



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.02.1996
COM(96) 63 final

***PROPOSAL FOR A COUNCIL DECISION
CONCERNING THE SIGNATURE OF THE REVISED PROTOCOL
FOR THE PROTECTION OF THE MEDITERRANEAN SEA
AGAINST POLLUTION FROM LAND-BASED SOURCES
AND THE PROTOCOL ON THE PREVENTION OF POLLUTION
OF THE MEDITERRANEAN SEA RESULTING FROM THE TRANSBOUNDARY
MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL
(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, namely the Protocol for the prevention of pollution by dumping,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 seventh ordinary meeting (Cairo, October 1991) the Contracting Parties to the Barcelona Convention requested the drafting of a *Protocol on the prevention of pollution of the Mediterranean Sea resulting from the transboundary movements of hazardous wastes and their disposal*.
3. At least some of the areas covered by this protocol fall within the Community's jurisdiction; there is a considerable amount of Community waste legislation, including Regulation No 259/93, and the Community is a Contracting Party to the Convention on the control of transboundary movements of hazardous wastes and their disposal (Basel Convention).⁵
4. Following the Commission's December 1995 proposal (SEC(95)2102 final) to the Council concerning a recommendation with a view to opening negotiations on the said Protocol, the Council, at its ... meeting of ... gave the Commission negotiating directives to represent the Community in the negotiations.
5. The next negotiating meeting is scheduled for 17 and 20 April 1996 at Izmir (Turkey) with a view to finalising the Protocol.
6. The Conference of Plenipotentiaries for the signature of the said Protocol should take place in the second half of 1996.
7. At their eighth ordinary meeting (Antalya, October 1993) the Contracting Parties to the Barcelona Convention requested the revision of the Convention and the four related Protocols on dumping, oil and harmful substances, land-based sources of pollution and specially protected areas (point 1).

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 Decision 93/98/EEC, OJ L 39, 16.2.1993.

8. At its 1852nd meeting on 9 June 1995 the Council decided both to authorize the signature, on behalf of the Community, of the revised texts of the Convention and the two related Protocols on the prevention of pollution by dumping and specially protected areas and to give the Commission negotiating directives to represent the Community in the negotiations on the revision of the other Protocols, including the Protocol on land-based sources of pollution.

9. Following this Decision by the Council, the Commission signed the revised texts of the Convention and the two Protocols in Barcelona on 10 June 1995.

10. The Commission has participated in the working party responsible for preparing the amendments to the Protocol on land-based sources of pollution and finds the outcome of the negotiations fully satisfactory.

11. At least some of the areas covered by the amendments to the Protocol for protection against pollution from land-based sources fall within the Community's jurisdiction. The Community has adopted several directives on water and is a Contracting Party to many international conventions in this field.

12. A Conference of Plenipotentiaries is due to be held in Syracuse on 7 and 8 March 1996 for the signature of the amended Protocol. It will be preceded by a meeting of experts on 4 and 5 March to finalize the text.

13. The Commission draws the Council's attention to the expediency of adopting the decision in good time so that the Community can sign the amended Protocol on land-based sources of pollution and the Protocol on transboundary movements of hazardous wastes and their disposal, once these are open for signature, alongside the Member States which are Contracting Parties to the Barcelona Convention.

14. The Council is therefore invited to authorize the President to designate the person(s) empowered to sign, on behalf of the Community, subject to subsequent conclusion, the revised Protocol on the protection of the Mediterranean Sea against pollution from land-based sources and the Protocol on the prevention of pollution of the Mediterranean Sea resulting from the transboundary movements of hazardous wastes and their disposal, within the framework of the Barcelona Convention.

