



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.05.1995
COM(95)202 final

Proposal for a

COUNCIL DECISION

*ON THE SIGNATURE OF THE REVISED CONVENTION
FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST
POLLUTION, PROTOCOL FOR THE PREVENTION
OF POLLUTION BY DUMPING FROM SHIPS AND AIRCRAFT AND
PROTOCOL CONCERNING SPECIALLY PROTECTED AREAS*

(BARCELONA CONVENTION)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The Community is a Contracting Party to the Convention for the Protection of the Mediterranean Sea against Pollution.¹ It has also concluded the four protocols adopted within the framework of the Convention, viz. the Protocol for the prevention of pollution by dumping from ships and aircraft,¹ the Protocol concerning cooperation in combating pollution by oil and other harmful substances,² the Protocol for protection against pollution from land-based sources³ and the Protocol concerning specially protected areas.⁴
2. At their eighth ordinary meeting (Antalya, 12-15 October 1993) the Contracting Parties to the Barcelona Convention requested the revision of the Convention, the related Protocols, particularly those on dumping from ships and aircraft and specially protected areas, and the Mediterranean Action Plan (MAP). The revision took account of the results of the United Nations Conference on the environment and development held in Rio de Janeiro in June 1992, the general aim being to ensure the sustainable development of the Mediterranean, particularly the preservation of natural resources and biodiversity, and to step up action against marine pollution, both from land-based sources and by dumping or incineration from ships and aircraft.
3. At least some of the areas covered by the amendments to the Convention and the two Protocols fall within the Community's jurisdiction on water matters, for which there is an abundance of legislation, including both directives and conventions to which the Community is a Contracting Party.
4. At the session of the Council instructed the Commission to represent the Community in the negotiations, on the basis of negotiating directives.

¹ Decision 77/585/EEC, OJ L 240, 19.9.1977

² Decision 81/420/EEC, OJ L 162, 19.6.1981

³ Decision 83/101/EEC, OJ L 67, 12.3.1983

⁴ Decision 84/132/EEC, OJ L 68, 10.3.1984

5. The Commission has from the outset been active in the working party, which met in Barcelona from 14 to 18 November 1994 and from 7 to 11 February 1995, to prepare the draft revision of the Convention and the two Protocols and which has played an important role in the negotiations. The Commission has contributed in particular on the basis of existing Community legislation on water and its experience in the field of marine Conventions already signed (Convention for the Protection of the Marine Environment of the North-East Atlantic and Convention on the Protection of the Marine Environment of the Baltic Sea Area - 1974 - and revised 1992). In the Commission's opinion the negotiations have produced completely satisfactory results.
 6. A Conference of Plenipotentiaries is due to be held in Barcelona on 9 and 10 June 1995 for signature of the revised Barcelona Convention and the two Protocols. It will be preceded by a meeting of experts within the framework of the ninth meeting of the Contracting Parties to the Convention, scheduled for 5 to 8 June 1995, to finalize the three draft texts.
 7. The Commission would draw the Council's attention to the expediency of adopting the Decision in good time so that the Community can sign the Protocol once it is open for signature alongside the Member States which are Contracting Parties to the Barcelona Convention.
 8. Accordingly, the Council is asked to authorize the President to designate the person(s) empowered to sign the revised Barcelona Convention, Protocol for the prevention of pollution by dumping from ships and aircraft and Protocol concerning specially protected areas, on behalf of the Community, subject to eventual conclusion.
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***Proposal for a Council Decision
on the signature of the revised Convention
for the Protection of the Mediterranean Sea against
Pollution, Protocol for the prevention
of pollution by dumping from ships and aircraft and
Protocol concerning specially protected areas***

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the proposal from the Commission,

Whereas the Community is a Contracting Party to the Convention for the Protection of the Mediterranean Sea against Pollution¹ (Barcelona Convention) and the four related Protocols;²

Whereas the Commission has taken part, on behalf of the Community, within the working party set up by the Contracting Parties to the Barcelona Convention, in the negotiations on the revision of the Barcelona Convention, the Protocol for the prevention of pollution by dumping from ships and aircraft and the Protocol concerning specially protected areas;

