shall invite States that are not Parties to the Protocol and international organizations to cooperate in the implementation of this Protocol.

2. The Parties undertake to adopt appropriate measures, consistent with international law, to en-

sure that no one engages in any activity contrary to the principles or purposes of this Protocol.

Article 29

SIGNATURE

This Protocol shall be open for signature in Barcelona on 10 June 1995 and in Madrid from 11 June 1995 to 10 June 1996 by any Contracting Party to the Convention.

Article 30

RATIFICATION, ACCEPTANCE OR APPROVAL

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.

Article 31

ACCESSION

As from 10 June 1996, this Protocol shall be open for accession by any State and regional economic grouping which is Party to the Convention.

Article 32

ENTRY INTO FORCE

1. This Protocol shall enter into force on the thirtieth day following the deposit of the sixth instrument of ratification, acceptance or approval of, or accession to, the Protocol.

2. From the date of its entry into force, this Protocol shall replace the Protocol Concerning Mediterranean Specially Protected Areas of 1982, in the relationship among the Parties to both instruments.

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

DONE at Barcelona, on 10 June 1995, in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative, for signature by any Party to the Convention.

ANNEX I

COMMON CRITERIA FOR THE CHOICE OF PROTECTED MARINE AND COASTAL AREAS THAT COULD BE INCLUDED IN THE SPAMI LIST

A. GENERAL PRINCIPLES

The Contracting Parties agree that the following general principles will guide their work in establishing the SPAMI List:

- (a) The conservation of the natural heritage is the basic aim that must characterize a SPAMI. The pursuit of other aims such as the conservation of the cultural heritage, and the promotion of scientific research, education, participation, collaboration, is highly desirable in SPAMIs and constitutes a factor in favour of a site being included on the List, to the extent in which it remains compatible with the aims of conservation.
- (b) No limit is imposed on the total number of areas included in the List or on the number of areas any individual Party can propose for inscription. Nevertheless, the Parties agree that sites will be selected on a scientific basis and included in the List according to their qualities; they will have therefore to fulfil the requirements set out by the Protocol and the present criteria.
- (c) The listed SPAMI and their geographical distribution will have to be representative of the Mediterranean region and its biodiversity. To this end the List will have to represent the highest number possible of types of habitats and ecosystems.
- (d) The SPAMIs will have to constitute the core of a network aiming at the effective conservation

of the Mediterranean heritage. To attain this objective, the Parties will develop their cooperation on bilateral and multilateral bases in the field of conservation and management of natural sites and notably through the establishment of transboundary SPAMIs.

- (e) The sites included in the SPAMI List are intended to have a value of example and model for the protection of the natural heritage of the region. To this end, the Parties ensure that sites included in the List are provided with adequate legal status, protection measures and management methods and means.

B. GENERAL FEATURES OF THE AREAS THAT COULD BE INCLUDED IN THE SPAMI LIST

1. To be eligible for inclusion in the SPAMI List, an area must fulfil at least one of the general criteria set in Article 8 paragraph 2 of the Protocol. Several of these general criteria can in certain cases be fulfilled by the same area, and such a circumstance cannot but strengthen the case for the inclusion of the area in the List.

2. The regional value is a basic requirement of an area for being included in the SPAMI List. The following criteria should be used in evaluating the Mediterranean interest of an area:

- (a) Uniqueness: The area contains unique or rare ecosystems, or rare or endemic species.
- (b) Natural representativeness: The area has highly representative ecological processes, or community or habitat types or other natural characteristics. Representativeness is the degree to which an area represents a habitat type, ecological process, biological community, physiographic feature or other natural characteristic.
- (c) Diversity: The area has a high diversity of species, communities, habitats or ecosystems.
- (d) Naturalness: The area has a high degree of naturalness as a result of the lack or low level of human-induced disturbance and degradation.
- (e) Presence of habitats that are critical to endangered, threatened or endemic species.
- (f) Cultural representativeness: The area has a high representative value with respect to the cultural heritage, due to the existence of environmentally sound traditional activities integrated with nature which support the well-being of local populations.

3. To be included in the SPAMI List, an area having scientific, educational or aesthetic interest must, respectively, present a particular value for research in the field of natural sciences or for activities of environmental education or awareness or contain outstanding natural features, landscapes or seascapes.

4. Besides the fundamental criteria specified in article 8, paragraph 2, of the Protocol, a certain number of other characteristics and factors should be considered as favourable for the inclusion of the site in the List. These include:

- (a) the existence of threats likely to impair the ecological, biological, aesthetic or cultural value of the area;
- (b) the involvement and active participation of the public in general, and particularly of local communities, in the process of planning and management of the area;
- (c) the existence of a body representing the public, professional, non-governmental sectors and the scientific community involved in the area;

- (d) the existence in the area of opportunities for sustainable development;
- (e) the existence of an integrated coastal management plan within the meaning of Article 4 paragraph 3 (e) of the Convention.

C. LEGAL STATUS

1. All areas eligible for inclusion in the SPAMI List must be awarded a legal status guaranteeing their effective long-term protection.

2. To be included in the SPAMI List, an area situated in a zone already delimited over which a Party exercises sovereignty or jurisdiction must have a protected status recognized by the Party concerned.

3. In the case of areas situated, partly or wholly, on the high sea or in a zone where the limits of national sovereignty or jurisdiction have not yet been defined, the legal status, the management plan, the applicable measures and the other elements provided for in Article 9, paragraph 3, of the Protocol will be provided by the neighbouring Parties concerned in the proposal for inclusion in the SPAMI List.

D. PROTECTION, PLANNING AND MANAGEMENT MEASURES

1. Conservation and management objectives must be clearly defined in the texts relating to each site, and will constitute the basis for assessment of the adequacy of the adopted measures and the effectiveness of their implementation at the revisions of the SPAMI List.

2. Protection, planning and management measures applicable to each area must be adequate for the achievement of the conservation and management objectives set for the site in the short and long term, and take in particular into account the threats upon it.

3. Protection, planning and management meas-

ures must be based on an adequate knowledge of the elements of the natural environment and of socio-economic and cultural factors that characterize each area. In case of shortcomings in basic knowledge, an area proposed for inclusion in the SPAMI List must have a programme for the collection of the unavailable data and information.

4. The competence and responsibility with regard to administration and implementation of conservation measures for areas proposed for inclusion in the SPAMI List must be clearly defined in the texts governing each area.

5. In the respect of the specificity characterizing each protected site, the protection measures for a SPAMI must take account of the following basic aspects:

- (a) the strengthening of the regulation of the release or dumping of wastes and other substances likely directly or indirectly to impair the integrity of the area;
- (b) the strengthening of the regulation of the introduction or reintroduction of any species into the area;
- (c) the regulation of any activity or act likely to harm or disturb the species, or that might endanger the conservation status of the ecosystems or species or might impair the natural, cultural or aesthetic characteristics of the area.
- (d) the regulation applicable to the zones surrounding the area in question.

6. To be included in the SPAMI List, a protected area must have a management body, endowed with sufficient powers as well as means and human resources to prevent and/or control activities likely to be contrary to the aims of the protected area.

7. To be included in the SPAMI List an area will have to be endowed with a management plan. The main rules of this management plan are to be laid down as from the time of inclusion and implemented immediately. A detailed management plan must be presented within three years of the time of inclusion. Failure to respect this obligation entails the removal of the site from

the List.

8. To be included in the SPAMI List, an area will have to be endowed with a monitoring programme. This programme should include the identification and monitoring of a certain number of significant parameters for the area in question, in order to allow the assessment of the state and evolution of the area, as well as the effectiveness of protection and management measures implemented, so that they may be adapted if need be. To this end further necessary studies are to be commissioned.

ANNEX II

LIST OF ENDANGERED OR THREATENED SPECIES

Magnoliophyta

Posidonia oceanica
Zostera marina
Zostera noltii

Chlorophyta

Caulerpa ollivieri

Phaeophyta

Cystoseira amentacea (including var. *stricta* and var. *spicata*)
Cystoseira mediterranea
Cystoseira sedoides
Cystoseira spinosa (including *C. adriatica*)
Cystoseira zosteroides
Laminaria rodriguezii

Rhodophyta

Goniolithon byssoides
Lithophyllum lichenoides
Ptilophora mediterranea
Schimmelmanna schousboei

Porifera

Asbestopluma hypogea
Aplysina sp. plur.
Axinella cannabina
Axinella polypoides
Geodia cydonium
Ircinia foetida
Ircinia pipetta
Petrobiona massiliana
Tethya sp. plur.

Cnidaria

Astroides calycularis
Errina aspera
Gerardia savaglia

Echinodermata

Asterina pancerii

Centrostephanus longispinus
Ophiaster ophidianus

Bryozoa

Hornera lichenoides

Mollusca

Ranella olearia (= *Argobuccinum olearium* = *A. giganteum*)
Charonia lampas (= *Ch. rubicunda* = *Ch. nodifera*)
Charonia tritonis (= *Ch. sequeziae*)
Dendropoma petraeum
Erosaria spurca
Gibbula nivosa
Lithophaga lithophaga
Luria lurida (= *Cypraea lurida*)
Mitra zonata
Patella ferruginea
Patella nigra
Pholas dactylus
Pinna nobilis
Pinna rudis (= *P. pernula*)
Schilderia achatidea
Tonna galea
Zonaria pyrum

Crustacea

Ocypode cursor
Pachylasma giganteum

Pisces

Acipenser naccarii
Acipenser sturio
Aphanius fasciatus
Aphanius iberus
Cetorhinus maximus
Carcharodon carcharias
Hippocampus ramulosus
Hippocampus hippocampus
Huso huso
Lethenteron zanandreae

Mobula mobular
Pomatoschistus canestrinii
Pomatoschistus tortonesei
Valencia hispanica
Valencia letourneuxi

Reptiles

Caretta caretta
Chelonia mydas
Dermochelys coriacea
Eretmochelys imbricata
Lepidochelys kempii
Trionyx triunguis

Aves

Pandion haliaetus
Calonectris diomedea
Falco eleonorae
Hydrobates pelagicus
Larus audouinii
Numenius tenuirostris
Phalacrocorax aristotelis
Phalacrocorax pygmaeus
Pelecanus onocrotalus
Pelecanus crispus
Phoenicopterus ruber

Puffinus yelkouan
Sterna albifrons
Sterna bengalensis
Sterna sandvicensis

Mammalia

Balaenoptera acutorostrata
Balaenoptera borealis
Balaenoptera physalus
Delphinus delphis
Eubalaena glacialis
Globicephala melas
Grampus griseus
Kogia simus
Megaptera novaeangliae
Mesoplodon densirostris
Monachus monachus
Orcinus orca
Phocoena phocoena
Physeter macrocephalus
Pseudorca crassidens
Stenella coeruleoalba
Steno bredanensis
Tursiops truncatus
Ziphius cavirostris

ANNEX III

LIST OF SPECIES WHOSE EXPLOITATION IS REGULATED

Porifera

Hippospongia communis
Spongia agaricina
Spongia officinalis
Spongia zimocca

Cnidaria

Antipathes sp. plur.
Corallium rubrum

Echinodermata

Paracentrotus lividus

Crustacea

Homarus gammarus

Maja squinado
Palinurus elephas
Scyllarides latus
Scyllarus pigmaeus
Scyllarus arctus

Pisces

Alosa alosa
Alosa fallax
Anguilla anguilla
Epinephelus marginatus
Isurus oxyrinchus
Lamna nasus
Lampetra fluviatilis
Petromyzon marinus

Prionace glauca
Raja alba
Sciaena umbra
Squatina squatina
Thunnus thynnus
Umbrina cirrosa
Xiphias gladius

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

The 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 was adopted on 14 October 1994 by the Conference of Plenipotentiaries held in Madrid and entered into force on 24 March 2011.

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 17 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 disposed of or are intended for disposal or are required to be disposed of;
- (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. 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, including the seabed and its subsoil, on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of water-courses, 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.
3. Nothing in this 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.

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 re-

ported 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 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 13 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 do-

mestic 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 16 of the Convention.

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;
- (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 18 of the Convention. The Parties may also hold extraordinary meetings in accordance with Article 18 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 24 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 Madrid from 14 October 1994 to 14 October 1995, 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 Madrid

on 13 and 14 October 1994. 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 30 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 15 October 1995, 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.

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
4. Organophosphorus compounds and substances which may form such compounds in the marine environment¹
5. Organohalogen compounds and substances which may form such compounds in the marine environment¹
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 dam-

age 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

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

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

Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal

The Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal was adopted on 1 October 1996 by the Conference of Plenipotentiaries on the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal, held in Izmir. The Protocol entered into force on 18 January 2008.

