

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 780 final

Brussels, 14 December 1981

Proposal for a
COUNCIL DECISION

concluding the Protocol to the Barcelona Convention of 1976
for the protection of the Mediterranean Sea against
pollution from land-based sources

(submitted to the Council by the Commission)

COM(81) 780 final

EXPLANATORY MEMORANDUM

In accordance with the mandate given by the Council on 7/8 November 1977, the Commission took part in the negotiations concerning the conclusion of the Barcelona Convention Protocol on pollution from land-based sources.

These negotiations took place in 1978 and 1979, and the Member States were regularly consulted and informed about their progress. The end-product was the attached Protocol which was signed by the Commission on behalf of the Community and by eleven Mediterranean Coastal States, including three Community Member States (France, Greece and Italy) in Athens on 17 May 1980.

The successive stages leading to the conclusion of the Barcelona Convention which is the framework for the Protocol for the protection of the Mediterranean Sea against pollution from land-based sources were as follows :

- In February 1975 and 1976, two intergovernmental meetings were held in Barcelona with a view to concluding a Convention for the protection of the Mediterranean Sea against pollution and Protocols on the main sources of marine pollution.
- On 16 February 1976, the Final Act of the Convention and two Protocols were signed by fifteen Mediterranean Coastal States.
- On 13 September 1976, in Madrid, the Community also signed the Convention and the Protocol for the prevention of the pollution of the Mediterranean Sea by dumping from ships and aircraft.
- On 25 July 1977, the Council concluded the Convention and the above-mentioned Protocol (77/585/EEC).

In accordance with the Council directives contained in the Decision of 7 November 1977, the Commission, whilst taking into account specific environmental problems and the characteristics of the Mediterranean Sea, made every effort during the negotiations to ensure that the draft Barcelona Convention Protocol for the protection of the Mediterranean Sea against pollution from land-based sources was based on the provisions of the 1974 Paris Convention and was consistent with existing Community measures, in particular Directive 76/464/EEC.

The provisions of the Protocol signed on 17 May 1980 are consistent with those of Directive 76/464/EEC.

The Commission was therefore able to maintain consistency between, on the one hand, commitments entered into under the Paris Convention concerning the prevention of pollution from land-based sources to which the Community and some Member States are Contracting Parties, and on the other hand, between this Protocol and the commitments entered into by the Member States at Community level as a result of Directives, in particular that of 4 May 1976 (76/464/EEC) on pollution caused by certain substances discharged into the aquatic environment of the Community.

Pursuant to the decision taken by the Contracting Parties to the Barcelona Convention at the February 1980 meeting in Barcelona, and pursuant to Article 15 of the Convention, a Diplomatic Conference of the Contracting Parties was held in Athens from 12 to 17 May 1980. This Conference completed the negotiations and the Protocol for the protection of the Mediterranean Sea against pollution from land-based sources was signed.

The Commission reserved the right*, following the adoption and signing of the Protocol at the Diplomatic Conference, to place before the Council a proposal for a Decision concluding the Protocol.

As the Community, together with the other Contracting Parties, signed the Protocol at the above-mentioned Diplomatic Conference, it should now conclude this Protocol and deposit the act concluding the Protocol, as provided for in Article 16 of the Protocol. The Commission therefore recommends that the Council adopt the attached Draft Decision on the subject.

* doc. COM (80) 163 final, p. 3; Council document 6313/80 ENV 56

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Proposal for a
COUNCIL DECISION

concluding the Protocol to the Barcelona Convention of 1976 for the
protection of the Mediterranean Sea against pollution from
land-based sources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the declaration of the Council of the European
Communities and of the representatives of the Governments of the Member
States meeting in the Council of 22 November 1973 on the programme of
action of the European Communities on the environment (1),

Whereas that programme emphasizes that marine pollution affects the
whole Community, both because of the essential role played by the sea
in the preservation and development of species and on account of the
importance of sea transport for the harmonious economic development of
the Community;

Whereas, furthermore, that programme and Council Directive 76/464/EEC of
4 May 1976 on pollution caused by certain dangerous substances discharged
into the aquatic environment of the Community (2) provide that certain
measures are to be implemented by the Community in order to reduce
the various types of marine pollution;