Whereas at least some of the fields of application of the Convention and the said Protocols lie within the Community's field of competence;

Whereas the Commission has reported to the Council on the positive outcome of the negotiations in order that it may adopt a final position;

Whereas the revised Convention and two Protocols must be adopted and opened for signature by the Contracting Parties at the Conference of Plenipotentiaries to be held in Barcelona on 9 and 10 June 1995;

Whereas it is important that, subject to eventual conclusion, the revised Convention and two Protocols may be signed by the Community,

¹ OJ L 240, 19.9.1977, pp. 1 and 3

² OJ L 240, 19.9.1977, pp. 1 and 12

OJ L 162, 19.6.1981, p. 4

OJ L 67, 12.3.1983, p. 1

OJ L 68, 10.3.1984, p. 36

HAS DECIDED AS FOLLOWS:

Sole Article

The President of the Council is hereby authorized to designate the person(s) empowered to sign, on behalf of the Community, subject to eventual conclusion, the revised Barcelona Convention for the Protection of the Mediterranean Sea against Pollution, Protocol for the prevention of pollution by dumping from ships and aircraft and Protocol concerning specially protected areas and to confer upon them the powers necessary for that purpose.

Done at Brussels,

For the Council

The President

ANNEX III

AMENDMENTS TO THE CONVENTION FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION

Title

CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AND THE COASTAL REGION OF THE MEDITERRANEAN

Preamble

The Contracting Parties,

2. *Fully aware* of their responsibility to preserve and sustainably develop this common heritage for the benefit and enjoyment of present and future generations,
7. *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,
8. *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,
9. *Also taking into account* the Declaration of Genoa of 1985, the Charter of Nicosia of 1990, the Declaration of Cairo on Euro-Mediterranean Cooperation on the Environment within the Mediterranean Basin of 1992, the recommendations of the Conference of Casablanca of 1993, and the Declaration of Tunis on the Sustainable Development of the Mediterranean of 1994,
10. *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

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

- (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.

Article 3

GENERAL PROVISIONS

1. 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.
2. Nothing in this Convention shall prejudice the rights [and positions] of any State concerning the United Nations Convention on the Law of the Sea of 1982 and the nature and extent of port, coastal and flag State jurisdiction.
3. 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.

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 AND 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 or incineration from ships and aircraft.

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 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 9A

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. To this end, the Contracting Parties shall inter alia establish protected areas. The establishment of such areas shall not affect the rights of other Contracting Parties and third States.

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Article 9B

**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 possible 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 11

SCIENTIFIC AND TECHNOLOGICAL COOPERATION

2. The Contracting Parties undertake to promote the research on, access to and transfer of environmentally sound technology, including clean production technologies and to cooperate in the formulation, establishment and implementation of clean production processes.

Article 11A

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 11B

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.

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

Article 12

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 13

INSTITUTIONAL ARRANGEMENTS

...

(iii) to receive, consider and reply to enquiries and information from the Contracting Parties;

(iii bis) 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;

...

(iv bis) to regularly report to the Contracting Parties on the implementation of the Convention and of the Protocols;

...

Article 14

MEETINGS OF THE CONTRACTING PARTIES

2.
- (vii) to approve the Programme Budget.

Article 14A

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 14C

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 organisation or any non-governmental organisation 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 15

ADOPTION OF ADDITIONAL PROTOCOLS

3. Deleted.

Article 18

RULES OF PROCEDURE AND FINANCIAL RULES

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

Article 20

REPORTS

1. The Contracting Parties shall transmit to the Organisation 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 21

COMPLIANCE CONTROL

The meetings of the Contracting Parties shall, on the basis of periodical reports referred to in Article 20 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.

ANNEX IV

AMENDMENTS TO THE PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE MEDITERRANEAN SEA BY DUMPING FROM SHIPS AND AIRCRAFT

Title

PROTOCOL FOR THE PREVENTION AND ELIMINATION OF POLLUTION OF THE MEDITERRANEAN SEA BY DUMPING OR INCINERATION FROM SHIPS AND AIRCRAFT

Preamble

...