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 and amended on 10 June 1995,
- || *Conscious* of the danger threatening the environment of the Mediterranean Sea caused by the transboundary movements and disposal of hazardous wastes,
- || *Convinced* that the most effective way of protecting human health and the marine environment from the dangers posed by hazardous wastes is the reduction and elimination of their generation, for example through substitution and other clean production methods,
- || *Recognizing* the increased will for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially in developing countries,
- || *Taking into account* the 1992 Rio Declaration on Environment and Development and especially Principle 14 which declares that States “should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities or substances that cause severe environmental degradation or are found to be harmful to human health”,
- || *Aware* of the growing international concern regarding the need to ensure that pollution originating in one State is not transferred to other States and, consistent with this objective, of the need to reduce transboundary movements of hazardous wastes to a minimum as far as possible, with the ultimate aim of phasing out such movements,
- || *Recognizing also* that any State has the sovereign right to ban the entry, transit or disposal of hazardous wastes in its territory,
- || *Bearing in mind* the relevant provisions of the United Nations Convention on the Law of the Sea of 1982,
- || *Taking into account also* the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted on 22 March 1989, in particular Article 11, and decisions I/22, II/12 and III/1 adopted by the First, Second and Third Meetings respectively of the Conference of the Parties to the Basel Convention,
- || *Taking into account further* that many States, among them Contracting Parties to the Barcelona Convention, have taken legal measures and entered into international agreements consistent with the Basel Convention to ban transboundary movements of hazardous wastes, for example, the IVth ACP/EEC Convention signed in Lomé on 15 December 1989 by the European Economic Community and the African, Caribbean and Pacific Group of States, and the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa, adopted under the auspices of the Organization of African Unity on 30 January 1991,
- || *Recognizing further* the differences in levels of economic and legislative development among the various Mediterranean coastal States, and realizing that hazardous waste should not be allowed to be transported in order to take advantage of such economic or legislative disparities to the detriment of the environment and of the social well-being of developing countries,
- || *Bearing in mind also* the fact that the most effective way of dealing with the threats represented by wastes for human health and the environment consists in decreasing or even prohibiting the transfer of activities which generate hazardous wastes,

Have agreed as follows:

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 and amended on 10 June 1995;
- (b) A "Party" means a Contracting Party to this Protocol in accordance with Article 29, paragraph 1, of the Convention;
- (c) "Wastes" means substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;
- (d) "Hazardous wastes" means wastes or categories of substances as specified in Article 3 of this Protocol;
- (e) "Disposal" means any operation specified in Annex III to this Protocol;
- (f) "Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;
- (g) "Approved site or facility" means a site or facility for the disposal of hazardous wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;
- (h) "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous waste, and any information related to it, and for responding to such a notification;
- (i) "Clean production methods" means those which reduce or avoid the generation of hazardous wastes in conformity with Articles 5 and 8 of this Protocol;
- (j) "Environmentally sound management" of hazardous wastes means taking all practicable steps to ensure that hazardous wastes are collected, transported and disposed of (including after-care of disposal sites) in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;
- (k) "Area under the national jurisdiction of a State" means any land, marine area or airspace within which a State exercises administrative and regulatory responsibilities in accordance with international law in regard to the protection of human health or the environment;
- (l) "State of export" means a Party from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated;
- (m) "State of import" means a Party to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;
- (n) "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes is planned or takes place;
- (o) "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes to be exported;
- (p) "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes to be imported;
- (q) "Generator" means any person whose activity produces hazardous wastes or, if that person is not known, the person who is in possession and/or control of those wastes;
- (r) "Disposer" means any person to whom hazardous wastes are shipped and who carries out the disposal of such wastes;
- (s) "Illegal traffic" means any transboundary movement of hazardous wastes as specified in Article 9;
- (t) "Person" means any natural or legal person;
- (u) "Developing countries" means those countries which are not Member States of the Organization for Economic Co-operation and Development (OECD);²
- (v) "Developed countries" means those countries which are Member States of the Organization

for Economic Co-operation and Development (OECD);³
(w) "Organization" means the body referred to in Article 2 (b) of the Convention.

Article 2

PROTOCOL AREA

The Protocol area as referred to in this Protocol shall mean the area as defined in Article 1 of the Convention.

Article 3

SCOPE OF THE PROTOCOL

1. This Protocol shall apply to:
 - (a) Wastes that belong to any category in Annex I to this Protocol;
 - (b) Wastes that are not covered under paragraph (a) above but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the State of export, import or transit;
 - (c) Wastes that possess any of the characteristics contained in Annex II to this Protocol;
 - (d) Hazardous substances that have been banned or are expired, or whose registration has been cancelled or refused through government regulatory action in the country of manufacture or export for human health or environmental reasons, or have been voluntarily withdrawn or omitted from the government registration required for use in the country of manufacture or export.
2. Wastes which derive from the normal operations of ships, the discharge of which is covered by another international instrument, are excluded from the scope of this Protocol.
3. The generator, the exporter or the importer, de-

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

Article 4

NATIONAL DEFINITIONS OF HAZARDOUS WASTES

1. Each Party to the Convention shall, within six months of becoming a Party, inform the Organization of the wastes, other than those listed in Annex I to this Protocol, considered or defined as hazardous wastes under its national legislation, and of any requirements concerning transboundary movement procedures applicable to such wastes.
2. Each Party shall subsequently inform the Organization of any significant changes in information it has provided pursuant to paragraph 1 of this Article.
3. The Organization shall inform all Parties of the information it has received pursuant to paragraphs 1 and 2 of this Article.
4. The Parties shall be responsible for making the information transmitted to them by the Organization under paragraph 3 of this Article available to their exporters.

Article 5

GENERAL OBLIGATIONS

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

² For the purpose of this Protocol, Monaco shall have the same rights and obligations as Member States of the OECD.

³ For the purposes of this Protocol, Monaco shall have the same rights and obligations as Member States of the OECD.

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

3. The Parties shall also take all appropriate measures to reduce to a minimum the transboundary movement of hazardous wastes, and if possible to eliminate such movement in the Mediterranean. To achieve this goal, Parties have the right individually or collectively to ban the import of hazardous wastes. Other Parties shall respect this sovereign decision and not permit the export of hazardous wastes to States which have prohibited their import.

4. Subject to the specific provisions relating to the transboundary movement of hazardous wastes through the territorial sea of a State of transit, referred to in Article 6.4 of this Protocol, all Parties shall take appropriate legal, administrative and other measures within the area under their jurisdiction to prohibit the export and transit of hazardous wastes to developing countries, and Parties which are not Member States of the European Community⁴ shall prohibit all imports and transit of hazardous wastes.

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

Article 6

TRANSBOUNDARY MOVEMENT AND NOTIFICATION PROCEDURES

In exceptional cases, unless otherwise prohibited, when hazardous wastes cannot be disposed of in an environmentally sound manner in the country in which they originated, transboundary move-

ments of such wastes can be allowed if:

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

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

3. The transboundary movement of hazardous wastes only takes place with the prior written notification of the State of export as specified in Annex IV to this Protocol, and the prior written consent of the State(s) of import and the State(s) of transit. This paragraph does not apply to conditions of passage through the territorial sea, which are governed by paragraph 4 of this Article.

4. The transboundary movement of hazardous wastes through the territorial sea of a State of transit only takes place with the prior notification by the State of export to the State of transit, as specified in Annex IV to this Protocol. After reception of the notification, the State of transit brings to the attention of the State of export all the obligations relating to passage through its territorial sea in application of international law and the relevant provisions of its domestic legislation adopted in compliance with international law to protect the marine environment. Where necessary, the State of transit may take appropriate measures in accordance with international law. This procedure must be complied with within the delays provided for by the Basel Convention.

5. Every State involved in a transboundary movement ensures that such movement is consistent with international safety standards and financial guarantees, in particular the procedures and standards set out in the Basel Convention.

⁴ For the purposes of this Protocol, Monaco shall have the same rights and obligations as Member States of the European Community.

Article 7

DUTY TO REIMPORT

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

Article 8

REGIONAL COOPERATION

1. In conformity with Article 13 of the Convention, the Parties shall cooperate as far as possible in scientific and technological fields related to pollution from hazardous wastes, particularly in the implementation and development of new methods for reducing and eliminating hazardous waste generated through clean production methods.

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

3. The Parties shall cooperate in taking appropriate measures to implement the precautionary approach based on prevention of pollution problems arising from hazardous wastes and their transboundary movement and disposal. To this end, the Parties shall ensure that clean production methods are applied to production processes.

Article 9

ILLEGAL TRAFFIC

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

2. Each Party shall introduce appropriate national legislation to prevent and punish illegal traffic, including criminal penalties on all persons involved in such illegal activities.

3. In the case of illegal traffic due to the conduct of the generator or the exporter, the State of export shall ensure that the wastes in question are taken back by the exporter or the generator or, if necessary, by itself, into the State of export within 30 days from the time the illegal traffic has come to its attention and that appropriate legal action is taken against the contravenor(s).

4. In the case of illegal traffic due to the conduct of the importer or the disposer, the State of import shall ensure that the wastes in question are eliminated according to environmentally sound methods by the importer within 30 days from the time the illegal traffic has come to the attention of the State of import; if not possible, the State of export shall ensure that the wastes are taken back by the exporter, the generator or, if necessary, by itself into the State of export. The competent authorities of the importing or exporting States shall ensure that legal proceedings according to this Protocol are taken against the contravenor(s).

5. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through cooperation that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.

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

7. The Parties shall cooperate to ensure that no illegal traffic takes place. Upon request, the Organization shall assist Parties in their identification of cases of illegal traffic and shall circulate immedi-

ately to the Parties concerned any information it has received regarding illegal traffic.

8. The Organization shall undertake the necessary coordination with the Secretariat of the Basel Convention in relation to the effective prevention and monitoring of illegal traffic in hazardous wastes. Such coordination shall be mainly based on:

- (a) Exchange of information on cases or alleged cases of illegal traffic in the Mediterranean and coordination of action to remedy such cases;
- (b) Providing assistance in the field of capacity-building, including development of national legislation and of appropriate infrastructure in the Mediterranean States with a view to the prevention and penalization of illegal traffic in hazardous wastes;
- (c) The establishment of a mechanism to prevent and monitor illegal traffic in hazardous wastes in the Mediterranean.

Article 10

ASSISTANCE TO DEVELOPING COUNTRIES

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

Article 11

TRANSMISSION OF INFORMATION

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

Article 12

INFORMATION TO AND PARTICIPATION OF THE PUBLIC

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

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

Article 13

VERIFICATION

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

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

Article 14

LIABILITY AND COMPENSATION

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

Article 15

MEETINGS

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 18 of the Convention. The Parties to this Protocol may also hold extraordinary meetings in conformity with Article 18 of the Convention.

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

- (a) To keep under review the implementation of this Protocol, and consider any additional measures, including in the form of annexes;
- (b) To revise and amend this Protocol and any annex thereto, as appropriate;
- (c) To formulate and adopt programmes, methods and measures in accordance with the relevant Articles of this Protocol;
- (d) To consider any information submitted by the Parties to the Organization or to the meetings of the Parties in accordance with the relevant Articles of this Protocol;
- (e) To perform such other functions as may be appropriate for the application of this Protocol.

Article 16

ADOPTION OF ADDITIONAL PROGRAMMES AND MEASURES

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

Article 17

FINAL CLAUSES

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to Article 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

3. This Protocol shall be open for signature at Izmir on 1 October 1996, and at Madrid from 2 October 1996 to 1 October 1997 by any State Party to the Convention. It shall also be open on 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 the fields covered by this Protocol.

4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

5. As from 2 October 1997, this Protocol shall be open for accession by the States referred to in paragraph 3 above, by the European Community and by any grouping referred to in that paragraph.

6. This Protocol shall enter into force on the thirtieth (30) day following the deposit of at least six (6) instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this Article.

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

DONE at Izmir on this first day of October 1996 in a single copy in the Arabic, English, French, and Spanish languages, the four texts being equally authoritative.

ANNEX I

CATEGORIES OF WASTES SUBJECT TO THIS PROTOCOL

A. HAZARDOUS WASTES

Y0 All wastes containing or contaminated by radionuclides, the radionuclide concentration or properties of which result from human activity

Y1 Clinical wastes from medical care in hospitals, medical centres and clinics

Y2 Wastes from the production and preparation of pharmaceutical products

Y3 Waste pharmaceuticals, drugs and medicines

Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals

Y5 Wastes from manufacturing, formulation and use of wood preserving chemicals

Y6 Wastes from the production, formulation and use of organic solvents

Y7 Wastes from heat treatment and tempering operations containing cyanides

Y8 Waste mineral oils unfit for their originally intended use

Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions

Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)

Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment

Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnishes

Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives

Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known

Y15 Wastes of an explosive nature not subject to other legislation

Y16 Wastes from production, formulation and use of photographic chemicals and processing materials

Y17 Wastes resulting from surface treatment of metals and plastics

Y18 Residues arising from industrial waste disposal operations

Wastes having as constituents:

Y19 Metal carbonyls

Y20 Beryllium; beryllium compounds

Y21 Hexavalent chromium compounds

Y22 Copper compounds

Y23 Zinc compounds

Y24 Arsenic; arsenic compounds

Y25 Selenium; selenium compounds

Y26 Cadmium; cadmium compounds

Y27 Antimony; antimony compounds

Y28 Tellurium; tellurium compounds

Y29 Mercury; mercury compounds

Y30 Thallium; thallium compounds

Y31 Lead; lead compounds

Y32 Inorganic fluorine compounds excluding calcium fluoride

Y33 Inorganic cyanides

Y34 Acidic solutions or acids in solid form

Y35 Basic solutions or bases in solid form

Y36 Asbestos (dust and fibres)

Y37 Organic phosphorus compounds

Y38 Organic cyanides

Y39 Phenols; phenolic compounds including chlorophenols

Y40 Ethers

Y41 Halogenated organic solvents

Y42 Organic solvents excluding halogenated solvents

Y43 Any congener of polychlorinated dibenzo-furan

Y44 Any congener of polychlorinated dibenzo-p-dioxin

Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

B. HOUSEHOLD WASTES

Y46 Wastes collected from households, including sewage and sewage sludges

Y47 Residues arising from the incineration of household wastes.