(1) OJ N° C 112, 20.12.1973, p. 1

(2) OJ N° L 129, 18. 5.1976, p. 23

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Whereas the Convention for the protection of the Mediterranean Sea against pollution provides that suitable measures should be taken to prevent and reduce pollution caused by dumping from ships and aircraft, pollution resulting from the exploration and exploitation of the continental shelf, the seabed and its subsoil and pollution from land-based sources;

Whereas in adopting Decision 77/585/EEC (1), the Council concluded the Convention for the protection of the Mediterranean Sea against pollution, hereinafter referred to as the Barcelona Convention, and the Protocol for the prevention of the pollution of the Mediterranean Sea by dumping from ships and aircraft;

Whereas the Community took part in the negotiations concerning the conclusion of the Barcelona Convention Protocol for the protection of the Mediterranean Sea against pollution from land-based sources;

Whereas on 17 May 1980 the Community signed the said Protocol;

Whereas the Community should conclude the Protocol to the Barcelona Convention of 1976 for the protection of the Mediterranean Sea against pollution from land-based sources in order to attain, in the course of the operation of the common market, one of the objectives of the Community in the field of the protection of the environment and of the quality of life; whereas no provision is made in the Treaty for the powers necessary to this end;

(1) OJ N° L 240, 19.9.1977, p. 1

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HAS DECIDED AS FOLLOWS :

Article 1

The Protocol to the Barcelona Convention of 1976 for the protection of the Mediterranean Sea against pollution from land-based sources is hereby approved on behalf of the European Economic Community.

The text of the Protocol is annexed to this Decision.

Article 2

The President of the Council shall deposit the acts as provided for in Article 16 of the Protocol referred to in Article 1.

Done at Brussels,

For the Council
The President

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PROTOCOL

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



UNITED NATIONS

1980

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,

Desirous of implementing article 4, paragraph 2, and articles 8 and 15 of the said Convention,

Noting the rapid increase of human activities in the Mediterranean Sea Area, particularly in the fields of industrialization and urbanization, as well as the seasonal increase in the coastal population due to tourism,

Recognizing the danger posed to the marine environment and to human health by pollution from land-based sources 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 domestic or industrial discharges,

Recognizing the differences in levels of development between the coastal States, and taking account of the economic and social imperatives of the developing countries,

Determined to take in close co-operation the necessary measures to protect the Mediterranean Sea against pollution from land-based sources,

Have agreed as follows:

Article 1

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

Article 2

For the purposes of this Protocol:

- (a) "The Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976;
- (b) "Organization" means the body referred to in article 13 of the Convention;
- (c) "Freshwater limit" means the place in watercourses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea water.

Article 3

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

- (a) the Mediterranean Sea Area as defined in article 1 of the Convention;
- (b) waters on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit;
- (c) saltwater marshes communicating with the sea.

Article 4

1. This Protocol shall apply:

(a) to polluting discharges reaching the Protocol Area from land-based sources within the territories of the Parties, in particular:

- 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, under conditions to be defined in an additional annex to this Protocol and accepted by the Parties in conformity with the provisions of article 17 of the Convention.

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

Article 5

1. The Parties undertake to eliminate pollution of the Protocol Area from land-based sources by substances listed in annex I to this Protocol.

2. To this end they shall elaborate and implement, jointly or individually, as appropriate, the necessary programmes and measures.

3. These programmes and measures shall include, in particular, common emission standards and standards for use.

4. The standards and the time-tables for the implementation of the programmes and measures aimed at eliminating pollution from land-based sources shall be fixed by the Parties and periodically reviewed, if necessary every two years, for each of the substances listed in annex I, in accordance with the provisions of article 15 of this Protocol.

Article 6

1. The Parties shall strictly limit pollution from land-based sources in the Protocol Area by substances or sources listed in annex II to this Protocol.

2. To this end they shall elaborate and implement, jointly or individually, as appropriate, suitable programmes and measures.

3. Discharges shall be strictly subject to the issue, by the competent national authorities, of an authorization taking due account of the provisions of annex III to this Protocol.