Recognizing the danger posed to the marine environment by the dumping or incineration of wastes or other matter,

...

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,

...

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 or incineration from ships and aircraft.

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

- (c) Any deliberate disposal or emplacement of wastes or other matter on the seabed or in the marine subsoil from ships or aircraft.
5. "Incineration" means the deliberate combustion of wastes or other matter in the Mediterranean Sea Area, with the aim of thermal destruction and does not include activities incidental to the normal operations of ships or aircraft.

Former paragraph 5 becomes paragraph 6.

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;
 - (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

- (a) The permits 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 (b) below;**
- (b) 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 9

If a Party in a critical situation of an exceptional nature considers that wastes or other matter listed in Article 4.2 of this Protocol cannot be disposed of on land...

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) ...
- (b) ...

Article 11

2. 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 14

3. The adoption of the amendments to the Annex to this Protocol...

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:

...

ANNEX V

PROTOCOL CONCERNING SPECIALLY PROTECTED AREAS AND BIOLOGICAL DIVERSITY IN THE MEDITERRANEAN

The Contracting Parties to this 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,

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 Marine Environment and the Coastal Region of the Mediterranean, adopted at Barcelona on 16 February 1976;

(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 shall limit the sovereign immunity of certain ships in accordance with international law. 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.¹

Proposal by the Secretariat:

[3. Nothing in this Protocol nor any act adopted on the basis of this Protocol shall prejudice the rights, claims or legal views of any State concerning the law of the sea, the nature and the extent of areas subject to its national sovereignty or jurisdiction, the delimitation of marine areas between States with opposite or adjacent coasts, freedom of navigation on the high seas and the right of innocent passage in territorial seas, as well as the nature and the extent of the jurisdiction of the coastal State, the flag State and the port State.]

Proposal by Turkey:

[3. 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 concerning the law of the sea, 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 and the right of innocent passage in territorial seas, as well as the nature and the extent of the jurisdiction of the coastal State, the flag State and the port State.]

¹ The delegation of Turkey expressed a reservation on this paragraph.

Proposal by Greece:

[3.

Variant 1: "Nothing in this Protocol nor any act adopted on the basis of this Protocol shall prejudice the rights of any State deriving from the law of the sea, in particular as regards the nature and the extent of marine areas subject to its sovereignty or national jurisdiction, the delimitation of marine areas between States with opposite or adjacent coasts, freedom of navigation on the high seas and the right of innocent passage in territorial seas, as well as the nature and the extent of the jurisdiction of the coastal State, the flag State and the port State.

Variant 2: "Nothing in this Protocol nor any act adopted on the basis of this Protocol shall prejudice the rights, present and future claims or legal views of any State, provided that they are in accordance with the United Nations Convention on the Law of the Sea of 1982 or the applicable international law of the sea, regarding the nature and the extent of marine areas subject to its sovereignty or national jurisdiction, the delimitation of marine areas between States with opposite or adjacent coasts, freedom of navigation on the high seas and the right of innocent passage in territorial seas, as well as the nature and the extent of the jurisdiction of the coastal State, the flag State and the port State.]

4. 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 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 4 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

PROTECTED AREAS

Article 4

OBJECTIVES

The objective of 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

PROTECTION MEASURES

The Parties, in conformity with international law and taking into account the characteristics of each 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 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 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 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 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 protected area;
- (i) any other measure aimed at safeguarding ecological and biological processes and the landscape.

Article 6

PLANNING AND MANAGEMENT

1. The Parties shall, in accordance with the rules of international law, adopt planning, management, supervision and monitoring measures for the protected areas.
2. Such measures should include for each 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 protected areas, including assistance to local inhabitants who might be affected by the establishment of protected areas;
 - (d) the adoption of mechanisms for financing the promotion and management of protected areas, as well as the development of activities which ensure that management is compatible with the objectives of protected areas;
 - (e) contingency plans for responding to incidents that could cause damage or constitute a threat;
 - (f) the regulation of activities compatible with the objectives for which the protected area was established and the terms of the related permits;
 - (g) the training of managers and qualified technical personnel, as well as the development of an appropriate infrastructure.
3. When 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 protected area as a whole.