ANNEX II

LIST OF HAZARDOUS CHARACTERISTICS

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

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

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

ANNEX III

DISPOSAL OPERATIONS

The list of disposal operations contained in this Annex reflects those which occur or have occurred in practice. It does not necessarily reflect a list of acceptable disposal operations. Pursuant to Articles 5 and 6 of this Protocol, hazardous wastes must in any event be managed in an environmentally sound manner.

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

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

D1 Deposit into or onto land (e.g. landfill, etc.)

D2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)

D3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)

D4 Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds, lagoons, etc.)

D5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)

D6 Release into a water body except seas/oceans

D7 Release into seas/oceans including sea-bed insertion

D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A

D9 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A (e.g. evaporation, drying, calcination, neutralization, precipitation, etc.)

D10 Incineration on land

D11 Incineration at sea

D12 Permanent storage (e.g. emplacement of containers in mines, etc.)

D13 Blending or mixing prior to submission to any of the operations in Section A

D14 Repackaging prior to submission to any of the operations in Section A

D15 Storage pending any of the operations in Section A

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

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

included in Section A.

R1 Use as a fuel (other than in direct incineration) or other means to generate energy

R2 Solvent reclamation/regeneration

R3 Recycling/reclamation of organic substances which are not used as solvents

R4 Recycling/reclamation of metals and metal compounds

R5 Recycling/reclamation of other inorganic materials

R6 Regeneration of acids or bases

R7 Recovery of components used for pollution abatement

R8 Recovery of components from catalysts

R9 Used oil re-refining or other reuses of previously used oil

R10 Land treatment resulting in benefit to agriculture or ecological improvement

R11 Uses of residual materials obtained from any of the operations numbered R1-R10

R12 Exchange of wastes for submission to any of the operations numbered R1-R11

R13 Accumulation of material intended for any operation in Section B

ANNEX IV (A)

INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export;

2. Exporter of the waste 1/;

3. Generator(s) of the waste and site of generation 1/;

4. Importer and disposer of the waste and actual site of disposal 1/;

5. Intended carrier(s) of the waste or their agents, if known 1/;

6. Country of export of the waste
Competent authority 2/;

7. Expected countries of transit
Competent authority 2/;

8. Country of import of the waste
Competent authority 2/;

9. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit) 3/;

10. Means of transport envisaged (road, rail, sea, air, inland waters);

11. Information relating to insurance 4/;

- 12.** Designation and physical description of the waste including Y number and UN number and its composition 5/ and information on any special handling requirements including emergency provisions in case of accidents;
- 13.** Type of packaging envisaged (e.g. bulk, drums, tanker);
- 14.** Estimated quantity in weight/volume 6/;
- 15.** Process by which the waste is generated 7/;
- 16.** Code according to ANNEX I, classifications according to ANNEX II, H number, and UN class;
- 17.** Method of disposal as per ANNEX III;
- 18.** Declaration by the generator and exporter that the information is correct;
- 19.** Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there is no reason to believe that the waste will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import;
- 20.** Information concerning the contract between the exporter and the disposer.

NOTES

The Organization should make use of a Notification Form and accompanying documents such as those developed within the framework of the Basel Convention, the OECD and the European Community.

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

2/ Full name and address, telephone, telex or telefax number.

3/ In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.

4/ Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.

5/ The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.

6/ In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.

7/ Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

ANNEX IV (B)

INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

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

NOTES

The Organization should make use of a Movement Document and accompanying documents such as those developed within the framework of the Basel Convention, the OECD and the European Community.

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

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

Protocol on Integrated Coastal Zone Management in the Mediterranean

The "Protocol on Integrated Coastal Zone Management in the Mediterranean" (ICZM Protocol) was adopted in Madrid in 2008 and entered into force on 24 March 2011.

The Contracting Parties to the present Protocol,

- || *Being Parties* to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, adopted at Barcelona on 16 February 1976, and amended on 10 June 1995,
- || *Desirous* of implementing the obligations set out in Article 4, paragraphs 3(e) and 5, of the said Convention,
- || *Considering* that the coastal zones of the Mediterranean Sea are the common natural and cultural heritage of the peoples of the Mediterranean and that they should be preserved and used judiciously for the benefit of present and future generations,
- || *Concerned* at the increase in anthropic pressure on the coastal zones of the Mediterranean Sea which is threatening their fragile nature and *desirous* of halting and reversing the process of coastal zone degradation and of significantly reducing the loss of biodiversity of coastal ecosystems,
- || *Worried* by the risks threatening coastal zones due to climate change, which is likely to result, *inter alia*, in a rise in sea level, and *aware* of the need to adopt sustainable measures to reduce the negative impact of natural phenomena,
- || *Convinced* that, as an irreplaceable ecological, economic and social resource, the planning and management of coastal zones with a view to their preservation and sustainable development requires a specific integrated approach at the level of the Mediterranean basin as a whole and of its coastal States, taking into account their diversity and in particular the specific needs of islands related to geomorphological characteristics.
- || *Taking into account* the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, the Convention on Wetlands of International Importance especially as Waterfowl Habitat, done at Ramsar on 2 February 1971, and the Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992, to which many Mediterranean coastal States and the European Community are Parties,
- || *Concerned in particular* to act in cooperation for the development of appropriate and integrated plans for coastal zone management pursuant to Article 4, paragraph 1(e), of the United Nations Framework Convention on Climate Change, done at New York on 9 May 1992,
- || *Drawing on* existing experience with integrated coastal zone management and the work of various organizations, including the European institutions,
- || *Based upon* the recommendations and work of the Mediterranean Commission on Sustainable Development and the recommendations of the Meetings of the Contracting Parties held in Tunis in 1997, Monaco in 2001, Catania in 2003, and Portoroz in 2005, and the Mediterranean Strategy for Sustainable Development adopted in Portoroz in 2005,
- || *Resolved* to strengthen at the Mediterranean level the efforts made by coastal States to ensure integrated coastal zone management,
- || *Determined* to stimulate national, regional and local initiatives through coordinated promotional action, cooperation and partnership with the various actors concerned with a view to promoting efficient governance for the purpose of integrated coastal zone management,
- || *Desirous* of ensuring that coherence is achieved with regard to integrated coastal zone management in the application of the Convention and its Protocols,

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

General obligations

In conformity with the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols, the Parties shall establish a common framework for the integrated management of the Mediterranean coastal zone and shall take the necessary measures to strengthen regional co-operation for this purpose.

Article 2

Definitions

For the purposes of this Protocol:

- (a) "Parties" means the Contracting Parties to this Protocol.
- (b) "Convention" means the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, done at Barcelona on 16 February 1976, as amended on 10 June 1995.
- (c) "Organization" means the body referred to in Article 17 of the Convention.
- (d) "Centre" means the Priority Actions Programme Regional Activity Centre.
- (e) "Coastal zone" means the geomorphologic area either side of the seashore in which the interaction between the marine and land parts occurs in the form of complex ecological and resource systems made up of biotic and abiotic components coexisting and interacting with human communities and relevant socio-economic activities.
- (f) "Integrated coastal zone management" means a dynamic process for the sustainable management and use of coastal zones, taking into account at the same time the fragility of coastal ecosystems and landscapes, the diversity of activities and uses, their interactions, the maritime orientation of certain activities and uses

and their impact on both the marine and land parts.

Article 3

Geographical coverage

1. The area to which the Protocol applies shall be the Mediterranean Sea area as defined in Article 1 of the Convention. The area is also defined by:

- (a) the seaward limit of the coastal zone, which shall be the external limit of the territorial sea of Parties; and
- (b) the landward limit of the coastal zone, which shall be the limit of the competent coastal units as defined by the Parties.

2. If, within the limits of its sovereignty, a Party establishes limits different from those envisaged in paragraph 1 of this Article, it shall communicate a declaration to the Depositary at the time of the deposit of its instrument of ratification, acceptance, approval of, or accession to this Protocol, or at any other subsequent time, in so far as:

- (a) the seaward limit is less than the external limit of the territorial sea;
- (b) the landward limit is different, either more or less, from the limits of the territory of coastal units as defined above, in order to apply, *inter alia*, the ecosystem approach and economic and social criteria and to consider the specific needs of islands related to geomorphological characteristics and to take into account the negative effects of climate change.

3. Each Party shall adopt or promote at the appropriate institutional level adequate actions to inform populations and any relevant actor of the geographical coverage of the present Protocol.

Article 4

Preservation of rights

1. Nothing in this Protocol nor any act adopted on the basis of this Protocol shall prejudice the rights, the present and future claims or legal views

of any Party relating to the Law of the Sea, in particular the nature and the extent of marine areas, the delimitation of marine areas between States with opposite or adjacent coasts, the right and modalities of passage through straits used for international navigation and the right of innocent passage in territorial seas, as well as the nature and extent of the jurisdiction of the coastal State, the flag State or the port State.

2. No act or activity undertaken on the basis of this Protocol shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.

3. The provisions of this Protocol shall be without prejudice to stricter provisions respecting the protection and management of the coastal zone contained in other existing or future national or international instruments or programmes.

4. Nothing in this Protocol shall prejudice national security and defence activities and facilities; however, each Party agrees that such activities and facilities should be operated or established, so far as is reasonable and practicable, in a manner consistent with this Protocol.

Article 5

Objectives of integrated coastal zone management

The objectives of integrated coastal zone management are to:

- (a) facilitate, through the rational planning of activities, the sustainable development of coastal zones by ensuring that the environment and landscapes are taken into account in harmony with economic, social and cultural development;
- (b) preserve coastal zones for the benefit of current and future generations;
- (c) ensure the sustainable use of natural resources, particularly with regard to water use;
- (d) ensure preservation of the integrity of coastal

- ecosystems, landscapes and geomorphology;
- (e) prevent and/or reduce the effects of natural hazards and in particular of climate change, which can be induced by natural or human activities;
- (f) achieve coherence between public and private initiatives and between all decisions by the public authorities, at the national, regional and local levels, which affect the use of the coastal zone.

Article 6

General principles of integrated coastal zone management

In implementing this Protocol, the Parties shall be guided by the following principles of integrated coastal zone management:

- (a) The biological wealth and the natural dynamics and functioning of the intertidal area and the complementary and interdependent nature of the marine part and the land part forming a single entity shall be taken particularly into account.
- (b) All elements relating to hydrological, geomorphological, climatic, ecological, socio-economic and cultural systems shall be taken into account in an integrated manner, so as not to exceed the carrying capacity of the coastal zone and to prevent the negative effects of natural disasters and of development.
- (c) The ecosystems approach to coastal planning and management shall be applied so as to ensure the sustainable development of coastal zones.
- (d) Appropriate governance allowing adequate and timely participation in a transparent decision-making process by local populations and stakeholders in civil society concerned with coastal zones shall be ensured.
- (e) Cross-sectorally organized institutional coordination of the various administrative services and regional and local authorities competent in coastal zones shall be required.
- (f) The formulation of land use strategies, plans

and programmes covering urban development and socio-economic activities, as well as other relevant sectoral policies, shall be required.

- (g) The multiplicity and diversity of activities in coastal zones shall be taken into account, and priority shall be given, where necessary, to public services and activities requiring, in terms of use and location, the immediate proximity of the sea.
- (h) The allocation of uses throughout the entire coastal zone should be balanced, and unnecessary concentration and urban sprawl should be avoided.
- (i) Preliminary assessments shall be made of the risks associated with the various human activities and infrastructure so as to prevent and reduce their negative impact on coastal zones.
- (j) Damage to the coastal environment shall be prevented and, where it occurs, appropriate restoration shall be effected.

Article 7

Coordination

1. For the purposes of integrated coastal zone management, the Parties shall:

- (a) ensure institutional coordination, where necessary through appropriate bodies or mechanisms, in order to avoid sectoral approaches and facilitate comprehensive approaches;
- (b) organize appropriate coordination between the various authorities competent for both the marine and the land parts of coastal zones in the different administrative services, at the national, regional and local levels;
- (c) organize close coordination between national authorities and regional and local bodies in the field of coastal strategies, plans and programmes and in relation to the various authorizations for activities that may be achieved through joint consultative bodies or joint decision-making procedures.

2. Competent national, regional and local coastal zone authorities shall, insofar as practicable, work together to strengthen the coherence and effec-

tiveness of the coastal strategies, plans and programmes established.

PART II

ELEMENTS OF INTEGRATED COASTAL ZONE MANAGEMENT

Article 8

Protection and sustainable use of the coastal zone

1. In conformity with the objectives and principles set out in Articles 5 and 6 of this Protocol, the Parties shall endeavour to ensure the sustainable use and management of coastal zones in order to preserve the coastal natural habitats, landscapes, natural resources and ecosystems, in compliance with international and regional legal instruments.

2. For this purpose, the Parties:

- (a) Shall establish in coastal zones, as from the highest winter waterline, a zone where construction is not allowed. Taking into account, *inter alia*, the areas directly and negatively affected by climate change and natural risks, this zone may not be less than 100 meters in width, subject to the provisions of subparagraph (b) below. Stricter national measures determining this width shall continue to apply.
- (b) May adapt, in a manner consistent with the objectives and principles of this Protocol, the provisions mentioned above:
 - 1) for projects of public interest;
 - 2) in areas having particular geographical or other local constraints, especially related to population density or social needs, where individual housing, urbanisation or development are provided for by national legal instruments.