PROPOSAL FOR A COUNCIL DECISION
CONCERNING THE SIGNATURE OF THE REVISED PROTOCOL
FOR THE PROTECTION OF THE MEDITERRANEAN SEA
AGAINST POLLUTION FROM LAND-BASED SOURCES
AND THE PROTOCOL ON THE PREVENTION OF POLLUTION
OF THE MEDITERRANEAN SEA RESULTING FROM THE TRANSBOUNDARY
MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL
(BARCELONA CONVENTION)

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 pollution (Barcelona Convention)¹ and the four Protocols thereto;²

Whereas the Commission has participated, on behalf of the Community, within the working parties set up by the Contracting Parties to the Barcelona Convention, in the negotiations on the revision of the Protocol for protection against pollution from land-based sources and the drafting of the Protocol on the prevention of pollution resulting from the transboundary movements of hazardous wastes and their disposal;

Whereas at least some of the areas covered by the said Protocols fall within the Community's field of competence;

Whereas the Commission has informed the Council of the outcome of the negotiations in order that it may adopt a final position;

Whereas the revised Protocol for protection against pollution from land-based sources and the Protocol on the prevention of pollution resulting from the transboundary movements of hazardous wastes and their disposal must be adopted and opened for signature by the Contracting Parties at the Conferences of Plenipotentiaries to be held in Syracuse on 7 and 8 March 1996 and in the second half of 1996 respectively;

Whereas it is important that, subject to subsequent conclusion, the two Protocols be signed by the Community,

¹ OJ No L 240, 19.9.1977, pp. 1 and 3.

² OJ No L 240, 19.9.1977, pp. 1 and 12.

OJ No L 162, 19.6.1981, p. 4.

OJ No L 67, 12.3.1983, p. 1.

OJ No L 68, 10.3.1984, p. 36.

HAS DECIDED AS FOLLOWS:

SOLE ARTICLE

The President of the Council is hereby authorized to appoint the person(s) empowered to sign, on behalf of the Community, subject to subsequent conclusion, the revised Protocol for protection against pollution from land-based sources and the Protocol on the prevention of pollution resulting from the transboundary movements of hazardous wastes and their disposal within the framework of the Convention for the protection of the Mediterranean Sea against pollution, and to confer upon them the powers necessary for this purpose.

Done at Brussels,

For the Council,

The President.

AMENDMENTS TO THE PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES**A. TITLE**

The title of the Protocol is amended as follows:

PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES AND ACTIVITIES

B. PREAMBULAR PARAGRAPHS

The 1st preambular paragraph of the Protocol is amended as follows:

Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on.....

The 3rd preambular paragraph of the Protocol is amended as follows:

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,

After the 3rd preambular paragraph a new preambular paragraph is inserted as follows:

Taking account of the precautionary principle and the polluter pays principle, and applying the environmental impact assessment, best available techniques and best environmental practices including clean production **[[technologies]]***, as provided in art. 4 of the Convention,

The 4th preambular paragraph of the Protocol is amended as follows:

Recognizing the danger posed to the marine environment, the 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 and to the input of toxic, persistent and bioaccumulative substances,

* The part in double square brackets in this paragraph is added by the Secretariat in reference to article 4 of the amended Convention.

The 6th preambular paragraph of the Protocol is amended as follows:

Determined to take in close cooperation the necessary measures to protect the Mediterranean Sea against pollution from land-based sources and activities,

C. ARTICLE 1

A title is inserted and the text is amended as follows:

Article 1
GENERAL UNDERTAKINGS

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 the discharges from rivers, coastal establishment or outfalls, or emanating from any other land-based sources and activities within their territories, with priority given in particular to the phasing out of inputs of toxic, persistent and bioaccumulative substances.

D. ARTICLE 2

A title is inserted. The texts of paragraphs (a) and (d) of Article 2 are amended as follows:

Article 2
DEFINITIONS

- (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;
- (d) The "Hydrologic Basin" means the entire watershed area within the territories of the Contracting Parties, draining into the Mediterranean Sea Area as defined by article 1 of the Convention.

E. ARTICLE 3

A title is inserted and the following new paragraph is added to Article 3:

Article 3
GEOGRAPHICAL COVERAGE

(abis) (re-numbered as (b))

The hydrologic basin of the Mediterranean Sea Area.

Paragraph (b) is re-numbered as paragraph (c). Paragraph (c) is re-numbered as paragraph (d) and amended as follows:

(d) Saltwater marshes and saltwater aquifers.

F. ARTICLE 4

A title is inserted and the texts of sub-paragraph (a) and (b), paragraph 1 of Article 4 are amended as follows:

Article 4
PROTOCOL AREA

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 which may affect directly or indirectly the Mediterranean Sea Area. These discharges shall include those which reach the Protocol Area through coastal disposals, rivers, canals or other watercourses, including underground watercourses, or through run-off and disposal under the seabed with access from land by tunnel, pipeline, or other means;
 - (b) To inputs from land-based sources or activities situated in the Protocol Area transported by the atmosphere, under conditions defined in annex III to this Protocol.