Article 7

PROTECTED AREAS CONTIGUOUS TO INTERNATIONAL FRONTIERS

1. If a Party intends to establish, in an area subject to its sovereignty or national jurisdiction, a 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 consult each other 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 protected area or adopting any other appropriate measures.

2. If a Party intends to establish, in an area subject to its sovereignty or national jurisdiction, a 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 with a view to holding the consultations referred to in the previous paragraph.

3. If a State which is not party to this Protocol intends to establish a 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 with a view to holding the consultations referred to in paragraph 1.

[4. If contiguous protected areas are established by two Parties or by one Party and a State that is not a Party to this Protocol, special agreements may provide for the means of consultation or cooperation referred to in paragraphs 1 and 2 respectively.]

Article 8

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 protected sites which:

- can play an important role in 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 or cultural levels.

3. The SPAMI List may only include protected areas that have **protected status** and adequate management methods and capacity to allow them to contribute towards the sustainable conservation of the natural and cultural heritage of the Mediterranean.

4. 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 or undertake any activities that might be contrary to the objectives for which the SPAMIs were established.

Article 9

PROCEDURE FOR INCLUSION IN THE SPAMI LIST

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

(a) by the Party concerned, if the area is situated in a zone already defined, over which it exercises sovereignty or jurisdiction;

(b) jointly by two or more neighbouring Parties concerned if the area is situated on the high sea;

(c) jointly by the neighbouring Parties concerned in areas where the limits of national sovereignty or jurisdiction have not yet been defined.

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

3. 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 18;

(b) if a proposal made in accordance with subparagraph 1 (a) of this Article is consistent with the guidelines and common criteria, after assessment, the Centre shall inform the meeting of the Parties, which decide to include the area in the SPAMI List;

(c) if a proposal made in accordance with subparagraphs 1 (b) and 1 (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 Parties decide to include the area in the SPAMI List by consensus.

4. 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 2 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.

5. 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

PROTECTED SPECIES

Article 12

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 situated on the landward side of the external limit of their territorial sea, 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 13

**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 12 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 14

**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 16

AMENDMENTS TO ANNEXES

1. The procedures for amendments to Annexes to this Protocol shall be those set forth in Article 17 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 17

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 18

ESTABLISHMENT OF 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 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 19

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 20

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 21

PUBLICITY, INFORMATION, PUBLIC AWARENESS AND EDUCATION

1. The Parties shall give appropriate publicity to the establishment of **protected areas**, their boundaries, buffer zones, 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 **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 22

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 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 23

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 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 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 24

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 25

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 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 13 and 20 of this Protocol.**

PART V

INSTITUTIONAL PROVISIONS

Article 27

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 28

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 22 of this Protocol;**
- **conducting the exchange of scientific and technical information among the Parties as provided for in Article 22 of this Protocol;**
- **preparing management plans for protected areas and species;**
- **developing cooperative programmes pursuant to Article 23 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 18 of this Protocol;

(d) creating and updating databases of 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 24, 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.

Article 29

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 14 of the Convention. The Parties may also hold extraordinary meetings in conformity with that Article. [Take into account any changes in the Convention]

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 provided for in Article 18 of this Protocol;

(e) considering reports transmitted by the Parties under Article 25 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 27 of this Protocol;

(h) examining any other matter relevant to this Protocol, as appropriate.

(i) discussing and evaluating the exemptions allowed by the Parties in conformity with Articles 13 and 20 of this Protocol.

PART VI

FINAL PROVISIONS

Article 30

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 31

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

Article 32

SIGNATURE

This Protocol shall be open for signature at [place] from [date] to [date], by any Contracting Party to the Convention.

Article 33

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 34

ACCESSION

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

Article 35

[ENTRY INTO FORCE

1. 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.

2. From the date of its entry into force, this Protocol shall replace the Protocol Concerning Mediterranean Specially Protected Areas, open for signature at Geneva on 3 April 1982, in the relationship among the Parties to both instruments.

In witness whereof, the undersigned, being duly authorized, have signed this Protocol.

Done at [place], on [date], 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.]

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