(c) Shall notify to the Organization their national legal instruments providing for the above adaptations.

2. The Parties shall also endeavour to ensure that

their national legal instruments include criteria for sustainable use of the coastal zone. Such criteria, taking into account specific local conditions, shall include, *inter alia*, the following:

- (a) identifying and delimiting, outside protected areas, open areas in which urban development and other activities are restricted or, where necessary, prohibited;
- (b) limiting the linear extension of urban development and the creation of new transport infrastructure along the coast;
- (c) ensuring that environmental concerns are integrated into the rules for the management and use of the public maritime domain;
- (d) providing for freedom of access by the public to the sea and along the shore;
- (e) restricting or, where necessary, prohibiting the movement and parking of land vehicles, as well as the movement and anchoring of marine vessels, in fragile natural areas on land or at sea, including beaches and dunes.

Article 9

Economic activities

1. In conformity with the objectives and principles set forth in Articles 5 and 6 of this Protocol, and taking into account the relevant provisions of the Barcelona Convention and its Protocols, the Parties shall:

- (a) accord specific attention to economic activities that require immediate proximity to the sea;
- (b) ensure that the various economic activities minimize the use of natural resources and take into account the needs of future generations;
- (c) ensure respect for integrated water resources management and environmentally sound waste management;
- (d) ensure that the coastal and maritime economy is adapted to the fragile nature of coastal zones and that resources of the sea are protected from pollution;
- (e) define indicators of the development of economic activities to ensure sustainable use of coastal zones and reduce pressures that exceed their carrying capacity;

(f) promote codes of good practice among public authorities, economic actors and non-governmental organizations.

2. In addition, with regard to the following economic activities, the Parties agree:

- (a) Agriculture and industry, to guarantee a high level of protection of the environment in the location and operation of agricultural and industrial activities so as to preserve coastal ecosystems and landscapes and prevent pollution of the sea, water, air and soil;
- (b) Fishing,
 - (i) to take into account the need to protect fishing areas in development projects;
 - (ii) to ensure that fishing practices are compatible with sustainable use of natural marine resources;
- (c) Aquaculture,
 - (i) to take into account the need to protect aquaculture and shellfish areas in development projects;
 - (ii) to regulate aquaculture by controlling the use of inputs and waste treatment;
- (d) Tourism, sporting and recreational activities,
 - (i) to encourage sustainable coastal tourism that preserves coastal ecosystems, natural resources, cultural heritage and landscapes;
 - (ii) to promote specific forms of coastal tourism, including cultural, rural and ecotourism, while respecting the traditions of local populations;
 - (ii) to regulate or, where necessary, prohibit the practice of various sporting and recreational activities, including recreational fishing and shellfish extraction;
- (e) Utilization of specific natural resources,
 - (i) to subject to prior authorization the excavation and extraction of minerals, including the use of seawater in desalination plants and stone exploitation;
 - (ii) to regulate the extraction of sand, including on the seabed and river sediments or prohibit it where it is likely to adversely affect the equi-

librium of coastal ecosystems;

(ii) to monitor coastal aquifers and dynamic areas of contact or interface between fresh and salt water, which may be adversely affected by the extraction of underground water or by discharges into the natural environment;

- (f) Infrastructure, energy facilities, ports and maritime works and structures, to subject such infrastructure, facilities, works and structures to authorization so that their negative impact on coastal ecosystems, landscapes and geomorphology is minimized or, where appropriate, compensated by non-financial measures;
- (g) Maritime activities, to conduct maritime activities in such a manner as to ensure the preservation of coastal ecosystems in conformity with the rules, standards and procedures of the relevant international conventions.

Article 10

Specific coastal ecosystems

The Parties shall take measures to protect the characteristics of certain specific coastal ecosystems, as follows :

1. Wetlands and estuaries

In addition to the creation of protected areas and with a view to preventing the disappearance of wetlands and estuaries, the Parties shall:

- (a) take into account in national coastal strategies and coastal plans and programmes and when issuing authorizations, the environmental, economic and social function of wetlands and estuaries;
- (b) take the necessary measures to regulate or, if necessary, prohibit activities that may have adverse effects on wetlands and estuaries;
- (c) undertake, to the extent possible, the restoration of degraded coastal wetlands with a view to reactivating their positive role in coastal environmental processes.

2. Marine habitats

The Parties, recognizing the need to protect marine areas hosting habitats and species of high conservation value, irrespective of their classification as protected areas, shall:

- (a) adopt measures to ensure the protection and conservation, through legislation, planning and management of marine and coastal areas, in particular of those hosting habitats and species of high conservation value;
- (b) undertake to promote regional and international cooperation for the implementation of common programmes on the protection of marine habitats.

3. Coastal forests and woods

The Parties shall adopt measures intended to preserve or develop coastal forests and woods located, in particular, outside specially protected areas.

4. Dunes

The Parties undertake to preserve and, where possible, rehabilitate in a sustainable manner dunes and bars.

Article 11

Coastal landscapes

1. The Parties, recognizing the specific aesthetic, natural and cultural value of coastal landscapes, irrespective of their classification as protected areas, shall adopt measures to ensure the protection of coastal landscapes through legislation, planning and management.

2. The Parties undertake to promote regional and international cooperation in the field of landscape protection, and in particular, the implementation, where appropriate, of joint actions for transboundary coastal landscapes.

Article 12

Islands

The Parties undertake to accord special protection to islands, including small islands, and for

this purpose to:

- (a) promote environmentally friendly activities in such areas and take special measures to ensure the participation of the inhabitants in the protection of coastal ecosystems based on their local customs and knowledge;
- (b) take into account the specific characteristics of the island environment and the necessity to ensure interaction among islands in national coastal strategies, plans and programmes and management instruments, particularly in the fields of transport, tourism, fishing, waste and water.

Article 13

Cultural heritage

1. The Parties shall adopt, individually or collectively, all appropriate measures to preserve and protect the cultural, in particular archaeological and historical, heritage of coastal zones, including the underwater cultural heritage, in conformity with the applicable national and international instruments.

2. The Parties shall ensure that the preservation in situ of the cultural heritage of coastal zones is considered as the first option before any intervention directed at this heritage.

3. The Parties shall ensure in particular that elements of the underwater cultural heritage of coastal zones removed from the marine environment are conserved and managed in a manner safeguarding their long-term preservation and are not traded, sold, bought or bartered as commercial goods.

Article 14

Participation

1. With a view to ensuring efficient governance throughout the process of the integrated management of coastal zones, the Parties shall take the necessary measures to ensure the appropriate involvement in the phases of the formulation and

implementation of coastal and marine strategies, plans and programmes or projects, as well as the issuing of the various authorizations, of the various stakeholders, including:

- the territorial communities and public entities concerned;
- economic operators;
- non-governmental organizations;
- social actors;
- the public concerned.

Such participation shall involve *inter alia* consultative bodies, inquiries or public hearings, and may extend to partnerships.

2. With a view to ensuring such participation, the Parties shall provide information in an adequate, timely and effective manner.

3. Mediation or conciliation procedures and a right of administrative or legal recourse should be available to any stakeholder challenging decisions, acts or omissions, subject to the participation provisions established by the Parties with respect to plans, programmes or projects concerning the coastal zone.

Article 15

Awareness-raising, training, education and research

1. The Parties undertake to carry out, at the national, regional or local level, awareness-raising activities on integrated coastal zone management and to develop educational programmes, training and public education on this subject.

2. The Parties shall organize, directly, multilaterally or bilaterally, or with the assistance of the Organization, the Centre or the international organizations concerned, educational programmes, training and public education on integrated management of coastal zones with a view to ensuring their sustainable development.

3. The Parties shall provide for interdisciplinary

scientific research on integrated coastal zone management and on the interaction between activities and their impacts on coastal zones. To this end, they should establish or support specialized research centres. The purpose of this research is, in particular, to further knowledge of integrated coastal zone management, to contribute to public information and to facilitate public and private decision-making.

PART III

INSTRUMENTS FOR INTEGRATED COASTAL ZONE MANAGEMENT

Article 16

Monitoring and observation mechanisms and networks

- 1.** The Parties shall use and strengthen existing appropriate mechanisms for monitoring and observation, or create new ones if necessary. They shall also prepare and regularly update national inventories of coastal zones which should cover, to the extent possible, information on resources and activities, as well as on institutions, legislation and planning that may influence coastal zones.
- 2.** In order to promote exchange of scientific experience, data and good practices, the Parties shall participate, at the appropriate administrative and scientific level, in a Mediterranean coastal zone network, in cooperation with the Organization.
- 3.** With a view to facilitating the regular observation of the state and evolution of coastal zones, the Parties shall set out an agreed reference format and process to collect appropriate data in national inventories.
- 4.** The Parties shall take all necessary means to ensure public access to the information derived from monitoring and observation mechanisms and networks.

Article 17

Mediterranean strategy for integrated coastal zone management

The Parties undertake to cooperate for the promotion of sustainable development and integrated management of coastal zones, taking into account the Mediterranean Strategy for Sustainable Development and complementing it where necessary. To this end, the Parties shall define, with the assistance of the Centre, a common regional framework for integrated coastal zone management in the Mediterranean to be implemented by means of appropriate regional action plans and other operational instruments, as well as through their national strategies.

Article 18

National coastal strategies, plans and programmes

- 1.** Each Party shall further strengthen or formulate a national strategy for integrated coastal zone management and coastal implementation plans and programmes consistent with the common regional framework and in conformity with the integrated management objectives and principles of this Protocol and shall inform the Organization about the coordination mechanism in place for this strategy.
- 2.** The national strategy, based on an analysis of the existing situation, shall set objectives, determine priorities with an indication of the reasons, identify coastal ecosystems needing management, as well as all relevant actors and processes, enumerate the measures to be taken and their cost as well as the institutional instruments and legal and financial means available, and set an implementation schedule.
- 3.** Coastal plans and programmes, which may be self-standing or integrated in other plans and programmes, shall specify the orientations of the national strategy and implement it at an appropriate

territorial level, determining, *inter alia* and where appropriate, the carrying capacities and conditions for the allocation and use of the respective marine and land parts of coastal zones.

4. The Parties shall define appropriate indicators in order to evaluate the effectiveness of integrated coastal zone management strategies, plans and programmes, as well as the progress of implementation of the Protocol.

Article 19

Environmental assessment

1. Taking into account the fragility of coastal zones, the Parties shall ensure that the process and related studies of environmental impact assessment for public and private projects likely to have significant environmental effects on the coastal zones, and in particular on their ecosystems, take into consideration the specific sensitivity of the environment and the inter-relationships between the marine and terrestrial parts of the coastal zone.

2. In accordance with the same criteria, the Parties shall formulate, as appropriate, a strategic environmental assessment of plans and programmes affecting the coastal zone.

3. The environmental assessments should take into consideration the cumulative impacts on the coastal zones, paying due attention, *inter alia*, to their carrying capacities.

Article 20

Land policy

1. For the purpose of promoting integrated coastal zone management, reducing economic pressures, maintaining open areas and allowing public access to the sea and along the shore, Parties shall adopt appropriate land policy instruments and measures, including the process of planning.

2. To this end, and in order to ensure the sustain-

able management of public and private land of the coastal zones, Parties may *inter alia* adopt mechanisms for the acquisition, cession, donation or transfer of land to the public domain and institute easements on properties.

Article 21

Economic, financial and fiscal instruments

For the implementation of national coastal strategies and coastal plans and programmes, Parties may take appropriate measures to adopt relevant economic, financial and/or fiscal instruments intended to support local, regional and national initiatives for the integrated management of coastal zones.

Part IV

RISKS AFFECTING THE COASTAL ZONE

Article 22

Natural hazards

Within the framework of national strategies for integrated coastal zone management, the Parties shall develop policies for the prevention of natural hazards. To this end, they shall undertake vulnerability and hazard assessments of coastal zones and take prevention, mitigation and adaptation measures to address the effects of natural disasters, in particular of climate change.

Article 23

Coastal erosion

1. In conformity with the objectives and principles set out in Articles 5 and 6 of this Protocol, the Parties, with a view to preventing and mitigating the negative impact of coastal erosion more effecti-

vely, undertake to adopt the necessary measures to maintain or restore the natural capacity of the coast to adapt to changes, including those caused by the rise in sea levels.

2. The Parties, when considering new activities and works located in the coastal zone including marine structures and coastal defence works, shall take particular account of their negative effects on coastal erosion and the direct and indirect costs that may result. In respect of existing activities and structures, the Parties should adopt measures to minimize their effects on coastal erosion.

3. The Parties shall endeavour to anticipate the impacts of coastal erosion through the integrated management of activities, including adoption of special measures for coastal sediments and coastal works.

4. The Parties undertake to share scientific data that may improve knowledge on the state, development and impacts of coastal erosion.

Article 24

Response to natural disasters

1. The Parties undertake to promote international cooperation to respond to natural disasters, and to take all necessary measures to address in a timely manner their effects.

2. The Parties undertake to coordinate use of the equipment for detection, warning and communication at their disposal, making use of existing mechanisms and initiatives, to ensure the transmission as rapidly as possible of urgent information concerning major natural disasters. The Parties shall notify the Organization which national authorities are competent to issue and receive such information in the context of relevant international mechanisms.

3. The Parties undertake to promote mutual cooperation and cooperation among national, regional and local authorities, non-governmental or-

ganizations and other competent organizations for the provision on an urgent basis of humanitarian assistance in response to natural disasters affecting the coastal zones of the Mediterranean Sea.