The following new paragraph is added to Article 4:

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.

G. ARTICLE 5

A title is inserted and texts of paragraphs 1, 2, and 4 of Article 5 are amended as follows:

Article 5
GENERAL OBLIGATIONS

1. The Parties undertake to eliminate pollution deriving from land-based sources and activities, in particular to phase out toxic, persistent and bioaccumulative inputs of the substances listed in annex I. **[[inputs of the toxic, persistent and bioaccumulative substances from the list in annex I, section C to this Protocol.]]***

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

Paragraph 3 is deleted

4. (re-numbered as 3)

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

The following new paragraphs are added to Article 5:

4. When adopting programmes, measures and action plans, the Parties shall take into account, either individually or jointly, the best available techniques for point sources and the best environmental practices for point and diffuse sources 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.

* The part in double square brackets in this paragraph is changed by the Secretariat for a more accurate formulation of the text.

** The part in double square brackets in this paragraph is added by the Secretariat as a necessary reference to the new Annex IV.

H. ARTICLE 6

A title is inserted and text of Article 6 is replaced by the following text:

Article 6 AUTHORIZATION OR REGULATION SYSTEM

1. Point source discharges to the Protocol area, and releases into water or air which reach and may affect the Mediterranean Sea Area, shall be strictly subject to authorization or regulation by the competent authorities of the Parties, taking due account of the provisions of annex II to this Protocol. Such authorization or regulation shall be in conformity with relevant decisions or recommendations of the Contracting Parties.
2. To this end each Party 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 Organisation, 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. Each Party shall consider establishing appropriate sanctions in case of non-compliance within its own territories.

I. ARTICLE 7

A title is inserted. The texts of sub-paragraph (e) of paragraph 1 and paragraph 3 of Article 7 are amended as follows:

Article 7 COMMON GUIDELINES, STANDARDS AND CRITERIA

1. ..
 - (e) Specific requirements concerning the quantities of the substances, listed in annex I, discharged, their concentration in effluents and methods of discharging them.
3. The programmes, measures and action plans referred to in articles 5 and 15 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.

J. ARTICLE 8

A title is inserted and the text of Article 8 is amended as follows:

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 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 activities and categories of substances or sources listed in annex I, and periodically to provide information in this respect;
- (b) To evaluate the effectiveness of programmes, measures and action plans implemented under this Protocol to eliminate to the fullest possible extent pollution of the marine environment.

K. ARTICLE 9

A title is inserted and the text of Article 9 is amended as follows:

Article 9
SCIENTIFIC AND TECHNICAL COOPERATION

In conformity with article 13 of the Convention, the Parties shall cooperate in scientific and technological 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 for their reduction and elimination. To this end the Parties shall, in particular, endeavour to:

The following new paragraph is added to Article 9:

- (c) Promote access and transfer of environmentally sound technology including clean production technology.

L. ARTICLE 10

A title is inserted and the text of Article 10 is amended as follows:

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.

M. ARTICLE 11

A title is inserted as follows:

Article 11
TRANSBOUNDARY POLLUTION

N. ARTICLE 12

A title is inserted and the text of paragraph 1 of Article 12 is amended as follows:

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.

O. ARTICLE 13

A title is inserted. The texts of paragraph 1, the first sentence of paragraph 2 and sub-paragraph (d), paragraph 2 of Article 13 are amended as follows:

Article 13
REPORTS

1. The Parties shall submit reports every two years 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*:

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

P. ARTICLE 14

A title is inserted. The texts of paragraph 1 and of sub-paragraph (a), (c) and (f), of paragraph 2 of Article 14 are amended as follows:

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. ...

(a) To keep under review the implementation of this Protocol and to consider the efficacy of the programmes, measures and action plans adopted;

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

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

Q. ARTICLE 15

A title is inserted and the text of paragraph 1 of Article 15 is amended as follows:

*Article 15*ADOPTION OF REGIONAL PROGRAMMES,
MEASURES AND ACTION PLANS

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

The text of paragraph 2 of Article 15 is replaced by the following texts:

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

3. The measures and timetables adopted in accordance with paragraph 1 of this article shall be obligatory for the Parties (which voted for them or which have not notified the Secretariat of an objection within sixty days of the date of their adoption).