Article 7

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

(a) the length, depth and position of pipelines for coastal outfalls, taking into account, in particular, the methods used for pretreatment of effluents;

(b) special requirements for effluents necessitating separate treatment;

(c) the quality of sea water used for specific purposes that is necessary for the protection of human health, living resources and ecosystems;

(d) the control and progressive replacement of products, installations and industrial and other processes causing significant pollution of the marine environment;

(e) specific requirements concerning the quantities of the substances listed in annexes I and II discharged, their concentration in effluents and methods of discharging them.

2. Without prejudice to the provisions of article 5 of this Protocol, such common guidelines, standards or criteria shall take into account local ecological, geographical and physical characteristics, the economic capacity of the Parties and their need for development, the level of existing pollution and the real absorptive capacity of the marine environment.

3. The programmes and measures referred to in articles 5 and 6 shall be adopted by taking into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

Article 8

Within the framework of the provisions of, and the monitoring programmes provided for in, article 10 of the Convention, and if necessary in co-operation with the competent international organizations, the Parties shall carry out at the earliest possible 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 substances or sources listed in annexes I and II, and periodically to provide information in this respect;

(b) to evaluate the effects of measures taken under this Protocol to reduce pollution of the marine environment.

Article 9

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

(a) exchange scientific and technical information;

(b) co-ordinate their research programmes.

Article 10

1. The Parties shall, directly or with the assistance of competent regional or other international organizations or bilaterally, co-operate 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 pollution from land-based sources and its 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 on advantageous terms to be agreed upon among the Parties concerned.

Article 11

1. If discharges from a watercourse which flows through the territories of two or more Parties or forms a boundary between them are likely to cause pollution of the marine environment of the Protocol Area, the Parties in question, respecting the provisions of this Protocol in so far as each of them is concerned, are called upon to co-operate with a view to ensuring its full application.

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

Article 12

1. Taking into account article 22, paragraph 1, of the Convention, when land-based pollution originating from the territory of one Party is likely to prejudice directly the interests of one or more of the other Parties, the Parties concerned shall, at the request of one or more of them, undertake to enter into consultation with a view to seeking a satisfactory solution.

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

Article 13

1. 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 submission of such information shall be determined at the meetings of the Parties.

2. Such information shall include, inter alia:

- (a) statistical data on the authorizations granted in accordance with article 6 of this Protocol;
- (b) data resulting from monitoring as provided for in article 8 of this Protocol;
- (c) quantities of pollutants discharged from their territories;
- (d) measures taken in accordance with articles 5 and 6 of this Protocol.

Article 14

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 14 of the Convention. The Parties may also hold extraordinary meetings in accordance with article 14 of the Convention.

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

(a) to keep under review the implementation of this Protocol and to consider the efficacy of the measures adopted and the advisability of any other measures, in particular in the form of annexes;

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

(c) to formulate and adopt programmes and measures in accordance with articles 5, 6 and 15 of this Protocol;

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

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

(f) to consider the information submitted by the Parties under article 13 of this Protocol;

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

Article 15

1. The meeting of the Parties shall adopt, by a two-thirds majority, the programmes and measures for the abatement or the elimination of pollution from land-based sources which are provided for in articles 5 and 6 of this Protocol.

2. The Parties which are not able to accept a programme or measures shall inform the meeting of the Parties of the action they intend to take as regards the programme or measures concerned, it being understood that these Parties may, at any time, give their consent to the programme or measures that have been adopted.

Article 16

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 Athens from 17 May 1980 to 16 June 1980, and at Madrid from 17 June 1980 to 16 May 1981, by any State invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources held at Athens from 12 May to 17 May 1980. It shall also be open until the same dates for signature by the European Economic Community and by any similar regional economic grouping of which at least one member is a coastal State of the Mediterranean Sea Area and which exercises competence in fields covered by this Protocol.
4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.
5. As from 17 May 1981, this Protocol shall be open for accession by the States referred to in paragraph 3 above, by the European Economic Community and by any grouping referred to in that paragraph.
6. This Protocol shall enter into force on the thirtieth day following the deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this article.

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

DONE at Athens on this seventeenth day of May one thousand nine hundred and eighty in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.

Annex I

14.