PART V

INTERNATIONAL COOPERATION

Article 25

Training and research

1. The Parties undertake, directly or with the assistance of the Organization or the competent international organizations, to cooperate in the training of scientific, technical and administrative personnel in the field of integrated coastal zone management, particularly with a view to:

- (a) identifying and strengthening capacities;
- (b) developing scientific and technical research;
- (c) promoting centres specialized in integrated coastal zone management;
- (d) promoting training programmes for local professionals.

2. The Parties undertake, directly or with the assistance of the Organization or the competent international organizations, to promote scientific and technical research into integrated coastal zone management, particularly through the exchange of scientific and technical information and the coordination of their research programmes on themes of common interest.

Article 26

Scientific and technical assistance

For the purposes of integrated coastal zone management, the Parties undertake, directly or with the assistance of the Organization or the competent international organizations to cooperate for the provision of scientific and technical assistance, including access to environmentally sound technologies and their transfer, and other

possible forms of assistance, to Parties requiring such assistance.

Article 27

Exchange of information and activities of common interest

1. The Parties undertake, directly or with the assistance of the Organization or the competent international organizations, to cooperate in the exchange of information on the use of the best environmental practices.

2. With the support of the Organization, the Parties shall in particular:

define coastal management indicators, taking into account existing ones, and cooperate in the use of such indicators;
establish and maintain up-to-date assessments of the use and management of coastal zones;
carry out activities of common interest, such as demonstration projects of integrated coastal zone management.

Article 28

Transboundary cooperation

The Parties shall endeavour, directly or with the assistance of the Organization or the competent international organizations, bilaterally or multilaterally, to coordinate, where appropriate, their national coastal strategies, plans and programmes related to contiguous coastal zones. Relevant domestic administrative bodies shall be associated with such coordination.

Article 29

Transboundary environmental assessment

1. Within the framework of this Protocol, the Parties shall, before authorizing or approving plans,

programmes and projects that are likely to have a significant adverse effect on the coastal zones of other Parties, cooperate by means of notification, exchange of information and consultation in assessing the environmental impacts of such plans, programmes and projects, taking into account Article 19 of this Protocol and Article 4, paragraph 3 (d) of the Convention.

2. To this end, the Parties undertake to cooperate in the formulation and adoption of appropriate guidelines for the determination of procedures for notification, exchange of information and consultation at all stages of the process.

3. The Parties may, where appropriate, enter into bilateral or multilateral agreements for the effective implementation of this Article.

PART VI INSTITUTIONAL PROVISIONS

Article 30

Focal Points

Each Party shall designate a Focal Point to serve as liaison with the Centre on the technical and scientific aspects of the implementation of this Protocol and to disseminate information at the national, regional and local level. The Focal Points shall meet periodically to carry out the functions deriving from this Protocol.

Article 31

Reports

The Parties shall submit to the ordinary Meetings of the Contracting Parties, reports on the implementation of this Protocol, in such form and at such intervals as these Meetings may determine, including the measures taken, their effectiveness and the problems encountered in their implementation.

Institutional coordination

1. The Organization shall be responsible for coordinating the implementation of this Protocol. For this purpose, it shall receive the support of the Centre, to which it may entrust the following functions:

(a) to assist the Parties to define a common regional framework for integrated coastal zone management in the Mediterranean pursuant to Article 17;

to prepare a regular report on the state and development of integrated coastal zone management in the Mediterranean Sea with a view to facilitating implementation of the Protocol;

(c) to exchange information and carry out activities of common interest pursuant to Article 27;

(d) upon request, to assist the Parties:

- to participate in a Mediterranean coastal zone network pursuant to Article 16;

- to prepare and implement their national strategies for integrated coastal zone management pursuant to Article 18;

- to cooperate in training activities and in scientific and technical research programmes pursuant to Article 25;

- to coordinate, when appropriate, the management of transboundary coastal zones pursuant to Article 28;

(e) to organize the meetings of the Focal Points pursuant to Article 30;

(f) to carry out any other function assigned to it by the Parties.

2. For the purposes of implementing this Protocol, the Parties, the Organization and the Centre may jointly establish cooperation with non-governmental organizations the activities of which are related to the Protocol.

Meetings of the Parties

1. The ordinary meetings of the Parties to this Protocol shall be held in conjunction with the ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 18 of the Convention. The Parties may also hold extraordinary meetings in conformity with that Article.

2. The functions of the meetings of the Parties to this Protocol shall be:

(a) to keep under review the implementation of this Protocol;

(b) to ensure that this Protocol is implemented in coordination and synergy with the other Protocols;

(c) to oversee the work of the Organization and of the Centre relating to the implementation of this Protocol and providing policy guidance for their activities;

(d) to consider the efficiency of the measures adopted for integrated coastal zone management and the need for other measures, in particular in the form of annexes or amendments to this Protocol;

(e) to make recommendations to the Parties on the measures to be adopted for the implementation of this Protocol;

(f) to examine the proposals made by the Meetings of Focal Points pursuant to Article 30 of this Protocol;

(g) to consider reports transmitted by the Parties and making appropriate recommendations pursuant to Article 26 of the Convention;

(h) to examine any other relevant information submitted through the Centre;

(i) to examine any other matter relevant to this Protocol, as appropriate.

PART VII

FINAL PROVISIONS

Article 34

Relationship 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 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

Article 35

Relations with third parties

1. The Parties shall invite, where appropriate, States that are not Parties to this Protocol and international organizations to cooperate in the implementation of this Protocol.
2. The Parties undertake to adopt appropriate measures, consistent with international law, to ensure that no one engages in any activity contrary to the principles and objectives of this Protocol.

Article 36

Signature

This Protocol shall be open for signature at Madrid, Spain, from 21 January 2008 to 20 January 2009 by any Contracting Party to the Convention.

Article 37

Ratification, acceptance or approval

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.

Article 38

Accession

As from 21 January 2009 this Protocol shall be open for accession by any Party to the Convention.

Article 39

Entry into force

This Protocol shall enter into force on the thirtieth day (30) following the deposit of at least six (6) instruments of ratification, acceptance, approval or accession.

Article 40

Authentic texts

The original of this Protocol, of which the Arabic, English, French and Spanish texts are equally authentic, shall be deposited with the Depositary.

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

DONE AT MADRID, SPAIN, this twenty-first day of January two thousand and eight.

Decision IG 17/2

**Procedures and mechanisms on
compliance under the Barcelona
Convention and its Protocols**

The 15th Meeting of the Contracting Parties,

Recalling Articles 18 and 27 of the Barcelona Convention for the Protection of the Marine Environment and the Coastal region of the Mediterranean as amended in Barcelona in 1995, hereinafter referred to as the Barcelona Convention,

Recalling also its decisions adopted at its 13th Meeting held in Catania, Italy, and its 14th Meeting held in Portoroz, Slovenia, on the need to develop a mechanism to promote implementation and compliance with the Barcelona Convention,

Noting with appreciation the work undertaken by the Working Group on Implementation and Compliance on the development of the mechanism relating to compliance during their four meetings held between 2004 and 2007,

Decides to approve and adopt the Procedures and mechanisms on compliance with the obligations under the Barcelona Convention and its Protocols, hereinafter referred to as Procedures and Mechanisms, as contained in the Annex to this Decision;

Agrees to the setting up of the Compliance Committee in accordance with the Procedures and Mechanisms;

Decides also that the composition of the Compliance Committee be as follows:

- || two members and two alternates to be nominated by the following southern and eastern Mediterranean countries: Algeria, Egypt, Lebanon, Libya, Morocco, Syria, Tunisia;
- || two members and two alternates to be nominated by the seven EU Member States which are Party to the Barcelona Convention: Cyprus, Greece, France, Italy, Malta, Slovenia, Spain and the EC;
- || two members and two alternates to be nominated by the other Parties: Albania, Bosnia and Herzegovina, Croatia, Israel, Monaco, Turkey and Montenegro once it becomes Party to the Barcelona Convention;
- || one additional member and one alternate to be nominated from each group on a rotation basis every four years. The additional member and the additional alternate are nominated for the first compliance Committee, by the group of southern and eastern Mediterranean countries;

Requests the Compliance Committee to consider during the next biennium 2008-2009, *inter alia*, general compliance issues such as compliance problems with reporting requirements under the Barcelona Convention and its Protocols;

Requests the Compliance Committee to submit to the 16th Meeting of the Contracting Parties draft rules of procedure for the Committee for adoption;

Requests the Compliance Committee to submit, in accordance with paragraph 31 of the Procedures and Mechanisms, a report on its activities to the 16th Meeting of the Contracting Parties, including findings, conclusions and difficulties encountered and any recommendations for amending the Procedures and Mechanisms.

Procedures and mechanisms on compliance under the Barcelona Convention and its Protocols

I Objective

1. The objective of the compliance mechanism is to facilitate and promote compliance with the obligations under the Barcelona Convention and its Protocols, taking into account the specific situation of each Contracting Party, in particular those, which are developing countries.

II Compliance Committee

2. A compliance committee, hereinafter referred to as “the Committee”, is hereby established.

3. The Committee shall consist of seven members elected by the Meeting of the Contracting Parties from a list of candidates nominated by the Contracting Parties. For each member of the Committee, the Meeting of the Contracting Parties shall also elect an alternate member from the above-mentioned list.

4. A full term of office commences at the end of an Ordinary Meeting of the Contracting Parties and runs until the end of the second Ordinary Meeting of the Contracting Parties thereafter.

5. At the Meeting of the Contracting Parties at which the decision establishing the mechanism is adopted, the Meeting shall elect three members and their alternates for half a term and four members and their alternates for a full term. At each ordinary meeting thereafter, the Contracting Parties shall elect for a full term new members and alternates to replace those whose period of office is about to expire.

6. Members and alternates shall not serve for two consecutive terms.

7. The members of the Committee shall be nationals of Parties to the Barcelona Convention. The Committee shall not include more than one national of the same State.

8. Nominated candidates shall be persons of recognized competence in the matters dealt with by the Barcelona Convention and its Protocols and in relevant scientific, technical, socio-economic, legal or other fields. Each nomination shall be accompanied by the curriculum vitae of the candidate. Contracting Parties may consider the nominations of candidates from civil society and academia.

9. In electing members of the Committee and their alternates, the Meeting of the Contracting Parties shall take into consideration equitable geographical representation, shall ensure rotation in order to secure the participation of nominated individuals from all Contracting Parties as members of the Committee within a reasonable period of time. To the extent possible, they shall also take into consideration a balance of scientific, legal and technical expertise.

10. The Committee shall elect its officers – a Chairperson and two Vice-Chairpersons – on the basis of equitable geographic representation and rotation.

11. Members of the Committee and their alternates shall serve in their individual capacities and shall act objectively in the interests of the Barcelona Convention and its Protocols for the protection of the Mediterranean Sea and its coastal area.

III Meetings of the Committee

12. The Committee shall meet at least once a year. The Committee may decide to hold additional meetings, in particular in conjunction with those of other Convention bodies.

13. The Secretariat shall inform all Contracting Parties of the date and venue of the meetings of the Committee. Unless the Committee or the Party whose compliance is in question (hereinafter “the Party concerned”) decides otherwise, the meetings of the Committee will be open to:

- (a) Parties to the Convention, which shall be treated as observers in accordance with the Rules of Procedure for meetings and conferences of the Contracting Parties for the purpose of their participation in the Committee; and
- (b) observers, in accordance with Article 20 of the Convention and the Rules of Procedure for the meetings and conferences of the Contracting Parties.

14. In the absence of a member from a meeting, the respective alternate shall serve as the member.

15. For each meeting, a quorum of seven members is required.

16. The Committee shall make every effort to reach agreement by consensus on its findings, measures and recommendations. If all efforts to reach consensus have been exhausted, the Committee shall as a last resort adopt its findings, measures and recommendations by at least a three-fourths majority of the members present and voting. “Members present and voting” means members present and casting an affirmative or a negative vote.

IV Role of the Compliance Committee

17. The role of the Committee shall be to consider:

- (a) specific situations of actual or potential non-compliance by individual Parties with the provisions of the Convention and its Protocols;

- (b) at the request of the Meeting of the Contracting Parties, general compliance issues, such as recurrent non-compliance problems, including in relation to reporting, taking into account the reports referred to in Article 26 of the Convention and any other report submitted by the Parties; and
- (c) any other issues as requested by the Meeting of the Contracting Parties.

V Procedure

1. Submissions by Parties

18. The Committee shall consider submissions by:

- (a) a Party in respect of its own actual or potential situation of non-compliance, despite its best endeavours; and
- (b) a Party in respect of another Party’s situation of non-compliance, after it has undertaken consultations through the Secretariat with the Party concerned and the matter has not been resolved within three months at the latest, or a longer period as the circumstances of a particular case may require, but not later than six months.

19. Submissions as referred to in paragraph 18 concerning the alleged non-compliance of a Party shall be addressed in writing to the Committee through the Secretariat, supported by substantiating information setting out the matter of concern and the relevant provisions of the Barcelona Convention and its Protocols.

20. The Secretariat shall, within two weeks of receiving a submission in accordance with paragraph 18 (b), send a copy of that submission to the Party concerned.

21. The Committee may decide not to proceed with a submission that it considers to be

- II anonymous,
- II de minimis or
- II manifestly ill founded.