[[]] 4. The Parties which have not [voted for] [accepted] certain measures or timetables [or 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.

R. ARTICLE 16

A title is inserted and the text of paragraph 2 of Article 16 is amended as follows:

Article 16

FINAL PROVISIONS

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.

* The part in double square brackets in this paragraph is changed by the Secretariat for an accurate legal formulation of the text.

S. ANNEX I

Annex I is replaced by a new Annex I as follows:

ANNEX I

**ELEMENTS TO BE TAKEN INTO ACCOUNT IN THE PREPARATION
OF 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 programmes, measures and action plans for the elimination of pollution from land-based sources and activities referred to in articles 5, 7 and 15 of this Protocol.

Such programmes, measures and action plans will aim to cover sectors of activities listed in section A of this annex. They may also cover groups of substances cutting across the sectors of activities. Substances included in such programmes, measures and action plans will be selected on the basis of the characteristics listed in section B of this annex. Section C of this annex includes various groups of substances selected on the basis of the characteristics listed in Section B. Priorities for action should be established on the basis of relative importance of the impact on public health, the ecosystem and socio-economic cultural conditions. Such programmes should cover point sources, diffuse sources and atmospheric deposition.

A. SECTORS OF ACTIVITIES

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

- []
1. Energy production [from fossil fuel].
 2. Fertiliser production.
 3. Production and formulation of biocides.
 4. Pharmaceutical industry.
 5. Refineries.
 6. Paper and pulp industry.

7. Cement production.
8. Tanneries.
9. Metal industry.
10. Mining.
11. Shipyards.
12. Textile industry.
13. Electronic industry.
14. Recycling industry.
15. Other sectors of the organic chemical industry.
16. Other sectors of the inorganic chemical industry.
17. Touristic establishments.
18. Agriculture.
19. Animal husbandry.
20. Food processing.
21. Aquaculture.
22. Treatment of hazardous waste at source.
23. Domestic waste water disposal and treatment.
24. Urban waste disposal and treatment.
25. Sewage sludge disposal and waste disposal plants' residues.
26. Incineration of waste.

[[27. Public and private works which cause physical alteration of the natural state of the coastline.]]*

* The part in double square brackets in this annex is added by the Secretariat in order to put it in line with the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities.

B. CHARACTERISTICS OF SUBSTANCES IN THE ENVIRONMENT

In order to set priorities for substances, the Parties should take into account the characteristics listed below which are not necessarily of equal importance for the consideration of a particular substance or group of substances.

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. Risk of eutrophication of anthropogenic origin.
7. Health effects and risks.
8. Transboundary significance.
9. 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 products for human consumption from the sea, or effects on smell, colour, transparency or other characteristics of the water in the marine environment.
12. Distribution pattern (i.e. quantities involved, use pattern and liability to reach the marine environment).

C. CATEGORIES OF SUBSTANCES

The following groups of substances were selected on the basis of characteristics listed in section B of this annex. This list will serve as a guidance in the preparation of programmes, measures and action plans for the elimination of pollution from land-based sources and activities.

1. **Organohalogen compounds and substances which may form such compounds in the marine environment*.**
2. **Organophosphorus compounds and substances which may form such compounds in the marine environment*.**
3. **Organotin compounds and substances which may form such compounds in the marine environment*.**
4. **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 and algal toxins which could result from eutrophication.**
10. **Crude oils and hydrocarbons of petroleum origin.**
11. **Cyanides and fluorides.**
12. **Non-biodegradable detergents and other surface-active substances.**
13. **Compounds of nitrogen and phosphorus.**
14. **Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea.**
15. **Any other substance or group of substances having any characteristics listed in section B of this annex.**

* With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless substances.

T. ANNEX II

Annex II is deleted.

U. ANNEX III

Annex III is re-numbered as Annex II. Its introductory paragraph and the text of paragraph 6 of section A are amended as follows:

ANNEX II

With a view to the issue of an authorization for the discharge 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 WASTE

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

V. ANNEX IV

Annex IV is re-numbered as Annex III. The texts of paragraphs 3 and 5 are amended as follows:

ANNEX III

3. In the case of pollution of the Protocol Area from land-based sources through the atmosphere, the provisions of articles 5 and 6 to this Protocol shall apply progressively to appropriate substances and sources listed in annex I to this Protocol as will be agreed by the Parties.
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.