A. The following substances, families and groups of substances are listed, not in order of priority, for the purposes of article 5 of this Protocol. They have been selected mainly on the basis of their

- toxicity
- persistence
- bioaccumulation.

1. Organohalogen compounds and substances which may form such compounds in the marine environment.^{1/}
2. Organophosphorus compounds and substances which may form such compounds in the marine environment.^{1/}
3. Organotin compounds and substances which may form such compounds in the marine environment.^{1/}
4. Mercury and mercury compounds.
5. Cadmium and cadmium compounds.
6. Used lubricating oils.
7. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea.
8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment.
9. Radioactive substances, including their wastes, 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.

B. The present annex does not apply to discharges which contain substances listed in section A that are below the limits defined jointly by the Parties.

^{1/} With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless substances.

Annex II

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

1. The following elements and their compounds:

1. zinc	6.	selenium	11. tin	16. vanadium
2. copper	7.	arsenic	12. barium	17. cobalt
3. nickel	8.	antimony	13. beryllium	18. thallium
4. chromium	9.	molybdenum	14. boron	19. tellurium
5. lead	10.	titanium	15. uranium	20. silver

2. Biocides and their derivatives not covered in annex I.
 3. Organosilicon compounds and substances which may form such compounds in the marine environment, excluding those which are biologically harmless or are rapidly converted into biologically harmless substances.
 4. Crude oils and hydrocarbons of any origin.
 5. Cyanides and fluorides.
 6. Non-biodegradable detergents and other surface-active substances.
 7. Inorganic compounds of phosphorus and elemental phosphorus.
 8. Pathogenic micro-organisms.
 9. Thermal discharges.
 10. Substances which have a deleterious effect on the taste and/or smell of products for human consumption derived from the aquatic environment, and compounds liable to give rise to such substances in the marine environment.
 11. Substances which have, directly or indirectly, an adverse effect on the oxygen content of the marine environment, especially those which may cause eutrophication.
 12. Acid or alkaline compounds of such composition and in such quantity that they may impair the quality of sea water.
 13. Substances which, though of a non-toxic nature, may become harmful to the marine environment or may interfere with any legitimate use of the sea owing to the quantities in which they are discharged.
- B. The control and strict limitation of the discharge of substances referred to in section A above must be implemented in accordance with annex III.

Annex III

With a view to the issue of an authorization for the discharge of wastes containing substances referred to in annex II or in section B of annex I of this Protocol, particular account will be taken, as the case may be, of the following factors:

A. Characteristics and composition of the waste

1. Type and size of waste source (e.g. industrial process).
2. Type of waste (origin, average composition).
3. Form of waste (solid, liquid, sludge, slurry).
4. Total amount (volume discharged, e.g. per year).
5. Discharge pattern (continuous, intermittent, seasonally variable, etc.).
6. Concentrations with respect to major constituents, substances listed in annex I, substances listed in annex II, and other substances as appropriate.
7. Physical, chemical and biochemical properties of the waste.

B. Characteristics of waste constituents with respect to their harmfulness

1. Persistence (physical, chemical, biological) in the marine environment.
2. Toxicity and other harmful effects.
3. Accumulation in biological materials or sediments.
4. Biochemical transformation producing harmful compounds.
5. Adverse effects on the oxygen content and balance.
6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea water constituents which may produce harmful biological or other effects on any of the uses listed in section E below.

C. Characteristics of discharge site and receiving marine environment

1. Hydrographic, meteorological, geological and topographical characteristics of the coastal area.
2. Location and type of the discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery, and fishing areas, shellfish grounds) and other discharges.
3. Initial dilution achieved at the point of discharge into the receiving marine environment.

- 4. Dispersion characteristics such as effects of currents, tides and wind on horizontal transport and vertical mixing.
- 5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area.
- 6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. Availability of waste technologies

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

- (a) Alternative treatment processes;
- (b) Re-use or elimination methods;
- (c) On-land disposal alternatives; and
- (d) Appropriate low-waste technologies.

E. Potential impairment of marine ecosystems and sea water uses

- 1. Effects on human health through pollution impact on:
 - (a) Edible marine organisms;
 - (b) Bathing waters;
 - (c) Aesthetics.
- 2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.
- 3. Effects on other legitimate uses of the sea.