22. The Secretariat shall inform both the Party concerned and the Party indicated in paragraph 18(b) about the Committee's findings under paragraph 21 within two weeks of the date of the findings.

2. Referrals by the Secretariat

23. If the Secretariat becomes aware from the periodic reports referred to in Article 26 of the Convention and any other reports submitted by the Parties that a Party is facing difficulties in complying with its obligations under the Convention and its Protocols, the Secretariat shall notify the Party concerned and discuss with it ways of overcoming the difficulties. If the difficulties cannot be overcome within a maximum period of three months, the Party concerned shall make a submission on the matter to the Compliance Committee in accordance with paragraph 18 (a). In the absence of such a submission within six months of the date of the above mentioned notification, the Secretariat shall refer the matter to the Committee

3. Proceedings

24. The Party concerned may present information on the issue in question and present responses and/or comments at every stage of the proceedings. At the invitation of the Party concerned, the Committee may undertake on-site appraisals.

25. The Committee may:

- (a) ask the Party concerned to provide further information, including an assessment of the reasons why the Party may be unable to fulfill its obligations; and
- (b) with the consent of the Party concerned, gather information in the territory of that Party, including on-site appraisals.

26. In its deliberations, the Committee shall take into account all the available information concerning the issue in question, which shall also be made equally available to the Party concerned.

27. The Party concerned shall be entitled to participate in the discussions of the Committee and present its observations. The Committee may, if it con-

siders it necessary in a particular case of non-compliance, ask the Party concerned to participate in the preparation of its findings, measures and recommendations.

28. The Committee shall be guided by the principle of "due process" in order to ensure fairness and transparency.

29. The Committee shall, through the Secretariat, notify the Party concerned of its draft findings, measures and recommendations in writing within two weeks from the date of their completion. The Party concerned may comment in writing on the draft findings, measures and recommendations of the Committee within a period of time determined by the Committee.

30. The Committee, any Party or others involved in its deliberations shall protect the confidentiality of information transmitted in confidence by the Party concerned.

VI Committee reports to the Meetings of the Contracting Parties

31. The Committee shall prepare a report on its activities.

(a) The report shall be adopted in accordance with paragraph 16. Where it is not possible to reach agreement on findings, measures and recommendations by consensus, the report shall reflect the views of all Committee members.

(b) As soon as it is adopted, the Committee shall submit the report through the Secretariat, including such recommendations on individual and general issues of non-compliance as it considers appropriate to the Parties for consideration at their next meeting.

VII Measures

32. The Committee may take one or more of the following measures with a view to promoting compliance and addressing cases of non-compliance,

taking into account the capacity of the Party concerned, in particular if it is a developing country, and also factors such as the cause, type, degree and frequency of non-compliance:

- (a) provide advice and, as appropriate, facilitate assistance;
- (b) request or assist, as appropriate, the Party concerned to develop an action plan to achieve compliance within a time frame to be agreed upon between the Committee and the Party concerned;
- (c) invite the Party concerned to submit progress reports to the Committee within the time frame referred to in subparagraph (b) above on the efforts it is making to comply with its obligations under the Barcelona Convention and its Protocols; and
- (d) make recommendations to the Meeting of the Contracting Parties on cases of non-compliance, if it finds that such cases should be handled by the Meeting of the Contracting Parties.

33. The Meeting of the Contracting Parties may decide, upon consideration of the report and any recommendations of the Committee, taking into account the capacity of the Party concerned, in particular if it is a developing country, and also factors such as the cause, type and degree of non-compliance, appropriate measures to bring about full compliance with the Convention and its Protocols, such as:

- (a) facilitate implementation of the advice from the Committee and facilitate assistance, including, where appropriate, capacity-building, to an individual Party;
- (b) make recommendations to the Party concerned;
- (c) request the Party concerned to submit progress reports on achievement of compliance with the obligations under the Convention and its Protocols; and
- (d) publish cases of non-compliance.

34. In the event of a serious, ongoing or repeated situation of non-compliance by a Party, the Meeting of the Contracting Parties, where appropriate, may:

- (a) issue a caution;
- (b) issue a report of non-compliance regarding that Party; or
- (c) consider and undertake any additional action that may be required for achievement of the purposes of the Convention and the Protocols.

VIII Review of procedures and mechanisms

35. The Meeting of the Contracting Parties shall regularly review the implementation and effectiveness of the compliance mechanism and take appropriate action.

IX Relationship with Article 28 of the Convention (Settlement of Disputes)

36. These procedures and mechanisms shall operate without prejudice to the settlement of disputes provisions of Article 28 of the Convention.

X Sharing of information with other relevant multilateral environmental agreements

37. Where relevant, the Committee may solicit specific information, upon request by the Meeting of the Contracting Parties, or directly, from compliance committees dealing with comparable matters, and shall report on its consultations to the Meeting of the Contracting Parties.

XI Secretariat

38. The Coordinating Unit shall serve as the Secretariat of the Committee. It shall, inter alia, arrange and service the meetings of the Committee.

Decision IG.19/1

**Rules of Procedure for the Compliance
Committee and its work during
2010-2011 biennium**

The 16th Meeting of the Contracting Parties,

- || *Recalling* Articles 18 and 27 of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean as amended in Barcelona in 1995 hereinafter referred to as the Barcelona Convention,
- || *Recalling also* decision IG 17/2 of the 15th Meeting of the Contracting Parties that adopted Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, hereinafter referred to as Procedures and Mechanisms on Compliance,
- || *Having considered* the report on the activities of the Compliance Committee on measures proposed by the Committee in accordance with section VII of the decision IG 17/2 for the biennium 2008-2009 submitted by its Chairman to the Meeting of the Contracting Parties in accordance with section VI of decision 17/2,
- || *Underlining* the priority for the Compliance Committee to assist the concerned Contracting Parties to implement its recommendations and those of the Meetings of the Contracting Parties, in order that the achievement of compliance be facilitated,
- || *Recognizing* in this respect the need to continue ensuring the stable, consistent and predictable application of the Procedures and Mechanisms relating to compliance,
- || *Expressing its appreciation* to the Compliance Committee, which from the time it was set up and in the three meetings that it held was able to implement its working plan within the reporting period,
- || *Noting also* with appreciation the Programme of Work of the Compliance Committee for the 2010-2011 biennium as presented in Annex II to the present decision,
- || *Stressing* the importance for Contracting Parties to comply with their reporting obligations on time and in doing so to use the new standardized reporting format now available on line, concerning measures taken to implement the Barcelona Convention and its Protocols for the 2008-2009, as well as the decisions of the Contracting Parties Meeting,

- || **Adopts** the Rules of Procedure of the Compliance Committee as contained in Annex I to this decision, in accordance with the provisions of the Procedures and Mechanisms on Compliance contained in the Annex to decision IG 17/2 of the 15th Meeting of the Contracting Parties;
- || **Urges** those Contracting Parties that have not yet done so to submit as soon as possible their reports on implementation of the Barcelona Convention and its Protocols;
- || **Invites** the Contracting Parties to provide full support to the working plan of the Compliance Committee for the 2010-2011 biennium;
- || **Encourages** Contracting Parties to bring before the Compliance Committee for its consideration any problems of interpretation concerning implementation of the provisions of the Barcelona Convention and its Protocols;
- || **Requests** the Compliance Committee in accordance with paragraph 17(b) on Compliance Procedures and Mechanisms on Compliance, to consider matters of compliance which are recurring in general manner;
- || **Further requests** the Compliance Committee to submit, in accordance with paragraph 31 of the Procedures and Mechanisms on Compliance, a report on its activities to the 17th Meeting of the Contracting Parties, including findings, difficulties encountered and conclusions and any recommendations for amending the rules of procedure, in accordance with Article 32.

ANNEX I

RULES OF PROCEDURE FOR THE COMPLIANCE COMMITTEE UNDER THE BARCELONA CONVENTION AND ITS RELATED PROTOCOLS

PURPOSES

RULE 1

Within the framework of the implementation of the procedures and mechanisms on compliance under the Barcelona Convention and its Protocols, hereinafter called “compliance procedures and mechanisms”, contained in the annex to decision IG 17/2 on compliance procedures and mechanisms, hereinafter called decision IG 17/2, as adopted by the 15th Meeting of the Contracting Parties, these rules of procedure shall apply to any meeting of the Compliance Committee, hereinafter called “the Committee”, under the Convention and its related Protocols.

RULE 2

The Rules of Procedure for Meetings and Conferences of the Contracting Parties to the Barcelona Convention and its related Protocols shall apply *mutatis mutandis* to any meeting of the Committee unless otherwise stipulated in the rules set out herein and in decision IG 17/2, and provided that rules 18 and 19 on representation and credentials of the Rules of Procedure for Meetings and Conferences of the Contracting Parties do not apply.

DEFINITIONS

RULE 3

For the purposes of these rules:

1. “*Convention and its related Protocols*” means the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) adopted in 1976 and amended in 1995 and its related Protocols: Protocol Concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emer-

gency (Emergency Protocol), Barcelona, 1976; Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (Prevention and Emergency Protocol), Malta, 2002; Protocol for the Prevention of Pollution in the Mediterranean Sea by Dumping from Ships and Aircraft (Dumping Protocol), Barcelona, 1976; amendments to the Dumping Protocol, recorded as Protocol for the Prevention and Elimination of Pollution in the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea, Barcelona, 1995; Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (LBS Protocol), Athens, 1980; amendments to the LBS Protocol, recorded as Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities, Syracuse, 1996; Protocol concerning Mediterranean Specially Protected Areas (SPA Protocol), Geneva, 1982; Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean (SPA and Biodiversity Protocol), Barcelona, 1995; 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 (Offshore Protocol), Madrid, 1994; Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal (Hazardous Wastes Protocol), Izmir, 1996; Protocol on Integrated Coastal Zone Management in the Mediterranean (ICZM Protocol), Madrid, 2008.

2. “*Compliance procedures and mechanisms*” means the procedures and mechanisms on compliance under the Barcelona Convention and its related Protocols adopted by the 15th Meeting of the Contracting Parties and set out in the annex to decision IG 17/2.

3. “*Contracting Parties*” means Contracting Parties to the Convention and its related Protocols, including the amended versions, if any, for which the Convention and the related Protocols and their respective amendments are in force.

4. “*Party concerned*” means a Party in respect of which a question of compliance is raised as set out in section V of the compliance procedures and mechanisms.

5. “*Committee*” means the Compliance Committee established by section II, paragraph 2, of the compliance procedures and mechanisms and by decision IG 17/2 of the 15th Meeting of the Contracting Parties.

6. “*Member*” means a member of the Committee elected under section II, paragraph 3, of the compliance procedures and mechanisms.

7. “*Alternate member*” means an alternate member elected under section II, paragraph 3, of the compliance procedures and mechanisms.

8. “*Chairperson*” means the Chairperson of the Committee elected in accordance with rule 6 of the present rules of procedure.

9. “*Vice-Chairpersons*” means the Vice-Chairpersons of the Committee elected in accordance with rule 6 of the present rules of procedure.

10. “*Secretariat*” means the Coordinating Unit that is designated by the Executive Director of the United Nations Environment Programme (UNEP) as responsible for the administration of the Mediterranean Action Plan (MAP), referred to in paragraph 38 of the compliance procedures and mechanisms.

11. “*Representative*” means a person designated by the Party concerned to represent it during the consideration of a question of non-compliance.

12. “*The public*” means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organizations or groups.

13. “*Bureau*” means the Bureau of the Contracting Parties referred to in article 19 of the Convention.

14. “*Observers*” means the organizations referred to in article 20 of the Convention and those included in the list of MAP partners as approved by the Meeting of the Contracting Parties.

PLACE, DATES AND NOTICE OF MEETINGS

RULE 4

1. The Committee shall normally meet once a year. It may decide to hold additional meetings subject to workload requirements arising from submissions by concerned Contracting Parties and referrals by the Secretariat and subject to availability of resources.

2. Unless it decides otherwise, the Committee shall normally meet at the seat of the Coordinating Unit.

3. At each meeting, the Committee shall decide on the place, dates and duration of its next meeting.

RULE 5

Notice of Committee meetings shall be sent by the Secretariat to the members and alternate members and any representative, as the case may be, with a copy to the MAP Focal Points of all Contracting Parties, at least three months before the opening of the meeting.

OFFICERS

RULE 6

The Committee shall elect a Chairperson and two Vice-Chairpersons for a term of two years. No officers shall serve for more than two consecutive terms.

RULE 7

1. In addition to exercising the powers conferred upon him or her elsewhere in these rules, the Chairperson shall:

(a) Preside over the meeting;

(b) Declare the opening and closure of the meeting;

(c) Ensure the observance of these rules;

(d) Accord the right to speak;

(e) Put questions to the vote and announce decisions;

(f) Rule on any points of order;

(g) Subject to these rules, have complete control over the proceedings and maintain order.

2. The Chairperson may also propose:
- (a) The closure of the list of speakers;
 - (b) A limitation on the time to be allowed to speakers and on the number of interventions on an issue;
 - (c) The adjournment or closure of debate on an issue;
 - (d) The suspension or adjournment of the meeting.

AGENDA

RULE 8

1. In agreement with the Chairperson, the Secretariat shall draft the provisional agenda for each meeting of the Committee. The agenda of the Committee shall include items arising from its functions as specified in section IV of the compliance procedures and mechanisms and other matters related thereto.