W.

A new Annex IV is added reading as follows:

[[ANNEX IV***A. BEST AVAILABLE TECHNIQUES**

- 1. The term "best available techniques" means the latest and most effective stage of development of processes and methods of operation which indicate the practical suitability of a particular measure for constituting in principle the basis for limiting values of emissions and general environmental impact.**
- 2. The term "techniques" includes both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled.**
- 3. The term "available" refers to processes developed on a scale which makes it feasible to apply them in the relevant industrial sector under viable economic and technical conditions, while taking into consideration costs/benefits; it shall make no difference whether or not such processes are used or developed in the territory of an interested party, provided that the entrepreneur interested in using them could have access to them under reasonable conditions.**
- 4. The term "best" refers to the most effective processes for obtaining high level of protection of the environment as a whole.**
- 5. In determining the best available techniques, in general or individual cases, special consideration shall be given to:**
 - (a) the use of processes which produce less waste;**
 - (b) the use of substances which are less hazardous;**

* The Meeting of the Legal and Technical Experts to examine the amendments to the LBS Protocol (Siracusa, 4-6 May 1995) decided that an annex on the "Best available techniques" and "Best environmental practices" should be added to the Protocol. As a result, the meeting decided to use the relevant text adopted by the Contracting Parties to the Paris Convention as the basis for the preparation of the new annex to the Protocol with the understanding that Contracting Parties would send comments and suggestions for changes. The present text of annex IV is therefore the result of the work of the Secretariat and the comments received from the Contracting Parties.

- (c) the development of processes for the receiving and recycling of substances used and emitted in the course of the process and the waste, as appropriate;
- (d) the comparable processes, equipments or methods of operation which have recently been successfully tried out on an industrial scale;
- (e) the technological advances and changes in scientific knowledge;
- (f) the nature, impact and volume of the discharges and emissions concerned;
- (g) the starting date of operation of both new and existing plants;
- (h) the time needed to develop a better technique available;
- (i) the consumption and nature of primary resources used (including water) and energy efficiency;
- (j) the need to prevent or reduce to a minimum the global input of emissions and environmental risks;
- (k) the need to prevent accidents and, if they should occur, to reduce environmental impact;
- (l) the flexibility for improvement and easy modification of the applied techniques;
- (m) the consideration of the type of disposal along with the best available techniques; and
- (n) the compatibility with, or suitability for, local prevailing social, economic and environmental conditions.

B. BEST ENVIRONMENTAL PRACTICE

6. The term "best environmental practice" means the most appropriate combination of measures to prevent diffuse pollution or to ensure that the operation of anti-pollution equipment is carried out in an environmentally safe manner. Best environmental practice includes both practical measures and behaviour which respects the environment on the one hand, and the instruments used to encourage adoption of such measures and behaviour development on the other.

7. In determining the activities the implementation of which must be compatible with best environmental practice, particular consideration should be given to the following elements:

- the precautionary principle;
- environmental risks linked to:
 - the activity itself; and
 - the production, utilisation and definitive elimination of the products used in the framework of this activity; and
- the possibility to modify the activities or to replace them by less polluting ones.

8. The time limits set for complying with the best environmental practice must take into consideration social and economic impact which could result from the diverse rate in the implementation of the best environmental practice.

9. In defining the best environmental practice for a particular diffuse pollution source, attention should at least be paid to:

(a) measures, such as:

- (i) making collection systems available to the public for wastes hazardous to the environment; and
- (ii) making available systems for the recovery, recycling and/or safe elimination of wastes which would be environmentally unsafe if such systems were not provided; and

(b) behaviour and promotion tools, such as:

- (i) the development and application of codes of good behaviour and good environmental practice;
- (ii) the provision of information and education to the public and to users about the environmental consequence of choice of products and particular behaviour they adopt;
- (iii) the establishment of systems of licensing, involving restrictions or banning of certain practices; and
- (iv) the application of economic instruments to limit the environmental impact of activities or the use of certain products.]]