2. The Committee, when adopting its agenda, may decide to add urgent and important items and to delete, defer or amend items.

RULE 9

The provisional agenda and the annotated agenda for each meeting, the draft report of the previous meeting and other working and supporting documents shall be circulated by the Secretariat to members and alternate members at least six weeks before the opening of the meeting.

MEMBERS AND ALTERNATE MEMBERS

RULE 10

1. The term of office of a member or alternate member shall commence at the end of an ordinary Meeting of the Contracting Parties immediately following his or her election and run until the end of the Meeting of the Contracting Parties two or four years thereafter, as applicable.

2. If a member or alternate member of the Committee resigns or is otherwise unable to complete his or her term of office, the Party which nominated that member or alternate member shall nominate a replacement to serve for the remainder of that member's or alternate member's mandate, subject to endorsement by the Bureau of the Contracting Parties.

3. When a member or alternate member resigns or is

otherwise unable to complete the assigned term, the Committee shall request the Secretariat to start the replacement procedures in order to ensure, in accordance with paragraph 2 above, the election of a new member or alternate member for the remainder of the term.

RULE 11

1. In accordance with these rules of procedure, members and alternate members shall be invited to attend Committee meetings.

2. Alternate members are entitled to take part in the proceedings of the Committee without the right to vote. An alternate member may cast a vote only if serving as a member.

3. During the absence of a member from all or part of a meeting, his or her alternate shall serve as the member.

4. When a member resigns or is otherwise unable to complete the assigned term or the functions of a member, his or her alternate shall serve as a member ad interim.

5. Any other participant in the Committee's meetings shall attend as an observer.

RULE 12

1. Each member of the Committee shall, with respect to any matter that is under consideration by the Committee, avoid direct or indirect conflicts of interest. Any matter that may constitute a conflict of interest shall be disclosed as soon as possible to the Secretariat, which shall forthwith notify the members of the Committee. The concerned member shall not participate in the elaboration and adoption of findings, measures and recommendations of the Committee in relation to such a matter.

2. If the Committee considers that a material violation of the requirements of independence and impartiality expected of a member or alternate member of the Committee has occurred, it may decide to recommend, through the Secretariat to the Bureau of the Meeting of the Contracting Parties, to revoke the membership of any member or alternate member concerned, after having given the member or alternate member the opportunity to be heard.

3. All decisions of the Committee taken under this rule shall be noted in the annual report of the Committee to the Meeting of the Contracting Parties.

RULE 13

Each member or alternate member of the Committee shall take the following written oath:

"I solemnly declare that I shall perform my duties as member of the Committee objectively, independently and impartially, acting in the interest of the Barcelona Convention, and shall not disclose any confidential information coming to my knowledge by reason of my duties in the Committee, and I shall disclose to the Committee any personal interest in any matter submitted to the Committee for consideration which may constitute a conflict of interest."

DISTRIBUTION AND CONSIDERATION OF INFORMATION

RULE 14

1. The information received in accordance with paragraphs 18-19 of section V on 'Procedure' shall be distributed by the Secretariat to the members and alternate members of the Committee.

2. A submission received in accordance with paragraph 18(a) of section V of the compliance procedures and mechanisms shall be transmitted by the Secretariat to the members of the Committee and their alternates as soon as possible but no later than thirty days of receipt of the submission.

3. A submission received in accordance with paragraph 18(b) of the compliance procedures and mechanisms and any referrals by the Secretariat as provided for in paragraph 23 of the compliance procedures and mechanisms shall be transmitted by the Secretariat to the members of the Committee and their alternates as soon as possible but no later than 30 days after the six-month timeframes provided for in the above-mentioned paragraphs have expired.

4. Any information to be considered by the Committee shall, as soon as possible but no later than two weeks after receipt, be made available to the Party concerned.

PUBLIC ACCESS TO DOCUMENTS AND INFORMATION

RULE 15

The provisional agenda, reports of meetings, official documents and, subject to rule 14 above and paragraph 30 of section V of the compliance procedures and mechanisms, any other non-confidential information documents shall be made available to the public.

PARTICIPATION IN PROCEEDINGS OF THE COMMITTEE

RULE 16

1. Unless the Committee or the Party whose compliance is in question decides otherwise, the meetings of the Committee will be open to other Contracting Parties and to observers as provided for under paragraph 13 of the compliance procedures and mechanisms.

2. In accordance with the provisions of paragraphs 18, 27 and 29 of the compliance procedures and mechanisms, the Party concerned is entitled to participate in the Committee's proceedings and make comments thereon. It may furthermore, in accordance with the criteria adopted by the Committee and at the request of the latter, take part in the preparation of its findings, measures and recommendations. The Party concerned shall be given an opportunity to comment in writing on any findings, measures and recommendations of the Committee. Any such comments shall be forwarded with the report of the Committee to the Meeting of the Contracting Parties.

3. The Committee may invite experts to provide expertise through the Secretariat. In that case it shall:

- (a) Define the question on which expert opinion is sought;
- (b) Identify the expert(s) to be consulted, on the basis of a roster of experts prepared and regularly updated by the Secretariat;
- (c) Lay down the procedures to be followed.

4. Experts may also be invited by the Committee to be present during the formulation of its findings, measures or recommendations.

5. Secretariat officials may be also invited by the Com-

mittee to be present to assist in the drafting of its findings, measures or recommendations.

CONDUCT OF BUSINESS

RULE 17

In conformity with Rule 11, seven members of the Committee shall constitute a quorum. For the purpose of the quorum, the replacement of members by alternates shall take into consideration equitable geographic representation, consistently with the composition of the Committee as set out in the third paragraph of decision IG 17/2.

RULE 18

1. With respect to a notification or document sent by the Secretariat to a Contracting Party, the date of receipt shall be deemed to be the date indicated in a written confirmation from the Party or the date indicated in a written confirmation of receipt by the expedited delivery courier, whichever comes first.

2. With respect to a submission, request or other document intended for the Committee, the date of receipt by the Committee shall be deemed to be the first business day after receipt by the Secretariat.

RULE 19

1. Electronic means of communication may be used by the members of the Committee for the purpose of conducting informal consultations on issues under consideration and decision-making on matters of procedure. Electronic means of communication shall not be used for making decisions on matters of substance related in particular to the preparation of findings, measures and recommendations by the Committee.

2. The Committee may use electronic means for transmission, distribution and storage of documentation, without prejudice to normal means of circulation of the documentation, as the case may be.

VOTING

RULE 20

Each member of the Committee shall have one vote.

RULE 21

1. The Committee shall make every effort to reach agreement by consensus on its findings, measures and recommendations. If all efforts to reach consensus have been exhausted, the Committee shall as a last resort adopt its findings, measures and recommendations by at least six members present and voting.

2. For the purpose of these rules, "members present and voting" means members present at the session at which voting takes place and casting an affirmative or negative vote. Members abstaining from voting shall be considered as not voting.

SECRETARIAT

RULE 22

1. The Secretariat shall make arrangements for meetings of the Committee and provide it with services as required.

2. In addition, the Secretariat shall perform other functions assigned to it by the Committee with respect to the work of the Committee.

LANGUAGES

RULE 23

The working languages of the Committee shall be the official languages of the meetings or conferences of the Contracting Parties.

RULE 24

1. The submissions from the Party concerned, the response and the information referred to in section V of the compliance procedures and mechanisms shall be provided in one of the four official languages of the Meetings of the Contracting Parties to the Convention and its related Protocols. The Secretariat shall make arrangements to translate them into English and/or French if they are submitted in the other official languages of the Meeting of the Contracting Parties to the Convention and its related Protocols.

2. A representative taking part in the Committee proceedings and/or meetings may speak in a language other than the working languages of the Committee if the Party provides for interpretation.

3. Findings, measures and recommendations that are final shall be made available in all official languages of the Meetings of the Contracting Parties to the Convention and its related Protocols.

GENERAL PROCEDURES FOR SUBMISSIONS

RULE 25

The time frame for submissions is as follows:

1. For cases concerning a submission by a Party in respect of its own actual or potential situation of non-compliance: at the latest six (6) weeks before the opening of the ordinary meeting of the Committee.

2. For cases concerning a submission by a Party in respect of another Party's situation of non-compliance: at the latest four (4) months before the opening of the ordinary meeting of the Committee allowing the Party whose compliance is in question at least three months to consider and prepare a response.

3. The time frames for cases concerning a submission by a Party in respect of another Party's situation of non-compliance also apply for referrals made by the Secretariat.

4. All the above time frames are indicative and may be extended according to the necessities warranted by the circumstances of the matter at hand and in accordance with the Committee's rules of procedure, in particular the principle of due process. In this respect, Parties may accordingly submit additional documentation, comments and written observations to be considered by the Committee.

RULE 26

1. A submission by any Contracting Party raising a question of non-compliance with respect to itself shall set out:

(a) The name of the Contracting Party making the submission;

(b) A statement identifying the question of non-compliance, supported by substantiating information setting out the matter of concern relating to the question of non-compliance;

(c) Its legal basis and the relevant provisions of the Barcelona Convention and its related Protocols and decision IG 17/2 that form the basis for raising the question of non-compliance;

(d) Any provisions of the decisions of the Meeting of the Contracting Parties and the reports of the Secretariat that are applicable to the question of non-compliance.

2. The submission should also set out a list of all documents annexed to the submission.

RULE 27

1. A submission by any Contracting Party raising a question of non-compliance with respect to another Party shall set out:

(a) The name of the Contracting Party making the submission;

(b) A statement identifying the question of non-compliance, supported by substantiating information setting out the matter of concern relating to the question of non-compliance;

(c) The name of the Party concerned;

(d) Its legal basis and the relevant provisions of the Barcelona Convention and its related Protocols and decision IG 17/2 that form the basis for raising the question of non-compliance;

(e) Any provisions of the decisions of the meetings of the Contracting Parties and the reports of the Secretariat that are applicable to the question of non-compliance.

2. The submission should also set out a list of all documents annexed to the submission.

RULE 28

The Secretariat shall make the submission and any supporting information, submitted under rule 15, including any expertise reports, available to the representative designated by the concerned Party.

RULE 29

Within the framework of general procedures for submissions as provided for under rule 26 above, comments and written observations by the Party concerned

in accordance with the provisions of section V of the compliance procedures and mechanisms on the Committee's preliminary and final findings, measures and recommendations should include:

- (a) A statement of the position of the Party concerned on the information, findings, measures and recommendations or question of non-compliance under consideration;
- (b) An identification of any information provided by the Party that it requests should not be made available to the public in accordance with paragraph 30 of section V of the compliance procedures and mechanisms;
- (c) A list of all documents annexed to the submission or comment.

RULE 30

1. Any submission, comment and/or written observations under rules 13 and 29 shall be signed by the MAP Focal Point or the representative of the Party and be delivered to the Secretariat in hard copy and by electronic means.

2. Any relevant documents in support of the submission, comment or written observations shall be annexed to it.

RULE 31

1. Findings, measures or recommendations shall contain, *mutatis mutandis*:

- (a) The name of the Party concerned;
- (b) A statement identifying the question of non-compliance addressed;
- (c) The legal basis and the relevant provisions of the Barcelona Convention and its related Protocols and decision IG 17/2 and other relevant decisions of the Meetings of the Contracting Parties that form the basis of the preliminary findings, measures and recommendations and their final versions;
- (d) A description of the information considered in the deliberations and confirmation that the Party concerned was given an opportunity to comment in writing on all information considered;
- (e) A summary of the proceedings, including an indication of whether its preliminary finding or any part of it as specified is confirmed;
- (f) The substantive decision on the question of non-compliance, including the consequences applied, if any;

(g) Conclusions and reasons for the findings, measures and recommendations;

(h) The place and date of the findings, measures and recommendations;

(i) The names of the members who participated in the consideration of the question of non-compliance and in the elaboration and adoption of the findings, measures and recommendations.

2. Comments in writing on the findings, measures and recommendations submitted within 45 days of their receipt by the Party concerned shall be circulated by the Secretariat to the members and alternate members of Committee and shall be included in the Committee's biannual report to the Meeting of the Contracting Parties.

AMENDMENTS TO THE RULES OF PROCEDURE

RULE 32

Any amendments to these rules of procedure shall be adopted by consensus by the Committee and submitted for consideration and adoption by the Bureau, subject to endorsement by the Meeting of the Contracting Parties.

OVERRIDING AUTHORITY OF THE CONVENTION AND ITS RELATED PROTOCOLS AND DECISION IG 17/2

RULE 33

In the event of a conflict between any provision in these rules and any provision in the Convention and its related Protocols or decision IG 17/2, the provisions of the Convention and its Protocols or, as the case may be, decision IG 17/2 shall prevail.

ANNEX II

“Programme of work of the Compliance Committee for the biennium 2010-2011 agreed by the Second Meeting of the Compliance Committee”

Athens, Greece, March 2009

The Committee agreed to carry out the following activities during the 2010-2011 biennium:

- (a) convening of at least one ordinary meeting per year of the Compliance Committee;
- (b) participation of the members of the Compliance Committee and its alternate members, of the representatives of the concerned Contracting Parties and of observers, as appropriate, in the meetings of the Compliance Committee according to the Rules of Procedure;
- (c) participation of members and alternate members, concerned Contracting Parties and experts, as appropriate, in missions related to the accomplishment by the Committee of its functions as described in Decision IG 17/2 of the 15th Meeting of the Contracting Parties and the draft rules of procedure for the Compliance committee;
- (d) advise and as appropriate facilitate assistance to the concerned Contracting Parties as provided for in paragraph 32, sub-paragraphs a) and b) of procedures and mechanisms on compliance.

The Committee agreed to address the following issues:

- (a) specific submissions in accordance to paragraph 18 and 19 of procedures and mechanisms on compliance by the Contracting Parties, if any;
- (b) referrals by the Secretariat in accordance with paragraph 23 of procedures and mechanisms on compliance on unresolved difficulties in complying with obligations under the Conven-

tion and its Protocols on the basis of the 2006-2007 national reports;

- (c) preparation and adoption of the report and the recommendations of the Compliance committee for submission to the 17th Meeting of the Contracting Parties;
- (d) preparation of the criteria or minimum measures to identify possible difficulties faced by the Contracting Parties in complying with obligations under the Convention and the Protocols, as provided for in paragraph 23 of the compliance procedures and mechanisms under the Barcelona Convention and its Protocols;
- (e) analysis of general issues of compliance as provided for in paragraph 17(b) of procedures and mechanisms on compliance, on the basis of the reports submitted by the Contracting Parties during the 2006 2007 and 2008-2009 biennium with a particular focus on the assessment of the reasons of non-compliance by the Contracting Parties with reporting obligations;
- (f) publication of the draft guide brochure on compliance procedures in Arabic, English and French;
- (g) preparation of criteria and procedures provided for in the draft rules of procedure for the Compliance Committee meetings and the Committee's work.

Decision IG 17/4

**Guidelines for the Determination
of Liability and Compensation for
Damage resulting from Pollution
of the Marine Environment in the
Mediterranean Sea Area**

The 15th Meeting of the Contracting Parties,

- || *Recalling* Articles 16 and 18 of the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, as amended in 1995, hereinafter referred to as the “Barcelona Convention”,
- || *Recalling also* their decisions adopted at their 13th Meeting held in Catania, Italy, and their 14th Meeting held in Portoroz, Slovenia, on the need to develop appropriate rules and procedures for the determination of liability and compensation for damage resulting from pollution of the marine environment in the Mediterranean Sea Area,
- || *Taking note* of the work carried out in the framework of MAP in the field of liability and compensation since 1997, the conclusions and recommendations of the meeting of government-designated legal and technical experts held in Brijuni, Croatia, in 1997, and of the meeting of legal experts held in Athens, Greece, in 2003,
- || *Noting* with appreciation the work undertaken by the Open-Ended Working Group of Legal and Technical Experts to Propose Appropriate Rules and Procedures for the Determination of Liability and Compensation for Damage resulting from Pollution of the Marine Environment in the Mediterranean Sea Area and its recommendations at its first and second meetings, in Loutraki, Greece, 2006 and in Athens, Greece, 2007, respectively;

- || **Decides** to adopt the Guidelines for the Determination of Liability and Compensation for Damage resulting from Pollution of the Marine Environment in the Mediterranean Sea Area together with its Appendix, hereinafter referred to as the “Guidelines”, which are contained in the Annex to this Decision,
- || **Invites** the Contracting Parties to take the necessary measures, as appropriate, to implement the Guidelines and to report on their implementation in accordance with Article 26 of the Barcelona Convention to the 17th Meeting of the Contracting Parties in 2011,
- || **Recommends** that the Contracting Parties take into account the Feasibility Study Covering the Legal, Economic, Financial and Social Aspects of a Liability and Compensation Regime in the Mediterranean Sea and its Coastal Area UNEP(DEC)/MED WG.270/Inf.4 and the Explanatory Note to the Draft Guidelines UNEP(DEPI)/MED WG.320/Inf.4 for the purpose of facilitating the implementation of the said Guidelines,
- || **Invites** the Contracting Parties to cooperate and provide support to facilitate the implementation of the Guidelines as appropriate,
- || **Also decides** to establish a working group of legal and technical experts to facilitate and assess the implementation of the Guidelines and make proposals regarding the advisability of additional action;
- || **Requests** the Secretariat to:
 - prepare for adoption by the 16th Meeting of the Contracting Parties in 2009 a concise draft format for reporting on the implementation of the Guidelines;
 - provide assistance to Mediterranean countries upon request to facilitate the implementation of the Guidelines, with particular reference to the development of domestic legislation and capacity building;
 - prepare a draft assessment report on the implementation of the Guidelines for the consideration of the working group of legal and technical experts established for this purpose by the Meeting of the Contracting Parties.

DRAFT GUIDELINES ON LIABILITY AND COMPENSATION FOR DAMAGE RESULTING FROM POLLUTION OF THE MARINE ENVIRONMENT IN THE MEDITERRANEAN SEA AREA

A. Purpose of the Guidelines

1. These Guidelines aim at implementing Article 16 of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, done in Barcelona on 16 February 1976, as amended in Barcelona on 10 June 1995 (the “Barcelona Convention”), according to which the Contracting Parties undertake to cooperate in the formulation and adoption of appropriate rules and procedures for the determination of liability and compensation for damage resulting from pollution of the marine environment in the Mediterranean Sea Area.

2. These Guidelines are also aimed at the furtherance of the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter, with due regard to the public interest, as provided for in Article 4, paragraph 3, sub-paragraph (b), of the Barcelona Convention. These Guidelines do not provide for any State subsidiary liability.

3. While not having a legally binding character *per se*, these Guidelines are intended to strengthen cooperation among the Contracting Parties for the development of a regime of liability and compensation for damage resulting from pollution of the marine environment in the Mediterranean Sea Area and to facilitate the adoption by the Contracting Parties of relevant legislation.

4. These Guidelines apply to the activities to which the Barcelona Convention and any of its Protocols apply.

B. Relationship with Other Regimes

5. These Guidelines are without prejudice to existing global and regional environmental liability and com-

ensation regimes, which are either in force or may enter into force, as indicatively listed in the Appendix to these Guidelines, bearing in mind the need to ensure their effective implementation in the Mediterranean Sea Area as defined in paragraph 7.

6. These Guidelines are without prejudice to the rules of international law on State responsibility for internationally wrongful acts.

C. Geographical Scope

7. These Guidelines apply to the Mediterranean Sea Area as defined in Article 1, paragraph 1, of the Barcelona Convention, including such other areas as the seabed, the coastal area and the hydrologic basin as are covered by the relevant Protocols to the Convention, in accordance with Article 1, paragraph 3, of the Convention.

D. Damage

8. The legislation of Contracting Parties should include provisions to compensate both environmental damage and traditional damage resulting from pollution of the marine environment in the Mediterranean Sea Area.

9. For the purpose of these Guidelines, “environmental damage” means a measurable adverse change in a natural or biological resource or measurable impairment of a natural or biological resource service which may occur directly or indirectly.

10. Compensation for environmental damage should include, as the case may be:

- II costs of activities and studies to assess the damage;
- II costs of preventive measures including measures to prevent a threat of damage or an aggravation

of damage;

- costs of measures undertaken or to be undertaken to clean up, restore and reinstate the impaired environment, including the cost of monitoring and control of the effectiveness of such measures;
- diminution in value of natural or biological resources pending restoration;
- compensation by equivalent if the impaired environment cannot return to its previous condition.

11. In assessing the extent of environmental damage, use should be made of all available sources of information on the previous condition of the environment, including the National Baseline Budgets of Pollution Emissions and Releases, developed in the context of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities, done in Athens on 17 May 1980, as amended in Syracuse on 7 March 1996, and the Biodiversity Inventory carried out in the framework of the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean, done in Barcelona on 10 June 1995.

12. The measures referred to in paragraph 10(b) and (c) should be reasonable, that is appropriate, practicable, proportionate and based on the availability of objective criteria and information.

13. When compensation is granted for damage referred to in paragraph 10(d) and (e), it should be earmarked for intervention in the environmental field in the Mediterranean Sea Area.

14. For the purpose of these Guidelines, “traditional damage” means:

- loss of life or personal injury;
- loss of or damage to property other than property held by the person liable;
- loss of income directly deriving from an impairment of a legally protected interest in any use of the marine environment for economic purposes, incurred as a result of impairment of the environment, taking into account savings and costs;
- any loss or damage caused by preventive measures taken to avoid damage referred to under

sub-paragraphs (a), (b) and (c).

15. These Guidelines also apply to damage caused by pollution of a diffuse character provided that it is possible to establish a causal link between the damage and the activities of individual operators.

E. Preventive and Remedial Measures

16. The legislation of the Contracting Parties should require that the measures referred to in paragraph 10(b) and (c) are taken by the operator. If the operator fails to take such measures or cannot be identified or is not liable under the legislation implementing these Guidelines, the Contracting Parties should take these measures themselves and recover the costs from the operator where appropriate.

F. Channeling of Liability

17. Liability for damage covered by these Guidelines will be imposed on the liable operator.

18. For the purpose of these Guidelines, “operator” means any natural or juridical person, whether private or public, who exercises the *de jure* or *de facto* control over an activity covered by these Guidelines, as provided for in paragraph 4.

G. Standard of Liability

19. The basic standard of liability will be strict liability, that is liability dependent on the establishment of a causal link between the incident and the damage, without it being necessary to establish the fault or negligence of the operator.

20. In cases of damage resulting from activities not covered by any of the Protocols to the Barcelona Convention, the Contracting Parties may apply fault-based liability.

21. In the case of multiple-party causation, liability will be apportioned among the various operators on the basis of an equitable assessment of their contribution to the damage.

22. For the purpose of these Guidelines, “incident” means any sudden occurrence or continuous occurrence or any series of occurrences having the same origin, which cause damage or create a grave and imminent threat of causing damage.

H. Exemptions of Liability

23. The operator should not be liable for damage which it proves to have been caused by acts or events which are totally beyond its control, such as *force majeure*, an act of war, hostilities, civil war, insurrection or an act of terrorism.

I. Limitation of Liability

24. In cases where strict liability is applied, financial limits of liability may be established on the basis of international treaties or relevant domestic legislation.

25. The Contracting Parties are invited to re-evaluate on a regular basis the appropriate extent of the amount of such limits, taking into account, in particular, the potential risks posed to the environment by the activities covered by these Guidelines.

J. Time Limits

26. Time limits to commence proceedings for compensation should be based on a two-tier system of a shorter period from the knowledge of the damage or from the identification of the liable operator, whichever is later (e.g. three years), and a longer period from the date of the incident (e.g. thirty years).

27. Where the incident consists of a series of occurrences having the same origin, the time limits should run from the date of the last of such occurrences. Where the incident consists of a continuous occurrence, the time limits should run from the end of that continuous occurrence.

K. Financial and Security Scheme

28. The Contracting Parties, after a period of five years from the adoption of these Guidelines, may, on the basis of an assessment of the products available on the insurance market, envisage the establishment of a compulsory insurance regime.

L. Mediterranean Compensation Fund

29. The Contracting Parties should explore the possibility of establishing a Mediterranean Compensation Fund to ensure compensation where the damage exceeds the operator’s liability, where the operator is unknown, where the operator is incapable of meeting the cost of damage and is not covered by a financial security or where the State takes preventive measures in emergency situations and is not reimbursed for the cost thereof.

M. Access to Information

30. Pursuant to Article 15 of the Barcelona Convention, the Contracting Parties should ensure that their competent authorities give to the public wide access to information as regards environmental damage or the threat thereof, as well as measures taken to receive compensation for it. Replies to requests for information should be given within specific time limits.

N. Action for Compensation

31. The legislation of the Contracting Parties should ensure that actions for compensation in respect of environmental damage are as widely accessible to the public as possible.

32. The legislation of Contracting Parties should also ensure that natural and juridical persons that are victims of traditional damage may bring actions for compensation in the widest manner possible.

APPENDIX

- Indicative list of instruments setting forth global and regional environmental liability and compensation regimes pursuant to paragraph 5:
- Convention on Third Party Liability in the Field of Nuclear Energy, Paris, 29 July 1960, amended by Paris Additional Protocol of 28 January 1964; Paris Protocol of 16 November 1982; and Paris Protocol of 12 February 2004
- Convention Supplementary to the Paris Convention of the 29th July 1960 on Third Party Liability in the Field of Nuclear Energy, Brussels, 31 January 1963, as amended by Paris Additional Protocol of 28 January 1964; Paris Protocol of 16 November 1982; and Paris Protocol of 12 February 2004
- International Convention on Civil Liability for Oil Pollution Damage, London, 27 November 1992
- Convention on Civil Liability for Nuclear Damage, Vienna, 21 March 1963, amended by Vienna Protocol of 12 September 1997
- Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, Brussels, 17 December 1971
- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, London, 27 November 1992
- Convention on Limitation of Liability for Maritime Claims, London, 19 November 1976, amended by London Protocol of 2 May 1996
- Joint Protocol relating to the Application of the Vienna Convention and the Paris Convention, Vienna, 21 September 1988
- Convention on Civil Liability for Damage Caused during Carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels, Geneva, 10 October 1989
- International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, London, 3 May 1996
- Convention on Supplementary Compensation for Nuclear Damage, Vienna, 12 September 1997
- Basel Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal, Basel, 10 December 1999
- International Convention on Civil Liability for Bunker Oil Pollution Damage, London, 23 March 2001
- Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters, Kiev, 21 March 2003
- Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, London, 16 May 2003
- Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on Environmental Liability with regard to the Prevention and Remedying of Environmental Damage



*United Nations Environment Programme
Mediterranean Action Plan
Barcelona Convention*