**DRAFT PROTOCOL FOR THE PREVENTION OF POLLUTION
OF THE MEDITERRANEAN SEA BY TRANSBOUNDARY MOVEMENTS
OF HAZARDOUS WASTES AND THEIR DISPOSAL**

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 danger threatening the environment of the Mediterranean Sea area as a whole 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, e.g. 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, and 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,

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 decision I/22 adopted by the First Meeting 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 Fourth 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 the fact that the most effective way of dealing with the threats represented by wastes for human health and the environment consists of decreasing or even prohibiting the transfer of activities which generate hazardous wastes,

Have agreed as follows:

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) A "Party" means a Contracting Party to this Protocol in accordance with Article 23, paragraph 1, of the Convention;
- (c) "Wastes" means substances or material 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 as specified in Article 2 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 avoid the generation of hazardous wastes in conformity with Articles 4 and 7 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 8;

(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);^(*)

(v) "Developed countries" means those countries which are Member States of the Organization for Economic Co-operation and Development (OECD);^(*)

(w) "Organization" means the body referred to in Article 2 (b) of the Convention.

Article 2 - Scope of the Protocol ^(**)

1. Hazardous wastes for the purposes of this Protocol shall be:
 - (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;

-
- * Reservation by Israel
 - ** Reservation by the European Economic Community
 - ** Reservation by France
 - ** Reservation by Spain

(d) Hazardous substances that have been banned, whose registration has been canceled or refused through government regulatory action in the country of manufacture 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.

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, depending 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 3 - 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 4 - General obligations

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

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. 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 Economic Community 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 5 - 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 movements 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.

4. 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 on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

* Reservation by the European Economic Community

Article 6 - 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 contract. 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 7 - Regional cooperation

1. In conformity with Article 11 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 area of the Convention 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 8 - Illegal traffic

1. For the purpose of this Protocol, any transboundary movement of hazardous wastes in contravention of this Protocol or of general principles 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 shall be taken against the contravenor(s).
4. In the case of illegal traffic due to the conduct of the importer or 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 immediately 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 will 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 of hazardous wastes;
- (c) The establishment of a mechanism to prevent and monitor illegal traffic in hazardous wastes in the Mediterranean.

Article 9 - Assistance to developing countries

1. 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.

2. To that purpose, the first meeting of the Parties to this Protocol should consider the establishment of a regional centre for training and technical assistance in the field of hazardous wastes.

Article 10 - 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 11 - Information to and participation of the public

1. In the exceptional cases in which transboundary movement of hazardous wastes is permitted under Article 5 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 12 - 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 must inform the Organization thereof, and, in such an event, shall simultaneously and immediately inform, 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 and submit a report thereon to the Parties.

Article 13 - 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 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 14 of the Convention. The Parties to this Protocol may also hold extraordinary meetings in conformity with Article 14 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 any annex to this Protocol;

(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 15 - Adoption

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 16 - 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 18 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 _____, from _____ to _____, and at Madrid from _____ to _____, by any State invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Prevention of Pollution of the

Mediterranean Sea resulting from the Transboundary Movements of Hazardous Wastes and their Disposal held at _____ from _____ to _____. 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 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 _____, 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 (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 _____ on this _____ day of _____ in a single copy in the Arabic, English, French, and Spanish languages, the four texts being equally authoritative.

ANNEX I (*)

CATEGORIES OF WASTES WHICH ARE HAZARDOUS WASTES

Waste Streams:

- Y0 All wastes containing or contaminated by radionuclides, the 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, varnish
- Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives

-
- * Reservation by the European Economic Community
 - * Reservation by France
 - * Reservation by Spain

- 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
- Y46 Wastes collected from households, including sewage and sewage sludges
- Y47 Residues arising from the incineration of household wastes

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).

ANNEX II

LIST OF HAZARDOUS CHARACTERISTICS

<u>UN Class</u>	<u>Code</u>	<u>Characteristics</u>
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.

* 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)

- 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.
- 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.

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 4 and 5 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 Economic 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 including emergency provision in case of accidents;
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 5, paragraph 4.

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 Economic 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.

ISSN 0254-1475

COM(96) 63 final

DOCUMENTS

EN

14

Catalogue number : CB-CO-96-073-EN-C

ISBN 92-78-00621-1

Office for Official Publications of the European Communities

L-2985 Luxembourg